

*Presented to the State
Legislature on.....*

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

**FOR THE YEAR ENDED
31 MARCH 2001**

(REVENUE RECEIPTS)

GOVERNMENT OF BIHAR

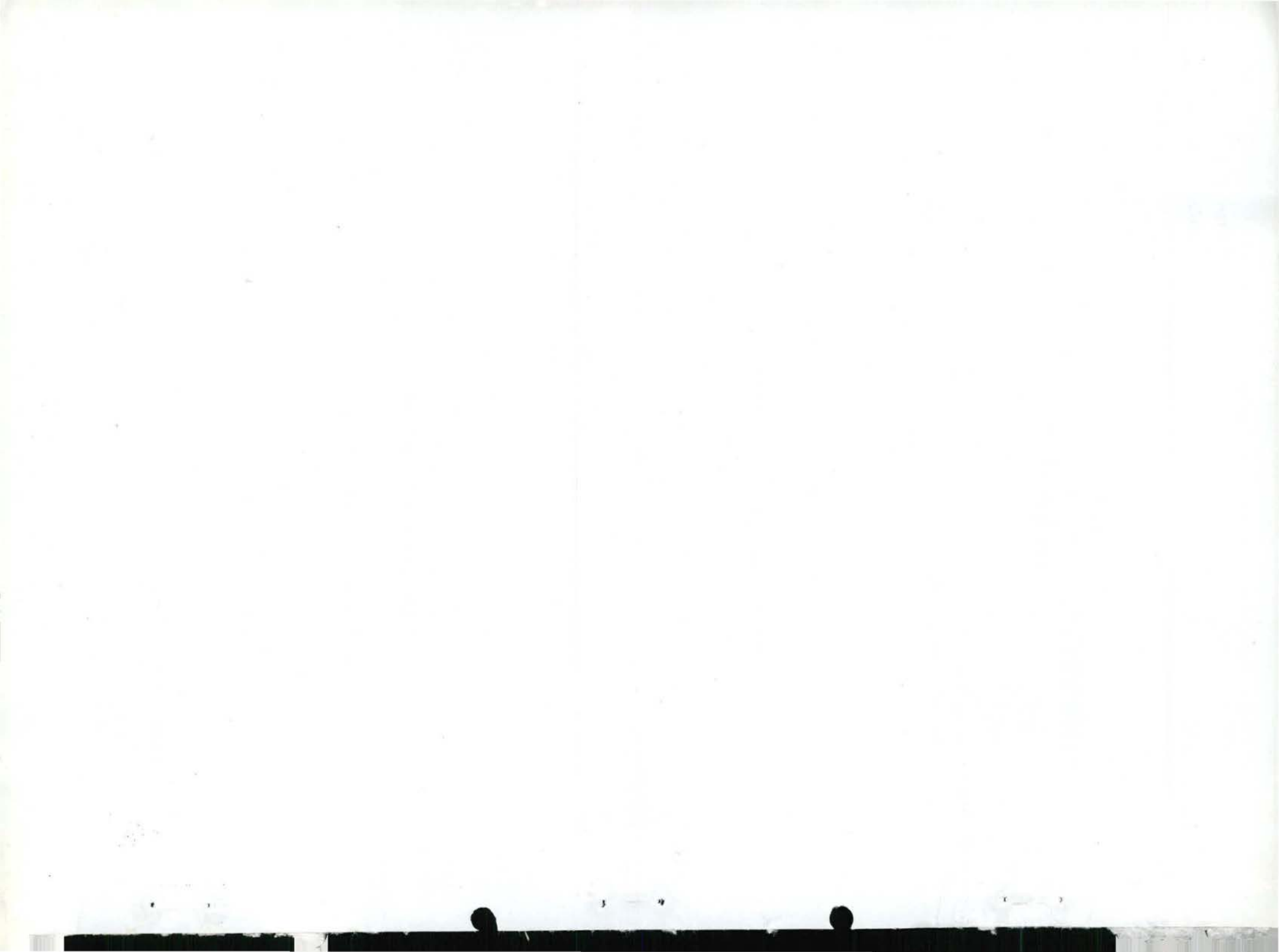


TABLE OF CONTENTS

	Paragraph	Page
Prefatory Remarks		v
Overview		vi
Chapter -1 - General		
Trend of revenue receipts	1.01	1
Variations between the Budget estimates and actuals	1.02	3
Cost of collection	1.03	3
Arrears in assessment of sales tax	1.04	5
Frauds and evasions	1.05	5
Analysis of collections	1.06	6
Arrears of revenue	1.07	7
Pending appeals	1.08	9
Results of audit	1.09	9
Outstanding Inspection reports and audit observations	1.10	10
Departmental Audit Committee meetings	1.11	11
Response of the departments to draft audit paragraphs	1.12	12
Chapter -2- Topics of Special Importance		
Suppression of turnover due to non/short disclosure of Central Excise Duty	2.01	13
Taxation under Bihar tax on Entry of Goods Act, 1993	2.02	14
Non-realisation of revenue due to non-renewal of lease	2.03	17
Non-collection of differential stamp duty in respect of referred cases	2.04	18

Chapter – 3 – Taxes on Sales, Trade etc.		
Results of Audit	3.01	20
Exemption and concession in Sales Tax against declaration forms/certificates	3.02	21
Suppression of sales turnover	3.03	28
Incorrect grant of exemption from levy of tax	3.04	29
Under assessment of Central Sales Tax	3.05	30
Short levy of tax	3.06	31
Mistake in computation of tax	3.07	32
Non/short levy of additional tax	3.08	32
Short levy of tax due to misclassification of goods	3.09	32
Loss of revenue due to assessment being barred by limitation	3.10	33
Non-levy of penalty for excess collection of tax	3.11	33
Application of incorrect rate of taxes	3.12	34
Chapter – 4 – State Excise		
Results of Audit	4.01	35
Loss of revenue due to non-settlement of excise shops	4.02	35
Non-realisation of additional amount on excess lifting of country spirit	4.03	36
Short realisation of administrative charges	4.04	36
Loss of interest due to non-institution of certificate proceedings	4.05	37
Chapter – 5 – Taxes on Vehicles		
Results of Audit	5.01	38
Levy and collection of taxes and fees on vehicles	5.02	39
Non-realisation of tax from vehicles involved in surrender	5.03	49

Chapter – 6 – Land Revenue		
Results of Audit	6.01	51
Irregularities in Bhoodan Land	6.02	51
Non/short recovery of proportionate income from agricultural market committees	6.03	53
Non-fixation and non-realisation of land rent	6.04	53
Non-removal/settlement of encroachment on public land	6.05	54
Non-levy of cesses on holdings exempted from payment of land rent	6.06	55
Non-accounting and unauthorised diversion of departmental receipts towards expenditure	6.07	55
Chapter – 7 – Other Tax Receipts		
Results of Audit	7.01	57
A. Stamps and Registration fees		
Incorrect grant of exemption on mortgage deeds	7.02	58
B. Electricity Duty		
Short levy of surcharge	7.03	59
C. Taxes on Sugar Cane		
Short payment of tax on purchase of sugarcane	7.04	59
Non-levy of interest on arrears of tax	7.05	60
Chapter – 8 – Mineral Concessions, Fees and Royalties		
Results of Audit	8.01	61
Minor Minerals		
Non/short levy of penalty	8.02	61
Loss of revenue due to non-execution of deeds of settlement	8.03	62

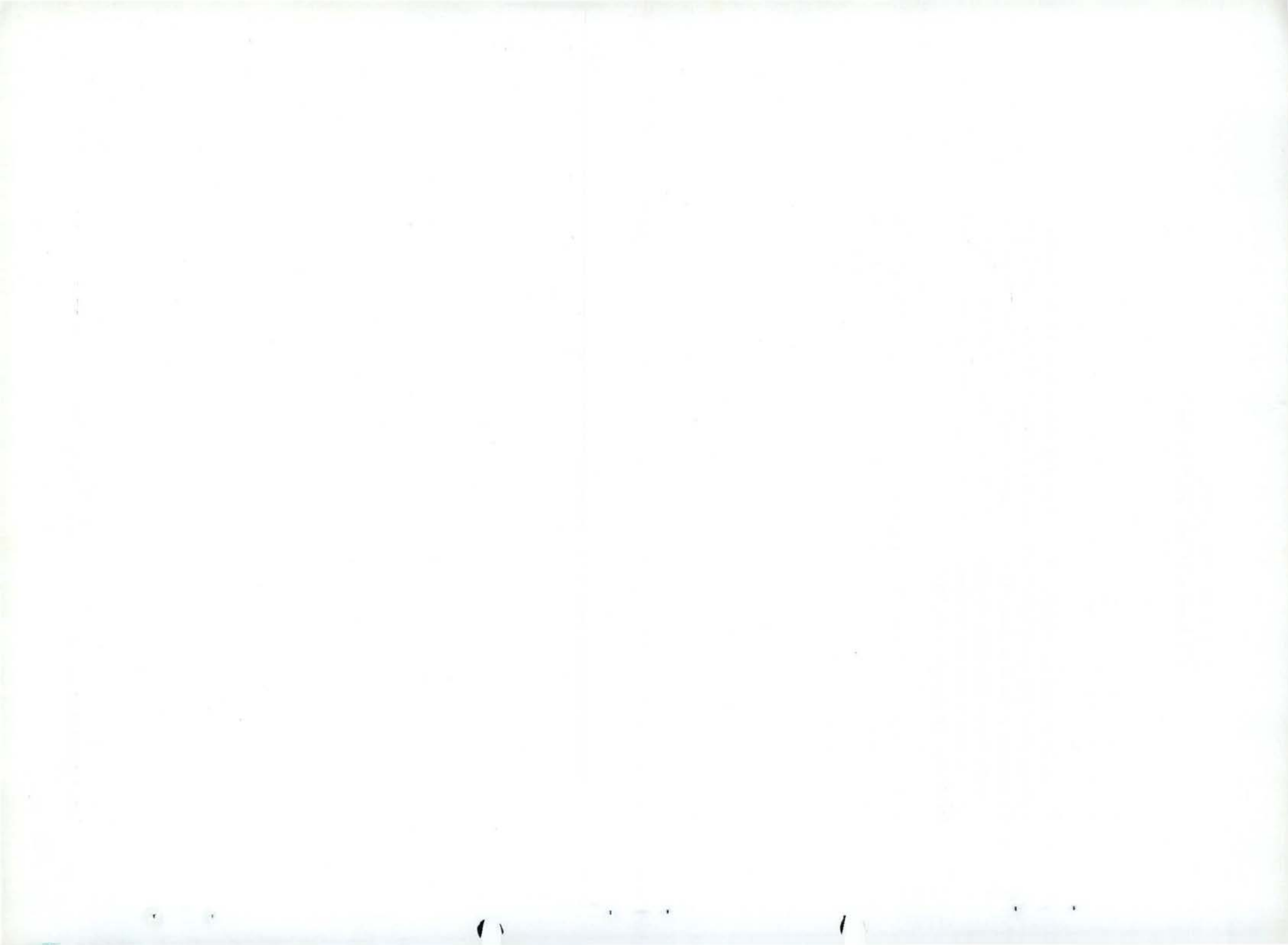
Chapter – 9 – Other Non-Tax Receipts		
Results of Audit	9.01	63
A: Forest Receipts		
Non-raising of demand towards diversion of forest land for non-forest purposes	9.02	63
Non-accounting of departmental receipts	9.03	64
B: Water Rates		
Non-raising of demand due to non-preparation of <i>Khatiani</i>	9.04	64
ANNEXURE		
Non/short levy of penalty	8.02	66

PREFATORY REMARKS

This Report for the year ended 31 March 2001 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising taxes on sales, trade etc., state excise, taxes on vehicles, land revenue, other tax receipts, mineral concession, fees and royalties and other non-tax receipts of the State.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2000-2001 and early part of 2001-02 as well as those which came to notice in earlier years but could not be covered in previous Reports.



OVERVIEW

This Report contains 36 paragraphs including 2 reviews relating to non-levy/short levy/loss of tax involving Rs.837.65 crore, which is 23.79 per cent of revenue receipts of 2000-01. Some of the major findings are mentioned below:-

1. General

The total receipts of the Government of Bihar for the year 2000-2001 were Rs.11177.31 crore against Rs.10659.53 crore during 1999-2000. The revenue raised by the State Government amounted to Rs.3520.91 crore comprising tax revenue of Rs.2809.23 crore and non-tax revenue of Rs. 711.68 crore. The receipts from Government of India were Rs.7656.41 crore (State's share of divisible Union taxes Rs.6575.63 crore and grants-in-aid Rs.1080.78 crore). Thus, the State Government could raise only 31 per cent of total revenue. Taxes on Sales, Trade etc. (Rs.1821.47 crore) and Non-ferrous Mining and Metallurgical Industries (Rs.409.92 crore) were the major source of tax and non-tax revenue respectively during the year 2000-01.

[Paragraph 1.01(i) and (ii)]

The percentage of cost of collection in respect of State Excise and Stamp and Registration fee during the years 1995-96 to 1999-2000 was notably higher than that of all India average percentage for the corresponding period.

[Paragraph 1.03(b)]

Test check of the records of Commercial Taxes, State Excise, Taxes on Vehicles, Land Revenue, Non-ferrous Mining and Metallurgical Industries and other departmental offices conducted during the year 2000-2001 revealed under-assessment/short levy/loss of revenue amounting to Rs.968.95 crore in 10627 cases. During the course of the year 2000-2001, the concerned departments accepted under-assessments etc of Rs.40.86 crore involved in 5303 cases of which 4952 cases involving Rs.32.75 crore had been pointed out in audit during 2000-2001 and the rest in earlier year.

[Paragraph 1.09]

The number of inspection reports and audit observations issued upto December 2000 but not settled by June 2001 stood at 7356 and 40695 respectively involving Rs 2483.90 crore. In respect of 1745 inspection reports, even the first replies have not been received although these were required to be furnished within one month of their receipts.

[Paragraph 1.10]

2. Topics of Special Importance

Cross verification of records of 8 Commercial Taxes Circles with records of the Central Excise Department revealed that 44 manufacturers/dealers

suppressed taxable turnover of Rs. 136.23 crore. This resulted in short levy of tax amounting to Rs. 32.75 crore including penalty.

[Paragraph 2.01(i) and (ii)]

Cross verification of records of 41 Commercial Taxes Circles with sale statements of 26 manufacturers of scheduled goods revealed that 1276 dealers of scheduled goods were neither registered nor they paid entry tax on entry of goods. This resulted in non-levy of tax amounting to Rs. 24.16 crore including penalty and fine.

[Paragraph 2.02(a)(i)]

In one Revenue Anchal of Ranchi district, non-renewal of 1381 leases resulted in non-realisation of revenue amounting to Rs. 367.65 crore in the shape of *salami*, penal rent and interest.

[Paragraph 2.03]

3. Taxes on Sales, Trade etc.

A review on 'Exemption and concession in Sales Tax against declaration forms/ certificates' revealed as under: -

- Suppression of receipts of goods by 50 manufacturing dealers in 12 Commercial Taxes Circles resulted in non/short accounting of goods valued at Rs. 58.84 crore and evasion of tax amounting to Rs. 11.93 crore including penalty.

[Paragraph 3.02.05(i)&(ii)]

- Cross verification of sales by a dealer with records of 7 dealers of 7 Commercial Taxes Circles revealed suppression of sales valued at Rs.12.56 crore and evasion of tax amounting to Rs.5.71 crore including penalty.

[Paragraph 3.02.05(iii)(b)]

- In 10 cases of 6 circles, on transfer/sale of goods valued at Rs. 417.91 crore not supported by prescribed declaration forms under Central Sales Tax Act, tax amounting to Rs. 32.37 crore was short levied.

[Paragraph 3.02.06(i)(ii)]

In 3 Commercial Taxes Circles, incorrect allowance of exemption to 3 dealers on goods valued at Rs.383.52 crore resulted in non-levy of tax amounting to Rs.42.54 crore.

[Paragraph 3.04]

In 3 cases of a Circle, due to sales valued at Rs 391.02 crore not supported by prescribed declaration forms, tax amounting to Rs. 8.11 crore was short levied.

[Paragraph 3.05]

4. State Excise

In 13 Excise districts, non-settlement of 231 retail excise shops and failure of the department to run them departmentally resulted in loss of excise revenue of Rs.12.72 crore.

[Paragraph 4.02]

Non-institution of certificate proceedings in one district excise office resulted in loss of interest of Rs.1.42 crore.

[Paragraph 4.05]

5. Taxes on Vehicles

A review on "Levy and collection of taxes and fees on vehicles" revealed as under:-

- In 22 District Transport Offices, demand notices were not issued against 67526 owners of tax defaulter vehicles resulting in non-realisation of tax amounting to Rs. 181.39 crore.

[Paragraph 5.02.06(a)]

- Arrears of Rs.38.47 crore against 4047 vehicles belonging to Government/ Public Sector Undertakings were not paid even after 30 years.

[Paragraph 5.02.10(iii)]

- Due to non-utilisation of system of issuing cheques for deposit of balance of revenue collection into Government account, an amount of Rs.4.26 crore was retained by 16 collecting banks as on 31 March 2001.

[Paragraph 5.02.12(b)]

6. Land Revenue

In one district, non-distribution/ settlement of 29121.6075 acres of *Bhoodan* land resulted in non-realisation of revenue amounting to Rs 3.56 crore in shape of rent and cesses.

[Paragraph 6.02 (a)]

In 10 Revenue Anchals in 7 districts, 327 *raiya*s (tenants) converted 63 acres of agricultural land for commercial purposes by constructing/installing thereon shops, petrol pumps, saw mills, cinema halls etc which resulted in non-realisation of revenue of Rs 1.12 crore.

[Paragraph 6.04]

7. Other Tax Receipts

A. Stamps and Registration Fees

Incorrect grant of exemption by 6 District Sub-Registrar and 3 Sub-Registrar Offices in respect of 304 instruments resulted in non-realisation of Rs 0.50 crore in shape of Stamp Duty and Registration Fees.

[Paragraph 7.02]

B. Electricity Duty

In 2 Commercial Taxes Circles, in case of 3 licensees the assessing officers while finalising assessment levied surcharge of Rs 0.02 crore against leviable surcharge of Rs.0.38 crore on 19.10 crore units of energy sold. This resulted in short levy of surcharge of Rs.0.36 crore.

[Paragraph 7.03]

C. Taxes on Sugarcane

Short payment of tax on purchase of sugarcane by 5 sugar factories for the crushing season 1999-2000 amounted to Rs.0.46 crore.

[Paragraph 7.04]

8. Mineral concession, Fees and Royalties

Penalty amounting to Rs 8.83 crore for unauthorised operation of 4005 brick kilns in 14 District Mining Offices was either not levied or short levied.

[Paragraph 8.02]

In 5 District Mining Offices, settlement of 161 sand bearing areas without executing proper deeds of settlement resulted in loss of stamp duty of Rs.0.74 crore.

[Paragraph 8.03]

9. Other Non-Tax Receipts

In 3 cases of a Forest Division, demand for NPV at revised rates amounting to Rs 0.40 crore on diversion of 11.62 hectares of land for non-forest purposes was not raised.

[Paragraph 9.02]

CHAPTER- 1: General

1.01 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Bihar during the year 2000-2001, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the correspondent figures for the preceding 2 years are given below: -

(Rupees in crore)

		1998-99	1999-2000	1.4.2000 to 14.11.2000	15.11.2000 to 31.3.2001	2000-2001 ¹
I.	Revenue raised by the State Government	3827.64	4250.65	2277.46	1243.45	3520.91
	(a) Tax revenue	2681.35	3084.79	1722.51	1086.72	2809.23
	(b) Non-tax revenue	1146.29	1165.86	554.95	156.73	711.68
II.	Receipts from the Government of India	5468.55	6408.88	4422.03	3234.38	7656.41
	(a) State's share of divisible Union taxes	4441.23	4962.59	3819.94	2755.69	6575.63
	(b) Grants-in-aid	1027.32	1446.29	602.09	478.69	1080.78
III.	Total receipts of the State Government ² (I&II)	9296.19	10659.53	6699.49	4477.83	11177.31
IV.	Percentage of I to III	41	40	34	28	31

(i) The details of the tax revenue raised during the year 2000-2001 alongwith the figures for the preceding 2 years are given below: -

(Rupees in crore)

Sl. No.	Head of Revenue	1998-99	1999-2000	1.4.2000 14.11.2000	15.11.2000 31.3.2001	2000-2001	Percentage of Increase (+) / decrease (-) in 2000-01 over 1999-2000
1	2	3	4	5	6	7	8
1	Taxes on Sales, Trade etc.	1821.85	2067.79	1115.98	705.49	1821.47	(-) 12
2	State Excise	239.51	277.80	165.77	76.81	242.58	(-) 13
3	Stamps and Registration Fees	279.34	325.77	201.61	100.25	301.86	(-) 7
4	Taxes on Vehicles	164.96	178.47	113.87	110.11	223.98	(+) 26

¹ The figures for 1998-99 and 1999-2000 represent receipt for erstwhile Bihar (including Jharkhand) whereas the same for 2000-01 represent Bihar excluding Jharkhand.

² For details, please see Statement No.11 - Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of the Government for the year 2000-01. Figures 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", "0044-Service Tax", "0037-Customs", "0038-Union Excise Duties" and "0045-Other Taxes and Duties on Commodities and Services" - Minor Head - "901-Share of net proceeds assigned to State" booked in the Finance Accounts under "A-Tax Revenue" have been excluded from "Revenue raised by the State" and included in "State's share of divisible Union Taxes" in this statement.

I	2	3	4	5	6	7	8
5	Taxes and Duties on Electricity	67.04	85.25	29.67	7.10	36.77	(-) 57
6	Land Revenue	24.60	28.67	11.38	22.95	34.33	(+) 20
7	Other Taxes and Duties on Commodities and Services	24.26	27.10	14.28	9.10	23.38	(-) 14
8	Taxes on Goods and Passengers- Tax on entry of goods into Local Areas	59.78	93.92	69.94	54.90	124.84	(+) 33
9	Taxes on Agricultural Income	0.01	0.02	0.01	0.01	0.02	--
	Total	2681.35	3084.79	1722.51	1086.72	2809.23	(-) 9

The main reason for variation during 2000-01 over 1999-2000 was due to bifurcation of Bihar State on account of formation of Jharkhand State on 15 November 2000. Besides the decrease in receipts of Stamps and Registration fees was attributed to reduction in rates of stamp duty and registration fees for certain classes of documents with effect from February 2000.

The reasons for significant variation in receipts from that of previous year, though called for (May 2001) from other concerned departments, have not been received (March 2003).

(ii) The details of non-tax revenue raised during the years 2000-2001 alongwith figures for the preceding 2 years are given below:

Head of Revenue	1998-99	1999-2000	(Rupees in crore)		2000-2001	Percentage of Increase (+) / decrease (-) in 2000-01 over 1999-2000
			1.4.2000 14.11.2000	15.11.2000 31.3.2001		
1. Non-ferrous Mining and Metallurgical Industries	740.92	707.56	382.57	27.35	409.92	(-) 42
2. Forestry and Wild Life	18.48	28.03	10.76	0.74	11.50	(-) 59
3. Interest Receipts	135.99	135.75	11.53	19.15	30.68	(-) 77
4. Social Security and Welfare	24.47	28.04	15.39	11.24	26.63	(-) 5
5. Others	226.43	266.48	134.70	98.25	232.95	(-) 13
Total	1146.29	1165.86	554.95	156.73	711.68	(-) 39

The reasons for substantial variations in receipts from that of previous year, though called for (May 2001) from the concerned departments, have not been received (March 2003) despite several reminders and personal meetings.

1.02 Variations between the Budget estimates and actuals

The variations between Budget estimates of revenue for the year 2000-2001 and the actual receipts under the principal heads of revenue are given below: -

(Rupees in crore)

Sl. No.	Head of Revenue	Budget estimates revised after bifurcation of the State	Actual receipts	Variations increase (+) shortfall (-)	Percentage
A	Tax Revenue				
1	Taxes on Sales, Trade etc.	1950.88	1821.47	(-) 129.41	(-) 7
2	State Excise	275.90	242.58	(-) 33.32	(-) 12
3	Stamps and Registration fees	343.48	301.86	(-) 41.62	(-) 12
4	Taxes on Vehicles	177.73	223.98	(+) 46.25	(+) 26
5	Taxes and Duties on Electricity	41.90	36.77	(-) 5.13	(-) 12
6	Land Revenue	37.61	34.33	(-) 3.28	(-) 9
7	Other Taxes and Duties on Commodities and Services	18.86	23.38	(+) 4.51	(+) 24
8	Taxes on Goods and Passengers –Tax on entry of goods into Local Areas	88.36	124.84	(+) 36.48	(+) 41
B	Non-Tax Revenue				
1	Non-ferrous Mining and Metallurgical Industries	350.00	409.92	(+) 59.92	(+) 17
2	Forestry and Wild Life	31.77	11.50	(-) 20.27	(-) 64
3	Interest Receipts	132.81	30.68	(-) 102.13	(-) 77

The reasons for variation between the budget estimates and actual receipts though called for (May 2001) from concerned departments have not been received (March 2003).

1.03 Cost of collection

(a) The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 1998-99, 1999-2000 and 2000-2001 alongwith the relevant all India average percentage of expenditure on collection to gross collections for 1999-2000 are given below: -

(Rupees in crore)

Sl. No.	Head of Revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 1999-2000
1	Taxes on Sales, Trade etc.	1998-1999	1821.85	22.24	1.22	1.56
		1999-2000	2067.79	32.99	1.60	
		2000-2001	1821.47	24.96	1.37	
2	State Excise	1998-1999	239.51	15.72	6.56	3.31
		1999-2000	277.80	20.34	7.32	
		2000-2001	242.58	17.03	7.02	
3	Stamps and Registration fee	1998-1999	279.34	18.10	6.48	4.62
		1999-2000	325.77	19.11	5.87	
		2000-2001	301.86	17.41	5.76	
4	Taxes on Vehicles	1998-1999	164.96	4.00	2.42	3.56
		1999-2000	178.47	6.52	3.65	
		2000-2001	223.98	4.88	2.18	

The above table indicates that the percentage of expenditure on collection in respect of State Excise and Stamps and Registration Fees was more than the all India average percentage for the year 1999-2000.

(b) A further scrutiny of the records of Registration and State Excise departments revealed that the percentage of expenditure to gross collections during the years 1995-96 to 1999-2000 in comparison alongwith the relevant all India average percentage of expenditure on collection to gross collection was as under:-

Sl No	Head of revenue	Year	Percentage of expenditure to gross collection	All India average percentage
1	Stamps & Registration fee	1995-96	5.38	3.46
		1996-97	5.69	3.37
		1997-98	5.71	3.14
		1998-99	6.48	5.45
		1999-2000	5.87	4.62
2	State Excise	1995-96	6.89	3.20
		1996-97	6.08	3.53
		1997-98	6.56	3.20
		1998-99	6.56	3.25
		1999-2000	7.32	3.31

The above table indicates that cost of collection of revenue under the above two revenue heads have throughout been substantially higher than the All India average.

On these being pointed out (June 2001), the Registration Department attributed (June 2001) the higher cost of collection to non-rationalisation of stamp duty on partnership deeds, non-registration of flats in the state and excess expenditure on pay and allowances due to merger of posts. The

department further stated that in order to enhance stamp duty, the government decided to demerge the posts and rationalise the tax base by amending Stamp Act and Partnership Act for which the proposal of amendment has been sent to the Government of India. The department was also considering to dispense with the existing system of sales of stamp through vendors with a view to reducing expenditure overhead.

In case of State Excise, the department stated (June 2001) that percentage of cost of collection has decreased from 6.89 to 6.56 during the years 1995-96 to 1999-2000 on account of increased collection and that the department was also considering a new excise policy, which would result in decreasing the percentage of cost of collection. The reply of the department is not tenable as percentage of cost of collection increased to 6.56 in 1997-98 against 6.08 in 1996-97 and increased considerably (7.32) during the year 1999-2000 indicating failure of the department to reduce cost of collection. Further, the department could not furnish the year-wise and cadre-wise strength of employees to arrive at the actual expenditure incurred in collection of revenue though called for (June 2001). The matter was referred to the Government (July 2001 and December 2002); reply is awaited (March 2003).

1.04 Arrears in assessment of sales tax

The details of sales tax assessment cases pending at the beginning of the year, cases becoming due for assessment during the year, cases decided during the year and number of cases pending finalisation at the end of each year during 1996-97 to 2000-2001 as furnished by the department are given below:-

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the end of the year	Percentage of column 6 to 4
1	2	3	4	5	6	7
1996-97	104794	93027	197821	114762	83059	42
1997-98	83059	96017	179076	83488	95588	53
1998-99	95588	103094	198682	127830	70852	33.36
1999-2000	70852	100654	171506	79938	91568	53
2000-01	82902 ³	96560	179462	50407	129055	72

The efforts made in 1998-99 to contain the arrears need to be sustained and stepped up to facilitate further reduction of arrears.

1.05 Frauds and evasions

The details of cases of frauds and evasion of taxes and duties pending at the beginning of the year, number of cases detected by the departmental

³ Differs by 8666 from the closing balance 91568 given earlier by the department and shown in the Audit Report for the year 1999-2000. The department attributed the difference due to exclusion of cases relating to Jharkhand State.

authorities, number of cases in which assessments/investigations were completed and additional demand (including penalties etc.) of taxes/duties raised against the dealers during the year and the number of cases pending finalisation at the end of March 2001, as furnished by the concerned department are given below: -

(Rupees in lakh)

Sl. No.	Department	Cases pending as on 31 March 2000	Cases detected during 2000-2001	Number of cases in which assessment/ investigation completed and additional demand including penalty etc. raised		Number of cases pending finalisation as on 31 March 2001
				No. of cases	Amount of demand	
1	Water Resources	6	Nil	Nil	12.78	6
2	Finance (Commercial Taxes)	311 ⁴	704	662	140.46	353
3	Transport	275	450	Nil	Nil	725
4	Excise and prohibition	13	Nil	Nil	Nil	13

Information from other departments, though called for (May 2001), have not been received (March 2003) despite several reminders to departmental heads and personal meetings.

1.06 Analysis of collections

The break-up of the total collections (at pre-assessment stage and after regular assessment) of Taxes on Sales, Trade etc. during the year 2000-2001 and the corresponding figures for preceding two years, as furnished by the Finance (Commercial Taxes) Department are given below: -

Rupees in crore)

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment		Total collection of taxes	Total collected as per Finance Account	Percentage of pre-assessment collection to total collection (Col 2 to 5)
		Additional demand	Penalty for delay in payment of Taxes and Duties			
1	2	3	4	5	6	7
1998-99	1743.34	50.63	0.75	1794.72	1821.85	97
1999-2000	1995.22	58.03	1.04	2054.29	2067.79	97
2000-2001	1794.11	19.11	1.55	1814.77	1821.47	99

Thus the tax including penalties collected after regular assessment constituted a rather low proportion of the total collection.

⁴ Differs by 38 from the closing balance 349 given earlier by the department and shown in the Audit Report for the year 1999-2000. The department attributed the difference due to exclusion of cases relating to Jharkhand State.

1.07 Arrears of revenue

As on 31 March 2001, arrears of revenue under principal heads of revenue, as reported by the departments, were as under: -

(Rupees in crore)

Sl. No.	Heads of revenue	Total arrears	Arrears more than five years old	Remarks
1	2	3	4	5
1.	Taxes on Sales, Trade etc.	691.79	N.A.	Out of Rs. 691.79 crore, demands for Rs. 172.76 crore had been certified for recovery as arrears of land revenue. Recovery amounting to Rs.361.89 crore had been stayed by Courts and government respectively. Action taken in respect of remaining arrears of Rs. 157.14 crore, though called for (May 2001), has not been intimated (March 2003).
2.	Water Rates	86.30	N.A.	Out of Rs.86.30 crore, demands for Rs.1crore had been certified for recovery as arrears of land revenue. Recovery amounting to Rs 6.29 crore and Rs. 0.06 crore had been stayed by the Courts and the government respectively. Recovery of Rs. 0.63 crore was held up due to rectification / review of applications. Amount of Rs. 0.81 crore was likely to be written off. Specific action taken in respect of the remaining arrears of Rs. 77.51 crore, though called for (May 2001), has not been intimated (March 2003).
3.	Taxes on Vehicles	80.43	N.A.	Out of Rs. 80.43 crore, demands for Rs. 66.32 crore had been certified for recovery as arrears of land revenue. Recovery amounting to Rs. 0.33 crore and Rs. 0.05 crore had been stayed by High Court and Government respectively. Recovery of Rs.0.02 crore was held up due to rectification/review of applications. Amount of Rs. 3.24 crore was likely to be written off. Specific action taken in respect of the remaining arrears of Rs. 10.47 crore, though called for (May 2001), has not been intimated (March 2003).

1	2	3	4	5
4.	Non-ferrous Mining and Metallurgical Industries	59.07	NA	Out of Rs. 59.07 crore, demands for Rs.53.83 crore had been certified for recovery as arrears of land revenue. Specific action taken in respect of the remaining arrears of Rs.5.24 crore though called for (May 2001), has not been intimated (March 2003).
5	State Excise	45.44	40.72	Out of Rs. 45.44 crore, demands for Rs. 2.84 crore had been certified for recovery as arrears of land revenue. Recovery amounting to Rs.30.09 crore and Rs.0.26 crore has been stayed by the Courts and the government respectively. Recovery of Rs. 0.17 crore was held up due to rectification/ review. Amount of Rs.0.11 crore was likely to be written off. Specific action taken in respect of the remaining arrears of Rs. 11.97 crore though called for (May 2001) has not been intimated (March 2003).
6	Taxes and Duties on Electricity	17.47	3.68	Out of Rs. 17.47 crore, demands for Rs. 6.92 crore had been certified for recovery as arrears of land revenue. Specific action taken in respect of the remaining arrears of Rs. 10.55 crore, though called for (May 2001), has not been intimated (March 2003).
7	Taxes on Sugarcane	16.19	11.10	Out of Rs 16.19 crore, demands for Rs. 4.83 crore had been certified for recovery as arrears of land revenue. Recovery amounting to Rs. 0.47 crore and Rs 10.89 crore had been stayed by courts and Government respectively.
8	Entry Tax	11.93	5.94	Specific action taken in respect of arrears, though called for (May 2001) has not been intimated (March 2003).
9	Entertainments Tax	3.72	0.24	Out of Rs. 3.72 crore, demands for Rs. 1.58 crore had been certified for recovery as arrears of land revenue. Recovery amounting to Rs. 0.04 crore had been stayed by the Courts. Specific action taken in respect of the remaining arrears of Rs. 2.10 crore, though called for (May 2001) has not been intimated (March 2003).

The position of arrears of revenue pending collection at the end of 2000-2001 in respect of other departments, though called for (May 2001), has not been furnished by the Government (March 2003).

1.08 Pending appeals

As per the information furnished (December 2001) by the Commercial Taxes Department, number of appeals filed under Taxes on Sales, Trade etc. and other Taxation Acts administered, number of appeals finalised and number of cases pending with the appellate authorities, at the end of each year during the period from 1996-97 to 2000-2001 were as under: -

Year	Opening balance	Number of appeals filed during the year	Total	Number of appeals finalised during the year	Balance at the end of the year	Percentage of cases finalised to total number of cases
1996-97	11181	3666	14847	5233	9614	35
1997-98	9614	2498	12112	3406	8706	28
1998-99	8706	2641	11347	4356	6991	38
1999-2000	6991	5390	12381	3406	8975	28
2000-2001	2248 ⁵	534	2782	606	2176	22

1.09 Results of audit

Test check of the records of Commercial Taxes, State Excise, Taxes on Vehicles, Land Revenue, Non-ferrous Mining and Metallurgical Industries and other departmental offices conducted during the year 2000-2001 revealed under-assessment/short levy/loss of revenue amounting to Rs.968.95 crore in 10627 cases. During the course of the year 2000-2001, the concerned departments accepted under-assessments etc., of Rs.40.86 crore involved in 5303 cases of which 4952 cases involving Rs.32.75 crore had been pointed out in audit during 2000-2001 and the rest in earlier years.

This Report contains 36 paragraphs including 2 reviews bringing out deficiencies in different aspects of tax administration and involving a tax/revenue effect of Rs.837.65 crore. These cases represent the important cases out of the cases of under-assessment and other irregularities pointed out by Audit. Of these, the department/ government have accepted audit observations involving Rs.64.31 crore of which only Rs. 67.29 lakh has been recovered upto October 2002. Audit observations with a total revenue effect of Rs.8.67 crore have not been accepted by the government. However, as the grounds attributed were at variance with the facts or legal provisions, these have not been accepted by Audit for reasons indicated in the relevant paragraphs/reviews. Final reply has not been received in other cases (March 2003).

⁵ Differs by 6727 from the closing balance 8975 given earlier by the department and shown in the Audit Report for the year 1999-2000. The department attributed the difference due to exclusion of cases of Jharkhand State.

1.10 Outstanding Inspection reports and audit observations

(a) Audit observations on financial irregularities and defects in initial records, noticed during local audit and not settled on the spot, are communicated to the heads of offices and to the higher departmental authorities through audit inspection reports for prompt action. The more important irregularities are reported to the heads of departments and to Government for initiating immediate corrective action. Besides, half yearly reports of such observations outstanding for more than 6 months are forwarded to government to expedite their settlement.

The number of inspection reports and audit observations issued upto December 2000 which were pending settlement as on 30 June 2001 alongwith corresponding figures of the preceding 2 years, are given below:-

	As at the end of June		
	1999	2000	2001
1. Number of outstanding inspection reports	9537	10324	7356
2. Number of outstanding audit observations	41562	43704	40695
3. Revenue effect involved (Rupees in crore)	3127.80	3492.50	2483.90

(b) Outstanding audit observations relating to the following departments were notably large: -

Sl.No.	Department	Revenue Head	Number of Outstanding		Year to which earliest pending report relates	Amount involved
			Inspection Reports	Audit Observation		
1	Revenue	Land Revenue	4134	24314	1980-81	485.93
2	Finance (Commercial Taxes)	Taxes on Sales, Trade etc.	828	5364	1980-81	313.63
3	Excise and Prohibition	State Excise	528	3545	1981-82	619.28
4	Transport	Taxes on Vehicles	354	2938	1984-85	321.21
5	Mines and Geology	Non-ferrous Mining and Metallurgical Industries	289	1451	1982-83	58.39
6	Water Resources	Water Rates	372	1524	1982-83	549.03
7	Cane	Taxes on Sugarcane	176	449	1981-82	85.29
8	Forest and Environment	Forest receipts	50	132	1981-82	26.87

(c) Although government have instructed that first replies to the inspection reports should be furnished within one month of the receipt of the

inspection reports, in respect of 1745 inspection reports issued upto December 2000, even first replies had not been received from the following departments till June 2001.

Department	Revenue Head	Number of inspection reports to which even first reply has not been received	Year to which earliest pending report relates
1. Revenue	Land Revenue	1251	1982-83
2. Excise and Prohibition	State Excise	44	1981-82
3. Transport	Taxes on vehicles	117	1984-85
4. Finance (Commercial Taxes)	(i) Taxes on Sales, Trade etc.	43	1998-99
	(ii) Electricity Duty	24	1997-98
	(iii) Taxes on Goods and Passengers		
	(iv) Entertainments Tax		
5. Revenue (Registration Department)	Stamps and Registration Fees	128	1980-81
6. Mines and Geology	Non-ferrous Mining And Metallurgical Industries	46	1982-83
7. Cane	Taxes on sugarcane	54	1981-82
8. Water Resources	Water Rates	20	1998-99
9. Forest and Environment	Forest Receipts	18	1984-85
	Total	1745	

The above position was brought to the notice of the Chief Secretary to the Government (July 2001) but no reply has been received (March 2003). Unsatisfactory compliance by the departments in settlement of audit observations resulted in increasing trend of outstanding audit observations and inspection reports.

1.11 Departmental Audit Committee meetings

In order to expedite the settlement of outstanding audit observations contained in the Inspection Reports, Departmental Audit Committees are constituted by the government. These Committees consist of representative of the concerned administrative department and attended among others by the concerned officers and the officers from office of the Accountant General.

To expedite the clearance of the outstanding audit observations, it is necessary that the audit committees meet regularly and ensure that final action is taken in all audit observations outstanding for more than a year, leading to their settlement. During the year 2000-01, the government departments were requested (June 2000) to hold 4 audit committee meetings but government did not convene even a single meeting despite several reminders. This indicated lack of interest on the part of government towards settlement of outstanding audit observations (40695 Nos.) involving Rs.2483.90 crore as on 30 June 2001.

1.12 Response of the departments to draft audit paragraphs

According to the instructions issued (1966) by government of Bihar, replies to the draft audit paragraphs are required to be communicated to the Accountant General within six weeks from the date of receipt of the same. Draft paragraphs are forwarded to the secretaries drawing their attention to the audit findings requesting them to send their response within six weeks. The fact of non-receipt of replies from government is indicated at the end of each paragraph included in the Audit Report.

36 draft paragraphs included in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2001 (Revenue Receipts)-Government of Bihar were forwarded to the Secretaries to Government.

The Secretaries of the various departments did not send replies to 34 draft paragraphs. Therefore 34 paragraphs have been included in this report without the response of the Government.

CHAPTER- 2: Topics of Special Importance

2.01 Suppression of turnover due to non/short disclosure of Central Excise Duty

Under the provisions of the Bihar Finance (BF) Act, 1981, sale price means the amount payable to a dealer as valuable consideration in respect of sale or supply of goods. It has been judicially held that duties or taxes paid under the Customs, Central Excise or State Excise laws form an integral part of the sale price, whether they are separately charged or not and whether they are recovered by the seller alongwith the sale price or at a later date.

Further, if the prescribed authority has reason to believe that the dealer has concealed, omitted or failed to disclose wilfully the particulars of turnover or has furnished incorrect particulars of such turnover and thereby returned figures below the real amount, the said authority shall assess or re-assess the amount of tax due from the dealer in respect of such turnover and shall direct the dealer to pay, besides the tax assessed on escaped turnover, penalty not exceeding three times but not less than an amount equivalent to the amount of tax on the escaped turnover.

(i) Cross verification of assessment records of 41 manufacturing dealers of Cement, C.I. Castings, Auto parts, Industrial gases, Machineries, Tin plate etc. registered with 8 Commercial Taxes Circles¹ with the records maintained in Central Excise Department revealed that the assesseees had disclosed payment of Central Excise Duty amounting to Rs.200.01crore only in their sales tax returns against the actual payment of Rs.325.16 crore as shown in the records relating to payment of Central Excise Duty during the period 1994-95 to 1999-2000 (assessed between November 1996 and April 2000). This resulted in suppression of taxable turnover of Rs. 125.15 crore and consequent short levy of tax of Rs. 27.50 crore including penalty of Rs. 20.40 crore. Of this, in case of 4 dealers² the tax effect was more than Rs. 1 crore each involving total tax effect of Rs. 23.31 crore.

(ii) Cross verification of records of 3 dealers of 2 Commercial Taxes Circles engaged in business of bus, truck body building and cement with returns furnished by them to the Central Excise Department revealed that the dealers had suppressed taxable turnover of Rs. 11.08 crore by short accounting of goods sold between the period 1996-97 and 1998-99 (assessed between November1998 and November 1999). This resulted in short levy of tax of Rs. 5.25 crore including penalty of Rs 3.84 crore as shown in table given below:-

¹ Adityapur, Bokaro, Hazaribagh, Jamshedpur, Koderma, Patliputra, Ranchi (West) and Singhbhum.

² 1. M/s The Tinplate Co. of India Ltd., Jamshedpur. 2. M/s TRF Ltd., Jamshedpur 3. M/s Tata Cummins Ltd., Jamshedpur 4. M/s Bihar Foundry and Casting Ltd., Ranchi.

(Rupees in crore)

Sl. No	Name of circle Name of the dealer	Period Date of assessment	Commodity Rate (Per cent)	Turnover as per Central Excise return Turnover as per sales tax return	Turnover suppressed	Tax Penalty (leviable)	Total
1	Adityapur Circle, Jamshedpur M/s Tramco Coaches (P) Ltd. Adityapur	1997-98 7/99	Bus Truck Body 10	<u>3.82</u> 1.94	1.88	<u>0.23</u> 0.62	0.85
		1998-99 10/99	-do-	<u>3.59</u> 2.91	0.68	<u>0.08</u> 0.23	0.31
2	Adityapur Circle, Jamshedpur M/s Bhalotia Engineering Works (P) Ltd. Gamaharia	1998-99 11/99	-do-	<u>6.96</u> 3.58	3.38	<u>0.41</u> 1.13	1.54
3	Ranchi West Circle, Ranchi M/s Lemos Cements Ltd. Khelari, Ranchi.	1996-97 11/98	Cement 11	<u>8.67</u> 4.04	4.63	<u>0.62</u> 1.68	2.30
		1997-98 9/99	-do-	<u>3.54</u> 3.03	0.51	<u>0.07</u> 0.18	0.25
Total				<u>26.58</u> 15.50	11.08	<u>1.41</u> 3.84	5.25

On these being pointed out (between October 2000 and June 2001) the department stated (between December 2000 and June 2001) that the cases would be reviewed. Further reply has not been received (March 2003).

The cases were reported to the Government (June 2001); their reply has not been received (March 2003).

2.02 Taxation under Bihar Tax on Entry of Goods Act, 1993

(a) Registration

Every dealer/person dealing in scheduled goods, who is either registered under the BF Act, 1981 or imports goods above specified quantum, is required to be in possession of valid registration certificate under the Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale therein (BTEG) Act, 1993. Failure to apply for registration within seven days of liability may render him liable for penalty, in addition to levy of tax, at the rate of Rs. 50 for each day of default or an amount equivalent to the amount of tax assessed, whichever is less.

Cross verification of records of dealers of scheduled goods of 44 Commercial Taxes Circles³ with the sale statement of scheduled goods supplied by 21 manufacturers (obtained through Sales Tax/Central Excise department) of outside States and 5 manufacturers of Bihar revealed that: -

(i) In 41 Commercial Taxes Circles⁴, 1276 dealers of scheduled goods liable for registration were neither registered under the BTEG Act nor had they paid entry tax on entry of goods valued at Rs. 281.69 crore during the period 1993-94 to 1999-2000 resulting in non-levy of tax amounting to Rs. 24.16 crore including penalty of Rs. 3.03 crore and fine of Rs. 8.50 crore, as detailed below: -

(Rupees in lakh)

Sl No	Name of the Commodity	No. of circles involved	No. of un-registered dealers	Value of goods imported	Leviable Amount			
					Tax	Penalty	Fine	Total
1	Tobacco Product	39	1056	7228.66	216.86	183.86	740.75	1141.47
2	Vanaspati	26	168	9689.69	484.48	81.44	53.53	619.45
3	IMFL	23	35	9898.32	494.47	24.63	33.71	552.81
4	Cement	5	17	1351.95	67.57	12.69	22.13	102.39
Total			1276	28168.62	1263.38	302.62	850.12	2416.12

On this being pointed out (June 2000), the department stated (May 2001) that demand for Rs. 0.06 crore had been raised in 4 cases (Jamshedpur Circle). Action taken by other circles has not been intimated (March 2003).

(ii) In case of 9 dealers of 4 Circles⁵ dealing in scheduled goods and registered under the BF Act having liability on or after 25 February 1993 were however registered under the BTEG Act, with liability from later dates i.e. from the dates of registration. Failure of the department in application of provisions of the Act in time resulted in an import value of Rs. 81.56 crore escaping assessment during 1993-94 to 1995-96 and consequent under charge of entry tax amounting to Rs. 4.13 crore including penalty of Rs. 0.10 crore and fine of Rs. 0.20 crore.

³ Adityapur, Arrah, Aurangabad, Bhagalpur, Begusarai, Bokaro, Chaibasa, Chirkunda, Chakradharpur, Danapur, Darbhanga, Deoghar, Dumka, Dhanbad (Urban), Farbesganj, Gaya, Godda, Giridih, Hazaribagh, Jamshedpur, Jamshedpur (Urban), Jhanjharpur, Jharia, Katihar, Lakhisarai, Madhubani, Motihari, Munger, Patna City (West), Patna City (East), Palamau, Purnea, Patna (West), Patna (North), Ranchi (East), Ranchi (Special), Ranchi (West), Saharsa, Sasaram, Sahebganj, Siwan, Samastipur, Singhbhum and Teghra.

⁴ Aurangabad, Arrah, Bhagalpur, Begusarai, Bokaro, Chaibasa, Chirkunda, Chakradharpur, Deoghar, Dumka, Dhanbad (Urban), Danapur, Darbhanga, Farbesganj, Gaya, Giridih, Hazaribagh, Jhanjharpur, Jamshedpur, Jamshedpur (Urban), Jharia, Katihar, Lakhisarai, Munger, Madhubani, Motihari, Patna City (West), Patna City (East), Purnea, Palamau, Patna (West), Ranchi (East), Ranchi (Special), Ranchi (West), Saharsa, Sasaram, Sahebganj, Siwan, Samastipur, Singhbhum and Teghra.

⁵ Giridih, Hazaribagh, Patna (North) and Sasaram.

(b) Suppression of import value

Under the provisions of the BF Act, 1981 read with the BTEG Act, 1993, every registered dealer shall furnish a true and complete return in respect of all his transactions failing which the prescribed authority may, within eight years from the date of order of the assessment, assess the amount of tax due from the dealer in respect of such turnover besides penalty and fine at prescribed rates.

(i) Cross verification of assessment records of 6 dealers in 5 Commercial Taxes Circles⁶ of Bihar with the records of manufacturers in Uttar Pradesh, Delhi, Andhra Pradesh and other local areas of Bihar revealed short accounting of imported goods amounting to Rs. 2.13 crore relating to the period 1993-94 to 1998-99 (assessed in 1996-97 to 1999-2000). This resulted in under assessment of tax amounting to Rs. 0.28 crore including penalty of Rs. 0.21 crore.

On this being pointed out (June 2000) the department stated (June 2000) that the case would be examined. Further reply has not been received (March 2003).

(ii) In *Jharia* Circle, 8 unregistered dealers were assessed on 2 July 1999 under the Act for the period between 1993-94 and 1995-96 on the basis of information received from a manufacturer of *Zarda* of other local areas, but not registered due to affidavit furnished by them regarding discontinuance of business in subsequent period. On cross verification of information received from manufacturers of *Zarda* of outside the State and within the State revealed that the dealers had still been continuing the business and had imported goods valued at Rs. 1.24 crore during 1996-97 to 1998-99. Failure of the department in detecting the suppression resulted in under assessment of tax amounting to Rs. 0.20 crore including penalty of Rs. 0.11 crore and fine of Rs. 0.05 crore.

(c) Non-levy of penalty

Under the BF Act, 1981, read with the BTEG Act, if a registered dealer fails to make payment of the tax due according to the prescribed statement/return, the assessing authority shall impose a penalty of not less than 2 and a half per cent but not exceeding 5 per cent of the amount of tax for each of the first 3 months or part thereof following the due date and thereafter not less than 5 per cent but not exceeding 10 per cent for each subsequent month or part thereof.

In 6 Commercial Taxes Circles, 8 dealers (assessed between June 1997 and May 2000) failed to deposit the admitted tax amounting to Rs. 7.84 crore by due dates. The delay ranged between 1 month 21 days and 36 months 15 days

⁶ Gaya, Jamshedpur (Urban), Ranchi (West), Ranchi (East) and Sasaram.

and thus, the dealers were liable to pay minimum penalty of Rs. 4.47 crore as detailed below:-

(Rupees in lakh)

Sl. No.	Name of Circles	No. of cases involved	Period	Tax payable as per return	Period of Delay	Leviabie Penalty
1	2	3	4	5	6	7
1	Adityapur	1 ⁷	1996-97 & 1997-98	264.26	21 Months 15 days to 33 months 15 days	346.25
2	Jharia	3	1996-97	33.63	17 Months 24 days to 25 Months 7 days	30.50
3	Begusarai	1	1996-97	434.63	1 Month 25 days	19.92
4	Darbhanga	1	1996-97 to 1998-99	15.83	12 Months 15 days to 36 Months 15 days	19.09
5	Jamshedpur (Urban)	1	1996-97	18.08	18 Months 28 days	15.76
6	Sasaram	1	1996-97	18.03	14 Months 15 days to 23 Months 15 days	15.40
	Total	8		784.46		446.92

On this being pointed out (June 2000), the department stated (June 2000) that the cases would be examined and in respect of a dealer of Begusarai, that penalty was not leviabie as admitted tax was paid in time. The reply is not tenable, as non-levy of penalty was pointed out for the period of 1996-97 wherein the admitted tax was paid after due date. Reply in respect of other cases have not been furnished (March 2003).

The cases were reported to the Government (June 2001); their reply has not been received (March 2003).

2.03 Non-realisation of revenue due to non-renewal of lease

Under the provisions of the Bihar Government Estates (*Khas Mahal*) Manual, 1953 and the rules framed thereunder for grant of lease, the State Government is to issue notices to the lessees, six months prior to the expiry of the lease, to apply for renewal of such lease, whereas a lessee is required to apply three months prior to the expiry of his lease for renewal thereof. A lessee continuing on the leasehold property without payment of rent and renewal is to be treated as trespasser and has no claim for renewal on past terms and conditions.

On fresh leases *salami*⁸ at the current market value of land is leviabie. Besides, annual rental in respect of residential lease at the rate of one fiftieth of such *salami* is payable. In case of arrears, double the rental from the date of non-

⁷ M/s Pebco Motors Ltd., Adityapur.

⁸ *Salami* is the Government share in the increased value of the land.

payment of annual rental at the rate prescribed in the original lease with interest thereon is recoverable.

Based on the above provisions a mention was made in the Report of the Comptroller and Auditor General of India (Revenue Receipts) pertaining to the year 1996-97 regarding loss of revenue due to non-renewal of leases of Government land.

However, as per circular issued by Revenue and Land Reforms Department, Government of Bihar in April 1999, the lessees are liable to pay arrears of double the rental at the rate proposed in fresh leases from the date of expiry of earlier lease as penal rent together with interest at the rate of 10 per cent on the difference of arrear rentals between the proposed rent in the new deeds and the rent already paid by the lessees.

In Sadar Anchal, *Ranchi*, 1381 leases in respect of 204.379 acres of town *Khas Mahal* land expired between 1943-44 and 1996-97. In these cases neither the department issued notices to the lessees nor the lessees applied for renewal of their leases before its expiry. The lessees were not paying the annual rent also. Since the leases have not been renewed so far and renewal, if any, will be done later the recoveries will have to be made at the rates prevailing on the date of renewal of these leases. The amount recoverable as worked out on the rates applicable for 2000-01 comes to Rs.367.65 crore (*salami*: Rs.123.12 crore, penal rent: Rs. 131.34 crore and interest: Rs. 113.20 crore) in these cases.

On this being pointed out (May 2001), the Additional Collector, *Ranchi* stated (May 2001) that physical survey of *Khas Mahal* land is being carried out and action will be taken after survey. Further reply has not been received from Government (March 2003).

The cases were reported to the Government (June 2001); their reply has not been received (March 2003).

2.04 Non-collection of differential stamp duty in respect of referred cases

Under Section 47-A (I) of the Indian Stamp Act, 1899, the registering officer, while registering any instrument of conveyance, exchange, gift, partition or settlement has reason to believe that the market value of the property, which is the subject matter of such instrument has not been rightly set forth in the instrument, he may refer the same to the Collector for determination of the market value of such property and proper duty payable thereon.

Test check of records of 6 districts relating to the period upto 1995-96 and from 1996-97 to 1999-2000 revealed (between December 1999 and May

2001) that a total number of 6362 cases were referred by different Registering Authorities (District Sub-Registrars/ Sub-Registrars) to the respective Collectors for determination of the market value of land/ property as indicated in these documents and accordingly the differential stamp duty leviable was worked out by the Collectors.

The differential stamp duty leviable worked out to Rs 5.60 crore in 6362 cases. Of this a sum of Rs 1.74 crore involved in 2567 cases had been recovered (1997-98 to 2000-01) and a sum of Rs. 3.87 crore involved in 3795 cases was still outstanding as detailed below: -

(Rupees in lakh)

Sl No	Name of the office of the D.C. (Stamp)	Total		Collection		Non collection of differential stamp duty	
		No of cases	Differential stamp duty involved	No of cases	Differential stamp duty collected	No of cases	Amount
1	Begusarai	3894	250.73	1390	48.24	2504	202.49
2	Aurangabad	154	20.86	50	1.54	104	19.32
3	Ranchi	231	13.07	59	5.18	172	7.89
4	Patna	715	95.52	180	12.15	535	83.37
5	Hazaribagh	796	132.08	671	96.20	125	35.88
6	Arrah (Bhojpur)	572	47.83	217	10.25	355	37.58
	Total	6362	560.09	2567	173.56	3795	386.53

On this being pointed out (between December 1999 and May 2001) Deputy Collectors (Stamp) stated (between December 1999 and May 2001) that due to various reasons such as incorrect/ change of address of the executants and non-availability of document holders, notices for realising differential stamp duty could not be served. The reply is not tenable as action to realise the dues as arrears of Land Revenue should have been initiated.

The cases were reported to the Government (June 2001); their reply has not been received (March 2003).

CHAPTER-3: Taxes on Sales, Trade etc.

3.01 Results of Audit

Test check of the records relating to assessments and refunds of Sales Tax in various Commercial Taxes Circles, conducted in audit during the year 2000-2001 revealed under assessment of tax of Rs.133.93 crore in 488 cases which broadly fall under the following categories: -

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1	Incorrect allowance of exemption from tax	225	10.12
2	Non-levy of penalty	34	3.56
3	Incorrect allowance of concessional rate of tax	3	0.13
4	Non-levy or short-levy of additional tax & surcharge.	59	15.39
5	Application of incorrect rates of tax	40	0.73
6	Short-levy due to incorrect determination of turnover	59	5.33
7	Non-levy of penalty for excess collection of tax / mistake in computation	19	3.65
8	Other irregularities	49	95.02
	Total	488	133.93

During the year 2000-2001, the concerned department accepted under assessment etc. of Rs. 0.34 crore involved in 21 cases of which 6 cases involving Rs. 0.10 crore had been pointed out in audit during 2000-01 and rest in earlier years. A few illustrative cases and a review on "Exemption and concession in Sales Tax against declaration forms/certificates" involving Rs. 119.95 crore are given in the following paragraphs: -

3.02 Exemption and concession in Sales Tax against declaration forms/certificates

3.02.01 Introduction

Under the provisions of the Bihar Finance (BF) Act, 1981 and the Rules framed thereunder (also applicable to the State of Jharkhand) read with the Central Sales Tax (CST) Act, 1956 registered dealers are entitled to purchase goods without payment of tax or at concessional rate of tax, if the goods so purchased are for re-sale or for use in mining, manufacturing or processing of goods for sale provided the purchasing dealer furnishes declarations in the prescribed form to the selling dealer. Further, goods purchased for re-sale by paying tax at first point of sale in the State are also exempt from tax at subsequent stages of sale on the strength of declarations issued by the selling dealers. If the goods are utilised by the purchaser for purposes other than those specified, the purchaser is liable to pay tax at full rate/differential rate of tax, as the case may be.

3.02.02 Organisational set-up

At the apex level, the Commissioner of Commercial Taxes is responsible for the administration of the Acts and Rules in the Commercial Taxes department including printing, receipt and distribution of declaration forms to the circles in the State of Bihar (now the State of Bihar and the State of Jharkhand). He is assisted by Senior Joint Commissioner, Deputy Commissioner and Assistant Commissioner of the Commercial Taxes and by Joint Commissioner of Commercial Taxes, Investigation Bureau, Deputy Commissioner of Commercial Taxes, Vigilance and Monitoring at the Headquarters (Secretariat level). The erstwhile State of Bihar was divided into 11 Commercial Taxes Divisions each under the charge of a Joint Commissioner. These divisions are further divided into 75 circles, each under the charge of a Deputy Commissioner/Assistant Commissioner of Commercial Taxes assisted by Assistant Commissioner and Commercial Taxes Officers.

3.02.03 Scope of Audit

A review was conducted between December 2000 and May 2001 to assess the effectiveness of system of granting exemptions and concessions against various declaration forms¹ prescribed under the BF Act, 1981 and the CST

¹ **Form 'IX'** – Submitted by a manufacturing unit for purchase of raw materials at concessional rate of tax to the dealer from whom the materials are purchased. **Form 'IX C'** – Submitted in support of purchase of goods on which tax had been levied at first point of sales in the State. **Form 'GAA (C)' and 'D'** – Form of declaration by owners of industries for purpose of purchase of raw materials free of sales/purchase tax.

Act, 1956. Cross verification of information/data collected from the assessment records of 50 manufacturing /trading dealers of 11 Circles² was done with the records of 845 manufacturing/selling/purchasing dealers of 30 Circles³ relating to the period from 1992-93 to 1999-2000 (assessed between September 1993 and March 2001). The review also includes points noticed in regular audit of other offices conducted during previous years.

3.02.04 Highlights

1. Suppression of receipt of goods by 50 manufacturing dealers in 12 Commercial Taxes Circles resulted in non/short accounting of goods valued at Rs.58.84 crore and evasion of tax amounting to Rs.11.93 crore.

[Paragraph 3.02.05 (i) and (ii)]

2. Non-accounting of tax paid goods valued at Rs.22.97 crore by 10 dealers of 9 Commercial Taxes Circles resulted in loss of revenue of Rs.0.94 crore.

[Paragraph 3.02.05(iii)(a)]

3. Cross verification of sales by a dealer with the records of 7 dealers of 7 Commercial Taxes Circles revealed suppression of sale valued at Rs.12.56 crore and evasion of tax amounting to Rs.5.71 crore.

[Paragraph 3.02.05(iii)(b)]

4. In 10 cases of 6 Circles on transfer/sale of goods valued at Rs. 417.91 crore not supported by prescribed declaration forms under Central Sales Tax Act, tax amounting to Rs.32.37 crore was short levied.

[Paragraph 3.02.06(i) and (ii)]

5. In 32 cases of 14 Circles, incorrect allowance of exemption on turnover valued at Rs.40.02 crore against invalid/obsolete declarations resulted in short levy of tax amounting to Rs. 3.40 crore.

[Paragraph 3.02.08 (a) and b(i) (ii)]

6. In a Circle, an unregistered dealer unauthorisedly collected tax amounting to Rs. 3.79 crore for which he was liable to pay penalty of Rs. 7.58 crore but was not levied.

[Paragraph 3.02.10 (a)]

² Bokaro, Chaibasa, Central Circle Kolkata, Deoghar, Dhanbad, Dhanbad (Urban), Hazaribagh, Patna (Special), Patliputra, Palamau and Singhbhum.

³ Adityapur, Bokaro, Bhabhua, Bhagalpur, Chakradharpur, Central Circle Kolkata, Chaibasa, Chirkunda, Deoghar, Dhanbad, Dhanbad (Urban), Farbesganj, Giridih, Hazaribagh, Jharia, Jamshedpur, Jamshedpur (Urban), Katras, Koderma, Munger, Patliputra, Palamau, Patna (North), Purnea, Ranchi (South), Ranchi (West), Ranchi (Special), Singhbhum, Sindri and Tenughat.

3.02.05 *Suppression of turnover*

Under the provisions of BF Act, 1981, if the prescribed authority is satisfied that reasonable grounds exist to believe that any turnover of a dealer has escaped assessment he may within eight years from the date of order of the assessment or re-assessment, assess or re-assess the amount of tax due from the dealer in respect of such turnover. The dealer shall also be liable to pay by way of penalty, a sum not exceeding three times but not less than an amount equivalent to the amount of tax assessed on the turnover, which escaped taxation.

(i) Cross verification of details of purchases at concessional rate of tax by 26 manufacturing dealers of 12 Commercial Taxes Circles⁴ for the period from 1993-94 to 1997-98 (assessed between June 1995 and August 2000) as furnished by them (to sales tax authorities) in their utilisation certificates of form 'IX' with the declarations issued by them to the selling dealers against such purchases revealed non/short accounting of goods valued at Rs.21.21 crore. This resulted in short levy of tax of Rs.5.89 crore including penalty of Rs.4.31 crore. Of this, one dealer⁵ alone accounted for Rs. 1.85 crore.

(ii) Cross verification of details of purchases, exempted from levy of tax, made by 24 manufacturing dealers of 4 Commercial Taxes Circles⁶ for the period from 1992-93 to 1997-98 (assessed between September 1993 and February 2001) as furnished by them in their utilisation certificate of Form 'GAA' to the sales tax authority with the certificate issued by them to the selling dealers against such purchases revealed that 3 dealers were not authorised to purchase goods (Rs.6.91 crore) on form 'GAA', 2 dealers had not accounted for the purchase (Rs. 10.65 crore) and 19 dealers had short accounted the goods (Rs.20.07 crore). This resulted in short levy of tax of Rs.6.04 crore including penalty of Rs.4.54 crore.

(iii)(a) Cross verification of details of sales made by a dealer of *Singhbhum* Circle with the assessment records of 10 dealers of 9 Commercial Taxes Circles⁷ revealed that the dealers did not account for the goods valued at Rs.22.97 crore purchased during the period 1997-98 and 1998-99 (assessed between October 1998 and June 2001). This resulted in non- levy of tax amounting to Rs 94.18 lakh including penalty of Rs 68.91 lakh.

(b) Verification of utilisation certificate of Form 'IXC' furnished by the above selling dealer⁸ with the records of 7 dealers of 7 Circles⁹ revealed that the dealer had issued 9 number of declaration forms 'IXC' for Rs. 445.78 lakh against the actual sale of soap and detergents valued at Rs. 17.02 crore made

⁴ Bhagalpur, Bokaro, Chirkunda, Deoghar, Dhanbad, Dhanbad (Urban), Giridih, Hazaribagh, Koderma, Katras, Munger and Tenughat.

⁵ M/s. B.C.C.L. Area II, Mahuda, Katras.

⁶ Dhanbad, Hazaribagh, Tenughat and Bokaro.

⁷ Bokaro, Chaibasa, Dhanbad (Urban), Giridih, Jharia, Palamau, Patliputra, Ranchi (Special) and Tenughat.

⁸ M/s. Hindustan Lever Ltd., Karandih.

⁹ Chirkunda, Jharia, Munger, Palamau, Ranchi (Special), Sindri and Singhbhum.

during the year 1997-98 and 1998-99. Thus, the dealer suppressed sale of Rs.12.56 crore. This resulted in short levy of tax of Rs.571.49 lakh including penalty of Rs.418.16 lakh.

3.02.06 Under assessment under Central Sales Tax

(i) Under the CST Act, 1956, a dealer, who claims exemption from levy of tax on account of branch transfer of goods to his agent, principal or any other place of his business in other State, is required to produce the details of such transfer of goods in Form 'F' duly authenticated under signature by the recipient. Non-compliance of the provisions of Act/Rules may invalidate the claim for exemption and tax will be leviable at double the rate prescribed, in case of declared goods and at the rate of 10 per cent or at the rate leviable under the Sales Tax Act of the State, whichever is higher, in the case of goods other than declared goods.

In 3 Commercial Taxes Circles (*Jamshedpur, Jamshedpur (Urban) and Patliputra*), 7 dealers were exempted from payment of tax on transfer of goods (steel wire, tinplate, safety razor and refrigerators) valued at Rs.382.85 crore between 1993-94 and 1998-99 (assessed between March 1998 and February 2000) without production of declarations/valid declarations. This resulted in non/short levy of tax amounting to Rs.30.89 crore. Of this, in case of 2 dealers¹⁰ the tax effect was more than Rs. 1 crore each involving total tax effect of Rs. 30.29 crore.

(ii) Under the CST Act, 1956, on the inter-State sale of goods not supported by prescribed declarations/ certificates in form 'C' or 'D', tax is leviable at the rate of 8 per cent on declared goods and at the rate of 10 per cent or at the rate leviable under the Sales Tax Act of the State, whichever is higher in case of other goods.

In 3 Circles (*Ranchi West, Jharia and Tenughat*), sale of goods (fire bricks, steel and coal) valued at Rs.35.06 crore made by 3 dealers was not supported by prescribed declarations for the years 1995-96 and 1996-97 (assessed between October 1998 and January 1999) but tax was levied at lower rate. This resulted in under assessment of tax amounting to Rs.147.84 lakh. Of this, one dealer¹¹ alone accounted for Rs. 1.32 crore.

(iii) Under the CST Act, 1956 and the Rules framed thereunder, any subsequent sale during the movement of goods from one State to another is exempted from tax provided prescribed declarations in forms 'C' and 'E' are furnished by the dealers at the time of assessment in support of their claim for such exemption. For granting such exemption, goods must be covered by the registration certificate of the purchasing dealer.

¹⁰ 1. M/s. The Tinplate Company of India Ltd., Jamshedpur.

2. M/s. The Tata Iron & Steel Co. Ltd., Jamshedpur.

¹¹ M/s. Swang Washery, Swang, Tenughat.

In the case of 6 dealers of 5 Circles¹² exemption was allowed on the sale of electrical equipment and machinery and tools valued at Rs. 83.43 lakh by 3 dealers during the years 1994-95 to 1996-97 (assessed between November 1998 and February 1999) not supported by prescribed declarations and on purchase of goods (paper) valued at Rs. 702.77 lakh during the years 1995-96 to 1996-97 (assessed between May 1998 and January 2000) by 3 dealers of 2 Circles (Patna North and *Ranchi Special*) although paper was not covered by their registration certificate. Deduction of Rs.786.20 lakh was incorrectly allowed resulting in short levy of tax amounting to Rs.101.61 lakh.

3.02.07 *Inadmissible allowance of concessional rate of tax*

Under the provisions of the BF Act, 1981, registered dealers are allowed to purchase at concessional rate of tax, by furnishing prescribed declarations, goods required by them directly for use in manufacture or processing or for use in mining of any goods for sale. It has been judicially held¹³ that goods, which are not directly consumed/ used in the process of manufacture of other goods, cannot be treated as raw material. The State Government, by notifications issued on 26 December 1977 and 28 January 1985, excluded LDO (Light Diesel Oil) and paper (of all kinds) including card board, cartons, etc. from the purview of concessional rate. Further, by notification issued in February 1990, the contractors were excluded from the purview of making sale/ purchase at concessional rate of tax.

(i) On verification of utilisation certificate of declaration forms 'IX' furnished by 14 dealers of 6 Circles¹⁴ engaged in mining of coal, copper, uranium, etc. it was revealed that the dealers had purchased lime, timber, fire bricks, bamboo, cement and LDO valued at Rs.690.48 lakh at concessional rate of tax during the years between 1993-94 and 1999-2000 which were not admissible as the goods were not raw materials meant for direct use in course of manufacturing, processing or mining and thus were leviable to tax at full rate. This resulted in loss of revenue of Rs.69.52 lakh including additional tax and surcharge.

(ii) In 4 circles¹⁵, in case of 5 dealers concessional rate of tax was allowed on turnover valued at Rs. 572.53 lakh on production of declaration form 'IX' by the assesseees during the years 1994-95 to 1996-97 (assessed between May and December 1998). On scrutiny of declaration forms it was revealed that concessional rate of tax was incorrectly allowed to 3 contractors on sale of paper and railway parts. This resulted in under assessment of tax amounting to Rs. 44.64 lakh.

¹² Central Circle, Kolkata, *Jamshedpur*, Patna (North), *Ranchi (South)* and *Ranchi (Special)*.

¹³ *The decision of Hon'ble Supreme Court in case of Commissioner of Sales Tax, M.P Vrs Rewa Coal Field Ltd. and others (1999)*.

¹⁴ *Chirkunda, Dhanbad, Jharia, Hazaribagh, Singhbhum and Tenughat.*

¹⁵ *Adityapur, Chakradharpur, Farbesganj and Jamshedpur.*

On this being pointed out the Assessing Authority (*Adityapur*) stated that the dealer was entitled to purchase goods at concessional rate of tax for manufacturing of any goods. The reply is not tenable as the dealer was a contractor and thus not eligible for making purchases at concessional rate.

3.02.08 *Incorrect exemption on declaration*

Where by a notification published under the provisions of the BF Act, 1981, the State Government specifies in respect of any goods, class or description of goods that sales tax shall be levied at the first point of sale in the State, subsequent sale of the same goods shall not be levied to tax, if the dealer making the subsequent sale produces before the assessing officer the original copy of cash memo, bill or invoices and files true and complete declaration in Form 'IXC' in original in the manner prescribed. Further, declarations being incomplete, duplicate and not setting out all the details are liable to be rejected.

(a) In 6 Circles¹⁶, in case of 9 dealers exemption on tax paid sale of goods valued at Rs.566.89 lakh was allowed during the period from 1992-93 to 1998-99 (assessed between October 1996 and November 2000). On verification of declaration forms it was revealed that in one case the amount mentioned in the declaration form was manipulated, in another case the goods were leviable to tax at last point of sale and in remaining 7 cases either the duplicate copy of forms were furnished or the same were not filled in properly. Allowance of incorrect exemption on these declaration forms resulted in short levy of tax amounting to Rs. 44.16 lakh.

(b) (i) By a notification issued in January 1998 (effective from 1 February 1998), the Government declared the declaration form ('IX' and 'IX C') printed by Government Press, Gaya, obsolete and invalid.

On verification of 781 declaration forms, it was revealed that in 11 Circles¹⁷ in case of 21 dealers (assessed between August 1998 and January 2001) exemption from levy of tax was allowed during the period between 1994-95 and 1997-98 against 246 such invalid declaration Form 'IXC' involving Rs 26.77 crore. This resulted in short levy of tax of Rs.253.68 lakh. Of this, one dealer¹⁸ alone accounted for Rs. 1.48 crore.

On this being pointed out the Assessing Authority (*Palamau*) in 3 cases revised the assessments (between March and November 2000) and raised additional demand of Rs. 2.82 lakh.

¹⁶ Bhabhua, Bhagalpur, Deoghar, Giridih, Ranchi (*Special*) and Ranchi (*West*).

¹⁷ Bhagalpur, Bokaro, Deoghar, Jharia, Patliputra, Palamau, Purnea, Ranchi (*South*), Ranchi (*Special*), Singhbhum and Tenughat.

¹⁸ M/s. J.P. Status Pvt., Ltd., Patna.

(ii) On verification of 95 declaration forms, it was revealed that in 2 Circles (*Ranchi West* and *Singhbhum*) in case of 2 contractor dealers (assessed between January 1999 and January 2000) tax was levied at concessional rate of tax, on sale of non-ferrous metal, heavy vehicles and spares valued at Rs. 757.77 lakh during the years 1994-95 and 1997-98 on the strength of 39 invalid declarations (Form 'IX'). This resulted in short levy of tax amounting to Rs. 42.34 lakh.

3.02.09 *Non-levy of purchase tax*

Under the provisions of the BF Act, 1981, every dealer liable to pay tax, who purchases goods in circumstances in which no sales tax is payable or has been paid on the sale price of such goods and either consumes such goods in the manufacture of other goods for sale or otherwise disposes by way of sale in the State or sale in course of inter-State trade or commerce, shall be liable to pay tax on the purchase price of such goods at the rate at which it would have been leviable on the sale price of such goods.

A manufacturing dealer of *Deoghar* Circle purchased glass ware (raw material) valued at Rs.32.96 crore without payment of sales tax on certificate 'GAA' during the period from 1993-94 to 1996-97 (assessed between March 1998 and March 2001) from another manufacturing dealer of the same Circle and transferred the finished goods valued at Rs. 18.92 crore out of the finished goods produced from such raw material otherwise than by way of sale. Purchase tax though leviable on the purchase price of raw material valued at Rs. 997.96 lakh was not levied. This resulted in non-levy of purchase tax amounting to Rs. 99.68 lakh (including additional tax and surcharge).

3.02.10 *Other points of interest*

(a) *Non-levy of penalty due to unauthorised collection of tax*

Under the provisions of the BF Act, 1981 no person who is not a registered dealer shall collect from any person any amount, by whatever name or description it may be called, towards or purporting to be tax on sale of goods. In the event of any contravention of the provision of the Act, the prescribed authority shall direct the dealer to pay, by way of penalty, a sum equal to twice the amount of tax so collected.

In course of audit of assessment records of a manufacturer and seller of country liquor in *Hazaribagh* Circle it was noticed that deduction of Rs. 419.82 lakh and Rs. 10.01 crore from gross turnover was allowed by the Assessing Authority during the years 1997-98 and 1998-99 respectively on the ground that turnover would be subjected to tax in *Dhanbad* district.

On verification of deduction allowed by the Assessing Authority of *Hazaribagh Circle* with the case records of the dealer¹⁹ in *Dhanbad Urban Circle Dhanbad*, it was revealed that the dealer was not registered in the Circle. While assessing tax (January and June 1999) as unregistered dealer the Assessing Authority failed to levy penalty for unauthorised collection of tax amounting to Rs. 379.04 lakh from different purchasers of the State. The omission resulted in non-levy of penalty amounting to Rs. 758.07 lakh.

On this being pointed out (July 2001), the DCCT stated (August 2001) that the dealer was registered at *Hazaribagh Circle* hence penalty was not leviable. The reply is not tenable in view of the existing provisions of BF Act, 1981. As the dealer had performed his business at *Dhanbad* he was liable for separate registration at *Dhanbad Circle* also.

(b) *Incorrect utilisation of declaration form*

A dealer of *Singhbhum Circle, Jamshedpur* declared that he had issued one form 'IXC' against sale of goods (soap) for Rs. 4.74 lakh during the year 1997-98 to a dealer of Patna as per his utilisation certificate of declaration form 'IXC'.

On verification of declaration form 'IXC' it was noticed that the above form was actually issued in favour of a dealer of *Palamau Circle, Daltonganj* against the purchase made during the year for Rs. 62.16 lakh. Thus, the selling dealer short accounted sale of goods valued at Rs. 57.42 lakh. This resulted in short levy of tax amounting to Rs. 26.13 lakh (including additional tax, surcharge and maximum leviable penalty).

The above cases were brought to the notice of assessing authorities /department between December 2000 and May 2001. Report on action taken has not been received (March 2003).

The cases were reported to the Government (June and August 2001); their reply has not been received (March 2003).

3.03 Suppression of sales turnover

Under the BF Act, 1981, read with the CST Act, 1956, if the prescribed authority has reason to believe that the dealer has concealed, omitted or failed to disclose wilfully the particulars of turnover or has furnished incorrect particulars of such turnover and thereby returned figure below the real amount, the said authority shall assess or re-assess the amount of tax due from the dealer in respect of such turnover and shall direct the dealer to pay, besides the

¹⁹ M/s. B. K. Jaiswal (HUF), Hirapur, Dhanbad.

tax assessed on escaped turnover, penalty not exceeding three times but not less than an amount equivalent to the amount of tax on the escaped turnover.

In 3 Commercial Taxes Circles (Circles), it was noticed (between August 1999 and September 2000) from the assessment records (assessed between December 1998 and March 2000) and utilisation certificate of declaration forms ('IX C') that 3 dealers suppressed sales turnover of Rs.852.75 lakh bought/sold on declaration forms during the years between 1995-96 and 1997-98, remained undetected by the department. The failure of the department to check the suppression of purchases/sales resulted in short-levy of tax amounting to Rs.94.32 lakh (including additional tax, surcharge and minimum leviable penalty) as detailed below: -

(Rupees in lakh)

Sl. No.	Name of Circle/ No. of Dealers	Period of assessment Month /Year of assessment	Commodity	Actual purchase/ sale	Amount concealed	Amount of tax/ Penalty	Total
				Purchase / Sale accounted for	Rate applicable (per cent)		
1.	Patna City (East) 1	1996-97 12/98	Chassis	<u>4383.11</u> 3852.96	<u>530.15</u> 4 +SC	<u>23.33</u> 21.20	44.53
2.	Patna South 1	1995-96 12/99	Medicines	<u>675.11</u> 406.62	<u>268.49</u> 7 +SC	<u>20.67</u> 18.80	39.47
3.	Hajipur 1	1997-98 3/2000	Ice Cream	<u>190.23</u> 136.12	<u>54.11</u> 8 +1+SC	<u>5.41</u> 4.91	10.32
	Total			<u>5248.45</u> 4395.70	852.75	<u>49.41</u> 44.91	94.32

On this being pointed out (between August 1999 and September 2000), in the case of Patna City (East) Circle, the department raised (June 2000) an additional demand of Rs. 44.53 lakh while in other cases the department stated (September 2000) that the cases would be reviewed. Report on realisation / further reply has not been received (March 2003).

The cases were reported to the Government (April and May 2001); their reply has not been received (March 2003).

3.04 Incorrect grant of exemption from levy of tax

In 3 Commercial Taxes Circles, in case of 3 dealers incorrect allowance of exemptions (assessed between January 1998 and March 2000) on goods valued at Rs. 383.52 crore resulted in non-levy of tax amounting to Rs. 42.54 crore as detailed below: -

(Rupees in crore)

Sl. No.	Name of the circle Name of dealer	Period of assessment Month/Year of assessment	Commodity	Value of goods	Rate of tax leviable (per cent)	Non-levy of tax	Reasons
1	Central Circle, Kolkata M/s. Indian Oil Corporation Ltd.	1993-94 January 1998	Petroleum Product	138.22	9,14 + SC	20.16	Goods were stated to have been transferred to other dealers but cross verification of the records of the transferee dealers revealed that no such goods were transferred to them.
2	Central Circle, Kolkata M/s. Indian Oil Corporation Ltd.	1993-94 January 1998	Petroleum Product	188.61	9+SC	18.67	Exemption allowed on export of goods to Nepal without obtaining copies of Custom Certificate / Bill of Export.
3	Hajipur M/s. Sukhmani Bhagwati Alloys Pvt. Ltd.	1997-98 & 1998-99 May 1999 & March 2000	Iron and Steel	32.67	4	1.31	Exemption allowed without manufacturing new commercial commodity.
4	Central Circle, Kolkata M/s. Indian Oil Corporation Ltd.	1993-94 January 1998	Petroleum Product	22.96	9 + SC	2.27	Exemption allowed on stock transfer of goods not supported by Form 'F' or any other evidence.
5	Patna City (East) M/s. Phooltas Auto Ltd.	1996-97 December 1998	Motor Parts	1.06	10+1+SC	0.13	Exemption allowed on goods not supported by Form 'IX C'
Total				383.52		42.54	

On this being pointed out (between February 1999 and September 2000), in case of Central Circle, Kolkata, the department raised an additional demand (November 2000) for Rs 41.10 crore and in case of Patna City East Circle, Patna, the department reassessed (June 2000) the tax at Rs 13 lakh, while in case of Hajipur Circle the department stated (September 2000) that the cases would be reviewed. Further reply has not been received (March 2003).

The cases were reported to the Government (April and May 2001); their reply has not been received (March 2003).

3.05 Under assessment of Central Sales Tax

Under the CST Act, 1956, on the inter-State sale of goods (other than declared goods) which are not supported by prescribed declaration forms, tax is leviable at the rate of ten per cent or at the rate applicable in the State, whichever is higher. In case of sales of declared goods not supported by declarations in prescribed form, tax is leviable at twice the rate applicable on sale or purchase of such goods in the concerned State. It has been judicially held²⁰ that

²⁰ DCST Vrs Ayasha Hosiery Factory (1992) 85 STC 196 SC.

additional tax and other taxes leviable under the State Act are also leviable on such inter-State sales under the CST Act.

In Central Circle Kolkata, though the sale/transfer of goods²¹ valued at Rs. 391.02 crore made by 3 dealers during the assessment years (between 1994-95 and 1996-97) was not supported by prescribed declaration forms, tax was either not levied or levied (assessed between December 1998 and August 2000) at lower rates. This resulted in under assessment of Central Sales Tax amounting to Rs. 811.13 lakh (including additional tax and surcharge). Of this, one dealer²² alone accounted for Rs. 7.76 crore.

On this being pointed out (March and December 2000), in 2 cases the department revised the assessment (September and October 2000) and issued (November 2000) additional demand notice for Rs. 35.41 lakh, while in the third case the department stated (January 2001) that the case would be reviewed. Further reply has not been received (March 2003).

The cases were reported to the Government (May 2001); their reply has not been received (March 2003).

3.06 Short levy of tax

Under the provisions of the CST Act, 1956, a sale or purchase of goods shall be deemed to take place in the course of inter-State trade or commerce if the sale or purchase (a) occasions the movement of goods from one State to another or (b) is effected by transfer of documents of title to the goods during their movement from one State to another.

In Gopalganj Circle, a dealer²³ sold during 1993-94 IMFL products worth Rs. 615.06 lakh to M/s Herbertsons Ltd. at Gopalganj and tax was levied (March 1998) at the rate of 4 per cent considering the transaction as inter-State sale. Since the transaction was completed within Bihar, the tax at the rate of 25 per cent was leviable. This resulted in short levy of tax amounting to Rs. 161.45 lakh (including additional tax and surcharge).

On this being pointed out (December 2000), the department stated (December 2000) that the case would be examined. Further reply has not been received (March 2003).

The cases were reported to the Government (May 2001); their reply has not been received (March 2003).

²¹ HSD- High Speed Diesel Oil, LDO- Light Diesel Oil, MTO- Motor Transport Oil, MS- Motor Spirit, SKO- Superior Kerosene Oil, ATF- Air Turbine Fuel.

²² M/s. Indian Oil Corporation Ltd., Kolkata.

²³ M/s. U.B. Distilleries Ltd., Mirganj.

3.07 Mistake in computation of tax

Mistake in computation of tax payable by 6 dealers in 5 Circles²⁴ for the period between 1994-95 and 1997-98 (assessed between June 1997 and July 1999) resulted in short levy of tax amounting to Rs. 29.67 lakh.

On this being pointed out (between December 1999 and December 2000), in the cases of Patna Special, Khagaria and Katihar Circles, the assessing authorities raised (between December 1999 and May 2001) additional demands. In another case of Danapur Circle, the department stated (August 2000) that notice was being issued, while in the case of Central Circle, Kolkata the concerned authority stated (January 2001) that the cases would be reviewed. Further reply and report on realisation have not been received (March 2003).

The cases were reported to the Government (December 1999 and May 2001); their reply has not been received (March 2003).

3.08 Non/short levy of additional tax

Under the BF Act, 1981 every dealer is required to pay additional tax at the rate of 1 per cent (except liquor on which 2 per cent is applicable) from 1 November 1981 on his gross turnover unless specifically exempted from levy of additional tax.

In Central Circle, Kolkata, in case of 2 dealers engaged in the business of Petroleum Products, Tea, Ghee, etc. (assessed between July 1999 and October 2000) additional tax (including surcharge) aggregating Rs. 24.45 lakh was either not levied or short levied during 1991-92 and 1996-97 on the assessed tax of Rs. 22.23 crore.

On these being pointed out (December 2000 and January 2001), the department stated (January 2001) that the cases would be reviewed. Further reply has not been received (March 2003).

The cases were reported to the Government (May 2001); their reply has not been received (March 2003).

3.09 Short levy of tax due to misclassification of goods

Under the provision of the BF Act, 1981 sales tax on goods shall be levied as per rates prescribed in the Annexure to the Act. The goods not specified in the Annexure are leviable to tax at the rate of 8 per cent as unspecified item.

²⁴ Central Circle, Kolkata, Danapur, Katihar, Khagaria, and Patna (Special).

direct the dealer to pay, by way of penalty, a sum equal to twice the amount of tax so collected.

In Patna City East Circle, Patna a dealer engaged in business of IMFL collected tax in excess of his tax liability by Rs. 2.85 lakh during the year 1998-99. However, the assessing authorities while finalising (November 1999) the assessment did not levy any penalty. This resulted in non-levy of penalty of Rs. 5.71 lakh.

On these being pointed out (July 2000), the department stated (August 2000) that the cases would be reviewed. Further reply has not been received (March 2003).

The case was reported to the Government (May 2001); their reply has not been received (March 2003).

3.12 Application of incorrect rate of taxes

In 3 Circles, in case of 3 dealers tax was levied at incorrect rates on sales of goods valued at Rs. 40.13 crore resulting in short levy of tax amounting to Rs. 43.27 lakh (including additional tax and surcharge) as detailed below: -

(Rupees in lakh)

Sl. No.	Circle	Commodity	Assessment Year	Month/Year of Assessment	Total value of sales	Rate of tax		Amount of short levy of tax
						Levi able (%)	Levied (%)	
1	Central Circle, Kolkata	Petroleum Products	1996-97	July 1999 and October 2000	3931.87	9	8	41.57
2	Patna (West)	Xerox machine	1995-96	December 1998	14.36	14	8	0.96
3	Hajipur	HDPE bags	1993-94 to 1996-97	March 1998	66.81	3	2	0.74
Total					4013.04			43.27

On these being pointed out (between December 1999 and December 2000), in case of Hajipur Circle the department raised (August 2000) additional demands and in other cases the department stated (January 2000 and January 2001) that the cases would be reviewed. Further reply has not been received (March 2003).

The cases were reported to the Government (April and May 2001); their reply has not been received (March 2003).

In 2 Circles, due to misclassification of goods, tax amounting to 16.40 lakh (including additional tax and surcharge) was short levied as shown in the table below: -

Sl. No	Name of Circle	(Rupees in lakh)						
		Assessment Period	Classified as	Correct classification	Amount of turn over	Rate of tax		Amount of short levy
		Assessment month & year				Leviabale (%)	levied (%)	
1.	Patliputra	1996-97	Iron & Steel	Forged steel ball (unspecified)	43.91	8	4	2.63
		6/98						
2.	Muzaffarpur	1997-98	-do-	Galvanised sub-station structure, Railway electrification structure (unspecified)	248.41	8	4	13.77
		12/99						
Total					292.32			16.40

On these being pointed out (between January and May 2000), the department in one case (Muzaffarpur) stated (May 2000) that concerned items fall under clause (IV)(V) of Section 14 of CST Act. The reply is not tenable as the item does not fall under "Iron and Steel" as defined in Section 14 of CST Act. In other cases the department stated (January 2000) that the cases would be reviewed. Further reply has not been received (March 2003).

The cases were reported to the Government (May 2001); their reply has not been received (March 2003).

3.10 Loss of revenue due to assessment being barred by limitation

Under the provisions of the BF Act, 1981 no proceeding for assessment of tax payable by a dealer in respect of any period shall be initiated and completed after the expiry of four years with effect from 1993-94.

In Patna City East Circle, Patna, a dealer sold goods valued at Rs.100.79 lakh and Rs.371.24 lakh during the years 1993-94 and 1994-95 respectively, but assessment was not completed within the stipulated time limit, though the dealer was liable to pay tax. This resulted in loss of revenue amounting to Rs.18.90 lakh.

The cases were reported to the Government (May 2001); their reply has not been received (March 2003).

3.11 Non-levy of penalty for excess collection of tax

Under the BF Act, 1981 no registered dealer shall collect from any person any tax on sale of goods in excess of tax liability under the said Act. In the event of any contravention of the provision of the Act, the prescribed authority shall

CHAPTER- 4: State Excise

4.01 Results of Audit

Test check of the records of the excise offices, conducted in audit during the year 2000-2001 revealed under assessments and losses of revenue amounting to Rs.27.93 crore in 1083 cases, which broadly fall under the following categories :-

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non/delayed settlement of excise shops	284	12.07
2.	Non- realisation of licence fee	73	0.28
3.	Undue financial benefit due to unauthorised concession	10	0.02
4.	Other irregularities	716	15.56
Total		1083	27.93

During the year 2000-2001, the concerned department accepted under-assessments etc., of Rs. 57.54 lakh involved in 166 cases of which 16 cases involving Rs. 0.31 lakh have been pointed out in audit during 2000-2001 and rest in earlier years. A few illustrative cases involving Rs. 14.48 crore are given in the following paragraphs: -

4.02 Loss of revenue due to non-settlement of excise shops

Under the Bihar Excise (BE)Act, 1915 and Rules framed thereunder, the licences of excise shops for retail outlet of country spirit, foreign liquor and spiced country spirit are settled annually by auction by the Collector. When the upset/reserved fee is not obtained in any case, the Collector of the district may, at his discretion, accept a lower fee, which shall, however, be subject to the approval of the Commissioner. The department also issued (June 1995) instructions to all Collectors/ Deputy Commissioners to operate the unsettled excise shops departmentally.

In 13 Excise districts¹, 77 country spirit, 24 India made foreign liquor (IMFL) and 130 spiced country liquor shops remained unsettled during the years 1997-98 to 1999-2000. No efforts were made either to settle the shops below the reserved fee or to run them departmentally. This resulted in loss of excise revenue of Rs.12.72 crore in the form of licence fee and excise duty.

¹ Araria cum Kishanganj, Begusarai, Bhojpur cum Buxar, Bhagalpur cum Banka, Darbhanga, Gopalganj, Khagaria, Muzaffarpur, Patna, Rohtas cum Kaimur, Saharsa cum Supaul, Siwan and West Champaran (Bettiah).

On these being pointed out (between April 2000 and February 2001), the department stated (between April 2000 and March 2001) that shops could not be settled due to non-availability of bidders and fixation of high reserved fee. The reply is not tenable as in the absence of bidders no efforts were made to run the shops departmentally or to settle them below the reserved fee.

The cases were reported to the Government (May 2001); their reply has not been received (March 2003).

4.03 Non-realisation of additional amount on excess lifting of country spirit

Under the BE Act, 1915 and Rules framed thereunder read with condition of sale notifications (between February 1997 and May 1998), permission for issue of liquor in any month beyond 30 per cent above the approved Minimum Guaranteed Quota (MGQ) for that month, shall be granted to retail licensees after receiving additional amount proportionate to the auction money for the year 1997-98 and at a fixed rate of Rs. 15 per London Proof Litre (LPL) for the years 1998-99 and 1999-2000.

In 3 Excise districts², 157 retail licensees were permitted to lift 69886.30 LPL of country spirit in excess of 30 per cent of the approved MGQ in different months during the years 1997-98 to 1999-2000 without realising the additional amount. This resulted in non-realisation of revenue of Rs. 12.04 lakh.

On these being pointed out (between June and October 2000), the department agreed (between June and October 2000) to take further action. Further reply has not been received (March 2003).

The cases were reported to the Government (May 2001); their reply has not been received (March 2003).

4.04 Short realisation of administrative charges

The Bihar Molasses (Control)(Amendment and Validating) Act, 1999 provides for levy of administrative charges at the rate of Rs. 15 per quintal of molasses having reducing sugar of 37 per cent or more on released molasses to distilleries within the state of Bihar by different sugar mills.

In Excise district of Gopalganj, it was noticed (November 2000) that as per allotment made by excise department, 1.60 lakh quintals of molasses having reducing sugar of 37 per cent and more, were sold to 3 distilleries during the year 1999-2000. The administrative charges amounting to Rs. 2.27 lakh were, however, realised against the recoverable amount of Rs. 24 lakh. This resulted

² Bhojpur cum Buxar, Rohtas cum Kaimur and West Champaran (Bettiah).

in short realisation of administrative charges of Rs. 21.73 lakh calculated at the rate of Rs. 15 per quintal of molasses.

On these being pointed out (November 2000), the department stated (November 2000) that realisation of administrative charges was possible from May 2000 as the notification was received in that month. Further reply has not been received (March 2003).

The cases were reported to the Government (May 2001); their reply has not been received (March 2003).

4.05 Loss of interest due to non-institution of certificate proceedings

Under the provisions of the BE Act, 1915 read with the Bihar and Orissa Public Demands Recovery Act, 1914 arrears of excise revenue is recoverable as arrears of land revenue by charging simple interest at the rate of 12 per cent per annum from the date of initiation of certificate proceedings till the date of realisation. Any delay in initiating certificate proceedings has the effect of loss of interest to the Government as the provisions for charging interest on belated payment covered by certificate takes effect only from the date of signing of the certificates.

In course of audit of Excise district, Patna it was noticed that excise revenue amounting to Rs. 293.77 lakh was outstanding for the years ranging from 1983-84 to 1997-98. No action was, however, taken to initiate certificate proceedings against the defaulters till the date of audit (August 2000). This resulted in loss of interest of Rs. 142.38 lakh calculated for the period from 1991-92 to 1999-2000 due to non- initiation of certificate proceeding besides non recovery of excise revenue amounting to Rs. 293.77 lakh. The amount of interest will increase if calculated from the year it is due.

On these being pointed out (August 2000), the department stated (September 2000) that the case would be reviewed. Further reply has not been received (March 2003).

The cases were reported to the Government (May 2001); their reply has not been received (March 2003).

CHAPTER- 5: Taxes on Vehicles

5.01 Results of Audit

Test check of the records of the transport offices, conducted in audit during the year 2000-2001 revealed non/short levy of motor vehicles tax, fees, penalties, fines, etc. amounting to Rs. 311.85 crore in 812 cases, which broadly fall under the following categories:-

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non/short levy of taxes	267	23.83
2.	Short levy of taxes due to wrong fixation of seating capacity (RLW)	18	0.06
3.	Non-imposition of fee and fines	84	0.03
4.	Other irregularities	443	287.93
Total		812	311.85

During the year 2000-2001, the concerned department accepted under-assessments etc., of Rs.987.87 lakh involved in 644 cases of which 557 cases involving Rs. 605.13 lakh had been pointed out in audit during 2000-2001 and rest in earlier years. A few illustrative cases and a review on "Levy and collection of taxes and fees on vehicles" involving Rs. 238.23 crore are given in the following paragraphs: -

5.02 Levy and collection of taxes and fees on vehicles

5.02.01 Introduction

The tax on vehicles is regulated under the provisions of the Bihar Motor Vehicles Taxations (BMVT) Act, 1994 and Rules made thereunder. The tax imposed under the Act includes road tax, additional motor vehicles tax and differential tax (in case of alteration of vehicles). Every owner of a registered motor vehicle is liable to pay tax at the rates specified in Schedules. The taxes are, however, not payable by an owner if he obtains exemption from payment of tax for a certain period in the prescribed manner. According to instructions issued (June 1988 and November 1990) by the State Transport Commissioner (STC), demand is to be raised against the tax defaulter and requisition for certificate is to be filed for realisation of tax dues wherever necessary.

5.02.02 Organisational set up

The STC is the head of the Motor Vehicles (Transport) Department and deals with all policy matters and administration of Acts and Rules. In performance of his duties, he is assisted by 3 Joint State Transport Commissioners at headquarters, 13 Secretary of Regional Transport Authorities (RTAs), 55 District Transport Officers (DTOs), Motor Vehicles Inspectors (MVIs), the Enforcement Wing (EW) consisting of Enforcement Officers, Inspectors and Sub Inspectors at the district level and 3 Check Posts.

5.02.03 Scope of audit

With a view to ascertaining the efficiency of the Transport Department in ensuring levy/collection of the tax/ fee in accordance with the provisions of the Act/ Rules, a test check of relevant records of S T C office, Patna and 18¹ out of 55 D.T.Os for the years 1995-96 to 2000-2001 was conducted during October 2000 to May 2001. The review also includes points noticed in regular audit of other offices conducted during previous years.

¹ Bokaro, Bettiah, Bhagalpur, Darbhanga, Dumka, Deoghar, Dhanbad, East Champaran (Motihari), Godda, Jamshedpur, Lohardaga, Nalanda (Biharsharif), Purnea, Ranchi, Sahebganj, Saran (Chapra), Rohtas (Sasaram) and Vaishali (Hajipur).

5.02.04 Highlights

- (i) Against 210343 total number of registered transport vehicles in the State the tax paying vehicles were 63183 only which comprised only 30.03 per cent of the total registered vehicles.

[Para 5.02.05(ii)]

- (ii) In 22 District Transport Offices, demand notices were not issued against 67526 owners of tax defaulter vehicles at the end of February 2001 resulting in non-realisation of tax amounting to Rs.181.39 crore.

[Para 5.02.06(a)]

- (iii) There was discrepancy of Rs.49.01 crore in 11092 cases between the figures as per records of 9 District Transport Offices as on 31 March 2000 in respect of number of certificate cases and amount involved and those shown in the records of District Certificate Officers.

[Para 5.02.10(II)]

- (iv) Arrears of Rs. 38.47 crore against 4047 vehicles belonging to Government/ Public Sector Undertakings were not paid even after 30 years.

[Para 5.02.10(III)]

- (v) There was loss of revenue of Rs. 6.18 crore due to incorrect addresses of certificate debtors in 5 District Transport Offices.

[Para 5.02.10(IV)(b)]

- (vi) Due to non-utilisation of system of issuing cheques for deposit of balance of revenue collection into Government account, an amount of Rs. 4.26 crore was retained by 16 collecting banks on 31 March 2001.

[Para 5.02.12 (b)]

- (vii) Non-reconciliation between the departmental figures and the figures shown in the Finance Accounts in respect of tax receipts resulted in huge revenue amounting to Rs.48.76 crore remaining out of Government account.

[Para 5.02.13]

5.02.05(i) Variation between Budget estimates and actuals

A comparison between the figures of Budget estimates for receipts and actuals as per Finance Accounts revealed variations as indicated below:-

(Rupees in crore)			
Year	Budget estimates	Actual receipts	Variation
1995-96	190.00	157.80	(-) 17 %
1996-97	200.00	160.84	(-) 20 %
1997-98	193.90	174.07	(-) 10%
1998-99	220.00	164.96	(-) 25 %
1999-2000	257.99	178.47	(-) 31 %

The actuals were always low against the Budget estimates and the variations ranged between 10 per cent and 31 per cent.

(ii) Position of registration / tax paying vehicles

Information of the total number of transport vehicles registered, paying tax and not paying tax in the State as furnished by the department revealed that at the end of 1995-96 the total number of registered transport vehicles in the State was 170422 of which 47928 (28.12 per cent) had been paying the tax . The number of registered transport vehicles at the end of 1999-2000 was 210343 and that of paying tax was 63183 (30.03 per cent). It would be seen that while there was increase (23.42 per cent) in registered transport vehicles during this period, the percentage of tax paying vehicles did not increase in this ratio.

On this being pointed out, the department stated (June 2001) that the vehicles registered 20-25 years ago were not expected to remain in running condition but they were not deregistered. The reply of the department is not convincing in view of the fact that no action was taken by the department for cancellation of registration of vehicles unworthy for road use.

5.02.06 (a) Lack of control over unpaid taxes

Under the provisions of the BMVT Act, 1994, the tax is to be paid to the Taxing Officer in whose jurisdiction the vehicle has been registered. In case of change of place of residence/ business, the owner can pay tax to the new Registration Authority subject to production of "No Objection Certificates" (NOC) from the previous Taxing Officer as prescribed. Penalty is leviable for non-payment of tax within time. As per STC instructions (June 1988 and November 1990), certificate proceedings are to be initiated against the tax defaulters where necessary.

In 22 District Transport Offices², there were 68474 tax defaulter vehicles as on 31 March 2001 involving tax dues of Rs 182.85 crore for the period between April 1973 and February 2001. Further, though there was nothing on record about change of addresses of owners or surrender of documents of vehicles for securing exemption from payment of tax during the period of non-payment of tax in 67526 cases involving tax dues of Rs 181.39 crore, even primary steps of issuing demand notices were not taken by the concerned DTOs for realisation of dues. In cases where demand notices were issued neither any amount was recovered nor any action was taken for instituting certificate proceedings.

(b) Non/short realisation of tax

According to provisions of the BMVT Act, 1994 and Rules made thereunder, every owner of a registered motor vehicle shall pay road tax or /and additional motor vehicles tax on such vehicle at the rate specified in Schedule I and II. During test check of records of 6 offices of DTOs,³ it was noticed that in respect of 67 motor vehicles, road tax and additional motor vehicles tax for the period between February 1992 and August 2003 were either not levied or levied at lower rates resulting in non/short realisation of revenue amounting to Rs 9.07 lakh (Road tax Rs.0.21 lakh and Additional Motor Vehicles tax Rs.8.86 lakh) besides penalty.

(c) Short realisation of tax due to incorrect grant of concession

Under the Motor Vehicles (MV) Act, 1988, a transport vehicle owned by a college, school or other educational institution and used solely for the purpose of transporting students or staff of the educational institution in connection with any of its activities, is taxable at concessional rate. As per executive instructions issued by the STC in July 1994, unless an educational institution is recognised either by the State of Bihar or Central educational institution, this facility will not be given. This facility was, however, withdrawn by the department (May 1998) and as per instruction issued in September 2000, the tax is to be levied/realised on the basis of actual seating capacity with effect from 14 May 1998.

In 12 District Transport Offices,⁴ transport vehicles not registered in the name of college, school or any educational institution recognised by Bihar/Central educational institution were charged to tax at concessional rate. The taxes at lower rates were realised from these institutions even after

² Aurangabad, Begusarai, Bhagalpur, Bokaro, Deoghar, Dumka, Gaya, Giridih, Godda, Jamshedpur, Lohardaga, Motihari, Muzaffarpur, Nalanda, Nawadah, Patna, Purnea, Ranchi, Rohtas (Sasaram), Sahebganj, Saran (Chapra) and Vaishali (Hajipur).

³ Bokaro, Dhanbad, Gaya, Godda, Jamshedpur and Vaishali (Hajipur).

⁴ Bokaro, Bettiah, Bhagalpur, Dumka, Dhanbad, Gaya, Godda, Jamshedpur, Nalanda, Ranchi, Rohtas (Sasaram) and Vaishali (Hajipur).

withdrawal of the facility for payment of tax at concessional rate resulting in short realisation of tax of Rs53.05 lakh in respect of 72 vehicles for the period between January 1994 and October 2003.

5.02.07 Non-levy/ realisation of trade tax from dealers

Under the provisions of the BMVT Act, 1994, a tax at the annual rate as specified in Schedule III shall be paid by a manufacturer of or a dealer in motor vehicles in respect of the motor vehicles in his possession in the course of his business as a manufacturer or dealer.

In the offices of 9 DTOs⁵, it was noticed that 59 dealers of motor vehicles had not paid trade tax amounting to Rs 53.82 lakh for the period between 1994-95 and 2000-01. The department had not taken any action to realise the same. This resulted in non-realisation of trade tax of Rs 53.82 lakh. Of this, one dealer⁶ alone accounted for Rs 36.22 lakh.

5.02.08 (a) Loss of revenue due to non-assignment of registration mark

Under the provisions of the MV Act, 1988 and Rules made thereunder, where a motor vehicle belonging to other State is intended to be kept in the State for a period exceeding twelve months, the owner on furnishing declaration to that effect is to submit an application accompanied by a 'No Objection Certificate' alongwith appropriate fee at any time within twelve months or within a period of thirty days from the date of expiry of twelve months for assignment of new registration mark to the vehicle. If the owner fails to apply within the prescribed period, he is required to pay a sum which may extend to one hundred rupees and three hundred rupees for the first and second or subsequent offences respectively.

In the offices of 10 DTOs⁷, it was noticed that 5357 motor vehicles pertaining to other States had been plying in the State for more than twelve months. No action to assign them new registration marks was taken by the department. This resulted in non-realisation of revenue of Rs 12.50 lakh including fine of Rs 5.36 lakh during 1995-96 to 1999-2000.

⁵ Bokaro, Bhagalpur, Dhanbad, Dumka, East Champaran (Motihari), Godda, Jamshedpur, Saran (Chapra) and Vaishali (Hajipur).

⁶ M/s TELCO Ltd, Jamshedpur.

⁷ Bokaro, Bettiah, Bhagalpur, Dhanbad, East Champaran (Motihari), Jamshedpur, Patna, Purnea, Saran (Chapra) and Rohtas (Sasaram).

(b) *Loss of revenue due to non-deposit of tax/fee*

Under the provisions of the BMVT Rules, 1994 and executive instructions issued (May 1980 and September 1996), the Taxing Officer, after satisfying that the payable amount has been tendered by the vehicle owner at the bank will issue necessary documents/certificates for which the money has been paid. However, verification of such deposit from Bank Scroll is a must before issue of any document by the DTO.

In 2 offices of DTOs (Bhagalpur and Muzaffarpur), on verification of Bank Scrolls it was noticed (between November 1999 and January 2001) that in respect of 62 cases though the amounts shown to have been deposited were actually not deposited with the banks, the DTOs had issued tax token / driving licences during the period between January 1993 and May 2000 without verifying deposits from the banks. This resulted in loss of revenue of Rs.2.03 lakh for the period between January 1993 and May 2000. However, at the instance of audit, Rs.0.06 lakh was realised by the DTO, Muzaffarpur in November 1999.

On this being pointed out (between November 1999 and February 2001), the DTO, Muzaffarpur stated (November 1999) that demand notice would be issued in other cases while the DTO, Bhagalpur stated (February 2001) that one staff was suspended and action would be taken to cancel the driving licences issued against these payments.

5.02.09 *Incorrect grant of certificates of fitness*

Under the provisions of the BMVT Act, 1994 and Rules made thereunder, if the tax payable in respect of a motor vehicle has not been paid during the prescribed period, the person liable to pay such tax shall pay, together with arrears of tax, a penalty at the prescribed rates. The MV Act, 1988 provides that a transport vehicle shall not be deemed to be validly registered unless it carries a certificate of fitness (CF) granted by the prescribed authority. Further, as per instructions of the STC issued from time to time, the latest one being issued in February 1999, the MVI is to ensure up-to-date payment of tax before issue of CF.

In the course of cross verification of CF registers in MVI offices with Taxation Registers / computer statements furnished by 4 offices of DTOs⁸ it was noticed that in respect of 24 vehicles, CFs were granted though a sum of Rs 9.20 lakh was outstanding against them for realisation. This resulted in non-realisation of tax amounting to Rs 9.20 lakh between October 1990 and March 2000 for various periods.

⁸ Begusarai, Dumka, Giridih and Ranchi.

5.02.10 (I) Pending arrears

The position of total arrears outstanding, their year-wise break-up and stages at which these were pending were not furnished by the STC office. However, as per information furnished by the department, there were certified arrears of Rs 183.40 crore on 31 March 2001 of which Rs 183.33 crore were more than 5 years old.

(II) Correctness of certified arrears

Under the provisions of the Bihar and Orissa Public Demands Recovery (PDR) Act, 1914, the Requiring Officer (RO) sends proposals for filing of certificates to the Certificate Officers (CO) and enters the details of such cases in Register 9. These are in turn entered in Register 10 maintained by the COs for issue of certificates for realisation of dues. According to instructions of the Board of Revenue, monthly comparison of Register 9 with Register 10 is a must.

A test check of records of offices of 9 DTOs⁹ revealed that 32750 certificate cases involving Rs 150.10 crore were pending for disposal as on 31 March 2000. Against this, 21658 certificate cases involving Rs 101.09 crore were shown as pending in respective District Certificate Offices. Thus, 11092 cases involving Rs 49.01 crore remained unregistered. No action was taken by the department to reconcile the difference.

(III) Non-realisation of arrears

As per information made available by the STC office, the position of tax arrears in respect of the motor vehicles belonging to government departments, corporations, undertakings, etc. in 3 offices involving Rs.38.47 crore was as below: -

(Rupees in lakh)					
Sl. No.	Name of District Transport Office	Name of Institution	No. of vehicles	Period of tax dues (between)	Amount
1	Ranchi	Heavy Engineering Corporation Ltd.	27	April 1973 and April 1993	59.45
		MECON Ltd.	08	January 1970 and July 1999	3.29
		CMPDI Ltd.	106	October 1974 and April 1999	115.40
2	Dhanbad	Bharat Coking Coal Ltd.	586	December 1977 and December 1999	624.91
3	STC, Bihar, Patna	BSRTC	NA	N A	1489.82
		Government Departments	3320	April 1961 and March 2000	<u>1554.19</u>
Total			4047		3847.06

⁹ Dhanbad, Gaya, Hazaribagh, Jamshedpur, Muzaffarpur, Nalanda (Biharsharif), Patna, Ranchi and Saran (Chapra).

The figures of the tax dues lying against other institutions were not available with the department.

On this being pointed out (May 2001), the STC stated (May 2001) that demand notices to Government departments have been issued (March 1999 and October 2000) while in other cases information was being collected from DTOs and would be intimated later.

(IV) Non-recovery of tax under certificate cases

(a) Non-furnishing of information by Requiring Officer

Under the BMVT Act, 1994, unpaid motor vehicles tax dues can be recovered by certificate procedure as arrears of land revenue by sending a requisition to the CO by the RO. The PDR Act, 1914, the Rules made thereunder and the Board's executive instructions provide for furnishing by the RO correct addresses of the defaulting vehicle owners against whom certificates are to be enforced. Further, the RO is required to send report on any case called for by the CO.

In 2 District Transport Offices (*Bokaro* and *Saran*), it was noticed that on certificate cases in respect of 39 motor vehicles filed in respective certificate offices for recovery of tax dues pertaining to the period between April 1976 and January 1998 information regarding correct addresses of defaulter owners were called for by COs from ROs (between June 1994 and February 2001). But no compliance has been sent so far (April 2001). These cases involved revenue of Rs.17.59 lakh.

(b) Loss of revenue due to non-traceability of certificate debtors

There is no provision in the PDR Act to drop a certificate proceeding once initiated. However, in 5 offices of DTOs¹⁰ on cross check with records of respective certificate offices, it was noticed that 559 certificate cases involving tax dues of Rs.618 lakh for the period between April 1973 and April 1998 were filed in the concerned Certificate Offices between 1984-85 and 1998-99. Out of these, 50 cases involving Rs 29.40 lakh were dropped and 509 cases of Rs 588.60 lakh were returned to ROs between August 1997 and January 2001 due to incorrect address of certificate debtors. This resulted in non-execution of certificates involving Rs 618 lakh due to non-pursuance of cases by ROs.

¹⁰ Aurangabad, *Bokaro*, *Dumka*, *Purnea* and *Rohtas* (*Sasaram*).

5.02.11 *Non-checking of defaulter vehicles*

Under the provisions of the Bihar Motor Vehicles Rules, 1992, the Enforcement Officer and Mobile Squad Inspectors shall exercise within their jurisdiction, all powers under the Act and Rules made thereunder. This was reiterated in various executive instructions issued by the department from time to time with particular emphasis on checking of local vehicles.

(I) As per information furnished by the department, the checking of vehicles by Enforcement Wing (EW) is as below:-

Year	Total no. of tax defaulter vehicles	Total no. of tax defaulter vehicles checked	Percentage of checking of tax defaulter vehicles (col 3 to 2)
1995-96	1064304	8900	3.82
1996-97	962911	7972	3.53
1997-98	1000958	2245	1.24
1998-99	853172	1582	0.72
1999-2000	1270142	948	0.52

It would be evident from the above that the percentage of checking of tax defaulter vehicles ranged between 0.52 and 3.82 only.

(II) *Non-realisation of revenue on furnishing the list of defaulters to EW*

As per Chief Secretary's letters (November 1991 and January 1999), District Magistrates/Collectors are required to get prepared a list of defaulter vehicle owners and distribute among the subordinate officers under their jurisdiction to seize and prosecute such defaulters in court.

In the offices of DTOs, *Ranchi* and *Dhanbad*, it was noticed that a list of 908 and 1139 defaulter vehicles respectively were given to EW in October 1998 and February 2001 covering tax period between October 1997 and September 1998 and between April 2000 and March 2001 respectively for checking and seizing these vehicles. However, the EW did not submit any report on action taken to the concerned DTOs. It was also noticed in *Ranchi* office that out of 908 vehicles 567 vehicles were still on defaulter list. This resulted in non-realisation of tax dues of Rs.260.03 lakh.

5.02.12 *Disposal of bank drafts received from other States*

As per the Bihar Financial Rules, all receipts must be brought to account without delay and should be credited to Government Account. A register for the bank drafts received from other States is required to be maintained in STC office. These bank drafts are sent to various banks for collection and transfer to the State Bank of India (SBI), Secretariat Branch, Patna. As per

Government instructions (June and November 1978), the SBI, Secretariat Branch, Patna is required to receive the collections from collecting banks and deposit the same to Government account at the end of each week. Further, as per STC instruction (March 1996), the amount deposited in banks is to be transferred to Government account in such manner that all receipts stand transferred to Government account within the same financial year. In case of failure of transfer of collection by banks to Government account, the STC issues cheques against defaulter banks for credit of collections to the SBI, Secretariat Branch. As per Reserve Bank of India instruction (June 1995), interest at the rate of 11.30 per cent per annum is payable by banks on delayed remittances to Government account.

(a) *Non-realisation of revenue for want of revalidation of bank draft*

1018 bank drafts involving Rs.27.17 lakh received from other States on account of composite fee were returned by the banks to the STC between April 2000 and March 2001 for revalidation which were, however, not got revalidated by the department (May 2001) resulting in non-realisation of revenue of Rs 27.17 lakh.

(b) *Non-issue of cheque against balance at banks*

There are 20 banks in Patna where bank drafts relating to composite fee are deposited. In 16 banks¹¹, there was a closing balance of Rs.426.20 lakh as on 31 March 2001 which was collected during 1999-2000 to 2000-01. In respect of the remaining 4 banks the details of closing balance were being called for (May 2001) by the STC from the respective banks.

No action was taken by the department for deposit of collection to Government account by issuing cheque against the banks. This resulted in undue financial aid to banks.

(c) *Delay in deposit of revenue collection by banks*

The collecting banks did not credit the revenue collection through the SBI, Secretariat Branch into Government account within the prescribed time and the delay ranged from more than 1 month to 48 months. The department failed

¹¹ Allahabad Bank, Andhra Bank, Bank of India, Bank of Baroda, Bank of Maharashtra, Corporation Bank, Central Bank of India, Indian Overseas Bank, Indian Bank, Oriental Bank of Commerce, Punjab and Sind Bank, Punjab National Bank, State Bank of Patiala, State Bank of Bikaner and Jaipur, Union Bank of India and Vijaya Bank.

to take effective measures to ensure timely deposit of revenue by banks. This resulted in loss of revenue in the form of interest of Rs 321.16 lakh for different periods falling between 1994-95 and November 2000.

5.02.13 Revenue remaining out of Government Account

As per the Bihar Financial Rules, it is the duty of the controlling officer (STC) to see that all sums due to the Government are regularly and promptly assessed, realised and credited to Government account. In order to ensure that amount credited to Government account has been properly accounted for, reconciliation between departmental figures and those booked in the Accountant General (A&E) office is required to be done regularly.

From information furnished by the STC, it was noticed that there was large discrepancy between the figures of revenue collection reported to Finance Department by the department and those shown in the Finance Accounts of Government of Bihar for the years 1998-99 and 1999-2000 as detailed below:

(Rupees in crore)			
Year	Departmental figure	Figures as per Finance Account	Difference
1998-99	188.15	164.96	(-) 23.19
1999-2000	204.04	178.47	(-) 25.57
Total	392.19	343.43	(-) 48.76

This indicated that Rs.48.76 crore remained unreconciled during 1998-99 and 1999-2000. Similar discrepancy of Rs.62.13 crore for the years 1993-94 to 1997-98 was pointed out in para 5.2.12(a) of the Audit Report of the Comptroller and Auditor General of India (Government of Bihar-Revenue Receipts) for the year 1997-98. The department stated (June 1998) that the work of reconciliation of difference would be entrusted to some responsible officer. The discrepancy, however, persisted. The department did not take any action to reconcile the discrepancy.

The cases were reported to the Government (July and December 2001); their reply has not been received (November 2001).

5.03 Non-realisation of tax from vehicles involved in surrender

Under the BMVT Act, 1994 and Rules made thereunder, when the owner of a motor vehicle does not intend to use his vehicle for certain period not

exceeding six months at a time, he can be exempted from payment of tax by the competent authority provided that his claim for exemption is supported by the required documents such as certificate of registration, fitness certificate, tax token, etc. For the period of non-use of vehicle he is entitled for exemption from payment of tax after following the prescribed procedure. He shall also from time to time furnish undertaking to the concerned Taxation Officer of the extension, if any, of the said period.

(a) In 2 District Transport Offices (Bhagalpur and Motihari), it was noticed (February and March 2001) that documents of 34 motor vehicles were surrendered between March 1997 and April 2000 for non-use. But even after expiry of the specified period the vehicles were kept under surrender without fresh undertaking for extension in contravention of the provisions of the Act. In the absence of fresh undertaking for extension of surrender beyond six months, the vehicle owners were liable to pay tax of Rs. 14.45 lakh for the period from April 1997 to December 2000.

On this being pointed out (February and March 2001), the concerned DTOs stated (February and March 2001) that action would be taken to cancel surrenders. Further reply has not been received (March 2003).

(b) In District Transport Office, Bhagalpur it was noticed (February 2001) that in respect of 11 motor vehicles, road tax and additional motor vehicles tax were not realised for different period falling between January 1993 and December 2000 though the applications for exemption from payment of tax were rejected (between April 1996 and December 2000) on the ground that the vehicles were not found parked at the specified places, as reported by the Motor Vehicle Inspector/District Transport Officer. This resulted in non-realisation of tax amounting to Rs. 12.15 lakh.

On this being pointed out (February 2001), the DTO Bhagalpur stated (February 2001) that demand notices would be issued for realisation of tax dues. Further reply has not been received (March 2003).

The cases were reported to the Government (May 2001); their reply has not been received (March 2003).

CHAPTER – 6: LAND REVENUE

6.01 Results of Audit

Test check of the records of the revenue circles, conducted in audit during the year 2000-2001 revealed non/short levy of cesses, loss of revenue, etc. amounting to Rs. 398.43 crore in 458 cases, which broadly fall under the following categories:-

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non-levy and short levy of cesses and/or interest on arrears of cesses	93	1.45
2.	Non-fixation of commercial rent	80	11.91
3.	Non-settlement of vested land	149	2.98
4.	Non-settlement of <i>sairats</i>	67	1.05
5.	Other irregularities	69	381.04
Total		458	398.43

During the year 2000-2001, the concerned department accepted under assessments etc., of Rs. 16.72 crore involved in 383 cases of which 293 cases involving Rs. 15.21 crore had been pointed out in audit during 2000-2001 and rest in earlier years. A few illustrative cases involving Rs. 13.97 crore are given the following paragraphs: -

6.02 Irregularities in *Bhoodan* Land

(a) Non-settlement of land donated under *Bhoodan Yagna*

Under the provisions of the Bihar *Bhoodan Yagna* Act, 1954, the lands vested in the Bihar *Bhoodan Yagna* Committee are to be granted to landless persons or to a village community, Gram Panchayat or a co-operative society organised by the Committee in the prescribed manner. The grantee of the land shall acquire the same right, title and interest as the donor on such land. The Act also provides for conferment of occupancy right on the grantee over the land granted subject to payment of rent and cesses.

In order to fulfill the objective of *Bhoodan Yagna*, the Government has to provide Government *Amins* to the District *Bhoodan Yagna* Committee (DBYC) for proper survey and distribution of land.

In Rohtas district covered by Rohtas DBYC out of 42636.35 acres of fit *Bhoodan* land (*Gair Mazarua Khas/Malik* land) donated during the period 1954-55, 13514.7425 acres of land were distributed by 2000-2001 leaving a

balance of 29121.6075 acres. The DBYC and State *Bhoodan* Committee Patna, on being enquired, stated (between June 2000 and June 2001) that the lands could not be distributed due to non-posting of sufficient number of Government *Amins*, non-availability of village maps and lack of funds.

Had the Government settled 29121.6075 acres of *Gair Mazarua* (GM) *Khas Bhoodan* land for the last 45-46 years, it would have fetched revenue of Rs. 355.96 lakh in the form of rent and cesses (at the average rate of Rs. 15 per acre per annum and at the prescribed rates of cesses ranging from 6.25 per cent to 145 per cent on land rent applicable from time to time).

On this being pointed out (between June 2000 and June 2001) the department stated (between June 2000 and June 2001) that difficulties of DBYC would be solved through co-ordination between the Government and DBYC.

The cases were reported to the Government (June 2000 and June 2001); their reply has not been received (March 2003).

(b) Non-furnishing of details of donated lands

Government issued instructions (October 1960) to all Revenue Officers to render full co-operation and assistance to the *Bhoodan* Committee workers in collecting relevant details regarding lands in respect of which the *Danpatras* are not complete.

In 2 districts of Rohtas and Bhojpur covered by Rohtas DBYC, an area of 87853.72 acres of *GM khas/malik* land was donated without details/with incomplete details during the year 1954-55, which could not be distributed/settled by the DBYC for want of details of the land. On being enquired it was stated by the DBYC and State Committee, Patna that details of the donated lands were to be furnished by the Anchal offices but not furnished.

Had the details of donated land been obtained/ furnished, it would have fetched to Government a revenue of Rs. 869.49 lakh (Rent Rs. 458.81 lakh and Cess Rs. 410.68 lakh).

On this being pointed out (between June 2000 and June 2001), the department stated that the Anchal Adhikaries were being instructed to furnish details of the donated lands to the DBYC. Further reply has not been received (March 2003).

The cases were reported to the Government (June 2001); their reply has not been received (March 2003).

6.03 Non/short recovery of proportionate income from agricultural market committees

Consequent upon the abolition of intermediary rights in lands under the Bihar Land Reforms Act, 1950, the rights of intermediaries on market places established by them were abolished and the revenue realisable from such markets became the revenue of the Government. Government issued instructions (April 1974) to all Revenue Officers to hand over the management of the market places under their control to the market committees established under the Bihar Agricultural Produce Markets (BAPM) Act, 1960 with the stipulation that 20 per cent of the income of such committees derived from the market places, should be credited to Government account.

On a test check of records and statements furnished to audit (between January and May 2001) in the office of the Managing Director, Bihar State Agricultural Marketing Board, Patna for the years 1995-96 to 1999-2000, it was revealed that the management of market places was handed over by the Revenue and Land Reforms Department between 1974-75 and 1996-97 to 25 Market Committees in 14 districts¹ established under the BAPM Act, 1960, but against a sum of Rs. 68.28 lakh (20 per cent of the income) payable by the Market Committees for the period from 1995-96 to 1999-2000 a sum of Rs. 57.13 lakh only was credited to Government account leaving a balance of Rs. 11.15 lakh. The department had not taken any action to realise the balance amount.

The matter was pointed out to the department (June 2001); their reply has not been received (March 2003).

The cases were reported to the Government (June 2001); their reply has not been received (March 2003).

6.04 Non-fixation and non-realisation of land rent

Under the provisions of the Bihar Tenancy Act, 1885 amended with effect from 26 August 1993, a *raiyyat*² may with previous permission of the Collector use his land for purpose other than those specified in the original Act. The Collector, before giving such permission shall re-determine the rent of such land in the prescribed manner to the extent of 5 per cent but not less than 3 per cent of the market value of such land. Provided further that if a *raiyyat* has not taken prior permission for such use, the Collector may give post-facto permission on payment of double the amount of rent which he would have been liable to pay, had he applied in time for the period between the date of use or the date of commencement of this Act and the date of application or detection, as the case may be.

¹ Aurangabad, Buxar, East Champaran (Motihari), Gaya, Jahanabad, Madhubani, Muzaffarpur, Patna, Purnea, Saharsa, Samastipur, Sitamarhi, Supaul and West Champaran (Bettiah).

² Raiyyat-tenant

In 10 Revenue Anchals³ in 7 districts⁴, 327 *raiya*ts having tenancy for agricultural purposes converted 63 acres of land for the purposes other than those enumerated in the Act by constructing/installing thereon shops, petrol pumps, saw mills, cinema halls and hotels during the period from 1950-51 to 1999-2000. Action to regularise the occupancy by refixing rent under the existing laws had not been taken in any of these cases till the date of audit (between June 2000 and January 2001) and the *raiya*ts have been continuing to hold their tenancy on agricultural rent. This resulted in non-realisation of revenue of Rs.112.38 lakh for the period from 1995-96 to 1999-2000.

On these being pointed out (between June 2000 and January 2001), the concerned Anchal Adhikaris stated (between June 2000 and January 2001) that action was being taken to realise the rent. Further replies have not been received (March 2003).

The cases were reported to the Government (May 2001); their reply has not been received (March 2003).

6.05 Non-removal/settlement of encroachment on public land

Under the Bihar Public Land Encroachment Act, 1956, if a person has encroached or is responsible for the continuance of any encroachment upon any public land, he may be served a notice requiring him to vacate the encroachment or to settle such public land with such person on payment of rent and damages, for the use of such land, as per rules laid down in the Bihar Government Estates (*Khas Mahal*) Manual, 1953. Accordingly, in case of impairment of the value of public land by using it for residential purposes, *salami* at the prevailing market value of such land together with annual residential rent at one fiftieth of such *salami* is payable. Mention was made regarding encroachment of Government land in Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2000 {paragraph 6.02(B)}.

In 3 Revenue Anchals⁵ of 2 districts (Begusarai and Patna) it was noticed (between July and October 2000) that 17 persons had encroached the land measuring 0.2406 acres by setting up houses for residential purposes. However, no action was taken for eviction or regularisation of encroachment of the said land. This resulted in non-realisation/fixation of *salami* and residential rent of Rs. 22.51 lakh.

On these being pointed out (between July and October 2000) the concerned Anchal Adhikaris stated (between July and October 2000) that action for

³ Barbigaha, Bairgania, Bhagwanpur (Begusarai), Khaira, Biharsharif, Bhagwanpur (Bhabua), Giriyak, Jamui, Kudhni and Rahui.

⁴ Begusarai, Bhabhua, Jamui, Muzaffarpur, Nalanda, Sheikhpura and Sitamarhi.

⁵ Begusarai, Phulwarisarif and Patna Sadar.

eviction of encroachment was being taken. Further reply has not been received (March 2003).

The cases were reported to the Government (April and May 2001); their reply has not been received (March 2003).

6.06 Non-levy of cesses on holdings exempted from payment of land rent

Under the Bihar Land Rent (Exemption from Payment) Act, 1982 Government exempted with effect from 1 April 1978 small holdings upto 3 hectares in seven districts of Chotanagpur and Santhal Pargana Civil Divisions and holdings upto 2 hectares in other districts of the State from levy of land rent. However, as per the Act, such holdings were not exempted from levy of various cesses like road cess, education cess, health cess and agricultural development cess leviable under the relevant Cess Act. In September 1982, Government while communicating the revised rates of different cesses had also instructed all the Revenue Officers in the State to levy and collect cesses in respect of all tenants (*Raiyats*) including those who are exempted from payment of land rent, as aforesaid.

In 7 Revenue Anchals⁶ in 4 Districts⁷ it was noticed (between April and November 2000) that cesses were not levied in respect of holdings exempted from payment of land rent. The total non-levy of cesses worked out to Rs. 19.19 lakh for the years 1996-97 to 1999-2000.

On these being pointed out (between April and November 2000), the concerned Anchal Adhikaries, stated (May and November 2000) that action would be taken. Further reply has not been received (March 2003).

The cases were reported to the Government (May 2001); their reply has not been received (March 2003).

6.07 Non-accounting and unauthorised diversion of departmental receipts towards expenditure

Under the provisions of the Bihar Financial Rules, Volume I, it is the duty of the departmental controlling officers to see that all sums due to Government are regularly and promptly assessed, realised and duly credited in the Public Account. Further, the Bihar Treasury Code also provides that all moneys received by or tendered to Government servants on account of the revenues of the State shall without undue delay be paid in full into the treasury or into the bank.

⁶ Biharsharif, Banmankhi, Chand, Harnaut, Manihari, Rahui and Sarmera.

⁷ Bhabhua, Katihar, Nalanda and Purnea.

In Revenue Anchal, Paru (Muzaffarpur) it was noticed (June 2000) that a sum of Rs. 6.16 lakh collected on account of Land Revenue and Medical and Public Health was spent under the other heads of expenditure instead of depositing the same into treasury. This resulted in non-accounting of the amount under the relevant revenue head and its unauthorised diversion towards expenditure.

On this being pointed out (June 2000), the Anchal Adhikari stated (June 2000) that due to non-receipt of allotment in the concerned expenditure head the diversion of departmental receipt was made.

The cases were reported to the Government (May 2001); their reply has not been received (March 2003).

CHAPTER- 7: OTHER TAX RECEIPTS

7.01 Results of Audit

Test check of the records of the following receipts, conducted in audit during the year 2000-2001 revealed under assessment of tax, fee, duty and loss of revenue etc. amounting to Rs. 64.92 crore in 7677 cases which broadly fall under the following categories: -

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
A. STAMPS AND REGISTRATION FEES			
1	Short levy due to misclassification of documents	30	0.01
2	Irregular grant of exemption	68	0.39
3	Short realisation of Stamp Duty and Registration Fee due to late receipt of revised rates	87	0.28
4	Other irregularities	7452	22.50
Total		7637	23.18
B. TAXES ON SUGARCANE			
1.	Non-levy of interest on arrears of tax	6	1.74
2.	Non-recovery of tax on removal of sugar from factory	7	1.46
3.	Other irregularities	3	0.59
Total		16	3.79
C. P.G.T / ENTRY TAX			
1.	Non-registration/non-levy of Entry Tax/penalty	9	2.05
2.	Suppression/non-payment of Entry Tax	3	0.83
3.	Other irregularities	2	33.24
Total		14	36.12
D. ELECTRICITY DUTY			
1.	Short levy of surcharge	3	0.36
2.	Non-realisation of demand of Electricity Duty	1	0.70
3.	Non-levy of Penalty on arrears of Electricity Duty	1	0.54
Total		5	1.60
E. ENTERTAINMENTS TAX			
1.	Short levy of tax	2	0.10
2.	Short payment of Entertainments Tax	1	0.04
3.	Other irregularities	2	0.09
Total		5	0.23
Grand Total		7677	64.92

During the year 2000-2001, the concerned departments accepted under assessment etc. of Rs. 0.31 crore involved in 4069 cases pointed out in audit during 2000-2001. A few illustrative cases involving Rs. 2.82 crore are given in the following paragraphs: -

A. Stamps & Registration Fees

7.02 Incorrect grant of exemption on mortgage deeds

By issue of a notification in June 1996, the Government exempted the instruments executed by any person for securing loan not exceeding two lakh rupees from Nationalised Banks and Land Development Banks to meet expenditure for certain special purposes from levy of Stamp Duty and Registration Fees.

In 6 District Sub-Registrar¹ (DSR) Offices and 3 Sub-Registrar (SR) Offices (Forbesganj, Jokihat and Mahnar), it was noticed (between August and December 2000) that 304 instruments valued at Rs.566.25 lakh executed between the years 1995 and 1997 for securing loans from banks other than Nationalised Banks and Land Development Banks were incorrectly exempted from payment of Stamp Duty and Registration Fees of Rs.49.83 lakh.

On these being pointed out (between August and December 2000) DSR, Jamui stated (August 2000) that action for realisation was being taken. DSRs, Katihar, Araria, Supaul and SR, Jokihat stated (November and December 2000) that exemptions were not allowed after receipt of Government instructions (July 1997). The reply is not tenable as no action was taken to realise the amount of the cases exempted prior to July 1997. In other 4 offices (Sheikhpura, Vaishali, Forbesganj and Mahnar) it was stated (between August and September 2000) that the cases would be reviewed. Further reply has not been received (March 2003).

The cases were reported to the Government (May 2001); their reply has not been received (March 2003).

¹ Araria, Jamui, Katihar, Sheikhpura, Supaul and Vaishali.

B. Electricity Duty

7.03 Short levy of surcharge

Under the provisions of the Bihar Electricity Duty Act, 1948, surcharge at the rate of two paise per unit is leviable on the energy sold or consumed by a licensee with effect from 1 August 1985.

In 2 Commercial Taxes Circles (Muzaffarpur and Samastipur), it was noticed (May 2000) that 3 licensees² sold 19.10 crore units of energy during the period 1990-91 to 1997-98 but the assessing officers while finalising (between August 1998 and December 1999) the assessment levied surcharge of Rs.2.20 lakh against leviable surcharge of Rs.38.19 lakh. Thus, there was short levy of surcharge of Rs.35.99 lakh.

On these being pointed out (May 2000), the DCCT, Muzaffarpur in 2 cases stated (May 2000) that revised demand notices have been issued and in case of ACCT Samastipur it was stated (June 2000) that the case would be reviewed. Further reply has not been received (March 2003).

The cases were reported to the Government (May 2001); their reply has not been received (March 2003).

C. Taxes on Sugarcane

7.04 Short payment of tax on purchase of sugarcane

Under provisions of the Bihar Sugarcane (Regulation of Supply and Purchase) Act, 1981, tax at the rate of Re.1 per quintal is leviable on entry of sugarcane into a specified local area for consumption or use of, or sale to a factory situated therein or on the purchase of sugarcane by or on behalf of occupier of a sugar factory. The Act further provides that occupier of any factory shall not remove the sugar from the factory until the tax payable thereon is paid and certificate of payment is obtained from the Cane Officer concerned. The Act does not provide for any exemption from payment of tax or permit part payment.

During the crushing season 1999-2000, 4 sugar factories³ of the State and 1 sugar factory⁴ of Uttar Pradesh had purchased 118.84 lakh quintals and 3.02 lakh quintals of sugarcane respectively. However, they paid tax of Rs.75.05

² 1. Executive Engineer, Electric Supply Division (North), Samastipur.

2. Executive Engineer, Electric Supply Division, Maripur, Muzaffarpur.

3. Executive Engineer, Electric Supply Division, Bhagwanpur, Muzaffarpur.

³ Bagha, Majhoulia, Motihari, Sasamusa

⁴ Sevrahi

lakh and Rs.1.20 lakh against Rs. 118.84 lakh and Rs3.02 lakh respectively. Thus, there was short payment of tax of Rs.45.61 lakh.

On this being pointed out (March 2001), the department stated (May 2001) that a sum of Rs. 19.09 lakh has been realised from 3 Sugar factories. Further reply has not been received (March 2003).

The cases were reported to the Government (May 2001); their reply has not been received (March 2003).

7.05 Non-levy of interest on arrears of tax

Under the provisions of the Bihar Sugarcane (Regulation of Supply and Purchase) Act, 1981 and rules framed thereunder, on arrears of tax on purchase of sugarcane payable by the occupier of a sugar factory, interest shall be recoverable at the rate of 11 per cent per annum, subject to change in bank rates.

In the office of the Cane Commissioner, Patna, arrears of tax aggregating Rs. 13.65 crore pertaining to the years upto 1994-95 and 1995-96 to 1998-99 on account of sugarcane purchased by sugar factories was outstanding for realisation during the year 1999-2000. Interest amounting to Rs.150.12 lakh payable on the arrears of tax was neither levied nor recovered.

On this being pointed out (March 2001), the department stated (June 2001) that action was being taken to recover the amount. Further reply has not been received (March 2003).

The cases were reported to the Government (May 2001); their reply has not been received (March 2003).

CHAPTER- 8: Mineral Concessions, Fees and Royalties

8.01 Results of Audit

Test check of the records of mining offices conducted in audit during the year 2000-2001 revealed under assessments and losses of rent, royalty, fee, etc. amounting to Rs. 14.58 crore in 52 cases, which broadly fall under the following categories:-

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Non/short levy of royalties and cesses	8	0.17
2.	Non-levy of interest	10	0.06
3.	Non-levy of penalty/fine	15	5.13
4.	Non-levy of stamp duty and registration fees	7	0.99
5.	Non/ short levy of auction money due to non-settlement/irregular settlement of sand ghat	3	0.02
6.	Non-initiation of certificate proceedings	3	7.27
7.	Other irregularities	6	0.94
	Total	52	14.58

During the year 2000-2001, the concerned department accepted under assessment etc. of Rs. 7.66 crore involved in 6 cases pointed out in audit during 2000-2001. A few illustrative cases involving Rs. 9.57 crore are given in the following paragraphs: -

MINOR MINERALS

8.02 Non/short levy of penalty

Under the Bihar Minor Mineral Concession Rules (Rules), 1972 and notification of Government dated 27 March 1992 issued thereunder, every brick kiln owner / brick earth remover shall pay amount of the prescribed consolidated royalty based on categories of the brick-kilns before issue of permit. Further, under Rule 40(8), whoever removes minor mineral without valid lease/permit shall be liable to pay the price thereof as penalty and the Government may also recover from such person rent, royalty or taxes, as the case may be, for the period during which the land was occupied by such person without any lawful authority.

In 14 District Mining Offices, it was noticed (between May 1997 and September 2000) that 4005 brick kilns were operated (brick season 1994-95 to 1999-2000) without payment of prescribed consolidated royalties and without

obtaining any valid permit. Out of these, in 3425 cases, no demand for recovery of price of mineral (brick earth) was raised while in 580 cases relating to 7 District Mining Offices¹ demands for penalty ranging from Rs.2,000 to Rs.22,000 were raised without reference to price of mineral. Taking the minimum price of mineral equivalent to royalty and deducting the amount of penalty already levied therefrom, there was non/short levy of penalty amounting to Rs. 883.21 lakh as shown in the Annexure.

On these being pointed out (between May 1997 and September 2000), District Mining Officer, Chapra stated (September 2000) that there was no provision for levy of penalty. The reply was not tenable as operation of brick-kilns without permits attracted levy of penalty under Rule 40(8) of the BMMC Rules, 1972. However, DMO Gaya stated (August 2000) that penalty would be imposed. Further reply has not been received (March 2003).

The cases were reported to the Government (May 2000 and May 2001); their reply has not been received (March 2003).

8.03 Loss of revenue due to non-execution of deeds of settlement

Under the Rules, settlement of sand is done for one calendar year by the Collector of the district by public auction and a deed of settlement is executed on payment of stamp duty as prescribed in the Indian Stamp Act, 1899.

In 5 District Mining Offices², 161 sand bearing areas were settled at Rs.11.79 crore for the years 1999 and 2000 without executing proper deeds of settlement as required under the Rules. Thus, there was loss of stamp duty of Rs.74.16 lakh.

On these being pointed out (between April and September 2000), DMO, Munger stated (April 2000) that the matter would be referred to the Government and the other DMOs contended (May and September 2000) that stamp duty was not payable on account of such deeds being optional. The contention was not tenable since as per Rule 11, a deed is required to be executed in all such cases.

The cases were reported to the Government (May 2001); their reply has not been received (March 2003).

¹ Biharsharif, Chapra, Gaya, Madhubani, Patna, Rohtas and Sitamarhi.

² Gaya, Patna, Munger, Jamui and Rohtas.

CHAPTER – 9 : Other Non-Tax Receipts

9.01 Results of Audit

Test check of the records of the following receipts conducted in audit during the year 2000-2001, revealed losses/non-recovery of revenue etc. amounting to Rs. 17.32 crore in 57 cases which broadly fall under the following categories:-

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
FOREST RECEIPTS			
1.	Loss of revenue due to departmental lapses	6	3.72
2.	Less raising of demand	3	0.40
3.	Loss of revenue due to delay in initiation of certificate cases	1	0.31
4.	Loss of revenue due to non-realisation of sales tax	2	0.09
5.	Other irregularities	6	0.30
	Total	18	4.82
WATER RATES			
1.	Loss of revenue due to non assessment of target of irrigation	13	1.39
2.	Delay in assessment of water rates	15	6.72
3.	Other irregularities	11	4.39
	Total	39	12.50
	G. Total	57	17.32

During the year 2000-2001, the concerned department accepted under assessment etc. of Rs. 5.38 crore involved in 14 cases of which 5 cases involving Rs. 3.41 crore had been pointed out in audit during 2000-2001 and the rest in earlier years. A few illustrative cases involving Rs. 1.12 crore are given in the following paragraphs:-

A. FOREST RECEIPTS

9.02 Non raising of demand towards diversion of forest land for non-forest purposes

With a view to compensating loss of productive capacity of forest land, Government issued orders in November 1991 for realisation of Net Present Value (NPV) of forest land from user agencies in case of diversion of the land for non-forest purposes.

The Government vide resolution of May 1998 fixed the revised NPV rates for the period upto 1997-98 and decided that in case the rates are not revised for

any financial year the same would be fixed after adding 10 per cent to the rate of NPV for the preceding financial year.

In Gaya Forest Division, it was noticed (August 2000) that 11.62 hectares of forest land was utilised by 3 user agencies¹ in 3 cases for non-forest purposes. The department failed to raise demands for NPV till the date of audit (August 2000). This resulted in non-raising of demand of Rs.39.73 lakh.

On this being pointed out (August 2000), the department raised (March 2001) demand for NPV of Rs. 39.73 lakh against the user agencies. Report on realisation has not been received (March 2003).

The case was reported to the Government (May 2001); their reply has not been received (March 2003).

9.03 Non-accounting of departmental receipts

The Bihar Treasury Code provides that money received by the officer of the Forest Department shall be paid as soon as possible into the treasury for credit as forest remittances. Rules further provide that if a Forest Officer utilises the receipts for current expenditure, he must, before the end of the month, send to the Treasury Officer a cheque for the amount thus utilised, drawn in his own favour and endorsed by himself with the words "Received Payment by Transfer Credit to the Forest Department".

In course of audit of records of Sanjay Gandhi Biological Park, Patna it was noticed (February 2001) that as per Revenue Register a sum of Rs.21.60 lakh was realised on account of sale of tickets of aquarium, boating and mini-train during the period between November 1997 and March 2000. However as per cash book a sum of Rs.12.32 lakh only was deposited into the treasury upto March 2000. Thus a sum of Rs.9.28 lakh remained outside the Government account.

On this being pointed out (February 2001), the Director of the Park stated (February 2001) that the case was being examined. Further reply has not been received (March 2003).

The case was reported to the Government (May 2001); their reply has not been received (March 2003).

B. WATER RATES

9.04 Non-raising of demand due to non-preparation of *Khatiani*

Under the Bengal Irrigation Act, 1876 and Rules framed thereunder, as applicable to Bihar, various formalities such as preparation of statement of

¹ Ajay Jhanjhari, Nawada, 2. Vivek Jhanjhari, Nawada and 3. Smt. Prem Jain, Nawada.

land irrigated (*Sudkar*), preparation of detailed measurements cultivator-wise (*Khesra*) and preparation of demand statements (*Khatiani*) are required to be completed within the stipulated period of 99 days in respect of *Kharif* and 68 days for *Rabi* crops for the purpose of recovery of water rates.

In 2 Canal Divisions (East Sone Canal Division, Aurangabad and Sone Canal Division, Dehri), it was noticed (between July and September 2000) that *Khatiani* in respect of 94692.58 acres of land (*Kharif* 61098.64 acres, *Rabi* 33593.94 acres) irrigated during the years 1998-99 and 1999-2000 was not prepared and despatched to revenue division for raising demand and for collection of revenue in time. This resulted in non-raising of demand of water rates amounting to Rs 62.93 lakh.

On this being pointed out to the department (between July and September 2000), the Superintending Engineer, Aurangabad stated (October 2001) that the entire amount of Rs. 48.14 lakh has since been realised while the Executive Engineer, Dehri stated (July 2000) that due to shortage of *Amins*, *Khatiani* work was not completed. The reply is not tenable as priority should have been given for preparation of *Khatiani* in the interest of Government revenue. Further reply has not been received (March 2003).

The case was reported to the Government (May 2001); their reply has not been received (March 2003).

Patna
The

17 APR 2003



(Birendra Kumar)
Accountant General (Audit)
Bihar

Countersigned

New Delhi
The

12.8 APR 2003



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



ANNEXURE
Non/short levy of penalty
(Referred to in Para No. 8.02)

(Rupees in lakh)

Sl. No.	Name of District Mining Office	Year	Category of brick kilns	No. of kilns	Amount of consolidated royalty per kiln (Rupees)	Total Amount of royalty leviable	Penalty leviable equivalent to royalty	Penalty levied	Non/short levy of penalty	
1	Patna	1996-97	II	13	45000	5.85	5.85	0.33	5.52	
			V	13	22500	2.93	2.93	-	2.93	
		1998-99 to 1999-00	II	37	45000	16.65	16.65	-	16.65	
			IV	9	30000	2.70	2.70	-	2.70	
			V	141	22500	31.73	31.73	-	31.73	
2	Nawadah	1998-99 to 1999-00	IV	7	30000	2.10	2.10	-	2.10	
			V	328	22500	73.80	73.80	-	73.80	
		VI	1	2500	0.03	0.03	-	0.03		
3	Rohtas (Sasaram)	1998-99	V	278	22500	62.55	62.55	9.80	52.75	
			IV	6	30000	1.80	1.80	-	1.80	
		1999-00	V	255	22500	57.38	57.38	-	57.38	
4	Chapra	1998-99	IV	4	30000	1.20	1.20	0.1	1.10	
			V	70	22500	15.75	15.75	1.75	14.00	
		1999-00	IV	9	30000	2.70	2.70	0.23	2.47	
			V	105	22500	23.63	23.63	2.60	21.03	
5	Jamui	1998-99 & 1999-00	IV	11	30000	3.30	3.30	-	3.30	
			V	43	22500	9.68	9.68	-	9.68	
6	Munger	1998-99	IV	6	30000	1.80	1.80	-	1.80	
			V	10	22500	2.25	2.25	-	2.25	
7	Gaya Gaya Jehanabad Jehanabad	1998-99	IV	27	30000	8.10	8.10	-	8.10	
			V	310	22500	69.75	69.75	-	69.75	
		1999-00	IV	15	30000	4.50	4.50	0.33	4.17	
			V	340	22500	76.50	76.50	11.64	64.86	
		1998-99	IV	4	30000	1.20	1.20	-	1.20	
			V	169	22500	38.03	38.03	-	38.03	
			1999-00	IV	18	30000	5.40	5.40	0.19	5.21
				V	197	22500	44.32	44.32	1.80	42.52
8	Bettiah	1998-99	IV	27	30000	8.10	8.10	-	8.10	
			V	156	22500	35.10	35.10	-	35.10	
9	Madhubani	1994-95 to 1996-97	V	24	22500	5.40	5.40	2.12	3.28	
10	Motihari	1998-99	IV	10	30000	3.00	3.00	-	3.00	
			V	284	22500	63.90	63.90	-	63.90	
11	Sitamarhi	1997-98 & 1998-99	V	342	22500	76.95	76.95	7.44	69.51	
12	Siwan	1995-96 & 1996-97	IV	6	30000	1.80	1.80	-	1.80	
			V	283	22500	63.68	63.68	-	63.68	
13	Vaishali	1997-98 & 1998-99	IV	24	30000	7.20	7.20	-	7.20	
			V	254	22500	57.15	57.15	-	57.15	
14	Bihar Sharif	1998-99	IV	4	30000	1.20	1.20	0.20	1.00	
			V	86	22500	19.35	19.35	4.65	14.70	
		1999-00	IV	2	30000	0.60	0.60	-	0.60	
			V	77	22500	17.33	17.33	-	17.33	
Total				4005		926.39	926.39	43.18	883.21	

