



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

**Revenue Sector  
for the year ended March 2017**



**Government of Odisha**  
**Report No. 4 of the year 2017**

**Report of the  
Comptroller and Auditor General of India  
on  
Revenue Sector**

for the year ended March 2017

**Government of Odisha**  
*Report No.4 of the year 2017*



## TABLE OF CONTENTS

	Reference to	
	Paragraph	Page
Preface	--	v
Overview	--	vii
<b>CHAPTER I GENERAL</b>		
Trend of Revenue Receipts	1.1	1
Analysis of Arrears of Revenue	1.2	4
Arrears in Assessments	1.3	5
Evasion of Tax	1.4	5
Pendency of Refund Cases	1.5	6
Response of Departments / Government towards Audit	1.6	6
Department-wise details of IRs and Audit Observations	1.6.1	7
Departmental Audit Committee (DAC) Meetings	1.6.2	8
Non-production of records to Audit for scrutiny	1.6.3	8
Response of Departments to Draft Audit Paragraphs	1.6.4	9
Follow-up on Audit Reports - summarised position	1.6.5	9
Analysis of the mechanism for dealing with the issues raised by Audit	1.7	9
Position of Inspection Reports	1.7.1	10
Recovery of Accepted Cases	1.7.2	10
Audit Planning	1.8	11
Results of Audit	1.9	11
Coverage of this Report	1.10	12
<b>CHAPTER II VALUE ADDED TAX AND ENTRY TAX ETC.</b>		
Tax Administration	2.1	13
Internal Audit	2.2	13
Results of Audit	2.3	13
Audit observations	2.4	15
Non-observance/compliance of the provisions of the Act and Rules read with Government notifications	2.5	15
Short levy of tax and penalty due to allowance of excess input tax credit	2.5.1	16

	Reference to	
	Paragraph	Page
Short levy of tax and penalty due to excess deduction of labour and service charges	2.5.2	16
Short levy of tax and penalty due to under assessment of Taxable Turnover	2.5.3	18
Non-levy of penalty for non-submission of Certified Annual Audited Accounts	2.5.4	19
Non-observance / compliance of the provisions of Odisha Entry Tax Act / Rules read with Government notifications	2.6	21
Short levy of Entry Tax due to application of lower rate of tax on Bitumen	2.6.1	21
Short levy of Entry Tax due to application of lower rate of tax	2.6.2	22
Short levy of Entry Tax due to application of lower rate of tax on Ferro Alloys	2.6.3	22
Non levy of Entry Tax on scheduled goods	2.6.4	23
Loss of Entry Tax due to irregular allowance of concessional rate of tax on re-assessment	2.6.5	24
<b>CHAPTER III STATE EXCISE</b>		
Tax Administration	3.1	27
Internal Audit	3.2	27
Results of Audit	3.3	27
Audit of “Offences and Penalties for unlawful import, export, transport, manufacture, possession and sale of intoxicants”	3.4	28
Other Audit Observations	3.5	36
Provisions of the Acts/Rules/Annual Excise Policies and instructions of Government not observed	3.6	36
Fine on expired IMFL not levied	3.6.1	37
Short / Non levy of Excise Duty on short lifting of IMFL and Beer	3.6.2	37
Short realisation of Excise Duty due to incorrect conversion of MGQ of Beer	3.6.3	38
Establishment cost not realised	3.6.4	39
Charges for extra hour operation not realised	3.6.5	39
Penalty for short supply of Country Spirit not levied	3.6.6	40

<b>CHAPTER IV STAMP DUTY AND REGISTRATION FEE</b>		
Tax Administration	4.1	41
Internal Audit	4.2	41
Results of Audit	4.3	41
Audit Observations	4.4	42
Non-observance of the provisions of the Acts/Rules and Government instructions	4.5	42
Short levy of Stamp Duty and Registration Fee on Certificate of Sale	4.5.1	43
Short realisation of Stamp Duty and Registration Fee due to under valuation of land and building	4.5.2	43
<b>CHAPTER V MOTOR VEHICLE TAX</b>		
Tax Administration	5.1	45
Internal Audit	5.2	45
Results of Audit	5.3	45
Audit Observations	5.4	47
Provision of Acts / Rules not complied with	5.5	47
Non realisation of motor vehicle tax and additional tax from goods carriages, contract carriages and tractor trailer combinations	5.5.1	48
Non / short realisation of motor vehicles tax and additional tax from stage carriages	5.5.2	49
Non-realisation of motor vehicle tax from private service vehicles	5.5.3	49
<b>CHAPTER VI MINING RECEIPTS</b>		
Non-tax Administration	6.1	51
Internal Audit	6.2	51
Results of Audit	6.3	51
Audit of “Exploration and Development of Mineral Resources by Directorate of Geology, Odisha”	6.4	52
Other Audit observations	6.5	63
Non-observance of provisions of the Acts / Rules / New pricing policy	6.6	63
Short levy of royalty on sized coal	6.6.1	64
Excess extraction of coal in deviation to mining plan	6.6.2	64
Dead Rent and Surface Rent not levied	6.6.3	65

<b>CHAPTER VII MISCELLANEOUS</b>		
Audit of “Delivery of services under Odisha Right to Public Services Act”	7.1	67
Audit of “Recovery of Arrear revenue in Steel & Mines, Excise and Commerce and Transport (Transport) Departments”	7.2	75
<b>GLOSSARY</b>		89

## PREFACE

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2017 has been prepared for submission to the Governor of Odisha under Article 151 of the Constitution of India for being laid before the Legislature of the State.

The Report contains significant findings of audit of Receipts and Expenditure of major Revenue earning Departments under Revenue Sector conducted under the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

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

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





## OVERVIEW

This Report contains 27 paragraphs including four detailed Compliance Audits. Some of the major findings are mentioned below:

### I General

The total revenue receipts of the Government for the year 2016-17 amounted to ₹ 74,299.39 crore against ₹ 68,941.44 crore in the previous year. Of this, 41.58 *per cent* was raised by the State through tax revenue (₹ 22,852.39 crore) and non-tax revenue (₹ 8,043.10 crore). The balance 58.42 *per cent* was received from the Government of India in the form of State's share of divisible Union taxes (₹ 28,321.50 crore) and Grants-in-aid (₹ 15,082.40 crore).

(Paragraph 1.1.1)

During the year 2016-17, as many as 1,869 assessment files, returns, refund registers and other relevant records involving tax effect of ₹ 1,654.66 crore relating to Commercial Tax wing of Finance Department were not made available to audit for scrutiny.

(Paragraph 1.6.3)

Test check of records of tax and non-tax receipts revealed under assessment / short-levy / loss of revenue and other observations amounting to ₹ 2,087.44 crore in 1,36,144 cases in the year 2016-17.

(Paragraph 1.9)

### II Value Added Tax and Entry Tax etc.

Advance receipts of ₹ 26.60 crore were not included in the gross receipts of the dealer which resulted in short levy of tax and penalty of ₹ 4.56 crore.

(Paragraph 2.5.3)

No action was initiated for levy of penalty of ₹ 3.81 crore against the dealers who had not submitted the Certified Annual Audited Accounts (CAAA).

(Paragraph 2.5.4)

Minor minerals were not assessed for Entry Tax which resulted in non-levy of tax and penalty of ₹ 2.59 crore.

(Paragraph 2.6.4)

### III State Excise

**Audit of "Offences and Penalties for unlawful import, export, transport, manufacture, possession and sale of intoxicants" revealed the following deficiencies:**

- Excise offence cases were showing increasing trend from 2014-15 to 2016-17.

(Paragraph 3.4.4)

- Percentage of conviction was low due to non-production of seized materials, documents etc. by the investigating officer.

**(Paragraph 3.4.5)**

- Confiscated goods could not be disposed off by the Department, despite being ordered by the Court.

**(Paragraph 3.4.6)**

- Department did not dispose off the goods seized in unclaimed cases after expiry of stipulated period.

**(Paragraph 3.4.7)**

- Special Courts were not created to clear heavy pendency of offence cases.

**(Paragraph 3.4.8)**

- Illicit cultivation of Hemp plant could not be stopped in eight districts.

**(Paragraph 3.4.9)**

- Public awareness programmes on dangers of drinking alcohol were not organised in spite of availability of funds.

**(Paragraph 3.4.10)**

A fine of ₹ 4.45 crore was not levied for retention of expired stock of IMFL.

**(Paragraph 3.6.1)**

State Excise Duty on short lifted Minimum Guaranteed Quantity of IMFL/Beer was not realised from the concerned licensees which resulted in loss of ₹ two crore.

**(Paragraph 3.6.2)**

Prescribed rate of excise duty for IMFL and Beer as per Annual Excise Policy 2015-16 was not adopted which resulted in short realisation of excise duty of ₹ 1.44 crore.

**(Paragraph 3.6.3)**

#### **IV Stamp Duty and Registration Fee**

Stamp Duty and Registration Fee of ₹ 42.61 lakh on registration of Sale Certificates was not realised.

**(Paragraph 4.5.1)**

#### **V Motor Vehicle Tax**

Motor Vehicle tax and additional tax of ₹ 55.26 crore including penalty were not realised/ short realised in respect of 27,078 vehicles under different categories.

**(Paragraph 5.5.1)**

## VI Mining Receipts

**Audit of “Exploration and Development of Mineral Resources by Directorate of Geology, Odisha” revealed the following deficiencies:**

- Final reports on investigation/ exploration were not submitted/ or submitted with delay.  
(Paragraph 6.4.4.1)
- Increase of mineral reserves were not significant during 2012-16 despite expenditure of ₹ 77.53 crore.  
(Paragraph 6.4.4.2)
- Drilling targets fixed for different stages of exploration of projects were not achieved during 2014-15 to 2016-17.  
(Paragraph 6.4.4.3)
- Exploration of projects were discontinued without completion of approved targeted items of works.  
(Paragraph 6.4.4.4)
- There was delay in completion and non-programming of projects in violation of High Level Committee decision.  
(Paragraph 6.4.4.6)
- Shortage of manpower of 100 *per cent* in respect of 19 technical posts impeded the achievement of targeted objective of mineral exploration.  
(Paragraph 6.4.5.1)
- Delay in procurement of exploration related machinery and equipment affected the pace of exploration work.  
(Paragraph 6.4.5.2)

Charges for limiting the top size of coal to 100mm and realised by the lessee from the buyers was not included in the Run-of-Mine (ROM) price of coal in assessment of royalty. This resulted in short levy of royalty of ₹ 72.24 crore.

(Paragraph 6.6.1)

The lessee carried out unlawful excess extraction of coal beyond approved mining plan. However, a penalty of ₹ 51.90 crore towards price of excess coal was not demanded.

(Paragraph 6.6.2)

## VII Miscellaneous

**Audit of “Delivery of services under Odisha Right to Public Services (ORTPS) Act” revealed the following deficiencies:**

- Departments as well as Designated Officers did not provide required information about Public services by way of display in notice boards in Odia language or by displaying in the official website.

Acknowledgements intimating the deficiency in documents submitted by applicants were also not issued.

**(Paragraph 7.1.3)**

- Services were not provided within the prescribed time limit under ORTPS Act. The reasons for delay in providing the services, the period within which an appeal can be preferred against such delay were also not communicated to applicants.

**(Paragraph 7.1.4)**

- Departments did not utilise Central Monitoring System web portal in providing services under ORTPS Act.

**(Paragraph 7.1.6)**

### **Audit of Recovery of Arrear revenue**

**Audit of “Recovery of Arrear revenue in Steel & Mines, Excise and Commerce and Transport (Transport) Departments” revealed the followings deficiencies:**

#### **❖ Steel & Mines**

- Certificate (a written requisition in a prescribed form sent by a person to the Certificate Officer for recovery of public demand) was not filed with the Certificate Officers defined under Orissa Public Demands Recovery (OPDR) Act, 1962. This resulted in non-realisation of mining arrear revenue of ₹ 7.16 crore.

**(Paragraph 7.2.4.1)**

- Department did not submit information in respect of cases pending under Revisionary Authority (RA), involving arrear of ₹ 112.02 crore. There was also delay in submitting the departmental comments in cases involving ₹ 5,103.43 crore.

**(Paragraph 7.2.4.2)**

- Amount demanded was not entered in the Demand Collection Balance (DCB) register, resulting in understating of the arrear.

**(Paragraph 7.2.4.3)**

#### **❖ Excise**

- Demand Collection Balance register was not maintained for arrears of revenue.

**(Paragraph 7.2.5.1)**

- Lack of follow up action resulted in non-realisation of recoverable dues of ₹ 3.27 crore in 26 cases. In another case, required measures were also not taken for realisation of arrear revenue of ₹ 5.59 crore, not stayed by the Court.

**(Paragraph 7.2.5.2)**

- Non pursuance of cases for vacation of stay of Courts resulted in non recovery of Excise arrear revenue of ₹ 9.39 crore and certificate cases instituted during 1997-98 to 2003-04 in 25 cases involving ₹ 1.11 crore were yet to be disposed off.

**(Paragraph 7.2.5.3)**

❖ **Transport**

- Targeted collection of arrears could not be achieved due to lack of effort in realisation of revenue on motor vehicle.

**(Paragraph 7.2.6.1)**

- There was discrepancy in arrear figures reported by State Transport Authority and the figure worked out from the *VAHAN* database.

**(Paragraph 7.2.6.2)**

- Demand Collection Balance register was not maintained by any of the test checked units either manually or in the form of database which resulted in defective reporting of arrears.

**(Paragraph 7.2.6.3)**

- *VAHAN* database system failed to keep a check on management of arrear revenue.

**(Paragraph 7.2.6.4)**

- Authenticity and accuracy of data in *VAHAN* database was not ensured due to non-updataion of address of vehicle owners.

**(Paragraph 7.2.6.5)**

- Recovery of arrear revenue in 8,713 Tax Recovery (TR) cases involving ₹ 55.52 crore could not be made for want of appropriate action.

**(Paragraph 7.2.6.7)**



# **Chapter I**

## **General**





## CHAPTER I

### GENERAL

#### 1.1 Trend of Revenue Receipts

1.1.1 The revenue receipts of the State for the year 2016-17 comprised of:

- Tax and non-tax revenue raised by Government of Odisha
- State's share of net proceeds of divisible Union taxes
- Duties assigned to the State
- Grants-in-aid received from Government of India.

The details along with the corresponding figures for preceding four years have been depicted in **Table-1.1.1**.

**Table-1.1.1**  
**Trend of Revenue Receipts**

(₹ in crore)						
Sl. No.	Particulars	2012-13	2013-14	2014-15	2015-16	2016-17
1.	<b>Revenue raised by State Government</b>					
	• Tax revenue	15,034.13	16,891.59	19,828.29	22,526.96	22,852.39
	• Non-tax revenue	8,078.04	8,378.60	8,070.87	8,711.24	8,043.10
	<b>Total</b>	<b>23,112.17</b>	<b>25,270.19</b>	<b>27,899.16</b>	<b>31,238.20</b>	<b>30,895.49</b>
2.	<b>Receipts from Government of India</b>					
	• State's net proceeds of divisible Union taxes and duties	13,965.01	15,247.24	16,181.22	23,573.78	28,321.50 <sup>1</sup>
	• Grants-in-aid	6,859.73	8,429.42	12,917.50	14,129.46	15,082.40
	<b>Total</b>	<b>20,824.74</b>	<b>23,676.66</b>	<b>29,098.72</b>	<b>37,703.24</b>	<b>43,403.90</b>
3.	Total revenue receipts of the State Government (1 and 2)	43,936.91	48,946.85	56,997.88	68,941.44	74,299.39
4.	<b>Percentage of 1 to 3</b>	<b>52.60</b>	<b>51.63</b>	<b>48.95</b>	<b>45.31</b>	<b>41.58</b>

Source: Finance Accounts for the year 2016-17 of Government of Odisha

In the year 2016-17, the revenue raised by the State Government (₹ 30,895.49 crore) was 41.58 *per cent* of total revenue receipts. The balance (₹ 43,403.90 crore) 58.42 *per cent* of the receipts was from the Government of India.

1.1.2 The details of tax revenue raised during the period 2012-13 to 2016-17 are given in **Table-1.1.2**.

<sup>1</sup> For details, please see Statement No 14- Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Odisha for the year 2016-17. 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.

**Table-1.1.2  
Details of Tax Revenue raised**

(₹ in crore)

Sl. No.	Head of Revenue	2012-13		2013-14		2014-15		2015-16		2016-17		Percentage of increase (+) or decrease (-) in 2016-17 over 2015-16
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	
1.	OVAT including Odisha Sales Tax (OST)	9,016.20	8,929.61	10,195.00	9,882.03	11,505.69	10,892.11	11,651.41	12,211.26	12,642.90	12,428.70	(+) 1.78
	Central Sales Tax (CST)	783.80	755.07	900.00	846.52	929.59	924.62	953.59	885.73	973.10	973.65	(+) 9.93
2.	Taxes and Duties on Electricity	580.00	590.48	640.00	670.11	768.00	1,722.60	950.00	1,212.21	1,610.00	1,637.14	(+) 35.05
3.	Land Revenue	480.00	420.21	400.00	431.26	440.00	645.64	470.00	588.81	590.00	460.00	(-) 21.88
4.	Taxes on Vehicles	850.00	746.19	900.00	859.67	972.00	910.31	1,068.00	1,043.73	1,230.00	1,216.08	(+) 16.51
5.	Taxes on Goods and Passengers	1,350.00	1,342.54	1,500.00	1,613.46	1,740.00	1,710.87	1,750.00	1,662.99	1,870.00	1,760.51	(+) 5.86
6.	State Excise	1,500.00	1,498.64	1,725.00	1,780.13	2,100.00	2,035.24	2,390.00	2,546.94	3,000.00	2,786.02	(+) 9.39
7.	Stamp Duty and Registration Fee	550.00	544.88	620.00	605.48	802.32	800.23	2,267.00	2,157.07	1,065.00	1,363.72	(-) 36.78
8.	Other Taxes and Duties on Commodities and Services	60.28	70.52	65.00	53.23	40.06	17.70	30.00	42.65	32.01	46.40	(+) 8.79
9.	Other Taxes on Income and Expenditure- Tax on Professions, Trades, Callings and Employments	140.00	135.99	160.00	149.70	176.00	168.97	170.00	175.57	186.99	180.17	(+) 2.62
	<b>Total:</b>	<b>15,310.28</b>	<b>15,034.13</b>	<b>17,105.00</b>	<b>16,891.59</b>	<b>19,473.66</b>	<b>19,828.29</b>	<b>21,700.00</b>	<b>22,526.96</b>	<b>23,200.00</b>	<b>22,852.39</b>	

Source: Finance Accounts for the year 2016-17 of Government of Odisha

The respective Departments reported the following reasons for variation:

**Odisha Value Added Tax (OVAT) including OST/ Central Sales Tax (CST):** Increase in VAT collection (1.78 per cent) over the previous year 2015-16 was primarily due to increase in business and revenue augmentation measures taken by Government.

**Stamp Duty and Registration Fee:** Decrease (36.78 per cent) in comparison to previous year 2015-16 was attributed to registration of less number of Mining lease.

**Taxes and Duties on Electricity:** Increase (35.05 per cent) over the previous year 2015-16 was due to hike in Electricity Duty rate.

The other Departments, despite being requested (April and July 2017), did not furnish the reasons for variations in receipts from that of the previous year (2015-16).

**1.1.3** The details of non-tax revenue raised during the period 2012-13 to 2016-17 were indicated in **Table-1.1.3**.

**Table-1.1.3**  
**Details of Non-tax Revenue raised**

(₹ in crore)

Sl. No.	Head of Revenue	2012-13		2013-14		2014-15		2015-16		2016-17		Percentage of increase (+) or decrease (-) in 2016-17 over 2015-16
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	
1.	Non-ferrous Mining and Metallurgical Industries	5,000.00	5,695.70	5,515.00	5,518.80	5,660.07	5,310.09	6,000.00	5,798.96	6,171.00	4,925.79	(-) 15.06
2.	Interest Receipts	200.00	588.25	300.00	1,241.18	408.98	330.67	330.00	560.42	310.00	427.40	(-) 23.74
3.	Forestry and Wildlife	117.46	188.92	30.22	95.11	31.73	61.51	98.85	152.99	41.00	131.58	(-) 13.99
4.	Irrigation & Inland Water Transport	295.28	396.76	380.30	451.70	435.77	629.60	616.00	707.11	686.60	775.87	(+) 9.72
5.	Other Administrative Services	10.24	12.76	13.30	24.44	23.86	29.75	33.66	37.86	37.86	43.84	(+) 15.80
6.	Public Works	40.04	49.77	47.00	69.72	63.03	88.59	81.81	77.48	81.84	66.31	(-) 14.42
7.	Police Receipts	33.97	52.62	37.15	44.70	52.38	50.00	59.30	59.61	60.00	54.37	(-) 8.79
8.	Education	10.17	89.10	16.63	75.86	27.69	18.87	62.73	66.89	66.89	30.79	(-) 53.97
9.	Medical and Public Health	9.90	10.55	28.84	28.71	30.81	33.15	37.03	52.70	52.70	50.83	(-) 3.55
10.	Miscellaneous General Services	7.11	225.60	11.00	126.50	29.54	118.84	175.36	192.08	193.06	383.91	(+) 99.87
11.	Power	2.17	2.14	2.30	4.70	41.95	2.18	39.36	2.25	2.26	8.05	(+) 257.78
12.	Co-operation	2.20	2.97	2.30	3.34	2.47	2.56	2.05	2.50	2.97	3.16	(+) 26.40
13.	Other Non-tax Receipts	308.24	762.90	441.10	693.84	796.87	1,395.06	1,463.85	1,000.40	1,116.75	1,141.21	(+) 14.07
	<b>Total:</b>	<b>6,036.78</b>	<b>8,078.04</b>	<b>6,825.14</b>	<b>8,378.60</b>	<b>7,605.15</b>	<b>8,070.87</b>	<b>9,000.00</b>	<b>8,711.24</b>	<b>8,822.93</b>	<b>8,043.10</b>	

Source: Finance Accounts for the year 2016-17 of Government of Odisha

The respective Departments reported the following reasons for variation:

**Non-ferrous Mining and Metallurgical Industries:** Decrease as compared to last year 2015-16 (15.06 per cent) was due to decrease of rate of royalty on Iron and Chromite ore.

**Forestry and Wildlife:** Decrease in revenue collection during 2016-17 as compared to 2015-16 was due to less deposit of arrear revenue by Odisha Forest Development Corporation Ltd.

**Police Receipts:** Decrease (8.79 per cent) was due to surrender of Police Guards during the year 2016-17 by the All India Radio, Doordarshan Kendras, SBI and non-reimbursement of claim (for the year 2014-15) by the South Eastern Railways, Kolkata.

The other Departments despite being requested (April and July 2017), did not furnish the reasons for variation in receipts from that of the previous year (2015-16).

## 1.2 Analysis of Arrears of Revenue

The arrears of revenue, as on 31 March 2017, on some principal heads of revenue amounted to ₹ 11,973.59 crore relating to VAT, Entry Tax (ET) and Mineral receipts. Out of this, ₹ 4,566.07 crore was outstanding for more than five years as detailed in Table-1.2.

**Table-1.2**  
**Arrears of Revenue**

(₹ in crore)

Sl. No.	Head of Revenue	Total amount outstanding as on 31 March 2017	Amount outstanding for more than five years as on 31 March 2017	Replies of Department
<b>A-Tax Revenue</b>				
<b>0040- Taxes on Sales, Trade, etc.</b>				
1.	VAT (including OST and CST)	7,058.49	2,764.89	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Amount covered by show cause notices and penalty <span style="float: right;">1,537.48</span></li> <li>• Amount stayed by                             <ul style="list-style-type: none"> <li>➤ Departmental Authorities <span style="float: right;">1,618.56</span></li> <li>➤ Supreme Court/ High Court <span style="float: right;">3,315.76</span></li> </ul> </li> <li>• Demands covered by tax recovery proceedings <span style="float: right;">580.02</span></li> <li>• Amount likely to be written off <span style="float: right;">6.67</span></li> </ul>
<b>0042-Taxes on Goods and Passengers</b>				
2.	Entry Tax	2,630.97	451.56	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Amount covered by show cause notices and penalty <span style="float: right;">688.17</span></li> <li>• Recoveries stayed by                             <ul style="list-style-type: none"> <li>➤ Departmental Authorities <span style="float: right;">576.94</span></li> <li>➤ Supreme Court/ High Court <span style="float: right;">1,323.81</span></li> </ul> </li> <li>• Demands covered by certificate proceedings <span style="float: right;">41.98</span></li> <li>• Amount likely to be written off <span style="float: right;">0.07</span></li> </ul>
<b>0041-Taxes on Vehicles</b>				
3.	Taxes on Vehicles	255.34	--	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Demands covered by certificate proceedings/ tax recovery proceedings <span style="float: right;">70.19</span></li> <li>• Recoveries stayed by Departmental Authorities <span style="float: right;">2.38</span></li> <li>• Recoveries stayed in court of law <span style="float: right;">1.28</span></li> <li>• Other stages <span style="float: right;">181.49</span></li> </ul>
<b>0039-State Excise</b>				
4.	State Excise	56.41	--	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Recoveries stayed by Supreme Court / High Court <span style="float: right;">38.01</span></li> <li>• Demands covered by certificate proceedings/ tax recovery proceedings <span style="float: right;">11.65</span></li> <li>• Other stages <span style="float: right;">6.75</span></li> </ul>
<b>B-Non-Tax Revenue</b>				
5.	Mining Receipts	1,972.38	1,349.62	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Certificate cases <span style="float: right;">1.55</span></li> <li>• Amount likely to be written off <span style="float: right;">2.37</span></li> <li>• Courts of law <span style="float: right;">1,857.27</span></li> <li>• Recoverable dues <span style="float: right;">119.19</span></li> </ul>
	<b>Total:</b>	<b>11,973.59</b>	<b>4,566.07</b>	

Source: Replies of concerned Departments

It would be seen from above that arrears of ₹ 2,197.88 crore were pending with the departmental authorities as departmental proceedings. An amount of ₹ 705.39 crore remained outstanding under Certificate cases<sup>2</sup> / tax recovery proceedings. An amount of ₹ 9.11 crore referred to Government for write off was yet to be disposed off.

### 1.3 Arrears in Assessments

The details of assessment cases pending as on 31 March 2017 relating to Commercial Tax wing of Finance Department are given in **Table-1.3**.

**Table-1.3**

#### Arrears in Assessments

Head of Revenue	Opening Balance	New cases due for assessment during 2016-17	Total assessments due	Cases disposed off during 2016-17	Balance at the end of the year	Percentage of disposal (Col. 5 to 4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Odisha Sales Tax	4,943	23	4,966	1,477	3,489	29.74
CST	582	220	802	385	417	48.00
VAT	1,537	2,258	3,795	2,499	1,296	65.84
Entry Tax	686	1,167	1,853	1,200	653	64.76
Professional Tax	33,209	25,274	58,483	24,977	33,506	42.71
Entertainment Tax	82	122	204	75	129	36.76

Source: Commercial Tax wing of the Finance Department

It would be seen from the above that 3,489 assessments under the erstwhile Odisha Sales Tax Act were still pending as on 31 March 2017 although the Act had been repealed on 1 April 2005.

### 1.4 Evasion of Tax

The details of cases of evasion of tax detected by the Commercial Tax wing of Finance Department as on 31 March 2017 are given in **Table-1.4**.

**Table-1.4**

#### Evasion of Tax

(₹ in crore)

Sl. No.	Head of Revenue	Cases pending as on 31 March 2016	Cases detected during 2016-17	Total	Number of cases in which assessment / investigation completed and additional demand with penalty, etc. raised		Number of cases pending for finalisation as on 31 March 2017
					Number of cases	Amount of demand	
1.	Odisha Sales Tax	26	0	26	0	0.00	26
2.	Entry Tax	13	116	129	75	8.10	54
3.	Value Added Tax	371	287	658	404	113.64	254
4.	Central Sales Tax	3	22	25	9	11.52	16
<b>Total:</b>		<b>413</b>	<b>425</b>	<b>838</b>	<b>488</b>	<b>133.26</b>	<b>350</b>

Source: Commercial Tax wing of the Finance Department

<sup>2</sup> Certificate is a prescribed form signed by a Certificate Officer for realisation of public demand.

During the period, 488 cases (58.23 *per cent*) out of total of 838 cases were disposed off. Twenty six cases relating to the repealed Odisha Sales Tax Act were pending for assessment.

### 1.5 Pendency of Refund Cases

The details of refund cases as on 31 March 2017 are given in **Table-1.5**.

**Table-1.5**

#### Details of Pendency of Refund Cases

(₹ in crore)

Sl. No.	Particulars	Sales Tax / VAT		Entry Tax	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	1,103	123.74	274	47.78
2.	Claims received during the year	858	322.09	237	22.53
	Total (1+2)	1,961	445.83	511	70.31
3.	Refunds made during the year	992	294.70	190	16.96
	(a) Refunds granted				
	(b) Refunds rejected/adjusted	314	56.55	111	29.24
	<b>Total (a+b)</b>	1,306	351.25	301	46.20
4.	Balance outstanding at the end of the year	655	94.58	210	24.11

**Source: Commercial Tax wing of the Finance Department**

It would be seen from the above that only 66.60 *per cent* of refund cases relating to Sales Tax / VAT and 58.90 *per cent* relating to Entry Tax were disposed off during 2016-17.

Odisha VAT Act provided for payment of simple interest at the rate of eight *per cent* per annum if the refund was not made to the dealer within 60 days from the date of receipt of order for refund or within 90 days from the date of receipt of application for refund till the refund was made. Government may incur liability for payment of interest if refund cases were not cleared expeditiously. During the year 2016-17, Government had paid interest of ₹ 8.06 lakh<sup>3</sup> due to such delay in disposal of refund cases.

### 1.6 Response of Departments / Government towards Audit

Periodical inspections of the Government Departments were conducted by the Principal Accountant General (E&RSA), Odisha (PAG). It was done to test check the transactions and verify maintenance of important accounts and other records as prescribed in the rules and procedures. Inspection Reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot were issued to the heads of the offices inspected. Copies were issued to the next higher authorities for taking prompt corrective action. The heads of offices / Government were required to promptly comply with the observations contained in the IRs, rectify the defects and omissions. The compliance was to be reported through initial reply within one month from the date of issue of the

<sup>3</sup> Interest paid ₹ 8.06 lakh under CST Act as per orders of Hon'ble High Court due to delay in payment.

IRs. Serious financial irregularities were reported to the heads of the Department and the Government.

Inspection Reports issued up to December 2016 disclosed that 7,549 paragraphs of 3,032 IRs involving ₹ 22,976.92 crore remained outstanding at the end of June 2017. The details are mentioned below along with the corresponding figures for the preceding two years in **Table-1.6**.

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

	June 2015	June 2016	June 2017
Number of IRs pending for settlement	2,891	2,818	3,032
Number of outstanding audit observations	6,768	6,768	7,549
Amount of revenue involved (₹ in crore)	14,540.00	21,505.09	22,976.92

Source: Records of the Principal Accountant General (E&RSA)

**1.6.1** The Department-wise details of IRs and audit observations outstanding as on 30 June 2017 including the amounts of revenue receipts are mentioned in **Table-1.6.1**.

**Table-1.6.1(a)****Department-wise details of IRs (Revenue Receipts)**

(₹ in crore)

Sl. No.	Name of the Department	Nature of Receipts	Number of outstanding IRs	Number of outstanding audit observations	Money Value involved
1.	Finance	OVAT including OST / CST	884	2,230	2,884.58
		Entry Tax	330	643	498.76
		Professional Tax	15	18	17.05
		Entertainment Tax	4	4	4.71
2.	Excise	State Excise	196	574	406.42
3.	Revenue & Disaster Management	Stamp Duty and Registration Fee	548	1,098	454.45
4.	Steel & Mines	Mining Receipts	166	476	18,210.64
5.	Transport	Taxes on Vehicles and Taxes on Goods and Passengers	347	1,174	390.81
<b>Total</b>			<b>2,490</b>	<b>6,217</b>	<b>22,867.42</b>

Source: Records of the Principal Accountant General (E&RSA)

**Table-1.6.1(b)****Department-wise details of IRs (Expenditure)**

(₹ in crore)

Sl. No.	Name of the Department	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Finance	110	183	1.94
2.	Excise	91	132	0.18
3.	Revenue & Disaster Management	46	278	0.9
4.	Steel & Mines	39	84	8.71
5.	Transport	256	655	97.77
<b>Total</b>		<b>542</b>	<b>1,332</b>	<b>109.50</b>

Source: Records of the Principal Accountant General (E&RSA)



Audit did not receive even the first replies in respect of 190 IRs issued during 2016-17 from the heads of offices within one month from the date of issue of the IRs. Pendency of IRs due to non-receipt of the replies was indicative of lack of action for rectification of defects, omissions and irregularities pointed out in the IRs.

### 1.6.2 Departmental Audit Committee (DAC) Meetings

The Government had set up audit committees to monitor and expedite the progress of settlement of IRs and paragraphs contained therein. The details of audit committee meetings held during the year 2016-17 and the paragraphs settled are mentioned in **Table-1.6.2**.

**Table-1.6.2**

**Details of Departmental Audit Committee Meetings**

(₹ in crore)

Sl. No.	Name of the Department	Number of meetings held	Number of Paras settled	Amount
1.	Finance	12	219	101.38
2.	Transport	11	83	1.62
3.	Excise	4	80	18.58
4.	Revenue & Disaster Management	3	76	0.58
5.	Steel & Mines	0	0	0
<b>Total</b>		<b>30</b>	<b>458</b>	<b>122.16</b>

Source: Records of the Principal Accountant General (E&RSA)

### 1.6.3 Non-production of records to Audit for scrutiny

The programme of local audit of Tax Revenue / Non-Tax Revenue offices was drawn up in advance. The intimations were 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 the year 2016-17, as many as 1,869 assessment files, returns, refund registers and other relevant records involving tax effect of ₹ 1,654.66 crore were not made available to audit for scrutiny. Break-up of these cases are given in **Table-1.6.3**.

**Table-1.6.3**

**Details of non-production of records**

(₹ in crore)

Name of the Department	Type of Tax/ Non-tax revenue	Year in which it was to be audited	Number of cases not audited due to non-production of records to Audit	Tax Amount
Finance (Commercial Tax)	Taxes / VAT on sales, trade, etc.	Upto 2015-16	906	538.40
		2016-17	963	1,116.26
<b>Total:</b>			<b>1,869</b>	<b>1,654.66</b>

Source: Records of the Principal Accountant General (E&RSA)

There was no case of non-production of records in other departments.

### 1.6.4 Response of Departments to Draft Audit Paragraphs

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India were forwarded by the Principal Accountant General to the Principal Secretaries / Secretaries of the concerned Departments drawing their attention to audit findings. They were also requested to send their response within six weeks. Meetings were also held with concerned Department /Government and their views and written replies furnished subsequently were suitably incorporated. The fact of non-receipt of replies has also been included in the Audit Report.

Audit forwarded 34 draft paragraphs to the Principal Secretaries / Secretaries of the respective Departments between June and September 2017. The Principal Secretaries / Secretaries of the Departments did not send replies to three draft paragraphs despite issue of reminders and those paras have been included in this Report without their response.

### 1.6.5 Follow-up on Audit Reports - summarised position

Finance Department issued (December 1993) instructions to Secretaries of all Departments to submit explanatory notes on paragraphs included in the Audit Reports within three months from the date of placing of Report in Odisha Legislative Assembly, indicating the action taken or proposed to be taken. This was based on the recommendations of the High Powered Committee on response of the State Governments to the Audit Reports of the Comptroller and Auditor General of India. In spite of these instructions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately.

Reports of the Comptroller and Auditor General of India on Revenue Receipts/ Revenue Sector of the Government of Odisha for the years ended 31 March 2008 to 31 March 2016 were placed before the State Legislative Assembly between February 2009 and September 2017. Of these Reports, six paragraphs could only be discussed in Public Accounts Committee (PAC) during the above period and 370 paragraphs<sup>4</sup> (including all 15 Performance Audits) remained pending (October 2017).

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

The system of addressing the issues highlighted in the Inspection Reports / Audit Reports by the Departments / Government in respect of one Department was evaluated. The evaluation was on action taken on the paragraphs and PAs included in the Audit Reports of the last 10 years and were included in this Audit Report.

The performance of the Commercial Tax wing of Finance Department under revenue head 0040-Taxes on Sales, Trade, etc. and the cases detected in local audit during the last 10 years have been discussed. Further, the cases included in the Audit Reports for the years 2007-08 to 2016-17 have also been discussed in the succeeding paragraphs 1.7.1 to 1.7.2.

<sup>4</sup> Audit Paragraphs prior to 2007-08, were deemed to be settled as decided by the PAC (August 2016).

### 1.7.1 Position of Inspection Reports

The summarised position of the IRs issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2017 are given in **Table-1.7.1**.

**Table-1.7.1**

#### Position of Inspection Reports

(₹ in crore)

Sl. No.	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
1.	2007-08	836	2,178	319.71	80	216	66.85	64	429	41.87	852	1,965	344.69
2.	2008-09	852	1,965	344.69	69	219	299.16	80	263	20.97	841	1,921	622.88
3.	2009-10	841	1,921	622.88	97	261	136.95	202	314	55.33	736	1,868	704.50
4.	2010-11	736	1,868	704.50	167	378	168.51	88	367	33.23	815	1,879	839.78
5.	2011-12	815	1,879	839.78	62	154	35.72	15	86	9.58	862	1,947	865.92
6.	2012-13	862	1,947	865.92	265	594	121.76	54	183	13.99	1,073	2,358	973.69
7.	2013-14	1,073	2,358	973.69	111	300	180.41	61	161	12.15	1,123	2,497	1,141.95
8.	2014-15	1,123	2,497	1,141.95	143	435	431.10	120	358	152.55	1,146	2,574	1,420.51
9.	2015-16	1,146	2,574	1,420.51	134	390	1,680.13	69	191	93.82	1,211	2,773	3,006.82
10.	2016-17	1,211	2,773	3,006.82	146	383	379.35	34	166	34.09	1,323	2,990	3,352.08

Source: Records of the Principal Accountant General (E&RSA)

The Government arranged *ad hoc* Committee meetings between the Commercial Tax wing of Finance Department and PAG's office to settle the old paragraphs. The outstanding IRs as on 31 March 2017 was 1,323. They contained 2,990 paragraphs and remained outstanding for settlement as on 31 March 2017.

### 1.7.2 Recovery of Accepted Cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Commercial Tax wing of Finance Department and the amount recovered have been mentioned in **Table 1.7.2**.

**Table-1.7.2**

#### Details of recovery of accepted cases

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases as on 31 March 2017
2006-07	16	36.35	14	18.98	--	2.62
2007-08	16	65.04	14	48.67	--	0.73
2008-09	20	182.74	12	12.05	--	1.24
2009-10	09	59.26	08	14.35	1.64	1.64
2010-11	22	61.57	10	36.74	0.03	0.03
2011-12	22	133.22	18	128.36	0.26	0.26
2012-13	22	258.53	20	257.13	--	--
2013-14	18	279.91	15	278.22	--	--
2014-15	11	152.11	08	137.76	20.32	20.32
2015-16	10	223.22	9	222.79	--	--

Source: Records of the Principal Accountant General (E&RSA)

The progress of recovery even in accepted cases was very slow except for the year 2014-15. The recovery of accepted cases was to be pursued as arrears recoverable from the concerned parties. No mechanism for pursuance of the accepted cases was put in place by the Department / Government.

## 1.8 Audit Planning

The unit offices under various Departments have been categorised into high, medium and low risk units according to their revenue position, past trends of the audit observations and other parameters. The annual audit plan was prepared on the basis of risk analysis which included critical issues in Government revenue and tax administration. These issues *inter alia* included 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, audit coverage and its impact during past five years, etc.

During the year 2016-17, there were 513 auditable units relating to five<sup>5</sup> departments of which 229 units had been planned and 234 were audited which constituted 45.61 *per cent* of the total auditable units.

Besides the above, four detailed Audits on different issues were also taken up to assess the efficiency and effectiveness of Government mechanism in implementing the Acts and Rules as envisaged from time to time and applicable to those issues.

## 1.9 Results of Audit

### Position of local audit conducted during the year

Audit test checked records of 166 units relating to Value Added Tax, Goods and Passengers Tax, State Excise Duty, Stamp Duty and Registration Fee, Motor Vehicle Tax and other Non-Tax receipts conducted during the year 2016-17. Audit observed underassessment/short levy/loss of revenue aggregating ₹ 2,087.44 crore in 1,36,144 cases. During the year, Departments concerned accepted underassessment and other deficiencies of ₹ 995.71 crore involved in 1,05,278 cases which were pointed out in audit during 2016-17. An amount of ₹ 44.56 crore was realised in 356 cases pertaining to audit findings of 2016-17 and previous years.

Similarly, Audit test checked expenditure records of 177 units under Commercial Taxes, Excise, Revenue & Disaster Management, Transport and Steel & Mines Departments during the year 2016-17. Audit noted irregular expenditure / payment amounting to ₹ 8,759.43 crore in 334 cases. During the year, the Departments concerned accepted irregularities of ₹ 1.44 lakh involved in 145 cases pointed out in audit during 2016-17 and realised ₹ 0.65 lakh in 8 cases pertaining to previous years.

<sup>5</sup> Excise, Finance, Revenue & Disaster Management, Steel & Mines and Transport Department.

## **1.10 Coverage of this Report**

This Report contains 27 paragraphs selected from the audit findings detected during the local audit carried out in 2016-17 and in earlier years, which could not be included in previous reports.

The financial effect of the paragraphs of this report was ₹ 534.19 crore. The Departments/Government have accepted audit observations involving ₹ 509.01 crore out of which ₹ 1.63 crore had been recovered. The replies in the paragraphs involving ₹ 20.05 crore have not been received (November 2017). These are discussed in succeeding Chapters II to VII.

# **Chapter II**

## **Value Added Tax and Entry Tax etc.**



## CHAPTER II

### VALUE ADDED TAX AND ENTRY TAX ETC.

#### 2.1 Tax Administration

Value Added Tax, Entry Tax, Central Sales Tax, Professional Tax, Entertainment Tax, Luxury Tax Acts and Rules framed thereunder are administered at the Government level by the Additional Chief Secretary, Finance Department, Government of Odisha. The Commissioner of Commercial Taxes (CCT) is the head of the Commercial Tax wing of Finance Department. He is assisted by Additional CCTs in 3 zones, Joint CCTs (JCCTs) in 12 ranges, Deputy CCTs (DCCTs) / Assistant CCTs (ACCTs) / Commercial Tax Officers (CTOs) in 45 circles and CTOs in 14 assessment units. They administer the relevant tax laws and rules under Odisha Value Added Tax (OVAT) Act, 2004, Odisha Entry Tax (OET) Act, 1999, Central Sales Tax (CST) Act, 1956 and Professional Tax Act, 2000. Besides, there were six enforcement ranges headed by Special Commissioners of Commercial Taxes (Enforcement) and 15 investigation units for checking tax evasion and interstate transactions.

#### 2.2 Internal Audit

The Internal Audit Wing (IAW) of the Department has been defunct since 2002-03. The Department had not taken any steps to revive IAW despite this was being pointed out in Audit Reports (Revenue Sector) during the previous years. The Department stated (August 2017) that steps have been taken to revive the IAW.

#### 2.3 Results of Audit

Test check of records of 49 units relating to Odisha Value Added Tax (OVAT), Central Sales Tax (CST), Odisha Entry Tax (OET), Odisha Entertainment Tax and Profession Tax assessments and other records was carried out in 2016-17. It showed underassessment of tax and other irregularities involving ₹ 199.86 crore in 327 cases which fall under the categories as given in **Table 2.1** below:

**Table - 2.1**

#### Category of Audit observations on revenue receipts

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
<b>Sales Tax/OVAT(including CST)</b>			
1	Under-assessment of tax	77	42.64
2	Acceptance of defective statutory forms	2	0.07
3	Evasion of tax due to suppression of sales/purchase	4	0.28
4	Irregular/incorrect/excess allowance of input tax credit	35	91.39
5	Other Irregularities	138	57.28
	<b>Total</b>	<b>256</b>	<b>191.66</b>
<b>Entry Tax</b>			
1	Under-assessment of tax	31	0.37
2	Evasion of tax due to suppression of sales/purchase	2	0.23



Sl. No.	Categories	No. of cases	Amount
3	Irregular/incorrect/excess allowance of input tax credit	6	3.71
4	Other Irregularities	31	3.89
	<b>Total</b>	<b>70</b>	<b>8.20</b>
<b>Profession Tax</b>			
1	Other Irregularities	1	0
	<b>Total</b>	<b>1</b>	<b>0</b>
	<b>Grand Total</b>	<b>327</b>	<b>199.86</b>

During 2016-17, the Department accepted underassessment and other deficiencies of ₹ 96.14 crore in 76 cases which were pointed out in earlier years. An amount of ₹ 34.08 crore pointed out in earlier years was also realised in 28 cases.

## **2.4 Audit observations**

Audit test checked the assessment records relating to the Odisha Value Added Tax (OVAT), Central Sales Tax (CST) and Odisha Entry Tax (OET) Acts in commercial tax Range/Circle offices of the State. It observed several cases of non-observance of the provisions of the aforesaid Acts and Rules made thereunder. Audit observed many cases of non-levy and short levy of tax and penalty as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test checks carried out by Audit. Audit points out similar omissions by Assessing Authorities (AAs) every year. However, many of the irregularities persisted and remained undetected till next audit was conducted. This indicated that the internal control system in the Department was weak and ineffective. The Government needs to improve the internal control system including strengthening of internal audit to avoid occurrence of such cases.

## **Odisha Value Added Tax**

### **2.5 Non-observance/compliance of the provisions of the Act and Rules read with Government notifications**

*The OVAT Act, 2004 and the Odisha Value Added Tax Rules, 2005 made there under provide for:*

- *completion of the audit assessments by the AAs on the basis of Audit Visit Reports (AVRs);*
- *levy of tax on the correctly assessed Taxable Turnover of outputs after giving due credit / adjustment of admissible Input Tax Credit;*
- *imposition of penalty at prescribed rates in addition to the tax assessed at the audit assessment stage by the AAs;*
- *demand and collection of tax/interest/penalty as per the prescribed procedures; and*
- *imposition of penalty for non-submission of Certified Annual Audited Accounts (CAAA) within the prescribed date.*

*The AAs, while finalising the audit assessments of the dealers did not observe some of the aforesaid provisions as mentioned in the following paragraphs:*

### 2.5.1 Short levy of tax and penalty due to allowance of excess input tax credit

Excess allowance of ITC resulted in short levy of tax and penalty of ₹ 41.34 lakh.

As per provisions contained in Section 20 of the OVAT Act, 2004, input tax credit (ITC) shall be allowed to a dealer for purchases made within the State from a registered dealer holding a valid certificate of registration in respect of goods intended for purpose of sale or resale by him in the State. Also, as per Section 42(5) of the Act, if any tax is additionally assessed during audit assessment of a dealer, penalty at twice the amount of tax so assessed, shall be payable.

Audit scrutinised the assessment records of a dealer<sup>1</sup> engaged in construction and sale of flats, in Bhubaneswar-III Circle (November 2016). The dealer was assessed under the OVAT Act for the tax periods from 1 April 2011 to 31 March 2013. The dealer received a gross receipt of ₹ 10.80 crore from three construction projects of flats during the period under assessment. As agreed, flats were to be handed over to the land owners as land owner's share in lieu of the cost of land. The AA deducted ₹ 3.70 crore towards cost of land (worked out on an average of 34.31 *per cent*) from the gross payment received by the dealer. The AA allowed deduction of ITC of ₹ 40.16 lakh on material utilised in the construction of all the flats from the output tax. This deduction however, included the ITC earned on purchase of materials utilised for the flats handed over to land owners. Allowance of ITC of ₹ 13.78 lakh (34.31 *per cent* of ₹ 40.16 lakh) was not in order as the flats handed over to the land owners involving ₹ 3.70 crore was not a sale and also tax was not assessed on this amount. This resulted in short levy of tax of ₹ 13.78 lakh. Besides, penalty of ₹ 27.56 lakh was also leviable.

Government accepted the Audit observation (October 2017) stated that the AA had re-opened the case under Section 43 of the OVAT Act and raised demand of ₹ 40.96 lakh.

### 2.5.2 Short levy of tax and penalty due to excess deduction of labour and service charges

As per the provisions of Section 11(2)(c) of the OVAT Act, 2004, taxable turnover (TTO) of sales in relation to works contract shall mean that part of the gross turnover during any period which remains after deducting therefrom the charges towards labour, services and other like charges subject to such conditions and restrictions as may be prescribed. As per Rule 6(e) of the OVAT Rules, 2005, if the dealer fails to produce evidence in support of such expenses or such expenses are not ascertainable from the terms and conditions of the contract or the books of accounts maintained for the purpose, a lump sum amount on account of labour, service and like charges in lieu of such expenses shall be determined at the rate specified in the Appendix.

---

<sup>1</sup> M/s. Dattatreya Constructions (P) Ltd., TIN-21845500261.

In case of road works, labour and service charges deductible is at the rate of 50 per cent of the total value of work upto 18 July, 2012 and at the rate of 30 per cent thereafter.

The admissible deduction towards labour, service and like charges for building of substation and 11 KV line, 33 KV line and LT distribution lines was 15 and 17 per cent respectively, of the total value of work.

Further, as per Section 42(5) of the Act, if any tax is assessed additionally during audit assessment, penalty equal to twice the amount of tax so assessed shall be levied.

Audit noticed deduction from TTO at a higher rate on account of labour, services and other like charges in the following cases:

**A) Inappropriate allowance of deductions on TTO resulted in short levy of tax and penalty of ₹ 36.22 lakh.**

A) Audit scrutinised the assessment records of a dealer<sup>2</sup> (March 2017) engaged in execution of work contracts in Jharsuguda Circle. The dealer was assessed under the OVAT Act for the tax periods from 1 April 2009 to 31 March 2014. During the period under assessment, the dealer received ₹ 23.50 crore as gross value, from various road works executed. The AA allowed deduction of ₹ 12.22 crore towards labour and service charges. The deduction allowed was at a rate of 52 per cent for the entire period under assessment and the output tax of ₹ 55.91 lakh was calculated. The dealer had not maintained any accounts of labour and service charges as discussed in assessment order. Thus, deduction at the rate of 50 per cent of the gross receipts of ₹ 9.61 crore was admissible upto 31 March 2012, and at the rate of 30 per cent, thereafter, on remaining amount of ₹ 13.89 crore. The dealer was liable to pay tax of ₹ 67.98 lakh taking into account the proportionate purchase of materials under different tax groups. This resulted in short levy of tax of ₹ 12.07 lakh. Besides, penalty of ₹ 24.15 lakh at twice the amount of tax was leviable.

In reply, Government stated (October 2017) that the AA had ascertained the deductible amount towards labour service charges basing on the terms and conditions of the contracts and supporting books of accounts.

The reply of the Department is not tenable since the AA, in the original assessment, had categorically mentioned that the dealer had not maintained the books of accounts to determine the labour and service charges. Therefore, he had allowed the above charges as prescribed in the Appendix-I of the Act. Hence, the reply stating that the AA relied on the terms and conditions of the contracts during the assessment is not correct.

**B) Inappropriate allowance of deductions on TTO resulted in short levy of tax and penalty of ₹ 31.98 lakh.**

B) In Mayurbhanj Circle, Audit scrutinised (March 2017) the assessment records of a dealer<sup>3</sup> engaged in execution of work contracts. The dealer was assessed ex-parte under the OVAT Act for the tax periods from 1 April 2009 to 31 March 2014. During the said period, the dealer executed various road works and received ₹ 14.72 crore towards gross value of work done. The AA allowed deduction of ₹ 7.44 crore towards labour and service charges at the rate of 50.54 per cent for the entire period. Accordingly the AA calculated output tax as ₹ 41.51 lakh. As per the assessment order, the dealer did not maintain any accounts of labour and

<sup>2</sup> M/s. BMP and Sons Constructions Private Limited, TIN-21712007120.

<sup>3</sup> M/s. R S Construction Private Limited, TIN-21644000363.

service charges. However, deduction of ₹ 5.57 crore at the rate of 50 per cent of the gross receipt upto 18 July 2012 and at the rate of 30 per cent thereafter was admissible. Therefore, the dealer was liable to pay tax of ₹ 52.17 lakh taking into account the proportionate purchase of materials under different tax groups. This resulted in short levy of tax of ₹ 10.66 lakh. Besides, penalty of ₹ 21.32 lakh at twice the amount of tax was leviable.

Accepting the Audit observation Government stated (October 2017) that the AA completed the re-assessment raising tax and penalty of ₹ 1.09 crore.

**C) Allowance of excess deduction towards labour and service charges resulted in short levy of tax and penalty ₹ 62.70 lakh.**

C) Audit scrutinised (January 2017) the records of a dealer<sup>4</sup> engaged in execution of work contracts in Cuttack-I-West Circle. The dealer was assessed under the OVAT Act for the period from November 2010 to March 2014. The AA determined the gross turnover (GTO) of the dealer at ₹ 9.15 crore including VAT of ₹ 71.85 lakh. However, the dealer did not maintain any accounts of labour and service charges as discussed by the AA. Taking into account the highest allowable deduction, at the rate of 17 per cent of the GTO, a sum of ₹ 1.55 crore was admissible. The AA allowed deduction of ₹ 3.10 crore and determined the taxable turnover at ₹ 6.05 crore. Thus, there was excess deduction of ₹ 1.55 crore towards labour and service charges. This resulted in short levy of tax of ₹ 20.90 lakh, taking into account the ratio of goods used in the works contract as determined by AA. Besides, the dealer was also liable to pay a penalty of ₹ 41.80 lakh at twice the amount of tax so short levied.

In reply Government stated (October 2017) that the AA re-opened the case and determined the TTO at ₹ 7.59 crore and worked out balance tax payable at ₹ 0.70 lakh. However, the AA worked out the tax in lower tax group in re-assessment compared to the tax group adopted in the original assessment without assigning the reasons.

### **2.5.3 Short levy of tax and penalty due to under assessment of Taxable Turnover**

**Short determination of taxable turnover resulted in assessment of less tax and penalty of ₹ 4.56 crore.**

The term 'turnover of sales' as defined under Section 2(60) of the OVAT Act, 2004 means the aggregate of the amounts of sale price received or receivable by a dealer in respect of sale or supply of goods effected or made during a given period. As per Section 42(5) of the Act, if any tax is additionally assessed during audit assessment, penalty at twice the tax so assessed shall be imposable.

Audit scrutinised (November 2016), the assessment records of a dealer<sup>5</sup> engaged in construction of residential flats in Bhubaneswar-II Circle. The dealer was assessed under the OVAT Act for the tax periods from 1 April 2009 to 31 March 2014. The AA deducted ₹ 20.45 crore towards cost of land and ₹ 12.46 crore towards labour and services charges from gross receipts of ₹ 61.98 crore. The AA determined the net receipts of ₹ 29.07 crore and assessed tax of ₹ 2.16 crore. However, the dealer had disclosed ₹ 88.58 crore as "revenue from operations" in the Profit and Loss Account

<sup>4</sup> M/s. MRS Infrastructure & Engineering Pvt. Ltd., TIN-21943200239.

<sup>5</sup> M/s. Metro Builders (Orissa) Pvt. Ltd., TIN-21931106645.

(P&L A/c) for the said years. The tax audit team of the Department had also recommended for inclusion of ₹ 26.60<sup>6</sup> crore in the gross receipts at the time of assessment. Thus, there was short recognition of receipts of ₹ 26.60 crore. This was confirmed in the Audit Visit Report. Further, income received or receivable is required to be taken into P&L A/c. However, the AA stated that ₹ 26.60 crore was advance received from intended customers before start of the projects. Audit noted that such income either received or receivable also forms part of the sale turnover under the OVAT Act and is therefore taxable. As such, the receipt of ₹ 26.60 crore escaped assessment. This led to under assessment of taxable turnover by ₹ 18.62 crore after deducting ₹ 7.98 crore (30 per cent of ₹ 26.60 crore). The tax payable on such under assessed turnover of ₹ 18.62 crore works out to ₹ 1.52 crore, taking into account the percentage of different tax group of materials purchased as adopted by AA. Besides, penalty of ₹ 3.04 crore at twice the tax short levied was also leviable.

Government accepted the Audit observation (September 2017) and stated that the AA had completed re-assessment raising extra demand of ₹ 2.78 crore towards tax and penalty.

#### 2.5.4 Non-levy of penalty for non-submission of Certified Annual Audited Accounts

**Non levy of penalty of ₹ 3.81 crore on dealers for non-submission of Certified Annual Audited Accounts.**

As per Section 65(1) of the OVAT Act, 2004 read with the Notification<sup>7</sup> of Commissioner of Commercial Tax (CCT), Odisha in December 2012 and clarification issued in August 2013, if in respect of any particular year the gross turnover (GTO) of a dealer exceeds ₹ 60 lakh, then such dealer shall get his accounts audited by an Accountant within a period of six months from the date of expiry of that year and furnish a true copy of the audited accounts accompanied with the statement of closing stock duly certified by such Accountant by the end of the month following the expiry of the said period of six months to the AA concerned.

Section 65(2) of the Act as amended in OVAT (Amendment) Act, 2015 provides that if a dealer liable to get his accounts audited fails to furnish the true copy of Certified Annual Audited Accounts (CAAA) accompanied with a statement showing the closing stock in trade held at the end of the year in the prescribed manner, AA shall after giving such dealer a reasonable opportunity of being heard, impose on him a penalty of rupees one hundred per day of default subject to a maximum limit of rupees ten thousand. The CCT in an earlier circular<sup>8</sup> of September 2009 had also prescribed for maintenance of a register to monitor timely receipt of such accounts at the Circle level and to use it as a reference at the time of tax audit and assessment.

Audit scrutinised (April 2016 to March 2017) the records relating to receipt of annual audited accounts in 23 circles<sup>9</sup>. Audit noticed that 8,096 dealers

<sup>6</sup> ₹ 88.58 (Revenue from operations as P&L A/c) - ₹ 61.98 (Gross receipts taken in assessment).

<sup>7</sup> Notification No III (III) 14//2012-21114/CT dated 12 December 2012.

<sup>8</sup> Circular No. 18755 dated 22 September 2009.

<sup>9</sup> Angul, Balangir, Barbil, Bargarh, Bhadrak, Bhanjanagar, Bhubaneswar-II, Bhubaneswar-III, Bhubaneswar-IV, Nayagarh, Cuttack I (East), Dhenkanal, Ganjam-II, Jharsuguda, Kantabanji, Keonjhar, Koraput, Mayurbhanj, Puri, Rayagada, Rourkela-I, Sambalpur-I and Sambalpur-II.

had GTO exceeding ₹ 60 lakh for the year 2014-15. Out of these 8,096 dealers, as many as 3,812 dealers (47 per cent) had not submitted the copies of CAAA for that year. The delay in non-submission of CAAA ranged from 152 to 485 days. Non-submission of CAAA warranted levy of penalty of ₹ 3.81 crore after giving reasonable opportunities of being heard to those dealers. The AAs did not initiate action against these dealers for non-submission of CAAA including levy of penalty.

Department accepted the Audit observation and stated in the meeting that non-submission of CAAA is not a fraud. If the dealer does not submit his return by October of the next year, a fine/penalty is to be levied at the rate of ₹ 100 per day. Final reply was yet to be received.

## Entry Tax

### 2.6 Non-observance / compliance of the provisions of Odisha Entry Tax Act / Rules read with Government notifications

*The Odisha Entry Tax (OET) Act, 1999 and Rules made there under read with Government notifications issued from time to time provide for levy of tax on the entry of scheduled goods into a local area<sup>10</sup> for consumption, use or sale therein at the prescribed rates and imposition of penalty at prescribed rates for the tax additionally levied in audit assessment.*

*Audit observed that while finalising the assessments, the AAs did not observe the above provisions in some cases as mentioned in the following paragraphs:*

#### 2.6.1 Short levy of Entry Tax due to application of lower rate of tax on Bitumen

**Levy of ET at a lower rate on Bitumen resulted in short levy of tax and penalty of ₹ 10.08 lakh.**

As per Section 3(1) of the OET Act, 1999, scheduled goods that have entered into a local area for consumption, use or sale therein are taxable at the rates prescribed in the Schedule appended to the Act. Further, as per the provisions of Section 9C (5) of the Act, if any additional tax is assessed during audit assessment, penalty at twice the amount of tax so assessed shall be imposed on the dealer. Bitumen, a scheduled good is placed under Part-II of the Schedule and accordingly taxable at the rate of two *per cent*.

Audit scrutinised (March 2017) the records of a dealer<sup>11</sup> under the OET Act for the tax periods from 1 April 2009 to 31 March 2014 in Rourkela-I Circle. Audit noticed that AA determined the gross turnover at ₹ 8.22 crore after deducting ₹ 3.00 crore towards cost of goods purchased inside the State. The AA calculated the taxable turnover (TTO) at ₹ 5.22 crore, wherein the purchase value of bitumen was ₹ 3.36 crore and machinery ₹ 1.86 crore. The AA levied tax of ₹ 7.07 lakh, at the rate of two *per cent* on machinery and one *per cent* on Bitumen instead of two *per cent* for both the goods. As the tax leviable works out to ₹ 10.43 lakh, there was short levy of tax of ₹ 3.36 lakh. Besides, penalty of ₹ 6.72 lakh was also leviable.

Government accepted the Audit observation and stated (September 2017) that the AA had re-assessed the dealer raising demand of ₹ 3.48 lakh including penalty as the dealer had already paid tax amounting to ₹ 7.68 lakh before issue of notice for re-assessment.

<sup>10</sup> Local area means the area within the limits of any municipality, Grama Panchayat, other local authority by whatever name called, constituted or continued in any law for the time being in force and includes the area within an industrial township constituted under Section 4 of the Odisha Municipal Act, 1950.

<sup>11</sup> M/s. BMP & Sons Constructions Private Limited, TIN-21712007120.



### 2.6.2 Short levy of Entry Tax due to application of lower rate of tax

Application of lower rate of ET on Outboard motors and Engines resulted in short levy of tax and penalty of ET of ₹ 17.37 lakh.

As per Section 3(1) of the OET Act, 1999, read with Rule 3 of the OET Rules, 1999, tax shall be levied on scheduled goods on their entry into a local area for consumption, use or sale therein at such rates as mentioned in the Schedule to the Act. Further, as per Section 9C(5) of the Act *ibid*, if any tax is additionally assessed during audit assessment of a dealer, an amount equal to twice the amount of tax so assessed shall be imposed by way of penalty.

As per entry-9 of Part-II of the Schedule to the OET Act, “Machinery and equipment including earthmovers, excavators, bulldozers and road rollers and spare parts and components used in manufacture, mining, generation of electricity or for execution of works contract or for any other purpose” are taxable at the rate of two *per cent*. Outboard motors and marine engines are classified under “Machinery, mechanical appliances and parts thereof” under chapter 84 of Central Excise Tariff Act and therefore taxable at the rate of two *per cent*.

Audit scrutinised (December 2016) the assessment records of a dealer<sup>12</sup> engaged in trading of Outboard Motors and Marine Engines in Puri Circle. The dealer effected interstate purchase of scheduled goods worth ₹ 5.79 crore between 1 April 2012 and 31 March 2014. The AA levied entry tax of ₹ 5.79 lakh at the rate of one *per cent* instead of levying tax of ₹ 11.58 lakh at the applicable rate of two *per cent*. Thus, application of lower rate of tax resulted in short levy of tax of ₹ 5.79 lakh at the differential rate of one *per cent*. Besides, penalty of ₹ 11.58 lakh at twice the amount of tax so short levied was also leviable.

In reply, Government stated that the AA had re-opened the case and completed the re-assessment raising tax and penalty amounting to ₹ 17.37 lakh.

### 2.6.3 Short levy of Entry Tax due to application of lower rate of tax on Ferro Alloys

Application of lower rate of tax on medium Carbon Ferro Manganese resulted in short levy of ET, penalty and interest of ₹ 10.41 lakh.

As per Section 26 of the OET Act, every manufacturer of scheduled goods who is registered under the OVAT Act shall, in respect of sale of its finished products, collect by way of tax an amount equal to the tax payable on the value of such finished products under Section 3 of the Act by the buying dealer and shall pay the tax so collected into Government treasury. Further, as per the provisions of Section 9C(5) of the Act, if any additional tax is assessed during audit assessment, penalty at twice the amount of tax so assessed shall be imposed on the dealer.

As per Section 7(10) of the Act, each and every return filed by a dealer in relation to any tax period shall be subject to scrutiny to verify the claim of deduction, correctness of calculation of tax, etc. and if any mistake is found, then the AA shall serve a notice to the dealer directing him to pay

<sup>12</sup> M/s. Shareen Traders, TIN-2130280095.

tax along with interest. Medium Carbon Ferro Manganese being a Ferro alloy is taxable at the rate of two *per cent* under Part-II of the Schedule to the Act.

Audit scrutinised the assessment records of a dealer<sup>13</sup> engaged in manufacturing and sale of Medium Carbon Ferro Manganese in Mayurbhanj Circle. The AA assessed the dealer under the OET Act, for the tax periods from 1 April 2012 to 31 March 2014. The dealer sold medium carbon Ferro manganese valued at ₹ 2.28 crore on which tax of ₹ 4.56 lakh was payable at the rate of two *per cent*. However, the dealer paid tax of ₹ 2.28 lakh thereon at the rate of one *per cent* and AA accepted the same. This resulted in short levy of tax of ₹ 2.28 lakh. Besides, penalty of ₹ 4.56 lakh was also leviable.

Further, Audit scrutinised e>Returns filed by the instant dealer under the OET Act for the subsequent tax periods from 1 April 2014 to 31 March 2016. Audit noticed that the dealer was required to pay ₹ 6.02 lakh on the sale turnover of Ferro Manganese of ₹ 3.01 crore. However the dealer paid tax of ₹ 3.01 lakh at the rate of one *per cent*. This resulted in short payment of tax of ₹ 3.01 lakh. Besides, interest of ₹ 0.56 lakh was leviable as per the provisions of Section 7(6) of the Act.

Thus, application of lower rate of tax during the assessment and short payment of tax resulted in short levy/realisation of tax, penalty and interest of ₹ 10.41 lakh.

In reply, Government stated (October 2017) that the AA completed the re-assessment raising demand of ₹ 6.83 lakh for the tax period from 01 April 2012 to 31 March 2014 and of ₹ 3.44 lakh for the tax period from 01 April 2014 to 31 March 2016.

#### 2.6.4 Non levy of Entry Tax on scheduled goods

**Non-assessment of minor mineral for ET resulted in non-levy of tax and penalty of ₹ 2.59 crore.**

Under Section 3(1) of the OET Act 1999, entry of scheduled goods into a local area for consumption, use or sale therein is taxable at prescribed rates of the Schedule appended to the Act. Under Section 3 of Mines and Minerals (Development & Regulation) Act, 1957, minor minerals include ordinary clay, sand, morrum and chips, etc. Minor minerals are liable to tax at the rate of one *per cent* under Part-I of the Schedule to OET Act. Again, as envisaged under Section 26 of the OET Act, every manufacturer of scheduled goods who is registered under the OVAT Act, shall collect by way of tax an amount equal to the tax payable on the value of such finished products. Further, under Section 9C(5) of the Act, without prejudice to any penalty or interest that may have been levied under any provision of the Act, an amount equal to twice the amount of tax assessed in audit assessment shall be imposed by way of penalty.

Audit scrutinised (September 2016 to January 2017) the assessment records of eight dealers in five Circles<sup>14</sup>. These dealers purchased stone products, sand, morrum, chips etc. valued at ₹ 70.06 crore from unregistered dealers

<sup>13</sup> M/s. Jagadamba Iron and Steel Pvt. Ltd.

<sup>14</sup> Balasore, CTC-I-Central, Jajpur, Kantabhanji and Sambalpur-I.

of Odisha. The dealers utilised the materials in various works contracts. However, they did not pay Entry Tax of ₹ 70.06 lakh.

Further, two dealers engaged in production and sale of stone chips, have not paid the Entry Tax of ₹ 16.23 lakh on their sale turnover of ₹ 16.23 crore.

The AAs did not assess the dealers under the OET Act nor was the assessment completed treating these minor minerals as non-scheduled goods. This resulted in non-levy of entry tax of ₹ 86.29 lakh (₹ 70.06 lakh + ₹ 16.23 lakh). Besides, penalty of ₹ 1.73 crore was also leviable.

Department accepted the Audit observation and stated in the meeting that assessment proceedings have already been completed in three cases and the rest of cases were in the process of re-assessment. On completion of re-assessment final reply would be furnished.

### **2.6.5 Loss of Entry Tax due to irregular allowance of concessional rate of tax in re-assessment**

**Loss of revenue due to allowance of lower rate of ET.**

As per the provisions of Section 3 of the OET Act, 1999 read with Rule 3(4) of the OET Rules, 1999, scheduled goods brought by a manufacturer on first entry into a local area for use as raw materials shall be subject to entry tax at a concessional rate of 50 *per cent* of rate specified in the schedule. The concessional rate of tax is applicable, if the tax payable is collected by the dealer or manufacturer of such goods and shown separately in the cash memo or credit memo or bill issued to such manufacturer and a declaration in Form E-15 from the buying manufacturer is furnished.

*Mohua* flower is taxable at the rate of one *per cent* as per entry-41 of Part-I of the Schedule to OET Act. Further, as per Section 10(2) of the Act, if during reassessment of a dealer, the AA is satisfied that the under assessment of tax is without any reasonable cause, he may direct the dealer to pay, in addition to the tax assessed during the reassessment, a sum equal to twice the amount of tax additionally assessed.

Also, as per Section 10 (1) OET Act, 1999 the re-assessment can be done within a period of seven years from the end of the year to which the tax period relates.

Audit scrutinised (July 2016) assessment records of dealer<sup>15</sup> engaged in manufacture and sale of country liquor and outstill liquor in Balangir Range. The Assessing Authority assessed the dealer under the OET Act for the tax periods from 1 March 2007 to 31 July 2010. The AA levied tax of ₹ 10.79 lakh at the rate of one *per cent* on the TTO of ₹ 10.79 crore. AA reassessed (January 2016) the case based on audit observation (November 2011) regarding suppression of the taxable turnover. The TTO of the dealer was determined at ₹ 16.44 crore taking into account the rate of *mohua* flower fixed by the Regulated Market Committee. The AA levied tax at the concessional rate of 0.5 *per cent* despite the fact that tax at the rate of one *per cent* was levied during the original assessment. Further, the dealer had purchased *mohua* flower from unregistered dealers. He had also not

---

<sup>15</sup> M/s.LaxminarayanManmohanlal Ltd., TIN-21491802086.

furnished the declaration in Form E-15. Therefore, he was not entitled to claim concessional rate of tax at 0.5 *per cent*. At present there is also no scope for reassessment of the case in view of limitations of seven years. Thus, allowance of concessional rate of tax by the AA during the reassessment resulted in loss of revenue towards tax of ₹ 8.22 lakh. Penalty of ₹ 16.44 lakh was also leviable.

In reply, Government stated (October 2017) that the AA allowed concessional rate of tax at 0.5 *per cent* in reassessment (2016). The AA did not find it legally correct to disallow concessional rate of tax as the same were used as raw materials for production of out still liquor. The reply is not tenable as the AA had not allowed concessional rate of tax in the original assessment (2011). The *mohua* flower was not purchased from registered dealers. Tax was not collected by the dealer and required declaration in form E 15 was not furnished. It was also not brought from outside the State. Therefore, concessional rate of tax provided under Rule 3(4) (a) or (b) or (c) was not applicable.



# **Chapter III**

## **State Excise**



## CHAPTER III

### STATE EXCISE

#### 3.1 Tax Administration

The Principal Secretary, Excise Department is the administrative head at Government level. The Department was headed by the Excise Commissioner (EC). The Department had been divided into three Divisions<sup>1</sup> namely Central Division, Northern Division and Southern Division which were headed by Deputy Commissioners of Excise. Besides, 69 Inspectors of Excise, 211 Sub-inspectors and 137 Assistant Sub-inspectors of Excise under the control of 31 Superintendents of Excise were deployed in respective districts to oversee and regulate levy / collection of excise duties and allied levies.

#### 3.2 Internal Audit

Internal Audit Wing (IAW) was functioning since June 2010 for regular internal audit check of field offices as well as entire organisation. It is to ensure correct assessment, prompt collection of excise revenue and timely deposit of revenue to Government Account. During 2016-17, the IAW covered 6 units out of 14 units planned for audit. The shortfall was attributed by the Department to shortage of manpower. Audit observed that 519 paragraphs of Internal Audit Reports having money value of ₹ 124 crore issued during 2011-12 to 2016-17 were pending for want of disposal as on 31 March 2017.

#### 3.3 Results of Audit

Test check of the records of 29 units of State Excise Department showed non-realisation / short realisation of excise duty / licence fee / interest / penalty and other irregularities involving ₹ 377.49 crore in 1,194 cases in 2016-17 as indicated in the **Table 3.1** as follows.

**Table 3.1**

#### Category of Audit observations on revenue receipts

Sl. No.	Categories	Number of cases	Amount (₹ in crore)
1.	Audit of "Offences and Penalties for unlawful import, export, transport, manufacture, possession and sale of intoxicants"	1	0
2.	Non-realisation / short realisation of excise duty Non/short recovery of license fee/interest penalty	230	34.38
3.	Other irregularities	963	343.11
<b>Total</b>		<b>1,194</b>	<b>377.49</b>

The Department accepted under assessment and other deficiencies of ₹ 35.58 crore in 502 cases pointed out during 2016-17. An amount of ₹ 10.44 crore was realised during 2016-17 in 319 cases pointed out in earlier years.

<sup>1</sup> Central Division (Balasore, Bhadrak, Cuttack, Jagatsinghpur, Jajpur, Kendrapara, Khordha, Mayurbhanj, Nayagarh and Puri), Northern Division (Angul, Bargarh, Balangir, Deogarh, Dhenkanal, Jharsuguda, Keonjhar, Sambalpur, Subarnapur and Sundargarh) and Southern Division (Berhampur, Boudh, Gajapati, Ganjam, Kalahandi, Kandhamal, Koraput, Malkangiri, Nabarangpur, Nuapada and Rayagada).



### 3.4 Audit of “Offences and Penalties for unlawful import, export, transport, manufacture, possession and sale of intoxicants”

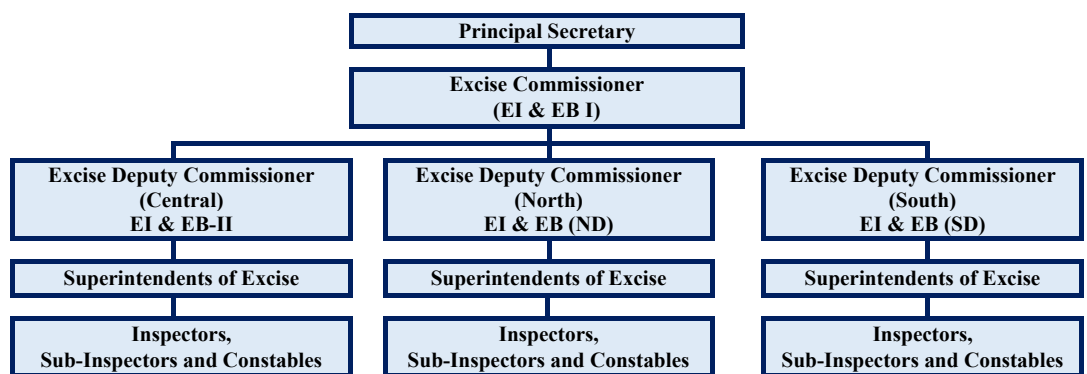
#### 3.4.1 Introduction

The main function of Excise Department was collection of excise revenue on import, export, transport, manufacture, possession and sale of excisable products. It also ensured supply of legitimate quality alcoholic drinks, beverages and other narcotic substances like opium for human consumption. The Department was empowered to arrest, seize and forward an accused to the Court for any offence committed under the Bihar and Orissa Excise (B&OE) Act, 1915. They were also empowered for trial, levy of penalty and imprisonment on conviction of the accused by a Court. The other functions included control and check of various excise offences such as illicit manufacture and illegal possession, transport and sale of any intoxicants.

Audit was conducted between April 2017 and June 2017 in nine District Excise Offices (DEOs),<sup>2</sup> out of 31, selected on the basis of stratified random sampling. Further, two Excise Intelligence and Enforcement Bureaus (EI&EBs)<sup>3</sup> out of four were also selected. Audit also analysed the compiled data on excise offences and enforcement activities available at the Excise Commissioner (EC’s) office. Audit test checked the records to assess:

- Whether appropriate action on excise offences as laid down under B&OE Act, 1915 and Rules framed thereunder were taken on a timely basis.
- Penalties were imposed and realised on conviction of the offenders.
- Seized and confiscated goods were disposed off promptly after the finalisation of prosecution process.

#### 3.4.2 Organisational setup



Four EI&EBs were in operation for gathering intelligence on excise offences. The intelligence inputs are passed on to the DEOs for enforcement activities. Also, Multi-Disciplinary Squads (MDS) consisting of officials from Excise, Police, Forest, Health and Revenue were formed at each District and Sub-

<sup>2</sup> Balasore, Cuttack, Gajapati, Jagatsinghpur, Jajpur, Koraput, Mayurbhanj, Rayagada and Sundargarh.  
<sup>3</sup> EI & EB, Berhampur and EI & EB-I, Cuttack.

Divisional level. They were responsible to counter the growing menace of excise offence in a more concerted and organised way. Mobile Units also operated at each District office level.

### Audit findings

Audit test checked the records on offences and penalties for unlawful import, export, transport, manufacture, possession and sale of intoxicants. Audit observed the following deficiencies which are discussed in the succeeding paragraphs:

#### 3.4.3 Detection and disposal of offence cases

Detection, disposal and accumulation of offence cases under the nine<sup>4</sup> selected DEOs and two<sup>5</sup> EI&EBs during the years 2014-15 to 2016-17 are as follows:

Years	Cases pending in Courts at the beginning of the year	Cases detected during the year	Cases forwarded for prosecution (Excluding un-claimed cases)	Total cases pending in Courts	Cases disposed by Courts					Balance cases with Courts
					Total	Conviction	Acquittal	Percentage of Conviction	Percentage of Acquittal	
2014-15	59,998	8,076	5,867	65,865	7,515	294	7,221	3.91	96.09	58,350
2015-16	46,863	8,730	6,348	53,211	7,456	47	7,409	0.63	99.37	45,755
2016-17	46,247	9,396	7,527	53,774	5,138	159	4,979	3.09	96.91	48,636
<b>Total</b>		<b>26,202</b>	<b>19,742</b>		<b>20,109</b>	<b>500</b>	<b>19,609</b>	<b>2.49</b>	<b>97.51</b>	

Source: Information obtained from EC and DEOs

In this regard, Audit observed that:

- The number of pending cases in Courts was very high at 53,774 cases;
- The average percentage of conviction for last three years was very low (2.49 per cent) which is suggestive of poor handling of cases; and
- There was a huge difference between the cases detected by the Department and cases forwarded to Courts for prosecution. This indicated that the offenders could not be apprehended in all cases.

Detailed comments were as followed:

#### 3.4.4 Increasing trend with low disposal of Offence Cases

**Excise offence cases showed increasing trend from 2014-15 to 2016-17.**

Excise Act and Policies primarily aimed at zero tolerance in any kind of excise offences. As such, the B&OE Act, 1915 provided for imposition of mandatory penalties in terms of fines and imprisonment for each category of offence. The department has been well equipped with adequate infrastructure to deal effectively with the menace of excise offences.

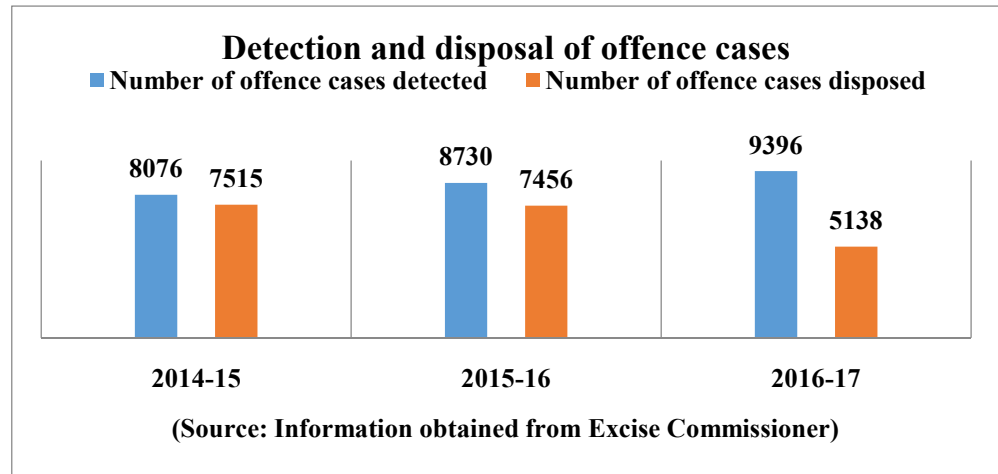
Audit observed that excise offence cases including Narcotic Drugs and Psychotropic Substances (NDPS)<sup>6</sup> cases had witnessed an increasing trend. It increased from 8,076 in 2014-15 to 9,396 in 2016-17, an increase of 16.34 per cent. However, the disposal of the offence cases by the Courts showed a

<sup>4</sup> Balasore, Cuttack, Gajapati, Jagatsinghpur, Jajpur, Koraput, Mayurbhanj, Rayagada and Sundargarh.

<sup>5</sup> EI&EB under EDC(SD), Berhampur and EI&EB-I under EC, Cuttack.

<sup>6</sup> Ganja and Brown sugar.

decreasing trend from 7,515 cases in 2014-15 to 5,138 cases in 2016-17, a decrease of 31.63 per cent.



During Exit meeting, Government stated that some cases were pending for disposal by the courts of law. However, reason for the increasing trend of offence cases was not clarified by the Government/Department.

### 3.4.5 Low conviction

Percentage of conviction was low due to non-production of seized materials, documents, etc. by the investigating officer.

Section 102 (3) of Code of Criminal Procedure, 1973 (Cr.P.C) provided that, any seizure shall be reported to the Magistrate and seized material was to be kept in custody for production before the Court as and when required till orders of the Court permitting disposal of the same. This provision was also applicable to Section 85 of Excise Act. Further, EC in his letter<sup>7</sup> (November 1978) had, *inter alia*, instructed the Collectors to streamline the preventive, detective and investigative practices. It was to be ensured that the accused were not acquitted due to lack of depositions and insufficient incriminating evidences.

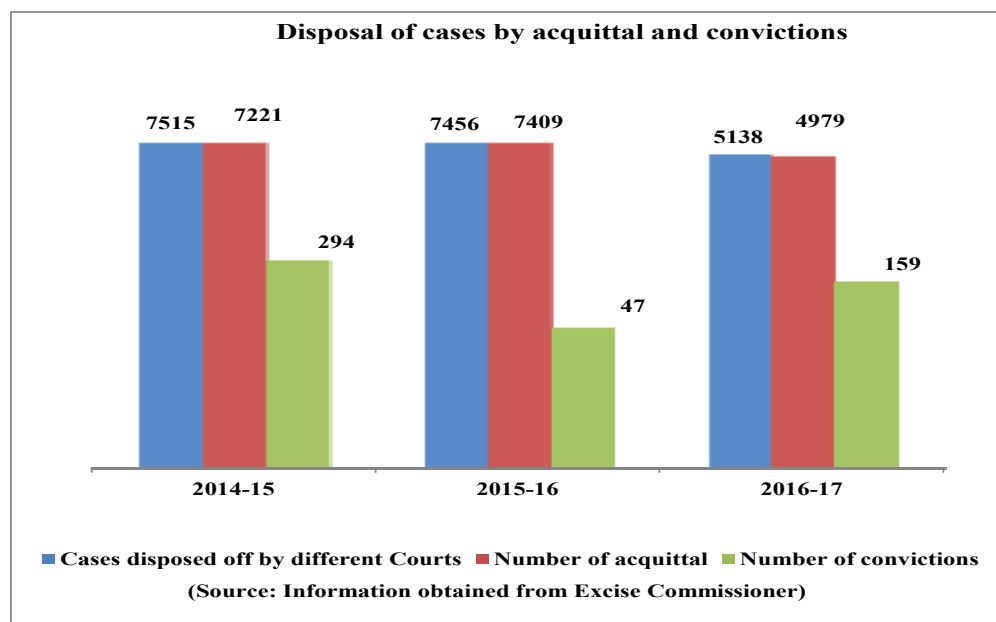
Audit observed that during the period covered under Audit, 20,109 cases were disposed off by the Courts out of 53,774 cases which included 500 convictions and 19,609 acquittal cases. The percentage of conviction ranged between 0.63 to 3.91 per cent and acquittals ranged between 96.09 to 99.37 per cent. There were high acquittals in cases such as unlawful manufacture, possession, transport and sale of Illicit Distilled Liquor (IDL), India Made Foreign Liquor (IMFL), Beer and Country Spirit (CS), etc. It was due to the following reasons:

- Seized materials were not produced by the investigating officers before the Courts for identification;
- Reasonable explanations were not furnished for non-production of the same and non-production of the copy of blue litmus<sup>8</sup> paper test that proved the seized materials to be an intoxicant;

<sup>7</sup> Letter No.128/78-6655 (13)/Ex dated 08.11.1978.

<sup>8</sup> It is an acid based indicator. It becomes red on contact with acid.

- Documents in support of technical training<sup>9</sup> and experience of the investigating officer for the conduct of chemical examination of the seized intoxicant were not produced in the Court;
- Veracity of documents regarding ownership of the house where the illegal material was seized, etc.



Further, no acquittal case was challenged by the authorities in appeal even in cases related to NDPS. Audit noted that these shortcomings were very grave in nature. It also pointed towards lack of basic professional competence and application on part of the Department. Further, the low conviction rate would greatly embolden offenders.

The Government had accepted the Audit observation and assured to rectify the deficiencies pointed out.

### 3.4.6 Confiscated goods not disposed off

**Goods confiscated after orders of the Court were not disposed off.**

Section 66 (1) of the B&OE Act, 1915 provided that whenever an offence has been committed which is punishable under this Act, the intoxicants, materials, still, utensil, implement and apparatus in respect of or by means of which such offence has been committed shall be liable to confiscation. Further, Rule 137 of Board's Excise Rules, 1965 provided that the sale or disposal of things confiscated under the Act shall be deferred till the period of appeal against the order of confiscation had expired, or if an appeal be made against such order till the appeal was disposed off. However, if things ordered to be confiscated were of a perishable nature they may be sold immediately. The NDPS goods were to be disposed off only by way of destruction by a Drug Disposal Committee (DDC) consisting of members as decided by the Government.

<sup>9</sup> As per Excise Manual, Inspecting Officers should possess training Certificate / Experience Certificate on 'blue litmus' paper test.

Audit observed that 20,109 cases, which involved 500 conviction cases and 19,609 acquittal cases, were disposed off by the Court. Court ordered for the disposal of the confiscated goods within four months of the expiry of appeal period<sup>10</sup>. The concerned SEs failed to dispose off the confiscated goods within the prescribed time limit in all the 20,109 cases.

Non-disposal of the confiscated goods despite Court orders was fraught with the risk of the misuse and misappropriation of the confiscated goods. This poses a serious lapse as the NDPS goods were vulnerable to theft and substitution. This further resulted in blockage of excise revenue to the extent of sale proceeds receivable from auctionable items such as stills, utensils, etc. This indicated lack of internal control.

However, the Government accepted the Audit observation and stated that the department was taking steps to provide infrastructure like malkhana, hazat and storage facility for seized goods.

### **3.4.7 Goods seized in unclaimed cases not disposed off**

**Goods seized as unclaimed were not disposed off after expiry of prescribed period.**

Under Section 67 (2) of the B&OE Act, 1915, whenever anything is liable to confiscation under Section 66, and the offender or the person entitled to possession is not known or cannot be found, the case shall be inquired into and determined by the Collector who may order for confiscation. Provided that, no such order shall be made until the expiration of one month from the date of seizing the thing intended to be confiscated, or without hearing any person who may claim any right thereto and the evidence (if any) which he produces in support of his claim.

Audit scrutinised the records of all selected DEOs and EI&EBs. Audit observed that out of 26,202 offence cases, 5,678 cases involving stills, utensils, conveyances, IDL, IMFL, Beer, CS, etc. remained unclaimed. There was no bar on the department to dispose off the unclaimed cases as they were not subject to any legal process. However, department did not dispose off the confiscated goods even after the expiry of the stipulated period of one month from the date of confiscation. Non-disposal of the items seized in unclaimed cases may result in misappropriation of goods as well as loss of revenue. This indicated lack of internal control.

The audit observation was accepted by the Government and stated that action would be taken to dispose off the unclaimed cases.

### **3.4.8 Creation of Special Courts to clear heavy pendency of offence cases**

**Special Courts were not created to clear heavy pendency of offence cases.**

A law providing for deterrence through punishment for offences was of no use if the trial of the cases was delayed. The Justice P.K. Patra Commission formed in the aftermath of the hooch tragedy of Ganjam in the year 2006 had, among others, categorically recommended to the Government for establishment of Special Courts in each district to deal with the excise offence cases. This was required for facilitating the trial of any offence case for early disposal.

---

<sup>10</sup> Appeal period is of 3 months.

Test check of records in all selected DEOs and EI & EBs revealed that:

- 59,998 number of offence cases were pending as on 1 April 2014 in different Courts including the period prior to 2001-02. It reduced marginally to 48,636 as on March 2017.
- Majority of cases related to the offences for possession of intoxicants such as IDL, Tari, Wash and Pachawai, CS and IMFL in small quantities.
- The pendency could not be disposed off by the Regular Courts.
- Special Courts to speed up disposal of excise offence cases were yet to be created.

During the Exit meeting the Government stated that a new Act was enacted and it was in force from 01 April 2017. The new Act provided for creation of Special Courts to deal with Excise cases exclusively.

### 3.4.9 Hemp Plant cultivation

**Illicit cultivating of Hemp plant were going on in eight districts due to lack of coordinated strategy.**

Cultivation of Hemp Plant has been banned under Section 8 of the NDPS Act, 1985. As such, the Act provides for immediate arrest and prosecution of drug traffickers involved in this illicit cultivation. Further, Section 20 of the above Act provided for rigorous imprisonment for a term which may extend up to ten years and levy of fine which may extend to rupees one lakh for contravention of the provisions of the Act. Narcotics Control Bureau (NCB) under Ministry of Home Affairs, Government of India had devised a comprehensive action plan in 2013 to be adopted by the States to control illicit cultivation. The prime objective of this plan was to nip cannabis cultivation in the bud before it caused some serious socio-economic problems.

Audit scrutiny of the records related to annual destruction of Hemp plant cultivation in the office of EC revealed that:

- Hemp Plant cultivations continued in eight<sup>11</sup> districts during 2014-15 to 2016-17.
- Department possessed no information on the actual acreage of land under hemp cultivation in a year.

Hemp plants numbering 184.09 lakh over 9,548 Acres of land were destroyed during 2014-15 to 2016-17. Thousands of Acres of land under hemp plant cultivation were being destroyed by the Multi-Disciplinary Squads (MDS) every year. However, department could arrest only nine persons involved in such illegal cultivation in 9,548 Acres of land during last three years.

This showed lack of coordinated strategy and concerted approach by the MDS to arrest the offenders before or during the destruction drive.

Government stated that Collectors were requested to have meetings with the local people to get some fruitful results.

<sup>11</sup> Angul, Boudh, Deogarh, Gajapati, Kandhamal, Malkangiri, Rayagada and Sambalpur.

## **Other measures**

### **3.4.10 Non implementation of the Mass Awareness Programme**

**Seminars, meetings, street theatres for public awareness on dangers of drinking could not be conducted in spite of provision of funds.**

Annual Activity Reports specified for an integrated mechanism involving Non-Government Organisations, Self Help Groups (SHGs) and Panchayati Raj Institutions by conducting seminars, meetings, street theatres, etc. These were to be held to create public awareness about the dangers of drinking, particularly IDL, spurious liquor and illegal liquor trade.

Audit scrutinised the records in office of the EC related to the public awareness programmes. Audit observed that Excise Department had allocated ₹ 15 lakh (March 2015) for de-addiction programme. Public awareness about the dangers of drinking, particularly IDL and spurious liquor was to be conducted by way of seminars, meetings, street theatres, etc. However, Audit observed that the amount was drawn and kept idle without being disbursed to DEOs for conducting public awareness programme. Non-utilisation of the amount for the above purpose defeated the basic intent of the Government policy to restrict the rising trend in different excise offences by creating awareness. This indicated lack of internal control.

The Government had accepted the Audit observation and assured to conduct public awareness programme on de-addiction.

### **3.4.11 Inoperative Toll Free Helpline Number**

**Toll Free Helpline Number notified for collecting information from general public on excise offences remained defunct.**

A Toll Free Helpline number was installed (August 2013) in the office of the EC, Odisha to collect information from the public on different unlawful activities. It aimed to involve the common man to be a part of the existing intelligence and enforcement wings in detecting and containing excise crimes. The helpline number was widely circulated to general public through different print media.

Audit observed that the said toll free help line number had remained defunct since 15 July 2015. Inoperative toll free number deprived the department from obtaining required information to control and check excise crimes. This number remained defunct in the back drop of growing unlawful and illegal activities, despite preventive and enforcement measures by the department. This indicated lack of internal control.

During discussions, the Government accepted the Audit observation and stated that steps would be taken for early restoration of the toll free number.

### **3.4.12 Records not maintained**

The following records/reports which were vital in dealing with excise offence cases were not maintained by the DEOs. These were specified under different instructions framed by the Board of Revenue:

- (i) Registers for recording first information on offence in Form C-1;
- (ii) Report showing custody of seized articles in Form C-3;
- (iii) Final report on disposal of offence cases in Form C-6; and



(iv) Conviction registers in Form C-8.

Non-maintenance of above registers deprived the controlling authorities for initiating follow-up action. This indicated lack of internal control.

The Government had accepted the Audit observation and stated that all the records would be maintained.

### **3.4.13 Conclusion**

There was a high rate of acquittal as the prescribed procedures were not followed by the departmental officers. The seized materials were not produced by the investigating officers before the Courts and they could not prove the seized materials to be intoxicant. Low conviction rates would greatly embolden offenders. No appeals were filed in cases adjudicated against the department due to lack of evidence. Seized goods ordered to be disposed off by the Court were not disposed off and resulted in revenue blockage. The department did not constitute special courts, to expedite settlement of offence cases. Further, the department did not conduct mass awareness programmes to encourage participation of general public in eradicating excise offences.



### **3.5 Other Audit observations**

Audit scrutinised the assessment records of State Excise Duty and associated fees in the District Excise Offices (DEOs). Audit found several cases of non-observance of the provisions of the Act / Rules / Annual Excise Policies (AEPs). This led to non-levy / short levy and realisation of excise duty, fees and fines, etc. as mentioned in the succeeding paragraphs in this chapter. These cases were illustrative and were based on a test check carried out by Audit. Such omissions on the part of the Superintendent of Excise (SE) are pointed out by Audit each year. However, the irregularities persisted and remained undetected until the next audit was conducted. There was need for the Department to improve the internal control system including strengthening of internal audit to avoid recurrence of such irregularities.

### **3.6 Provisions of the Acts/Rules/Annual Excise Policies and instructions of Government not observed**

*The Bihar and Odisha Excise (B&OE) Act, 1915 and Rules made thereunder by the Government as well as by the Board of Revenue (BOR) read with the Excise Manual, AEPs and notifications of Government provide for levy and collection of State Excise Duty (SED), fees like utilisation fee (UF), import fee (IF), bottling fee (BF), transportation fee (TF), excise adhesive label (EAL) fee, and charges like establishment cost and extra hour operation charge, etc. at the prescribed rates.*

*The SEs, while finalising the assessments, did not observe the above provisions in some cases as mentioned in the subsequent paragraphs which resulted in non-levy and non-realisation of SED / fees, fines and penalty, etc.*

### 3.6.1 Fine on expired IMFL not levied

Expired IMFL stock was not destructed after chemical examination and fine of ₹ 4.45 crore not imposed.

As per Rule 39(1) of the Board's Excise Rules (BER), 1965, the licensee shall remove all bottled liquor from the approved storeroom within three months after it is bottled. As per Rule 39A (7), the Superintendent of Excise (SE) shall be careful while issuing import and transport permits with a view to avoid unnecessary piling up of huge stock which may lead to sedimentation and deterioration in quality if not disposed off in time. Further, any stock of India Made Foreign Liquor (IMFL) becomes unfit for human consumption owing to long storage or other factors, the licensee shall be liable to pay a fine equal to five times the duty payable to the Government on the stock so spoiled. The stock so found unfit for human consumption was required to be destroyed by the SE as per Rule 135 of the Rules *ibid*.

Audit scrutinised records (December 2016) including stock taking report and closing stock analysis report of two Distillery Units<sup>12</sup> under SE, Rayagada. Audit observed that the closing stock of IMFL as on 31 March 2016 was 4,900.33 Cases (32,261.738 LPL). These stocks were lying in the warehouse for periods ranging from more than 3 years to 29 years from their manufacturing dates without sale to Orissa State Beverages Corporation (OSBC) depot. However, expired IMFL stock was not destructed after chemical examination and fine of ₹ 4.45 crore not imposed.

Government stated (October 2017) during discussion that destroying the liquor unfit for human consumption was primary concern and penalty was the secondary objective. They also stated that penalty clause had been deleted in the new Excise Act 2017. It was further stated that since cases were very old and the amount can be demanded was to be examined. Final reply in this regard was awaited.

However, the fact remained that the IMFL stock was piled up for upto 29 years and were not destroyed. This indicated lack of concern for human health by the Department.

### 3.6.2 Short / Non levy of Excise Duty on short lifting of IMFL and Beer

Excise duty and fine of ₹ 1.85 crore short levied/ demanded from five licensees and ₹ 0.15 crore not demanded from one licensee towards short lifting of IMFL and Beer against the MGQ fixed.

As per Rule 6-A of the Odisha Excise (Exclusive Privilege) Foreign Liquor Rules, 1989, every successful bidder of Foreign Liquor 'OFF' shop/'ON' shop shall, before obtaining licence, guarantee the lifting of the Minimum Guaranteed Quantity (MGQ) of IMFL / Beer as fixed by the Excise Commissioner. In case of failure on the part of the licensee to lift the MGQ, action may be taken to make good the loss of Excise Duty (ED), which shall be recovered from the bank guarantee obtained by the Collector. In case of further deficit, the amount will be collected at the end of the year with 10 *per cent* fine thereon. As per Annual Excise Policy 2015-16, the minimum rate of ED on IMFL and Beer worked out to ₹ 276 and ₹ 47 per London Proof Litre (LPL) and Bulk Litre (BL) respectively taking into account the ad valorem component of ED for the lowest priced IMFL and Beer.

<sup>12</sup> M/s. Jeypore Sugar Company Ltd. and M/s. Sri Shakti (P) Ltd.

Audit test checked (July to October 2016) records<sup>13</sup> in three SE Offices<sup>14</sup>. Audit observed that five licensees<sup>15</sup> short lifted 76,438.96 LPL of IMFL and 2,41,089.64 BL of Beer against the MGQ fixed for their shops during the year 2015-16. As such ED and fine of ₹ 3.57 crore was leviable. The SEs had demanded / realised ₹ 1.72 crore only. This resulted in short levy and realisation of ED and fine of ₹ 1.85 crore. Similarly, under SE, Ganjam, one shop short lifted 2,730 LPL of IMFL and 13,075 BL of Beer. However, the SE had not raised demand of ₹ 0.15 crore towards ED and fine.

Government accepted (October 2017) the audit observation and assured to recover the amount.

### **3.6.3 Short realisation of Excise Duty due to incorrect conversion of MGQ of Beer**

**Non adoption of prescribed rate of ED for IMFL and Beer as per Annual Excise Policy 2015-16 resulted in short realisation of ED of ₹ 1.44 crore.**

As per Rule 6-A of the Odisha Excise (Exclusive Privilege) Foreign Liquor Rules, 1989, every successful bidder of Foreign Liquor (FL) 'OFF' shop shall, before obtaining licence, guarantee the lifting of the MGQ of FL as fixed by the EC. In case of failure on the part of the licensee to lift the MGQ, action may be taken to make good the loss of ED, which shall be recovered from the bank guarantee obtained by the Collector. In case of further deficit, the amount will be collected at the end of the year with 10 *per cent* fine thereon. During 2015-16, in the context of short supply of Beer by the manufacturers/ supplying companies, Excise Department approved (May 2015) a proposal to give the option to the licensees to lift IMFL in LPL involving equal amount of ED as that of MGQ of Beer in BL fixed in respect of their shops.

Audit scrutinised MGQ statements, Licence Fee Registers and Charge Office records of seven<sup>16</sup> SE offices. Audit observed that the licensees of 55 IMFL 'OFF' shops could not lift the fixed MGQ of Beer during 2015-16. As per the above instructions, they were allowed to lift IMFL in lieu of short lifted quantity of Beer. The shortfall of Beer in BL was converted to LPL for IMFL adopting ED as ₹ 30 and ₹ 250 respectively. As per Annual Excise Policy (AEP) for 2015-16, actual rate of ED was ₹ 47<sup>17</sup> and ₹ 276<sup>18</sup> respectively. The rate was arrived by adding 40 *per cent* of the *ad valorem* component calculated on the landing cost of lowest brand of Beer and IMFL. This resulted in short realisation of ED of ₹ 1.44 crore.

Government accepted (October 2017) the audit observation and assured to recover the amount during the current financial year before renewal of licences.

---

<sup>13</sup> Annual MGQ statements, MGQ Registers, License Fee Registers and Statement obtained from M/s. Orissa State Beverage Corporation (OSBC) Ltd.

<sup>14</sup> Balasore, Baragarh and Keonjhar.

<sup>15</sup> Licensees of 'OFF' shops.

<sup>16</sup> Angul, Balasore, Berhampur, Cuttack, Ganjam, Jharsuguda and Mayurbhanj.

<sup>17</sup> The minimum landing cost of 7.80 BL of Beer is ₹ 329.33. The landing cost per BL of Beer is ₹ 42.22. *Ad valorem* 40 *per cent* thereon amounts to ₹ 16.80 rounded to ₹ 17. Hence, the SED on Beer is ₹ 47 per BL (₹ 30 + ₹ 17).

<sup>18</sup> The minimum landing cost of 6.75 LPL of IMFL is ₹ 438.59. The landing cost per LPL of IMFL is ₹ 64.98. *Ad valorem* 40 *per cent* thereon amounts to ₹ 26. Hence, the SED on IMFL is ₹ 276 per LPL (₹ 250 + ₹ 26).

### 3.6.4 Establishment cost not realised

Establishment cost of ₹ 40.12 lakh towards pay and allowances of two Excise officials was not realised from OSBC Ltd.

As per Rule 33(3) of the Board's Excise Rules 1965, potable foreign liquor shall not be stored either in shape of bottles or bulk or compounded, blended, reduced, bottled in a warehouse or store-room in bond and issued or sold therefrom otherwise than in the presence of an Excise Officer. Further, as per Rule 34(1) and 34(2) of the Rules *ibid*, the EC shall appoint the Excise Officers for proper supervision of the operations carried out in each warehouse or storeroom mentioned in Rule 33(3). The licensee shall pay to the State Government, at the end of each calendar month, such fees which shall not exceed the whole of the cost of the excise staff employed for the purpose.

Audit scrutinised (September and December 2016) files relating to reimbursement of establishment cost in two<sup>19</sup> SE offices. Audit observed that four excise officials of above offices were posted in two depots during the period 2011-12 to 2015-16. Establishment cost of ₹ 40.12 lakh towards pay and allowances of the staff employed in two depots were not paid by OSBC Ltd. SEs also did not raise demand for reimbursement of the establishment cost.

Government stated (October 2017) during discussion that the cases would be examined and required steps would be taken. Final reply in this regard was awaited.

### 3.6.5 Charges for extra hour operation not realised

Extra hour operation charges of ₹ 23.85 lakh for carrying out 2,385 extra hour operations beyond the scheduled hours during April 2015 to March 2016 were not realised from one distillery.

As per Rule 20 of Board's Excise Rules, 1965, all operations in a distillery, bottling unit and brewery which require the presence of an Excise officer shall be stopped on Sundays, other public holidays and specially declared holidays. The production unit may function for the second shift with prior permission of the EC and additional staff shall be posted as determined by the EC. The licensee shall pay, in addition to the cost of establishment of additional staff, ₹ 1,000 per each extra hour of operation of his distillery beyond the scheduled hours.

Audit scrutinised (October 2016) records relating to extra hour operations in District Excise Office, Ganjam. Audit observed that one<sup>20</sup> Distillery carried out extra hour operation of 2,385 hours beyond the schedule hours during April 2015 to March 2016. However, the Distillery did not pay the extra hour operation charges of ₹ 23.85 lakh. The District Excise Officer also did not raise demand for realisation of the above dues.

Government stated (October 2017) during discussion that the amount pointed out by audit was demanded and realised. However, there was no mechanism in place to avoid such lapses.

<sup>19</sup> SE, Angul and Balangir.

<sup>20</sup> M/s. Aska Co-operative Sugar Industries Ltd.

### **3.6.6 Penalty for short supply of Country Spirit not levied**

**Penalty of ₹ 10 lakh was not realised from ACSIL for short supply of Country Spirit.**

As per provisions contained in the Excise Policy for the year 2015-16, Aska Co-operative Sugar Industry Limited (ACSIL) shall ensure at least 300 full truck load supply of Country Spirit (CS) per month to wholesale depots for sale to retailers. In case of failure to supply the same quantity of CS, penalty of ₹ 10 lakh would be leviable.

Audit scrutinised (October 2016) records of CS supply by ACSIL in SE, Ganjam. Audit observed that the ACSIL could not supply the prescribed quantity of CS to the four depots<sup>21</sup> of OSBC Ltd during 2015-16. ACSIL could only supply 3,411 truck load of CS against the required quantity of 3,600 (300 × 12) truck load. The unit was liable to pay a penalty of ₹ 10 lakh as it failed to supply the required quantity of CS. However, no demand was raised by SE, Ganjam to realise such penalty.

Government stated (October 2017) during discussion that the amount pointed out by audit was demanded and realised. However, no mechanism was in place to monitor non-supply of prescribed quantity of CS by the ACSIL.

---

<sup>21</sup> Balasore, Chandikhol, Khurda and Nirgundi.

# **Chapter IV**

## **Stamp Duty and Registration Fee**



## CHAPTER IV

### STAMP DUTY AND REGISTRATION FEE

#### 4.1 Tax Administration

Receipts from Stamp Duty (SD) and Registration Fee (RF) were regulated under the Indian Stamp Act, 1899 (IS Act), the Registration Act, 1908 and the Rules framed thereunder. It was administered at the Government level by the Principal Secretary, Revenue & Disaster Management (R&DM) Department. The Inspector General of Registration (IGR) was the head of the Revenue Department who was empowered with the task of superintendence and administration of registration work. He was assisted by one Joint Inspector General (JIG), three Deputy Inspectors General (DIG), 30 District Registrars and 30 District Sub-Registrars (DSR) at the district level and 151 Sub-Registrars (SR) at the unit level.

#### 4.2 Internal Audit

The Internal Audit Wing (IAW) of R&DM Department was created in the year 1969. During 2016-17, the IAW planned 71 units for audit, and covered 58 units. The shortfall was attributed by the Department to shortage of manpower and requisition of special audit. Audit observed that 9,992 paragraphs of Internal Audit Reports having money value of ₹ 3,687.67 crore issued up to March 2017 were pending for disposal as on 31 March 2017.

#### 4.3 Results of Audit

In 2016-17, test check of the records of 40 units of the Revenue and Disaster Management Department showed non-levy / short levy of stamp duty and registration fee, etc. and other irregularities amounting to ₹ 9.23 crore in 18,900 cases which fall under the categories given in the **Table 4.1** below.

**Table 4.1**

#### Category of Audit observations on revenue receipts

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Incorrect determination of market value of property and irregular exemption on housing loan	269	1.73
2.	Non-levy /short levy of stamp duty and registration fee	116	7.50
3.	Other irregularities	18,515	0
<b>Total</b>		<b>18,900</b>	<b>9.23</b>

During the year, the Department accepted under assessments and other deficiencies of ₹ 8.40 crore in 18,666 cases and an amount of ₹ 1.61 lakh was realised in one case. Further, ₹ 52.59 lakh was also realised in 138 cases relating to the years 2000-01 to 2015-16.



#### **4.4 Audit observations**

Audit scrutinised records relating to assessment and collection of Stamp Duty and Registration Fee. Audit found short realisation of revenue on certificate of sale and under valuation of land and building as mentioned in the succeeding paragraphs. These cases are illustrative and are based on test check carried out by Audit.

#### **4.5 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 deeds of certificate of sale are to be charged to duty as conveyance on the legal process of transferring property from one owner to another. Conveyance deeds are to be registered on realisation of Stamp Duty (SD) and Registration Fee (RF) at the prescribed rates on the consideration truthfully and correctly mentioned therein keeping in view the benchmark value<sup>1</sup> (BMV) of the Government of Odisha. The documents where properties were shown to be undervalued were to be impounded for correct valuation for realisation of differential SD and RF.*

*Non-observance of the provisions of the above Acts by the Registering Authorities (RA) in the cases as mentioned in the following paragraphs resulted in short realisation of SD and RF.*

---

<sup>1</sup> Benchmark Valuation: Under Benchmark Valuation principle, Revenue and Disaster Management Department of Government of Odisha approves the rates of land from time to time in all districts of the State which ought to be taken into consideration while determining the prevailing market rate / price of the land.

#### 4.5.1 Short levy of Stamp Duty and Registration Fee on Certificate of Sale

Stamp Duty of ₹ 32.48 lakh and Registration Fee of ₹ 10.13 lakh were short realised on registration of Sale Certificates.

As per Article 18 (b) of Schedule I-A of Indian Stamp (Orissa Amendment) Act, 2001, as amended in 2003, Stamp Duty (SD) on Certificate of Sale, granted to a purchaser of any property sold by public auction shall be treated as a conveyance and SD shall be chargeable at the rate of five *per cent* of the consideration equal to the amount of purchase money. Under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 and in exercise of the powers conferred under Section 13 read with Rule 9(6) of the Security Interest (Enforcement) Rules, 2002, the immovable property secured from borrowers in favour of secured creditor/institution towards financial facility shall be put to auction to recover the secured debt. Further, under Section 17 of Registration Act, 1908, Registration of Certificate of sale is compulsory. Thus, the certificate of sale was an instrument of registration on receipt of consideration. Stamp Duty and Registration Fee chargeable to Conveyance deed were five and two *per cent* respectively.

Audit analysed e-registration database in three Registration Offices<sup>2</sup> during August 2016 to January 2017. Audit observed that seven numbers of Certificates of sale were registered during 2015-16 in which the purchase money recorded was ₹ 671.60 lakh. Accordingly, SD and RF of ₹ 33.58 lakh and ₹ 13.43 lakh respectively were leviable as conveyance deeds on registration of seven numbers of certificates of sale. However, SD of ₹ 1.10 lakh and RF of ₹ 3.30 lakh was realised by the Registering Officers. This resulted in short realisation of SD of ₹ 32.48 lakh and RF of ₹ 10.13 lakh.

Thus, due to application of inappropriate rate of duty on realisation of SD and RF on Certificates of Sale resulted in short-realisation of ₹ 42.61 lakh of Government revenue. In reply, all the Registering Officers, stated that action deemed fit would be taken after verification of documents.

The matter was brought to the notice of Inspector General of Registration Odisha (IGR), Cuttack in May 2017 and the Government in July 2017. The reply was awaited.

#### 4.5.2 Short realisation of Stamp Duty and Registration Fee due to under valuation of land and building

Stamp Duty of ₹ 18 lakh and Registration Fee of ₹ 8.06 lakh were short realised on registration of conveyance deeds.

Section 27 of the Indian Stamp (IS) Act, 1899, (Odisha Amendment) read with Section 3 of the Act, *ibid*, the consideration if any, the market value of the property and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth in the document. Revenue and Disaster Management Department, Government of Odisha issued guidelines in March 2011 and December 2013 for valuation of buildings and superstructures for the purpose of levy of SD and RF. Similarly, SD and RF was to be charged as per Bench Mark Value (BMV) prescribed by the Chairman of District Level Valuation Committee and revised from time to time relating to landed

<sup>2</sup> DSR Kalahandi and Khurda and SR, Panposh.

property. Further, as per Section 47A of the Act, in case of under valuation of a property during registration, the case shall be referred to the Collector who would determine the value and the deficient amount shall be paid by the person liable to pay the duty.

Audit test checked 22 conveyance deeds in four Registration Offices<sup>3</sup> during June 2016 and December 2016. Audit observed that landed property with an area of 8.08 acres and having buildings thereon were sold by the vendors to the vendees for a consideration of ₹ 12.70 crore. These deeds were registered between September 2014 to October 2015 and SD of ₹ 45.51 lakh and RF of ₹ 18.76 lakh were realised. However, SD and RF payable worked out to ₹ 63.51 lakh and ₹ 26.82 lakh as per above guidelines on buildings and BMV. This resulted in short realisation of SD of ₹ 18 lakh and RF of ₹ 8.06 lakh.

Thus, due to non-adherence of prescribed guidelines correctly, there was short realisation of revenue of ₹ 26.06 lakh.

In reply, all the Registering Officers stated that the documents will be booked under Section 47 A for realisation of the deficit amount of SD and RF.

The matter was brought to the notice of IGR, Odisha, Cuttack in April 2017 and the Government in July 2017. The reply was awaited.

---

<sup>3</sup> DSR Bargarh, Kalahandi and Puri and Sub-Registrar, Panposh.

# **Chapter V**

## **Motor Vehicle Tax**



## CHAPTER V

### MOTOR VEHICLE TAX

#### 5.1 Tax Administration

The receipts from Motor Vehicle Tax are regulated under the provisions of the Central and the State Motor Vehicle Acts and Rules made thereunder. The above Acts and Rules made thereunder are administered by the Transport Commissioner (TC)-cum-Chairman, State Transport Authority (STA), Odisha under the overall supervision of the Commissioner-cum-Secretary, Commerce and Transport (Transport) Department. The TC was assisted by Joint Commissioners and Deputy Commissioners at the headquarters level and Regional Transport Officers (RTOs) at unit level. RTOs were the Assessing Authorities (AAs) as well as the Tax Recovery Officers (TROs).

#### 5.2 Internal Audit

The Internal Audit Wing of the STA had not conducted any audit during 2007-08 and 2010-11. The reason was attributed to shortage of staff. However, the newly created Audit team of the Transport Department had been conducting internal audit of regional transport offices since 2011. During 2016-17, Internal Audit Wing of the Department had audited 7 out of 14 units offices planned for audit. The shortfall was attributed by the Department to shortage of manpower. Audit observed that 419 paragraphs of Internal Audit Reports having money value of ₹ 252.52 crore were pending for disposal as on 31 March 2017.

#### 5.3 Results of Audit

Test check of the records of 22 units relating to Motor Vehicle Tax, additional tax, registration fee, permit fee and penalty was undertaken in 2016-17. It showed underassessment of tax and other irregularities involving ₹ 86.56 crore in 1,15,532 cases as indicated in the **Table 5.1** as follows.

**Table 5.1**

#### Category of Audit observations on revenue receipts

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non-levy / non-realisation of motor vehicle tax / additional tax and penalty	30,485	66.97
2.	Non-realisation / short realisation of compounding fee, permit fee and fitness fee etc.	1,072	0.65
3.	Short levy / realisation of motor vehicle tax / additional tax and penalty	184	0.42
4.	Non-realisation / short realisation of penalty on belated payment of tax	95	0.46
5.	Non/short realisation of Trade Certificate fee/tax	83,649	18.04
6.	Other irregularities	47	0.02
<b>Total</b>		<b>1,15,532</b>	<b>86.56</b>

The Department accepted under assessment and other deficiencies of ₹ 82.15 crore in 85,854 cases pointed out during the year 2016-17. An amount of ₹ 1.52 lakh was realised in 7 cases which were pointed out during the period 2003-04 to 2015-16.

#### **5.4 Audit Observations**

Audit scrutinised the records relating to assessment and collection of motor vehicle tax in the office of the Transport Commissioner (TC)-cum-Chairman, State Transport Authority (STA). Audit also test checked records of 22 out of 35 Regional Transport Officers (RTOs). Audit found 27,228 cases of non-observance of some of the provisions of the Acts / Rules as mentioned in the succeeding paragraphs of this chapter. The cases are illustrative and are based on test check carried out by Audit. Such omissions remain undetected till next audit is conducted. The Government may direct the Department to improve the internal control system including strengthening of internal audit so that such omissions can be detected and corrected in time and avoided in future.

#### **5.5 Provision of Acts / Rules not complied with**

*The provisions of the Motor Vehicles (MV) Act 1988, Odisha Motor Vehicles Taxation (OMVT) Act, 1975 and Rules made thereunder required levy and collection of:*

- (i) motor vehicle tax (MV tax) / additional tax from the vehicle owners at the prescribed rate in advance and within the grace period provided; and*
- (ii) penalty for belated payment of tax beyond two months after the expiry of the grace period of 15 days shall be leviable at twice the rate of tax.*

*Non-compliance of the provisions of the Acts / Rules in some cases have been discussed in the succeeding paragraphs.*



### 5.5.1 Non realisation of motor vehicle tax and additional tax from goods carriages, contract carriages and tractor trailer combinations

**MV tax and additional tax of ₹ 18.42 crore and penalty of ₹ 36.84 crore not realised from registered owners of 27,078 vehicles.**

As per Sections 3, 3A, 4(1) and 10 of OMVT Act, 1975, motor vehicle tax and additional tax due on every motor vehicle used or kept for use were to be paid in advance at the rates prescribed for different classes of vehicles in Taxation Schedule I of the Act, unless exemption from payment of such tax is allowed for the period exempted by “off-road undertaking”<sup>1</sup>. As per Section 13(1) of the Act read with Rule 9(2) of OMVT Rules, 1976, if the tax was not paid within two months after expiry of the grace period of 15 days from the due date of payment, the registered owner or the person having possession or control thereof shall, in addition to payment of tax due, be liable to pay penalty which may be extended to twice the tax due.

Audit test checked (between April 2016 and February 2017) VAHAN<sup>2</sup> database pertaining to the years 2014 to 2016, relating to payment of motor vehicle tax. Audit also cross checked records such as General Registration Registers (GRRs), and Off-Road Registers (ORRs) maintained in the RTO offices. Audit observed that registered owners of 27,078 vehicles of different classes<sup>3</sup> out of 3,13,849 vehicles did not pay MV tax and additional tax during April 2014 to March 2016. These vehicles were also not exempted under “off-road undertakings”. The concerned RTOs neither issued demand notices nor did take any action against the vehicle owners for realisation of tax and imposition of penalty thereon. STA also did not monitor such cases of non payment of tax. Thus, MV tax and additional tax of ₹ 18.42 crore could not be realised. Penalty of ₹ 36.84 crore was also leviable. The details are given in the table below.

(₹ in crore)

Sl. No.	Number of RTOs	Type of vehicles	Number of vehicles	Amount of tax not realised	Penalty leviable	Total
1	21 <sup>4</sup>	Goods carriages	11,938	12.96	25.92	38.88
2	22 <sup>5</sup>	Contract carriages	5,225	2.78	5.56	8.34
3	21 <sup>6</sup>	Tractor Trailer combinations	9,915	2.68	5.36	8.04
	<b>Total</b>		<b>27,078</b>	<b>18.42</b>	<b>36.84</b>	<b>55.26</b>

Source: Vahan database

Government, in reply, stated that 14 RTOs had realised an amount of ₹ 1.15 crore<sup>7</sup> from 807 vehicles. Demand notices had been issued in respect of 4,837

<sup>1</sup> An undertaking given by the owner of the vehicle to the RTO and prior permission obtained from him for not plying the vehicle for a temporary period and for not to pay tax for the said period.

<sup>2</sup> VAHAN is an application software which caters to all the requirements for registration of vehicles and collection of taxes by the Transport Department.

<sup>3</sup> Goods carriages: 11,938, Contract carriages: 5,225 and Tractor Trailer combinations: 9,915.

<sup>4</sup> Angul, Balangir, Balasore, Bargarh, Bhadrak, Bhubaneswar I, Bhubaneswar II, Chandikhole, Cuttack, Dhenkanal, Ganjam, Jharsuguda, Kalahandi, Keonjhar, Mayurbhanj, Nayagarh, Puri, Rayagada, Rourkela, Sambalpur and Sundergarh.

<sup>5</sup> Angul, Balangir, Balasore, Bargarh, Bhadrak, Bhubaneswar-I, Bhubaneswar-II, Chandikhole, Cuttack, Dhenkanal, Ganjam, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Puri, Rayagada, Rourkela, Sambalpur and Sundergarh.

<sup>6</sup> Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar-I, Bhubaneswar-II, Bolangir, Chandikhole, Cuttack, Dhenkanal, Ganjam, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Puri, Rayagada, Rourkela and Sambalpur.

<sup>7</sup> 202 goods carriages (₹ 0.54 crore), 180 contract carriages (₹ 0.27 crore) and 425 tractor trailer combinations (₹ 0.34 crore).

vehicles and tax recovery proceedings have been initiated in respect of 8,276 vehicles. However, no action was taken in the remaining 13,158 cases.

### 5.5.2 Non / short realisation of motor vehicles tax and additional tax from stage carriages

**MV tax and additional tax of ₹ 16.73 lakh and penalty of ₹ 33.46 lakh not realised or short realised from 32 stage carriage owners.**

As per Sections 3, 3A and 4 (1) of the OMVT Act, 1975, MV tax and additional tax due on every motor vehicle used or kept for use were to be paid in advance at the rates specified for different classes of vehicles in the Taxation Schedule-I of the Act, unless exemption from payment of such tax was allowed for any period covered by “off-road undertaking”. As per Section 13(1) of the Act read with Rule 9(2) of the OMVT Rules 1976, if the tax was not paid within two months after expiry of the grace period of 15 days from the due date of payment, the registered owner or the person having possession or control thereof shall, in addition to payment of tax due, be liable to pay penalty which may be extended to twice the tax due.

Audit test checked (between July 2016 and February 2017) VAHAN database on payment of tax in nine RTOs<sup>8</sup>. Audit also cross checked records such as GRRs, ORRs and Permit Registers in these offices. Audit observed that registered owners of 32 Stage carriages did not pay or paid less MV tax and additional tax for the period between December 2012 and March 2016. These stage carriages were not exempted under “off-road undertaking”. The RTOs neither issued demand notices nor took any action against the vehicle owners for realisation of tax and imposition of penalty thereon. This resulted in non-realisation / short realisation of motor vehicle tax and additional tax of ₹ 16.73 lakh<sup>9</sup>. Besides, penalty of ₹ 33.46 lakh was also leviable.

Government, in reply, stated that demand notices had been issued against three vehicles and tax recovery proceedings had been initiated against seven vehicles pertaining to three RTOs. However, no action was taken in the remaining 22 cases.

### 5.5.3 Non-realisation of motor vehicle tax from Private Service Vehicles

**MV tax and additional tax of ₹ 14.72 lakh and penalty of ₹ 29.44 lakh not realised from owners of 118 PSVs.**

As per Sections 3, 4(1) and 10 of the OMVT Act, 1975, motor vehicle tax and additional tax due on every motor vehicle used or kept for use were to be paid in advance at the rates prescribed for different classes of vehicles in Taxation Schedule I of the Act, unless exemption from payment of such tax is allowed for the period covered by “off-road undertaking”. Further, as per Section 13(1) of the Act read with Rule 9(2) of the OMVT Rules, 1976, if such tax is not paid within two months after expiry of the grace period of 15 days from the due date of payment, the registered owner of the vehicle or the person having possession or control thereof shall, in addition to payment of tax due, be liable to pay penalty which may extend to twice the tax due. Motor vehicle tax on

<sup>8</sup> Balasore, Balangir, Bargarh, Bhubaneswar I, Bhubaneswar II, Cuttack, Kalahandi, Koraput and Puri.

<sup>9</sup> Non-realisation of ₹ 14.17 lakh in 19 cases and short realisation of ₹ 2.56 lakh in 13 cases.

Private Service Vehicle (PSV)<sup>10</sup> was leviable at the rate of ₹ 800 per seat per annum under item 5-A of the Taxation Schedule based on the seating capacity excluding the driver's seat.

Audit test checked (between May 2016 and February 2017) VAHAN database pertaining to the year 2014-16, in 14 RTOs<sup>11</sup> relating to payment of MV tax. Audit further cross checked taxation records and noticed that owners of 118 PSVs had not paid MV tax for different periods from April 2014 to March 2016. These vehicles were not exempted under "off-road undertakings". The period of delay involved in all these cases were more than two months, hence penalty at the rate of 200 *per cent* of the tax due was also leviable. The RTOs neither issued demand notices nor took action against the vehicle owners for realisation of tax and penalty. Thus, MV tax and additional tax of ₹ 14.72 lakh could not be realised. As per Section 13 (1) of the Act read with Rule 9(2) of OMVT Rules, 1976, penalty of ₹ 29.44 lakh was also leviable. This resulted in non-realisation of tax and penalty of ₹ 44.16 lakh.

Government, in reply, stated that demand notices had been issued against 15 vehicles and tax recovery proceedings had been initiated against nine vehicles pertaining to five RTOs. However, no action was taken in the remaining 94 cases.

---

<sup>10</sup> Private Service Vehicle (PSV): A motor vehicle constructed or adapted to carry more than six persons excluding the driver and ordinarily used by or on behalf of the owner of such vehicle for the purpose of carrying persons for, or in connection with, his trade or business otherwise than for hire or reward but does not include a motor vehicle used for public purpose.

<sup>11</sup> Angul, Balangir, Bargarh, Bhadrak, Bhubaneswar-I, Bhubaneswar-II, Chandikhole, Dhenkanal, Ganjam, Jharsuguda, Keonjhar, Koraput, Rourkela and Sambalpur.

# **Chapter VI**

## **Mining Receipts**



## CHAPTER VI

### MINING RECEIPTS

#### 6.1 Non-tax revenue Administration

Assessment and collection of mining receipts were regulated by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the Mineral Concession (MC) Rules, 1960, Mineral Conservation and Development (MCD) Rules, 1988 and Odisha Minerals (Prevention of Theft, Smuggling and Illegal Mining and Regulation of Possession, Storage, Trading and Transportation) (OM) Rules, 2007 framed thereunder. The above Act / Rules were administered by Director of Mines and Director of Geology, Odisha under the overall supervision of Principal Secretary, Department of Steel and Mines. He was assisted by seven Deputy Directors of Mines (DDM) and seven Mining Officers at the circle level who were the assessing authorities (AAs) of mining receipts like royalty, dead rent, fees and fines, etc.

#### 6.2 Internal Audit

During the year 2016-17, Internal Audit Wing of the Department had audited four out of nine units planned for audit. The shortfall was attributed by the Department to shortage of manpower. Audit observed that 237 paragraphs of Internal Audit Reports having money value of ₹ 641.82 crore were pending for disposal as on 31 March 2017.

#### 6.3 Results of Audit

Test check of the records of 26 units relating to the Steel and Mines Department was carried out in 2016-17. Audit revealed non-receipt / short receipt of mining receipts and other irregularities amounting to ₹ 1,414.30 crore in 191 cases which fall under the categories as indicated in the **Table 6.1** below.

**Table 6.1**

#### Category of Audit observations on revenue receipts

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non-receipt / short receipt of Government revenue under Government account	58	766.78
2.	Other irregularities	133	647.52
<b>Total</b>		<b>191</b>	<b>1,414.30</b>

The Department accepted under assessment and other deficiencies of ₹ 773.44 crore in 180 cases pointed out during 2016-17. An amount of ₹ 0.05 lakh was realised during 2016-17 in one case pointed out in earlier year.

## **6.4 Audit of “Exploration and Development of Mineral Resources by Directorate of Geology, Odisha”**

### **6.4.1 Introduction**

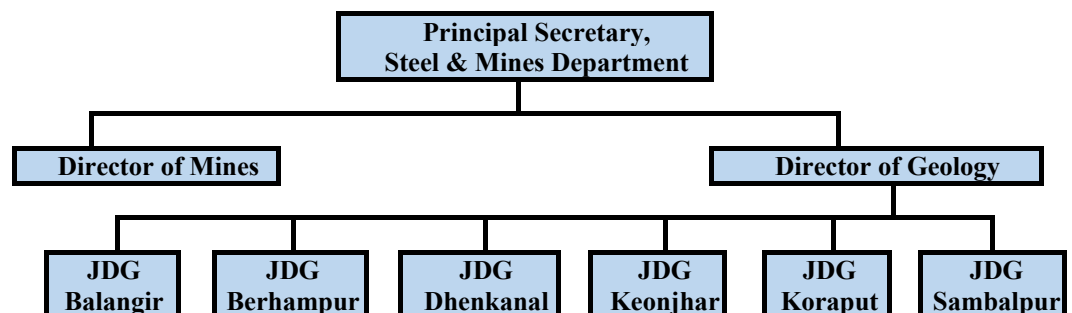
The Directorate of Geology, Odisha (DGO) functioned under the Steel and Mines Department of Government of Odisha. It was responsible for undertaking systematic survey, exploration and assessment of mineral resources in the State. It catered to the needs of mineral-based industries and to augment State’s revenue. It undertook various mineral exploration programmes as per field guidelines of United Nations Framework Classification (UNFC) as finalised in the State Geological Programming Board (SGPB). It explored major minerals like base metal, bauxite, coal, chromite, gemstone, graphite, iron ore, limestone and manganese. It also explored minor minerals like china clay, decorative stones, dolomite, quartzite, etc. in the State.

Audit was conducted between April 2017 to June 2017 in Steel and Mines Department, DGO and all six Zonal offices headed by Joint Directors of Geology (JDG). The period covered under audit was from 2014-15 to 2016-17. Audit was conducted to examine:

- Whether the survey, exploration and assessment of minerals/ore resources were done systematically.
- Whether it was as per Annual Field Programme (AFP) prepared under Odisha Mineral Exploration Policy, 2015 and Minerals (Evidence of Mineral Content) Rules, 2015.
- Whether survey, exploration and assessment of mineral resources were successfully executed within the prescribed time schedule.

### **6.4.2 Organisational Setup**

The DGO had six zonal offices, each headed by a Joint Director of Geology (JDG). The JDG was supported by Deputy Director of Geology (DDG), Geologists and other technical and ministerial staff. The organisational set up is shown below.



## Audit Findings

### 6.4.3 Mineral Investigation and Exploration

The Odisha Mineral Exploration Policy 2015 (OMEP) provided that there was substantial scope for increasing the contribution of the mining sector to the State's Gross Domestic Product (SGDP) considering the vast reserve of minerals in the State. The mining sector provided substantial fiscal resources as taxes and royalties. Accurate assessment of the mineral resources through scientific exploration has been a prerequisite for optimum exploration of these valuable natural resources.

Audit test checked the records on exploration and development of mineral resources in the State. The effectiveness of exploration by Directorate of Geology has been examined in the subsequent paragraphs:

#### 6.4.3.1 Budget & Expenditure

**Non-utilisation of budgetary allocation and inadequate allocation for field programmes.**

Para 5.5 of OMEP, 2015 provided for adequate budgetary support for funding the mineral exploration activities. Further, full utilisation of budgetary support was to be ensured for exploratory work to be effective.

The budget and expenditure of the DGO from 2014-15 to 2016-17 are as follows:

(₹ in lakh)				
Year	State-Plan/ Non-Plan	Budget	Expenditure	Excess(+)/ Saving(-)
2014-15	State-Plan	799.00	788.41	(-) 10.59
	Non-Plan	1,540.79	1,414.13	(-) 126.66
2015-16	State-Plan	730.98	724.45	(-) 6.53
	Non-Plan	1,552.83	1,503.33	(-) 49.50
2016-17	State-Plan	1,500.01	888.30	(-) 611.71
	Non-Plan	1,657.63	1,546.61	(-) 111.02

Source: Information furnished by DGO, Odisha

In this regard, audit observed that:

- The budget allotted could not be fully utilised in all the three years. Also, the unutilised amount increased substantially during 2016-17. The savings were more under plan budget than non-plan which implied more expenditure on salaries and establishment rather on exploration and other core activities.
- The non-plan<sup>1</sup> expenditure was 65 *per cent* while the plan<sup>2</sup> expenditure was only 35 *per cent* of the total expenditure.
- The department allocated a meager ₹ 190.07 lakh for core exploratory work which constituted only 7.91 *per cent* of the plan expenditure for 2014-17. This amount was spent on 33 field exploration programmes. The rest of the plan fund was utilised on purchase of machinery, equipment, tools & plants, office expenses, etc.

<sup>1</sup> Salary and establishment cost.

<sup>2</sup> Cost of exploration activities.



This implied inadequate budget allocation for field exploration programmes as compared to the total expenditure incurred by the Directorate. The objective of identifying exploration of minerals by the Department was defeated. This indicated lack of proper planning and estimation which were not reviewed by the Directorate.

In reply, Government stated (November 2017) that except plan expenditure for 2016-17, expenditure was satisfactory. The allotment under state plan for the year 2016-17 could not be utilised to optimum level as outsourcing of mineral exploration could not materialise due to non-participation of bidders.

Regarding meagre allocation for field expenditure, they stated that all the expenditures incurred in field as well as expenditure for procurement of drill machineries, drill accessories, geophysical/survey equipment, software's, etc. were also part of exploration expense.

Reply is not tenable as the allotment under State plan could not be fully utilised and funds allocated were meager for core exploratory work.

#### **6.4.4 Exploration Programmes**

As per Odisha Mineral Exploration Policy, 2015, mineral exploration work were prioritised to focus on early commencement of accrual of economic benefits. Detailed prioritisation was finalised in the master plan and priority was given for upgrading all the existing G3 level explored areas to G2 level as per UNFC norms<sup>3</sup>. Further, Mineral (Evidence of Mineral Content) Rules, 2015 provides that an area shall be considered to be having existence of mineral contents, if, in respect of such area, at least G2 has been completed to establish Indicated Mineral Resource and a geological study report has been prepared.

Directorate used to convene SGPB meeting every year, at the end of each field season<sup>4</sup> to review the exploration activities carried out by it. Other exploration agencies like Geological Survey of India (GSI) and Central Mine Planning and Design Institute (CMPDI), engaged in the State, also attended the meeting. The future course of action on different exploration agencies were discussed, finalised and approved for execution as Annual Field Programme (AFP). On completion of exploration programmes, the Geological and Technical reports were prepared and submitted to DGO.

The details of projects programmed for exploration during 2014-15 to 2016-17 and results of exploration are as under.

Year	No. of projects approved by SGPB for exploration			No. of projects where exploration is done			Final Report submitted
	General exploration (G2)	Prospecting (G3)	Reconnaissance Survey (G4)	General exploration (G2)	Prospecting (G3)	Reconnaissance Survey (G4)	
2014-15	1	5	5	1	5	5	4
2015-16	2	8	3	2	7	2	3

<sup>3</sup> Exploration involves four stages, G4: Reconnaissance Survey, G3: Preliminary Exploration, G2: General Exploration and G1: Detailed Exploration. These stages lead to four resource categories namely Reconnaissance, Mineral Resource, Inferred Mineral Resource, Indicated Mineral Resource and Measured Mineral Resource reflecting the degree of geological assurance.

<sup>4</sup> Field season for investigation/exploration works: November to March of next year.

Year	No. of projects approved by SGPB for exploration			No. of projects where exploration is done			Final Report submitted
	General exploration (G2)	Prospecting (G3)	Reconnaissance Survey (G4)	General exploration (G2)	Prospecting (G3)	Reconnaissance Survey (G4)	
2016-17	5	4	2	5	4	2	1
<b>Total</b>	<b>8</b>	<b>17</b>	<b>10</b>	<b>8</b>	<b>16</b>	<b>9</b>	<b>8</b>

Source: Information furnished by DGO, Odisha

The details of these explorations were examined in audit. The results of audit are discussed in the subsequent paragraphs.

#### 6.4.4.1 Loss of field season due to delay in finalisation of investigation/exploration report

Final reports on investigation/exploration were not submitted or submitted with delay.

As per prevalent working procedure, the field season for Investigation/Exploration works was from November to March of next year. Each Project in charge has to submit the final report, on completion of the assigned exploration work, by the month of October, i.e. before the commencement of the next field season.

In this regard Audit observed that:

- Investigation/Exploration of 33 projects were taken up during 2014-15 and 2016-17. Out of this, final reports of 25 projects (76 per cent) were yet to be submitted.
- Out of eight final reports of projects submitted, seven reports were submitted with a delay of two to 20 months.
- Similarly, 22 final reports in respect of investigation/exploration projects undertaken prior to 2014-15 were also yet to be submitted including one from the year 1996-97.

Non-submission of reports as planned, hampered further process of planning for exploratory work, including higher level of exploration and/or auction process.

In reply, Government stated (November 2017) that this observation has been viewed seriously and steps are being taken for early submission of pending reports on priority basis.

#### 6.4.4.2 Addition to Mineral Reserves was not significant over time

Increase of mineral reserves was not significant. The annual increase was 0.82 to 7.27 per cent during 2012-16 despite expenditure of ₹ 77.53 crore.

As per the Report of the Working Group on Mineral Exploration formed by Planning Commission, Government of India (February 2011), mineral reserves can increase significantly with additional exploration and beneficiation drives by use of state-of-the-art technology.

The department is engaged in exploring 16 major and minor minerals. The mineral reserve of the State during last four years increased from 77,421 to 89,208 Million MT from April 2012 to March 2016<sup>5</sup>.

<sup>5</sup> The mineral reserve for 2016-17 is not computed by the Department.



Audit observed that:

- The annual increase in reserve ranged from 0.82 to 7.27 per cent during the above years. This showed that there was no significant increase in the overall reserves in last four years.
- In view of this, the expenditure of ₹ 77.53 crore on salary and establishment included in cost of exploration projects during 2012-16 was not fully justified.

In reply, Government stated (November 2017) that during the period as mentioned, most of the exploration projects were conducted at G4 stage. Taking into account, Government’s priority in that period exploration for few mineral potential blocks were take up to the status of G3/G2 level. Thus, there was insignificant increase in overall reserve figure of the state. They further stated that lack of adequate officers as well as supporting staff including drilling personnel, machineries, vehicles and allied ones were additional hindering factors for such performance. However, the fact remained that there was no increase in number of projects over the years and budgeted funds were not utilised fully.

#### **6.4.4.3 Drilling targets for exploration projects not achieved**

**Shortfall of achievement of drilling target was 55 per cent.**

The Directorate fixed drilling targets in the Annual Field Programme (AFP) in each of the exploration projects. According to MEMC Rules 2015, exploration upto G2 level was mandatory for auctionable stage. The coal projects were executed in conjunction with CMPDIL, a Central PSU. CMPDIL was the

nodal agency for disbursement of funds for potential explorations besides carrying out technical supervision of work in coal Sector.

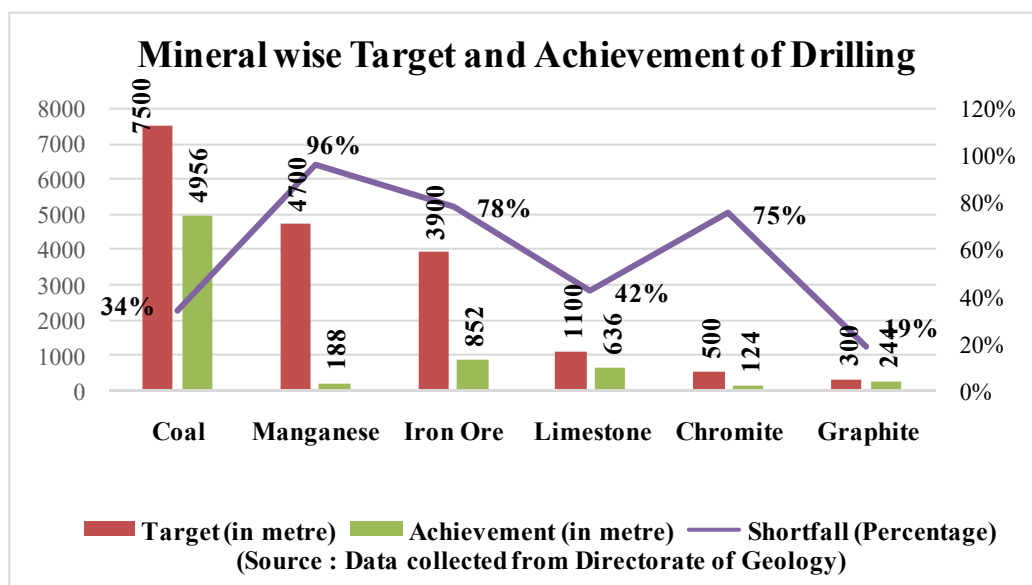
The details of drilling targets and achievement thereof in exploration of projects undertaken by the DGO during 2014-15 to 2016-17 are as under.

Year	2014-15		2015-16		2016-17		Total
Mineral	Coal	Non-coal	Coal	Non-coal	Coal	Non-coal	
Number of Projects	1	1	2	4	0	5	13
Target (metre)	2,500	500	5,000	9,700	0	2,300	20,000
Achievement (metre)	2,514	396	2,442	2,595	0	1,118	9,065
Percentage of short fall	-	21	51	73	0	51	55

Source: AFP and Interim Reports

Audit observed that:

- Drilling of 9,065 metres was achieved out of targeted 20,000 metres. This involved thirteen G2 and G3 level projects out of a total of 33. This resulted in an overall shortfall of 55 per cent.
- Shortfall in non-coal projects ranged from 21 to 73 per cent.
- Shortfall in mineral-wise drilling target, except Heavy minerals, ranged from 19 to 96 per cent as given under.



Non-achievement of drilling targets in above (G2 and G3) projects resulted in failure to reach the mandatory G2 level for auctionable stage.

In reply, Government stated (November 2017) that due to non-approval of coal exploration in SGPB meeting, suspension of drilling of coal blocks in mid field season, want of anticipated forest clearance, dispute in court and completion of G2 stage exploration prior to achieving targeted drilling, there was short fall in drilling target of exploration.

The reply indicated lack of proper planning before SGPB agenda and formulation of AFP.

#### **6.4.4.4 Abandonment of exploration of projects without completion of targeted items of work**

Exploration of projects were discontinued without completion of targeted items of works as per approved AFP.

As per DGO guidelines (2013) issued to the field parties, all out efforts were to be made by the Officers-in-Charge (OIC) to achieve exploration targets in time. The OIC was to report to the concerned JDG/DGO any shortfall of target due to any difficulties in field.

Audit noticed that three exploration projects<sup>6</sup> were undertaken based on previous encouraging investigation reports. However, the specified items of work as approved in AFP like large scale mapping and drilling works were not even taken up for these projects. Nevertheless, OICs, in their interim/final reports stated that prospects of these areas were not promising and recommended discontinuance. Audit noted that these conclusions were premature as they were based on insufficient exploration activities. It resulted in failure of the projects with unfruitful expenditure of ₹ 7.90 lakh and ultimately led to non-accrual of economic benefits to the State.

In reply, Government stated (November 2017) that the targets were not attempted considering utmost economy as the investigated areas was not encouraging for further exploration. The reply was not tenable as the conclusions were drawn without even taking up works like mapping and drilling as finalised in AFP. Also, the fact remained that the projects undertaken were based on previous encouraging investigation reports.

#### **6.4.4.5 Non-programming of projects after Survey and investigation**

Further exploration of Projects were not taken up after survey and investigation leading to unfruitful expenditure of ₹ 14.99 lakh incurred in four projects.

As per the decision of AFP four projects<sup>7</sup> were programmed for exploration up to G3 level during 2014-15. Exploration was taken up taking into account the previous investigations in which good quantity of possible resources were reported. Interim reports on these projects cited occurrences of minerals including possible mineral reserve in spite of shortfall in mapping and drilling work.

Audit observed that:

- Further programme for exploration was not made in succeeding years to assess the probable mineral reserve upto G2 level in all these projects.
- This deprived the State from accrual of economic benefits as further exploration upto G2 would have brought these projects to auctionable stage.
- Moreover, expenditure of ₹ 14.99 lakh incurred on these four projects during 2014-15 also became unfruitful.

<sup>6</sup> Graphite around Debabhuin-Bhuska-Dalka of Cuttack and Dhenkanal- ₹ 2,25,713, Rocks (Dimension stone) in Mahalikpara in Boudh- ₹ 3,05,916, Manganese around Perigurha and PaikaRanipinda in Rayagada- ₹ 2,58,166.

<sup>7</sup> Limestone and Dolomite around Tumelbud in Sundargarh- ₹ 6,61,701, Gemstone around Pokharidiha, Mayurbhanj - ₹ 3,24,030, Graphite around Kenduguda and Sippikera, Kandhamal - ₹ 2,86,556 and Bauxite around Pordapadar, Pulling and Jubang, Kalahandi - ₹ 2,26,327.

In reply, Government stated (November 2017) that these were either programmed basing on the priority or will be taken up in future. However, the fact remained that further exploration was not taken up even after two years.

#### 6.4.4.6 Delay in exploration/ non-programming of projects

**There was delay in completion and non-programming of projects in violation of HLC decision.**

During a Departmental review meeting held in S&M Department (April 2015), a decision was taken to fix time schedule for exploration of four mineral blocks<sup>8</sup>. The proposal was also approved by High Level Committee (HLC) on mineral auction in July 2015 that the areas will be explored to bring the exploration status up to G2 level.

Audit observed that:

- Two out of four projects were included in special field programme for 2015-16 for exploration works. Out of this, one project was explored belatedly after one year in 2016-17 up to G4 level only, although it was targeted to achieve G2 level.
- The exploration work of second project commenced in November 2015. However, it was closed prematurely during February 2016 on the ground of taking up another project on priority basis in a different location. However, the interim report confirmed that there was a reasonable potential of manganese in the area.
- The remaining two planned projects were not programmed for exploration till date.

This resulted in non-completion of the projects in disregard of HLC decision.

In reply, Government stated (November 2017) that the exploration will be taken up in phased manner. However, there was delay in taking up exploration on account of non-programming of two projects. This vitiated the planning activities and deprived the State, benefits of exploration.

#### 6.4.5 Other issues impeding performance of the Directorate

##### 6.4.5.1 Shortage of Manpower

**Shortage of manpower ranged from 26 to 100 per cent with 100 per cent in respect of 19 technical posts which impeded the achievement of targeted objective of mineral exploration.**

Audit scrutinised the files on Annual Review of Establishment and observed that:

- The overall vacancy position in the Directorate in different categories ranged from 26 to 100 per cent as on March 2017.
- The vacancies ranged from 50 to 100 per cent in respect of 28 technical posts like Geologist, Geophysicist, Survey Officer, Geological Assistant, Scientific Assistant, etc.

Out of above, the vacancy was 100 per cent in respect of 19 technical posts as detailed below:

<sup>8</sup> Kolha-Roida iron ore mines of OMDC (₹ 1,20,000), Roida - D Manganese ore mines of OMC (₹ 6,74,517), Uliburu RF iron ore and manganese mines of B. K. Mohanty and Bandha Beda iron ore mines of M/s. Rungta Sons Pvt. Ltd.



Sl. No.	Name of the post	Sanctioned strength	Men in position	Vacancy	Percentage of vacancy
1	Sr. Geophysicist	1	0	1	100
2	Geological Assistant	2	0	2	100
3	Geophysical Assistant	1	0	1	100
4	Asst. Ore Dressing Engineer	1	0	1	100
5	Survey Officer	6	0	6	100
6	Drill Man	14	0	14	100
7	Rig Man-cum- Pump Operator	22	0	22	100
8	Sr. Draughtsman	1	0	1	100
9	Head Draughtsman	1	0	1	100
10	Pump Mechanic	1	0	1	100
11	Compressor Operator	1	0	1	100
12	Drill Helper	2	0	2	100
13	Welder	1	0	1	100
14	Jack Hammer Driller	1	0	1	100
15	Operator	1	0	1	100
16	Mechanical Foreman	1	0	1	100
17	Fitter	1	0	1	100
18	Mining Mate	1	0	1	100
19	Photographer	1	0	1	100

Source: Information furnished by DGO

It was further noticed that the proposal for filling up the vacancies was submitted to Government only during 2015 and 2016 although the vacancies existed from the year 2012-13.

Thus, lack of deployment of adequate technical manpower impeded the achievement of targeted objective of mineral exploration and development. This has been confirmed by the Directorate in their reply.

Government stated (November 2017) that proposal to fill up the vacant posts and to create more posts is under process. However, the vacancies were yet to be filled up.

#### **6.4.5.2 Inadequate exploration machineries and undue delay in procurement**

**Delayed procurement of exploration related machinery and equipment affected the pace and efficiency of exploration work.**

In terms of Para-25 (iii) of “Guidelines for Procurements of Goods” issued by Finance Department, appropriate time frame for each stage of procurement should be prescribed by the Department to avoid delay in procurement process.

Audit scrutinised the procurement files of DGO. Audit observed that S&M Department sanctioned (July 2013) ₹ 644.05 lakh for procurement of exploration related machineries and equipment. However, the said machineries and equipment were procured and commissioned only in August 2016, after three years from the date of sanction of funds.

Similarly, the Geophysical Cell of the Directorate proposed procurement of 16 items with estimated value of ₹ 226.19 lakh in June 2016 for survey and investigation activities. However, only one Geophysical Instrument, namely, Induced Polarisation Unit was purchased in February 2017 at a cost of ₹ 91.80 lakh. The objective of requisitioning the above items was to improve planning, accuracy, analysis and speed of coverage for discovery of new mineral resources. Thus, required instruments were not made available for timely and

effective conduct of survey and investigation. Therefore, the Directorate was forced to depend on the old rigs and other accessories. This affected the pace and efficiency of exploration work which was evident from the fact of non-achievement of drilling targets in field programmes.

In reply, Government stated (November 2017) that delay was attributed to poor response to bidding process. Regarding procurement of auxiliary instruments it was stated that the instruments were procured in a phased manner putting priority and availability of funds. However, delay of three years in procurement of machinery and equipment as well as slow pace in acquisition was not justified in view of the fact that funds were not fully utilised.

### 6.4.5.3 Irregular parking of funds

**Funds placed irregularly with OMC violating Government decision for exploration works.**

As per the OMEP 2015, drilling and other exploration activities will also be outsourced to technically competent organisations, wherever required, following a transparent process of competitive bidding. Further, the works shall be completed under the supervision and guidance of the Directorate.

Audit observed that S & M Department took a decision (February 2016) that DGO would take up the exploration of four<sup>9</sup> iron ore blocks. The work was to be done through outsourcing by inviting tender from organisations involved in mineral exploration empanelled by Indian Bureau of Mines (IBM). In this regard, DGO placed funds of ₹ 228.19 lakh (March 2016) with Odisha Mining Corporation (OMC) for the said drilling work. However, the said exploration was not taken up by OMC. Thus, placing the funds with OMC without inviting tenders violated the decision of the Government and did not serve the intended purpose either.

In reply, Government stated (November 2017) that the tender for outsourcing of drilling in four iron bearing blocks could not materialise, it was decided to deposit the funds with OMC for outsourcing purpose. However, the exploration works were yet to be taken up in spite of placement of funds.

### 6.4.6 Conclusion

There was no significant increase of mineral reserve due to inadequate and slow pace of exploration. Projects programmed for investigation/exploration was not taken up on time. Exploration of projects were discontinued for two to three years without even reaching upto G2 level where occurrences of respective minerals with possible mineral reserve were found. Projects were abandoned without doing the desired mapping and drilling although these projects were undertaken based on previous encouraging investigation reports. Final reports relating to investigation/exploration were not submitted in time and remained pending from the year 1996-97. Non-submission of reports as planned hampered further process of planning for exploratory work. Further, there was delay in procurement of machinery and equipment which hampered the investigation/exploration activities. Vacancies against sanctioned strength,

<sup>9</sup> Baliapahad Iron Ore Block, Mankadnacha Iron Ore Block, Thakurani-A Iron Ore Block and Malangtoli Iron Ore Block.



especially in Geologist and other technical cadres had affected investigation/exploration work.

#### **6.4.7 Recommendation**

- Required steps may be taken to enhance the pace of exploration to make significant addition to mineral reserves of the State.
- Timely submission of final reports of investigation/exploration projects may be ensured.
- Projects may be programmed for higher stages of exploration where interim reports cited occurrence of minerals.
- Efforts may be made to complete exploration works up to the targeted level as decided in Annual Field Programmes.
- Steps may be taken to fill up the huge vacancies for achieving targeted objective of exploration.

### **6.5 Other Audit observations**

Audit scrutinised the records maintained in the offices of the Director of Mines, Odisha, Deputy Directors of Mines (DDMs) and Mining Officers. Audit noticed short levy of royalty as discussed in the succeeding paragraphs. These cases are illustrative and are based on test checks carried out by Audit.

### **6.6 Non-observance of provisions of the Acts / Rules / New pricing policy**

*Mines and Minerals (Development and Regulation) Act, 1957, Mining Concession Rules, 1960, Mineral Conservation and Development Rules, 1988 read with the notifications and instructions of the State / Central Government issued from time to time provide for assessment, levy and realisation of royalty at the prescribed rate.*

*Cases of un-lawful mining, short levy of royalty, dead rent and surface rent are discussed in the following paragraphs.*

### 6.6.1 Short levy of royalty on sized coal

**Non inclusion of sizing charges in the ROM price of coal during assessing of royalty resulted in short levy of ₹ 72.24 crore.**

As per Section 9 of the Mines and Minerals Development and Regulation (MMDR) Act 1957, the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him from a lease area at the rate specified in the Second Schedule in respect of that mineral. As per Notification dated 10 May 2012 of Ministry of Coal, royalty on coal is leviable at the flat rate of 14 *per cent ad-valorem* on the price of coal as reflected in the invoice excluding taxes, levies and other charges. Further, as per price Notification of Coal India Limited of December 2013, if the top size of coal is limited to 100 mm through manual facilities or mechanical means, sizing charge at the rate of ₹ 79 per tonne shall be added to the price applicable for Run-of-Mine<sup>10</sup> (ROM) coal. Further, under Rule 64(B) (1) of the Mineral Concession Rules (MCR), 1960, in case processing of ROM minerals is carried out within the leased area, the royalty shall be chargeable on the processed mineral removed from the lease area.

Audit test checked (April 2016 to February 2017) the assessment records with reference to monthly returns of production and despatches in three Mining Circles.<sup>11</sup> It was noticed that one lessee despatched 653.21 lakh MT of sized coal of less than 100 mm size from their nine coal mines during April 2015 to March 2016. The lessee paid royalty at the rate applicable to price of ROM coal and not on sized coal including sizing charges. Also, all the three Deputy Director of Mines (DDMs) did not include the royalty on sizing charges of 14 *per cent* on ₹ 79 per tonne in the price of the coal during assessment. Thus, non-adherence to prescribed guidelines and notification in assessing the royalty in coal resulted in short levy of royalty of ₹ 72.24 crore.

In reply, Government stated (September 2017) that all the three DDMs had raised demands at the instance of audit for realisation of the differential royalty. However, the demanded amount relating to DDM, Talcher had been stayed by the Revisionary Authority, Under Secretary, Ministry of Coal, Government of India.

### 6.6.2 Excess extraction of coal in deviation to mining plan

**Due to unlawful excess extraction of coal beyond approved mining plan, the licensee is liable to pay ₹ 51.90 crore towards price of the mineral.**

Rule 9 of Mineral Conservation and Development (MCD) Rules, 1988 stipulates that no person shall commence mining operations in any area except in accordance with a mining plan approved under Section 5 of MMDR Act 1957. Rule 13 of MCD Rules, 1988 provides that every holder of a mining lease shall carry out mining operations in accordance with the approved mining plan with such conditions as may have been prescribed. Under Section 21(5) of MMDR Act, whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, when such mineral has already been disposed off, the price thereof, and may also recover rent, royalty or tax for the period during which the land was occupied by such person without any lawful authority.

<sup>10</sup> Run-of-Mine coal is the coal obtained directly from the mines in its natural and unprocessed state.

<sup>11</sup> Rourkela, Sambalpur and Talcher.

Audit test checked records on approval of mining plan and production of coal in respect of Basundhara (West) coal mines of one lessee under DDM, Rourkela. It was noticed (February 2017) that the Mining Plan was approved in November 2011 for five years. It was revised by an addendum for three years from 2014-15 to 2016-17, taking into account the balance reserve of mineral. As per the said addendum, the approved production for the 2<sup>nd</sup> year of operation i.e. 2015-16 was fixed at 30 lakh MT of coal. However, the actual production made during the said year was 37.28 lakh MT of coal. This resulted in excess production of 7.28 lakh MT of coal. It was un-lawful and therefore ₹ 51.90 crore<sup>12</sup> towards price of the mineral was required to be recovered from the lessee. DDM allowed such production of coal exceeding the quantity approved under mining plan though the extraction data was provided by the lessee and maintained by him. Government also failed to take action for realisation of the price of the mineral so raised and despatched.

In reply, Government stated (September 2017) that DDM, Rourkela had raised demand of ₹ 50.96 crore at the instance of audit towards cost of excess production of coal during 2015-16.

### 6.6.3 Dead Rent and Surface Rent not levied

**DR of ₹ 12.02 lakh and SR of ₹ 4.75 lakh though not paid by seven and three lessees respectively for different periods between July 2013 to July 2016, it was not demanded by DDMs.**

Section 9A of the MMDR Act, 1957 provides that the holder of a mining lease shall pay to the State Government, every year, Dead Rent (DR) at such rate, as may be specified in the third schedule appended to the Act, for all the areas included in the instrument of lease. DR was fixed at ₹ 2,000 per hectare per annum for medium value minerals as per notification of 13 August 2009 by Central Government which was revised to ₹ 4,000 per hectare per annum from 01 September 2014. DR shall be paid in two half yearly installments from January to June on or before 15<sup>th</sup> January and for the 2<sup>nd</sup> half yearly period from July to December on or before 15<sup>th</sup> July of each year as per notification of the State Government of 11 May 1978.

Similarly, under Rule 27 of the MCR 1960, the lessee shall also pay, surface rent (SR) for the surface area used by him for the purposes of mining operations as may be specified by the State Government. As per notification dated 7 November 2013 of Steel and Mines Department, SR is payable at the rate equivalent to one *per cent* of the market value of land per annum subject to a minimum of ₹ 3,000/- per annum per hectare for leases granted for medium value minerals and iron ore in respect of land not assessable to land revenue.

Audit test checked (February 2017) the assessment records with details of payment of DR in respect of non-working mines in the office of the DDM, Koira. Audit noticed that DR of ₹ 12.02 lakh was not paid by seven lessees for their mines for different periods between July 2013 to July 2016. Similarly, SR of ₹ 4.75 lakh was not paid by three lessees during the years 2013 to 2016. However, DDM, Koira did not assess the cases for payment of DR and SR and raise the demand for realisation of DR and SR.

<sup>12</sup> Calculated @ ₹ 700/MT for Gross Calorific Value (GCV) 4,001 to 4,300 and @ ₹ 970/MT for GCV 4,601 to 4,900.

In reply, Government stated (September 2017) that out of 16.77 lakh, a sum of ₹ 11.02 lakh had been realised from different lessees. Demand for balance of ₹ 5.75 lakh in four cases had been raised by DDM, Koira.

# **Chapter VII**

## **Miscellaneous**



## CHAPTER VII

### MISCELLANEOUS

#### **7.1 Audit of “Delivery of services under Odisha Right to Public Services Act”**

##### **7.1.1 Introduction**

The Odisha Right to Public Services (ORTPS) Act, 2012 and the Rules framed thereunder was a landmark initiative undertaken by the Government of Odisha. It was legislated with the objective of ushering in good governance and transparency in provision of all public services to the citizens within a stipulated time. This law enabled the citizens to demand delivery of public services as a right. It also included provisions for approaching Appellate Authorities (AAs) and Revisional Authorities (RAs) to redress the grievances of applicants arising in the process of delivery of services. It contained provision for imposition of penalty in case of default by the Subordinate Staff, Designated Officers (DOs) and Appellate Authorities (AAs).

State Government initially, in January 2013 notified 34 services under seven Departments to come within the ambit of this Act. This included 13 services under Commerce and Transport (Transport) {C&T (T)} Department, three services under Commercial Tax (CT) Wing of Finance Department, four services under Registration Wing of Revenue & Disaster Management (R&DM) Department. Subsequently, 33 Departments covering 324 services were brought under the purview of the Act in which 19 more services under of C&T (T), five services under CT, one service under Registration and two services under Excise Department were added in June 2015. General Administration (Administrative Reform) {GA (AR)} Department was the nodal Department for monitoring the implementation.

Audit was conducted to ascertain whether the system contributed to good governance and transparency and brought efficiency in delivering services to the public. It also checked whether the public were made aware of the existence of the facility for optimum utilisation in a transparent manner.

ORTPS Act, 2012, ORTPS Rules, 2012 and executive instructions issued from time to time by the Government were used as Audit criteria.

Audit was conducted in four departments<sup>1</sup> between April 2017 to June 2017 covering the period from April 2013 to March 2017. Audit test checked nine<sup>2</sup> out of 35 Regional Transport Officers (RTO) Offices, 11<sup>3</sup> out of 45 Circles of CT, eight<sup>4</sup> out of 30 District Sub Registrar (DSR) Offices, three<sup>5</sup> out of 151 Sub Registrar (SR) Offices and eight<sup>6</sup> out of 30 Superintendent of Excise (SE) offices. The selection was done through stratified random sampling. The samples were based on numbers of vehicles registered, dealers

---

<sup>1</sup> Commerce and Transport (Transport), Commercial Tax Wing of Finance, Registration Wing of Revenue & Disaster Management and Excise Department.

<sup>2</sup> Bhubaneswar, Chandikhole, Cuttack, Ganjam, Jharsuguda, Koraput, Mayurbhanj, Nayagarh and Phulbani.

<sup>3</sup> Balasore, Bhanjanagar, Bhubaneswar-I, Bhubaneswar-II, Balangir, Deogarh, Jajpur, Jatni, Rayagada, Sambalpur-I and Sambalpur-II.

<sup>4</sup> Balangir, Cuttack, Ganjam, Khurda, Nayagarh, Phulbani, Puri and Sambalpur.

<sup>5</sup> Berhampur-II, Jatni and Khandagiri.

<sup>6</sup> Balangir, Deogarh, Ganjam, Jagatsighpur, Jajpur, Khurda, Mayurbhanj and Puri.



registered, documents registered and liquor shop licenses granted respectively. Further, Commissioner of Excise, Odisha under Excise Department was also selected for test check.

### 7.1.2 Organisational set up

The Departmental authorities entrusted with the responsibility of implementation of ORTPS Act are shown below:

Department	Service Providing Authority		
	Designated Officer	Appellate Authority	Revisional Authority
Commerce & Transport (Transport)	RTO/ Addl. RTO/ Inspector of Motor Vehicles	Regional Transport Officers/ Sub-Collector	Collector-cum-Chairman, RTA <sup>7</sup>
Commercial Tax	Dy. Commissioner of Commercial Taxes/ Assistant Commissioner of Commercial Taxes	Joint Commissioner of Commercial Taxes	Addl. Commissioner of Commercial Taxes
Revenue & Disaster Management (Registration)	District Sub Registrars/ Sub Registrars	Addl. District Magistrate cum District Registrar	Inspector General of Registration
State Excise	Superintendent of Excise/ Collector of the District	Excise Commissioner	Principal Secretary/Secretary

### Audit Findings

Audit test checked the records on delivery of services under Odisha Right to Public Services Act. Audit observed the deficiencies in implementation of provisions of ORTPS Act and Rules which are discussed in the succeeding paragraphs:

### 7.1.3 Lack of information to General public regarding their rights under the Act

**Departments could not provide required information about Public services.**

Under ORTPS Rules, 2012, Designated Officer (DO) shall, for the convenience of common public, cause to display all relevant information related to services on the notice board in Odia language giving information about the right to services, notified services, and time limits for services delivery, designated officials and appellate authorities in the offices delivering services notified under the ORTPS Act. Similarly, Secretary of the Department shall display information on Public Services and the given time limit in the official website in Odia language for the public. Further, on receipt of an application acknowledgement shall be given to the applicant in the prescribed form mentioning the given time limit within which the service will be provided if the application is complete in all respects. In case of requirement of any further documents, the same shall be clearly mentioned on

<sup>7</sup> Regional Transport Authority.

the acknowledgement. In the event of a service being denied or delayed, the DOs shall communicate the reasons for such denial/delay, period within which an appeal against such denial/delay could be preferred and the particulars of available contact information of the relevant AAs to the person eligible/applied for the services.

Audit verified records of test checked units of the four departments and observed that:

- Out of the four test checked departments information in Odia language on Public Services was not displayed in the official website of Excise, CT and C&T (T) Department. The given time limit was also not displayed. The R&DM Department had displayed four services notified during 2013. However, one service added subsequently in 2015 was displayed in August 2017 at the instance of audit.
- Information on right to services was not displayed on the notice board in Odia by the any DOs of Excise Department and C&T (T) Department. Out of 32 notified services, only 13 services were displayed by one DO under C&T (T), namely, RTO, Cuttack.
- The acknowledgements were not issued to the applicants in any of the test checked units.
- The deficiency in documentation in the service application was not intimated to all the applicants.

This deprived the general public of utilising the provisions of the Act and Rules to their advantage. The applicants remained unaware of the time limits for delivery of services as no acknowledgements were issued.

In reply, Government in Commerce and Transport (Transport) Department stated that all the RTOs have been instructed to take steps for display of the required information to general public regarding their Rights under the Act and issue acknowledgements.

Government in R&DM Department stated that information in Odia language on all registration services had been uploaded in the website of Department, all Collectors and IGR, Odisha had been instructed to ensure issue of acknowledgement by all DOs.

Other Departments assured to initiate necessary action.

#### **7.1.4 Delay in delivery of services**

**Time limit for getting a public service under ORTPS Act was not made public and delay in delivery of services.**

As per Section 3 of ORTPS Act, 2012, time limits for delivery of different services by Departments have been notified in January 2013 and June 2015 by GA Department. The time limit prescribed ranged from three to 60 days for different services. Further, Rule 5 of ORTPS Rules, 2012 provides that in the event a service is denied or delayed, the DO shall communicate to the person eligible and/or applying for the service. Revisional Authority (RA) may impose penalty against DO not exceeding ₹ 5,000 in case DO has failed to provide services without sufficient and reasonable cause. Also, penalty not exceeding ₹ 250 may be imposed for each day of delay in case DO has caused delay in providing the service. Similarly RA may impose penalty against the

AA not exceeding ₹ 5,000 in case AA has failed to decide the appeal within the given time limit without any sufficient and reasonable cause. Further, the penalty imposed under the Act shall be charged from the DO, Appellate Authority and subordinate staff concerned, as the case may be, in the proportion to be decided by the RA.

Audit scrutiny of the records of the sampled units revealed that:

- The services were not provided within the prescribed time limit, as mentioned in Para Nos 7.1.4.1, 7.1.4.2, 7.1.4.3 & 7.1.4.4.
- The reasons for delay in providing the services, the period within which an appeal can be preferred against such delay were not communicated to applicants.
- The particulars of contact information of the relevant AAs under the provisions of the Act were not communicated.
- No complaints were lodged with the AAs and RAs by the public as the time lines were not put up on the notice board by the Excise and Transport department.
- The general public were also not made aware of their rights through advertisements/campaigns by any of the departments.
- Penalty as provided under the rules, for delay in providing services could not be imposed on the SSs/DOs/AAs.

Thus, delay in delivery of services violated the objective of ensuring delivery of public services in a timely manner. Even small delays or shortfalls against intended levels of performance can have a deep impact on citizens.

Delay in provision of notified services (Department-wise) and the delay in disposal of applications (Department-wise and Service-wise) for services are tabulated as follows:

#### 7.1.4.1 Excise Department

Notified service	Application disposed off	Application disposed off with delay	Percentage of delay in disposal	Range of delay in days				
				1-6	7-15	16-30	31-60	Above 60
District level process for grant of license of liquor (on shop)	33	25	76	1	3	4	8	9
Recommendation of Commissioner for grant of license (at Commissioner Level)	85	30	35	6	4	6	8	6
<b>Total</b>	<b>118</b>	<b>55</b>		<b>7</b>	<b>7</b>	<b>10</b>	<b>16</b>	<b>15</b>

Source: Records from the Excise Department

In this regard, Audit observed that:

- Out of eight sampled units<sup>8</sup>, delay in delivery of services was observed in five units<sup>9</sup>.
- The percentage of delay in disposal of grant of license of liquor at district level was staggering at 76 per cent.

<sup>8</sup> Balangir, Deogarh, Ganjam, Jagatsinghpur, Jajpur, Khurda, Mayurbhanj and Puri.

<sup>9</sup> Balangir, Ganjam, Jajpur, Khurda and Puri.

- The delay of more than 68 *per cent* occurred in the time range of ‘Above 30 days’ category.

Excise Department assured to initiate necessary action.

#### 7.1.4.2 Registration Wing of R&DM Department

Notified service	Application disposed off	Application disposed off with delay	Percentage of delay in disposal	Range of delay in days				
				1-6	7-15	16-30	31-60	Above 60
Registration of documents	2,35,837	2,11,663	90	1,08,530	58,405	26,270	9,614	8,844
Encumbrance Certificate	2,63,116	5,078	2	2,631	1,069	524	395	459
Certified Copy	64,076	2,528	4	480	499	377	721	451
<b>Total</b>	<b>5,63,029</b>	<b>2,19,269</b>		<b>1,11,641</b>	<b>59,973</b>	<b>27,171</b>	<b>10,730</b>	<b>9,754</b>

Source: Records from the R&DM Department

Audit observed from above table that:

- Maximum cases of delay occurred in ‘Registration of Documents’ category which accounts for 90 *per cent* of the total documents registered.
- Most of the delay was in the range of 1 to 6 days which could have been avoided.

Government in R&DM Department stated that they are taking all possible steps through automation and computerisation of Government offices for timely delivery of the notified services. Further, guidelines had also been issued to ensure timeliness in providing all the public services.

#### 7.1.4.3 CT Wing of Finance Department

Notified service	Application disposed off	Application disposed off with delay	Percentage of delay in disposal	Range of delay in days				
				1-6	7-15	16-30	31-60	Above 60
No Demand Certificate	3,308	725	22	256	185	109	85	90
Registration (VAT/CST)	39,436	7,311	19	2,196	1,819	1,448	930	918
Tax Clearance Certificate	17,593	3,764	21	1,672	1,063	489	281	259
Registration (ET)	10,054	1,441	14	456	365	314	169	137
Amendment of Registration Certificate	1,08,486	4,664	4	291	329	589	729	2,726
<b>Total</b>	<b>1,78,877</b>	<b>17,905</b>		<b>4,871</b>	<b>3,761</b>	<b>2,949</b>	<b>2,194</b>	<b>4,130</b>

Source: Records from CT Wing of Finance Department

Audit observed from the above table that:

- The percentage of delay in service ranged from 4 and 22 *per cent* showing a regular pattern of delay in delivery of services.
- The number of cases found in the ‘Above 60 days range’ were 4,130. This indicates that there was poor monitoring by the DOs and Higher Authorities.

Commercial Tax wing of Finance Department stated that all services are made available through online only. The reply is not tenable as there had been regular pattern of delay in delivery of services by the Department.

#### 7.1.4.4 C&T (Transport) Department

Notified service	Application disposed off	Application disposed off with delay	Percentage of delay in disposal	Range of delay in days				
				1-6	7-15	16-30	31-60	Above 60
Registration of Vehicles	8,81,132	3,98,338	45	2,42,949	1,08,760	29,741	10,890	5,998
Issue of LL for DL	7,11,962	56,754	8	50,069	4,313	1,214	724	434
Issue of DL	3,74,915	28,853	8	24,913	1,911	1,021	674	334
Additions to DL	26,881	2,211	8	1,415	411	200	126	59
<b>Total</b>	<b>19,94,890</b>	<b>4,86,156</b>		<b>3,19,346</b>	<b>1,15,395</b>	<b>32,176</b>	<b>12,414</b>	<b>6,825</b>

Source: Records from the C&T (Transport) Department

Audit analysed four services from other departmental databases like *VAHAN* and *SARATHI*. Audit observed that the maximum delay was in the service 'Registration of vehicles' which was 45 per cent. The delay in providing this service was not controlled by the DOs and was also not reviewed by the higher authorities.

In reply, Government in Commerce and Transport (Transport) Department, stated that all the RTOs have been instructed to issue acknowledgements and to display timelines for different services on the notice board for general public, so that the public have opportunity for pressing an appeal before an appellate authority.

#### 7.1.5 Record of services and Appeal Case Register not maintained

Records on Public Service provided was not available.

Rule 17 of ORTPS Rules, 2012 provides that every DO shall maintain records of all services applied for in the prescribed Form. Similarly, every AA shall maintain record of all the appeal cases received and disposed off in the prescribed format.

Audit scrutinised the File Index Register of four departments and observed that:

- The prescribed records of receipt and disposal of applications were not maintained by any of the departments.
- Register for receipt and disposal of Appeal cases was also not maintained by the AAs of C&T (T) and Excise Department.
- The said register was maintained by the AAs of CT Department and Registration wing of R&DM Department with 'NIL' information as no cases under ORTPS was filed.
- The number and status of appeal cases could not be ascertained as applications were neither received through CMS nor appeal registers were maintained.

Thus, the status of applications as accepted or rejected could not be verified since the records were not maintained. The date and details of the orders passed by AAs and RAs also were not verifiable.

In reply, Government in Commerce and Transport (Transport) Department stated that all the RTOs have been instructed to maintain records of all services as prescribed in form-3 and appeal case register in form-4.

Government in R&DM Department stated that necessary instructions had been issued to all to maintain the prescribed registers and report compliance.

Other Departments assured to issue instructions for maintaining the registers.

### 7.1.6 Central Monitoring System not utilised

**CMS web portal was not utilised by Departments.**

The Central Monitoring System (CMS) was introduced (December 2013) by the GA (AR) Department for facilitating implementation and monitoring of services under the ORTPS Act. This was essentially a database of applications for services received and disposed of. It provided:

- Management Information System (MIS) reports,
- Tracking of the status of applications received,
- Sending of Short Message Service (SMS) alerts, etc.

Each of the DOs were issued an user ID and password to log into the application. On receipt of an application from the applicant, this system generated a Unique Acknowledgement Number. The acknowledgement would contain the details of the deficient documents, essentially to be enclosed with the application, if any, and the date by which the service would be provided. The CMS database acted as a computerised Register for Designated Officers, Appellate Authorities and Revisional Authorities as per the formats prescribed under Odisha Right to Public Services Rules 2012. The GA (AR) Department had requested to take adequate steps to ensure integration of applications with CMS.

Audit test checked files relating to report and returns under ORTPS Act and Rules. Audit noticed that:

- The web portal was not used for receiving applications.
- It was also not used for entering data and issuing acknowledgements.
- DSR, Sambalpur and DSR, Cuttack utilised the web portal from January 2016 and May 2017 respectively.
- The applications received in C&T (T) Department were entered into the CMS after completion of the service which was not on real time basis. This defeated the very purpose of CMS.
- Acknowledgements were also not issued to the applicants to know the status of their applications.
- Department was not aware whether the services were being provided to applicants within the stipulated time line in the absence of information.
- No review report on implementation of CMS was issued by the higher authorities to any of the DOs. The Monthly Progress Reports (MPRs) were submitted in manual format which is time consuming and does not serve as an effective monitoring tool.
- The applications developed and used by the concerned departments were also not integrated with the CMS. This would have saved manpower and infrastructure cost and ensured better data integrity.

Thus, objective of having the CMS in place was completely defeated which affected the implementation of ORTPS Act, 2012 adversely.

In reply, Government in Commerce and Transport (Transport) Department stated that all the RTOs have been instructed to take necessary action to establish common service centre.

Government in R&DM Department stated that the GA (AR) Department through CMGI had developed “Odisha Common Application Portal (OCAP)” in which the application can be filed online and acknowledgment can be generated automatically. Steps were being taken to integrate the online services of R&DM Department with OCAP.

Commercial Tax wing of Finance Department stated that everything is made online through VATIS system.

Excise Department stated that it was not possible to utilise the CMS with the existing manpower.

### **7.1.7 Conclusion**

Departments could not provide required information on public services in Odia language to common public. The services were not provided within the prescribed time limit. The reasons for delay in providing the services, the period within which an appeal can be preferred were also not communicated to the applicants. The Central Monitoring System was not utilised even after four years of notification of the Act and Rules. The existing applications/databases of three Departments viz., *VAHAN*, *SARATHI*, *VATIS* and *OeSL* were not integrated with the CMS. Thus, the objective of ushering good governance and transparency in providing public services within a stipulated time was defeated. Even small delays or shortfalls against intended levels of performance in delivering public services can have a deep impact on citizens.



## 7.2 Audit on “Recovery of Arrear revenue in Steel & Mines, Excise and Commerce and Transport (Transport) Departments”

### 7.2.1 Introduction

Taxes, duties and other levies from Mining, Excise and Transport Departments were the major source of revenue of the State. These departments contributed 30 *per cent*, on an average, to the total revenue during the period 2013-16. The arrears of revenue were realised by the provisions under their respective Acts and Rules applicable to the departments read with provisions of Odisha Public Demands Recovery (OPDR) Act 1962. Under these Acts<sup>10</sup>, assesseees were required to pay duties and other levies assessed in a manner and within the time period as specified thereon. The unpaid amount were recovered as if it was an arrear of land revenue in case the assesseees failed to pay the amount within the date stipulated in the demand notice served. Any defaulter not satisfied with the demand could prefer an appeal with the Appellate Authority or in a Court of law. Total tax<sup>11</sup> and non-tax<sup>12</sup> revenue relating to these departments pending for recovery as on 31 March 2016 was ₹ 2,096.53 crore<sup>13</sup>.

Audit was conducted between April 2017 to May 2017 covering the period 2013-14 to 2015-16. Audit covered the offices of the Steel & Mines Department, Excise Department and Commerce & Transport (Transport) Department. Audit also covered Directorate of Mines, Commissioner of Excise and State Transport Authority. Audit scrutinised records of four units out of 12 in Steel and Mines Department, seven out of 30 units in Excise Department and eight out of 35 units in Transport Department selected through stratified random sampling.

In this regard, Audit examined the following issues:

- Extent of accumulated arrears of revenue and reasons thereof;
- Timely action taken by the department according to the rules and procedures prescribed in the Act and Rules;
- Efficiency and effectiveness of the system to collect the arrears of tax; and adequacy of internal control and monitoring mechanism for prompt realisation of arrears.

### 7.2.2 Organisational set up

At the Government level, the Principal Secretaries/Commissioner-cum-Secretaries were the Heads of their respective Departments. They were responsible for administration of the concerned tax laws in the State. At the departmental level, the overall control and supervision of collection of these

<sup>10</sup> Mines & Mineral Development & Regulation Act, 1957, Bihar & Orissa Excise Act 1915, Odisha Motor Vehicle Taxation Act, 1915.

<sup>11</sup> Revenue from Excise and Transport Departments.

<sup>12</sup> Revenue from Mining Department.

<sup>13</sup> Mining - ₹ 1,894.42 crore, Excise - ₹ 58.84 crore and Transport - ₹ 143.27 crore.



tax duties & levies was with the Director of Mines, the Commissioner of Excise and Commissioner of Transport.

- In Steel & Mining Department, the Director of Mines is assisted by Deputy Director of Mines/Mining Officers (DDM/MO) at the field.
- Commissioner of Excise is assisted by Excise Deputy Commissioners (EDCs) and Superintendents of Excise (SEs) in each district of the State.
- Transport Commissioner-cum-Chairman State Transport Authority (STA) of Transport is assisted by one Joint Commissioner (Taxation), Regional Transport Officers and Assistant Regional Transport Officers at field level.

### 7.2.3 Audit Findings

Audit test checked the records on recovery of arrear revenue pertaining to Mining, Excise and Transport revenue. Audit observed the following deficiencies which are discussed in the succeeding paragraphs:

### 7.2.4 Arrear on Mining revenue

Mining revenue included rent, royalty, tax, fee or other sum due to the Government on account of mining lease, prospecting licence and reconnaissance permit under the MMDR Act, 1957.

Under OPDR Act, 1962, when any public demand payable to any person other than the Collector is due, such person may send to the Certificate Officer<sup>14</sup> a written requisition in the prescribed form to institute a certificate case.

The details of arrears on mining revenue as on 31 March 2016 were as follows.

Year	Opening balance	Addition during the year	Total	Collected during the year	Closing balance	Percentage of collection	Analysis of closing balance as on 31.3.2016
							Nature/Amount
2013-14	1,818.32	442.34	2,260.66	415.45	1,845.21	18.38	Courts of law: 1,850.79
2014-15	1,845.21	468.82	2,314.03	429.22	1,884.81	18.55	Recoverable cases: 39.74
2015-16	1,884.81	95.58	1,980.39	85.97	1,894.42	4.34	Write off proposal: 2.35 Certificate cases: 1.54

Source: Information furnished by the Department

Audit observed that:

- Out of total arrears of ₹ 1,894.42 crore, ₹ 1,818.32 crore constituting 95.99 per cent was pending for more than three years.
- The percentage of realisation of arrears ranged between 4.34 and 18.55 during the period 2013-14 to 2015-16.
- The arrears locked up in Courts of law cases of ₹ 1,850.79 crore constituted 97.69 per cent of the total arrear.

Reasons for delay in collection of arrears have been discussed in the succeeding paragraphs.

<sup>14</sup> Collector/Sub-collector.

### 7.2.4.1 Certificate cases not instituted

**Non institution of certificate cases for realisation of arrear revenue of ₹ 7.16 crore.**

As per Section 25 of Mines & Mineral Development & Regulation (MMDR) Act, 1957 “Any rent, royalty, tax, fee or other sum due to the Government under this Act or the Rules made thereunder may, on a certificate of such officer, as may be specified by the State Government in this behalf, be recovered in the same manner as an arrear of land revenue”. As per Section 4(1), Orissa Public Demands Recovery (OPDR) Act, 1962, when any public demand payable to any person other than the Collector is due, such person may send to the Certificate Officer a written requisition in the prescribed form to institute a certificate case. As per Section 15 of OPDR Act 1962, subject to such conditions and limitations as may be prescribed, a Certificate Officer may order execution of a certificate by attach and sale, if necessary, of any property or in the case of immovable property by sale without previous attachment; or arrest the certificate-debtor and detaining him in the civil prison; or both of the methods mentioned above.

Audit scrutinised records in the selected four units<sup>15</sup>. Audit observed that recoverable arrear of ₹ 7.16 crore<sup>16</sup> in 32 defaulting cases remained un-realised since 2009-10 to 2015-16. The cases related to non-payment of dead rent, surface rent and royalty. However, certificate cases for realisation of revenue were yet to be instituted against the defaulting lessees. Audit also noticed that no action was taken by the department to initiate the process of recovery.

In reply, Government stated (November 2017) that Mining Circle Officers concerned have been instructed to take expeditious steps for institution of certificate case. M.O Kalahandi had realised ₹ 2.69 lakh in one case.

### 7.2.4.2 Lack of monitoring of cases pending with Revisionary Authority

**Delay in submission of required information relating to RA cases resulted in locking of arrear demand of ₹ 112.02 crore under DDM, Koraput and ₹ 5,103.43 crore under DDM, Joda.**

Guidelines of the Ministry of Mines (16 December 2009), Government of India stipulated that comments by the department should be furnished within three months of communication received from the Revisionary Authority (RA)<sup>17</sup>. This instruction has been again reiterated by Government of India in April 2014.

Audit scrutinised records of DDM, Koraput. Audit noticed that demand of ₹ 94.77 crore in four cases relating to one lessee was made during the period 2013-14 to 2015-16 for realisation of differential royalty. Similar demand of ₹ 17.25 crore was also raised in two cases relating to another lessee during the year 2015. Revision applications were filed by the lessees against the impugned demands in the court of Economic Adviser and Revisionary Authority (RA), Ministry of Mines, Government of India during 2014 to 2015. However, the Department could not file para-wise comments till the date of first hearing made on 10 February 2015. The RA granted a stay and directed that no coercive action should be taken in pursuance of the impugned demand. This order was passed due to non-submission of representation and comments by the Department.

<sup>15</sup> DDM, Joda, Koraput, Sambalpur and MO, Kalahandi.

<sup>16</sup> Joda – ₹ 692.90 lakh, Kalahandi – ₹ 3.79 lakh, Koraput – ₹ 7.72 lakh and Sambalpur – ₹ 11.44 lakh.

<sup>17</sup> Designated as such by Ministry of Mines for adjudication of appeals made against orders of the State Government.

On the next common date of hearing on 09 December 2015, Government Advocate sought adjournment due to lack of information and instruction from the Government. The final hearing was made on 10 February 2016. The cases were remanded back to the State Government with a direction to review the provisions of the Orissa Minerals (Prevention of theft, smuggling and illegal mining and regulation of possession, storage, trading and transportation) Rules 2007. They were also directed to carry out survey for ascertaining the quality of bauxite in the State. The cases are yet to be finally disposed off. The orders to carry out survey for ascertaining the quality of bauxite were issued more than a year ago, but were still not complied with. This resulted in ₹ 112.02 crore of arrear demand held up.

Similarly, under Joda Mining Circle, demand of ₹ 5,103.43 crore was raised in five cases during September 2012 to May 2014. The demand was related to the payment of differential royalty pertaining to the period 2001-10. Revision applications were filed by the mine owners in 2013 to 2014. However, comments of the department were furnished to RA after delay of one to three years (April 2015 to March 2017). The comments were to be furnished within three months of communication. The cases were yet to be adjudicated and were pending at RA level till date.

Thus the pending RA cases remained undisposed off due to want of timely response by the Department.

In reply, Government stated that State Government have decided to file writ against the common order of February 2016, in six RA cases. As regards five RA cases, under Joda mining circle involving demanded amount for ₹ 5,103.43 crore, RA cases have been disposed off (August 2017) in three cases and revised demand has been made. In other two cases, PWC has been filed / being filed.

#### **7.2.4.3 Understating of Arrear: Demanded amount not included in Demand Register/Report**

**Demand of ₹ 65,426.03 crore was not taken to DCB which resulted in understating of arrear in comparison to actual arrear.**

As prescribed under Mining and Geology Department Notification of 1974, one Demand, Collection and Balance (DCB) Register in Form 26-Mines was to be maintained. The amount demanded was required to be entered in the DCB register after issue of demand notice. An annual DCB report was also prepared by the Field Offices and sent to the Directorate for compilation of the total revenue of the state.

On test check of the records in the Office of the Director of Mines, Audit observed that demand of ₹ 65,426.03 crore was raised between October 2012 to August 2016. The demand was made against 211 lessees relating to 12 Mining Circles for the period 2000-01 to 2009-10 on unlawful mining. The offence was in the nature of excess production exceeding the statutory clearances. Audit further scrutinised records in selected four units. Audit observed that a demand of ₹ 44,324.76 crore was made between November 2012 to February 2014 for unlawful mining. It was made against 86 lessees for excess production exceeding the statutory clearances during the period 2000-01 to 2009-10. However, the demanded amount was not taken to the DCB and also not reported in the DCB statement furnished to the Directorate.

Thus, the figures reported in DCB were understated by ₹ 65,426.03 crore in comparison to the actual arrear. This resulted in non-accountal of such dues in addition to lack of information for taking appropriate recovery action in future. This indicated lack of internal control mechanism to monitor recovery of dues.

In reply, Government stated that demand of ₹ 65,426.03 crore relates to the excess production carried out by different lease holders. The matter was challenged by the lease holders before the Revisional Authority. Since the matter was subjudice, the above demands were not included in the DCB Register. However, judgment dated 02.08.2017 of Hon'ble Supreme Court in the above cases, the legal implication of the matter has been settled and accordingly demands have been raised by DDMs/MOs. However, the fact remained that the amount demanded was not taken to DCB after the demand was made. Also, the amount remained outside the Government account for more than three to five years.

### 7.2.5 Arrear on Excise revenue

State Excise revenue consisted of:

- Revenue derived or derivable from any duty, fee or other payments (other than a fine imposed by a criminal court).
- Confiscation ordered under this Act or any other law for the time being in force relating to liquor or other intoxicants.
- Payment of any sum of fees in consideration of any privilege granted or minimum guaranteed quantity determined under the Bihar and Orissa Excise (B&OE) Act, 1915.

The excise revenue was classified as arrear by the Department if the amount was not paid despite a demand by the departmental authority.

The details of arrears of excise revenue as on 31 March 2016 were as follows:

Year	Opening balance as on 31 <sup>st</sup> March	Addition during the year	Total	Amount collected during the year	Closing balance	Percentage of collection	(₹ in crore)
							Analysis of closing balance as on 31.3.2016 Nature/Amount
2013-14	45.51	7.21	52.71	1.36	51.35	2.58	Certificate cases: 14.46 Court cases: 37.53 Other stages: 6.85
2014-15	51.35	7.29	58.64	0.89	57.75	1.51	
2015-16	57.75	2.28	60.03	1.19	58.84	1.98	

Source : Data furnished by the Excise Department

Audit observed that:

- Arrear of revenue increased from ₹ 45.51 crore at the beginning of the year 2013-14 to ₹ 58.84 crore in 2015-16.
- Out of this ₹ 45.51 crore was outstanding for more than three years.
- The percentage of realisation of arrears during the above years ranged between 1.51 to 2.58 per cent.

The reasons for such low collections of excise revenue has been discussed in the succeeding paragraphs.

### 7.2.5.1 Demand, Collection and Balance Register not maintained and demand in arrear not included in Register

DCB register was not maintained resulting in defective reporting of arrear.

As per Odisha Excise Manual, each District Excise Office was required to maintain a register in Form GL17, memorandum of demands, collections and balances. This was prescribed to watch the progress of collection of revenue.

During the test check of records in selected eight units, audit observed that:

- The Demand, Collection and Balance (DCB) register was not maintained by any of the unit.
- Five<sup>18</sup> Units did not include the demand of ₹ 5.06 crore in 30 cases pertaining to the year 2009-10 to 2015-16 in the DCB report submitted to EC. It was not incorporated in the DCB register also. The amount was kept outside the projected arrear balance.
- No recovery action such as distress warrant, initiation of certificate cases was taken to realise the amount except issuance of demand notices.
- Further, demand of ₹ 5.18 crore in seven cases pertaining to the period 2009-10 to 2012-13 was demanded in 2016-17 after a gap of four to seven years and also not recovered. Delay in such cases makes recovery of arrear revenue all the more difficult and some cases may become time barred.

Exclusion of amount ₹ 10.24 crore from the arrear position indicated defective reporting to the Controlling Officers. It also resulted in loss of control over the amount of arrear to be recovered.

Audit reported the matter to Government (August 2017). Their replies are awaited.

### 7.2.5.2 Lack of follow up action in realisation of recoverable dues

Department did not effectively pursue the cases for recovery of revenue by institution of certificate cases.

As per Section 93 of B&OE Act, 1915, all excise revenue, all amounts due to the State Government by any person on account of any contract relating to the Excise revenue, may be recovered from the person primarily responsible to pay the same or from the surety, if any, by distress and sale of his moveable property, or by the process prescribed for recovery of arrears of land revenue. Further, property particulars of the defaulters and the permanent/present address of the defaulters should be furnished to the Certificate Officer while requesting to register the case.

Audit scrutiny of the records on recoverable dues in the selected Units revealed the followings;

Demand notices were issued between 1991-92 to 2010-11 for realisation of ₹ 3.27 crore in 26 cases in five<sup>19</sup> Units. It related to excise duty towards short lifting of prescribed Minimum Guaranteed Quantity and license fee.

The licensees did not deposit the amount. Of those, in 13 cases, involving ₹ 2.49 crore, the Collector/SEs requested (May 1999 to August 2010) the respective COs to institute certificate cases against the defaulters. Certificate cases were yet to be instituted. In the remaining 13 cases, involving ₹ 0.78

<sup>18</sup> Bhadrak, Jajpur, Keonjhar, Khurda and Nayagarh.

<sup>19</sup> Kandhmal, Keonjhar, Khurda, Nabarangpur and Nayagarh.

crore, the notices could not be served to the defaulter licensees by the COs as well as by the SEs for want of proper address. Out of this, in four cases, the property of the defaulters could not be traced out as they were from outside Odisha. The fact was informed by the COs to the respective SEs during 2002-03 to 2012-13. However, no effective action was taken by the SEs to get the proper address and property details and communicate to COs for further course of action.

In another case, under DEO, Nabarangpur a demand of ₹ 8.69 crore was raised during 2008-09 to 2013-14 towards unrealised license fee, import fee and duty. Out of the total demand of ₹ 8.69 crore, ₹ 3.10 crore was stayed by the High Court on the basis of Writ Petition filed by the Company in the High Court in 2008. However, required measures were not taken to recover the remaining amount of ₹ 5.59 crore, that was not stayed by the Court.

Audit reported the matter to Government (August 2017). Their replies are awaited.

### 7.2.5.3 Lack of follow up action to vacate stay orders/disposal of certificate cases

**Non pursuance of cases for vacation of stay of Courts resulted in non - recovery of arrear revenue of ₹ 9.39 crore. Certificate cases involving ₹ 1.11 crore, instituted during 1997-98 to 2003-04 were yet to be disposed for want of follow up action.**

As per established procedure, timely action and monitoring at highest level was essential for the cases pending in Courts of law.

Audit scrutinised records of demands under court cases in selected units. Audit observed that:

- Demand was issued in 37 cases in three<sup>20</sup> units against different licensees towards excise duty, penalty and license fee of ₹ 4.02 crore. These demands related to the period from 1997-98 to 2014-15. In six cases, demands of ₹ 0.74 crore were stayed by Courts of Law. However, no action was initiated to file counter affidavit/comments. In the 31 cases, counter affidavit/comments were filed with a delay extending upto ten years. Further action was not taken to expedite adjudication of these cases.
- Under DEO, Nabarangpur, a demand of ₹ 5.37 crore was raised (March 2006) towards unrealised license fee, import fee and duty against a Company. The Company filed a Writ Petition in the High Court (2007) and obtained a stay in the matter. However, required steps were not taken for vacating the stay order.
- Similarly, in 25 cases relating to six<sup>21</sup> units involving ₹ 1.11 crore, certificate cases have been instituted during 1997-98 to 2003-04. However, those cases were yet to be disposed off for want of follow up action.

Hence, it can be observed that the department did not pursue the cases vigorously to obtain vacation of stay order and disposal of certificate cases for recovery of Government revenue.

Audit reported the matter to Government (August 2017). Their replies are awaited.

<sup>20</sup> Jajpur, Kandhmal and Keonjhar.

<sup>21</sup> Bhadrak, Jajpur, Kandhmal, Keonjhar, Khurda, and Nayagarh.



## 7.2.6 Arrear on Motor Vehicle revenue

As per Section 14 of Odisha Motor Vehicle Taxation (OMVT) Act, 1975, any Tax due and not paid as provided for by or under this Act and any sum directed to be recovered by way of penalty may be recovered as arrears of public demand or in accordance with the provision contained in Schedule-II of the Act.

The details of arrear revenues were as follows:

Year	Arrear at the beginning of the year	Arrear added during the year	Total arrear	Arrear collected during the year	Arrear balance at the end of the year	Percentage of collection	(₹ in crore)
							Analysis of closing balance as on 31.3.2016
							Nature/Amount
2013-14	137.75	35.11	172.86	32.53	140.33	18.82	Certificate cases: 114.81 Stayed by departmental authorities: 5.90 Other stages: 22.56
2014-15	140.33	67.29	207.62	54.39	153.23	26.20	
2015-16	153.23	68.43	221.66	78.39	143.27	35.36	

Source : Data furnished by the C&T (Transport) Department

Audit observed that:

- The arrear revenue as on 31 March 2016 was ₹ 143.27 crore out of which ₹ 137.75 crore was outstanding for more than three years.
- During the years 2013-16, the balance in arrear revenue remained more or less constant.
- The percentage of realisation of arrears during the last three years ranged from 18.82 and 35.36.

The fact that the opening balance of arrears remained more or less constant indicates that no serious effort was made to collect the defaulted arrears.

The lapses in management and monitoring of collection of arrear revenue were discussed in the succeeding paragraphs.

### 7.2.6.1 Target for collection of arrear revenue not achieved

The target for collection of arrear revenue was fixed by the STA for the year 2015-16. No such target was set during 2013-14 and 2014-15. The target and achievement were as given in the table as follows:

Sl. No.	Name of the RTO	(₹ in lakh)		
		2015-16 Target	2015-16 Achievement	2015-16 Shortfall
1	Cuttack	324.48	119.14	208.34
2	Sambalpur	1,239.42	132.69	1,106.73
3	Jharsuguda	643.08	285.07	358.01
4	Angul	1,173.72	299.40	874.32
5	Ganjam	3,090.00	1,235.01	1,854.99
6	Rayagada	129.89	57.98	71.91
7	Gajapati	28.46	27.15	1.31
8	Balasore	1,393.69	548.08	845.61
	<b>Total</b>	<b>8,025.74</b>	<b>2,704.51</b>	<b>5,321.23</b>

Source : Data furnished by STA

Target of collection was not achieved due to lack of sincere effort in realisation of revenue.

Audit observed that:

- The shortfall on the achievement of target during 2015-16 ranged from ₹ 1.31 lakh to ₹ 1,854.99 lakh in eight RTOs.
- The basis of fixation of targets in terms of collection of arrear revenue were also not available on record.
- Wide variation in target and actual achievement showed that either the target fixed was not realistic or due efforts were not made for realisation of revenue.

In reply, Government stated that cent *per cent* target fixed for collection of arrear MV Revenue could not be achieved due to want of manpower and logistic supports in all the RTO offices.

### 7.2.6.2 Arrear figure not verifiable

**Discrepancy in arrear figures reported by STA with the figure worked out from the VAHAN database.**

Data on arrear MV revenue was sourced by the RTOs from the departmental computerised data base VAHAN. The arrear MV revenue was compiled by STA from the Monthly Progress Reports furnished by the individual RTOs.

Audit analysed the information furnished by the STA on year-end figures of eight sampled units. Audit cross checked arrear of two classes of vehicles<sup>22</sup> from the VAHAN data base. Audit observed that the arrear figure since last revision from 1 January 2002 to 31 March 2016 worked out to ₹ 588.10 crore. However arrear revenue reported by the STA for the entire State for all class of vehicle was ₹ 143.27 crore as on 31 March 2016. Thus, the reported arrear revenue was not verifiable and reliable and posed obstacle in planning for collection of the same.

In reply, Government stated that initiatives have been taken for developing an Arrear Information Management System (AIMS) through crowd sourcing method of collecting information on arrear MV Revenue for the tax defaulters. An effective MIS module will be integrated with AIMS based on the inputs given by the tax defaulters. Such discrepancy will not prevail when VAHAN-4 will be introduced in all RTO offices, very shortly.

### 7.2.6.3 Demand, Collection and Balance Register not maintained

**DCB register was not maintained resulting in defective reporting of arrear.**

The State Transport Authority (STA) in March 1989 had instructed all the taxing officers to maintain a Demand, Collection and Balance (DCB) register. The register shall contain a column to show the arrears of tax.

Audit observed that none of the test checked units were maintaining such register manually. The VAHAN database which contains digitised data of registered vehicles also did not include the DCB register module. There was no order for discontinuance of maintenance of the DCB register. As such, no record was available to verify the arrear tax to be collected.

In reply, Government stated that persuasion has been made for maintenance of DCB Register. STA has been directed under intimation to National Informatics Centre for inclusion of a provision of DCB register report in VAHAN application.

<sup>22</sup> Contract Carriages and Goods Carriages.



#### **7.2.6.4 Module of VAHAN MIS on Arrear not effective**

**Deficiency in VAHAN database system failed to keep a check on management of arrear revenue.**

VAHAN MIS draws its information from the source database VAHAN. It was designed to provide information on tax defaulting vehicles and expected tax arrears. The process of entering back-log data in the database, prior to 2006-07 had not been completed.

Audit observed that:

- The database was unable to compute and report the exact defaulted tax.
- The integrity of the data in the data base is not reliable in the absence of authenticated data prior to 2006-07.
- This system is relied upon to arrive at the list of defaulters only. Notices were being generated from the VAHAN MIS by RTOs. However, the arrear tax was worked out manually and indicated on the notice by six RTOs.
- In two<sup>23</sup> RTOs, notices were being generated from the VAHAN MIS in a standard format and were issued without specifying the amount of tax due.
- As such, a defaulter, who is issued a machine generated notice, does not get any scope to know the exact tax to be paid. There was no record in place to keep a watch of the notices issued, issued but returned, details of tax defaulters and amount of tax demanded.
- It was also found in five cases in RTO, Ganjam that fitness certificates were issued to vehicles without realising the total arrear taxes pending against them.

Thus, the system failed to keep an effective check on management of arrear revenue due to deficiencies in the software application.

In reply, Government stated that problem was being caused due to non availability of separate module in the data for computation of exact arrears as the RTOs are using different version of VAHAN application. This problem would be solved with implementation of new VAHAN-IV application.

#### **7.2.6.5 Filing of Tax Recovery Cases**

**Authenticity and accuracy of data in VAHAN database was not ensured due to non-updation of address of vehicle owners.**

Under Section 8 of the OMVT Act, the TRO shall proceed to realise the amount by filing of Tax Recovery Cases (TRC) by way of attachment and sale of the defaulter's movable/immovable property or by arrest of the defaulter and his detention in prison if the amount specified in the notice was not paid within the time specified therein or within such further time as the TRO may grant. As per the provisions of Criminal Procedure Code, 1973 applicable for recovery, such notices were to be served to the defaulters through a process server or peon. Under OPDR Act, the TRO was to issue a notice to the defaulter in Form 2 along with a copy of the certificate signed, directing him to pay the amount within a period not exceeding thirty days from the date of service of the notice.

Audit observed that:

---

<sup>23</sup> Balasore and Sambalpur.

- In six RTOs, 14,217 TR cases were filed repeatedly against the same vehicles without disposing off the TRC filed earlier. Required records were not produced by RTO Jharsuguda and Rayagada.
- TR cases were filed against vehicles during 2015-16 against which NOCs were issued during 1988-89 to 2015-16 for movement to other States/Regions in 483 instances in two RTOs<sup>24</sup>.
- As per MPR, 17,843 notices were sent by post. Audit noticed that some were returned unserved due to incorrect or incomplete address. The details of such unserved notices were not on record.

This indicated that the department did not take action to obtain updated addresses of vehicle owners in its database to ensure authenticity and accuracy of data.

In reply, Government stated that all RTOs had been instructed for institution of Tax Recovery cases. Keeping the aspect as important one, measures have been taken in VAHAN-IV to ensure the authenticity and accuracy of the data based on TR proceedings instituted.

#### 7.2.6.6 Issue of warrants

**Warrants against defaulter were not issued adhering to prescribed procedure.**

Clause 8 of schedule II of the MVT Act provided that if the amount mentioned in the notice is not paid within the limit specified therein or within such further limit as the Tax Recovery Officers (TRO) may grant, the TRO shall proceed to realise the amount by way of attachment and sale of movable and immovable property or in the last resort by detention of the defaulter. The recovery process commences with the issue of warrants (Form 3) to the defaulters. Such notices were to be served to the defaulters through a process server or peon as per the provisions of Cr. PC applicable for recovery.

Audit examined the action taken by the department in execution of TR cases.

Audit observed that:

- Warrants were issued by five<sup>25</sup> RTOs in 9,550 cases that involved ₹ 26.54 crore during 2013-16.
- Warrants through special messengers were not issued by seven RTOs, except RTO, Ganjam who had served 1,046 warrants. In this regard, acknowledgements of receipt of service of the warrants by the defaulters could not be furnished by RTO, Ganjam for verification.

Thus, warrants were not issued adhering to prescribed procedure which was one of the factors for non realisation of arrear revenue.

In reply, Government stated that all RTOs have been instructed to execute the warrants through Enforcement official/concerned Inspector In Charge (IIC) in respect of attachment of movable/immovable property.

<sup>24</sup> Balasore and Ganjam.

<sup>25</sup> In four units 4,755 cases and in one unit in 4,795 cases.

### 7.2.6.7 Non-recovery due to inappropriate action by Department

Recovery of arrear revenue in TR Cases could not be made for want of appropriate action.

Section 14 of OMVT Act, 1975 provides that arrear tax and penalty due against any vehicle shall be deemed to be a first charge on the vehicle to which it relates. Whenever the vehicle against which arrear tax and penalty outstanding cannot be attached for any reason whatsoever, steps should be taken to attach other vehicles, if any, registered in the name of defaulter. In order to prevent speedy and natural decay of seized property, the TRO shall take steps for immediate sale of the said property. Further, Clause 8 of schedule II of the Act provides that if the defaulter does not turn up to clear the dues, there is no other way except to recover the dues by way of attachment and sale of movable and immovable property or in the last resort by detention of the defaulter.

Audit scrutinised records in selected RTOs. Audit observed that:

- No action was taken to attach any immovable property in seven test checked RTOs except RTO Ganjam. RTO Ganjam referred 1,295 cases to the concerned Tahsildars to identify the immovable property of the defaulters. Out of this, only 25 defaulters were identified and informed by the Tahsildars. No further action was taken for recovery in any of the cases as on the date of audit.
- RTOs instituted 25,678 TR cases that involved ₹ 162.10 crore. In respect of 8,713 TR cases involving ₹ 55.52 crore, further action for execution of these cases as provided under the Act was not initiated by four<sup>26</sup> RTOs.
- On verification of auction sale records in four<sup>27</sup> RTOs, 218 vehicles were seized and out of this 91 vehicles were disposed off for ₹ 1.04 crore.

This indicated that necessary and effective action was not taken regarding realisation of tax and penalty.

In reply, Government stated that the immovable property could not be attached for recovery of arrear dues due to lack of manpower, non-existence of vehicle owners. They further stated that address of the defaulters were not specified in the register, the module of TR cases are not available in VAHAN. The reply is not tenable as the reasons cited were well within the control of the Department.

### 7.2.6.8 Interest and other charges not charged

Short realisation of interest and other charges due to non-levy of interest at prescribed rate.

As per Orissa Public Demands Recovery Act, 1962 interest at the rate of 12.5 per cent per annum shall be charged upon the public demand to which the certificate relates, from the date of signing of the certificate upto the date of realisation.

Audit scrutinised records on realisation of arrear through certificate cases. Audit observed that the interest payable at the prescribed rate was not worked out and charged in any of the cases. All selected RTOs had collected one lump sum amount from the defaulters. The interest and other charges payable on collection of ₹ 33.82 crore during 2013-16 worked out to ₹ 3.93 crore<sup>28</sup>, out of

<sup>26</sup> Balasore, Gajapati, Jharsuguda and Rayagada.

<sup>27</sup> Angul, Cuttack, Ganjam and Sambalpur.

<sup>28</sup> Interest amount has been calculated conservatively for one year period only.

which only ₹ 0.29 crore was collected (2013-16). This resulted in short-collection of ₹ 3.64 crore. Thus, non-adherence of applicable provisions resulted in loss of revenue.

In reply, Government stated that Commerce & Transport (Transport) Department have been requested (April 2016) for fixation of rate of interest to be charged from the MV Tax defaulter by the Tax Recovery Officer for adjudication of TR case.

### 7.2.7 Conclusion

In most of the cases, prescribed procedure was not followed for realisation of arrear revenue. Out of total arrear of ₹ 2,096.53 crore, ₹ 2,001.58 crore which constituted 95 *per cent*, remained outstanding for more than three years. The extent of collection of arrear was not significant during 2013-14 to 2015-16. Certificate proceedings were not initiated though the arrear had been shown to be recoverable. In some instances, certificate proceedings were initiated belatedly and the whereabouts of some defaulters could not be traced, making it difficult to realise the arrear. There was lack of follow up action in cases referred to Certificate Officer for certificate proceeding. Revenue demanded were not incorporated in DCB register which resulted in understating the actual arrear revenue. The cases pending under Courts of Law or with Revisionary Authorities were not promptly attended to resulting in stay on recovery of revenue.

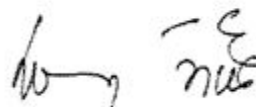
Bhubaneswar  
The 9 February 2018



(YASHODHARA RAY CHAUDHURI)  
Principal Accountant General (E & RSA)  
Odisha

Countersigned

New Delhi  
The 13 February 2018



(RAJIV MEHRISHI)  
Comptroller and Auditor General of India



# **Glossary**



## Glossary of Abbreviations

### A

AA	Assessing Authority
ACCT	Assistant Commissioner of Commercial Taxes
ACSIL	Aska Co-operative Sugar Industry Limited
AEP	Annual Excise Policy
AFP	Annual Field Programme
AVR	Audit Visit Report

### B

B&OE	Bihar and Orissa Excise
BER	Board's Excise Rule
BF	Bottling Fee
BL	Bulk Litre
BMV	Benchmark Value
BOR	Board of Revenue

### C

CAAA	Certified Annual Audited Accounts
CCT	Commissioner of Commercial Taxes
CMPDI	Central Mine Planning and Design Institute
CMS	Central Monitoring System
C&T (T)	Commerce and Transport (Transport)
CO	Certificate Officer
Cr.P.C	Criminal Procedure Code

### D

DCB	Demand, Collection and Balance
DCCT	Deputy Commissioner of Commercial Taxes
DDC	Drug Disposal Committee
DDG	Deputy Director of Geology
DDM	Deputy Director of Mines
DEO	District Excise Office
DGO	Directorate of Geology, Odisha
DIG	Deputy Inspector General
DO	Designated Officer
DR	Dead Rent
DSR	District Sub Registrar

### E

EAL	Excise Adhesive Label
EC	Excise Commissioner
ED	Excise Duty
EDC	Excise Deputy Commissioner
EI&EB	Excise Intelligence and Enforcement Bureau



	<b>G</b>	
GA (AR)		General Administration (Administrative Reform)
GRR		General Registration Register
GSI		Geological Survey of India
GTO		Gross Turnover
	<b>H</b>	
HLC		High Level Committee
	<b>I</b>	
IAW		Internal Audit Wing
IF		Import Fee
IGR		Inspector General of Registration
IMFL		India Made Foreign Liquor
IS		Indian Stamp
ITC		Input Tax Credit
	<b>J</b>	
JDG		Joint Director of Geology
JIG		Joint Inspector General
	<b>L</b>	
LPL		London Proof Litre
	<b>M</b>	
MCD		Mineral Conservation and Development
MCL		Mahanadi Coalfields Limited
MDS		Multi-Disciplinary Squad
MIS		Management Information System
MMDR		Mines and Minerals Development and Regulation
MO		Mining Officer
MV		Motor Vehicles
MVI		Inspector of Motor Vehicle
	<b>N</b>	
NCB		Narcotics Control Bureau
NDPS		Narcotic Drugs and Psychotropic Substances
NOC		No Objection Certificate
	<b>O</b>	
OET		Odisha Entry Tax
OIC		Officer-in-Charge
OMC		Odisha Mining Corporation
OPDR		Orissa Public Demands Recovery
ORR		Off-Road Register
ORTPS		Odisha Right to Public Services
OSBC		Odisha State Beverage Corporation
OVAT		Odisha Value Added Tax

**P**

PAC	Public Accounts Committee
PAG	Principal Accountant General
PSV	Private Service Vehicle

**R**

R&DM	Revenue & Disaster Management
RA	Registering Authority
RA	Revisional Authority
RF	Registration Fee
RTA	Regional Transport Authority
RTO	Regional Transport Officer

**S**

S & M	Steel and Mines
SD	Stamp Duty
SE	Superintendent of Excise
SED	State Excise Duty
SGPB	State Geological Programming Board
SMS	Short Message Service
SR	Surface Rent
SR	Sub Registrar

**T**

TC	Transport Commissioner
TF	Transportation Fee
TTO	Taxable Turnover

**U**

UF	Utilisation Fee
UNFC	United Nations Framework Classification

**V**

VATIS	Value Added Tax Information System
-------	------------------------------------



© COMPTROLLER AND  
AUDITOR GENERAL OF INDIA  
[www.cag.gov.in](http://www.cag.gov.in)

[www.agodi.cag.gov.in](http://www.agodi.cag.gov.in)  
[www.agodisha.gov.in](http://www.agodisha.gov.in)