

00963



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

**REPORT NO.3**

**(REVENUE RECEIPTS)**

**FOR THE YEAR ENDED 31 MARCH 2010**



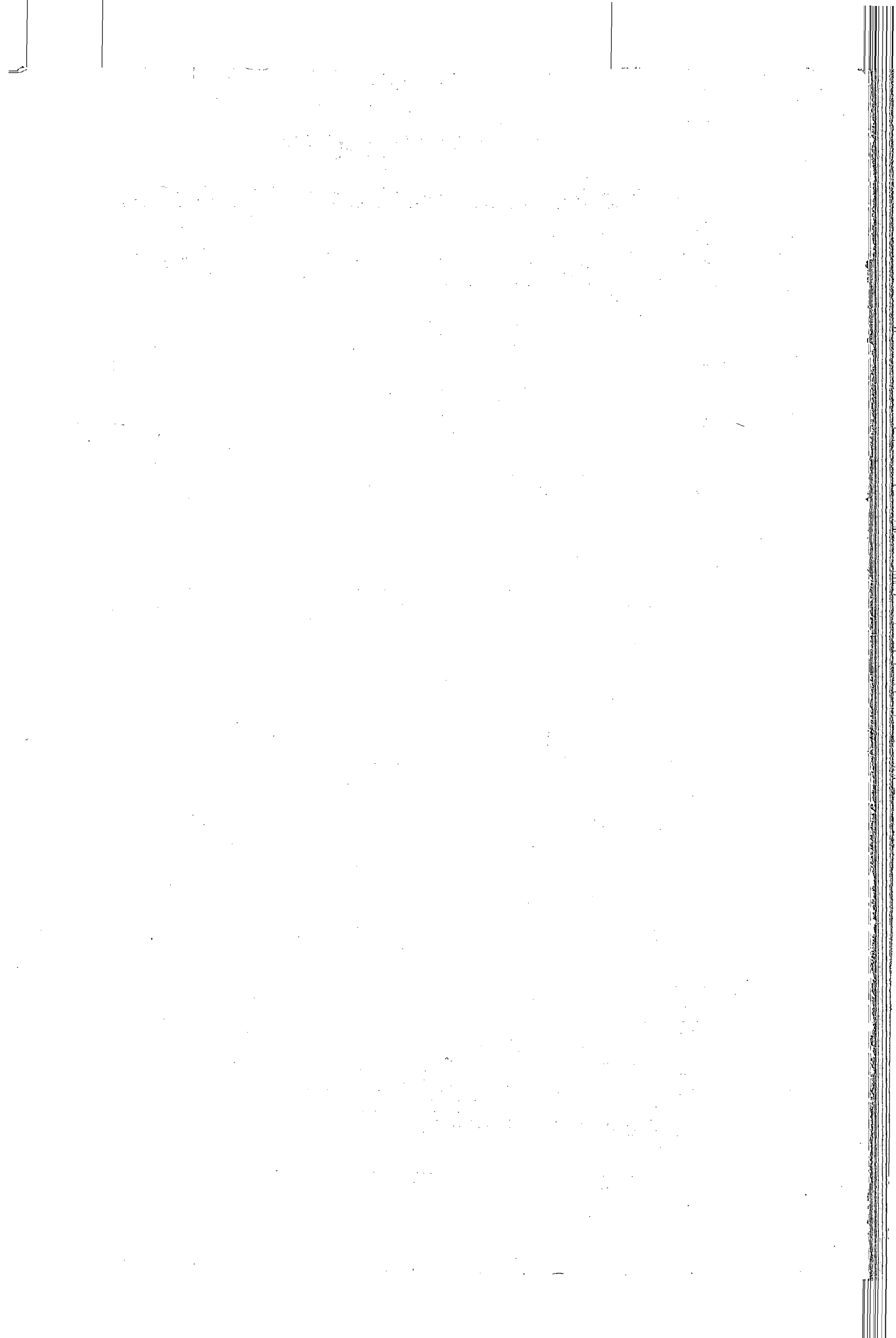
**GOVERNMENT OF JHARKHAND**

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

**REPORT NO. 3  
(REVENUE RECEIPTS)**

**FOR THE YEAR ENDED  
31 MARCH 2010**

**GOVERNMENT OF JHARKHAND**

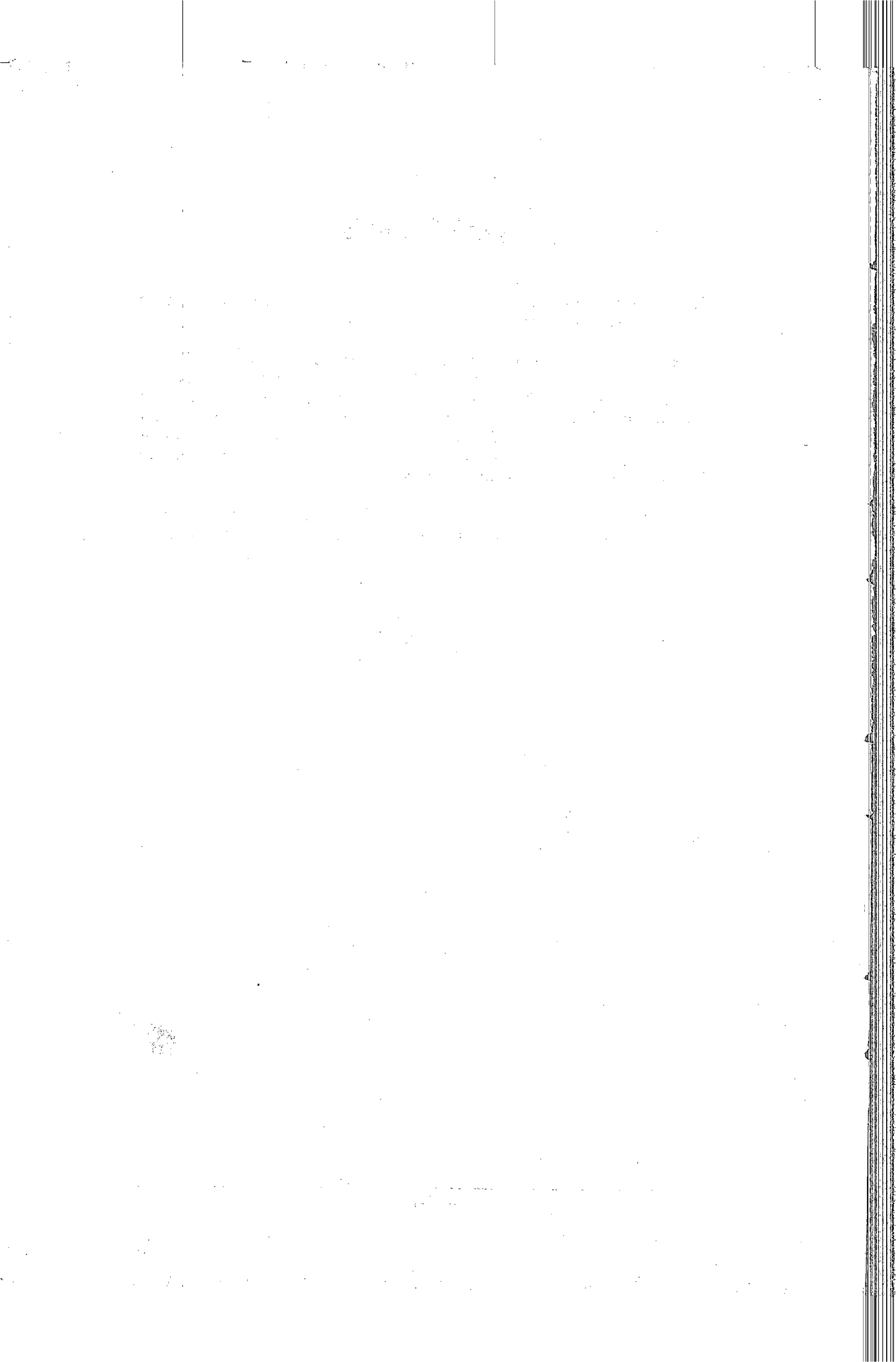


## TABLE OF CONTENTS

	Paragraph	Page
Preface		v
Overview		vii-x
<b>CHAPTER - I: GENERAL</b>		
Trend of revenue receipts	1.1	1
Response of the departments/Government towards audit	1.2	4
Failure of senior officials to enforce accountability and protect the interest of the State Government	1.2.1	4
Departmental audit committee meetings	1.2.2	5
Non-production of records to audit for scrutiny	1.2.3	5
Response of the departments to the draft audit paragraphs	1.2.4	6
Follow up on Audit Reports – summarised position	1.2.5	7
Compliance with the earlier Audit Reports	1.2.6	7
Analysis of the mechanism for dealing with the issues raised by Audit	1.3	8
Position of Inspection Reports	1.3.1	8
Recovery of accepted cases	1.3.2	9
Action taken on the recommendations accepted by the Departments/Government	1.3.2.1	9
Audit planning	1.4	9
Results of audit	1.5	10
Position of local audit conducted during the year	1.5.1	10
This Report	1.5.2	10
<b>CHAPTER - II: TAXES ON SALES, TRADE ETC.</b>		
Tax administration	2.1	11
Trend of receipts	2.2	11
Analysis of arrears of revenue	2.3	12
Arrears in assessment	2.4	13
Cost of collection	2.5	13
Analysis of collection	2.6	14
Revenue impact of Audit Reports	2.7	14
Working of internal audit wing	2.8	15
Results of audit	2.9	15
Audit observations	2.10	16
Results of cross-verification	2.11	16
Non-registration of dealers	2.11.1	16
Suppression of sales turnover	2.11.2	17
Irregularities in determination of turnover	2.12	17
Turnover escaping assessment	2.12.1	18
Suppression of sales/purchase turnover under JF Act	2.12.2	19
Application of incorrect rate of tax under JVAT/JF Act	2.13	20
Irregularities in grant of Input Tax Credit	2.14	23

Irregularities in grant of exemptions	2.15	24
Non/short imposition of penalty	2.16	26
Irregularities in compliance to the Central Sales Tax Act	2.17	27
<b>CHAPTER- III: STATE EXCISE</b>		
Tax administration	3.1	29
Trend of receipts	3.2	29
Analysis of arrears of revenue	3.3	30
Cost of collection	3.4	31
Results of audit	3.5	31
Audit observations	3.6	32
Non-observance of provisions of Act/Rules	3.7	32
Delayed settlement of exclusive privilege for wholesale supply of country spirit	3.7.1	32
Non/delayed settlement of retail excise shops upto June 2008	3.7.2	33
Non-settlement of excise shops from 1 July 2008	3.7.3	34
Non-settlement of excise retail shops of Giridih	3.7.4	34
Short lifting of liquor by retail vendors	3.8	35
<b>CHAPTER – IV: TAXES ON VEHICLES</b>		
Tax administration	4.1	36
Analysis of budget preparation	4.2	36
Trend of receipts	4.3	36
Analysis of arrears of revenue	4.4	37
Cost of collection	4.5	37
Impact of Audit Reports	4.6	38
Results of audit	4.7	38
Audit observations	4.8	39
Non-observance of provisions of Acts/Rules	4.9	39
Non-collection of vehicles taxes	4.10	39
Short levy of trade tax	4.11	40
Non-renewal of authorisation of national permit	4.12	41
Delay in deposit of revenue collected by banks	4.13	41
Non-issue of driving licences in smart card	4.14	42
<b>CHAPTER – V: LAND REVENUE</b>		
Results of audit	5.1	43
<b>Working of Revenue and Land Reforms Department (A review)</b>	5.2	44

CHAPTER-VI: OTHER TAX RECEIPTS		
STAMP DUTY AND REGISTRATION FEES		
Cost of collection	6.1	58
Results of audit	6.2	58
Receipts from Stamp Duty and Registration Fees including IT aspect (A review)	6.3	59
ELECTRICITY DUTY		
Short levy of electricity duty	6.4	82
CHAPTER-VII: NON-TAX RECEIPTS		
MINES AND GEOLOGY DEPARTMENT		
Tax administration	7.1	83
Trend of receipts	7.2	83
Arrears of revenue	7.3	84
Results of audit	7.4	85
Audit observations	7.5	86
Non-observance of the provisions of Acts/Rules	7.6	86
Non-levy of interest for delayed payment of royalty	7.6.1	86
Short levy of royalty	7.6.2	87
Non-levy of penalty for illegal mining by works contractors	7.6.3	87
FOREST DEPARTMENT		
Non-disposal of seized forest produce	7.7	88



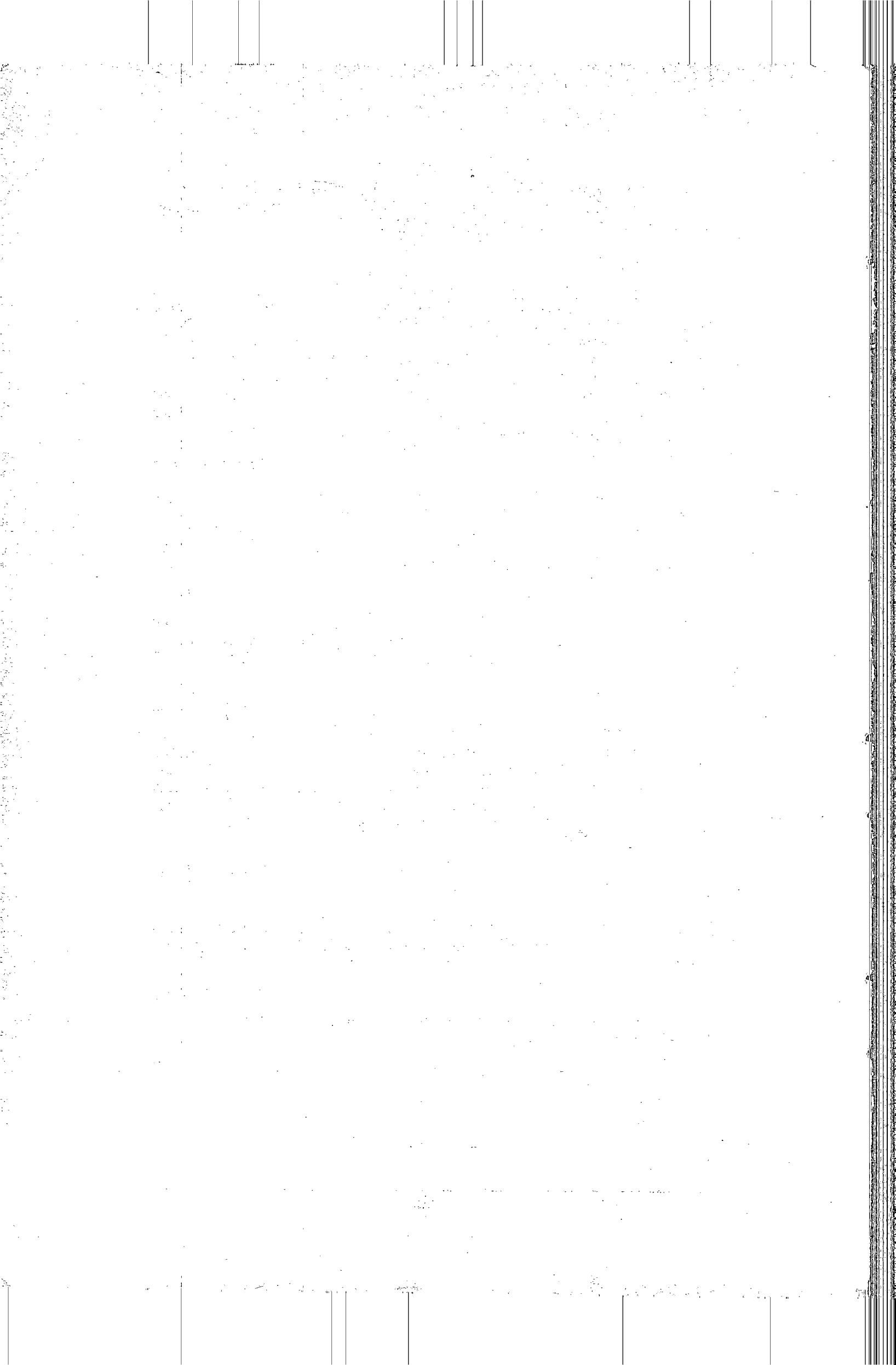
## PREFACE

This Report for the year ended 31 March 2010 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 audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2009-10 as well as those which came to notice in earlier years but could not be covered in previous Reports.





## OVERVIEW

This Report contains 26 paragraphs including two reviews relating to non/short levy/loss of tax involving ₹ 237.97 crore. Some of the major findings are mentioned in the following paragraphs:

### I. General

The total receipts of the Government of Jharkhand for the year 2009-10 were ₹ 15,118.47 crore against ₹ 13,212.84 crore during 2008-09. The revenue raised by the State Government amounted to ₹ 6,754.27 crore comprising tax revenue of ₹ 4,500.12 crore and non-tax revenue of ₹ 2,254.15 crore. The receipts from the Government of India were ₹ 8,364.20 crore (State's share of divisible Union taxes: ₹ 5,547.57 crore and grants-in-aid: ₹ 2,816.63 crore). Thus, the State Government could raise only 45 *per cent* of the total revenue. Taxes on sales, trade etc. (₹ 3,597.20 crore) and non-ferrous mining and metallurgical industries (₹ 1,733.15 crore) were the major (78.92 *per cent*) source of tax and non-tax revenue respectively during the year 2009-10.

(Paragraph 1.1)

The number of inspection reports and audit observations issued upto December 2009, but not settled by June 2010, stood at 2,166 and 10,772 respectively involving ₹ 7,676.65 crore. In respect of 471 inspection reports issued upto December 2009, even the first replies had not been received though these were required to be furnished within one month of their receipt.

(Paragraph 1.2.1)

During the years 2004-05 to 2008-09, the departments/Government accepted audit observations with a total revenue impact of ₹ 953.03 crore (out of total observation ₹ 3,633.69 crore pointed out in the Audit Reports) of which, ₹ 784.22 crore had been recovered as on 31 March 2010.

(Paragraph 1.2.6)

Test check of the records of 112 units of commercial taxes, state excise, motor vehicles, land revenue, stamps and registration fees, electricity duty, mines and geology, forest and other non-tax receipts conducted during the year 2009-10 revealed underassessments/short levy/loss of revenue aggregating ₹ 849.88 crore in 5,576 cases. During the course of the year, the departments concerned accepted underassessments and other deficiencies of ₹ 76.90 crore involved in 4,488 cases.

(Paragraph 1.5.1)

### II. Taxes on sales, trade etc.

Failure of the Department to collect data/information from different departments and cross verify the transactions shown in the returns resulted in short realisation of revenue of ₹ 15.06 crore including penalty of ₹ 7.84 crore.

(Paragraph 2.11)

Irregularities in determination of sales/purchase turnover resulted in non/short levy of tax and penalty of ₹ 79.95 crore.

(Paragraph 2.12)

Application of incorrect rate of tax resulted in short levy of tax of ₹ 22.78 crore.

**(Paragraph 2.13)**

Incorrect/irregular grant of exemptions resulted in non/short levy of tax of ₹ 28.93 crore.

**(Paragraph 2.15)**

Irregularities in compliance of the Central Sales Tax Act resulted in short levy of tax and penalty of ₹ 21.95 crore.

**(Paragraph 2.17)**

### **III. State excise**

Non-renewal and non/delayed settlement of wholesale country spirit and retail excise shops resulted in loss of excise revenue of ₹ 18.08 crore.

**(Paragraph 3.7)**

In one excise district, short lifting of liquors by the retail vendors resulted in non-realisation of Government revenue of ₹ 48.71 lakh.

**(Paragraph 3.8)**

### **IV. Taxes on vehicles**

Tax of ₹ 12.13 crore due, for the period between 2004-05 and 2009-10, from 2,534 vehicle owners was neither paid nor was it demanded by the department.

**(Paragraph 4.10)**

In one district transport office, due to non-operation of the *Sarathi* package for issue of computerised driving licence, licences were issued manually resulting in loss of fee of ₹ 7.72 lakh.

**(Paragraph 4.14)**

### **V. Land revenue**

A review on “**Working of Revenue and Land Reforms Department**” revealed the following :

- The Department could not computerise the land revenue activities, although a sum of ₹ 6.56 crore was allotted to the Deputy Commissioners during 2007-08 and 2008-09.

**(Paragraph 5.2.7.3)**

- Central Coal Fields and Bharat Coking Coal Limited sold/dispatched sludge/slurry valued at ₹ 291.02 crore. This sludge/slurry was not settled as *sairat* resulting in loss of revenue to the Government.

**(Paragraph 5.2.7.4)**

- In six offices 921.5946 acres of *Khas Mahal* land valued at ₹ 1,092.44 crore remained under the illegal occupation of 2,939 persons who did not renew their leases.

**(Paragraph 5.2.7.5)**

- No action was taken by the Government for eviction of 209 persons who had encroached 13.7745 acres of public land.

(Paragraph 5.2.7.6)

- Out of 12,708.59 acres of land leased to TISCO in 1956 it applied for renewal in respect of 10,852.27 acres of land. The remaining 1,786.89 acres of land was completely under encroachment. Buildings, community hall, temple etc. were constructed on this encroached land.

(Paragraph 5.2.7.7)

- In Chaibasa, leases in respect of 796.79 acres of land under the occupation of two companies were not renewed resulting in blocking of revenue of ₹ 61.46 crore.

(Paragraph 5.2.7.8)

- Non-settlement of surplus *gairmazarua* land/*bhoodan yagna* land resulted in loss of revenue of ₹ 4.10 crore during 2004-05 to 2008-09.

(Paragraphs 5.2.8.1 and 5.2.8.2)

- Failure to raise the demand of *Salami* and rent against Bharat Coking Coal Limited and Damodar Valley Corporation resulted in non-realisation of revenue of ₹ 2.34 crore.

(Paragraph 5.2.8.4)

## VI. Other Tax Receipts

A review on “Receipts from Stamp Duty and Registration Fees including IT aspect” revealed the following :

- Non-execution of deed of conveyance for 198 flats/shops resulted in non-levy of stamp duty, registration fees and penalty of ₹ 3.23 crore.

(Paragraph 6.3.11.1)

- Non-renewal of 176 mining lease deeds resulted in non-realisation of stamp duty and registration fees of ₹ 415.28 crore.

(Paragraph 6.3.11.2)

- In District Sub Registrar Office, Ranchi stamp duty and registration fees of ₹ 13.72 lakh was short levied in three lease deeds of *khas mahal*.

(Paragraph 6.3.12)

- Misclassification of lease deed as agreement resulted in short levy of registration fees of ₹ 13.32 lakh.

(Paragraph 6.3.14)

- Undervaluation of properties due to adoption of lower rates than the rates fixed as per the guideline register in 73 cases resulted in short levy of stamp duty and registration fees of ₹ 55.46 lakh.

(Paragraphs 6.3.15 and 6.3.16)

- Incorrect allowance of exemption on 26 deeds of purchases of flats from so called co-operative societies which actually acted like promoters/ builders and constructed flats from their own resources, resulted in short levy of stamp duty and registration fee of ₹ 12.84 lakh.

**(Paragraph 6.3.17)**

- There was no documented User Requirement Specification (URS), in the absence of which the success of the project in terms of extent to which desired benefits had been achieved, could not be assessed.

**(Paragraph 6.3.21)**

- The system was unable to calculate the delays in presentation of documents for registration and levy of fines at the time of registration due to absence of provision for capturing of actual date of execution of documents in the database.

**(Paragraph 6.3.22.1)**

- Non-provision in the software to capture details of boundaries in the four directions (North, East, South and West) of the properties registered in the database made the software deficient in describing the exact location and unique identification of the registered properties.

**(Paragraph 6.3.22.2)**

- There was no policy framed by the IG Registration for taking backup and preservation of the data as per rule. Copies of the backup data were neither prepared/preserved nor were sent to IG Registration office quarterly by the DSR.

**(Paragraph 6.3.23.1)**

- The software had been designed with inadequate validation checks thus failed to prevent registration of deeds having incomplete details.

**(Paragraph 6.3.25.3)**

### **Electricity Duty**

In one commercial taxes circle, levy of electricity duty at incorrect rate resulted in short levy of electricity duty of ₹ 22.27 lakh.

**(Paragraph 6.4)**

## **VII. Non-Tax Receipts**

In one district mining office, non-payment of royalty on coal at prescribed rates, resulted in short levy of royalty of ₹ 10.85 crore.

**(Paragraph 7.6.2)**

## CHAPTER- I: GENERAL

### 1.1 Trend of revenue receipts

**1.1.1** The tax and non-tax revenue raised by the Government of Jharkhand during the year 2009-10, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(Rupees in crore)

Sl. No.		2005-06	2006-07	2007-08	2008-09	2009-10
<b>I.</b>	<b>Revenue raised by the State Government</b>					
	• Tax revenue	2,758.04	3,188.50	3,473.55	3,753.21	4,500.12
	• Non-tax revenue	1,426.53 <sup>1</sup>	1,250.40	1,601.40	1,951.74	2,254.15
	<b>Total</b>	<b>4,184.57</b>	<b>4,438.90</b>	<b>5,074.95</b>	<b>5,704.95</b>	<b>6,754.27</b>
<b>II.</b>	<b>Receipts from the Government of India</b>					
	• State's share of divisible Union taxes	3,175.89	4,050.90	5,109.83	5,392.11	5,547.57
	• Grants-in-aid	1,103.42	1,520.02	1,841.77	2,115.78	2,816.63
	<b>Total</b>	<b>4,279.31</b>	<b>5,570.92</b>	<b>6,951.60</b>	<b>7,507.89</b>	<b>8,364.20</b>
<b>III.</b>	<b>Total receipts of the State Government (I &amp; II)<sup>2</sup></b>	<b>8,463.88</b>	<b>10,009.82</b>	<b>12,026.55</b>	<b>13,212.84</b>	<b>15,118.47</b>
<b>IV.</b>	<b>Percentage of I to III</b>	<b>49</b>	<b>44</b>	<b>42</b>	<b>43</b>	<b>45</b>

The above table indicates that during the year 2009-10, the revenue raised by the State Government (₹ 6,754.27 crore) was 45 *per cent* of the total revenue receipts against 43 *per cent* in the preceding year. The balance 55 *per cent* of receipts during 2009-10 was from the Government of India.

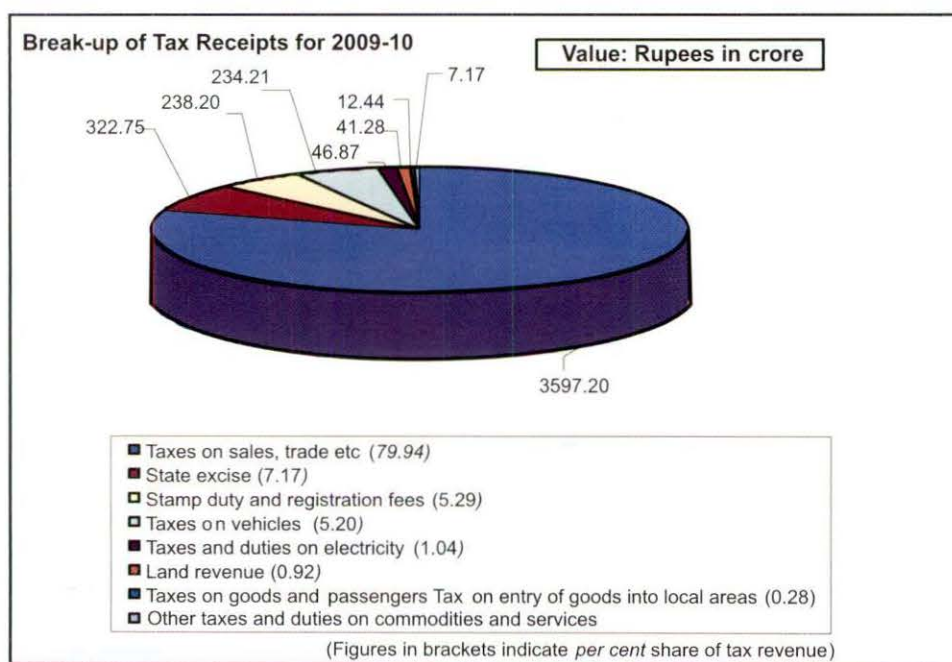
<sup>1</sup> Adjustment entry of ₹ 1 lakh.

<sup>2</sup> For details, please see Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government for the year 2009-10. 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 the revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

1.1.2 The following table presents the details of tax revenue raised during the period 2005-06 to 2009-10:

(Rupees in crore)

Sl. No.	Heads of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase/decrease in 2009-10 over 2008-09
1.	Taxes on sales, trade etc.	2,212.03	2,556.90	2,845.88	2,996.20	3,597.20	(+) 20
2.	State excise	161.64	129.62	156.86	205.46	322.75	(+) 57
3.	Stamp duty and registration fees	91.93	122.02	156.26	192.16	238.20	(+) 24
4.	Taxes on vehicles	138.32	218.27	135.67	201.57	234.21	(+) 16
5.	Taxes and duties on electricity	33.87	45.14	76.47	43.47	46.87	(+) 8
6.	Land revenue	17.66	36.35	26.26	53.33	41.28	(-) 23
7.	Taxes on goods and passengers - Tax on entry of goods into local areas	96.66	74.19	71.07	54.02	12.44	(-) 77
8.	Other taxes and duties on commodities and services	5.93	6.01	5.08	7.00	7.17	(+) 2
<b>Total</b>		<b>2,758.04</b>	<b>3,188.50</b>	<b>3,473.55</b>	<b>3,753.21</b>	<b>4,500.12</b>	<b>(+) 20</b>

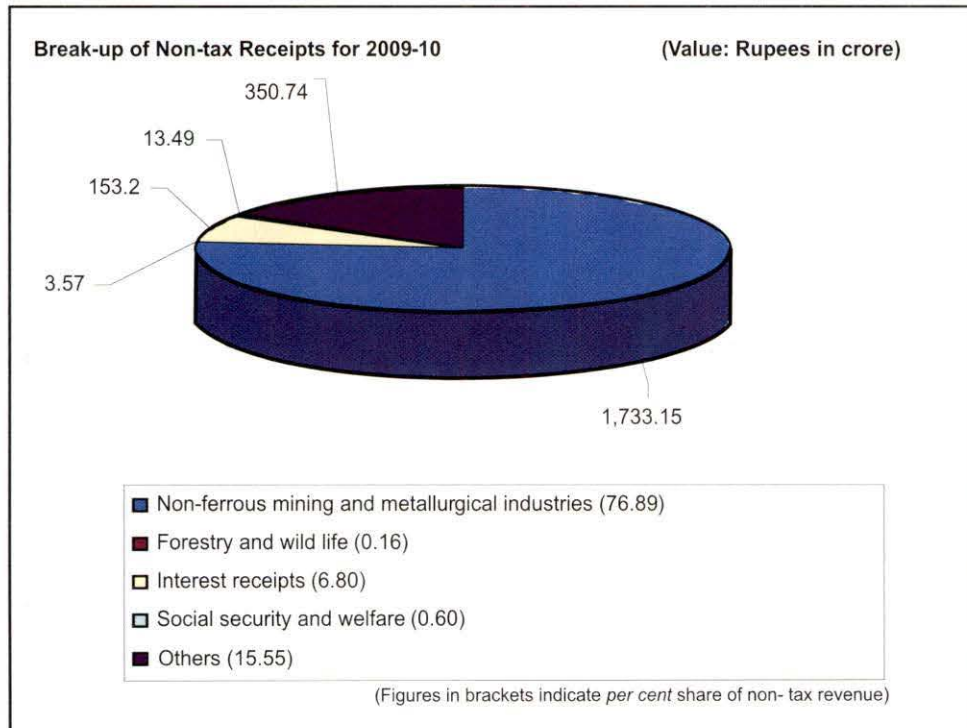


The reasons for variation though called for in June 2010 were not reported (March 2011) by the concerned Departments except by State Excise and Prohibition Department which stated that the increase in revenue was due to the new excise policy formulated in July 2008.

**1.1.3** The following table presents the details of the non-tax revenue raised during the period 2005-06 to 2009-10:

(Rupees in crore)

Sl. No.	Heads of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase/ decrease in 2009-10 over 2008-09
1.	Non-ferrous mining and metallurgical industries	1,013.15	1,022.12	1,177.77	1,477.94	1,733.15	(+) 17
2.	Forestry and wild life	40.84	3.68	4.06	7.20	3.57	(-) 50
3.	Interest receipts	71.49	38.09	87.14	109.53	153.20	(+) 40
4.	Social security and welfare	17.94	11.65	12.57	4.25	13.49	(+) 217
5.	Others	283.11	174.86	319.86	352.82	350.74	(-) 1
<b>Total</b>		<b>1,426.53</b>	<b>1,250.40</b>	<b>1,601.40</b>	<b>1,951.74</b>	<b>2,254.15</b>	<b>(+) 15</b>



The reasons for variation though called for in June 2010 were not reported (March 2011) by the concerned departments except by Mines and Geology Department which stated that the increase in revenue was due to increase in production and dispatch of coal and bauxite.



## 1.2 Response of the departments/Government towards audit

### 1.2.1 Failure of senior officials to enforce accountability and protect the interest of the State Government

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

We reviewed the IRs issued upto December 2009 and found that 10,772 paragraphs involving ₹ 7,676.65 crore relating to 2,166 IRs remained outstanding at the end of June 2010 as mentioned below alongwith the corresponding figures for the preceding two years.

(Rupees in crore)

	June 2008 <sup>3</sup>	June 2009 <sup>3</sup>	June 2010
Number of outstanding IRs	3,645	2,803	2,166
Number of outstanding audit observations	18,957	14,545	10,772
Amount involved	5,812.93	7,705.91	7,676.65

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2010 and the amounts involved are mentioned below:

(Rupees in crore)

Sl. No.	Names of Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Commercial Taxes	VAT/Taxes on sales, trade etc	349	4,420	1,734.01
		Entry tax	67	147	30.38
		Electricity duty	45	90	61.33
		Entertainment tax, luxury tax, etc.	24	25	3.68
2.	Excise	State excise	73	448	241.77
3.	Revenue	Land revenue	662	1,178	1,532.14
4.	Transport	Taxes on motor vehicles	134	915	438.56

<sup>3</sup> As per the Audit Report 2007-08 and 2008-09.

5.	Stamps and registration	Stamp duty and registration fees	96	209	10.35
6.	Mines and geology	Non-ferrous mining and metallurgical industries	293	2,448	1,854.19
7.	Forest and environment	Forestry and wild life	300	746	1,704.45
8.	Social security and welfare	Water rates	123	146	65.79
<b>Total</b>			<b>2,166</b>	<b>10,772</b>	<b>7,676.65</b>

Even the first replies required to be received from the heads of offices within one month from the date of issue of the IRs were not received for 471 IRs issued upto December 2009. This large pendency of the IRs due to non-receipts of the replies is indicative of the fact that the heads of offices and heads of the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the PAG in the IRs.

**We recommend that the Government may take suitable steps to install an effective procedure for prompt and appropriate response to audit observations as well as take action against officials/officers who do not send replies to the IRs/paragraphs as per the prescribed time schedules and also fail to take action to recover loss/outstanding demand in a time bound manner.**

### **1.2.2 Departmental audit committee meetings**

The Government set up audit committees (during various periods) to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. The details of the 12 audit committee meetings held against the approved target of 12 meetings during the year 2009-10 and the paragraphs settled are mentioned below:

(Rupees in crore)

Head of revenue	Number of meetings held	Number of paragraphs settled	Amount
Sales tax	2	18	1.59
Stamp duty and registration fees	1	51	1.90
State excise	1	51	34.84
Taxes on vehicles	2	381	163.65
Land revenue	3	659	46.46
Forestry and Wildlife	2	108	994.23
Non-ferrous mining and metallurgical industries	1	440	96.48
<b>Total</b>	<b>12</b>	<b>1,708</b>	<b>1,339.15</b>

### **1.2.3 Non-production of records to Audit for scrutiny**

The programme of local audit of tax/non-tax receipts offices is drawn up sufficiently in advance and intimations are issued, usually one month before

we commence the audit, to the Department to enable them to keep the relevant records ready for audit scrutiny.

During 2009-10, 266 tax assessment records relating to 20 offices were not made available to us for audit. Year wise breakup of such cases are given below:

Name of Office <sup>4</sup>	Year in which it was to be audited	Number of assessment cases not produced for audit
DMO , Dhanbad	2009-10	03
DFO, Koderma	2009-10	01
DSR, Chatra	2009-10	04
DTO, Sahebganj	2009-10	02
DTO, Godda	2009-10	04
DTO, Chaibasa	2009-10	01
DTO, Deoghar	2009-10	02
DTO, Pakur	2009-10	03
DCCT, Bokaro	2009-10	20
DCCT, Pakur	2009-10	18
DCCT, Ramgarh	2009-10	22
DCCT, Ranchi West	2009-10	64
DCCT, Singhbhum Jamshedpur	2009-10	85
DCCT, Ranchi Special	2009-10	16
DCCT, Ranchi East	2009-10	03
ACCT, Godda	2009-10	06
DCLR, Chatra	2009-10	04
ACLR, Garhwa	2009-10	01
DCLR, Garhwa	2009-10	04
DCLR, Nagarutari	2009-10	03
<b>Total</b>		<b>266</b>

#### 1.2.4 Response of the Departments to the draft audit paragraphs

As per the instruction issued (1966) by the Government of Bihar as applicable to the Government of Jharkhand, audit observations raised during local inspection are replied by the concerned authorities after issue of inspection report(s). The observations of serious irregularities are converted into draft paragraph(s) and forwarded to the concerned administrative departments/Government for their replies/comments within six weeks. In case of non-receipt of the reply or if the reply furnished by the departments/Government is not satisfactory, the draft paragraphs are included in the Audit Report. The Government after laying the Audit Report in the legislature forwards explanatory notes on the relevant paragraphs to the Committee on Public Accounts (PAC) for vetting by the Principal Accountant General (PAG). After discussion, the PAC

<sup>4</sup> DMO: District Mining Officer, DCCT: Dy. Commissioner of Commercial Taxes, DFO : Divisional Forest Officer, DTO: District Transport Officer, DCLR : Dy. Collector of Land Revenue, DSR : District Sub Registrar, ACCT: Assistant Commissioner of Commercial Taxes and ACLR: Assistant Collector of Land Revenue.

makes recommendations for compliance by the Government within six months for final settlement of the paragraph.

Thirty four paragraphs (clubbed into twenty four paragraphs) and two reviews included in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2010 (Revenue Receipts), Government of Jharkhand, were forwarded to the Secretaries to the Government of the departments concerned between April and August 2010. A meeting was held between the Chief Secretary and other Principal Secretaries of the Government of Jharkhand on 6 January 2011 to discuss the draft paragraphs/reviews for the Audit Report (Revenue Receipts) 2009-10 in which the administrative heads of the Departments assured to furnish the replies within two weeks but we have not received any reply so far from the Government (March 2011).

**We recommend that the Government may ensure that replies to the draft paragraphs are furnished within the stipulated time and remedial measures taken wherever necessary for arresting potential risk and leakage of revenue.**

### 1.2.5 Follow up on Audit Reports – summarised position

Sl. No.	Audit Report ending on	Date of presentation in legislature	No. of Paragraphs	No. of paragraphs <sup>5</sup> discussed	No. of paragraphs where Action taken note not received
1.	31 March 2000	21.03.2002	36	20	34
2.	31 March 2001	17.12.2003	35	8	33
3.	31 March 2002	03.08.2004	27	7	27
4.	31 March 2003	24.03.2005	42	8	42
5.	31 March 2004	19.12.2005	31	4	31
6.	31 March 2005	24.08.2006	29	1	29
7.	31 March 2006	04.04.2007	27	Discussion not started	-
8.	31 March 2007	26.03.2008	36	Discussion not started	-
9.	31 March 2008	10.07.2009	42	Discussion not started	-
10.	31 March 2009	13.8.2010	41	Discussion not started	-

**N.B.** Audit had no information about any decision taken by the competent authority about discussion by PAC of the pending paragraphs of the Audit Reports relating to the areas/ districts falling under the jurisdiction of Jharkhand, for the periods prior to the constitution of the State of Jharkhand.

### 1.2.6 Compliance with the earlier Audit Reports

During the years 2004-05 to 2008-09, the departments/Government accepted audit observations with a total revenue impact of ₹ 953.03 crore (out of total observation ₹ 3,633.69 crore pointed out in the Audit Reports), of which,

<sup>5</sup> During 2006-07, 48 paragraphs including reviews of Audit Report (Revenue Receipts) 1999-2000 to 2004-05 were discussed in the Public Accounts Committee (PAC) of Jharkhand. Action taken notes on four paragraphs have been received. PAC has not taken any decision regarding settlement of other paragraphs.

₹ 784.22 crore had been recovered as on 31 March 2010 as mentioned in the following table:

(Rupees in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made	
			during 2009-10 <sup>6</sup>	upto 2009-10
2004-05	508.13	417.61	30.59	188.08
2005-06	520.78	92.01	28.26	190.14 <sup>7</sup>
2006-07	591.10	201.08	100.26	201.65 <sup>7</sup>
2007-08	842.65	153.76	47.53	104.80
2008-09	1,171.03	88.57	99.55	99.55 <sup>7</sup>
<b>Total</b>	<b>3,633.69</b>	<b>953.03</b>	<b>306.19</b>	<b>784.22</b>

It would be seen from the above table that 82.29 per cent of the accepted money value has been recovered by the Departments during the last five years.

**It is recommended that the Government may issue directions to the concerned Departments for prompt recovery of the money in respect of the cases already accepted by them.**

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

In order to analyse the system of addressing the issues highlighted in the Inspection Reports/Audit Reports by the Departments/Government, the performance of the **Mines and Geology Department** to deal with the cases detected in the course of local audit conducted during the last 10 years and also the cases included in the Audit Reports for the years 1999-2000 to 2008-09 was evaluated. The succeeding paragraphs 1.3.1 to 1.3.2.1 discuss the result of our analysis.

#### 1.3.1 Position of Inspection Reports

The summarised position of inspection reports issued during the last 10 years, paragraphs included in these reports and their status as on 31<sup>st</sup> March 2010 are tabulated below:

(Rupees in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IR	Para graphs	Money value	IR	Para graphs	Money value	IR	Para graphs	Money value	IR	Para graphs	Money value
2000-01	263	2261	340.30	12	135	15.20	-	-	-	275	2396	355.50
2001-02	275	2396	355.50	30	262	467.29	1	1	0.001	304	2657	822.79
2002-03	304	2657	822.79	10	95	66.80	4	33	435.88	310	2719	453.71
2003-04	310	2719	453.71	20	252	51.24	6	44	19.84	324	2927	485.11
2004-05	324	2927	485.11	30	299	375.42	5	30	56.40	349	3196	804.13

<sup>6</sup> Figures are based on data/information furnished by the Commercial Taxes, Mines and Geology, Transport and State Excise and Prohibition Departments.

<sup>7</sup> Though the accepted money value was ₹ 92.01 crore, ₹ 201.08 crore and ₹ 88.57 crore for the Audit Report 2005-06, 2006-07 and 2008-09 respectively the Government effected recovery of ₹ 190.14 crore, ₹ 201.65 crore and ₹ 99.55 crore respectively after reviewing and accepting the cases pointed out in audit.

2005-06	349	3196	804.13	22	167	281.80	4	70	2.09	367	3293	1083.84
2006-07	367	3293	1083.84	15	234	264.43	1	-	-	381	3527	1348.27
2007-08	381	3527	1348.27	14	196	550.02	2	96	46.92	393	3627	1851.37
2008-09	393	3627	1851.37	20	183	257.96	30	358	69.30	383	3452	2040.03
2009-10	383	3452	2040.03	12	98	127.40	87	923	222.88	308	2627	1944.55

### 1.3.2 Recovery of accepted cases

We included 44 draft paragraphs involving ₹ 378.83 crore in the Audit Reports during the last 10 years i.e. from 2000-01 to 2009-10. The Department has so far accepted three paragraphs involving ₹ 11.26 crore. However, the amount recovered by the Department has not been intimated despite being requested (July 2010).

#### 1.3.2.1 Action taken on the recommendations accepted by the Departments/Government

The draft performance reviews conducted by the PAG are forwarded to the concerned Department/Government for their information with a request to furnish their replies.

After the formation of the State of Jharkhand in November 2000, a review on "Levy and collection of mining receipts" was featured in the Comptroller and Auditor General's Audit Report (Revenue Receipts) 2006-07-Government of Jharkhand wherein we had proposed eight recommendations.

The Government/department was requested (November 2010) to intimate the system adopted to monitor the action to be taken/action taken on the recommendations included in the reviews and assurances given by them in the exit conference/assurance meetings. We have not received any reply in this context from Department.

### 1.4 Audit planning

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

During the year 2009-10, the audit universe comprised of 560 auditable units, of which, 114 units were planned and 112 units were audited during the year. The details are mentioned in the following table:

Sl. No.	Principal Head	Total no. of units	Units planned during 2009-10	Units audited during 2009-10
1.	Taxes on sales, trade etc.	46	24	22
2.	Taxes on vehicles	27	13	13
3.	Stamp Duty and Registration Fee	41	7	7
4.	State Excise	23	10	10
5.	Land Revenue	270	22	22
6.	Non-ferrous mining and metallurgical industries	33	13	13
7.	Forestry and wild life	111	23	23
8.	Social security and welfare	9	2	2
<b>Total</b>		<b>560</b>	<b>114</b>	<b>112</b>

Besides the compliance audit mentioned above, two performance reviews on “Working of Revenue and Land Reforms Department” and “Receipts from Stamp duty and Registration Fees including IT aspect” were also taken up to examine the efficacy of the tax administration of these receipts.

## **1.5 Results of audit**

### **1.5.1 Position of local audit conducted during the year**

Our test check of the records of 112 units of commercial taxes, state excise, motor vehicles, land revenue, stamps and registration fees, electricity duty, mines and geology, forest and other non-tax receipts conducted during the year 2009-10 revealed underassessments/short levy/loss of revenue aggregating ₹ 849.88 crore in 5,576 cases. During the course of the year, the departments concerned accepted underassessments and other deficiencies of ₹ 76.90 crore involved in 4,488 cases, of which, 3,970 cases involving ₹ 58.17 crore were pointed out in audit during 2009-10 and the rest in the earlier years.

### **1.5.2 This Report**

This report contains 26 paragraphs including two performance reviews on 'Working of Revenue and Land Reforms Department' and 'Receipts from Stamp Duty and Registration Fees including IT aspect' relating to short/non-levy of tax, duty and interest, penalty etc. involving financial effect of ₹ 237.97 crore. The departments/Government have accepted audit observations involving ₹ 48.74 crore. The replies in the remaining cases have not been received (March 2011). These cases are discussed in the succeeding chapters II to VII.

## CHAPTER – II: TAXES ON SALES, TRADE ETC.

### 2.1 Tax administration

The levy and collection of commercial taxes which include sales tax/value added tax, central sales tax, etc., are governed by Jharkhand Finance (JF) Act, 2001 (repealed from 1 April 2006), Jharkhand Value Added Tax (JVAT) Act, 2005 and the Central Sales Tax (CST) Act, 1956. The Principal Secretary-cum-Commissioner of Commercial Taxes is responsible for administration of these Acts and Rules in the Commercial Taxes Department. He is assisted by Additional Commissioners and Joint Commissioners of Commercial Taxes, Joint Commissioners of Commercial Taxes of Bureau of Investigation (IB), Vigilance and Monitoring along with other Deputy/Assistant Commissioners of Commercial Taxes.

The State is divided into five commercial taxes divisions, each under the charge of a Joint Commissioner (Administration) and 28 circles, each under the charge of a Deputy/Assistant Commissioner of Commercial Taxes. The DCCT/ACCT of the circle, responsible for levy and collection of tax due to the Government, besides market survey, is assisted by Commercial Tax Officers.

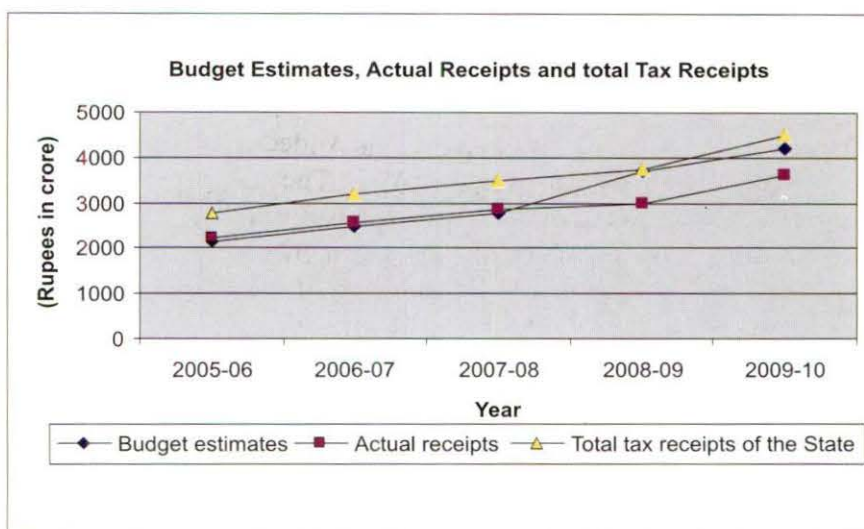
### 2.2 Trend of receipts

Actual receipts from taxes on sales, trade etc./VAT during the period 2005-06 to 2009-10 along with the total tax receipts during the same period is exhibited in the following table and graph:

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual Sales Tax/VAT receipts vis-à-vis total tax receipts
2005-06	2,149.95	2,212.03	(+) 62.08	(+) 3	2,758.04	80
2006-07	2,458.00	2,556.90	(+) 98.90	(+) 4	3,188.50	80
2007-08	2,789.83	2,845.88	(+) 56.05	(+) 2	3,473.55	82
2008-09	3,715.00	2,996.20	(-) 718.80	(-) 19	3,753.21	80
2009-10	4,200.00	3,597.20	(-) 602.80	(-) 14	4,500.12	80





From the above it would be seen that during the period 2005-06 to 2009-10, Sales Tax/VAT receipts accounted for 80 *per cent* of the total tax receipts of the State except for the year 2007-08 when it was 82 *per cent*. The reasons for shortfall against budget estimates during 2008-09 and 2009-10 were attributed by the Department to reduction in the rates of tax on diesel, Central Sales Tax (CST) and economic recession from October 2008.

### 2.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2010 amounted to ₹ 1,856.26 crore, of which ₹ 457.33 crore were outstanding for more than five years. The year-wise position of arrears of revenue during the period 2005-06 to 2009-10 is as follows:

(Rupees in crore)

Year	Opening balance of arrears	Closing balance of arrears
2005-06	1,361.37	1,296.65
2006-07	1,296.65	1,256.80
2007-08	1,256.80	1,261.41
2008-09	1,261.41	1,737.21
2009-10	1,737.21	1,856.26

The Department did not furnish the information regarding the addition and clearance of the arrears during the year. However, the above table indicates that the amount of arrears increased from ₹ 1,296.65 crore as on 31 March 2006 to ₹ 1,856.26 crore as on 31 March 2010, registering an overall increase of 43 *per cent*.

As per the information furnished by the Department, out of ₹ 1,856.26 crore, demands amounting to ₹ 153.04 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 982.78 crore was stayed by the courts and the Government. Recovery of ₹ 1.73 crore was held up due to rectification/review of applications. Specific action taken in respect of the remaining arrears of ₹ 718.71 crore has not been intimated (March 2011).

Thus, it would be seen from the above that 53 *per cent* of the total amount of arrears was pending settlement with the courts or with the Government. The

arrears recoverable as arrears of land revenue by invoking the provisions of the Bihar and Orissa Public Demands Recovery Act, 1914 were only eight *per cent* of the total amount pending settlement.

**The Government may consider issuing directions to the Department for speedy settlement of the arrear cases by constant monitoring and recovering the arrears as arrears of land revenue by invoking the provisions of the Bihar and Orissa Public Demands Recovery Act, 1914.**

## 2.4 Arrears in assessment

The details of cases pending at the beginning of the year 2009-10, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of the year as furnished by the Commercial Taxes Department are as follows:

Opening balance	New cases due for assessment during 2009-10	Total assessments due	Cases disposed of during 2009-10	Balance at the end of the year	Percentage of column 5 to 3
1	2	3	4	5	6
11,337	32,883	44,220	33,398	10,822 <sup>8</sup>	24

From the above it could be seen that pendency in finalisation of assessments was 24 *per cent*, resulting in delay in corresponding realisation of revenue in these cases.

## 2.5 Cost of collection

The gross collection of sales tax/VAT receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during 2007-08 to 2009-10 alongwith the relevant all India average percentage of expenditure on collection to gross collections of the preceding years are mentioned below:

(Rupees in crore)

Sl. No.	Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the preceding year
1	VAT/Taxes on sales, trade etc.	2007-08	2,845.88	16.66	0.59	0.82
		2008-09	2,996.20	24.88	0.83	0.83
		2009-10	3,597.20	31.17	0.87	0.88

The percentage of expenditure on gross collection indicated an increasing trend for the past three years although it was lower than the All India average.

<sup>8</sup> There was a discrepancy of 119 cases due for assessment at the end of 2009-10 as reported by the Department (10,941).

## 2.6 Analysis of collection

The break-up of the total collection at the pre-assessment stage and after regular assessment of taxes on sales, trade *etc.*, during the year 2009-10 and corresponding figures for the preceding two years as furnished by the Finance (Commercial Taxes) Department is mentioned below:

(Rupees in crore)

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Penalties for delay in payment of taxes	Amount refunded	Net collection as per Department (2+3-5)	Net collection as per Finance Accounts	Percentage of column 2 to 7
1	2	3	4	5	6	7	8
2007-08	2,684.60	50.57	0.73	5.04	2,730.13	2,845.88	94.33
2008-09	2,797.40	54.07	0.56	0.47	2,851.00	2,996.20	93.36
2009-10	3,319.44	84.74	0.82	0.06	3,404.12	3,597.20	92.27

Thus, the percentage of tax collected before regular assessment showed a decreasing trend. The Department collected ₹ 189.38 crore after regular assessments conducted during the years 2007-08 to 2009-10, while tax due in the cases detected during test check of selective cases conducted by audit during the period from 2007-08 to 2009-10 amounted to ₹ 1,601.83 crore<sup>9</sup> which is almost nine times higher. **The high amount of leakage of revenue detected by audit only in the test checked cases vis-à-vis the amount collected after regular assessments points towards a need for the Government to strengthen the tax administration. Further, there is also a need to reconcile the figures of Departmental receipts with that of the figures as per the Finance Accounts prepared by the Accountant General (A&E).**

## 2.7 Revenue impact of Audit Reports

During the last five years, we have pointed out through our audit reports non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation *etc.*, with revenue implication of ₹ 1,255.51 crore in 48 paragraphs. The details are shown in the following table:

(Rupees in crore)

Year of Audit Report	Paragraphs included	Amount	Amount of acceptance <sup>10</sup>	Recovery made
2004-05	9	47.34	6.54	7.13
2005-06	1	375.50	0.00	4.28
2006-07	13	338.59	52.29	2.73
2007-08	16	294.95	76.27	2.48
2008-09	9	199.13	11.20	11.20
<b>Total</b>	<b>48</b>	<b>1,255.51</b>	<b>146.30</b>	<b>27.82</b>

<sup>9</sup> 2007-08: ₹ 663.08 crore, 2008-09: ₹ 298.33 crore, 2009-10: ₹ 640.42 crore.

<sup>10</sup> The information regarding amount accepted by the Department as on 31 March 2010 was not intimated. The figures mentioned are those that have been accepted by the Department at the time of issue of the respective Audit Reports.

Thus, the recovery in the cases accepted by the Department was only 19.02 per cent.

**We recommend that the Government may revamp the system to ensure prompt recovery at least in the cases already accepted by the Government.**

## **2.8 Working of internal audit wing**

Mention was made in Paragraph No. 2.2.6 of Comptroller and Auditor General's Audit Report (Revenue Receipts) 2008-09 regarding non-conducting of internal audit in the Commercial Taxes Department. The Department has now reported that an audit wing had been set up at the CCT's office and divisional levels. It was further stated that the audit procedure was being formulated by them.

## **2.9 Results of audit**

During 2009-10, we test checked the records of 22 units relating to VAT and found under-assessment of tax and other irregularities involving ₹ 640.42 crore in 525 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Non/short levy of tax	143	190.47
2.	Irregular allowance of exemption from tax	129	78.96
3.	Non-levy of penalty	52	105.13
4.	Irregular allowance of concessional rate of tax	17	1.38
5.	Non/short levy of additional tax and surcharge	9	0.08
6.	Application of incorrect rates of tax	49	43.20
7.	Short levy of tax due to incorrect determination of turnover	33	76.80
8.	Non-levy of penalty for excess collection of tax/due to computation mistake	16	3.59
9.	Other cases	77	140.81
<b>Total</b>		<b>525</b>	<b>640.42</b>

During the course of the year, the Department accepted under-assessment and other deficiencies of ₹ 17.14 crore in 20 cases pointed out in audit in earlier years.

A few illustrative cases involving ₹ 208.10 crore observed during 2009-10 and in earlier years are mentioned in the succeeding paragraphs:

## **2.10 Audit observations**

Our scrutiny of assessment records of sales tax, value added tax (VAT) and central sales tax (CST) indicated several cases of non-observance of the provisions of Acts/Rules and notifications issued thereunder, suppression of sales/purchase turnover, non/short levy of tax/penalty/surcharge, incorrect adjustment of input tax credit (ITC), irregular concession/exemption, incorrect application of rate of tax, misuse of declaration forms etc. as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us in audit. Such omissions on the part of assessing authorities (AAs) are pointed out by us each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of internal audit.

## **2.11 Results of cross-verification**

The JVAT Act and Rules made thereunder provide that for widening the tax base the Circle in-charge and Investigation Bureau shall identify through survey, those dealers who though liable to pay tax under the Act, remained unregistered.

During our scrutiny we detected short realisation of revenue of ₹ 15.06 crore due to non-conducting of survey and cross verifying the information available in the records of other departments of the State Government by the AAs as discussed in paragraphs 2.11.1 and 2.11.2.

### **2.11.1 Non-registration of dealers**

Section 71 of the JVAT Act read with JVAT Rule 57 provides for survey by the circle in charge of the local circle. Further, Section 38 provides that if a dealer, liable to pay tax, fails to get himself registered under the Act, the prescribed authority shall proceed to assess the dealer to tax to the best of his judgement and may also direct the dealer to pay by way of penalty a sum equal to the amount of tax so assessed or a sum of rupees ten thousand whichever is greater.

We collected data relating to sale of stone chips in respect of mining lessees from the District Mining Office, Sahebganj and cross verified the same with the records of Sahebganj commercial taxes circle during 2009-10.

Our cross verification revealed that 37 mining lessees had sold 10.33 lakh cubic meter stone chips

during the period 2006-07 to 2008-09, valued at ₹ 52.78 crore, involving VAT of ₹ 6.60 crore, but these lessees were not registered in the Sahebganj commercial taxes circle. As such, all the dealers had remained outside the tax net resulting in non-realisation of Government revenue of ₹ 13.20 crore including penalty of ₹ 6.60 crore.

After we pointed out the cases, the AA intimated that demand amounting to ₹ 61.41 lakh in 12 cases have been raised in September 2010. Further action taken to recover the amount and reply in the remaining cases has not been received (March 2011).

We reported the above cases to the Government in June 2010; their replies have not been received (March 2011).

### **2.11.2 Suppression of sales turnover**

Section 37(5) of the JVAT Act provides that if the AA has reasons to believe that a dealer has failed to furnish a return or has filed an incomplete or false return with a view to avoid or evade the tax, he shall proceed to assess or re-assess the amount of tax due from the dealer on account of such evasion. He may also direct the dealer to pay by way of penalty a sum equivalent to twice the amount of the additional tax so assessed.

We collected data relating to sale of stone chips by the mining lessees from the District Mining Office, Sahebganj and cross verified the same with the records of commercial taxes circle, Sahebganj.

We noticed that 11 mining lessees registered with the commercial taxes circle, Sahebganj had reflected sale of stone chips of 48.87 lakh cft in

their VAT returns during 2006-07 to 2008-09 and were assessed accordingly between June 2008 and August 2009. However, the records of the Mines and Geology Department reflected that the lessees had sold stone chips of 83.02 lakh cft during the period. Thus, there was suppression of 34.15 lakh cft valued at ₹ 4.94 crore. This resulted in under assessment of VAT of ₹ 61.76 lakh. Besides, penalty of ₹ 1.24 crore was also leviable.

We further noticed that there was no co-ordination between the two departments for exchange of information relating to the sale of minerals made by the mining lessees. The AA had also made no effort to obtain the information from the mining Department in the interest of revenue.

After we pointed out the cases in March 2010, the AA stated that the cases would be reviewed. We have not received any further reply (March 2011).

We reported the above cases to the Government in June 2010 and to the Department in May 2010. Their replies have not been received (March 2011).

**We recommend that the Government may consider evolving a mechanism for inter-Departmental exchange of information/data for cross verification purposes in the Commercial Taxes Department.**

### **2.12 Irregularities in determination of turnover**

*Turnover means the aggregate of sale prices received or receivable and purchase prices paid or payable during any given period. Correct determination of turnover is essential for proper assessment and levy of taxes due. The gross turnover of a dealer is taken into account for the purpose of determining his liability for tax, surcharge and additional tax but for the purposes of actual levy of taxes, certain deductions are allowed in order to arrive at the taxable turnover.*

We noticed that the AAs while finalising the assessments had not assessed the taxable turnover of the dealers correctly as per the provisions of the Act. This resulted in non/short levy of tax and penalty of ₹ 79.95 crore as mentioned in paragraphs 2.12.1 and 2.12.2.

### 2.12.1 Turnover escaping assessment

Sec 40(1)(a) of JVAT Act read with the CST Act provides that in cases where after a dealer is assessed and the AA has reasons to believe that whole or any part of the turnover of the dealer has escaped assessment he shall proceed to assess or re-assess the amount of tax due in respect of such turnover. He may also direct the dealer to pay by way of penalty a sum equivalent to twice the amount of the additional tax assessed.

We noticed in 10 commercial taxes circles<sup>11</sup> that 24 dealers had filed their returns for purchase/sale of ₹ 464.80 crore during 2006-07. The assessments were finalised between May 2008 and March 2009 on the basis of returns filed by them. However, our scrutiny of records<sup>12</sup> indicated that the dealers had actually sold/purchased goods worth ₹ 568.53 crore. Thus, the dealers concealed ₹ 103.73 crore on account of purchase/sale turnover in

their returns. The concealment was on account of suppression of sale of empties, purchase/sale of goods for higher values but showing less value in the returns, non-inclusion of administrative and manufacturing expenses in the cost of sales etc. This resulted in non/short levy of the tax of ₹ 13.83 crore. Besides, penalty of ₹ 27.66 crore was also leviable. We mention specific cases in respect of five dealers in four commercial taxes circles in the table below:

(Rupees in crore)

Name of the circle Registration number of the dealer	Period Date of assessment	Nature of observations	Suppressed turnover Rate of tax (%)	Short levy of VAT Penalty
Ranchi South 20820100056	2006-07 March 2009	Profit on sale of stores, valued at ₹ 1.85 crore, forming part of other revenues of annual audited accounts was not accounted for in the sales turnover.	1.85 12.5	0.23 0.46
Chirkunda 20632001021	2006-07 March 2009	The dealer was allowed deduction of ₹ 11.87 crore from the GTO on account of payment to sub-contractors, though as per records furnished, the dealer was entitled for deduction of ₹ 10.81 crore only.	1.06 12.5	0.13 0.26

<sup>11</sup> Adityapur, Bokaro, Chirkunda, Dhanbad, Giridih, Jharia, Palamu, Ramgarh, Ranchi East and Ranchi South.

<sup>12</sup> Utilisation certificate of declaration forms, audited annual accounts, trading and manufacturing account.

Bokaro 20581402316	2006-07 March 2007	Sale of empties, valued at ₹ 21.68 crore, forming part of annual audited accounts though taxable under the Act, was not accounted for in the sales turnover.	21.68 4	0.87 1.74
Ramgarh 20121900276	2006-07 March 2010	As per utilisation of Green Road Permit (JVAT 504G) the dealer had received spare parts valued at ₹ 23.04 crore but accounted for ₹ 17.51 crore only.	5.53 12.5	0.69 1.38
Ramgarh 20231901040	2006-07 March 2009	As per utilisation of declaration form C and road permits dealer had purchased raw materials and consumables valued at ₹ 7.07 crore but accounted for ₹ 6.30 crore only.	0.77 4	0.03 0.06

After we pointed out the cases between August 2009 and March 2010 the AA, Chirkunda intimated that an additional demand of ₹ 39.90 lakh has been raised in one case in September 2010. The progress made in recovering the amount and action taken in the remaining cases has not been followed (March 2011).

We further noticed that the AAs did not cross verify the returns with the relevant information/records available in the records submitted by the concerned dealers.

We reported the cases to the Government/Department in June 2010; their replies have not been received (March 2011).

#### 2.12.2 Suppression of sales/purchase turnover under JF Act

Under the JF Act, read with the CST Act, if the dealer has concealed, omitted or failed to disclose wilfully the particulars of turnover or has furnished incorrect particulars of such turnover, the competent authority shall assess or reassess the amount of tax due from the dealer 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.

We noticed in eight commercial taxes circles<sup>13</sup> that 21 dealers had filed returns for purchase/sale of ₹ 21,663.48 crore during 2003-04 to 2005-06. The assessments were finalised between May 2006 and March 2009 on the basis of returns filed by them. However, our scrutiny of the information available in the assessment records viz. utilisation certificate of declaration forms, audited annual accounts, trading and

manufacturing accounts etc, indicated that the dealers had actually sold/purchased goods worth ₹ 21,869.47 crore. Thus, the dealers concealed sale/ purchase of ₹ 205.99 crore. We further noticed that the AAs did not cross verify the returns with the relevant information/records submitted by the concerned dealers. This resulted in non/short levy of tax, including additional tax and surcharge, of ₹ 20.14 crore. Besides penalty of ₹ 18.32 crore was also leviable.

We mention specific cases in respect of five dealers in two commercial taxes circles in the following table:

<sup>13</sup> Adityapur, Bokaro, Chirkunda, Jharia, Ramgarh, Ranchi East, Ranchi South and Singhbhum.



(Rupees in crore)

Name of the circle Registration number of the dealer	Period Date of assessment	Nature of observations	Suppressed turnover Rate of tax (%)	Short levy of tax, additional tax and surcharge, minimum penalty
Ranchi South RNS 1 (R)	2004-05 March 2009	Profit on sale of stores, valued at ₹ 1.88 crore, forming part of annual audited accounts though taxable under the Act, was not accounted for in the sales turnover.	1.88 8	0.17 0.15
Ranchi South RNS 1936(R)	2005-06 September 2008	Receipt of payment on account of works sublet to registered and unregistered works contractors was short accounted by ₹ 63.96 lakh.	0.64 8	0.06 0.05
Ranchi South RNS 185 (R)	2004-05 August 2008	Actual sales turnover of lubricant was worked out to ₹ 2.75 crore on the basis of manufacturing and trading account instead of ₹ 2.36 crore as returned by the dealer.	0.39 16	0.07 0.06
Ranchi South RNS 2300 (R)	2005-06 October 2008	Utilisation statement of Green Road Permit indicated that the dealer had actually received computers valued at ₹ 42.52 crore on stock transfer as well as on inter state purchases but accounted for as ₹ 41.56 crore.	0.96 4	0.04 0.04
Adityapur AP 1978(R)	2005-06 October 2007	As per the audited annual accounts, the sales turnover of the dealer was ₹ 58.17 crore but accounted for as ₹ 46.64 crore only in the returns.	11.53 4	0.51 0.46

After we pointed out the cases between August 2009 and March 2010, the AA of Ranchi South circle intimated that demand for ₹ 45.56 lakh as pointed out by audit has been raised between July and September 2010 in three cases. Further action taken to recover the amount and reply in the remaining cases has not been received (March 2011).

We reported the matter to the Government/Department in June 2010; their replies have not been received (March 2011).

### 2.13 Application of incorrect rate of tax under JVAT/JF Act

*Our scrutiny of assessment records of six Commercial Taxes Circles indicated that the AAs had not levied tax correctly resulting in short levy of tax of ₹ 22.78 crore as mentioned in the succeeding paragraphs:*

Under the provisions of the JVAT Act, 2005 component and parts of motor vehicle/ excavator, graphite and limestone were taxable at the rate of 12.5 per cent under Part D of Schedule II. By a notification issued in March 2007 these commodities, excluding motor parts were made taxable at the reduced rate of 4 per cent with effect from 6 March 2007. Further, stone chips are taxable at the rate of 12.5 per cent in Part D of Schedule II.

**2.13.1** We test checked the records of eight assessee of Adityapur and Palamu commercial taxes circles which revealed that the AAs while finalising assessments between February and March 2009 for the period 2006-07 levied tax at the reduced rate of four per cent on sale of components and parts of excavators, graphite, limestone

and stone chips instead of the correct rate of 12.5 per cent. This resulted in short levy of tax of ₹ 22.03 crore as mentioned below:

(Rupees in crore)

Sl. No.	Number of dealers Circle	Period Month of assessment	Nature of observation	Short levy of tax
1.	Three Adityapur	2006-07 March 2009	Tax was levied at the incorrect rate of four per cent instead of the correct rate of 12.5 per cent on sale of auto and excavators parts valued at ₹ 255.96 crore for the period from April 2006 to February 2007, i.e., prior to notification dated 06.03.2007.	21.76
2.	Five Palamu	2006-07 Between February and March 2009	Tax was levied at the incorrect rate of four per cent instead of the correct rate of 12.5 per cent on sale of graphite, limestone and stone chips valued at ₹ 3.27 crore during the period April 2006 to February 2007.	0.27
<b>Total</b>				<b>22.03</b>

After we pointed out the cases, the AAs stated between January and March 2010 that the cases would be reviewed. We have not received any further reply (March 2011).

Under the JF Act, the State Government may from time to time, by notification, specify the rate of tax on any class or description of goods.

**2.13.2** We test checked the records of one assessee in Dhanbad Urban commercial taxes circle for the period 2004-05 and 2005-06 and three assessee in Ranchi South commercial taxes circle for the period 2002-03 to

2004-05 assessed between February 2007 and January 2009, which revealed that the assessee sold cement, LPG and tiles valued at ₹ 1.32 crore, ₹ 2.15 crore and ₹ 1.15 crore respectively and tax was levied at the incorrect rate of 8 per cent instead of correct rates of 9, 11 and 13 per cent. This resulted in short levy of tax amounting to ₹ 19.66 lakh as mentioned in the following table:

(Rupees in lakh)

Sl. No.	Name of the circle Number of dealers	Period Month of assessment	Nature of observation	Short levy of tax + AT + SC
1.	Ranchi South Three	2002-03 to 2004-05 Between February 2007 and January 2009	The dealers sold cement and LPG valued at ₹ 1.32 crore and ₹ 2.15 crore respectively and were levied tax at the rate of 8 per cent though tax was leviable at the correct rates of 11 and 9 per cent respectively.	6.94
2.	Dhanbad Urban One	2004-05 and 2005-06 August 2007	The dealer sold tiles valued at ₹ 1.16 crore and ₹ 1.15 crore during 2004-05 and 2005-06 respectively and was levied tax at the rate of 8 per cent though tax was leviable at the correct rate of 13 per cent.	12.72
<b>Total</b>				<b>19.66</b>

After we pointed out the cases, the AA of Ranchi South circle intimated that demand for ₹ 2.18 lakh as pointed out by audit has been raised in February 2010 in one case. Further action taken to recover the amount and reply in the remaining cases has not been received (March 2011).

We reported the matter to the Government/Department in June 2010; their reply has not been received (March 2011).

Under the provisions of the JF Act and notification issued thereunder Government prescribed concessional rate of sales tax of two per cent on purchase of raw materials. Such concession would be admissible only to those industrial units which came under the set off scheme prescribed by the notification S.O 67 issued in January 2002.

**2.13.3** Our scrutiny of the records of eight assesseees in three commercial taxes circles (Adityapur, Ranchi East and Tenughat) for the period 2003-04 to 2005-06, revealed that the AAs while finalising the assessments between January 2006 and March 2009 levied inadmissible concessional

rate of tax of two per cent instead of three per cent on sale of aluminum alloy casting, refractory materials, chemicals, HDPE woven fabrics and bags, cement, timber and wooden windows and doors valued at ₹ 49.86 crore in spite of non-furnishing of eligibility certificate under the notification. This resulted in short levy of tax of ₹ 54.85 lakh including additional tax and surcharge as mentioned in the following table:

(Rupees in lakh)

Sl. No	Number of dealers Circle	Period Date of assessment	Nature of observations	Short levy of tax+ AT&SC
1.	Three Adityapur	2004-05 and 2005-06 Between November 2006 and February 2008	The dealers sold goods <sup>14</sup> of ₹ 22.21 crore. They were liable to pay tax at the concessional rate of three per cent instead of two per cent levied by the AA.	24.43
2.	Two Tenughat	2004-05 and 2005-06 Between January 2006 and March 2009	The dealers sold goods <sup>15</sup> of ₹ 24 crore. They were liable to pay tax at the concessional rate of three per cent instead of two per cent levied by the AA.	26.40
3.	Three Ranchi East	2003-04 to 2005-06 Between April 2007 and March 2009	The dealers sold goods <sup>16</sup> of ₹ 3.65 crore. They were liable to pay tax at the concessional rate of tax of three per cent instead of two per cent levied by the AA.	4.02
Total				54.85

After we pointed the cases, the AA of Adityapur commercial taxes circle intimated that demand for ₹ 13.54 lakh as pointed out by audit has been raised in July 2010 in one case. Further action taken to recover the amount and reply in the remaining cases has not been received (March 2011).

We reported the matter to the Government/Department in June 2010; their reply has not been received (March 2011).

#### 2.14 Irregularities in grant of Input Tax Credit

*Input Tax Credit (ITC) shall be allowed to a dealer for the tax paid or payable in respect of all taxable sales other than any other sales as may be prescribed, or purchases within the State during that period.*

*Our scrutiny, however, indicated a number of discrepancies in the assessments finalised by the AAs through which ITC was incorrectly allowed. A few instances involving excess/incorrect allowance of ITC for ₹ 25.27 crore are mentioned in the following paragraphs:*

Under the provisions of the JVAT Act, 2005, every registered dealer holding stock of any goods as on the appointed day i.e., 1 April 2006 shall declare such stock, in the prescribed form, for claiming ITC on the opening stock. Further, the dealer shall not claim ITC until the tax period in which the dealer receives the tax invoice in original containing the prescribed particulars of sale evidencing the amount of input tax paid. Further, if the dealer has availed ITC for which he was not entitled, he shall be liable to pay penalty equal to twice the amount of additional tax assessed on account of said reasons.

2.14.1 We noticed in Bokaro commercial taxes circle that an assessee was allowed input tax credit of ₹ 33.86 crore on intra-state purchase of goods valued at ₹ 857.53 crore for the period 2006-07. Our scrutiny of records/ declaration form JVAT 404 revealed that these intra-state purchases of goods also included one bill of ₹ 1.09 crore,

14 Aluminium alloy casting, Laminated HDPE fabrics, Refractory and minerals.  
15 Fire bricks and refractory.  
16 Cement, timber, plywood etc.

pertaining to 2005-06, which was not declared as opening stock on 1 April 2006 in the prescribed form as required under the provisions of the Act. Further, three bills valued at ₹ 77.11 crore pertained to 2007-08 on which ITC was inadmissible during 2006-07. However, we noticed that the AA while finalising the assessment in March 2009 allowed ITC of ₹ 8.31 crore on these purchases without verifying the records. This resulted in incorrect allowance of ITC of ₹ 24.92 crore including penalty of ₹ 16.61 crore.

Under the provisions of the JVAT Act and Rules framed thereunder, ITC shall not be allowed to a registered dealer in respect of sales exempted from levy of tax as specified in Schedule I and in respect of goods used for manufacture of goods for transfer of stock or other than by way of sale or for sale outside the State.

**2.14.2** We test checked the records of five assesseees in four commercial taxes circles<sup>17</sup> for the period 2006-07 which revealed that ITC of ₹ 35.01 lakh was claimed on exempted goods and stock transfer outside the state though ITC was not admissible. However, we noticed that the AAs while finalising the assessments between

December 2008 and March 2009 allowed the same. This resulted in allowance of excess ITC of ₹ 35.01 lakh.

After we pointed the cases, the AA of Bokaro commercial taxes circle intimated that demand for ₹ 4.48 lakh as pointed out by audit has been raised in September 2010 in two cases. Further action taken to recover the amount and reply in the remaining cases has not been received (March 2011).

We reported the matter to the Government/Department in June 2010; their reply has not been received (March 2011).

## **2.15 Irregularities in grant of exemptions**

*Exemptions from levy of sales tax have been allowed under different provisions of the Act and notifications issued thereunder with specific objectives, terms and conditions. It is essential that the AA should ensure that the exemptions are granted in accordance with the provisions of the Act and notifications and subject to fulfilment of specified terms and conditions.*

*Our scrutiny however indicated a number of discrepancies in the assessments finalised by the AAs through which incorrect/excess exemptions were granted. A few instances involving non/short levy of tax of ₹ 28.93 crore are mentioned in the following paragraphs:*

Under the provisions of the JF Act and Rules made thereunder a dealer is not liable to pay tax in respect of goods transferred by him to any other dealer or to his agent for sale within the state provided that he furnishes, before the prescribed authority, a declaration in form 'IXD' issued by the transferee.

**2.15.1** We noticed in Jharia commercial taxes circle that an assessee claimed exemption from payment of tax on transfer of coal valued at ₹ 353.86 crore to its steel plant for (self) consumption during

<sup>17</sup> Bokaro, Dhanbad, Jharia and Ranchi East.

the period 2004-05 and 2005-06. The declarations affecting the transfer were neither found on record nor was any mention of their production made in the assessment order finalised by the AA in December 2008 and January 2009 respectively. In absence of these declarations, the assessee was not entitled to exemption. However, the AA while finalising the assessments incorrectly allowed exemption from the payment of tax resulting in short realisation of tax of ₹ 14.15 crore.

After we pointed the case in March 2010, the AA intimated in August 2010 that form IX D was not required for stock transfer for internal consumption. The reply of the AA is not in consonance with the provision of Section 21 (1A) of the repealed Act as submission of declaration form IX D to substantiate claim for exemption on account of intra-state stock transfer is necessary.

We reported the matter to the Government/Department in June 2010; their reply has not been received (March 2011).

As per notifications issued from time to time under the provisions of the JF Act, a new industrial manufacturing unit may be exempted from payment of tax for a specified time period and up to a certain monetary limit. The exemption certificate, in this regard, issued by the Commercial Taxes Department mentions the monetary limit of exemption and the period of its validity.

2.15.2 We test checked the exemption certificates and assessment records of three assesseees in Adityapur and Ramgarh commercial taxes circles for the period from 2000-01 to 2005-06, which revealed that these dealers were entitled to exemption from payment of tax up to a limit of ₹ 19.52 crore only.

However, against this limit the dealers availed exemption from payment of tax up to ₹ 34.30 crore. The AAs while finalising the assessments between October 2004 and June 2008 did not detect the mistake. This resulted in excess allowance of exemption of sales tax of ₹ 14.78 crore.

After we pointed out the cases between April 2009 and February 2010, the AA of Ramgarh commercial taxes circle intimated that demand for ₹ 1.42 crore as pointed out by audit has been raised in June 2010 in one case. Further action taken to recover the amount and reply in the remaining cases has not been received (March 2011).

We reported the matter to the Government/Department in June 2010; their reply has not been received (March 2011).

## 2.16 Non/short imposition of penalty

Under the provisions of Section 40 (1) of the JVAT Act, if the dealer has concealed, omitted or failed to disclose wilfully the particulars of turnover or has furnished incorrect particulars below the real amount, the prescribed authority shall assess or reassess the amount of tax due from the dealer in respect of such turnover and direct the dealer to pay tax and penalty equal to twice the amount of additional tax assessed. If assessed under Section 40 (2), interest at the rate of two *per cent* is leviable.

**2.16.1** We noticed in Ramgarh commercial taxes circle that three assessee engaged in the business of sponge iron (two assessee) and coal (one assessee) had furnished turnover of ₹ 353.28 crore during 2006-07. The AAs while finalising the assessments between December 2008 and February 2009 enhanced the gross turnover by an additional amount of ₹ 645.93 crore on the basis of data procured from the Railways by the circle. Thus, ex-parte assessment was made on the ground that necessary details/documents were not furnished by the dealers and they did not turn up despite allowing several

extension of dates and levied tax on the enhanced additional turnover. Our scrutiny, however, indicated that in one case penalty of ₹ 69.83 crore on the assessed additional tax, though leviable as per the Act, was not levied. In the other two cases interest amounting to ₹ 0.67 crore though leviable was also not levied.

After we pointed out the cases in February 2010, the AA stated that the cases would be reviewed. We have not received any further reply (March 2011).

We reported the matter to the Government/Department in June 2010; their reply has not been received (March 2011).

Under the provisions of the JVAT Act and Rules made thereunder, a dealer with gross turnover exceeding ₹ 40 lakh is required to furnish VAT audit report in Form JVAT 409 within nine months from the end of that year, failing which the assessing authority shall impose penalty equal to 0.1 *per cent* of the turnover as he may determine.

**2.16.2** We test checked the records in Dhanbad Urban and Ramgarh commercial taxes circles which revealed that two assessee had not submitted VAT audit report in Form JVAT 409 for the period 2006-07. Our scrutiny revealed that the AAs while finalising the assessments

between January and March 2009 determined the gross turnover at ₹ 830.49 crore and imposed penalty of ₹ 25.36 lakh only instead of ₹ 83.05 lakh for not submitting the VAT Audit Report. This resulted in non/short imposition of penalty for ₹ 57.69 lakh due to non-submission of VAT audit report.

After we pointed out the cases between August 2009 and January 2010, the AAs stated between August 2009 and February 2010 that the cases would be reviewed. We have not received any further reply (March 2011).

The JF Act provides for imposition of penalty for failure to pay the tax demanded which may extend to five *per cent* of the amount of tax for the first three months or part thereof and to 10 *per cent* for each subsequent month or part thereof.

**2.16.3** We test checked the records in Bokaro and Ramgarh commercial taxes circles which revealed that two assesseees had failed to pay outstanding demand of assessed tax of ₹ 23.76 crore for the period 2003-04 and 2005-06, assessed

in August 2006 and January 2009 respectively, till the date of audit (February 2010): The delay ranged between 10 months 4 days and 40 months 6 days. Our scrutiny revealed that the AAs after issuing notice for imposing penalty (February 2009) neither imposed penalty nor instituted certificate case till the date of audit (February 2010). These resulted in non-imposition of penalty of ₹ 50.01 crore for non-payment of assessed tax as provided in the Act.

After we pointed out the cases in February 2010, the AA in the case of Bokaro stated in March 2010 that the case would be re-examined, while the AA of Ramgarh did not furnish any reply. We have not received any further reply (March 2011).

We reported the matter to the Government/Department in June 2010; their reply has not been received (March 2011).

## **2.17 Irregularities in compliance to the Central Sales Tax Act**

*Under the provisions of the CST Act, 1956 and the rules/notifications issued thereunder, different declarations forms are prescribed for claiming exemptions/concessions from levy of tax. The Act further provides for imposition of penalty for misuse of declaration forms.*

*We noticed that the AAs did not comply with the provisions of the Act and notifications issued thereunder resulting in short levy of tax and penalty of ₹ 21.95 crore. The cases are described in the succeeding paragraphs:*

### **Mistakes in computation of tax**

Under the provisions of the CST Act, the AA is to finalise the assessment with utmost care and efficiency. He should see that computation of tax has been done accurately to the best of his knowledge and belief.

**2.17.1** We noticed (July 2009) in five commercial taxes circles<sup>18</sup> that five dealers had made inter-state sale of coal, bright bars, wire ropes and explosives valued at ₹ 311.36 crore during 2004-05 and 2006-07. Our scrutiny

revealed that out of these, sales valued at ₹ 60.86 crore were not supported by prescribed declarations in Form 'C' or 'D'. However, the AAs while finalising the assessments between March 2005 and March 2009 incorrectly computed tax at the concessional rates. This resulted in short levy of tax amounting to ₹ 2.47 crore.

<sup>18</sup> Adityapur, Katras, Ranchi South, Sahebganj and Tenughat.



Under the provisions of the CST Act, tax is levied at twice the rate applicable on the inter-state sale of declared goods not supported by declarations in form 'C'.

**2.17.2** We noticed (July 2009) in Ramgarh commercial taxes circle that an assessee had furnished 20 declaration forms (19 declaration in form 'C' and one declaration in form

'D') for ₹ 403.53 crore in support of inter-state sale of coal valued at ₹ 410.38 crore during 2005-06. Our scrutiny of records revealed that out of these declaration forms eight declaration forms amounting to ₹ 235.11 crore were issued in favour of another dealer and were liable to be rejected. Failure of the AA to detect the same while finalising the assessment in January 2009 resulted in under assessment of tax of ₹ 9.40 crore.

### **Misuse of declaration forms**

Under the CST Act, if a registered dealer falsely represents when purchasing any class of goods that goods of such class are covered by his certificate of registration (RC), he is liable to be prosecuted. However, the Act provides that the authority competent to grant the RC may impose penalty not exceeding one and a half times of the tax leviable.

**2.17.3** We noticed (July 2009) in Dhanbad and Tenughat commercial taxes circles that three assesseees had purchased signaling and telecommunication equipment, sleepers, rails, safety shoes, copper, graphite, HSD and spare parts etc. valued at ₹ 30.20 crore from outside the State at concessional rate of tax by using declarations in form 'C' during 2005-06 and 2006-07. Our

scrutiny revealed that these goods were not covered by their Registration Certificate (RC). However, the AAs while finalising the assessments between December 2007 and February 2009 did not check the RCs to verify whether the goods procured were covered by the RC. This resulted in unauthorised use of declaration form 'C' and consequential short determination of tax of ₹ 10.08 crore including penalty of ₹ 5.90 crore.

We reported the matter to the Government/Department in June 2010; their reply has not been received (March 2011).

## CHAPTER- III : STATE EXCISE

### 3.1 Tax administration

The levy and collection of excise duty and other State excise receipts is governed by the Bihar Excise Act, 1915 and the Rules made/notifications issued thereunder, as adopted by the Government of Jharkhand. The Secretary of the State Excise and Prohibition Department is responsible for administration of the State Excise laws at the Government level. The Commissioner of Excise is the head of the Department. He is primarily responsible for the administration and execution of the excise policies and programmes of the State Government. He is assisted by a Deputy Commissioner of Excise and an Assistant Commissioner of Excise at the headquarters.

The State of Jharkhand is divided into three<sup>19</sup> excise divisions, each under the control of a Deputy Commissioner of Excise. The divisions are further divided into 19<sup>20</sup> excise districts each under the charge of an Assistant Commissioner of Excise/Superintendent of Excise.

### 3.2 Trend of receipts

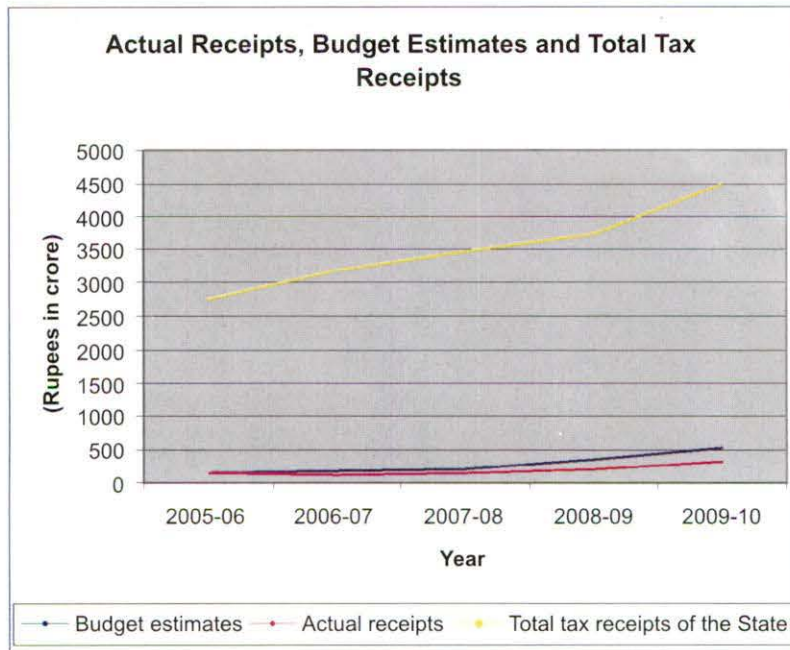
Actual receipts from 'State Excise' against the budget estimates during the period 2005-06 to 2009-10 along with the total tax receipts during the same period is exhibited in the following table:

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual State Excise receipts vis-à-vis total tax receipts
2005-06	155.00	161.64	(+) 6.64	(+) 4	2,758.04	5.86
2006-07	186.00	129.62	(-) 56.38	(-) 30	3,188.50	4.07
2007-08	211.11	156.86	(-) 54.25	(-) 26	3,473.55	4.52
2008-09	357.52	205.46	(-) 152.06	(-) 43	3,753.21	5.47
2009-10	550.00	322.75	(-) 227.25	(-) 41	4,500.12	7.17

<sup>19</sup> North Chotanagpur Division, Hazaribag, South Chotanagpur Division, Ranchi and Santhal Pargana Division, Dumka.

<sup>20</sup> Bokaro, Chaibasa, Dhanbad, Deoghar, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Koderma, Lohardaga, Pakur, Palamu cum Latehar, Ranchi, Sahebganj and Saraikela-Kharsawan.



It would be seen from the above that the variation between budget estimates and actual receipts ranged between (+) 4 and (-) 43 per cent which indicated that the budget estimates were not prepared on a realistic basis.

**We recommend that the Government may issue suitable instructions to the Department for preparing the BEs on a realistic and scientific basis to ensure that these are close to the actuals.**

### 3.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2010 amounted to ₹ 30.94 crore. The year wise position of arrears of revenue during the period 2005-06 to 2009-10 were as under :

(Rupees in crore)		
Year	Opening balance of arrears	Closing balance of arrears
2005-06	15.18	12.33
2006-07	12.33	38.00
2007-08	38.00	29.16
2008-09	29.16	29.39
2009-10	29.39	30.94

The Department did not furnish the information regarding the addition and clearance of the arrears during the year. However, the above table indicates that the amount of arrears increased from ₹ 15.18 crore as on 31 March 2005 to ₹ 30.94 crore as on 31 March 2010, registering an overall increase of 104 per cent. As per information furnished by the Department, out of ₹ 30.94 crore, demands for ₹ 13.21 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 16.10 crore and ₹ 0.07 crore were stayed by courts and the Government respectively. Recovery of ₹ 0.11 crore was held up due to parties becoming insolvent and an amount of ₹ 0.16 crore was likely to be written off. Specific action taken in respect of balance amount of ₹ 1.29 crore has not been intimated (March 2011). The position of the arrears of revenue, outstanding for more than five years, at the end of 2009-10 was also not furnished by the Department (March 2011) despite being requested (June 2010).

We recommend that the Government may consider issuing directions to the Department for speedy settlement of the arrear cases by continuously monitoring the arrears recoverable as arrears of land revenue as well as the court cases in the interest of revenue.

### 3.4 Cost of collection

The gross collection of revenue in respect of 'State Excise', expenditure incurred on their collection and the percentage of such expenditure to gross collection during 2005-06 to 2009-10 along with the all India average percentage of expenditure on collection of the preceding years is indicated in the following table:

(Rupees in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of the preceding years
2005-06	161.64	6.51	4.03	3.34
2006-07	129.62	7.38	5.69	3.40
2007-08	156.86	7.51	4.79	3.30
2008-09	205.46	10.38	5.05	3.27
2009-10	322.75	13.75	4.26	3.66

Thus, the percentages of expenditure on collection were higher than the all India average in all the five years.

We recommend that the Department may take steps to reduce the cost of collection.

### 3.5 Results of audit

We test checked the records of nine units during the year 2009-10 and found cases of non/short realisation of licence fee, duty, loss of revenue etc. involving ₹ 29.78 crore in 242 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non/delayed settlement of excise shops	169	17.89
2.	Undue financial benefits due to unauthorised concession	9	0.69
3.	Non-renewal/re-settlement of exclusive privilege for whole sale supply of country spirit/spiced country spirit	8	0.87
4.	Short lifting of liquor	5	4.93
5.	Other cases	51	5.40
<b>Total</b>		<b>242</b>	<b>29.78</b>

During the course of the year, the Department accepted non/short realisation of licence fee, duty, loss of revenue and other deficiencies of ₹ 27.98 crore in 241 cases pointed out by us during the year 2009-10 and in earlier years.

A few illustrative cases involving ₹ 48.71 lakh are mentioned in the following paragraphs:

### 3.6 Audit observations

We scrutinised the records in the offices of Excise and Prohibition Department relating to revenue received and found several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of license fee and fees as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions are pointed out each year, but not only do the irregularities persist; these remain undetected till we conduct an audit. There is need for the Government to improve the internal control system so that occurrence of such cases can be avoided.

### 3.7 Non-observance of the provisions of Act/Rules

The Bihar Excise Act, 1915 (adopted by the Government of Jharkhand) and Rules made thereunder provide for:

- i) settlement of exclusive privilege for wholesale supply of country spirit in due time;
- ii) renewal of licences for vendors/contractors;
- iii) payment of annual licence fee for wholesale supply of country spirit (CS), retail excise shops, wholesale supply of India Made Foreign Liquor (IMFL); and
- iv) lifting of minimum guaranteed quota (MGQ) by excise retail shops.

We noticed that the Government had not prescribed any time period for each authority/stage concerned with the settlement of wholesale and retail shops to ensure their timely settlement/ approval so as to prevent loss of revenue. Loss of revenue due to delayed settlement of the shops is mentioned in the following paragraphs 3.7.1 to 3.7.4.

#### 3.7.1 Delayed settlement of exclusive privilege for wholesale supply of country spirit

Under the provisions of the Bihar Excise Act and Rules, the Excise Commissioner was required to publish a notice for settlement of wholesale suppliers of country spirit three months prior to expiry of the term of the existing contract specifying the area, quantity, nature and quality of spirit required to be supplied and the warehouse at which the delivery was to be made.

We noticed during October 2009 to January 2010 that in two excise districts<sup>21</sup> tender notification for wholesale supply of country spirit was published after a delay of three months on 3 April 2008 instead of January 2008 for the period from 2008-09 to 2010-11. The license for supply of CS was actually settled with two licensees on 1 August 2008 after a delay of four months. Thus, delay of three months in notification and a further delay of four

<sup>21</sup> Bokaro and Giridih.

months in settlement of exclusive privilege for wholesale supply of country spirit by the Excise Commissioner, Jharkhand, Ranchi resulted in loss of excise revenue amounting to ₹ 18.37 lakh<sup>22</sup> for the period 1 April 2008 to 31 July 2008.

We reported the matter to the Department in March/April 2010 and to the Government in May 2010. Their reply has not been received (March 2011).

### 3.7.2 Non/delayed settlement of retail excise shops upto June 2008

Under the provisions of the Jharkhand Excise Act, 1915 the Government adopted (February 2004) a excise policy effective from 2004-05 under which retail shops were required to be settled in two groups viz. one for country spirit/spiced country spirit and the other for India made foreign liquor/beer for a block of three years, *i.e.*, from July 2004 to March 2007. The Excise Commissioner issued instructions from time to time to the Deputy Commissioners for extension of the licence period upto June 2008. Thereafter *w.e.f.* 1 July 2008, the Government adopted a new excise policy which envisaged a composite licence irrespective of the groups.

We noticed (October 2009 to January 2010) in five excise districts<sup>23</sup> that the Excise Commissioner ordered to extend licenses for retail shops of Group I and II up to June 2008. However, no licensee came forward to renew his license and all the retail shops of these districts remained inoperative up to 30 June 2008 except for 21 shops of Jamtara Gr-II, Giridih Gr-I and Palamu cum Latehar that were run

Departmentally and earned revenue of ₹ 25.32 lakh during the period from 1 April 2008 to 30 June 2008. Further, the shops of Dumka district remained inoperative till 14 September 2008. Timely settlement of the shops would have fetched revenue of ₹ 4.75 crore<sup>24</sup> in the shape of license fee and excise duty after adjustment of revenue earned through Departmental operation.

22 Loss is based on the minimum guaranteed quota (MGQ) to be lifted by the licensee  
 MGQ per month =  $13775 \times 12 / 12 = 114792.67$  LPL  
 MGQ for 4 months =  $459170.66$  LPL  
 Licence fee @ ₹ 4 per LPL = ₹ 18.37 lakh.

23 Bokaro, Dumka, Giridih, Jamtara and Palamu cum Latehar.

24 The loss is in the shape of license fee and excise duty calculated on the basis of reserve fee and MGQ fixed for the shops in the preceding years.

### 3.7.3 Non-settlement of excise shops from 1 July 2008

The Department of Excise and Prohibition notified (May 2008) a new excise policy, effective from 1 July 2008, for *cent per cent* settlement of excise shops of the district and full collection of Government revenue during the year. According to the amended resolution dated 7 May 2008, all excise shops of a district (country spirit, spiced country spirit, IMFL and beer) were merged into one group for settlement under exclusive privilege through auction for the period 2008-09.

We noticed (October 2009 to January 2010) in five excise districts<sup>25</sup> that settlement of 96 country spirit shops, 55 spiced country spirit shops and 111 IMFL excise shops were cancelled (17 July 2008) by the Government with the instructions to settle the shops of all districts of the state in one phase only (i.e. along with the shops of Ranchi, Bokaro and Dhanbad, these shops were

scheduled for settlement by the Department in different phases). The shops were settled on 12 November 2008 and during the period from 1 July 2008 to 11 November 2008 the shops remained inoperative. Timely settlement of the shops would have fetched revenue of ₹ 8.64 crore<sup>26</sup> in the shape of license fee and excise duty. Thus, delayed settlement of the shops resulted in loss of revenue to the Government to that extent.

### 3.7.4 Non-settlement of excise retail shops of Giridih

The Department of Excise and Prohibition adopted a new excise policy for *cent per cent* settlement of excise shops of the district and full collection of Government revenue during the year. According to the amended resolution (31.05.2008), all excise shops of the district (country spirit, spiced country spirit, India made foreign liquor and beer) are merged in one group for settlement under exclusive privilege through auction for the period of 2008-09 (i.e. 1 July 2008 to 31 March 2009).

We noticed (October 2009 to January 2010) in Giridih district that the process of settlement of retail shops (37 country spirit shops, 6 spiced country spirit shops and 28 IMFL excise shops) was initiated twice (on 21 June 2008 and 2 August 2008) by the Superintendent of Excise, Giridih. The first proposal for settlement of excise shops was cancelled on 18 July 2008 by the Commissioner on the grounds that auction for all districts should

be held in one phase only while the second proposal for settlement of excise shops was not approved till 1 September 2008. Thereafter, in pursuance of a writ petition lodged on 2 September 2008 by a bidder, the Jharkhand High Court directed that no license shall be issued by the Department till finalization of the case in the district of Giridih. The order was vacated by the court on 19 February 2009 and the license was awarded on 3 March 2009. Thus, the excise retail shops remained inoperative during the period from 1 July 2008 to 2 March 2009. Timely settlement of the shops would have fetched revenue of ₹ 4.51 crore<sup>27</sup> in the shape of license fee and excise duty. Thus, delayed settlement of the shops resulted in loss of revenue to the Government to that extent.

<sup>25</sup> Bokaro, Deoghar, Godda, Jamtara and Palamu cum Latehar.

<sup>26</sup> The loss is in the shape of license fee, excise duty calculated on the basis of reserve fee and MGQ fixed for the shops in the preceding years.

<sup>27</sup> The loss is in the shape of license fee, excise duty calculated on the basis of reserve fee and MGQ fixed for the shops in the preceding years.

We reported the matter to the Department in March 2010 and to the Government in May 2010. Their replies have not been received ( March 2011).

**We recommend that the Government may prescribe a time period for each authority/stage to ensure timely settlement/approval of wholesale and retail shops in the state to prevent loss of revenue.**

### **3.8 Short lifting of liquor by retail vendors**

Under the provisions of the Jharkhand Excise Act and the Rules made thereunder each licensed retail vendor of an excise shop is required to lift a minimum guaranteed quota (MGQ) of liquor of each kind fixed by the Department for the shop failing which excise duty, license fee and fiscal penalty equivalent to loss of excise duty suffered by the Government shall be recoverable from the vendor.

We noticed (July 2009) in Jamtara excise district that a retail licensed vendor was required to lift MGQ of 2.90 London Proof Litre (LPL) of liquor from the wholesale licensee of the district. However, the retailer lifted only 1.19 lakh LPL of the liquor during 2008-09 for the period from 15 September

2008 to March 2009. Thus, there was short lifting of 1.71 lakh LPL of liquor. The Department had not taken steps to recover the excise duty and levy fiscal penalty. This resulted in non-realisation of Government revenue of ₹ 48.71 lakh.

After we pointed out the case in July 2009 the concerned Superintendent of Excise stated that recovery would be made from the security deposit of the licensee. Further reply has not been received ( March 2011).

We reported the matter to the Department in March 2010 and to the Government in May 2010. Their replies have not been received ( March 2011).



## CHAPTER- IV: TAXES ON VEHICLES

### 4.1 Tax administration

The levy and collection of Motor Vehicle Tax and fee in the state is governed by the Bihar Motor Vehicles Taxation (BMVT) Act, 1994 and Rules made thereunder and the Bihar Motor Vehicles (BMV) Rules, 1992. On creation of the 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. 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<sup>28</sup> regions and 22<sup>29</sup> transport districts, which are controlled by the State Transport Authority (STA), 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.

### 4.2 Analysis of budget preparation

The budget estimates/target of the Transport Department was fixed by the Finance Department and this target is distributed among different field offices depending upon their potentiality to achieve the target.

### 4.3 Trend of receipts

Actual receipts from 'Taxes on Vehicles' against budget estimates during the period from 2005-06 to 2009-10 along with the total tax receipts during the same period is exhibited in the following table:

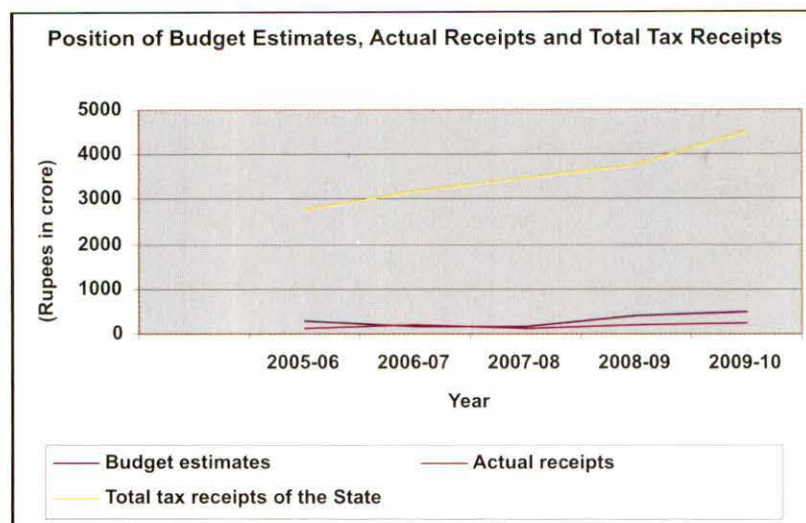
(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts to total tax receipts of the state
2005-06	270.00	138.32	(-) 131.68	(-) 49	2,758.04	5.02
2006-07	162.80	218.27	(+) 55.47	(+) 34	3,188.50	6.85
2007-08	184.78	135.67	(-) 49.11	(-) 27	3,473.55	3.91
2008-09	400.60	201.57	(-) 199.03	(-) 50	3,753.21	5.37
2009-10	500.00	234.21	(-) 265.79	(-) 53	4,500.12	5.20

The Department could not achieve the budget estimate except during 2006-07. The shortfall compared to budget estimate ranged between 27 and 53 per cent during the period 2005-06 to 2009-10 indicating therein that the Budget estimates were not prepared on realistic basis.

<sup>28</sup> Dumka, Hazaribag, Palamu and Ranchi.

<sup>29</sup> Bokaro, Chaibasa, Chatra, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Koderma, Latehar, Lohardaga, Palamu, Pakur, Ranchi, Sahebganj, Saraikela-Kharsawan and Simdega.



#### 4.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2010 amounted to ₹ 140.05 crore. The year wise position of arrears of revenue during the period 2005-06 to 2009-10 are depicted below:

(Rupees in crore)

Year	Opening balance of arrears	Closing balance of arrears
2005-06	127.84	48.30
2006-07	48.30	128.65
2007-08	128.65	174.30
2008-09	174.30	NA
2009-10	NA	140.05

The Department did not furnish the information regarding the addition and clearance of the arrears during the year and closing balance for the year 31 March 2009. However, the above table indicates that the amount of arrears increased from ₹ 127.84 crore as on 31 March 2005 to ₹ 140.05 crore as on 31 March 2010. Figures of arrears outstanding for more than five years were not made available by the Department.

**The Government may consider issuing directions to the Department for speedy settlement of the arrear cases by constant monitoring and recovering the arrears as arrears of land revenue by invoking the provisions of the Bihar and Orissa Public Demands Recovery Act, 1914.**

#### 4.5 Cost of collection

The gross collection in respect of 'Taxes on vehicles', expenditure incurred on their collection and the percentage of such expenditure to gross collection during 2005-06 to 2009-10 along with the all India average percentage of expenditure on collection of the preceding years is indicated in the following table:

(Rupees in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of the preceding year
2005-06	138.32	2.50	1.81	2.74
2006-07	218.27	2.49	1.14	2.67
2007-08	135.67	2.90	2.14	2.47
2008-09	201.57	4.03	2.00	2.58
2009-10	234.21	5.02	2.14	2.93

Thus, the percentage of expenditure on collection was lower than the all India average in all the years.

#### 4.6 Impact of Audit Reports

During the last five years we through our audit reports had pointed out non/ short levy, non/short realisation, underassessment/loss of revenue, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 106.78 crore in 25 paragraphs. Of these, the Department/Government has accepted and recovered ₹ 91.67 crore. The details are shown in the following table:

(Rupees in crore)

Year of Audit Report	Paragraphs included in the Audit Report	Financial impact of the paragraphs included in the Audit Report	Amount recovered during the year
2004-05	1	27.19	15.85
2005-06	7	13.64	21.57
2006-07	7	13.36	12.30
2007-08	6	29.80	4.60
2008-09	4	22.79	37.35
<b>Total</b>	<b>25</b>	<b>106.78</b>	<b>91.67</b>

#### 4.7 Results of audit

Our test check during 2009-10 of the records of 13 units relating to 'Taxes on Vehicles' revealed underassessment of tax and other irregularities involving ₹ 20.74 crore in 3,560 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Lack of control over collection of taxes	1,913	11.59
2.	Non-levy and short levy of taxes	639	0.84
3.	Non-imposition of fees, fines and penalties	1	0.15
4.	Other cases	1,007	8.16
<b>Total</b>		<b>3,560</b>	<b>20.74</b>

During the course of the year, the Department accepted non/short levy of motor vehicles tax, fees, penalties, fines etc. of ₹ 17.08 crore in 3,557 cases pointed out by us during 2009-10.

A few illustrative cases involving ₹ 12.16 crore observed/commented during 2009-10 and in earlier years are mentioned in the succeeding paragraphs:

#### 4.8 Audit observations

Our scrutiny of records in the offices of the Transport Department relating to revenue received from taxes on vehicles indicated several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of tax/penalty and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions are pointed out by us each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to consider directing the Department to improve the internal control system including strengthening internal audit so that such omissions can be avoided, detected and corrected.

#### 4.9 Non-observance of provisions of Acts/Rules

The Bihar Motor Vehicles Taxation Act (BMVT), 1994 (adopted by the Government of Jharkhand), Motor Vehicles Act, 1988, Central Motor Vehicles Rules, 1989 and Rules made thereunder provide for:

- (i) payment of motor vehicles tax by the owner of vehicles at the prescribed rate;
- (ii) timely deposit of collected revenue into the Government account;
- (iii) payment of registration fee at the prescribed rate; and
- (iv) payment of authorisation fee and composite fee for vehicles covered under national permit.

We noticed that the Transport Department did not observe some of the provisions of the Act/Rules in cases as mentioned in the succeeding paragraphs:

#### 4.10 Non-collection of vehicles taxes

Under the provisions of the BMVT Act, the owner of a vehicle is liable to pay tax within 15 days of commencement of the quarter, to the taxing officer in whose jurisdiction the vehicle is registered. For non-payment of tax within the stipulated period and exceeding 90 days the taxing authority may impose penalty at twice the amount of taxes due. The State Transport Commissioner, Bihar issued instruction (November 1990) that the taxing officer shall raise demand notices against the defaulters. The taxation register maintained by each District Transport Officer is required to be updated every year on 1 October and 31 March.

**4.10.1** We noticed from test check of the taxation register and from the computerised data in 13<sup>30</sup> District Transport Offices between May 2009 and March 2010 that the owners of 1,258 vehicles did not pay the tax between 2004-05 and 2009-10. No reasons were found on record for non-payment of tax. The

Department did not raise demand against the defaulting vehicle owners resulting in short levy of tax of ₹ 10.48 crore including penalty of ₹ 6.99 crore.

<sup>30</sup> District Transport Offices: Bokaro, Chaibasa, Deoghar, Dhanbad, Dumka, Giridih, Godda, Gumla, Hazaribag, Koderma, Lohardaga, Pakur and Sahebganj.

We also noticed that there was no provision in the computerised system for generation of a list of defaulters. **We recommend that a provision may be made in the software for automatic generation of a defaulter's list so that demands can be raised by the Department against the defaulters.**

**4.10.2** We noticed (May 2009 to March 2010) from verification of taxation registers in 13<sup>31</sup> District Transport offices that the owners of 1,276 trailers did not pay road tax and additional motor vehicle tax for the periods between February 2005 and March 2010. The Department also failed to raise demand against the defaulters. Failure of the Department to enforce the provisions of the Act/Rules resulted in non-levy of tax of ₹ 1.65 crore including penalty of ₹ 1.10 crore.

After we pointed out the matter, the district transport officers stated between May 2009 and March 2010 that demand notices would be issued against the defaulters. Further reply has not been received (March 2011).

The matter was reported to the Government in June 2010; their reply has not been received (March 2011).

**We recommend that the Transport Commissioner may issue instructions for updating the registers every year on 1 October and 31 March and issue demand notice to the defaulters.**

#### **4.11 Short levy of trade tax**

Under the Bihar Motor Vehicles Taxation Act, trade tax at the annual rate specified in Schedule-III shall be paid by a manufacturer/dealer in respect of motor vehicles held in possession by him in the course of business. A dealer is required to pay the tax annually at the close of financial year on the basis of returns submitted by him. For belated payment of tax beyond a period of 90 days the dealer is liable to pay penalty equivalent to twice of the tax.

We noticed while conducting test check of the trade tax register and files of District Transport Office, Bokaro in July 2009 that a dealer of motor vehicles was liable to pay trade tax of ₹ 6.01 lakh. However, he deposited the trade tax of ₹ 3.23 lakh only after the prescribed period. This resulted in short payment of trade tax of ₹ 2.78 lakh. Besides, the dealer was liable to pay penalty of

₹ 12.02 lakh for belated payment of the tax.

After we pointed out the matter, the District Transport Officer stated (July 2009) that the demand notice would be issued. Further reply has not been received (March 2011).

The matter was reported to the Government in June 2010; their reply has not been received (March 2011).

---

31 District Transport Offices: Bokaro, Chaibasa, Deoghar, Dhanbad, Dumka, Giridih, Godda, Gumla, Hazaribag, Koderma, Lohardaga, Pakur and Sahebganj.

#### 4.12 Non-renewal of authorisation of national permit

A national permit issued under the provision of the Motor Vehicles Act, 1988, shall be valid for a period of five years. The owners of vehicles were however, required to obtain authorisation annually on payment of authorisation fee of ₹ 500 per annum alongwith composite fee through bank draft for transmission to the States where the vehicle is to be plied. The authorisation is a continuous process unless the permit expires or is surrendered by the permit holder.

We noticed during test check (May 2009 to October 2009) of national permit registers of two offices<sup>32</sup> that 107 national permits were issued during 2008-09. However, there was nothing on record to indicate whether subsequent authorisation for plying these goods vehicles were issued or whether the permits were surrendered for the period falling between April 2008 and March 2009. Thus, in absence of this information, we could not

ascertain the amount of authorisation fee and composite fee payable by the owners of the vehicles. Had the vehicles been plying, the owners of these 107 vehicles would have paid authorisation fee of ₹ 0.57 lakh and composite fee of ₹ 22.80 lakh.

After we pointed this out, the Regional Transport Authority, Ranchi stated (October 2009) that demand notices would be issued against the defaulters. Further progress made in recovery of the amount and reply from the other office has not been received (March 2011).

The matter was reported to the Government in June 2010; their reply has not been received (March 2011).

#### 4.13 Delay in deposit of revenue collected by banks

Under the provisions of the Bihar Financial Rules (adopted by the Government of Jharkhand) all receipts of government revenue must be deposited into Government account without delay. The instructions of the State Transport Commissioner, Bihar (March 1996) and the State Transport Commissioner, Jharkhand (January 2001) stipulated that the amount collected by the banks during April to February should be transferred to the State Bank of India (SBI), Doranda branch, Ranchi in such a manner that all receipts during a particular month are transferred latest by the first week of the following month. The amount deposited in the month of March is to be transferred by 31 March positively so that all amounts deposited in the financial year are transferred to the Government account in the same financial year.

As per the instructions issued by the Reserve Bank of India in April 2003, interest at the rate of eight per cent per annum on average quarterly balance exceeding ₹ 1 crore is payable by the banks on delayed remittances to the Government account.

We noticed during the test check of records of three offices<sup>33</sup> between July 2009 and October 2009

that the collecting banks, i.e. two branches of Punjab National Bank at Bokaro and

<sup>32</sup> Transport Commissioner, Jharkhand and Regional Transport Authority, Ranchi.

<sup>33</sup> Transport Commissioner, Jharkhand and District Transport Offices of Bokaro and Dhanbad.

Dhanbad and one branch of Bank of India at Ranchi delayed the transfer of revenue collected by district transport offices and office of the Transport Commissioner into the Government account at State Bank of India, Doranda branch, with an average delay of six months. The collecting banks did not credit the leviable interest of ₹ 3.88 crore during 2008-09 for delayed transfer of the Government revenue into the State Bank of India, Doranda, Ranchi. The Department also did not pursue the matter with the banks for timely transfer of the revenue collected by them into the Government account.

After we pointed out the matter between July and October 2009, the District Transport Officer, Bokaro and Dhanbad stated that it would be referred to the bank authorities for timely transfer of collected revenue whereas no reply was furnished by the Transport Commissioner, Ranchi. Further reply has not been received (March 2011).

The matter was reported to the Government in June 2010; their reply has not been received (March 2011).

#### 4.14 Non-issue of driving licences in smart card

Rule 16 of the Central Motor Vehicles Rules, 1989 provides mandatory issue of driving licences in Form-7 (computerised Smart Card).

The Transport Department, Government of Jharkhand, introduced (September 2004) Vahan/Sarathi package in collaboration with the National Informatics Centre to monitor

vehicle registration, tax collection as well as to issue registration certificates and driving licences in computerised smart cards.

We noticed (March 2010) from a test check of the driving licence register of the District Transport Office, West Singhbhum, Chaibasa that 4,828 driving licences were issued in Form 6 (manual driving licence) instead of Form 7 (Laminated Smart Card type computerised driving licence) during 2008-09.

The Department intimated in March 2010 that driving licenses in smart cards could not be issued due to non-functioning of the camera attached with the Sarathi package. Thus the purpose for which the package was introduced was not served. Besides, as the laminated smart cards attracted more fees than those issued manually, the Government could have earned additional revenue of ₹ 7.72 lakh as mentioned below:

(Rupees in lakh)					
Driving Licence	No. of licences issued in 2008-09	Licence Fee (Form 6)	Licence Fee (Form 7)	Difference	Loss of revenue
Single	4,828	140.00	300.00	160.00	7.72
Double		240.00	400.00	160.00	

The matter was reported to the Government in June 2010; their reply has not been received (March 2011).

## CHAPTER- V: LAND REVENUE

### 5.1 Results of audit

During 2009-10 our test check of the records of 40 offices dealing with land revenue in 10 districts revealed short/non-realisation and loss of land revenue and other irregularities involving ₹ 0.55 crore in 19 cases which fall under the following categories:

( Rupees in crore )

Sl. No.	Categories	Number of cases	Amount
1.	Working of Revenue and Land Reforms Department (A review)	01	0.52
2.	Other cases	18	0.03
Total		19	0.55

The Department accepted under-assessment and other deficiencies of ₹ three lakh in 18 cases pointed out by us during the year 2009-10. Recovery has not been made in these cases.

A review on the **Working of Revenue and Land Reforms Department** with financial impact of ₹ 0.52 crore is mentioned in the following paragraph:



## **5.2 Working of Revenue and Land Reforms Department**

### **Highlights**

- The Department could not computerise the land revenue activities, although a sum of ₹ 6.56 crore was allotted to the Deputy Commissioners during 2007-08 and 2008-09.  
**(Paragraph 5.2.7.3)**
- Central Coal Fields and Bharat Coking Coal Limited sold/dispatched sludge/slurry valued at ₹ 291.02 crore. This sludge/slurry was not settled as *sairat* resulting in loss of revenue to the Government.  
**(Paragraph 5.2.7.4)**
- In six offices 921.5946 acres of *Khas Mahal* land valued at ₹ 1,092.44 crore remained under the illegal occupation of 2,939 persons who did not renew their leases.  
**(Paragraph 5.2.7.5)**
- No action was taken by the Government for eviction of 209 persons who had encroached 13.7745 acres of public land.  
**(Paragraph 5.2.7.6)**
- Out of 12,708.59 acres of land leased to TISCO in 1956 it applied for renewal in respect of 10,852.27 acres of land. The remaining 1,786.89 acres of land was completely under encroachment. Buildings, community hall, temple etc. were constructed on this encroached land.  
**(Paragraph 5.2.7.7)**
- In Chaibasa, leases in respect of 796.79 acres of land under the occupation of two companies were not renewed resulting in blocking of revenue of ₹ 61.46 crore.  
**(Paragraph 5.2.7.8)**
- Non-settlement of surplus *gairmazarua* land/*bhoodan yagna* land resulted in loss of revenue of ₹ 4.10 crore during 2004-05 to 2008-09.  
**(Paragraphs 5.2.8.1 and 5.2.8.2)**
- Failure to raise the demand of *Salami* and rent against Bharat Coking Coal Limited and Damodar Valley Corporation resulted in non-realisation of revenue of ₹ 2.34 crore.  
**(Paragraph 5.2.8.4)**

### **5.2.1 Introduction**

Land revenue is one of the oldest sources of revenue of the Government. The system evolved by the British Government was mainly *Zamindari* under permanent settlement. The *Zamindars* (intermediaries) were recorded as proprietors and were empowered to levy and collect rent from the tenants.

After enactment of the Bihar Land Reforms (BLR) Act, 1950 all intermediary interest in permanently settled areas including interest in trees, forests, fisheries, *jalkars*, ferries, *hats*, *gairmazarua*<sup>34</sup> (GM) land and mines and minerals was abolished and vested in the State and the management of such areas directly came under the State Government. The purpose of the Act was to enable levy and collection of rent directly by the Government in accordance with the existing tenancy laws. Thus, the Act made a direct link between the State and the tenants and assessment and collection of land revenue came under the direct control of the State.

The last survey settlement in the plain areas of the State was conducted in the first decade and in the hilly tracks of Chotanagpur during the third decade of the twentieth century. No fresh survey and settlement for the State as a whole has been conducted so far. As a result of non-revision of rent, the collection of land revenue became almost static. The main sources of land revenue are as under:

- land rent and cess from tenants of *raiyati* land;
- *salami*<sup>35</sup>, land rent<sup>36</sup> and cess<sup>37</sup> from settlement of excess *khas mahal*<sup>38</sup> and *gairmazarua* land; excess land from application of Ceiling Act and land obtained under *bhoodan yagna*;
- *salami*, land rent and cess from renewal/settlement of lease of *khas mahal* land for residential and commercial purposes; and
- revenue from auction of *hat*, *bazaar*, fair, bus stand, ferry and sludge or slurry etc.

### 5.2.2 Audit criteria

The performance audit was conducted with reference to the provisions made under the various laws governing land revenue management in the State. These are:

1. Bihar Tenancy Act, 1885;
2. Chotanagpur Tenancy Act, 1908;
3. Santhal Paragana Act, 1949;
4. Bihar Land Reforms Act, 1950;
5. Bihar Land Reforms (fixation of ceiling area and acquisition of surplus land) Act, 1961;

<sup>34</sup> Uncultivated and unsettled land belonging to the government. It can be settled to the *raiyats* as per rules.

<sup>35</sup> *Salami* is the market value of the land. It is a share in the increase of value anticipated during the period of lease.

<sup>36</sup> Land rent = *malguzari*

<sup>37</sup> Cess means a 'local rate' leviable on land and payable by *raiyats* under various cess Acts viz., Road cess, Education cess, Health cess and Agricultural Development Cess.

<sup>38</sup> The estates under the direct possession/management of the Government.

6. Bihar *Bhoodan Yagna* Act, 1954;
7. Bihar Government Estate (*Khas Mahal*) Manual, 1953;
8. Bihar Public Land Encroachment Act, 1956;
9. Bengal Cess Act, 1880; and
10. Executive Orders issued by the Revenue and Land Reforms Department, Government of Bihar/Jharkhand from time to time.

### **5.2.3 Organisational set up**

The laws governing land revenue in Jharkhand are administered by the Secretary/Commissioner of the Revenue and Land Reforms Department. All important cases of settlement, framing of policies and sanction of alienation of the Government land are decided at the Government level. The State is divided into five divisions<sup>39</sup> each headed by a Divisional Commissioner and 24 districts<sup>40</sup> each headed by a Deputy Commissioner. At the district level the Deputy Commissioner is assisted by the Additional Collector/Additional Deputy Commissioner (AC/ADC). Each district is divided into sub-divisions headed by a Sub-Divisional Officer (SDO) who is assisted by a Deputy Collector Land Reforms (DCLR). The sub-divisions are divided into circle/ *anchal* each headed by a Circle Officer (CO)/*Anchal Adhikari* (AA). The main pivot of the machinery for assessment and collection of land revenue is the CO/AA. There are 36 SDOs and 210 COs in the State of Jharkhand.

All cases of settlement of land, *Sairats*<sup>41</sup>, assessment, collection, remission etc. are initiated at the level of the CO. All initial accounts and records of settlement, assessment, collection, details of tenancy etc. are maintained in the circle offices.

### **5.2.4 Audit objectives**

The main objectives of the performance audit were to assess whether;

- systems adopted for settlement/renewal of *khas mahal* land, excess *gairmazarua* land, implementation of Ceiling Act and distribution of land obtained under the *bhoodan yagna* were adequate and efficient and timely action was taken for renewal of lease/settlement to avoid loss of revenue;
- systems adopted for settlement/auction of sludge or slurry, *hat*, *bazaar*, *mela*, ferry service and bus stand were adequate and effective;
- implementation of IT systems in the Department was efficient and effective; and
- internal controls were adequate, effective and efficient.

---

<sup>39</sup> South Chotanagpur (Ranchi), North Chotanagpur (Hazaribag), Santhal Parganas (Dumka), Palamu (Medininagar) and Singhbhum (Kolhan Division, Chaibasa).

<sup>40</sup> Bokaro, Chatra, Dhanbad, Dumka, Deoghar, East Singhbhum, Garhwa, Godda, Giridih, Gumla, Hazaribag, Jamtara, Koderma, Khunti, Latehar, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi, Sahebganj, Saraikela, Simdega and West Singhbhum.

<sup>41</sup> *Sairat* means the right and interest in respect of revenue earning *hat*, *bazaar*, *mela*, trees, ferries etc.

### 5.2.5 Audit scope and methodology

The performance audit on the working of the Revenue and Land Reforms Department of the Government of Jharkhand for the period from 2004-05 to 2008-09 was conducted between January and May 2010.

We collected district-wise data of demand raised and revenue collected of all the 24 districts in the State. We selected 10 districts<sup>42</sup> for audit after conducting risk analysis<sup>43</sup>. In addition, 40 circle offices<sup>44</sup> were selected from amongst the selected districts taking into account a combination of rural and urban areas, mining areas, industrial areas, *khas mahal* and GM land etc. for detailed audit.

### 5.2.6 Acknowledgment

We would like to place on record our appreciation for the co-operation extended by the Revenue and Land Reforms Department in supplying files/records and information called for by audit from time to time. We held an entry conference with the Principal Secretary, Revenue and Land Reforms Department on 16 April 2010 where we apprised him of the audit objectives, scope and methodology of the review. We reported the audit findings, noticed as a result of test check, to the Department in July 2010. We also held an exit conference to discuss the audit findings with the Secretary, Revenue and Land Reforms Department on 25 November 2010. The replies received during the exit conference and at other points of time have been appropriately incorporated in the relevant paragraphs.

### 5.2.7 System deficiencies

#### 5.2.7.1 Trend of revenue receipts

According to the provisions of the Bihar Financial Rules, Vol. I (adopted by the Government of Jharkhand) the responsibility for preparation of budget estimates of revenue receipts is vested in the Finance Department. However, the material for the budget estimates is obtained from the concerned administrative department which is responsible for the correctness of the material. In case of fluctuating revenue the estimates should be based on a comparison of the last three years' receipts.

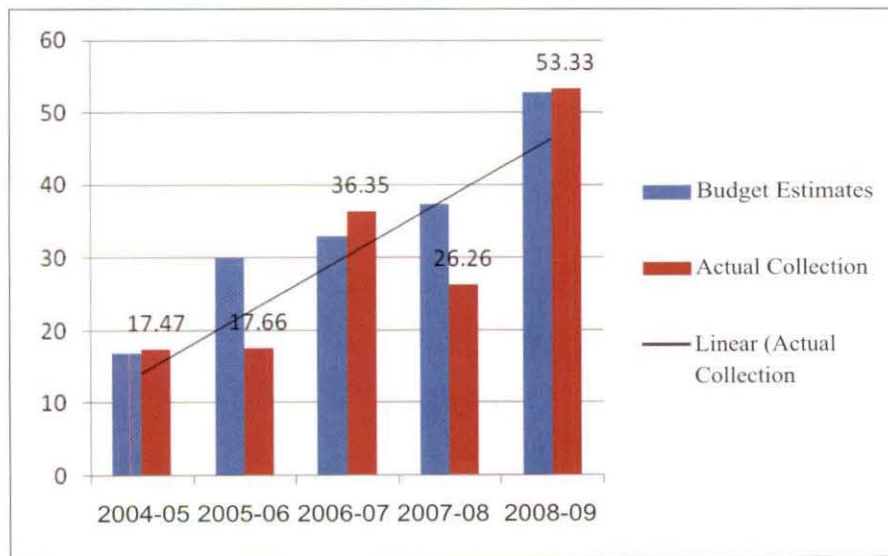
Framing of the budget estimates (BEs) is an important part of the financial planning of the Government. It is, therefore, necessary that the budget estimates should be as close as possible to the actuals. However, an analysis of the budget estimates and the actual collection of

land revenue for the period from 2004-05 to 2008-09 indicated wide variations as mentioned in the following table:-

- 
- 42 Bokaro, Chatra, Dhanbad, East Singhbhum, Garhwa, Hazaribag, Ranchi, Sahebganj, Saraikela-Kharsawan and West Singhbhum.
- 43 Risk analysis based on the demand raised and actual collection. We not only selected the districts from which demands and collections were the highest but also selected districts where the achievements were low.
- 44 Bermo, Bhavnathpur, Bhandariya, Chatra Sadar, Chas, Chiniya, Chaibasa Sadar, Chakradharpur, Dhanbad Sadar, Dhurki, Govindpur, Giddhore, Gomia, Garhwa Sadar, Hazaribag Sadar, Hunterganj, Itkhori, Jaganathpur, Jharia, Jugsalai-cum-Golmuri, Kanke, Lawalong, Meral, Majhiawan, Manoharpur, Nirsra, Nagaruntari, Noamundi, Pratappur, Pathalgadda, Potka, Patamda, Ranchi Sadar, Ranka, Ratu, Ramkanda, Simaria, Sahebganj Sadar, Saraikela Sadar and Tandwa.
-

(Rupees in crore)

Year	Budget estimates	Actual collection	Variation increase (+)/shortfall (-)	Percentage of variation
2004-05	16.96	17.47	(+) 0.51	(+) 03
2005-06	30.00	17.66	(-) 12.34	(-) 41
2006-07	33.00	36.35	(+) 3.35	(+) 10
2007-08	37.45	26.26	(-) 11.19	(-) 30
2008-09	52.75	53.33	(+) 0.58	(+) 01



Thus, collection of revenue during 2005-06 and 2007-08 was 41 and 30 per cent lower than the BEs. The wide variation indicated that the BEs were not realistic. We were not informed of the basis on which the Budget Estimates were prepared despite being requested.

After we pointed this out, the Department in the exit conference stated that the BEs are fixed by the Finance Department and actual collection depends on number of extension of old leases and new settlement/lease of *Khas Mahal* and *GM khas* land which cannot be anticipated in advance. The reply of the Department, however, did not indicate whether the BEs were prepared in accordance with the provisions of the Budget Manual as in case of fluctuating revenue the estimates should be based on a comparison of the last three years' receipts.

**We recommend that the Government may issue suitable instructions to the Revenue and Land Reforms Department for preparing the BEs on a realistic and scientific basis and ensure that these are close to the actual receipts.**

### 5.2.7.2 Arrears of Land Revenue and Non-finalisation of certificate cases

According to the Bihar Tenancy Act, land rent payable by a tenant is to be paid in four equal instalments falling due on the last day of each quarter of the agricultural year. Rent not paid in time was deemed to be outstanding arrear of land revenue at the end of the agricultural year and was recoverable through certificate proceedings under the Public Demand and Recovery (PDR) Act, 1914.

We noticed that each AC/ADC was submitting annual return in Form IA<sup>45</sup> to the Government. But the returns were not being consolidated/compiled by the Government to ascertain the total amount of outstanding arrears of land revenue at the end of the agricultural year.

We worked out the outstanding arrears of revenue on the basis of the returns. It amounted to ₹ 162.40 crore as on March 2009. This is exclusive of certificate cases filed for recovery of old outstanding dues of land revenue pending collection. Year wise details are mentioned below:

(Rupees in crore)

Year	Opening balance	Addition	Total outstanding arrears	Clearance	Closing Balance	Percentage of clearance of arrears to total arrears
2004-05	151.75	5.33	157.08	4.71	152.37	3.00
2005-06	152.37	12.25	164.62	12.63	151.99	7.67
2006-07	151.99	17.45	169.44	16.29	153.15	9.61
2007-08	153.15	17.28	170.43	15.20	155.23	8.92
2008-09	155.23	20.35	175.58	13.18	162.40	7.51

After we pointed out this, the Department stated in the exit conference that arrears amounting to ₹ 151.05 crore outstanding against TATA lease is sub-judice in the High Court. We have not received a copy of the suit filed despite being requested. During the last five years the Department cleared arrears of ₹ 62.01 crore while the addition of arrears was ₹ 72.66 crore.

**We recommend that the Government may consider maintaining a data base of arrears of revenue and ensure their speedy recovery.**

### 5.2.7.3 Computerisation of land records

The Government of Jharkhand decided (2002-03) to computerise land records (CLR) through a 100 per cent centrally sponsored scheme of Government of India (GOI) with a view to overcome the inherent problems in the manual system of maintenance and updating of land records and to provide rights of computerised copies of records to the land owners to fulfill the objective of good governance of the State. Mention was made in Paragraph 3.3 of the Audit Report (Civil) 2006-07-Government of Jharkhand regarding non-achievement

<sup>45</sup> Form IA is a return showing the amount of outstanding arrears of land revenue at the end of each agricultural year submitted by *anchal adhikari* to the Secretary, Revenue Department through the Collector/Deputy Collector.

of the objectives of the scheme. During the course of the present audit we noticed that a sum of ₹ 6.56 crore<sup>46</sup> was allotted to the Deputy Commissioners of the 24 districts of the State during the period 2007-08 and 2008-09. The Department paid ₹ 23.67 lakh for data entry work at Ranchi district between February 2008 to December 2009 and surrendered an amount of ₹ 2.08 crore in March 2010. The details/status of the balance amount of ₹ 4.24 crore lying with Deputy Commissioners were not furnished. Thus the computerisation of land records was done only in Ranchi district.

Thus, even after a lapse of seven years after purchase of computer hardware, the CLR could not be achieved. The Department accepted the facts in the exit conference and stated that early action will be taken for computerisation of land records.

**We recommend that the Government may complete the CLR with a view to overcoming the inherent problems in the manual system of maintenance and updating of land records and to provide good governance of the State.**

#### **5.2.7.4 Non-settlement of *sairat* on sludge or slurry**

As per the provisions contained in the Bihar Estate (*Khas Mahal*) Manual, sludge or slurry may appropriately be settled as *sairat*. The Government decided in September 1987 that sludge or slurry should be treated as *sairat* and settled by the Revenue and Land Reforms Department.

We obtained the figures of sludge and slurry from the Central Coal Fields (CCL) and Bharat Coking Coal Limited (BCCL) for the period 2004-05 to 2008-09 and found that the companies sold/despached sludge/slurry<sup>47</sup> valued at ₹ 291.02 crore obtained from coal washeries during this period. This sludge or slurry obtained was not settled as

*sairat* as the Department was unaware about the settlement of sludge or slurry as *sairat*. This resulted in loss of revenue of ₹ 291.02 crore to the Government.

After we pointed this out, the Department stated in the exit conference that the legality of the point would be examined and action would be taken accordingly.

**We recommend that the Government may issue directions to the Department to ensure settlement of sludge/slurry as *sairat* in the interest of the revenue.**

---

<sup>46</sup> ₹ 3.30 crore received on 28.01.2008 for digitisation of revenue village map and ₹ 3.26 crore received on 27.03.2010 for data entry work.

<sup>47</sup> Sludge/slurry: Sludge and slurry is a fluid liquid produced when coal is washed with water and chemicals. It contains fine particles of coal and other minerals.

### 5.2.7.5 Non-renewal of lease of *khas mahal* land

According to the Bihar Government Estates (*Khas Mahal*) Manual and rules framed thereunder for grant of lease, the State Government was required to issue notices to the lease holders six months prior to expiry of the lease to apply for renewal of such leases. Further, the lessee was required to apply for renewal of his lease three months prior to its expiry. A lessee who continued to occupy leasehold property without renewal of lease and payment of rent was to be treated as a trespasser and had no claim for renewal on the basis of past terms and conditions.

On fresh lease for residential/commercial purposes, *salami* at the current market value of land besides annual rent at the rate of two *per cent* for residential and five *per cent* for commercial of such *salami* was leviable. The Government issued instructions in July 2004 to all the Deputy Commissioners to take action for renewal of pending cases within three months.

Our test check of the records revealed that in four AAs<sup>48</sup> and two AC<sup>49</sup> offices 921.5946 acres of *Khas Mahal* land held by 2,939 lessees for a period of 30 years was not renewed after their expiry between 1956 and 2008. The lessees or their heirs continued to occupy the leasehold property without payment of rent and without renewal of lease. Neither did the lessees apply for fresh lease nor did the Department issue notices to the lessees for executing lease deeds or take steps to evict them. Thus, land valued at ₹ 1,092.44 crore remained under the illegal occupation of encroachers.

After the cases were pointed out between February and May 2010, the Land Reforms Deputy Collector/AC stated (May 2010) that instructions would be issued to all AAs and related officers for renewal of expired leases. Further, in the exit conference held the Department accepted the delay in finalisation of the renewals and stated that action is in progress in this regard.

### 5.2.7.6 Non-eviction/settlement of public land under encroachment

Under the Bihar Public Land Encroachment Act (BPLE Act), if a person encroaches upon any public land, he may be evicted or the land may be settled with such person on payment of rent and damages as per the rules laid down in Bihar Government Estate (*Khas Mahal*) Manual. Further, in case of settlement of public land for residential/commercial purposes, *salami* equal to the prevailing market value of such land together with annual residential/commercial rent at the rate of two/five *per cent* of *salami* is payable.

We test checked the records of 10 selected units which revealed that 209 persons had encroached 13.7745 acres of public land belonging to the Government in 10 circle offices<sup>50</sup> and used it for residential purposes during the period 1996-97 to 2008-09. The encroachments were neither evicted nor settled with the encroachers. In some cases the Department had issued show

cause notices for eviction, but we did not find anything on record to indicate that eviction in any case had been done.

<sup>48</sup> Chaibasa, Chakradharpur, Jaganathpur and Noamundi.

<sup>49</sup> Garhwa and Hazaribag.

<sup>50</sup> Bermo, Bhawnathpur, Chas, Chaibasa, Chakradharpur, Chatra, Garhwa, Jamshedpur, Nagaruntari and Saraikela.



After being pointed out the Department accepted the point in the exit conference and stated that action would be taken either to evict the encroachers or settle the encroached land.

#### **5.2.7.7 Encroachment of land of erstwhile Tata lease, Jamshedpur**

The Government of Jharkhand, Revenue and Land Reforms Department leased out (January 1956) 12,708.59 acres of land to TISCO, free from encroachment, for a period of 40 years which expired in December 1995. Prior to expiry of the lease, TISCO applied (August 1995) for renewal of lease for a further period of 30 years for an area of 10,852.27 acres only and requested for excluding an area of 1,786.89 acres from the earlier lease. The status and details of the remaining 69.43 acres of land were not furnished by the Department.

We scrutinised the records which revealed that the lease to TISCO was granted (August 2005) for a period of 30 years with retrospective effect from 1.1.96 for 10,852.27 acres only. The remaining 1,786.89 acres of land was completely under encroachment of which 1,111.04 acre land was occupied by 17,986 buildings and the rest 675.85 acres was covered by roads, streets, drains, barren land, community hall, temple, mosque, *gurudwara*, schools, graveyards, play ground etc. This area was excluded from the scope of lease to TISCO.

We did not find anything on record to indicate that steps were taken to evict the encroachers. This resulted in loss of revenue in the shape of rent of ₹ 341.36 crore during 1996-97 to 2008-09.

We reported the matter to the Department and the Government in July 2010 and in the exit conference. The Department stated in the exit conference that the legal opinion was being obtained and a strategy was being worked out by the Department for settlement/eviction of the encroached land.

#### **5.2.7.8 Non-renewal of expired lease of GM Khas land**

As per the Bihar Rent Fixation Act, a lessee using the leasehold property for commercial activity was liable for payment of commercial rent at the rate of five *per cent* of the market value of the land.

We test checked the records of ADC Chaibasa which revealed that 433.04 acres of land (Chiria Mines) was leased out to Indian Iron and Steel Company (IISCO) in the year 1948 to

1953 for 30 years. The same was not renewed after expiry of lease and the proprietorship remained with IISCO. Similarly, 363.75 acres of land leased out to Associated Cement Company (ACC) was not renewed so far even after lapse of 5 to 23 years. This resulted in blocking of land revenue of ₹ 61.46 crore in the shape of lease rent.

After we pointed this out, the Department accepted the audit observation in the exit conference. Steps taken to recover the amount have not been intimated.

## Internal controls

### 5.2.7.9 Internal Audit

The Finance Department is responsible for conducting internal audit of the Revenue and Land Reforms Department including its various offices. We observed that no internal audit was conducted during the period 2004-05 to 2008-09 in any of the offices (10 district offices and 40 AAs) test checked.

After we pointed this out, the Department stated in the exit conference that the Finance Department would be approached for conducting regular internal audit of the Department.

### 5.2.7.10 Non-maintenance of registers

Internal Controls are intended to provide reasonable assurance of proper enforcement of laws, rules and Departmental/executive orders. A vital component of internal control is to enable the management to assure itself that the prescribed systems are functioning reasonably well.

The Bihar Government Estate (*Khas Mahal*) Manual (adopted by the Government of Jharkhand), provides for maintenance of the following registers/returns by the Collector and the AAs for efficient management of collection of land revenue and other land reforms:

**Register-I (Rent roll or continuous *khatian*):** This register is required to be maintained by each *anchal* office which gives details of each holding held by a tenant of a revenue village including annual rent and cess. We found that the register was not being maintained by any of the units. In absence of the register it was not possible to ascertain the position of land, demand, collection and arrears of land revenue.

**Register-II (Tenant's ledger):** This is required to be maintained by each *anchal* office and contains the name of the tenant, area of the land allotted, annual demand and status of occupant etc. filled in a separate page allotted for each tenant. We found that the register was not properly maintained in any of the *anchal* offices.

**Register-VI (Remission register):** This register is required to be maintained by each *anchal* office and gives the details of remission/suspension of rent to each tenant. During natural calamities, the Government may order remission/suspension of rent payable by a particular category of tenants. We found that none of the circle offices maintained the register.

**Register-VII (Mutation register):** This register is maintained for transfer of ownership of land on sale/gift/partition etc. in which *khasra*<sup>51</sup> map and *khatian*<sup>52</sup> or *jamabandi* (register IA), as the case may be, is corrected under the Deputy Collector's initial who is responsible for posting the correction and send to the *Halka*<sup>53</sup> *Karamchari* a correction slip indicating the exact nature of the change. The register in proper form is not being maintained by any of the selected units. Instead they were maintaining information in Register-27 (Petition Register), which does not serve full purpose.

51 Plot number of revenue map of a revenue village.

52 Records of Rights of land.

53 A group of revenue village.

**Register IX-A (Details of waste land):** This register is meant for recording details of settlement of waste lands. This register was not maintained by any of the units selected for audit.

**Return-III (List of defaulters):** is maintained at the *Anchal* level comprising of detailed list of the defaulters on the basis of Register II, who were not making payment of arrear dues. The return was required to be submitted to the Deputy Commissioner for initiating certificate proceeding against the defaulters.

We test checked the records of units selected for audit and observed that no AA was maintaining Return-III.

We observed that the above mentioned registers/returns prescribed in the Manual for keeping permanent records of land holding, transfer of land holding, revenue realisable, details of waste land and surplus land for lease/settlement were either not maintained at all or not updated regularly. In the absence of such details, monitoring and control of various activities relating to revenue and land reforms at higher level were not possible which was likely to affect the collection of land revenue. It was clear that the internal controls in the Department was not adequate and needed to be strengthened.

After we pointed this out, the Government stated in the exit conference that necessary guidelines have been issued for maintenance of registers and returns. It was assured that a copy of the guidelines will be supplied to audit.

## 5.2.8 Compliance deficiencies

### 5.2.8.1 Non-settlement of GM *khas* land

Mention was made in the Paragraph 5.2 of the Audit Report (Revenue Receipts) of the Comptroller and Auditor General of India, Government of Jharkhand for the year 2003-04 regarding the loss of revenue on account of rent and cess due to non-settlement of the GM *khas* land. The report has not been discussed by PAC.

The rights of intermediaries of GM *khas* land were abolished and all such land was vested with the Government under the Bihar Land Reforms Act. As per instructions issued by the Government from time to time, revenue officers were required to examine cases of surplus unsettled GM *khas* land for settlement with scheduled caste, scheduled tribe, backward classes and landless persons at fair and equitable rent.

Our test check of the records revealed that in two COs<sup>54</sup>, three Deputy Commissioner Land Reforms<sup>55</sup> and four ACs/ADCs Offices<sup>56</sup>, out of 4,89,607.085 acres of available GM *khas*<sup>57</sup> land fit for settlement, only 2,38,081.405 acres were settled with eligible categories upto March 2009, leaving an area of 2,51,525.68 acres surplus GM *khas* land yet to be settled by the

Department. Consequently, the Government could not earn revenue in the shape of land rent and cess amounting to ₹ 3.08 crore for the period 2004-05 to 2008-09.

<sup>54</sup> Dhanbad and Nirsa.

<sup>55</sup> Chatra, Garhwa and Jamshedpur.

<sup>56</sup> Bokaro, Chaibasa, Hazaribag and Ranchi.

<sup>57</sup> Means land retained by ex-intermediaries and not settled to *raiyyats* subsequently vested in the State under the Bihar Land Reforms Act.

The Government had not made any effort by issuing notices from time to time in the press or through the electronic media for settlement of such surplus GM *khas* land amongst ST, SC, backward classes and landless people.

After we pointed this out, the Department stated in the exit conference that total GM *khas* land cannot be settled to public. These are kept for future requirement. The reply is not acceptable as our comment relates to only those GM *khas* land which have been declared surplus and fit for settlement by the Department.

### 5.2.8.2 Non-settlement of land donated under *bhoodan yagna*

Under the Bihar *Bhoodan Yagna* (BBY) Act, the land vested in the BBY Committee was to be granted to landless persons or to a village community, Gram Panchayat or Co-operative Society by the committee in the prescribed manner. The Act provided conferment right to the grantee over such land subject to payment of rent and cess.

Our test check of the records in one AA<sup>58</sup>, two DCLR<sup>59</sup> and three AC<sup>60</sup> offices revealed that out of 2,44,080.58 acres of *bhoodan* land fit for settlement, only 1,70,621.77 acres of land was distributed/settled upto 2008-09 leaving a balance area of 73,458.81 acres of land unsettled. Had the Government settled the surplus land during the last five years, it would have earned revenue

of ₹ 1.02 crore towards rent and cess during 2004-05 to 2008-09.

After we pointed this out between January and May 2010 the Department stated that action was being taken for the settlement of the remaining land. Further progress made has not been received (March 2011).

### 5.2.8.3 Fixation of below reserve *jama*<sup>61</sup> for *sairat*

The Bihar Estate (*Khas Mahal*) Manual, provides that the average of the last three years *jama* should be fixed as reserve *jama* of a *sairat*/auction. In case the bid received is less than the reserve *jama*, the approval of the higher authority should be obtained before finalisation of the bid.

Our test check of the records revealed that in three Anchal Offices<sup>62</sup>, *sairats* in respect of bus stand, animal *mela*, *aam* and *tar* (palm) and *phalkar mahua* were settled below the average of the last three years' *jama* which should have been treated as *jama* for

the *sairat* without obtaining the approval of the higher/competent authority. This resulted in loss of revenue amounting to ₹ 40.47 lakh during 2003-04 to 2008-09 as shown in the following table:

58 Dhanbad.

59 Chatra and Garhwa.

60 Bokaro, Hazaribag and Ranchi.

61 Reserve *jama* is a fixed sum on the basis of which a *sairat* is put to auction for settlement or at which *sairat* is settled.

62 Bermo, Hunterganj and Itkhori.

(Rupees in lakh)

Name of the office	Name of the <i>sairat</i>	Year	Reserve deposit	Collection	Loss of revenue
AA, Bermo	Phusro Bus stand	2003-04 to 2008-09	23.89	16.66	7.23
	Chandrapur Bus stand	2005-06 to 2008-09	27.27	9.53	17.74
AA, Itkhori	Animal mela, Aam tree	2003-04 to 2008-09	18.16	2.79	15.37
AA, Hunterganj	Mahua tree	2004-05 to 2007-08	0.37	0.24	0.13
<b>Total</b>			<b>69.69</b>	<b>29.22</b>	<b>40.47</b>

After we pointed this out, the Department stated in the exit conference that cases were received by them for sanction for reserve *jama* on lower side. However, the reply was silent about the grant of approval for fixation of reserve *jama* on lower side in the cases mentioned by us.

#### 5.2.8.4 Non-realisation of *salami* and rent

Under the provisions of Bihar Estate (*Khas Mahal*) Manual, in regard to permanent transfer of land to a person/company the market value of such land together with 25 times of commercial/residential rent at the rate of five per cent/two per cent is payable.

₹ 2.23 crore towards *salami* and rent, which was not realised till date of audit. We further observed that even after lapse of 18 years, certificate cases were not filed for realisation of *salami* and rent by the Department. The AC/AA had brought the fact of unrealised amount to the Government but no certificate cases were initiated for realisation of the outstanding amount.

After we pointed out, the AC stated that necessary steps is being taken to institute the certificate case for realisation of arrear demand from BCCL. Further reply has not been received (October 2010). However, in the exit conference held on 25 November 2010 the Department accepted the point and stated that action will be initiated for recovery of the dues.

As per executive order issued by Revenue and Land Reforms Department in June 2004, for acquisition of *raiyati* or *Gairmazarua* land an applicant (Government Department/Private Sector/Public Sector) was required to deposit 80 per cent amount of *salami* and rent before initiation of acquisition proceedings.

20 per cent of *salami* and rent amounting to ₹ 11.36 lakh was not realised till the date of audit.

- We test checked the records of AC Dhanbad which revealed that 8.99 acres of GM *khas* land was being used by Bharat Coking Coal Limited (BCCL) for commercial activities since 1994 without any formal agreement. The Department raised (June 1992) demand of ₹ 2.23 crore towards *salami* and rent, which was not realised till date of audit. We further observed that even after lapse of 18 years, certificate cases were not filed for realisation of *salami* and rent by the Department. The AC/AA had brought the fact of unrealised amount to the Government but no certificate cases were initiated for realisation of the outstanding amount.
- We scrutinised the records of AA, Nirsa which revealed that 42.70 acres of land was acquired for Damodar Valley Corporation (DVC) on payment of 80 per cent amount of ₹ 56.82 lakh during the period July 2005 to May 2007. Though the possession of acquired land was already transferred to DVC during 2008-09, the balance ₹ 11.36 lakh was not realised till the

After we pointed this out, AA, Nirsa stated that necessary action would be taken to recover the balance 20 per cent of *salami* and rent. Further reply has not been received (October 2010). In the exit conference, the Department accepted the point and agreed to take action for realisation of the amount.

#### 5.2.9 Conclusion

The Revenue and Land Reforms Department is entrusted with the management of land development and levy and collection of land revenue. The Department failed to exercise proper control over settlement/lease/lease extension of government land (*Khas Mahal* and *GM Khas*) to widen the land revenue base and enhancement of land revenue. There was non/short realisation of large amounts of revenue. Internal control mechanism was weak as was evident by the fact that during the period under review no internal audit was conducted in any of the units nor were the required registers maintained.

#### 5.2.10 Recommendations

The Government may consider :

- issuing suitable instructions to the Revenue and Land Reforms Department for preparing the BEs on a realistic and scientific basis and ensuring that these are close to the actual receipts;
- maintaining a data base of arrears of revenue and ensuring their speedy recovery;
- completing the computerisation of land records with a view to overcoming the inherent problems in the manual system of maintenance and updating of land records and to provide good governance to the state; and
- issue directions to ascertain recording of all the *sairats* in the interest of the revenue.

## CHAPTER VI: OTHER TAX RECEIPTS

### STAMP DUTY AND REGISTRATION FEES

#### 6.1 Cost of collection

The gross collection in respect of 'Stamp Duty and Registration Fees', expenditure incurred on their collection and the percentage of such expenditure to gross collection during 2005-06 to 2009-10 along with the all India average percentage of expenditure on collection of the preceding years is indicated in the following table:

(Rupees in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the preceding year
2005-06	91.93	5.21	5.67	3.44
2006-07	122.02	9.86	8.08	2.87
2007-08	156.26	7.81	5.00	2.33
2008-09	192.16	9.91	5.16	2.09
2009-10	238.20	10.98	4.61	2.77

The above table indicates that the percentage of expenditure on collection was higher than the All India average in each year.

We recommend that the Government may consider looking into the higher cost of collection and take steps to bring it down.

#### 6.2 Results of audit

Our test check of the records of 10 offices in 2009-10 relating to stamp duty and registration fees and one office relating to electricity duty revealed short levy of duty involving ₹ 7.04 crore in six cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
<b>Stamp duty and Registration fees</b>			
1	Receipts from stamp duty and registration fees including IT aspect (A review)	1	5.22
2	Other cases	1	0.24
Total		2	5.46
<b>Electricity Duty/Passenger and Goods tax/Entry tax</b>			
3	Short levy of electricity duty	2	0.70
4	Non-levy of penalty	1	0.02
5	Other cases	1	0.86
Total		4	1.58
Grand total		6	7.04

A review on the "Receipts from Stamp Duty and Registration Fees including IT aspect" with financial impact of ₹ 5.22 crore and an illustrative case of short levy of electricity duty of ₹ 22.27 lakh is mentioned in the succeeding paragraphs:

### 6.3 Receipts from Stamp Duty and Registration Fees including 19 aspect

#### Highlights

- ⊙ Non-execution of deed of conveyance for 198 flats/shops resulted in non-levy of stamp duty, registration fees and penalty of ₹ 3.23 crore.  
(Paragraph 6.3.11.1)
- ⊙ Non-renewal of 176 mining lease deeds resulted in non-realisation of stamp duty and registration fees of ₹ 415.28 crore.  
(Paragraph 6.3.11.2)
- ⊙ In District Sub Registrar office, Ranchi stamp duty and registration fees of ₹ 13.72 lakh was short levied in three lease deeds of *khas mahal*.  
(Paragraph 6.3.12)
- ⊙ Misclassification of lease deed as agreement resulted in short levy of registration fees of ₹ 13.32 lakh.  
(Paragraph 6.3.14)
- ⊙ Undervaluation of properties due to adoption of lower rates than the rates fixed as per the guideline register in 73 cases resulted in short levy of stamp duty and registration fees of ₹ 55.46 lakh.  
(Paragraphs 6.3.15 and 6.3.16)
- ⊙ Incorrect allowance of exemption on 26 deeds of purchases of flats from so called co-operative societies which actually acted like promoters/builders and constructed flats from their own resources, resulted in short levy of stamp duty and registration fees of ₹ 12.84 lakh.  
(Paragraph 6.3.17)
- ⊙ There was no documented User Requirement Specification (URS), in the absence of which the success of the project in terms of extent to which desired benefits had been achieved, could not be assessed.  
(Paragraph 6.3.21)
- ⊙ The system was unable to calculate the delays in presentation of documents for registration and levy of fines at the time of registration due to absence of provision for capturing of actual date of execution of documents in the database.  
(Paragraph 6.3.22.1)
- ⊙ Non-provision in the software to capture details of boundaries in the four directions (North, East, South and West) of the properties registered in the database made the software deficient in describing the exact location and unique identification of the registered properties.  
(Paragraph 6.3.22.2)



- There was no policy framed by the IG Registration for taking backup and preservation of the data as per rule. Copies of the backup data were neither prepared/preserved nor were sent to IG Registration office quarterly by the DSR.

(Paragraph 6.3.23.1)

- The software had been designed with inadequate validation checks thus, failed to prevent registration of deeds having incomplete details.

(Paragraph 6.3.25.3)

### **6.3.1 Introduction**

The Indian Stamp Act, 1899 (IS Act) as amended from time to time, by notifications issued by the State Government, provides for levy of stamp duty on the instruments presented for registration at the rates specified in the Act. Such duties are paid by the executors of instruments using “impressed stamps papers” or affixing “stamps on bond papers” of proper denominations. The rules framed under the Act lays down the detailed procedure for determination and collection of stamp duty.

The Indian Registration Act, 1908 and rules made thereunder by the State Government broadly outline the system of assessment and collection of revenue under registration fees.

The Registration (Bihar Amendment) Act, 1991 (adopted by the Government of Jharkhand) provided a table of fees payable (as amended from time to time) for registration of documents.

On presentation of instruments for registration, the registering authority examines the same to verify that the instruments were presented within four months from the date of execution, properly stamped as required under the Indian Stamp (Bihar Amendment) Act and registration fees collected according to the prescribed table of fees.

The Registration Department amended (July 2005) certain provisions of the Bihar Registration Rules, 1937 (adopted by the Government of Jharkhand) for implementation of the Jharkhand Automated Registration System (JARS) – an IT system to ensure completion of registration process through an efficient, correct and transparent service to the registering public. Accordingly, notifications were issued between 23 July 2005 and 29 August 2008 for implementation of “e-Nibandhan”, a web based automated system to facilitate registration process for all the districts of the State and having a central monitoring approach. The computerised system was made operational at a cost of ₹ 2.02 crore in all the District Sub Registrar (DSR) and Sub-Registrar (SR) offices (except DSR, Deoghar) between February 2008 and July 2009.

We reviewed the system of levy and collection of stamp duty and registration fees including IT aspect. It revealed a number of system and compliance deficiencies that are discussed in the subsequent paragraphs.

### 6.3.2 Audit criteria

The audit criteria adopted for the review were:

1. The IS Act, 1899;
2. The Bihar Stamp Rules, 1954 (adopted by the Government of Jharkhand);
3. The Bihar Stamp Manual, 1955 (adopted by the Government of Jharkhand);
4. Indian Stamp (Bihar Amendment) Act, 1988 (adopted by the Government of Jharkhand);
5. Indian Registration Act, 1908;
6. The Bihar Registration Manual, 1946 (adopted by the Government of Jharkhand);
7. Bihar Stamp (Prevention of Undervaluation of Instrument) Rules, 1995 (adopted by the Government of Jharkhand);
8. Jharkhand Apartment Act, 2005;
9. Bihar Co-operative Societies Manual (adopted by the Government of Jharkhand);
10. Operations Manual for e-Nibandhan; and
11. Executive and Departmental orders issued from time to time.

### 6.3.3 Organisational setup

The Registration Department is under the overall administrative control of Principal Secretary, Registration Department at the Government level. The Inspector General of Registration (IGR) is the head of the Department. He is responsible for administration of the Act, rules and orders issued by the Government from time to time. He is assisted by a Deputy Secretary, an Assistant Inspector General (AIG) at the headquarters, an Inspector of Registration and 24<sup>63</sup> DSRs and 8<sup>64</sup> SRs. The Inspector of Registration is responsible for inspection of all the five<sup>65</sup> divisions of the State, while DSRs and SRs are the primary units responsible for levy and collection of stamp duty and registration fees under the IS Act and the Registration Act.

The AIG at the headquarters is the e-Governance Nodal Officer for computerisation in the Registration Department.

### 6.3.4 Audit objectives

The main objectives of the review were to ascertain whether:

- the system and procedures relating to classification of deeds, levy and collection of stamp duty and registration fees including fines and penalties were adequate, effective and efficient;
- the internal control mechanism and monitoring controls of the Department were adequate, effective and efficient;

<sup>63</sup> Bokaro, Chatra, Chaibasa, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshepur, Jamtara, Koderma, Khunti, Latehar, Lohardaga, Pakur, Palamu, Ranchi, Ramgarh, Sahebganj, Simdega and Saraikela.

<sup>64</sup> Barhi, Chakardharpur, Ghatsila, Hussainabad, Jamua, Nagarutari, Rajdhanwar and Tenughat.

<sup>65</sup> Dumka, North Chotanagpur, Kolhan, Palamu and South Chotanagpur.

- the activities of the Department were computerised, the application met the requirement of the Registration Act, IS Act, Bihar Registration Rules and JARS was synchronised with the critical business of the Department; and
- security measures in the computerised system were adequate, IT controls were in place and the data captured was reliable, accurate and complete.

### **6.3.5 Scope and methodology of audit**

The audit for the period from 2004-05 to 2008-09 was conducted in eight<sup>66</sup> DSRs out of 24 DSR offices and two SRs of Barhi and Tenughat out of eight SR offices and the office of the IGR between April and August 2010.

Further, we obtained computerised data since inception to July 2010 in the form of dump files (ORACLE) from Registration Department. Out of the five divisions, we selected two divisions<sup>67</sup> on random basis. Of these divisions, we selected one DSR each having maximum number of documents received for registration. We analysed the database of DSR, Jamshedpur for the period from February 2008 to July 2010 and of DSR, Ranchi from May 2008 to July 2010 using generalised audit software. We cross checked the manual records of DSR, Jamshedpur and Ranchi with reference to the audit findings between July and August 2010.

The units were selected after risk analysis considering the revenue realised, volume of transactions etc. We also obtained information from State Government Departments and local body authorities to verify the correctness of payment of stamp duty and registration fees.

### **6.3.6 Acknowledgement**

We acknowledge the co-operation of the Registration Department, Government of Jharkhand in providing necessary information and records for audit scrutiny. We held an entry conference on 5 May 2010 with the Inspector General of Registration in which we apprised him of the audit objectives, scope and methodology of the review. We reported the audit findings to the Government in August 2010 and discussed these in the exit conference held in September 2010. The Government was represented by the Secretary, Registration Department, Government of Jharkhand and IGR. The replies received during the exit conference and at other points of time have been incorporated in the respective paragraphs.

---

<sup>66</sup> Bokaro, Dhanbad, Giridih, Hazaribag, Jamshedpur, Lohardaga, Ranchi and Saraikela.

<sup>67</sup> Kolhan and South Chotanagpur.

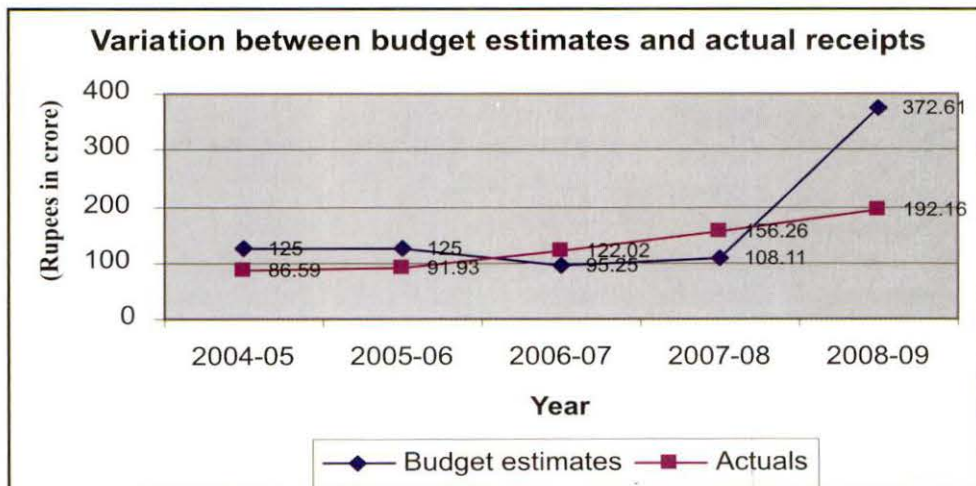
**Audit findings****System deficiencies****6.3.7 Trend of revenue**

According to the provisions of the Bihar Financial Rules Vol. I (adopted by the Government of Jharkhand) the responsibility for preparation of budget estimates of revenue receipts is vested in the Finance Department. However, the materials for budget estimates are obtained from the concerned administrative departments which are responsible for the correctness of the materials. In case of fluctuating revenue the estimates should be based on a comparison of the last three years receipts.

We checked the budget estimates (BEs) and actual receipts in respect of revenues of stamp duty and registration fees during 2004-05 to 2008-09 and noticed large variation between the BEs and the actual receipts. A comparison of BEs and actuals is shown in the table and graph as under:

(Rupees in crore)

Year	Budget estimates (BEs)	Actuals	Variation excess (+)/shortfall (-)	Percentage of variation between BEs and Actuals	Increase in percentage of revenue over the previous year
2004-05	125.00	86.59	(-) 38.41	(-) 31	(+) 06
2005-06	125.00	91.93	(-) 33.07	(-) 26	(+) 06
2006-07	95.25	122.02	(+) 26.77	(+) 28	(+) 33
2007-08	108.11	156.26	(+) 48.15	(+) 45	(+) 28
2008-09	372.61	192.16	(-) 180.45	(-) 48	(+) 23



It would be seen from the above that the percentage of variation between the BEs and the actual receipts was very large. It was as high as 45 per cent above the BE during 2007-08 and as low as 48 per cent during 2008-09 below the BE. Further, the BEs for 2007-08 were less than the actuals of the preceding year (2006-07) while during 2008-09 the BEs were more than the actual receipts for 2007-08 by 138 per cent. This indicates that the BEs were not prepared on a realistic basis.

The reasons for variation between the BEs and the actual receipts though called for (April 2010) were not furnished (March 2011). During 2006-07 there was steep increase in revenue by 33 *per cent* as compared to 2005-06. This was attributed by the Department to registration of more number and value of instruments compared to the previous year despite reduction of rate of stamp duty and registration fees.

As BEs are an important part of the financial planning of the Government, these should be close to the actuals. **We recommend that the Government may issue suitable instructions to the Registration Department for preparing the BEs on a realistic and scientific basis and ensure that these are close to the actuals.**

### 6.3.8 Non-reconciliation of revenue receipts

The Bihar Financial Rules Vol. I (adopted by the Government of Jharkhand) enjoins upon the head of the Department to ensure regular reconciliation of the figures of the Department with those booked by the Accountant General (A&E).

We noticed that the Departmental figures for collection of revenue did not match the figures shown in the Finance Accounts of the Government of Jharkhand prepared by the Accountant General (A&E) during 2004-05 to 2008-09 as mentioned below:

(Rupees in crore)

Year	Departmental figure	Figure as per Finance Accounts	Difference
2004-05	74.61	86.59	11.98
2005-06	77.51	91.93	14.42
2006-07	102.02	122.02	20.00
2007-08	140.47	156.26	15.79
2008-09	171.69	192.16	20.47

The wide difference between the Departmental figures of revenue receipts with those shown in the Finance Accounts of the State Government indicates that there is a need for reconciliation of the figures which is not being done by the Department despite several reminders by the Accountant General (A&E). Reasons for non-reconciliation, though called for (April 2010), were not furnished by the Department (March 2011).

**We recommend that the Finance Department may consider issuing instructions to the Registration Department for periodical reconciliation of the Departmental figures with the figures exhibited in the Finance Accounts of the Accountant General (A&E).**

### 6.3.9 Internal control and monitoring

#### 6.3.9.1 Internal Audit

Internal audit in an organisation provides assurance that the prescribed systems are functioning reasonably well. The Finance Department ordered in May 1960 that the internal audit of the Registration Department would be conducted by its audit wing. The internal audit parties were required to conduct *cent per cent* audit of all demands, collection of revenue and verification of deposit of amounts into the treasury including scrutiny of registers maintained by offices.

We test checked the records of selected units which revealed that internal audit by the Finance Department was conducted only once in the offices of DSR, Bokaro, Dhanbad and Hazaribag during the period 2004-08.

In the absence of internal audit, the Department had no means of knowing the weaknesses in the system and did not, therefore, have the opportunity of taking remedial action at the appropriate time.

#### 6.3.9.2 Inspection of registering offices

The Bihar Registering Manual, provides for inspections of registering offices by the IGR, the DSRs and the Inspectors. The DSR is required to inspect every SR office including the district headquarters office at least once in a year while the Inspector is required to inspect all offices in his jurisdiction once a year. The IGR is also required to inspect all district offices once in two years including as many rural offices as he could conveniently inspect.

We test checked the records of 10 selected units and found that no inspection was conducted during 2004-05 and 2005-06. Thereafter the number of inspections conducted in these districts was minimal as mentioned below:

Year	Inspector of registration		District Sub Registrar		Inspector General of Registration	
	Target	No. of inspections conducted	Target	No. of inspections conducted	Target	No. of inspections conducted
2006-07	10	Nil	10	Nil	5	2
2007-08	10	3	10	1	5	Nil
2008-09	10	2	10	Nil	5	Nil

It would be seen from the above, that the Department had not achieved the targets of inspections in any of the three years.

Since inspections are an important part of the internal controls and help in monitoring the proper functioning of the Department, **we recommend that the Government may issue necessary instructions to the Registration Department for strictly adhering to the norms prescribed for inspections in the manual.**

### 6.3.9.3 Incorrect grant of exemption on mortgage deeds

Under the notification dated 15 December 1998 issued under the provisions of the Registration Act and IS Act, exemption is admissible on mortgage deeds for taking loan from banks up to rupees three lakh for certain specific purposes. No exemption is admissible on mortgage deeds for taking loan of more than three lakh rupees from banks.

We test checked the records of DSR, Saraikela relating to mortgage deeds and found that exemptions were allowed to four beneficiaries on mortgage deeds for taking loans of more than three lakh rupees from the banks, by splitting up of documents. However, for

checking of exemption limits of remission of stamp duty and registration fee no register was maintained in the registration offices nor did the IT system provide any inbuilt check for the same. In absence of the register/inbuilt checks the registering authority could not detect the splitting up of the mortgage deeds. This resulted in incorrect grant of exemption of ₹ 1.49 lakh.

**We recommend that a provision may be made in the manual or the IT system to check the limits within which exemptions are admissible to the beneficiaries under the IS Act.**

### 6.3.9.4 Non-renewal of licenses of stamp vendors

As per the provisions of Bihar Stationery Manual and Bihar Stamp Rules, license granted to a stamp vendor was required to be renewed in April every year after depositing a fee of ₹ 2.50.

We test checked the register of stamp vendors of eight<sup>68</sup> districts and found that in five<sup>69</sup> districts licenses of all the 135 stamp vendors were not renewed during the period

2004-09 though the vendors were engaged in the business of sale and purchase of stamps. In Jamshedpur licenses of six stamp vendors out of 42 were not renewed since 2007-08. The reasons for non-renewal of the licenses were not found on record.

After we pointed this out, the Deputy Collectors (Stamp) stated that action would be taken for renewal of the licenses. Further reply has not been received (March 2011).

Non-renewal of the licenses is fraught with the risk of unauthorised sale of stamps and other stamp papers. **We recommend that the Government may issue instructions for timely renewal of the licenses.**

### 6.3.10 Delays in remittances of fees collected

The Bihar Registration Manual provides that fees collected were to be paid without delay into the nearest treasury.

We found during the scrutiny of records of selected units that four<sup>70</sup> registration offices remitted their realised fee with an average delay of eight days. In one case in the

office of the the DSR, Bokaro it was observed that during 2008-09, an amount of

<sup>68</sup> Bokaro, Dhanbad, Giridih, Hazaribag, Jamshedpur, Lohardaga, Ranchi and Saraikela.

<sup>69</sup> Bokaro, Dhanbad, Giridih, Ranchi and Saraikela.

<sup>70</sup> Bokaro, Lohardaga, Saraikela and Tenughat.

₹ 55.27 lakh was transmitted after a delay of nine days while ₹ 1.47 lakh was deposited after a delay of 22 days.

After we pointed this out, the registering authorities stated that the provisions of the manual would be adhered to. Further reply has not been received (March 2011).

The delay in remittance amounted to violation of the provisions of the Manual, besides affecting the ways and means position of the Government and is fraught with the risk of loss of cash and misappropriation. **We recommend that the IGR may issue instructions to the concerned DSRs/SRs for timely deposit of the money received by them.**

### 6.3.11 Non-execution of lease deeds

*The Jharkhand Apartment Act, 2005 was notified on 29 October 2005, with the objective of providing for the ownership of an individual apartment in a building and to make such apartment heritable and transferable property. The Act is administered by the Urban Development Department (UDD) and the flats/apartments are required to be registered in the Registration Department.*

Section 16 of the Act provided that if the owner of the apartment failed to execute a deed of apartment within three months of the date on which possession of the apartment was given or where the State Government has granted extension of period, on expiry of such extended period, the Competent Authority may impose penalty up to a maximum of five thousand rupees per apartment and may also impose minimum penalty for each apartment of one hundred rupees for every day if the default continues and the penalty may be recovered as an arrear of land revenue.

**6.3.11.1** We noticed that the UDD collected information relating to the sale of apartments from local bodies in seven<sup>71</sup> districts. The total number of apartments sold but not registered was 2,721 as on 31 March 2009. But the details collected did not contain the full particulars of allottees like area, date of possession, consideration

value etc. in 2,523 cases. As such we could not assess the total amount of penalty that could be levied by the Department. However, the details of 198 cases furnished by the UDD revealed that penalty of ₹ 2.01 crore for non-registration of the apartments could have been levied by the UDD. But we noticed that the UDD had not processed even a single case for levy of penalty. The levy of penalty would have served as a deterrent measure for non-registration of the flats and would have fetched a revenue of ₹ 1.22 crore in shape of stamp duty and registration fee in respect of these 198 flats.

We further noticed that there was no co-ordination between the Registration Department and UDD for enforcing the provisions of the Act relating to the registration of the flats. As per the information furnished by five<sup>72</sup> DSR offices 2,882 flats were unregistered as of March 2010.

After the cases were pointed out between April and June 2010, the DSR, Jamshedpur and Ranchi stated that the observations made by us would be communicated to the UDD. Further reply has not been received (March 2011).

<sup>71</sup> Bokaro, Dhanbad, Giridih, Hazaribag, Jamshedpur, Ranchi and Saraikela.

<sup>72</sup> Bokaro, Dhanbad, Jamshedpur, Saraikela and Ranchi.



Under section 17(1) (d) of the Registration Act, leases of immovable property for any term exceeding one year was to be compulsorily registered if the value of the property exceeded one hundred rupees. Stamp duty was chargeable as per Schedule I-A of the Indian Stamp Act and registration fee was leviable as per table of fees determined by the Government. Further, a lease shall be deemed to have been extended by a further period till the State Government passes order thereon.

**6.3.11.2** We obtained information from five<sup>73</sup> district mining offices which revealed that 176 mining leases had expired as on March 2009 but these lessees were extracting minerals and were paying royalty on the extracted minerals. The leases were neither cancelled nor renewed even after the receipt of application from the lessees. As these leases

were granted for five to thirty years, their registration was compulsory for further extraction of minerals after expiry of the lease period. Hence, non-registration of these mining lease deeds resulted in non-levy of stamp duty and registration fees of ₹ 415.28 crore. Of these, four leases were closed and are not working at present. Thus, the possibility of getting the lease registration is remote.

After we pointed this out, the DSRs stated that correspondence would be made with the concerned district mining offices. Further reply has not been received (March 2011).

Under the provisions of Registration Act, leases of immovable property for any term exceeding one year is to be compulsorily registered if value of the property exceeds one hundred rupees. A lease for settlement of 'jalkars' is immovable property and the terms of the lease exceeds one year or reserves yearly rent, such a lease is also required to be compulsorily registered.

**6.3.11.3** We obtained information from the Director of Fisheries, Government of Jharkhand, Ranchi which revealed that 42,471 *jalkars*<sup>74</sup> were settled for three years on a settlement amount of ₹ 3.83 crore for the period from 2004-09. These *jalkars* were not registered as on March 2009. Thus, non-registration of these settled *jalkars* resulted in non-levy of stamp duty and registration fees of ₹ 35.43 lakh.

After we pointed this out, the Director of Fisheries, Government of Jharkhand stated that directions have been issued to the district fisheries officers for execution of lease agreement.

**6.3.11.4** We obtained information from Municipal Council, Hazaribag and Saraikela in respect of eight<sup>75</sup> mobile tower companies for erection of 36 mobile towers and found that these companies entered into lease agreements with the land/building owners paying yearly rent in excess of rupees one hundred. These documents were not registered in the office of the DSRs even though they relate to lease for 12 to 20 years which required compulsory registration. Non-registration of these lease agreements resulted in non-levy of stamp duty and registration fee of ₹ 4.45 lakh.

<sup>73</sup> Bokaro, Dhanbad, Jamshedpur, Saraikela and Ranchi.

<sup>74</sup> Water storage like ponds/lakes in which fishes are produced and which are settled through auction by the Government.

<sup>75</sup> Bharati Airtel Ltd., Dishnet Wireless Ltd., Idea Cellular Infrastructure Pvt. Ltd., M/s Reliance Infocom Ltd., M/s Wireless-TT Infoservices Ltd., M/s Vodafone Essar Spacetel Ltd., M/s Bharti Tele Ventures Ltd. and Tata Tele Services Ltd.

After we pointed this out, the DSRs, Hazaribag and Saraikela stated that correspondence for registration of the towers would be made with the concerned Municipal Councils. Further reply has not been received (March 2011).

**We recommend that the Government may consider :**

- establishing a system by way of returns from the Registration Department and UDD for monitoring the progress made in the registration of unregistered flats in the interest of revenue; and
- framing a provision in the Act for registration of leases that have been deemed renewed under the Department of Mines and Geology.

### 6.3.12 Short levy in case of *khas mahal*<sup>76</sup> leases

Under the provisions of the Government Estates (*khas mahal*) Manual, 1953, '*salami*' is the current market value of the property and the rent is fixed by the Government according to the nature of the land. The registering officer is required to adopt guideline register rates fixed by the Collector from time to time. Further, stamp duty and registration fee is chargeable as per Schedule I-A to IS Act and as per table of fees respectively.

We test checked the records of DSR, Ranchi which indicated that in three lease deeds of *khas mahal* land, the registering officer levied stamp duty and registration fee of ₹ 7.30 lakh on a consideration value of ₹ 89.91 lakh, i.e., earlier fixed *salami* and rent instead of ₹ 21.02 lakh on the current market value of the

property of ₹ 2.63 crore as per guideline register. This resulted in short levy of stamp duty and registration fee of ₹ 13.72 lakh.

### 6.3.13 Short levy of stamp duty and registration fee due to mistake in calculation

Under the provisions of the IS Act, stamp duty is leviable as per item 35 of Schedule I-A and in the case of lease which is granted for a fine or premium or for money advanced in addition to rent reserved, the registration fees is chargeable on the aggregate amount of the fine, premium or advance and the amount which would be calculated on average annual rent.

We test checked the records of three<sup>77</sup> DSR offices and found that in 22 lease deeds, stamp duty and registration fee was levied incorrectly due to arithmetical mistakes in calculation of stamp duty and registration fee. The instruments were liable to be charged a stamp duty and registration fee of ₹ 1.58 crore against which the registering authorities levied ₹ 1.24 crore. This resulted in short levy of

stamp duty and registration fee amounting to ₹ 34.36 lakh.

After we pointed out the mistakes, the Department stated that instructions have been issued to the parties for depositing the deficit amount through treasury challans.

<sup>76</sup> Government estates and properties.

<sup>77</sup> Dhanbad, Ranchi and Saraikela.

### 6.3.14 Misclassification of instruments

Under the provisions of the IS Act, the rates of stamp duty in respect of "Agreement to Lease" is the same as in case of a lease deed including an under lease or sub-lease and any agreement to let or sub-let. The registration fee is leviable as per the table of fees fixed by the Government from time to time.

We test checked the records of DSR, Jamshedpur which revealed that Tata Steel Ltd. signed an "agreement for lease" of 1.96 acres of *khas mahal* leased land for construction of a hotel in favour of another company. The recitals of the agreement indicated that it had

all the ingredients of a lease deed like lease rent, date of validity etc. The registering authority classified the document as an agreement instead of lease deed and registered it on collection of stamp duty of rupees five hundred. Thus, application of lower rates resulted in short levy of stamp duty and registration fee of ₹ 13.32 lakh.

After we pointed this out, the DSR, Jamshedpur stated that the matter was referred to the Deputy Commissioner and orders in this regard would be intimated to audit. Further reply has not been received (March 2011).

### 6.3.15 Short levy of stamp duty and registration fees

As per the 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, 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.

We test checked the records of DSRs, Bokaro and Dhanbad and found that Bokaro Steel Employees Co-operative House Construction Society and Bokaro Industrial Area Development Authority (BIADA) had transferred 12 plots by way of lease to employees of Bokaro Steel Plant/individuals. The consideration value in the lease deeds was ₹ 79.12 lakh which was less than the value of ₹ 3.38 crore calculated on the basis of the rates fixed by the Collector as per guideline register of the concerned area. Undervaluation of ₹ 2.59 crore of the plots of land transferred by the

above lessees resulted in short levy of stamp duty and registration fee of ₹ 20.57 lakh.

### 6.3.16 Undervaluation of properties

Under the provisions of the IS Act and the Registration Act, read with rules contained in Bihar Stamp (Prevention of undervaluation of instruments) Rules, an instrument of deed of conveyance is chargeable to duty and fees on the consideration money expressed in instruments or value arrived at according to rates approved in the minimum estimated value of respective district whichever is higher.

**6.3.16.1** We noticed during scrutiny of three sale deeds registered in three<sup>78</sup> DSR offices that plots of land and building were purchased by three companies for a consideration of ₹ 6.57 crore. However, as per the recitals of the documents it was purchased for commercial purposes like shops, rolling mills etc. As per the guidelines register the value of land and building at

commercial rates worked out to ₹ 12.23 crore. Thus, there was undervaluation of ₹ 5.66 crore. This resulted in short levy of stamp duty and registration fees of ₹ 28.34 lakh.

After we pointed this out, the Department accepted the audit observation and stated that remedial action would be taken.

**6.3.16.2** We noticed during the scrutiny of records of three<sup>79</sup> DSRs that stamp duty and registration fees of ₹ 38.25 lakh was levied on the basis of consideration of ₹ 7.63 crore mentioned in the deed of land/property in 58 cases registered between October 2004 and March 2010. As per the approved rates in the guidelines register the value of the properties was ₹ 8.96 crore. Thus there was undervaluation of ₹ 1.33 crore. This resulted in short levy of stamp duty and registration fees of ₹ 6.55 lakh.

After we pointed this out, the DSR, Bokaro stated that the cases would be reviewed, while the DSR, Ranchi did not furnish any reply. Further reply has not been received (March 2011).

### 6.3.17 Incorrect grant of exemption

Under the provisions of the IS Act, stamp duty is exempted on the instruments of housing co-operative societies, where the society transfers its premises in favour of its members. But the duty is chargeable when the co-operative society acquires land/property in its favour. Further, societies registered under the Bihar Self-supporting Co-operative Societies Act, 1996 are not entitled to preferential treatment which is available for societies registered under Bihar and Orissa Co-operative Societies Act, 1935 and are not entitled to any exemption from payment of stamp duty and registration fees.

We noticed that in DSR offices, Jamshedpur and Ranchi exemptions were allowed to 26 members of co-operative societies during 2004-05 and 2008-09 registered under the Bihar Self-supporting Co-operative Societies Act. In these cases the landowners entered into a development agreement(s) with self-supporting co-operative societies for construction of multi-storied

<sup>78</sup> Dhanbad, Saraikela and Ranchi.

<sup>79</sup> Bokaro, Giridih and Ranchi.

buildings. As the societies did not own the land and only acted as builders/developers, its members were not entitled to any exemption from payment of stamp duty and registration fee. But the registering authorities incorrectly allowed the exemption. Thus grant of irregular exemption resulted in non-levy of stamp duty and registration fee of ₹ 12.84 lakh.

### 6.3.18 Non-collection of differential stamp duty

Under the provisions of the IS Act, if the registering officer, while registering any instrument of conveyance, exchange, gift, partition or settlement has reason to believe that the market value of the property is not rightly set forth in the instruments, he may refer the same to the Collector for determination of the market value of such property and proper duty payable thereon.

As per information furnished to us by the office of the IGR 691 cases involving deficit stamp value of ₹ 1.17 crore were referred to 24<sup>80</sup> Deputy Collectors (Stamp) for determination of the market value of the property. The age-wise analysis of 189 cases made available to us is as mentioned in the following table:

(Rupees in lakh)

Sl. No.	Age of cases	Number	Amount
1.	Cases more than 15 years old but less than 17 years old	83	5.09
2.	Cases more than 10 years but less than 15 years old	40	7.11
3.	Cases more than 5 years but less than 10 years old	5	0.22
4.	Cases more than 1 year old but less than 5 years old	61	30.22
<b>Total</b>		<b>189</b>	<b>42.64</b>

It would be seen from the above that 128 cases are pending for more than five years. There is a need for fixing a time frame for finalisation of the cases referred by DSRs/SRs.

After we pointed this out, the DSRs/SRs stated that action would be taken to dispose of the referred cases. Further reply has not been received ( March 2011).

### 6.3.19 Non-disposal of impounded cases

Under the provisions of the IS Act, every person in charge of a public office before whom any instrument chargeable with duty is produced without proper stamping, is required to send the original instruments after impounding to the Collector. No time period has however been prescribed in the Act for disposal of the impounded cases by the Collector.

We test checked the records of the 10 selected units along with information obtained from the office of the Inspector General of Registration and found that 190 cases were impounded due to production of short value of non-judicial stamp papers in which deficit stamp value of ₹ 35.19 lakh was found. Of these, we found that five<sup>81</sup> DSRs

impounded 126 cases involving deficit stamp value of ₹ 27.87 lakh and sent it to

<sup>80</sup> Bokaro, Chatra, Chaibasa, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Koderma, Khunti, Latehar, Lohardaga, Pakur, Palamu, Ranchi, Ramgarh, Sahebganj, Simdega and Saraikela.

<sup>81</sup> Dhanbad, Giridih, Hazaribag, Jamshedpur and Ranchi.

the respective Deputy Collectors (Stamp) between March 1992 and September 2006. These were not disposed of so far (March 2009). This resulted in non-collection of stamp duty of ₹ 27.87 lakh.

After we pointed this out, the DSRs stated that action would be taken for the disposal of cases. Further reply has not been received (March 2011).

We recommend that the Government may prescribe a time period for finalisation/disposal of the cases impounded/referred to Deputy Collectors (Stamp).

### 6.3.20 Discrepancy in referred and impounded cases

Under the provisions of the IS Act, when a person presents any instrument for registration, the stamp duty is payable on the instrument according to the nature of the document. A register of referred and impounded cases is maintained by each DSR/SR and Deputy Collector (Stamp). This register contains the details of date of reference, date of receipt, consideration value, market value as per guideline register, name of vendor/vendee etc.

We cross verified the records of four<sup>82</sup> DSRs with the records of the Deputy Collectors (Stamp) of the concerned districts which revealed that 332 referred and impounded cases between 1993 to 2009 involving deficit value of stamp duty of ₹ 38.41 lakh were sent to

the Deputy Collector (Stamp) for disposal. But only 220 referred and impounded cases involving money value of ₹ 39.42 lakh were found in the records of the Deputy Collectors (Stamp). This indicated that the records of the respective office were not correctly maintained. The discrepancy in the number of referred and impounded cases involving stamp duty of ₹ 36.22 lakh needed reconciliation.

### IT system deficiencies

#### 6.3.21 Planning and implementation

In order to implement e-Nibandhan, an Inter Departmental Implementation and Monitoring Committee was constituted (September 2005) and the committee had conducted regular meetings as well. However, we noticed that the User Requirement Specification (URS) were not documented in the absence of which it was not possible to assess the extent to which the intended user requirements were met. A copy of operations manual was available on the website. In addition to these, the system revealed a number of other deficiencies which are explained in the following paragraphs:

82 Dhanbad, Hazaribag, Jamshedpur and Ranchi.

### 6.3.22 System Design Deficiencies

#### 6.3.22.1 Non-mapping of business rule for levy of fines

Article L of the table of fees prescribed under the provisions of the Registration Act and rules made thereunder stipulates levy of fine for presentation of executed documents for registration with delays from the date of execution. The fine is equal to the amount of registration fee when the delay does not exceed seven days, three times the amount of registration fee when it exceeds seven days but does not exceed one month and nine times the registration fee when the delay exceeds one month but does not exceed four months.

We analysed the system which revealed that fine leviable under the Act on the presentation of documents with delays was not mapped in the software due to absence of provision for capturing of actual date of execution of documents in the database. In the absence of this provision, the system was unable to calculate the delays in presentation of documents for registration and levy of fines at the time of registration. As such,

loss of government revenue on account of delay cannot be worked out.

After we pointed this out, the Government directed (September 2010) Jharkhand Agency for Promotion of Information Technology (JAPIT)<sup>83</sup> /M/s CMC Ltd.<sup>84</sup> to furnish necessary suggestion for incorporation of provision for levy of fines in the software.

#### 6.3.22.2 Non-capturing of details of boundaries of immovable property

Under the provisions of the Registration Act and rules made thereunder, the instruments presented for registration must contain the name of the vendor/vendee, consideration value, area of land, the exact location of land/property along with boundaries to have unique identification. Further, houses in towns shall be described as situated on the north or other side of the street or road (which should be specified) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered.

We found that the software has no provision for capturing the details of boundaries in the four directions (North, East, South and West) of the properties registered in the database. In the absence of this, the software is unable to describe the exact location and unique identification of the registered properties.

After we pointed this out, the Government directed (September 2010) JAPIT/ M/s CMC Ltd. to make necessary changes in the software by providing unique identification to the property at the time of registration in order to

comply with the audit observation.

<sup>83</sup> An Autonomous body under Department of Information Technology, Government of Jharkhand responsible for maintenance of e-Nibandhan application and its database at Data Centre.

<sup>84</sup> An agency appointed as Service Provider by the Government for work for installation and maintenance of work stations with provision of online registration of lands for all the registration offices in Jharkhand on Build, Own and Operate (BOO) basis.

### 6.3.22.3 Non-provision for deletion/editing of documents presented for registration

Under the provisions of the Registration Act and rules made thereunder all fees for registration shall be payable as per table of fees fixed from time to time on presentation of documents. Further, the documents presented for registration can not be refused without sufficient reasons for refusal.

We analysed the database relating to Deeds and found that the software did not have the facility to delete/edit the data relating to the documents presented for registration but not registered at the level of DSR/SR offices. Further, we found that in 2,328 cases,

documents were presented for registration on which stamp duty was levied. These cases were however neither referred nor refused and were still pending for registration till the date of audit as the deed number and date of execution were found blank/zero in the database.

Thus, non-provision of weeding out of unnecessary data in the software resulted in huge accumulation of garbage data and consequent occupation of valuable storage space.

After we pointed this out, the Government directed (September 2010) JAPIT/M/s CMC Ltd. to make necessary changes in the software and to delete garbage data.

### 6.3.23 General controls

General controls create the environment in which IT applications and related controls operate. Deficiencies noticed in General Controls are discussed below:

#### 6.3.23.1 Absence of security policy

Under the provisions of the Registration Act and rules made thereunder IGR shall frame a policy for preparation of duplicate and triplicate copies of data in storage media. Further, duplicate copy of the storage media shall be preserved in the office of the DSR and triplicate copy will be sent to the office of IGR on quarterly basis for preservation. Restoration and re-recording of storage media will be made at regular interval as prescribed in the policy. IGR has to review the security system at least once in a year to ensure that high standard of security system was in vogue.

Scrutiny of the information furnished to us revealed that no policy was framed by the IGR for taking backup of data and its preservation as per rules. Copies of the backup data were neither prepared/preserved nor were sent to IG Registration office quarterly by the DSR. Media backups were taken in the Central Data Centre of the system but were not stored at off-site location. The

information furnished to audit

revealed that the review of the security system required to be carried out was actually not carried out.

After we pointed this out, the Government directed (September 2010) JAPIT/M/s CMC Ltd. to prepare duplicate copy and triplicate copy of data and to make available duplicate copy to the respective registration office and the triplicate copy was to be preserved in the office of IG Registration as records.



Further, the Government directed JAPIT to ensure review of security arrangements of data at the Data Centre.

#### **6.3.23.2 Logical access control**

There was no documented password policy. We noticed that the normal password control practices like restriction on unsuccessful login attempts, automatic lapse of password after a pre-defined period and application enforced periodical change of password were non-existent. In view of the weak system control, unauthorised access, particularly as the application was accessible through the internet, could not be ruled out.

After we pointed this out, the Government decided (September 2010) that password system would be two-tiered. JAPIT would change the password on the first day of every month and DSR/SR would also change the password on the same day. JAPIT/M/s CMC Ltd. would provide necessary training to the officers to ensure changing of passwords. Further, the Government decided that the password would be of 10 digits containing alphanumeric, numeric and special character inclusive of characters representing unit.

Similarly, we also found that the Department had no documented policy for creation of users of the system, in the absence of which users were created either by name or by designation.

#### **6.3.24 Audit trail**

Audit trail is incorporated into an IT application for tracing the flow of transactions at every point of processing from the input of the data to the output stage. Our scrutiny of the database revealed that there was no built in audit trail to capture activities of the users as log off programmes and transactions executed did not exist in the application. It was also observed that although the relevant table of the database provided for capturing the details of logout date and logout time of the users, these were not captured by the system, clearly establishing the lack of even minimum audit trail in the application.

After we pointed this out, the Government directed (September 2010) JAPIT/M/s CMC Ltd. to furnish necessary suggestion for incorporation of logout date and logout time in the software to avoid delay in the registration process.

#### **6.3.25 Application Controls**

##### **6.3.25.1 Incomplete input controls**

Under the provisions of the Registration Act and rules made thereunder non-testamentary document relating to immovable property shall not be accepted for registration unless it contains description of such property sufficient to identify the same. The software has provision to capture description of property related to documents presented for registration.

- We analysed the database relating to Deeds and Property and found that in 52 cases, the immovable properties were shown registered in the database without capturing description of the properties viz. *Anchal Name, Thana Name, Thana No., Mauza Name, Ward No., Khata No., Halka No., Plot No., Plot Type, Category of land, Area of land,*

Unit of measurement etc. We cross checked 15 such deeds which revealed that all

descriptions of the properties were available in the deeds. However, the same was not entered in the database.

Under the provisions of the Jharkhand Automated Registration System, the documents are to be presented for registration along with an input form as prescribed by the Inspector General of Registration. The Registering officer shall endorse the day, hour and place of presentation on input form and put his signature on every presented document after satisfying himself that the document is fit for registration. Further, the system has provision to store date/time of presentation of deed in the database.

- We analysed the database relating to Deeds and Token and found that in seven cases, date of presentation of the documents presented for registration was found blank in the database. It was also noticed that in 96,532 cases time of presentation was also not captured. We cross checked four such deeds which revealed that the date of presentation was not generated by the system. These

are indicative of design deficiencies in the software.

**We recommend that proper validation checks should be incorporated in the software to prevent registration of documents with incomplete entries in the database.**

#### **6.3.25.2 Non-capturing of details regarding registration certificate**

Under the provisions of the Jharkhand Automated Registration System, the Registering officer shall issue a certificate in the proforma prescribed under JARS containing “book no.”, “volume”, “page from”, “page to”, “deed number” and “year”.

We analysed the database relating to Deeds and found that in 21 cases of registered deeds the fields storing values of “volume”, “page from” and “page to” were found blank/zero in the

database. Further, in two cases date and time of execution of deed was also not found captured. We cross checked such five deeds which revealed that the book number has appeared but volume number and page numbers have not appeared in the document.

After we pointed this out, DSR, Ranchi stated that “volume”, “page from” and “page to” were self generated by the software but in these cases the system failed to generate them, while DSR, Jamshedpur assured to take necessary steps for remedial measures in future. Generation of incomplete data reflected inconsistency/doubtful performance of the software.

**We recommend that necessary correction/modification should be made in the software to ensure consistency in performance in future.**

**6.3.25.3 Inaccurate input and validation controls leading to incorrect computation**

Under the provisions of the Indian Stamp Act, stamp duty on lease deed is payable depending upon the terms and conditions of the lease including period of lease, rent reserved, fine, premium or money advanced as set forth in the instrument. The registration fee is payable as per table of fees fixed by the Government from time to time. Further, when a lease is granted for a fine or premium or for money advanced in addition to the rent reserved, the fee is payable on the aggregate of the amount of the fine, premium or advance. The software has provision to capture details of lease documents presented for registration.

We analysed the database relating to Deeds and found that in case of 388 lease deeds, stamp duty and registration fee were levied without capturing the necessary details viz. period of lease, rent reserved, fine, premium or money advanced etc. in the database. Similarly, in case of 407 lease deeds, stamp duty and registration fee were levied without capturing the period of lease in the database. Thus, incorrect computation of stamp duty and registration fees cannot be ruled out. We cross checked 15 such deeds which revealed that all descriptions of the

lease details were available in the deeds but the same was not entered in the database. The system permitted the calculation of the stamp duty and registration fees without entering these details.

This indicated that the software had been designed with inadequate validation checks and failed to prevent registration of deeds having incomplete details.

**6.3.25.4 Capturing of incorrect Permanent Account Number (PAN)**

Under the provisions of the Jharkhand Automated Registration System, the documents are to be presented for registration along with an input form prescribed by the Inspector General of Registration. The Registering officer shall endorse the day, hour and place of presentation on input form and put his signature on every presented document after satisfying that the document is fit for registration. The software has provision to capture PAN of the party involved in the registration.

PAN should be in a specified manner of 10 characters i.e. first five characters as alphabets, next four characters as numeric and last character as alphabet. We analysed the database relating to Party, Token and Deeds and found that in 251 cases (vendor/vendee), incorrect PAN (viz. PAN having less than 10 characters, PAN with all numeric characters, PAN with first four characters as alphabets etc.) was entered in the database. This indicated that the application had not been designed with proper

validation checks to detect an incorrect PAN. In the absence of correct PAN the genuineness of the transactions made by the vendors/vendees cannot be ascertained. We cross checked 15 such cases which indicated that in four cases incorrect PAN was mentioned in the documents and in 11 cases correct PAN was given but incorrect entry has been made in the database.

After we pointed this out, DSR, Ranchi stated that the software did not have the provision for verification/examination of incorrect PAN, while DSR, Jamshedpur assured to take necessary steps for remedial measures in future.

**We recommend that proper validation checks should be incorporated in the software to prevent capturing of incorrect PAN.**

### 6.3.26 Processing control

#### 6.3.26.1 Registration of objectionable lands

Under the provisions of the Bihar Government Estates (*Khashmahal*) Manual (adopted by the Government of Jharkhand), *Khashmahal* leased lands, being the property of the Government, can not be sold by the lessee without prior permission of the Government. It can be leased or sub-leased. Further, under the provisions of Bihar Land Ceiling Act (adopted by the Government of Jharkhand) no person shall, after commencement of this Act, either by himself or through any other person, acquire or possess by transfer, exchange, lease, mortgage, agreement or settlement any land which together with the land, if any, already held by him exceeds in the aggregate of the ceiling area. The software has provision to verify the property details with the list of objectionable lands stored in the database before calculation of fees.

We analysed the database relating to Property, Objection lands and Deeds and found that 431 documents related to objectionable lands<sup>85</sup> were registered, of which one deed related to *Khasmahal*, seven to BG *Khas* land, two to *Pashupalan Ghotala*, 84 to leased lands, 283 to Ceiling and 54 to other objectionable land. This indicated that the provision of verification of the property being registered with the objectionable lands is either by-passed or no link established between two sets of tables. We cross checked 20 such deeds in the DSR, Jamshedpur and Ranchi office which revealed that 18 cases involving objectionable land had been registered and in two cases registration was carried out with the permission from the Government Department but on

grounds other than those required.

The DSRs stated that the software did not have the provision to prohibit objectionable lands from registration and the same was checked manually.

After we pointed this out, the Government directed (September 2010) JAPIT to develop identification system in the software to discontinue dependence on manual checking. Necessary assistance from the Department would be provided for this purpose.

The contention of the Government/Department clearly establishes that the provision contained in operations manual in this regard has not been inbuilt into the system.

<sup>85</sup> "Objection type" column in "Objection lands" table were categorised as *Acquired, Bhumi Ghotala, BG Khas Land, Ceiling, Khaasmahal, Lease Lands, Objection lands and Pashupalan Ghotala*.

### 6.3.26.2 Short levy of stamp duty/registration fee in case of lease deeds

Under the provisions of the Registration Act and rules and instructions issued thereunder, registration fee is payable as per table of fees fixed by the Government from time to time. When a lease is granted for a fine or premium or for money advanced in addition to the rent reserved, the fee is payable on the aggregate of the amount of the fine, premium or advance. Further, the software has provision to calculate the fees leviable as per the data entered.

• We analysed the database relating to Deeds and found that in case of 45 lease deeds, registration fee levied was ₹ 14.53 lakh instead of ₹ 17.19 lakh leviable. This resulted in short levy of registration fee amounting to ₹ 2.66 lakh. We cross checked 15 such deeds which revealed that registration fees

was actually short levied in all the cross checked cases.

Under the provisions of the Indian Stamp Act, stamp duty on lease deed is payable as per item no. 35 of Schedule 1A under Section 3 of the Act, depending upon the terms and conditions of the lease including period of lease, rent reserved, fine, premium or money advanced as set forth in the instrument. Further, the software has provision to calculate the stamp duty leviable as per the data entered.

• We analysed the database relating to Deeds and found that in case of 40 lease deeds, stamp duty was levied at ₹ 5.40 lakh as against the leviable amount of ₹ 6.56 lakh. The calculation is based on the formula prescribed under the provisions of the Act. This resulted in short levy of stamp duty amounting

to ₹ 1.16 lakh. We cross checked seven such deeds which revealed that stamp duty was actually short levied.

This is indicative of deficiencies in mapping of rules for calculation of fees/ stamp duty as per the Act in the system with serious implications of leakage of the Government revenue.

**We recommend that correct mapping of the formula for calculation of registration fees/stamp duty should be ensured.**

### 6.3.26.3 Discrepancy in fees as per Fee and Deed tables

Under the provisions of the Registration Act and rules made thereunder fees for the registration of documents shall be payable on the presentation of such documents and the registration fees is payable as per the table of fees fixed by the Government from time to time. The fees realised in respect of every document shall be entered in the Fees Book.

We analysed the database relating to Fee and Deeds and found that in 399 cases, the registration fees shown in 'Fee' table was ₹ 24.70 lakh whereas the fee amount shown in 'Deed' table was ₹ 14.47 lakh only resulting in a discrepancy of ₹ 10.23

lakh. It also indicated deficiencies in the system with respect to consistency of flow of data from one table to another with serious implication of leakage of Government revenue. We cross checked 15 such deeds in the office of DSR, Jamshedpur and Ranchi and found that in all the 15 cases there was difference in figures of fees in deed table and fee table. In 10 of the above cases fee was shown as zero in the deed table.

After we pointed this out, the Government directed (September 2010) JAPIT/M/s CMC Ltd. to make changes in the software after analysis of the facts.

#### 6.3.26.4 Manual issuance of Non-Encumbrance Certificate

Non-encumbrance certificate is a certificate issued denoting the property to be free from any encumbrance. This is one of the major services provided by any Registration office after receiving the prescribed fee from the applicant. Issue of non-encumbrance certificate was one of the objectives of the automation process under the IT system.

We analysed the system and found that there was a facility of generation of non-encumbrance certificate through the software, but the certificates were being issued manually. Thus, the very objective of computerisation was defeated.

Though the digitisation of Index registers<sup>86</sup> for the period from 1970 to 2000 had been carried out, search operation of the software could not be invoked on this data due to non-synchronization with the current database. This has resulted in wastage of resources.

**We recommend that the existing practice of issuing manual non-encumbrance certificate should be discarded and the provision available in the system may be made use of to avoid manual intervention.**

#### 6.3.27 Conclusion

We observed that there was lack of co-ordination between the Registration Department and other Departments, local bodies etc. for obtaining data/information periodically, before whom documents liable to stamp duty were presented. As such, the Department could not monitor the realisation of proper stamp duty and registration fee. Internal control mechanism was weak as evidenced by the fact that the internal audit and inspection by the IGR/other senior officers was inadequate during the period under review. The Department failed to utilise the required tools effectively to ensure that the various wings of the Department were functioning reasonably well.

There was no documented User Requirement Specification to assess the extent to which the desired benefits had been achieved. The IT system with e-Nibandhan was developed with system/design deficiencies. Complete translation of essential business processes was not ensured. Even after two years of implementation of the system, availability and dissemination of information from the system regarding property registration to ensure transparency, better service delivery and plugging of revenue leakage was not achieved.

#### 6.3.28 Summary of recommendations

The Government may consider taking the following steps:

- the Government may issue necessary instructions to the Registration Department for strictly adhering to the norms prescribed for inspections in the manual;

<sup>86</sup> The details of the registered documents were recorded in different registers viz. Index Register 1, Index Register 2, Index Register 3 and Index Register 4.

- a provision may be made in the manual or the IT system to check the limit within which exemptions are admissible to the beneficiaries under the IS Act;
- the IGR may issue instructions to the concerned DSRs/SRs for timely deposit of the money received by them;
- the Government may consider establishing a system by way of returns from the Registration Department and UDD for monitoring the progress made in the registration of unregistered flats in the interest of revenue;
- a provision may be made in the Act for registration of leases that have been deemed renewed under the Department of Mines and Geology;
- the Government may prescribe a time period for finalisation/disposal of the cases impounded/referred to Deputy Collectors (Stamp);
- proper validation checks should be incorporated in the software to prevent capturing of incorrect PAN;
- necessary correction/modification should be made in the software to ensure consistency in performance in future;
- correct mapping of the formula for calculation of registration fees/stamp duty should be ensured; and
- the existing practice of issuing manual non-encumbrance certificate should be discarded and the provision available in the system may be made use of to avoid manual intervention.

## **ELECTRICITY DUTY**

### **6.4 Short levy of electricity duty**

Under the provisions of the Bihar Electricity Duty Act, 1948, as adopted by the Government of Jharkhand, the State Government notified in August 1993, the rate of electricity duty for mining purposes in all premises where the total load exceeded 100 British Horse Power, to be 15 paise per unit of energy sold or consumed. The duty on sale of electrical energy for industrial purposes is leviable at the rate of two paise per unit. It has been judicially held\* that the process of mining comes to an end only when the ore extracted from the mines is washed, screened, dressed and then stacked at the mining site.

\* Chowgule & Co. Vs Union of India (1981) 47 STC-124 SC.

We noticed (March 2010) in Jharia commercial taxes circle that 1.71 crore units of electricity were consumed by the Central Coal Fields Limited during 2004-05 at the mining site for mining purposes i.e., for washing, screening, dressing and stacking after the extraction of ore. The electricity used was liable to be taxed at the rate of 15 paise per unit but the Department while finalising the assessment in July 2007 incorrectly treated it as an industrial process and levied duty at the rate of two paise per unit. This resulted in short levy of duty of ₹ 22.27 lakh.

After we pointed this out (March 2010), the Deputy Commissioner of Commercial Taxes stated in March

2010 that the case would be reviewed.

We reported the matter to the Department in May 2010 and to the Government in June 2010. Their replies have not been received (March 2011).

## CHAPTER-VII: NON-TAX RECEIPTS

### A. Mines and Geology Department

#### 7.1 Tax administration

The levy and collection of royalty in the State is governed by the Mines and Mineral (Development and Regulation) Act, 1957, the Mineral Concession Rules, 1960 and the Jharkhand Minor Mineral Concession Rules, 2004. At the Government level, the Secretary, Mines and Geology Department and at the department level, the Director of Mines is responsible for administration of the Acts and Rules in the Mines Department. The Director of Mines is assisted by an Additional Director of Mines (ADM) and Deputy Director of Mines (DDM) at the headquarters level. The State is divided into six circles<sup>87</sup>, each under the charge of a DDM. The circles are further divided into 24 district mining offices<sup>88</sup>, each under the charge of a District Mining Officer (DMO)/Assistant Mining Officer (AMO). The DMOs/AMOs are responsible for levy and collection of royalty and other mining dues. They are assisted by Mining Inspectors (MIs) who are authorised to inspect the lease hold areas for production and dispatch of minerals.

#### 7.2 Trend of receipts

Actual receipts from 'Mineral Concession, Fees and Royalties' against budget estimates (BEs) during the period 2005-06 to 2009-10 along with the total non-tax receipts during the same period is exhibited in the following table and graph:

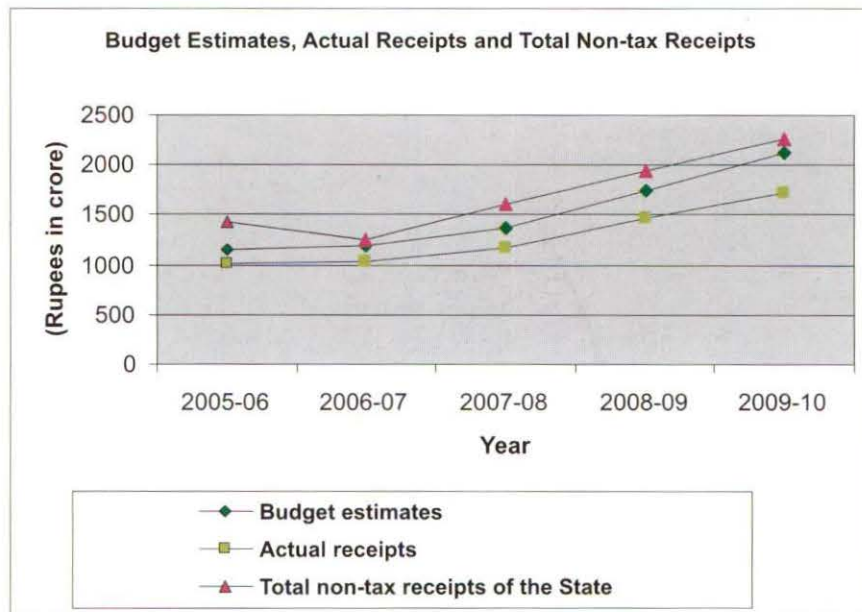
(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual receipts vis-à-vis total non-tax receipts
2005-06	1,151.40	1,013.15	(-) 138.25	(-) 12	1,426.53	71.02
2006-07	1,200.00	1,022.15	(-) 177.85	(-) 15	1,250.40	81.75
2007-08	1,362.00	1,177.77	(-) 184.23	(-) 14	1,601.40	73.55
2008-09	1,740.00	1,477.94	(-) 262.06	(-) 15	1,951.74	75.72
2009-10	2,126.47	1,733.15	(-) 393.32	(-) 18.5	2,254.15	76.89

<sup>87</sup> Chaibasa, Daltonganj, Dhanbad, Dumka, Hazaribag and Ranchi.

<sup>88</sup> Bokaro, Chatra, Chaibasa, Daltonganj, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Khunti, Koderma, Latehar, Lohardaga, Pakur, Ramgarh, Ranchi, Sahebganj, Saraikela and Simdega.





The reasons for variation between the BEs and the actual receipts though called for (October 2010) were not furnished (March 2011).

As would be evident from the above there were wide variations between the BEs and the actual receipts which indicates that the BEs, which are an important part of the financial planning of the Government, were not framed on a realistic basis.

**We recommend that the Government may issue suitable instructions to the Department for preparing the BEs on a realistic and scientific basis to ensure that these are close to the actual receipts.**

### 7.3 Arrears of revenue

The Department intimated that arrears as on 31 March 2010 amounting to ₹ 285.58 crore were outstanding, of which ₹ 182.65 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 66.61 crore and ₹ 0.34 crore were stayed by various courts and by the Government respectively. Recovery of ₹ 2.58 crore was held up due to rectification/revision of applications while recovery of ₹ 3.12 crore was held up due to lessees becoming insolvent. An amount of ₹ 0.07 crore was likely to be written off. Specific action taken in respect of a sum of ₹ 30.21 crore has not been intimated.

Thus, it would be seen from the above that 64 *per cent* of the total amount was pending settlement due to non-settlement of certified cases and 23 *per cent* was pending settlement due to non-finalisation of the court cases. Action is required to be taken to recover the amount of ₹ 30.21 crore, which is 11 *per cent* of the total amount, under the provisions of the Bihar and Orissa Public Demands Recovery Act, 1914.

We recommend that the Government may consider issuing directions to the Department for speedy settlement of the arrear cases by constant monitoring of court/certified cases and recovering the arrears as arrears of land revenue by invoking the provisions of the Bihar and Orissa Public Demands Recovery Act, 1914.

#### 7.4 Results of audit

During the year 2009-10 we test checked the records of 11 units relating to 'Mineral Concession, Fees and Royalties', 23 units of 'Forest Receipts' and two units of irrigation receipts and found under assessment and loss of rent, royalty, fee etc. and other irregularities involving ₹ 151.35 crore in 1,224 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Non-levy or short levy of royalty	28	33.43
2.	Short levy of royalty due to down grading of coal	2	0.03
3.	Non-levy of penalty for consumption of illegal minerals by works contractors	27	0.38
4.	Non-levy of interest	2	0.28
5.	Non-levy of penalty/fee	9	3.57
6.	Non-initiation of certificate proceedings	2	1.20
7.	Other cases	179	87.76
<b>Total</b>		<b>249</b>	<b>126.65</b>
<b>FOREST RECEIPTS</b>			
1.	Loss of revenue due to departmental lapses	180	1.83
2.	Loss of revenue due to delay in initiation of certificate cases	80	0.21
3.	Loss of revenue due to non registration of saw mills	4	0.04
4.	Non-disposal of forest produce	464	0.67
5.	Non-eviction of encroached forest land	125	0.71
6.	Other cases	74	20.50
<b>Total</b>		<b>927</b>	<b>23.96</b>
<b>WATER RATES</b>			
1.	Other cases	48	0.74
<b>Total</b>		<b>48</b>	<b>0.74</b>
<b>Grand total</b>		<b>1,224</b>	<b>151.35</b>

During the course of the year, the Department accepted underassessments and other deficiencies amounting to ₹ 14.67 crore in 652 cases pointed out by us during 2009-10 and in earlier years.

A few illustrative cases involving ₹ 11.26 crore are mentioned in the following paragraphs:

## **7.5 Audit observations**

Our scrutiny of records in the offices of the Mines and Geology department relating to revenue received from royalty indicated several cases of non-observation of the provisions of the Acts/Rules resulting in non/short levy of royalty/penalty and other cases as mentioned in the succeeding paragraphs in the chapter. These cases are illustrative and are based on the test check carried out in audit. Such omissions are pointed out by us each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Department to improve the internal control system indicating strengthening internal audit so that such omissions can be avoided, detected and corrected.

## **7.6 Non-observance of the provisions of Acts / Rules**

The Mines and Mineral (Development and Regulation) Act, 1957, the Mineral Concession Rules, 1960 and the Jharkhand Minor Mineral Concession Rules, 2004 provide for:

- (i) payment of royalty on the minerals removed and consumed from the lease area at the rates prescribed, and within the due dates; and
- (ii) payment of price of minerals in addition to royalty for the minerals extracted without valid lease/permit, treating the mining as illegal.

The Mines and Geology department did not observe some of the provisions of the Acts/Rules in the cases mentioned in paragraphs 7.6.1 to 7.6.3 for levy and collection of royalty.

### **7.6.1 Non-levy of interest for delayed payment of royalty**

Under the provisions of Rule 64 A of the Mineral Concession Rules, 1960, the State Government may levy simple interest of 24 per cent per annum on royalty not paid within 60 days of expiry of the date of payment fixed for payment of such royalty.

We noticed in January 2010 in the District Mining Office, Pakur that a lessee paid royalty for the minerals produced/extracted during 2008-09 with an average of delay of 10 days after expiry of the due dates for payment. However, no interest

was charged by the Department for such belated payment. This resulted in non-levy of interest of ₹ 27.15 lakh.

After we pointed out this in January 2010, the Department intimated (August 2010) that demand as pointed out by audit was raised in May 2010 and certificate proceedings have been initiated against the lessee for recovering the amount.

**7.6.2 Short levy of royalty**

The Mines and Minerals (Development and Regulation) Act, 1957 provides that the holder of a mining lease is required to pay royalty on removal or consumption of the mineral from the leased area at the rates prescribed in the schedule in respect of that mineral.

We noticed in the District Mining Office, Pakur in January 2010, that a lessee dispatched 61.56 lakh MT of different grades of coal during 2008-09 and paid a lump sum amount of royalty at the rate of

₹ 110.37 per MT each month as against grade-wise (C, D, E and F) rate of royalty of ₹ 148, ₹ 128, ₹ 114.50 and ₹ 93 per MT respectively worked out on the basis of the notification issued by Coal India Ltd. The department failed to scrutinise the returns properly and raise the demand accordingly. This resulted in short levy of royalty of ₹ 10.85 crore.

After we pointed out this in January 2010, the Department intimated (August 2010) that demand as pointed out by audit was raised in May 2010 and certificate proceedings have been initiated against the lessee for recovering the amount.

**7.6.3 Non-levy of penalty for illegal mining by works contractors**

Under the provisions of the Jharkhand Minor Mineral Concession Rules, 2004, civil works contractors are required to purchase minor minerals only from the authorised lessees/ permit holders and authorised dealers. It further provides for submission of affidavits in form 'O' and particulars in form 'P' by the works contractors to the Works department indicating therein details of sources of purchase of minerals, price paid and quantity procured along with the bills. The Works department, in turn, is required to forward the photocopies of form 'O' and 'P' to the Mining department for verification of the details of minerals procured and consumed. In case of non-compliance, penalty not exceeding the amount of royalty is leviable by the collector

We noticed in the District Mining Office, Lohardaga in June 2009, that seven works divisions deposited royalty amounting to ₹ 14.22 lakh for the minerals consumed in the works contracts without forwarding the photocopies of form 'O' and 'P' to the mining office for verification of the details of minerals procured and consumed. The department did not take

any action to levy the penalty amounting to ₹ 14.22 lakh.

After the cases were pointed out in June 2009, the Department intimated (August 2010) that the works divisions have been asked to pay penalty equivalent to the amount of royalty and in case of non-payment of the same, certificate cases would be instituted under the Public Demands Recovery Act.

## B. FOREST DEPARTMENT

### 7.7 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, Bihar in May 1959 and July 1996, seized forest produces involved in court cases are required to be disposed of immediately after obtaining permission of the Court to avoid natural decay.

We test checked the records of six forest divisions which revealed that timber valued at ₹ 29.26 lakh (418 cases), as mentioned below were seized by the Department during 2004-09 and the cases were forwarded to the court.

(Rupees in lakh)

Sl. No.	Name of Division	Year	No. of cases	Amount of royalty (as assessed by the division)
1	Dalbhum Forest Division, Jamshedpur	2008-09	18	1.96
2	Hazaribag (East) Forest Division	2004-05	39	3.96
		2005-06	53	3.66
		2006-07	56	2.84
		2007-08	29	1.80
		2008-09	35	2.71
3	Koderma Forest Division	2007-08	33	2.01
		2008-09	84	4.93
4	Ranchi West Division, Lohardaga	2008-09	34	1.62
5	Sahebganj Forest Division	2008-09	12	1.12
6	Saranda Forest Division, Chaibasa	2005-06	10	1.39
		2006-07	10	0.81
		2007-08	2	0.09
		2008-09	3	0.36
<b>Total</b>			<b>418</b>	<b>29.26</b>

The seized forest produce was required to be disposed of after obtaining the court's orders which were not obtained and the forest produce remained undisposed. This resulted in blocking of revenue of ₹ 29.26 lakh. Further, timber lying in the open and exposed to the vagaries of nature was likely to deteriorate in quality and would consequently fetch less value in the market at the time of their sale.

The matter was reported to the Government in June 2010; their reply has not been received (March 2011).



(Mridula Sapru)  
Principal Accountant General (Audit)  
Jharkhand

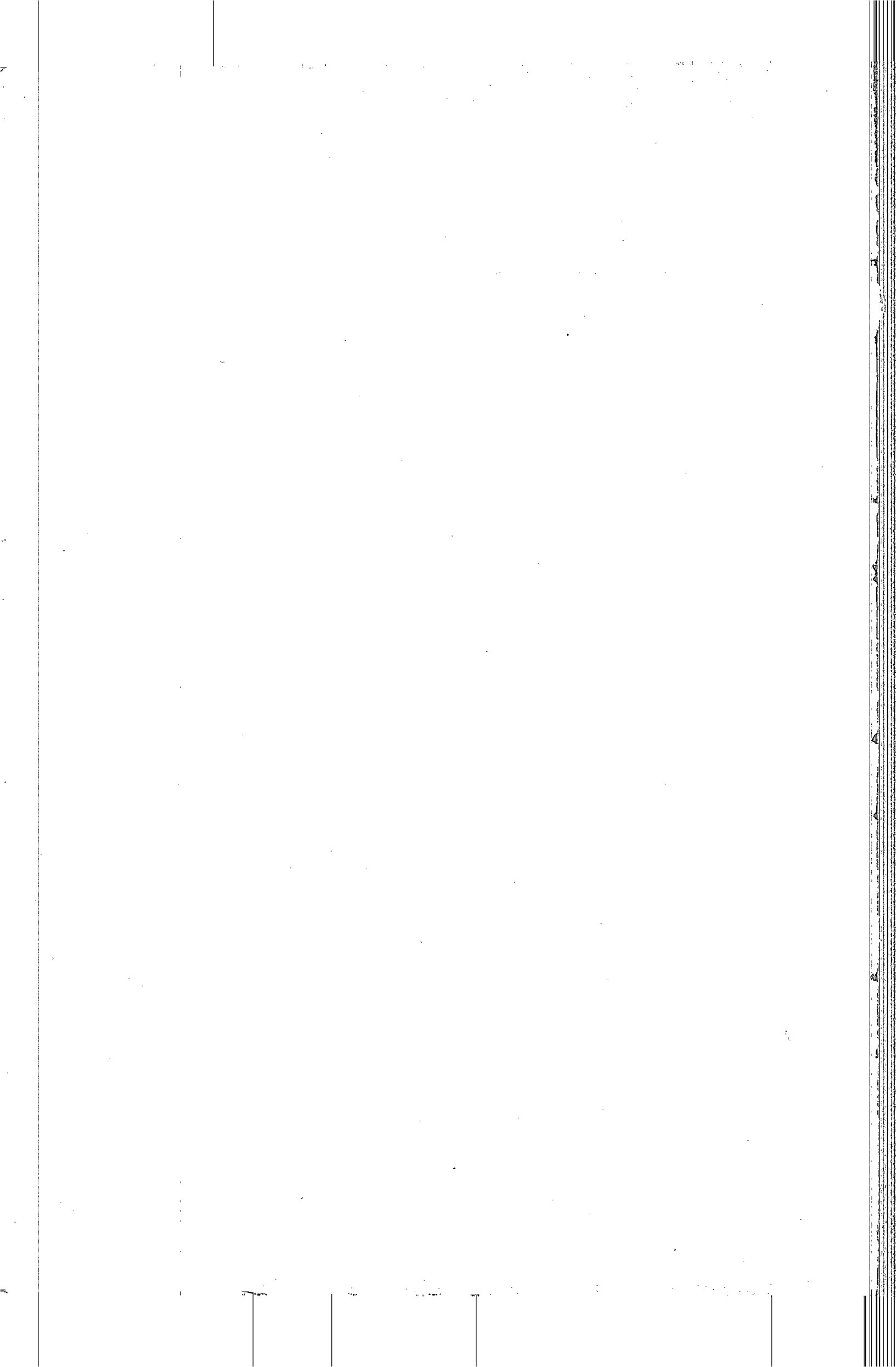
Ranchi  
The 31 July 2011

Countersigned



(Vinod Rai)  
Comptroller and Auditor General of India

New Delhi  
The 3 AUG 2011



**© COMPTROLLER AND  
AUDITOR GENERAL OF INDIA  
2009-10**

