



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

FOR THE YEAR ENDED 31 MARCH 2007

REVENUE RECEIPTS

GOVERNMENT OF ORISSA

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(REVENUE RECEIPTS)

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PREFACE

This report for the year ended 31 March 2007 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising sales tax, taxes on motor vehicles, land revenue, stamp duty and registration fees, state excise, forest receipts, mining receipts and other departmental receipts of the State.

The cases mentioned in this report are among those which came to notice in the course of test audit of records during 2006-07 as well as those noticed in earlier years but which could not be covered in the previous years' reports.

OVERVIEW

I **General**

This report contains 48 paragraphs including two reviews pointing out non-levy or short levy of tax, interest, penalty, revenue foregone, etc., involving Rs. 516.32 crore. Some of the major findings are mentioned below:

The Government's total revenue receipts for the year 2006-07 amounted* to Rs. 18,033 crore against Rs. 14,085 crore in the previous year. Of this, 47.98 *per cent* was raised by the State through tax revenue (Rs. 6,065 crore) and non-tax revenue (Rs. 2,588 crore). The balance 52.02 *per cent* was received from the Government of India in the form of State's share of divisible Union taxes (Rs. 6,220 crore) and grants-in-aid (Rs. 3,159 crore).

{Paragraph 1.1}

Test check of the records of sales tax, motor vehicles tax, land revenue, state excise, forest, mines and minerals and other departmental offices conducted during the year 2006-07 revealed under assessment/short levy/loss of revenue etc., amounting to Rs. 1,160.66 crore in 2,38,540 cases. During the year 2006-07, the concerned departments accepted under assessment and other deficiencies of Rs. 189.97 crore involved in 87,114 cases which were pointed out in 2006-07 and earlier years. Of these, the departments recovered Rs. 25.26 crore in 15,428 cases.

{Paragraph 1.8}

As on 30 June 2007, 3,368 inspection reports issued upto December 2006 containing 9,772 audit observations involving Rs. 2,576.21 crore were outstanding for want of comments/final action by the concerned departments.

{Paragraph 1.9}

II **Sales Tax**

Information technology audit of “Value Added Tax Information System” in the Commercial Tax Department revealed the following:

- System design deficiencies resulted in non-capturing of purchase details, incorrect entry of carry forward and refundable amount etc.

{Paragraph 2.2.7}

* Chapter-I figures in overview have been rounded off to nearest crore.

- Non-integration of modules resulted in utilisation of waybill other than the dealer to whom it was issued and before its issue date.

{Paragraph 2.2.8}

- Lack of input controls led to incomplete and inaccurate database like issue of multiple registration numbers to the same dealer, entry of invalid vehicle number and waybill number, wrong entry of tax payable/due, non-entry of dealer details etc.

{Paragraph 2.2.9}

- Absence of validation controls led to inaccuracies in the database like entry of refund claim without export, acceptance of payment after filing of return, exit of vehicle at the entry check gate, acceptance of unusual time to exit the border check gate, repeated utilisation of waybill etc.

{Paragraph 2.2.11}

- Lack of adequate security controls resulted in multiple users having the same password, unauthorised data entry and modification of data etc.

{Paragraph 2.2.12}

A Government of Orissa undertaking did not disclose the royalty of Rs. 27.36 crore received for use of its trade mark resulting in non-levy of tax of Rs. 8.54 crore including penalty.

{Paragraph 2.4}

An industrial unit covered under package scheme of incentives under the industrial policy was irregularly allowed tax exemption of Rs. 3.22 crore, though eligibility certificate was not issued by the competent authority.

{Paragraph 2.6}

A manufacturer of cast iron castings was irregularly allowed tax exemption of Rs. 2.47 crore on export though the goods were not exported in the same form.

{Paragraph 2.7}

Sale of perfumed oil worth Rs. 7.58 crore was incorrectly taxed at a lower rate resulting in short levy of tax of Rs. 1.40 crore.

{Paragraph 2.8}

III **Motor Vehicles Tax**

In Regional Transport Offices, Jharsugda and Keonjhar, Rs. 21.08 lakh was misappropriated through manipulation and false endorsement in the records.

{Paragraph 3.2}

Motor vehicles tax and additional tax including penalty amounting to Rs. 52.65 crore was not realised in respect of 26,319 vehicles.

{Paragraph 3.3}

Non-realisation of various fees at the revised rates led to loss of Rs. 1.69 crore in 1.45 lakh cases during the period from April 2005 to March 2006.

{Paragraph 3.4}

IV **Land Revenue, Stamp Duty and Registration Fees**

Short raising of demand towards cess against two organisations resulted in short realisation of Rs. 59.23 lakh.

{Paragraph 4.2}

Short realisation of premium of Rs. 36.95 lakh on conversion of agricultural land for non-agricultural use in respect of 280 cases.

{Paragraph 4.3}

An industrial unit escaped stamp duty, town-planning charges and registration fees of Rs. 280.80 crore on the sale and transfer of its fertiliser complex.

{Paragraph 4.5}

Short realisation of stamp duty and registration fee of Rs. 24.36 lakh in 84 documents due to non-consideration of highest sale value of similar classification of land.

{Paragraph 4.6}

V **State Excise**

Excise duty of Rs. 44.09 lakh towards short lifting of IMFL/beer was not realised by the department.

{Paragraph 5.2}

VI Forest and Mining Receipts

Non-disposal of timber resulted in the blockage of Government revenue of Rs. 51.17 lakh.

{Paragraph 6.2}

The department did not levy interest of Rs. 50.59 lakh on belated payment of royalty on timber by the Orissa Forest Development Corporation.

{Paragraph 6.3}

Evasion of royalty of Rs. 6.46 crore on coal as the departmental officers failed to detect short accounting of stock in the return.

{Paragraph 6.4}

Charging of royalty at the rates applicable to processed mineral instead of unprocessed mineral led to short levy of royalty of Rs. 2.63 crore.

{Paragraph 6.5}

VII Other Departmental Receipts

Review of “Levy and collection of electricity duty” revealed the following:

- Failure of the Superintending Engineers to effectively scrutinise the returns submitted by the licensees led to non-levy of electricity duty of Rs. 79.81 crore.

{Paragraph 7.2.7}

- Failure of the department to cross verify the records of the Industries Department prior to allowing exemption under the Industrial Policy Resolution led to irregular exemption of electricity duty of Rs. 22.82 crore.

{Paragraph 7.2.8}

- There was short levy of electricity duty amounting to Rs. 11.06 crore in respect of domestic and commercial consumers.

{Paragraph 7.2.13}

CHAPTER-I : GENERAL

1.1 Trend of revenue

1.1.1 The tax and non-tax revenue raised by the Government of Orissa during the year 2006-07, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(Rupees in crore)

		2002-03	2003-04	2004-05	2005-06	2006-07
I	Revenue raised by the State Government					
	• Tax revenue	2,871.84	3,301.73	4,176.60	5,002.28	6,065.07
	• Non-tax revenue	961.18	1,094.55	1,345.52	1,531.90	2,588.12
	Total	3,833.02	4,396.28	5,522.12	6,534.18	8,653.19
II	Receipts from the Government of India					
	• State's share of divisible Union taxes	2,805.58	3,327.68	3,977.66	4,876.75	6,220.42 ¹
	• Grants-in-aid	1,800.17	1,716.28	2,350.41	2,673.78	3,159.02
	Total	4,605.75	5,043.96	6,328.07	7,550.53	9,379.44
III	Total receipts of the State Government (I+II)	8,438.77	9,440.24	11,850.19	14,084.71	18,032.63
IV	Percentage of I to III	45.42	46.57	46.60	46.39	47.98

The above table indicates that during the year 2006-07, the revenue raised by the State Government was 47.98 *per cent* of the total revenue receipts (Rs. 18,032.63 crore) against 46.39 *per cent* in the preceding year. The balance 52.02 *per cent* of receipts during 2006-07 was from the Government of India.

¹ For details, please see Statement No. 11- Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Orissa for the year 2006-07. Figures under the minor head 901-Share of net proceeds assigned to the States under the major heads 0020 – Corporation tax; 0021 - Taxes on income other than corporation tax; 0028 - Other taxes on income and expenditure; 0032 - Taxes on wealth; 0037 - Customs; 0038 - Union excise duties; 0044 - Service tax and 0045 - Other taxes and duties on commodities and services booked in the Finance Accounts under A-Tax revenue have been excluded from the revenue raised by the State and exhibited as State's share of divisible Union taxes.

1.1.2 The following table presents the details of tax revenue raised during the period from 2002-03 to 2006-07:

(Rupees in crore)

Sl. No.	Heads of revenue	2002-03	2003-04	2004-05	2005-06	2006-07	Percentage of increase (+) or decrease (-) in 2006-07 over 2005-06
1.	Sales tax	1,532.69	1,546.47	2,061.23	2,524.18	3,042.34	(+) 21
	Central sales tax	72.53	317.50	410.16	487.55	722.48	(+) 48
2.	Taxes and duties on electricity	172.17	200.43	261.89	353.13	282.58	(-) 20
3.	Land revenue	82.16	103.27	131.59	69.62	226.38	(+)225
4.	Taxes on vehicles	257.35	280.03	338.11	405.86	426.54	(+) 5
5.	Taxes on goods and passengers	313.07	377.19	384.93	463.34	574.00	(+) 24
6.	State excise	246.06	256.37	306.61	389.33	430.07	(+) 10
7.	Stamp duty and registration fees	135.86	153.07	197.87	236.06	260.49	(+) 10
8.	Other taxes and duties on commodities and services	13.34	14.77	25.14	6.75	26.59	(+) 293
9.	Other taxes on income and expenditure-tax on professions, trades, callings and employments	46.61	52.63	59.07	66.46	73.60	(+) 11
Total		2,871.84	3,301.73	4,176.60	5,002.28	6,065.07	

The following reasons for variations were furnished by the concerned departments:

Sales tax: The increase (21 per cent) was stated to be due to widening of tax base, huge growth in CST, entry tax collection and higher growth rate in VAT.

State excise: The increase (10 per cent) was stated to be due to more collection of excise duty and effective enforcement measures which includes sharing of information between enforcement and intelligence wing and vigorous patrolling and raids.

Land revenue: The increase (225 per cent) was stated to be due to conversion of land, alienation of Government land to different agencies, collection of premium thereof and collection of more royalty.

Stamp duty and registration fees: The increase (10 per cent) was stated to be due to sincere efforts of the field functionaries as well as supervising authorities particularly by the Inspector General Registration, Orissa.

Taxes and duties on electricity: The decrease (20 per cent) was stated to be due to non-collection of electricity duty outstanding against consumers and non-collection of revenue locked up in court cases.

The other departments did not inform the reasons for variation despite being requested (November 2007).

1.1.3 The following table presents the details of major non-tax revenue realised during the period 2002-03 to 2006-07:

(Rupees in crore)

Sl. No.	Heads of revenue	2002-03	2003-04	2004-05	2005-06	2006-07	Percentage of increase (+) or decrease (-) in 2006-07 over 2005-06
1	Non-ferrous mining and metallurgical industries	443.58	552.06	670.52	805.03	936.60	(+) 16
2	Forestry and wild life	97.04	48.64	84.72	59.13	130.63	(+) 121
3	Interest receipts	76.09	164.38	249.04	298.02	398.42	(+) 34
4	Education	24.31	12.00	15.76	42.99	41.94	(-) 2
5	Irrigation & inland water transport	24.70	36.25	40.45	44.05	54.41	(+) 24
6	Public works	13.69	15.06	17.05	18.23	24.96	(+) 37
7	Police	13.37	15.55	21.24	23.05	23.39	(+) 1
8	Medical and public health	11.24	7.51	12.98	9.26	13.07	(+) 41
9	Power	2.94	2.90	4.19	2.91	1.23	(-) 58
10	Miscellaneous general services	10.41	5.38	31.70	7.62	777.36	(+) 10,102
11	Other non-tax receipts	227.96	226.35	160.97	212.51	169.28	(-) 20
12	Co-operation	2.09	2.39	2.72	2.13	2.39	(+) 12
13	Other administrative services	13.71	6.08	34.18	6.97	14.44	(+) 107
14	Dairy development	0.05	Nil	Nil	Nil	Nil	Nil
Total		961.18	1,094.55	1,345.52	1,531.90	2,588.12	

The following reasons for variations were furnished by the concerned departments:

Non-ferrous mining and metallurgical industries: The increase (16 per cent) was stated to be due to increase in despatch of major revenue earning minerals.

Forestry and wildlife: The increase (121 per cent) was stated to be due to collection of arrear royalty for *kendu* leaf from M/s. OFDC Ltd.[#]

Miscellaneous general services: The increase (10,102 per cent) was attributable to waiver of debt of Rs. 763.80 crore by the Government of India and taken as receipts under this head as per their instructions.

The other departments did not inform the reasons for variation despite being requested (November 2007).

[#] Orissa Forest Development Corporation Ltd.

1.2 Variations between the budget estimates and actuals

The variations between the budget estimates and actuals of revenue receipts for the year 2006-07 in respect of principal heads of tax and non-tax revenue are given below:

(Rupees in crore)

Sl. No.	Heads of revenue	Budget estimates	Actual receipts	Variations increase (+) shortfall (-)	Percentage of variation
Tax revenue					
1	Sales tax	2,817.47	3,764.82	(+) 947.35	(+) 33.62
2	Taxes on goods and passengers	370.00	574.00	(+) 204.00	(+) 55.13
3	Taxes and duties on electricity	390.00	282.58	(-) 107.43	(-) 27.54
4	Land revenue	180.00	226.38	(+) 46.38	(+) 25.77
5	Taxes on vehicles	480.00	426.54	(-) 53.46	(-) 11.13
6	State excise	490.00	430.07	(-) 59.93	(-) 12.23
7	Stamp duty and registration fees	290.00	260.49	(-) 29.51	(-) 10.17
Non-tax revenue					
8	Mines and minerals	900.00	936.60	(+) 36.60	(+) 4.07
9	Forest	80.00	130.63	(+) 50.63	(+) 63.29
10	Education	15.00	41.94	(+) 26.94	(+) 179.60
11	Interest	60.00	398.42	(+) 338.42	(+) 564.00
12	Police	17.50	23.39	(+) 5.89	(+) 33.66

The following reasons for variation were reported by the concerned departments.

Sales tax: The increase (33.62 *per cent*) was stated to be due to widening of tax base, huge growth in CST, entry tax collection and higher growth rate in VAT.

Taxes on vehicles: The decrease (11.13 *per cent*) was stated to be due to less registration of vehicles as compared to the previous year and campaign against carriage of overloading etc.

Taxes and duties on electricity: The decrease (27.54 *per cent*) was stated to be non-collection of revenue locked up in court cases and from industries availing of exemption under IPR^{\$}.

Land revenue: The increase (25.77 *per cent*) was stated to be due to conversion of land, alienation of Government land to different agencies, collection of premium thereof and collection of more royalty.

State excise: The shortfall (12.23 *per cent*) was stated to be due to non-opening of new excise shops due to public resentment.

Stamp duty and registration fee: The shortfall (10.17 *per cent*) was stated to be due to the high target fixed by the Government.

Forest: The increase (63.29 *per cent*) was stated to be due to deposit of excess amount by M/s. OFDC Ltd towards royalty on *kendu* leaf.

^{\$} Industrial Policy Resolution.

Police: The increase (33.66 *per cent*) was stated to be due to payment of arrear claims from South Eastern Railways, Kolkata.

The other departments did not inform (November 2007) the reasons for variation despite being requested (April 2007).

1.3 Analysis of collection

The break-up of total collection at pre-assessment stage and after regular assessment of sales tax, profession tax, entry tax, luxury tax and entertainment tax for the year 2006-07 and the corresponding figures for the preceding two years as furnished by the department is mentioned below:

(Rupees in crore)

Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Amount of arrear demand collected	Amount refunded	Net collection	Per - centage of column 3 to 7
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1. Sales tax	2004-05	2,420.87	35.34	34.68	23.54	2,467.35	98.1
	2005-06	2,909.94	72.90	46.48	22.14	3,007.18	96.8
	2006-07*	3,592.01	136.46	84.08	39.73	3,772.82	95
2. Profession tax	2004-05	56.16	--	--	--	56.16	100
	2005-06	64.18	--	--	--	64.18	100
	2006-07*	69.98	0.10	--	--	70.08	99
3. Entry tax	2004-05	361.65	19.87	4.81	0.74	385.59	93.8
	2005-06	432.71	29.01	8.33	0.82	469.23	92.2
	2006-07*	537.82	30.49	5.39	0.18	573.52	93.7
4. Luxury tax	2004-05	10.15	0.01	--	--	10.16	99.9
	2005-06	0.08	--	--	--	0.08	100
	2006-07*	0.01	--	--	--	0.01	100
5. Entertainment tax	2004-05	3.06	0.06	0.21	--	3.33	92
	2005-06	2.98	--	0.09	--	3.07	97
	2006-07*	2.46	--	0.08	--	2.54	97

Thus, the collection of tax at pre-assessment stage during the last three years ranged between 92 and 100 *per cent*. This indicates that voluntary compliance for payment of tax by the dealers was good. During 2005-06, the amount collected at pre-assessment stage was more than the amount due to the Government and the department had to make refund of Rs. 87.15 crore. Revenue collection after pre-assessment stage was quite low.

1.4 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2004-05, 2005-06 and 2006-07 along with the relevant all India average percentage of expenditure on collection to gross collection for 2005-06 are mentioned below:

* Figures as furnished by the department are at variance with the Finance Accounts.

Audit Report (Revenue Receipts) for the year ended 31 March 2007

(Rupees in crore)

Heads of revenue	Year	Gross collection	Expenditure on collection ²	Percentage of expenditure to gross collection	All India average percentage for the year 2005-06
Sales tax	2004-05	2,946.87	23.47	0.80	0.91
	2005-06	3,566.71	24.41	0.68	
	2006-07	4,439.01	26.59	0.60 ³	
Taxes on vehicles	2004-05	338.11	8.82	2.60	2.67
	2005-06	405.86	9.39	2.31	
	2006-07	426.54	12.25	2.87	
State excise	2004-05	306.70	13.19	4.30	3.40
	2005-06	389.33	13.38	3.44	
	2006-07	430.07	15.28	3.55	
Stamp duty and registration fees	2004-05	197.95	11.70	5.91	2.87
	2005-06	236.06	11.56	4.90	
	2006-07	260.49	10.92	4.19	

The above table indicates that percentage of expenditure on gross collection in respect of sales tax and motor vehicles tax were lower than the all India average percentage while in case of state excise and stamp duty and registration fees, it was higher.

1.5 Analysis of arrears of revenue

As on 31 March 2007, the arrears of revenue under principal heads of revenue as reported by the departments aggregating Rs. 4,508.92 crore were as mentioned in the following table:

(Rupees in crore)

Sl. No	Heads of revenue	Amount of arrears as on 31 March 2007	Arrears more than five years old	Remarks	
1.	Sales tax	3,768.61	802.71	The stages of arrears were as under::	
				• Amount covered by show cause and penalty	1,589.26
				• Recoveries stayed by	
				➤ Departmental authorities	497.45
				➤ Supreme Court/High Court	1,372.10
				• Demands covered by certificate proceedings/tax recovery proceedings	306.23
				• Amounts likely to be written off	3.57
2.	Entry tax	98.91	--	The stages of arrears were as under:	
				• Amount covered by show cause and penalty	19.82
				• Recoveries stayed by departmental authorities	17.95
				• Demand stayed by the High Court	50.99
				• Demand covered by certificate/tax recovery proceedings	10.15

² Figures as furnished by the department are at variance with the Finance Accounts.

³ Percentage of expenditure to gross collection for 2006-07 includes entry tax, entertainment tax and professional tax in addition to sales tax.

(Rupees in crore)

Sl. No	Heads of revenue	Amount of arrears as on 31 March 2007	Arrears more than five years old	Remarks	
3.	Entertainment tax	6.34	--	The stages of arrears were as under:	
				• Demand covered by certificate/tax recovery proceedings	3.91
				• Amount covered by show cause and penalty	1.86
				• Recoveries stayed by	
				➤ Departmental authorities	0.18
➤ High Court/Supreme Court	0.39				
4.	Land revenue	25.28	--	Item wise break up was as follows:	
				• Rent	3.05
				• Cess	4.75
				• Nistar cess	0.15
				• Sairat	4.52
• Misc. revenue	12.81				
5.	Other departmental receipts (Rent) GA departmental	8.39	--	The arrears were due from:	
				• Non-residential buildings	0.74
				• Residential buildings	
				➤ Retired Government servants	3.18
				➤ MLAs and ex MLAs	0.63
				➤ Boards and corporations	0.35
				➤ Private parties	0.60
				➤ Transferred Government servants	1.21
				➤ Certificate cases	0.12
				➤ Central Government employees occupying State Government quarters and water tax	0.05
				➤ Usual house rent	1.04
➤ Recovery stayed by the High Court and other judicial authorities	0.47				
6.	Mines and minerals	86.11	2.08	The stages of recovery were as under:	
				• Demand covered by certificate proceedings	1.64
				• Demand locked up in litigation in the High Court and other judicial authorities	1.65
				• Amount under dispute	3.33
				• Amount covered under write off/waiver proposal	1.83
• Recoverable amount	77.66				
7.	Forest	88.81	84.50	The arrears were due from:	
				• Forest lease	6.63
				• OFDC	77.69
• TDCC ⁴	4.49				
8.	Police	33.50	9.42	Details not furnished.	
9.	Irrigation (WR)	97.64	62.84	Details not furnished.	
10.	Taxes on vehicles	119.22	--	The stages of arrears were as under:	
				• Demands covered by certificate proceedings	50.21
				• Recoveries stayed by	
				➤ High court/Supreme Court/other judicial authorities	4.45
				➤ Departmental authorities of the Government	5.36
• Other stages	59.20				

Audit Report (Revenue Receipts) for the year ended 31 March 2007

(Rupees in crore)

Sl. No	Heads of revenue	Amount of arrears as on 31 March 2007	Arrears more than five years old	Remarks	
11.	State excise	30.03	11.33	The stages of recovery were as under:	
				• Demand covered by certificate proceedings	13.46
				• Recoveries stayed by the High Court/other judicial authorities	12.48
				• Recoveries stayed by departmental authorities	0.35
				• Amounts under dispute	0.81
				• Proposed to be written off	0.05
				• Other stages of recovery	2.88
12.	Interest	144.70	--	• Co-operation Department	79.30
				• Industries Department	65.40
				The arrears were due from:	
				➤ Industrial Development Corporation	7.23
				➤ Industrial Promotion and Investment Corporation of Orissa Limited	11.25
				➤ Orissa Small Industries Corporation	2.67
				➤ Orissa State Leather Corporation	0.73
				➤ Orissa Instrument Company	0.53
				➤ Orissa State Financial Corporation	
				◇ Loan in lieu of share capital	9.18
				◇ Interest bearing loan	23.47
				◇ State aid rural industries programme loan	1.23
				◇ Sales tax loan	5.82
				◇ Electricity duty loan	2.95
				◇ Panchayat Samiti Industries loan	0.34
13.	Stationery & printing	1.23	0.07	Details not available	
14.	Fisheries	0.15	0.08	Details not available	
Total		4,508.92	973.03		

1.6 Arrears in assessments

The details of the cases pending assessment at the beginning of the year 2006-07, cases becoming due for assessment during the year, cases disposed during the year and the number of cases pending finalisation at the end of the year 2006-07 as furnished by the department in respect of sales tax and entry tax were as under:

Heads of revenue	Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of column 6 to 5
1	2	3	4	5	6	7	8
Sales tax	2002-03	3,45,278	2,38,801	5,84,079	3,44,463	2,39,616	58.97
	2003-04	2,39,616	2,27,589	4,67,205	1,82,820	2,84,385	39.13
	2004-05	2,84,385	2,70,549	5,54,934	2,09,000	3,45,934	37.66
	2005-06	3,45,934	2,49,728	5,95,662	2,21,492	3,74,170	37.18
	2006-07	3,74,170	80,863	4,55,033	2,11,261	2,43,772	46.43
Entry tax	2002-03	50,228	84,051	1,34,279	58,748	75,531	43.75
	2003-04	75,531	51,379	1,26,910	67,994	58,916	53.58
	2004-05	58,916	1,44,741	2,03,657	91,773	1,11,884	45.08
	2005-06	1,11,884	1,19,836	2,31,720	83,078	1,48,642	35.85
	2006-07	1,48,642	57,218	2,05,860	89,382	1,16,478	43.42

The above table indicates that the percentage of assessments completed under both the heads during the years from 2002-03 to 2006-07 ranged between 35.85 and 58.97 *per cent*. This resulted in accumulation of huge arrears of assessments during these years. As of March 2007, arrears in assessment under sales tax and entry tax were 2.44 lakh and 1.16 lakh cases. Since, value added tax (VAT) has been introduced in the State from April 2005, the department needs to complete the pending assessments in a time bound manner.

1.7 Evasion of tax

The number of cases of evasion of tax detected and assessments finalised during 2006-07 as reported by the department are mentioned below:

Sl. No.	Name of tax/duty	Cases pending as on 31 March 2006	Cases detected during 2006-07	Total	No. of cases in which assessment/investigations completed and additional demand including penalty etc., raised		No. of cases pending finalisation as on 31 March 2007
					No. of cases	Amount of demand (Rs. in crore)	
1	Sales tax	6,547	790	7,337	3,492	202.80	3,845

Thus, disposal of detected cases was only 47.59 *per cent* in respect of sales tax. The department did not furnish the revenue involved in the pending cases.

1.8 Results of audit

Test check of the records of sales tax, motor vehicles tax, land revenue, state excise, forest, mines and minerals and other departmental offices conducted during the year 2006-07 revealed under assessment/short levy/loss of revenue etc., amounting to Rs. 1,160.66 crore in 2,38,540 cases. During the year 2006-07, the concerned departments accepted under assessment and other deficiencies of Rs. 189.97 crore involved in 87,114 cases which were pointed out in 2006-07 and in earlier years. Of these, the departments recovered Rs. 25.26 crore in 15,428 cases.

This report contains 48 paragraphs including two reviews relating to under assessment/non/short levy etc., involving Rs. 516.32 crore of which Rs. 425.45 crore has been accepted by the department/Government. Recovery made in these cases amounted to Rs. 92.42⁵ crore upto September 2007. Audit observations with a total revenue effect of Rs. 43.79 crore have not been accepted by the department/Government but their contentions have been appropriately commented upon in the relevant paragraphs. Replies in the remaining cases have not been received (November 2007).

⁵ Due to recovery of Rs. 88.81 crore in a single observation

1.9 Failure to enforce accountability and protect interest of the Government

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

The number of IRs and audit observations relating to revenue receipts issued upto 31 December 2006 which had not been settled by the departments as on 30 June 2007 along with the corresponding figures for the preceding two years are mentioned below:

	2005	2006	2007
Number of IRs pending settlement	3,653	3,115	3,368
Number of outstanding audit observations	11,067	9,190	9,772
Amount of revenue involved (Rupees in crore)	1,788.59	2,112.96	2,576.21

Department wise break up of IRs and audit observations outstanding as on 30 June 2007 is mentioned below:

Department	Nature of receipts	Number of outstanding		Amount of receipts involved (Rs. in crore)	Year to which observations relate	Number of IRs to which even first replies have not been received
		IRs	Audit observations			
Finance	Sales tax	627	2,009	343.65	1981-82 to 2006-07	52
	Entertainment tax	76	113	1.53	1975-76 to 2003-04	--
	Luxury tax	9	10	0.50	1997-98 to 2002-03	--
	Entry tax	122	191	30.07	2003-04 to 2006-07	36
Commerce and transport (Transport)	Taxes on vehicles	282	2,726	318.70	1970-71 to 2006-07	06
	Taxes on goods and passenger	70	237	1.09	1973-74 to 1987-88	--
Revenue	Land revenue	840	1,781	469.18	1975-76 to 2006-07	107
	Stamp duty and registration fees	374	604	158.70	1977-78 to 2006-07	116
Excise	State excise	272	611	163.75	1991-92 to 2006-07	19
Forest and environment	Forest receipts	471	1,086	273.21	1980-81 to 2006-07	59
Steel and mines	Mining receipts	107	188	179.52	1979-80 to 2006-07	08
Co-operation	Departmental receipts	25	43	77.58	1995-96 to 2006-07	03
Food supplies and consumer welfare	-do-	26	34	2.69	1997-98 to 2004-05	--
Energy	-do-	63	133	546.81	1992-93 to 2006-07	--

Department	Nature of receipts	Number of outstanding		Amount of receipts involved (Rs. in crore)	Year to which observations relate	Number of IRs to which even first replies have not been received
		IRs	Audit observations			
General administration (Rent)	Departmental receipts	02	04	6.51	2003-04 to 2006-07	--
Works	-do-	02	02	2.72	2003-04 to 2006-07	--
Total		3,368	9,772	2,576.21		406

It indicates that the heads of departments/offices, whose records were inspected by the Accountant General (CW&RA), failed to discharge due responsibility as they did not send any reply to a large number of IRs/paragraphs and also did not take any remedial measures for the defects, omissions and irregularities pointed out by the Accountant General (CW&RA). Since the outstanding amount represents unrealised revenue, the Government needs to take speedy and effective action on the issues raised in the IRs.

1.10 Departmental audit committee meetings

In order to expedite settlement of the outstanding audit observations contained in the IRs, departmental audit committees have been constituted by the Government. The representatives of Finance Department, Administrative Department and Office of the Accountant General (CW&RA) attend the meetings of the committee. The committees are expected to meet regularly to expedite clearance of the outstanding audit observations and ensure that final action is taken on all audit observations outstanding for more than a year. Department wise position of audit committee meetings held during the year 2006-07 was as under:

Sl. No.	Name of the department	Subject	No. of meeting held	No. of IRs settled	No. of audit observations settled
1.	Finance	Sales tax	16	24	196
2.	Forest & environment	Forest receipts	03	15	89
3.	Steel & mines	Mining receipts	10	08	35
4.	Transport	Motor vehicle tax	13	09	334
5.	Excise	Excise duty	01	09	36
6.	Food supplies & consumer welfare	Departmental receipts	01	13	22
7.	Revenue	Land revenue	10	47	410
Total			54	125	1,122

1.11 Response of the departments to draft audit paragraphs

The Government of Orissa, Finance Department, in their circular memorandum instructed (May 1967) various departments of the Government to submit compliance to draft audit paragraphs (DPs) proposed by the AG for inclusion in the Audit Report of the Comptroller and Auditor General (CAG)

of India, within six weeks from the date of receipt of such DPs. The above instructions were reiterated (December 1993) while accepting the recommendation of the High Power Committee on response of the State Governments to the Audit Reports of the CAG. The DPs are normally forwarded by the AG to the Principal Secretary/Secretary of the administrative department concerned through demi-official letters seeking confirmation of the factual position and comments thereon within the stipulated period of six weeks.

Fifty five DPs (clubbed in 48 paragraphs) being considered for inclusion in this Report were demi-officially forwarded to the Secretaries/Principal Secretaries of the concerned departments between January 2007 and May 2007 with a request for verification of the factual position and also for comments thereon. Demi-official reminders were also issued after the expiry of six weeks time in each case. The position of response to the draft paras is mentioned below:

Sl. No.	Name of the department/Nature of receipts	No. of draft paras forwarded including review	No. of draft paras in respect of which replies were received	No. of draft paras in which replies were not received
1	Finance (Sales tax & entry tax)	18	17	01
2	Transport (Motor vehicle tax)	15	15	--
3	Excise (Excise duty and fees)	06	04	02
4	Forest and environment (Forest receipts)	02	02	--
5	Steel & mines (Mining receipts)	07	02	05
6	Revenue (Land revenue, stamp duty and registration fees)	05	04	01
7	Energy and Home (Departmental receipts)	02	01	01
Total		55	45	10

1.12 Follow-up on audit reports - summarised position

According to the instructions issued by the Finance Department in December 1993, all departments are required to furnish explanatory memoranda vetted by audit to the Orissa Legislative Assembly in respect of the paragraphs included in the Audit Reports within three months of the Report being laid on the table of the House.

Review of outstanding explanatory memoranda on paragraphs included in the reports of the CAG (Revenue Receipts) as on 31 March 2007 disclosed that the departments had not submitted remedial explanatory memoranda on 103 paragraphs for the years from 1997-98 to 2005-06 as mentioned below:

Year	No. of paragraphs in the audit report	No. of paragraphs discussed in PAC	No. of paragraphs pending for discussion	No. of paragraphs for which compliance notes are awaited from the departments
1991-92	63	62	01	--
1992-93	54	53	01	--
1993-94	44	43	01	--
1994-95	47	44	03	--
1995-96	40	39	01	--
1996-97	36	36	--	--
1997-98	38	03	35	01
1998-99	40	01	39	02
1999-00	34	--	34	07
2000-01	45	05	40	06
2001-02	45	06	39	10
2002-03	57	04	53	09
2003-04	63	--	63	13
2004-05	62	04	58	02
2005-06	53	--	53	53
Total	721	300	421	103

Thus, non-compliance to the audit paragraphs stood at 14.28 *per cent* of total paragraphs presented to the Assembly during the above period.

With a view to ensuring accountability of the executive in respect of all the issues dealt with in the Audit Reports, the Public Accounts Committee (PAC), as early as in May 1966, issued instructions to all the departments of the State Government to submit action taken notes (ATN) on the recommendations made by the PAC for further consideration within six months of the presentation of the PAC Report to the Legislature. It was noticed from the PAC reports submitted during 10th, 11th, 12th, and 13th Assembly that 47 Reports containing 371 paras/recommendations were presented by the PAC before the Legislature between February 1991 and March 2007 after examination of the Audit Report (Revenue Receipts) of 14 departments for the years 1985-86 to 2000-01. However, ATNs had not been received in respect of 107 recommendations of the PAC from the concerned departments as of March 2007.

This indicated that the executive failed to take prompt action on the important issues highlighted in the Audit Reports that involved large sources of unrealised revenue.

1.13 Compliance with audit reports

In the Audit Reports 2001-02 to 2005-06, audit observations relating to under assessments, non/short levy of taxes, loss of revenue, failure to raise demands, etc., involving Rs. 1,797.63 crore were included. Of these, as of September 2007, the departments concerned had accepted under assessments and other deficiencies involving Rs. 322.89 crore and had recovered Rs. 52.35 crore. Audit Report wise details of cases accepted and revenue recovered are as under:

(Rupees in crore)

Sl. No.	Year	Money value of audit report	Amount accepted by the department	Amount recovered
1	2001-02	260.18	6.88	4.18
2	2002-03	281.31	9.66	6.92
3	2003-04	558.63	37.94	10.02
4	2004-05	560.81	221.43	17.78
5	2005-06	136.70	46.98	13.45
Total		1,797.63	322.89	52.35

CHAPTER-II: SALES TAX & ENTRY TAX

2.1 Results of audit

Test check of the assessments, refund cases and connected documents on sales tax and entry tax of commercial tax offices during the year 2006-07 revealed under assessment of tax, incorrect grant of exemption, non/short levy of tax etc., amounting to Rs. 127.38 crore in 2,265 cases which broadly fall under the following categories :-

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
Sales tax			
1.	Short levy of tax due to incorrect computation of taxable turnover	33	24.21
2.	Under assessment of tax due to application of incorrect/concessional rate of tax	50	17.83
3.	Under assessment of tax due to irregular grant of exemption	26	18.48
4.	Non/short levy of surcharge/interest	6	0.43
5.	Other irregularities	99	22.69
6.	Value Added Tax Information System in Commercial Tax Department (An IT review)	1	0.00
Total		215	83.64
Entry tax			
1.	Under assessment due to incorrect computation of taxable turnover	18	2.07
2.	Under assessment of tax due to application of incorrect rate of tax	10	9.79
3.	Short levy due to irregular deduction	4	1.10
4.	Non/short levy of tax	2,008	5.14
5.	Non/short levy of penalty	7	25.60
6.	Other irregularities	3	0.04
Total		2,050	43.74
Grand total		2,265	127.38

During the year 2006-07, the department accepted under assessment and other deficiencies of Rs. 9.24 crore in 40 cases, which were pointed out in audit in earlier years and Rs. 20.24 crore in nine cases pointed out in 2006-07. Of these, the department recovered Rs. 5.21 crore in 10 cases.

A few illustrative cases highlighting important audit observations involving Rs. 36.35 crore are discussed in the following paragraphs.

2.2 Information technology audit of “Value Added Tax Information System (VATIS)” in Commercial Tax Department

Highlights:

System design deficiencies resulted in non-capturing of purchase details, incorrect entry of carry forward and refundable amount etc.

(Paragraph 2.2.7.1, 2.2.7.2)

Non-integration of modules resulted in utilisation of waybill by dealers other than the dealer to whom it was issued and before its issue date.

(Paragraph 2.2.8)

Lack of input controls led to incomplete and inaccurate database like issue of multiple registration numbers to the same dealer, entry of invalid vehicle number and waybill number, wrong entry of tax payable/due, non-entry of dealer details etc.

(Paragraph 2.2.9)

Absence of validation controls led to inaccuracies in the database like entry of refund claim without export, acceptance of payment after filing of return, exit of vehicle at the entry check gate, acceptance of unusual time to exit the border check gate, repeated utilisation of waybill etc.

(Paragraph 2.2.11)

Lack of adequate security controls resulted in multiple users having the same password, unauthorised data entry and modification of data etc.

(Paragraph 2.2.12)

Absence of online entry of ‘out-to-out’ vehicles allowed the defaulting vehicles to escape from detection of fraud/evasion of tax.

(Paragraph 2.2.13.3)

2.2.1 Introduction

The Government of Orissa repealed the Orissa Sales Tax Act, 1947 and enacted the Orissa Value Added Tax Act (OVAT), 2004 for implementation with effect from 1 April 2005. As per OVAT Act, a dealer pays tax on the value added to the purchase value of a commodity. Unlike the sales tax regime there is no statutory assessment of dealers. Instead, only 20 *per cent* of the dealers, selected on a random basis, are subjected to tax audit annually by the department.

The Commercial Taxes Department (CTD) is responsible for collection of sales tax, entry tax, entertainment tax and professional tax in the state of Orissa. The Department for International Development (DFID), UK, approved a project in support of the Government of Orissa Public Sector Reform Plans (OPSRP) in March 1999. One of the components of OPSRP was “Strengthening and Modernisation of the Commercial Taxes Organisation under Finance Department”. The DFID assistance aimed at improving the sales tax system and introducing value added tax in the state. The first phase of assistance from DFID was available during the period from 1999-2000 to 2004-05 in the field of organisational restructuring, training, publicity and computerisation. DFID provided the hardware through M/s CMC, software through M/s Mastek and training to departmental officers through M/s Price Waterhouse Cooper.

It was decided to conduct an IT audit of Value Added Tax Information System (VATIS) in the Commercial Tax Department. The review revealed a number of system and other deficiencies which are discussed in the succeeding paragraphs.

2.2.2 IT organisational structure

The IT Department in CTD is headed by the Additional Commissioner of Commercial Taxes (Revenue & IT) assisted by three officials including a system analyst. All technical personnel in the IT wing, including the system analyst, are working on a contractual basis. Besides its head office at Cuttack, the department has 10 territorial and four intelligence range offices, 44 circles, 11 assessment units, four unified check gates and 18 minor check gates geographically spread across the State for administration and collection of taxes.

2.2.3 Information systems set up

VATIS was developed using SQL server 2000 as the database on the Net framework. The IT system architecture is web based and has a distributed database system. Out of 107 offices of the CTD, 83 offices were supplied with computers as on March 2007, 60 offices were supplied with local area network (LAN) and 50 offices with wide area network (WAN) through BSNL leased lines (64Kbps). M/s Mastek Ltd has developed the software “VATIS” which contains 14 modules⁶. The CTD however, is operating only six modules viz. dealer information system (DIS), return, statutory form management, check post monitoring (CPM), personnel monitoring information system (PMIS) and security.

The DIS module captures detailed data about the dealers and their business activities and generates the registration certificate number. The return module captures the detailed data as furnished by the registered dealers manually in

6 Dealer information system (DIS); Return; Audit; Assessment; Personal management information system (PMIS); Security; Statutory form management; check post monitoring (CPM); Enforcement and intelligence; Budget and establishment; Legal; Recovery; Individual taxpayers’ ledger (IRL); MIS and performance monitoring

the prescribed forms through periodical returns. In the CPM module the inter-state movement of vehicles at the border check gates is recorded. The statutory form management module deals with issue and utilisation of statutory forms such as C form, F form, waybill etc.

2.2.4 Audit objectives

The audit objectives were to assess whether:

- the system met the requirements of the OVAT Act and was synchronised with the critical business of the department;
- proper input, validation and process control existed in the system to ensure that the data captured was authentic, complete and accurate;
- the database provided sufficient, complete, reliable and authorised information for management action; and
- adequate security measures were in place.

2.2.5 Scope and methodology of audit

The review of VATIS covering five modules (DIS, return, statutory form management, CPM and security module) was conducted between November 2006 to June 2007 in three range offices (Puri, Cuttack-I and Sundargarh), two circle offices (Bhubaneswar-I and Cuttack-I-Central) and one check gate (Jamsolaghat) using a computer aided audit tool. The findings were also cross-checked with manual records on a sample basis.

2.2.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Tax Department in providing necessary information and records for audit. The audit findings as a result of test check of the system and the records were reported to the Government in September 2007.

The Commissioner of Commercial Taxes (CCT), Orissa while welcoming the audit findings (November 2007) attributed the lapses to incomplete hardware and Wide Area network as a result of which VATIS could not be made fully operational, shortage of officials as well as IT skilled manpower to validate the data input into the system, non-coverage of the CPM of the VATIS in all the border check posts, instability of the data circuits provided by BSNL and regular failure in connectivity, frequent changes in the VATIS due to amendment of the VAT Act and other related Acts etc. It was also stated that steps had been taken to change the software and install necessary process control/validation checks.

Audit findings

It was observed that the system had deficiencies relating to system design, input and validation controls, and security and access controls, which resulted in ineffective and inefficient management of the system and

rendered the information generated completely unreliable. The audit findings are discussed in the succeeding paragraphs.

System design deficiencies

2.2.7 Return module

2.2.7.1 The OVAT Act provides a structured format (VAT 201) for filing returns. This contains vital information for the assessment of dealer. Audit scrutiny revealed that the software did not have provision for capture of details of purchases not covered under the various categories i.e. purchases under different tax rates, inter state trade, imports, stock transfer etc., although data regarding the value of such purchases was captured. Data analysis revealed that in 1,963 returns, purchases valued as Rs. 226.54 crore were entered without such details, thereby restricting the department from obtaining vital information available from the dealer's return.

2.2.7.2 The dealer can claim refund and/or carry forward the tax amount, in case creditable input tax is more than the output tax. If output tax is more than the input tax the dealer has to pay the difference. It was, however, noticed that in 521 cases, refund/credit carried forward amounting to Rs. 378.24 lakh was entered, though there was tax payable on account of lesser input tax. Similarly, in 1,239 cases, the total of refund claim and carry forward did not tally with the difference between input tax and output tax and the difference ranged from (-) Rs. 3.70 crore to Rs. 58.54 crore. This indicated defective design and lack of validation among the respective input fields. Manual checking revealed data entry mistakes in 20 out of 22 cases.

2.2.7.3 The return form requires details of the amount of input credit tax carried forward from the previous month. However, the system does not provide for automatic carry forward of the input tax amount of the previous month. This led to reliance on the manual data entry only, due to which a difference of Rs. 6,616.39 crore was observed in 7,661 cases in two circles.

2.2.7.4 The return form prescribes columns for entry of purchase and sale value and tax thereon at one, four and 12.5 *per cent* of tax respectively with a view to work out the creditable input tax and output tax respectively. It was however, noticed that there was a difference in the tax entered amount and actual tax claimed/due thereagainst. Manual checking of 28 cases revealed that in 26 cases there was wrong data entry and in two cases, the dealers had actually filed the returns furnishing wrong information.

2.2.7.5 The dealer has to pay the tax on or before the date of filing of the return. In case of delayed payment, interest at two *per cent* per month is leviable. In 7,836 cases, the system accepted entries of payment of tax made after the prescribed period of which in 7,353 cases, interest for belated payment was not separately entered even though the system provides fields for such entry.

2.2.8 Non-integration of modules

The CPM module was not integrated with the DIS and statutory form management module, which resulted in the following:

2.2.8.1 In 6,022 cases, the system accepted utilisation of waybills by dealers other than the dealer to whom these were issued. Manual check revealed that this happened due to erroneous data entry. Lack of integration of the statutory form management module and the CPM module led to failure of the system to detect the mismatch between taxpayers identification number (TIN) as mentioned in the statutory form management module and the entries made in CPM module.

The waybills were issued by the range offices. The utilisation of these waybills was checked at the check gates. Due to lack of integration between the statutory form management module at the range offices and CPM module at the check gates, the waybills were shown as utilised before the date of their actual issue to the dealers from the range offices in 27,644 cases. Manual checking revealed that the issue details were entered into the system belatedly after the actual issue of the form.

2.2.8.2 The DIS module is maintained in the range offices for keeping the details of the dealers. The system is required to show the status of the dealer correctly i.e. registered, unregistered or casual and should not treat a particular dealer differently on different occasions of movement of goods. Audit scrutiny of the CPM module at the check gates revealed that in 517 cases the system exhibited wrong status in respect of 252 dealers indicating non-integration of the CPM module with the DIS module.

Input controls

Input controls ensure that data entered into the system is authorised, complete and correct. The audit revealed that the system lacked input controls, as it did not ensure complete and correct collection of the required primary data in its database.

2.2.9 Inaccuracies in Data

Absence of various input controls led to entry and acceptance of incorrect data in the database which made the system unreliable as is evident from the cases cited below:

DIS module

2.2.9.1 A dealer should not be issued more than one certificate of registration for his business in the State. Analysis of the database revealed that in 184 cases the system generated more than one registration number for a dealer even though the details like the name of the dealer, father's name, address, phone number and even PAN were same. Test check of the manual records also corroborated the facts.

2.2.9.2 It was further revealed that commodities dealt with by the dealers were not entered correctly, which is a vital information to prevent evasion of tax as different commodities are taxed differently. Test check of 25 manual records corroborated the facts.

CPM module

2.2.9.3 The success of the CPM module largely depends upon the correct entry of the vehicle number. In case of a new vehicle, the system asks for the owner's name, address and telephone number, which is saved in the 'Vehicle Master File'. Once any data is entered in the master file, no modification can be made. Due to lack of proper input control, 498 invalid vehicle numbers were entered, where the number of digits in the vehicle number was more than eight or last digit was ending with alphabets or number of two vehicles were entered as one number or the vehicle number in a series was more than 9,999 or the vehicle number started with a numeric. In addition to this, the owner's name, address of the owners of the vehicle etc., were also not entered.

2.2.9.4 In case a vehicle does not exit through the declared check gate in case of 'out-to-out' movements (where the originating and destination state is not Orissa), the system should not allow data entry of that particular vehicle for any type of movement on subsequent occasions. It was, however, noticed that the system accepted entry on subsequent occasions in respect of 42 vehicles which had not exit on the last occasion as the data entry was erroneously made. One such example is given below:

Vehicle Number AP-05, U-9969 entered through Jamsola check gate on 2 February 2007 and declared that it would exit through Girisola check gate on 4 February 2007 but did not exit through the declared check gate. However, the same vehicle again entered with Vehicle number AP5U9969 through Jamsola check gate as 'out-to-in' movement (where the destination state is Orissa).

This indicated that due to lack of proper input control, the system allowed manipulation of data. Thus, the purpose of monitoring out-to-out movement of vehicles with a view to avoid tax evasion through the computerised system has not yielded the desired result.

2.2.9.5 The total way bill serial number in any series can not exceed 10 lakh and contains two alphabetical series code initially like AD, AE, AF, AG, AH etc. The system accepted 289 waybills having invalid serial numbers carrying goods worth Rs. 48.81 crore due to absence of proper input control.

Statutory form management module

2.2.9.6 Statutory form management module prescribes for online requisition and issue of various statutory forms. **It was, however, observed that all the procedures are being followed manually and data entry is being done subsequently, rendering the computerisation effort meaningless.** Test check of the records revealed that the names of the dealers to whom forms were actually issued were different from those entered in the database due to errors in subsequent data entry.

2.2.10 Incomplete data entry

Absence of input controls also led to incomplete database making the system unreliable as is evident from the cases cited below:

DIS module

2.2.10.1 In order to obtain automatic registration number of a dealer, certain information is required to be entered. Such information being important, data capture in these fields should have been made mandatory. Analysis of the database, however, revealed that the registration number was being generated without entering the required information as detailed in the **Annexure I**. This resulted in incomplete database in respect of the registered dealers.

Return module

2.2.10.2 It was observed that in 23,319 records, purchase/sale details were not entered, though the dealer had declared that he had affected purchases or sales.

2.2.10.3 The return form provides for information regarding various types of input tax credit, details of which are required to be entered. It was, however, observed in 1,806 out of 1,873 cases, the details were not entered in the system.

2.2.10.4 Every dealer is required to pay the full amount of tax payable according to the return on or before the due date. Scrutiny of the database revealed that in 7,329 cases, only details of payment of tax was entered without the corresponding entry of purchase and sale details. Therefore, the database was incomplete.

CPM module

2.2.10.5 In case of out-to-out vehicles, entry of registration number of the dealer transporting the goods using a particular vehicle is required for tracking the vehicle in order to prevent evasion of tax. However, in most of the cases, registration number of the dealer was not entered. Similarly, in case of in-to-out and out-to-in vehicles, waybill numbers and total invoice value of goods transported were not entered in 769 cases. This resulted in an incomplete database.

2.2.10.6 For out-to-out vehicles, the date of exit and the exit check gate name are required to be entered. It was noticed that the system accepted incomplete data entry as in 258 cases the exit date was not entered and in 843 cases the names of exit check gates was not entered.

Validation controls

2.2.11 Lack of validation controls were also noticed in the software in various modules, which are discussed below:

DIS module

2.2.11.1 The system accepted the date of tax liability before the date of commencement of the business in 388 cases.

Return module

2.2.11.2 When a dealer exports goods, he is entitled to claim refund. It was, however, seen that though there was no entry regarding export, the software accepted entry for refund in 287 cases due to lack of validation controls. Manual verification revealed that out of 10 cases, in seven cases the data entry was erroneous. Manual intervention prevented payment of refunds in these cases.

2.2.11.3 Every dealer is required to file a return accompanied by a receipt towards the tax paid for the full amount of tax payable as per the return. Thus, the dealer has to pay the tax on or before the date of filing of return in any case. In 84 cases, the system accepted payment of tax after the return was filed due to lack of validation control.

CPM module

2.2.11.4 The CPM module is required to generate a mismatch report in the event of a vehicle exiting through a check gate other than the declared gate. An out-to-out vehicle cannot exit through the entry check gate. Scrutiny of the database revealed that in 1,635 out of 3,20,160 cases, the vehicle exited through the entry gate, which happened due to lack of proper validation control.

2.2.11.5 Further, in no case can the date of exit precede the date of entry. In 331 cases the software accepted the date of exit as prior to the date of entry due to lack of validation control.

2.2.11.6 The distance between various check gates as well as the probable time taken to cover such distance are known to the department. These details, however, have not been incorporated in the software, resulting in acceptance of unusual expected time period (3 to 20,820 days) to exit from the state of Orissa. Further, it was seen that in 5,261 cases, the vehicles actually took between 11 to 3,653 days to exit. **Lack of entry of parameters in the system led to lack of proper validation control, which resulted in improper monitoring of such vehicles.**

2.2.11.7 The registration number (TIN) should be a number comprising eleven digits. The first two numbers being the State code should be 21 and the fifth and sixth numbers should be 11 to 20 being the range code. This is required to be mentioned in the waybills. **Due to lack of integrated modules (CPM and DIS) registration numbers had to be fed again in the CPM module at the check gates.** It was noticed that due to poor validation control, the software accepted invalid registration number in respect of 3,614 registered dealers.

2.2.11.8 Waybills issued by the department are a vital document for inter state transactions and should be utilised only once. Unregistered dealers are not issued waybills by the department. Due to lack of validation control, the system allowed repeated use of 81 numbers of waybills. The system also allowed use of waybills by 237 unregistered/casual dealers. Manual check of 10 cases pertaining to Jamsola check gate revealed that such type of irregularities occurred due to wrong entry of waybill serial number.

2.2.12 IT Security

The SQL server has inbuilt security measures. **The application software, however, has not incorporated some of the security aspects, resulting in unauthorised entry of data. Besides this, necessary access controls were also not embedded in the software.** The inadequate security measures observed are narrated below: -

2.2.12.1 The system does not force change of password at regular intervals. It was observed that 105 out of 121 users were sharing the same password. The passwords have remained unchanged since the installation of the system.

2.2.12.2 The application continued to have users with active privileges even after their transfer and data entry was being done using their user IDs.

2.2.12.3 In one check gate contractual data entry operators are using the Commercial Tax officer's user ID for data entry.

2.2.12.4 In 5,939 cases, the same user made both the entry as well as the exit details of the vehicle, though the exit gate was located several hundred kilometers away from the entry gate.

2.2.12.5 **There is inadequate provision of function specific users under each module in the system.** Taking advantage of that, users were making data entry in some functions, which were not allowed to them as per the Act. It was seen in audit that the assignment of officials for scrutiny and survey and disposal of registration application in the system were being conducted not by the range officers but the clerks/stenos etc.

2.2.12.6 The system provides for an unique function in the return form, where, after entry of all details furnished by the dealer the data is saved in the database with a flag indicating complete data entry. No changes are accepted by the system once this flag was activated. In the absence of the flag, the data could be modified. Analysis of the database revealed that 19,751 out of 75,671 returns were not entered completely for upto 553 days, thus leaving scope for subsequent modification of the data. Audit analysis further revealed that in 3,080 cases, the returns data was modified subsequently, of which in 2,408 cases other user IDs were used.

2.2.12.7 **The system does not provide an audit trail for recording the details of the modification of data in between the first creation and last modification.**

Other deficiencies

2.2.13 Non-utilisation of the system

2.2.13.1 The system was designed to capture the complete workflow of the process of issue of the registration certificate, like the assignment of officer for site survey, scrutiny of documents etc. The system allowed issuing of registration certificate on the same day of the receipt of the application for registration even though these manual processes were not completed in 6,802 cases. Verification of 100 cases revealed that data was entered in the system after all the required procedures were completed manually which defeated the objective of computerisation.

2.2.13.2 Every dealer is required to file a return within 21 days from the date of expiry of the tax period. In 41,453 out of 75,671 cases, the returns were filed beyond the prescribed period of 21 days, which ranged upto 599 days. Manual records revealed that in 7 out of 22 cases, the data entry was made after the actual receipt of return and in 15 cases the dealer had filed the return belatedly. In this connection it was seen that the returns are filed in the circle offices where they are received, stamped and passed on for data entry. The acknowledgement is supposed to be generated through the system. However, the manual system of acknowledgement of receipt is still in vogue, which can be seen from the delays in the entry of the returns received earlier. Thus the automated workflow as envisaged through the system was absent and manual intervention and input errors made the data unreliable.

2.2.13.3 It was noticed that the data entry of out-to-out movements are not made on-line due to insufficient number of data entry operators at the check gates. The vehicles are allowed to exit the check gate on receipt of the transit pass issued at the entry check gate without entering the data into the system. As per the system requirement, in case a vehicle has not exited through the declared check gate on a previous occasion, the system should not accept data entry of any type of subsequent movement in respect of such vehicles. The fact of non-exited vehicles on previous occasions can be known only when the data entries are made in the system. However, due to belated data entry, the offending vehicle would already have been allowed by the check gate authority to exit the gate. Thus absence of online entry of vehicles resulted in allowing the defaulting vehicles to escape detection of fraud/evasion of tax without any audit trail in the system.

2.2.14 Generation of wrong report

2.2.14.1 Audit observed that the system generates an erroneous MIS report in the event of a dealer filing a revised return. It is showing an excess amount as received taking into account the tax initially paid and the total tax paid including additional tax as per the revised return, thus leading to erroneous MIS report apart from increasing the revenue collected.

2.2.14.2 The software provides 90 days as the time period for the disposal of an application for registration. In 821 cases, the registration application was disposed after the prescribed period and time period ranged upto 321 days.

Manual check of 30 cases revealed that the registration application was actually disposed of within 90 days. In these cases, the applications were received much after their date of receipt shown in the software. This indicated that the receipt of application for registration was entered without the actual availability of the application for registration.

2.2.15 Conclusion

Computerisation was undertaken with a view to enhance the efficiency of the organisation in implementing the OVAT Act and Rules made thereunder. The provisions of OVAT Act and Rules, however, were not incorporated fully into the application software (VATIS), resulting in various irregularities such as acceptance of wrong entries, generation of wrong reports, acceptance of invalid registration number, vehicle number, waybill number etc. Besides, the integrity of the data was questionable in view of lack of proper security and access control. The IT system was, thus, unable to address the business needs and the computerisation efforts did not yield the expected results.

The VAT scheme envisages selective audit of dealers. The department has to rely entirely on the system generated details for selection of dealers for assessment. This entails correct and complete data entry, stringent validation controls, proper program logic, accurate output control and integration of the relevant modules to enforce these controls. The system in the present shape was not in a position to deliver the desired results as adequate assurance cannot be reposed in the system due to incomplete, inaccurate and unreliable data. The department, therefore, should address the system deficiencies in order to reap the intended benefits of computerisation.

2.2.16 Recommendations

The Government may consider the following:

- a designated official in each data entry centre should check the data entry as correct and complete and provision for such certification should be embedded in the system. Unless such certification is available, data should not be allowed to be processed further;
- stringent input and validation controls should be built into the system to ensure that unauthorised, invalid and non-existing data is not fed into the system;
- the system being spread all over the state, the existing leased lines (64Kbps) should be upgraded for uninterrupted data flow among check gates and field offices;
- distinct user identification and authentication should be provided to all the users for better security and monitoring. The system administrator should ensure cancellation of password at periodical intervals and users should be prompted to create their own passwords; and
- integration of the relevant modules should be ensured.

Sales Tax

2.3 Under assessment of tax due to short determination of taxable turnover

Under the Orissa Sales Tax (OST) Act, 1947, transfer of property in goods involved in works contract is exigible to tax. Further, as held⁷ by the Supreme Court, value of goods at the time of incorporation in the works, constitutes the measure for levy of tax. Works contract is taxable at eight *per cent* under the Act.

During the audit of Koraput-I circle in January 2007, it was noticed that while finalising the assessment of a registered dealer engaged in works contract for the year 2004-05, the assessing officer (AO) determined the taxable turnover as Rs. 172.13 crore and finalised the assessment in October 2005. Scrutiny of the profit and loss account of the dealer for the year 2004-05 revealed that the dealer disclosed consumption of raw material valued as Rs. 272.49 crore in works and proportionate profit on the material component was Rs. 13.15 crore. Thus, taxable turnover on the basis of actual utilisation of material in works and proportionate profit works out to Rs. 285.64 crore. This resulted in short determination of taxable turnover of Rs. 113.51 crore (Rs. 285.64 crore – Rs. 172.13 crore) and consequent under assessment of tax of Rs. 9.99 crore including surcharge.

After the case was pointed out, the AO reassessed the dealer in February 2007 determining the profit element as Rs. 25.04 crore and levied tax and surcharge of Rs. 2.20 crore while mentioning in the reassessment order that there was no short levy of tax on account of the value of material in the original assessment. The contention of the AO is not tenable as the dealer himself disclosed the value of material consumed in works as Rs. 272.49 crore in the certified profit and loss account, copy of which was furnished to the AO at the time of assessment.

After the case was pointed out, the Government in May 2007 stated that demand of Rs. 2.20 crore had been raised. The dealer while depositing tax of Rs. 1.32 crore had filed an appeal. A report on further development has not been received (November 2007).

2.4 Non-levy of tax on royalty

Under the provisions of the OST Act, transfer of right to use any goods for any purpose for cash, deferred payment or other valuable consideration is a sale. The amount received towards royalty for allowing the use of a trade mark comes under the said class of receipts and is taxable at 12 *per cent* as unspecified item under the Act. Further, if a dealer conceals any part of his taxable turnover or furnishes incorrect return of turnover, he shall be liable to

⁷ M/s. Ganon Dunkerly & Co Vs. State of Rajasthan (88 STC-P/204)

pay a penalty equal to one and half times of tax so assessed on the concealed turnover.

During the audit of Bhubaneswar-II circle in October 2006, it was noticed that a State Government undertaking, registered as a dealer, had filed 'nil' returns for the years 2001-02 and 2002-03 and was assessed accordingly in March 2005 and March 2006 respectively. Verification of annual accounts of another dealer, a manufacturer of cement at Bargarh revealed that the dealer of Bhubaneswar received Rs. 22.15 crore and Rs. 5.21 crore towards royalty from the manufacturer during the years 2001-02 and 2002-03 respectively for the use of its trade mark. This resulted in under assessment of taxable turnover of Rs. 27.36 crore and consequent non-levy of tax of Rs. 3.61 crore including surcharge. Besides, penalty of Rs. 4.93 crore was also leviable for deliberate concealment of turnover.

After the case was pointed out, the AO completed the reassessment proceedings in January 2007 raising a demand of Rs. 3.09 crore including penalty. It was, however, seen from the reassessment order that the AO determined royalty of Rs. 4.17 crore during 2001-02 against Rs. 22.15 crore received by the dealer as shown in the certified profit and loss account for that year.

On the matter being pointed out, the Government in August 2007 confirmed the fact of reassessment and stated that the dealer while depositing Rs. 30 lakh had filed an appeal. A report on further development in respect of the appeal case and reply on the reason for variation of Rs. 17.98 crore (Rs. 22.15 crore-Rs. 4.17 crore) has not been received (November 2007).

2.5 Irregular grant of exempted sale

Under the delegated provision of the Central Sales Tax (CST) Act, 1956, inter state sale of goods exempted from payment of tax under the State Act is also exempted from CST. Such exemption is, however, admissible against the submission of declarations in form C with effect from 14 May 2002. Sale of processed iron ore is taxed at four *per cent* and if not supported by form C is taxable at the rate of 10 *per cent* under the CST Act.

During the audit of Keonjhar circle in May 2006, it was noticed that a registered dealer engaged in manufacture and processing of iron ore and enjoying exemption benefit under the State Act effected inter state sale of goods valued as Rs. 36.65 crore during the year 2003-04. The AO while completing the assessment in October 2005 incorrectly allowed the said turnover as exempted sale though the dealer did not furnish declaration in form C. This irregular grant of exemption resulted in under assessment of CST of Rs. 3.66 crore.

After the case was pointed out, the AO admitted the audit observation and raised a demand of Rs. 3.66 crore after reassessment in January 2007 disallowing the exempted sales during the year 2003-04.

On the matter being pointed out, the Government in August 2007 confirmed that a demand of Rs. 3.66 crore was raised and stated that the dealer while depositing Rs. 1 crore had filed an appeal. A report on further development has not been received (November 2007).

2.6 Irregular grant of exemption

The OST Act provides that a medium scale industrial (MSI) unit needs to be certified by the State Director of Industries to avail exemption under the Industrial Policy (IP) 1996. The status of an industrial unit is decided by the Union Ministry of Industries and according to the notification of the Ministry dated 10 December 1997, units with fixed capital investment (FCI) upto Rs. 3 crore are considered as small scale industrial (SSI) units. Thus, a unit having an investment exceeding Rs. 3 crore comes under the category of MSI and requires eligibility certificate (EC) from the Director of Industries to avail exemption from tax.

During the audit of Rourkela-II circle in September 2006, it was noticed that an existing MSI, a manufacturer of cement, established a second unit with an FCI of Rs. 6.86 crore as fixed capital. On the basis of the EC issued by the Project Manager, District Industries Centre (DIC), Rourkela, the dealer claimed exemption of sales tax of Rs. 3.22 crore for the years 2001-02 and 2002-03. Though the EC was not issued by the designated authority i.e., Director of Industries, the AO while completing the assessments between September 2002 and September 2004 allowed the exemption in contravention of the provisions of the OST Act. This resulted in irregular grant of exemption of Rs. 3.22 crore.

After the case was pointed out, the Government in August 2007 intimated that the AO has reopened the case in March 2007 and raised a demand of Rs. 3.22 crore. A report on recovery has not been received (November 2007).

2.7 Irregular exemption on export sales

Under the CST Act, a dealer is not liable to pay tax on any sale of goods if the sales made are in the course of export. Sales in the course of export, according to the provisions of the Act, are sales which are effected for the purpose of complying with an order or agreement in relation to such export provided the same goods are exported out of the territory of India. Sale of cast iron castings (ingot moulds) being declared goods is taxable at eight *per cent* without declaration in form C under the CST Act.

During scrutiny of the records of Rourkela-II circle in September 2006, it was noticed that while finalising the assessments of a dealer in Rourkela II circle between March 2004 and March 2006 for the period from 2002-03 to 2004-05, sale of cast iron castings valued as Rs. 30.92 crore was exempted from levy of tax as sales in the course of export. Cross verification with the records of the concerned central excise range at Kalunga under the Assistant Commissioner

of Central Excise, Rourkela and a copy of ARE-I⁸ of central excise range, Kolkata available in the assessment records maintained in Rourkela-II sales tax circle, revealed that the goods despatched by the Orissa based dealer were further processed in Kolkata and finally exported as articles of cast iron. Since the goods had not been exported in the same form, the conditions underlying sales in course of exports were not fulfilled. This resulted in irregular exemption and consequent non-levy of tax of Rs. 2.47 crore.

After the case was pointed out, the CCT, Orissa stated in September 2007 that the Assistant Commissioner of Sales Tax (ACST), Sundergarh Range had initiated *suo motu* proceedings to revise the assessments. Further reply in the case has not been received (November 2007).

2.8 Under assessment of tax due to misclassification of goods

Under the OST Act, perfumed oil and coconut oil are taxable at the rate of 20 *per cent* and four *per cent* respectively.

During the audit of Bhubaneswar-I circle in June 2006, it was noticed that a registered SSI unit engaged in the manufacture of coconut oil and perfumed oil was assessed in February 2005 for the year 1998-99 and tax of Rs. 40.55 lakh was levied at the rate of four *per cent* on the turnover of Rs. 10.13 crore. Verification of records, however, revealed that out of Rs. 10.13 crore, turnover of Rs. 7.58 crore pertained to the sale of perfumed oil and was taxable at the rate of 20 *per cent*. Thus, assessment of the entire turnover at four *per cent* resulted in under assessment of tax of Rs. 1.40 crore including surcharge.

After the case was pointed out, the CCT in October 2007 intimated that on completion of revision of assessment a demand of Rs. 1.45 crore had been raised. A report on recovery has not been received (November 2007).

2.9 Excess grant of exemption

Under the OST Act read with the IP 1996, an SSI unit located in zone-C⁹ is eligible for the exemption of sales tax on the purchase of raw material, machinery, spare parts, packing material and sale of finished products subject to a ceiling of 100 *per cent* of FCI for a period of five years from the date of commercial production. There is no provision for exemption of tax on any expansion/modernisation/diversification for the new units established under the IP 1996.

During the audit of Jajpur circle in June 2006, it was noticed that a registered SSI unit engaged in the manufacture of sponge iron started its commercial production in March 1999 with FCI of Rs. 3.71 crore which was also its

8 Application for removal of excisable goods manufactured in a factory for export.

9 The State of Orissa is divided into zones depending upon their industrial backwardness. Zone-C locations- Angul, Balasore, Bargarh, Berhampur, Bhubaneswar, Chatrapur, Cuttack, Dhenkanal, Jajpur, Jharsuguda, Panposh, Rayagada, Sambalpur and Talcher.

ceiling of exemption. Of this, the dealer availed exemption of Rs. 2.83 crore upto 2002-03 leaving a balance of allowable exemption of Rs. 88 lakh. The AO while completing the assessment in June 2005 for the year 2003-04, assessed tax liability of the dealer as Rs. 1.59 crore and adjusted it against FCI of Rs. 6.67 crore enhanced on the basis of a revised certificate issued by the Director of Industries in March 2002. Since this unit was not entitled to any exemption benefit for expansion, modernisation or diversification, the grant of exemption in excess of initial FCI of Rs. 3.71 crore was irregular and resulted in excess grant of exemption of Rs. 70.84 lakh.

After the case was pointed out, the Government stated in August 2007 that the AO had completed the reassessment proceedings in October/December 2006 raising an extra demand of Rs. 1.25 crore based on the audit observation and other relevant information available with him. A report on recovery has not been received (November 2007).

2.10 Non-levy of tax on lease rental

Under the OST Act, lease rental of machinery for use in manufacturing, mining or generation and distribution of electricity is taxable at the rate of eight *per cent* upto February 2002.

Test check of the records of Bhubaneswar-II circle in January 2007 revealed that a registered dealer received Rs. 6.41 crore as lease rental during the year 2000-01 but did not disclose it in the returns though it was reflected in the annual accounts. The AO accepted the returns and assessed the dealer to 'nil' tax in March 2004. This led to under assessment of taxable turnover of Rs. 6.41 crore resulting in non-levy of tax of Rs. 56.37 lakh including surcharge.

After the case was pointed out, the CCT while accepting it, intimated in February 2007 that the case was being revised. A report on further development has not been received (November 2007).

The matter was reported to the Government in February 2007; their reply has not been received (November 2007).

2.11 Under assessment of tax due to allowance of irregular transit sale

Under the CST Act, sale of any goods in the course of inter state trade effected by transfer of documents of title to such goods, are exempted from levy of tax. In support of such transit sales, certificates in forms E-I or E-II and declarations in form C are required to be furnished by the dealers causing the movement and taking delivery of the goods respectively. In the absence of proper certificates in form E-I and E-II, the dealer is only entitled to the concessional rate of four *per cent* if the transactions take place while the goods are in transit and are covered by valid C form.

During the audit of Bhubaneswar-I circle in October 2006 it was noticed that a registered dealer purchased electrical goods valued at Rs. 7.07 crore during 2002-03 in course of inter state trade from dealers outside the State and claimed to have sold these for Rs. 10.49 crore while the goods were in transit. To avail the benefit of transit sale, the dealer was required to submit certificates in form E I for Rs. 7.07 crore. Scrutiny of the E-I forms furnished by the dealer revealed that E-I forms supporting transactions of Rs. 3.64 crore did not bear the transportation particulars substantiating the claim that the transfer of documents of title to such goods had taken place while the goods were in transit. In addition, the dealer had not submitted E-I forms for Rs. 3.36 crore. Thus, transit sale of Rs. 7 crore was not supported by proper declarations and remained unauthenticated. While completing the assessment in March 2006 the AO, however, levied tax and surcharge on turnover of Rs.3.33 crore only instead of the entire sale of Rs. 10.49 crore. This resulted in irregular exemption of turnover of Rs. 7.16 crore and under assessment of tax of Rs. 28.66 lakh calculated at the rate of four *per cent*.

After the case was pointed out, the Government in June 2007 stated that the case had been reopened. Further development has not been reported (November 2007).

2.12 Under assessment of tax due to non-inclusion of entry tax in the taxable turnover

According to Rule 18(1) of the Orissa Entry Tax (OET) Rules, 1999, a dealer in motor vehicles, two wheelers and three wheelers becomes liable to pay tax under the OST Act by virtue of sale of such motor vehicles and his sales tax liability under the Act is reduced by the tax paid under the OET Rules. As clarified by the Finance Department, entry tax paid and allowed set off shall form part of the sale price of the motor vehicle. Motor vehicles, two wheelers and three wheelers are taxable at the rate of 12 *per cent* under the OST Act.

During the audit of Sambalpur I and Cuttack I (West) circles between July 2006 and January 2007, it was noticed that three registered dealers purchased motor vehicles valued as Rs. 29.14 crore between 2001-02 and 2004-05 on which entry tax of Rs. 3.53 crore was paid. Thus, taxable turnover of these dealers including entry tax element should not have been less than Rs. 32.67 crore. The dealers, however, disclosed taxable turnover of Rs. 30.35 crore which was accepted by the AOs and assessed accordingly between December 2002 and February 2006. This resulted in under assessment of taxable turnover of Rs. 2.32 crore and consequent under assessment of sales tax of Rs. 30.67 lakh including surcharge.

After the cases were pointed out, the Government stated between June and September 2007 that reassessment proceedings had been initiated in respect of two dealers and demand of Rs. 15.49 lakh raised in the third case after completion of reassessment. A report on further development has not been received (November 2007).

2.13 Under assessment due to application of lower rate of tax

Under the OST Act, goods not specified in the schedule of the Act are taxable at 12 *per cent*. Coal tar pitch is not specified in the schedule and hence is taxable at 12 *per cent*.

During the audit of Sambalpur I circle in December 2006, it was noticed that the AO while finalising the assessment of a registered manufacturer of bitumen and coal tar product in February 2006 for the period 2004-05, incorrectly levied tax at four *per cent* on the sale turnover of coal tar pitch valued as Rs. 2.82 crore instead of 12 *per cent*. This resulted in under assessment of tax of Rs. 24.85 lakh including surcharge.

After the case was pointed out, the Government intimated in August 2007 that reassessment has been completed and an extra demand of Rs. 62.13 lakh including penalty had been raised. A report on recovery has not been received (November 2007).

2.14 Short levy of tax due to incorrect classification of supply contract as works contract

Under the OST Act, if transfer of property in goods takes place in course of execution of a works contract, the turnover is taxed at eight *per cent* after allowing deduction towards labour and service charges. In other cases of sale/supply, goods are taxed at the rate specified under the OST Act. Lift being an unspecified item is taxable at the rate of 12 *per cent* under the OST Act.

During the audit of Bhubaneswar I circle in June 2006, it was noticed that a registered dealer received Rs. 2.62 crore during 2000-01 and 2001-02 towards supply and installation of lifts. While completing assessments in March 2004 and February 2005, the AO considered the receipt as amount received in the course of execution of a works contract and levied tax at the rate of eight *per cent* on a turnover of Rs. 1.70 crore after allowing deduction of Rs. 92.10 lakh towards labour and service charges. Since this was a contract for supply, the turnover of Rs. 1.70 crore should have been taxed at the rate of 12 *per cent*. Incorrect classification of supply contract as works contract resulted in short levy of tax of Rs. 7.49 lakh calculated at the differential rate of four *per cent* including surcharge.

After the case was pointed out, the Government stated in August 2007 that the assessment had been reopened and demand of Rs. 20.48 lakh had been raised. A report on recovery has not been received (November 2007).

Entry Tax

2.15 Loss/non-realisation of entry tax

Under the OET Rules read with the schedule of rates appended to the OET Act, motor vehicles are taxable at the rate of two *per cent* on their purchase value with effect from 1 June 2004. The Finance Department in June 2005 advised the Transport Commissioner (TC), Orissa about the need for sustained co-operation between the Transport and Commercial Tax departments and requested him to issue necessary guidelines to the Regional Transport Offices (RTOs) for ensuring recovery of entry tax at the time of the registration of vehicles. TC, Orissa instructed in his circular of June 2005 that when vehicles purchased from outside the State are presented before the registering authority for registration, the applicant should be asked to furnish proof of payment of entry tax. These instructions reiterated the instructions issued by the TC in January 2003.

Test check of the records of 12 RTOs¹⁰ between July 2006 and March 2007 revealed that 1,986 motor vehicles purchased from outside the State were registered between June 2004 and March 2006 on which entry tax was not realised. Of these, the owners of 69 motor vehicles were issued no objection certificate (NOC) to other States without payment of entry tax. The RTOs neither insisted upon furnishing the proof of such payment before registration/granting NOC of the vehicles nor referred the cases to the concerned commercial tax officers (CTOs) for recovery of the dues. Non-observance of the departmental instructions thus led to loss of revenue of Rs. 20.28 lakh in 69 cases calculated at two *per cent* of the cost of the motor vehicle and non-realisation of revenue of Rs. 3.79 crore in the remaining 1,917 cases. Further scrutiny of the records revealed that the vehicles were registered in the RTOs without noting the detailed address of the owners of vehicles in the GR. In the absence of detailed address, scope of recovery of entry tax of Rs. 3.79 crore from the owners of these vehicles seems to be remote.

After the cases were pointed out, the Government stated in August 2007 that RTOs after registration of vehicles brought from other states, intimated the details to the concerned CTOs for collection of entry tax at their level. The reply is not tenable since the RTOs should have ensured payment of entry tax before registration of vehicles. Moreover, in the absence of correct address of the vehicle owners, scope of recovery of tax by the CTOs also appears to be impossible. Further reply has not been received (November 2007).

10 Angul, Bargarh, Dhenkanal, Ganjam, Jharsuguda, Keonjhar, Koraput, Nawarangpur, Nuapada, Rourkela, Sambalpur and Sundargarh.

2.16 Under assessment of entry tax

Under the OET Act and Rules made thereunder, goods specified in Part-I and II of the schedules shall be exigible to tax at a concessional rate of 50 *per cent* of the appropriate rate when such goods are brought for use as raw material. Under the Act *ibid*, coke is exigible to tax at the rate of one *per cent*.

Scrutiny of the records of Jajpur circle in June 2006, revealed that while finalising the assessment in February 2006 for the year 2002-03 of a dealer engaged in the manufacture and sale of pig iron, the AO levied entry tax on the purchase value of low ash metallurgical (LAM) coke worth Rs. 155.58 crore at a concessional rate of 0.5 *per cent*. LAM coke being fuel does not come under the purview of raw material and concessional rate of tax was not applicable in respect of purchase of the said goods. Application of a lower rate resulted in under assessment of entry tax of Rs. 77.79 lakh.

After the case was pointed out, the AO reopened the case in February 2007 and raised an extra demand of Rs. 77.79 lakh.

On the matter being pointed out, the Government in April 2007 confirmed the fact of raising of demand. A report on recovery has not been received (November 2007).

2.17 Under assessment of entry tax due to short determination of taxable turnover

Under the provisions of the OET Act, if scheduled goods are acquired or obtained otherwise than by way of purchase, then the purchase value shall be the value or the price at which the scheduled goods of the same kind or quality is sold or is capable of being sold in an open market. Cosmetics, soaps, toothpaste, tooth powder etc., are taxable at the rate of one *per cent* under the OET Act.

During the audit of Bhubaneswar-II circle in September 2006, it was noticed that a registered dealer received scheduled goods viz. cosmetics, soaps, toothpaste, tooth powder etc., worth Rs. 9.94 crore during the year 2002-03 by way of stock transfer from outside the State. These goods were sold for Rs. 20.88 crore at a profit of 110 *per cent*. While completing the assessment in March 2006, the AO did not consider the sale price of Rs. 20.88 crore but levied tax on stock transfer value of Rs. 9.94 crore which was contrary to the statutory provision. This led to short determination of taxable turnover of Rs. 10.93 crore and consequent under assessment of entry tax for Rs. 10.93 lakh.

After the case was pointed out, the CCT in November 2007 intimated that on completion of revision of assessment a demand of Rs. 10.93 lakh had been raised. A report on recovery has not been received (November 2007).

CHAPTER-III: TAXES ON MOTOR VEHICLES

3.1 Results of audit

Test check of the records relating to assessment and collection of motor vehicles tax in the office of the State Transport Authority (STA), Orissa and the Regional Transport Offices (RTOs) conducted during 2006-07 revealed under assessment of tax and loss/blocking of revenue amounting to Rs. 59.46 crore in 1,76,591 cases which broadly fall under the following categories :

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Non-levy/realisation of motor vehicles tax/additional tax and penalty	25,670	53.27
2	Loss of revenue due to non-realisation of entry tax	35	0.06
3	Non/short realisation of compounding fee, permit fee, reservation fee, process fee etc.	1,46,137	3.02
4	Blockage of revenue due to non-disposal of vehicle check reports	1,412	0.82
5	Non/short realisation of composite tax and penalty	1,585	0.63
6	Short levy of motor vehicles tax/additional tax and penalty	320	0.38
7	Non/short realisation of trade certificate tax and fees	168	0.05
8	Other irregularities	1,264	1.23
Total		1,76,591	59.46

During the year 2006-07, the department accepted under assessment and other deficiencies of tax and penalty of Rs. 110.74 crore in 63,719 cases, which had been pointed out in earlier years. The department had recovered Rs. 26,000 in three cases pointed out in audit during the year 2006-07 and Rs. 4.21 crore in 7,297 cases pertaining to the earlier years.

A few illustrative cases highlighting important audit observations involving Rs. 57.24 crore are discussed in the following paragraphs.

3.2 Misappropriation of Government revenue

In Motor Vehicles Department, one time tax (OTT), reservation fees and permit fees are realised by the RTOs and the fact of realisation are endorsed in the history sheet of general registration (GR) volume/reserved registration volume/permanent permit (PP) register, as the case may be. In order to guard against endorsement of fake receipts in these registers, the procedure for collection of tax prescribed is to issue the first copy of the money receipt (MR) to the person paying tax, the second copy to the clerk concerned through the head clerk for posting in the concerned registers and the third copy is retained in the office for record. While entering tax payments in the concerned registers, entries should be attested/authenticated by the designated officers.

3.2.1 Test check of the history sheets of vehicles, counterfoils of MRs, daily collection register (DCR) (tax/fees) and cash book of RTO, Keonjhar region in August - September 2006 revealed that:

- As per endorsements made in the history sheet of the GR volume in 87 cases pertaining to the period between February and December 2005, Rs. 20.89 lakh was realised towards OTT. Cross verification of these with the corresponding counterfoil of MR/DCR/cash book revealed that the actual realisation reflected in the cash book amounted to Rs. 12.46 lakh only. Thus, though realisation of the amount was shown in full in the GR, tax was short realised by Rs. 8.43 lakh.

- In 155 cases pertaining to the period from April 2004 to March 2006, reservation fees for Rs. 7.04 lakh for reserving specific registration numbers were realised as per endorsements made in the history sheets of the reserved registration volume. The corresponding counterfoils of MR/DCR/cash book, however, showed realisation and remittance of Rs. 60,000 only. There was, thus, short deposit of revenue of Rs. 6.44 lakh.

- In 106 cases of PPs issued to goods vehicles pertaining to the period between January 2005 and December 2005, it was noticed that fees of Rs. 6.36 lakh was shown as realised in the endorsement made in PP registers. Cross verification of entries made in PP register with the corresponding counter foils of MR/DCR/cash book revealed that the actual realisation was Rs. 58,000 only. This showed short deposit of revenue of Rs. 5.78 lakh.

3.2.2 Test check of the records in RTO, Jharsuguda region in December 2006 revealed that in two cases, entry tax was endorsed in the GR volume fraudulently by way of utilising the MR of another vehicle resulting in evasion of tax of Rs. 43,000.

Thus, Government revenue of Rs. 21.08 lakh had been misappropriated through the manipulation of either the entries in the cash book or through false endorsement in the records.

After the cases were pointed out, the Government stated in August 2007 that FIR had been lodged against the staff involved in the misappropriation of the Government money and draft charges framed against the staff. The report on recovery has not been received (November 2007).

3.3 Non/short realisation of motor vehicles tax and additional tax

Under the Orissa Motor Vehicles Taxation (OMVT) Act, 1975 (as amended) tax/additional tax due on motor vehicles should be paid in advance within the prescribed date at the rates prescribed in the Act unless exemption from payment of such tax/additional tax is allowed for the period covered by off road declarations. Penalty is to be charged at double the tax/additional tax due, if tax/additional tax is not paid within two months of the expiry of the grace period of 15 days.

3.3.1 Test check of the records in 25 RTOs¹¹ between May 2006 and March 2007 revealed that in 26,218 cases, motor vehicles tax/additional tax of Rs. 17.51 crore was not realised for the period from February 2005 to March 2006. This resulted in non-realisation of revenue of Rs. 52.52 crore including penalty of Rs. 35.01 crore as mentioned below:

(Rupees in crore)

Sl. No.	No. of regions Nature of irregularities	Period between	No. of vehicles	Non-realisation of tax/additional tax	Penalty leviable
1.	<u>25</u> Non-realisation of motor vehicles tax/additional tax from goods vehicles	April 2005 and March 2006	13,727	12.70	25.39
2.	<u>25</u> Non-realisation of motor vehicles tax/additional tax in respect of contract carriages	April 2005 and March 2006	4,722	2.56	5.12
3.	<u>25</u> Non-realisation of motor vehicles tax from tractor trailer combination	April 2005 and March 2006	7,553	1.99	3.98
4.	<u>22</u> ¹² Non-realisation of motor vehicles tax/additional tax in respect of stage carriages	February 2005 and March 2006	216	0.26	0.52
TOTAL			26,218	17.51	35.01

After the cases were pointed out, the Government stated in August 2007 that Rs. 68.76 lakh had been realised in 981 cases and demands totalling Rs. 30.07 crore raised in 15,905 cases. The reply in other cases and report on recovery in respect of 15,905 cases has not been received (November 2007).

11 Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Cuttack, Chandikhol, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

12 Angul, Balasore, Bargarh, Bhubaneswar, Bolangir, Cuttack, Chandikhol, Dhenkanal, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

3.3.2 Test check of the records in 19 regions¹³ between May 2006 and March 2007 revealed that in 101 cases, tax/additional tax of Rs. 4.49 lakh for the period from April 2004 to March 2006 was realised short. This resulted in short realisation of revenue of Rs. 13.47 lakh including penalty.

After the cases were pointed out, the Government stated in August 2007 that demands totalling Rs. 3.95 lakh had been raised in 27 cases. Reply in other cases and report on recovery in respect of 27 cases has not been received (November 2007).

3.4 Non/short realisation of fees

As per the Motor Vehicles (MV) Act, 1988 read with the Government of Orissa, Commerce and Transport (Transport) Department notification dated 24 January 2003, rates of various fees such as fee for countersignature of permit and transfer of permit for various class of vehicles were enhanced and process fee was introduced with effect from 28 January 2003. The department by an order of March 2003, however, postponed the collection of fees at the rates prescribed in the above notification.

Test check of the permit registers and other connected records in STA, Orissa, and 25 RTOs¹⁴ including check gates between May 2006 and March 2007 revealed that during the period from April 2005 to March 2006, the aforesaid fees were either not realised or realised at pre-revised rates in 1.45 lakh cases due to postponement of the process fees by executive orders of March 2003. Thus, irregular issue of executive order postponing collection of fees at revised rates levied by the Government led to non/short realisation of fees amounting to Rs. 1.69 crore.

After the cases were pointed out, the Government stated in September 2007 that audit contention was not sustainable in view of the Government order of March 2003. The reply is not tenable as the rates published in the gazette had already come into force and charging of old rates by an executive order was irregular since executive orders cannot overrule the statutory provisions. Further reply has not been received (November 2007).

3.5 Loss/non-realisation of compounding fees from goods vehicles carrying excess load

Under section 194 of the MV Act, the compounding fees for carrying excess load by goods vehicles shall be a minimum of Rs. 2,000 and an additional amount of Rs. 1,000 per ton of excess load over and above the registered laden

13 Angul, Balasore, Bhadrak, Bhubaneswar, Bolangir, Cuttack, Chandikhol, Dhenkanal, Ganjam, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Phulbani, Rourkela, Sambalpur and Sundargarh.

14 Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Nawarangapur, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

weight (RLW). In unified border check posts¹⁵, the details of vehicles like registration number of vehicles, RLW, weight of goods loaded etc., coming from other States and vice versa are recorded by the commercial tax wing and MV tax wing simultaneously.

During the test check of outgoing vehicles registers of the commercial tax wing conducted between April 2005 and August 2005 in two check posts¹⁶ under two regions¹⁷, it was noticed that 979 goods vehicles carried excess load beyond the RLW and the excess load ranged from 590 to 26,930 kgs. Of this, 188 vehicles had Orissa registration mark and 791 vehicles were vehicles of other states. Cross verification with the outgoing vehicle registers maintained by the MV wing located at the same place revealed that the excess load was not reflected in the records and the overloaded vehicles were allowed to pass through the check posts to other States without realisation of the prescribed compounding fees. This led to loss of revenue of Rs. 1.05 crore in respect of 791 vehicles of other states and non-realisation of Rs. 21.97 lakh in respect of 188 vehicles with Orissa registration mark.

After the cases were pointed out, RTO, Jharsuguda (Kanaktora check post) agreed that steps would be taken to locate the vehicles in the check post and to realise the Government dues. No reply was received from RTO, Sundargarh (Telijore check post).

The matter was brought to the notice of the Transport Commissioner (TC)/Government in April 2007; the Government stated in September 2007 that compliances were yet to be received from the concerned RTOs. A report on further development has not been received (November 2007).

3.6 Non-realisation of composite tax for goods vehicles under reciprocal agreement

Under the provisions of the OMVT Act, when a goods vehicle enters the State under the terms of an agreement with any other State, it is liable to pay additional tax for each entry into the State at the prescribed rate. As per the Government of Orissa decision of February 2001, goods vehicles belonging to Andhra Pradesh (AP) and authorised to ply in Orissa under the reciprocal agreement were required to pay composite tax of Rs. 3,000 per vehicle per annum. The tax was payable in advance on or before the 15th April every year to the STA, Orissa. In case of delay in payment, penalty of Rs. 100 for each calendar month or part thereof was also leviable in addition to the composite tax.

Test check of the records of STA, Orissa in June 2006 revealed that out of 1,806 goods vehicles of AP authorised to ply in Orissa during 2005-06 on the strength of valid permit under reciprocal agreement, composite tax for 1,021

15 Combined check post of sales tax, MV, state excise, forest etc. departments

16 Kanaktora and Telijore.

17 Jharsuguda and Sundargarh.

goods vehicles amounting to Rs. 30.63 lakh was not realised. Besides, penalty of Rs. 12.25 lakh (calculated upto March 2006) was also leviable.

After the cases were pointed out, the Government stated in August 2007 that STA, AP was requested to realise and remit the above amount. The reply is silent about the failure of the STA, Orissa to transmit the registration mark of defaulting vehicles to the check posts. The fact remained that 1,021 out of 1,806 vehicles were allowed to ply through the check gate during the entire year 2005-06 without payment of composite tax on which no action was taken by the department till it was pointed out by audit. A report on realisation has not been received (November 2007).

3.7 Non/short levy of penalty on belated payment of motor vehicles tax and additional tax

Under the OMVT Act and Rules made thereunder, penalty ranging from 25 to 200 *per cent* of the tax/additional tax due depending on the extent of delay in payment, shall be leviable if a vehicle owner failed to pay tax and additional tax within the specified period.

Test check of the records of 25 RTOs¹⁸ between May 2006 and March 2007 revealed that in 248 cases though tax/additional tax for the period from April 2003 and March 2006 were paid belatedly between April 2005 to March 2006 after delays ranging from 15 days to more than two months, penalty was either not levied or levied short by the taxing authorities. This resulted in non-levy of penalty of Rs. 14.15 lakh in 118 cases and short levy of penalty of Rs. 11.01 lakh in 130 cases.

After the cases were pointed out, the Government stated in August 2007 that Rs. 1.14 lakh had been realised in 12 cases and demands totalling Rs. 8.63 lakh raised in 81 cases. The reply in other cases and report on recovery in respect of 81 cases has not been received (November 2007).

3.8 Non/short realisation of tax from stage carriages plying without permits

Under the OMVT Act, motor vehicles tax and additional tax in respect of a stage carriage is leviable on the basis of the number of passengers (including standees) and distance to be covered in a day as per the permit. If such a vehicle is detected to be plying without a permit, tax/additional tax payable is to be determined on the basis of the maximum number of passengers (including standees) which the vehicles would have carried reckoning the total distance covered each day as exceeding 320 km i.e. at the highest rate of tax as per the taxation schedule. In case of default, penalty ranging from 25 *per cent* to double the tax due is leviable.

18 Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Nawarangpur, Nuapada, Phulbani, Rayagada, Rourkela, Sambalpur and Sundargarh.

Test check of the records of the STA, Orissa and 15 RTOs¹⁹ between May 2006 and March 2007 revealed that though 61 stage carriages were detected to be plying without permit by the enforcement wing during the period between February 2005 and March 2006, motor vehicles tax/additional tax were either not paid or paid at lesser rates resulting in non/short realisation of tax of Rs. 6.66 lakh. Besides, penalty of Rs. 13.33 lakh was also leviable.

After the cases were pointed out, the Government stated in September 2007 that Rs. 54,000 had been realised in three cases, Rs. 3.44 lakh was locked in three MV appeal cases and demands totalling Rs. 11.61 lakh were raised in 29 cases. A report on recovery and reply in other cases has not been received (November 2007).

3.9 Non-realisation of differential tax from stage carriages used as contract carriages

Under the OMVT Act, when a vehicle in respect of which motor vehicle tax/additional tax for any period has been paid as per the registration certificate, is proposed to be used in a manner for which higher rate of motor vehicle tax/additional tax is payable, the owner of the vehicle is liable to pay the differential tax. In case the tax is paid beyond two months after the grace period of 15 days, penalty is to be charged at double the tax due.

Test check of the records of 14 RTOs²⁰ between July 2006 and March 2007 revealed that 124 stage carriages were permitted to ply temporarily as contract carriages during the period between April 2005 and March 2006 on which higher rate of tax was applicable. Though differential tax was not paid in advance, yet no action was taken by the RTOs to issue demand notices to the vehicle owners till the date of audit. This resulted in non-realisation of differential motor vehicle tax/additional tax of Rs. 4.40 lakh. Besides, penalty of Rs. 8.79 lakh for delay in payment of tax was also leviable.

After the cases were pointed out, the Government stated in August 2007 that Rs. 1.33 lakh had been realised in 14 cases and demands totalling Rs. 7.68 lakh raised in 71 cases. A report on recovery and reply in other cases has not been received (November 2007).

3.10 Non/short realisation of motor vehicles tax/additional tax from stage carriages plying under reciprocal agreement on inter State routes

In pursuance of an agreement between the Government of Orissa and any other State, if a stage carriage plies on a route partly within the State of Orissa, it is liable to pay tax/additional tax calculated on the total distance covered by

19 Balasore, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Jagatsinghpur, Keonjhar, Koraput, Mayurbhanja, Nawarangapur, Nuapada, Puri, Rayagada, Rourkela and Sambalpur.

20 Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Jagatsinghpur, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Puri, Rayagada and Sambalpur.

it on the approved route in the State of Orissa at the rates and in the manner specified under the OMVT Act and the Rules made thereunder. In case the tax is paid beyond two months after the grace period of 15 days, a penalty is to be charged at double the tax due.

Test check of the records of the STA, Orissa, Cuttack and three regions²¹ between June 2006 and February 2007 revealed that 19 stage carriages were authorised to ply on inter State routes under the reciprocal agreement for the period from April 2003 to March 2006 on which tax of Rs. 4.88 lakh was realisable. The vehicle owners, however, paid tax of Rs. 1.25 lakh leaving a balance of Rs. 3.63 lakh. The STA and RTOs also did not initiate any action to recover the balance dues. It was further noticed that 5 out of 19 stage carriages did not pay tax for the last 12 months ending on March 2006. This resulted in non/short realisation of motor vehicles tax/additional tax of Rs. 3.63 lakh. Besides, penalty of Rs. 7.26 lakh was also leviable.

After the cases were pointed out, the Government stated in August 2007 that Rs. 97,000 had been realised in five cases and demands totalling Rs. 6.92 lakh raised in six cases. A report on recovery and reply in other cases has not been received (November 2007).

3.11 Short realisation of composite tax under the National Permit Scheme

As per the Government of Orissa notification of February 1999, composite tax for goods carriages belonging to other States/Union Territories plying in Orissa under the national permit (NP) scheme will be payable at the rate of Rs. 5,000 per annum per vehicle in advance in one instalment. In case of delay in payment, penalty of Rs. 100 for each calendar month or part thereof is also leviable.

Test check of the records of the STA, Orissa in June 2006 revealed that in respect of 276 goods carriages belonging to other States authorised to ply in Orissa during 2005-06 under the NP scheme, composite tax of Rs. 6.98 lakh was paid against Rs. 13.80 lakh payable. This resulted in short realisation of Rs. 6.82 lakh. Besides, penalty of Rs. 3.22 lakh due to default in full payment of composite tax was also leviable.

After the cases were pointed out, the Government stated in August 2007 that all the concerned STAs were requested to realise the amount and remit it to STA, Orissa. A report on recovery has not been received (November 2007).

3.12 Non-realisation of motor vehicles tax/additional tax for violation of off road declaration

Under the OMVT Act, motor vehicle tax/additional tax is to be levied on every motor vehicle used or kept for use in the State of Orissa unless prior

21 Bargarh, Keonjhar and Rourkela.

intimation of non-use of the vehicle is given to the taxing officer. If, at any time, during the period covered by such off road declaration, the vehicle is found to be plying on the road or not found at the declared place, it shall be deemed to have been used throughout the said period. In such a case, the owner of the vehicle is liable to pay tax and penalty as applicable due for the entire period for which it was declared off road.

Test check of the records in six regions²² between August 2006 and March 2007 revealed that 18 motor vehicles under off road declarations for the year 2005-06 were either detected plying or were not found at the declared places by the enforcement staff. No action was, however, taken by the taxing officers to realise the tax and levy penalty for violation of off road declaration. This resulted in non-realisation of tax and additional tax of Rs. 2.96 lakh. Besides, penalty of Rs. 5.91 lakh was also leviable.

After the cases were pointed out, the Government stated in August 2007 that demands totalling Rs. 5.68 lakh had been raised in six cases. A report on recovery and reply in other cases has not been received (November 2007).

3.13 Non-realisation of trade certificate tax/fees

Under the OMVT Act, read with Central Motor Vehicle (CMV) Rules 1989, dealers of motor vehicles are required to obtain trade certificate from the registering authorities by paying requisite tax/fees annually in advance. Under the MV Act, a dealer includes a person who is engaged in building bodies on the chassis or in the business of hypothecation, leasing or hire purchase of motor vehicles.

Test check of the records of eight RTOs²³ between May 2006 and March 2007 revealed that in respect of 154 dealers, trade certificate tax and fees for the period from April 2003 to March 2006 were not realised. This resulted in non-realisation of tax and fees of Rs. 4.60 lakh.

After the cases were pointed out, the Government stated in September 2007 that demands totalling Rs. 1.30 lakh had been raised in 51 cases. A report on recovery and reply in other cases has not been received (November 2007).

3.14 Short realisation of one time tax

Under the OMVT Act read with TC's circular of April 2005, the owner of a motor vehicle of the description specified in items 1, 2 and 6 of schedule I appended to the Act and motor vehicles coming under motor cab (transport) category having seating capacity of not more than six excluding the driver and intended to be used for hire and reward is liable to pay OTT equal to the rate specified in schedule III or five *per cent* of the cost of the vehicle whichever is

22 Bargarh, Bhubaneswar, Chandikhol, Dhenkanal, Ganjam, and Sambalpur .

23 Balasore, Bhadrak, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Jharsuguda and Rourkela.

higher at the time of initial registration of the vehicle. In no case shall annual tax be collected from these vehicles at the time of registration.

Test check of the registration records of four regions²⁴ between June 2006 and February 2007 revealed that OTT was not realised at the appropriate rate from 22 vehicles registered between February 2005 and February 2006. This resulted in short realisation of OTT amounting to Rs. 3.60 lakh.

After the cases were pointed out, the Government stated in September 2007 that Rs. 27,000 had been realised in three cases and demands totalling Rs. 3.33 lakh raised in 19 cases. A report on realisation has not been received (November 2007).

3.15 Short realisation of reservation fees on allotment of reserved registration numbers

Under the OMV Rules 1993 read with TC, Orissa's notification of April 2002, an owner of a two wheeler or any other motor vehicle opting for a number of his choice coming within 1,000 from the last number registered shall pay a fee of Rs. 2,000 and Rs. 4,000 respectively. The registering authority may, on an application in writing for special choice, reserve the registration number. Any number beyond 1,000 but within 10,000 from the last number registered in serial order can also be reserved on payment of Rs. 5,000 for two wheelers and Rs. 10,000 for other vehicles as per TC's circular of August 2002. Besides, specific notified numbers as decided by the STA from time to time can be reserved on payment of Rs. 5,000 for two wheelers and Rs. 10,000 for other vehicles.

Test check of the records of three RTOs²⁵ between November 2006 and January 2007 revealed that reserved numbers beyond 1,000 from the last number registered and notified numbers circulated by STA were allotted on application between May 2004 and March 2006 to nine two wheelers and 41 other motor vehicles without realising the reservation fees at the rate applicable for these numbers of choice. This resulted in short realisation of reservation fees amounting to Rs. 2.70 lakh.

After the cases were pointed out, the Government stated in August 2007 that demands totalling Rs. 95,000 had been raised in 18 cases. A report on recovery and reply in other cases has not been received (November 2007).

24 Bhadrak, Gajapati, Keonjhar and Rourkela.

25 Kalahandi, Koraput and Nayagarh.

CHAPTER-IV: LAND REVENUE, STAMP DUTY AND REGISTRATION FEES

4.1 Results of audit

Test check of the records relating to assessment and collection of land revenue and stamp duty and registration fees conducted during the year 2006-07 revealed non-collection, non/short assessment and blocking of revenue amounting to Rs. 501.77 crore in 48,270 cases, which may broadly be categorised as under:

(Rupees in crore)			
Sl. No.	Categories	No of cases	Amount
LAND REVENUE			
1.	Non/irregular lease of <i>sairat</i> sources	696	1.67
2.	Non-realisation of revenue due to delay in finalisation of OEA (<i>Bebandobasta</i>) cases	2,795	0.40
3.	Blocking of the Government revenue due to non-finalisation of alienation cases	76	139.02
4.	Miscellaneous/other irregularities	1,126	1.58
5.	Non-realisation of premium, ground rent and cess etc. in OLR cases	1,500	3.86
Total		6,193	146.53
STAMP DUTY AND REGISTRATION FEES			
1.	Blocking of the Government revenue due to non-disposal of 47-A cases	41,305	71.64
2.	Under valuation due to non-consideration of highest sale instances	500	0.32
3.	Short levy of stamp duty and registration fees due to change in <i>kissam</i> of instrument	3	0.01
4.	Short realisation due to misclassification and other irregularities	269	283.27
Total		42,077	355.24
Grand total		48,270	501.77

During the year 2006-07, the department accepted under assessment and other deficiencies of Rs. 17.07 crore in 18,273 cases, which were pointed out by audit in earlier years out of which Rs. 9.05 crore has been recovered in 7,593 cases.

A few illustrative cases highlighting important audit observations involving Rs. 282.18 crore are discussed in the following paragraphs.

Land Revenue

4.2 Short raising of demand for cess

As per the Government of Orissa, Revenue Department order of 4 September 1964 read with its letter dated 22 January 2005, government land can be leased out to the Central Government on payment of premium and capitalised value of land revenue which is 25 times of annual ground rent including cess. The ground rent is calculated at the rate of one *per cent* of the premium while cess is calculated at the rate of 75 *per cent* of the ground rent per annum.

Test check of the records of two *tahasils*, Marshaghai and Chandbali in November and December 2006 revealed that the *tahasildars* while assessing the capitalised value of land revenue of two patches of land leased to Defence Research and Development Organisation (DRDO), Integrated Test Range (ITR), Chandipur and East Coast Railways, Bhubaneswar in March 2005 and March 2006 respectively took into account only the annual ground rent leaving out the cess. This resulted in short raising of demand of revenue of Rs. 59.23 lakh.

After the cases were pointed out, the Government stated in June 2007 that demand of Rs. 30.38 lakh had been raised against the DRDO. A report on realisation and raising of demand against the East Coast Railways has not been received (November 2007).

4.3 Short realisation of premium on conversion of agricultural land for non-agricultural use

Orissa Land Reforms (OLR) Act, 1993 provides that a land leased out for agricultural purpose but utilised otherwise can be resettled in favour of the lessee on payment of premium at the prescribed rate. The rate of premium was revised from Rs. 75,000 to Rs. 3 lakh per acre with effect from 5 October 2004.

During the audit of the records in three *tahasils* between July 2005 and November 2005, it was noticed that the *tahasildars* while resettling 280 cases covering 16.292 acres of agricultural land converted for non-agricultural use between 5 October and 31 December 2004, raised a demand and realised premium at the pre-revised rate. This resulted in short realisation of premium of Rs. 36.95 lakh as mentioned below:

(Rupees in lakh)						
Sl. No.	Name of the tahasil	No. of cases	Area (in acre)	Premium as per revised rate	Premium realised as per old rate	Short realisation due to application of lower rate
1.	Balasore	192	10.269	30.81	7.32	23.49
2.	Jharsuguda	68	4.767	14.30	3.58	10.72
3.	Bhadrak	20	1.256	3.65	0.91	2.74
Total		280	16.292	48.76	11.81	36.95

After the cases were pointed out, the Government stated in July 2007 that action was initiated to realise the balance amount from the land owners in three *tahasils* and Rs. 3.30 lakh was realised in respect of Jharsuguda *tahasil*. A report on realisation in other cases has not been received (November 2007).

4.4 Short realisation of revenue

According to the Government orders of October 1961, May 1963 and February 1966, government land can be leased on payment of premium, annual ground rent at one *per cent* of the premium and cess at 75 *per cent* of the ground rent. The occupier of the land is liable to pay interest on the premium, ground rent and cess at the rate of 12 *per cent* with effect from 28 November 1992 for the period from the date of occupation of the land till the date of payment.

Test check of the records of Baliapal *tahasil* in May 2006 revealed that the Basta electrical division of North Eastern Electricity Supply Company of Orissa Ltd (NESCO) which had been in occupation of government land measuring 0.50 acre since 1 April 1999, applied for settlement of lease for construction of 33/11 KV sub-station and control room in village Khagadapal on 3 January 2005. The lease of the land was sanctioned in March 2005 and the *Tahasildar*, Baliapal raised a demand for payment of premium amounting to Rs. 23.31 lakh. The demand raised, however, did not include the ground rent and cess of Rs. 2.86 lakh for the period from 1999-2000 to 2005-06. Besides, interest of Rs. 20.61 lakh was also payable. This resulted in short realisation of revenue of Rs. 23.47 lakh including interest of which Rs. 17.34 lakh pertained to the period from 2001-02 to 2005-06.

After the case was pointed out, the Government stated in May 2007 that the *tahasildar* had raised the demand. A report on recovery has not been received (November 2007).

Stamp duty & Registration fees

4.5 Short levy of stamp duty and registration fee

Under the Indian Stamp (IS) Act, 1899, it is the substance of the transaction as embodied in the instrument and not the form of the instrument that determines the stamp duty. Further, a conveyance, as defined under the IS Act, is an instrument by which property whether movable or immovable is transferred on sale and which is not otherwise specifically provided for by the Schedule I of the Act. Such instrument which was not executed previously by any person shall be chargeable with stamp duty of the amount indicated in that schedule. Stamp duty is paid on the consideration mentioned in the deed. Besides, town planning surcharge at three *per cent* in the specified areas and registration fee at two *per cent* are chargeable on the consideration money.

Test check of the records of the Sub-Registrar (SR), Kujang in March 2007 revealed that a tripartite lease deed between Orissa Industrial Infrastructure Development Corporation (IDCO), M/s OSWAL Chemicals and Fertilisers Limited (OCFL) and M/s Indian Farmers Fertiliser Co-operative Limited (IFFCO) was registered on 26 June 2006 through which IDCO permitted transfer of lease hold right from M/s OCFL to M/s IFFCO in respect of 1,000 acres of land at Paradeep on payment of Rs. 3 crore as transfer fee on which stamp duty and registration fee of Rs. 37.52 lakh was levied. Another document titled "Special power of attorney" presented by M/s OCFL and registered on the same day and in the same office revealed that the purchase consideration money as stipulated in the sale agreement for the sale and transfer of the DAP complex including immovable properties, had already been paid by M/s IFFCO and physical possession handed over to them during October 2005. None of these documents recorded the amount of consideration though the special power of attorney clearly referred to the sale agreement stipulating the amount paid by M/s IFFCO for transfer of the said property. Cross verification of the sale agreement obtained from the Chief Electrical Inspector (T&D), Bhubaneswar in November 2005 revealed that the agreement was executed between M/s OCFL and M/s IFFCO in September 2005 for sale and transfer of the DAP complex at Paradeep of the said 1,000 acres of land including all immovable and movable properties for a consideration money of Rs. 2,159.89 crore mentioning, *inter alia*, that a conveyance deed would be executed simultaneously with the handing over of the possession and the stamp duty would be paid by M/s IFFCO.

Thus, taking into account the substance of both the documents, the transfer on sale of property from M/s OCFL to M/s IFFCO with the permission of IDCO for consideration money of Rs. 2,159.89 crore was complete and therefore required to be charged to duty as a conveyance for Rs. 2,162.89 crore including transfer fee of Rs. 3 crore. The SR, however, failed to read the substance of the transaction and levied duty on transfer fee of Rs. 3 crore for the leasehold rights only. This led to transaction for Rs. 2,159.89 crore remaining undetected and resulted in short levy of stamp duty and registration fees of Rs. 280.80 crore on the consideration money as calculated below.

(Rupees in lakh)	
Consideration money	2,15,989.00
Transfer fee	300.00
Total (amount subject to duty)	2,16,289.00
Stamp duty @ 11% (8% + 3% TP charges)	23,791.79
Registration fees @ 2%	4,325.78
Total	28,117.57
Stamp duty realised	36.85
Registration fee realised	0.67
Total	37.52
Stamp duty and registration fee short levied	28,080.05
	Rounded off to Rs. 280.80 crore

After the case was pointed out, the Government while agreeing with short levy of the said duty stated in August 2007 that M/s IFFCO had deposited Rs. 88.81 crore in September 2007. A report on recovery of the balance amount has not been received (November 2007).

4.6 Short realisation of stamp duty and registration fee

As per the provision under Section 47(A) of the IS Act, highest sale value of similar classification of land in the same village should be the sale value of the land for the purpose of registration. The highest value of three consecutive years upto the end of the month preceding the month in which the document is presented for registration should be considered for valuation.

Test check of the records in four²⁶ District Sub-Registrar and 10²⁷ SR offices between April 2006 and January 2007 revealed that 84 documents were registered between January 2004 and December 2005 at Rs. 11.41 lakh on the consideration set forth in those instruments without verifying the highest sale value of three consecutive years upto the end of the month preceding the month in which the documents were presented. Further scrutiny revealed that the stamp duty and registration fee leviable on the basis of the highest sale value was Rs. 35.77 lakh. This resulted in short realisation of stamp duty and registration fees of Rs. 24.36 lakh.

After the cases were pointed out, seven²⁸ registering officers agreed to realise the differential stamp duty and registration fee. The others stated that action would be taken after verification of the records. A report on further development has not been received (November 2007).

The matter was referred to the Government in April 2007; their reply has not been received (November 2007).

26 Angul, Baripada, Puri and Rayagada.

27 Balipatna, Basudevpur, Bhubaneswar, Jagatpur, Machhkund, Patnagarh, Rengali, Satyabadi, Talcher and Tusra.

28 Angul, Balipatna, Basudevpur, Bhubaneswar, Jagatpur, Puri and Satyabadi.

CHAPTER-V: STATE EXCISE

5.1 Results of audit

Test check of the records in the offices of the Excise Commissioner, Deputy Commissioner of Excise and Superintendent of Excise conducted during the year 2006-07 revealed non/short realisation and loss of revenue amounting to Rs. 25.14 crore in 1,025 cases which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Loss of revenue due to non-settlement/renewal of excise shops	677	1.74
2.	Non/short realisation of excise duty/transport fee	279	23.32
3.	Other irregularities	69	0.08
Total		1,025	25.14

During the year 2006-07, the department accepted non-levy/short realisation, etc., of duty amounting to Rs. 42 lakh in 243 cases pointed out in audit in 2006-07. The department recovered Rs. 3.62 crore in 501 cases pointed out in 2006-07 and earlier years.

After issue of draft paragraphs, the department recovered Rs. 8.46 lakh pertaining to a single observation pointed out by audit during 2006-07.

A few illustrative cases highlighting important audit observations involving Rs. 82.33 lakh are discussed in the following paragraphs.

5.2 Non-realisation of excise duty due to short lifting of IMFL/beer

As per the provisions of the Orissa Excise (Exclusive Privilege) Foreign Liquor (Amendment) Rules, 1997 as amended in February 1998, every successful bidder of foreign liquor off shop²⁹ shall guarantee the sale of minimum guaranteed quantity (MGQ) of foreign liquor as fixed by the Excise Commissioner (EC), Orissa before obtaining the licence. In case of default in lifting MGQ in any month, excise duty to the extent of the deficit amount shall be collected with the licence fee of the succeeding months. In case of further deficit, the amount shall be collected at the end of the year with 10 *per cent* fine on the deficit amount.

Test check of the records of two district excise offices³⁰ in September 2006 revealed that in case of 21 licensees, the department did not raise any demand towards excise duty for short lifting of 30,826.573 LPL³¹ India made foreign liquor (IMFL) and 44,073.745 BL³² beer from April 2005 to March 2006. This resulted in non-realisation of excise duty of Rs. 40.08 lakh. Besides, fine of Rs. 4.01 lakh was also leviable.

After the cases were pointed out, the Superintendent of Excise (SE), Bolangir stated in September 2006 that action would be taken to raise demand and SE, Nayagarh stated in September 2006 that reply would be furnished after verification of records. Further reply has not been received (November 2007).

The matter was reported to the department/Government in April 2007; their reply has not been received (November 2007).

5.3 Non-raising of demand for operation of brewery beyond the prescribed time limit

As per the provisions contained in the Excise Department notification of June 2005, permission may be accorded for running of a second shift of eight hours to the distilleries/breweries/bottling units subject to the condition that the units will pay Rs. 1,000 per hour for the operation of the warehouse beyond the prescribed time limit of a single shift.

During the audit of SE, Jagatsinghpur it was noticed in June 2006 that a brewery unit³³ operated for 2,160 hours beyond the scheduled time limit during 2005-06 for which it was liable to pay an additional amount of Rs. 21.60 lakh. The unit, however, neither paid the required amount nor did

29 Places where liquor can only be sold and cannot be consumed in the premises of the shop.

30 Bolangir and Nayagarh.

31 LPL - London Proof Litre.

32 BL - Bulk Litre.

33 M/s. SKOL Breweries Ltd.

the SE raise any demand for it. This resulted in non-raising of demand of Rs. 21.60 lakh.

After the case was pointed out, the Government stated in May 2007 that demand was raised against the unit in July 2006. However, the unit paid Rs. 8 lakh as per interim order of the High Court. A report on further development has not been received (November 2007).

5.4 Short realisation of label registration fee

Under the provisions of the Board's Excise Rules (BER) 1965, all applications for approval and renewal of brands and labels of IMFL/beer shall be accompanied by such fees as may be notified by the Board of Revenue (BOR) from time to time based on the quantity of IMFL/beer supplied to the Orissa State Beverages Corporation Ltd (OSBC) during a calendar year. Such fees are recoverable from the manufacturers. The rate of fees notified by the BOR in April 2004 were as under:

No of cases	Fee (in Rupees)
Upto 10,000	25,000
10,001 to 20,000	40,000
20,001 to 40,000	50,000
40,001 to 70,000	75,000
70,001 to 1 lakh	1,00,000
Above 1 lakh	1,50,000

Scrutiny of the records of the EC, Orissa in June 2005 revealed that during the calendar year 2004, different manufacturers supplied 9.33 lakh cases of IMFL/beer to the OSBC against which label registration fee of Rs. 15.35 lakh was payable. The manufacturers did not pay the fees at the appropriate rates and deposited only Rs. 8.95 lakh. The EC also did not raise any demand for the balance amount. This resulted in short realisation of label registration fee of Rs. 6.40 lakh.

After the cases were pointed out, the Government stated in May 2007 that the fee for registration for financial year 2004-05 in March 2004 was accepted on the basis of the supplies made to OSBC during the calendar year 2003 since the quantities supplied during 2004 could not have been ascertained before its completion. The reply is not tenable since the fee was to be realised on the supplies actually made during the year 2004 and approval for supply of additional quantities should have been accorded only after payment of additional label registration fees.

5.5 Non-realisation of utilisation fee for short utilisation of molasses

The Government of Orissa, Excise Department in its notification of March 2005, introduced MGQ on molasses by amending the Orissa Excise (Exclusive Privilege) Rules, 1970. Under the provisions of these rules, MGQ for lifting of molasses by the distilleries for production of spirit would be fixed on the basis of the highest quantity of molasses lifted and utilised in the last three years. The utilisation fee of molasses is Rs. 100 per MT.

Test check of the records of a distillery³⁴ under the jurisdiction of the SE, Ganjam in May 2006 revealed that against MGQ of 10,891.077 MT fixed for the year 2005-06, the distillery utilised 5,645.176 MT of molasses resulting in short utilisation of 5,245.901 MT of molasses. Though the distillery was liable to pay Rs. 5.25 lakh for such short utilisation, yet the SE did not raise any demand. This resulted in non-realisation of utilisation fee of Rs. 5.25 lakh.

After the case was pointed out, the Government stated in July 2007 that the demand had been raised against the unit. A report on realisation has not been received (November 2007).

5.6 Short realisation of transport fee on mahua flower

As per the provisions of the BER (Fixation of fees on *mahua* flower) 1976, as amended in June 2000, the rate of fee to be deposited by the licensees in respect of transit pass for transporting *mahua* flower within the State shall be Rs. 10 per quintal.

Test check of the records of nine³⁵ district excise offices between April 2006 and January 2007 revealed that 209 outstill³⁶ liquor licensees procured 1.20 lakh quintals of *mahua* flower during 2005-06. Against the transport fee of Rs.11.96 lakh realisable, only Rs. 6.97 lakh was realised. The department did not raise any demand for the balance amount of Rs. 4.99 lakh. This resulted in short realisation of transport fee of Rs. 4.99 lakh.

After the cases were pointed out, all the SEs stated between April 2006 and January 2007 that steps would be taken for realisation of the outstanding fees, while SE, Nuapada reported realisation of Rs. 1.04 lakh in January 2007.

The matter was brought to the notice of the department/Government in April 2007; their reply has not been received (November 2007).

34 Aska Co-operative Sugar Industries Ltd.

35 Bolangir, Deogarh, Gajapati, Kalahandi, Keonjhar, Mayurbhanj, Nawarangpur, Nuapada and Subarnapur.

36 A system of preparation of intoxicants based on *mahua* flower.

CHAPTER-VI FOREST AND MINING RECEIPTS

6.1 Results of audit

Test check of the records maintained in various forest divisions as well as in the office of the Principal Chief Conservator of Forests (PCCF), Orissa and Deputy Director of Mines (DDM) and mining officers (MOs) conducted during the year 2006-07, revealed non/short levy/recovery of royalty/interest, dead rent/surface rent, loss of revenue, and other irregularities etc., of Rs. 81.01 crore in 4,369 cases which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No of cases	Amount
Forest Receipts			
1.	Loss of revenue due to short delivery/shortage of forest produce	82	1.19
2.	Non/short levy of interest on belated payment of royalty.	1,117	0.51
3.	Non-realisation of royalty	444	14.15
4.	Other irregularities	2,303	10.08
Total		3,946	25.93
Mining Receipts			
1.	Irregularities of miscellaneous nature	354	45.04
2.	Non/short levy of royalty/dead rent/surface rent	57	9.55
3.	Non/short recovery of interest and non levy of interest	12	0.49
Total		423	55.08
Grand total		4,369	81.01

During the year 2006-07, the departments accepted under assessment and other deficiencies of Rs. 25.49 crore in 3,889 cases pointed out in 2006-07 and recovered Rs. 2.99 crore in 14 cases.

After issue of draft paragraphs, the department recovered Rs. 5.36 lakh pertaining to a single observation pointed out in audit during 2006-07.

A few illustrative cases highlighting important audit observations involving Rs. 9.77 crore are discussed in the following paragraphs.

Forest Receipts

6.2 Non-disposal of timber and poles

The Government of Orissa, Forest and Environment Department in their order of July 1989 and August 2005 issued instructions for early disposal of timber and poles seized in undetected (UD) forest offence cases either by prompt delivery to the Orissa Forest Development Corporation Limited (OFDC) within two months from the date of seizure or by public auction in order to avoid loss of revenue due to deterioration in quality and value on account of prolonged storage.

Test check of the records of 39 forest divisions³⁷ conducted between May 2006 and February 2007 revealed that 24,089.54 cft of timber and 2,077 poles valued as Rs. 51.17 lakh seized in 1,307 UD forest offence cases registered between 2004-05 and 2005-06 were lying undisposed as of March 2007. Inaction of the department to dispose the timber and poles either by delivery to OFDC or by public auction resulted in non-disposal of forest produce involving Government revenue of Rs. 51.17 lakh.

After the cases were pointed out, the Government stated in May 2007 that 5,943.48 cft of timber and 758 poles valued as Rs. 14.29 lakh were disposed of in 410 cases. Final reply in other cases has not been received (November 2007).

6.3 Non-levy of interest on belated payment of royalty on timber

Under the Orissa Forest Contract Rules, 1966, if a contractor fails to pay any instalment of royalty for sale of forest produce by the due date, he is liable to pay interest at the rate of 6.25 *per cent* per annum on the amount of default. As per the provisions contained in the Government of Orissa order of February 1977, OFDC is also liable to pay interest for default in payment of royalty.

Test check of the records of 26 forest divisions³⁸ conducted between April and December 2006 revealed that OFDC paid royalty of Rs. 5.71 crore belatedly for the period from 2000-01 to 2004-05. Despite delays ranging from 6 to 56 months, the DFOs did not levy interest of Rs. 50.59 lakh on OFDC as mentioned below.

37 Angul, Athagarh, Athamalik, Bamra (WL), Balliguda, Boudh, BBSR City, Berhampur, Banei, Bolangir(W), Bolangir (E), Bhadrak (WL), Baragarh, Baripada, Balasore, Cuttack, Deogarh, Dhenkanal, Ghumusur (N), Ghumusur (S), Hirakud (WL), Koraput, Khurda, Karanjia, Kalahandi (S), Khariar, Keonjhar, Keonjhar (WL), Malkangiri, Nawarangpur, Nayagarh, Phulbani, Paralakhemundi, Rairakhole, Rourkela, Rayagada, Sambalpur (S), Sambalpur (N) and Sundargarh.

38 Angul, Athamalik, Bamra (WL), Balliguda, BBSR City, Berhampur, Banei, Bolangir(W), Bolangir (E), Baragarh, Balasore (WL), Cuttack, Deogarh, Dhenkanal, Ghumusur (N), Jeypore, Khurda, Karanjia, Kalahandi (S), Kalahandi (N) Malkangiri, Nawarangpur, Nayagarh, Puri (WL), Rairakhole, Rayagada.

(Rupees in lakh)

Period	No. of lots	Amount of royalty	Interest payable
Up to 12 months	739	363.95	17.75
13 to 24 months	229	86.44	9.00
25 to 56 months	248	120.71	23.84
Total	1,216	571.10	50.59

After the cases were pointed out, the Government stated in August 2007 that all the DFOs had raised demand for interest on belated payment of royalty. A report on realisation has not been received (November 2007).

Mining Receipts

6.4 Short accounting of stock in the returns leading to non-realisation of royalty

Under the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act), the holder of a mining lease is liable to pay royalty in respect of any minerals removed from the lease hold area or minerals consumed therein. The Mineral Concession (MC) Rules 1960, stipulate that the lessee is required to submit a monthly return in a prescribed form (Form A³⁹) disclosing the details of opening balance, production, consumption/removal and closing balance to the concerned mining circle along with the particulars of payment towards royalty. The assessing officer (AO) is also liable to carry out field survey or spot inspection to satisfy himself regarding the minerals raised by the lessees.

During the audit of the records of the DDM, Sambalpur in December 2006, it was noticed that a lessee⁴⁰ disclosed closing stock of 8.45 lakh MT, 18.63 lakh MT and 11.05 lakh MT of different grades of coal in form A for the years 2003-04, 2004-05 and 2005-06 respectively in respect of six⁴¹ of its collieries. Cross verification of these with the audited book balance of coal, however, revealed that the actual closing stock of coal at the pit's head was 14.43 lakh MT, 21.89 lakh MT and 11.67 lakh MT during the same period. Thus, there was a differential stock of 9.86 lakh MT of coal. The AO, however, accepted the returned figure as per form A and did not conduct field survey or spot inspection to verify the actual stock position from the audited accounts and consequently demand for royalty on the differential stock could not be raised. This resulted in non-realisation of royalty of Rs. 6.46 crore⁴².

After the case was pointed out, the DDM, Sambalpur agreed to raise the demand. A report on recovery has not been received (November 2007).

39 Form-A serves as the basic record for determination of royalty by the assessing officer

40 M/s. Mahanadi Coal Field Ltd.

41 Belpahar, H. Bundia Incl., Hingiri Rampur, Lajkura, Lakhanpur and Samaleswari

42 Royalty at the rate of Rs. 65 per MT for 9.60 lakh MT of F grade coal and royalty at the rate of Rs. 85 per MT for 0.26 lakh MT of D grade coal.

The matter was brought to the notice of the department/Government in April 2007; their reply has not been received (November 2007).

6.5 Short levy of royalty on high grade iron ore

As per the MC Rules, in case of processing of mineral other than run of mine⁴³, royalty is chargeable on unprocessed mineral i.e. mineral extracted from the seam.

Test check of the records of Joda and Koira mining circles between October 2006 and January 2007 revealed that 14 lessees extracted and consumed 87.23 lakh MT of unprocessed mineral in their processing plants from 18 mines during the years 2004-05 and 2005-06 on which royalty of Rs. 19.88 crore was leviable. The AO, however, classified these as processed minerals and levied royalty of Rs. 17.25 crore. This resulted in short levy of royalty of Rs. 2.63 crore.

After the cases were pointed out, the Government stated in March 2007 that demands totalling Rs. 40.63 lakh were raised against seven lessees. A report on recovery and reply in respect of the remaining cases has not been received (November 2007).

6.6 Non-levy of interest on delayed payment of mining dues

Under the provisions of the MC Rules as amended from time to time, in case of belated payment of royalty, simple interest at the rate of 24 *per cent* on the unpaid amount is chargeable from the sixtieth day after the expiry of the due date till the payment of dues in full.

Test check of the records of four mining circles⁴⁴ between June 2006 and January 2007 revealed that royalty of Rs. 2.24 crore was paid belatedly during the period between March 2002 and June 2006, though the due date of payment was between April 2001 and April 2006. Interest of Rs. 9.36 lakh for delay in payment of dues ranging from 81 to 1,404 days was not levied.

After the cases were pointed out, DDMS, Rourkela, Koira and MO, Cuttack agreed between June 2006 and January 2007 to raise the demand. The MO, Keonjhar stated in August 2007 that demand would be raised after receipt of clarification from Director of Mines. A report on further development has not been received (November 2007).

The matter was brought to the notice of the department/Government in March 2007; their reply has not been received (November 2007).

43 The blasted materials containing ore with other foreign materials brought to the crushing plant.

44 Cuttack, Koira, Keonjhar and Rourkela.

6.7 Non-levy of royalty on coal damaged by fire

Under section 9 of the MM (DR) Act, the holder of a mining lease is liable to pay royalty in respect of any mineral removed or consumed from the mines at the rates specified in the Act. No loss or wastage is admissible under the Act. It was judicially held⁴⁵ by the Supreme Court that removal from the seam in the mine and extracting the same through the pit's mouth to the surface satisfied the requirement of section 9 for levy of royalty.

Test check of the records of the DDM, Rourkela circle in November 2006 revealed that 9,532.157 MT of 'E' grade coal was damaged by fire in the stockyard of a lessee. Since the mineral was removed from the mine and royalty was realisable the moment minerals were removed from the mine, the lessee was liable to pay royalty of Rs. 8.10 lakh on the quantity of coal damaged by fire. No demand was, however, raised by the DDM.

After the case was pointed out, the DDM, Rourkela stated that necessary action would be taken after investigation. Further reply has not been received (November 2007).

The matter was brought to the notice of the department/Government in April 2007; their reply has not been received (November 2007).

45 State of Orissa Vs. M/s. SAIL 1990 (6) SC 281.

CHAPTER-VII OTHER DEPARTMENTAL RECEIPTS

7.1 Results of audit

Test check of the assessment records and other connected documents pertaining to the departmental receipts in the departments of Co-operation, Energy, General Administration, Steel & Mines, Health & Family Welfare and Home during 2006-07 revealed non-realisation of revenue, non/short levy of revenue, etc., of Rs. 365.90 crore in 6,020 cases which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	“Levy and collection of electricity duty” (A review)	1	129.82
2.	Non-realisation of revenue	5,278	40.93
3.	Non/short levy of revenue	173	153.00
4.	Other irregularities	568	42.15
Total		6,020	365.90

During the year 2006-07, the departments accepted non/short levy/loss of revenue etc., of Rs. 6.77 crore in 938 cases pointed out in 2006-07. Out of these the department realised Rs. 18 lakh in 10 cases.

A few illustrative cases highlighting important audit observations involving Rs. 129.82 crore including a review of “**Levy and collection of electricity duty**” are discussed in the following paragraphs.

7.2 Review of “Levy and collection of electricity duty”

Highlights

Failure of the Superintending Engineers to effectively scrutinise the returns submitted by the licensees led to non- levy of ED of Rs. 79.81 crore.

(Para 7.2.7)

Failure of the department to cross verify the records of Industries Department prior to allowing exemption under the Industrial Policy Resolution led to irregular exemption of ED of Rs. 22.82 crore.

(Para 7.2.8)

There was short levy of ED amounting to Rs. 11.06 crore in respect of domestic and commercial consumers.

(Para 7.2.13)

7.2.1 Introduction

The Orissa Electricity (Duty) Act, 1961, (OED Act) and Orissa Electricity (Duty) Rules, 1961 (OED Rules) regulate the levy and collection of duty on consumption of electrical energy in Orissa. Under the OED Act, every licensee who distributes power has the statutory obligation to collect electricity duty (ED) from the consumers at the prescribed rate for the energy supplied and deposit it into the Government account. Those who generate electricity for their own consumption are also required to make such deposit directly into the Government account on the basis of actual consumption.

The power sector in Orissa was restructured with the introduction of the Orissa Electricity Reforms Act, 1995 which came into force from 1 April 1996. The Orissa State Electricity Board (OSEB) which looked after the generation, transmission and distribution of power was unbundled and Grid Corporation of Orissa (GRIDCO), a Government owned company, was entrusted with the responsibility of transmission and distribution system. Subsequently, in April 1999 the distribution business of GRIDCO was privatised and transferred to four private distribution companies (DISTCOs)⁴⁶. The DISTCOs sell electrical energy to the consumers, realise ED along with energy charge and inspection fees (IF) for subsequent remittance to the Government account.

46 NESCO- North Eastern Electricity Supply Company, WESCO- Western Electricity Supply Company, SOUTHCO- Southern Electricity Supply Company, CESCO/CESU- Central Electricity Supply Company/Central Electricity Supply Utility

A review of the assessment and collection of ED was included in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2000. The current review of levy and collection of electricity duty has revealed a number of system and compliance deficiencies which have been discussed in the subsequent paragraphs.

7.2.2 Organisational set up

The machinery for monitoring the revenue generation from ED and IF, rests with the Department of Energy headed by the Commissioner-cum-Secretary. He is assisted by one Engineer-in-Chief (Electrical) and two Chief Electrical Inspectors (CEIs), one each for generation and transmission and distribution (T&D) sector.

The Chief Engineer (Projects) cum CEI (Generation) is assisted by two Superintending Engineers (EIs) and six Executive Engineers (Dy. EIs) whereas the CEI (T&D) is assisted by six EIs and 13 Dy. EIs stationed at the head office, circles and divisions. The CEI, (T&D) and Chief Engineer (Project)-cum-CEI (Generation) are responsible for the levy and collection of ED and IF in respect of non-captive and captive electricity consumption and installations respectively.

7.2.3 Audit objectives

The review was conducted with a view to assess:

- the efficiency and effectiveness of the system of levy, exemption and collection of ED; and
- whether an adequate internal control mechanism existed to ensure proper realisation of ED.

7.2.4 Scope of audit

The review of “Levy and collection of ED” by the Department of Energy for the period 2001-02 to 2005-06 was conducted between September 2006 and March 2007. All the six inspectorates, four DISTCOs and 20 out of 62 distribution divisions of the DISTCOs were selected on the basis of collection of revenue for detailed check.

7.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Energy Department in providing necessary information and records for audit. The audit findings as a result of test check of the records were reported to the Government in May 2007 and discussed in the Audit Review Committee meeting held in July 2007. Responses of the Government to the audit observations have been appropriately incorporated in the review.

Audit findings

7.2.6 Trend of revenue

The Orissa Budget Manual stipulates that estimates of revenue receipts should show the amount expected to be realised during the year. Calculation of the amount expected to be realised should be based upon the actual demand including any arrear for the past years and the probability of their realisation during the year. The controlling officers of the administrative departments are required to submit departmental estimates of revenue to the Finance Department for preparing the budget estimate (BE).

The BE and the actual receipts under the head “Taxes and Duties on Electricity” during 2001-02 to 2005-06 were as under:

(Rupees in crore)

Year	BE	Actual realisation	Variation with reference to BE	
			Amount	Percentage
2001-02	150.00	136.96	(-) 13.04	(-) 8.69
2002-03	200.00	172.17	(-) 27.83	(-) 13.92
2003-04	220.00	200.43	(-) 19.57	(-) 8.90
2004-05	216.80	261.89	(+) 45.09	(+) 20.80
2005-06	280.00	353.13	(+) 73.13	(+) 26.12
Total	1,066.80	1,124.58	(+) 57.78	(+) 5.42

Thus, the actual realisation has been showing substantial annual growth during the above period. It was noticed in audit that while framing the BE, the department had taken into consideration only the IF realisable from cinema halls whereas IF relating to electrical installations of DISTCOs, generating companies, industrial and other category of consumers were not considered. Besides, the probability of recovery of arrears of past years was also not assessed which led to variation between BE and actual realisation.

The department attributed the reasons for substantial increase in actual realisation during 2004-05 and 2005-06 to increase in recovery of arrear dues of earlier years. It was further stated that as they failed to estimate additional collection of arrears, there was variation of BE with actual realisation during 2004-05 and 2005-06.

System deficiencies

7.2.7 Levy of ED

Under the provision of the OED Act and the Rules made thereunder, ED shall be levied at the prescribed rate on the consumption of electricity. The owners of the generating units have to pay the ED to the Government as per their actual monthly consumption and the licensees engaged in the distribution of electricity (DISTCOs) have to collect it from the consumers in their monthly bills and deposit it into the Government account. The licensees are required to submit monthly, half-yearly and annual returns in the prescribed manner to the EI concerned for scrutiny and verification with the books of accounts of the licensees. In case of any variation detected by the EIs after verification of returns, additional demand is to be raised on the DISTCOs which would be paid along with interest at the prescribed rates.

Audit scrutiny revealed that the department had failed to effectively scrutinise the receipt of the prescribed returns and the correctness of ED payable as per the returns. The omissions are discussed below:

7.2.7.1 Levy of ED on auxiliary consumption

The Government of Orissa issued instructions in November 1999 and January 2001 levying duty on auxiliary consumption⁴⁷ for captive generation units with effect from 6 November 1999. Interest at 18 *per cent* per annum is leviable in the event of delay in payment of the dues. The CEI (T&D) in September 2004 issued instruction to the EI (Generation), Keonjhar to raise demand for auxiliary consumption of NALCO alongwith interest at the prescribed rates.

Test check of the records of the EI (Generation), Keonjhar revealed that between November 2000 and March 2006, NALCO, Angul, a captive generation plant, utilised 2,779.666 MU of electricity towards auxiliary consumption on which ED of Rs. 52.68 crore was payable. Though the unit submitted regular returns mentioning the details of electricity utilised for auxiliary consumption, payment of ED was not made by NALCO along with the returns. **Failure of the EI to effectively scrutinise the return resulted in non-raising of demand.** This resulted in non-levy of ED of Rs. 73.56 crore including interest of Rs. 20.88 crore for delayed payment of ED, of which, Rs. 69.83 crore pertained to the last five years.

After the case was pointed out, the Government stated in September 2007 that action had been initiated to file certificate case for realisation of the dues. The reply, however, did not mention the reason for the inaction of the department to raise regular demands on the basis of returns filed by NALCO before this was pointed out in audit.

⁴⁷ Energy consumed in the process of generation by the power plants.

7.2.7.2 Levy of ED for internal consumption

As per section 3 of the OED Act, ED is leviable on self consumption of the generated electricity including internal consumption, whereas no ED is leviable on transformation loss. As per the Government of India (GOI) notification of March 1992 circulated by the EI, Berhampur in July 2003, the maximum transformation loss was limited to 0.5 *per cent* of the gross generation for hydro electricity projects.

Scrutiny of the annual accounts of Orissa Hydro Power Corporation Ltd (OHPCL) revealed that between April 2001 and March 2006, OHPCL generated 27,430.61 MU of electricity and exhibited 506.67 MU as transformation loss including internal consumption which was 1.8 *per cent* of gross energy generated as mentioned below:

(Quantity in MU)

Year	Gross generation	Transformation loss including internal consumption	Maximum admissible transformation loss	Internal consumption computed by audit
2001-02	6,448.02	110.18	32.24	77.94
2002-03	3,132.71	88.12	15.66	72.46
2003-04	5,951.37	129.25	29.76	99.49
2004-05	6,868.30	112.96	34.34	78.62
2005-06	5,030.21	66.16	25.15	41.01
Total	27,430.61	506.67	137.15	369.52

Though OHPCL submitted the aforesaid information in its monthly return to the department, yet the concerned EI failed to detect excess claim of transformation loss which was much higher than the maximum allowable percentage of transformation loss as notified by the GOI. **Thus, failure of the EI to review the returns/information in the light of the Act and the relevant notification led to non-detection of excess claim of transformation loss and consequent non-levy of ED of Rs. 7.03 crore.**

After the case was pointed out, the Government stated that transformation loss should not be treated as consumption for the purpose of ED. The reply is not tenable as the licensee showed transformation loss inclusive of internal consumption and the internal consumption was calculated by audit after deducting the maximum admissible transformation loss prescribed by the GOI.

7.2.7.3 Levy of ED on captive consumption

Under the provision of the OED Act, ED is to be paid to the State Government by those who generate electricity for their own consumption. In the event of delay in paying ED beyond 30 days, interest at the rate of 18 *per cent* per annum is leviable for the period of such delay. The captive generating stations are required to assess their own monthly consumption and submit information to the department and deposit the ED into the Government account.

Test check revealed that two industrial units consumed 76.448 MU of self-generated power during December 2004 to March 2006. The units submitted information every month to the EI regarding consumption of power but did not pay any ED on such consumption. **The EI failed to notice this and consequently did not raise any demand for payment of ED on consumption of electricity generated by the aforesaid units.** This resulted in non-levy of ED of Rs. 1.53 crore including interest payable for delayed payment of ED as mentioned below:

Sl. No.	Name of the industrial unit	ED not levied		Government reply	Rebuttal	
		Period	Energy consumed (in MU)			Amount (Rs. in lakh)
1.	Bijayananda Co-operative Sugar Mill Ltd., Bolangir	January 2005 to February 2006	2.7200	Principal - 5.44 Interest - 0.33	The firm is paying ED regularly whose records are available with EI (G), Jeypore	The reply is not tenable, because the EI (G), Jeypore could not produce any record in support of payment of ED and he further stated (November 2006) that necessary steps would be taken for realisation of ED.
2.	SMC Power Ltd.	December 2004 to March 2006	73.728	Principal 147.46	The basis of calculation made by audit is not based on technical principle. The EI (G), Jeypore has been asked to raise upto date demand.	The reply is not tenable because audit has calculated non-levy of ED based on 80 per cent power factor adopted for determination of security deposit for grid connection.
Total			76,448	153.23		

7.2.7.4 Levy of ED on consumption by Railways

Section 13 of the OED Act provides for exemption from levy of ED for energy consumed on the maintenance and operation of Railways. The department by issuing a notification in April 1992 limited the scope of exemption on railway traction⁴⁸ only. Thus, ED was leviable on the energy consumed by the Railways for any other purpose except railway traction from April 1992. Electricity consumed by the Railways for traction purpose is metered separately and classified as traction whereas for other purposes, Indian Railways is treated as a general purpose consumer.

Test check of the records revealed that in respect of seven connections, though two DISTCOs (WESCO and CESCO) supplied 49.35 MU of energy to the Railways for purposes not related to traction, yet ED on the said supply of energy was not collected by these DISTCOs. The DISTCOs exhibited the supply of energy to Railways in their monthly returns and also furnished the copies of consumer bills raised during the month. **The EI, however, failed to notice non-realisation of ED by the DISTCOs on energy consumed by the Railways for purposes other than traction.** As a result, ED of Rs. 1.23 crore on the energy consumed by the Railways was not levied and realised.

After the cases were pointed out, the Government stated that the EI (T&D) was directed (May and August 2007) to raise demand for collection of ED from Railways. The reply is silent regarding failure on the part of the EI to review the returns furnished by the DISTCOs and levy ED on energy consumed by Railways.

7.2.7.5 Levy of ED for consumption by sub-stations

As per the OED Act, duty on consumption of electricity is levied by the State Government at the prescribed rates from time to time. GRIDCO purchases energy from various generating units and sells it to the DISTCOs through its transmission system for consumption. In the process of transmission, besides the transmission loss, a part of energy is consumed in the grid stations and attracts ED at the prescribed rates.

Scrutiny of the records revealed that during 2001-02 to 2005-06, GRIDCO, Bhubaneswar purchased 75,194.727 MU of electricity, of which 30.851MU of electricity was consumed by its own sub-stations on which ED of Rs. 18.51 lakh was leviable. GRIDCO did not furnish returns regularly or in cases where returns were submitted, these were not supported by the payment particulars. **The EI also did not insist on regular submission of returns along with payment of ED and accepted the returns without the verification of the books of accounts of the licensee.** This led to non-levy of ED of Rs. 18.51 lakh.

After the case was pointed out, the Government stated in September 2007 that EI (T&D) was being requested to obtain the information and levy ED. The reply is silent regarding omission on the part of the EI to ensure regular submission of returns by the licensee along with payment particulars and non-verification of returns with the books of accounts

The Government may consider issuing instructions to the EIs making it mandatory to review the returns furnished by the licensees and verify these with the books of accounts, on the lines prescribed under the OED Act and Rules made thereunder.

7.2.8 Exemption from ED granted to captive power plants

Under the Industrial Policy Resolution (IPR), promulgated from time to time by the Government of Orissa, industrial units are granted exemption from payment of ED on fulfilment of certain terms and conditions. Besides, such incentives are payable upto a specified period and any unit is eligible for receipt of incentives under a particular IPR according to its date of investment of the fixed capital. The applications of the captive power plant owners are recommended by the Director of Industries (DI) and on the basis of such recommendations, the Department of Energy grants the exemption. As per IPR 1992 and IPR 2001, captive power plants in respect of which fixed capital investment commenced within the effective period of the IPRs were entitled to exemption of the ED payable. Under IPR 2001, an industrial unit opting to be treated as a new industrial unit was required to surrender and/or refund the

incentives availed, if any, under any earlier IPR. **There was no mechanism in the Energy Department to verify from the records of the Industries Department that the recommendation made by the DI was as per the provisions of the IPR.**

Test check of the records of EIs Jeypore and Keonjhar revealed that exemption from payment of ED claimed by three captive power plants was granted by the Energy Department. Cross verification of these claims with the records of the Industries Department revealed that these units were not entitled for exemption. **Failure of the department to install a mechanism for verification of these claims of exemption from the records of the Industries Department resulted in irregular exemption of ED of Rs. 22.82 crore as mentioned below:-**

Sl. No.	Name of the company/ industry	Reference of IPR	Date of commissioning	Inadmissible exemption period	Self generated units consumed (in MU)	Amount of ED leviable (Rs. in crore)	Reply of the Government	Comments of audit
1.	M/s Hindalco, Ltd. Hirakud	IPR 2001	31.03.05	April 05 to March 06	825.49	16.51	The industry was granted exemption on the basis of the recommendation of the DI.	The reply is not tenable as the industry did not refund the earlier benefits availed under IPR 1992 for its 67.5 MW generating units.
2.	M/s Nilachal Ispat Nigam Ltd. Duburi	IPR 2001	15.04.02	April 04 to February 06	311.49	6.23	It is under consideration of the Government	The reply is not tenable as no sanction was accorded for exemption from payment of ED.
3.	M/s Ispat Alloys Ltd. Balasore/ Balasore Alloys Ltd.	IPR 1992	07.06.96	November 01 to February 06	4.23	0.08	The unit has paid the arrears partly and committed to deposit the balance arrear.	The capital investment was made before the commencement of the IPR 1992 and hence was not eligible for any exemption of ED.
Total						22.82		

The Government may install a mechanism making it compulsory for the EIs to verify the records of the Industry Department before allowing any exemption under the IPRs.

7.2.9 Recovery and remittance of ED

As per the OED Act and Rules made thereunder, ED collected should be credited to the Government account within 30 days of the expiry of the month in which the duty was realised. Interest at the rate of 18 *per cent* per annum is to be levied in the event of delay in payment of ED. Any sum due on account of ED and interest if not paid within the prescribed time limit, is recoverable

as an arrear of land revenue. **Further, the EIs are required to review the returns submitted by the licensees and any difference of ED payable by them are to be promptly demanded, recovered and remitted to the Government account.**

7.2.9.1 Non-recovery of dues

It was observed that four DISTCOs did not collect ED of Rs. 6.82 crore from the consumers as of 31 March 2006. The year-wise break-up of the amount was not available. The EIs have not initiated tax recovery proceedings to collect the amounts as arrears of land revenue as mentioned below:

(Rupees in lakh)

Name of the company	Outstanding ED against permanently disconnected consumers
NESCO	265.64
WESCO	41.94
SOUTHCO	238.92
CESCO/CESU	135.23
Total	681.73

After the cases were pointed out, the Government stated in September 2007 that the outstanding dues were against large number of consumers located in different places under the supply area. So, there were practical difficulties in initiating certificate proceedings. The reply is not tenable because the department is required to initiate tax recovery proceedings as per the provisions of the Act. **Besides, this is also indicative of failure of the EIs to review the returns of the licensees and initiate prompt action for recovery of outstanding dues from the consumers.**

7.2.9.2 Non-remittance of ED

Scrutiny of the records of the four DISTCOs⁴⁹ in 20 electrical divisions revealed that between April 1999 and March 2006, three DISTCOs⁵⁰ in seven electrical divisions collected ED of Rs. 31.12 crore but remitted only Rs. 28.61 crore to the Government account. Balance of Rs. 2.51 crore was retained by three DISTCOs till the date of audit. The EIs also did not review the returns furnished by the licensees and the balance Government revenue of Rs. 2.51 crore remained with the licensees instead of being remitted to the Government account as mentioned below:

49 NESCO, WESCO, CESCO and SOUTHCO.

50 CESCO, WESCO and SOUTHCO.

(Rupees in lakh)

Sl. No.	Name of the DISTCO	Number of divisions	Period	ED collected	ED remitted	ED not remitted	Interest at 18 per cent leviable
1.	CESCO	3	April 2001 to March 2006	64.45	29.32	35.13	6.13
2.	WESCO	1	April 2001 to March 2006	2,843.60	2,831.26	12.34	2.22
3.	SOUTHCO	3	August 1999 to November 2003	203.81	Nil	203.81	85.60
Total		7		3,111.86	2,860.58	251.28	93.95

As the above DISTCOs did not deposit the collected amount in time, interest of Rs. 93.95 lakh was also leviable on them. The department, however, did not initiate any action against the defaulting DISTCOs for realisation of the unremitted revenues along with interest.

After the cases were pointed out, the Government stated that due to want of manpower the records of the DISTCOs could not be verified. Necessary steps were being taken to realise the unremitted amount. This shows apathy on the part of the Government/department to monitor the functioning of the licensees and recover Government revenue from them timely. Further development has not been reported (November 2007).

In order to streamline the system of monitoring the recovery of arrears of revenue, the Government may consider introducing reports and returns to be furnished by the EIs showing the upto date position of arrear of revenue, amount recovered during the period under report/return, amount which could not be recovered during the period under report/return and closing balance of arrears of revenue to be recovered at the end of the return period.

7.2.10 Arrears of revenue

Mention was made in the Report of the Comptroller & Auditor General of India (Revenue Receipts), Government of Orissa for the year ended 31 March 2003 regarding failure of the department to maintain ED accounts and to reconcile these with the DISTCOs from April 1999 resulting in adhoc depiction of arrears. Arrears of ED (both captive and non-captive) upto 31 March 1999 realisable from GRIDCO and other licensees was Rs. 114.67 crore. The department did not furnish information on arrears, for the subsequent four years upto 2002-03 consequent upon the privatisation of the DISTCOs, to audit. Arrears for the years 2003-04 and 2004-05 as reported by the department stood at Rs. 346.21 crore and Rs. 471.78 crore respectively. The position of 2005-06 could not be furnished by the department. The reported arrears as of 2006-07 were Rs. 533.12 crore.

The department stated that the position of arrears exhibited in the books of accounts of the DISTCOs were not reconciled with that of the CEI (T&D). **As the department had no other mean of ascertaining the position of arrears of revenue, these could not be included in the BE as well.** In the absence of realisable arrear position, the BE was prepared by the Finance Department on the basis of the trend of actual receipts of the preceding years. This is indicative of the fact that the department neither had any established system of gathering information on arrears of revenue nor had it taken effective steps to ascertain the position of the arrears of revenue.

7.2.11 Weak internal controls

7.2.11.1 Under the OED Act, the licensees are required to furnish periodical returns to the EIs within the stipulated time along with the ED payment particulars failing which they shall be guilty of an offence attracting punishment of imprisonment upto six months or fine upto Rs. 1,000. The returns furnished by the licensees form the basis for levy and collection of ED.

Test check of 47 out of 62 distribution divisions of the four DISTCOs revealed that 15 divisions did not submit the returns and 32 divisions submitted the returns irregularly with delays ranging from 1 to 18 months. The department did not initiate any penal proceedings and only issued formal letters for submission of the returns. Since the returns were the only means of ascertaining the amounts due, the department had no other mechanism to work out the arrears and assess the correctness of the amount of ED deposited by the licensees, due to non-submission/delayed submission of returns.

7.2.11.2 Register of demand, collection and balance of ED was not maintained by the EIs. **In the periodical returns submitted by the EIs to their higher officers, only the amount collected was reported without showing the year-wise break-up of the demand against which such collection was made. Therefore, the department is not aware of the position of arrears of revenue at any point of time.**

7.2.12 Internal audit

The 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 systems are functioning reasonably well.

The department did not have any internal audit wing (IAW) and thus did not have an effective tool to ascertain whether its various wings were functioning reasonably well to ensure optimum realisation of revenue.

The Government may consider setting up of an IAW to monitor the levy and correctness of ED paid.

Compliance deficiencies**7.2.13 Short levy of ED on domestic and commercial consumption**

As per Rule 3 of the OED Rules, the licensee shall include the ED leviable under the Act as a separate item in the bill of charges at the prescribed rate and recover it along with the energy charges (EC). ED was leviable at the rate of 5 paisa and 15 paisa per unit in respect of domestic and commercial consumers respectively between April 2001 and December 2005.

Test check of the records revealed that between April 2001 and December 2005, four DISTCOs in 15 electrical divisions sold 3,728.692 MU of energy (domestic 2,937.51 MU and commercial 791.182 MU) to the consumers for which ED of Rs. 26.56 crore was leviable. As against this, the DISTCOs raised demand of Rs. 15.50 crore. This resulted in short levy of ED amounting to Rs. 11.06 crore.

After the cases were pointed out, the Government replied in September 2007 that the matter would be intimated to EIs (T&D) for their compliance. Further development has not been intimated (November 2007).

7.2.14 Non-levy of interest on belated payment of ED

Section 5 of the OED Act envisages that if duty is not paid to the Government within the prescribed period of 30 days, interest at 18 *per cent* per annum is leviable.

Scrutiny of the records revealed that though two companies⁵¹ paid/remitted ED to the Government account after delays ranging between 1 and 201 months, the department did not levy interest of Rs. 4.81 crore on the companies as mentioned below :

(Rupees in lakh)					
Sl. No.	Name of the industry/ licensee	Period of generation/ collection	Amount of ED paid	Date of payment	Interest leviable
1.	M/s Indal Hirakud Power	07/2003 to 08/2004	488.98	30.10.2004	55.14
		05/2005 to 07/2005	82.72	09.09.2005	3.81
2.	M/s GRIDCO, BBSR	1988-89 to 2005-06	836.99	12.01.2006	422.24
			5.14	03.04.2006	
Total					481.19

After the cases were pointed out, the Government stated in September 2007 that no authentic record was available with them. However, the matter had already been intimated to the appropriate authority for realisation of the dues.

51 M/s. Indal Hirakud Power & M/s. GRIDCO.

7.2.15 Non-adjustment of proportionate duty

Provisions under sub-section 2 of section 5 of the OED Act read with para 94 of Orissa Electricity Regulatory Commission Distribution (Condition of Supply) Code 2004, stipulate that the ED and interest thereon shall be the first charge on the amount recoverable by the licensee from the consumers, provided that in case of part payment by the consumers, the proportionate share of duty from the total allocation shall be adjusted first.

Scrutiny of the records revealed that in seven cases pertaining to three DISTCOs lump sum payments made by the industrial consumers and security deposits adjusted against outstanding dues were not apportioned towards EC and ED as mentioned below:

(Rupees in lakh)

Sl. No.	Name of the DISTCOs	Name of the consumer	Period involved	Total amount realised	Amount allocated towards ED	Amount to be allocated towards ED	Shortfall in realisation
1.	NESCO	Orissa Sponge Iron Ltd., Pallasponga	Adjustment of security deposit ⁵²	23.38	NIL	0.73	0.73
2.	-do-	Orissa Sponge Iron Works		76.41	NIL	2.39	2.39
3.	-do-	M/s Pankaj Industries Keonjhar	Jan. 2006 to Oct. 2006	300.57	1.39	14.50	13.11
4.	-do-	Ferro Chrome Plant J.K. Road (JRED, J.K. Road)	Nov. 1999 to Aug. 2005	8,430.53	402.42	463.84	61.42
5.	CESCO	NEELCHAL, Refractories (DED Dhenkanal)	Nov. 2003 to Sept. 2005	10.22	NIL	0.40	0.40
6.	-do-	IPI Steel (DED Dhenkanal)	June 2003 to July 2005	100.00	NIL	5.38	5.38
7.	SOUTHCO	M/s VBC Ferro Alloys Ltd. Rayagada (RED Rayagada)	June 2005 to Aug. 2005	124.42	NIL	4.42	4.42
Total				9,065.53	403.81	491.66	87.85

52 Period is not available.

The EIs, however, did not initiate any action to realise the ED dues from the DISTCOs. This led to non-adjustment of Government dues of Rs. 87.85 lakh.

After the case was pointed out, the Government stated in September 2007 that instruction was being issued to the concerned EIs (T&D) for verification of the cases and take necessary steps to realise the ED outstanding with the DISTCOs.

7.2.16 Exemption of ED for non-captive consumption

New industries availing of exemptions under IPR 1996 are exempted from payment of ED for five years on the basis of their contract demand (CD). As resolved in the review meeting held in the inspectorate on 21 September 2004, in the event of variation of the CD, the EI (T&D) would cancel the exemption benefit unless such variation is sanctioned by the Department of Energy on the basis of fresh recommendation from DI/District Industries Centre (DIC).

Test check revealed that M/s Shree Salasar Castings (P) Ltd which was enjoying exemption benefit under IPR 1996, enhanced its CD in April 2002. The EI (T&D), Rourkela subsequently withheld the exemption benefit in May 2006 for want of revised recommendation by the DI. In spite of withholding the exemption benefit, the company did not pay the ED for the period from April 2002 to May 2007. The department failed to review the return of the company and raise demand for payment of ED. This resulted in short raising of demand of Rs. 17.05 lakh.

After the case was pointed out, the Government stated in September 2007 that necessary instructions had been issued for recovery of ED from the company. The reply does not explain the reasons for the failure of the department to detect non-payment of ED by the company after the exemption benefit was withheld by it.

7.2.17 Conclusion

The Act provides for filing of returns by the licensees which are an important internal control measure to monitor the payment of ED and its correctness. The department had failed to effectively scrutinise the receipt of the prescribed returns and the correctness of ED payable as per the returns which led to leakage of revenue. The Government in extending exemption decides to forego revenue in pursuance of certain defined objectives. Exemption of ED was granted without verification of records in the Industries Department which resulted in grant of irregular exemption. There was no mechanism for proper monitoring of arrears of revenue and collection thereof. The internal control mechanism of the department was weak as is evidenced by the absence of an IAW which is a management tool for plugging leakages of revenue and non-maintenance of the prescribed registers.

7.2.18 Summary of recommendations

The Government may consider

- issuing instructions to the EIs making it mandatory to review the returns furnished by the licensees and verify these with the books of accounts, on the lines prescribed under the OED Act and Rules made thereunder;
- installing a mechanism making it compulsory for the EIs to verify the records of the Industry Department before allowing any exemption under the IPRs;
- introducing reports and returns to be furnished by the EIs showing the upto date position of arrears of revenue, amount recovered during the period under report/return, amount which could not be recovered during the period under report/return and closing balance of arrears of revenue to be recovered at the end of the return period; and
- setting up of an IAW to monitor the levy and correctness of ED paid.

7.3 Non-realisation of dues relating to the State Guest House

The State Guest House (SGH) offers boarding and lodging facilities including telephone and vehicles to visiting officials and dignitaries on payment at the approved rates. Such payments are made by the guests at the time of their check out on the basis of the bills prepared by the SGH. These payments are treated as departmental receipts and credited to the Government revenue. As per the provisions of the Orissa Treasury Code (OTC), these receipts, except in specific cases, are to be deposited in the treasury within three days and are not to be appropriated to meet the day-to-day expenditure. Further, retention of money in the shape of paid vouchers is strictly prohibited and advances paid for specific purposes to the Government servants and suppliers are to be adjusted within one month from the date of payment.

Scrutiny of the records of the SGH in May 2006 revealed that dues of Rs. 76.84 lakh were outstanding (as on November 2006) against guests on account room rent, food served, vehicle hire charges and telephone facilities availed of by them. As the SGH authorities did not take timely action for collection of dues, these have been outstanding in the books of accounts against various occupants. Out of the above dues, Rs. 65.75 lakh relate to the period prior to 2004-05 (Rs. 26.10 lakh has been outstanding for more than 10 years, Rs. 14.66 lakh for five to 10 years and Rs. 24.99 lakh for two to five years) and the chances of their realisation seem to be remote.

Further, the SGH receipts of Rs. 15.79 lakh collected between March 2005 and April 2006 from the guests were not remitted into the treasury but irregularly appropriated towards running expenditure of the guest house by depicting them in the cash book as outstanding advances and paid vouchers.

After the case was pointed out, the Manager, SGH cum Under Secretary to the Government stated in March 2007 that steps were being taken to debar the defaulters from availing of further accommodation in the SGH and to realise the outstanding dues by initiating action under Public Demand Recovery Act. The reply is not tenable as legal action for realisation of outstanding dues was yet to be taken. The reply is silent about the irregular appropriation of departmental receipts for meeting expenditure of the SGH.

The matter was referred to the Government in May 2007; their reply has not been received (November 2007).

**Bhubaneswar
The**

**(Atreyee Das)
Accountant General (CW & RA)
Orissa**

Countersigned

**New Delhi
The**

**(Vijayendra N. Kaul)
Comptroller and Auditor General of India**

Annexure-I

(Reference Para 2.2.10.1)

Observations	Cuttack-I Range No. of cases	Sundargarh Range No. of cases	Puri Range No. of cases	Total cases
Main business place address is not available	3,051	3,455	5,485	11,991
Name of the owner of the business is not available	4,399	2,570	9,279	16,248
Business types (whether proprietorship, partnership, company etc.) are not available and shown as zero	1,017	768	1,530	3,315
Date of commencement of business is not available	4,716	1,146	6,260	12,122
Date of commencement of liability is not available	5,571	4,118	14,778	24,467
Partners details not available, though business type was stated as partnership	5,68	381	619	1,568



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2008**

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