

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

**FOR THE YEAR ENDED
31 MARCH 2005**

(REVENUE RECEIPTS)

GOVERNMENT OF JHARKHAND

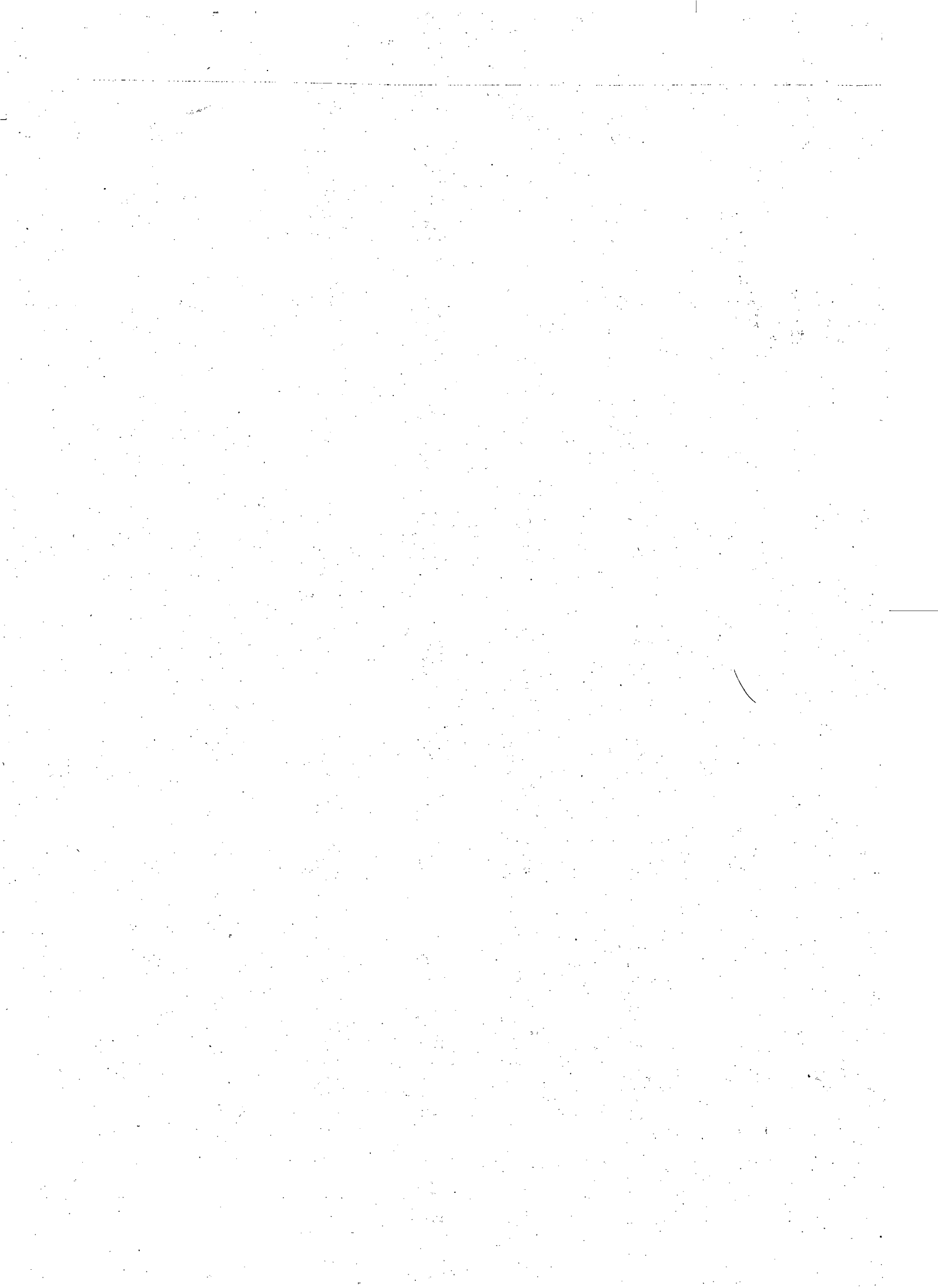


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PREFACE

This Report for the year ended 31 March 2005 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 2004-2005 as well as those which came to notice in earlier years but could not be covered in previous Reports.



OVERVIEW

This Report contains 29 paragraphs including two reviews relating to non/short levy/loss of tax involving Rs 508.13 crore. Some of the major findings are mentioned below:

I. General

The total receipts of Government of Jharkhand for the year 2004-05 were Rs 6,660.51 crore against Rs 5,637.77 crore during 2003-04. The revenue raised by the State Government amounted to Rs 3,435.24 crore comprising tax revenue of Rs 2,382.79 crore and non tax revenue of Rs 1,052.45 crore. The receipts from Government of India were Rs 3,225.27 crore (State's share of divisible Union taxes: Rs 2,366.40 crore and grants in aid: Rs 858.87 crore). Thus, the State Government could raise only 52 *per cent* of total revenue. Taxes on sales, trade etc. (Rs 1,881.53 crore) and non ferrous mining and metallurgical industries (Rs 937.41 crore) were the major source of tax and non tax revenue respectively during the year 2004-05.

[Paragraph 1.1, 1.1.1, 1.1.2 and 1.1.3]

The percentage of cost of collection in respect of state excise and stamps and registration fees during the year 2004-05 was notably higher than the all India average percentage for the year 2003-04.

[Paragraph 1.4]

Test check of 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 2004-05 revealed under assessment/short levy/loss of revenue amounting to Rs 1,100.08 crore in 31,114 cases. During the year 2004-05, the concerned departments accepted under assessments etc of Rs 417.09 crore involved in 10,559 cases of which 8,884 cases involving Rs 171.36 crore had been pointed out in audit during 2004-05 and the rest in earlier years.

[Paragraph 1.10]

The number of inspection reports and audit observations issued upto December 2004 but not settled by June 2005 stood at 3,713 and 17,937 respectively involving Rs 2,935.29 crore. In respect of 1,284 inspection reports issued between 1980-81 and 2002-03, even the first replies have not been received though these were required to be furnished within one month of their receipt.

[Paragraph 1.11]

II. Taxes on sales, trade etc.

Cross verification of data regarding receipt/purchase of goods collected from Andhra Pradesh, Uttar Pradesh, West Bengal, Delhi, Karnataka, Maharashtra and Tamil Nadu with the records of 65 dealers in 14 commercial taxes circles of the State revealed suppression of sales/purchases, use of unauthorised forms

and the dealers carrying the business without getting themselves registered with the department resulting in short levy/evasion of tax amounting to Rs 6.77 crore including penalty.

[Paragraph 2.2]

In seven commercial taxes circles, suppression of sales/purchase turnover of Rs 147.19 crore by 24 dealers resulted in short levy of tax amounting to Rs 19.07 crore including penalty of Rs 9.12 crore.

[Paragraph 2.3]

In one commercial taxes circle, in the case of two dealers, incorrect allowance of exemption on account of transit sale without transfer of documents of title of goods effected during the movement of goods resulted in incorrect allowance of exemption amounting to Rs 9.41 crore including additional tax and surcharge.

[Paragraph 2.4]

In one commercial taxes circle, incorrect determination of gross turnover by the assessing officer in case of a dealer resulted in short levy of tax amounting to Rs 7.05 crore.

[Paragraph 2.5]

In three commercial taxes circles, in case of six dealers, incorrect allowance of concessional rate of tax on inter State sales valued at Rs 25.45 crore not supported by prescribed declaration forms resulted in short levy of tax of Rs 1.57 crore.

[Paragraph 2.6]

III. State excise

In 12 excise districts, non settlement of 227 retail excise shops and failure of the department to run them departmentally resulted in loss of revenue of Rs 24.31 crore.

[Paragraph 3.2]

IV. Taxes on vehicles

A review, **Working of Motor Vehicles Department** revealed as under:

- Taxes amounting to Rs 22.43 crore from 2,432 defaulter vehicles were not collected.
- Non/short realisation of trade tax of Rs 90.73 lakh from 45 dealers.

[Paragraph 4.2.9]

- Loss of interest of Rs 2.36 crore due to delay in transfer of revenue by collecting banks.

[Paragraph 4.2.14]

- Loss of interest of Rs 74.77 lakh due to non initiation of certificate proceedings.

[Paragraph 4.2.15]

V. Land Revenue

In one revenue district, there was loss of revenue of Rs 178.58 crore in shape of *salami*, penal rent and interest during the period from 1999-2000 to 2003-04 due to non renewal of leasehold property.

[Paragraph 5.2]

VI. Other Tax Receipts

A review, **Entry of Goods into Local Areas** revealed as under:

- Cross verification of records of commercial taxes circles with the data of scheduled goods collected from outside the State revealed that 58 dealers of scheduled goods were neither registered nor had they paid entry tax of Rs 23.68 crore on entry of goods into the State. Department failed to conduct proper market survey to bring them in tax net.

[Paragraph 6.2.6]

- Cross verification of records of three commercial taxes circles with the data collected from Office of the Principal Director, Commercial Audit, Central Excise Department and green road permits issued to the dealer revealed that three dealers of coal (imported) and iron and steel neither paid entry tax amounting to Rs 94.70 crore nor was it levied by the department.

[Paragraph 6.2.7]

- Two dealers failed to deposit the entry tax due (in form of admitted tax) on import value of coal (imported), on due dates. Minimum penalty amounting to Rs 44.70 crore though leviable was not levied.

[Paragraph 6.2.8]

- Government suffered loss of entry tax of Rs 6.09 crore due to delay in notifying rates of scheduled goods.

[Paragraph 6.2.9]

- Non adherence to the internal control measures resulted in short levy of tax amounting to Rs 11.45 crore including penalty of Rs 8.59 crore on suppressed turnover.

[Paragraph 6.2.10]

In the office of District Sub Registrar, Ranchi, additional stamp duty amounting to Rs 55.69 lakh was not levied on 270 documents valued at Rs 7.96 crore executed during 2002-03 and 2003-04.

[Paragraph 6.3]

In one commercial taxes circle, in case of a licensee, electricity duty was short levied by Rs 1.48 crore due to application of incorrect rate of duty.

[Paragraph 6.7]

In one commercial taxes circle, in case of a licensee, penalty amounting to Rs 9.69 crore was not levied for non payment of surcharge on due date.

[Paragraph 6.8]

VII. Mineral Concession, Fees and Royalties

In one district mining office, 2.84 lakh MT deshale reject coal was despatched between March 1999 and February 2002 without realising royalty of Rs 1.42 crore.

[Paragraph 7.3]

VIII. Other Non Tax Receipts

Non disposal of seized timber/*katha* in 77 cases during the year 2003-04 in four forest divisions resulted in blockage of revenue of Rs 35.90 lakh due to non obtaining of permission from the court.

[Paragraph 8.2]

Non completion of *khesras* and *khatiani* etc. required for assessments of water rates recoverable from beneficiaries, resulted in non raising of demand of revenue amounting to Rs 16.49 lakh.

[Paragraph 8.4]

Chapter -I: General

1.1 Trend of revenue receipts

The tax and non tax revenue raised by the Government of Jharkhand during the year 2004-05, the State's share of divisible Union taxes and grants in aid received from Government of India during the year and the corresponding figures for the period from 15 November 2000 to 2003-04 are given below:

(Rupees in crore)						
Sl. No		15.11.2000 to 31.3.2001	2001-02	2002-03	2003-04	2004-05
I.	Revenue raised by State Government					
	• Tax revenue	697.10	1,585.48	1,750.30	1,986.22	2,382.79
	• Non tax revenue	348.59	851.88	987.14	1,105.55	1,052.45
	Total	1,045.69	2,437.36	2,737.44	3,091.77	3,435.24
II.	Receipts from Government of India					
	• State's share of divisible Union taxes	582.42	1,603.19	1,702.52	1,979.73	2,366.40
	• Grants in aid	336.06	454.47	496.82	566.27	858.87
	Total	918.48	2,057.66	2,199.34	2,546.00	3,225.27
III.	Total receipts of the State Government (I & II)*	1,964.17	4,495.02	4,936.78	5,637.77	6,660.51
IV.	Percentage of I to III	53	54	55	55	52

The above table indicates that during 2004-05, the State Government could raise only 52 per cent of the total revenue receipts (Rs 6,660.51 crore) and 48 per cent of receipts were from Government of India. The contribution of revenue raised by the State Government to total revenue receipts decreased by three per cent as compared to the year 2003-04.

* For details, please see Statement No.11 - Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of the Government for the year 2004-05. 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.

Audit Report (Revenue Receipts) for the year ended 31 March 2005

1.1.1 Grants in aid

Details of grants in aid received from Government of India are as under:

(Rupees in crore)

Particulars of grants in aid	15.11.2000 to 31.3.2001		2001-02		2002-03		2003-04		2004-05	
	Amount	Percentage	Amount	Percentage	Amount	Percentage	Amount	Percentage	Amount	Percentage
Non plan	83.04	24.71	95.65	21.05	42.11	8.48	90.24	15.94	85.86	10.00
Plan	253.02	75.29	358.82	78.95	454.71	91.52	476.03	84.06	773.01	90.00
Total	336.06	100.00	454.47	100.00	496.82	100.00	566.27	100.00	858.87	100.00

1.1.2 The details of tax revenue raised during the year 2004-05 along with the figures for the period from 15 November 2000 to 2003-04 are given below:

(Rupees in crore)

Sl. No.	Head of revenue	15.11.2000 to 31.3.2001	2001-02	2002-03	2003-04	2004-05	Percentage of increase or decrease in 2004-05 over 2003-04
1	Taxes on sales, trade etc.	584.95	1,238.70	1,366.14	1,601.02	1,881.53	(+) 18
2	State excise	37.45	100.21	98.51	96.49	145.76	(+) 51
3	Stamps and registration fees	24.83	63.88	82.87	81.75	86.59	(+) 6
4	Taxes on vehicles	18.27	86.10	104.91	98.66	130.24	(+) 32
5	Taxes and duties on electricity	16.34	57.18	34.70	30.85	36.14	(+) 17
6	Taxes on goods and passengers- Tax on entry of goods into local area	9.18	22.23	38.65	53.78	78.19	(+) 45
7	Other taxes and duties on commodities and services	3.04	7.20	9.37	6.70	6.87	(+) 3
8	Land revenue	3.04	9.98	15.15	16.97	17.47	(+) 3
	Total	697.10	1,585.48	1,750.30	1,986.22	2,382.79	(+) 20

The reasons for variations in receipts from that of previous year, though called for (May 2005) from the concerned departments, have not been received (January 2006).

1.1.3 The details of non tax revenue raised during the year 2004-05 along with the figures for the period from 15 November 2000 to 2003-04 are given below:

(Rupees in crore)

Sl. No	Head of revenue	15.11.2000 to 31.3.2001	2001-02	2002-03	2003-04	2004-05	Percentage of increase or decrease in 2004-05 over 2003-04
1	Non ferrous mining and metallurgical industries	325.16	709.13	802.72	919.94	937.41	(+) 2
2	Forestry and wild life	4.81	15.70	22.50	21.74	4.51	(-) 79
3	Interest receipts	0.08	61.06	96.08	46.65	18.63	(-) 60
4	Social security and welfare	1.38	2.47	5.31	14.02	8.48	(-) 40
5	Others	17.16	63.52	60.53	103.20	83.42	(-) 19
	Total	348.59	851.88	987.14	1,105.55	1,052.45	(-) 5

The reasons for variations in receipts from that of previous year, though called for (May 2005) from the concerned departments, have not been received (January 2006).

1.2 Variations between budget estimates and actuals

The variations between revised estimates and actuals of revenue receipts for the year 2004-05 and the actual receipts under the principal heads of revenue are given below:

(Rupees in crore)

Sl. No.	Head of revenue	Revised estimates	Actual receipts	Variations increase (+) shortfall (-)	Percentage of variation (+) increase (-) decrease
o Tax Revenue					
1	Taxes on sales, trade etc.	1,782.47	1,881.53	99.06	06
2	State excise	125	145.76	20.76	17
3	Stamps and registration fees	125	86.59	(-) 38.41	(-) 31
4	Taxes on vehicles	224.59	130.24	(-) 94.35	(-) 42
5	Taxes and duties on electricity	59.15	36.14	(-) 23.01	(-) 39
6	Land revenue	16.96	17.47	0.51	03
7	Other taxes and duties on commodities and services	20.15	6.87	(-) 13.28	(-) 66
8	Taxes on goods and passengers –Tax on entry of goods into local areas	59.62	78.19	18.57	31

◦ Non Tax Revenue					
1	Non ferrous mining and metallurgical industries	1,010	937.41	(-) 72.59	(-) 07
2	Forestry and wild life	20	4.51	(-) 15.49	(-) 77
3	Interest receipts	89.24	18.63	(-) 70.61	(-) 79
4	Social security and welfare	13.69	8.48	(-) 5.21	(-) 38

The reasons for variation between the revised estimates and actual receipts as reported by the concerned department was as under:

Stamp Duty and Registration Fees: The decrease (31 per cent) was attributed to reduction in rate of stamp duty and registration fees.

Information from other departments, though called for in May 2005, has not been received till January 2006.

1.3 Analysis of collection

Break up of total collections at preassessment stage and after regular assessment of taxes on sales, trade etc., taxes on entry of goods and passengers, taxes and duties on electricity and other taxes and duties on commodities and services for the period 2004-05 and the figures of tax for the period 2002-03 and 2003-04 as furnished by the Department is given below:

(Rupees in crore)							
Head of revenue	Year	Amount collected at pre assessment stage	Amount collected after regular assessment	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection	Percentage of column 3 to 7
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>
Taxes on sales, trade etc., taxes on entry of goods and passengers, taxes and duties on electricity and other taxes and duties on commodities and services	2002-03	1,400.06	19.57	0.73	6.38	1,413.98	99
	2003-04	1,655.93	43.46	0.85	14.07	1,686.17	98
	2004-05	1,999.45	24.31	1.08	22.15	2,002.73*	99.9

It would be seen from above that collection of taxes at preassessment stage was between 98 and 99.9 per cent during the last three years.

* The figures supplied by Department are different from the Finance Account. Please see para 1.1.2.

1.4 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2002-03 to 2004-05 along with the relevant all India average percentage of expenditure on collection to gross collection for 2003-04 were as follows:

(Rupees in crore)

Sl. No.	Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2003-04
1	Taxes on sales, trade etc.	2002-03	1,366.14	12.20	0.89	1.15
		2003-04	1,601.02	12.21	0.76	
		2004-05	1,881.53	16.29	0.87	
2	Taxes on vehicles	2002-03	104.91	1.91	1.82	2.57
		2003-04	98.66	1.94	1.97	
		2004-05	130.24	2.32	1.78	
3	State excise	2002-03	98.51	5.31	5.39	3.81
		2003-04	96.49	5.59	5.79	
		2004-05	145.76	5.75	3.94	
4	Stamps & registration fees	2002-03	82.87	3.78	4.56	3.66
		2003-04	81.75	3.39	4.15	
		2004-05	86.59	4.71	5.44	

The above table indicates that the percentage of expenditure on collection in respect of state excise and stamps and registration fees was higher than the all India average.

1.5 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2005 in respect of some principal heads of revenue amounted to Rs 1,741.08 crore of which Rs 1,176.20 crore was outstanding for more than five years as detailed in the following table:

Audit Report (Revenue Receipts) for the year ended 31 March 2005

(Rupees in crore)

Sl. No.	Heads of revenue	Amount outstanding as on 31 March 2005	Amount outstanding for more than five years as on 31 March 2005	Remarks
1.	Taxes on sales, trade etc. taxes on entry of goods and passengers, taxes and duties on electricity and other taxes and duties on commodities and services*	1,361.37	1,063.82	Out of Rs 1,361.37 crore, demand for Rs 159.89 crore was certified for recovery as arrears of land revenue. Recovery of Rs 448.34 crore and Rs 571.56 crore was stayed by Courts and other appellate authorities respectively. Recovery of Rs 0.11 crore was held up due to rectification / review of application. Rs 1.36 crore was held up due to dealers/ party becoming insolvent. Specific action taken in respect of remaining arrears of Rs 180.11 crore though called for (May 2005) was not intimated till January 2006.
2.	Non ferrous mining and metallurgical industries	234.68**	106.88	Out of Rs 234.68 crore, demand for Rs 121.95 crore was certified for recovery as arrears of land revenue. Recovery for Rs 78.29 crore and Rs 2.11 crore was stayed by Courts and other appellate authorities respectively. Recovery of Rs 16.07 crore was held up due to rectification/ review of applications. Amount of Rs 0.54 crore was held up due to dealer/ party becoming insolvent. Amount of Rs 0.46 crore was likely to be written off. Specific action taken in respect of remaining arrears of Rs 15.26 crore, though called for (May 2005) was not intimated till January 2006.
3.	State excise	15.18***	5.50	Out of Rs 15.18 crore, demand for Rs 3.66 crore was certified for recovery as arrears of land revenue. Recovery of Rs 0.66 crore was stayed by appellate authorities. Amount of Rs 0.11 crore was held up due to party becoming insolvent. Rs 0.23 crore was likely to be written off. Specific action taken in respect of arrears of Rs 10.52 crore though called for (May 2005) was not intimated till January 2006.
4.	Stamps & registration fees	1.43	NA	Specific action taken in respect of arrears of Rs 1.43 crore though called for (May 2005) was not intimated till January 2006.
5.	Land revenue	0.58	NA	Specific action taken in respect of arrears of Rs 0.58 crore though called for (May 2005) was not intimated till January 2006.

* Separate details of arrears for each head of revenue though called for, have not been furnished by the department.

** Total arrears of revenue as on 31.3.2005 is shown as Rs 154.83 crore whereas its breakup reflects 234.68 crore.

*** Figures of Ranchi and Giridih districts are not included in above details. There is a difference of Rs 4.66 crore between the total arrears of revenue shown and its break up as furnished by the Department.

6	Taxes on vehicles	127.84*	NA	Out of Rs 127.84 crore, demand for Rs 2.97 crore was certified for recovery as arrears of land revenue. Specific action taken in respect of remaining arrears of Rs 124.87 crore though called for in May 2005 was not intimated by the department till January 2006.
Total		1,741.08	1,176.20	

The position of arrears of revenue pending collection at the end of 2004-05 in respect of other departments, though called for (May 2005) has not been furnished by Government (January 2006).

1.6 Collection of sales tax per assessee

Year	No of assessee	Sales tax revenue	(Rupees in lakh)
			Revenue per assessee
2002-03	49,136	1,44,453.68**	2.94
2003-04	52,315	1,69,938.10	3.25
2004-05	55,388	1,96,923.67	3.56

The above table reveals that revenue collection per assessee increased from Rs 2.94 lakh in the year 2002-03 to Rs 3.56 lakh in 2004-05.

1.7 Arrears in assessments

The details of cases pending at the beginning of the year 2004-05, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of year as furnished by the Commercial Taxes Department are as follows:

Head of revenue	Opening balance	New cases due for assessment during 2004-05	Total assessments due	Cases disposed of during 2004-05	Balance at the end of the year	Percentage of Column 6 to 4
1	2	3	4	5	6	7
Taxes on sales, trade etc., taxes on entry of goods and passengers, taxes and duties on electricity and other taxes and duties on commodities and services	39,846	49,313	89,159	48,745	40,414	45

From the above it could be seen that pendency in finalisation of assessments was 45 per cent under various heads of revenue, resulting in delay in corresponding realisation of revenue in these cases.

* Above details include figures of nine DTOs only.

** The figures furnished by the Department are different from the Finance Account. Please see paragraph 1.1.2.

1.8 Evasion of tax

The details of cases of evasion of tax detected by Commercial Taxes Department, cases finalised and the demands for additional tax raised as reported by the department are given below:

(Rupees in lakh)

Sl. No.	Head of revenue.	Cases pending as on 31 March 2004	Cases detected during 2004-05	Total	Number of cases in which assessment/ investigation completed and additional demand including penalty etc. raised		Number of cases pending finalisation as on 31 March 2005
					No. of cases	Amount of demand	
1	Taxes on sales, trade etc., taxes on entry of goods and passengers, taxes and duties on electricity and other taxes and duties on commodities and services	53	21	74	44	7.22	30
2	State excise	1	Nil	1	Nil	Nil	1

It would be seen from the above that the Commercial Taxes Department could finalise only 44 cases which is 59 per cent of the total number of cases pending for settlement during 2004-05 whereas State Excise Department could not settle solitary pending case.

1.9 Refund

The refund cases pending at the beginning of the year 2004-05, claims received during the year, refunds allowed during the year and cases pending at the close of the year as reported by the Commercial Taxes Department are given below:

(Rupees in crore)

Sl. No.	Particulars	Taxes on sales, trade, etc., taxes on entry of goods and passengers, taxes and duties on electricity and other taxes and duties on commodities and services	
		No. of cases	Amount
1	Claims outstanding at the beginning of the year	1,196*	14.07
2	Claims received during the year	230	22.17
3	Refunds made during the year	301	22.14
4	Balance outstanding at the end of the year	1,125	14.10

* Differs by (-) Rs 3.38 crore in (-) 5 cases from the closing balance of Rs 17.45 crore in 1,201 cases as furnished earlier by the department and shown in Audit Report 2003-04.

1.10 Results of audit

Test check of the records of sales tax, land revenue, state excise, taxes on vehicles, stamps and registration fees, electricity duty, other tax receipts, forest receipts and other non tax receipts conducted during the year 2004-05 revealed underassessment/ short levy/loss of revenue amounting to Rs 1,100.08 crore in 31,114 cases. During the year, the concerned departments accepted under assessments etc., of Rs 417.09 crore involved in 10,559 cases of which 8,884 cases involving Rs 171.36 crore had been pointed out in audit during 2004-05 and the rest in earlier years and recovered Rs 0.02 crore at the instance of audit.

This Report contains 29 paragraphs including two reviews bringing out deficiencies in different aspects of tax administration and involving a tax/revenue effect of Rs 508.13 crore. Of these, the Department/Government accepted audit observations involving Rs 417.61 crore, out of which Rs 12.96 crore has been recovered upto October 2005 at the instance of audit. Audit observations with a total revenue effect of Rs 34.82 crore have not been accepted by the Department/Government. Final reply has not been received in remaining cases.

1.11 Failure of senior officials to enforce accountability and protect interest of Government

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

IRs issued upto December 2004 disclosed that 17,937 paragraphs involving money value of Rs 2,935.29 crore relating to 3,713 IRs remained outstanding at the end of June 2005. Even the first replies, required to be received within one month of the receipt of the IRs, were not received in respect of 1,284 IRs issued between 1980-81 and 2002-03.

Department wise break up of IRs and audit observations outstanding as on 30 June 2005 is given below:

Audit Report (Revenue Receipts) for the year ended 31 March 2005

Sl. No.	Department	Revenue head	Position of IRs issued upto December 2004 but not settled at the end of June 2005			Year to which earliest pending IRs relate	Position of IRs in respect of which first reply not received	
			IRs	Paras	Money value (Rs in crore)		IRs	Earliest year to which IR relates
1	Revenue	Land revenue	1,550	4,558	254.47	1980-81	890	1980-81
2	Finance (Commercial taxes)	Taxes on sales trade etc.	495	5,715	767.05	1982-83	101	1982-83
		Minor taxes	169	284	42.64	1984-85	50	2001-02
3	Excise & Prohibition	State excise	214	1,137	41.49	1985-86	37	1985-86
4	Transport	Taxes on vehicles	215	1,973	268.30	1980-81	51	1980-81
5	Mines & Geology	Non ferrous mining and metallurgical industries	349	3,149	800.34	1980-81	44	1983-84
6	Water resources	Water rates	200	265	182.23	1981-82	19	1981-82
7	Revenue (Registration Department)	Stamps and registration fees	179	372	22.10	1990-91	23	2002-03
8	Forest & Environment	Forest receipts	342	484	556.67	1984-85	69	1992-93
Total			3,713	17,937	2,935.29		1,284	

The above position was brought to the notice of the Chief Secretary to Government in August 2005 but no reply has been received till January 2006.

Unsatisfactory compliance by the departments in settlement of audit observations resulted in increasing trend of audit observations and IRs.

The large pendency of IRs due to non receipt of replies indicates that heads of offices and heads of departments have failed to initiate action to rectify the defects, omissions and irregularities pointed in IRs. It is recommended that Government should take suitable steps to ensure that effective procedure exists for prompt and appropriate response to the audit observations, action against officials/officers failing to send replies to IRs/paras as per the prescribed time schedule and action to recover loss/outstanding demands in a time bound manner.

1.12 Departmental audit committee meetings

In order to expedite settlement of outstanding audit observations contained in the IRs, departmental audit committees are constituted by Government. These committees consist of representative of the concerned administrative department and are attended among others by the concerned officers and officers from office of the Accountant General. To expedite the clearance of the outstanding 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 2004-05, Government departments were requested (April 2004) to hold 10

audit committee meetings, which were held between May 2004 and January 2005 in which 229 paragraphs involving Rs 66.45 crore were settled.

1.13 Response of the departments to draft audit paragraphs

According to the instructions issued (1966) by Government of Bihar, replies to 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.

29 paragraphs including two reviews included in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2005 (Revenue Receipts), Government of Jharkhand were forwarded to the Secretaries to Government. Rs 12.96 crore was recovered at the instance of audit in two paragraphs during the year 2004-05. Replies in respect of five paragraphs have been received from the Government/Department.

1.14 Follow up on Audit Reports- Summarised position

Audit Report paragraphs related to Audit Report 1999-2000 and 2000-01 (Revenue Receipts) were under discussion and a review meeting in respect of Audit Report 2001-02 was held in the Public Accounts Committee (PAC) of Jharkhand during 2004-05. Accordingly, the Chief Secretary, Government of Jharkhand issued (August 2004) instructions demi officially to all the departmental secretaries to constitute PAC (Cells) in each department to monitor and to ensure early submission of explanatory notes after making a complete review of the points raised in the paragraphs.

PAC Jharkhand presented two reports to the State Legislature on 31 December 2004 related to one para each of Audit Report 1999-2000 and 2000-01 (Revenue Receipts).

CHAPTER-II: Taxes on Sales, Trade etc.

2.1 Results of Audit

Test check of the records relating to assessments and refunds of sales tax in Commercial Taxes Department, conducted in audit during the year 2004-05, revealed under assessment of tax of Rs 100.37 crore in 701 cases which broadly fall under the following categories: -

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Non /short levy of tax	98	6.79
2	Irregular grant of exemption	171	29.25
3	Non levy of penalty	32	2.29
4	Irregular allowance of concessional rate of tax	70	21.00
5	Non/short levy of additional tax/ surcharge	37	1.74
6	Application of incorrect rate of tax	38	2.31
7	Incorrect determination of gross turnover	25	6.87
8	Non levy of penalty for excess collection of tax / mistake in computation	05	0.07
9	Other cases	225	30.05
Total		701	100.37

During the year 2004-05, the concerned Department accepted under assessment, etc. of Rs 49.02 crore involved in 186 cases of which 80 cases involving Rs 29.04 crore have been pointed out in audit during 2004-05 and rest in earlier years. Rs 0.02 crore was recovered at the instance of audit.

A few illustrative cases involving tax effect of Rs 47.34 crore are given in the following paragraphs:

2.2 Irregularities in receipt of goods from outside the State

Under provisions of the Central Sales Tax Act, 1956 (CST Act), read with the Bihar Finance Act, 1981 (BF Act), as adopted by Government of Jharkhand, goods are received by a dealer of Jharkhand from outside the State either on purchase after payment of tax at the rate of four *per cent* by issuing declaration in form 'C' or on stock transfer from any place of his business or his agent or principal or otherwise, without payment of tax by issuing the declaration in form 'F'/sale notes to substantiate the claim. However, on sale of such goods, tax is leviable in State at the rate specified under the State law, unless the goods were specifically exempted from the levy of tax.

Instructions issued in February 1986 and August 1990 by the Commissioner of Commercial Taxes (CCT), provide that the purchasing/transferee dealers shall obtain, from the prescribed authority, declarations in form 'C' or 'F' and issue the same against purchase/receipt of the goods only if the forms are fully filled in and signed by the dealer, the maximum price of goods are filled in red ink duly authenticated by the authorised officer, the details of such authenticated form are recorded in stock register of the prescribed authority showing name, address, name of goods, value of goods etc. in relation to transferor and the goods are sold and information regarding realisation of tax is noted in the register/assessment records. The purchasing/transferee dealer shall retain the counterfoil of such form and furnish the detailed account of receipt of goods against them.

Cross verification of data regarding receipt/purchase of goods collected during the period from April 2005 to June 2005 from Andhra Pradesh, Uttar Pradesh, West Bengal, Delhi, Karnataka, Maharashtra and Tamil Nadu with the records of 65 dealers/manufacturers in 14 commercial taxes circles* (Circles) of Jharkhand revealed suppression of sales/purchases, use of unauthorised form and dealers carrying the businesses without getting themselves registered having a tax effect of Rs 6.77 crore including penalty as discussed in the following paragraphs:

2.2.1 Suppression of sales turnover

Under the provisions of BF Act read with CST Act, every registered dealer shall furnish a true and complete return in respect of all transactions, failing which and if the prescribed authority is satisfied that reasonable grounds exist to believe that any turnover of a dealer has escaped assessment, the said authority may, within eight years from the date of the order of the assessment or reassessment, assess or reassess 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 amount equivalent to the amount of tax assessed on the turnover which escaped taxation.

* Adityapur, Chaibasa, Chakradharpur, Deoghar, Giridih, Hazaribag, Jamshedpur, Katras, Palamu, Ranchi South, Ranchi Special, Ranchi West, Singhbhum and Tenughat.

Cross verification of assessment records of 29 dealers in eight circles* with the records of 48 manufacturers/dealers of six States revealed that the dealers purchased goods valued at Rs 32.21 crore during the period 1999-2000 to 2003-04, against declarations in form 'C' or by transfer against declarations in form 'F'/sale notes/invoices from manufacturers/selling dealers but accounted for goods valued at Rs 18.81 crore in their books of account. The assessing authority while finalising the assessments between October 2000 and March 2005, however, failed to detect the suppression of turnover valued at Rs 13.40 crore which resulted in under assessment of tax amounting to Rs 3.70 crore including penalty of Rs 2.71 crore.

After this was pointed out, the Department stated in June 2005 that the cases would be reviewed.

2.2.2 Evasion of tax due to use of unauthorised declaration forms

Cross verification of assessment records in five circles** with the records of seven manufacturers/dealers of three States revealed that the dealers did not account for in their books purchases of industrial gases, lubricants, biscuits, vanaspati and petroleum products amounting to Rs 2.03 crore during the period from 1999-2000 to 2001-02, assessed between January 2002 and August 2004. These purchases were made by them against declaration form 'C' which were, not issued by the concerned authority. This resulted in evasion of tax of Rs 1.05 crore including penalty of Rs 76.49 lakh.

After this was pointed out, the Department stated in June 2005 that the cases would be reviewed.

2.2.3 Non levy of penalty on escaped turnover before assessment

The BF Act read with CST Act provides that if assessing authority has reason to believe that a dealer has wilfully concealed any amount of turnover to deprive Government of tax due, the dealer shall be liable to pay a sum not exceeding three times but not less than the amount of tax leviable or assessed on the escaped turnover. By another instruction issued in November 1998, the department instituted a control measure for monitoring of returns, which *inter alia* includes, initiation of penalty proceedings on concealed turnover before assessment.

- Cross verification of purchase/receipt of goods from eight manufacturers of Andhra Pradesh and West Bengal revealed that in Singhbhum and Jamshedpur circles, four dealers reflected the value of goods received as Rs 23.92 lakh in their books instead of Rs 5.53 crore actually received by them during 2001-02 and 2002-03. However the department failed to detect these cases which resulted in short accounting of goods of Rs 5.29 crore and non levy of penalty of Rs 1.30 crore.

* Adityapur, Chakradharpur, Deoghar, Giridih, Palamu, Ranchi Special, Ranchi West and Singhbhum.

** Adityapur, Chakradharpur, Hazaribag, Jamshedpur and Ranchi South.

◦ Cross verification of purchase/receipt of goods from four manufacturers of West Bengal and Delhi revealed that in three circles* five dealers had received during 2001-02 and 2002-03 goods valued at Rs 56 lakh against declaration forms 'C' which were not issued to them. However, the department failed to detect these cases which resulted in short accounting of goods of Rs 56 lakh and non levy of penalty of Rs 25.53 lakh before assessment.

After this was pointed out, the Department stated in June 2005 that the cases would be reviewed.

2.2.4 Sale to unregistered dealers/ dealers with fictitious numbers and consequent non levy of tax due to lack of market survey

Under provisions of the BF Act, every dealer, who is an importer, is liable to pay tax irrespective of the quantum of his gross turnover. Further, no dealer, who is liable to pay tax, shall sell or purchase goods, unless he has been granted and is in possession of a valid registration certificate. Failure to apply for registration may render him liable to pay 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. According to instructions issued in April 1990 and April 1997, market survey should be conducted in every circle during the period from April to June every year to unearth unregistered dealers for registering them under the Act and to ascertain whether any class of dealers has escaped liability for taxation.

Cross verification of data of purchases/receipt of goods from 14 manufacturers/dealers of Andhra Pradesh, Delhi, Uttar Pradesh and West Bengal with the records of five circles** revealed that 22 dealers who had made purchases from outside the State were not registered with the Commercial Taxes Department. This resulted in turnover of Rs 3.45 crore escaping assessment during the period between 1999-2000 and 2002-03 and consequent evasion of tax amounting to Rs 46.35 lakh including penalty of Rs 11.81 lakh.

After this was pointed out, the Department stated in June 2005 that the matter would be examined.

The cases were reported to Government in June 2005 and discussed in October 2005; reply is awaited (January 2006).

* Katras, Palamu and Ranchi South.

** Chaibasa, Chakradharpur, Ranchi Special, Singhbhum and Tenughat.

2.3 Suppression of sales/purchase turnover

Under the BF Act, read with the CST Act, 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, the said authority shall assess or reassess 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.

In seven circles, it was noticed from the assessment records assessed between April 2001 and July 2004 and utilisation certificates of declaration forms*, trading account, annual audited accounts etc. that 24 dealers purchased/sold goods valued at Rs 656.28 crore during the years between 1997-98 and 2001-02. However, the dealers filed their returns for Rs 509.09 crore only which were assessed as such by the assessing authorities. Thus, the dealers concealed turnover of Rs 147.19 crore having a tax effect of Rs 19.07 crore. Failure of the Department to cross examine the documents of the dealers available with the Department with the returns filed by the dealers resulted in short levy of tax of Rs 19.07 crore including penalty as detailed below:

(Rupees in crore)

Sl. No	Name of circle No of dealers	Period of assessment Month/ Year of assessment	Commodity	Actual sale/ purchase Purchase/ sale accounted for	Amount concealed	Amount of tax Penalty	Total
1	Jamshedpur 4	Between 1999-2000 & 2000-01 Between July 2002 and July 2003	Excavators, spare parts of excavators, scrap, coal tar, anthracine oil, stack coal, software earnings	551.11 429.56	121.55	7.51 6.83	14.34
2	Ranchi West 2	2000-01 and 2001-02 August and September 2003	Hire charges	7.24 NIL	7.24	0.72 0.66	1.38
3	Adityapur 10	Between 1999-2000 and 2001-02 Between April 2001 and June 2004	Lubricant, auto parts, motor parts, steel ingots, automobiles, auto rubber parts, aluminum and non ferrous, hardware, empty bottles, paper, plastics, iron, atta, suji maida	51.02 43.29	7.73	0.67 0.63	1.30
4	Bokaro 4	Between 1997-98 & 2000-01 Between June 2001 and March 2004	Detergent cake/ powder, H.P. naphthalene, paper, profit on sale of assets	19.10 14.55	4.55	0.45 0.41	0.86
5	Singbhum 2	2001-02 Between September 2003 and July 2004	Railway concrete sleeper	14.84 11.61	3.23	0.32 0.32	0.64
6	Jamshedpur Urban 1	2000-01 July 2003	Audio valve, welding rod, spare parts	5.22 3.39	1.83	0.18 0.17	0.35
7	Ranchi Special 1	1999-2000 & 2000-01 September 2002 and December 2003	Home appliance, stationery, ujaala (fabric whitener)	7.75 6.69	1.06	0.10 0.10	0.20
Total:				656.28 509.09	147.19	9.95 9.12	19.07

* Form IX, C and road permits.

The cases were reported to the Department/Government between June 2004 and January 2005; reply is awaited (January 2006).

2.4 Incorrect allowance of exemption under CST Act

• Under provisions of CST Act, claim on account of transit sale is exempted from levy of tax, when the sale has been effected by transfer of documents of title of goods during the movement of goods and such subsequent sale should also take place during the same movement occasioned by the previous sale subject to furnishing of declarations C and EI. It has also been judicially held* that a transaction between the contractor and contractee is a sale within the State, only if, executed in pursuant to the contract between the two parties within the same State.

In Bokaro circle, it was noticed in August 2004 that in case of two contractors exemption of tax on supply of electrical and unspecified goods valued at Rs 76.99 crore made during the period between 1995-96 and 1997-98, assessed/reassessed between March 2001 and November 2002, was allowed on account of transit sale under CST Act. The transaction between the contractor and the contractee executed in pursuant to a contract between them was a sale within the State in view of the above judicial pronouncement as no transfer of documents of title of goods was effected during the movement of goods. Thus, incorrect grant of exemption resulted in underassessment of tax of Rs 9.41 crore including additional tax and surcharge.

After this was pointed out in June and September 2004, the Department stated in March and June 2005 that exemption was correctly allowed. The reply of the Department is not tenable as there was no proof of transfer of documents of title of goods effected during the movement of goods and in the light of above judicial pronouncement the transaction was liable to tax as intra State sale. Further reply has not been received (January 2006).

The matter was reported to Government in June 2005; reply has not been received (January 2006).

• By a notification issued in May 1996 under provisions of CST Act, Government allowed exemption from levy of CST on sale of finished goods in course of inter State trade or commerce for a specified period provided that such transaction was not contrary to the provision of CST Act. The Act further provides that such sale is required to be supported by declaration forms, otherwise tax is leviable at twice the rate applicable in the State in case of declared goods and in other cases at the rate of 10 per cent or at the rate applicable in the State, whichever is higher.

In two circles Adityapur and Deoghar, it was noticed in December 2003 and December 2004 that the dealers were granted exemption from levy of tax on

* Sundaram Industries Vrs State of Tamil Nadu (1992) 86 STC, 554 (Mad).

inter State sale of finished products valued at Rs 13.34 crore made during 1999-2000 to 2001-02 in three cases assessed between November 2000 and March 2003. However, the sale was not supported by the prescribed declaration in Form 'C' which was in contravention of the provisions of the Act. The incorrect allowance of exemption resulted in non levy of tax of Rs 75.56 lakh.

This was pointed out between December 2003 and December 2004; the Department did not furnish any reply (January 2006).

The cases were reported to the Government in June 2005; the Department did not furnish any reply (January 2006).

2.5 Incorrect determination of gross turnover

Under the BF Act, gross turnover (GTO) for the purpose of levy of sales tax, in respect of sale of goods means aggregate of sale price received and receivable by a dealer during any given period. Under the provision of CST Act, for exemption from levy of tax on sale taking place in course of export out of the territory of India, the transaction must be supported by prescribed certificate along with the evidence of export of such goods.

In Jamshedpur urban circle, it was noticed that in case of a dealer GTO was incorrectly determined at Rs 5,538.83 crore as against Rs 5,715.10 crore during 1999-2000, assessed in March 2004. A deduction of Rs 176.27 crore from GTO for sale in Singapore, from stockyards outside the State and from stockyard within the State situated in other circles was allowed. Since the deduction was not covered by export sale claimed by the assessee and sale from stockyard was not supported by documentary evidence, the deduction allowed from turnover was incorrect. This resulted in under assessment of tax of Rs 7.05 crore.

This was pointed out in September 2004 and reminded in March and May 2005, the Department did not furnish any reply (January 2006).

The matter was reported to Government in June 2005; reply has not been received (January 2006).

2.6 Underassessment under CST Act

• Under the CST Act, 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 10 *per cent* or at the rate applicable in the State, whichever is higher. In case of sale 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

held* that additional tax and other taxes leviable under the State Act are also leviable on such inter state sales under the CST Act.

In three circles, though the sale of goods valued at Rs 25.45 crore made by six dealers during the assessment years between 1999-2000 and 2001-02, assessed between May 2001 and June 2004, were not supported by prescribed declaration forms, tax was either not levied or levied at lower rates. This resulted in under assessment of tax amounting to Rs 1.57 crore (including additional tax and surcharge) as detailed below:

(Rupees in lakh)								
Sl. No	Name of circle Number of dealers	Period of assessment Month/ Year of assessment	Commodity	Value of goods	Rate of tax (per cent)	Tax leviable	Tax levied	Tax and additional tax short levied
1	Adityapur 3	Between 1999-2000 & 2001-02 Between April 2003 & June 2004	Body of bus/ truck	271.80	10	27.18	-	27.18
			Rolls special casting ring belts	211.30	8	16.90	8.45	8.45
			Motor vehicles	962.53	12+AT+SC	132.00	38.50	93.50
2	Singhbhum 2	1999-2000 January 2004	Electrical goods	657.66	12+AT+SC	94.91	78.92	15.99
			Paints	426.24		61.52	51.15	10.37
3	Ranchi East 1	1999-2000 May 2001	Battery	15.84	10	1.58	-	1.58
Total				2,545.37		334.09	177.02	157.07

After this was pointed out between March 2003 and December 2004 the Department stated that the cases would be examined. Further reply has not been received (January 2006).

Under the provisions of CST Act read with the BF Act, and Rules framed thereunder, no tax shall be payable on sale or purchase of goods, which have taken place in the course of export out of the territory of India provided the sales were substantiated by documentary evidence. According to orders issued by Government in March 1986 and August 1991, for exemption from levy of tax on sale taking place in the course of export to Nepal, the transaction must be supported apart from other evidence, by bills of export granted by the customs officials of India.

In Singhbhum circle, it was noticed in September 2004 that in case of a dealer, who was assessed for 2000-2001 in January 2004, out of total claim of export on sale of goods valued at Rs 12.91 crore to Nepal and Bangladesh, exemption from levy of tax on export sale of Rs 6.45 crore was allowed without any documentary evidence such as bill of export issued by Indian Customs Department etc. Incorrect allowance of exemption resulted in underassessment of tax of Rs 85.92 lakh including additional tax and surcharge.

* DCCT Vrs Ayasha Hosiery (1992) 85 STC 196 SC

After this was pointed out in September 2004, the Department stated in September 2004 that the cases would be examined.

The cases were reported to Government in June 2005; reply has not been received (January 2006).

2.7 Incorrect allowance of concessional rate under CST Act

Under the CST Act and the Rules framed thereunder, a dealer claiming exemption from tax in respect of inter State trade or commerce effected by a transfer of documents of title of such goods during their movement from one state to another, shall furnish to the assessing authority prescribed declaration within prescribed time, in support of such subsequent sales. Submission of declaration form 'EI' and 'C' is mandatory in case of any subsequent sale made in course of movement of goods from one state to another and no exemption shall be allowed if the sales are not supported by the prescribed declaration form. It has been judicially held* that subsequent sales made by a dealer in course of movement of goods to registered dealer of the same State were taxable as sale within the State in absence of declaration form EI.

In Bokaro circle, it was noticed in August and September 2004 that the claim made by two dealers of transit sale of goods valued at Rs 12.18 crore was not supported by the declaration form EI for the years from 1996-97 to 1999-2000. The assessing authority finalised the assessments between February and March 2001 and disallowed the claim of the dealers but tax was levied at the rate of four *per cent* on the basis of form C issued by Bokaro circle *i.e.* within the same circle instead of 12 *per cent* considering the sale as intra State sale taking place between dealers of the State. Thus levy of tax at concessional rates resulted in underassessment of tax amounting to Rs 1.04 crore.

After this was pointed out in August and September 2004, the Department stated in September 2004 that the dealer effecting sales who failed to obtain prescribed certificate shall be liable to pay tax under CST. The reply is not tenable as the dealer is liable to pay tax at the rate leviable in the State in view of the above judgment.

The matter was reported to Government in June 2005; reply has not been received (January 2006).

* Ramudu Chettiar Vrs State of Madras (1968) 22 STC 283 Madras.

2.8 Incorrect allowance of exemption

Government of Bihar, Finance (Commercial Taxes) Department vide notification on 22 December 1995 under BF Act, (adopted by Jharkhand Government) allowed exemption from levy of sales tax on sale of raw materials to SSI units subject to submission of form 'Gaa'.

In Jamshedpur urban circle, it was noticed in July 2003 that the assessing authority while finalising assessment for the year 1998-99 during March 2003 disallowed the sale of raw materials to SSI unit valued at Rs 6.34 crore out of total exemption of Rs 68.03 crore claimed by the dealer as the same was not supported by prescribed declaration forms and determined turnover of Rs 64.85 crore as tax free sale instead of Rs 61.69 crore. This resulted in incorrect allowance of exemption of turnover of Rs 3.16 crore and underassessment of tax of Rs 12.62 lakh.

After this was pointed out in July 2003, the Department stated in August 2003 that the case would be reviewed. Further reply has not been received (January 2006).

The matter was reported to Government in June 2005; reply has not been received (January 2006).

2.9 Short levy of tax due to misclassification of goods

Under the provisions of the BF Act, sales tax on goods shall be levied as per rates prescribed in the Act. The goods not specified are leviable to tax at the rate of eight *per cent* as unspecified item. It has been judicially held* that 'cast iron casting' does not fall under the definition of term 'iron and steel'

In Dhanbad urban circle, it was noticed in October 2004 in case of a dealer that on sale of cast iron casting valued at Rs 6.87 crore during 1999-2000, assessed in September 2002, tax was levied at the rate of four *per cent*, treating the goods as iron and steel, instead of at the rate of eight *per cent*. This resulted in short levy of tax amounting to Rs 41.14 lakh due to misclassification of goods.

This was pointed out in October 2004; the Department did not furnish any reply (January 2006).

The matter was reported to Government in June 2005; reply has not been received (January 2006).

* Bengal Iron Corporation Vrs CTO (1993) 90STC 47(SC)

2.10 Non/short levy of additional tax

Under the provisions of BF Act, every dealer is required to pay additional tax at the rate of one *per cent* (except on liquor) from November 1981 on his gross turnover. State Government *vide* notification of December 1995 granted exemption from levy of sales tax only on sales of manufactured goods by small scale industries though additional tax was leviable.

In Adityapur circle, it was noticed between October 2003 and December 2004 in case of two dealers that exemption from levy of sales tax on sale of auto parts and cold drinks valued at Rs 17.31 crore during the period 1999-2000 and 2000-01 assessed in January and June 2004 was allowed but no additional tax was levied. Further, in case of another dealer, during 1998-99 (assessed in July 2003) additional tax though leviable on turnover of Rs 8.13 crore was levied on Rs 1.94 crore. This resulted in non/short levy of additional tax amounting to Rs 27.84 lakh.

After these were pointed out between December 2003 and December 2004, the Department stated that the cases would be examined.

The cases were reported to Government in June 2005; reply has not been received (January 2006).

CHAPTER-III: State Excise

3.1 Results of Audit

Test check of the records of the State Excise Department, conducted in audit during the year 2004-05, revealed cases of under assessments and losses of revenue amounting to Rs 39.19 crore in 1,297 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	233	10.39
2	Non realisation of licence fee	63	2.06
3	Undue financial benefits due to unauthorised concession	3	0.03
4	Other cases	998	26.71
Total		1,297	39.19

During the year 2004-05, the Department accepted underassessments etc., of Rs 25.87 crore involved in 824 cases which had been pointed out in audit during 2004-05.

A few illustrative cases involving tax effect of Rs 24.66 crore are given in the following paragraphs:

3.2 Loss of revenue due to non settlement of excise shops

Under the Bihar Excise Act (BE Act), 1915 and Rules framed thereunder, if excise shops notified by Government to be operated during the year are not settled through auction at the notified reserved price, the reserved price could be lowered by the Collector of the district with the approval of Commissioner. In the absence of bidders, shops are to be run departmentally in accordance with the Government of Bihar instructions of June 1995.

In 12 excise districts*, 132 country spirits (CS), 67 spiced country spirits (SCS) and 28 India made foreign liquor (IMFL) shops remained unsettled during 2003-04. No efforts were made either to settle the shops, below the reserved price or to run the shops departmentally as required under the Act/instructions. This resulted in loss of revenue amounting to Rs 24.31 crore in the form of licence fee and excise duty leviable on the reserve price and minimum guarantee quota fixed by the Department.

After this was pointed out between May and November 2004, the Superintendent of Excise (SE), Chaibasa stated in May 2004 that proper action would be taken for settlement of shops in future. In all other cases it was stated that in spite of several efforts the shops could not be settled as no desired bidders turned up. The reply of the Department is not tenable as in the absence of bidders no efforts were made either to settle the shops below the reserved price or to run them departmentally.

The cases were reported to Government in April 2005; reply has not been received (January 2006).

3.3 Irregular renewal of licence for wholesale supply of country spirit

The BE Act, provides for sanction of grant for exclusive privilege to contractor for wholesale supply of country spirit in sachets to retail licensed vendors from approved warehouses within specific area. Further, as per conditions, the licences for wholesale supply of country spirit in sachets are to be renewed after payment of all previous dues and the excise office is to keep watch over this. Failure to do so will cause cancellation of licence, forfeiture of security deposit and imposition of penalty to the extent of loss sustained by Government and the same is to be recovered as public demand under Public Demand Recovery Act, 1914 (PDR Act).

Scrutiny of records of SE, Dumka cum Jamtara, revealed in September 2004 that penalty of Rs 34.79 lakh was imposed by the Commissioner of Excise

* Bokaro, Chaibasa, Dhanbad, Dumka-cum-Jamtara, Gumla -cum- Simdega- cum- Lohardaga, Giridih, Godda, Hazaribag, Jamshedpur, Palamu-cum-Garhwa-cum- Latehar, Ranchi and Sahibganj-cum-Pakur.

(CE) on a sachetting contractor who was granted exclusive privilege with the direction to renew the licence after realisation of the penalty. However, the licence for wholesale supply of country spirit for the year 2003-04 was renewed for Dumka and Jamtara districts in April 2003 without realisation of penalty. This resulted in irregular renewal of licence without realisation of penalty amounting to Rs 34.79 lakh.

The matter was pointed out to Department/Government in September 2004 and April 2005; reply has not been received (January 2006).

CHAPTER- IV: Taxes on Vehicles

4.1 Results of Audit

Test check of the records of the Transport Department during the year 2004-05, revealed non /short levy of motor vehicles tax, fees, penalties, fines etc. amounting to Rs 37.59 crore in 14,509 cases, which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Non/short levy of taxes	11,620	0.11
2	Short levy of taxes due to wrong fixation of seating capacity/ RLW	04	0.01
3	Other cases	2,884	10.28
4	Review on "Working of Motor Vehicles Department"	01	27.19
Total		14,509	37.59

During the year 2004-05 the concerned Department accepted under assessment and other irregularities in 896 cases involving Rs 0.90 crore of which 422 cases involving Rs 0.85 crore were pointed out in audit during 2004-05 and rest in earlier years.

A Review on Working of Motor Vehicles Department involving Rs 27.19 crore is given in the following paragraph:

4.2 Review: Working of Motor Vehicles Department

Highlights

- Taxes amounting to Rs 22.43 crore from 2,432 defaulter vehicles were not collected.
- Non/short realisation of trade tax of Rs 90.73 lakh from 45 dealers. *(Paragraph 4.2.9)*

- Loss of revenue in the shape of interest of Rs 2.36 crore due to delay in transfer of revenue by collecting banks. *(Paragraph 4.2.14)*

- Loss of interest of Rs 74.77 lakh due to non initiation of certificate proceedings. *(Paragraph 4.2.15)*

4.2.1 Introduction

Motor Vehicles Department was established in 1972-73 in the State (erstwhile Bihar State) under the provisions of the Motor Vehicles Act, 1939, replaced by the Motor Vehicles Act, 1988, (MV Act). The levy and collection of tax and fee in the State is governed by Bihar Motor Vehicles Taxation (BMVT) Act, 1994, and Rules made thereunder and Bihar Motor Vehicles (BMV) Rules, 1992. The national permit scheme was introduced by Government of India in September 1975 under the provisions of MV Act, with a view to promote nation wide smooth operation of goods carriage by roads. On creation of State of Jharkhand with effect from 15 November 2000, the existing Acts, Rules and executive instructions of the State of Bihar were adopted by the State of Jharkhand.

4.2.2 Organisational set up

At the apex level, the State Transport Commissioner (STC), Jharkhand is responsible for administration of the Acts and Rules in the State. He is assisted by a Joint Transport Commissioner at the headquarters. The state has been divided into four regions* and 18 transport districts, which are controlled by State Transport Authority (STA) in the state, Regional Transport Authorities (RTAs) and District Transport Officers. They are assisted by motor vehicles inspectors (MVIs) who are authorised to inspect the vehicles and also issue certificates of fitness to transport vehicles.

* Dumka, Hazaribag, Palamu and Ranchi.

4.2.3 Audit Objectives

A review on the working of Transport Department was conducted with a view to ascertain whether:

- the provisions of laws and rules and departmental instructions were enforced to safeguard the revenue of Government;
- internal control measures as mentioned in the Act and Rules were being followed.

4.2.4 Scope of audit

With a view to ascertain the efficiency and effectiveness 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 STC office, Ranchi, two* out of four RTAs and 10** out of 18 District Transport Offices (DTO) for the years 1999-2000 to 2003-04 was conducted between October 2004 and April 2005. The cases which came to notice in five DTO*** in audit during the year are also incorporated in this report.

4.2.5 Internal control

• *Departmental Manual*

In order to keep a watch on various aspects of functioning of Motor Vehicles Department in implementing the Acts/Rules and orders in respect of registration of vehicles, levy and collection of taxes and fees etc, it is essential to have a manual in the Transport Department as an internal control. It was, however, noticed in audit that no manual has been prescribed in the Department. In the absence of any manual in the Department, the control which was required to be exercised and its efficacy could not be examined by audit.

Non maintenance of registers

• *Non maintenance of demand, collection and balance register*

Under the provisions of the BMVT Rules, every taxation officer is required to maintain the demand, collection and balance (DCB) register in Form N in order to keep effective control over the regular and timely realisation of taxes which shall be updated every year as on 1 October and 31 March.

* Hazaribag and Ranchi.

** Bokaro, Chaibasa, Chatra, Garhwa, Giridih, Gumla, Jamshedpur, Koderma, Palamu and Ranchi.

*** Deoghar, Dhanbad, Dumka, Hazaribag and Lohardaga.

In 13 DTOs*, it was noticed that no DCB Register was maintained. This shows that there is no effective control on the taxes due for collection, actually collected and balance. Consequently, DTOs did not have details of the exact number of defaulting vehicles, the amount of arrears to be collected and the year wise break up of arrears.

After this was pointed out, Government stated in October 2005 that district transport officers have been instructed to maintain the register.

• *Non completion of taxation register*

Under the provisions of the BMVT Rules, every taxing officer shall maintain a taxation register for each transport vehicle plying in the state in Form M. Each vehicle will have a separate page earmarked for it and entries relating to payment of tax, exemption / refund of taxes, if any, are made in the register. STC Bihar directed all DTOs in March 2000 to update the taxation register within a week.

In seven DTOs** and STC Jharkhand, it was noticed that update entries regarding payment of taxes have not been made in the taxation registers in respect of transport vehicles plying in the State. As such, the position regarding payment of taxes by transport vehicles could not be ascertained.

After this was pointed out, Government stated in October 2005 that district transport officers have been instructed to maintain the register.

• *Non maintenance of bank draft register*

As per the Bihar Financial Rules, all transactions must be brought to account without delay and should be credited to public account. A bank draft register containing receipt of bank drafts, permit numbers, number and date of bank draft, amount, period and name of state is required to be maintained.

In STA, Jharkhand it was noticed that no bank draft register was maintained showing the number of permit, date of receipt of bank drafts, amount, name of State from where bank drafts were received alongwith date of their disposal. In absence of this, the number of drafts received and actually deposited in banks could not be ascertained. This indicated a total lack of internal control relating to receipt and deposit of bank drafts.

After this was pointed out, STC stated that the above register would be maintained in future.

* Bokaro, Chatra, Chaibasa, Dhanbad, Garhwa, Giridih, Gumla, Hazaribag, Jamshedpur, Koderma, Lohardaga, Palamu and Ranchi.

** Bokaro, Dhanbad, Giridih, Hazaribag, Jamshedpur, Palamu and Ranchi.

• **Internal audit**

Internal audit is generally defined as control of all controls to enable an organisation to assure itself that the prescribed systems are functioning reasonably well. The audit wing of the Finance Department works as an internal auditor of all departments of the State Government including the Transport Department annually. The Finance Department in May 1960 directed that the internal audit parties are required to audit cases of levy and collection of motor vehicles tax including scrutiny of taxation registers, issue of demand notices and accounting of tax collected upto verification of deposit of the amount with treasury records for credit to the Consolidated Fund of the State.

Test check of records of 10 DTOs*, revealed that internal audit of the receipts of motor vehicles taxes was not conducted in any of these offices during the years from 2000-01 to 2003-04.

The total absence of internal audit system in the department resulted in the management remaining unaware of the areas of malfunctioning of the systems and did not, therefore, have any opportunity of taking remedial action.

• **Non reconciliation of figures**

As per the Bihar Financial Rules, it is the duty of the controlling officer to see that all sums due to the Government are 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, Jharkhand, Ranchi it was noticed that there was discrepancy of Rs. 64.48 crore between the figures of revenue collection reported to Finance Department by the department and those shown in the Finance Accounts of Government of Jharkhand from 2000-01 to 2003-04 as detailed below:

(Rupees in crore)

Year	Departmental figure	Figure as per Finance Accounts	Difference
15.11.2000 to 31.3.2001	29.61	18.27	(-) 11.34
2001-02	97.11	86.10	(-) 11.01
2002-03	116.12	104.91	(-) 11.21
2003-04	129.58	98.66	(-) 30.92
Total			(-) 64.48

The department failed to reconcile the discrepancy during 2000-01 to 2003-04.

* Bokaro, Chaibasa, Chatra, Gumla, Garhwa, Giridih, Koderma, Jamshedpur, Palamu and Ranchi.

After this was pointed out, STC Jharkhand stated in April 2005 that the work of reconciliation would be entrusted to some responsible officers. STC further stated in October 2005 that since a huge amount was involved, the matter was being investigated at Government level.

• *Non furnishing of information by RO*

The PDR Act read with Rules made thereunder and the Board's instructions provide for furnishing by requisitioning officer (RO) correct addresses of defaulting vehicles owners against whom certificates are to be enforced by the certificate officer (CO) to enable him to institute certificate cases.

Test check of records of three ROs revealed that the COs had asked for certain details such as present addresses, the name of successors of defaulters and details of properties of these debtors etc. from the concerned ROs in respect of 133 cases involving Rs 73.92 lakh during the period from January 2001 to January 2005.

(Rupees in lakh)				
Sl. No.	Name of ROs	Period during which information sought for by COs	Number	Amount
1.	Hazaribagh	January 2001 & January 2004	19	15.49
2.	Jamshedpur	January 2004 & January 2005	6	18.59
3.	Palamu	December 2002 & January 2003	108	39.84
		Total	133	73.92

The information called for by COs was not supplied by ROs. As such, certificate proceedings could not be initiated. This resulted in blockage of revenue of Rs 73.92 lakh.

After this was pointed out, the ROs Hazaribagh and Jamshedpur stated that the requisite information would be sent to the COs. RO Palamu stated in March 2005 that compliance had been sent to CO in January 2003. However, it was noticed from the records of RO that relevant information was not furnished to the CO. Government stated in October 2005 that ROs have been instructed to initiate prompt action.

• *Irregular disposal of certificate cases*

The RO and CO are jointly responsible for timely disposal of certificate cases and to bring to each other's notice any undue delay.

In the office of DTO East Singhbhum, Jamshedpur, it was noticed in April 2005 that 302 cases involving tax of Rs 1.44 crore where requisitions were sent to CO were shown as disposed of during 2000-01 to 2003-04 as shown under:

(Rupees in crore)		
Year	No. of certificate cases disposed of	Amount involved
2000-01	61	0.16
2001-02	118	0.73
2002-03	55	0.09
2003-04	68	0.46
Total	302	1.44

No entry was recorded in Register IX by RO in support of the disposal of certificate cases. Moreover, no information regarding mode of recovery of these cases was received from CO Jamshedpur.

Thus, there was an irregular disposal of certificate cases involving tax dues of Rs 1.44 crore without proper entry in Register IX as well as without any information from CO Jamshedpur whether the recovery was made by him.

After this was pointed out, the district transport officer Jamshedpur stated that necessary information would be obtained from CO. The STC instructed the district transport officer in October 2005 to initiate prompt action in the matter.

• ***Delay in entry of cases in Register X***

Under the PDR Act, on receipt of any requisition, from RO, if the CO is satisfied that demand is recoverable and that recovery is not barred by law, he may sign a certificate and shall cause the certificate to be filed in his office and enter the same in register X.

In the office of CO, Palamu, Daltonganj, it was noticed that 52 certificate requisitions involving Rs 1.47 crore received from RO, Palamu between October 2001 and January 2002 were entered in Register X by CO during the year 2004-05 resulting in delay in initiating certificate proceedings for more than two years.

After this was pointed out, the district transport officer Palamu stated in March 2005 that the matter would be taken up with CO. STC in October 2005 further instructed the DTO to initiate prompt action in the matter.

• ***Discrepancy between the figures of Register IX and X***

As per the Board of Revenue's instruction issued under the PDR Act, RO is required to maintain Register IX in respect of requisition issued to CO for instituting certificate proceedings. On receipt of requisition from RO the CO is required to check the requisition and information, if any, required to be called for is obtained from ROs and thereafter enter the requisition in Register X. In order to have proper check over these two registers and to ensure that requisitions are promptly attended to, Register IX of RO is to be compared every month with Register X of CO.

In eight ROs and COs, it was noticed that there was a discrepancy between the figures of Register IX and Register X on 31 March 2004 as detailed below:

(Rupees in crore)

Name of RO and CO	Register IX		Register X		Difference	
	No. of cases	Amount involved	No. of cases	Amount involved	No. of cases	Amount involved
1. Giridih	1,331	1.98	345	0.64	986	1.34
2. Chaibasa	1,433	3.17	609	1.62	824	1.55
3. Lohardaga	60	0.19	58	0.20	2	(-) 0.01
4. Ranchi	4,184	33.76	4,183	33.71	1	0.05
5. Dhanbad	3,564	15.99	3,553	15.73	11	0.26
6. Bokaro	2,398	9.75	1,670	3.62	728	6.13
7. Palamu	269	2.19	225	0.79	44	1.40
8. Jamshedpur	2,109	10.09	1,760	8.89	349	1.20
Total	15,348	77.12	12,403	65.20	2,945	11.92

The above facts clearly indicate that there was a discrepancy of 2,945 certificate cases involving Rs 11.92 crore between both the registers.

After this was pointed out, the concerned ROs stated that the matter would be taken up with the COs. STC stated in October 2005 that DTOs have been instructed to initiate prompt action in the matter.

4.2.6 Trend of revenue

The budget estimates of Transport Department and actual collection for the last five years is given below:

(Rupees in crore)

Year	Budget estimates	Actuals	Short fall (-)/ Excess (+)	Percentage short fall/Excess
2000-01	177.73	223.98	(+) 46.25	(+) 26
2001-02	140.00	86.10	(-) 53.90	(-) 39
2002-03	182.75	104.91	(-) 77.84	(-) 39
2003-04	190.00	98.66	(-) 91.34	(-) 48
2004-05	224.59	130.24	(-) 94.35	(-) 42

The position for the year 2000-01 also includes the budget estimates and actuals of erstwhile state of Bihar upto 14 November 2000. The shortfall in revenue during the years 2001-02 to 2004-05 ranged between 39 to 48 per cent. In none of the years target was achieved by the department after the creation of Jharkhand State.

After this was pointed out, STC Jharkhand stated in May 2005 that targets were fixed by the Finance Department without consultation with the Transport Department. It was also added that the targets could not be achieved due to shortage of staff in the department.

4.2.7 Position of arrears

The arrears of revenue pending collection at the end of 31 March 2004 as reported by the Department was Rs 136.54 crore, out of which certificate proceedings of Rs 110.64 crore in 21,481 cases had been initiated.

(Rupees in crore)	
Year	Amount
1999-2000	117.00
2000-01	121.67
2001-02	127.97
2002-03	132.36
2003-04	136.54

It would be seen that amount of arrears has increased from Rs 117 crore in 1999-2000 to Rs 136.54 crore as on 31 March 2004 which is 17 per cent. The year wise position of certified arrears was not furnished by the STC.

4.2.8 Deficiency in pursuance of certified arrears

Under the BMVT Act, arrears of motor vehicle tax shall be recoverable as arrears of land revenue under Public Demands Recovery Act, 1914 (PDR Act) which stipulates that the CO on receipt of requisition in prescribed form from the RO after being satisfied that the demand is recoverable shall cause the certificate to be filed in his office. The Act also empowers him to cancel such certificates if he finds that the RO is not reasonably diligent in pursuing cases. As per instructions issued by the Board of Revenue, the RO is primarily responsible for systematic application of certificate, prompt disposal of objections, if raised by CO. The RO and CO are jointly responsible for timely disposal of certificate cases and bound to bring to each other's notice any undue delay.

The position of certified arrears in respect of 10 DTOs* as collected by audit is indicated below:

(Amount in crore)											
Year	Opening balance		Addition		Total		Disposal		Balance		Percentage of disposal of amount Col. 5 to 4
	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	
1	2		3		4		5		6		7
2000-01	13,431	61.70	-	-	13,431	61.70	62	0.16	13,369	61.54	0.26
2001-02	12,888	63.05	4	0.03	12,892	63.08	194	1.55	12,698	61.53	2.45
2002-03	12,736	63.13	17	3.06	12,753	66.19	81	0.19	12,672	66.00	0.29
2003-04	12,678	66.00	36	0.17	12,714	66.17	76	0.52	12,638	65.65	0.78
Total			57	3.26			413	2.42			

12,638 certificate cases involving an amount of Rs 65.65 crore remained unsettled till March 2004. Only 413 certificate cases involving Rs 2.42 crore could be settled during the period from 2000-01 to 2003-04 which ranged between 0.26 to 2.45 per cent of the total amount of certified arrears. It would be seen that there was discrepancy in number of cases and amount between closing balance and opening balance in all the years which was not reconciled.

After this was pointed out, the concerned district transport officers stated between November 2004 and April 2005 that matter would be taken up with

* Bokaro, Chaibasa, Chatra, Garhwa, Giridih, Gumla, Jamshedpur, Koderma, Palamu and Ranchi.

the COs for early disposal of cases. The STC stated in October 2005 that district transport officers have been instructed to initiate action promptly.

4.2.9 Non raising of demand for collection of taxes

◦ *Lack of control over collection of taxes*

Under the provisions of the BMVT Act, tax is to be paid to the taxing officer in whose jurisdiction the vehicle has been registered. In case of change of residence/business, the owner of vehicle can pay tax to the new taxation officer subject to production of "no objection certificate" (NOC) from the previous taxing officer. Taxes in respect of a motor vehicle are payable within 15 days from commencement of the quarter or year as the case may be. Non payment of tax in time attracts penalty at the rates prescribed depending upon period of delay. If the delay exceeds 90 days, penalty at twice the amount of tax due is leviable. District transport officers are required to issue demand notices against the defaulter and initiate certificate proceedings where necessary under PDR Act. The Chief Secretary, Bihar, in March 1999 and October 2000 directed all the departments to ensure payments of tax dues on vehicles of Government/public sector undertakings and corporations.

In 15 DTOs*, it was noticed that in cases of 1,843 motor vehicles, the owners/Government departments, public sector undertakings and corporations had stopped payment of taxes during the period from 2000-01 to 2004-05 and the concerned district transport officers failed to issue any demand notices on the defaulters. This resulted in non levy of tax of Rs 7.14 crore. Besides penalty of Rs 14.30 crore was also leviable.

After this was pointed out in June 2005, Government stated in October 2005 that district transport officers have been instructed to issue demand notices against the defaulters.

◦ *Non levy of taxes against trailers*

Under the BMVT Act and Rules made thereunder, owners of trailer are required to pay road tax and additional motor vehicles tax at the rates prescribed. The above Act provides that a motor vehicle used for transporting agricultural produce shall not be deemed to be used solely for the purposes of agriculture.

In 15 DTOs**, it was noticed that the owners of 589 trailers stopped payment of road tax and additional motor vehicles tax during the period from 2000-01 and 2004-05 in the offices where they were originally registered. The Department did not raise any demand against the defaulters. This resulted in

* Bokaro Chatra, Chaibasa, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Gumla, Hazaribag, Jamshedpur, Koderma, Lohardaga, Palamu and Ranchi.

** Bokaro Chatra, Chaibasa, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Gumla, Hazaribag, Jamshedpur, Koderma, Lohardaga, Palamu and Ranchi.

non-levy of tax of Rs 33.11 lakh. Besides penalty of Rs 66.21 lakh was also leviable.

After this was pointed out in June 2005, Government stated in October 2005 that district transport officers have been instructed to issue demand notices against the defaulters.

• *Non/short levy of trade tax against dealers*

Under the BMVT Act, tax at the rate of Rs 400, Rs 500 and Rs 600 per year per seven vehicles, depending on the class of vehicles, shall be paid by a manufacturer or a dealer in motor vehicles in respect of motor vehicles in his possession in the course of his business as a manufacturer or dealer under the trade certificate granted under Central Motor Vehicles (CMV) Rules, 1989.

In 11 DTOs*, it was noticed between July 2004 and April 2005 that in the case of 45 dealers trade tax was either not paid or paid short in respect of motor vehicles in their possession during the course of their business pertaining to the period from 1999-2000 to 2003-04. This resulted in non levy of trade tax amounting to Rs 58.83 lakh. Besides penalty of Rs 31.90 lakh was also leviable.

After this was pointed out in June 2005, Government stated in October 2005 that district transport officers have been instructed to issue demand notices against the defaulters.

• *Non levy of tax against surrender of vehicles*

Under the BMVT Act and Rules made thereunder, when the owner of a motor vehicle does not intend to use his vehicle for a certain period not exceeding six months at a time, he can be exempted from payment of tax by the competent authority provided his claim for exemption is supported by the required documents such as certificate of registration, fitness certificate and tax token. He shall also, from time to time, furnish an undertaking to the concerned taxation officer of the extension, if any, of the said period.

In six DTOs**, it was noticed that 35 vehicles were surrendered between April 1999 and March 2004 but after the expiry of surrendered period, neither the vehicle owners applied for extension of surrender nor any action was taken by the taxing officer to cancel the surrender and levy the tax accordingly. This resulted in non levy of tax amounting to Rs 35.63 lakh including penalty.

After this was pointed out, Government stated in October 2005 that district transport officers have been instructed to issue demand notices against the defaulters.

* Chaibasa, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Gumla, Hazaribag, Jamshedpur, Koderma and Ranchi.

** Chaibasa, Garhwa, Giridih, Gumla, Jamshedpur and Palamu.

• *Non levy of additional motor vehicles tax*

Under the BMVT Act, additional motor vehicles tax in lieu of passenger and goods tax is payable by registered owners or persons having possession or control of public service motor vehicles or transport vehicles at the rate specified in the Act by all owners of transport vehicles irrespective of whether the vehicles are public or private transport vehicles.

During the course of audit of five DTOs*, it was noticed that additional motor vehicles tax in respect of 158 vehicles during the period between August 1999 and March 2005 amounting to Rs 33.05 lakh including penalty was not levied. No action was taken by the Department to levy the same.

After this was pointed out, Government stated in October 2005 that district transport officers have been instructed to issue demand notices against the defaulters.

4.2.10 Loss of revenue

By notifications issued on 28 March 2001 and 31 May 2002, Government of India enhanced the rates of fee in respect of driving licence, registration of vehicles, issue of certificate of fitness and testing fee etc. with effect from 1 April 2001 and 31 May 2002 respectively. The notification dated 28 March 2001 was circulated to field offices on 7 March 2002 and notification of 31 May 2002 though received in the office of the STC Jharkhand in July 2002 has not been circulated so far.

In eight DTOs**, in 53,551 cases it was noticed that in cases of 51,209 driving licences, 1,171 registration of vehicles, 1,171 certificates of fitness and testing fees, enhanced rate of fees was not levied by concerned offices between April 2001 and December 2004 due to delayed circulation of Government of India notification dated 28 March 2001 and non circulation of notification dated 31 May 2002. This resulted in loss of revenue of Rs 29.48 lakh.

After this was pointed out, all district transport officers stated that demand notices would be issued for realisation of fees, whereas STC stated in March 2005 that the action on notification issued by the Central Government on 31 May 2002 would be taken.

4.2.11 Evasion of tax

The CMV Rules enumerate the procedure for registration of motor vehicles and issue of registration certificates to owners. Under the provisions of the BMVT Act, tax is to be paid to the taxing officer in whose jurisdiction the vehicles have been registered. Non payment of tax in time attracts penalty at the rates prescribed.

* Chaibasa, Chatra, Garhwa, Gumla and Palamu.

** Bokaro, Chatra, Dumka, Garhwa, Giridih, Gumla, Koderma and Ranchi.

In DTO Dhanbad, it was noticed that Police Department applied for registration of 45 vehicles during July and September 2001. As a token of receipt of registration fee, "likely registration marks" to these vehicles were allotted through computer. Thereafter, the Police Department did not obtain certificates of registration of these vehicles and pay the tax. This resulted in evasion of tax amounting to Rs 4.10 lakh by Police Department. Besides penalty of Rs 8.20 lakh was also leviable.

After this was pointed out, Government stated in October 2005 that district transport officers have been instructed to issue demand notices against the defaulters.

4.2.12 Short levy of tax due to application of incorrect rates

Under the BMVT Act, every owner of a transport vehicle is required to pay road tax and additional motor vehicles tax at the rates specified in the Act. STC Bihar vide instruction dated 30 September 2000 stated that seating capacity of bus having wheel base of 205" was to be determined as 53 seats and tax realised accordingly irrespective of the number of seats fitted in it.

In five DTOs*, road tax and additional motor vehicles tax on 16 buses having wheel base of 205" were levied at rates lower than those specified in the Act. This resulted in short levy of tax of Rs 7.82 lakh for periods falling between March 1999 and June 2005.

After this was pointed out, Government stated in October 2005 that district transport officers have been instructed to issue demand notices against the defaulters.

4.2.13 Non realisation of fees due to non assignment of registration mark

Under the provisions of the MV Act and Rules made thereunder, where a motor vehicle belonging to other state is intended to be kept in the state for a period exceeding 12 months, the owner on furnishing declaration to that effect is to submit an application accompanied by a NOC alongwith appropriate fee at any time within 12 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 Rs 100 and Rs 300 for the first and second or subsequent offences respectively.

In seven DTOs**, it was noticed that 822 transport vehicles remained in the concerned districts for a period beyond 12 months with registration number of previous states without being assigned local registration mark. This resulted in loss of revenue in the shape of fee of Rs 5.44 lakh pertaining to the period between January 2000 and March 2004.

After this was pointed out, Government stated in October 2005 that district transport officers have been instructed to issue notices against the defaulters.

* Bokaro, Chaibasa, Chatra, Giridih and Jamshedpur.

** Bokaro, Dhanbad, Giridih, Hazaribag, Jamshedpur, Koderma and Lohardaga.

4.2.14 Delay/irregular transfer of Government revenue

Bihar Financial Rules (as adopted by Government of Jharkhand) prescribe that all transactions must be brought to account without delay and all revenue should be credited to Government account. As per instructions issued by STC Bihar, Patna (March 1996) the collection of revenue i.e, motor vehicle tax and fees etc. for the period from April to February is required to be transferred to State Bank of India (SBI), Secretariat Branch, Patna in the first week of the following month for credit to Government account by the collecting bank. The same instructions were adopted by Government of Jharkhand and collection of revenue required to be transferred to SBI Doranda Branch, Ranchi after the formation of Jharkhand State on 15 November 2000. Collection in the month of March is to be transferred by 31 March so that all amounts deposited in a financial year stand transferred to Government account within the same financial year.

• In the office of DTO Palamu, it was noticed in March 2005 that a sum of Rs 22.04 lakh being collection of revenue under the head '0041- Taxes on vehicles' for the period from 18 November 2000 to 5 December 2000 was transferred to SBI Secretariat Branch, Patna instead of SBI Doranda, Ranchi. This resulted in irregular transfer of revenue pertaining to State of Jharkhand to State of Bihar. No action was taken for transfer of the aforesaid amount from Bihar State to Jharkhand State by the Department.

After this was pointed out, district transport officer, Palamu stated that the statement of deposit was sent to STC, Jharkhand, Ranchi. The reply is not tenable as the revenue collected was credited to the account of Bihar Government instead of Jharkhand Government. STC Jharkhand stated in October 2005 that the matter was being investigated at Government level.

• As per Reserve Bank of India's instructions issued in April 2003, interest at the rate of eight *per cent* per annum is payable by banks on delayed remittance to Government account.

Test check of bank reconciliation statement of Punjab National Bank, SBI, CMPDI branch and ICICI Bank Main Road, Ranchi as available in the office of STC Ranchi and three DTOs* revealed that the banks transferred the revenue collected to SBI, Doranda Branch, Ranchi for credit into Government account with delays ranging from one to 11 months. The Department did not charge interest for delayed remittances of amount to Government account resulting in loss of interest of Rs 2.36 crore.

After this was pointed out, the concerned district transport officers stated that matter would be taken up with the concerned banks. The STC stated in October 2005 that concerned DTOs have been instructed to pursue the matter with bank authority.

* Bokaro, Jamshedpur and Ranchi.

4.2.15 Loss of interest due to non institution of certificate proceedings

Under the BMVT Act, recovery of tax, penalty or fine is recoverable as arrear of revenue. There is no provision in BMVT Act to levy interest for delay whereas as per provision of PDR Act simple interest at the rate of 12 *per cent* per annum is recoverable from the date of signing of certificate till the date of realisation. Any delay in initiating certificate proceedings has the effect of loss of interest to Government as the provision for charging interest on belated payment covered by certificate takes effect only from the date of signing of the certificates.

In the office of DTO Daltonganj (Palamu), it was noticed that tax revenue amounting to Rs 3.79 crore was outstanding for the period from 1999-2000 to 2002-03 against defaulters. The amount was not covered under any stay of judicial/appellate authority. The department did not initiate certificate proceedings against defaulters till the date of audit. This resulted in loss of interest of Rs 74.77 lakh calculated from 1999-2000 to 2003-04 on outstanding dues besides non recovery of taxes amounting to Rs 3.79 crore.

After this was pointed out, district transport officer Palamu stated in March 2005 that action would be taken to file certificate cases as soon as possible. STC stated in October 2005 that the district transport officer has been instructed to initiate action in the light of audit observation.

4.2.16 Delay in issue of national permit/renewal of authorisation thereof

As per instruction issued by the STC in February 1996, national permit/renewal of authorisation thereof is to be issued within seven/three days respectively of the receipt of application.

Test check of records of STA Jharkhand in February 2005 revealed that in respect of 13 cases there was delay of 13 to 41 days in issue of national permits and in nine cases delay of 21 to 66 days in renewal of authorisation of national permits during the period from June 2001 to August 2004.

4.2.17 Non renewal of authorisation of national permit

Under the MV Act, a permit other than a temporary or special permit shall be issued for a period of five years. As per provisions of national permit scheme, the owner of vehicle is required to obtain authorisation for one year on payment of authorisation fee of Rs 500 in advance alongwith composite fee in the shape of bank drafts for transmission to states where the vehicle is to be plyed. This authorisation is a continuous process unless the permit expires or is surrendered by the permit holder. In case of non payment of composite fee within the due date, the permit issuing authority is required to impose penalty at the rate of Rs 100 per month or part thereof.

Test check of records relating to composite fee in respect of STA and RTAs Hazaribagh and Ranchi revealed that in 398 cases subsequent authorisation for plying goods vehicles under national permits was neither renewed for the

period falling between June 2002 and March 2005 during the periodicity of permits nor the national permits were surrendered. This resulted in non realisation of authorisation fee of Rs 3.42 lakh. Besides composite fee of Rs 1.11 crore pertaining to other states was realisable. In addition, penalty at prescribed rate was also leviable.

After this was pointed out, the RTAs and STA stated that the notices would be issued for renewal of authorisation to the concerned permit holders.

4.2.18 Recommendations

In view of the above observations, Government may consider to:

- take necessary steps to maintain and update the prescribed Registers under the provisions of Act/Rules to facilitate prompt collection of tax dues and fees etc;
- ensure timely transfer of revenue into Government account by the collecting banks;
- fix target for collection of arrears and monitor the same closely;
- take prompt action for implementation of rate of fees revised by Government of India to avoid loss of revenue.

4.2.19 Acknowledgement

Audit findings, as a result of test check of the implementation of working of Motor Vehicles Department were reported to the Government in June 2005 with a specific request for attending the meeting of Audit Review Committee (ARC) for Transport Department, so that view point of Government was taken into account before finalising the review. The meeting of ARC was held on 14 October 2005.

CHAPTER- V: Land Revenue

5.1 Results of Audit

Test check of the records of the Revenue and Land Reforms Department, conducted in audit during the year 2004-05, revealed non/short levy of cess, loss of revenue etc. amounting to Rs 344.47 crore in 1,592 cases, which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Non/short levy of cess and interest on arrears of cess	13	0.03
2	Non settlement of vested land	40	4.11
3	Non settlement of <i>sairats</i>	10	0.07
4	Other cases	1,529	340.26
Total		1,592	344.47

During the year 2004-05 the concerned Department accepted under assessment etc., of Rs 26.81 crore involved in 92 cases of which 84 cases involving Rs 4.46 crore had been pointed out in audit during 2004-05 and rest in earlier years.

A few illustrative cases involving Rs 191.23 crore are given in the following paragraphs:

5.2 Non realisation of revenue due to non renewal of leases

Under the provisions of the Bihar Government Estates (*Khas Mahal*) Manual, 1953 (as adopted by Jharkhand Government) and the Rules framed thereunder for grant of lease, State Government is to issue notices to the lessees six months prior to the expiry of 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 to occupy leasehold property without payment of rent and without renewal of lease is to be treated as a trespasser and has no claim for renewal on past terms and conditions.

On fresh leases for residential purposes, *salami** at the current market value of land besides annual rental at the rate of two *per cent* of such *salami* is leviable. Further as per instructions issued by the 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 differential of the proposed rent in the new deeds and the rent already paid by the lessees.

In course of audit of *khas mahal* office, Medninagar, Daltonganj it was noticed in December 2004 that out of 224.53 acres of *khas mahal* land leased to 1,622 lessees, 1,468 leases involving 198.1825 acres of land had expired up to 2003-04. Neither the lessees applied for renewal of lease either before or after the date of expiry nor the Department/Government issued notices to lessees to notify their intention for renewal. The leases were not renewed upto December 2004.

Failure on the part of the Department in taking action for renewal of expired leases resulted in loss of Government revenue worth Rs 327.10 crore for the period from 1955-56 to 2003-04 which included Rs 178.58 crore for the period 1999-2000 to 2003-04 in the shape of *salami*, penal rent and interest as detailed below:

Name/ Mauza/ Village	Date of expiry of lease	No of leases	Area involved in acre	Market value per decimal (in Rs)	Salami	Penal rent	Interest	Total
Daltonganj Thana 189	Period between 1955-56 and 2003-04	1,468	198.1825	77,125	152.85	104.98	69.27	327.10

* *Salami* is market value of the land. It is a share in the increase of value anticipated during the period of lease.

** Penal rent is twice the rate of residential rent.

After this was pointed out in December 2004, the *khas mahal* officer, Medninagar stated that due to lack of interest on the part of lessees to apply for renewal it remained pending. The reply is not tenable as the Department failed to issue notices to the lessees prior to the expiry of leases.

The matter was reported to Government in April 2005. Government stated in October 2005 that notices have been issued to the lessees for renewal of the expired leases and district *khas mahal* advisory committee has been formed for disposal of cases.

5.3 Non removal/settlement of encroached public land

Under the Bihar Public Land Encroachment Act, 1956 as adopted by Jharkhand Government, if a person has encroached upon any public land, he may be evicted or the land may be settled with such person, on payment of rent and damages for the use of such land as per rules laid down in Bihar Government Estate (*Khas Mahal*) Manual, 1953. Accordingly, in the case of impairment of the value of public land by use for residential purposes, *salami* at the prevailing market value of such land together with annual residential rent at prescribed rates is payable.

During the course of audit of five anchal offices* of three districts** it was noticed between August 2003 and October 2004 that 48 persons had encroached 17.906 acres of public land for residential purposes. The Department failed to take any action for eviction or regularisation of the encroachment. This resulted in non fixation/realisation of *salami* and residential rent of Rs 12.65 crore calculated for the period from 2001-02 to 2003-04.

After this was pointed out between May 2003 and October 2004, the anchal *adhikaris* stated between May 2003 and October 2004 that action was being taken to remove the encroachments.

The matter was reported to Government in April 2005. Government stated in October 2005 that steps were being taken to evict the encroached public land.

* Gamharia, Govindpur, Kanke, Sadar Ranchi and Saraikela.

** Dhanbad, Ranchi and Saraikela.

CHAPTER- VI: OTHER TAX RECEIPTS

6.1 Results of Audit

Test check of the records of the Registration and Commercial Taxes Department, conducted in audit during the year 2004-05 revealed under assessments of tax, fee, duty and losses of revenue etc., amounting to Rs. 197.75 crore in 950 cases which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
◦ STAMPS AND REGISTRATION FEES			
1	Short realisation of stamp duty & registration fees due to late receipts of revised rates	400	1.30
2	Other cases	536	1.69
	Total	936	2.99
◦ PGT/ENTRY TAX			
1	Non levy or short levy of tax	04	0.06
2	Review: Taxes on entry of goods into local areas	01	183.05
	Total	05	183.11
◦ ENTERTAINMENT TAX			
1	Short levy of entertainment tax	04	0.24
	Total	04	0.24
◦ ELECTRICITY DUTY			
1	Non levy or short levy of surcharge.	03	11.19
2	Other cases	02	0.22
	Total	05	11.41
	Grand Total	950	197.75

During the year 2004-05, the concerned Department accepted under assessments etc. of Rs 3.21 crore in 829 cases of which 368 cases involving Rs 1.50 crore had been pointed out in audit during 2004-05 and rest in earlier years.

A few illustrative cases including a review on "Taxes on Entry of Goods into Local Areas" involving Rs 190.06 crore are given in the following paragraphs:

6.2 Review on Entry of Goods into Local Areas

Highlights

- Cross verification of records of commercial taxes circles with the data of scheduled goods collected from outside the state revealed that 58 dealers of scheduled goods were neither registered nor had they paid entry tax of Rs 23.68 crore on entry of goods into the State. Department failed to conduct proper market survey to bring them in tax net.

[Paragraph 6.2.6]

- Cross verification of records of three commercial taxes circles with the data collected from Office of the Principal Director, Commercial Audit, Central Excise Department and green road permits issued to the dealer revealed that three dealers of imported coal and iron and steel neither paid entry tax amounting to Rs 94.70 crore nor was it levied by the department.

[Paragraph 6.2.7]

- Two dealers failed to deposit the entry tax due (in form of admitted tax) on import of coal, on due dates. Minimum penalty amounting to Rs 44.70 crore though leviable was not levied.

[Paragraph 6.2.8]

- Government suffered loss of entry tax of Rs 6.09 crore due to delay in notifying rates of scheduled goods.

[Paragraph 6.2.9]

- Non adherence to the internal control measure resulted in short levy of tax amounting to Rs 11.45 crore including penalty of Rs 8.59 crore on the suppressed turnover.

[Paragraph 6.2.10]

6.2.1 Introduction

On entry of certain specified goods (hereinafter called scheduled goods) for consumption, use or sale in Jharkhand, entry tax is levied under the Bihar Tax on Entry of Goods into Local Areas* for Consumption, Use or Sale therein Act, 1993 (BTEG Act) as adopted by Government of Jharkhand and Jharkhand Tax on Entry of Goods into Local Areas for Consumption, Use or

* Local area includes municipal corporation, municipality, notified area committee, cantonment board, town board, mines board, gram panchayat and any other local authority by whatever nomenclature called constituted or continued in the time being in force. After the coming into force of the JTEG (Amendment) Act in January 2002 the above definition of local area remained unchanged for tobacco and tobacco products but for taxable goods under Section 12 of BF Act the state of Jharkhand as a whole became a local area.

Sale (Amendment) Act 2001 {JTEG (Amendment) Act} and the Rules made and notifications issued thereunder at the rates not exceeding five *per cent* notified from time to time.

Under the BTEG Act read with JTEG (Amendment) Act, every dealer/person who causes entry of scheduled goods* of value Rs 25,000 and above, into Jharkhand/local area is required to get himself registered and furnish a true and complete monthly/quarterly and annual return for each year in respect of transaction of import of all scheduled goods and tax payable thereon in accordance with the provisions of Bihar Finance Act, 1981 (BF Act) as adopted by the State. The authority empowered under BF Act assesses the goods to tax after proper scrutiny of the return and books of accounts. All the provisions of BF Act shall apply *mutatis mutandis* to BTEG Act.

6.2.2 *Organisational set up*

The registration, levy and collection of entry tax is governed by Commercial Tax Department of the State. At the apex level, Commissioner of Commercial Taxes (CCT) is responsible for the administration of Acts and Rules. He is assisted by an Additional Commissioner, Commercial Taxes, Deputy Commissioner of Commercial Taxes (DCCT) and Assistant Commissioner of Commercial Taxes (ACCT) at the head quarters. The State is divided into five commercial taxes divisions**, each under the charge of a Joint Commissioner (JC). These divisions are further divided into 28 commercial taxes circles (circle) each under the charge of a DCCT/ACCT who is assisted by commercial taxes officers (CTOs).

6.2.3 *Audit Objectives*

The review was conducted with a view to ascertain:

- whether provisions of laws, rules and departmental instructions were enforced to safeguard the revenue of the State;
- whether there exists an internal control mechanism within the Department which is reliable, appropriate and working efficiently and effectively to check evasion of tax.

* Motor vehicles, tobacco, tobacco products (excluding biris), India made foreign liquor, vanaspati and hydrogenated oils, crude oil, cement, emulsion paints, sanitary fittings, air conditioner, air cooler and air circulator, marble, marble chips and tiles, granite stone, ceramic and glazed tiles, electrical fittings, iron & steel, steel plastic & PVC pipes, imported coal and bitumen.

** Dhanbad, Dumka, Hazaribag, Jamshedpur and Ranchi.

6.2.4 Scope of Review

A review on "Tax on entry of goods into local areas" was conducted between December 2004 and June 2005 in 17* out of 28 commercial taxes circles and office of the CCT relating to the period 1999-2000 to 2003-04 with special emphasis on registration, levy and collection of entry tax.

6.2.5 Trend of revenue and budget estimates

- *Variation between budget estimates and actual collection*

Under provisions of Bihar Financial Rules (BFR), the responsibility for preparation of the statement of estimated revenue as well as supplementary estimate of revenue under provisions of the Constitution of India which is laid before the legislature lies with the Finance Department on the basis of estimates received from the administrative departments. Thus, it is the responsibility of the department to prepare budget estimates on the basis of facts and figures and sufficient back up data.

The position of budget estimates and actual collection during the years from 2001-02 to 2003-04 is as under:

Year	Budget estimate	Actual collection	Variation	(Rupees in crore)
				Percentage (-) Decrease (+) Increase
2001-02	41.33	22.23	(-) 19.10	(-) 46
2002-03	46.31	38.65	(-) 7.66	(-) 17
2003-04	46.52	53.78	(+) 7.26	(+) 16

The actual collection fell short of budget estimates during 2001-02 (46 per cent) and 2002-03 (17 per cent) but it was higher than budgeted estimate (16 per cent) in 2003-04.

After this was pointed out, the Department stated in September 2005 that budget estimates for the period 2001-02 and 2002-03 were not based on realistic estimation.

* Adityapur, Bokaro, Chaibasa, Deoghar, Dhanbad Urban, Giridih, Hazaribag, Jamshedpur, Jamshedpur Urban, Jharia, Palamu, Ranchi East, Ranchi South, Ranchi West, Ranchi Special, Singhbhum and Tenughat.

◦ *Non reconciliation of departmental figures*

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

From the information made available by Government, it was noticed that there was variation between the departmental figures of revenue and the figures shown in the Finance Accounts of Government of Jharkhand for the years 2001-02, 2002-03 and 2003-04 as detailed below:

(Rupees in crore)			
Year	Departmental figures	Figures as per Finance Accounts	Difference
2001-02	29.80	22.23	(-) 7.57
2002-03	45.07	38.65	(-) 6.42
2003-04	61.14	53.78	(-) 7.36

This reflects the failure of the department to reconcile the figures with the office of the Accountant General (A&E).

6.2.6 Non levy of entry tax due to non registration of dealers

Every dealer/person dealing in scheduled goods who is either registered under BF Act or imports goods for sale, use or consumption above a specified quantum is required to be in possession of valid registration certificate under the BTEG Act. Failure to apply for registration within seven days of his becoming liable to pay tax may render him liable to pay penalty in addition to levy of tax at the rate of Rs. 50 per day or tax assessed whichever is less. By instructions issued in April 1990 and April 1997 under the BF Act, the Department instituted a control measure to unearth erring dealers by conducting market survey between April to June every year. The Department reiterated in March 1999 to conduct time bound and effective market survey for grant of registration to eligible dealers to widen the tax base.

Cross verification of data of scheduled goods brought from Andhra Pradesh, Bihar, Karnataka, Uttar Pradesh, West Bengal and received against declaration form C, F, green road permit* and invoices revealed that in 12 circles**, 58 dealers imported scheduled goods*** valued at Rs 512.54 crore between 1999-2000 and 2003-04, but did not get themselves registered under BTEG Act. The Department also failed to detect and get them registered. This resulted in non levy of entry tax of Rs 23.68 crore including penalty of Rs 21.30 lakh.

6.2.7 Non levy of entry tax

There shall be levied and collected a tax on entry of scheduled goods into local area for consumption, use or sale at such rate not exceeding five *per cent* on import value of such goods. If a dealer fails to pay tax he becomes defaulter and penal action to recover the tax due can be taken against him. The CCT vide instructions in May 1990 directed the circles incharge to collect data/information from different Central/State Government departments regarding sale/purchase in respect of dealers under their jurisdiction for cross verification of data/information with the returns/records of the dealers to check evasion of tax. The Investigation Bureau (IB) wing of the department was also entrusted in June 1991 with this work. It has been judicially held**** that payment of entry tax on import value of scheduled goods is mandatory as soon as these enter the territory of the State.

Cross verification of data collected by audit from Commissioner of Central Excise, Principal Director, Commercial Audit and from green road permits issued by the dealers with the records of two manufacturing dealers and one trading dealer of iron and steel in three circles***** revealed that the dealers imported iron and steel and coal (imported) valued at Rs 2,367.54 crore during 2002-03 and 2003-04 from Vishakapatnam and abroad.

The dealers neither furnished any return nor deposited entry tax due on value of imported coal and iron and steel as prescribed in the Act although the dealers were registered under the Act. This resulted in non levy of entry tax of Rs 94.70 crore.

* Green road permit is meant for movement of goods from a place outside the State to a place inside the State either on purchase or on stock transfer.

** Adityapur, Bokaro, Deoghar, Giridih, Hazaribag, Jamshedpur, Ranchi East, Ranchi South, Ranchi West, Ranchi Special, Singhbhum & Tenughat.

*** Tobacco products, iron & steel, motor vehicles, electrical fittings, vanaspati, sanitary fittings, PVC pipes, cement and IMFL.

**** M/s Classic Automobiles Vs State of Bihar and others CWJC Nos. 1052 and 1047 of 1998(R) decided on 3 November 1998 by Patna High Court (Ranchi Bench).

***** Bokaro, Jamshedpur Urban and Ranchi Special.

6.2.8 Non imposition of penalty for non payment of admitted tax

Under provisions of BTEG Act read with BF Act, if a registered dealer fails to make payment of the tax due (in form of admitted tax) according to the prescribed provisions of the Act, the prescribed authority shall impose a penalty for such delay in payment of tax due which may extend to five *per cent* but not less than two and half *per cent* of the amount of tax for each of the first three months following the due date and to 10 *per cent* and not less than five *per cent* for each subsequent month.

In case of two dealers of Bokaro and Jamshedpur Urban circles, minimum penalty of Rs 44.70 crore though leviable was not levied for non payment of admitted tax of Rs 91.50 crore for the period 2002-03 to 2003-04 calculated up to March 2004.

6.2.9 Loss of revenue due to delay in publication of notification in official gazette

The JTEG (Amendment) Act, 2001 published in official gazette on 2 January 2002 was given immediate effect in which 16 scheduled goods were brought in its purview. But the rates of entry tax on these goods were notified on 23 March 2002 and given effect from the date of publication in the official gazette. This delay in specifying the rates and contradiction between the effective dates of these two notifications resulted in loss of revenue of Rs 6.09 crore in six circles* in case of 13 dealers during the period from 2 January to 22 March 2002.

After this was pointed out, Government accepted the facts and stated that delay in notifying the rates was due to procedural delay.

6.2.10 Inter State monitoring of scheduled goods

By an executive instruction issued in June 1991 under provisions of the BF Act, IB wing was assigned with the work of verification of declaration form C, F and H, study of incoming goods and formulation of procedure for market survey. This wing was required to conduct surprise inspection of big business premises as well as to inspect vehicles to prevent tax evasion. As a measure of internal control the Department prescribed in August 1984 minimum 35 inspections of business premises and 60 inspections of vehicles per month by the IB wing and submission of report to CCT by 10th/25th of the following month.

* Adityapur, Bokaro, Deoghar, Hazaribag, Ranchi Special & Singhbhum.

Scrutiny revealed that requisite surveys, inspections and verification of declarations were not carried out from 15 November 2000 to 26 September 2003 as only one DCCT was posted in the wing and the wing remained non functional.

Moreover, cross verification of information collected by audit in respect of incoming scheduled goods from outside the State, declaration form C, F and invoices revealed evasion of tax as mentioned below:

Non/short accounting of goods

• Under the provisions of the BTEG Act read with BF Act, 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 assessment, 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, penalty not exceeding three times but not less than an amount equivalent to the amount of tax.

In seven circles*, cross verification of data of scheduled goods imported from Bihar, Uttar Pradesh, West Bengal and other States with the records of 10 dealers of Jharkhand dealing in tobacco products, IMFL, cement and motor vehicles revealed that the dealers accounted for goods valued at Rs 201.89 crore against the actual receipt of Rs 262.09 crore during the years 1997-98 to 2003-04 assessed between December 2001 and December 2004. Thus the goods valued at Rs 60.20 crore were not accounted for. This resulted in under assessment of tax of Rs 11.45 crore including penalty of Rs 8.59 crore. The Department failed to comply with the instructions of June 1991 to conduct surprise inspections of business premises/vehicles etc. and detect such cases.

Non levy of penalty before finalisation of assessment

• Under provisions of BTEG Act read with BF Act, if a registered dealer has furnished incorrect particulars of the import value of scheduled goods in the return, the prescribed authority shall direct the dealer to pay penalty on the basis of provisional tax assessed on such concealed turnover. By issuing instruction in November 1998, the Department instituted a control measure for monitoring of return, which *inter alia* includes initiation of penalty proceedings on such concealed turnover before assessment.

* Adityapur, Bokaro, Deoghar, Dhanbad Urban, Hazaribag, Ranchi South & Ranchi West.

Cross verification of data received from Bihar and statement of green road permits furnished by a dealer with the records in two circles, Giridih and Chaibasa, in case of two dealers revealed in May 2005 that the dealers had imported IMFL & tobacco products valued at Rs 41.99 lakh during the period 2001-02 and 2003-04. However, as per returns the dealers had accounted for the goods valued at Rs 24.34 lakh only, resulting in concealment of imported goods valued at Rs 17.65 lakh on which penalty of Rs 2.65 lakh was leviable. The assessing authorities failed to detect the concealment of turnover at the time of filing return by assessee and levy penalty under the instructions of November 1998.

6.2.11 Irregular allowance of exemption from levy of tax

Under provisions of BTEG Act and Rules made thereunder, if a dealer who claims that any part of his turnover relating to import of scheduled goods is not liable to tax on the ground that tax was paid at the first point of entry, he shall substantiate such claim before the assessing authority by producing purchase bill, invoices or cash memos and a true and complete declaration in form 'ET-IX' received from the selling dealer.

In four circles*, in cases of 11 dealers exemptions of turnover were allowed on import value of tobacco products, IMFL and cement valued at Rs 46.82 crore during the period 1999-2000 to 2002-03 assessed between November 2001 and March 2005 without production of declaration form in ET-IX resulting in incorrect allowance of exemption from levy of entry tax of Rs 2.34 crore.

6.2.12 Irregular/ incorrect allowance of reduction in the liability to pay sales tax

Under provisions of BTEG Act and Rules made thereunder, claim of reduction in the liability to pay sales tax shall be valid only when the entry tax has been paid on the sale of concerned goods.

In two circles Ranchi West and Deoghar, in case of two dealers, it was noticed that while finalising the assessment for the years 1999-2000 and 2000-01 assessed between October 2002 and October 2003, the assessing authorities adjusted full entry tax of Rs 24.55 lakh paid towards liability of sales tax instead of Rs 18.34 lakh on the quantity of goods actually sold. This resulted in excess adjustment of entry tax of Rs 6.21 lakh.

* Deoghar, Hazaribag, Jharia and Palamu.

6.2.13 *Lacunae in the Act*

While enacting the Act, it was the clear motive of the Legislature/Department to bring the importing dealer as well as individual person, who causes to bring scheduled goods into Jharkhand, in tax net to augment revenue. But there are no specific provisions in the Act or Rule (except in the case of Motor Vehicles) for levy and collection of entry tax from individuals who bring these scheduled goods for their own use and consumption.

6.2.14 *Recommendations*

In view of the above facts Government may consider to:

- strengthen the internal control by proper maintenance of records including those needed for monitoring of registration, levy and collection of entry tax and inter state transactions of scheduled goods;
- exchange data of transactions of scheduled goods with other States;
- make specific provisions in the Act and Rules for levy & collection of entry tax in case of individual imports of scheduled goods; and
- establish check posts at all main entry points into the State for constant monitoring and levy and collection of entry tax at the time of entry of scheduled goods into the State.

After these were pointed out between December 2004 and June 2005, the department stated that the cases would be reviewed.

The above findings were reported to Government in June 2005. Government stated in September 2005 that respective circles have been directed to review the cases. Final reply is awaited (January 2006).

6.2.15 *Acknowledgement*

Audit findings, as a result of test check of the implementation of tax on entry of goods into local areas were reported to Government in June 2005 with a specific request for attending the meeting of Audit Review Committee (ARC) for Commercial Taxes Department, so that view point of Government was taken into account before finalising the review. The meeting of ARC was held on 28 June 2005.

STAMPS & REGISTRATION FEES

6.3 Non levy of additional stamp duty

Under the provisions of the Indian Stamp Act (IS Act), 1899 and instructions issued thereunder, exemption of stamp duty is admissible on the deeds of co operative societies executed by the societies or its members in favour of other members of the concerned society. But additional stamp duty is chargeable at the rate of seven *per cent* on consideration value under the provisions of the Bihar Regional Development Authority Act, 1981 and the Bihar and Orissa Municipal Act 1922 as applicable to Jharkhand.

Test check of records of district sub registrar (DSR) Ranchi revealed in November 2004 that 270 documents valued at Rs 7.96 crore pertaining to co-operative societies were registered during 2002-03 and 2003-04 without levying additional stamp duty. This resulted in loss of revenue of Rs 55.69 lakh.

After this was pointed out in November 2004, DSR Ranchi stated in October 2005 that demand notices for realisation were being issued.

The matter was reported to Government in April 2005; reply has not been received (January 2006).

6.4 Short realisation of revenue due to delay in revision of guideline register

Under the provisions of Bihar Stamp (Prevention of undervaluation of instruments) Rules, 1995 as adopted by Jharkhand Government, the Collector shall revise the guideline register of estimated minimum value of land/property every two years.

Test check of records for the year 2002-03 and 2003-04 in three offices*, in November and December 2004 revealed delay in revision of guideline register ranged between six months to one year. Non revision of guideline register in time resulted in short realisation of stamp duty and registration fees of Rs 45.22 lakh in case of 84 deeds executed between August 2002 and March 2004.

After this was pointed out between November and December 2004, concerned DSR/sub registrar (SR) stated in August 2005 that timely action would be taken in future to protect Government from loss of revenue.

* DSR Giridih, Ranchi and SR Dhanwar (Giridih).

The matter was reported to Government in April 2005; reply has not been received (January 2006).

6.5 Short levy of stamp duty and registration fees

• As per IS Act, stamp duty on deeds of lease where lease is granted for a fine or premium or for money advanced and where no rent is reserved is to be charged on consideration or market value equal to the amount or value of such fine or premium or advance as set forth in the lease. As per Bihar Stamp (prevention of undervaluation of instruments) Rules, 1995, the registering authority is required to adopt guideline register rates fixed by the collector from time to time and levy stamp duty and registration fees accordingly.

In DSR Bokaro (Chas), test check of 27 lease documents revealed in November 2004 that during 2003-04, plots of land by way of leases were transferred to different persons by Steel Authority of India Ltd (SAIL) and Bokaro Industrial Area Development Authority. The consideration value in the lease deeds was shown less in comparison to the rates fixed by the collector as per guideline register of concerned area. Undervaluation of the plots of land transferred by the above lessees resulted in loss of Government revenue in the shape of stamp duty and registration fees of Rs 35.73 lakh.

The matter was reported to the Department/ Government in November 2004 and April 2005; reply has not been received (January 2006).

• The rates of stamp duty and registration fee in case of "instruments of partition" as applicable in the state of Jharkhand, have been given in schedule 1A to the IS Act and Article A(I) of table of fees under the Indian Registration Act, respectively.

In DSR Godda, test check of 61 partition deeds registered during the year 2002-03 and 2003-04, disclosed that deeds were registered for a lesser value in comparison to the value specified in the guideline register prescribed for the land of the area. This resulted in loss of Government revenue of Rs 27.12 lakh in the shape of stamp duty and registration fee due to undervaluation of property.

After this was pointed out in August 2004, the Department stated that due to non saleable nature of land, minimum estimated value had not been determined. The reply is not tenable as the value of the land should have been determined keeping in view the guideline register rates as fixed by the collector.

The matter was reported to Government in April 2005; reply has not been received (January 2006).

6.6 Application of incorrect rates of stamp duty and registration fees

As per IS Act, as applicable to Jharkhand State, lease deeds attract stamp duty at the rate of 14.7 *per cent* and sale deeds at the rate of 8.4 *per cent* including surcharge. Further registration fee is also leviable as per Registration Act.

Test Check of records of DSR, Ranchi in November 2004 revealed that in case of 83 lease deeds registered during 2002-03 and 2003-04, stamp duty and registration fees were levied on the consideration shown in lease deeds at rates as applicable to sale deed instead of lease deeds. Thus application of incorrect rates of duty/ fee resulted in short levy of stamp duty and registration fee of Rs 29.63 lakh.

After this was pointed out in November 2004, the DSR, Ranchi stated in October 2005 that demand notices for realisation were being issued.

The matter was reported to Government in April 2005; reply has not been received (January 2006).

ELECTRICITY DUTY

6.7 Short levy of electricity duty due to application of incorrect rate

Under the provisions of Bihar Electricity Duty Act (BED Act), 1948 as adopted by Jharkhand State, duty shall be levied and paid to the State Government on the units of electrical energy consumed or sold, excluding losses of electrical energy in transmission and transformation, at the rate or rates specified in the schedule.

During the course of audit of Bokaro commercial taxes circle, it was noticed in August 2004 that while assessing in January 2004 the case of a licensee, electricity duty on the electrical energy consumed in construction work was levied at the rate of two paise per unit instead of the correct rate of 12 paise per unit during the period between 1997-98 and 2000-01. This resulted in short levy of duty of Rs 1.48 crore due to application of incorrect rate of duty.

After this was pointed out in August 2004, the Department replied in October 2005 that action has been initiated under the provisions of the Act/Rules.

The matter was reported to Government in April 2005; reply has not been received (January 2006).

6.8 Non levy of penalty for non payment of surcharge

Under the provisions of BED Act and Rules framed thereunder, every licensee shall deposit the duty/ surcharge payable according to the return within two calendar months of the month to which the duty/ surcharge relates. If a licensee fails to make payment of duty/ surcharge due from him, the prescribed authority shall impose a penalty of not less than two and a half *per cent* but not exceeding five *per cent* of the amount of duty/surcharge for each of the first three months or part thereof following the due date and penalty not less than five *per cent* but not exceeding 10 *per cent* for each subsequent month thereof.

During the course of audit of Bokaro commercial taxes circle, it was noticed in August 2004 that a licensee purchased 218.16 crore units of electrical energy from Damodar Valley Corporation between 1998-99 and 2000-01 for consumption or sale. The licensee did not pay surcharge amounting to Rs 4.36 crore till the date of assessment. The assessing authority while finalising the assessment in January 2004 levied surcharge but failed to impose penalty for the period of default. This resulted in non levy of penalty of Rs 9.69 crore calculated at the minimum rate.

After this was pointed out in August 2004, the Department stated in October 2005 that action has been initiated under the provisions of Act/Rules.

The matter was reported to Government in April 2005; reply has not been received (January 2006).

CHAPTER-VII: Mineral Concession, Fees and Royalties

7.1 Results of Audit

Test check of the records of Mining Department, conducted during the year 2004-05, revealed under assessments and losses of rent, royalty, fee etc. amounting to Rs 270.62 crore in 11,877 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 cess	237	93.09
2	Short levy of royalty due to downgrading of coal	5	1.85
3	Non/short levy of dead rent/ surface rent	22	0.69
4	Non levy of royalty on coal consumed by workmen	18	0.59
5	Non levy of interest	37	3.45
6	Non levy of penalty/fees	279	11.54
7	Non/short levy of auction money due to non/ irregular settlement of sand <i>ghats</i>	35	0.39
8	Non initiation of certificate proceedings	119	1.58
9	Other cases	11,125	157.44
Total		11,877	270.62

During the year 2004-05, the concerned Department accepted under assessment etc. of Rs 99.81 crore involved in 7,503 cases of which 6,987 cases involving Rs 58.27 crore have been pointed out in audit during 2004-05 and rest in earlier years.

A few illustrative cases involving Rs 2.56 crore are given in the following paragraphs:

7.2 Blocking up of royalty

The Mines and Mineral (Regulation and Development) Act (MMRD Act) 1957, provides for payment of royalty by the lessee on quantity of minerals removed or consumed from the leased area. According to the judicial pronouncement* removal from the seam in mine and extracting the same through pits mouth to the surface satisfies the requirement of Act in order to give rise to liability for payment of royalty. Further, the lessee is liable to pay royalty on the quantity of mineral extracted irrespective of whether it is removed or not from the leasehold area.

In three district mining offices (DMOs), it was noticed between March and December 2004 that 11.86 lakh MT of various minerals (like lime stone and coal of various grade) were lying in stock undisposed during the period between 2002-03 and 2003-04. In no case demand for royalty was either raised or realised by the DMOs in accordance with judicial pronouncement. Due to non raising of demand of royalty a sum of Rs 12.18 crore remained blocked as detailed below:

(Rupees in lakh)						
Sl. No	Name of the office/lessee	Name of mineral	Period	Quantity (in lakh MT)	Rate of royalty per MT	Amount of royalty
1	DMO Dhanbad/ Bharat Coking Coal Limited (BCCL)	Coal	2003-04	2.39	Between Rs 85 and 250	300.24
2	DMO Garhwa/ Steel Authority of India Limited. (SAIL)	Lime-stone	2003-04	0.39	Rs 40	15.42
3	DMO Hazaribag/ Central Coalfields Limited (CCL)	Coal	2002-03	9.08	Rs 70 and 165	902.17
TOTAL				11.86		1,217.83

The matter was reported to the Department between March and December 2004 and Government in May 2005; reply has not been received (January 2006).

7.3 Non realisation of royalty

Under Mineral Concession Rules (MC Rules), 1960, every lessee is required to furnish monthly return for extraction and removal of mineral by the first of the month following the month to which the return relates. Rules also provide for verification of lessee's royalty returns by the assessing officer for assessment of demand. Further, the MMRD Act provides for payment of royalty by the lessee on the quantity of minerals removed or consumed from the leased area. The lessee shall store the unutilised/non saleable sub grade

* Central Coal Field Ltd Vs State of Bihar & others CWJC 2477 of 1996(R) of Patna High Court, Ranchi Bench.

mineral properly for future beneficiation and if Government is satisfied that inferior quality of the mineral cannot be used as major mineral, it may, by order permit the lessee to dispose it off as minor mineral.

◦ In DMO Hazaribag, it was noticed in March 2005 that the lessee* despatched 2.84 lakh MT of deshale reject (Grade-G) coal** from leasehold area during the period between March 1999 and February 2002 without payment of royalty till December 2004. This resulted in non realisation of royalty amounting to Rs 1.42 crore.

The matter was reported to the Department in March 2005 and Government in May 2005; reply has not been received (January 2006).

◦ In DMO Hazaribag, it was noticed in March 2005 that 81,938.72 MT of washery-I (W-I) reject coal (Grade-G) was lying in stock since 1999-00 to 2000-01. Out of this, 38,922.61 and 789.88 MT of W-I rejects were sold between October 2001 and September 2002 without payment of royalty. Further, balance quantity of 42,672.86 MT of reject coal pertaining to the period 2002-03 were not carried forward in the returns after September 2003 onwards without assigning any reasons. This resulted in non realisation of revenue of Rs 47.71 lakh.

After this was pointed out, the DMO Hazaribag stated in July 2004 that the demand has been raised for royalty of Rs 27.70 lakh on unaccounted 42,672.86 MT of reject coal. Action on the balance quantity has not been taken so far. Further reply has not been received (January 2006).

The cases were reported to Government in May 2005; reply has not been received (January 2006).

7.4 Non levy of penalty

Under the Bihar Minor Minerals Concession Rules (BMMC Rules) 1972, every lessee or permit holder is required to submit every month a return in the prescribed form for extraction and removal of minor minerals by the fifteenth day of the following month to which it relates. In case a lessee or a permit holder fails to furnish the required return within the prescribed period, he shall be liable to pay a sum of Rs 20 for every day after the expiry of the prescribed date subject to maximum of Rs 2,500 as penalty.

* Bokaro West Colliery (TISCO), Hazaribag.

** Deshale reject is the product coming out of deshaling plant. As per the grade declaration for 2003-04 by TISCO Ltd, the ash content was 59.90 per cent in the deshaling plant reject.

In nine DMOs*, it was noticed that 126 lessees in 1,304 cases did not furnish the returns in time. During the period between April 1999 and March 2004 the returns were submitted with delay ranging between one and 60 months, but no penalty was imposed by the assessing officer in any of the cases. Thus, the Department failed to impose penalty of Rs 32.60 lakh for delayed/ non submission of monthly returns.

The cases were reported to the Department/Government in December 2004 and May 2005; reply has not been received (January 2006).

7.5 Short levy of royalty due to suppression of production of mineral

Under the BMMC Rules, every lessee or permit holder is required to submit every month, a return in the prescribed form for extraction of minor minerals, by the fifteenth day of the following month to which it relates. Royalty is payable on the total quantity of mineral removed from leasehold area. Further as per Government notification of July 1998, 10 *per cent* of dust is generated from the boulders used in the crusher for production of stone chips.

During the course of audit of DMO, Sahebganj, it was noticed in September 2004 that a lessee showed an opening balance of 3,07,986 cft of stone dust in the monthly return of September 2002, against the closing balance of 7,986 cft of stone dust shown in the monthly return of August 2002. Hence there was an excess exhibition of 3,00,000 cft stone dust. This indicated crushing of 30,00,000 cft of stone boulders and production of 27,00,000 cft of stone chips which was suppressed and no royalty was paid which resulted in loss of royalty of Rs 19.10 lakh.

After this was pointed out in September 2004, the DMO, Sahebganj raised additional demand of Rs 13.61 lakh in February 2005 after adjusting Rs 5.49 lakh already paid in October 2004. Further reply has not been received (January 2006).

The case was reported to Government in May 2005; reply has not been received (January 2006).

* Daltonganj, Dhanbad, Dumka, Hazaribag, Koderma, Lohardaga, Pakur, Ranchi and Sahibganj.

7.6 Non/short levy of penalty for illegal mining of brick earth

As per provisions of BMMC Rules and Government notification of March 1992, every brick kiln owner/ brick earth remover shall pay the prescribed consolidated royalty based on categories of the brick kilns before issue of permit. Under Rule 26A of BMMC Rule, a consolidated amount of royalty shall be paid by the brick kiln owner/brick earth remover per kiln per annum to the State Government in a manner prescribed therein on a fixed number of bricks for every classified area. Further Rule 40(8) of the Rules *ibid* provides that whoever removes minor mineral without valid lease/ permit shall be liable to pay the price thereof as penalty and 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 two DMOs, Hazaribag and Lohardaga, it was noticed between May and September 2004 that 66 brick kilns were operated in brick season 2003-04 without obtaining valid permit and without payment of consolidated royalty. Out of these in 58 cases relating to DMO Hazaribagh demand for consolidated royalty was raised without reference to the price of mineral and in two cases a total sum of Rs 15,000 was realised. Taking the minimum price of the mineral as equivalent to royalty and deducting the amount of royalty already levied, there was non/short levy of penalty of Rs 14.70 lakh.

After this was pointed out between May and September 2004, DMO Lohardaga stated in May 2004 that there is no provision of penalty under Rule 26A, while DMO Hazaribag stated that consolidated royalty has to be recovered under Rule 26A for which demand notices had been issued. The reply of the Department was not tenable as Rule 40(8) attracts penal provision for illegal removal/excavation of minor minerals/brick kiln earth whereas Rule 26A deals with payment of consolidated royalty of brick kiln owner having valid permit. Where mining is being done without any permit, all such cases are to be treated as illegal excavation and penalty imposed under Rule 40 (8). Further reply has not been received (January 2006).

The cases were reported to Government in May 2005; reply has not been received (January 2006).

CHAPTER VIII: Other Non Tax Receipts

8.1 Results of Audit

Test check of the records of the following receipts conducted in audit during the year 2004-05, revealed losses/non recovery of revenue etc. amounting to Rs 110.09 crore in 188 cases, which broadly fall into the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
FOREST RECEIPTS			
1	Loss of revenue due to departmental lapses	33	4.41
2	Less raising of demand	10	28.67
3	Loss of revenue due to delay in initiation of certificate cases	1	0.02
4	Other cases	38	34.99
	Total	82	68.09
WATER RATES			
1	Loss of revenue due to non achievement of target of irrigation	32	1.56
2	Delay in assessment/non assessment of water rates	46	37.67
3	Other cases	28	2.77
	Total	106	42.00
	Grand Total	188	110.09

During the year 2004-05, the concerned departments accepted loss of revenue of Rs 211.47 crore involved in 229 cases of which 119 cases involving Rs 51.37 crore has been pointed out in audit during 2004-05 and rest in earlier years

In one case entire amount of Rs 12.91 crore was recovered after the case was brought to the notice of Government. A few illustrative cases involving Rs 12.17 crore are given in the following paragraphs:

FOREST RECEIPTS

8.2 Blockage of revenue due to non disposal of seized forest produce

Under the provisions of the Indian Forest Act, 1927 and instructions issued by the Principal Chief Conservator of Forest (PCCF) Bihar, Ranchi in July 1996, seized forest produce involved in court cases are required to be disposed off immediately after obtaining order of court to avoid natural decay. Revenue realised is to be deposited as per direction of the court.

In four Forest Divisions*, it was noticed between August and October 2004 that in 77 cases timber/*katha* valued at Rs 35.90 lakh was seized during the year 2003-04 and the cases were forwarded to court for trial. The seized forest produces were required to be disposed off after obtaining orders of the Hon'ble Court but no action was taken by the Department to obtain permission of the court for disposal of seized material. This resulted in blockage of revenue of Rs 35.90 lakh due to non disposal of forest produce.

After this was pointed out between August and October 2004, the Deputy Director cum Divisional Forest Officer, Palamau Tiger Project Division, Daltonganj stated that in the above cases the handing over of seized materials was under process. Divisional Forest Officer (DFO) North Forest Division, Chatra stated that seized materials were being gradually handed over to the concerned forest division for disposal. DFO, Latehar stated that necessary action would be taken while DFO, Dumka stated that action is being taken to get the permission from court.

The cases were reported to Government in April 2005. Government in their reply in October 2005 stated that the respective DFOs have been directed to seek permission from the court for release of seized forest produces.

8.3 Loss of revenue due to illegal mining operation in forest areas

Under the provision of the Forest (conservation) Act, 1980, forest land cannot be transferred for non forest purposes without the prior approval of Government of India. In the interim order of December 1996, the Hon'ble Supreme Court directed** to cease all ongoing activities within any forest in any State throughout the country without the prior approval of the Central Government, in accordance with the Act. Royalty and compensation for the damage of forest produce was also to be realised from the offenders under the

* Chatra, Dumka, Latehar and Palamu Tiger Project.

** T N Godavarman Thirumalpad Vrs Union of India & others W.P. (Civ) No. 202 of 1995.

provisions of Indian Forest Act, 1927. Government of India, Ministry of Environment and Forest in the light of Hon'ble Supreme Court's judgment entrusted PCCF of the States to delegate powers under relevant acts to all forest officers for trial of encroachers and completion of proceedings through summary trials in time bound manner. Further under Indian Forest Act, 1927 the forest officers have already been delegated all the magisterial powers under the Bihar Public Land Encroachment (BPLE) Act 1956 to evict the encroachment of forest land.

Test check of records of Bokaro Forest Division in February 2004 disclosed that 93.906 hectare of forest land was being illegally utilised by Central Coalfields Ltd (CCL) which was detected by the Department in January 2004 and involved royalty of Rs 3.88 crore and compensation of Rs 7.77 crore for the damage of forest produce. In contravention of the order of Hon'ble Supreme Court, the Department neither stopped the illegal mining operation nor realised the amount of royalty and compensation from the user agency. Failure of the Department in taking action for eviction of forest land from encroachment and sending the case directly to the court without exercising the powers conferred to it under BPLE Act resulted in loss of revenue of Rs 11.65 crore.

This was pointed out in February 2004; the Department did not furnish any reply (January 2006).

The case was reported to Government (April 2005); reply has not been received (January 2006).

WATER RATES

8.4 Non raising of demand due to non preparation of *khatiani*

Under the provisions of Bengal Irrigation Act, 1876 and Rules framed thereunder as adopted by Government of Jharkhand, preparation of statement of land irrigated (*sudkar*), preparation of detailed measurements cultivator-wise (*khesra*) and preparation of demand statement (*khatiani*) is required to be completed within the stipulated period of 99 days in respect of *khari* and 68 days for *rabi* crops for the purpose of recovery of water rates.

Scrutiny of assessment records of the Executive Engineer (EE), Water ways Division, Hazaribagh revealed in January 2005 that out of the total area of 33,565.74 acres of irrigated land during the years 2000-01 to 2003-04, *khatiani* in respect of 23,559.92 acres of land was not prepared and despatched to Revenue Division for raising demand and collection of revenue in time. This resulted in non raising of demand of water rates amounting to Rs 16.49 lakh.

After this was pointed out in January 2005, the EE Water Ways Division, Hazaribagh attributed non preparation of *khatiani* to shortage of staff. The reply is not tenable as priority should have been given for preparation of *khatiani* in the interest of revenue. Further reply has not been received (January 2006).

The matter was reported to Government in April 2005; reply has not been received (January 2006).



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