Report of the Comptroller and Auditor General of India

REVENUE RECEIPTS
for the year ended 31 March 2011

(No. 3)

GOVERNMENT OF ODISHA

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PREFACE

This Report for the year ended 31 March 2011 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 value added tax (VAT)/central sales tax (CST)/entry tax, motor vehicles tax, land revenue, stamp duty and registration fee, excise duty and fees, 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 2010-11 and a case in 2011-12 relating to a Performance Audit on Computerisation in the Motor Vehicles Department as well as those noticed in earlier years but could not be included in the previous years' Reports.

OVERVIEW

I General

This Report contains 45 paragraphs and three performance audit reports highlighting non-levy or short levy of tax, interest, penalty, revenue foregone, etc., involving ₹ 1,032.61 crore[1]. Some of the major findings are mentioned below:

(Paragraph 1.5.2)

The total revenue receipts of the Government for the year 2010-11 amounted to ₹ 33,276.15 crore against ₹ 26,430.21 crore in the previous year. Of this, 48 *per cent* was raised by the State through tax revenue (₹ 11,192.67 crore) and non-tax revenue (₹ 4,780.37 crore). The balance 52 *per cent* was received from the Government of India in the form of State's share of divisible Union taxes (₹ 10,496.86 crore) and grants-in-aid (₹ 6,806.25 crore).

(Paragraph 1.1.1)

As on 30 June 2011, 3,267 inspection reports issued up to 31 December 2010 containing 9,712 audit observations involving ₹ 6,258.05 crore were outstanding for want of comments/final action by the concerned departments.

(Paragraph 1.2.1)

Test check of the records of commercial tax, motor vehicles tax, land revenue, state excise, forest receipts, mining receipts and other departmental offices conducted during the year 2010-11 and 2011-12 in one Performance Audit case relating to Motor Vehicles Department revealed underassessment/short levy/loss of revenue, etc., amounting to ₹ 2,138.56 crore in 1,83,397 cases. During the year 2010-11and 2011-12, the concerned departments accepted underassessment and other deficiencies of ₹ 1,635.29 crore involved in 33,615 cases which were pointed out in 2010-11, 2011-12 and earlier years. The departments also recovered ₹ 31 crore during the year in 2,986 cases.

(Paragraph 1.5.1)

II Value Added Tax, Central Sales Tax, Entry Tax and Profession Tax

A Performance Audit on "**Utilisation of declaration forms ('C' and 'F') in Inter State Trade and Commerce"** revealed the following:

- Out of 556 declaration forms received from other States by the Enforcement Wing (EW) of the Commissionerate of Commercial Taxes during the period from 2007-08 to 2009-10, result of verification in respect of only 35 declaration forms were sent and the position of cross verification in respect of the remaining 521 declaration forms

[1] It does not include the paragraphs on penalty, occupation of Government land without any revenue receipts and blocking of revenue.

were not received by the EW from the Enforcement Ranges. Cross verification of the details of declaration forms with other States was neither done by the test checked circles nor any monitoring thereof was done by the EW.

(Paragraph 2.2.10)

- Irregular grant of concession/ exemption of tax on sales/ branch transfer of goods not supported by declaration forms resulted in short levy of tax and penalty of ₹ 0.19 crore.

(Paragraph 2.2.11)

- Cross verification of declaration forms revealed that 14 dealers availed concession/exemption of tax of ₹ 0.12 crore against 40 declaration forms which were found to be fake.

(Paragraph 2.2.12)

- Cross verification of the details of declaration forms revealed that 20 dealers inflated inter-State sales figures by ₹ 4.45 crore against 38 forms and 13 dealers suppressed such sales figure by ₹ 0.38 crore against 15 forms. This led to escapement of tax of ₹ 0.32 crore. Moreover, six dealers in six circles evaded tax and penalty of ₹ 0.25 crore by fraudulent use of eight declarations in form 'C' issued in the name of other dealers.

(Paragraph 2.2.13)

- Irregular concession/ exemption of tax against manipulated, photocopied, defective and duplicate forms resulted in short levy of tax of ₹ 1.69 crore.

(Paragraph 2.2.14)

- Internal Control Mechanism of the Department was inadequate.

(Paragraph 2.2.16)

Tax, penalty and interest of ₹ 8.17 crore was short levied due to application of lower rate of tax in audit assessments of two dealers.

(Paragraph 2.4.1.1 and 2.4.1.2)

Tax and penalty of ₹ 13.96 crore was not levied on purchase of unprocessed paddy by a dealer in the audit assessment.

(Paragraph 2.4.2.1)

Tax and penalty of ₹ 4.62 crore was short levied due to under-determination of taxable turnover of two dealers in audit assessments.

(Paragraph 2.4.3.1 and 2.4.3.2)

Inadmissible input tax credit (ITC) of ₹ 1.88 crore was allowed in the audit assessment and self assessed returns of 71 dealers. Besides penalty of ₹ 58.14 lakh was not levied in five cases.

(Paragraph 2.4.4)

Interest of ₹ 1.97 crore towards delayed payment of tax was not levied against 927 dealers.

(Paragraph 2.4.5.1)

Penalty of ₹ 1.22 crore being twice the tax assessed was not levied although tax of ₹ 61.08 lakh was additionally assessed in respect of nine dealers in audit assessments.

(Paragraph 2.4.5.2)

Penalty of ₹ 8.12 crore for non-submission of the certified report on the audited accounts of 3,313 dealers (whose gross turnover exceeded ₹ 40 lakh during the preceding financial year) within the prescribed period was not levied.

(Paragraph 2.4.5.3)

Tax and penalty of ₹ 6.70 crore was short levied due to allowance of inadmissible concessional rate of tax in audit assessment of three dealers.

(Paragraph 2.5.1.1 to 2.5.1.3)

Tax of ₹ 1.16 crore was short levied due to allowance of inadmissible exemption to penultimate sales turnover of four dealers in audit assessments.

(Paragraph 2.5.2)

Penalty of ₹ 6.27 crore being twice the tax assessed was not leived although tax of ₹ 3.13 crore was additionally assessed in respect of three dealers in audit assessments.

(Paragraph 2.5.3)

Tax and penalty of ₹ 61.47 lakh was not assessed on entry of scheduled goods (gold jewellery) of a dealer in audit assessment.

(Paragraph 2.6.1.1)

Penalty of ₹ 1.45 crore being twice the tax of ₹ 72.43 lakh assessed in audit assessment was not imposed in respect of five dealers.

(Paragraph 2.6.5.1)

III Motor Vehicles Tax

A Performance Audit on **"Computerisation in the Motor Vehicles Department"** revealed the following:

- Except for module of permit and temporary registration under 'Vahan' and enforcement module under 'Sarathi' all the modules of 'Vahan' and 'Sarathi' were implemented in all the 31 RTOs.

(Paragraph 3.2.8.1)

- Maintenance of real time records on centralised online data management system was not in place. Besides, there was non-customisation of permit module under Vahan software.

(Paragraph 3.2.8.1 and 3.2.8.2)

- Penalty of ₹ 71.05 lakh for delay in issue of smart card based registration certificates/driving licenses by the concessionaire was not imposed.

(Paragraph 3.2.8.4)

- Short engagement of IT personnel resulted in undue benefit of ₹ 34 lakh extended to the concessionaire.

(Paragraph 3.2.8.5)

- Service charges of ₹ 1.01 crore was irregularly collected by the concessionaire towards issue of paper-based learner licenses.

(Paragraph 3.2.8.6)

- Deficiencies were noticed in the mapping of business process rules and there were delays in mapping of business process rules.

(Paragraph 3.2.8.7)

- There was inadequacy in validation controls which resulted in issue of multiple driving licenses to a person and transport licenses to persons without requisite qualifications.

(Paragraph 3.2.8.9)

- There was non-continuity of registration numbers and irregularities in assignment/allotment of registration numbers.

(Paragraph 3.2.8.11 and 3.2.8.15)

- There was inadequacy in input controls which resulted in duplication of 422 engine numbers and 74 chassis numbers in the system.
- 13,370 driving licenses and 22,411 registration certificates were issued in smart card without activation of the card chips.

(Paragraph 3.2.8.16)

- There was duplication of data in Regional Transport Offices' databases due to lack of connectivity and no objection certificate/ tax clearance certificate procedure.

(Paragraph 3.2.8.17)

Motor vehicles tax and additional tax of ₹ 67.65 crore including penalty was either not realised or short realised in respect of 31,825 different categories of vehicles.

(Paragraph 3.4.1.1 and 3.4.1.2)

Motor vehicles tax and additional tax of ₹ 19.46 lakh including penalty was either not realised or short realised from 54 stage carriages plying without route permits.

(Paragraph 3.4.2)

Motor vehicles tax and additional tax of ₹ 23.28 lakh including penalty was not realised from 18 motor vehicles for violation of off road declaration.

(Paragraph 3. 4.3)

Process fee of ₹ 1.38 crore in respect of 1.38 lakh cases was not realised from the vehicle owners.

(Paragraph 3. 5.1)

IV Land Revenue, Stamp Duty and Registration Fee

In three cases, 13 acres of Government land worth ₹ 5.35 crore was in occupation without any revenue being received by the Department.

(Paragraph 4.3.1.1)

Revenue of ₹ 4.14 crore was not realised due to non-regularisation of advance possession of 15 acres of Government land in three cases.

(Paragraph 4.3.1.2)

V State Excise Duty and Fees

Depot licence fees of ₹ 76 lakh against 16 country spirit (CS) depots was not realised from the Orissa State Beverage Corporation Limited (OSBC).

(Paragraph 5.3.1)

Excise duty of ₹ 38.37 lakh including fine was not realised from a licensee for non-lifting of the minimum guaranteed quantity (MGQ) of liquor.

(Paragraph 5.3.2)

Utilisation fee of ₹ 22.44 lakh including fine was not levied against a licensee for short fall in utilisation of the MGQ of molasses.

(Paragraph 5.3.3)

VI Forest Receipts

Interest of ₹ 95.18 lakh for delayed payment of royalty was not raised against the Orissa Forest Development Corporation Limited (OFDC).

(Paragraph 6.3.1)

VII Mining Receipts

Underassessment of royalty on steam coal resulted in short demand of ₹ 4.67 crore.

(Paragraph 7.3.1)

Assessment of royalty on processed iron ore instead of unprocessed iron ore resulted in underassessment of royalty of ₹ 17.35 crore in two cases.

(Paragraph 7.3.2.1 and 7.3.2.2)

₹ 216.69 crore towards price of iron ore unlawfully raised by a lessee was not demanded/realised.

(Paragraph 7.3.3)

VIII Other Departmental Receipts

A performance audit on "**Interest Receipts on Loans and Advances"** revealed the following:

- Internal Control Mechanisms (ICMs) of Loan Sanctioning Departments (LSDs) were weak.

(Paragraph 8.2.10)

- Demands towards interest of ₹ 611.11 crore on loans granted to different loanees/organisations were not raised by three LSDs.

(Paragraph 8.2.11 & 8.2.12.1)

- There was loss of interest of ₹ 17.37 crore due to incorrect adjustment of repayments.

(Paragraph 8.2.12.3)

Electricity duty of ₹ 10.53 crore including interest on consumption of electricity by M/s Shyam DRI Power Limited was not levied

(Paragraph 8.4.2.1(a))

CHAPTER-I : GENERAL

1.1 Trend of revenue

1.1.1 The tax and non-tax revenue raised by the Government of Odisha during the year 2010-11, State's share of net proceeds of divisible Union taxes and duties assigned to the States and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(Rupees in crore)

		2006-07	2007-08	2008-09	2009-10	2010-11
1.	**Revenue raised by the State Government**					
	• Tax revenue	6,065.07	6,856.09	7,995.20	8,982.34	11,192.67
	• Non-tax revenue	2,588.12	2,653.58	3,176.15	3,212.20	4,780.37
	Total	**8,653.19**	**9,509.67**	**11,171.35**	**12,194.54**	**15,973.04**
2.	**Receipts from the Government of India**					
	• State's share of net proceeds of divisible Union taxes and duties	6,220.42	7,846.50	8,279.96	8,518.65	10,496.86[1]
	• Grants-in-aid	3,159.02	4,611.02	5,158.70	5,717.02	6,806.25
	Total	**9,379.44**	**12,457.52**	**13,438.66**	**14,235.67**	**17,303.11**
3.	Total revenue receipts of the State Government (1+2)	18,032.63	21,967.19	24,610.01	26,430.21	33,276.15
4.	**Percentage of 1 to 3**	**47.99**	**43.29**	**45.39**	**46.14**	**48.00**

The above table indicates that during the year 2010-11, the revenue raised by the State Government (₹ 15,973.04 crore) was 48 *per cent* of the total revenue receipts against 46.14 *per cent* in the preceding year. The balance 52 *per cent* of receipts during 2010-11 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 Odisha for the year 2010-11. 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 2006-07 to 2010-11:

(Rupees in crore)

Sl. No.	*Heads of revenue*	2006-07	2007-08	2008-09	2009-10	2010-11	Percentage of increase (+)/ decrease (-) in 2010-11 over 2009-10
1.	Value Added Tax	3,042.34	3,567.16	4,268.72	4,914.99	6,221.28	(+) 26.58
	Central sales tax	722.48	551.27	534.61	493.77	585.52	(+) 18.58
2.	Taxes and duties on electricity	282.58	327.46	365.03	459.96	458.06	(-) 0.41
3.	Land revenue	226.38	276.16	348.79	292.18	390.66[2]	(+) 33.71
4.	Taxes on vehicles	426.54	459.42	524.43	611.23	727.58[2]	(+) 19.04
5.	Taxes on goods and passengers	574.00	626.90	638.32	815.25	1,111.37	(+) 36.32
6.	State excise	430.07	524.93	660.07	849.05	1,094.26[2]	(+) 28.88
7.	Stamp duty and registration fee	260.49	404.76	495.66	359.96	415.82[2]	(+) 15.52
8.	Other taxes and duties on commodities and services	26.59	31.59	47.39	50.40	54.84	(+) 8.81
9.	Other taxes on income and expenditure-tax on professions, trades, callings and employments	73.60	86.44	112.18	135.55	133.28	(-) 1.67
Total		**6,065.07**	**6,856.09**	**7,995.20**	**8,982.34**	**11,192.67**	

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

Land revenue: The increase (33.71 *per cent*) was due to conversion of land under Section 8(A) of Orissa Land Reform (OLR) Act, 1960, alienation of Government land to different agencies and collection of premium thereof, collection of royalty etc. by effective steps taken by the Department.

Taxes on vehicles: The increase (19.04 *per cent*) was mainly due to increase in registration of vehicles, increase in enforcement activities, amendment of the Orissa Motor Vehicles Taxation (OMVT) Act, 1975 and arrear collection.

State excise: The increase (28.88 *per cent*) was due to opening of more legal outlets and effective enforcement activities.

Stamp duty and Registration fees: The increase (15.52 *per cent*) was due to the sincere efforts of the Inspector General of Registration and field staff.

The other departments did not inform (January 2012) the reasons for variation despite being requested (April 2011).

[2] The figure as furnished by the department is at variance with the Finance Accounts.

1.1.3 The following table presents the details of the non-tax revenue raised during the period 2006-07 to 2010-11:

(Rupees in crore)

Sl. No.	Heads of revenue	2006-07	2007-08	2008-09	2009-10	2010-11	Percentage of increase (+)/ decrease (-) in 2010-11 over 2009-10
1	Non-ferrous mining and metallurgical industries	936.60	1,126.06	1,380.60	2,020.76	3,329.25[3]	(+) 64.75
2	Interest receipts	398.42	570.39	654.67	379.23	260.83	(-) 31.22
3	Forestry and wild life	130.63	82.66	139.29	109.03	157.68[3]	(+) 44.62
4	Irrigation and inland water transport	54.41	48.90	52.95	70.13	143.10	(+) 104.05
5	Other administrative services	14.44	17.31	9.38	56.48	11.06	(-) 80.42
6	Public works	24.96	31.61	38.31	41.99	48.79	(+) 16.19
7	Police receipts	23.39	29.17	22.25	36.69	38.45	(+) 4.80
8	Education, Sports, Art and Culture.	41.94	41.95	10.65	14.88	25.98	(+) 74.60
9	Medical and public health	13.07	14.28	32.18	12.96	19.55	(+) 50.85
10	Miscellaneous general services	777.36	396.95	388.85	11.60	412.29	(+) 3454.22
11	Power	1.23	1.05	0.63	2.66	2.07	(-) 22.18
12	Co-operation	2.39	2.29	2.01	1.99	2.18	(+) 9.55
13	Other non-tax receipts	169.28	290.96	444.38	453.80	329.14	(-) 27.47
Total		**2,588.12**	**2,653.58**	**3,176.15**	**3,212.20**	**4,780.37**	

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

Non-ferrous mining and metallurgical industries: The increase (64.75 *per cent*) was mainly due to enhancement of rate of royalty on iron ore, chromite etc. by the Indian Bureau of Mines.

Forestry and wild life: The increase (44.62 *per cent*) was mainly due to collection of royalty of ₹ 119.17 crore from the Orissa Forest Development Corporation Limited (OFDC).

3 The figure as furnished by the department is at variance with the Finance Accounts.

The other departments did not inform (January 2012) the reasons for variation, despite being requested (April 2011).

1.2 Response of the Departments/Government towards audit

Audit observations on incorrect assessments, non/short levy of taxes, duties, fees etc. not settled on the spot are communicated to the heads of the offices/departments through Inspection Reports (IRs). The departments are required to take corrective measures and furnish compliance within one month. On the basis of the compliance, paragraphs are settled by the Accountant General (AG). The pending paragraphs are discussed in the departmental audit committee meetings (triangular committee meetings) to expedite settlement of the same. Important paragraphs of the IRs and performance audit reports are included in the Report of the Comptroller and Auditor General (CAG) of India which is presented in the State Legislature and discussed in the Public Accounts Committee (PAC). Before such inclusion, the paragraphs are forwarded to the Government seeking their views which is required to be furnished within six weeks. After the Report of the CAG is placed in the legislature, the departments are required to furnish compliance notes within three months. The PAC on receipt of compliance notes discusses the paragraphs and makes recommendations on certain issues. Action taken notes on the recommendations of the PAC are required to be furnished by the departments within six months. The issues raised in the Report of the CAG are finally to be settled after the PAC discusses the action taken notes submitted by the departments.

The responses of the departments/Government to audit on different stages of action are discussed in the succeeding paragraphs 1.2.1 to 1.2.6.

1.2.1 Inadequate corrective action on audit observations

The AG conducts periodical inspection of the Government departments to test check the transactions and verify the maintenance of the important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the IRs incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the AG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the departments and the Government.

A review of inspection reports issued up to December 2010 disclosed that 9,712 paragraphs involving ₹ 6,258.05 crore relating to 3,267 IRs remained outstanding at the end of June 2011 as mentioned below along with the corresponding figures for the preceding two years.

	June 2009	June 2010	June 2011
Number of outstanding IRs	3,168	3,251	3,267
Number of outstanding audit observations	8,917	9,285	9,712
Amount involved (Rupees in crore)	**3,901.84**	**4,685.50**	**6,258.05**

The department-wise details of the IRs and audit observations outstanding as on June 2011 and the amounts involved are mentioned in the following table:

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (Rupees in crore)	First reply not received (Number of IRs)
1.	Finance	Orissa Sales Tax/VAT/CST	712[4]	1,548	707.19	48
		Entry tax		355	121.32	
		Profession Tax		10	16.87	
2.	Excise	State excise	235	492	156.12	25
3.	Forest and Environment	Forest receipts	503	1,063	379.01	124
4.	Revenue and Disaster Management	Land revenue	767	1,695	1,138.67	199
		Stamp duty and registration fee	461	726	642.30	119
5.	Steel and Mines	Mining receipts	106	240	1,384.35	17
6.	Transport	Taxes on vehicles	314	3,018	571.12	23
		Taxes on goods and passengers	7	237	0.01	
7.	Energy	Electricity duty	111	244	1,111.86	27
8.	Co-operation	Departmental receipts	30	55	14.24	13
9.	Food Supplies and Consumer Welfare	-do-	17	21	3.19	1
10.	Works	-do-	3	3	2.73	1
11.	G.A.(Rent)	-do-	1	5	9.07	1
Total :			**3,267**	**9,712**	**6,258.05**	**598**

Even the first replies required to be received from the heads of offices within one month from the date of issue of the IRs were not received for 598 IRs issued up to December 2010. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that adequate action by the heads of offices / Departments to rectify the defects, omissions and irregularities pointed out by the AG in the IRs has not been taken.

We recommend that the Government may take suitable steps to put in place an effective procedure for prompt and appropriate response to audit observations and send replies to the IRs/paragraphs as per the prescribed time schedules so that appropriate action is taken to prevent loss of revenue and to recover the outstanding demands in a time bound manner.

1.2.2 Departmental audit committee meetings

The Government set up audit committees (during various periods) to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. The details of the audit committee meetings held during the year 2010-11 and the paragraphs settled are mentioned in the following table.

[4] Includes 56 and 45 composite IRs issued during 2009-10 and 2010-11 respectively covering OST/CST/VAT/Entry Tax/Profession Tax.

Name of the Department	Head of revenue	Number of meetings held	Number of IRs settled	Number of paragraphs settled	Amount (Rupees in crore)
Finance	VAT, Sales tax, Entry Tax and Profession tax etc.	6	10	64	9.06
Transport	Taxes on vehicles	15	4	17	0.19
Revenue and Disaster Management	Land revenue	30	29	105	33.07
	Stamp duty and Registration fees	3	52	124	1.35
Excise	State Excise	1	5	28	0.52
Forest and Environment	Forest receipts	6	51	59	117.83
Steel and Mines	Mining receipts	1	10	16	2.91
Food Supply and Consumer Welfare	Departmental receipts	1	3	9	0.01
Total		**63**	**164**	**422**	**164.94**

No audit committee meeting was held during 2010-11 by the Energy and Co-operation Departments. **As the pendency of IRs/paragraphs is accumulating, the Government may instruct the departments to conduct more audit committee meetings to expedite clearance.**

1.2.3 Non-production of records to Audit for scrutiny

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

During 2010-11, 2,223 tax assessment records under VAT/Sales Tax/Entry Tax relating to 52 commercial tax offices[5] were not made available to audit. Of these, 1,203 cases relate to 2010-11 and the remaining 1,020 cases relate to earlier years.

5 Angul, Balasore, Bolangir, Bhubaneswar, Cuttack-I, Cuttack-II, Ganjam, Jajpur, Puri, Sambalpur, Sundargarh Ranges and Angul, Balasore, Barbil, Bargarh, Bhadrak, Bhanjanagar, Bolangir, Bhubaneswar-I, Bhubaneswar-II, Bhubaneswar-III, Bhubaneswar-IV, Cuttack-I (Central), Cuttack-I(City), Cuttack-I(East), Cuttack-I(West), Cuttack-II, Dhenkanal, Gajapati, Ganjam-I, Ganjam-II, Jagatsinghpur, Jajpur, Jatni, Jharsuguda, Kalahandi, Kantabanji, Kendrapara, Keonjhar, Koraput, Nayagarh, Malkangiri, Mayurbhanj, Nabarangpur, Nuapara, Puri, Rayagada, Rourkela-I, Rourkela-II, Sambalpur-I, Sambalpur-II and Sonepur Circles.

1.2.3.1 Arrears in assessment of Sales Tax cases

The registered dealers under the erstwhile Orissa Sales Tax (OST) Act, 1947 were to be assessed within 36 months from the expiry of the year in which their sales transactions were made. On the other hand, the unregistered dealers were to be assessed within five years from the expiry of the year to which their sales transactions related. However, the reassessment of a dealer for escapement of tax was to be completed within five years from the expiry of the year to which the dealer's transaction relates. In the aftermath of repealing the OST Act, 1947 prevalent up to 31 March 2005 the assessment and reassessment of registered as well as unregistered dealers were to be completed by 31 March 2010 at the latest unless the cases are locked up in appeal. However, as per the standing orders of the Commissioner of Commercial Taxes (CCT), Odisha issued in September 1994, the re-assessment of set-aside cases are to be completed within three months from the dates of receipt of appeal orders. From the information obtained from the (CCT), Odisha we learnt that as many as 9826 and 6,696 cases relating to the repealed OST Act, 1947 were not assessed as on 31 March 2010 and 31 March 2011 respectively as given below.

Year	Opening balance of arrears	Additions during the year	Total	Cases finalised during the year	Balance at the end of the year
2006-07	374170	80863	455033	211261	243772
2007-08	243772	17010	260782	238036	22746
2008-09	22746	980	23726	10352	13374
2009-10	13374	67	13441	3615	9826
2010-11	9826	144	9970	3274	6696

No specific action plan was initiated by the Department to liquidate the above arrears in OST assessments.

Further the CCT stated that as completion of assessment under the OST Act was a statutory requirement and on implementation of Orissa Value Added Tax Act, 2004 with effect from 1.4.2005, the provisions of the OST Act, during the transition period were saved by the provisions laid down under Section 106 of the Orissa Value Added Tax Act, 2004. The concerned statutory authorities, as assessing authorities, were required to take appropriate steps for completion of the OST assessment proceedings as per the provisions of the statute. However, completion of the said assessment proceedings was monitored by the then ACCTs in charge of Ranges and also in the review meetings taken by the Additional CCTs and the CCT, Odisha, Cuttack.

The CCT in reply to the reasons for non-finalisation of pending OST assessments stated that those cases related to the assessment proceedings initiated under Section 12(5)/12(8) set aside cases under the OST Act, 1947, which would be completed within the stipulated period as per the statute. The reply of the CCT is not convincing since the cut-off date of assessments/ re-assessments was 31 March 2010 and the set aside cases were to be re-assessed within three months from the dates of receipts of the appeal orders. Moreover, the State was being deprived of getting the legitimate tax due in cases where re-assessments would result in demands of tax.

1.2.4 Response of the departments to the draft audit paragraphs

The Government of Odisha, Finance Department, in their 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 Report of the CAG, 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 Reports of the CAG. The DPs are 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.

Sixty three DPs including three performance audits were demi-officially forwarded to the Secretaries/Principal Secretaries of the concerned departments between January and November 2011 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 cases where comments were not received. The position of response to the DPs as of January 2012 is mentioned in the following table.

Sl. No.	Name of the Department/Nature of receipts	No. of draft paragraphs forwarded including performance audits	No. of draft paragraphs in respect of which replies were received	No. of draft paragraphs in which replies were not received
1.	Finance (VAT/CST, Entry tax)	24	24	-
	(i) Performance audit on "Interest receipts on loans and advances."	1	1	-
	(ii) Performance audit on "Utilisation of declaration forms ('C' and 'F') in inter-State trade and commerce."	1	-	1
2.	Transport (Motor vehicles tax including a review on "Computerisation in the Motor Vehicles Department".	12	-	12
3.	Revenue (Land revenue, stamp duty and registration fee)	9	6	3
4.	Excise (Excise duty and fees)	5	-	5
5.	Forest and Environment (Forest receipts)	2	2	-
6.	Steel and Mines (Mining receipts)	4	1	3
7.	Energy (Electricity Duty)	5	2	3
Total		**63**	**36**[6]	**27**

However, sixty one DPs including three PA Reports clubbed in 48 paragraphs have been included in this Report

6 Includes partial replies in some cases.

1.2.5 Follow up on Reports of the CAG - summarised position

According to the instructions issued by the Finance Department in December 1993, the departments are required to furnish explanatory memoranda to the Odisha Legislative Assembly (OLA) in respect of the paragraphs included in the Report of the CAG within three months of laying of such Report on the table of the OLA.

A review of outstanding explanatory memoranda on paragraphs included in the Reports of the CAG (Revenue Receipts) as of June 2011 disclosed that the departments had not submitted explanatory memoranda on 75 paragraphs for the years from 2005-06 to 2009-10 as mentioned in the following table.

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 have not been received
1991-92	63	62	1	--
1992-93	54	53	1	--
1993-94	44	43	1	--
1994-95	47	44	3	--
1997-98	38	3	35	--
1998-99	40	1	39	--
1999-00	34	--	34	--
2000-01	45	5	40	--
2001-02	45	7	38	--
2002-03	57	10	47	--
2003-04	63	9	54	--
2004-05	62	12	50	--
2005-06	53	33	20	1
2006-07	48	9	39	2
2007-08	44	--	44	8
2008-09	47	--	47	22
2009-10	42	--	42	42
Total	**826**	**291**	**535**	**75**

Thus, non-compliance to the audit paragraphs stood at 32.05 *per cent* of the total paragraphs (234) presented to the Assembly during the related years.

With a view to ensuring accountability of the executive in respect of all the issues dealt with in the Reports of the CAG, the PAC, as early as in May 1966, issued instructions to 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 the 10^{th}, 11^{th}, 12^{th} and 13^{th} Assembly that 56 Reports containing 501 paragraphs/recommendations were presented by the PAC before the OLA between February 1991 and December 2008 after examination of the Reports of the CAG on revenue receipts relating to 14 departments for the years

1985-86 to 2005-06. However, ATNs have not been received in respect of 31 recommendations of the PAC from six departments[7] as of June 2011.

This indicates that the executive has not taken adequate action on the important issues highlighted in the Reports of the CAG that involve unrealised revenue.

1.2.6 Compliance to the earlier Reports of the CAG

In the Reports of the CAG for the years 2005-06 to 2009-10, audit observations relating to under assessments, non/short levy of taxes, loss of revenue, failure to raise demands, etc., involving ₹ 2,021.59 crore were included. Of these, as of June 2011, the departments concerned had accepted under assessments and other deficiencies involving ₹ 886.13 crore and had recovered ₹ 334.68 crore. Year wise details of amount accepted and revenue recovered are as under.

(Rupees in crore)

Sl. No.	Year	Money value of audit observations included in the report	Amount accepted by the Department	Amount recovered
1.	2005-06	136.70	47.37	21.61
2.	2006-07	516.32	447.22	292.35
3.	2007-08	484.80	142.69	15.33
4.	2008-09	578.83	67.13	5.14
5.	2009-10	304.94	181.72	0.25
Total		**2021.59**	**886.13**	**334.68**

1.3 Analysis of the mechanism for dealing with the issues raised by Audit

The succeeding paragraphs 1.3.1 to 1.3.2 discuss the performance of the Excise Department in dealing with the cases detected in the course of local audit conducted during the last five years and also the cases included in the IRs for the years 2006-07 to 2010-11.

1.3.1 Position of Inspection Reports

The summarised position of IRs issued during the last five years, paragraphs included in these reports and their status as on March 2011 are tabulated below.

(Rupees in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance		
	IRs	Para graphs	Money value	IRs	Para graphs	Money value	IRs	Para graphs	Money value	IRs	Para graphs	Money value
2006-07	258	602	128.89	55	138	42.65	39	107	16.48	274	633	155.06
2007-08	274	633	155.06	28	70	13.36	23	91	26.97	279	612	141.45
2008-09	279	612	141.45	18	53	16.95	76	229	53.98	221	436	104.42
2009-10	221	436	104.42	34	95	20.40	17	23	0.10	238	508	124.72
2010-11	238	508	124.72	19	66	14.82	13	77	1.47	244	497	138.07

7 Agriculture, Excise, Law, Revenue and Disaster Management, Steel and Mines and Water Resources Departments.

In order to expedite settlement of the pending IRs/paragraphs, six departmental audit committee meetings were held during the above period wherein 59 IRs and 272 paragraphs were settled. As a result, the pendency of IRs and paragraphs as on 31 March 2011 has decreased in comparison to that of 1 April 2006.

Besides the above, during regular inspection of the offices, pending IRs/paragraphs are reviewed on the spot after obtaining compliance. Settlement of the IRs / paragraphs is also made on receipt of compliance from the Department and on *suo motu* review of the pending cases.

1.3.2 Assurances given by the Department/Government on the issues highlighted in the Reports of the CAG

1.3.2.1 Recovery of accepted cases

The position of paragraphs included in the Reports of the CAG for the last five years, those accepted by the Department and the amount recovered is mentioned in the following table:

(Rupees in crore)

Year of the Report of the CAG	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases
2005-06	3	6.00	2	1.69	1.36	1.46
2006-07	5	0.82	4	0.76	0.09	0.13
2007-08	5	3.85	2	3.14	-	0.27
2008-09	1	0.57	-	-	-	-
2009-10	9	21.19	5	0.69	0.14	0.14
Total	**23**	**32.43**	**13**	**6.28**	**1.59**	**2.00**

During the above period the recoveries out of the accepted cases as reported to audit is 31.85 *per cent*. **As arrear demands of excise dues are recoverable under the Orissa Public Demand Recovery (OPDR) Act, 1962, the Government may initiate cases for realisation of the balance amount of the accepted cases.**

1.4 Audit planning

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

During the year 2010-11, the audit universe comprised of 806 auditable units, of which 330 units were planned and audited during the year 2010-11 which was 40.94 *per cent* of the total auditable units. The details are shown in the following table.

Units for Annual Audit Plan – 2010-11

Sl. No.	Principal Heads	Total No. of units	Units planned/audited
1	VAT/CST/OET etc.	60	60
2	Motor Vehicles tax	39	27
3	Land Revenue	316	108
4	Stamp Duty and Registration Fee	174	21
5	State Excise Duty and Fees	34	15
6	Forest Receipts	74	59
7	Mining Receipts	24	15
8	Departmental Receipts	85	25
Total		**806**	**330**

Besides the compliance audit mentioned above, two performance audits on "Utilisation of declaration forms ('C' and 'F') in Inter State Trade and Commerce" and "Interest Receipts on loans and advances" were also conducted.

1.5 Results of audit

1.5.1 Position of local audit conducted during the year

Test check of the records of 330 units[8] of commercial tax, motor vehicles tax, land revenue, stamp duty and registration fee, state excise, forest receipts, mining receipts and other departmental receipt offices conducted during the year 2010-11 and 2011-12 revealed underassessment/short levy/loss of revenue aggregating ₹ 2,138.56 crore in 1,83,397 cases. During the course of the year and the next year the departments concerned accepted under assessments and other deficiencies of ₹ 1,635.29 crore involved in 33,615 cases of which 10,178 cases involving ₹ 1,605.56 crore were pointed out in audit during 2010-11, 2011-12 and the rest in the earlier years. The departments collected ₹ 31 crore in 2,986 cases during 2010-11.

1.5.2 This Report

This Report contains 45 paragraphs and three performance audits on "Utilisation of declaration forms ('C' and 'F') in inter-State trade and commerce", "Computerisation in the Motor Vehicles Department" and "Interest receipts on loans and advances" relating to short/non-levy of tax, duty and interest, penalty etc., involving financial effect of ₹ 1,032.61 crore. The Departments / Government have accepted audit observations involving ₹ 891.03 crore out of which ₹ 0.33 crore has been recovered. The replies in the remaining cases have not been received (January 2012). These observations are discussed in the succeeding chapters II to VIII.

[8] Besides this one Range (Cuttack-I) and 12 Circles were taken up for performance audit on "Utilisation of declaration forms ('C' & 'F') in inter State trade and commerce". Further, the State Transport Authority (STA) and nine Regions of the Transport Department were taken up for a Performance Audit on "Computerisation in the Motor Vehicles Department" and seven more Departments including Finance Department were taken up for a Performance Audit on "Interest Receipts on loans and advances."

CHAPTER-II : VALUE ADDED TAX, CENTRAL SALES TAX, ENTRY TAX AND PROFESSION TAX

EXECUTIVE SUMMARY

Marginal increase in tax collection.	In 2010-11 the collection of taxes from Orissa Value Added Tax (OVAT) including Orissa Sales Tax (OST)/Central Sales Tax (CST) and Orissa Entry Tax (OET) increased by 4.72 per *cent* and 27.01 per *cent* respectively where as it decreased by 8.08 *per cent* in case of Professional Tax (PT) in comparison to the previous year. The increase in collection of the above taxes was attributed by the Commercial Tax (CT) wing of the Finance Department (FD) to the increase in business activities of the industrial sector and vigorous collection drive by the Department; but no reason could be attributed to the decreasing trend in respect of PT.
Internal audit not conducted	Internal audit of the different auditable entities of the Commercial Tax wing of the Finance Department has not been conducted for the past several years due to non-functioning of the Internal Audit Wing (IAW). This had its impact in terms of the weak internal controls in the Department leading to substantial leakage of revenue as pointed out by us year after year. It also led to the omissions on the part of the Assessing Authorities (AAs) remaining undetected till we conducted our audit.
Very low recovery by the Department against the observations pointed out by us in earlier years	During the period 2005-06 to 2009-10 we had pointed out non/short levy and realization, irregular allowance of exemption/set off of tax, non/short levy of interest/penalty on tax with revenue implication of ₹ 893.06 crore in 26409 cases. Of these, the Department/Government accepted audit observations in 183 cases involving ₹ 56.68 crore; but recovered only ₹ 9.45 crore in 33 cases. The recovery position as compared to acceptance of objections was as low as 16.67 *per cent*.
Results of audit conducted by us in 2010-11	In 2010-11 we conducted a Performance Audit (PA) on "Utilisation of Declaration forms (C and F) in Inter State Trade and Commerce" and test checked the records of 60 units relating to OVAT,CST and OET and found non/short levy of tax/interest/penalty/surcharge etc. involving ₹ 94.07 crore in 275 cases. The Department accepted underassessment and other deficiencies of ₹ 22.11 crore in 16 cases which were pointed out by us during the year 2010-11 and in earlier years. An amount of ₹ 0.02 crore was recovered in one case during the year 2010-11.

What we have highlighted in this Chapter	In this Chapter we present a PA report with audit observation of ₹ 2.56 crore and illustrative cases of ₹ 59.01 crore selected from the observations noticed during our test check of records relating to assessment and collection of VAT, CST and OET in the offices of the CT wing of the FD where we noticed that the provisions of the Acts/Rules were not observed. It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Reports of the CAG for the past several years, but the Department is yet to take adequate corrective action despite switching over to an IT-enabled system in all the CTOs. We are also concerned that though these omissions were apparent from the records which were made available to us, the AAs were unable to detect these mistakes.
Our conclusion	The Department needs to improve the internal control system including strengthening and functioning of IAW to reduce recurrence of such omissions. It also needs to initiate immediate action to recover the non-realisation of tax etc. pointed out by us, more so in those cases where it has accepted our contentions.

2.1.1 Tax administration

The assessment and collection of different taxes like Value Added Tax introduced with effect from April 2005 in lieu of the Orissa Sales Tax valid up to March 2005, Central Sales Tax, Orissa Entry Tax, Entertainment Tax, Luxury Tax and Profession Tax in the State are regulated under the Orissa Value Added Tax (OVAT) Act, 2004, the Central Sales Tax (CST) Act, 1956, the Orissa Entry Tax (OET) Act, 1999, the Orissa Entertainment Tax (ET) Act, 2006, the Orissa Luxury Tax (OLT) Act, 1995 and the Orissa State Tax on Professions, Trades, Callings and Employments (PT) Act, 2000 respectively. For smooth tax administration, the State is divided into 12 territorial ranges which are sub divided into 45 circles and 14 assessments units where tax assessments are made by the Joint CCTs (JCCTs) /Assistant CCTs (ACCTs)/ Commercial Tax Officers (CTOs) in the capacity of the Assessing Authorities (AAs). However, profession tax is assessed by the Assistant CTOs designated as Assistant Profession Tax Officers (APTOs) under the control of the CTOs who are declared as the PTOs. Besides, there is an Enforcement Wing at the Commissionerate headed by the special CCT (Enforcement) for checking of cases of tax evasion and cross checking of records relating to inter-State transaction.

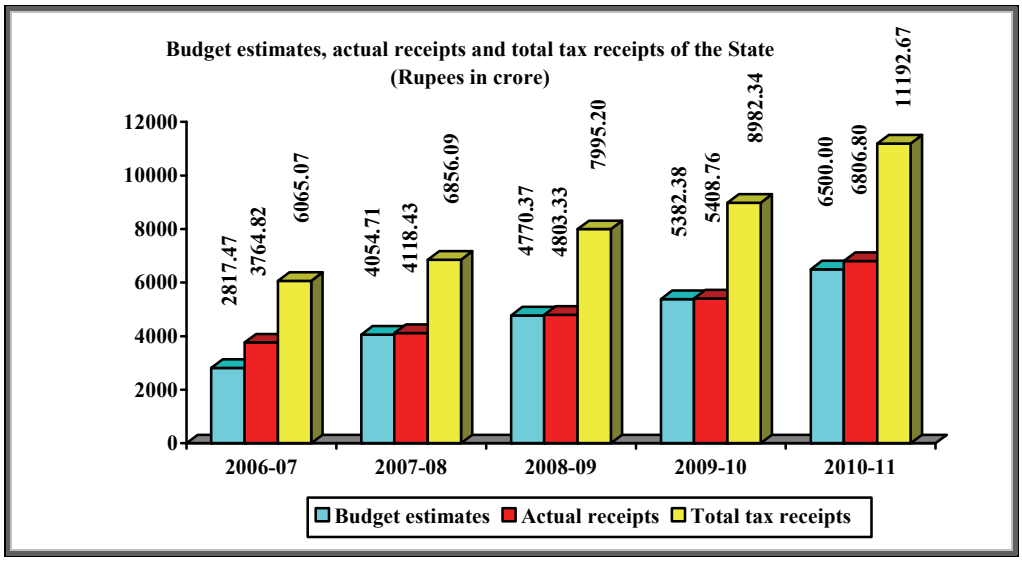
2.1.2 Trend of receipts

The actual receipts from VAT including OST/CST, OET and PT during the last five years from 2006-07 to 2010-11 are as under:

A. OVAT including OST/CST

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+) / shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2006-07	2,817.47	3,764.82	(+) 947.35	(+) 33.62	6,065.07	62.07
2007-08	4,054.71	4,118.43	(+) 63.72	(+) 01.57	6,856.09	60.07
2008-09	4,770.37	4,803.33	(+) 32.96	(+) 00.69	7,995.20	60.08
2009-10	5,382.38	5,408.76	(+) 26.38	(+) 00.49	8,982.34	60.22
2010-11	6,500.00	6,806.80	(+) 306.80	(+) 04.72	11,192.67	60.81

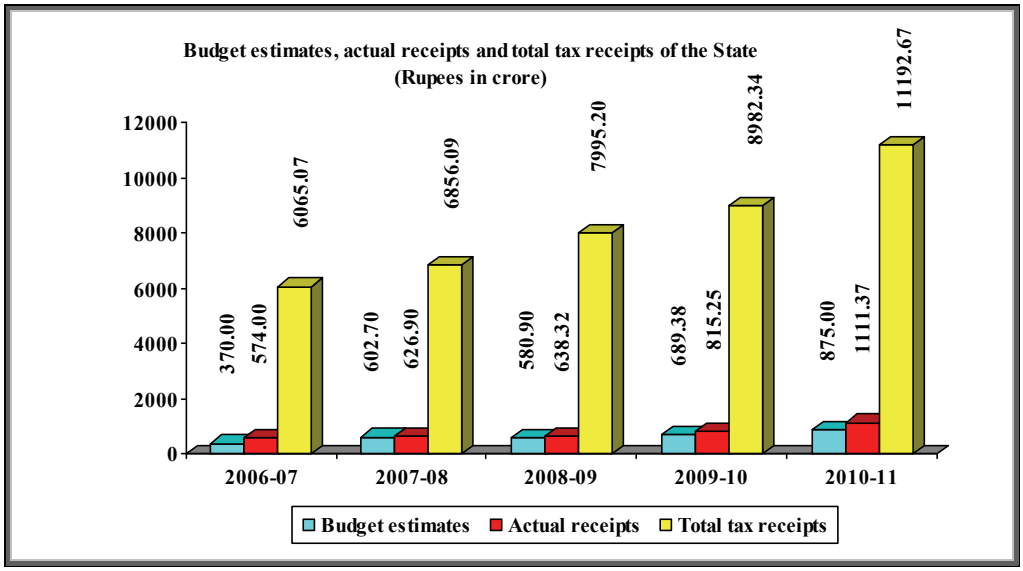


The trend of receipt showed that it increased from ₹ 3,764.82 crore in 2006-07 to ₹ 6,806.80 crore in 2010-11 (80.80 *per cent*) and its contribution to total tax revenue of the State varied between 60.07 *per cent* in 2007-08 and 62.07 *per cent* in 2006-07.

B. Entry Tax

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+) / shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2006-07	370.00	574.00	(+) 204.00	(+) 55.13	6,065.07	9.46
2007-08	602.70	626.90	(+) 24.20	(+) 04.02	6,856.09	9.14
2008-09	580.90	638.32	(+) 57.42	(+) 09.88	7,995.20	7.98
2009-10	689.38	815.25	(+) 125.87	(+) 18.26	8,982.34	9.08
2010-11	875.00	1,111.37	(+)236.37	(+) 27.01	11,192.67	9.93

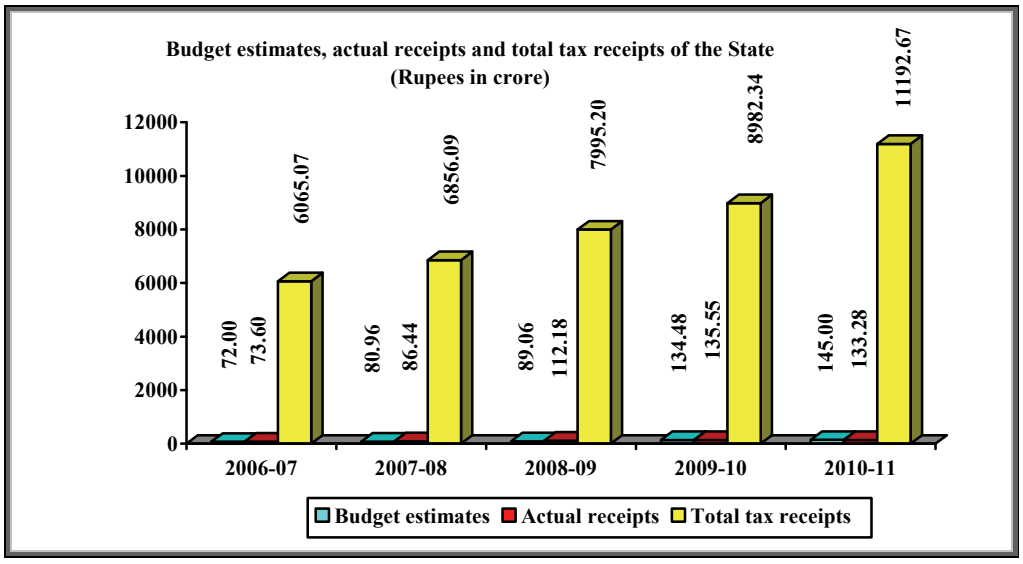


The trend of receipt showed that it increased from ₹ 574 crore in 2006-07 to ₹ 1,111.37 crore in 2010-11 (93.62 *per cent*) and its contribution to total tax revenue of the State varied between 7.98 *per cent* in 2008-09 and 9.92 *per cent* in 2010-11.

C. Profession Tax

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+) / shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2006-07	72.00	73.60	(+) 01.6	(+) 02.22	6,065.07	1.21
2007-08	80.96	86.44	(+) 05.48	(+) 06.77	6,856.09	1.26
2008-09	89.06	112.18	(+) 23.12	(+) 25.96	7,995.20	1.40
2009-10	134.48	135.55	(+) 01.07	(+) 00.80	8,982.34	1.51
2010-11	145.00	133.28	(-)11.72	(-) 08.08	11,192.67	1.19



The trend of receipt showed that it increased from ₹ 73.60 crore in 2006-07 to ₹ 135.55 crore in 2009-10 and decreased to ₹ 133.28 crore in 2010-11 and its contribution to total tax revenue of the State varied between 1.19 *per cent* in 2010-11 and 1.51 *per cent* in 2009-10. Further, the actual receipt under

Profession Tax and its contribution to the total tax receipt of the State for the year 2010-11 has declined in comparison to that of the previous year (2009-10).

2.1.3 Assessee profile under the OVAT Act

The information furnished by the CCT on various types of dealers registered under the OVAT Act during the last three years is given below.

Year	Number of large tax payers (LTU) dealers	Number of dealers other than LTUs having Tax Identification Number (TIN)	Number of dealers with Small Retailer Identification Number (SRIN)	Total Number of dealers registered under the OVAT Act	Number of dealers required to file returns	Number of dealers who furnished returns in time	Number of dealers who have not furnished/ belatedly furnished returns	Number of cases where notice was not issued to the defaulted dealers
2008-09	615	97187	27104	124906	123457	85669	48995	18754
2009-10	689	103319	27287	131295	130193	91847	51494	19525
2010-11	670	101268	24594	126532	126532	100706	25826	12026

The CCT contended that in order to ensure filing of returns by the dealers, the Government launched e-filing of return facility with effect from November 2010 and it was being made mandatory for different category of dealers in a phased manner. The officers of the Department were also taking statutory actions like suspension and cancellation of R.Cs of non-existing dealers. During the year 2010-11, around 12,000 R.Cs have been suspended and 6,000 R.Cs have been cancelled for non-filing of return by the dealers. However, despite the above contention of the Department, the fact remained that 12,026 periodical returns were not filed during 2010-11 and notices were not issued to the defaulting dealers as required under the Act.

2.1.4 Cost of collection

The gross collection of tax revenue receipts under the CT wing of the Department, the expenditure incurred on their collection and percentage of such expenditure to the gross collection during the years 2008-09, 2009-10 and 2010-11 along with the all India average percentage for expenditure on collection to gross collection in the respective previous years are mentioned below.

(Rupees in crore)

Year	Gross Collection[1]	Expenditure on Collection of revenue	Percentage of expenditure of collection	All India average percentage for the previous year
2008-09	5601.22	44.45	0.79	0.83
2009-10	6409.96	53.90	0.84	0.88
2010-11	8106.29	80.49	0.99	0.96

It is evident that the percentages of expenditure on collection of revenue had an increasing trend over last three years. However, it exceeded the all India average percentage of the previous year by 0.03 *per cent* during 2010-11.

[1] This collection includes all taxes collected under different Acts by the CT wing of the Finance Department as per the Finance Account which is at variance with the figure furnished by the Department.

2.1.5 Analysis of collection

As per the information furnished by the Department, the break ups of the total collection at the pre-assessment stage, collection after regular assessments, arrear collection and refunds allowed in respect of VAT including Sales Tax, Entry Tax and Profession Tax along with the net collections reflected in the Finance Accounts of the State for the last three years i.e. 2008-09 to 2010-11 are mentioned in the following table.

(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 as per Department	Net collection as per finance account	Percentage of columns 3 to 8
1	2	3	4	5	6	7	8	9
Sales Tax/VAT	2008-09	4790.08	15.19	32.26	34.19	4803.34	4803.33	99.72
	2009-10	5404.63	24.90	31.60	52.37	5408.76	5408.76	99.92
	2010-11	6762.33	45.17	18.09	18.79	6806.80	6806.80	99.34
Entry Tax	2008-09	629.94	7.52	2.37	0.84	638.99	638.32	98.69
	2009-10	772.72	26.63	2.88	0.50	801.73	815.25	94.78
	2010-11	1080.26	6.83	3.45	1.50	1089.04	1111.37	97.20
Profession Tax	2008-09	91.96	0.02	0.08	-	92.06	112.18	81.98
	2009-10	116.43	0.54	0.74	-	117.71	135.55	85.89
	2010-11	125.26	0.14	0.13	-	125.53	133.28	93.98

Thus, the percentage of collection of tax at the pre-assessment stage during the last three years ranged between 99.34 and 99.92 in VAT and sales tax, between 94.78 and 98.69 in entry tax and between 81.98 and 93.98 in profession tax.

2.1.6 Analysis of arrears of revenue (OST cases)

The position of arrears of revenue under the repealed Orissa Sales Tax Act, 1947 for the year from 2006-07 to 2010-11 is given below.

(Rupees in crore)

Years	Opening Balances of arrears	Additions during the year	Arrear collection by the end of the year	Percentage of arrear collection	Closing balance of arrears
(1)	(2)	(3)	(4)	(5)	(6)
2006-07	904.08	91.26	32.13	3.23%	963.21
2007-08	963.21	91.36	20.52	01.95%	1034.05
2008-09	1034.05	38.66	11.33	01.06%	1061.38
2009-10	1061.38	34.31	10.79	00.98%	1084.90
2010-11	1084.90	01.37	05.16	00.48%	1059.62

***NB-Amount of ₹ 21.49 crore was reduced in appellate forum during 2010-11 as informed by the CCT (O), Cuttack**

Although the above Act was repealed on introduction of the OVAT Act, 2004 with effect from 1 April 2005, arrear tax revenue of ₹ 1059.62 crore under the Act was not realised from the dealers as of 31 March 2011. Further, collection of arrear of tax under the Act during the years from 2006-07 to 2010-11 was negligible ranging from 0.48 *per cent* to 03.23 *per cent* as would be evidenced from the above table.

The CCT, however, stated that the arrears were locked up at various stages such as (i) show cause (₹ 235.84 crore), (ii) stayed by the departmental authorities (₹ 314.45 crore), (iii) stayed by Hon'ble Supreme Court (₹ 19.90 crore), (iv) stayed by Hon'ble High Court (₹ 224.12 crore) and (v) involved in Revenue Recovery Certificate Cases (265.32 crore). Further he contended (September 2011) that for speeding up the collection of the arrear dues, the Government have passed the OST (Settlement of Arrears) Act with the expectation to settle a good number of pending disputes involving huge amount of arrear tax, interest and penalty, however the OST (settlement of Arrears) Rules is yet to be passed by the Government.

2.1.7 Working of internal audit wing

The CCT stated (September 2011) that at present the IAW was not functioning and steps had been taken to revive the same.

The Department ensure early revival of the IAW with adequate staff.

2.1.8 Impact of audit

2.1.8.1 Revenue impact

The year wise details of units audited under different Acts during the period 2005-06 to 2009-10 and the impact of audit in terms of observations raised and acceptance and recovery thereof are given in the following table.

(Rupees in crore)

Year	Act	No. of units audited	Objected		Accepted		Recovered	
			No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2005-06	ST/ VAT	31	196	58.46	60	17.13	13	5.57
	Entry Tax		54	5.49	20	2.22	5	0.20
	Total	**31**	**250**	**63.95**	**80**	**19.35**	**18**	**5.77**
2006-07	S T/ VAT	31	215	83.64	67	30.97	11	2.72
	Entry Tax		2050	43.74	12	4.292	3	0.60
	Total	**31**	**2265**	**127.38**	**79**	**35.262**	**14**	**3.32**
2007-08	Sales Tax/ VAT	38	155	160.16	14	0.74	1	0.36
	Entry Tax		34	112.13	Nil	Nil	Nil	Nil
	Total	**38**	**189**	**272.29**	**14**	**0.74**	**1**	**0.36**
2008-09	ST/ VAT	44	241	282.77	10	1.33	nil	Nil
	Entry Tax		99	27.84	Nil	Nil	Nil	Nil
	Total	**44**	**340**	**310.61**	**10**	**1.33**	**Nil**	**Nil**
2009-10	ST/ VAT	**56**	224	82.45	Nil	Nil	Nil	Nil
	Entry Tax		66	19.51	Nil	Nil	Nil	Nil
	Profession Tax		23075	16.87	Nil	Nil	Nil	Nil
	Total	**56**	**23365**	**118.83**	**Nil**	**Nil**	**Nil**	**Nil**
Grand total		**200**	**26409**	**893.06**	**183**	**56.68**	**33**	**9.45**

The recovery position as compared to the accepted amount during the last five years was very low, being only 16.67 *per cent*. **The Government may ensure prompt recovery of the amounts involved at least in the accepted cases immediately.**

2.1.9 Results of Audit

We conducted a PA on "Utilisation of declaration forms ('C' and 'F') in Inter State Trade and Commerce" and test checked the records of 60 units relating to OVAT, CST, and OET in commercial tax offices during the year 2010-11 and found non/short levy of tax/interest/penalty etc. amounting to ₹ 94.07 crore in 275 cases which fall under the following categories.

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	**Utilisation of declaration forms ('C' and 'F') in Inter State Trade and Commerce (A Performance Audit)**	**1**	**2.56**
VAT/CST			
1	Short levy of tax due to incorrect computation of taxable turnover	7	0.13
2	Under assessment of tax due to application of incorrect rate of tax	35	5.19
3	Under assessment of tax due to incorrect grant of exemption	31	24.06
4	Non/short levy of interest/ penalty	90	39.04
5	Incorrect allowance/adjustment of Input Tax credit	32	6.62
6	Other irregularities	9	0.65
Total		**205**	**78.25**
Entry tax			
1.	In correct computation of taxable turnover	3	0.07
2.	Non-levy of Tax/Application of incorrect/ concessional rate of tax	21	9.50
3.	Under assessment of tax due to incorrect grant of exemption/Set off	13	1.80
4.	Non/short-levy of interest/penalty	31	4.44
5.	Other cases	2	0.01
Total		**70**	**15.82**
Grand total		**275**	**94.07**

During the year the Finance Department accepted irregular grant of concession/exemption of ₹ 2.56 crore against the performance audit. Further, the Department accepted underassessment and other deficiencies of ₹ 21.86 crore in 13 cases which were pointed out by us in 2010-11 and earlier years and an amount of ₹ 0.02 crore was realised in one case in respect of VAT assessment during the year. Similarly, during the year the Department accepted under assessment of ₹ 0.25 crore in three cases pointed in earlier years in respect of Entry Tax.

A Performance Audit on **"Utilisation of declaration forms ('C' and 'F') in inter-State trade and commerce"** involving financial effect of ₹ 2.56 crore and a few illustrative cases involving ₹ 59.01 crore are mentioned in the following paragraphs.

2.2 Performance Audit Report on "Utilisation of declaration forms ('C' and 'F') in inter-State trade and commerce"

Highlights

- Out of 556 declaration forms received from other States by the Enforcement Wing (EW) of the Commissionerate of Commercial Taxes during the period from 2007-08 to 2009-10, result of verification in respect of only 35 declaration forms were sent and the position of cross verification in respect of the remaining 521 declaration forms were not received by the EW from the Enforcement Ranges. Cross verification of the details of declaration forms with other States was neither done in the test checked circles nor any monitoring thereof was done by the EW.

  (Paragraph 2.2.10)

- Irregular grant of concession/ exemption of tax on sales/branch transfer of goods not supported by declaration forms resulted in short levy of tax and penalty of ₹ 0.19 crore.

  (Paragraph 2.2.11)

- Cross verification of declaration forms revealed that 14 dealers availed concession/exemption of tax of ₹ 0.12 crore against 40 declaration forms which were found to be fake.

  (Paragraph 2.2.12)

- Cross verification of the details of declaration forms revealed that 20 dealers inflated inter-State sales figures by ₹ 4.45 crore against 38 forms and 13 dealers suppressed such sales figure by ₹ 0.38 crore against 15 forms. This led to escapement of tax of ₹ 0.32 crore. Moreover, six dealers in six circles evaded tax and penalty of ₹ 0.25 crore by fraudulent use of eight declarations in form 'C' issued in the name of other dealers.

  (Paragraph 2.2.13)

- Irregular concession/exemption of tax against manipulated, photocopied, defective and duplicate forms resulted in short levy of tax of ₹ 1.69 crore.

  (Paragraph 2.2.14)

- Internal Control Mechanism of the Department was inadequate.

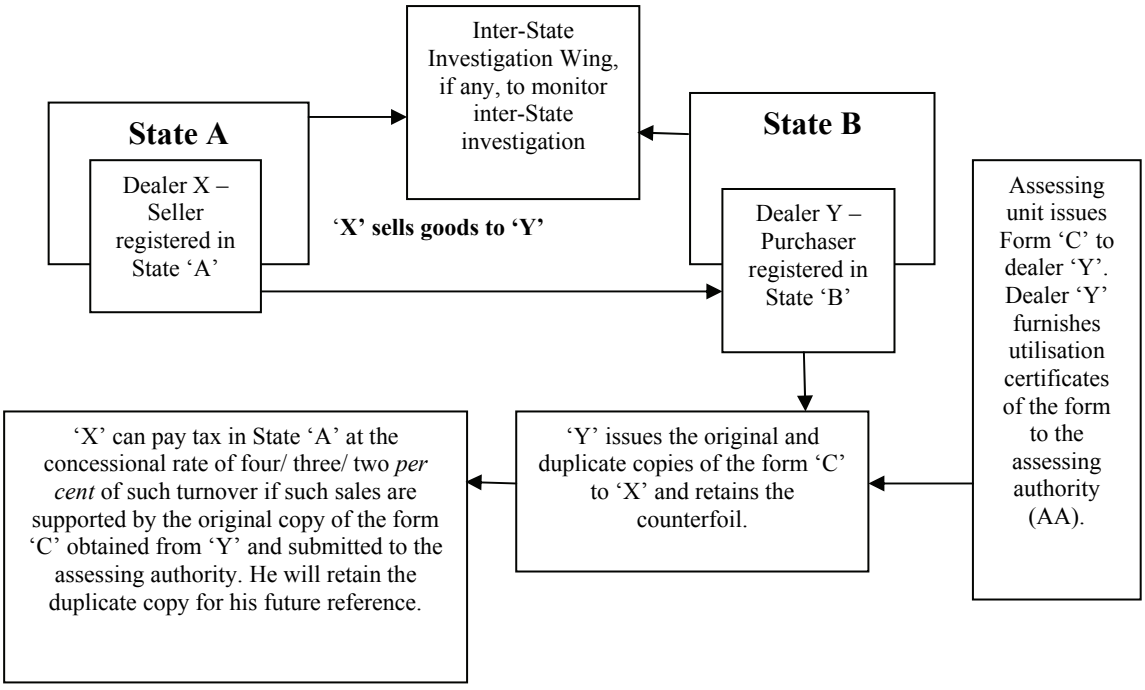
  (Paragraph 2.2.16)

2.2.1 Introduction

Under the Central Sales Tax (CST) Act, 1956 and the Rules made thereunder viz. the CST Registration and Turnover (R&T) Rules, 1957 and the CST (Orissa) Rules, 1957, the registered dealers of the State are eligible to certain concessions and exemptions of tax on inter-State transactions against submission of prescribed declarations in forms 'C' and 'F'. The Government provide these incentives to the dealers for furtherance of trade and commerce. It is the responsibility of the CCT of the State to ensure proper accountal and provision of adequate safeguards against misutilisation of the above declaration forms on which tax relief is allowed since it involves the revenue interest of the Government. The steps involved in the process of granting concession/ exemption of taxes against declarations in Form 'C' and 'F' are given below.

Form 'C'

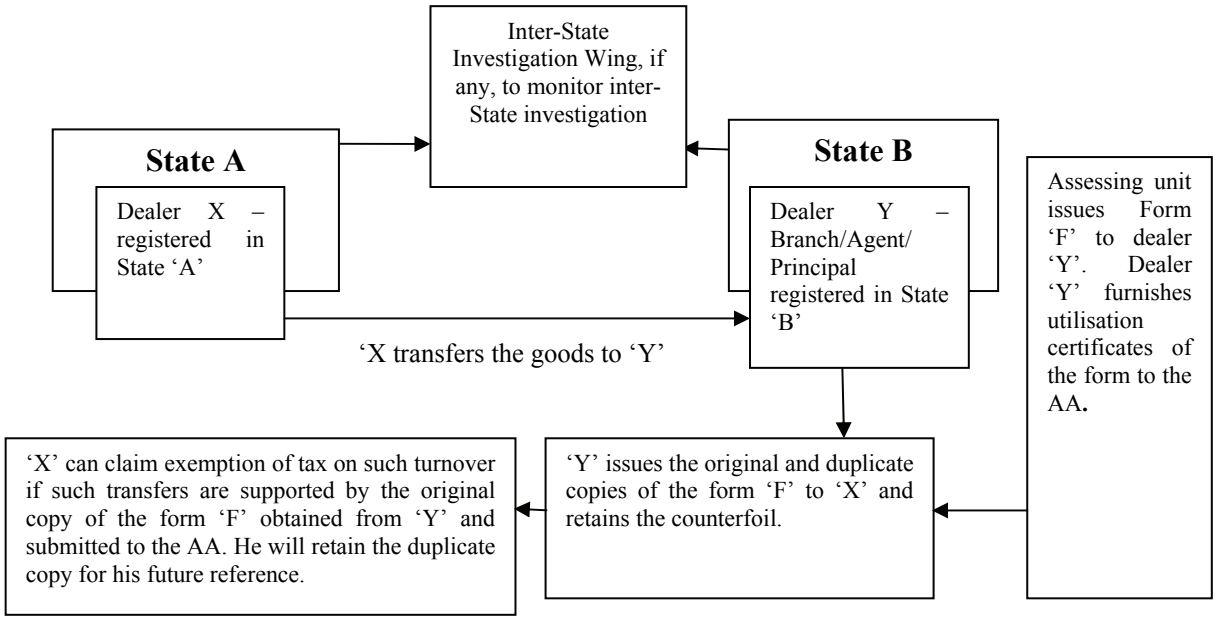
Under the CST Act, every dealer, who, in the course of inter-State trade or commerce, sells to a registered dealer, goods of the classes, specified in the certificate of registration (RC) of the purchasing dealer, shall be liable to collect and pay tax at the concessional rate of four *per cent* (three *per cent* from 1.4.2007 and two *per cent* from 1.6.2008) of such turnover provided that such sales are supported by declarations in form 'C'.



Form 'F'

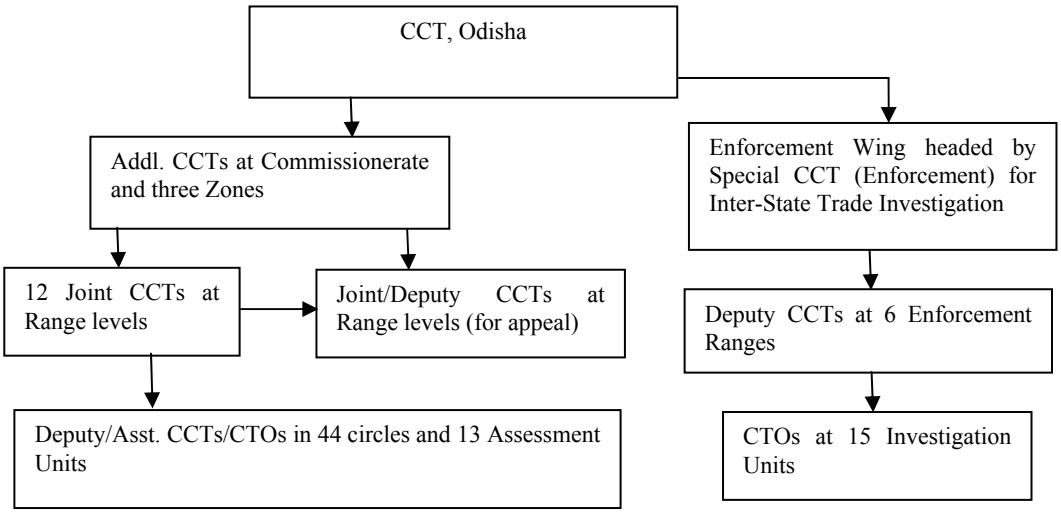
Under Section 6A of CST (Amendment) Act, 1972, transfer of goods not by reason of sales by a registered dealer to any other place of his business outside the State or to his agent or principal in other States is exempt from tax on production of declaration in form 'F', duly filled in and signed by the principal officer of the other place of business or his agent or principal as the case may be, along with the evidence of despatch of such goods. Filing of declarations

in Form 'F' has been made mandatory from May 2002. The Act authorises the AA to make such enquiries, as he deems necessary to satisfy himself about the bonafides of the transfers such as *sale patties*, despatch particulars, way bills etc.



2.2.2 Organisational set up

The assessment and collection of CST is administered by the CCT under the overall control of the Principal Secretary to the Government in Finance Department (FD). He is assisted by the Additional CCTs at the Commissionerate/Zonal levels, 12 Joint CCTs at the Range levels and 44 Deputy/Assistant CCTs/Commercial Tax Officers (CTOs) at the Circle/ Assessment Unit levels. The Organisational set up of the CCT is given below.



2.2.3 Audit Objectives

The PA aimed to ascertain whether:

- There exists a foolproof system for custody and issue of the declaration forms;
- Exemption/ concession of tax granted by the AAs was supported by the original declaration forms;
- There is a system for ascertaining the genuineness of the forms for preventing evasion of tax;
- There is a system of uploading the particulars in the TINXSYS website and the data available there is utilised for verifying the correctness of the forms;
- Appropriate steps are taken on receipt and detection of fake, invalid and defective (without proper or insufficient details) forms; and
- There exists an effective and adequate internal control mechanism.

2.2.4 Scope and methodology of audit

The PA covered one Range (Cuttack-I) and 12 circles[2] in course of our audit conducted between November 2010 and January 2011 covering all assessments completed during 2007-08 to 2009-10 where exemptions/ concessions of tax were allowed under the CST Act 1956. Out of 2133 assessments completed by these circles / ranges during 2007-08 to 2009-10 under the Act, we requisitioned 1697 records for test check. The AAs however, produced 1487 assessment records for scrutiny and we noticed therefrom that in 1188 assessments, concessions / exemptions of tax were allowed to the dealers against submission of declaration forms by them. From these assessment records, we collected the details of 4252 'C' forms and 2202 'F' forms issued by the AAs of 28 other States / Union Territories (UTs) against which the dealers of the State had availed concession / exemption of tax on submission of the same before the AAs concerned. These details were sent to the concerned States for cross verification with reference to the records maintained by the AAs of the 28 States / UTs, who issued such forms, in order to ascertain the genuineness of those forms as well as the correctness of the value of goods. Similarly, we also received the details of 1269 'C' forms and 444 'F' forms from 22 other States and cross verified the same with reference to the records of the Deputy CCTs / Assistant CCTs of 36 Circles of the State. Besides, the PA also covered the audit observations made by us during the period from April to October 2010 in six other Ranges[3] and seven circles[4] on the assessments completed under the Act for the period covered in the PA.

2 Bargarh, Cuttack-I (East), Cuttack-I (West), Cuttack-I (City), Cuttack-I (Central), Deogarh, Jharsuguda, Kalahandi, Nuapada, Rourkela-II, Sambalpur-II and Sonepur.
3 **Ranges:** Angul, Bolangir, Balasore, Puri, Sambalpur and Sundargarh.
4 **Circles:** Angul, Barbil, Bhubaneswar-IV, Cuttack-II, Ganjam-II, Jatni and Rourkela-I.

2.2.5 Acknowledgement

The Indian Audit and Accounts Department (IA and AD) acknowledges the co-operation of the FD of the State in providing necessary information for the PA. Before commencement of the PA, an entry conference was held on 9 November 2010. The Principal Secretary of FD and the CCT represented the Government / Department. The scope and objectives of the review were discussed. The draft PA report was sent to the FD in September 2011 for their comments which are yet to be received. An exit conference was also held on 14 December 2011 with the above mentioned officers wherein the outcome of the PA was discussed and accepted by the Department/ Government.

2.2.6 Audit findings

Maintenance of accounts for receipts, issue and utilisation of declaration forms

2.2.6.1 Printing and custody of declaration forms

- The declaration forms are to be obtained by the CCT from the Government Press of the State and supplied to the circle offices under his jurisdiction through the respective ranges.
- Declaration forms are to be issued to the registered dealers by circle offices to enable them to issue those forms to the registered dealers of other States for the purposes specified in their RCs for availing concession/exemption of tax. The receipt and issue of the aforesaid declaration forms are also accounted for in separate stock registers by the circle offices. When the forms are issued to the dealer, the signature of the dealer is to be obtained in the register as a token of receipt.
- The dealer has to maintain complete accounts of the declaration forms received and utilised by him showing the name of the dealers to whom the forms are issued, bill number and date along with the description of goods and purchase / sale / transfer value thereof, as the case may be, and submit the periodical accounts of the above forms to the circle office concerned and the same is to be properly recorded by the respective AA. On receipt of the account of utilisation of the said forms, relevant guard files are to be maintained by the AA to monitor and watch such issues with cross reference to the respective issue register.
- No second / subsequent issue of declaration form is to be made by the circle office to the dealer till accounts of the utilisation of forms issued earlier is submitted by him to the AA concerned who issued the same.

The CCT of the State places indents for printing of various declaration forms to the Director of Printing, Stationery and Publication, Odisha in phases giving a specific series and serial numbers well before the existing stock is exhausted and depending on the requirement of the circles. The forms, after printing, are received from the Government Press. An authorised person of the Commissionerate receives the above declaration forms and after detailed physical verification, the stock account of the forms is maintained manually and is kept in safe custody in steel almirahs placed in the strong room having

double lock facility and the details are also entered in the Value Added Tax Information System (VATIS). The forms are issued to the circles on proper authorisation and acknowledgement and the details of forms issued to the circles are also entered in the VATIS.

During scrutiny (November 2010) of the records in the Commissionerate office, we noticed that the prescribed system for printing of the declaration forms by the Government Press and for receipt and issue of the same to the circle offices was being adhered to.

2.2.6.2 Issue and accounting of declaration forms

Under the CST (Orissa) Rules, 1957, a registered dealer who wishes to purchase goods from another registered dealer of some other State for the purpose specified in his RC, shall obtain, on application, blank declaration forms prescribed under the CST (R&T) Rules for furnishing the same to the selling dealer. Each application should be affixed with a fee of ₹ 21 in court fee stamps for every 25 blank declaration forms applied for. The above Rules also provide that the dealer shall maintain a register in Form-V (for 'C' form) or Form-VC (for 'F' form) and furnish a true copy of the complete account of every such form received by him to the AA. No second or subsequent supply of declaration forms shall be made to him unless he furnishes a copy of the accounts of the forms last supplied to him. With effect from 1 April 2011, the Department has, however, introduced the system of electronic issue of pre-filled declaration forms and certificates through the State Government portal. The issue of blank declaration forms has also been dispensed with from April 2011.

During scrutiny of the records of the test checked circles, we noticed in Cuttack-I-East Circle that in contravention of the provisions laid down in the Rules, second and subsequent issues of declaration forms had been made to three dealers although utilisation accounts in respect of forms issued earlier had not been submitted by them. The details are given below.

Name of the Circle	Name of the dealer/ TIN	Date of earlier issue of forms	Number of forms issued	Date of subsequent issue of forms	Number of forms issued
Cuttack-I East	Arjun Traders/ 21791202170	24 October 2008	2	7 May 2009	2
Cuttack-I East	Motiwala Traders/ 21981202599	6 June 2006	8	16 October 2008	13
Cuttack-I East	Sanjay and Co 21091202167	9 June 2006	1	24 October 2008	1

We also noticed (December 2010) that, as on the date of our audit, these dealers had not submitted the utilisation accounts even in respect of the forms issued to them earlier. After we pointed this out, these dealers surrendered the unused forms between 27 December 2010 and 22 January 2011.

2.2.6.3 Issue of declaration forms after cancellation of the RC

In Cuttack-I (East) Circle, we noticed that the RC of a dealer was cancelled in January 2010 after his death in November 2009. However, in contravention of the provisions of the above mentioned Rules, the AA issued (30 June 2010) 137 'C' forms[5] in the name of the deceased dealer for inter-State purchase of goods valued at ₹ 14.16 crore made by him during the period from 1 April 2006 to 31 December 2009 and handed over the same to a relative of the deceased dealer to whom a separate Taxpayers Identification Number (TIN) was issued after the death of the dealer. This indicated that the inter-State transactions made by the dealer prior to his death as well as the tax liability of the dealer were not verified by the AA at the time of cancelling his RC. Thus, issue of declaration forms in the name of the deceased dealer after the date of cancellation of the RC was irregular.

After we pointed out the above case, the AA stated (December 2010) that the 'C' forms were issued as per the wanting list of forms filed by the relative of the dealer covering transactions for the period from 1 April 2006 to 31 December 2009. The reply is, however, not acceptable as the wanting list was submitted after the cancellation of the RC by the relative of the deceased dealer and issue of forms, if any, should have been done before cancellation of the RC. As the instant dealer was required to issue those forms to the selling dealers while purchasing the goods from outside the State for submission of the same to their AAs within three months after the period of transaction, issue of declaration forms for transactions relating to earlier periods of more than three years of a dealer whose RC was cancelled was not in conformity with the provisions of the Act and Rules.

2.2.6.4 Non-return of unused declaration forms by the dealers whose RCs were cancelled

Under the CST (R&T) Rules, 1957 read with the provisions of CST (Orissa) Rules, 1957, if the RC of a dealer is cancelled, the dealer shall forthwith surrender the RC and the copies thereof, if any, granted to him, to the notified authority along with the unused statutory declaration forms retained up to the date of cancellation of the RC.

During scrutiny of the records relating to cancellation of RCs of dealers under the CST Act, 1956 and the Rules made thereunder and from information furnished by the AAs of the test checked circles, we noticed (December 2010) that in Cuttack-I East Circle, although RCs of 10 dealers were cancelled between 11 May 2009 and 30 December 2009, yet 76 unutilised blank 'C' forms issued to those dealers between 6 June 2006 and 6 September 2009 had neither been surrendered by the dealers nor had the registering authority of the circle insisted on getting back those forms from them before cancellation of the RCs. The details are given below.

5 'C' Forms: PQ/Y-777678 to 777814 (Total 137 forms).

Sl. No	Name of the Circle	Name of the dealer	TIN	Date of cancellation of RC	Type of forms issued to the dealer	Forms remained unused at the time of cancellation	Form Serial No.	Date of issue
1.	Cuttack-I (East)	M/s Arjun Traders	21791202170	9.12.2009	C	2	PQ/Y-214465 to 214466	24.10.2008
2.	Cuttack-I (East)	M/s Arjun Traders	21791202170	9.12.2009	C	2	PQ/Y-390597 to 390598	7.5.2009
3.	Cuttack-I (East)	M/s Purusottam Mohanty	21881202266	17.7.2009	C	2	PQ/Y-390269 to 390270	30.4.2009
4.	Cuttack-I (East)	M/s Mahavir Auto Agency (Pvt) Ltd	21891202212	11.5.2009	C	6	PQ/Y-287336 to 287341	6.6.2006
5.	Cuttack-I (East)	M/s Biogenetics	21891202309	21.12.2009	C	8	PQ/Y-42233 to 42240	6.9.2009
6.	Cuttack-I (East)	M/s Laxmi Timber Traders	21751202289	30.12.2009	C	2	PQ/Y-390439 to 390440	30.4.2009
7.	Cuttack-I (East)	M/s Motiwala Traders	21981202599	21.12.2009	C	8	PQ/X-287309 to 287316	6.6.2006
8.	Cuttack-I (East)	M/s Motiwala Traders	21981202599	21.12.2009	C	13	PQ/Y-214380 to 214392	16.10.2008
9.	Cuttack-I (East)	M/s Mahavir Agency	21721202160	19.12.2009	C	2	PQ/Y-390633 to 390634	7.5.2009
10.	Cuttack-I (East)	M/s Incite Marketing Private Ltd.	21471210009	17.7.2009	C	6	PQ/Y-390764 to 390769	7.5.2009
11.	Cuttack-I (East)	M/s Asian Trading Company	21271201874	15.5.2009	C	23	PQ/X-287603 to 287625	12.6.2006
12.	Cuttack-I (East)	M/s Sanjay and Co	21091202167	6.6.2009	C	1	PQ/X-287479	9.6.2006
13.	Cuttack-I (East)	M/s Sanjay and Co	21091202167	6.6.2009	C	1	PQ/Y-214464	24.10.2008
		Total				**76**		

Thus, retention of the unused 'C' forms by the dealers after cancellation of their RCs was fraught with the risk of misuse of the said declaration forms. The AAs also did not ensure surrender of unused forms before cancellation of the RCs.

After we pointed out the above cases, the AA stated (December 2010) that the Assistant Commercial Tax Officers (ACTOs) would be directed to obtain the same from the dealers and compliance thereof would be intimated to audit. However, on further examination of records during October 2011, we noticed that only three dealers at Sl. 1, 8 and 12 above had surrendered 13 unutilised 'C' forms. The AA stated (October 2011) that the remaining 63 unutilised 'C' forms would be obtained from the dealers.

2.2.7 Issue and accounting of declaration forms in the VATIS and uploading in TINXSYS

As per the instructions issued by the CCT in February 2006, on receipt of stock of the declaration forms, stock entry shall be made by the circles in the Statutory Form Management Module of the VATIS after physical verification of the same. On receipt of requisitions from the dealers, declaration forms shall be issued through the VATIS and at the time of subsequent issue of forms, the details of utilisation submitted by the dealer in respect of the forms issued earlier shall also be entered in the said module.

2.2.7.1 Accountal of stock of declaration forms in VATIS by the circles

From the Forms Issue Register maintained manually in the Commissionerate, we noticed that during the period from 2007-08 to 2009-10, the CCT issued 176125 'C' forms and 37525 'F' forms to the 12 circles covered under the review. However, from the data generated from VATIS, we noticed that as

against the above, 174375 'C' forms and 35525 'F' forms had been entered in VATIS by the above circles during the above period. The circle-wise details of receipt of stock during 2007-08 to 2009-10 as per the Forms Issue Register of the CCT vis-à-vis the stock of declaration forms entered in VATIS by the test checked circles along with the non-accountal of stock of declaration forms 'C' and 'F' are given below.

Sl. No.	Name of the Circle	Number of 'C' forms issued by CCT to the Circle	Number of 'C' forms entered in VATIS by the Circle	Number of 'C' forms not entered in VATIS	Number of 'F' forms issued by CCT to the Circle	Number of 'F' forms entered in VATIS by the Circle	Number of 'F' forms not entered in VATIS
1.	Cuttack-I East	14250	14250	0	4000	4000	0
2.	Cuttack-I-City	21750	21750	0	10875	10875	0
3.	Cuttack-I West	17000	17000	0	5000	5000	0
4.	Cuttack-I Central	31000	31000	0	13650	13650	0
5.	Jharsuguda	20000	20000	0	0	0	0
6.	Kalahandi	9125	9125	0	1000	1000	0
7.	Rourkela-II	41500	41500	0	1000	1000	0
8.	Sambalpur-II	11000	11000		1000	0	1000
9.	Bargarh	9750	8000	1750	1000	0	1000
10.	Nuapada	750	750	0	0	0	0
11.	Sonepur	0	0	0	0	0	0
12.	Deogarh	0	0	0	0	0	0
	Total	**176125**	**174375**	**1750**	**37525**	**35525**	**2000**

Thus, we noticed that 70 booklets containing 1750 'C' forms of series PQ/Y having serial Nos. 727251 to 729000 issued by the CCT to Bargarh Circle on 15 October 2009 had not been entered in the VATIS. Similarly, 80 booklets containing 2000 'F' forms of series OGP/AY having serials 85501 to 86500 (1000) and serials 180001 to 181000 (1000) issued to Sambalpur-II Circle and Bargarh Circle on 10 March 2008 and 15 October 2009 respectively had not also been entered in the VATIS during that period.

After we pointed out the above, the Assistant CCT (IT) of the Commissionerate stated (October 2011) that the Bargarh Circle had entered the stock of 1750 'C' forms in VATIS in July 2011. Regarding the non-entry of 2000 'F' forms in VATIS, he stated that out of the stock of 2000 'F' forms sent to the Sambalpur-II Range, stock of 1000 forms had not been acknowledged by it and the remaining1000 forms had not been distributed by it to the Sambalpur-II Circle till date (October 2011) and as a result the details of these forms are not available in VATIS.

2.2.7.2 Data entry in VATIS in respect of issue of declaration forms to the dealers by the circles

During test check of issue of declaration forms in the Forms Issue Register *vis-à-vis* the details of issue of forms entered in VATIS by four circles, we noticed that while 81821 'C' and 35214 F' forms were issued to the dealers during the years from 2007-08 to 2009-10 by the said circles, issue details of 71615 'C' and 39814 'F' forms had been entered in VATIS during that period. The details are given below.

Name of the Circle	Number of forms issued to dealers			Number of forms entered in VATIS		
	'C'	'F'	Total	'C'	'F'	Total
Cuttack-I East	14529	5267	19796	2221	3523	5744
Cuttack-I-City	20453	9204	29657	20386	9156	29542
Cuttack-I Central*	30415	12525	43140	32584	18917	51501
Cuttack-I West	16424	8218	24642	16424	8218	24642
Total	**81821**	**35214**	**117235**	**71615**	**39814**	**111429**

* **The excess in data entry in Cuttack-I Central Circle was due to forms issued prior to 2007-08 entered in VATIS in subsequent years.**

After we pointed out the shortfall / discrepancies in data entry in the VATIS, while the AA of Cuttack-I City Circle stated (October 2011) that the shortfall in data entry was due to inadequacy of data entry operators, the AA of Cuttack-I East Circle agreed (October 2011) to analyse the reasons for the shortfall and furnish the compliance later on.

2.2.7.3 Data entry in respect of utilisation of forms in VATIS

As per the information furnished by the CCT in October 2011, the details of utilisation in respect of 1,65,009 declaration forms (Form 'C': 1,36,960 and Form 'F': 28,049) had been entered in VATIS during the period from 1 April 2007 to 14 October 2011.

2.2.7.4 Uploading of details of declaration forms in TINXSYS

The CCT stated (January 2011) that the data regarding issue of declaration forms to the dealers are being uploaded to the TINXSYS website automatically once in a day after they are entered in the VATIS. We test checked the details of declaration forms entered in VATIS *vis-a-vis* the data uploaded in TINXSYS and found that in case of issue of forms to the dealers during the period from 2007-08 to 2009-10, the details of the forms that have been entered in VATIS have been uploaded in TINXSYS. Similarly, in case of utilisation of forms, the details of utilisation of the forms that have been entered in VATIS during the period from 2007-08 to 14 October 2011 had also been uploaded in TINXSYS.

2.2.8 Availment of concession / exemption against declaration forms (C and F)

Under the CST (Orissa) Rules, 1957, every registered dealer filing return in respect of transactions in each quarter, shall furnish to the AA, statements in prescribed forms showing particulars of transactions such as inter-State sales against form 'C' and transfer of goods to branches outside the State against form 'F'. However, it is not mandatory for the dealer to furnish the relevant declaration forms along with the returns for the tax period to which such declarations relate. The declaration forms marked 'Original' in support of the transactions for a quarter are required to be furnished within three months after the end of such quarter. The CST Act, 1956 or the Rules made thereunder do not provide for any penal measures for non-submission or delayed submission of the declaration forms with the returns within the period of three months prescribed. During scrutiny of the returns, the AA is required to ensure that the declaration forms submitted by the dealer are in order and duly filled in. Where the dealer fails to furnish the declaration forms within the prescribed period or where the declaration forms are found to be defective, the return to

which such declaration forms relate shall not be accepted as self-assessed return and the same shall be referred to the tax audit.

2.2.9 System of verification of declaration forms through TINXSYS before allowing exemption / concession

TINXSYS is a website designed to assist the CT Departments of various States and UTs to effectively monitor the inter-State trade. TINXSYS can also be used by any dealer to verify the bonafides of the counter party dealers in other States/UTs. Apart from the dealers' verification, the CT Department officials use this for verification of the Statutory Declaration Forms issued by the CT Departments of other States/UTs and submitted to them by the dealers of the State in support of the claim of concessions/ exemptions. TINXSYS also provides the Management Information System (MIS) and Business Intelligence Report (BIR) to the CT Departments as well as the Empowered Committee (EC) to monitor the trends of movements of goods in the inter-State trade and commerce.

We noticed that though all the AAs of the State had access to TINXSYS with user-Ids and passwords, the Department has not made it mandatory for the AAs to verify all the declaration forms through it. The CCT stated (January 2011) that the AAs were at liberty to verify the database of TINXSYS before allowing exemption/ concession. There was no system for submission of any reports or returns by the AAs regarding the details of cross verifications made by them in the TINXSYS website. We also could not ascertain from the test checked circles as to whether the TINXSYS had in fact been utilised during the years from 2007-08 to 2009-10 for cross verification of declaration forms which were accepted during the assessments, as no records were maintained by these circles to that effect.

2.2.10 Inter-State Trade Investigation by Enforcement Wing

We noticed that the CCT is not having a separate wing for Inter-State Trade Investigation (ISTI). The Enforcement Wing (EW) of the Commissionerate headed by the Special CCT (Enforcement), in addition to its regular work such as surprise inspection of business premises, search and seizure of unaccounted stock, mobile check of vehicles on road, survey of unregistered dealers, modernisation of check gates and border control etc., also looks after the monitoring of ISTI. Under the EW, six Enforcement Ranges (ERs) and 15 Investigation Units (IUs) are functioning in the State. The ERs are headed by the Deputy CCTs / Assistant CCTs whereas the IUs are manned by the CTOs along with other staff. As a part of monitoring ISTI, the EW receives the details of declaration forms from other States and sends them to the ERs for cross verification. The ERs, after cross verification, send the results of verification to the concerned States under intimation to the EW.

2.2.10.1 Cross verification of declaration forms received from other States

During the course of PA covering the period from 2007-08 to 2009-10, we noticed that the EW has maintained a register, only with effect from March 2010, for monitoring the cross verification of declaration forms received from

other States. Prior to that, the details of declaration forms were kept in files and sent to the ERs for cross verification. From the files relating to inter-State verification of 'C' and 'F' forms made available to audit, we noticed that during the period covered under the review, the EW had received 556 declaration forms ('C': 383 and 'F': 173) from other States for cross verification. We further noticed that while sending the details of these declaration forms to the ERs, the EW had not fixed any timeframe for completion of the cross verification. Due to absence of such an instruction, the respective circles had intimated the results of verification in respect of only 35 'C' forms to the EW out of 556 forms sent to them. The position in respect of verification of the remaining 521 declaration forms was not available in the records of the EW. We also noticed that the records / database under VATIS were not consulted to ascertain the jurisdiction of the form issuing dealers. As a result, we observed that the details of 10 declaration forms were wrongly sent between April 2008 and February 2010 to the ERs other than the ERs under whose jurisdiction the forms were issued and hence the result of verification thereof have not been received by the EW as of October 2011.

During test check in two ERs[6], we called for the position of cross verification in respect of 78 declaration forms (Form 'C': 56 and Form 'F':22) which had been sent by the EW during the period from 2007-08 to 2009-10 to these ERs. While the Deputy CCT, ER, Bhubaneswar stated (October 2011) that they had not received the details of the 39 declaration forms (Form 'C': 34 and Form 'F': 5), the ACCT, ER, Cuttack stated that they have maintained the Reference Register from 1 April 2011 onwards for monitoring the verification and prior to that, the IUs were to send the result of verification directly to the EW. However, the fact remains that result of verification in respect of any declaration form had not been received by the EW from any of the two IUs (Cuttack-II and Angul) under the ER, Cuttack during the period from 2007-08 to 2009-10.

2.2.10.2 Cross verification of the details of declaration forms with other States

To check the misuse of the declarations in form 'C' and 'F' and various other malpractices associated therewith, the CCT issued instructions (October 1972 and December 1977) to all the AAs to select a certain percentage of the declaration forms received from other States and submitted by the dealers of the State, as reflected in the assessment cases records, for reference to the AAs of the concerned State for cross verification. Further, every circle and assessment unit is required to maintain two registers in the prescribed proforma, one for declaration form 'C' received from other States and the other for declaration form 'C' sent to other States, for verification.

During scrutiny of the records of the test checked circles, we noticed that the circles neither maintained the prescribed registers for cross verification of declaration forms with other States nor conducted any cross verification by referring the details of declaration

6 Bhubaneswar ER and Cuttack ER.

forms to their counterparts in other States for establishing the genuineness of these forms which were accepted at the time of finalisation of assessments completed during the years from 2007-08 to 2009-10. As there was no system for furnishing the periodical reports / returns by the AAs to the higher authorities regarding cross verification of declaration forms, the genuineness of defective / duplicate / manipulated declaration forms were not ascertained by the Department. The CCT was, thus, unaware of the factual position of cross verification done, if any.

To our observations made in paragraph 2.2.6.1 of the Report of the CAG on the revenue receipts of the Government of Orissa for the year ended 31 March 2008, the Department had stated (September 2009) that cross verification was not practically feasible within the available resources and limited time period. They, however, added that the Department had been taking initiatives to do the same through the TINXSYS as well as demating of statutory declaration forms as a part of e-Governance. The fact, however, remained that during the PA, we did not notice the utilisation of the TINXSYS by the AAs. Further, the demating of declaration forms started only with effect from 1 April 2011.

We also noticed that there was no system in place for blacklisting the dealers who are found to have utilised invalid / fake declaration forms. During the years 2007-08 to 2009-10, the EW had also not detected any fake form. However, on cross verification conducted by us, we noticed some discrepancies as pointed out in paragraphs 2.2.12 and 2.2.13 infra.

2.2.11 Irregular grant of concession / exemption of tax

As per the CST Act, inter-State transactions not covered by the valid declarations were exigible to tax at the rate of eight *per cent* in case of declared goods and at the rate of 10 *per cent* or the State rate whichever was higher in case of other goods up to 31 March 2007. However, with effect from 1 April 2007, inter-State transactions not covered by declaration forms became exigible to tax at the rate at which the goods are taxable under the Orissa VAT Act. Further, penalty equal to twice the tax assessed in audit assessment is leviable under the CST (O) Rules with effect from July 2006 onwards.

During scrutiny of assessment records in test checked circles / ranges, we noticed short levy of tax and penalty of ₹ 18.72 lakh due to irregular allowance of concession / exemption of tax by the AAs in six cases on sales turnover / branch transfer of goods valued at ₹ 1.96 crore which were either not exigible to tax at the concessional rates or exempted from tax. The details are discussed in the succeeding sub-paragraphs.

2.2.11.1 Allowance of concessional rate of tax on inter-State sales not supported by declarations in form 'C'

In three circles, we noticed that although two dealers did not furnish declarations in Form C' and two dealers were assessed ex-parte in respect of inter-State sales of goods valued at ₹ 1.55 crore relating to the tax periods between 1 April 2005 and 31 March 2007, the AAs allowed (March and November 2009) concessional rates of tax. This resulted in short levy of tax of

₹ 7.26 lakh. Besides, penalty of ₹ 7.35 lakh was also leviable. The details are given below.

(Rupees in lakh)

Name of the Circle	Number of dealers	Name of the goods	Period/ Date of assessment	Value of goods excluding tax	Amount short levied		
					Tax	Penalty	Total
Nuapada	2	Rice bran	2005-06/31 March 2009	21.67	1.92		1.92
Bargarh	1	Rice and broken rice	April 2006 to June 2006/ 31 March 2009	41.65	1.66		1.66
Rourkela-II	1	Iron and Steel	April 2006 to June 2008/ 12 November 2009	91.93	3.68	7.35	11.03
Total	**4**			**155.25**	**7.26**	**7.35**	**14.61**

After we pointed out the above cases, the AAs of the concerned circles stated (March and November 2009) that the said cases would be re-examined. However, final compliances are yet to be received (January 2012).

2.2.11.2 Allowance of exemption of tax on goods not exempted from tax

During test check of assessment records in Bargarh Circle, we noticed that although rice bran was not exempted from tax under the CST Act, 1956 and Rules made thereunder, the AA exempted (March 2009) tax on inter-State sales turnover of such goods valued at ₹ 41.12 lakh of a dealer relating to the year 2005-06 by treating it '*mota kunda*'[7] as a tax free item. We, also noticed that while doing the assessment (3 March 2010) of another dealer[8] of the same circle for the tax periods from April 2006 to June 2006, the AA levied tax on '*mota kunda*' at the rate of four *per cent* treating it as a taxable item. Thus, exemption of tax on inter-State sale of '*mota kunda*' resulted in short levy of tax of ₹ 4.11 lakh at the rate of 10 *per cent* being not supported with the declarations in form 'C'.

After we pointed out the above case, the AA agreed (December 2010) to re-examine the case. However, final compliance is yet to be received (January 2012).

2.2.12 Evasion of tax by utilisation of fake forms

2.2.12.1 On cross verification of the records of the AAs of other States, we noticed that six declarations in form 'C' furnished by six dealers in three circles claiming concession of tax in respect of sales turnover of goods valued at ₹ 20.87 lakh relating to different periods ranging between 1 April 2004 and 31 March 2006 were fake. The issuing State i.e. Chhattisgarh certified that the said forms were not issued by them. The details are given below.

(Rupees in lakh)

Name of the Circle	Number of dealers	Number of forms	Period of transaction	Value of goods (excluding tax)	Amount of tax escaped at differential rate of tax
Cuttack-I East	3	3	2004-05 and 2005-06	12.52	0.91
Kalahandi	2	2	2005-06	4.20	0.32
Sambalpur-II	1	1	2005-06	4.15	0.29
Total	**6**	**6**		**20.87**	**1.52**

7 'Mota kunda' is nothing but rice bran which is taxable.
8 M/s Pawan food products, TIN-21891700889.

Thus, there was escapement of tax of ₹ 1.52 lakh due to utilisation of these fake forms which also warranted penal action under the provisions of the Act.

After we pointed out the matter, the AAs of concerned circles agreed (July 2011) to verify the same and intimate the result thereof. Final compliances are yet to be received (January 2012).

2.2.12.2 Similarly on cross verification of the details of declaration forms with the records of the AAs of other States, we noticed that 14 declaration forms (seven 'C' forms and seven 'F' forms) furnished by seven dealers in four circles claiming concession / exemption of tax on goods valued at ₹ 47.17 lakh relating to different periods ranging between 1 April 2004 and 30 November 2008 were certified by the AAs of the issuing state i.e. Chhattisgarh to be fake as those were not issued by their circles. The details are given below.

(Rupees in lakh)

Name of the Circle	Number of dealers	Number of forms	Period of transaction	Value of goods (excluding tax)	Amount of tax escaped at differential rate of tax
Bargarh	3	4	1 April 2006 to 30 November 2008	13.30	1.02
Cuttack-I East	2	8	1 April 2004 to 31 December 2007	10.69	0.68
Rourkela-II	1	1	1 April 2006 to 30 June 2006	10.95	0.66
Sambalpur-II	1	1	2005-06	12.23	0.49
Total	**7**	**14**		**47.17**	**2.85**

Thus, due to utilisation of these fake forms, there was escapement of tax of ₹ 2.85 lakh which also warranted penal action under the provisions of the Act.

After we pointed out the matter, the AAs of the concerned circles agreed (July 2011) to verify the same and intimate the result thereof. Final compliances are yet to be received (January 2012).

2.2.12.3 On verification of 'C' forms which were accepted (March 2009) by the AA during the assessment of a dealer in Cuttack-I East Circle, we noticed (July 2011) that 20 'C' forms of Andhra Pradesh (AP) State submitted by the dealers in respect of sale value of ₹ 2.01 crore (including tax) relating to the year 2005-06 were *prima facie* not genuine. These 'C' forms marked 'Original' were having the texts "*(Note: to be retained by the selling dealer)*" at the bottom instead of the texts *"(Note: to be furnished to the prescribed authority in accordance with the rules framed under Section 13(4)(e) by the appropriate State Government.)*" which are prescribed to be printed in the original part of the form as per the Act. Besides, the said forms were not having the usual watermark background and logo of the Government of AP and were having several typographical errors. During cross verification conducted by us, the details of these forms could also not be traced out from the records of the AAs of the concerned circles of AP.

As such, acceptance of the said declaration forms without proper scrutiny led to short levy of tax of ₹ 7.74 lakh at the differential rate of four *per cent* on the net taxable value of the goods i.e. ₹ 1.93 crore as per the provisions of the Act.

After we pointed out the above case, the AA agreed (July 2011) to examine the case. However, further compliance is yet to be received (January 2012).

2.2.13 Variation between the figures of the forms as disclosed by the issuing dealers and those disclosed by the utilising dealers and other irregularities

During PA and from cross verification of the records of the AAs of other States, we noticed wide variations in 55 declaration forms, between the figures as disclosed by the selling dealers of the State and those disclosed in the utilisation accounts of the purchasing dealers of other States who issued those forms. This indicated excess exhibition of inter-State sales turnover / branch transfer of goods worth ₹ 4.45 crore and suppression of inter-State sales turnover of goods worth ₹ 0.38 crore by the selling dealers which led to evasion of tax of ₹ 0.32 crore. Besides, we noticed that six dealers claimed concession of tax in respect of sales turnover of ₹ 3.72 crore by fraudulent utilisation of eight 'C' forms issued in the name of other dealers. This also led to short levy of tax and penalty of ₹ 0.25 crore. The details are discussed in the succeeding sub paragraphs.

2.2.13.1 Evasion of tax by inflating inter-State sales turnover

We noticed that 20 dealers in 10 circles exhibited inter-State sales turnover of ₹ 13.56 crore against 38 declaration forms (30 'C' forms and 8 'F' forms) during different periods ranging between April 2004 and March 2009. However, on cross verification of the above forms with the records of the concerned AAs of other States, we noticed that the purchasing dealers had disclosed purchases of goods worth ₹ 9.11 crore against these forms in the utilisation accounts. The circle-wise details are given below.

(Rupees in lakh)

Name of the Circle	Number of dealers	Number of forms	Period of transaction	Amount as per the forms submitted by the selling dealers of the State	Amount as per the utilisation accounts of the purchasing dealers of other States	Difference	Amount of tax evaded at the differential rate of tax
Bargarh	2	4	1 April 2004 to 30 June 2006	618.74	466.67	152.07	14.88
Cuttack-I Central	4	11	1 April 2004 to 30 November 2008	151.72	69.56	82.16	5.51
Cuttack- City	1	2	2004-05	130.53	104.44	26.09	2.61
Cuttack-I East	1	2	2005-06	7.33	2.80	4.53	0.18
Cuttack-I West	3	4	1 April 2004 to 31 March 2009	19.33	9.21	10.12	0.65
Deogarh	1	3	1 April 2006 to 31 March 2008	113.25	93.97	19.28	1.04
Jharsuguda	5	7	1 April 2004 to 31 March 2007	251.68	124.59	127.19	5.09
Kalahandi	1	1	2005-06	2.87	0.79	2.08	0.08
Rourkela-II	1	1	2005-06	1.23	0.69	0.54	0.03
Sambalpur-II	1	3	1 April 2005 to 30 June 2008	59.73	38.74	20.99	0.21
Total	**20**	**38**		**1356.41**	**911.46**	**445.05**	**30.28**

The Department needs to investigate these cases to determine actual sales / purchases.

After we pointed out the above cases, the AAs of concerned circles agreed (July 2011) to verify the same and intimate the result thereof to audit. Final compliance is yet to be received (January 2012).

2.2.13.2 Evasion of tax due to suppression of turnover of inter-State sales

We further noticed that in six circles, 13 dealers disclosed less sales to the extent of ₹ 0.38 crore in 15 'C' forms relating to different periods between April 2005 and November 2008 in comparison to the value disclosed by the purchasing dealers of other States in respect of those forms in their utilisation accounts. This indicated suppression of inter-State sales by the selling dealers which led to evasion of tax. The circle-wise details are given below.

(Rupees in lakh)

Name of the Circle	Number of dealers	Number of forms	Period of transaction	Amount as per forms by selling dealers	Amount as per utilisation accounts of the purchasing dealers	Difference	Amount of tax evaded at the differential rate of tax
Bargarh	1	1	1 April 2006 to 30 June 2006	1.78	1.96	0.18	0.01
Cuttack-I Central	3	3	1 April 2005 to 30 November 2008	21.54	27.87	6.33	0.23
Cuttack-I East	1	1	2005-06	2.61	6.03	3.42	0.14
Jharsuguda	3	3	1 April 2005 to 31 March 2007	12.27	30.47	18.20	0.73
Kalahandi	1	3	1 April 2005 to 30 September 2007	107.29	112.36	5.07	0.16
Rourkela-II	4	4	1 April 2005 to 30 June 2008	8.52	13.66	5.14	0.20
Total	**13**	**15**		**154.01**	**192.35**	**38.34**	**1.47**

Thus, the above dealers had evaded tax of ₹ 1.47 lakh by suppression of inter-State sales turnover.

After we pointed out the matter, the AAs of concerned circles stated (July 2011) that the cases would be verified and result would be intimated to audit after verification. Final compliances are yet to be received (January 2012).

2.2.13.3 Fraudulent utilisation of declarations in form 'C' issued in the name of other dealers

During cross verification of the details of the declaration forms with those of the other States, we noticed that six dealers of six circles fraudulently utilised 8 'C' forms which were not issued in their names for availing concession of tax on goods valued at ₹ 3.72 crore relating to the different periods between April 2005 and May 2009. This led to evasion of tax of ₹ 12.47 lakh and penalty of ₹ 12.47 lakh both aggregating to ₹ 24.94 lakh as detailed below.

(Rupees in lakh)

Name of the Circle	Number of dealers	Number of forms	Nature of irregularities	Value of goods	Amount of tax escaped	Amount of penalty leviable
Bargarh	1	1	The forms were originally issued to another dealer	238.44	4.77	0
Cuttack-I Central	1	2	The forms were issued by the purchasing dealer to another dealer of Delhi	17.49	0.35	0.70
Cuttack-I City	1	1	The form was issued by the purchasing dealer to another dealer of Madhya Pradesh	98.04	5.88	11.76
Jharsuguda	1	1	The form was issued by the purchasing dealer to another dealer of West Bengal	4.62	0.28	0
Kalahandi	1	1	The form was issued by the purchasing dealer to another dealer of New Delhi	0.31	0.01	0.01
Sambalpur-II	1	2	The forms were issued by the purchasing dealer to other dealers	13.22	**1.18**	0
Total	**6**	**8**		**372.12**	**12.47**	**12.47**

After we pointed out the above, the AAs of concerned circles agreed (July 2011) to verify the cases. However, further compliances are yet to be received (January 2012).

2.2.14 Irregular grant of concession / exemption on invalid forms

Under the CST Act, 1956 and the Rules made thereunder effective from 1 October 2005, a dealer who claims concessional rate of tax is required to obtain valid declarations in form 'C' marked 'Original' from the purchasing dealers covering the sales turnover relating to a quarter and furnish the same to the AA within the next quarter. In case of any transaction of sale, where the delivery of goods is spread over to different quarters of a financial year or of different financial years, it shall be necessary to furnish a separate declaration in respect of the goods delivered in each quarter of a financial year. Similarly, in case of dealers claiming exemption of tax on transfer of goods to branches outside the State or on consignment sale, the declarations in form 'F' marked 'Original' shall be furnished covering transactions relating to one calendar month only.

During scrutiny of assessment records under the CST Act in the test checked units, we noticed (between April 2010 and January 2011) irregular allowance of concession / exemption of tax on manipulated, photocopied, duplicate, defective and invalid forms etc. which resulted in short levy of tax of ₹ 1.69 crore. The details are discussed in the succeeding sub-paragraphs.

2.2.14.1 Allowance of concessional rate of tax against manipulated forms

During test check of records, we noticed (August and November 2010) that in two circles, the AAs levied concessional rates of tax on sales turnover of goods worth ₹ 5.04 crore in respect of three dealers relating to different tax periods between July 2005 and October 2006 on the strength of six declarations in form 'C' which were found to be manipulated by erasing, cutting and over-writings etc. This resulted in short levy of tax of ₹ 0.30 crore. The details are given below.

(Rupees in lakh)

Name of the Range/ Circle	Number of dealers	Number of 'C' forms	Period to which the forms relate (Date of assessment)	Nature of irregularities	Name of goods	Value of goods	Tax short levied
Kalahandi Circle	2	4	Between July 2005 and October 2006 (30 March 2009)	1. The 'C' forms were duplicate and the printed word 'Duplicate' had been torn off/ erased deliberately. 2. The original invoice numbers, value of goods and names of selling dealers had been erased by white fluid and new invoice numbers, value of goods and names of selling dealers inserted.	Rice	13.28	0.75
Barbil Circle	1	2	April 2006 to June 2006 (31 March 2009)	1. The name of the selling dealer, bill number, date and amount mentioned earlier in the form had been erased with white fluid and overwritten. In one form, the signature of the authorised signatory in the front side does not match with the signature on the reverse side of the form.	Iron ore	490.50	29.43
Total	**3**	**6**				**503.78**	**30.18**

After we pointed out the above cases, while the AA of Kalahandi Circle issued (November 2010) notices to the dealers for reassessment, the AA of Barbil Circle stated (August 2010) that action would be taken after re-examining the case. Final compliance is yet to be received (January 2012).

2.2.14.2 Allowance of concessional rate of tax against photocopies of the counterfoils of declaration forms

During test check of records in Kalahandi Circle we noticed (November 2010) that the AA allowed concessional rate of tax in two cases on the sales turnover of goods worth ₹ 12.99 lakh relating to 2005-06 supported with the photocopies of the counterfoils of nine declarations in Form 'C' instead of insisting on the production of the original portions of the declaration forms. This resulted in short-levy of tax of ₹ 1.11 lakh.

After we pointed out the above cases, the AA initiated (November 2010) proceedings under the Act for reassessment. The result of the proceedings is yet to be received (January 2012).

2.2.14.3 Allowance of concession / exemption of tax against defective and invalid declaration forms

During test check of records in three Ranges and nine Circles, we noticed (between April 2010 and January 2011) that the AAs allowed concession / exemption of tax in favour of 15 dealers on inter-State sales turnover / branch transfer of goods worth ₹ 19.82 crore relating to different periods between April 2005 and May 2007 against 46 declarations in form 'C' and 'F' which were found to be defective and invalid as per the provisions of the Act and hence were not acceptable. This resulted in short levy of tax of ₹ 1.26 crore as detailed below.

(Rupees in lakh)

Name of the Circle/ Range	Number of dealers	Period assessed	Form type	Number of forms	Nature of irregularities	Value of goods on which concession inadmissible	Amount of tax short levied
Angul Range	1	July 2006 to Nov 2007	F	4	Single 'F' form covered transactions for more than one calendar month	162.07	20.26
Bolangir Range	1	2006-07	F	1	Single 'F' form covered transactions for more than one calendar month.	21.43	2.14
Balasore Range	1	July 2006 to March 2008	C	3	The 'C' form has not been signed by the authorised signatory.	3.87	0.37
Angul Circle	1	July 2006 to Sept 2008	C	2	The 'C' form did not contain the CST number of the purchasing dealer and the date from which the registration was valid.	19.50	1.17
Barbil Circle	1	2007-08	C	1	Single 'C' forms covered transactions for more than one quarter.	83.14	0.83
Bargarh Circle	1	1.4.2006 to 30.6.2006	C	1	Single 'C' form covered transactions for more than one quarter	9.07	0.73
Bhubaneswar-IV Circle	1	July 2006 to May 2009	F	1	Single 'F' form covered transactions for more than one calendar month.	19.26	0.77
Cuttack-I (West) Circle	1	July 2006 to December 2008	C	1	Single 'C' form covered transactions related to two financial years.	121.41	1.21
Cuttack-I (West) Circle	1	1.7.2006 to 31.3.2009	F	6	Single 'F' form covered transactions for more than one calendar month	8.76	0.35
Cuttack-II Circle	1	April 2005 to February 2009	C	5	'C' forms of Orissa (same State) obtained and submitted by the dealer was accepted for claim of concessional rate of tax	327.48	3.27
Jharsuguda Circle	2	2005-06 and 2006-07	F	18	Single 'F' forms covered transactions for more than one calendar month.	1121.79	89.74

(Rupees in lakh)

Name of the Circle/ Range	Number of dealers	Period assessed	Form type	Number of forms	Nature of irregularities	Value of goods on which concession inadmissible	Amount of tax short levied
Rourkela-II Circle	2	1.4.2006 to 31.3.2007	C	2	Single 'C' form covered transactions for more than one quarter	10.33	1.09
Sambalpur-II Circle	1	2006-07	C	1	'C' form of Orissa (same State) obtained and submitted by the dealer was accepted for claim of concessional rate of tax	73.85	4.43
Total	**15**			**46**		**1981.96**	**126.36**

After we pointed out the above cases, the AAs of concerned circles agreed (between April 2010 and January 2011) to reassess the cases. Final compliance is yet to be received (January 2012).

2.2.14.4 Allowance of concession against duplicate portion of form 'C'

During test check of records in Puri Range and five circles[9], we noticed (between June 2010 and January 2011) that the AAs allowed concessional rate of tax to six dealers on the sales turnover of ₹ 1.01 crore against 10 duplicate portion of the declarations in form 'C'. This resulted in short levy of tax of ₹ 3.80 lakh.

After we pointed out the above case, the AAs agreed (between June 2010 and January 2011) to re-examine the cases. Final compliance is yet to be received (January 2012).

2.2.14.5 Allowance of concession and exemption of tax against declarations in form 'C' and 'F' issued after the dates of assessments

During test check of records in Sambalpur Range and three circles[10], we noticed (between May and November 2010) that the AAs allowed concession / exemption of tax on inter-State sales / branch transfer of goods valued at ₹ 67.82 lakh in respect of five dealers relating to different periods ranging between April 2004 and April 2009 against receipt of 11 declarations forms ('C': 10 and 'F': one). On verification, we however, noticed that the said forms were issued by the purchasing dealers belatedly ranging between eight and 323 days from the date of completion of the assessments. As these forms were issued by the purchasing dealers at a later stage and were not available to the selling dealers on the dates of assessments, acceptance of the same was irregular. This resulted in short levy of tax of ₹ 7.55 lakh.

After we pointed out the above cases, while the AA of Kalahandi Circle initiated (November 2010) proceedings under the Act for reassessment, the AAs of the Sambalpur Range and remaining two circles agreed (between May and November 2010) to re-examine the cases. Final compliance is yet to be received (January 2012).

9 (i) Bargarh Circle and (ii) Jharsuguda Circle, (iii) Rourkela-I Circle, (iv) Jatni Circle and (v) Bhubaneswar-IV Circle.

10 (1) Kalahandi Circle, (2) Jharsuguda Circle and (3) Ganjam-II Circle.

2.2.15 Misutilisation of declaration forms – non-levy of penalty

Under the CST Act, 1956 if any person being a registered dealer falsely represents when purchasing any class of goods which is not covered by his RC, he is liable to prosecution. However, the AA, in lieu of prosecution, may after giving him a reasonable opportunity of being heard, impose upon him by way of penalty a sum not exceeding one and a half times of the tax which would have been levied on such goods.

During scrutiny of the audit assessment records in Barbil Circle, we noticed (June 2010) that a dealer[11] engaged in crushing of iron ore lumps into sized iron ore and sale thereof was assessed (April 2009) under the CST Act for the period from 1 July 2006 to 31 March 2008. As per the RC of the dealer prevalent during the period covered under the assessment, the dealer, being a manufacturer, was only entitled to purchase capital goods which were intended for use in his manufacturing activities. The said capital goods did not include earth moving equipment such as Loaders, Volvo excavators and L&T excavators as revealed from his RC. We, however, found that in contravention of the above provisions of the Act, the dealer purchased earth moving machinery such as Loader, Volvo Excavator and L&T Excavators valued at ₹ 1.54 crore between May 2007 and July 2007 paying concessional rate of tax of three per cent against declarations in Form 'C'. Though the dealer was liable to pay a penalty of ₹ 28.88 lakh being one and a half times of the tax of ₹ 19.26 lakh leviable on such goods (12.5 *per cent* of ₹ 1.54 crore) for misuse of declaration forms, the AA while finalising the assessment, did not levy such penalty in lieu of prosecution.

After we pointed out the above case, the AA stated (June 2010) that appropriate action would be taken after examining the case. However, further compliance is yet to be received (January 2012).

2.2.16 Internal Control Mechanism

We noticed that except reviewing the performances of the subordinate offices relating to revenue collection and other matters relating to tax administration in the meetings held periodically by the CCT, there was no other system in place in the Department for monitoring the adherence to the provisions of laws and executive instructions by the AAs of the subordinate offices. Internal Audit, a vital part of any organization, is also not functioning in the Department. Thus, due to inadequate internal control mechanism, absence of internal audit wing and non-adherence to the statutes and manuals, the reduction of the risk of committing errors and irregularities involving leakage of revenue as pointed out in earlier Reports of the CAG was not ensured.

2.2.17 Conclusion

The PA brought to light deficiencies in the administration of CST Act by the Department such as issue of second and subsequent declaration forms without receipt of the utilisation accounts of such forms issued earlier, issue of

11 M/s Lucky Minerals, TIN-21881402860.

declaration forms after cancellation of the RCs, non-return of unused declaration forms by the dealers whose RCs were cancelled, absence of penal measures for non / delayed submission of declaration forms, irregular allowance of concession / exemption of tax against defective, manipulated, photocopied and duplicate forms as well as without valid declarations, evasion of tax by fraudulent utilisation of non-genuine / fake forms and inflation / suppression of inter-State sales turnover, non-levy of penalty, inadequate enforcement measures and ICM etc. involving non / short levy and escapement of tax and penalty of ₹ 2.56 crore.

2.2.18 Recommendations

For effective administration of the Central Sales Tax Act:

- The Department should make it mandatory for all the assessing authorities to cross verify the declaration forms from the TINXSYS website before allowing concessional rate of tax;
- The system of cross verification of declaration forms with other States should be strengthened and monitored through reports and returns at regular intervals;
- The assessing authorities should be directed not to accept manipulated, photocopied, duplicate declaration forms in support of the claim of the dealers for concession / exemption of tax.
- Internal Audit System should be put in place to detect and address the lacunae in the system and reduce the risk of committing errors and irregularities.

2.3 Other audit observations

We test checked the assessment records relating to the Orissa Value Added Tax (OVAT), Central Sales Tax (CST) and the Orissa Entry Tax (OET) Acts in the Commercial tax Range / Circle offices of the State and noticed several cases of non-observance of the provisions of the above Acts and Rules made thereunder which led to non / short levy of tax, interest and penalty on different counts as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. We point out such omissions on the part of the Assessing Authorities (AAs) every year, but not only do the irregularities persist; these remain undetected till an audit is conducted. The Government needs to improve the internal control system including strengthening of internal audit to avoid recurrence of such omissions.

Value Added Tax

2.4 Non-observance / compliance of the provisions of OVAT Act and Rules read with Government notifications

The OVAT Act, 2004 / Rules made thereunder provide for:

- *completion of the audit assessments by the AAs on the basis of Audit Visit Reports (AVRs) and levy of tax on the correctly assessed taxable turnover (TTO) of outputs after giving due credit / adjustment of tax paid on inputs (ITC) as admissible;*

- *assessment of tax on the sale of goods deemed to have taken place when the goods are incorporated in the course of execution of the works whether or not there is receipt of payment for such goods in case of works contract;*
- *assessment of tax on hire charges towards transfer of rights for use of goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration at prescribed rates applicable to such goods;*
- *levy of interest on short payment of tax and penal interest for delayed payment of tax detected during the regular scrutiny of monthly / quarterly returns by the AAs; and*
- *imposition of penalty at prescribed rates in addition to the tax assessed at the audit assessment stage by the AAs.*

The AAs, while finalising the audit assessments of the dealers for certain tax periods, did not observe some of the above provisions read with the Government notifications issued from time to time, as mentioned in the following paragraphs 2.4.1.1 to 2.4.5.3 which resulted in non / short levy and realisation of tax, interest and penalty aggregating to ₹ 41.81 crore[12]*. Besides, penalty was not levied in some cases and the reasons thereof were not recorded in the assessment orders.*

2.4.1.1 Short levy of tax due to application of lower rate of tax

Under the OVAT Act, 2004, goods not specified in any of the schedules are taxable at the rate of 12.5 *per cent*. Goods like "Mosquito repellants in any form" were not specified in the schedules during the period from 1 July 2005 to 31 May 2007. While assessing a dealer for any tax period, penalty equal to twice the amount of tax assessed in audit assessment shall be imposed against the dealer.

During test check of the audit assessment records (July 2010) of Cuttack II Range, we noticed that the assessment of a registered dealer, M/s Godrej Saralee Ltd. for the tax periods from April 2005 to March 2007 was made on 7 March 2007. It was not clear as to how the period up to 31 March 2007 was covered in the assessment made on 7 March 2007. We also noticed that the AA levied tax at the lower rate of four *per cent* on the sales turnover of mosquito repellants valued at ₹ 30.80 crore[13], pertaining to the tax periods from July 2005 to March 2007 instead of the applicable rate of 12.5 *per cent* for such goods. This resulted in short levy of tax of ₹ 2.62 crore. Moreover, the dealer was liable to be imposed with a penalty of ₹ 5.24 crore for payment of tax at lower rate. We could not ascertain the short levy of tax for the tax periods April and May 2007 in the

12 It does not include penalty of ₹ 3.29 lakh in paragraph 2.4.2.2.2 and ₹ 4.07 crore in paragraph 2.4.5.1

13 In the absence of exact sales turnover of mosquito repellant in the assessment case record, the ratio of purchases of such goods to total purchases during July 2005 to March 2007 disclosed by the dealer in the stock receipt statement for the said tax periods has been adopted to the discounted sales turnover figures to arrive at the minimum taxable sales turnover.

absence of details of sales figures as well as purchase figures for cross verification and hence it is required to be reassessed by the AA to arrive at the correct tax liability of the dealer up to May 2007.

After we pointed out the case, the Government stated (September 2011) that Mosquito Repellant has been decided as an insecticide as per the judgment of the Hon'ble High Court in OJC No. 8126 of 1992 in case of Sonic Electrochem (P) Limited Vrs State of Orissa and Others reported in (1994) 92 STC-117. Mosquito Repellent Coils are also insecticides as per the judgment in case of Bombay Chemicals (P) Limited (1990) 49 ELT 431 (Tribunal) and in case of Transelektra Domestic Products Limited (1992) 88 STC-497 (WBTT). Further, as per the Sl. No. 30 of the part-II of the Schedule-B of the Rate Chart under the OVAT Act, insecticides are taxable at the rate of four *per cent* and it is not taxed as per the Sl. No. 46 as per the observation made by Audit. The reply is not acceptable as in the instant case, during the period from 1 July 2005 to 31 May 2007, mosquito repellant in any form was specifically excluded from schedule "B" by notification issued on 1 July 2005 which was subsequent to the date of judicial pronouncement in March 1993 and therefore, the legislative intent was to tax mosquito repellant as unspecified goods attracting tax rate of 12.5 *per cent*.

2.4.1.2 Short levy of tax due to application of lower rate of tax

Under the OVAT Act, 2004, and Rules made thereunder, chemicals like ammonium nitrate being an unspecified item in any of the schedule is required to be taxed at the rate of 12.5 *per cent.* Further, the Act provides for scrutiny of the periodical returns filed by a dealer to ascertain the correctness of calculation and application of the rate of tax etc. and in case any mistake is detected, the AA shall serve a notice on the dealer to make payment of the extra tax leviable along with interest at the rate of one *per cent* per month from the due date of the return to the date of its payment or to the date of order of assessment, whichever is earlier. Further, in the tax audit assessment, penalty equal to twice the amount of tax assessed shall be imposed on the dealer.

During test check of the audit assessment records for the tax periods from April 2005 to March 2008 and the self-assessed returns for the tax periods from April 2008 to March 2010 of a dealer of Rourkela-II Circle, M/s Chemical Complex, registered for trading of ammonium nitrate (AN), we noticed (November 2010) that sale of AN valued at ₹ 2.89 crore[14] was taxed at the rate of four *per cent* treating it as "fertiliser." However, AN cannot be directly used as a fertiliser as per schedule-1 appended to the Fertiliser Control Order, 1985 as amended up to June 2010.We also noticed that in Barbil Circle another dealer[15] dealing in AN was assessed for the tax periods from April 2005 to March 2008 with tax at the rate of 12.5 *per cent,* the goods being considered as an unspecified item. In the instant case

14 Sales turnover from 1 April 2005 to 31 March 2008: ₹ 20.48 lakh (Audit Assessment) plus Sales turnover from 1 April 2008 to 31 March 2010: ₹ 268.92 lakh (Self-assessed) totaling to ₹ 289.40 lakh.

15 M/s Shri Krishna Enterprises.

the AA completed the audit assessment (August 2009) for the tax periods from April 2005 to March 2008 by incorrectly applying a lower rate of four *per cent* instead of the applicable rate of 12.5 *per cent* on the taxable turnover of ₹ 20.48 lakh. This led to short levy and realisation of tax of ₹ 1.74 lakh in the audit assessment and penalty of ₹ 3.48 lakh. Further, self assessment returns for the tax periods from April 2008 to February 2010 were accepted by the AA with tax at the rate of four *per cent* applied on the taxable turnover of ₹ 2.69 crore and therefore differential tax of ₹ 23.06 lakh and interest of ₹ 2.58 lakh for the tax periods from April 2008 to February 2010 was also leviable. Thus, there was short levy of tax, interest and penalty aggregating to ₹ 30.86 lakh.

After we pointed out the above case, the AA initiated reassessment proceedings (November 2010). Further compliance is yet to be received (January 2012).

We brought the matter to the notice of the CCT (November 2010) and the Government (April 2011); Government stated (May 2011) that the case was under examination. No further reply is received (January 2012).

2.4.2.1 Non-levy of tax on purchase of unprocessed paddy

Under the OVAT Act, 2004, purchase of any taxable goods from any person other than a registered dealer was exigible to tax on the purchase price of such goods at the prescribed rate, if the goods so purchased are used as inputs in the manufacture of goods exempted from tax. Paddy is subject to tax at the rate of four *per cent* whereas paddy seed is exempt from tax under the Act. Further, penalty equal to twice the amount of tax assessed in audit assessment shall be imposed against the dealer.

During test check of the records of Bhubaneswar-I Circle (June 2010), we noticed that the Orissa State Seed Corporation Limited (OSSCL), registered as a dealer under the Act, disclosed tax exempted sale of paddy seeds worth ₹ 168.89 crore during the tax period from April 2005 to March 2009 which was manufactured (through a process of activities in its seed processing plants and testing laboratory) from paddy worth ₹ 116.37 crore purchased from unregistered cultivators of the State. However, we noticed that while assessing the dealer (November 2009) for the above tax period, the AA accepted the non-payment of tax on the above purchase value of paddy in the audit assessment and no tax was levied thereon, although the same was taxable at the rate of four *per cent* as per the Act. Thus, the AA did not levy tax of ₹ 4.65 crore and impose penalty of ₹ 9.31 crore on purchase of input used for production and sale of tax exempted goods.

After we pointed out the case, the Government stated (March 2011) that extra demand of ₹ 13.96 crore including penalty had been raised against the OSSCL (January 2011). The report on details of realisation is yet to be received (January 2012).

2.4.2.2 Non-levy of tax on 'gudakhu'

Under the OVAT Act, 2004, 'gudakhu', a tobacco preparation, was exigible to tax at the rate of four *per cent* from 1 July 2005 to 31 May 2007 and from 1 June 2007 onwards it is taxable at the rate of 12.5 *per cent* as an unspecified item in any of the schedule. The Act also provides for levy of penalty equal to twice the tax assessed in audit assessment. Where a dealer fails to pay tax due as per the return, he shall be liable to pay interest at the rate of one *per cent* per month in respect of such tax, from the due date of the return to the date of its payment or the date of order of assessment, whichever is earlier. Further, the AA should scrutinise the periodical returns of the dealers to verify the application of correct rate of tax and interest and full payment of tax and interest payable by the dealer and in case of any discrepancy, he should serve a notice to the dealer in the prescribed form to make payment of the extra amount of tax with interest. If the dealer fails to pay the above tax and interest, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, direct him to pay in addition to the tax and the interest payable by him, a penalty at the rate of two *per cent* per month on the tax and interest so payable, from the date it had become due to the date of its payment or the order of assessment, whichever is earlier.

2.4.2.2.1 During test check of the audit assessment records in Bolangir and Rourkela-II Circles, we noticed (September and November 2010) that two dealers[16] manufacturing gudakhu did not pay tax of ₹ 3.85 lakh on sales turnover of gudakhu worth ₹ 96.22 lakh during the tax periods from July 2005 to May 2007. The AAs, while finalising the audit assessments (February 2010 and September 2009) did not detect the same which resulted in non-levy of tax of ₹ 3.85 lakh and non-imposition of penalty of ₹ 7.70 lakh.

2.4.2.2.2 Similarly, from test check (July 2010) of the self assessed returns for the tax periods between July 2005 and May 2007 in Sambalpur-I Circle, we noticed that although four[17] manufacturing dealers did not pay tax on sale of gudakhu valued at ₹ 54.14 lakh during the above tax periods, the AA did not demand tax of ₹ 2.17 lakh, interest of ₹ 1.09 lakh and penalty of ₹ 3.29 lakh on the tax and interest so payable.

After we pointed out the cases the Government stated (September 2011) in case of M/s Sobha Gudakhu Factory, Bolangir Circle that the reassessment had been completed raising extra demand of ₹ 10.40 lakh including penalty and reassessment proceeding in case of Konark Gudakhu Factory, Rourkela had been initiated. Replies in respect of other cases are yet to be received (January 2012).

16 Bolangir Circle: M/s Sobha Gudakhu Factory, and Rourkela-II Circle: M/s Konark Gudakhu Factory,

17 M/s Durga Gudakhu Factory, M/s Parwati Gudakhu Factory, M/s Shyam Gudakhu Factory and M/s Samaleswari Gudakhu Factory.

2.4.2.3 Non-levy of tax on handmade bidis

Under the OVAT Act, 2004, '*bidi manufactured without the aid of machines*' was exigible to tax at the rate of four *per cent* from 1 July 2005 to 31 May 2007 and from 1 June 2007 onwards, it was exempt from tax. The Act further provides for levy of interest on short payment of tax, if any, detected during the scrutiny of monthly returns by the AA and penalty at twice the amount of tax assessed in audit assessment.

During test check of the self-assessed returns of Sambalpur I Circle and the audit assessment records of Cuttack I (West) Circle (July and December 2010), we noticed that four dealers[18] did not pay tax on the sale of handmade *bidis* valued at ₹ 2.84 crore during the tax periods from July 2005 to May 2007. The AAs, while finalising the audit assessment (March 2010), in one case, for the tax periods from April 2005 to March 2009 and accepting the monthly returns in three cases for the tax periods from July 2005 to March 2007 did not detect the same which resulted in non-levy of tax of ₹ 11.35 lakh, interest of ₹ 3.96 lakh and penalty of ₹ 5.36 lakh

After we pointed out the above cases, the Government stated (September 2011) that the re-assessment proceeding in respect of M/s Town Bidi Company, Cuttack I (West) Circle was disposed of raising extra demand of ₹ 6.23 lakh where as the re-assessment proceedings in respect of M/s Gopal Bidi Works, M/s Mahesh Bidi Works and M/s A.N Guha & Co (Hindustani Bidi Works) of Sambalpur-I Circle were under process. Further compliance is yet to be received (January 2012).

2.4.3.1 Short levy of tax due to under determination of taxable turnover for works contract

Under the OVAT Act, 2004, sale of goods shall be deemed to have taken place in the works contracts when the goods are incorporated in the course of execution of the works whether or not there is receipt of payment for such sale. In audit assessment, penalty equal to twice the amount of tax assessed shall be imposed against the dealer.

During test check of the audit assessment records of Bhubaneswar-II Circle (July 2010), we noticed that while assessing a registered dealer (July 2009), M/s Bapi Construction, engaged in execution of railway electrification works, the AA determined the gross turnover (GTO) at ₹ 8.91 crore for the value of works executed during the tax periods from April 2005 to November 2008. After allowing deduction of ₹ 6.03 crore towards labour / service charges from the GTO, the AA levied tax at the rate of 12.5 *per cent* on the taxable turnover of ₹ 2.88 crore. However, on cross verification of the VAT assessment records with the Orissa Entry Tax (OET) assessment records of the dealer and further information obtained from the Circle (March 2011) for the above tax periods,

18 **Cuttack-I (West) Circle** : M/s Town Bidi.
Sambalpur-I Circle : M/s. Gopal Bidi Works, M/s Mahesh Bidi Works and M/s A.N. Guha & Co. (Hindustani Bidi Works).

we noticed that the dealer actually received ₹ 12.64 crore towards execution of works which included ₹ 11.66 crore towards cost of materials utilised by him in the said works as per the material utilisation statement furnished by him. Thus, there was under determination of taxable turnover of ₹ 8.78 crore (₹11.66 crore - ₹ 2.88 crore) which resulted in short levy of tax of ₹ 1.10 crore at the rate of 12.5 *per cent* and non-imposition of penalty of ₹ 2.20 crore thereon.

After we pointed out the case, the Government stated (June 2011) that the reassessment was completed (May 2011) with raising of extra demand of ₹ 3.24 crore. The report on details of realisation is yet to be received (January 2012).

2.4.3.2 Short levy of tax due to under determination of taxable turnover in intra-State sale of coal

Under the OVAT Act, 2004, tax is payable by a registered dealer on his self assessed TTO at prescribed rates as per his monthly returns and it is subject to scrutiny and acceptance by the AA. Subsequently, tax audit and audit assessments are made in certain selected cases. The Act also provides for imposition of penalty equal to twice the amount of tax assessed in audit assessment.

During test check of the audit assessment records of Cuttack II Circle (August 2010), we noticed that while finalising the audit assessment (October 2009) for the tax periods from April 2005 to February 2009 in respect of M/s Sri Panchamukhi Minerals (P) Ltd., dealing in coal, the AA determined the TTO at ₹ 38.38 crore and levied tax of ₹ 1.54 crore thereon at the rate of four *per cent.* However, on further scrutiny of statements showing summary of monthly VAT returns and statement of purchases furnished by the dealer, we found that the dealer had actually transacted intra State sale of coal valued at ₹ 49.40 crore during the said tax periods. Thus, the AA did not detect the above discrepancy of TTO of ₹ 11.02 crore while accepting the monthly returns as well as finalising the audit assessment which led to short levy of tax of ₹ 44.08 lakh and non-imposition of penalty of ₹ 88.16 lakh.

After we pointed out the case, the Government stated (May 2011) that the reassessment was completed (March 2011) with raising of extra demand of ₹ 1.35 crore including penalty. The report on details of realisation is yet to be received (January 2012).

2.4.3.3 Short levy of tax on hire charges

Under the OVAT Act, 2004, sale includes transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration which shall be treated as sale price. Hire charges received in consideration for transfer of right to use earth moving equipment being an unspecified item in any of the schedule to the Act is taxable at the rate of 12.5 *per cent*. Further, penalty equal to twice the amount of tax assessed in audit assessment shall be imposed.

During test check of the audit assessment records (July 2010) in Cuttack-II Range, we noticed that M/s Pollutech Engineering, a dealer engaged in sale of spares and earth moving equipments etc. disclosed receipt of ₹ 1.60 crore towards hire charges of equipment in the profit and loss account certified by the Chartered Accountant for the year 2007-08 which is taxable at the rate of 12.5 *per cent* under the Act. However, the dealer did not include the above sales turnover of hire charges in the gross sales turnover in the returns for the tax periods from April 2007 to March 2008 and pay tax thereon. The AA while finalising the audit assessment (September 2009) for the tax periods from April 2007 to January 2009 also did not detect the above omission by the dealer for levy of tax of ₹ 20.06 lakh and imposition of penalty of ₹ 40.11 lakh thereon although the profit and loss account of the dealer was available with him at the time of assessment.

After we pointed out the above case, the Government replied (September 2011) that no compliance has been received from the concerned Range. Further compliance is yet to be received (January 2012).

2.4.3.4 Short levy of tax due to incorrect deduction

Under the OVAT Act, 2004, a dealer shall be liable to pay tax at the prescribed rate on the TTO. The Act also provides for imposition of penalty equal to twice the amount of tax assessed in audit assessment.

During test check of the audit assessment records of Gajapati Circle, we noticed (May 2010) that while assessing (October 2009) a dealer, M/s Maa Manikeswari Store, for the tax periods from April 2005 to April 2008, the AA rejected the books of accounts of the dealer as the same were not maintained properly and determined the TTO at ₹ 13.93 crore against the sales turnover of ₹ 16.26 crore as disclosed by the dealer at the assessment stage for the said period. However, we calculated that TTO of the dealer should be ₹ 15.11 crore after adding ₹ 6.24 lakh towards suppression of turnover pointed out in the AVR and deducting ₹ 1.21 crore towards sales turnover of goods sold at the maximum retail prices. This led to under determination of taxable turnover by ₹ 1.18 crore and consequential short levy of tax of ₹ 10.75 lakh (calculated at the prescribed rates of four *per cent* on sales turnover of ₹ 47.23 lakh and 12.5 *per cent* on ₹ 70.85 lakh applying the ratio adopted by the AA) and non-imposition of penalty of ₹ 21.49 lakh.

After we pointed out the above case, the Government stated (October 2011) that the reassessment proceeding was disposed of raising demand of ₹ 33.89 lakh. The report on details of realisation is yet to be received (January 2012).

2.4.4 Inadmissible Input Tax Credit

Under the OVAT Act, 2004 and Rules made thereunder, a registered dealer shall be eligible to claim ITC to the extent of the tax paid or payable on his purchase of taxable goods inside the State for adjustment from the output tax subject to fulfilment of certain conditions and restrictions.

During test check (between April 2010 and November 2010) of the audit assessment records as well as the self assessed returns filed by the dealers in four Circles[19] and five Ranges[20] for different tax periods during April 2005 to March 2010, we noticed that 71 dealers availed inadmissible ITC of ₹ 1.88 crore in contravention of the provisions of the Act and Rules either due to erroneous allowance of the claims of the dealers while completing the audit assessment or due to non-detection of inadmissible ITC and non-rectification of defects while accepting the self assessed returns by the concerned AAs. Besides, in four cases penalty of ₹ 58.14 lakh was also leviable. The details are discussed in the succeeding sub-paragraphs.

1. Allowance of inadmissible ITC on capital goods

Under the OVAT Act, 2004 and Rules made thereunder, ITC shall be allowed on the purchase of (i) raw materials directly used as input in manufacturing, (ii) plant, machinery and equipment (capital goods) used directly in the process of manufacturing of taxable goods.

During test check of records of Angul Range (April 2010), we noticed that M/s Bhushan Steel Limited, engaged in manufacturing and sale of sponge iron and mild steel billets, claimed ITC of ₹ 14.21 crore on purchase of capital goods for the tax periods from April 2005 to December 2007 which included input tax of ₹ 42.36 lakh paid on intra State purchase of concrete sleepers used for railway lines inside the factory. While assessing the dealer (December 2009) for the above tax periods, the AA allowed the same. As the above goods were not used directly in the process of manufacturing of its end product, i.e., sponge iron and mild steel billets, the dealer was not entitled to avail ITC of ₹ 42.36 lakh on such purchases. This resulted in short levy of tax of ₹ 10.71 lakh due to the ITC availed by the dealer up to December 2007 and penalty of ₹ 21.42 lakh. Moreover, erroneous carry forward of the balance ITC of ₹ 31.65 lakh to subsequent tax periods needs to be reversed by the unit.

After we pointed out the case, the AA agreed (April 2010) to re-examine the case.

We brought the above matter to the notice of the CCT (February 2011) and the Government (May 2011); their replies are yet to be received (January 2012).

19 **Circles**: Ganjam-I, Koraput, Mayurbhanj and Sambalpur-II.
20 **Ranges**: Angul, Bhubaneswar, Cuttack-II, Koraput and Sundergarh.

2. Allowance of inadmissible of ITC on purchase of spare parts of machinery purchased before the effective date of notification

Under the OVAT Act, 2004 and Rules made thereunder read with Government Notification dated 28 May 2008, ITC shall be allowed on purchase of components and spare parts of plant and machinery purchased on or after 1 June 2008 and used directly in the process of manufacturing. The Act further provides for imposition of penalty equal to twice the amount of tax assessed in the audit assessment.

During test check of audit assessment records of Cuttack-II Range and Sambalpur-II Circle, we noticed (July and November 2010) that while finalising the audit assessments (July 2009 and May 2009), the concerned AAs allowed ITC on purchase of components and spare parts of plant and machinery which were purchased prior to 1 June 2008. This resulted in allowance of inadmissible ITC of ₹ 4.10 lakh and non-imposition of penalty of ₹ 8.20 lakh as per the details given below.

(Amount in rupees)

Name of the Circle / Range	Name of the dealer	Tax period and date of audit assessment	Nature of irregularities noticed by audit	Amount of inadmissible ITC allowed	Extent of penalty imposable but not imposed
Cuttack-II Range	M/s Tripty Drinks (P) Ltd.	1 January 2007 to 31 August 2008. Assessed on 28 July 2009.	The AA allowed ITC on spare parts purchased prior to 1 June 2008 which was not admissible. These were also disallowed by the Tax Audit Team.	2,50,689	5,01,378
Sambalpur –II Circle	M/s Shanti Rice Mills (P) Ltd	1 April 2005 to 30 November 2008. Assessed on 8 May 2009.	As per the dealer's statement machinery spare parts were purchased prior to 1 June 2008. But the AA classified the same as plant and machinery and allowed ITC thereon which was inadmissible despite the fact that in AVRs these were recommended to be disallowed.	1,59,111	3,18,222
Total				**4,09,800**	**8,19,600**

After we pointed out these cases, the Government stated (September 2011) that the re-assessment proceeding in respect of M/s Shanti Rice Mill, Sambalpur-II Circle was disposed of raising extra demand of tax of ₹ 1.59 lakh and penalty of ₹ 3.18 lakh. However, the report on details of recovery is not available. The reply on the case relating to Cuttack-II Range is yet to be received (January 2012).

3. Non-reversal of ITC on inputs used in the manufacturing of tax exempted goods.

Under the OVAT Act, 2004 and Rules made thereunder, no ITC is admissible on purchase of goods, if such goods are utilised in manufacturing of goods which are exempted from tax under the Act.

During test check of audit assessment records (April 2010) in Angul Range, we noticed that a dealer, M/s Bindal Sponge, engaged in manufacturing and sale of sponge iron etc., claimed ITC of ₹ 29.77 lakh on purchase of coal for the tax periods from April 2005 to December 2008. The AA, while assessing the dealer under audit assessment (February 2010) for the said tax periods, disallowed ₹ 18.76 lakh i.e. 63 *per cent* of ITC claimed, as coal was not a raw material for manufacturing of sponge iron, but allowed the balance 37 *per cent* of ITC of ₹ 11.02 lakh for coal consumed for generation of electricity in its plant. As electrical energy produced by the unit was exempt from tax under the OVAT Act, the allowance of ITC was irregular and it resulted in short levy of tax of ₹ 11.02 lakh and non-imposition of penalty of ₹ 22.03 lakh.

After we pointed out the case, the AA agreed (April 2010) to reopen the case for re-examination.

We brought the above matter to the notice of the CCT (February 2011) and the Government (May 2011); their replies are yet to be received (January 2012).

4. Non-detection of excess ITC availed by the dealers in self-assessed returns

Under the OVAT Act, 2004 and Rules made thereunder, the AA shall scrutinise and verify, among other things, the correctness of the ITC claimed by the dealer in his periodical returns and in case of any discrepancies, he shall issue notices to the dealers in the prescribed form to make payment of additional tax along with interest by the dates specified in such notices.

During test check of records of Koraput Circle (July and August 2010), we noticed that in the self-assessed returns relating to 69 tax periods from April 2009 to March 2010, 61 dealers availed ITC of ₹ 5.46 crore. However, during analysis of the data generated from the computerised VAT Information System (VATIS) as well as test check of the details furnished in four self-assessed returns relating to three dealers[21] made available to us out of 61 dealers, we noticed that ITC of ₹ 4.87 crore only was admissible in these cases. As such, the dealers had claimed excess ITC of ₹ 59.59 lakh in their self-assessed returns which the AAs did not detect while accepting the returns. The details are given in the following table.

21 M/s Ballarpur Industries Unit Sewa for October 2009, M/s JMC Project for the tax periods from January to March 2010 and July to September 2010, M/s Krishna Engineering for August 2009.

(Amount in rupees)

Sl. No.	No. of dealers	No. of tax periods	Audit observations	ITC availed	ITC admissible	Excess ITC availed
1.	33	39	ITC under "four *per cent* tax group purchase" was incorrectly computed and availed.	16,92,020	14,18,975	2,73,045
2.	11	12	ITC under "12.5 *per cent* tax group purchase" was incorrectly computed and availed.	67,45,736	66,67,519	78,217
3.	13	14	Dealers claimed excess ITC than the ITC admissible as per the provisions and the same was either adjusted against the output tax or carried forward to the subsequent tax period.	4,61,89,748	4,05,96, 269	55,93,479
4.	4	4	Excess ITC carried forward and availed in the subsequent tax period.	13,968	-	13,968
	61	**69**	**Total**	**5,46,41,472**	**4,86,82,763**	**59,58,709**

After we pointed out the cases, the AAs agreed (August 2010) to reopen the cases for re-examination.

We brought the above matter to the notice of the CCT (February 2011) and the Government (May 2011); their replies are yet to be received (January 2012).

5. Non-reversal of excess ITC availed

Under the OVAT Act, 2004 and Rules made thereunder as amended in May 2008 and February 2009 respectively, ITC admissible towards tax paid on purchase of goods inside the State shall be limited to the CST payable on the inter-State sales turnover of such goods from 1 June 2008. The concessional rate with the declaration form was prescribed at two *per cent* when the State rate is two *per cent* and above. In case the State rate is less than two *per cent,* the State rate would be applicable. The registered dealer is, therefore, required to furnish information on the inter-State sales transacted by him between June 2008 and February 2009 while filing the return for the month of February 2009 for reversal of ITC wherever inadmissible.

(a) During test check of the audit assessment records and cross checking the same with the CST assessment records (July 2010) in Cuttack-II Range, we noticed that a dealer, M/s Exide Industries Ltd., transacted inter-State sale of goods worth ₹ 2.72 crore supported with declarations in form 'C' during the tax periods between June 2008 and October 2008 on which CST of ₹ 5.44 lakh was payable at the concessional rate of two *per cent*. The corresponding purchase value of goods purchased inside the State relating to such inter-State sales worked out to ₹ 2.25 crore on which tax of ₹ 9.01 lakh was paid by the dealer at the rate of four *per cent* and the same was irregularly availed by the dealer as ITC through the periodical returns under the OVAT Act instead of limiting it to ₹ 5.44 lakh payable by him towards CST as discussed above. The excess ITC of ₹ 3.57 lakh so availed under the Act was required to be reversed by the dealer while filing the returns for February 2009 which was not done. The AA of Cuttack-II Range also did not detect the above excess claim of ITC while assessing the dealer (July 2009) under the audit assessment for the tax period from July 2006 to October 2008.

After we pointed out the case, the AA of Cuttack-II Range stated (July 2010) that the above audit observation would be taken care of during subsequent tax audit which would cover the tax period February 2009. The reply is not tenable as the return for the tax period February 2009 was already available before the assessment was made on 28 July 2009 and the AA could have taken action for reversal of excess ITC by issuing of notice. Further replies are yet to be received (January 2012).

(b) Further, during test check of the self assessed returns (June 2010) in Mayurbhanj Circle, we noticed that a dealer, M/s Siva Shakti Sponge Iron, transacted inter-State sale of goods worth ₹ 22.19 crore supported with declarations in form 'C' during the tax periods between June 2008 and March 2010 on which CST of ₹ 44.37 lakh was payable at the concessional rate of two *per cent*. The corresponding purchase value of goods purchased inside the State relating to such inter-State sales worked out to ₹ 15.57 crore on which tax of ₹ 62.26 lakh was paid by the dealer at the rate of four *per cent* and the same was irregularly availed by the dealer as ITC under the OVAT Act through his periodical returns instead of limiting it to ₹ 44.37 lakh payable by him towards CST as discussed above. The excess ITC of ₹ 17.89 lakh so availed had to be reversed by the assessee while filing the returns for February 2009 and subsequent tax periods. The AA of Mayurbhanj Circle did not detect the above excess claim of ITC while accepting the self assessed returns for the said tax periods.

After we pointed out the case, the AA of Mayurbhanj Circle agreed (June 2010) to examine the case.

We brought the above matters to the notice of the CCT (February 2011) and the Government (May 2011); their replies are yet to be received (January 2012).

6. Allowance of excess ITC due to non-adherence to the prescribed norm

Under the OVAT Act, 2004 and Rules made thereunder, where a registered dealer sells or despatches goods, both taxable and exempted under the Act, ITC shall be allowed proportionately as per the norm.

During test check of the audit assessment records (April and May 2010) in Ganjam-I Circle, we noticed that the audit assessment of a registered dealer, M/s Lingaraj Flour Mills (P) Ltd, engaged in milling of wheat and sale of finished products on wholesale basis inside the State, was finalised (October 2009) for the tax periods from April 2005 to June 2008. Within the said tax periods, the dealer purchased goods valued at ₹ 5.34 crore within the State paying tax of ₹ 21.34 lakh and exhibited sales turnover of ₹ 13.65 crore. The above sales turnover included tax exempted sale of ₹ 2.08 crore and taxable sale of ₹ 11.57 crore (including zero rated sales turnover). As the taxable sale was 84.76 *per cent* of the total sales, the dealer was entitled to proportionate ITC of ₹ 18.09 lakh as per the above norm. However, the dealer claimed the total tax paid on inputs amounting to ₹ 21.34 lakh as ITC and the AA allowed the same which resulted in excess allowance of ITC of ₹ 3.25 lakh. Besides, the dealer was also liable to pay a penalty of ₹ 6.49 lakh.

After we pointed out the case (February 2011) the Government intimated (September 2011) that the reassessment proceeding was disposed of raising

extra demand of tax of ₹ 3.42 lakh and penalty of ₹ 6.84 lakh. The detail of realisation is yet to be received (January 2012).

7. Allowance of inadmissible ITC related to another dealer

Under the provisions of the OVAT Act and Rules made thereunder, only a registered dealer shall be eligible to claim ITC to the extent of the amount paid or payable on his purchases of taxable goods within the State subject to fulfilment of conditions and restrictions as prescribed under the Act.

During test check of audit assessment records (June 2010) in Bhubaneswar Range, we noticed that M/s HCL Info Systems Ltd, engaged in wholesale trading of computers, mobiles phones, digital cameras etc, was assessed (January 2010) for the tax periods from April 2005 to September 2008. The dealer in the revised return for the month of April 2007 filed in May 2007 brought over ITC of ₹ 16.40 lakh of another company M/s Infinet Ltd, which was amalgamated with the instant dealer with effect from 1 April 2007. The AA allowed the above ITC at the audit assessment stage. However, we observed that although this brought over ITC had been reflected in the revised return of the instant dealer, the corresponding closing stock value of the goods of the amalgamated company worth ₹ 4.09[22] crore, as calculated by us from its return for March 2007, was not carried forward and exhibited in the statement annexed with the said revised return for the levy of the output tax on sale of such goods from April 2007 onwards. Availing of the said ITC of the amalgamated company without carrying forward of the closing stock for levy of output tax was not correct. The above accountal of inadmissible ITC could neither be detected by the Audit Visit Team nor the AA while assessing the dealer. Thus, acceptance of the inadmissible ITC claims of the dealer for ₹ 16.40 lakh needs reversal.

After we pointed out the case, the AA agreed (June 2010) to examine the case.

We brought the above matter to the notice of the CCT (February 2011) and the Government (May 2011); their replies are yet to be received (January 2012).

8. Allowance of incorrect ITC

Under the OVAT Act, 2004 and Rules made there under, ITC shall be allowed on purchase of inputs, used in manufacturing of goods for sale and in case a portion of the finished goods is used otherwise than by way of sale, ITC already availed on the corresponding purchase value of raw materials shall be reversed proportionately.

During test check of audit assessment records (September 2010) in Sundergarh Range, we noticed that a registered dealer, M/s OCL (INDIA) Ltd., engaged in manufacturing of cement, clinker, refractories, sponge iron and billets utilised the finished product i.e., refractories valued at ₹ 3.96 crore for self consumption in the kilns of cement, sponge iron and in the refractory units during the

[22]

OB	1.01 crore	as on 1/3/2007
Purchase	24.35 crore	
Sale	21.27 crore	
CB	4.09 crore	as on 31/3/2007

tax periods from April 2006 to March 2007 and availed ITC of ₹ 16.61 lakh on the corresponding purchase value of raw materials used as inputs for the production of the same. The above ITC was not admissible as pointed out in the AVR (June 2009). However, while finalising the audit assessment (February 2010) for the above tax periods, the AA did not take cognizance of the observation of the Audit Visit Team for reversal of the above amount of ITC. This resulted in incorrect allowance of ITC of ₹ 16.61 lakh.

After we pointed out the case, the Government stated (September 2011) that the case was under examination. Final reply is yet to be received (January 2012).

9. Short deduction of inadmissible ITC

Under the OVAT Act, 2004 and Rules made there under, in case of branch transfer of stock of taxable goods outside the State, the ITC on the corresponding purchases within the State from registered dealers shall be allowed only in excess of four *per cent* of the tax paid or payable. In other words, input tax calculated up to the rate of four *per cent* of the value of materials purchased shall not be claimed as ITC and hence it should be reversed in case of branch transfer of goods by any dealer.

During test check of the audit assessment records (July 2010) of M/s Ballarpur Industries Ltd, Koraput Range, engaged in manufacturing of paper out of raw materials like sabai rope, bamboo etc, which was assessed (July 2008) for the tax periods from April 2005 to September 2007, we noticed that out of the total sales turnover of the dealer for ₹ 718.62 crore, a turnover of ₹ 502.01 crore represented the value of goods transferred to other branches located outside the State. We, however, observed that the above manufacturer declared reversal of ITC amounting to ₹ 1.65 crore on account of branch transfer of taxable goods. While assessing the manufacturer the AA disallowed ITC of ₹ 44.92 lakh on purchase of coal and gas being not considered as inputs in the production of finished goods. Since the dealer's branch transferred goods represented 69.80 *per cent* of the production, the ITC admissible was ₹ 31.38 lakh which was included in the disallowed ITC of ₹ 44.92 lakh. Instead of deducting the proportionately calculated disallowance of ITC of ₹ 31.38 lakh from the reversed ITC declared by the manufacturer, the AA deducted the full amount of ITC of ₹ 44.92 lakh from declared reversal of ITC of ₹ 1.65 crore. This resulted in excess reduction of reversal of ITC or excess allowance of ITC of ₹ 13.54 lakh. This led to excess allowance of ITC of ₹ 13.54 lakh.

After we pointed out the case, the AA agreed (July 2010) to reopen the case.

We brought the above matter to the notice of the CCT (February 2011) and the Government (May 2011); their replies are yet to be received (January 2012).

2.4.5.1 Non-levy of interest and penalty for delayed payment of tax

Under the OVAT Act, where a dealer who is required to file a return under the Act, fails without sufficient cause to pay the amount of tax due as per the return, he shall be liable to pay interest at the rate of one *per cent* per month in respect of the tax which he fails to pay according to the return, from the due date of the return to the date of its payment or to the date of order of assessment, whichever is earlier. The Act also provides for scrutiny of each and every return of the dealer by the AA to verify application of correct rate of tax and interest, full payment of tax and interest payable by the dealer and in case of any discrepancy, to serve a notice to the dealer in the prescribed form to make payment of extra tax liability with interest. If the dealer fails to pay the above amount of tax and interest the Commissioner may, after giving the dealer a reasonable opportunity of being heard, direct him to pay in addition to tax and interest a penalty at the rate of two *per cent* per month thereon from the date it had become due to the date of its payment or the order of assessment, whichever is earlier.

During verification (between March 2010 and January 2011) of the tax payment details generated from the VATIS and the self-assessed VAT returns, treasury schedules, progressive collection registers as well as analysis of tax payment details in the assessment records made available in two Ranges[23] and thirteen Circles [24]for different tax periods between 1 April 2005 and 31 March 2010, we noticed that in respect of 2562 tax periods, 927 dealers paid the tax due (₹ 47.66 crore) with delays ranging from six to 1120 days for which interest of ₹ 1.97 crore was leviable as calculated by us. While accepting the returns for the relevant tax periods, the AAs did not levy the above interest dues against the dealers which led to non-levy of interest of ₹ 1.97 crore. Besides, penalty of ₹ 4.07 crore was also leviable after giving the dealers a reasonable opportunity of being heard.

After we pointed out these cases, the Government stated (September 2011) that the re-assessment proceedings in respect of M/s A.B Minerals, Ganjam-II Circle and M/s Samaleswari Industry Pvt. Ltd, Sambalpur-II Circle were disposed of imposing interest and penalty of ₹ 3.73 lakh and ₹ 2.08 lakh respectively. Government further stated a demand of ₹ 9.68 lakh was raised against 271 dealers of Keonjhar Circle and a demand of ₹ 2.51 lakh towards interest and penalty against 14 dealers of Boudh Circle. Interest and penalty of ₹ 1.23 lakh was collected from 21 dealers of Keonjhar Circle. The replies in respect of other cases are yet to be received (January 2012).

23 Bhubaneswar and Cuttack-II.

24 Angul, Balasore, Bhubaneswar-I, Bhubaneswar-IV, Boudh, Cuttack-II, Ganjam-II, Jharsuguda, Keonjhar, Mayurbhanj, Rourkela-II Sambalpur-I and Sambalpur-II.

2.4.5.2 Non-levy of penalty in audit assessments

Under the OVAT Act, 2004 where the tax audit results in detection of any discrepancy such as suppression of purchases or sales or both, erroneous claims of deduction including claim of input tax credit (ITC), evasion of tax or contravention of any provision of the Act affecting the tax liability of the dealer, the AA is required to make audit assessment of the dealer wherein penalty equal to twice the amount of tax assessed shall be levied against the dealer. The Act also allows the dealer to disclose and pay a higher amount of tax due, if any, by filing revised returns in respect of any tax period(s). However, no such disclosure is acceptable after receipt of the notice for the tax audit.

During test check of audit assessment records of three ranges and four circles (between April and August 2010), we noticed that while finalising the assessments of nine dealers[25] for different tax periods between April 2005 and June 2009, the AAs assessed additional tax liability of ₹ 61.08 lakh for different discrepancies / contraventions of the Act. However, they did not levy penalty of ₹ 1.22 crore thereon as required under sub Section 5 of the Section 42 of the OVAT Act, 2004.

After we pointed out the above cases, the Government stated (September 2011) that the reassessment proceeding in respect of M/s Ajanta Agencies, Ganjam-I Circle was disposed of raising extra demand of penalty of ₹ 5.63 lakh out of which ₹ 1.88 lakh had been collected. Government further stated that the re-assessment proceedings in respect of M/s Shivsai Enterprises and M/s Anmol Tyres of Cuttack-II Circle and M/s Santosh Rice Mill Pvt Ltd of Bolangir Circle were initiated by issue of notices. Replies in respect of other dealers are yet to be received (January 2012).

25 **Balasore Range:** M/s Balasore Alloys Ltd. and M/s Bakasire Alloys Ltd., **Bolangir Range:** M/s Santosh Rice Mill and **Cuttack-II Range:** M/s Trupti Automatives. **Balasore Circle:** M/s Maa Laxmi Rice Mill and M/s Srikrishna Mill , **Cuttack-II Circle:** M/s Anmol Tyres, **Ganjam-I Circle:** M/s Ajanta Agency and **Mayurbhanj Circle:** M/s Puri Enterprises.

2.4.5.3 Non-levy of penalty for non-submission of the certified report on the audited accounts

Under the OVAT Act, 2004, a dealer having gross turnover exceeding ₹ 40 lakh during a financial year shall furnish a true copy of annual audited accounts for that year duly certified by a Chartered Accountant by 31 October of the next financial year to the concerned AA for his record in the register prescribed by the CCT. The Act further provides that in case the dealer fails to furnish or furnishes the same belatedly, the AA shall, after giving the dealer a reasonable opportunity of being heard, impose on him a penalty of rupees one hundred for each day of default in submission.

During test check of records of 11 Circles[26] (between May 2010 and January 2011), we collected the list of dealers having gross turnover in excess of ₹ 40 lakh each during the period 2008-09 and 2009-10 from the AAs of 11 Circles and requested the AAs to intimate whether the dealers had furnished annual audited accounts for that year duly certified by a Chartered Accountant indicating the date of receipt of that audited report. From the replies received from the AAs we noticed that 3,313 dealers whose gross turnover exceeded ₹ 40 lakh each during 2008-09 and 2009-10 did not submit the copies of the certified reports on the audited accounts of the relevant years to the respective AAs within the prescribed dates and also up to the date of audit which warranted levy of penalty under the Act. The delay in submission of copies of the above reports ranged from 61 days to 365 days for which penalty of ₹ 8.12 crore was leviable, but the same was not levied by the concerned AAs. The reasons for non-imposition of penalty were also not recorded in the relevant assessment orders or the register prescribed by the CCT for that purpose.

After we pointed out the above cases, the Government stated (September 2011) that ₹ 20.17 lakh and ₹ 13.94 lakh have been imposed as penalty against 32 dealers of the Cuttack-I, City Circle and 77 dealers of Keonjhar Circle respectively out of which ₹ 0.30 lakh was recovered from 12 dealers of Cuttack-I, City Circle and show cause notices have been issued against 467 defaulting dealers of Rourkela-II Circle. Government further stated (October 2011) that penal proceedings have been completed in respect of 99 dealers of Barbil Circle raising demand of ₹ 20.98lakh. Replies in respect of the other dealers of the remaining Circles are yet to be received (January 2012).

26 Barbil, Bhubaneswar-I, Bhubaneswar-II, Bhubaneswar-III, Cuttack-I (City), Keonjhar, Mayurbhanj, Nayagarh, Rayagada, Rourkela-I and Rourkela-II Circles.

Central Sales Tax

2.5 Non-observance / compliance of the provisions of the CST Act / Rules read with Government notifications / executive orders

The CST Act, 1956 and Rules made thereunder read with Government notifications and executive orders issued from time to time provide for:

- *levy of tax at the assessment stage at the prescribed rates or concessional rates, subject to certain conditions, on the net taxable turnover(NTO) of goods determined at such stage;*
- *exemption of tax in respect of sales turnover of goods exported outside the country including their penultimate transaction; and*
- *levy of penalty at the prescribed rates for contravention of provisions of the Act and Rules on the tax liability determined by the AA in audit assessment.*

We noticed that while finalising the assessments, the AAs did not observe some of the above provisions read with Government notifications / orders as mentioned in the following paragraphs 2.5.1 to 2.5.3 which resulted in non / short levy of tax and penalty of ₹ 14.13 crore.

2.5.1 Short levy of tax due to allowance of inadmissible concessional rate of tax

Under the CST Act, 1956 read with Government notifications dated 31 March 2005 and 16 June 2006, inter-State sale of goods manufactured by the Small Scale Industries (SSIs) of the State are taxed at a concessional rate of one *per cent* up to 15 June 2006 and at two *per cent* thereafter against declarations furnished by the purchasing dealer in form 'C'. As per the provisions of the order dated 24 December 1999 of the Ministry of Commerce and Industries, Department of Industrial Policy and Promotion read with the notifications dated 18 July 2006 and 29 September 2006 of the Ministry of Small Scale Industries of the Central Government, industrial units with Fixed Capital Investment (FCI) in plant and machinery up to rupees one crore between 24 December 1999 and 1 October 2006 and rupees five crore thereafter are considered as SSI units. Inter State sale of goods supported with declaration in form 'C' are exigible to tax at the rate of four *per cent* up to 31 March 2007.

2.5.1.1 During test check of the audit assessment records (February 2010) in Rourkela-I Circle, we noticed that a dealer M/s Anurag Ferro Products (P) Ltd. dealing in declared goods such as cold rolled coils, strips and galvanised (plain and corrugated) sheets etc. was assessed (February 2008) for the years 2005-06 and 2006-07. On scrutiny of the certified audited accounts filed by the dealer, we observed that the dealer's FCI on plant and machinery stood at ₹ 8.41 crore as on 1 April 2005 and ₹ 7.18 crore as on 1 April 2006 which exceeded the limit

of one crore up to 1 October 2006 and five crore thereafter. Thus it is evident that it was not an SSI unit and hence not eligible to avail concessional rate of tax during the period assessed. However, overlooking the above audited accounts kept on record, the AA assessed tax of ₹ 61.97 lakh only at the concessional rate ranging from one to two *per cent* instead of assessing tax of ₹ 179.89 lakh at the prescribed rate of four *per cent* on sale of above goods worth ₹ 44.97 crore supported with valid declarations in form 'C.' This led to short levy of tax of ₹ 1.18 crore and non-imposition of penalty of ₹ 2.36 crore. Under the pre-amended CST (O) Rules, 1957 valid up to June 2006 a separate assessment was required to be made for the tax periods from July 2006 to March 2007. We, however, noticed that only one assessment was made for the tax periods from April 2006 to March 2007 which was irregular and needs rectification.

2.5.1.2 During test check of the audit assessment records of Rourkela-II Circle (March 2010), we noticed that a dealer, M/s Shree Ram Sponge and Steel Ltd., a manufacturer of Mild Steel ingots, was assessed on 31 March 2009 for the year 2005-06. We observed from the certified audited accounts submitted by the dealer, that the dealer's FCI on plant and machinery stood at ₹ 1.13 crore as on 1 April 2005 and ₹ 1.99 crore as of 31 March 2006 which exceeded the limit of one crore. Thus, it was not an SSI unit and hence not eligible to avail concessional rate of tax during the period assessed. However, overlooking the above audited accounts kept on record, the AA assessed tax of ₹ 24.98 lakh only at the concessional rate of one *per cent* instead of assessing tax of ₹ 99.93 lakh at the prescribed rate of four *per cent* on sale of above goods worth ₹ 24.98 crore supported with valid declarations in form 'C' under the pre-amended CST (O) Rules, 1957 valid up to June 2006. This led to short levy of tax of ₹ 74.94 lakh and non-imposition of penalty of ₹ 1.50 crore.

2.5.1.3 During test check of audit assessment record of Dhenkanal Circle (May 2010), we noticed that a dealer M/s Sourav Alloys and Steel (P) Ltd., manufacturer of iron ingots was assessed (September 2007) for the tax periods from April 2005 to February 2007 by treating it as an SSI unit. However, it had lost its SSI unit status after 29 September 2005 as the value of FCI in plant and machinery stood at ₹ 1.58 crore on that date as seen from the audited accounts submitted by the dealer. Overlooking the above audited accounts kept on record, the AA completed the assessment by applying the concessional tax rate of one *per cent* on the inter-State sales turnover of ₹ 10.08 crore during the tax periods from October 2005 to September 2006 instead of applying the prescribed rate of four *per cent*. This resulted in short levy of tax of ₹ 30.25 lakh at the differential rate of three *per cent* on the above sales turnover. Besides the dealer was liable to pay penalty of ₹ 60.50 lakh.

After we pointed out these cases, the Government stated (March and May 2011) that the reassessment proceedings in respect of two dealers viz M/s Sourav Alloys and Steel (P) Ltd. and Shree Ram Sponge and Steel Ltd. were completed raising extra demands of ₹ 1.01 crore and ₹ 1.86 crore respectively and reassessment proceeding against M/s Anurag Ferro Products (P) Ltd. had not been completed. Further reply is yet to be received (January 2012).

2.5.2 Short levy of tax due to allowance of inadmissible exemption

Under the CST Act, 1956, the last sale of goods preceding the export sale is exempted from levy of tax, if it is supported with a declaration in prescribed form-H filed by the ultimate exporter in respect of purchase of such goods for export along with relevant documents in proof of such export sale to have taken place after, and was for the purpose of complying with, the agreement or order for or in relation to such export. Inter-State sale of iron ore fines without supporting declarations were taxed at the rate of 10 *per cent* up to 31 March 2007.

During test check of the audit assessment records (June 2010) in Barbil Circle, we noticed that four dealers[27] sold iron ore fines worth ₹ 19.08 crore to the penultimate exporters in course of export during the tax periods from April 2005 and June 2006 and paid no tax thereon claiming exemption of tax under the Act. While finalising the audit assessments (March 2009 and March 2010) the AA allowed the dealers to avail the above exemption. However, we noticed that the above dealers sold goods valued at ₹ 5.87 crore and ₹ 5.77 crore to the exporters before the purchase orders were placed on the exporters by the foreign buyers and after the date of shipment of the goods as noticed from the bills of lading furnished by the dealers. This resulted in short levy of tax of ₹ 1.16 crore as the sales were not exempted from tax.

After we pointed out these cases (May 2011), the Government stated (June 2011) that the reassessment proceedings in respect of three dealers viz M/s Global Associates, Bansapani Iron Ltd. and Tarini Minerals were completed raising extra demands of ₹ 1.02 crore, ₹ 1.15 lakh and ₹ 4.96 lakh respectively and reassessment proceeding against M/s Indu Ingot and Re-Roller (P) Ltd. had not been completed. Further reply is yet to be received (January 2012).

2.5.3 Non-levy of penalty in audit assessment

Under the CST Act, 1956 read with CST (O) Rules, 1957 as amended on 6 July 2006, where the tax audit results in detection of suppression of purchases or sales or both, erroneous claims of deduction, evasion of tax or contravention of any provision of the Act affecting the tax liability of the dealer, the AA is required to make audit assessment of the dealer. The Act/Rules further provide for imposition of penalty equal to twice the amount of tax so assessed.

During test check of the audit assessment records of two Ranges and one Circle (between April and June 2010), we noticed that in three cases pertaining to three registered dealers[28], the concerned AAs while assessing the dealers for

27 (1) M/s Bansapani Iron Ltd., M/s Global Associates, M/s Indu Ingot and Re- Roller (P) Ltd. and Tarini Minerals

28 (i) M/s R J Exports of Ganjam Range, (ii) M/s Sree Metaliks of Jajpur Range, and (iii) M/s Big Boss Steel Alloys Ltd. of Mayurbhanj Circle.

different tax periods between April 2006[29] and March 2009, assessed tax of ₹ 3.13 crore due to purchase and sale suppression, payment of concessional rate of tax without any supporting declarations and discrepancies in accounts etc.. Although the tax levied for these irregularities warranted imposition of penalty, the AAs did not impose penalty of ₹ 6.27 crore as required under sub Rule (3) (g) of the Rule 12 of the CST (O) Rules, 1957.

After we pointed out the above cases, Government stated (September 2011) that the re-assessment proceeding in respect of M/s R.J Export was completed imposing penalty of ₹ 5.04 crore. Replies in respect of other dealers are yet to be received (January 2012).

Entry Tax

2.6 Non-observance/compliance of the provisions of OET Act/ Rules read with Government notifications

The OET Act, 1999 as amended and Rules made thereunder read with Government notifications issued from time to time provide for:

- *completion of audit assessment based on Audit Visit Report (AVR) and levy of tax at the prescribed rates (normal or concessional subject to certain conditions) on entry of scheduled goods into any local area for sale, use or consumption therein;*
- *levy of tax on the sale value of manufactured scheduled goods at the prescribed rates;*
- *allowance of set off of tax paid on purchase of scheduled goods by the manufacturers as raw materials against the ET payable on the sale value of taxable finished goods; and*
- *levy of penalty at prescribed rates for the tax levied in audit assessment.*

We noticed that while finalising the assessments, the AAs did not observe some of the above provisions in some cases as mentioned in the following paragraphs 2.6.1 to 2.6.5 which resulted in non / short levy of tax, interest and penalty of ₹ 3.07 *crore.*

2.6.1 Escapement of tax on 'Gold jewellery' and 'Acid slurry'

Under the amended OET Act, 1999 and Rules made thereunder, tax on the purchase value of goods entering into a local area for consumption, use or sale therein is leviable at the prescribed rates as per the schedule. "Jewellery made out of gold" and "chemicals used for any purpose" are exigible to tax at the rate of one *per cent*. The Act further provides for levy of penalty equal to twice the amount of tax assessed in audit assessment with effect from 19 May 2005.

2.6.1.1 During test check of the audit assessment records (June 2010) of Bhubaneswar Range, we noticed that M/s Lalchand Jewellery Pvt. Ltd., a registered dealer in gold and silver ornaments, jewellery,

29 The period April 2006 to June 2006 of (i) M/s R.J. Exports was erroneously tagged in the audit assessment made {(quoting the pre-amendment provisions of CST (O) Rules)} for the tax periods July 2006 to July 2007 pertaining to the post amended Rules.

old gold, gold bullion and diamond studded gold ornaments etc., purchased diamond studded gold jewellery worth ₹ 20.49 crore from outside the State during the tax period from August 2006 to May 2009 which is exigible to tax at the rate of one *per cent*. While finalising the audit assessment (December 2009) for the above period the AA did not levy tax on the above purchase turnover by treating the same as non-scheduled goods. Thus, non-assessment of tax on entry of the above scheduled goods led to escapement of tax of ₹ 20.49 lakh and penalty of ₹ 40.98 lakh.

We brought the matter to the notice of the CCT (February 2011) and the Government (March 2011). The Government stated (April 2011) that *suo motu* proceeding had been initiated against the dealer (April 2011) for reassessment. Result of reassessment is yet to be received (January 2012).

2.6.1.2 During test check of the audit assessment records (August 2010) of Cuttack II Circle, we noticed that a registered dealer, M/s Oritrade Private Limited purchased scheduled goods i.e. "Acid Slurry" worth ₹ 7.39 crore during the tax periods from 2005-06 to 2007-08, but did not pay tax thereon treating the same as non-scheduled goods which was accepted by the AA while assessing the dealer (December 2009) for the above tax period. 'Acid Slurry' known as 'Linear Alkyl Benzene Sulphonic Acid' (LABSA), being an "industrial chemical" generally used in manufacturing of various detergents is a chemical and hence it is exigible to tax at the rate of one *per cent.* Therefore non-assessment of tax on entry of scheduled goods led to escapement of tax of ₹ 7.39 lakh. Besides, the dealer was liable to pay a penalty of ₹ 9.06 lakh for non-payment of tax of ₹ 4.53 lakh against entry of scheduled goods worth ₹ 4.53 crore during the period 19 May 2005 to 31 March 2008.

After we pointed out the case, the Government replied (October 2011) that the reassessment proceeding has been disposed of raising extra demand of ₹ 22.17 lakh towards tax and penalty. The report on details of realisation is yet to be received (January 2012).

2.6.2 Short levy of tax on 'mohua flower'

The OET Act, 1999 as amended (May 2005) and Rules made thereunder provide that scheduled goods brought for use by a manufacturer on first entry into a local area from another local area as raw materials against production of declaration in prescribed form shall be exigible to tax at a concessional rate of fifty *per cent* of the rate specified in the schedule. Further, a penalty equal to twice the amount of tax assessed by the AA on audit assessment is also leviable. Mohua flower is exigible to tax at the normal rate of one *per cent* .

During test check of the audit assessment records (October 2009 and June 2010) in two ranges (Bolangir and Sambalpur), we noticed that 11 manufacturers[30] of outstill liquor purchased mohua

[30] **Bolangir Range**: (i) M/s Laxmi Shankar Prasad, Bolangir (ii) M/s Umashankar Prasad, Bolangir. (iii) M/s Ram Murty Prasad, Bolangir (iv) M/s Shiv Shankar Sahu, Sonepur (v) M/s Bholanath Sahoo, Bolangir (vi) M/s Sudarsan Sahu, Sonepur and (vii) M/s Anil Kumar Sahoo.

Sambalpur Range: (i) M/s Gopal Prasad (ii) M/s Santosh Kumar Jaiswal (iii) M/s Harihar Prasad Sahu and (iv) M/s Sunil Kumar.

flower valued at ₹ 15.55 crore (₹ 7.34 crore under Bolangir Range and ₹ 8.21 crore under Sambalpur Range) from mohua pickers[31] of the State in different tax periods between April 2005 and January 2009. Hence, the purchase turnover of the above manufacturers on account of mohua flower was liable to be taxed at the rate of one *per cent*. While finalising the assessments of the above dealers, the AA, however, assessed tax at the concessional rate of 0.5 *per cent* instead of the correct rate of one *per cent* on the aforesaid purchase turnover. This resulted in short levy of tax of ₹ 7.78 lakh and non-impostion of penalty of ₹ 15.55 lakh.

After we pointed out these cases, the Government stated (September 2011) that after completion of reassessment proceedings demands of ₹ 6.84 lakh including penalty of ₹ 4.56 lakh was raised against six dealers of Bolangir Range and no demand was raised against one dealer of that Range. As regards the dealers of Sambalpur Range, three dealers had been assessed with nil demands and in another case, although it was re-opened, the orders thereon was reserved. The non-raising of demands by the AA of the Sambalpur Range does not appear to be correct as in six similar cases of Bolangir Range, the AA accepted our views and raised the demand as stated above.

2.6.3 Short levy of tax due to erroneous determination of purchase turnover

Under the OET Act, 1999 as amended (May 2005) tax is levied on the purchase value of scheduled goods on their entry into a local area for consumption, use or sale therein. If the scheduled goods are obtained otherwise than by way of purchase, the sale value or the value at which such goods are capable of being sold in the open market shall be taken as the purchase value. Thus, scheduled goods received on branch transfer are liable to be taxed on their sale value. In case of audit assessment, penalty equal to twice the tax assessed shall be imposed against the dealer assessed. Health and beauty care products such as soap, tooth paste and tooth brush are exigible to tax at the rate of one *per cent* under the Act.

During test check of the audit assessment records (February 2010) in Cuttack-I Range, we noticed that M/s Anchor Health and Beauty Care Pvt. Ltd., a dealer in health and beauty care products, received scheduled goods valued at ₹ 29.36 crore on branch transfer from outside the State and the same was sold for ₹ 38.21 crore during the tax periods from 9 November 2005 to 30 September 2008. But while finalising the assessment (March 2009) for the above tax periods, the AA instead of assessing tax on the sale value of ₹ 38.21 crore, levied tax on purchase value of ₹ 29.36 crore. This resulted in short determination of purchase turnover by ₹ 8.85 crore and consequential short-levy of tax of ₹ 8.85 lakh, besides non-imposition of penalty of ₹ 17.70 lakh.

After we pointed out these cases, the Government stated (September 2011) that the re-assessment proceeding was completed raising demand of

31 **Mohua pickers:** Village people earning livelihood by selling mohua flowers picked up from the ground beneath the mohua trees.

₹ 7.40 lakh towards tax and ₹ 14.80 lakh towards penalty. The report on details of realisation is yet to be received (January 2012).

2.6.4 Excess allowance of set off

Under the OET Act, 1999 as amended (May 2005) and Rules made thereunder, the manufacturers of scheduled goods, while selling the finished products, shall collect ET on the sale value of goods. The entry tax paid by the manufacturer of scheduled goods on the purchase of raw materials which directly go into the composition of finished products by the manufacturer is permitted to be set off against entry tax payable. Further, where no ET is payable on a part of the sales (due to local sale, inter-State sale, branch transfer etc.), the set off admissible shall be reduced proportionately. Further, each and every return filed by the dealer shall be subject to scrutiny and as a result of scrutiny, if the dealer is found to have made payment of tax less than what is payable, the AA shall serve a notice in the prescribed form upon the dealer directing him to pay the balance tax due and interest thereon by the specified date. The Act also provides for levy of penalty equal to twice the amount of tax assessed on audit assessment.

During test check of the audit assessment records and self-assessed returns of the dealers for different tax periods, we noticed excess set off of ET of ₹ 20.76 lakh against ET payable by the dealers as discussed below.

2.6.4.1 We noticed in Cuttack-I Range (November 2010) and Jatni Circle (July 2009) that during the tax periods between April 2005 and November 2008, two manufacturing dealers sold finished goods valued at ₹ 89.60 crore which included goods valued at ₹ 52.85 crore on which ET was not payable (due to inter-State sale, branch transfer etc.). As such, set off of ET of ₹ 4.97[32] lakh out of the total ET of ₹ 10.14 lakh paid on purchase of raw materials was not admissible in respect of those goods on which ET was not payable at the sale point. However, the AAs while finalising the assessments of the above dealers (December 2008 and January 2010), allowed the entire ET of ₹ 10.14 lakh towards set off against ET payable by the dealers resulting in excess set off of ₹ 4.97 lakh and non-imposition of penalty of ₹ 9.94 lakh as given below.

(Rupees in lakh)

Name of the Circle / Name of manufacturing dealer	Tax periods assessed	Total sales	Sale for which ET not payable	ET paid on purchase of raw materials	Set off of ET admissible	Set off of ET availed	Excess set off availed	Penalty imposable but not imposed
Cuttack-I Range M/s Om Oil and Flour Mills Ltd.	April 2007 to November 2008	8622.78	5223.97	7.39	2.91	7.39	4.48	8.96
Jatni Circle M/s AADI India (P) Ltd.	April 2005 to August 2008	337.34	61.01	2.75	2.26	2.75	0.49	0.98
Total		**8960.12**	**5284.98**	**10.14**	**5.17**	**10.14**	**4.97**	**9.94**

32 Admissible set off has been calculated on the entire period in the absence of tax period wise details.

After we pointed out these cases, the Government stated (September 2011) that the re-assessment proceeding in respect of M/s Aadi India Pvt. Ltd was disposed of raising extra demand of ₹ 1.71 lakh towards tax, penalty and interest and the re-assessment proceeding in respect of the M/s Om Oil and Flour Mills had been initiated in January 2011. Further reply is yet to be received (January 2012).

2.6.4.2 Similarly, on test check of self-assessed returns (between December 2009 and May 2010) of the dealers in three Circles[33], we noticed that although sales turnover of three manufacturing dealers for different tax periods ranging between October 2005 and September 2009 included sale of goods on which ET was not payable (due to inter-State sale, branch transfer etc.), yet they had availed set off of the entire ET paid by them on purchase of raw materials. As the returns were deemed to have been accepted, the excess set off so availed of by the dealers, thus, remained undetected. This resulted in excess availing of set off of ET of ₹ 14.68 lakh by the dealers besides interest and penalty leviable under the Act. The details of excess set off of ET of ₹ 14.68 lakh are given below.

(Rupees in lakh)

Name of the Circle / Name of manufacturing dealer	Tax periods assessed	Total sales	Sale for which ET not payable	ET paid on purchase of raw materials	Set off of ET admissible	Setoff of ET availed	Excess set off availed
Rourkela-I Circle M/s Utkal Steel (P) Ltd.	October 2005 to March 2009	12510.02	4,715.38	37.55	25.19	37.55	12.36
Kalahandi Circle M/s Bansal Tyre (P) Ltd.	October 2005 to June 2008	889.34	617.65	2.22	0.68	2.22	1.54
Balasore Circle M/s Utkal Polywave Industries (P) Ltd.	June 2008 to March 2009 and September 2009	2695.68	1,539.34	1.47	0.69	1.47	0.78
Total		**16095.04**	**6872.37**	**41.24**	**26.56**	**41.24**	**14.68**

After we pointed out the above cases of availing of excess set off by the dealers in the self-assessed returns, while the AA of Rourkela-I Circle stated (February 2010) that the case would be referred for tax audit, the AA of Balasore Circle stated (May 2010) that the case would be referred to Balasore Range as the dealer was then under that Range. The AA of Kalahandi Circle stated (December 2009) that the dealer had filed returns in the prescribed form in which there is no such provision for proportionate reduction of set off of ET. The reply of the AA, Kalahandi Circle was not tenable as allowance of set off of ET on inter-State sales / branch transfer of scheduled goods contravened the provisions of the OET Rules. However, the CCT stated (June 2011) that the case was under examination. The final compliance is yet to be received (January 2012).

33 Balasore Circle in May 2010, Kalahandi Circle in December 2009 and Rourkela-I Circle in February 2010.

We brought the matter to the notice of the CCT (March 2011) and only one reply in respect of Kalahandi Circle has been received as discussed above. We also brought the matter to the notice of the Government (May 2011), their reply is yet to be received (January 2012).

2.6.4.3 In Bolangir Range, we noticed (October 2009) that the AA, during audit assessment (April 2008) of a manufacturing dealer, M/s Shree Bajarangbali Metal Industries for the tax periods from April 2005 to December 2006 allowed set off of ET of ₹ 0.99 lakh against ₹ 1.11 lakh claimed by the dealer. However, while finalising the assessment, the AA erroneously deducted both the amounts as set off against the ET payable. This resulted in excess set off of ₹ 1.11 lakh.

After we pointed out the above lapses, the CCT stated (June 2011) that the case was under examination. The final compliance is yet to be received (January 2012).

We brought the matter to the notice of the Government (May 2011), their reply is yet to be received (January 2012).

2.6.5 Non-imposition of penalty on tax found payable in audit assessment

The OET Act, 1999 as amended (May 2005) and Rules made thereunder as amended from time to time, ET at the prescribed rate is leviable on the purchase value of the scheduled goods on their first entry into a local area for consumption, use or sale therein. Purchase value, as defined under the Act, includes freight, insurance, excise duty and other incidental charges incurred by the dealer. In case of goods brought from outside the State by branch transfer, the sale value of such goods shall be taken as the purchase value for the purpose of levy of entry tax. Besides, penalty equal to twice the amount of tax assessed in audit assessment of any dealer is also imposable. The OET Rules, 1999 as amended in 2005 further provides that for any other matter not specified thereunder but required for carrying out the purposes of the Act and the Rules, the provisions under the OVAT Act, 2004 and Rules made thereunder shall, *mutatis mutandis,* be applicable. Under the OVAT Act, if any dealer after furnishing a return discovers that a higher amount of tax was due than the amount of tax admitted by him in original return, he may voluntarily disclose the same by filing a revised return and pay the higher amount of tax. However, no such voluntary disclosure shall be made after receipt of the notice for tax audit or as a result of such audit.

2.6.5.1 During test check of audit assessment records (between April 2010 and November 2010) in one Circle[34] and four Ranges[35] for different tax periods between April 2005 and March 2009, we noticed that in five cases, penalty of ₹ 1.45 crore was leviable on the tax of ₹ 72.43 lakh assessed (between January 2008 to March 2010) against five dealers, but the concerned AAs did not

34 Kantabanji.
35 Cuttack-I, Ganjam, Jajpur and Sambalpur.

impose penalty required to be levied under sub-Section 5 of the Section 9C of the OET Act.

After we pointed out these deficiencies , the Government stated (September 2011) that only in case of M/s Aristo Pharmaceuticals Pvt. Ltd of Cuttack-I Range, the re-assessment proceeding had been completed with raising of extra demand of ₹ 2.89 lakh. The replies in respect of remaining cases of other Ranges / Circles are yet to be received (January 2012).

2.6.5.2 During test check of assessment records (between June and September 2010) of Sambalpur Range and Bolangir Circle, we noticed that three dealers had not paid the full amount of tax due along with the returns and the fact of non-payment was pointed out by the tax audit. The concerned dealers deposited the differential tax after the tax audit; but before the assessment. During assessment, the AAs, instead of adjusting the tax paid up to the date of receipt of notice of tax audit, irregularly adjusted the entire amount of tax of ₹ 2.08 lakh paid after the tax audit in contravention of the provision of the Act. As a result, the tax due at the time of assessment was reduced to that extent. This resulted in non-imposition of penalty of ₹ 4.15 lakh on the defaulting dealers.

After we pointed out the above cases, the AA of Sambalpur Range stated (June 2010) that the case would be reopened, while the AA of Bolangir Circle issued notice (September 2010) to the dealers for reassessment.

We reported the matter to the CCT (March 2011) and the Government (May 2011); their replies are yet to be received (January 2012).

CHAPTER-III : MOTOR VEHICLES TAX

EXECUTIVE SUMMARY

Marginal increase in tax collection	In 2010-11 the collection of taxes from motor vehicles increased by 12.58 *per cent* as compared to the Budget Estimate for the year and by 19.04 *per cent* over the previous year which was attributed by the Department to increase in registration of vehicles, increase in the enforcement activities, amendment of the Orissa Motor Vehicles Taxation (OMVT) Act, 1975 and arrear collection.
Internal audit not conducted	Audit of the units under the Transport Department has not been conducted for the past few years due to shortage of staff in the Internal Audit Wing. This resultantly had its impact in terms of the weak internal control in the Department leading to substantial leakage of revenue. It also led to the omissions on the part of the Regional Transport Officers remaining undetected till we conducted our audit.
Very low recovery by the Department against the observations pointed out by us in earlier years	During the period 2005-06 to 2009-10 we had pointed out non / short levy, non / short realisation of tax, fee etc., with revenue implication of ₹ 325.21 crore in 8,89,878 cases. Of these, the Department / Government accepted audit observations in 99,199 cases involving ₹ 161.02 crore but recovered only ₹ 8.18 crore in 5,701 cases. The average recovery position being, 5.08 *per cent,* as compared to acceptance of objections was very low and it ranged between 1.31 *per cent* and 7.48 *per cent*.
Results of audit conducted by us in 2010-11 and 2011-12	In 2011-12 we conducted a Performance Audit on "Computerisation in the Motor Vehicles Department and found loss/non-realisation of revenue of ₹ 2.66 crore .In 2010-11 we test checked the records of 27 units relating to taxes on motor vehicles and found non / short realisation / levy of tax, fees, penalty etc., involving ₹ 71.77 crore in 1,71,253 cases. The Department accepted non / short realisation / levy of tax and other deficiencies of ₹ 35.45 crore in 25,772 cases, of which 2,342 cases involving ₹ 7.97 crore were pointed out by us during the year 2010-11 and 2011-12 and the rest in earlier years. An amount of ₹ 0.65 crore was recovered in 537 cases during the year 2010-11 which included ₹ 0.16 crore in 98 cases for the year 2010-11.
What we have highlighted in this Chapter	In this Chapter we present the findings of the Performance Audit on "Computerisation in the Motor Vehicles Department involving loss/non-realisation of revenue of ₹ 2.66 crore and illustrative cases of

	₹ 69.62 crore selected from the observations noticed during our test check of records relating to assessment and collection of motor vehicles tax in the office of the Transport Commissioner-cum-Chairman, State Transport Authority and the Regional Transport Officers (RTOs), where we found that the provisions of the Acts / Rules were not adequately adhered to. It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Reports of the CAG for the past several years, but the Department has not taken adequate corrective action despite switching over to an IT-enabled system in all the RTOs. We are also concerned that though these omissions were apparent from the records which were made available to us, the RTOs were unable to detect these mistakes.
Our conclusion	In the Performance Audit we brought out several deficiencies in implementation of the project which warranted establishment of connectivity between all the RTOs of the State with the STA through centralised online data management system, identification of gaps in the mapping process and incorporation of the same in to the system, putting in proper input and validation controls for authentication of the data and defining of appropriate supervisory control over the jobs entrusted to the concessionaire. The Department needs to improve the internal control system including strengthening of internal audit so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future. It also needs to initiate immediate action to recover the non-realisation, undercharge of tax, fees etc. pointed out by us, more so in those cases where it has accepted our contentions.

3.1.1 Tax administration

Levy and collection of taxes on motor vehicles is regulated under the Motor Vehicles (MV) Act, 1988 and the Orissa Motor Vehicles Taxation (OMVT) Act, 1975 and Rules made thereunder. The Transport Commissioner (TC)-cum Chairman, State Transport Authority (STA), Odisha under the administrative control of Commerce and Transport (Transport) Department, Odisha is functioning as one of the Heads of Department in the State and administers the above Act and Rules. He is assisted by the Additional Commissioner Transport (Administration), Secretary, Joint Commissioner Transport (Technical), Deputy Commissioner Transport (Tax), Accounts Officer, Assistant Transport Commissioner (Enforcement), Under Secretary, two Assistant Secretaries, two Assistant Directors(Traffic Survey), one Statistical Officer and one Law Officer. In the field level a Principal of the Driving Training School, three Zonal Deputy Commissioners (Transport) and

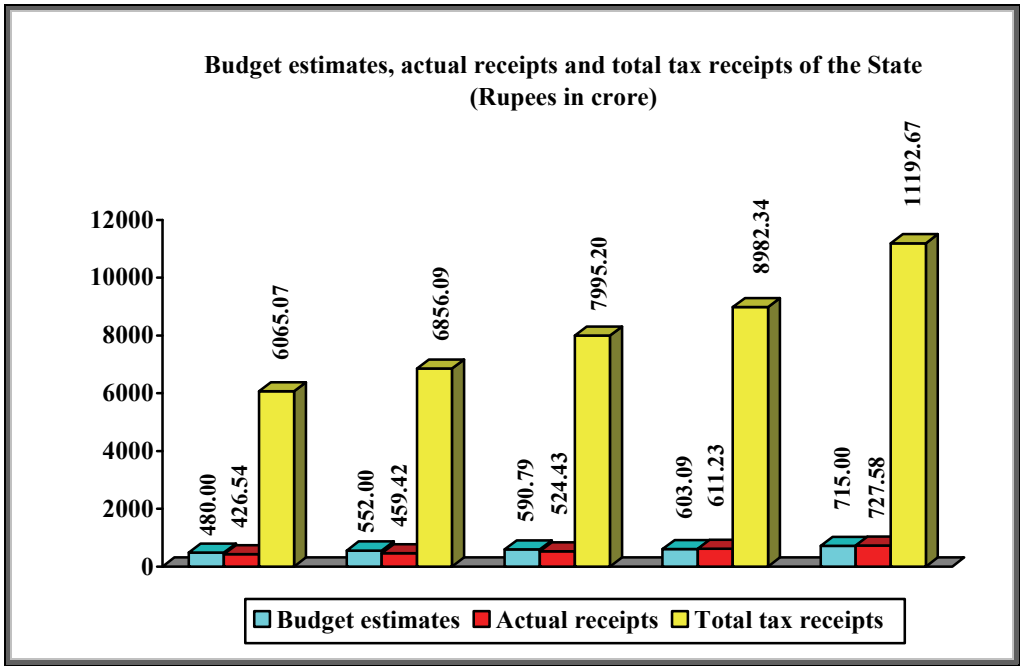
31 Regional Transport Officers (RTOs) work. The RTOs are the assessing authorities as well as the tax recovery officers.

3.1.2 Trend of receipts

Actual receipts from taxes on motor vehicles during the years 2006-07 to 2010-11 along with the total tax receipts during the same period is exhibited in the following table and graph.

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2006-07	480.00	426.54	(-) 53.46	(-) 11.13	6,065.07	7.03
2007-08	552.00	459.42	(-) 92.58	(-) 16.77	6,856.09	6.70
2008-09	590.79	524.43	(-) 66.36	(-) 11.23	7,995.20	6.56
2009-10	603.09	611.23	(+) 8.14	(+) 1.35	8,982.34	6.80
2010-11	715.00	727.58	(+) 12.58	(+) 1.76	11,192.67	6.50



The reasons for wide fluctuations in budget estimates and actuals during 2006-07 to 2007-08 were attributed to less registration of vehicles as compared to the previous year and a campaign against overloading of vehicles whereas for the year 2008-09 it was attributed to a downward trend in registration of new commercial vehicles as compared to the previous year. Increase of revenue during 2010-11 is due to increase in registration of vehicles, increase in the enforcement activities, amendment of OMVT Act and arrear collection.

3.1.3 Cost of collection

The gross collection under taxes on motor vehicles, expenditure incurred for their collection and the percentage of such expenditure to gross collection during the years 2008-09, 2009-10 and 2010-11 along with the all India

average percentage of expenditure for collection to gross collection in the respective previous years are mentioned below.

(Rupees in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the previous year
2008-09	524.43	32.59	6.21	2.58
2009-10	611.23	27.78	4.54	2.93
2010-11	727.58	30.73	4.22	3.07

The percentages of the cost of collection were higher than the all India average percentages. **Thus, there is considerable scope for the Government to improve the collection or reduce the cost so as to adhere to the all India average cost of collection.**

3.1.4 Working of internal audit wing

The Department informed us that although the internal audit wing (IAW) of the Department exists, the audit has not been conducted since last couple of years due to shortage of staff. **The Government may take suitable steps to strengthen the IAW so as to ensure effective implementation of the Acts / Rules for prompt and correct realisation of revenues as well as clear the arrears in audit.**

3.1.5 Impact of audit

Revenue impact

During the last five years (2005-06 to 2009-10) we pointed out non / short levy, non / short realisation of tax, fee etc., with revenue implication of ₹ 325.21 crore in 8,89,878 cases. Of these, the Department / Government accepted audit observations in 99,199 cases involving ₹ 161.02 crore and recovered ₹ 8.18 crore in 5,701 cases. The details are shown in the following table.

(Rupees in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2005-06	27	2,02,391	50.89	18,990	24.86	2,041	1.86	7.48
2006-07	27	1,76,591	59.46	16,217	24.43	1,279	1.15	4.71
2007-08	27	1,62,866	64.70	18,943	21.33	239	0.28	1.31
2008-09	27	1,77,339	75.24	39,904	79.35	1,899	4.61	5.81
2009-10	27	1,70,691	74.92	5,145	11.05	243	0.28	2.53
Total	**135**	**8,89,878**	**325.21**	**99,199**	**161.02**	**5,701**	**8.18**	**5.08**

During the period 2005-06 to 2009-10 the recovery position as compared to acceptance of objections was very low ranging from 1.31 *per cent* to 7.48 *per cent.* **The Government may take appropriate steps to improve the recovery position.**

3.1.6 Results of audit

During the year 2011-12 we conducted a Performance Audit on "Computerisation in the Motor Vehicles Department" and during the year 2010-11 we test checked the records of 27 units relating to taxes on motor vehicles and found non / short realisation / levy of tax, fees, penalty etc. involving ₹ 74.43 crore in 1,71,254 cases which fall under the following categories.

(Rupees in crore)

Sl. No	Categories	No. of cases	Amount
1	**Computerisation in Motor Vehicle Departments (A Performance Audit)**	1	2.66
2.	non-levy / realisation of motor vehicles tax / additional tax and penalty	32,582	69.51
3.	Non / short realisation of compounding fees and process fees etc.	1,37,712	1.38
4	Non / short realisation of composite tax and penalty	434	0.22
5	Short levy / realisation of motor vehicles tax / additional tax and penalty	114	0.25
6	Non / short levy of penalty on belated payment of tax	88	0.21
7	Non / short realisation of trade certificate tax / fees	35	0.01
8.	Other irregularities	288	0.19
Total		**1,71,254**	**74.43**

During the Exit Conference held in January 2012 the Department accepted loss/ non- realisation of revenue of ₹ 0.74 crore against our observation of ₹ 2.66 crore in the Performance Audit. During the year the Department accepted non / short realisation / levy of tax and other deficiencies of ₹ 34.71 crore in 25,771 cases, of which 2,341 cases involving ₹ 7.23 crore were pointed out in audit during the year 2010-11 and the rest in earlier years. An amount of ₹ 0.65 crore was recovered in 537 cases during the year 2010-11 which included ₹ 0.16 crore in 98 cases for the year 2010-11.

A Performance Audit on "**Computerisation in Motor Vehicles Department"** involving financial effect of ₹ 2.66 crore and a few illustrative cases involving ₹ 69.62 crore are mentioned in the following paragraphs.

3.2 A Performance Audit on Computerisation in the Motor Vehicles Department

Highlights

- Except for module of permit and temporary registration under 'Vahan' and enforcement module under 'Sarathi' all the modules of 'Vahan' and 'Sarathi' were implemented in all the 31 RTOs.

(Paragraph 3.2.8.1)

- Maintenance of real time records on centralised online data management system was not done. Besides, there was non-customisation of permit module under Vahan software.

(Paragraph 3.2.8.1 and 3.2.8.2)

- Fine of ₹ 71.05 lakh for delay in issue of smart card based registration certificates/driving licenses by the concessionaire was not imposed.

(Paragraph 3.2.8.4)

- Short engagement of IT personnel resulted in undue benefit of ₹ 34 lakh to the concessionaire.

(Paragraph 3.2.8.5)

- Service charges of ₹ 1.01 crore was irregularly collected by the concessionaire towards issue of paper-based learner licenses.

(Paragraph 3.2.8.6)

- There were deficiencies in mapping of business process rules and delays in mapping of business process rules.

(Paragraph 3.2.8.7)

- There was inadequacy in validation controls which resulted in issue of multiple driving licenses to a person and transport licenses to persons without requisite qualifications.

(Paragraph 3.2.8.9)

- There was non-continuity of registration numbers and irregularities in assignment/allotment of registration numbers.

(Paragraph 3.2.8.11 and 3.2.8.15)

- There was inadequacy in input controls which resulted in duplication of 422 engine numbers and 74 chassis numbers in the system.

(Paragraph 3.2.8.12)

- 13,370 driving licenses and 22,411 registration certificates were issued in smart card without activation of the card chips.

(Paragraph 3.2.8.16)

- There was duplication of data in Regional Transport Offices' databases due to lack of connectivity and no objection certificate/tax clearance certificate procedure.

(Paragraph 3.2.8.17)

3.2.1 Introduction

The Government of India (GoI), Ministry of Road Transport and Highways (MoRTH) had taken up a scheme for creation of a "National Database Network" by introduction of Information Technology (IT) in the Road Transport Sector. The scheme, implemented through the National Informatics Centre (NIC), was to be operated in such a way that the data from all the Regional Transport Offices (RTOs) in the State were to flow into the "State Register" which in turn was to be captured at the National level. Two softwares viz. 'Vahan' for registration of the vehicles and 'Sarathi' for issue of licenses to the drivers of the vehicles were designed by the NIC for this purpose. Against the above backdrop, a project for issue of Smart Card Based Driving Licenses (SCBDL) and Smart Card[1] Based Registration Certificates (SCBRC) through the above mentioned softwares was implemented (March 2007) by the Government of Odisha in accordance with the guidelines issued by the MoRTH (August 2004) which was a part of the operationalisation of the e-Governance measures. It aimed at imparting better services to the users, improving efficiency of operations through outsourcing of various activities, better compliance and enforcement of the Motor Vehicle (MV) Act and Rules made thereunder through computerisation. Besides, the National Permit Scheme (NPS) in electronic mode was introduced by the Department in September 2010 as per the directives (August 2010) of the MoRTH.

3.2.2 Organisational setup

The Transport Commissioner (TC)-cum Chairman, State Transport Authority (STA), Odisha under the administrative control of the Commerce & Transport Department, Odisha is the Head of the Department in the State and administers the MV Act and Rules. He is assisted by the Additional Commissioner, Transport (Administration), Secretary, Joint Commissioner, Transport (Technical), Deputy Commissioner, Transport (Tax), Accounts Officer, Assistant Transport Commissioner (Enforcement), Under Secretary, two Assistant Secretaries, two Assistant Directors (Traffic Survey), one Statistical Officer and a Law Officer. At the field level there is a Principal, Driving Training School, three Zonal Deputy Commissioners Transport and 31 RTOs[2]. The Joint Commissioner of Transport (Technical) is in charge of the IT-related activities of the Department.

3.2.3 Features of the application software and system overview

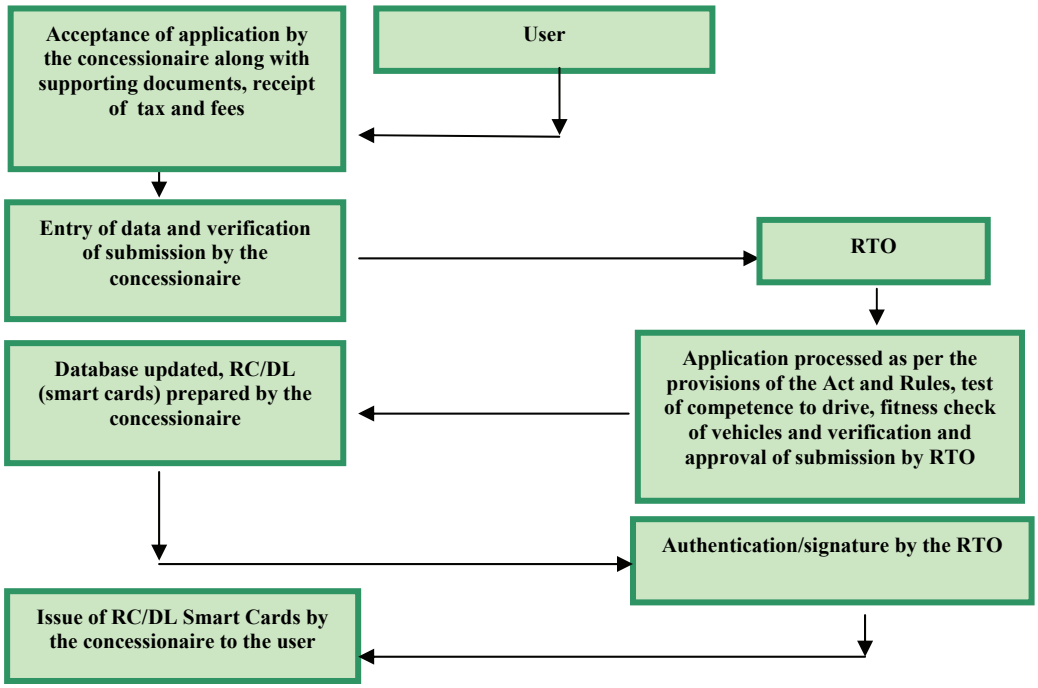
The 'Vahan' application software was developed on Windows Operating System (WOS) using 'Java' for the front-end application programme and 'Oracle 10g' for the backend database whereas the 'Sarathi application software was developed on the same WOS using 'Visual Basic' for the front-end application programme and 'Oracle 10g' for the backend database. The

1 A device capable of storing data and executing commands which is a micro-processor chip mounted on a plastic card and the dimensions of the card and chip is as specified and amended from time to time for DL and RC applications.

2 Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Boudh, Chandikhol, Cuttack, Deogarh, Dhenkanal, Gajapati, Ganjam, Jagatsingpur, Jharsuguda, Kalahandi, Kendrapara, Keonjhar, Koraput, Malkangiri, Mayurbhanj, Nawarangpur, Nayagarh, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur, Sonepur and Sundargarh.

project for issuance of SCBDL/SCBRC as a tool for e-Governance in the Department was awarded to a concessionaire, M/s Smart Chips Ltd. (SCL), New Delhi on 29 July 2006, on Build-Own-Operate-Transfer (BOOT) basis by an agreement for 15 years. The commercial operation of the project, however, started by 26 March 2007 in all the RTOs.

The overview of the system and the processes involved in the project are summarised below in a flowchart.



3.2.4 Scope of the review

A review on "IT Audit of 'Vahan' in the Transport Department was featured in Para 3.2 of the Report of the CAG (Revenue Receipts) for the year ended 31 March 2009. The scope of the present performance audit includes the audit of the implementation of the Vahan and Sarathi scheme/project, examination of the controls for registration of vehicles, collection of taxes and fees etc. in "Vahan", issue of Learners License (LL), Driving License (DL) through "Sarathi" against collection of prescribed fees and issue of "National Permit" in electronic form against collection of requisite fees at the STA and covered the period from their dates of implementation up to March 2011. We also examined the performance of the concessionaire in the post computerisation regime of the Department. Apart from the STA, eight[3] RTOs were selected on the basis of stratified random sampling method based on the revenue collection figure during the period 2006-07 to 2010-11 along with one[4] more RTO at the request of the Principal Secretary of the Department in the entry conference held in June 2011.

3 Balasore, Bargarh, Bhadrak, Cuttack, Dhenkanal, Ganjam, Nuapada and Rayagada.
4 Chandikhol.

3.2.5 Audit criteria

The provisions of the following Acts and Rules were used as the audit criteria for conducting the performance audit.

- The MV Act, 1988
- The Central Motor Vehicles (CMV) Rules, 1989
- The Orissa Motor Vehicles Taxation (OMVT) Act, 1975
- The Orissa Motor Vehicles (OMV) Rules, 1993
- The concession agreement dated 29 July 2006 made between the Government of Orissa and M/s Smart Chip Limited (SCL), New Delhi.
- Executive instructions issued from time to time by the Department.

3.2.6 Acknowledgement

We acknowledge the co-operation of the Department in providing necessary information for this review. An entry conference was held in June 2011 and the performance audit was taken up between June and August 2011. Our observations were communicated to the Department in August 2011 and their views received in September/October 2011 have been suitably incorporated in the performance audit. An exit conference was held on 10 January 2012 where the findings of the performance audit were discussed. The views of the Department and our observations thereon were incorporated in the performance audit at appropriate places.

3.2.7 Audit objectives

The objectives of the performance audit were to assess whether:

- the modules of the computerised systems implemented were complete and the data captured by the RTOs were correct and complete;
- connectivity was established between the RTOs of the State for creation of the State Register of vehicles and licenses and the National Register and Central servers were put in place for achievement of the above stated objectives;
- necessary input and validation controls are in place;
- the computerised National Permit Scheme was implemented as planned for and the objectives of the project were achieved; and
- the overall objective of computerisation through the NIC-developed 'Vahan' and 'Sarathi' softwares were achieved.

3.2.8 Audit findings

3.2.8.1 Implementation of the project

As per the scope of the project for implementation of SCBRC/SCBDL specified in the agreement, GRAMSAT connectivity was to be made available by the Department to the concessionaire and the concessionaire had to establish connectivity between the RTOs and the STA at his own cost and maintain real time records. Moreover, as per the BOOT-based agreement, the entire hardware and other IT assets would be transferred to the Department after 15 years.

During scrutiny of the records on the execution of the project for SCBDL and SCBRC we noticed (August 2011) that the GoI had made it mandatory in May 2002 for the introduction of the above project for e-Governance in the Transport Departments of the States. Accordingly, the Government decided in June 2002 to implement the same during 2002-03 by computerisation of the system. The date on which the above two softwares were received by the Department and installed by the NIC were, however, not on record. We saw that all the modules of 'Vahan' and 'Sarathi' were implemented in all the RTOs and ARTOs of the State except permit and temporary registration module under 'Vahan' and Enforcement module under 'Sarathi'. It was also seen that all the legacy data pertaining to vehicle registration for the period from March 1993 onwards has been imported. The process of computerisation of the SCBRC/SCBDL through the softwares Vahan/Sarathi was outsourced (July 2006) to a firm, M/s SCL, New Delhi under a concession agreement for 15 years. On scrutiny of the records the following deficiencies were noticed from the signed agreement.

- Though the creation of a central database at STA and connectivity between the RTOs was envisaged in the agreement to be established within 135 days from the contract date i.e. 29 July 2006, the concessionaire did not create connectivity through GRAMSAT as the bandwidth of GRAMSAT was not made available by the Department.
- The NIC had, in the meanwhile, provided 2 MBPS high speed leased line connectivity by July/August 2010 connecting 34 RTOs/ARTOs with the NIC-district centre free of cost as part of the national policy of the GoI, MoRTH on computerisation in the Transport sector. However the interconnectivity among the RTOs of the State and with STA was not done.
- We further observed that for connectivity in the STA for real time online data between 34 RTOs/ARTOs and the STA, 35 VSAT[5] leased lines with 256 KBPS speed were obtained by the STA from BSNL in June 2010 against payment of ₹ 20.42 lakh towards lease and other charges and were installed at the respective sites by October 2010 for a minimum period of three years with payment of annual lease charges. Our scrutiny revealed that the VSAT lines installed by October 2010,

5 Very small aperture terminal.

were left unused and were not functioning as of August 2011. Thus the very objective of creation of a central database containing the data of all RTOs at the STA was not achieved even after spending ₹ 20.42 lakh.

After we pointed this out, the Department, in the exit conference, stated that (January 2012) the (central database) State Register existed at the NIC, Bhubaneswar by connecting all RTOs with the NIC State Centre through NIC lease line. Besides, the central database is consolidated by the concessionaire at Bhubaneswar by consolidating incremental data on semi real time basis. The Department also stated (September 2011) that to keep a standby connectivity, it opted for the VSAT lease lines which was always desirable in addition to the connectivity of 2 mbps speed extended by the NIC free of cost

However, the fact remains that the creation of central database and connectivity of all RTOs with the STA, Cuttack by maintaining real time records on centralised on line data management services as per the agreement has not been achieved so far.

3.2.8.2 Partial utilisation of the processing capability of "Vahan" and "Sarathi" softwares

The 'Vahan' and 'Sarathi' softwares developed by the NIC was to capture the information related to registration of the vehicles, identity of its owner and technical details of the vehicles and information on LLs and DLs or for an automated Management Information System (MIS). The system also manages the information related to tax, fitness, enforcement/vehicle check report (VCR), permit, approval, administration and report etc.

We noticed that the following modules were yet to be made operational:

- the permit and temporary registration modules in 'Vahan'
- the enforcement module of 'Sarathi' for capturing offences, suspensions and cancellations of DLs etc.

Thus the Department is yet to utilise the above modules even after nearly four years of the commercial operation.

After we pointed this out (August 2011), the Department stated that except for Enforcement Module in Sarathi the other modules needed customisation and these would be implemented in phases. The enforcement module of 'Sarathi' was being customised and was under implementation in some of the RTOs. Other RTOs would implement the module on successful implementation at the pilot sites.

3.2.8.3 Deficiencies in the contract agreement made with SCL

According to the agreement the concessionaire shall realise the service charges in case of cancellation of hire purchase, hypothecation and any other change of information in the visible inspection zone.

Preparation of a new smart card in the event of cancellation of hypothecation was envisaged in the agreement. As there is no change in the visible

inspection zone in case of cancellation of hypothecation, the issue of new smart card was not necessary. However, service charges of ₹ 190 for issue of the new smart card in the event of cancellation of the hypothecation was being charged by all the RTOs from the card holders. The cancellation could be updated in the chip and database only against collection of fees instead of issuing fresh smart cards for ₹ 190. Thus due to the defective agreement the card holders had to pay higher amount towards service charges.

After we pointed out the above lapses, the Department stated (September 2011), that steps were being taken to rectify the shortcomings.

3.2.8.4 Delay in issue of SCBDL/SCBRC, non-adherence to the performance standards and non-imposition of late fine

As per the agreement, the concessionaire was to issue SCBDL within one day from the date of passing the test of competence to drive a vehicle and the SCBRC within one day of passing the fitness test of the vehicle, failing which the Department had to impose late fines of ₹ 5.57 and ₹ 16.70 being 10 *per cent* of the service charges of ₹ 55.67 for the DL and ₹ 167.01 for the RC respectively collected by the concessionaire (SCL) from every user in lieu of the service provided.

We mentioned about the above subject in Para 3.2.9 of the Report of the CAG (Revenue Receipts) for the year ended 31 March 2009.

From an analysis of the database and scrutiny of the records in nine[6] RTO offices we noticed that the maximum delays in issue of SCBDLs ranged from 93 to 622 days whereas such delays in issue of (i) SCBRC (transport) ranged from 117 to 1,161 days and (ii) SCBRC (non-transport) ranged from 238 to 1,430 days as summarised in the following table, which warranted imposition of fine of ₹ 71.05 lakh against the concessionaire.

Category	Number of DL/RC	Period of delay (in days)	Late fine to be imposed (₹ in lakh)
DL	3,80,648	93 to 622	21.19
RC (transport)	36,954	117 to 1161	6.17[7]
RC (non-transport)	2,61,628	238 to 1430	43.69[7]
Total	**6,79,230**	**93 to 1430**	**71.05**

The delay in delivery of services to the users and absence of monitoring mechanism on the part of the Department resulted in non-delivery of timely services by the concessionaire.

Further, in terms of the agreement, the concessionaire was to furnish a monthly report indicating the delay in issue of DL/RC and penalty leviable for such delays. However, neither did the concessionaire furnish report for delay in delivery of services nor did the Department call for such reports during the period covered in the performance audit. Further, no late fine was imposed as of August 2011.

6 Balasore, Bargarh, Bhadrak, Cuttack, Dhenkanal, Ganjam, Nuapada, Rayagada and Chandikhol.

7 Includes only amount related to the period from April 2008 onwards which was not covered under the Review on "IT Audit on VAHAN" featured on the C&AG's Audit Report (Revenue Receipts) for the year ended March 2009.

After we pointed this out, the Department stated (September 2011) that the concessionaire was being instructed from time to time to adhere to the performance standards of the project. The reply is, however, silent on the issue of invoking of late fine. In the exit conference, the Department contended (January 2012) that the delay might occur for cases of DL where test and approvals were made; but the applicants did not turn up for photographs (biometric). The fact however, remains that the delays were worked out where the date of activation of smartcard as against the push date to the concessionaire exceeded one day. Besides, this being an e-Governance project, prompt delivery of services was envisaged. The delay irrespective of its reasons resulted in deficient citizen services.

3.2.8.5 Short engagement of IT personnel

In terms of the agreement, the Department should engage IT personnel trained by the NIC who would be responsible for the database and the system administration at different RTOs and also at the STA. The concessionaire was to pay the monthly wages of such personnel through the Department.

In para 3.2.8.3 of the Report of the CAG (Revenue Receipts) for the year ended 31 March 2009, we observed that undue benefit of ₹ 30 lakh was allowed to the concessionaire towards savings on account of the wages of 12 Assistant Programmers (APs) not posted and engaged in different RTOs for the period from July 2007 to July 2009. We further noticed that although the system was in operation in 34 locations[8] (31 RTOs and three ARTOs) in addition to the STA, requiring 35 APs to look after the database and system administration, only 18 APs were posted and engaged in different RTOs from July 2007 onwards and 16 RTOs along with the STA were not provided with any programmers during the period August 2009 to March 2011. This also resulted in saving of ₹ 34 lakh to the concessionaire's account at the rate of ₹ 10,000 per programmer per month for the above period which constitutes an undue benefit extended by the Department.

After we pointed this out, the Department stated (September 2011) that due to non-availability of qualified IT personnel, there was short engagement and steps were being taken to engage IT personnel in all 34 offices.

8 Five more RTOs i.e. Boudh, Deogarh, Kendrapara, Malkangiri and Sonepur were created on 27 May 2009.

3.2.8.6 Irregular collection of service charges by the concessionaire

As per the agreement, the service charge was ₹ 20 for issue of each paper-based LL on security paper of the Government carrying appropriate hologram to prevent fraud and issuance of counterfeit documents. The concessionaire should procure and supply such paper on the basis of annual requirement at its own cost.

We pointed out the irregular collection of service charges by the concessionaire in Para 3.2.10 of the Report of the CAG (Revenue Receipts) for the year ended 31 March 2009.

From an analysis of the database of nine RTOs, we noticed that the concessionaire collected service charges from the users at the rate of ₹ 20 for issue of each LL on plain paper instead of security paper with hologram for the period 26 March 2007 to 31 March 2011. However, 5,02,617 LLs were issued on plain paper against irregular collection of service charges of ₹ 1.01 crore by the concessionaire instead of issuing of the same on security paper with holograms.

After we pointed this out the Department stated (January 2012) that as per the terms of the agreement, the concessionaire is collecting the service charges. The reply is not tenable since the LLs are not being issued on security paper of the Government carrying appropriate hologram.

3.2.8.7 Deficiencies in mapping of business process rules

3.2.8.7.1 Non-mapping of business process rules for omnibus

Under the MV Act, 1988 as amended on 5 November 2004, omnibus i.e. motor vehicles having seating capacity of more than six excluding the driver's seat comes under the transport category and is brought under the purview of fitness regime. Thus fitness fee is to be collected from all omnibuses as per the above Act in addition to the tax collected under the OMVT Act/Rules.

From an analysis of the database of nine RTOs, we noticed that 1,961 vehicles, whose seating capacity was more than seven, were registered under the "non-transport category" instead of "transport category" and hence, fitness/testing fees of ₹ 5.88 lakh at the rate of ₹ 300 per vehicle were not realised at the appropriate rate in the computerised regime i.e., during March 2007 up to May 2011. This was due to non-mapping of the business process rules in the system for collection of fitness fee as per the provisions of the amended Act.

After we pointed this out, the Department stated (September 2011) that the NIC was being intimated to incorporate the amended provisions in the application system to avoid such losses in future.

3.2.8.7.2 Non-mapping of business process in case of private service vehicles

Under the MV Act, 1988, as amended on 14 May 2010 motor cars and motor cabs having seating capacity of seven or less including the driver's seat are coming under the One Time Tax (OTT) category and motor vehicles having seating capacity of more than seven and used in their trade and business were categorised as private service vehicles (PSVs). These PSVs are to be taxed at the rate ₹ 800 per seat with effect from 14 May 2010 while OTT categories of vehicles are to be taxed at the rate of five *per cent* of the cost of such vehicles or ten times of annual tax whichever is higher.

From an analysis of the database of the RTO, Cuttack, we noticed that two vehicles having seating capacity of seven were registered under PSV category instead of being registered under a category liable to be taxed against payment of OTT during the period 4 June 2010 to 11 October 2010. This resulted in short realisation of ₹ 47,577 towards tax at the time of registration indicating that the registration of PSV category was not mapped in the application system correctly.

After we pointed this out, the Department stated (September 2011) that NIC was intimated to incorporate the provision in the application system.

3.2.8.7.3 Non-mapping for registration for cranes/hydra etc.

The tax rate for a separate category of vehicle with unladen weight (ULW) of more than 6000 Kg. attracting higher tax rate was newly introduced by the Government from 14 May 2010 in addition to the existing tax rates of different slabs up to ULW of 6000 Kg.

We observed that 39 such vehicles like Crane, Hydra etc. whose ULW was more than 6000 Kg., were registered during the period 30 June 2010 to 15 April 2011 against payment of tax of ₹ 2.62 lakh at the rates applicable to goods carriages although the correct tax liability stood at ₹ 3.13 lakh at the revised rate. This was due to non-mapping of the categorisation of the vehicles in the system which led to short realisation of tax of ₹ 0.51 lakh.

After we pointed this out, the Department stated (September 2011) that NIC was intimated to incorporate the provision in the application system.

3.2.8.7.4 Delayed mapping in case of One Time Tax (OTT) for certain categories of Goods carriages

Under the OMVT Act 1975 as amended on 14 May 2010, the gross vehicle weight (GVW) of goods carriages not exceeding 3000 Kgs was brought under a separate category for taxation under the OTT payment mode in lieu of the earlier taxation slabs up to that weight.

We observed that taxes were collected at the earlier slab rates in respect of 51 such vehicles for the period from 15 May 2010 to 26 May 2010 due to delay in mapping the business rules in the system as per the amended provisions. This

resulted in short realisation of tax of ₹ 9.78 lakh. The change of tax rate was customised in the system from June 2010.

3.2.8.8 Incorrect data migration to computerised system (Vahan) and improper validation of legacy data

As per the OMVT Act 1975, tax was to be levied based on the parameters like sale or purchase amount and the Unladen Weight (ULW) for private motor cars, motor cycles etc., seating/standing capacity in the case of passenger vehicles like stage carriages, contract carriages etc. and laden weight in the case of goods vehicles.

From the test check of selected samples of General Registration (GR) register in the legacy or backlog data with that of Vahan database and MIS portal in respect of the selected nine RTOs, we noticed the following discrepancies.

- Particulars of the General Registration like standing capacity in respect of 75 stage carriages were not entered correctly into the computerised database,
- Particulars of the GRs relating to 80 passenger vehicles, 45 goods vehicles and 50 contract carriages were not at all entered into the Vahan database. Further, the payment of tax in respect of these vehicles was neither available in the respective Vahan database nor in the MIS portal thereof even though NOCs/TCCs were not issued. Thus, there was non-transfer of the legacy data from the GR to the system.
- Particulars of the GRs relating to 46 private motorcycles were not entered in the Vahan database of the respective RTOs[9].
- In case of 137 vehicles of various categories, incorrect data was entered in the system.

Thus non-entry/incorrect entry of legacy or backlog data in the computerised system could result in evasion of tax in the event of improper monitoring.

After we pointed this out, the Department stated (September 2011) that the cases related to only backlog data entry cases and it could not happen in new cases. Our observation, though relates to backlog data, shows the errors in data entry.

3.2.8.9 Input/validation control (Sarathi)

Input and validation controls are necessary in any system to capture data in all the mandatory and prescribed fields. In the event of non-entry of data, the system should restrict further steps in completion of entries and not permit the user to proceed further. The system should reject/restrict entries in contravention to the prescribed validation given while programming each field. By this process the accuracy and completeness of database can be ensured.

9 Ganjam, Nuapada and Rayagada.

3.2.8.9.1 Incomplete database

Under the CMV Rules 1989, application in prescribed form for issue of DL, *inter alia*, includes identification marks, blood group and qualification of the applicants.

From an analysis of the DL database of nine RTOs, we noticed that the data capture was incomplete or incorrect in several fields. For example, Identification Marks 1 and 2 were left blank in 4,82,040 cases and blood group 'U' indicating 'unspecified' was entered in 8,295 cases. Thus the database were incomplete without any entry particulars of the Identification (ID) marks and blood groups of the applicants which would be of no use to different departments of the Government as well as the users in future.

3.2.8.9.2 Data validation

The CMV Rules, 1989 as amended on 10 April 2007 provides the minimum qualification of an applicant for issue of a DL for transport category of vehicles to be a pass in the eighth standard with effect from that date.

From an analysis of the database, we noticed that 950 DLs of 'transport category' were issued after 10 April 2007 to applicants having qualification "Below seventh" standard. Besides, 20,632 transport licenses were issued without insisting on the requisite qualification i.e. passing eighth standard as revealed from the field showing such data as "Not specified". Thus proper validation control was not built in the system to ensure the requisite qualification of the applicants for issue of DLs. We further observed that the qualification master was also not in conformity with the provisions of the above Rules as it contained codes for qualifications like "Not specified", "Below seventh" and "Seventh pass" which needs a rectification.

After we pointed this out, the Department stated (September 2011) that NIC would take steps to make the blood group and qualification field of DLs relating to the transport category mandatory. As regards ID marks the Department contended that in the cases pointed out by us the data were not found or readable in the backlog cases. The contention was not correct as all the 4,82,040 cases related to the post computerisation regime with no backlog cases.

3.2.8.9.3 Existence of multiple driving licenses

DL issued to a person should have a unique number as issue of more than one DL to a person is restricted under the MV Act, 1988. However, addition of different classes of vehicles is permitted on the same DL by suitable endorsements.

From an analysis of the database and cross checking with three DL case records out of 264 cases in nine RTOs, we noticed that 132 persons were issued with two DLs each which indicated that proper validation control was not built in the system to arrest such violations of the provisions of the Act.

After we pointed this out, the Department stated (September 2011) that necessary modification of the application was under process by the NIC.

3.2.8.10 Input/validation control (Vahan)

3.2.8.10.1 Incomplete Database

The CMV Rules, 1989, prescribes a form for registration of vehicles containing information about the vehicles in 34 fields like the name, age, address etc. of the owner of the vehicle and other essential information for proper identification of the vehicle registered which are captured in the 'Vahan' application.

From an analysis of the database in respect of nine RTOs test checked by us, we noticed that the data capture of registration was partial even in some of the key fields. This was due to non-incorporating the above fields as mandatory in the system. The details of blank or zero entry in some mandatory fields are detailed in the following table.

Blank or zero in mandatory fields

Sl. No	Name of the RTOs	Name of database	Insurance cover note number	Purchase date	Seating capacity	Laden weight	Unladen weight
1	Balasore	Vahan-01	24	01	-	02	11
2	Bargarh	Vahan-17	107	07	01	-	05
3	Bhadrak	Vahan-22	-	-	-	-	08
4	Chandikhol	Vahan-04	2210	-	-	17	64
5	Cuttack	Vahan-05	64	-	-	-	99
6	Dhenkanal	Vahan-06	01	02	-	08	11
7	Ganjam	Vahan-07	03	02	-	04	17
8	Nuapada	Vahan-26	143		-	-	62
9	Rayagada	Vahan-18	211	22	-	09	03
Total			**2763**	**34**	**01**	**40**	**280**

Any analysis and generation of reports based on above type of incomplete database is fraught with the risk of production of incomplete and unreliable information about the vehicle.

After we pointed this out, the Department stated (September 2011) that the cases were for backlog entries entered initially and captured with the intention of validation. The reply is not acceptable as the cases pointed out by us related to the post computerisation system with no backlog cases.

3.2.8.10.2 Lack of data validation

The MV Act, 1988 and Rules thereunder provide for certain basic parameters and range of figures/data for certain class or categories of vehicles like Gross Vehicle Weight (GVW) of goods carriage not to exceed 49 MT, seating capacity of PSVs to be more than six persons excluding the driver, specification of wheelbase of stage carriages linked with the seating capacity and minimum cubic capacity of motor vehicles to be 25 cc etc.

We mentioned about the above subject in Para 3.2.13.5 of the Report of the CAG (Revenue Receipts) for the year ended 31 March 2009.

From an analysis of the database of nine RTOs we noticed the following deficiencies that implies lack of data validation in the system:

- PSVs having seating capacity of seven or less than seven in 12 cases;
- Wheelbase of buses as zero in 151 cases;
- GVW of goods carriage exceeding 49 MT in 41 cases;
- Motor Cycles having seating capacity of more than or equal to three in 79 cases;
- Registration number starting with 'ZeroR' instead of 'OR' in one case; and
- Cubic capacity of motor vehicles below 25 cc in 2175 cases.

After we pointed this out, the Department stated (September 2011) that validation for GVW of 49 MT was to be incorporated in the application system All old backlog cases had incorrect data in key fields.

3.2.8.11 Non-continuity of Registration Numbers

The MV Act, 1988 provides that a registering authority shall assign a unique mark (Registration Number) in a series to every vehicle at the time of registration. The vehicle number should be automatically generated from the system by the concessionaire. A new series should not be started until and unless the old series is exhausted.

Though the issue of gaps in allotment of registration numbers was pointed out in Para 3.2.13.6 of the Report of the CAG (Revenue Receipts) for the year ended 31 March 2009, the Department has not rectified the software. We noticed that the registration numbers are assigned manually by seven RTOs out of nine test checked in violation of the agreement. From an analysis of the database of RTO, Bhadrak, we noticed that 38 numbers remained un-allotted in one series where the registration numbers were allotted manually and a new series was started.

We also noticed (July 2011) 49 gaps in the allotment of registration numbers at RTO, Cuttack mostly in case of Tractor Trailers where auto-generation of registration numbers was adopted. This indicated improper customisation of the system.

After we pointed this out, the Department stated (September 2011) that some RTOs are resorting to auto-generation of numbers whereas others need to replace the manual system of allotment with auto-generation. The reply is, however, silent on skipping of numbers.

3.2.8.12 Irregularities in entry of engine/chassis numbers against the vehicle

Chassis numbers and engine numbers are unique identification marks of a vehicle which are essential for entry in the RCs.

From an analysis of the database and scrutiny of the GR and RC records in nine RTOs, we noticed that 74 vehicles were registered with entry of 37 chassis numbers (a single chassis number being wrongly entered against two vehicles). Similarly, 422 vehicles were registered with entry of 209 engine numbers (a single engine number being wrongly entered against two or three vehicles). The above cases could arise due to

wrong data entry by the concessionaire. Though we pointed out this deficiencies in Para 3.2.13.2 of the Report of the CAG (Revenue Receipts) for the year ended 31 March 2009, the Department has not taken steps to address the matter.

After we pointed this out, the Department stated (September 2011) that steps were being taken to remove the duplicate entries by verifying the original GR volumes relating to the backlog data. The fact remains that even the data for current registration also contains these anomalies.

3.2.8.13 Registration of vehicles under invalid insurance cover note

Under the MV Act 1988, no vehicle can be used unless it is registered and every vehicle registered is required to be insured before its use. Besides a valid insurance is a must at the time of registration of a vehicle.

We also noticed that 273 vehicles were registered under eight RTOs[10], where the insurance cover notes submitted by the vehicle owners had already expired at the time of deposit of tax/fee for registration of such vehicles. Thus, the system had no validation check to ensure correctness of the entries as well as to restrict the use of the expired insurance cover notes at the time of registration of vehicles. The Department should ensure such validation checks in the system.

After we pointed this out, the Department (September 2011) stated that suggestions of audit would be taken care of.

3.2.8.14 Manual intervention for levy and collection of tax

In the computerised regime levy and collection of tax was expected to be error free and transparent due to phasing out of the manual intervention at different stages.

We noticed that there was manual calculation of tax in 48,433 cases, though the system had automatic provision for calculation of OTT. This indicated that the tax calculation could be made manually in respect of such vehicles. We also observed that the orders (January 2009) of the TC-cum-Chairman, STA for non-issue of manual tax receipts by the RTOs from 1 January 2009 onwards was not adhered to as revealed from the presence of such manual receipts in respect of 1219 cases relating to RTO, Chandikhol.

After we pointed this out, the Department stated (September 2011) that steps were being taken to incorporate auto-generating module for calculation of tax and fees by phasing out the manual option.

10 Balasore, Bargarh, Bhadrak, Chandikhol, Cuttack, Dhenkanal, Ganjam and Rayagada.

3.2.8.15 Irregularities in allotment/assignment of registration number

3.2.8.15.1 Short realisation of choice fee for notified numbers

Under the OMV Rules, 1993, read with the notification of the STA (November 2003), 42 attractive registration numbers were notified as reserved for special allotment subject to payment of ₹ 5,000 for motorcycles and ₹ 10,000 for other vehicles towards reservation fee. Besides this special provision, choice numbers within one thousand from the last number assigned in/ within the prevailing serial order may be booked and allotted on payment of choice fee of ₹ 2,000 and ₹ 4,000 for the two wheelers and other than two wheelers respectively. Similarly, any number within ten thousand from the last number assigned in a series may be reserved on payment of choice fee of ₹ 5,000 and ₹ 10,000 for two wheelers and other than two wheelers respectively on first come first service basis.

From an analysis of the database of three RTOs[11], we noticed that the specially notified and other choice numbers were reserved and allotted without realising the appropriate reservation/ choice fees. This indicated that not only customisation and mapping of the system in respect of allotment of choice number was deficient, but supervisory control by the RTOs in this respect was also lacking which resulted in short realisation of choice/ reservation fee of ₹ 30,000 in respect of five vehicles registered by three RTOs.

After we pointed this out, the Department stated (September 2011) that the NIC had to rectify the application system to restrict such errors.

3.2.8.15.2 Inordinate delay in allotment/assignment of choice numbers

We mentioned about the above subject in Para 3.2.13.6.2 of the Report of the CAG (Revenue Receipts) for the year ended 31 March 2009.

In sub para-3.2.8.4 *supra*, we have already pointed out about the inordinate delay beyond the specific performance standards in allotment of registration numbers after deposit of taxes/fees in respect of 2,98,582 vehicles. Out of these, in 1,135 cases the delay in allotment of registration numbers after deposit of tax/fees was 30 days or more as confirmed through examination of the cases in the first in first out (FIFO) method. This inordinate delay in allotment of registration numbers is fraught with the risk of evasion of the minimum reservation fee of ₹ 22.70 lakh where the vehicle owners managed to get their numbers without payment of the prescribed reservation/choice fees at the prescribed minimum rate of ₹ 2,000 per vehicle. The Department may examine the cases to ascertain the exact amount of evasion. We observed that scrapping of the manual assignment option in the 'Vahan' software interface by the NIC was necessary for maintaining uniformity in allotment of registration numbers and avoiding the evasion of the reservation/choice fees.

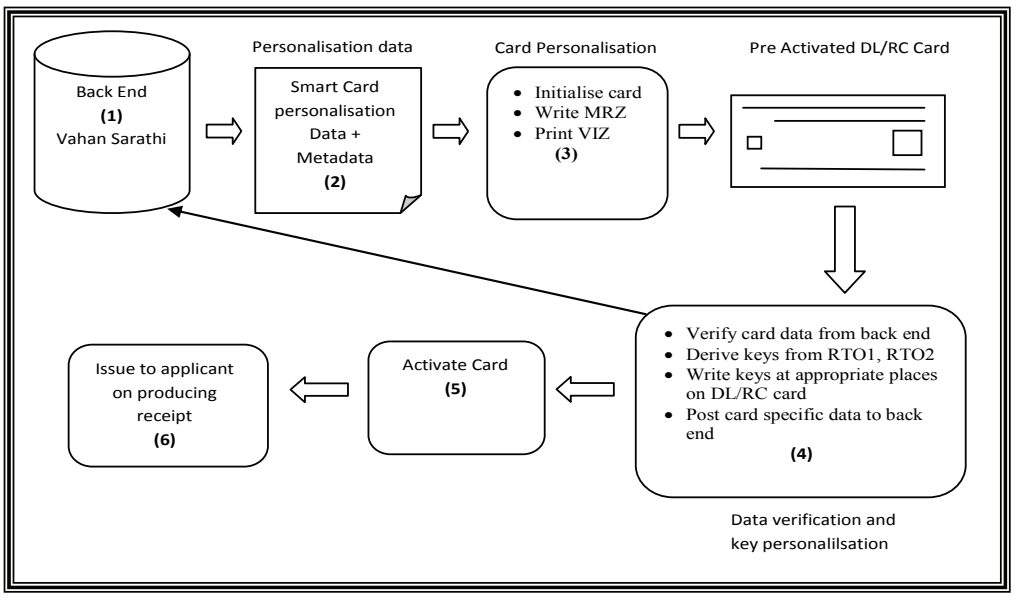
11 Chandikhol, Cuttack and Nuapada.

Further, the charge of ₹ 100 only for delayed registration exceeding 90 days may also be examined for upward revision by the Government as the deterrent provided for delayed registration is very small considering the value of the vehicles in present day scenario.

After we pointed this out, the Department (September 2011) noted the fact for future guidance.

3.2.8.16 DL/RC in smart card without activation/authentication

The objective of the SCBDL/SCBRC project is to make National registers of DLs/RCs by making mandatory the issue of DLs/RCs in smart card in all the States on a common format by which the identity details of a person along with DL/RC reference numbers is retained in a chip embedded in the machine readable zone (MRZ) of the smart card. The information retained in the MRZ of the smart card can be read by a hand held reader/terminal of the enforcement authorities and card reader of RTOs. The database of DLs/RCs is updated and a DL number/RC number is assigned to a person, once the application for DL/RC is approved by the RTO after passing of driving test of the applicant/fitness test of the vehicle etc. Thereafter the data is sent to the BOOT operator and accordingly the Central Personalisation System (CPS) server of the BOOT operator pulls the data for personalisation (chip writing and smart card printing). The information written in the chip of the card are to be matched with the original information of database by a process of verification/authentication i.e. Key Management System (KMS) in which the smart cards are inserted through a KMS card reader for authentication of data



and activation of the chip. The diagram of the above process is shown in the following chart.

From an analysis of the database of nine RTOs, we noticed that in 13,370 DLs and 22,411 RCs, though the database was updated and data is extracted by the BOOT operator and smart card is prepared, the chip activation/authentication has not been done/done incorrectly through KMS as a result of which the chip number is not found in the smart card related table. This would result in the risk of entry of unauthenticated data in the smart card and thereby data

integrity is also not ensured. Further, retrieval/reading of data from the chip by hand held reader and endorsement of offences by writing in the chip etc. by traffic/enforcement authorities was also not possible due to non-activation of the chip in the smart card.

After we pointed this out, the Department stated (September 2011) that in cases of error in printed data which is rectified afterwards, the old data remains inactivated. The reply is not tenable since the card chip number is vacant in the smart card activation table even in all the cases of valid error free smart cards. In the exit conference, we also suggested (January 2012) that the data sent to the concessionaire for smart card printing should be secured i.e. in pdf/read only format so as to ensure data integrity, which was accepted by the Department.

3.2.8.17 Duplication of data due to absence of real-time connectivity amongst RTOs and non-creation of central database

As per the agreement, the concessionaire had to create connectivity at his own cost through Gramsat for connecting the head office (STA) with all the RTOs of the State and maintain the transactions through the centralised online data management system on real time basis initially by 11 December 2006. However, this was yet to be completed (August 2011).

On scrutiny of data of nine neighbouring RTOs, we noticed that there was duplication of data amongst RTOs in respect of backlog entries of vehicles as well as vehicles registered after computerisation as given below.

Duplication of data among the databases of RTOs

Name of the RTO	Compare with the RTOs	No of duplicate data found		
		Total database	New vehicles after computerisation	Backlog entry of vehicle
Nuapada	Cuttack	13	Nil	13
Balasore	Cuttack	518	27	491
Bargarh	Nuapada	33	02	31
Bhadrak	Balasore	1,694	04	1,690
Chandikhol	Cuttack	4,525	53	4,472
Ganjam	Cuttack	994	27	967
Dhenkanal	Cuttack	517	10	507
Cuttack	Dhenkanal	517	09	508
Rayagada	Ganjam	304	05	295
Total		**9,115**	**137**	**8,978**

The duplication of data in respect of new vehicles is an indication of the defective system of issue of NOCs/TCCs by the RTOs without cross reference to the data of other RTOs through relevant NOC/TCC modules. This happened due to absence of real time connectivity among the RTOs and central database at STA.

After we pointed this out, the Department stated (September 2011) that strict instructions were issued to the RTOs not to enter vehicles in their database without NOC from the original registering authority.

3.2.8.18 Irregular issue of DLs without conducting driving test in the appropriate class/type of vehicles

Under the CMV Rules, 1989 driving test shall be conducted by the Licensing Authority/Testing Authority of the RTO in a vehicle of the type to which the application form relates. Sarathi software has a facility to capture the registration mark/number of the vehicle on which driving test has been carried out.

From an analysis of the database of the nine RTOs test checked by us, we noticed that the data in respect of vehicle numbers in which the tests have been conducted were either not entered or incorrectly entered in the system. As a result, analysis of the 'Sarathi' database in this regard in all the RTOs test checked by us could not be done. However, from a detailed analysis of the 'Sarathi' database of RTO, Cuttack and crosschecking the same with the database of 'Vahan', we found that in 25 out of 246 transport DLs, in which vehicle registration numbers were captured by the system, DLs for transport vehicles were issued by passing the driving test conducted in motorcycles i.e. two wheeler vehicles. This was irregular and violated the basic provisions of the CMV Rules.

After we pointed this out, the Department (September 2011) noted the audit observation for future guidance.

3.2.8.19 Lack of documentation

A proper system analysis requires that each module of the system proposed to be developed is properly documented. We noticed that the Department did not have written and authenticated documentation like user requirement specification, system design document, user's manual etc of the modules developed and implemented for "Vahan" and "Sarathi".

After we pointed this out, the Department stated (September 2011) that NIC was having the total responsibility for development, installation, implementation, database management, system health monitoring and maintenance of the entire system and hence all documents were available with them. The reply is not tenable as the documentation is not available in the user Department.

3.2.8.20 System security and password policy

The user identification, password and assigning various roles/privileges to a user play a vital role in a networked IT environment. The role of users and the related privileges should be created by the administrator/RTO carefully on the basis of their rank/ position. In the 'Vahan' application, users are assigned with some roles and accordingly some privileges are assigned with such roles like service-id as a part of logical access control etc. To restrict the misuse of the user-id and password, a password policy should be formulated at the apex level by the STA/NIC.

We mentioned about the above subject in Para 3.2.15 of the Report of the CAG (Revenue Receipts) for the year ended 31 March 2009.

From an analysis of the database of nine RTOs, we noticed the following irregularities in user IDs and passwords:

- In all the nine RTOs user-ids were not disabled and made non-functional after the transfer/termination of the users concerned.
- No time limit was prescribed for change of the password.
- Roles/privileges, which were to be attached to a supervisor/officer rank personnel, were attached/given to the clerical/assistant cadres along with password. As a result of this, misutilisation of privileges can not be ruled out. We observed that the Department had detected that in RTO, Ganjam. A VCR clerk/assistant who had got no power to dispose of VCRs has disposed of the VCRs/challans. This occurred due to assigning role to settle challan to the clerk (service id-704). Similarly roles for assignment of registration mark (service id-803) which should have been assigned to a higher level officer was given to a junior level staff i.e., registration clerk. Thus, it was evident that proper segregation of duties with predefined privileges attached to various users as per their level/rank was lacking in the system.

After we pointed out the above deficiencies, the Department stated (September 2011) that there existed a good password policy. The reply is not acceptable in view of the fact that user IDs of 47 transferred personnel were not disabled in all RTOs test checked by us and predefined user responsibility matrix and assigning/limiting of privileges to staff/operators for segregation of duties etc. were absent. The Department is inquiring into a case of possible misuse of such privilege in RTO, Ganjam.

3.2.8.21 Online services

The Government implemented online services in the transport sector through a scheme called e-Disha with effect from 7 April 2010. The online services offered thereunder are

- e-payment of MV tax,
- Grant of e-permit and
- License appointment system.

These e-services software applications were developed by the concessionaire and were integrated with the 'Vahan' and 'Sarathi' applications. The main objective of the service is to provide citizen-centric quick and efficient services and to ensure transparency in the transactions of transport sector. The portal of the Transport Department was integrated with the State Bank of India (SBI) payment gateway for payment of tax by the public. From an analysis of the database of nine RTOs, we noticed (August 2011) that even after one year of launching of the scheme, the online transactions were found to be very negligible (0.10 *per cent* to 1.57 *per cent*) in the RTOs test checked. We further noticed that the citizens having SBI net-banking facility only could avail of the online services while other available payment options like payment through debit card and Orissa online system under Common Service Centre (CSC) was not activated. Thus the objectives of the scheme were achieved to a very limited extent.

After we pointed this out, the Department stated (September 2011) that efforts are on to integrate e-Disha with treasury payment gateway for widening the

payment facility and the people are not interested to pay through CSC as extra charges are involved in it.

3.2.8.22 Issue of VCR vis-a-vis issue of permit and fitness by RTO offices

Vehicle check reports (VCRs) issued by enforcement staff of the STA in respect of the vehicles under the jurisdiction of all RTOs are entered in a locally developed system 'Disha'. The fields as well as the file structures were also different from the 'Vahan' and it had no facility for integration with the 'Vahan' software application. Thus, the VCRs are to be uploaded in the web portal (www.orissatransport.org) in a Excel sheet for downloading by RTOs concerned for their check during issue of route permits, fitness certificates and transfer of ownership of the vehicles etc. Besides the VCRs issued by STA are to be transmitted to the respective RTOs in case of non-disposal of the same within the specified time.

i) From an analysis of the 'Disha' database and cross check with the transactions in other RTOs, we noticed that the VCRs issued by STA were neither uploaded in the web portal nor transmitted to the respective RTOs promptly. As a result of this, the RTOs were unable to check the status of VCRs like alert in 'Vahan' during issue of the permit, fitness and transfer etc. We also observed that in two cases, though the decisions on vehicles having VCRs were pending at the level of STA, the vehicles were issued with route permits, fitness certificates etc. from the RTO, Cuttack.

After we pointed this out, the Department stated (September 2011) that a study was required for integration of Disha database with Vahan which had a different file structure.

ii) Further, from test check of the VCR registers of three RTOs[12] along with the database of 'Vahan', we noticed that 52 VCR books and five VCRs returned by different enforcement staff after use were either not entered or entered belatedly into the database of 'Vahan' application. Besides, VCRs disposed of on the spot by the enforcement staff by realisation of compounding fees (CF)/advance compounding fees (ACF) etc. were also not entered into the system. Due to this non-entry/delayed entry, the system would not be able to prompt/alert about the existence of the VCR during issue of permit/fitness/transfer etc. of such vehicles. Further, the RTOs would also not be able to recognise the second and subsequent offences from the system for imposition of fines.

After we pointed this out, the Department stated (September/October 2011) that most of the RTOs are regular in entering VCR in Vahan. Others would be instructed to regularly enter all VCRs and information on realisation of CF/ACF into the system. The entry of VCRs in Vahan closed by the Enforcement Officers on the spot would be done shortly.

12 Balasore, Cuttack and Dhenkanal.

3.2.8.23 Electronic system of National permit

Electronic system of grant/renewal of National permit for goods carriages was developed in consultation with the NIC for implementation in all the States with effect from 15 September 2010.

From the test check of the records at the STA, we found that the National permit scheme in electronic mode started in Orissa with effect from 22 September 2010. From an analysis of the database we, however, noticed that even in the new electronic system, the following discrepancies occurred.

- One vehicle of the State relating to RTO, Balasore was assigned with three National permit numbers and another vehicle of RTO, Keonjhar was assigned with five National permit numbers.
- One vehicle under RTO, Sambalpur was assigned with one National permit number which appeared twice in the database.

Manual verification revealed that one permit was being issued for each vehicle. This shows that database was unreliable.

After we pointed this out, the Department stated (September 2011) that the database was maintained at the NIC, New Delhi and it will be requested for necessary rectification.

3.2.8.24 Non-use of hand held reader in enforcement operation

Hand Held Terminals (HHTs) are devices to be used by the enforcement wing of the Department to check the genuineness of smart cards, validity of the permits, fitness and offences by reading the Machine Readable Zone (MRZ) of the smart cards through the Verification Authority (VA) cards. It can even support writing of challan/ VCR information through the Endorsement Authority (EA) cards. According to the agreement, the HHTs are to be supplied by the concessionaire with the NIC certified application software.

We mentioned about the above subject in Para 3.2.11 of the Report of the CAG (Revenue Receipts) for the year ended 31 March 2009.

From a scrutiny of the files of the STA on supply of HHTs to nine RTOs, we noticed that though the HHTs/ readers were supplied by the concessionaire and successful testing of the HHT application was already certified by the NIC (February 2009), the readers were not deployed in the enforcement operation due to non availability of the VA cards which are required to be supplied by the NIC as the central key generating authority. This resulted in non use of the HHTs/readers in enforcement operations which in turn defeated the very objective of issue and checking of smart cards by the enforcement wings of the RTOs.

After we pointed this out, the Department stated (January 2012) that 300 VA cards were received from NIC which were required for RTOs. VA cards have been distributed to all enforcement staff.

3.2.9 Conclusion

The performance audit brought out several deficiencies in implementation of the computerisation project including loss/ non-realisation of revenue of ₹ 2.66 crore. The project of outsourcing the functions of the Department under the e-governance and issuance of SCBRC/SCBDL aimed at imparting better, efficient and timely services to the users and plugging the revenue leakages. This, however, was partly achieved due to delays in allotment/issuance of SCBRC/SCBDL of RCs. Moreover, the completeness, accuracy and integrity of the data entered and processed were not ensured due to deficient application controls coupled with the inadequate supervisory controls. Several components of the modules were not in operation and several software deficiencies were found which necessitated manual intervention instead of handling the same through the computerised system. Creation of a centralised online data management services by maintaining real time records could not be completed even after four years of the commercial operation of the system. Thus, the objectives of the project for implementing the 'Vahan/Sarathi' software applications for better citizen/ public services, improving working of the RTOs as well as the enforcement agencies, creation of an efficient and transparent system for levy and collection of revenue etc., could not be fully achieved.

3.2.10 Recommendations

The Government may consider implementing the following recommendations:

- The centralised online data management system should be made operational on real time basis by establishing connectivity between all RTOs of the State with the STA.
- Gaps in the mapping process may be identified and incorporated in the system.
- Proper input and validation controls should be put in the system for authentication of the data; and
- Appropriate supervisory controls over the work entrusted to the concessionaire should be put in place.

3.3 Other Audit observations

We scrutinised the records relating to assessment and collection of motor vehicles tax in the office of the Transport Commissioner (TC)-cum-Chairman State Transport Authority (STA) and the Regional Transport Officers (RTOs) and found several cases of non-observance of some of the provisions of the Acts / Rules and other cases as mentioned in the succeeding paragraphs in this chapter. The cases are illustrative and are based on a test check carried out by us. The omissions are being pointed out by us in the Reports of the CAG for the past several years, but no executive instructions have been issued despite switching over to an IT enabled system at all RTOs. **The Government may direct the Department to improve the internal control system including strengthening of internal audit so that such omissions can be detected, corrected and avoided in future.**

3.4 Non-compliance of the provisions of the Acts / Rules

The provisions of the OMVT Act, 1975 and Rules made thereunder require levy and payment of:

- *motor vehicles tax / additional tax by the vehicle owner at the appropriate rate;*
- *tax/additional tax in advance and within the prescribed grace period;*
- *tax /additional tax at the highest rate of the slab of the stage carriage, if the stage carriage was found plying without permit;*
- *tax /additional tax for violation of off road declarations;*
- *differential tax when a stage carriage is used as a contract carriage; and*
- *penalty up to double the tax, if the tax is not paid within two months after the expiry of the grace period of 15 days.*

Non-compliance of the provisions of the Act / Rules in some cases as mentioned in paragraphs 3.3.1 to 3.3.5 resulted in non / short realisation of ₹ 68.24 crore.

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

3.4.1.1 non-realisation of tax

Under the OMVT Act, 1975, motor vehicle tax and additional tax due on motor vehicles should be paid in advance or within a period of 15 days from the due date at the rates prescribed in the Act, unless exemption from payment of such taxes are allowed for the period covered by off road declarations. If such tax is not paid within two months after expiry of the grace period of 15 days, penalty is to be charged at double the tax due. As per the executive instruction (February 1966) of the Transport Commissionerate, the Taxing Officers (TOs) are required to issue demand notices within 30 days from the expiry of the grace period for payment of tax/ additional tax.

During test check of General Registration (GR) register, Permit register, inter-State permit case records, Off Road (OR) register and data of VAHAN[13] of RTOs, between April and December 2010, we noticed that motor vehicles tax and additional tax from 31,762 vehicles for the period from February 2009 to March 2010 was not-realised even though the vehicles were not declared off road. Further we observed that despite a Management Information System (MIS) module of VAHAN being available with the RTOs for assisting in detection of such cases, demand notices were not issued. This resulted in non-realisation of motor vehicles tax and additional tax of ₹ 67.56 crore including penalty of ₹ 45.04 crore as detailed in the following table.

13 An application software for registration of vehicles, collection of taxes and fees and related activities.

					(Rupees in crore)
Sl. No.	**No. of regions Type of vehicles**	**No. of vehicles**	**Non/short realisation of tax/additional tax**	**Penalty leviable**	**Total**
1.	26[14] Goods carriages	14,778	16.17	32.33	48.50
2.	26[15] Contract carriages	5,974	3.21	6.43	9.64
3.	26[16] Tractor-trailer combinations	10,904	2.95	5.89	8.84
4.	24[17] Stage carriages	106	0.19	0.39	0.58
Total		**31,762**	**22.52**	**45.04**	**67.56**

After we pointed out these cases, the RTOs concerned stated, between April and December 2010, that demand notices would be issued to realise the dues. Although year after year similar objections have been pointed out by us, the Department is yet to put in place a control mechanism to ensure issue of demand notices for such cases.

We brought the matter to the notice of the TC-cum-Chairman, STA, Odisha (February 2011) and the Government (April and May 2011) respectively; their replies are yet to be received (January 2012).

3.4.1.2 Short realisation of tax

During test check of GR register, Permit register, inter-State permit case records, OR register of vehicles and data of VAHAN of 17 RTOs[18], between April and December 2010, we noticed that motor vehicles tax / additional tax of ₹ 3.13 lakh for 63 stage carriages for the period from August 2008 to March 2010 was short realised due to change in permit conditions and consequential slab rates etc. Besides, penalty of ₹ 6.26 lakh was also leviable.

After we pointed out these cases, the RTOs concerned stated, between May and December 2010, that demand notices would be issued to realise the dues. Although year after year similar objections have been pointed out by us, the Department is yet to put in place a control mechanism to avoid recurrence of such cases.

We brought the matter to the notice of the TC-cum-Chairman, STA, Odisha (February 2011) and the Government (April and May 2011) respectively; their replies are yet to be received (January 2012).

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

15 All regions at 2 above.

16 All regions at 2 above.

17 All regions at 2 above except Gajapati and Jharsuguda.

18 Angul, Bhadrak, Bhubaneswar, Chandikhol, Cuttack, Dhenkanal, Ganjam, Kalahandi, Keonjhar, Koraput, Nayagarh, Nuapada, Phulbani, Puri, Rourkela, Sambalpur and Sundargarh.

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

Under the OMVT Act, 1975, motor vehicles tax and additional tax should be levied in respect of a stage carriage on the basis of the number of passengers (including standees) which the vehicle is permitted to carry and the total distance to be covered in a day as per the permit. When any such vehicle is detected plying without a permit by the Enforcement Wing (EW), the Vehicle Check Reports (VCRs) are issued. Expeditious disposal has been emphasized in the Department's circulars from time to time. In case of default, penalty equal to twice the tax due is leviable.

During test check of GR register, Miscellaneous Proceeding register (MPR), OR register, Permit register, VCRs and data of VAHAN of 17 RTOs[19], between April and December 2010, we noticed that 54 stage carriages were detected plying without permit by the EW during the period between April 2009 and March 2010. Though the EW issued the VCRs, the TOs did not raise demands for the cases expeditiously, after receipt of the same from the EW. This resulted in non / short realisation of motor vehicles tax and additional tax of ₹ 6.49 lakh (non-realisation of ₹ 0.53 lakh in seven cases and short realisation of ₹ 5.96 lakh in 47 cases). Besides, penalty of ₹ 12.97 lakh was also leviable.

After we pointed out these cases, the RTOs concerned stated, between April and December 2010, that demand notices would be issued to realise the dues. Although year after year similar observations have been pointed out by us, the Department is yet to put in place a mechanism to ensure compliance of their own instructions.

We brought the matter to the notice of the TC-cum-Chairman, STA, Odisha (February 2011) and the Government (April 2011); their replies are yet to be received (January 2012).

19 Angul, Balasore, Bhadrak, Bhubaneswar, Bolangir, Cuttack, Dhenkanal, Ganjam, Kalahandi, Keonjhar, Koraput, Nayagarh, Nuapada, Phulbani, Puri, Rayagada and Sundargarh.

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

As per the OMVT Act, 1975 motor vehicles tax/additional tax is to be levied on every motor vehicle used or kept for use in the State unless prior intimation of non-use of the vehicle is given to the TO. If, at any time, during the period covered by 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 motor vehicles tax/additional tax and penalty as applicable for the entire period for which it was declared off road as per the VCR.

During test check of the OR register, VCRs and MPR of six RTOs[20] between May and August 2010, we found that 18 motor vehicles under off road declarations for the period between December 2008 and March 2010 were either detected plying or not found at the declared places by the EW during the said period. Hence, as per the Act the vehicles are deemed to have been used throughout the said off road period for which motor vehicles tax / additional tax of ₹ 7.76 lakh and penalty of ₹ 15.52 lakh was leviable. However, despite such cases being pointed out by us year after year the TOs had not issued demand notices in the above cases. This resulted in non-realisation of tax and penalty of ₹ 23.28 lakh up to the time audit was conducted.

After we pointed out these cases, the RTOs concerned stated, between May and August 2010, that demand notices would be issued to realise the dues.

We brought the matter to the notice of the TC-cum-Chairman, STA, Odisha and the Government (April 2011); their replies are yet to be received (January 2012).

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

As per the OMVT Act, 1975 and Rules made thereunder, when a vehicle for which motor vehicle tax and additional tax for any period has been paid, is proposed to be used in a manner for which higher rates of taxes are payable, the owner of the vehicle is liable to pay the differential tax on the date of alteration of use or within a period of 15 days from the due date. If such tax is not paid within two months after expiry of the grace period of 15 days, penalty equal to twice the tax due is to be charged.

During test check of GR register, Special Permit register and data of VAHAN of 21 RTOs[21] between May and December 2010, we noticed that 106 stage carriages were permitted to ply temporarily as contract carriages between April 2009 and

20 Balasore, Bhubaneswar, Ganjam, Kalahandi, Keonjhar and Rourkela.

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

March 2010 for which higher rate of tax was to be collected. Though the differential tax was not paid on the date of alteration of use or within the grace period of 15 days, the TOs did not issue demand notices for realisation of such taxes. This resulted in non-realisation of differential tax of ₹ 3.28 lakh and penalty of ₹ 6.57 lakh.

After we pointed out these cases, the RTOs concerned stated, between May and December 2010, that demand notices would be issued to realise the dues. Although year after year similar observations have been pointed out by us, the Department is yet to put in place a control mechanism to arrest recurrence of such cases.

We brought the matter to the notice of the TC-cum-Chairman, STA, Odisha (February 2011) and the Government (April 2011); their replies are yet to be received (January 2012).

3.4.5 Non / short realisation of penalty on belated payment of motor vehicles tax and additional tax

As per the OMVT Act, 1975 and Rules made thereunder, tax and additional tax due against a vehicle at the prescribed rate shall be paid in advance or within a period of 15 days from the due date. In case of default, penalty ranging from 25 to 200 *per cent* of the tax and additional tax due, depending on the extent of delay in payment, shall be realisable if the dues are not paid within the specified period.

During test check of GR register and taxation details from data of VAHAN of 16 RTOs[22], between April and December 2010, we noticed that motor vehicles tax in respect of 43 motor vehicles, for different periods between July 2002 and March 2010, was not paid on the due dates and the same was paid belatedly with delays ranging between one day and 68 months 21 days. The RTOs, while accepting the belated payments, did not calculate and collect the penalty realisable from the vehicle owners. However, we calculated that in 13 cases penalty of ₹ 1.28 lakh was not realised and in 30 cases penalty of ₹ 5.80 lakh was short realised. This resulted in non / short realisation of penalty amounting to ₹ 7.08 lakh.

After we pointed out these cases, all the RTOs stated, between April and December 2010, that demand notices would be issued to realise the dues. Although year after year similar observations have been pointed out by us, the Department is yet to put in place a control mechanism to arrest recurrence of such cases.

We brought the matter to the notice of the TC-cum-Chairman, STA, Odisha (February 2011) and the Government (May 2011); their replies are yet to be received (January 2012).

22 Balasore, Bhadrak, Bhubaneswar, Bolangir, Cuttack, Gajapati, Ganjam, Kalahandi, Koraput, Nawarangpur, Nayagarh, Nuapada, Puri, Rayagada, Rourkela and Sambalpur.

3.5 Non-compliance of Government notification / decision

Government decisions notified in 2001 and 2003 prescribe for payment of:

- *process fee at the prescribed rates; and*
- *one time composite tax by the vehicles of Andhra Pradesh plying in Odisha.*

Non-compliance of the above decisions in some of the cases as mentioned in paragraphs 3.4.1 and 3.4.2, resulted in non / short realisation of fees and tax of ₹ 1.38 crore[23].

3.5.1 Non-realisation of process fee

As per the MV Act, 1988 read with the Government notification of 24 January 2003, process fee of ₹ 100 on every application/objection filed was introduced with effect from 28 January 2003. The department, by an order of March 2003, however, postponed the collection of the fees at the rates prescribed in the notification.

During test check of the Permit register and other connected records in the office of the STA, Odisha and 25 RTOs[24] including 20 check gates[25] operating thereunder, we noticed between April and December 2010, that process fee for the period from April 2009 to March 2010 was not realised in 1,38,312 cases. This resulted in non-realisation of process fee of ₹ 1.38 crore.

After we pointed out these cases, the STA and all the RTOs except Cuttack stated, between April and December 2010, that the collection of the fees was postponed by the Government order of March 2003. The RTO, Cuttack stated (June 2010) that demand notice would be issued for realisation of the dues. The fact, however, remains that the rates published in the gazette had already come into force and postponing the same by an executive order was irregular since executive orders cannot overrule the statutory provisions. Although year after year similar observations have been pointed out by us, the Department is yet to revoke the executive order.

We brought the matter to the notice of the Government (April 2011); their reply is yet to be received (January 2012).

23 This does not include ₹ 0.13 crore commented in para 3.4.2

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

25 Bahalda, Beleipada, Birahandi, Biramitrapur, Chaksuliapada,Champua, Chatwa, Chikiti-Balarampur, Dandsara, Dhanghar, Girisola, Haridaput, Jaleswar, Jamsola, Laxmannath, Luharchati, Nalda, Raighar, Sunki and Upper Jonk.

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

As per the Government of Odisha decision of February 2001 goods vehicles belonging to Andhra Pradesh (AP) and authorised to ply in Odisha under the reciprocal agreement were required to pay annually composite tax of ₹ 3,000 per vehicle for entry into the State. The tax was payable in advance, on or before the 15th April each year to the State Transport Authority (STA), Odisha through STA, AP. In case of delay in payment, penalty at the rate of ₹ 100 for each calendar month was leviable in addition to the composite tax.

During test check of Quota register, Countersignature Permit register and tax payment register of STA, Odisha, we noticed (December 2010) that composite tax amounting to ₹ 12.99 lakh was payable by the vehicle owners of AP in respect of 433 goods vehicles authorised to ply in Odisha on the strength of valid permits under the reciprocal agreement during 2009-10. However, there was no evidence of remittance of the same in the registers maintained at the STA, Odisha.

After we pointed out the case, the STA, Odisha stated (December 2010) that Secretary, STA, AP would be requested to intimate the composite tax payment position in respect of the above vehicles. Although year after year similar observations have been pointed out by us, the Department is yet to put in place a mechanism to raise demand for realisation of composite tax under this arrangement.

We brought the matter to the notice of the Government (March 2011); their reply is yet to be received (January 2012).

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

EXECUTIVE SUMMARY

Decrease in tax collection	In 2010-11 the collection of taxes from land revenue decreased by 3.62 *per cent* as compared to Budget Estimates for the year in respect of Land Revenue. However, it increased by 33.71 *per cent* over the previous year which was attributed by the Department to the increase in conversion of land under Section 8A of OLR Act, 1960, alienation of Government land to the different agencies, collection of premium thereof and collection of more royalty etc. In respect of stamp duty and registration fee the decrease in collection (7.60 *per cent*), as compared to the Budget Estimate was attributed to excess target fixed in comparison to previous years which was not correct since the target (₹ 450 crore) fixed for 2010-11 was less than the target (₹ 495.66 crore) for 2009-10.
Very low recovery by the Department against the observations pointed out by us in earlier years	During the period 2005-06 to 2009-10 we had pointed out non / short levy, blocking, non / short realisation of land revenue and fee etc., with revenue implication of ₹ 1,013,49 crore in 45,527 cases. Of these, the Department / Government accepted audit observations in 32,982 cases involving ₹ 73.84 crore but recovered only ₹ 3.78 crore in 2,425 cases. The average recovery position, being 5.2 *per cent,* as compared to acceptance of objections was very low and it ranged between 0.11 *per cent* and cent *per cent* in respect of land revenue. Similarly, during the period 2005-06 to 2009-10 we had pointed out non / short levy, non / short realisation of stamp duty and registration fee etc., with revenue implication of ₹ 1,020.54 crore in 2,06,592 cases. Of these, the Department / Government accepted audit observations in 14,490 cases involving ₹ 13.78 crore; but recovered ₹ 6.51 crore in 4,177 cases. The average recovery position, being 47.24 *per cent,* as compared to acceptance of objections was very low and it ranged between 4.48 *per cent* and 96.99 *per cent* in respect of stamp duty and registration fee.
Results of audit conducted by us in 2010-11	In 2010-11 we test checked the records of 129 units relating to land revenue, stamp duty and registration fees and found non-collection, non / short assessment, blocking of revenue etc. involving ₹ 150.51 crore in 8,205 cases. The Department accepted underassessment and other deficiencies of ₹ 29.96 crore in 5,186 cases in respect

	of land revenue and ₹ 2.21 crore in 758 cases in respect of stamp duty and registration fees pointed out by us during the year 2010-11. An amount of ₹ 1.71 crore in 482 cases in respect of land revenue and ₹ 0.86 crore in 1,062 cases in respect of stamp duty and registration fees were recovered during the year 2010-11.
What we have highlighted in this Chapter	In this Chapter we present illustrative cases of ₹ 4.91 crore[1] selected from the observations noticed during our test check of records relating to assessment and collection of land revenue, stamp duty and registration fees in the offices of the Tahasildars, District Sub-Registrars (DSRs) and Sub Registrars (SRs),where we found that the provisions of the Acts / Rules were not observed. It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Reports of the CAG for the past several years; but the Department has not taken adequate corrective action. We are also concerned that though these omissions were apparent from the records which were made available to us, the Tahasildars / DSRs / SRs were unable to detect these mistakes.
Our conclusion	The Department needs to improve the internal control system including strengthening of the internal audit wing so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future. It also needs to initiate immediate action to frame / amend the rules for early finalisation / regularisation of lease of Government lands and to realise the Government dues as pointed out by us.

4.1.1 Tax administration

The levy and collection of land revenue (LR) is regulated under the Orissa Government Land Settlement (OGLS) Act, 1962, the Orissa Prevention of Land Encroachment (OPLE) Act, 1972, the Orissa Land Reforms (OLR) Act, 1960 and Rules made thereunder in 1983. The Board of Revenue (BOR) administers the above Acts and Rules being assisted by field functionaries like Collectors, Sub Collectors and Tahasildars under the overall control of the Principal Secretary to Government in the Revenue and Disaster Management (R&DM) Department.

The levy and collection of stamp duty (SD) and registration fee (RF) are regulated under the Indian Stamp (IS) Act, 1899, the Registration Act, 1908 and Rules made thereunder. The Inspector General of Registration (IGR) under the overall control of the Principal Secretary to the Government in

1 It does not include the paragraph on occupation of Government land without any revenue being received by the Department.

R&DM Department administers the above Acts and Rules and is assisted by a Joint Inspector General (JIG), three Deputy Inspector Generals (DIGs) and 30 District Sub Registrars (DSRs) at the district level and Sub Registrars (SRs) at the unit level.

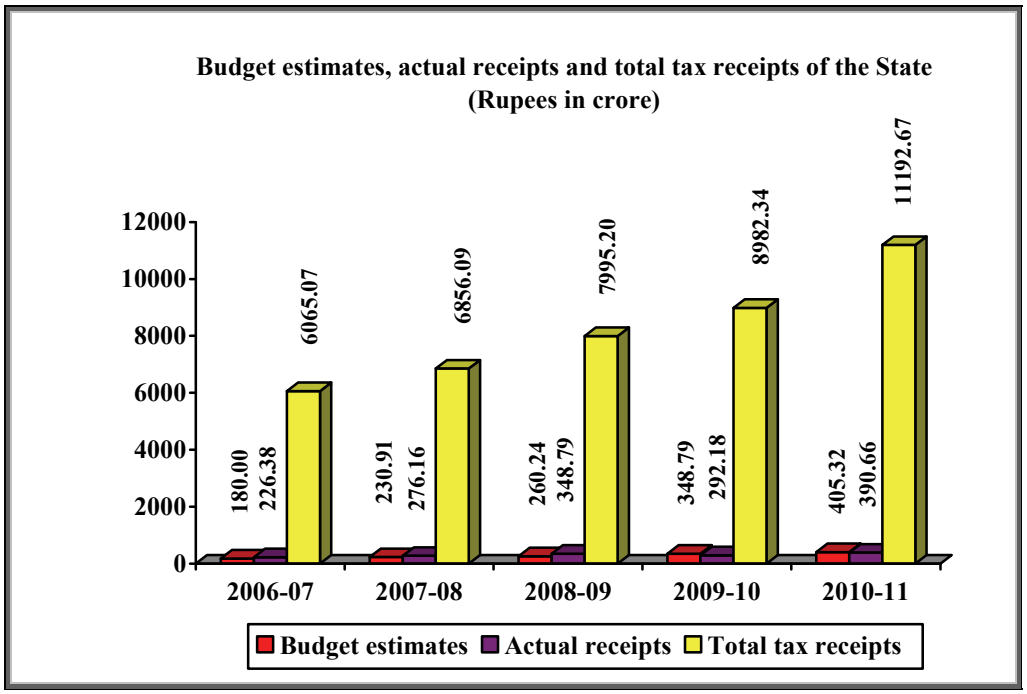
4.1.2 Trend of receipts

Actual receipts from LR, SD and RF during the years 2006-07 to 2010-11 along with the total tax receipts during the same period are exhibited in the following tables and bar graphs showing the contribution of LR, SD and RF to the total tax receipts for the year 2010-11.

A. Land Revenue

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2006-07	180.00	226.38	(+) 46.38	(+) 25.77	6,065.07	3.73
2007-08	230.91	276.16	(+) 45.25	(+) 19.60	6,856.09	4.03
2008-09	260.24	348.79	(+) 88.55	(+) 34.03	7,995.20	4.36
2009-10	348.79	292.18	(-) 56.61	(-) 16.23	8,982.34	3.25
2010-11	405.32	390.66	(-) 14.66	(-) 3.62	11,192.67	3.49

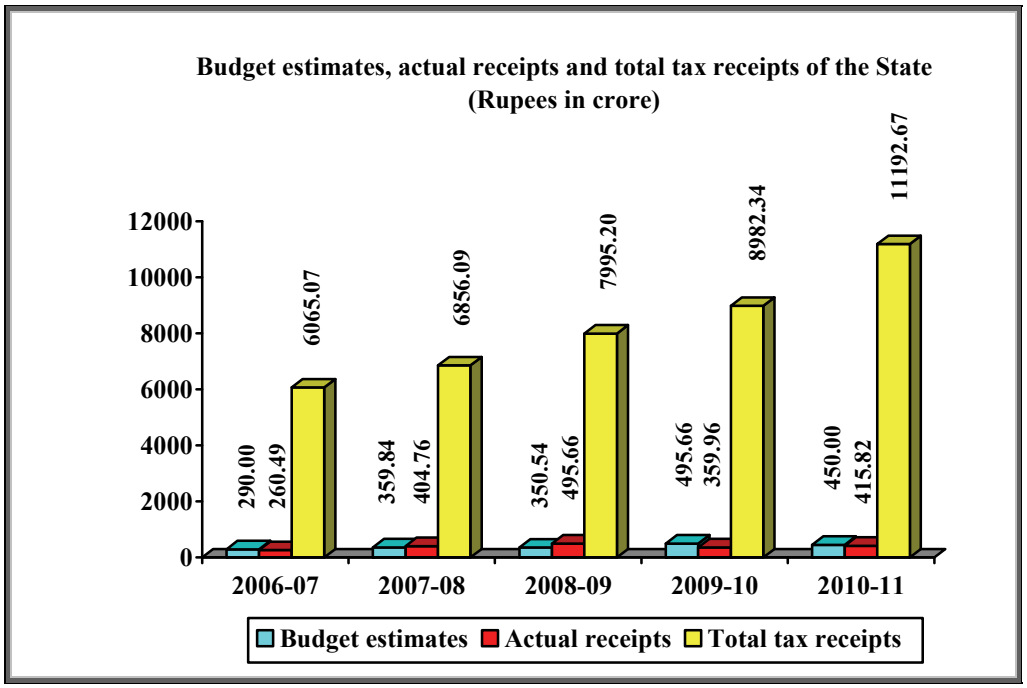


The reasons for increase in collection of revenue during 2006-07 to 2008-09 and 2010-11 as compared to the previous year was stated to be due to conversion of land under section 8A of OLR Act, 1960, alienation of Government land to the different agencies, collection of premium thereof and collection of more royalty etc. whereas no reasons for decrease in collection of revenue during 2009-10 as compared to the previous year was given by the Department.

B. Stamp duty and registration fee

(Rupees in crore)

Year	Budget estimate	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2006-07	290.00	260.49	(-) 29.51	(-) 10.17	6,065.07	4.29
2007-08	359.84	404.76	(+) 44.92	(+) 12.48	6,856.09	5.90
2008-09	350.54	495.66	(+) 145.12	(+) 41.40	7,995.20	6.20
2009-10	495.66	359.96	(-) 135.70	(-) 27.38	8,982.34	4.01
2010-11	450.00	415.82	(-) 34.18	(-) 7.60	11,192.67	3.72



The shortfall of revenue during 2006-07 was attributed to the high target fixed by the Government whereas no reasons for wide fluctuations in collection of revenues for the years 2007-08 to 2009-10 were furnished by the Department. The less collection against the target during 2010-11 was also stated to be due to excess target fixed in comparison to previous years which is not correct since the target (₹ 450 crore) fixed for 2010-11 was less than the target of ₹ 495.66 crore for the year 2009-10.

4.1.3 Cost of collection

The gross collection under SD and RF, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2008-09, 2009-10 and 2010-11 along with the all India average percentage of expenditure for collection to the gross collection in the respective previous years are mentioned below:

(Rupees in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the previous year
2008-09	495.66	15.23	3.07	2.09
2009-10	359.96	15.91	4.42	2.77
2010-11	415.82	17.09	4.11	2.47

The percentage of the cost of collection was higher than the all India average percentage**. The Government may take appropriate steps to reduce the cost or increase the collection so as not to exceed the all India average cost.**

4.1.4 Impact of audit

Revenue impact

A Land Revenue

During the last five years (2005-06 to 2009-10) we pointed out non / short levy, blocking, non / short realisation of land revenue and fees etc. with revenue implication of ₹ 1,013.49 crore in 45,527 cases. Of these, the Department / Government had accepted audit observations in 32,982 cases involving ₹ 73.84 crore and had since recovered ₹ 3.78 crore in 2,425 cases. The details are shown in the following table.

(Rupees in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2005-06	86	2,783	179.67	1,698	1.75	1454	1.50	85.71
2006-07	92	6,193	146.53	598	1.73	540	1.60	92.49
2007-08	82	1,664	397.15	255	0.49	255	0.49	100.00
2008-09	74	17,994	122.51	14,503	34.12	80	0.15	0.44
2009-10	62	16,893	167.63	15,928	35.75	96	0.04	0.11
Total	**396**	**45,527**	**1,013.49**	**32,982**	**73.84**	**2,425**	**3.78**	**5.12**

The recovery position as compared to the acceptance of objections was very low. **The Government may take appropriate steps to improve the recovery position**.

B. Stamp Duty and Registration Fee

During the last five years (2005-06 to 2009-10), we pointed out non / short levy, non / short realisation of SD and RF etc., with revenue implication of ₹ 1,020.54 crore in 2,06,592 cases. Of these, the Department / Government had accepted audit observations in 14,490 cases involving ₹ 13.78 crore and had since recovered ₹ 6.51 crore in 4,177 cases. The details are shown in the following table.

(Rupees in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2005-06	103	40,950	77.53	964	0.90	776	0.39	43.33
2006-07	94	42,077	355.24	1,487	1.66	1,195	1.61	96.99
2007-08	89	37,310	42.93	4,117	5.65	1,494	3.44	60.88
2008-09	109	57,147	311.96	7,733	4.23	651	1.01	23.88
2009-10	34	29,108	232.88	189	1.34	61	0.06	4.48
Total	**429**	**2,06,592**	**1,020.54**	**14,490**	**13.78**	**4,177**	**6.51**	**47.24**

The recovery position as compared to the acceptance of objections was very low. **The Government may take appropriate steps to improve the recovery position.**

4.1.5 Results of audit

During the year 2010-11 we test checked the records of 129 units relating to land revenue, stamp duty and registration fees and detected non-collection, non / short assessment, blocking of revenue etc., involving ₹ 150.51 crore in 8,205 cases which fall under the following categories.

(Rupees in crore)

Sl. No.	Categories	No of cases	Amount
LAND REVENUE			
1.	Short realisation / non-collection of premium etc. from land occupied by local bodies, private bodies etc.	2,061	143.55
2.	Non-realisation of revenue due to delay in finalisation of Orissa Estate Abolition (OEA) Act (Bebandabasta) cases etc.	4,285	0.34
3.	Blocking of Government revenue due to non-finalisation of Orissa Land Reform (OLR) cases	647	0.71
4.	Irregular / non-lease of sairat sources	263	1.40
5.	Other irregularities	131	1.20
Total		**7,387**	**147.20**
STAMP DUTY AND REGISTRATION FEES			
1.	Blocking of Government revenue due to pending impounding cases	150	0.82
2.	Short levy of stamp duty and registration fee in respect of general power of attorney.	42	0.49
3.	Short levy of stamp duty and registration fee.	615	1.44
4.	Non-realisation of stamp duty and registration fee.	4	0.39
5.	Irregular exemption of stamp duty.	7	0.17
Total		**818**	**3.31**
Grand total		**8,205**	**150.51**

During the year, the Department accepted underassessment and other deficiencies of ₹ 29.96 crore in 5,186 cases in respect of land revenue and ₹ 2.21 crore in 758 cases in respect of stamp duty and registration fees pointed out in 2010-11. An amount of ₹ 1.71 crore in 482 cases in respect of land revenue and an amount of ₹ 0.86 crore in 1,062 cases in respect of stamp duty and registration fees were recovered during the year 2010-11.

A few illustrative audit observations involving ₹ 4.91 crore are discussed in the following paragraphs.

4.2 Audit observations

We scrutinised the records relating to assessment and collection of land revenue, stamp duty and registration fees which revealed blocking and non / short realisation of revenue as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions are pointed out repeatedly, but not only do the irregularities persist, these remain undetected till an audit is conducted by us. There is need for the Government to improve the internal control system including strengthening of internal audit so that these omissions can be avoided, detected and corrected.

LAND REVENUE

4.3 Non-observance of Act / Rules and Government orders / instructions

The OGLS Act, 1962 and Rules made thereunder in 1983 read with the Government orders / instructions issued from time to time in respect of lease[2] / alienation[3] of Government land require that Government land can be leased out / alienated to Government Departments and various bodies / organisations on payment of premium equivalent to the market value of the land, incidental charges along with the ground rent and cess at the prescribed rates. However, in case of land alienated in favour of Central Government Departments, capitalised value at the rate of 25 times of ground rent and cess is payable along with the premium.

Non-observance of the above provisions by the assessing authorities in some cases as mentioned in paragraphs 4.3.1.1 to 4.3.1.3 resulted in blocking / non / short realisation of revenue of ₹ 4.45 crore[4].

4.3.1 Management of Government land

4.3.1.1 Occupation of Government land without any revenue being received by the Department

As per the OGLS Act, 1962 and Rules made thereunder in 1983 read with the Government's orders of October 1961, May 1963, February 1966, Government land can be leased out to Government Departments, local bodies, public sector undertakings, commercial organisations etc. on payment of premium fixed on the basis of market value plus annual ground rent at the rate of one *per cent* (0.25 *per cent* in case of public institutions such as educational and charitable institutions in urban areas) of the premium and cess at the rate of 50 *per cent* of ground rent up to 1993-94 and 75 *per cent* thereafter. In addition to the above, interest at the rate of six *per cent* per annum up to 27 November 1992 and 12 *per cent* per annum thereafter is chargeable for default in payment of the Government dues from the date of occupation of the land till the date of payment.

During test check of the records of three tahasils, we, noticed (June 2009 and September 2010) that in three cases Government lands measuring 13 acres were occupied during the period 1980-81 to 2000-01. Though the occupants applied for lease of the said lands to the concerned Tahasildars, the cases were pending at various levels which led to continued unauthorised occupation of Government land valuing ₹ 5.35 crore without remitting any cost to the Government for such occupation from the dates of occupation up to 31 March 2010. The details are given in the following table.

2 A contract for letting or renting of land for a specific term.
3 Transfer or diversion of land from its original possessor to any other person.
4 It does not include the paragraph on occupation of Government land without any revenue being received by the Department.

				(Rupees in crore)
Sl. No	**Name of the tahasil Name of the occupant**	**Date of occupation Date of application/ Recommendation/ Recommending authority**	**Area occupied in acres Rate of land per acre as per the Bench Mark Valuation as on 31 March 2010**	**Total cost of the land as on 31 March 2010**
1.	Sundargarh Trustee Secretary, Sundargarh Educational Trust, Sundargarh	1980-81 October 1997 March 2006 Tahasildar	4.50 0.58	2.61
The occupant applied for sanction of lease of the above Government land in mouza Talasankara for establishment of an educational institution. As per the report (August 1999) of the Revenue Inspector (RI), Sadar, the school and office building, playground etc. of the public school had been constructed on the said land. The occupant however, intimated that the land was under his occupation since 1980-81. The case was recommended (March 2006) by the Tahasildar for lease. The case record was returned (February 2007) to the Tahasildar by the Sub-Collector with some objections including eviction of three encroachers on the said land before recommending the case. The objection was yet to be complied by the Tahasildar and the case was pending with him. This led to unauthorised occupation of Ac.4.50 of land valued at ₹ 2.61 crore (March 2010) without any benefit accruing to the Government since 1980-81.				
2.	Bhubaneswar President, College of Pharmaceutical Science, Tomando	1991 September 1997 July 2002 Tahasildar	7.50 0.35	2.63
The occupant applied for alienation of nine acres of Government land at village Bijipur for construction of a college, hospital building and laboratories. As per the report (June 2002) of the RI, Patrapada the college having constructed the infrastructure was running since 1991. However, an encroachment case was booked in 1997 against which ₹ 6,130 and ₹ 8,035 were realised in February 1999 and August 2005 towards dead rent and penalty up to 2005-06, but no eviction has been made or the land was leased out under the sanction of the competent authority although the Tahasildar recommended (July 2002) for lease of Ac.7.50 of land out of nine acres in favour of the occupant. The case is pending due to non-receipt of permission from the Government for sanction of lease. This has led to unauthorised occupation of Ac.7.50 of land valued at ₹ 2.63 crore (March 2010) without any benefit accruing to the Government since 1991.				
3.	Parjang Secretary, Regional Co-operative Marketing Society, Kamakshyanagar	January 2001 November 1998 Not recommended	1.00 0.11	0.11
The occupant applied for sanction of lease of the above Government land in mouza Gadaparjang for construction of a godown. The RI, Parjang reported (January 2010) that the land was under possession since January 2001. Although the Revenue Divisional Commissioner, Northern Division, Sambalpur approved (December 2003) the land cost at the rate of ₹ 10 lakh per acre and the current market value was at the rate of ₹ 11 lakh per acre, the Tahasildar did not recommend and finalise the lease case till date. This led to unauthorised occupation of Ac. 1.00 of land valued at ₹ 0.11 crore (March 2010) without any benefit accruing to the Government since January 2001.				
Total			**13.00**	**5.35**

The non-finalisation of these cases were due to non-specification of any time limit in the OGLS Act and Rules made thereunder as well as the inaction/ delayed action of the Revenue Authorities at different levels of the Government and absence of any internal control mechanism to watch such cases for expeditious disposal of the cases at such levels.

After we pointed out the above cases, the Government stated (September 2011), in respect of Tahasildar, Sundargarh, that the Secretary, Sundargarh Educational Trust had been requested to deposit the Government dues from 1980-81 to 2009-10. The sanction of alienation of the said land in favour of the Institution was in process. However, the case had been returned to the originator for rectification of certain deficiencies. Similarly, the Government stated (September 2011) that the Tahasildar, Parjang was taking steps to obtain

the required documents from the RO, RCMS, Kamakshyanagar to settle the case and to realise the Government dues. Further, the Government added (November 2011) that the Additional District Magistrate, Dhenkanal had moved the Deputy Registrar of Co-operative Societies, Dhenkanal to instruct the Secretary, RCMS, Kamakshyanagar to provide necessary documents and co-operate with the Tahasildar concerned for finalisation of the case. The reply in respect of Tahasildar, Bhubaneswar from the Government is yet to be received (January 2012).

4.3.1.2 Non-realisation of revenue due to non-regularisation of advance possession of Government land

As per the OGLS Act, 1962 and Rules made thereunder in 1983 read with the Government's orders of October 1961, May 1963, February 1966, Government land can be leased out to Government Departments, local bodies, public sector undertakings, commercial organisations etc. on payment of premium fixed on the basis of market value plus annual ground rent at the rate of one *per cent* (0.25 *per cent* in case of public institutions such as educational and charitable institutions in urban areas) of the premium and cess at the rate of 50 *per cent* of ground rent up to 1993-94 and 75 *per cent* thereafter. In addition to the above, interest at the rate of six *per cent* per annum up to 27 November 1992 and 12 *per cent* per annum thereafter is chargeable for default in payment of the Government dues from the date of occupation of the land till the date of payment. As the process of alienation or lease of the Government land is a time consuming process, advance possession of land is sometimes given to the indenting departments of the Government and other organisations to start the projects expeditiously in the field under specific orders of the Government. Such cases are subsequently regularised under the above Act/Rules. Further, Government land can be alienated or leased out to a Central Government Department on payment of premium fixed on the basis of market value and capitalised value representing 25 times of the annual ground rent (at the rate of one *per cent)* and cess (at the rate of 75 *per cent* of the ground rent) from 1994-95 onwards for one time settlement as per the Government's instruction dated 22 January 2005. Under the OGLS (Amendment) Rules 2010 effective from 11 February 2010, incidental charges at the rate of ten *per cent* of the premium on lease/alienation of Government land was also leviable.

Despite our observations in previous Reports (Revenue Receipts) of the CAG, during test check of the records of three tahasils, we, however, noticed (June to August 2010) that in three cases advance possession of Government land measuring 15 acres was allowed by the Government between September 1987 and October 2009 for public utility purposes. The cases were pending for regularisation due to non- observance of the formal procedures for sanction of alienation or lease of lands by the competent authority. This led to occupation and enjoyment of Government land from the dates of advance possession without realisation

and remittance of ₹ 4.14 crore towards premium, incidental charges, capitalised value, ground rent, cess and interest calculated up to 31 March 2010. The details are given in the following table.

(Rupees in lakh)

Sl. No	Name of the tahasil Name of occupant	Date of occupation Advance possession Area in acres	Premium/ Incidental Charges (IC)	Ground rent/ Capitalised value (CV)	Cess/ Capitalised value (CV)	Interest	Total
1.	Keonjhar Installation Officer, All India Radio (now Prasar Bharati)	September 1987 2.00	50.00 5.00 (IC)	11.50 -	7.75 -	145.66	219.91
The occupant applied (May 1990) for sanction of the above land at mouza Muktapur for construction of a Low Power TV Relay Centre. The advance possession was given in September 1987. In the meantime the occupant's status was converted into a commercial organisation, but the advance possession was not regularised by sanction of alienation by competent authority. The regularisation of the case was delayed for want of consent from Prasar Bharati for payment of Government dues, which led to non-realisation of Government revenue of ₹ 2.20 crore calculated up to March 2010.							
2.	Anandpur Executive Engineer, EHT Construction Division, GRIDCO (now OPTCL), Angul	July 2008 10.00	102.50 10.25 (IC)	3.80 -	2.85 -	25.80	145.20[5]
The occupant applied (October 2001) for sanction of the above land at mouza Salapada for construction of 132/33 KV GRID Sub-Station. As per the report (July 2008) of RI, Ghasipura, the land was already in possession of the occupant. Although the advance possession was sanctioned (February 2009) by the Government subject to prior collection of the Government dues tentatively, the case was not yet regularised against collection of Government dues of ₹ 1.45 crore calculated up to March 2010 from the occupant.							
3.	Berhampur Deputy Director General of Meteorology, Regional Meteorological Centre, Kolkata	October 2009 3.00	31.66 3.17 (IC)	7.91 (CV)	5.94 (CV)	-	48.68
The occupant applied (July 2006) for alienation of the above Government land at mouza Aswasanapur for establishment of a Doppler Weather Radar Station. Although the advance possession was given as per the Government's sanction (August 2009), the case has not been regularised by the competent authority through alienation. This resulted in non-levy / realisation of Government revenue of ₹ 0.49 crore calculated up to March 2010.							
Total		**15.00**	**202.58**	**23.21**	**16.54**	**171.46**	**413.79**

The non-regularisation of these cases was due to non-specification of time limit in the OGLS Acts / Rules made thereunder as well as inaction or delayed action by the Revenue Authorities at different levels of the Government and absence of an Internal Control Mechanism to watch such cases for expeditious disposal at such levels.

After we pointed out the above cases, the Government stated (September 2011) that in respect of Tahasildar, Anandpur, as per the orders of the Government during sanction of advance possession of the said land to GRIDCO and subsequent instructions of Collector, Keonjhar, the Tahasildar, Anandpur collected (September 2009) ₹ 15.26 lakh towards premium, ground rent and cess. The objections raised by the Collector, Keonjhar had already been complied by the Tahasildar and the case was re-submitted to the Collector, Keonjhar for onward transmission to the Revenue Divisional Commissioner (Northern Division), Sambalpur for sanction of the case, after which the balance of the Government dues would be realised. The

5 This is the minimum amount due in the absence of exact date of occupation.

Government replies in respect of other two cases are yet to be received (January 2012).

4.3.1.3 Short levy of capitalised value and non-levy of interest

During test check of the records (July 2010) of Tahasildar, Mahakalpada, we noticed that alienation of Government land measuring Ac.19.59 in Keyarbank village for setting up a Radar Centre for defence purpose and incremental facilities to Interim Test Range (ITR), Chandipur in favour of the Estate Manager, Defence Research and Development Organisation (DRDO), Ministry of Defence, Government of India was sanctioned (September 2006) by the Government for a period of 99 years in consideration of the requisition routed through the Home (Special Section) Department of the Government in January 2003 and the lease deed was executed (January 2007) in favour of DRDO. However, we observed that the premium of ₹ 89.55 lakh along with capitalised value of ₹ 22.38 lakh (25 times of ground rent only at the rate of ₹ 89,546 *per annum* without taking into account the cess) was realised in 2003-04. This resulted in short levy and short realisation of capitalised value of ₹ 16.79 lakh (25 times of cess at the rate of ₹ 67,160 *per annum*) and interest of ₹ 14.10 lakh from the DRDO as calculated by us up to 31 March 2010.

After we pointed out the case, the Government stated (November 2011) that the Collector, Kendrapara had moved the Estate Manager, Estate Management Unit (R&D), Chandipur, Balasore justifying the claim of the State Government for payment of capitalised value of cess with interest. The Tahasildar, Mahakalpada had been instructed to issue demand notice and take follow up steps for realisation of the dues.

Stamp Duty and Registration Fee

4.4 Non-observance of the provisions of the Acts / Rules and Government instructions

The Indian Stamp (IS) Act, 1899 and the Registration Act, 1908 prescribe that sale agreements, lease deeds and conveyance deeds etc. are registered on realisation of stamp duty (SD), additional stamp duty (ASD) and registration fee (RF) at the prescribed rates on the consideration truthfully and correctly mentioned therein.

Non- observance of the provisions of the above Acts by the assessing authorities in the case as mentioned in paragraph 4.4.1 resulted in short realisation of SD and RF of ₹ 0.46 crore.

4.4.1 Short realisation of stamp duty and registration fees

As per the Indian Stamp Act, 1899, if an agreement is produced before the registering officer without proper stamp duty the instrument is to be impounded and deficit SD and RF is to be realised. Further, an agreement to sell any immovable property is to be registered as a conveyance by full payment of SD and RF in case of transfer of the possession of such property before or at the time or after the execution of such agreement. If any SD is payable at the time of execution of a conveyance, in pursuance of such agreement, the same would be adjusted towards the total amount of duty chargeable on the conveyance.

During test check of the records of the DSR, Nayagarh (February 2009 and September 2010), we noticed that as per the orders of the Registrar of Co-operative Societies, Orissa, the Managing Director, Nayagarh Co-operative Sugar Industries Limited (NCSIL) executed a sale and purchase agreement on 20 June 2004 with the Chairman-cum-Managing Director, M/s ECP Industries, Mumbai for transfer of the assets and business of the sugar factory at a consideration of ₹ 5.22 crore to be paid in instalments. At the time of execution of the agreement, possession of the aforesaid assets and business was handed over to the purchaser. As per the Act, the agreement for sale was to be registered as a deed of conveyance. SD and RF of ₹ 52.20 lakh (SD of ₹ 41.76 lakh at the rate of eight *per cent* and RF of ₹ 10.44 lakh at the rate of two *per cent* on ₹ 5.22 crore) was to be realised at the time of registration. But, after impounding the document it was registered on 10 August 2004 against payment of ₹ 2.40 lakh and ₹ 0.60 lakh only towards SD and RF respectively by taking into account the payment of ₹ 25 lakh already made by the purchaser on 20 June 2004. Further, a modified agreement signed on 24 November 2004 was also allowed to be registered on 17 December 2004 after impounding and realising further payment of ₹ 2.40 lakh and ₹ 0.60 lakh towards SD and RF. Both the documents were released on the respective dates of registration.

Thus, despite having two opportunities to realise the SD and RF due, the DSR registered the documents without receipt of the prescribed SD and RF thereby extending undue favour to the purchaser. Meanwhile, Government in their Cabinet decision (May 2009) allowed to settle the transfer of the business and assets of NCSIL against concessional payment of ₹ 4.98 crore (as a onetime settlement) which was fully paid by the purchaser by 28 December 2010. However, the final sale deed is yet to be executed against payment of SD and RF of ₹ 28.84 lakh calculated at the current reduced rate of SD at the rate of five *per cent* and RF at the rate of two *per cent.* Thus, non-collection of SD and RF in time has resulted in loss of ₹ 17.36 lakh as well non-realisation of ₹ 28.84 lakh.

After we pointed out the case, the Government stated (September 2011) that the DSR, Nayagarh impounded the document under section 38(2) of Indian Stamp Act, 1899 and informed the Director, Nayagarh Sugar Complex Limited, Bhubaneswar to deposit the deficit SD and RF within 15 days. The report on the details of realisation is yet to be received (January 2012).

CHAPTER-V : STATE EXCISE DUTY AND FEES

EXECUTIVE SUMMARY

Marginal increase in tax collection	In 2010-11 the collection of excise revenue increased by 9.43 *per cent* as compared to the Budget Estimate which was attributed by the Department to opening of more new legal outlets, increase in lifting of IMFL / Beer and more utilisation of Mahua Flower.
Internal audit not conducted	Internal audit of the units under the Excise Department has been completed up to 2002-03 for 30 District Excise Offices (DEOs) and for the Excise Intelligence and Enforcement Bureau, Central Division, Northern Division and Southern Division up to the years 2001-02, 2002-03 and 1997-98 respectively. Non-completion of internal audit was attributed to the shortage of staff in the Internal Audit Wing (IAW). This resultantly had its impact in terms of the weak internal control in the Department leading to substantial leakage of revenue. It also led to the omissions on the part of the Superintendents of Excise remaining undetected till we conducted our audit.
Very low recovery by the Department against the observations pointed out by us in earlier years	During the period 2005-06 to 2009-10 we had pointed out non/short levy, non/short realisation of excise duty and fee etc., with revenue implication of ₹ 104.22 crore in 5,505 cases. Of these, the Department / Government accepted audit observations in 2,201 cases involving ₹ 26.46 crore but recovered only ₹ 5.08 crore in 714 cases. The average recovery position, being, 19.20 *per cent,* as compared to acceptance of objections was very low and it ranged between 0.23 *per cent* and 81.59 *per cent*.
Results of audit conducted by us in 2010-11	In 2010-11 we test checked the records of 15 units relating to state excise duty and fees and found non / short realisation, non-levy, loss of revenue etc. involving ₹ 22.90 crore in 440 cases. The Department accepted non-levy / short realisation of duty of ₹ 8.02 crore in 138 cases pointed out by us during the year 2010-11. An amount of ₹ 17.80 lakh was recovered in 34 cases relating to 2010-11 and earlier years.
What we have highlighted in this Chapter	In this Chapter we present illustrative cases of ₹ 1.53 crore selected from the observations noticed during our test check of records relating to assessment records of excise duty and fees in the office of the DEOs, where we found that the provisions of the Acts / Rules / Annual Excise Policies were not adhered to adequately.

	It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Reports (Revenue Receipts) of the CAG for the past several years, but the Department has not taken adequate corrective action. We are also concerned that though these omissions were apparent from the records which were made available to us, the DEOs were unable to detect these mistakes.
Our conclusion	The Department needs to improve the internal control system including strengthening of IAW so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future. It also needs to initiate immediate action to recover the non / short realisation, non-levy of excise duty and fees etc. pointed out by us, more so in those cases where it has accepted our contentions.

5.1.1 Tax administration

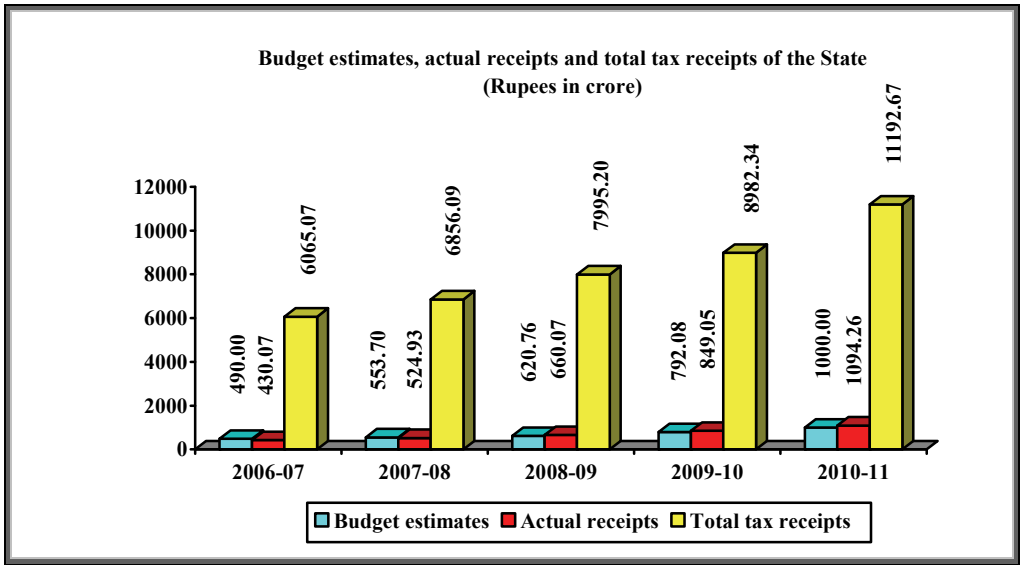
Levy and collection of excise duty, fee, penalty etc. is governed by the Bihar and Orissa Excise (B&OE) Act, 1915, Orissa Excise Rules, 1965, the Board's Excise (BE) Rules, 1965, Orissa Excise Exclusive Privilege (OEEP) Rules, 1970, the Orissa Excise (Exclusive Privilege) Foreign Liquor (OEEPFL) Rules 1989, Orissa Excise (Methyl Alcohol) Rules, 1976, the Board of Revenue (BOR)'s Excise (Fixation of Fees on Mahua Flower) (BEFFMF) Rules, 1976 and the Annual Excise Policies (AEPs) framed by the Government in Excise Department. The Excise Commissioner (EC) being the head of the Department administers the various provisions of the above Acts / Rules under the control of BOR as well as the overall control of the Principal Secretary of the Department. He is assisted by three Excise Deputy Commissioners (EDCs) at three divisions, 30 Superintendents of Excise (SEs) at 30 District Excise Offices (DEOs) and the field level staff thereunder.

5.1.2 Trend of receipts

Actual receipts from State Excise during the years 2006-07 to 2010-11 along with the budget estimates and total tax receipts during the same period is exhibited in the following table and graph.

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+) shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2006-07	490.00	430.07	(-) 59.93	(-) 12.23	6,065.07	7.09
2007-08	553.70	524.93	(-) 28.77	(-) 5.20	6,856.09	7.66
2008-09	620.76	660.07	(+) 39.31	(+) 6.33	7,995.20	8.26
2009-10	792.08	849.05	(+) 56.97	(+) 7.19	8,982.34	9.45
2010-11	1000.00	1094.26	(+) 94.26	(+) 9.43	11,192.67	9.78



The above table shows that the excise revenue increased from ₹ 430.07 crore in 2006-07 to ₹ 1,094.26 crore in 2010-11 and its contribution to the total tax receipt of the State varied between 7.66 and 9.78 *per cent*. The increase in collection during 2010-11 as reported (July 2011) by the EC was due to opening of more new legal outlets, increase in lifting of IMFL / Beer and more utilization of Mahua Flower.

5.1.3 Cost of collection

The gross collection of state excise revenue, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2008-09, 2009-10 and 2010-11 along with the all India average percentages of expenditure for collection to gross collection in the respective previous years are mentioned below.

(Rupees in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the previous year
2008-09	660.07	24.76	3.75	3.27
2009-10	849.05	30.74	3.62	3.66
2010-11	1094.26	36.25	3.31	3.64

The percentages of the cost of collection during 2009-10 and 2010-11 were within the all India average percentages of previous years although it exceeded during 2008-09.

5.1.4 Impact of audit

Revenue impact

During the last five years (2005-06 to 2009-10) we pointed out non / short levy, non / short realisation of excise duty and fee etc., with revenue implication of ₹ 104.22 crore in 5,505 cases. Of these, the Department had accepted audit observations in 2,201 cases involving ₹ 26.46 crore and has since recovered ₹ 5.08 crore in 714 cases. The details are shown in the following table.

(Rupees in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2005-06	33	1,603	9.84	712	4.29	443	3.50	81.59
2006-07	32	1,025	25.14	243	0.42	100	0.14	33.33
2007-08	31	531	9.66	232	3.42	118	1.31	38.30
2008-09	31	410	13.29	214	0.80	26	0.09	11.25
2009-10	27	1,936	46.29	800	17.53	27	0.04	0.23
Total	**154**	**5,505**	**104.22**	**2,201**	**26.46**	**714**	**5.08**	**19.20**

The recovery position as compared to acceptance of audit observations was low. **The Government may take appropriate steps to improve the recovery position, at least for the accepted cases immediately.**

5.1.5 Working of internal audit wing

As per the information furnished by the Department, during the last three years i.e. 2008-09 to 2010-11 the IAW functioning under the control of BOR completed the audit of the accounts up to 2002-03 for 30 DEOs. For the Excise Intelligence and Enforcement Bureau, Central Division, Northern Division and Southern Division, Internal audit has been completed up to the years 2001-02, 2002-03 and 1997-98 respectively. The reason for not conducting audit was attributed to shortage of manpower. **The Department may take steps to strengthen the IAW so as to ensure non-leakage of revenue and clear the backlog of internal audit.**

5.1.6 Results of audit

During the year 2010-11 we test checked the records of 15 units relating to state excise duty and fees and found non / short realisation, non-levy, loss of revenue etc., involving ₹ 22.90 crore in 440 cases which fall under the following categories.

(Rupees in crore)

Sl. No	Categories	No. of cases	Amount
1.	Loss of revenue due to non-settlement / delay in settlement / non-renewal of excise shops	30	3.86
2.	Non / short realisation of excise duty / transport fee / licence fee / utilisation fee etc.	235	2.18
3.	Loss of revenue due to unrealistic determination of consideration money.	127	9.95
4.	Non-realisation / non-levy of initial fees (application fees, user charges and label registration fees) on transfer of license / import fee.	5	3.46
5.	Other irregularities	43	3.45
Total		**440**	**22.90**

During the year, the Department accepted non-levy / short realisation of duty of ₹ 8.02 crore in 138 cases pointed out in 2010-11. An amount of ₹ 17.80 lakh was recovered in 34 cases relating to 2010-11 and earlier years.

A few illustrative audit observations involving ₹ 1.53 crore are discussed in the following paragraphs.

5.2 Audit observations

We scrutinised the assessment records of excise duty and fees in the DEOs and found several cases of non-observance of the provisions of the Act / Rules / AEPs leading to non / short levy and realisation of excise duty, fees and fine etc., as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. Some omissions on the part of the SEs are pointed out by us repeatedly, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Department to improve the internal control system including strengthening of internal audit so as to avoid recurrence of such irregularities.

5.3 Non-observance of the provisions of the Acts / Rules / AEPs and instructions of Government

The B & OE Act, 1915 and Rules made thereunder by the Government as well as the BOR read with the Excise Manual, AEPs and notifications of the Government provide for levy and collection of excise duty and fees like depot licence fee, utilisation fee, import fee and transportation fee etc. at the prescribed rates.

The SEs while finalising the assessments did not observe the provisions of the above Acts / Rules etc. in some cases as mentioned in paragraphs 5.3.1 to 5.3.5 which resulted in non / short levy and realisation of excise duty / fees and fine etc. of ₹ 1.53 crore.

5.3.1 Short levy / realisation of depot licence fee from the Orissa State Beverage Corporation Ltd.

As per the instructions of the BOR (Revenue Commissioner), Orissa, the licences and premises for the country and foreign spirit should be separate and distinct. The Orissa State Beverage Corporation Limited (OSBC) has the exclusive right to carry on wholesale trade and distribution of Country Spirit (CS) from May 2001 onwards. The AEPs provide for levy and realisation of depot licence fee at the rate of rupees four lakh for the year 2005-06 and rupees five lakh for the years 2006-07 to 2009-10 *per annum* per depot which was required to be realised in advance as per the condition of the licence. The depot licences for the years 2005-06 and 2006-07 were to be issued by the EC, Orissa and 2007-08 onwards by the respective District Collectors as per the AEP.

During test check of the licence register, guard file of treasury challan and important circulars of the Government in the DEO, Khurda in September 2010, we noticed that the AEP for 2005-06 was notified by the Government on 28 February 2005. Accordingly a request was made by the SE, Khurda on 29 March 2005 to OSBC for depositing the depot licence fee in respect of the CS depots at the rate of rupees four lakh each *per annum* for the year 2005-06; but the licensee did not pay the same. Despite the non-deposit of the Government dues, the SE, Khurda sent a proposal for issue of depot licences on 6 April 2005 to the EC, Orissa for necessary approval. We also observed that the EC, Orissa as well as the District Collectors issued / renewed the

licences in Form- DW-5[1] to open / operate the CS depots at different places for 2005-06 onwards up to 2009-10 without mentioning therein the chargeability of depot licence fee at the rates prescribed in the AEPs for the respective years. The Corporation was liable to pay depot licence fees of ₹ 76 lakh against the CS depots as detailed below.

Year	Place of CS Depot	No. of CS depot	Rate of depot licence fee (Rupees in lakh)	Licence fee realisable (Rupees in lakh)
2005-06	Balasore, Berhampur, Cuttack[2] (Nirgundi) and Khurda	4	4.00	16.00
2006-07	Balasore, Cuttack (Nirgundi) and Khurda	3	5.00	15.00
2007-08	Balasore, Cuttack (Nirgundi) and Khurda	3	5.00	15.00
2008-09	Balasore, Cuttack (Nirgundi) and Khurda	3	5.00	15.00
2009-10	Balasore, Cuttack (Nirgundi) and Khurda	3	5.00	15.00
Total		**16**		**76.00**

As a result, the Government revenue of ₹ 76 lakh was not collected while issuing / renewing the licences for the CS Depots for the above years as required under the AEPs. After we pointed out this case, the SE, Khurda stated (March 2011) that short levy / realisation of licence fee as pointed out by us would be realised from the OSBC. Further reply is yet to be received (January 2012).

We brought the matter to the notice of the EC, Odisha (February and March 2011) and the Government (March 2011), their replies are yet to be received (January 2012).

5.3.2 Non-realisation of excise duty on account of non-lifting of the MGQ of liquor

As per the Orissa Excise (Exclusive Privilege) Foreign Liquor Rules 1989, when a licensee fails to lift the minimum guaranteed quantity (MGQ) of liquor during a month, he shall make good the loss of excise duty by remittance of an equal amount to the Government account by the fifth day of the succeeding month. The deficit amount is required to be collected at the end of the year with 10 *per cent* fine thereon, in case it is not collected alongwith the licence fee of the succeeding months of the year. Further as per the OER, 1965, licence for the retail sale of intoxicants shall not ordinarily be granted to a former licensee who is in arrears to the Government. As per the AEP for 2009-10, the excise duty on IMFL and beer was fixed at ₹ 140 per London Proof Litre (LPL) and ₹ 18 per Bulk Litre (BL) respectively.

During test check of the licence fee register and settlement file of the DEO, Khurda in September 2010, we found that the licence for IMFL shop at Kharvelnagar-III, Bhubaneswar was renewed by the Collector, Khurda (March 2009) in favour of the Secretary, Bhubaneswar Wholesale Co-operative Society, Alaka for the year 2009-10. The licensee did not lift the MGQ of 20,928 LPL of IMFL and 30,996 BL of beer fixed

1 Form No.5 of Distillery series issued for licence of country spirit depot.
2 The depot was permitted to open from 01.01.2006.

for the said year. Moreover, the licensee did not make good the loss of excise duty by remittance of the amount due to Government on account of non-lifting of MGQ of liquor every month. Hence, the licensee was liable to pay the excise duty of ₹ 38.37 lakh including fine of ₹ 3.49 lakh. However, the DEO did not raise the demand for realisation of the above dues. This resulted in non-realisation of excise duty of ₹ 38.37 lakh. We further observed that the licence for the year 2010-11 was also renewed by the Collector, Khurda on 24 March 2011 without realisation of the arrear dues in contravention of the provision of OER 1965.

After we pointed out the case, the SE, Khurda stated (May 2011) that the demand notice had been issued (April 2011). Details of realisation is yet to be received (January 2012).

We brought the matter to the notice of the EC, Odisha and the Government (March 2011), their replies are yet to be received (January 2012).

5.3.3 Non-levy of utilisation fee and fine for shortfall in utilisation of MGQ of molasses

As per the Orissa Excise (Exclusive Privilege) Rules, 1970 read with Government notification dated 31 March 2007, the licensee shall lift and utilise the entire MGQ of molasses fixed by the District Collector in a financial year on payment of utilisation fee (UF) notified by the Government in the AEP for the year. The licensee shall be liable to pay UF for the shortfall, in case he fails to lift the MGQ, along with a fine of 15 *per cent* of the UF payable for such shortfall. Further, in case of default in payment of the above mentioned UF and fine, the licence of the distillery shall be cancelled.

During test check of the licence register and statement of transactions of molasses in production of alcohol furnished by M/s. Aska Co-operative Sugar Industries Ltd. (ACSIL) in the DEO, Ganjam in September 2010, we found that ACSIL lifted and utilised 15,396.119 MT of molasses as against the MGQ of 33,614.277 MT fixed by the Collector, Ganjam for the years 2007-08 to 2009-10. This resulted in short lifting of 18,218.158 MT of molasses during the above mentioned years for which the licensee was liable to pay UF of ₹ 18.91 lakh and fine of ₹ 3.53 lakh aggregating to ₹ 22.44 lakh. Though the licensee defaulted regularly in paying the fees towards short lifting / utilisation of the MGQ of molasses, the SE, Ganjam neither levied and realised the duty from the licensee nor cancelled the licence as per the provision of the above Rules.

After we pointed out the case (September 2010), the SE, Ganjam, Chatrapur demanded (March 2011) the Government dues, as pointed out by us, against the above distillery. Details of realisation is yet to be received (January 2012).

We brought the matter to the notice of the EC, Odisha (February 2011) and the Government (March 2011), their replies are yet to be received (January 2012).

5.3.4 Short realisation of transportation fee on mohua flower from the licensees of outstill shops

The Orissa Excise (Exclusive Privilege) Rules, 1970 read with the Orissa Excise (Mohua Flower) Rules, 1976 and the AEPs for the years 2008-09 and 2009-10 provide for realisation of transportation fee at the rate of ₹ 15 per quintal of Mohua Flower (MF) against the MGQ of MF fixed by the District Collector for lifting and utilisation by a licensee during a year.

During test check of the licence register, storage and utilisation register of MF, Administrative Reports and quarterly progress reports of three[3] DEOs between January and September 2010, we noticed that although the utilisation fee at the prescribed rate was realised on the entire MGQ, transportation fee was realised only on the quantity of MF utilised in respect of 58 outstill[4] shops. This resulted in short realisation of transportation fee amounting to ₹ 15.45 lakh[5].

After we pointed out the above lapses, the SE, Sambalpur replied (January 2010) that the matter was referred to the EC, Odisha for clarification. The SE, Jharsuguda replied (August 2011) that demand notices were issued to the concerned Exclusive Priviledge (EP) holders of the shops but the amount was yet to be realised. The SE, Ganjam replied (June 2011) that an amount of ₹ 3.14 lakh was realised between December 2010 and March 2011. However, the EC, Odisha stated (June 2011) that if a licensee fails to lift the MGQ fixed, he is liable to pay utilisation fee on short lifting of MGQ of Mohua flower and transportation fee is one such excise revenue linked to MGQ. He further stated that based on the audit objections demand notices were issued earlier to the EP holders for realisation of transportation fee on short lifted quantity of MF. Against such demand notices, writ petitions were filed before the Hon'ble High Court where on the Hon'ble Court had granted stay orders and thus the realisation of transportation fee may not be acted upon till the stay is vacated. The reply is not tenable as the stay orders of the Hon'ble High court were limited to the particular petitioners for particular period only. In none of the cases pointed out by us, stay orders have been issued so far by the Hon'ble Court. Moreover, the SE, Jharsuguda issued demand notices against the shops and the SE, Ganjam realised ₹ 3.14 lakh towards such fee as discussed above.

We brought the matter to the notice of the Government (March 2011), their reply is yet to be received (January 2012).

3 Ganjam, Jharsuguda and Sambalpur.
4 2008-09 : Jharsuguda (12), Sambalpur (29) and 2009-10 : Ganjam (17).
5 Ganjam (Chhatrapur)- ₹ 4.98 lakh, Jharsuguda-₹ 3.44 lakh and Sambalpur- ₹ 7.03 lakh.

5.3.5 Non-levy of utilisation fee and import fee

As per the AEP for 2008-09, utilisation fee and import fee on molasses used for industrial and other purposes were increased to ₹ 150 and ₹ 75 per MT from ₹ 125 and ₹ 70 per MT respectively fixed in the AEP 2007-08.

During test check of the report on stock and disposal of molasses, transport pass register, No Objection Certificates (NOCs) issued by the EC in the DEO, Jajpur in August 2009, we found that a licensee, M/s. Jindal Stainless Ltd., Kalinganagar, Jajpur procured 999.170 MT of molasses during April to July 2008 against NOC originally issued by the EC, Odisha in March 2008 for importing 1000 MT by 10 May 2008 which was subsequently extended twice in May and June 2008. But the utilisation fee and import fee aggregating to ₹ 2.25 lakh as per the AEP for 2008-09 was not demanded by the SE, Jajpur up to the date of audit.

After we pointed out the case, the SE, Jajpur demanded the above dues in October 2009 and reminded the licensee on 17 June 2011 to deposit the amount within seven days. The details of realisation is yet to be received (January 2012).

We brought the matter to the notice of the EC, Odisha (February 2010) and the Government (March 2011), their replies are yet to be received (January 2012).

CHAPTER-VI : FOREST RECEIPTS

EXECUTIVE SUMMARY

Substantial increase in tax collection	In 2010-11 the collection from the forestry and wildlife sector increased by 75.20 *per cent* as compared to the Budget Estimates which was attributed by the Department to the deposit of arrear dues by the Orissa Forest Development Corporation Limited (OFDC).
Very low recovery by the Department against the observations pointed out by us in earlier years	During the period 2005-06 to 2009-10 we had pointed out non / short levy, non / short realisation of royalty, interest and other irregularities etc., with revenue implication of ₹ 61.91 crore in 16,448 cases. Of these, the Department / Government accepted audit observations in 12,540 cases involving ₹ 31.55 crore but recovered only ₹ 2.57 crore in 337 cases. The average recovery position, being 8.15 *per cent,* as compared to acceptance of objections was very low and it ranged between 0.08 *per cent* and 63.95 *per cent*.
Results of audit conducted by us in 2010-11	In 2010-11 we test checked the records of 59 units relating to forest receipts and found non / short levy of interest, non-disposal of timber seized in undetected forest offence cases, non-realisation of royalty and other irregularities involving ₹ 8.93 crore in 2.617 cases. The Department accepted non / short levy of interest, non-realisation of royalty, non-disposal of timber seized in undetected forest offence cases and other deficiencies of ₹ 3.79 crore in 1,218 cases pointed out by us during the year 2010-11. An amount of ₹ 6.39 crore was recovered in 506 cases during the year 2010-11 relating to earlier years.
What we have highlighted in this Chapter	In this Chapter we present an illustrative case of ₹ 0.95 crore[1] selected from the observations noticed during our test check of records maintained in the offices of the Principal Chief Conservators of Forests (PCCFs), Regional Conservators of Forests (RCFs) and Divisional Forest officers (DFOs), where we found that the provisions of the Acts / Rules / Orders / instructions were not adequately adhered to. It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Reports of the CAG for the past several years; but the Department has not taken adequate corrective action. We are also concerned that though these omissions were apparent from the records which were made available to us, the above authorities were unable to detect these mistakes.

1 This does not include one paragraph on blocking of revenue.

Our conclusion	The Department needs to issue instructions for strict compliance to the codal provisions read with their orders / instructions including strengthening of internal audit so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future. It also needs to initiate immediate action to recover the royalty and interest on belated payment of royalty and dispose of the timbers seized in undetected (UD) cases pointed out by us and more so in those cases where it has accepted our contention.

6.1.1 Non-tax revenue administration

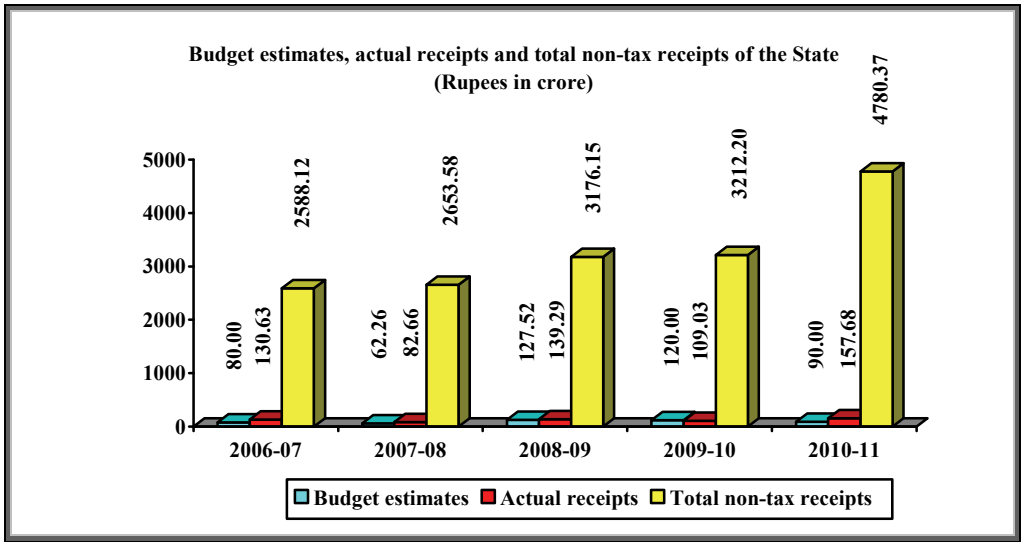
Demand and collection of receipts under forestry and wildlife sector is regulated by the Indian Forest Act, 1927, the Orissa Forest Contract (OFC) Rules, 1966, the Orissa Forest (OF) Act, 1972, the Orissa Forest Department (OFD) Code, 1979 read with Government orders and instructions issued from time to time. The above Act, Code and Rules are administered by the Principal Chief Conservators of Forests (PCCF) under the overall control of the Principal Secretary, Forest and Environment Department. They are assisted by the circle and divisional level officers like Regional Chief Conservators of Forests (RCCFs), Divisional Forest Officers (DFOs) and their field level staff under the territorial, wildlife and kendu leaf wings of the Department. The forest receipts mainly comprise of royalty from sale of kendu leaf, timber and other forest produce and environmental forestry receipts from zoological parks.

6.1.2 Trend of receipts

Actual receipts from the forestry and wildlife sector during the years 2006-07 to 2010-11 along with the total non-tax receipts during the same period is exhibited in the following table and graph.

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual receipts vis-à-vis total non-tax receipts
2006-07	80.00	130.63	(+) 50.63	(+) 63.29	2,588.12	5.05
2007-08	62.26	82.66	(+) 20.40	(+) 32.77	2,653.58	3.12
2008-09	127.52	139.29	(+) 11.77	(+) 9.23	3,176.15	4.39
2009-10	120.00	109.03	(-) 10.97	(-) 9.14	3,212.20	3.39
2010-11	90.00	157.68	(+) 67.68	(+) 75.20	4,780.37	3.30



The trend of receipts showed that it fluctuated from year to year. The contribution of forest receipts to total non-tax receipts of the State has been declining since 2008-09 and it accounted for only 3.30 *per cent* of the non-tax receipts in 2010-11.

The reasons for wide fluctuations in budget estimates and actuals were attributed to excess deposit of royalty towards kendu leaf, timber and other forest produce during 2006-07 and 2007-08, whereas no reason were stated for the year 2008-09 and 2009-10. The reasons for increase in collection during 2010-11 as compared to 2009-10 was attributed to deposit of ₹ 119.17 crore by the OFDC.

The huge variation between the budget estimates and the actuals indicates that the budget estimates are not realistic. **We recommend that the Government may consider issuing instructions to the Department for framing the budget estimates on a realistic basis to ensure that the actuals are close to the budget estimates.**

6.1.3 Impact of audit

Revenue impact

During the last five years i.e. 2005-06 to 2009-10, we pointed out loss, non / short levy, non / short realisation of royalty, interest and other irregularities etc., with revenue implication of ₹ 61.91 crore in 16,448 cases. Of these, the Department accepted audit observations in 12,540 cases involving ₹ 31.55 crore and recovered ₹ 2.57 crore in 337 cases. The details are given in the following table.

(Rupees in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2005-06	46	2,806	22.52	2,545	12.94	17	0.01	0.08
2006-07	45	3,946	25.93	3,933	11.24	101	1.99	17.70
2007-08	45	1,895	3.07	1,377	1.05	36	0.01	0.95
2008-09	45	3,314	3.69	1,856	0.86	181	0.55	63.95
2009-10	51	4,487	6.70	2,829	5.46	2	0.01	0.18
Total	**232**	**16,448**	**61.91**	**12,540**	**31.55**	**337**	**2.57**	**8.15**

The recovery position as compared to acceptance of objections was very low, accounting for only 8.15 *per cent* of the accepted amounts. **We recommend that the Department take appropriate steps to ensure that they could recover at least the amount involved in the accepted cases immediately.**

6.1.4 Results of audit

We test checked the records of 59 units relating to forest receipts in 2010-11 and found non / short levy of interest, non-disposal of timber seized in undetected forest offence cases, non-realisation of royalty and other irregularities involving ₹ 8.93 crore in 2,617 cases which fall under the following categories.

(Rupees in crore)

Sl. No.	Categories	No of cases	Amount
1.	Non / short levy of interest on belated payment of royalty.	494	3.27
2.	Non-disposal of timber seized in undetected forest offence cases	758	0.31
3.	Non-realisation of royalty	20	4.24
4.	Other irregularities	1,345	1.11
Total		**2,617**	**8.93**

During the year, the Department accepted non / short levy of interest, non-realisation of royalty, non-disposal of timber seized in undetected forest offence cases and other deficiencies of ₹ 3.79 crore in 1,218 cases pointed out in 2010-11. An amount of ₹ 6.39 crore was recovered in 506 cases during 2010-11 relating to earlier years.

A few illustrative cases involving ₹ 0.95 crore are mentioned in the following paragraphs.

6.2 Audit observations

We scrutinised the records maintained in the offices of the PCCFs, RCFs and DFOs and found several cases of non-compliance to the provisions of the Act and Rules read with the orders issued by the Department from time to time which resulted in non-raising of demand and blocking of Government revenue as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. We point out these omissions repeatedly; but not only do the irregularities persist, these remain undetected till an audit is conducted. The Government may consider issuing instructions for strict compliance to the codal provisions read with their orders / instructions and to improve the internal control mechanism so as to avoid recurrence of such omissions.

6.3 Non-compliance to legal provisions and Government orders

The OFC Rules, 1966 and departmental orders of February 1977, August 2005 and October 2008 require:-

- *levy of interest on the OFDC for belated payment of royalty at prescribed rates; and*
- *timely disposal of forest produce seized in undetected (UD) forest offence cases.*

Non-compliance of some of the above provisions in the cases mentioned in the succeeding paragraphs 6.3.1 to 6.3.2 by the DFOs resulted in non-levy and non-realisation of Government revenue of ₹ 0.95 crore[2].

6.3.1 Non-demand of interest on belated payment of royalty

As per the OFC Rules, 1966, if a contractor fails to pay any instalment of royalty for sale of forest produce by the due date, i.e., 31 March each year, he is liable to pay interest at the rate of 6.25 *per cent* per annum on the amount of default for the period of delay in payment. The Government, in February 1977, instructed that the OFDC being a contractor, was also liable to pay interest for default in payment of royalty.

During test check of the Delivery Lot (DL) register, Demand register, Royalty statements and Challan guard files of nine[3] DFOs, between June and October 2010, we noticed that the OFDC paid royalty of ₹ 4.39 crore on 840 lots for the period from 1999-2000 to 2008-09 belatedly, between February 2009 and March 2010, with delays ranging between one to 111 months. However, interest of ₹ 95.18 lakh for belated payment was not demanded by the DFOs against the OFDC. Despite our comments in the past in several Reports of the CAG, the DFOs did not put in place a mechanism to compute and issue demand notices for payment of interest at the time of accepting the belated payment of royalty and record the same in the demand register. Moreover, OFDC has also not provided for the interest liability in their accounts on the ground that the proposal of waiver of interest, as sought for by them, was pending for decision at the Government level.

After we pointed out these cases, the Government stated (August 2011) that the DFOs had raised demands against the OFDC for delayed payment of royalty. However, the OFDC had requested to waive the payment of interest on belated payment of royalty on certain grounds especially in view of its present financial condition. The opinion of the PCCF, Odisha in the matter had been received in the Department and the case was being further examined at Government level. The outcome would be intimated shortly. Further reply is yet to be received (January 2012).

2 This does not include one paragraph on blocking of revenue.

3 Angul, Athamallik, Balasore (WL), Cuttack, Dhenkanal, Karanjia, Keonjhar, Keonjhar (WL) at Anandpur and Nayagarh.

6.3.2 Blocking of revenue due to non-disposal of timber and poles

The Government in their order of August 2005 issued instructions for early disposal of timber and poles seized in UD forest offence cases either by public auction or by prompt delivery to the OFDC within two months from the date of the seizure. The Chief Conservator of Forests (Forest Utilisation) directed (October 2008) that the DFOs shall be held responsible in case of delay in disposal without valid reasons.

We test checked the UD forest offence case register, proceedings of authorised officers confiscating the material and offer letters to the OFDC of 14 forest divisions[4] between April and December 2010 and found that 5923.115 cft. of timber and 220 poles valued at ₹ 9.82 lakh seized in 375 UD forest offence cases during 2009-10 were lying undisposed. Of these, 116 UD cases involving 1599.39 cft. of timber and 116 poles valuing ₹ 2.72 lakh were left undisposed for more than six months as on 31 March 2010. Despite our comments in the past in several Reports of the CAG and displeasure expressed by the Hon'ble PAC on the delay in disposal of timber in their 23rd Report dated 13 July 2007 pertaining to the Report of the CAG for the year 2002-03, action was not taken by the DFOs for prompt disposal as per the above orders issued by the Department. This resulted in blocking of revenue of ₹ 9.82 lakh.

After we pointed out these cases, the Government stated (August 2011) that on the basis of the information obtained from the DFOs, 5987.885 cft. of timber and 220 poles were seized in 392 UD cases during 2009-10 involving royalty of ₹ 9.92 lakh, but not disposed of as of December 2010. However, 251 cases involving 4089.884 cft. of timber had been disposed of as of June 2011 involving royalty of ₹ 5.01 lakh and steps are being taken to dispose of the balance forest materials seized in UD cases. Further reply is yet to be received (January 2012).

4 Angul, Athamallik, Balasore(W/L), Bamra (W/L), Berhampur, Boudh, Cuttack, Deogarh, Ghumsur (N), Ghumsur (S), Phulbani, Rairakhol, Rairangpur and Subarnapur.

CHAPTER-VII : MINING RECEIPTS

EXECUTIVE SUMMARY

Steady increase in tax collection	In 2010-11 the collection from mining receipts increased by 30.23 *per cent* as compared to the Budget Estimate which was attributed by the Department to the enhancement of the rate of royalty of iron ore, chromite etc. by the Indian Bureau of Mines (IBM). The increase was, however, due to adoption of the royalty on *ad valorem* basis fixed by the Central Government in August 2009 in lieu of the per tonne basis fixed and adopted earlier.
Very low recovery by the Department against the observations pointed out by us in earlier years	During the period 2005-06 to 2009-10 we had pointed out non / short levy, non / short realisation of tax, fee etc., with revenue implication of ₹ 870.24 crore in 1,158 cases. Of these, the Department / Government accepted audit observations in 605 cases involving ₹ 70.76 crore; but recovered only ₹ 10.43 crore in 114 cases. The average recovery position, being 14.74 *per cent,* as compared to acceptance of objections was very low and it ranged between 3.55 *per cent* and 64.35 *per cent*.
Results of audit conducted by us in 2010-11	In 2010-11 we test checked the records of 15 units involving levy and collection of mining receipts and found non / short demand of royalty, dead rent / surface rent, non / short recovery of interest and irregularities of miscellaneous nature involving ₹ 932.32 crore in 226 cases. The Department accepted underassessment and other deficiencies involving mining receipts of ₹ 849.67 crore in 163 cases, pointed out by us during the year 2010-11. An amount of ₹ 11.94 crore was recovered in 91 cases during the year 2010-11 relating to earlier years.
What we have highlighted in this Chapter	In this Chapter we present illustrative cases of ₹ 238.71 crore selected from the observations noticed during our test check of records relating to assessment and collection of mining receipts in the offices of the Director of Mines (DM), Deputy Directors of Mines (DDMs) and Mining Officers (MOs) where we found that the provisions of the Acts / Rules were not adequately adhered to. It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Reports of the CAG for the past several years, but the Department has not taken adequate corrective action. We are also concerned that though these omissions were apparent from the records which were made available to us, the MOs / DDMs were unable to detect these mistakes.

Our conclusion	The Department needs to revamp its revenue recovery machineries to ensure recovery of the non-realisation, undercharge of royalty / fees etc. pointed out by us, more so in those cases where it has accepted our contention.

7.1.1 Non-tax revenue administration

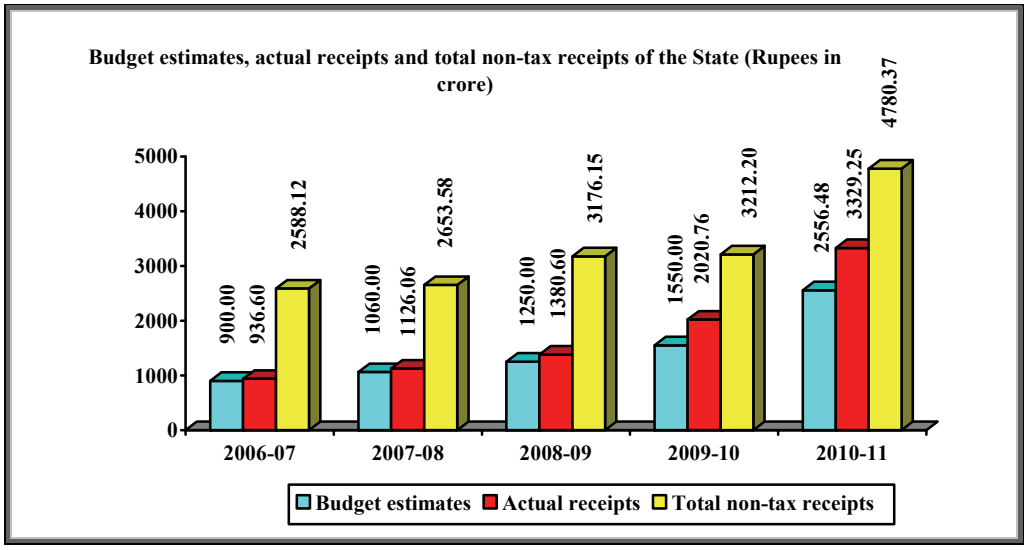
Assessment and collection of mining receipts are regulated by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the Mineral Concession (MC) Rules, 1960 and Mineral Conservation and Development (MCD) Rules, 1988 framed thereunder. The above Act / Rules are administered by the Director of Mines (DM), Orissa under the overall control of the Commissioner-cum-Secretary to the Government in the Department of Steel and Mines. He is assisted by the Joint Director of Mines (JDMs) at the headquarters and the Deputy Directors of Mines (DDMs) and Mining Officers (MOs) at the circle levels. The mining receipts mainly comprise of royalty, fees and fines etc. on raising and removal of minerals.

7.1.2 Trend of receipts

Actual receipts from mining during the years 2006-07 to 2010-11 along with the total non-tax receipts during the same period are exhibited in the following table and graph.

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual receipts vis-à-vis total non-tax receipts
2006-07	900.00	936.60	(+) 36.60	(+) 4.07	2,588.12	36.19
2007-08	1,060.00	1,126.06	(+) 66.06	(+) 6.23	2,653.58	42.44
2008-09	1,250.00	1,380.60	(+) 130.60	(+) 10.45	3,176.15	43.47
2009-10	1,550.00	2,020.76	(+) 470.76	(+) 30.37	3,212.20	62.91
2010-11	2,556.48	3,329.25	(+) 772.77	(+) 30.23	4,780.37	69.64



The receipts from mining have been steadily increasing over the years and accounted for a major source (nearly 70 *per cent)* of the total non-tax revenue of the State in 2010-11. The reason for increase was stated (August 2011) to be due to enhancement of the rate of royalty in iron ore, chromite etc. by the Indian Bureau of Mines (IBM). The increase was, however, due to adoption of the royalty on *ad valorem* basis fixed by the Central Government in August 2009 in lieu of the per tonne basis fixed and adopted earlier.

7.1.3 Impact of audit

Revenue impact

During the last five years i.e. 2005-06 to 2009-10 we pointed out non / short levy, non / short realisation of royalty, dead rent, surface rent, interest etc., with revenue implication of ₹ 870.24 crore in 1,158 cases. Of these, the Department accepted audit observations in 605 cases involving ₹ 70.76 crore and recovered ₹ 10.43 crore in 114 cases. The details are shown in the following table.

(Rupees in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2005-06	15	87	116.84	68	4.60	9	2.96	64.35
2006-07	15	423	55.08	53	14.27	16	3.13	21.93
2007-08	15	104	225.85	80	9.14	45	2.59	28.34
2008-09	15	188	202.52	69	6.94	13	0.48	6.92
2009-10	20	356	269.95	335	35.81	31	1.27	3.55
Total	**80**	**1158**	**870.24**	**605**	**70.76**	**114**	**10.43**	**14.74**

The Department recovered only 14.74 *per cent* of the amount accepted by it.

We recommend that the Department revamp its revenue recovery mechanism to ensure that they could recover at least the amount involved in the accepted cases immediately.

7.1.4 Results of audit

During the year 2010-11 we test checked the records of 15 units relating to mining receipts and found non / short demand of royalty / dead rent / surface rent, non / short recovery of interest and other irregularities involving ₹ 932.32 crore in 226 cases which fall under the following categories.

(Rupees in crore)

Sl. No	Categories	No. of cases	Amount
1.	Non / short demand of royalty / dead rent / surface rent	129	57.91
2.	Non / short recovery of interest	21	0.66
3.	Irregularities of miscellaneous nature	76	873.75
Total		**226**	**932.32**

During the year, the Department accepted underassessment and other deficiencies of ₹ 849.67 crore in 163 cases pointed out in 2010-11. An amount of ₹ 11.94 crore was recovered in 91 cases during the year 2010-11 relating to the earlier years.

A few illustrative cases involving ₹ 238.71 crore are mentioned in the following paragraphs.

7.2 Audit observations

We scrutinised the records maintained in the office of the DM, DDMs and MOs and noticed cases of short levy of royalty and unlawful raising of minerals as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. The Government may consider issuing instructions for effective internal control mechanisms to prevent recurrence of such omissions.

7.3 Non-observance of the provisions of Act / Rules read with the notifications and instructions of the Government

The MMDR Act, 1957, MC Rules, 1960, MCD Rules, 1988 and the notifications and instructions of the Government issued from time to time provide for assessment, demand and realisation of:-

- *royalty at prescribed rates against different grades of minerals from the leasehold areas;*
- *royalty on unprocessed mineral in case of processing of mineral other than run-of-mine[1] (ROM) mineral; and*
- *the cost of minerals unlawfully raised in excess of the permissible limit when it is already disposed of.*

Non-observance of some of the above provisions as mentioned in paragraphs 7.3.1 to 7.3.3 resulted in underassessment, short / non-demand and realisation of ₹ 238.71 crore.

1 The blasted material containing ore with other foreign material brought to the crushing plant.

7.3.1 Underassessment of royalty on steam coal

The Government of India, Ministry of Energy (Department of Coal), in their notification of 16 July 1979, prescribed the classes and grades into which coal shall be classified and fixed the pit head prices at which coal or coke may be sold by the colliery owners. As per the said notification, Run-of-Mines (ROM) coal is coal comprising of all sizes as it comes out of the mines, without crushing or screening. The fraction of ROM coal as is retained on a screen when subjected to screening is called steam coal. Steam coal attracts a higher rate of royalty than ROM coal.

While checking the prescribed monthly returns, wagon loading statements and assessment orders of the lessees in the office of the DDM, Talcher, we noticed (November 2010) that M/s Mahanadi Coalfields Limited (MCL) despatched 54.23 lakh MT of 'F' grade coal of size in excess of 100 mm between April 2009 and March 2010 from their Lingaraj Open Colliery Project in addition to despatch of 'F' grade coal below 100 mm size. As per the classification of the notification[2], the fraction of ROM coal as is retained on the screen after screening is called steam coal. As the 'F' Grade coal despatched was of two sizes one more than 100 mm and another less than 100 mm the fraction that was above 100 mm size was steam coal as these sizes were obviously segregated through a screening process. MCL was thus liable to pay royalty of ₹ 46.95 crore at the rate applicable to steam coal as per the royalty chart of MCL with effect from 13 December 2007 up to 15 October 2009 and the revised rate from 16 October 2009 onwards. However, we noticed that, while assessing the lessee the Assessing Authority (AA) had not taken this into account and a sum of ₹ 42.28 crore only paid by MCL towards royalty at the rates applicable to ROM coal was accepted. This resulted in underassessment and resultant short demand / realisation of royalty of ₹ 4.67 crore.

After we pointed out the case, the Government stated (August 2011) that the DDM, Talcher has issued demand notice (July 2011) against the lessee for payment of ₹ 10.85 crore towards short levy of steam coal for the period October 2007 to March 2010 which was followed by a reminder in September 2011. The final compliance would be furnished, soon after realisation of the above amount.

2 Ministry of Energy, Department of Coal Notification No.28012/8/79-CA dated 16 July 1979.

7.3.2 Underassessment of royalty on iron ore

As per the MC Rules 1960, as amended from time to time processing of Run-of-Mines (ROM) minerals within the leasehold area is chargeable to royalty on the output after processing of the minerals. However, in case of processing of mineral other than ROM, royalty is chargeable on unprocessed mineral i.e. mineral extracted from the seam.

7.3.2.1 During test check (December 2010) of assessment file, assessement orders and monthly returns of TRB Iron Ore Mines of M/s. Jindal Steel and Power Ltd. under the Jurisdiction of DDM, Koira, we noticed that during the year 2009-10, the lessee fed 27.16 lakh MT of unprocessed iron ore to its processing plant within the leasehold area and obtained 12.34 lakh MT of sized ore and 14.82 lakh MT of fines. Thus the quantity of ore fed as input into the processing plant was equal to the output. This indicated that the ore so processed was iron ore lumps as it did not contain any foreign material as would be in the case of ROM. Thus, royalty was to be assessed at the rate applicable for iron ore lumps and for 27.16 lakh MT fed to the processing unit royalty was to be assessed at ₹ 37.76 crore. However, royalty of ₹ 26.75 crore only was assessed, based on the returns, by the DDM. This resulted in underassessment of royalty of ₹ 11.01 crore.

After we pointed out the case, the DDM, Koira contended (December 2010) that the Controller of Mines (Central Zone), Indian Bureau of Mines (IBM) had approved to produce ROM in mines and in the case of processing of ROM carried out within leasehold area, royalty is chargeable on the processed minerals. The contention is not acceptable as high grade iron ore not containing slime or any foreign material is not covered under the ROM and hence chargeable as unprocessed iron ore lumps at higher rate of royalty. It may be mentioned that in respect of a similar observation made in para 7.3.2 of the Report of the CAG 2007-08, the Department has recovered the entire amount of royalty which was underassessed.

The matter was reported to the DM, Odisha and the Government (May 2011); their replies are yet to be received (January 2012).

7.3.2.2 Similarly, during test check (August 2010) of monthly returns, production and removal register and assessment files of M/s ESSEL Mining and Industries Ltd. (Kasia Iron Mines) under the jurisdiction of DDM, Joda we noticed that during 2009-10, 31.95 lakh MT of unprocessed iron ore was fed by the lessee to the processing plant in the leasehold area and the output (31.95 lakh MT) was equal to the input quantity of the mineral. This indicated that the mineral fed was not ROM and hence royalty of ₹ 19.04 crore was to be assessed at the rate applicable for iron ore lumps. However, royalty of ₹ 12.70 crore only was paid as seen from the monthly return of the lessee which was accepted by the DDM. The DDM could not notice this although he is required to accept, scrutinise the monthly returns and assess the lessee quarterly. This resulted in underassessment of royalty of ₹ 6.34 crore.

After we pointed out the case, the DDM, Joda stated (August 2010) that demand will be raised after verification of records.

The matter was reported to the DM, Odisha and the Government (May 2011); their replies are yet to be received (January 2012).

7.3.3 Non-demand / realisation of the cost of unlawfully raised iron ore

Under the MMDR Act, 1957, no person shall undertake any mining operation in any area except under and in accordance with the terms and conditions of the mining lease granted. Whenever any person raises without any lawful authority, any mineral from any land, the Government may recover from such person the mineral so raised or where such mineral has already been disposed of, the price thereof along with rent, royalty or tax for the period during which the land was occupied by such person without any lawful authority. It was judicially opined[3] that a mining lease holder is also required to comply with the other statutory provisions such as Environment (Protection) Act, 1986 and Air (Prevention and Control of Pollution) Act, 1981, the Water (Prevention and Control of Pollution) Act, 1974 and Forest (Conservation) Act, 1980. Mere approval of Mining Plan by Government of India (GoI) would not absolve the lease holder from complying with other provisions. GoI, Ministry of Environment and Forest (MoEF) in their notifications of January 1994, October 2004 and September 2006 directed that for existing mining projects, in case of increase in production, Environment Clearance (EC) from the Central Government is to be obtained. Moreover, under the MCD Rules, every holder of a mining lease shall carry out mining operation as per the terms and condition of the approved mining plan scheme. The owner of every mine shall review the mining plan and submit a scheme of mining for the next five years of the lease to the Regional Controller, IBM at least one hundred twenty days before the expiry of the five year's period for which it was approved on the last occasion. Rule 58 of the above Rules prescribes the penalty for contravention of any of the provisions thereof.

During test check (July 2010) of lease deeds, mining plan, production and removal register and monthly returns in the office of the MO, Keonjhar, we noticed that Putulipani Iron Ore Mines was operated over an area of 100.1632 hectares by M/s Gandhamardan Sponge Iron[3] (P) Limited with effect from 5 April 1993 by virtue of transfer of a mining lease deed executed with the original lessee (Manilal Brothers). Although the original lease of the mine expired on 7 April 1994, the company continued mining operations under the deemed provisions of MC Rules, 1960 with a production capacity of 1.20 lakh Metric Tonne (MT) per annum up to 1998-99. In October 2004 the MoEF clarified that a project can not increase its production even if it has the IBM / Ministry's approval for the enhanced production until EC is obtained for the enhanced rated capacity. However, we observed that the lessee

3 The judgment No. AIR-2004 SC-4016-2004(4) JT-2004(4) Supreme 685 in the case of M/s M.C. Mehta Vrs. Union of India.

produced 15.38 lakh MT of iron ore during the period 2004-05 to 2006-07 against its total permitted production capacity of 3.60 lakh MT during that period at the rate of 1.20 lakh MT per annum without EC from the above Ministry. This resulted in raising of 11.78 lakh MT of iron ore valued at ₹ 70.02 crore in excess of the permitted production capacity in violation of the instruction of GoI, MoEF issued in January 1994 and further clarification made in October 2004. Further, we noticed that the lessee applied (September 2006) for environment clearance for enhancement of its production capacity from 1.20 lakh MT to 3.60 lakh MT per annum which was allowed by the GoI, MoEF in August 2007; but in fact, the lessee raised 22.05 lakh MT of iron ore during April 2007 to August 2009 as against the permitted EC for production of 8.70 lakh MT only from the GoI, MoEF for that period which resulted in excess raising of 13.35 lakh MT of iron ore valued at ₹ 146.67 crore.

The above excess production of 25.13 lakh MT of iron ore was not noticed by the AA while granting removal permission from time to time against the production figures reflected in the monthly returns of the lessee. As the excess raising was a violation of the provisions of the Environmental Impact Assessment (EIA) notification (January 1994) of the GoI, MoEF as clarified in October 2004 and also the EC granted by them in August 2007, it was unlawful raising and hence, the lessee is liable to pay ₹ 216.69 crore as detailed below towards the price thereof**.**

Year	Production (in lakh MT)	Permitted production (in lakh MT)	Excess production (in lakh MT)	Average price (Per MT)	Amount (Rupees in crore)
2004-05	2.21	1.20	1.01	507	5.15
2005-06	4.14	1.20	2.94	562	16.50
2006-07	9.03	1.20	7.83	618	48.37
Total	***15.38***	***3.60***	***11.78***		***70.02***
2007-08	10.59	3.60	6.99	907	63.40
2008-09	9.44	3.60	5.84	1317	76.90
2009-10 (August 2009)	2.02	1.50*	0.52	1219	6.37
Total	***22.05***	***8.70***	***13.35***		***146.67***
Grand total	**37.43**	**12.30**	**25.13**		**216.69**
* E.C. obtained – 150000 – Proportionately computed for five months.					

However, no demands to that effect had been raised by the MO for realisation of the above Government revenue of ₹ 216.69 crore. In the absence of the details of the statutory clearances made available to us for scrutiny for the period prior to 2004-05, the Department may review the lawfulness of raising and despatch of minerals by the lessee during that period for recovery of the cost thereof, if necessary.

Further, we noticed from the information collected (August 2011) from the Regional Controller, IBM, Bhubaneswar that the mining plan in respect of the above mines was approved for the period from 1993-98 and thereafter the 1st scheme of mining was only submitted and approved in 2004 for the period from 2004-05 to 2008-09. Thus, it is evident that the above mines was in operation without any approved scheme of mining for the period from 1998-99 to 2003-04. However, a court case for violation of MCD Rules, 1988 was filed (September 2002) in the Court of the SDJM, Bhubaneswar as stated by the Regional Controller, IBM, Bhubaneswar.

After we brought the case to the notice of the DM, Odisha and the Government (June and August 2011), the Government requested the DM, Odisha to direct all concerned to act in strict conformity with the provisions of section 21 (5) of the MMDR Act, 1957 so as to ensure recovery of Government revenue relating to illegal extraction of iron ore as pointed out by us in respect of all the defaulting lessees with a copy thereof endorsed to us in October 2011, wherein the recovery as pointed out by us in the draft note / paragraph was assured to be intimated after receiving proper information from the DM, Odisha. Further reply is yet to be received (January 2012).

CHAPTER-VIII : OTHER DEPARTMENTAL RECEIPTS

EXECUTIVE SUMMARY

Results of audit conducted by us in 2010-11	In 2010-11 we conducted a performance audit on "Interest Receipts on Loans and Advances" and test checked the records of 25 units relating to departmental tax / non-tax receipts in the departments of Finance, Energy, General Administration (Rent) and Steel and Mines and found non / short levy of tax and non-tax revenue and other irregularities etc. involving ₹ 855.40 crore in 380 cases. The Departments accepted non / short levy and loss of revenue of ₹ 517.37 crore relating to the review and ₹ 164.15 crore in 363 cases which were pointed out by us during the year 2010-11. An amount of ₹ 9.11 crore was recovered in 273 cases during the year 2010-11.
What we have highlighted in this Chapter	In this Chapter we present a performance audit on "Interest Receipts on Loans and Advances" involving ₹ 629.27 crore in respect of seven Departments and a few illustrative cases of ₹ 23.39 crore selected from the observations noticed during our test check of records relating to departmental tax and non-tax receipts of the Energy Department where we found that the provisions of the Acts / Rules were not observed. It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Reports of the CAG for the past several years, but the Departments have not taken adequate corrective actions. We are also concerned that though these omissions were apparent from the records which were made available to us, the Assessing Authorities (AAs) were unable to detect these mistakes.
Our conclusion	The Departments need to improve their internal control system including strengthening of internal audit to avoid recurrence of such omissions. It also needs to initiate immediate action to recover the non-realisation of tax / non-tax revenues pointed out by us, more so in those cases where they have accepted our contentions.

8.1 Results of Audit

We test checked the records of 25 units relating to departmental receipts in the Departments of Energy, General Administration (Rent) and Steel and Mines, and the records of Finance and six[1] other Departments for a performance audit on "Interest receipts on loans and advances" during 2010-11 and noticed non-realisation of revenue, non / short levy of revenue and other irregularities of ₹ 855.40 crore in 380 cases which fall under the following categories.

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
FINANC DEPARTMENT			
1.	**Interest Receipts on Loans and Advances (A Performance Audit)**	**1**	**629.27**
ENERGY DEPARTMENT			
1.	Non-realisation of revenue	332	110.78
2.	Non / short levy of revenue	21	82.53
3.	Other irregularities	9	24.01
	Total	**362**	**217.32**
GENERAL ADMINISTRATION (RENT) DEPARTMENT			
1.	Non-realisation of revenue	14	8.72
2.	Non / short levy of revenue	-	-
3.	Other irregularities	-	-
	Total	**14**	**8.72**
STEEL AND MINES DEPARTMENT			
1.	Non-realisation of revenue	2	0.08
2.	Non / short levy of revenue	1	0.01
3.	Other irregularities	-	-
	Total	**3**	**0.09**
	Grand Total	**380**	**855.40**

During the year the Finance Department accepted non / short raising of demand of interest of ₹ 517.37 crore against the performance audit. Further, the concerned departments accepted non / short levy, loss of revenue, etc., of ₹ 164.15 crore in 363 cases pointed out in 2010-11. The Energy Department recovered ₹ 9.11 crore in 273 cases during the year.

A performance audit on **"Interest receipts on loans and advances"** involving ₹ 629.27 crore and a few illustrative audit observations involving ₹ 23.39 crore are discussed in the following paragraphs.

1 Co-operation, Energy, Housing & Urban Development (H & UD), Higher Education, Textile & Handloom and Transport.

8.2 A Performance Audit Report on "Interest Receipts on Loans and Advances."

HIGHLIGHTS

- **Internal Control Mechanisms (ICMs) of Loan Sanctioning Departments (LSDs) were weak.**

(Paragraph 8.2.10)

- **Demands towards interest of ₹ 611.11 crore on loans granted to different loanees / organisations were not raised by three LSDs.**

(Paragraph 8.2.11 & 8.2.12.1)

- **There was loss of interest of ₹ 17.37 crore due to incorrect adjustment of repayments.**

(Paragraph 8.2.12.3)

8.2.1 Introduction

'Interest Receipts' are one of the major sources of non-tax revenue of the State. Government, in pursuance of its policies for achievement of various objectives sanctions loans and advances to Local Bodies (LBs), Public Sector Undertakings (PSUs), Co-operative Institutions (CIs) and individuals including the Government employees carrying different rates of interest fixed by the sanctioning authorities keeping in view the very purpose of loan / advance. The terms and conditions as to the periodicity of instalments, rate of interest, moratorium, if any, the mode and manner of repayment of principal and interest are specified in the sanction order of the loan keeping in view the provisions of the Orissa General Financial Rule (OGFR) and the Finance Department (FD) circulars issued from time to time. In case of default in repayment, penal interest is leviable at the prescribed rates. Besides detailed guidelines were also issued by the FD regarding the standard formats for sanction of loans, maintenance of loan ledgers, monitoring of loans and advances, timely repayment of principal and interest thereon and watching the recovery and reporting of outstanding loan position at the levels of the Loan Sanctioning Authority (LSA) as well as the FD.

8.2.2 Organisational setup

Loans are sanctioned by the Administrative Departments (ADs) with the approval / concurrence of the Finance Department and Ways and Means[1] advances are sanctioned by the FD on the recommendation of the ADs. The Drawing and Disbursing Officers (DDOs) / Controlling Officers (COs) Directorates / ADs sanctioning loans and advances are responsible for keeping the detailed accounts of such loans and advances as well as watching their recoveries under the overall supervision of the FD.

1 Ways and means advances are advances for short term to be repaid in the same financial year.

8.2.3 Audit objectives

The review was conducted with a view to:

- evaluate the position of raising demand and collection of dues;
- examine the extent of revenue loss due to non / short levy of interest on loans;
- assess the effectiveness of internal control mechanism and maintenance of records.

8.2.4 Scope of Audit and methodology

In para 8.2 of the Report (Revenue Receipts) of the CAG for the year ended March 2005, we mentioned about the non-compliance of the provisions of the OGFR and FD circulars issued from time to time on the loan policy for realisation of interest in respect of loans and advances sanctioned by the Government.

A review on "Interest Receipts on Loans and Advances" covering the periods from 2005-06 to 2009-10 was conducted between November 2010 and June 2011 to ascertain the extent of compliance with the provisions of the OGFR and the guidelines and procedures prescribed by the Government for recovery of interest on loans / advances. We selected seven[2] out of 20 Loan Sanctioning Departments (LSDs) of the Government through "Stratified Sampling" by using IDEA package. The important records maintained for sanction of loans and realisation of principal with interest thereon were reviewed with reference to the terms and conditions of the relevant sanction orders of loans / advances.

8.2.5 Audit criteria

The provisions of the following Rules and Circulars of FD on loan policy were used as audit criteria.

- OGFR Vol.-I (Chapter -13)
- Orissa Budget Manual
- OM of the Government dated October 1975, June 1992, September 1993, January 1995, August 1997, November 2000 and July 2005 reflecting the guidelines for sanction and recovery of loans and advances.
- Detailed instructions and conditions stipulated in the sanction orders of loans / advances.
- Other circulars of Government related to the interest receipts of the Government issued from time to time.

8.2.6 Acknowledgment

We acknowledge the co-operation and assistance extended by the FD and six selected ADs in providing necessary information and records to us. The objectives of the performance audit, criteria and audit methodology were discussed with the Principal Secretary to Government, FD and other officers

2 Co-operation, Energy, Finance, Housing & Urban Development (H & UD), Higher Education, Textile & Handloom and Transport.

of the Finance Department in an "Entry Conference" held on 01 February 2011. An "Exit Conference" was also held on 21 July 2011 with the above mentioned officers wherein the outcome of the performance audit was discussed. The replies of the Government / LSDs received during the Exit Conference and at other points of time have been appropriately included in the PA.

AUDIT FINDINGS

8.2.7 Budget estimate and trend of revenue

As per the Orissa Budget Manual, the COs of the ADs are required to submit the Departmental estimates of revenue to the FD for the budgeted year well in advance. The Budget Estimate (BE) of Revenue Receipts is prepared by the FD showing the amount expected to be realised based on the Actual Receipts (ARs) including any arrears for past years and the probability of such receipts during the budgeted year as reported by the COs.

The BEs and ARs of interest receipt, total non-tax receipt and percentage of interest receipt to the total non-tax revenue of the State for the past five years i.e., 2005-06 to 2009-10 are given below as per the Budget Estimates (Revenue Receipts) and Finance Accounts.

(Rupees in crore)

Year	Budget estimate	Interest receipts			Variation Excess (+), Deficit (-)/ Percentage of variation	Total non-tax receipts of the State	Percentage of interest receipt to total non-tax receipts
		Total receipts	Receipts from cash balance investment	Receipts from loans and advances etc.	(BE vrs Total receipts)		
2005-06	10.00	298.02	90.49	207.53	(+) 288.02/ 2880.20	1531.90	19.45
2006-07	60.00	398.43	229.97	168.46	(+) 338.43/ 564.05	2588.12	15.39
2007-08	69.96	570.39	378.37	192.02	(+) 500.43/ 715.31	2653.58	21.50
2008-09	260.00	654.67	516.57	138.10	(+) 394.67/ 151.80	3176.15	20.61
2009-10	211.33	379.23	335.49	43.74	(+) 167.90/ 79.45	3212.20	11.81

As seen from the above table, there was wide variations between the BE and total receipts which ranged from 79.45 to 2880.20 *per cent*.

After we pointed this out (November 2010 and March 2011) the Government, while accepting the need to prepare the BE realistically by obtaining the required details from ADs / COs, stated (July 2011) that variations were on account of uneven receipts of interest on the investment of fluctuating surplus cash balances available in the Government account, default in payment of interest by loanees such as Grid Corporation of Orissa Ltd (GRIDCO), preparation of conservative budgets, and several other factors. They further added that prior to finalising the outlay of the State's Annual Plan, revenue from own resources is firmed up. The guidelines of the Planning Commission and past trend of receipts and current year's performance formed the basis for forecast of revenue. This indicated that the BEs were not streamlined as per the provisions of the Budget Manual.

8.2.8 Outstanding loans

As per the OM of the Government (August 1997) the LSDs are required to maintain loan ledgers in the prescribed format and the FD is to monitor the loans to ensure timely recovery of principal and interest.

As per the Finance Accounts of the Government, outstanding loan position of the State during the last five years was as under.

(Rupees in crore)

Year	Opening balance	Loans and advances sanctioned	Total	Amount repaid	Percentage of repayment	Closing Balance
2005-06	3619.52	67.20	3686.72	347.59	9.43	3339.13
2006-07	3339.13	271.77	3610.90	285.82	7.92	3325.08
2007-08	3325.08	432.68	3757.76	355.30	9.46	3402.46
2008-09	3402.46	210.97	3613.43	236.21	6.54	3377.22
2009-10	3377.22	112.48	3489.70	356.36	10.21	3133.34
Total		**1095.10**		**1851.28**		

As seen from the above table, the total arrear of loan under different heads pertaining to all the ADs stood at ₹ 3,133.34 crore as on 31 March 2010. However, the position of outstanding loan with year-wise / department-wise details were not available with the FD.

After we pointed this out (June 2011) the Government replied (July 2011) that in the absence of maintenance of basic records like loan ledger by the ADs such information could not be furnished by the FD.

8.2.9 Outstanding interest

As per the FD OM of July 2005, each individual Department should periodically cross check their loan ledger with that of FD, from which it is evident that FD is required to maintain the information of outstanding loans and interest in respect of all LSDs. However as pointed out by us in the previous paragraph, the consolidated outstanding position of loans in respect of all the LSDs was not available with the FD. Hence, the basic loan ledgers required to be maintained at the selected LSDs were taken up for scrutiny. Out of seven departments test checked by us, Finance and Co-operation Departments updated the interest outstanding from time to time in their loan records whereas Transport Department did not maintain any record as interest free loans have been sanctioned. Three departments[3] could not furnish the outstanding position of interest as on 31 March 2010. From the information / reports and returns etc., the outstanding position of interest in respect of four departments, as made available to us, are mentioned in the table given below:

3 Higher Education, Housing & Urban Development and Energy.

(Rupees in crore)

Name of the Department	Outstanding interest						
	Up to 31.03.2005	2005-06	2006-07	2007-08	2008-09	2009-10	Total
Co-operation	5.10	1.24	1.25	1.25	3.44	3.51	15.79
Textile and Handloom	17.59	1.30	1.04	3.06	1.60	1.87	26.46
Transport[4]	NIL	NIL	NIL	NIL	NIL	NIL	NIL
Finance	134.37	16.15	16.16	16.20	16.11	16.15	215.14
Total	**157.06**	**18.69**	**18.45**	**20.51**	**21.15**	**21.53**	**257.39**

Thus, the interest dues of the above LSDs increased by ₹ 100.33 crore during the last five years which emphasises the need for detailed record keeping by the FD as well as LSDs.

After we pointed this out, the Government stated (July 2011) that without flow of information from ADs, FD was not in a position to furnish the outstanding position of interest.

8.2.10 Internal Control Mechanism (ICM)

The OM of the Government issued in October 1975, June 1992, August 1997 and July 2005 stipulate that the LSAs/ ADs shall maintain and update the loan ledger in the prescribed format and take timely action for recovery of loans and interest by way of issue of periodical demand notices. The Secretary of the AD should personally review the progress and recovery of loan and interest every quarter and periodically cross check the facts and figures of the loan ledger with that of the records of FD to ensure the Demand Collection and Balance (DCB) position of loans and interest. The LSD shall furnish head-wise annual statement of the position of loan and interest in respect of loans sanctioned/ recovered and the balance outstanding as of 31 March every year to the FD by 31 May of the following year. The FD shall monitor the recovery of loans and advances. The ADs should reconcile the loan account and furnish the reconciled accounts to the FD for vetting of the same with respect to the records maintained by the FD. No loan shall be sanctioned without reconciling and updating of the loan ledger. In case of default in repayment of loan and interest, the amount due to the ADs and FD will be realised as arrears of land revenue under the Orissa Public Demand Recovery (OPDR) Act 1962.

During scrutiny of records of the test checked seven LSDs, we noticed some deficiencies in the ICM as discussed in the following sub-paragraphs.

8.2.10.1 Absence of Internal audit

Internal audit is one of the most vital tools of the ICM. The management through internal audit evaluates the efficiency and effectiveness of the mechanism. However, we noticed (March and April 2011) that no IAW existed either in the FD or in any of the ADs test checked. In the absence of an IAW, the ADs were not able to detect the deficiencies in maintenance of loan ledgers and monitor the timely issue of demand notices for repayment of

4 All the loans sanctioned by the Transport Department were interest free loans.

overdue principal and interest and submission of reports and returns in time to the FD.

After we pointed this out, Government noted (July 2011) our observations for future guidance.

8.2.10.2 Non-maintenance of loan ledger

During scrutiny of the records of seven LSDs, we noticed that the Co-operation and Finance Departments maintained and updated the loan ledgers in the prescribed formats whereas the remaining five[5] departments had not maintained / updated the loan ledgers. In absence of the details of sanction order, amount of loan sanctioned, rate of interest / penal rate of interest, period of repayment, moratorium period, amount due, recovery etc., the demand and collection of instalments of repayments towards principal and interest could not be monitored by the above LSDs.

After we pointed this out, the Government while accepting our observations, stated (July 2011) that lack of manpower and coordination between the ADs and FD had made the maintenance of ledgers and reconciliation thereof unworkable. A computerised database is required to keep track of the figures on loans and advances and recovery of interest receipts by capturing the treasury portals on drawal / recovery of loans and advances made and validating the legacy data available with the LSDs.

8.2.10.3 Non-conduct of quarterly review and periodical cross checking of the loan ledger

Our scrutiny of the records of six LSDs (except FD) indicated that the Secretaries of the LSDs were neither reviewing the quarterly progress and recovery of loans and interest due to the State nor periodically cross checking their loan ledgers with that of the records of FD as required under the provisions of the FD circular of July 2005.

After we pointed this out the Government, while accepting our observations, agreed (July 2011) to have a computerised database to keep a watch on the figures on loans and advances and recovery of interest receipts.

8.2.10.4 Non-submission of annual statements

During scrutiny of the records of the six LSDs we noticed that none of them furnished the annual statement in respect of the position of outstanding loan and interest to the Finance Department by 31 May each year during the period covered in the review, except the Textile and Handloom Department which also submitted these statements belatedly. As a result, the FD was not able to consolidate the department / year-wise position of outstanding loans and interest as on 31 March 2010 and keep a watch over the repayment of principal as well as payment of interest. Thus an important internal control was not in place.

5 Commerce &Transport (Transport), Energy, Higher Education, H & U.D. and Textile & Handloom.

After we pointed this out, the Government while accepting the observations of audit, stated (July 2011) that this was due to failure of manual system which needed automation.

The above points showed that the ICM of LSDs including FD was weak.

8.2.11 Non-raising of demands of interest

As per the OM of the Government (August 1997), the LSA shall take timely action for recovery of loan and interest by issue of demand notice. In case the loanee fails to discharge the liability in time, suitable legal action should be initiated immediately. A responsible official shall be entrusted with the monitoring of recovery. The OGFR read with the FD circular (September 1993), prescribe that in the event of default in repayment of principal or interest, a penal rate of interest is applicable as specified in the sanction order.

During scrutiny of the records, we noticed cases of non-raising of demands of interest in respect of three Departments as discussed in the following sub-paragraphs.

Energy Department

8.2.11.1 Non-raising of demand of interest on the Accelerated Power Development and Reform Programme (APDRP) loan to the Distribution Companies (DISTCOs)

During scrutiny of the records of the Energy Department, we noticed that the Department sanctioned 10 loans amounting to ₹ 64.19 crore to four DISTCOs[6] during the period from 2003-04 to 2005-06 for strengthening and improving the distribution system under the APDRP. Out of these, in respect of five loans 50 *per cent* of the loan amount was to be recovered in 20 annual instalments with interest at the rate of 12 *per cent* per annum and in the event of default, at the rate of 15.5 *per cent* as penal interest, while the balance 50 *per cent* of the loan which would not carry any interest were to be written off on completion of the project. The rest five loans would also carry normal rate of interest of 12 *per cent* per annum and penal rate of 15.5 *per cent* in case of default, but the same were also divided into two parts of 50 *per cent* each. The first part of the loan was to be recovered in 20 annual instalments and the second part in 15 annual instalments after a moratorium period of five years. We calculated the interest accrual at ₹ 50.53 crore as of 31 March 2010, out of which ₹ 42.83 crore was related for the period 2005-06 to 2009-10.

After we pointed this out (June 2011) the Government stated (July 2011) that demand of ₹ 9.49 crore towards interest on APDRP loan to DISTCOs was raised up to 30 September 2006 which was not verifiable by us since the detailed loan-wise / year-wise calculation sheet of such demand was not

6 CESCO (now CESU) NESCO, SOUTHCO and WESCO.

enclosed with the reply, and the loan figures totalling to ₹ 74.02 crore also do not tally with the total figure of ₹ 64.19 crore pointed out by us.

8.2.11.2 Non- raising of demand of interest on loan to the Orissa Hydro Power Corporation (OHPC)

Consequent upon re-organisation of power sector in the State, the Government in their notification (April 1996) transferred the assets and liabilities of the generation wing of the erstwhile Orissa State Electricity Board (OSEB) to the OHPC which included ₹ 683.50 crore as loan from the Government. Out of the above loans, ₹ 39.20 crore was to be repaid in 15 years after a moratorium of five years with interest at the rate of 9.8 *per cent*, ₹ 500 crore along with interest accrued thereon to be converted to equity after commissioning of the Upper Indravati (UI) Hydro Electric Project (HEP) and the Potteru HEP and the balance loan of ₹ 144.30 crore was to be recovered over a period of 15 years after moratorium of five years along with interest at the rate of 13 *per cent* per annum.

In para 8.2.9 of the Report (Revenue Receipts) of the CAG of India for the year ended 31 March 2005, we mentioned about the short levy of interest in respect of loans of ₹ 570.36 crore (which included a loan of ₹ 19.00 crore) sanctioned to the OHPC due to incorrect computation of interest. However, on further scrutiny of records made available to us in March 2011, we noticed the following additional points.

OHPC repaid (March 2008) ₹ 39.20 crore along with interest out of the loan of ₹ 683.50 crore from the Government. Although UIHEP was commissioned during September 1999 to April 2001, loan of ₹ 500 crore along with interest thereon was not converted into equity as per the terms of transfer of the loan. For the balance loan of ₹ 144.30 crore we calculated the interest accrual for the period April 1996 to March 2010 (14 years) to be ₹ 262.63 crore. Out of this ₹ 93.80 crore related to the period covered under the PA. Moreover, we noticed that OHPC had neither paid the above interest nor provided such interest liability in their accounts (2009-10). No demand had also been raised by the LSD.

After we pointed this out (June 2011) Government stated (July 2011) that since the upvaluation of assets of erstwhile OSEB was kept in abeyance from the year 2001-2002 to 2010-11 and also the interest on the loan has not been considered for calculation of tariff by Orissa Electricity Regulatory Commission (OERC), non-raising of demand for interest as pointed out by us needed reconsideration. The reply is not tenable since we have calculated the interest on the balance amount of loans of ₹144.30 crore as there is no provision of moratorium for payment of interest on any loan in the FD circular of September 1993. Further, demand of interest does not depend on the fixation of tariff by OERC rather it would be regulated by the terms and conditions of the loan sanctioned in favour of OSEB and Government notification thereon made in April 1996.

8.2.11.3 Non-raising of demand for interest on loans of GRIDCO transferred to the DISTCOs

In para-8.2.10 of the Report (Revenue Receipts) of CAG of India for the year ended 31 March 2005, we mentioned about the non-realisation of interest of ₹ 215.53 crore on loan of ₹ 915.05 crore to the DISTCOs. However, from further scrutiny of records available to us in March 2011 we noticed the following additional deficiency.

During scrutiny (March 2011) of the records of the Energy Department, we noticed that the Department sanctioned 36 loans amounting to ₹ 632.07 crore to GRIDCO to be repaid in 15 years including moratorium of five years during the period from 1996-97 to 2004-05 for upgradation of the Transmission and Distribution (T&D) system. The loans carried interest at the rate of 13 *per cent* per annum and in the event of default in repayment, penal interest at the rate of 16.5 *per cent* was demandable.

As per the Subsidiary Loan and Project Implementation Agreement (SL&PIA) executed (March 2000) between DISTCOs and the Government read with the joint reconciliation (November 2005) figures as of 31 March 2005, the DISTCOs were required to repay the loans (₹ 161.73 crore) and interest (₹ 78.36 crore) directly to the Government in respect of the entire reconciled outstanding loan amount transferred to them. However, the Government intimated (May 2006) GRIDCO that they may continue to service the loans so transferred and make appropriate recoveries from the DISTCOs; but neither the GRIDCO nor the DISTCOs repaid any amount towards principal and interest. We recalculated the interest accruals at ₹ 211.79 crore as of 31 March 2010, out of which ₹ 133.43 crore related to the period covered under the PA. No demand had, however, been raised by the LSD for realisation of interest on the loans as re-cast by us.

After we pointed this out, the Government stated (July 2011) that GRIDCO was asked in August 2006 to reconcile the principal and interest on World Bank loan of ₹ 161.73 crore and take the responsibility of discharging the liability.

Housing and Urban Development (H&UD) Department

8.2.11.4 Non-raising of demand of interest on the loans to Orissa Rural Housing and Development Corporation Ltd (ORHDC)

As per the OGFR read with the guidelines of FD issued from time to time the loan sanctioned to the PSUs and LBs should be recovered along with interest as per the terms and conditions of the relevant sanction order from the date of drawal of such loan by raising periodical demands.

During scrutiny of records of the H&UD Department, we noticed (November 2010) that 14 loans aggregating to ₹ 307.25 crore were sanctioned by the FD / H&UD Department in favour of the ORHDC during the period March 2007 to February 2010 for repayment of HUDCO loans availed of by the ORHDC under the Government's guarantee coverage carrying interest at the rate of eight *per cent* per annum.

However, the ORHDC has not repaid any amount towards principal or interest. We calculated the interest accrual up to 31 March 2010 at ₹ 53.07 crore. No demand had, however, been raised by the LSD.

After we pointed this out, the Government agreed (July 2011) to our observation.

8.2.11.5 Non-raising of demand of interest on Loan for One Time Settlement (OTS)

During scrutiny of records of the H&UD Department (Water Supply Section) we noticed (November 2010) that an amount of ₹ 6.69 crore was sanctioned (March 2009) by the FD as loan in favour of 22 Urban Local Bodies (ULBs) towards full and final payment of Government guaranteed loan to the Life Insurance Corporation (LIC) of India under the OTS scheme. The loan was to be repaid within a period of five years with simple interest at the rate of 9.5 *per cent* per annum. The LSD, however, did not raise any demand. We calculated the interest dues of ₹ 67.53 lakh on the above loan as of March 2010**.**

After we pointed this out, the Government agreed (July 2011) to our observation.

Higher Education Department

8.2.11.6 Non-raising of demand of interest on Orissa Loan Stipend Fund (OLSF) Loans to Students

As per the OLSF Rules, 1976, recovery of loans, sanctioned to meritorious students for prosecuting higher studies, shall commence after one month from the date of employment or one year after the date of successful completion of the study, whichever is earlier. Further, the bond executed by the loanee provides that irrespective of successful completion of the study or otherwise, the loanee and sureties are liable to refund the loan along with interest thereon. The amounts due to Government, if not paid in time, shall be recoverable as arrears of land revenue under the OPDR Act, 1962 with interest at the rate of 10 *per cent* per annum.

During scrutiny of the loan ledger and sanction orders of the Higher Education Department made available to us, we noticed (March 2011) in test check that loans amounting to ₹ 20.25 lakh were sanctioned and paid to 67 students during the period from 1997-98 to 2003-04. Although the students defaulted in repayment of above loans so far after completion of their studies, the LSD neither worked out the interest liability nor issued any demand notice for repayment of loans and interest thereon in terms of the agreements made with them at the time of sanction of loans. In the absence of detailed records, the LSD was not in a position to furnish the total outstanding liability of loanees in above cases. We, however, calculated the interest liability at ₹ 9.45 lakh as on 31 March 2010 including interest of ₹ 8.47 lakh related to the period covered under the PA which has not been demanded against the loanees.

After we pointed this out, the Government stated (July 2011) that steps were being taken by the LSD to recover interest in respect of all the cases pointed out by us.

8.2.11.7 Inadequate action for realisation of outstanding interest

FD, OM of October 1975, June 1992, August 1997 and July 2005 envisage that the LSAs/ADs shall maintain and update the loan ledger in the prescribed format and take timely action for recovery of loans and interest by way of issue of periodical demand notices. In case the loanee fails to discharge the liability in time, suitable legal action should be initiated immediately for recovery of loan and interest under the Orissa Public Demand Recovery (OPDR) Act 1962.

During scrutiny of the records of the selected LSDs, we noticed (May 2011) that 53 loanee organisations under three LSDs[7] defaulted in payment of interest amounting to ₹ 66.54 crore up to 31 March 2010 against sanction of loans amounting to ₹ 392.26 crore during the period of review. However, only a single demand notice was issued by the Co-operation Department for realisation of ₹ 4.41 crore leaving 52 demand notices yet to be issued for realisation of interest dues of ₹ 62.13 crore. The LSDs have neither raised demand notices nor had legal action been initiated for recovery of the above loans and interest from the loanees under the OPDR Act. This showed inadequate action on the part of the LSDs in recovery of the interest dues.

After we pointed this out, the Government replied (July 2011) that creation of an automated monitoring system can help in generating the demand notices in time and identify the cases in which legal action is to be taken.

8.2.12.1 Short demand of interest on loans to the DISTCOs

As per the Notification (January 2003) of Energy Department, World Bank loans would be passed on by the Government to the DISTCOs in shape of 70 *per cent* as loan and 30 *per cent* as grant. Further, the said notification specified that taking into account the distribution loss of 42.21 *per cent* in the financial year 2001-02 as the benchmark, there shall be five *per cent* overall reduction of distribution losses every year from the financial year 2002-03 up to 2005-06. The Government of India (GoI) however, stipulated (June 2004) that any cash subsidy i.e., 30 *per cent* grant to the DISTCOs must relate to achievement of additional milestone such as targeted reduction of the annual T&D loss.

During scrutiny of records of the Energy Department, we noticed (March 2011) that the Department sanctioned ₹ 406.82 crore as loans (67 cases) during the period from 2000-01 to 2004-05 to four DISTCOs[8] for power sector restructuring project to be repaid in 10 equal instalments with moratorium of five years. The loan carried interest at the rate of 13 *per cent*

7 Co-operation (1), Energy (3),H&UD (49).
8 CESCO, NESCO, SOUTHCO and WESCO.

per annum and in the event of default in repayment it was 16.5 *per cent*. However, we noticed that the DISTCOs have not fulfilled the condition for targeted reduction of annual T&D losses as revealed from the loss level of 37.94 *per cent* recorded during the financial year 2010-11. Hence, the DISTCOs were not entitled for any cash subsidy i.e., conversion of any portion of loan to grant. Further, the Government sanctioned the whole amount of ₹ 406.82 crore as loan and no portion thereof has yet been converted to grant. We recalculated the outstanding interest at ₹ 444.39 crore as on 31 March 2010 considering the total amount as loan which was due to the Department.

After we pointed this out, the Government while agreeing (July 2011) to the observation, stated that demand of ₹ 157.17 crore towards interest calculated up to 30 September 2006 has been raised (December 2006) by the LSD. Thus, there was short demand of ₹ 287.22 crore towards interest against the LSDs as of 31 March 2010.

8.2.12.2 Short demand of interest

As per the FD circular (August 1997), the LSA is required to maintain loan register in a prescribed format and take timely action for recovery of loans and interest by way of issue of demand notices on the basis of the terms and conditions specified in the sanction orders.

During scrutiny of the records of Co-operation Department, we noticed (February 2011) that the Department released ₹ 3.57 crore by the end of 1999-2000 for revival of the Bargarh Co-operative Sugar Mills Ltd. As per our calculation, against the outstanding interest dues of ₹ 5.93 crore as of 31 March 2010, demand was raised for ₹ 5.87 crore only which resulted in short demand of ₹ 5.36 lakh towards interest**.**

After we pointed this out this (June 2011), the Government agreed (July 2011) to our observation.

8.2.12.3 Loss of interest due to incorrect adjustment of repayments

As per the FD circular of October 1975, ways and means advances are to be sanctioned for a temporary period to be recovered within the same financial year in which it is sanctioned. In case of default, such amount along with interest thereon shall be recovered under the OPDR Act, 1962. The OGFR also provide that, unless otherwise specifically stipulated, interest shall be the first charge on the repayment made by the loanee.

In para 8.2.12 of the Report (Revenue Receipts) of CAG of India for the year ended 31 March 2005 we mentioned about the loss of revenue of ₹ 2.74 crore due to irregular adjustment of principal amounts against the repayments of ₹ 20 crore made by two implementing agencies during April 1999 and January 2000 towards ways and means advance. However, from a detailed scrutiny of records (March 2011) of the FD we noticed that the ways and means advances of ₹ 69.04 crore was sanctioned by the FD to 10

organisations[9] between April 1980 and March 2002. The above advances were to carry interest at the rate of three *per cent* above the normal bank rate of interest with a penal rate of 15 *per cent* per annum for the advances sanctioned up to 10 June 1992. Thereafter a rate of 18 *per cent* per annum including penal interest of 3 *per cent* in the event of default in repayment was to be charged. We, however, observed that the above organisations repaid ₹ 63.72 crore during March 1981 to February 2004 against the above advances disbursed to them although they were required to repay the advances within the same financial year in which the advances were released. Out of the above repayment, ₹ 59.89 crore was adjusted towards principal while ₹ 3.83 crore only was adjusted towards interest in contravention of the OGFR. Consequently, the outstanding interest and principal were incorrectly determined at ₹ 29.52 crore and ₹ 9.15 crore as on 31 March 2010 instead of ₹ 44.94 crore and ₹ 20.97 crore respectively and the same were carried forward in the relevant records to the next year. This resulted in loss of interest. The FD did not detect the above loss of interest of ₹ 44.94 crore which included ₹ 17.37 crore relating to the last five years (2005-06 to 2009-10)**.**

After we pointed this out, the Government replied (July 2011) that considering the weak financial position of the organisations the amount paid by them had not been adjusted towards interest first. The reply is not tenable as adjustment of repayments towards principal before adjustment of interest was against the codal provisions.

8.2.12.4 Loss of interest due to incorrect calculation.

As per OM of the Government (August 1997), the LSA is required to maintain the loan ledger in the prescribed format and take timely action for recovery of loans and interest by way of issue of demand notices on the terms and conditions specified in the sanction orders.

During scrutiny of the records of the Energy Department, we noticed (March 2011) that loan of ₹ 19 crore was sanctioned (June 2001) and disbursed on 20 July 2001 to OHPC for renovation, modernisation and upgradation of Unit III and IV of Burla Power House under the 'Accelerated Power Development Programme' (APDP) Scheme. The loan carried interest at the rate of 13.5 *per cent* per annum and in the event of default in repayment penal interest at the rate of 16.5 *per cent* per annum was leviable. The first 50 *per cent* of the loan was to be recovered in 20 equal instalments along with interest without any moratorium. The second 50 *per cent* of the loan was to be recovered in 15 equal instalments along with interest after moratorium of five years. OHPC repaid ₹ 30.41 crore on 31 December 2005 towards repayment of loan and interest. The company did not repay the principal and interest for the first part of the loan in time. Therefore, as per the terms and conditions of the sanction order, penal interest of ₹ 6.97 crore was to be realised and adjusted for this part of the loan. The Department, however,

9 OSCARD Bank, IDCOL Cement, IDC, OSFC, OHPC, TDCC, Konark TV, OSRTC, CSI Nayagarh and Kalico Spin.

adjusted an amount of ₹ 5.70 crore towards interest at normal rate. This led to short realisation of interest of ₹ 1.27 crore which was erroneously adjusted towards the principal of the second part of the loan on that date. Had the penal rate of interest been adjusted, the principal amount of the second part of the loan to the extent of ₹ 1.27 crore would have remained outstanding against the loanee which would have earned interest of ₹ 72.80 lakh for the period from 1 January 2006 to 31 March 2010 at the normal rate of interest. Thus, there was loss of interest of ₹ 0.73 crore. Moreover, the erroneous adjustment of interest resulted in forgoing the scope for recovery of the above principal of ₹ 1.27 crore and interest thereon in future also.

After we pointed this out, the Government stated (July 2011) that interest has been calculated by audit at penal rate on the first part of the loan for the entire period instead of calculating the same for the defaulted amount for the defaulted period. The reply is not tenable, since the loanee defaulted in repayment of principal and / or payment of interest, penal rate of interest was to be charged on the loan amount as per the OM of the Government (September 1993). Accordingly penal interest has been calculated by us on the first part of the loan up to the defaulted period only.

8.2.13 Conclusion

We noticed a number of deficiencies in implementation of provisions of OGFR and different circulars of FD on loan policy of the Government involving non / short raising of demand and loss of interest of ₹ 629.27 crore as discussed in the foregoing sub-paragraphs. The basic records i.e. loan ledgers were not maintained by the LSDs. The LSDs were neither reviewing the progress of recovery of loan and interest nor cross checking the figures periodically with that of the records of FD. The annual statements on the position of loans and interest were not submitted to the FD as a result of which the FD was not able to monitor the loans and advance position of each Department. Thus the position of outstanding loans and interest due was not being assessed, demands raised or corrective action taken on time to safeguard Government revenue.

8.2.14 Recommendation

As interest receipts contribute substantially to the non-tax revenue of the State, Government should initiate action in order to improve the system deficiencies noticed by us to ensure prompt recovery of the dues. The Government may consider the following suggestions to improve the effectiveness of the system.

- Streamline the mechanism for keeping a watch over the outstanding position of loans and interest receipts and to ensure recovery thereof.
- Maintain and update essential records especially loan ledgers;
- Issue demand notices for all outstanding interest receipts due to the Government;
- Insist on submission of annual statements by the LSDs to FD to facilitate monitoring by FD; and
- Initiate enforcement measures to recover the interest dues.

8.3 Other audit observations

We conducted test check of assessment records and other related documents of the Energy Department and found non / short levy and realisation of revenue towards electricity duty as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test checks carried out by us. Such omissions are pointed out by us repeatedly; but not only do the irregularities persist, these remain undetected till an audit is conducted. The Government may consider issuing instructions for effective internal control mechanisms to avoid recurrence of such omissions.

8.4 Non-compliance of provisions of Act / Rules, notifications and decisions

The Orissa Electricity Duty (OED) Act, 1961 and Rules made thereunder read with notifications and clarifications of the Government issued from time to time provide for:-

- *Self assessment / payment of electricity duty (ED) due at the prescribed rates on auxilliary*[10] */ captive consumption of energy within the prescribed period unless specifically exempted by the competent authority under the Industrial Policy Resolution(IPR) of the State.*
- *levy of interest on belated payment of ED.*

We noticed non-compliance of some of the above provisions as mentioned in paragraphs 8.4.1 to 8.5 which resulted in non / short-levy / realisation of revenue of ₹ 23.39 crore.

8.4.1 Non / short levy of electricity duty on auxiliary consumption of electricity

As per the OED Act, 1961 and rules made thereunder read with clarification of the Government dated 6 November 1999 and notification dated 1 January 2006, ED at the rate of 20 paise per unit is leviable on the auxiliary consumption of energy and it shall be paid to the Government account within the prescribed time. In case of default, interest at the rate of 18 *per cent* per annum is also leviable.

During test check of records of the Superintending Engineer (Project)-cum-Electrical Inspector (Generation), Circle-II, Jeypore during September and October 2010, we noticed that IB Thermal Power Station, an Industrial Unit (IU) of Orissa Power Generation Corporation (OPGC) Ltd. generated 18780.162 MU of energy and exported 16691.167 MU of energy to GRIDCO during April 2004 to March 2010 leaving a balance of 2088.995 MU of energy for consumption in its factory, colony / township and auxiliary consumption etc. However, annual certified account of OPGC exhibited auxiliary consumption of 1927.570 MU[11] which was loweer than the reported monthly return figures 2088.995 MU as discussed above. We also

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

11 As per the certified annual accounts for the period from 2004-05 to 2009-10 net consumption is 1927.570 MU derived by deducting sale of 16819.120 MU from the Gross generation of 18746.690 MU.

noticed that OPGC returned payment of ₹ 36.96 crore towards ED on 1847.753 MU only against correct liability of ₹ 38.55 crore for auxiliary consumption of 1927.570 MU as reflected in the certified annual accounts. This led to short levy of ₹ 1.60 crore besides interest leviable as per the provisions of the law.

After we pointed out the case, the Chief Engineer (Project)-cum-Chief Electrical Inspector (Generation), Odisha stated (May 2011) that the discrepancy in energy consumed and ED paid was due to ageing of equipments, cables and non-calibration of old and unspecified class of accurate energy meter. Further he concluded that such type of loss was unavoidable in the electrical systems and the OPGC was supposed to deposit ED as per the meter readings, which they were doing.The reply is not acceptable because ED is payable as per the auxiliary consumption reflected in the certified annual accounts.

We brought the matter to the notice of the the Government (May 2011) whose reply is yet to be received (January 2012).

8.4.2 Non-levy / non-realisation of ED

As per the OED Act, 1961 and Rules made thereunder read with Government notification dated 1 January 2006, ED at the rate of 20 paise per unit is payable to the Government by the IUs having CPPs for their captive consumption within the prescribed period, unless exempted by the EI concerned under any IPRs of the Government. In case of default, interest at the rate of 18 *per* cent per annum is leviable.

8.4.2.1 (a) During scrutiny of the records of the SE (P) cum EI (G), Circle II, Jeypore in February 2009, we noticed that M/s Shyam DRI Power Ltd. generated and consumed 12.75 crore units of energy from its CPP of 30 MW capacity during the period May 2007 to March 2008; but it did not pay the ED of ₹ 2.68 crore including interest of ₹ 12.51 lakh calculated by us as of March 2008. The EI did not detect the above non-payment although he accepted the monthly returns without mention of the details of payment made towards ED. After we pointed this out, the SE (P) cum EI (G) Circle II Jeypore, the Assessing Authority (AA) stated (August 2009 and January 2011) that demand for ED of ₹ 5.62 crore as of November 2008 including interest of ₹ 67.09 lakh had been demanded against the IU in March 2009 which had not been realised. However, from the further data made available to us in January 2011 by the AA in respect of generation / consumption of energy during the period April 2008 to March 2010, we calculated the total ED liability of ₹ 10.53 crore including interest of ₹ 2.03 crore for the period May 2007 to March 2010. This was also not detected by the EI while accepting the monthly returns and the amount has not been realised from the IU. The AA, however, clarified (February 2009, August 2009 and January 2011) that the IU was not depositing ED in anticipation of getting exemption under IPR 2001 for which the IU stated to have applied (September 2007) to the Director of Industries (DI), Orissa. However, the application had not been recommended by the DI, Orissa to the concerned authority for exemption of ED as of July 2011.

8.4.2.1(b) Further, we noticed (February 2009) that another IU, M/s Bhasker Steel Ferro Alloys Ltd generated 4.61 crore units of energy during the period January 2007 to March 2008 from its Diesel Generator (DG) and Turbo Generator (TG) sets as seen from its letter dated 18 April 2008 addressed to the AA. However, the IU neither submitted monthly returns nor deposited the ED of ₹ 1.01 crore including interest of ₹ 8.88 lakh, calculated by us as of March 2008. After we pointed out this (February 2009) the AA stated (August 2009 and January 2011) that the demand towards ED of ₹ 1.57 crore for the period July 2006 up to September 2008 for the DG sets and up to January 2009 for the TG sets including interest of ₹ 33.25 lakh had been raised against the IU in March 2009 which was not realised. However, from the further information made available to us in January 2011 by the AA in respect of generation and consumption of energy during the period April 2008 to February 2010, we calculated the ED liability of ₹ 3.11 crore including interest of ₹ 65.29 lakh for the period January 2007 to February 2010. Against this the IU had deposited ₹ 3.50 lakh only in March 2010 and ₹ 9.25 lakh between January 2011 and March 2011. Hence, ED of `₹ 2.98 crore is yet to be realised from the IU. The AA, however, stated (February 2009, August 2009 and January 2011) that the IU was not depositing ED in anticipation of getting exemption order under IPR. However, the application was not recommended by the DI to the concerned authority for exemption of ED as of July 2011.

The above positions at (a) and (b) showed that AA did not take appropriate steps for raising the monthly demands of ED against the IUs despite our observation made in February 2009 for timely collection and deposit of the same into the Government Account. Moreover, after raising of such demands the Department could have initiated certificate proceedings for recovery of Government dues as arrear of land revenue under the Orissa Public Demand Recovery (OPDR) Act, 1962.

We reported the matter to the CEI (G) Orissa, (March 2011) who stated (May 2011) that the IUs were not depositing the periodical ED in anticipation of getting exemption under the IPR 2001 like others. However, the fact remains that the DI, Orissa has not yet recommended the application for exemption of ED and hence ED of ₹ 7.19 crore was demanded (March 2009) after we pointed out the lapses (February 2009) in respect of both the IUs; no demands were made for the balance amount of ₹ 6.45 crore and an amount of ₹ 13.51 crore is yet to be realised from both the IUs.

We reported the matter to the Government (May 2011); whose reply is yet to be received (January 2012).

8.4.2.2 Similarly, during test check of records (July 2010) of SE (P) cum EI (G), Circle-I, Keonjhar, we found that M/s Bindal Sponge Ltd., Angul commissioned (December 2005) a CPP of 12.5 MW (11 KVA capacity) for generating power. The IU did not file its monthly returns with the EI up to March 2008 and the EI did not call for the same every month. Moreover, we noticed that although the claim of the IU for exemption of ED under IPR 2001 was disallowed by the Government in November 2007, it did not pay any ED. The Annual Inspection Reports of the IU conducted at different intervals revealed that during the period from 13 December 2005 to 20 March 2010, 171.02 MU of power was generated by the CPP on which ED of ₹ 3.42 crore

was payable. The SE demanded (December 2007) ED of ₹ 1.28 crore in respect of 64.266 MU units covering the period 13 December 2005 to 3 September 2007 (which was also not realised till the date of audit in July 2010) but thereafter no demands were made on the captive consumption of 106.754 MU of energy generated during the period from 4 September 2007 to March 2010. This led to non-levy of ED ₹ 2.14 crore and interest of ₹ 1.11crore[12] calculated up to 31 March 2010. Thus, total ED of ₹ 4.53 crore including interest has not yet been realised and no action has been taken by the Department against the IU for non-submission of returns up to March 2008.

Further, from test check of records (July 2010), we noticed that the IU had commissioned four DG sets each having 500 KVA capacity. These DG sets generated 4936674 units of power during the period 12 January 2005 to 31 March 2010 on which ED of ₹ 9.87 lakh was realisable as of 31 March 2010. However, the IU had deposited ₹ 5.10 lakh only (₹ 5.00 lakh on 19 June 2009 and ₹ 0.10 lakh 1 July 2010) with ₹ 4.77 lakh yet to be demanded and realised. In absence of monthly returns, the interest on ED could not be ascertained by us.

After we pointed this out, the Government stated (July 2011) that ED of ₹ 5.61 crore including interest calculated up to March 2011 had been demanded (May 2011). The details of realisation is yet to be received (January 2012).

8.5 Non-levy / non-realisation of ED

As per the OED Act, 1961 and Rules made thereunder ED at the rate of 20 paise per unit is payable to the State Government by captive power plants (CPPs) for their captive consumption within the prescribed period. In case of default, interest at the rate of 18 *per cent* per annum is also leviable.

We mentioned about the non-levy of ED of ₹ 3.36 crore on M/s Aarati Steel Ltd for the period 2008-09 in sub-paragraph 8.3.2 of the Report (Revenue Receipts) of CAG of India for the year ending 31 March 2010. During test check of records of (SE) (P)-cum-E I (EI) (G), Circle-I, Keonjhar in July 2010, we also noticed that the said IU utilised 169.06 MU of energy generated from its own CPPs for captive consumption during the subsequent period April 2009 to March 2010, but it did not make voluntary payment of ED of ₹ 3.38 crore anticipating exemption certificate from the competent authority under IPR 2001. Though, the application of the IU for exemption was rejected by the Government in the Department of Energy in January 2007, the Department did not raise the demands every month despite non-payment of the Government dues by the IU. This resulted in non-levy of ED of ₹ 3.57 crore including interest liability of ₹ 19 lakh up to March 2010.

12 Minimum interest of ₹ 89.48 lakh has been calculated for non-deposit of ED for the period 13 December 2005 to 31 March 2008 in absence of monthly returns for that Period. However, interest of ₹ 21.68 lakh has been calculated for non-deposit of ED during the period April 2008 to March 2010 based on monthly returns available to audit.

After we pointed out the case, the Government stated (July 2011) that a demand of ₹ 23.27 crore along with arrears calculated up to March 2011 has been raised (May 2011) which included the amount pointed out by us. The details of realisation is yet to be received (January 2012).

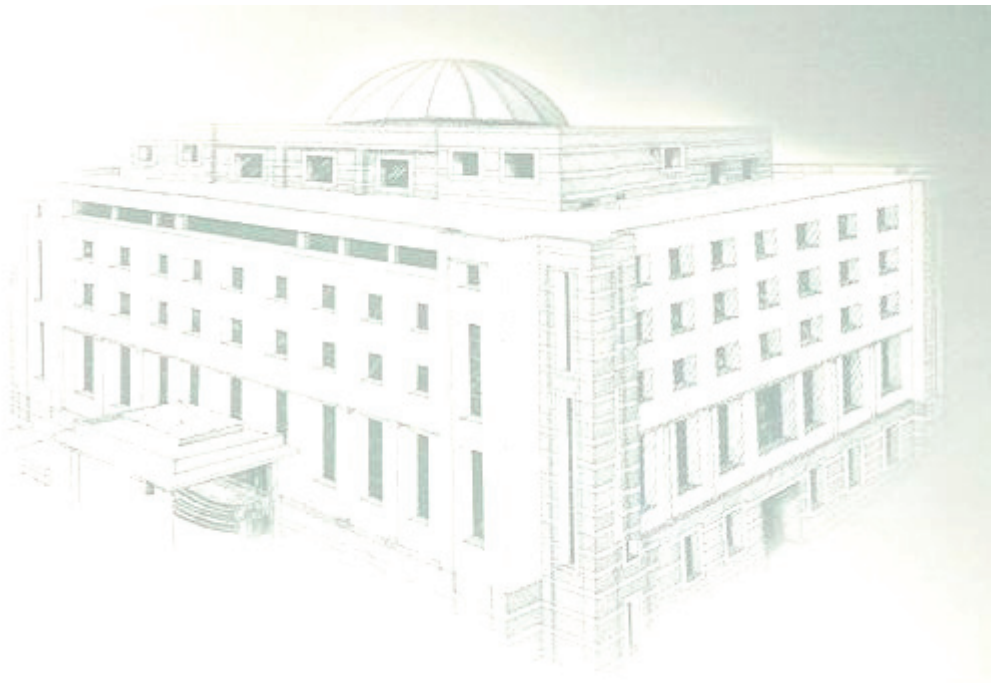
Bhubaneswar
The

(S. R. DHALL)
Accountant General (CW & RA)
Odisha

Countersigned

New Delhi
The

(VINOD RAI)
Comptroller and Auditor General of India



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