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

for the year ended March 2012

Government of Bihar

Report No. 2 of the Year 2013

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PREFACE

This Report for the year ended 31 March 2012 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, other tax receipts, mineral concession, fees and royalties and other non-tax receipts of the State.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2011-12 as well as those which came to notice in earlier years but could not be covered in previous reports.

OVERVIEW

OVERVIEW

This Report contains 37 paragraphs and one performance audit relating to non/short levy of tax, interest etc. involving ₹ 568.99 crore. Some of the major findings are mentioned below:

I. General

Total receipts of the Government of Bihar for the year 2011-12 were ₹ 51,320.17 crore. The revenue raised by the State Government amounted to ₹ 13,501.96 crore comprising tax revenue of ₹ 12,612.10 crore and non-tax revenue of ₹ 889.86 crore. The receipts from the Government of India were ₹ 37,818.21 crore (States' share of divisible Union taxes: ₹ 27,935.23 crore and grants in aid: ₹ 9,882.98 crore). Thus, the State Government's own contribution to tax revenue was only 26 *per cent* of total revenue.

(Paragraph 1.1.1)

The number of inspection reports (IRs) and paragraphs issued up to December 2011 but not settled by June 2012 stood at 3,858 and 20,979 respectively involving ₹ 8,754.19 crore. We are yet to receive even first replies for 1,317 IRs though these were required to be furnished within one month of their receipt.

(Paragraph 1.7.1)

We conducted test-check of the records of commercial taxes, State excise, taxes on vehicles, land revenue, non-ferrous mining and metallurgical industries and other departmental offices during the year 2011-12 and observed underassessment/short levy/loss of revenue of ₹ 1,369.51 crore in 1,816 cases. During the year 2011-12, the concerned departments accepted underassessment and other deficiencies of ₹ 246.47 crore involved in 499 cases.

(Paragraph 1.10.1)

II. Commercial Taxes

A Performance Audit on **'Internal Control Mechanism in Commercial Taxes Department'** indicated the following deficiencies.

Issuance of notification for reduction of rate of VAT from 12.5 *per cent* to four *per cent* on a commodity without the approval of the competent authority resulted into loss of revenue of ₹ 43.96 crore.

(Paragraph 2.2.7.1)

The rate of entry tax on stone chips, stone boulders and stone ballast was reduced on wrong premise from eight *per cent* to four *per cent* resulting into loss of revenue of ₹ 20 crore.

(Paragraph 2.2.7.2)

Many notifications were issued not as per the authority and procedures laid down under the existing laws.

(Paragraphs 2.2.7.3 to 2.2.7.6)

Due to no follow up action on a letter of the Ministry of Finance, Government of India, despite the Minister's directives, the State Government is losing substantial amount of revenue.

(Paragraph 2.2.8)

A total of 344 cases were pending for *suo-motu* revision in the CCT court involving ₹ 135.52 crore and 953 cases involving ₹ 623.92 crore was pending in the Appellate courts as on March 2012.

(Paragraph 2.2.9)

There was low coverage of dealers for VAT audit by the Department and the criteria for selection of dealers for VAT audit for 2010-11 was flawed. Absence of Audit plan/control registers affected the audit process.

(Paragraph 2.2.10.2)

No periodicity/target was prescribed/fixed for conducting survey and inspections.

(Paragraph 2.2.12.1)

In 16 test-checked circles, 36.38 to 46.29 *per cent* of the registered dealers had not filed their returns during the year 2007-08 to 2011-12 and about 37 to 60 *per cent* returns filed by the dealers remained un-scrutinised.

(Paragraph 2.2.12.5)

Deficient/non-scrutiny of returns by the AAs resulted in availing of deduction without proper substantiation and underassessment of VAT and CST of ₹ 29.71 crore.

(Paragraph 2.2.12.5)

Cross-verification of transactions revealed availing of excess ITC and suppression of turnover under VAT and Entry tax.

(Paragraphs 2.2.13.1 to 2.2.13.3)

In 13 commercial taxes circles, suppression of sales/purchase turnover of ₹ 89.80 crore by 30 dealers resulted in underassessment of tax of ₹ 41.35 crore including leviable penalty.

(Paragraph 2.4)

Irregular claim of ITC by the 12 dealers in nine commercial taxes circles resulted in excess allowance of ITC of ₹ 100.92 crore including leviable penalty.

(Paragraph 2.5)

Non-detection of application of incorrect rates of tax in 13 commercial taxes circles resulted in short levy of tax of ₹ 39.85 crore including interest and leviable penalty.

(Paragraph 2.6)

Non-detection of application of incorrect rates of entry tax in seven commercial taxes circles resulted in short levy of tax of ₹ 8.80 crore including interest and leviable penalty.

(Paragraph 2.15)

III. State Excise

Delay in finalising tenders necessitated extensions to the existing suppliers for 15 months beyond the period of contract.

(Paragraph 3.2.2.1)

Revision of rates in June 2009 without approval of the Board of Revenue led to undue benefit of ₹ 107.94 crore and ₹ 4.21 crore to the wholesale suppliers/BSBCL/retailers of CS and SCS respectively during 2009-12 in the 38 districts of the State at the cost of consumers.

(Paragraph 3.2.2.2 and 3.2.2.3)

In four excise offices lot of CS, which were of sub-standard preparation or unfit for consumption, were issued to BSBCL for sale to retailers, before receipt of test report of samples from laboratory, without any rectification of the deficiency of whole lot from which samples were collected.

(Paragraph 3.2.2.5)

Non-maintenance of challan register and not verifying the amount deposited by licensee from the records of treasury by the Excise officers in two excise districts resulting in defalcation of Government Revenue.

(Paragraph 3.2.3)

IV. Taxes on vehicles

In nine DTOs, tax dues of ₹ 1.89 crore pertaining to 517 transport vehicles for the period between September 2005 and December 2011 were neither paid by the vehicle owners nor action was taken towards realisation of dues of ₹ 5.67 crore (including penalty) by the concerned DTOs.

(Paragraph 4.3)

Due to non-raising of demands by the Department for realisation of principal and interest on loans granted during the period 2008-09 to 2010-11, an amount of ₹ 148.05 crore was not realised from BSRTC.

(Paragraph 4.11)

V. Other Tax Receipts

Due to failure of the Department to evict the encroachers and resettle the land resulted in non-realisation of *Salami* and rent to the tune of ₹ 2.47 crore.

(Paragraph 5.5)

In two test-checked districts, the Department failed to cancel the leases followed by fresh leases, though lessees had violated the conditions of lease. This resulted in non-realisation of *Salami* and rent of ₹ 130.93 crore.

(Paragraph 5.6.1)

Non-disposal of referred cases resulted in blocking of Government revenue of ₹ 21.49 lakh.

(Paragraph 5.9)

VI. Non-Tax Receipts

In seven districts, 435 brick kilns were operated during the brick season 2010-11 and 2011-12 without/partial payment of the consolidated royalty which resulted in non/short levy of royalty of ₹ 2.23 crore.

(Paragraph 6.3.1)

In four districts, an auctioned amount of ₹ 3.47 crore including interest was not realised from the defaulter 15 stone quarry leaseholders.

(Paragraph 6.6)

CHAPTER - I

GENERAL

CHAPTER-I: GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Bihar during the year 2011-12, 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:

(₹ in crore)

Sl. No.	Particulars	2007-08	2008-09	2009-10	2010-11	2011-12
1.	**Revenue raised by the State Government**					
	• Tax revenue	5,085.53	6,172.74	8,089.67	9,869.85	12,612.10
	• Non-tax revenue	525.59	1,153.32	1,670.42	985.53	889.86
	Total	**5,611.12**	**7,326.06**	**9,760.09**	**10,855.38**	**13,501.96**
2.	**Receipts from the Government of India**					
	• Share of net proceeds of divisible Union taxes and duties	16,766.29	17,692.51	18,202.58	23,978.38	27,935.23
	• Grants-in-aid	5,831.67	7,962.12	7,564.16	9,698.56	9,882.98
	Total	**22,597.96**	**25,654.63**	**25,766.74**	**33,676.94**	**37,818.21**
3.	**Total revenue receipts of the State Government[1] (1 and 2)**	**28,209.08**	**32,980.69**	**35,526.83**	**44,532.32**	**51,320.17**
4.	**Percentage of 1 to 3**	**20**	**22**	**27**	**24**	**26**

(Source: Finance Accounts, Government of Bihar)

The above table indicates that during the year 2011-12, the revenue raised by the State Government (₹ 13,501.96 crore) was 26 *per cent* of the total revenue receipts against 24 *per cent* in the preceding year. The balance 74 *per cent* of receipts during 2011-12 was from the Government of India. The overall increase of 24.38 *per cent* in revenue raised by the State Government (₹ 13,501.96 crore) during 2011-12 as compared to ₹ 10,855.38 crore during 2010-11 was mainly due to 27.78 *per cent* increase in tax revenue and 9.71 *per cent* decrease in non-tax revenue as detailed in paragraphs 1.1.2 and 1.1.3.

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1 For details, please see Statement No. 11- Detailed accounts of revenue by minor heads in the Finance Accounts of Government for the year 2011-12. Figures under the major heads 0020 - Corporation tax, 0021 - Taxes on income other than corporation tax, 0032 - Taxes on wealth, 0037 - Customs, 0038 - Union excise duties, 0044 - Service tax and 0045 - Other taxes and duties on commodities and services - Minor Head – 901 - Share of net proceeds assigned to the State booked in the Finance Accounts under A - Tax revenue have been excluded from the revenue raised by the State and included in 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 2007-08 to 2011-12.

(₹ in crore)

Sl. No.	Head of revenue	2007-08	2008-09	2009-10	2010-11	2011-12	Percentage of increase (+)/ decrease (-) in 2011-12 over 2010-11
1.	Taxes on Sales, Trade *etc.*	2,534.80	3,016.47	3,839.29	4,557.18	7,476.36	(+) 64.06
2.	State Excise	525.42	679.14	1,081.68	1,523.35	1,980.98	(+) 30.04
3.	Stamps and Registration Fees						
	Stamps-judicial	654.15	716.19	53.81	59.05	36.61	(+) 34.71
	Stamps – non-judicial			708.62	774.20	1,060.28	
	Registration fees			235.47	265.43	383.18	
4.	Taxes and Duties on Electricity	64.05	67.62	66.63	65.22	54.69	(-) 16.14
5.	Taxes on Vehicles	273.21	297.74	345.13	455.43	569.13	(+) 24.97
6.	Taxes on Goods and Passengers	937.87	1,279.41	1,613.16	2,006.32	828.30	(-) 58.72
7.	Other Taxes on Income and Expenditure - Taxes on Professions, Trades, Callings and Employment	Nil	Nil	Nil	Nil	29.56	NA[2]
8.	Land Revenue	82.10	101.74	123.96	139.02	167.49	(+) 20.48
9.	Other Taxes and Duties on Commodities and Services	13.93	14.43	21.92	24.65	25.52	(+) 3.53
	Total	**5,085.53**	**6,172.74**	**8,089.67**	**9,869.85**	**12,612.10**	**(+) 27.78**

(Source: Finance Accounts, Government of Bihar)

The departments concerned reported the following reasons for variation in collection of tax revenue in 2011-12 as compared to the year 2010-11:

Taxes on Sales, Trade etc.: The increase (64.06 *per cent*) was due to enhancement of rate of tax from four to five *per cent* for schedule III goods and 12.5 to 13.5 *per cent* for unscheduled goods.

Stamps and Registration Fees: The increase (34.71 *per cent*) was due to revision of Minimum Valuation Register (MVR) of urban areas throughout the State with effect from 1 April 2011.

The other departments did not inform (January 2013) the reasons for variation, despite being requested (between May and September 2012).

[2] Percentage is not calculated as it is the first year.

1.1.3 The following table presents the details of non-tax revenue raised during the period 2007-08 to 2011-12.

(₹ in crore)

Sl. No.	Head of Revenue	2007-08	2008-09	2009-10	2010-11	2011-12	Percentage of increase (+) / decrease (-) in 2011-12 over 2010-11
1.	Interest Receipts	170.71	304.57	353.27	237.96	573.70	(+) 141.09
2.	Forestry and Wild Life	6.64	6.15	6.78	7.64	11.04	(+) 44.50
3.	Non-ferrous Mining and Metallurgical Industries	178.66	245.00	319.93	405.59	443.10	(+) 9.25
4.	Miscellaneous General Services	3.02	385.82	770.28	0.34	(-)383.78	NA[3]
5.	Medium Irrigation	9.67	10.64	14.80	15.45	17.59	(+) 13.85
6.	Medical and Public Health	21.07	17.25	14.08	15.33	23.91	(+)55.97
7.	Fisheries	6.57	6.87	7.87	7.28	10.16	(+) 39.56
8.	Roads and Bridges	17.95	26.40	30.02	39.60	60.35	(+) 52.40
9.	Police	23.47	9.44	11.89	11.85	9.26	(-) 21.86
10.	Other Administrative Services	12.00	8.09	9.42	19.98	11.49	(-) 42.49
11.	Other non-tax receipts	75.83	133.09	132.08	224.51	113.04	(-) 49.65
Total		**525.59**	**1,153.32**	**1,670.42**	**985.53**	**889.86**	**(-) 9.71**

(Source: Finance Accounts, Government of Bihar)

As per Finance Accounts, Government of Bihar for the year 2011-12, the reasons for variation in collection of non-tax revenue are as under:

Interest Receipts: The increase (141.09 *per cent*) was mainly due to more receipts under interest from Departmental Commercial undertakings and other receipts.

Miscellaneous General Services:- The huge decrease was due to Debt waiver amount of ₹ 384.93 crore for the year 2009-10 had been recovered in the Financial year 2011-12 and also less receipts under Panchayati Raj Acts and other receipts.

The other departments did not inform (January 2013) the reasons for variation, despite being requested (between May and September 2012).

[3] Percentage is not shown as it is unrealistic.

1.2 Variation between the budget estimates and actual

The variation between the budget estimates of revenue receipts and the actual receipts under the principal heads of tax and non-tax revenue for the year 2011-12 is mentioned below:

(₹ in crore)

Sl. No.	Revenue head	Budget estimates	Actual receipts	Variations increase (+) shortfall (-)	Percentage
•	**Tax revenue**				
1.	Taxes on Sales, Trade *etc.*	6,508.00	7,476.36	(+) 968.36	(+) 14.88
2.	State Excise	1,790.00	1,980.98	(+) 190.98	(+) 10.67
3.	Stamps and Registration Fees	1,600.00	1,480.07	(-) 119.93	(-) 7.50
4.	Taxes on Vehicles	537.00	569.13	(+) 32.13	(+) 5.98
5.	Taxes and Duties on Electricity	60.70	54.69	(-) 6.01	(-) 9.90
6.	Land Revenue	125.20	167.49	(+) 42.29	(+) 33.78
7.	Other Taxes and Duties on Commodities and Services	20.98	25.52	(+) 4.54	(+) 21.64
8.	Taxes on Goods and Passengers	1,940.00	828.30	(-) 1,111.70	(-) 57.30
•	**Non-tax revenue**				
1.	Non-Ferrous Mining and Metallurgical Industries	280.00	443.10	(+) 163.10	(+) 58.25
2.	Forestry and Wild Life	8.00	11.04	(+) 3.04	(+) 38.00
3.	Interest Receipts	370.82	573.70	(+) 202.88	(+) 54.71
4.	Medium Irrigation	4.00	17.59	(+) 13.59	(+) 339.75

(Source: Revenue and Capital Receipt,(Detail): Finance Accounts, Government of Bihar)

The Commercial Taxes Department attributed the reason for increase (14.88 *per cent*) in collection of Taxes on Sales, Trade etc. during 2011-12 as compared to the budget estimates to enhancement of rate of tax from four to five *per cent* for schedule III goods and 12.5 to 13.5 *per cent* for unscheduled goods.

The other departments did not inform (January 2013) the reasons for variation, despite being requested (between May and September 2012).

1.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during 2011-12 along with the all-India average percentage of expenditure on collection in 2010-11 were as under:

(₹ in crore)

Sl. No.	Head of revenue	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 2010-11
1.	Commercial Taxes[4]	8,414.43	66.17	0.79	0.75
2.	State Excise	1,980.98	41.24	2.08	3.05
3.	Stamps and Registration Fees	1,480.07	43.10	2.91	1.60
4.	Taxes on Vehicles	569.13	22.31	3.92	3.71

(Source: Finance Accounts, Government of Bihar)

The above table indicates that the percentage of expenditure on collection during the year 2011-12 in respect of all the taxes was more than the all-India average percentage for the year 2010-11 except in the case of State Excise.

The Government needs to take appropriate measures to bring down the cost of collection.

1.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 in respect of the principal heads of revenue as reported by the departments was ₹ 1,448.90 crore of which ₹ 379.96 crore[5] were outstanding for more than five years as mentioned below:

(₹ in crore)

Sl. No.	Heads of revenue	Amount outstanding as on 31 March 2012	Amount outstanding for more than five years	Remarks
1.	Taxes on Sales, Trade *etc*.	1,186.98	372.60	Out of ₹ 1,186.98 crore, demands for ₹ 320.63 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 257.29 crore and ₹ 13.10 crore were stayed by the courts and the Government respectively. An amount of ₹ 595.96 crore was pending at other stages.
2.	Taxes and Duties on Electricity	2.50	1.76	Out of ₹ 2.50 crore, demands for ₹ 2.19 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 8.22 lakh was stayed by the Government and ₹ 23.01 lakh was pending at other stages.

4 Gross collection by the Commercial Tax Department includes taxes on Sales, Trade etc., Taxes on Goods and Passengers, Taxes and Duties on Electricity, Other Taxes on Income and Expenditure- Taxes on Professions, Trades, Callings and Employment and Other Taxes and Duties on Commodities and Services.

5 Excluding water rates (Medium Irrigation) for which particulars have not been furnished by the department.

3.	Taxes on Goods and Passengers (Entry tax)	16.51	2.77	Out of ₹ 16.51 crore, demand for ₹ 1.30 crore was certified for recovery as arrears of land revenue. Recovery of ₹ 4.50 crore was stayed by the courts and ₹ 10.71 crore was pending at other stages.
4.	Other Taxes and Duties on Commodities and Services (Entertainment tax)	10.43	2.83	Out of ₹ 10.43 crore, demands for ₹ 9.26 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 23.26 lakh was stayed by the courts and Government and ₹ 93.95 lakh was pending at other stages.
5.	Medium Irrigation (Water rates)	232.48	Not furnished	Stages at which the arrears were pending for collection have not been intimated (January 2013), despite being requested (between May and September 2012).
	Total	**1,448.90**	**379.96**	

The position of arrears of revenue at the end of 2011-12 in respect of other[6] departments was not furnished (January 2013), despite being requested (between May and September 2012).

1.5 Evasion of tax

The details of cases of evasion of tax detected by the Commercial Taxes Department, cases finalised and demands raised as reported by the Department is mentioned below:

Head of the department	Cases pending as on 31 March 2011	Cases detected during 2011-12	Total	Number of cases in which assessments/investigation completed and additional demand including penalty etc., raised during the year 2011-12		Number of pending cases as on 31 March 2012
				No. of cases	Amount (₹ in lakh)	
Commercial Taxes	64	163	227	38	662.52	189

The other departments did not furnish the details of evasion of tax (January 2013), despite being requested (between May and September 2012).

6 Registration, Excise and Prohibition (Excise); Transport; Revenue and Land Reforms and Mines and Geology.

1.6 Refunds

The number of refund cases pending at the beginning of the year 2011-12, claims received during the year, refunds allowed during the year and cases pending at the close of the year (March 2012), as reported by the Commercial Taxes Department is mentioned below:

(₹ in lakh)

Sl. No.	Particulars	Taxes on Sales, Trade etc.		Entry tax		Entertainment tax	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	2,310	10,699.27	103	96.74	6	2.00
2.	Claims received during the year	92	1,225.43	Nil	Nil	Nil	Nil
3.	Refunds made during the year	1,019	3,698.61	Nil	Nil	Nil	Nil
4.	Balance outstanding at the end of the year	1,383	8,226.09	103	96.74	6	2.00

1.7 Response of the departments/Government towards audit

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

The PAG (Audit) Bihar conducts periodical inspection of the Government departments to test-check the transactions and verify the maintenance of the important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the IRs incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to 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.

A review of IRs issued upto December 2011 disclosed that 20,979 paragraphs involving ₹ 8,754.19 crore relating to 3,858 IRs remained outstanding at the end of June 2012 as mentioned below along with the corresponding figures for the preceding two years:

	June 2010	June 2011	June 2012
Number of outstanding IRs	4,150	4,259	3,858
Number of outstanding paragraphs	21,968	22,364	20,979
Amount involved (₹ in crore)	7,876.02	10,404.30	8,754.19

The Department-wise detail of the IRs and paragraphs outstanding as on 30 June 2012 and the amounts involved are mentioned in the following table:

(₹ in crore)

Sl. No.	Name of the departments	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Commercial Taxes	Taxes on Sales, Trade *etc*	588	6,051	4,014.49
		Entry tax	143	322	74.06
		Electricity duty	21	25	16.74
		Entertainments tax, luxury tax, *etc.*	13	21	0.61
2.	Registration, Excise and Prohibition (Excise)	State Excise	412	2,021	1,208.96
3.	Revenue and Land Reforms	Land Revenue	1,437	6,245	945.27
4.	Transport	Taxes on Vehicles	470	3,170	1,205.51
5.	Registration, Excise and Prohibition (Registration)	Stamps and Registration Fees	437	1,191	169.96
6.	Mines and Geology	Non-ferrous Mining and Metallurgical Industries	337	1,933	1,118.59
Total			**3,858**	**20,979**	**8,754.19**

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 1,317 IRs issued upto December 2011. This large pendency of the IRs due to non-receipt 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 paragraphs. It may also consider initiating action against officials/officers who do not send replies to the IRs/paragraphs as per the prescribed time schedules or who fail to take action to recover loss/outstanding demand in a time-bound manner.

1.7.2 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. No audit committee meetings were held during the year 2011-12.

The Government may take suitable steps to hold departmental audit committee meetings at regular intervals for the settlement of outstanding IRs/paragraphs.

1.7.3 Response of the departments to the draft audit paragraphs

The Chief Secretary, Government of Bihar issued directions (August 1967) to all the departments to send their response to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. As per Paragraph 207(1) of the Regulations on Audit and Accounts, the PAG forwards the draft paragraphs to the Secretaries of the concerned departments through demi-official letters drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non-receipt of the replies from the departments is invariably indicated at the end of each paragraph included in the Audit Report.

Thirty seven draft paragraphs and one performance audit included in this Report for the year ended 31 March 2012 were forwarded to the Secretaries of the concerned departments between July and October 2012 through demi-official letters.

The Principal Secretary, Commercial Taxes Department had sent partial replies of the Performance Audit and the Department also sent the replies to three paragraphs and partial replies to six draft paragraphs, Commissioner-cum-Secretary of the Registration, Excise and Prohibition (Excise) Department had sent partial replies to a draft paragraph and Transport Department had sent reply to one draft paragraph and partial replies to three draft paragraphs. We are yet to receive the replies from the departments in the remaining draft paragraphs (January 2013).

1.7.4 Follow-up on Audit Reports

The Manual of Instructions (1998) of the Finance Department, Government of Bihar envisaged that the Secretaries to Government of the concerned departments submit explanatory notes to the Assembly Secretariat on audit paras and performance audits included in Audit Reports (AR). Such notes were required to be submitted after vetting in audit within two months from the date of presentation of the ARs to the State Legislature without waiting for any notice or call from the Public Account Committee (PAC).

We reviewed the position and found that as of November 2012, 10 departments had not furnished the explanatory notes in respect of 71 paragraphs included in the Audit Reports for the years between 1990-91 and 2010-11 for vetting. The delay ranged from one month to over 18 years as mentioned below:

Sl. No.	Department	Year of Audit Report	Month in which the Audit Report presented in the Legislature	Month in which Departmental notes were due	Number of paragraphs for which Departmental notes were due	Delay in months
1.	Finance	2004-05	March 2006	May 2006	1	78
2.	Commercial Taxes	2005-06 to 2010-11	July 2007 to August 2012	September 2007 to October 2012	34	1 to 62

3.	Registration, Excise and Prohibition (Excise)	1990-91, 1999-2000, 2010-11	March 1994, March 2002, August 2012	May 1994, May 2002, October 2012	3	1 to 222
4.	Revenue and Land Reforms	2004-05 to 2005-06, 2008-09	March 2006 to July 2007, July 2010	May 2006 to September 2007, September 2010	4	26 to 78
5.	Registration, Excise and Prohibition (Registration)	2003-04, 2008-09, 2010-11	Dec. 2005, July 2010, August 2012	February 2006, September 2010, October 2012	5	1 to 81
6.	Transport	2000-01, 2010-11	Dec. 2003, August 2012	February 2004, October 2012	7	1 to 105
7.	Forest and Environment	2005-06 to 2007-08	July 2007 to July 2009	September 2007 to September 2009	6	14 to 62
8.	Water Resources	1995-96, 1997-98, 2005-06 to 2010-11	March 1997, August 1999, July 2007 to August 2012	May 1997, October 1999, September 2007 to October 2012	9	1 to 174
9.	Urban Development	1997-98	August 1999	October 1999	1	157
10.	Road Construction Department	2010-11	August 2012	October 2012	1	1
Total					**71**	

The delay in submission of explanatory notes was indicative of the fact that the heads of the offices/departments did not take prompt action on the important issues highlighted in the Audit Reports that involved large sums of unrealised revenue, the recovery of some of which could be barred by limitation now.

1.7.5 Compliance with the earlier Audit Reports

During the years between 2006-07 and 2010-11, the departments/Government accepted audit observations involving ₹ 1,439.91 crore of which an amount of ₹ 3.57 crore only was recovered as on 31 March 2012 as mentioned below:

(₹ in crore)

Year of Audit Report	Amount involved in the Audit Report	Amount accepted	Amount recovered
2006-07	206.42	61.40	0.82
2007-08	523.80	417.49	1.48
2008-09	838.92	709.78	0.02
2009-10	977.82	96.16	0.04
2010-11	893.61	155.08	1.21
Total	**3,440.57**	**1,439.91**	**3.57**

The above table indicates that the recovery in respect of the accepted cases was meagre (0.25 *per cent*) as compared to the accepted money value.

The Government needs to take necessary steps for prompt recovery of the amounts involved, at least in the accepted cases.

1.8 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 action taken on the paragraphs and reviews included in the Inspection Reports/Audit Reports in respect of **Registration, Excise and Prohibition (Excise) Department** was evaluated. The succeeding paragraphs 1.8.1 and 1.8.2 discuss the performance of the 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 2001-02 to 2010-11.

1.8.1 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 November 2012 are mentioned in the following table:

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IRs	Para graphs	Money value	IRs	Para graphs	Money value	IRs	Para graphs	Money value	IRs	Para graphs	Money value
2001-02	116	733	28 .37	20	195	40.15	Nil	Nil	Nil	136	928	68.52
2002-03	136	928	68.52	28	91	0.13	Nil	Nil	Nil	164	1,019	68.65
2003-04	164	1,019	68.65	20	106	4.56	Nil	Nil	Nil	184	1,125	73.21
2004-05	184	1,125	73.21	35	175	43.23	Nil	Nil	Nil	219	1,300	116.44
2005-06	219	1,300	116.44	34	165	149.33	Nil	Nil	Nil	253	1,465	265.77
2006-07	253	1,465	265.77	27	108	86.23	11	77	15.28	269	1,496	336.72
2007-08	269	1,496	336.72	30	126	109.98	Nil	Nil	Nil	299	1,622	446.70
2008-09	299	1,622	446.70	21	48	20.29	Nil	Nil	Nil	320	1,670	466.99
2009-10	320	1,670	466.99	42	168	346.15	1	12	11.05	361	1,826	802.09
2010-11	361	1,826	802.09	42	161	349.44	Nil	4	0.10	403	1,983	1,151.43

In view of heavy accumulation of pending IRs/paragraphs, the responsibility of disposal of pending IRs and paragraphs upto the year 1995-96 was left to the Department (August 2006) except in cases of outstanding paragraphs (Audit Reports), performance audits, cases pending in Hon'ble courts and cases of defalcation in which the final decision rests with the PAC/Hon'ble Courts.

1.8.2 Assurance given by the Department/Government on the issues highlighted in the Audit Report

1.8.2.1 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years and those accepted by the Department are mentioned below:

Year of AR	Number of paragraphs included in AR	Money value of the paragraphs (₹ in crore)	Number of paragraphs accepted	Money value of accepted paragraphs (₹ in crore)	Position of recovery in accepted cases as reported by the Department (₹ in lakh)
2001-02	4	23.96	3	8.60	118.21
2002-03	1	78.95	1-Partial	0.49	153.64

2003-04	5	6.08	Nil	Nil	20.00
2004-05	3	11.65	Nil	Nil	Nil
2005-06	3	26.91	Nil	Nil	Nil
2006-07	9	80.86	1	0.88	3.13
2007-08	4	53.85	Nil	Nil	35.88
2008-09	2	123.57	Nil	Nil	Nil
2009-10	1	105.68	1-Partial	10.72	3.02
2010-11	1	4.35	Nil	Nil	Nil
Total	**33**	**515.86**	**6**	**20.69**	**333.88 or, 3.34 crore**

The preceding table shows that out of ₹ 515.86 crore involved in 33 paragraphs included in the Audit Reports for the years 2001-02 to 2010-11, the Government/Department accepted ₹ 20.69 crore involved in six (two partial) paragraphs against which recovery of ₹ 3.34 crore (16.14 *per cent*) could only be effected.

The Government/Department may take effective steps for recovery of Government revenue in accepted cases.

1.8.2.2 Action taken on the recommendations accepted by the departments/Government

The draft reports on performance audits conducted by the PAG are forwarded to the concerned departments/Government for their information with a request to furnish their replies. These reports on performance audits are also discussed in an exit conference and the departments/Government's views are included while finalising the performance audits for the Audit Reports.

Two performance audits containing eight recommendations were featured in the Audit Reports for the years 2002-03 and 2009-10 on receipts of State Excise Department. We are yet to receive any information regarding acceptance of the recommendations and action taken thereon (August 2012) as detailed below:

Year of AR	Name of the performance audits	Number of recommendations
2002-03	Working of State Excise Department	3
2009-10	Levy and collection of State Excise revenue	5

1.9 Audit Planning

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

During the year 2011-12, the audit universe comprised of 951 auditable units, of which we audited 185 units as mentioned below:

Sl. no.	Principal heads of revenue	Total no. of units	No. of units audited
1.	Commercial Taxes	55	40
2.	State Excise	49	24
3.	Taxes on Vehicles	48	34
4.	Stamps and Registration Fees	139	33
5.	Land Revenue	612	29
6.	Non-ferrous Mining and Metallurgical Industries	48	25
Total		**951**	**185**

Besides the compliance audit mentioned above, we also conducted a performance audit namely **'Internal Control Mechanism in Commercial Taxes Department'** to examine the efficacy of the tax administration of these receipts which are featured in this Audit Report.

1.10 Results of audit

1.10.1 Position of local audit conducted during the year

We conducted test-check of the records of 185 units of commercial taxes, State excise, taxes on vehicles, land revenue, non-ferrous mining and metallurgical industries and other departmental offices for the year 2011-12 and observed underassessment/short levy/loss of revenue of ₹ 1,369.51 crore in 1,816 cases. During the course of the year, the departments concerned accepted underassessment and other deficiencies of ₹ 246.47 crore involved in 499 cases of which 88 cases involving ₹ 24.89 crore were pointed out in audit during 2011-12 and the rest in the earlier years. The departments collected ₹ 2.32 crore in 47 cases during 2011-12.

1.10.2 This Report

This report contains 37 paragraphs (selected from the audit detections made during the local audit referred to above and during earlier years which could not be included in the earlier reports) and one performance audit on **'Internal Control Mechanism in Commercial Taxes Department'** relating to short/non-levy of tax, duty and interest, penalty *etc.* involving financial effect of ₹ 568.99 crore. The departments/Government have accepted audit observations involving ₹ 64.94 crore out of which ₹ 47.05 lakh has been recovered. These paragraphs/performance audit are discussed in the succeeding chapters II to VI.

CHAPTER - II

COMMERCIAL TAXES

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present a performance audit on **'Internal control Mechanism in Commercial Taxes Department'** with financial impact of ₹ 68.68 crore and a few illustrative cases of ₹ 193.10 crore including leviable penalty and interest selected from observations noticed during our test-check of records relating to non/short levy, non/short realisation, underassessment etc., in the offices of the Commercial Taxes Department, where we found that the provisions of the Acts/Rules were not observed. It is a matter of concern that similar omissions had been pointed out by us repeatedly in the Audit Reports in the past years, but the Department did not take corrective action till we pointed out the same mistakes. We are also concerned that though these omissions were apparent from the records which were made available to us, the Assessing Authorities (AAs) were unable to detect these mistakes in due course.
Increase in tax collection	In 2011-12, the contribution of receipts from taxes on sales, trade etc. increased substantially in the total tax receipts of the State which requires to be maintained in the future years. The reason for increase was attributed by the Department to the enhancement of rate of tax from four to five *per cent* for schedule-III goods and 12.5 to 13.5 *per cent* for unscheduled goods.
Decrease in collection of arrears	During 2011-12, there was substantial decrease (52.74 *per cent*) in the collection of arrears of revenue in respect of commercial taxes as compared to 2010-11.
Very low recovery by the Department in respect of observations pointed out by us in earlier years	During the period from 2006-07 to 2010-11, we had pointed out 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 ₹ 3,946.14 crore in 3,241 cases in respect of taxes on sales, trade etc. Of these, the Department/Government had accepted audit observations in 1,130 cases involving ₹ 1,599.97 crore and had since recovered ₹ 1.54 crore. This negligible recovery of ₹ 1.54 crore (0.10 *per* cent) against accepted cases involving ₹ 1,599.97 crore indicates lack of promptness on the part of the Government/Department in recovering the Government dues.
Internal audit not conducted	During the year 2011-12, the Commercial Taxes Department did not select any unit for internal audit. This shows weakness in the internal control mechanism leading to omissions on the part of AAs, which could not be detected till our audit and consequently there was substantial leakage of revenue.
Results of audit conducted of the units for the year 2011-12	In the course of audit of the records of 40 units relating to commercial taxes for the year 2011-12, we found underassessment of taxes and other irregularities involving ₹ 626.82 crore in 1,025 cases. The Department accepted underassessment and other deficiencies of ₹ 66.99 crore in 178 cases, which were pointed out during the earlier years. An amount of ₹ 2.23 crore was realised in 40 cases during the period.
Our conclusion	The Department needs to improve the internal control system so that weaknesses in the system are addressed and omissions detected by us are avoided in future. It also needs to take appropriate steps to recover the amount involved, at least in accepted cases.

CHAPTER-II: COMMERCIAL TAXES

2.1.1 Tax administration

The levy and collection of commercial taxes[1] in the State is governed by the provisions of the following Acts and Rules made there under;

- Central Sales Tax (CST) Act, 1956;
- Bihar Value Added Tax (BVAT) Act, 2005;
- Bihar Tax on entry of goods into local areas (BTEG) Act, 1993;
- Bihar Entertainment Tax Act, 1948;
- Bihar Taxation on Luxuries in Hotels Act, 1988;
- Bihar Electricity Duties Act, 1948
- Bihar Tax on Professions, Trade, Callings and Employments Act, 2011 and
- Bihar Tax on Advertisement Act, 2007.

It is administered by the Commercial Taxes Department which is headed by the Commissioner of Commercial Taxes (CCT). In the exercise of his functions, the CCT is assisted by five Additional Commissioners, three Joint Commissioners of Commercial Taxes (JCCT), 10 Deputy Commissioners of Commercial Taxes (DCCT)/Assistant Commissioners of Commercial Taxes (ACCT) and five Commercial Taxes Officers (CTOs) at the headquarters level including the Bureau of Investigation wing. At the field level the State is divided into nine[2] administrative divisions, seven[3] appeal divisions and four[4] audit divisions, each headed by a JCCT. The nine administrative divisions are further sub-divided into 49 circles each headed by a DCCT/ACCT assisted by CTOs. The circle is the basic activity centre of the Department.

2.1.2 Trend of receipts

2.1.2.1 Taxes on Sales, Trade *etc.*

The variation between budget estimates (BEs) and actual receipts from Taxes on Sales, Trade etc. during the period 2007-08 to 2011-12 along with the total tax receipts during the same period is mentioned below:

---

1 Commercial taxes include taxes on Sales, Trade etc., Taxes on Goods and Passengers; Taxes and Duties on Electricity; Other Taxes on Income and Expenditure -Taxes on Professions, Trades, Callings and Employment and Other Taxes and Duties on Commodities and Services.

2 Bhagalpur, Central, Darbhanga, Magadh, Patna East, Patna West, Purnea, Saran and Tirhut.

3 Bhagalpur, Central, Darbhanga, Magadh, Patna, Purnea and Tirhut.

4 Bhagalpur, Magadh, Patna and Tirhut.

(₹ in crore)

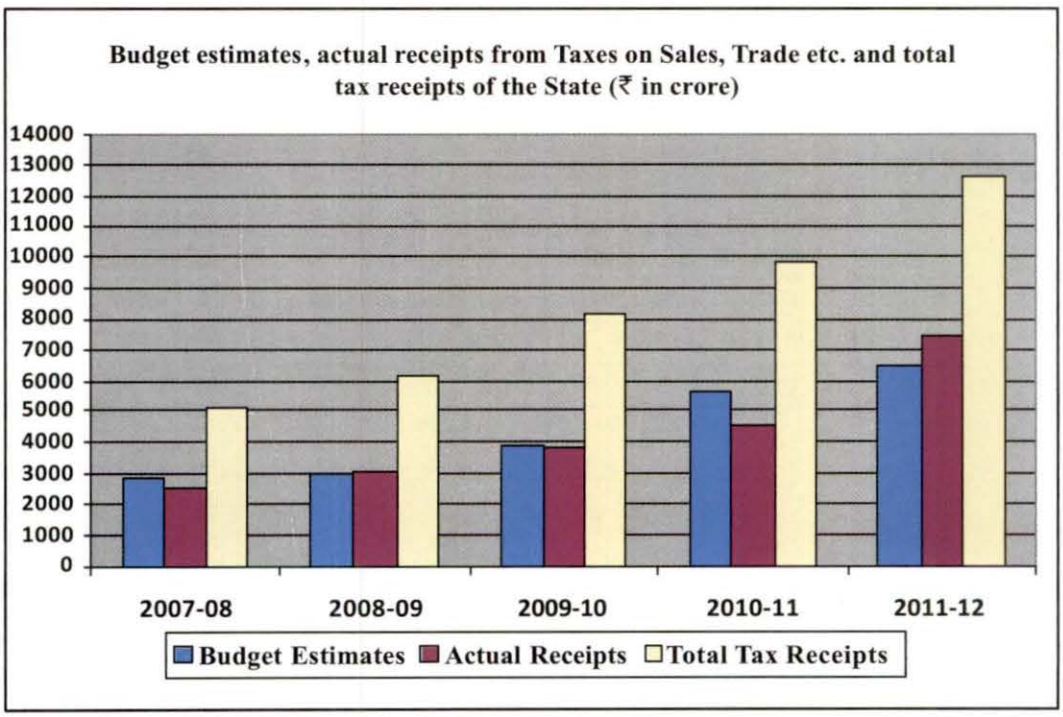
Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts from Taxes on Sales, Trade etc. (col.-3)vis-à-vis total tax receipts (col.-6)
1	2	3	4	5	6	7
2007-08	2,879.93	2,534.80	(-)345.13	(-)11.98	5,085.53	49.84
2008-09	2,937.72	3,016.47	(+)78.75	(+)2.68	6,172.74	48.87
2009-10	3,948.03	3,839.29	(-) 108.74	(-) 2.75	8,089.67	47.46
2010-11	5,627.69	4,557.18	(-)1,070.51	(-)19.02	9,869.85	46.17
2011-12	6,508.00	7,476.36	(+) 968.36	(+)14.88	12,612.10	59.28

(Source: Revenue and Capital Receipt,(Detail): Finance Accounts, Government of Bihar)

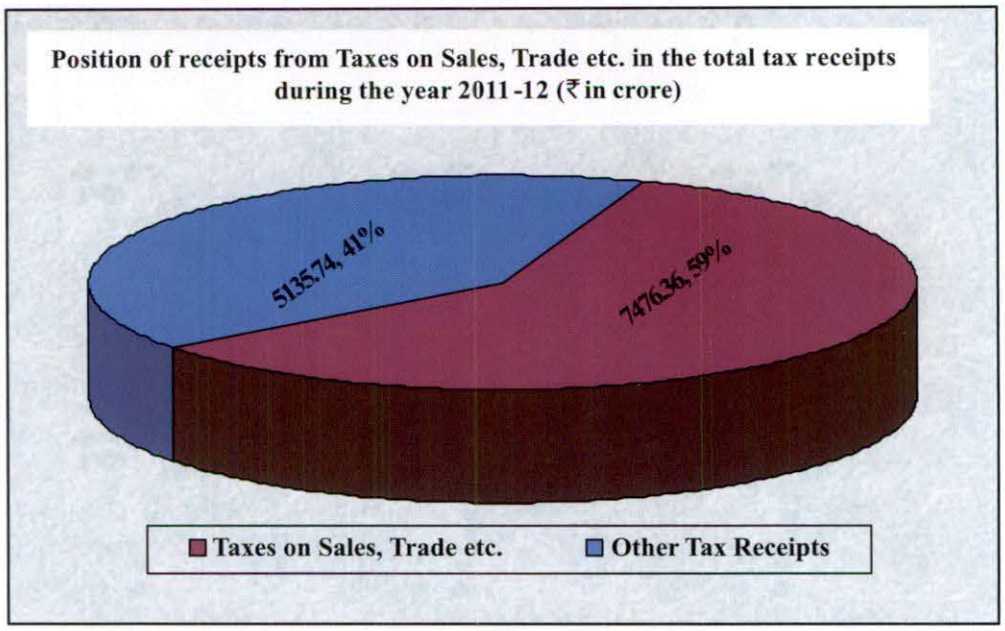
The above table indicates that though the receipts under Taxes on Sales, Trade etc. increased during the period from 2007-08 to 2011-12, the percentage of these receipts in comparison to the total tax receipts of the State during the period from 2007-08 to 2010-11 consistently decreased while in 2011-12 the contribution of receipts from Taxes on Sales, Trade etc. to the total tax receipts of the State, increased substantially which requires to be maintained in the subsequent years.

The reason for variation in BEs and actual receipts during 2011 - 12 was attributed to enhancement of rate of tax from four to five *per cent* for schedule-III goods and 12.5 to 13.5 *per cent* for unscheduled goods.

The trend of receipts vis-á-vis the BEs and total tax receipts is given in the following bar diagram:



The following pie chart depicts the contribution of receipts from Taxes on Sales, Trade etc. to the total tax receipts (₹ 12,612.10 crore) of the State during 2011-12:



2.1.2.2 Entry tax

The variation between BEs and actual receipts from entry tax during the period 2007-08 to 2011-12 along with the total tax receipts during the same period is mentioned in the following table:

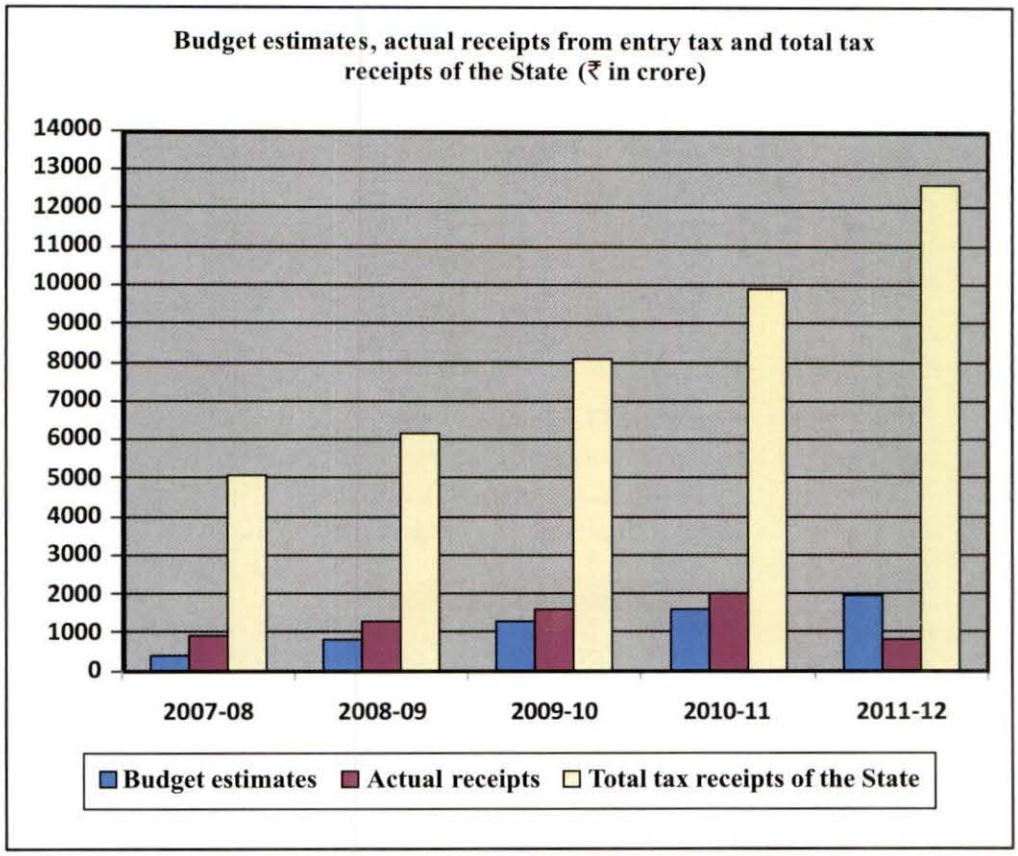
(₹ in crore)

Year	Budget estimates	Actual receipts	Variation	Percentage of variation	Total tax receipts of the State	Percentage of actual entry tax receipts (col.-3) vis-à-vis total tax receipts (col.-6)
1	2	3	4	5	6	7
2007-08	381.33	937.87	556.54	145.95	5,085.53	18.44
2008-09	825.00	1,279.41	454.41	55.08	6,172.74	20.73
2009-10	1,270.00	1,613.16	343.16	27.02	8,089.67	19.94
2010-11	1,623.76	2,006.32	382.56	23.56	9,869.85	20.33
2011-12	1,940.00	828.30	(-)1,111.70	(-) 57.30	12,612.10	6.57

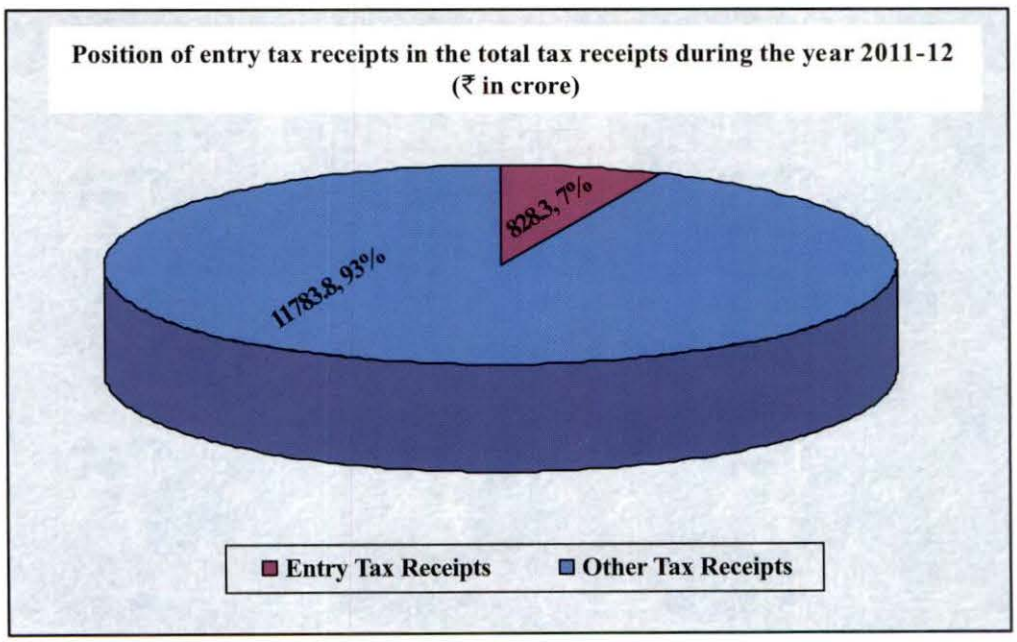
(Source: Revenue and Capital Receipt,(Detail): Finance Accounts, Government of Bihar)

The above table indicates that there was huge decline in the actual receipts against BEs during 2011-12, which needs the Government to look into.

The trend of receipts vis-á-vis the BEs and total tax receipts is given in the following bar diagram:



The following pie chart depicts the contribution of entry tax receipt to the total tax receipts (₹12,612.10 crore) of the State during 2011-12:



2.1.3 Analysis of arrears of revenue

The arrears of revenue in respect of commercial taxes as on 31 March 2012 amounted to ₹ 1,216.42 crore, of which ₹ 379.96 crore was outstanding for more than five years. The following table depicts the position of arrears of revenue during the period 2007-08 to 2011-12.

(₹ in crore)

Year	Opening balance of arrears	Addition during the year	Amount collected during the year	Closing balance of arrears
2007-08	994.17	165.67	196.01	963.83
2008-09	963.83	212.08	168.66	1,007.25
2009-10	1,007.25	463.68	112.15	1,358.78
2010-11	1,358.78	129.07	546.24	941.61
2011-12	941.61	532.99	258.18	1,216.42

(Source: Information furnished by the Department)

The above table shows that there was substantial decrease (52.74 *per cent*) in the collection of arrears of revenue in respect of commercial taxes during 2011-12 as compared to 2010-11. The Department needs to take effective steps in realising the arrears of revenue.

2.1.4 Cost of collection

The gross collection of commercial taxes[5], expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2007-08 to 2011-12 along with the relevant all-India average percentage of expenditure on collection to gross collections for the relevant previous years are mentioned below:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All-India average percentage for the previous year
2007-08	3,550.65	42.73	1.20	0.82
2008-09	4,377.92	46.67	1.07	0.83
2009-10	5,541.00	48.84	0.88	0.88
2010-11	6,653.37	57.23	0.86	0.96
2011-12	8,414.43	66.17	0.79	0.75

(Source: Finance Accounts, Government of Bihar)

The above table indicates that the percentage of expenditure to gross collection in respect of commercial taxes revenue during 2009-10 and 2010-11 were at par/below the all-India average percentage for the previous years, while in 2011-12 it was higher than the all-India average percentage for the year 2010-11. The Government needs to take appropriate measures to bring down the cost of collection and keep it below the all-India average.

2.1.5 Assessee profile

As reported by the Department the total number of registered dealers in the State as on 31 March 2012 was 1,92,645 of which 53,340[6] dealers were

5 Gross collection by the Commercial taxes Department include Taxes on Sales, Trade etc., Taxes on Goods and Passengers; Taxes and Duties on Electricity; Other Taxes on Income and Expenditure-Taxes on Professions, Trades, Callings and Employment and Other Taxes and Duties on Commodities and Services.

6 Number of dealers paying tax more than ₹ 10,000-28,762 (large tax payer).
Number of dealers paying tax up to ₹ 10,000-24,578 (small tax payer).

taxpayers. Out of the remaining 1,39,305 dealers, 75,200[7] dealers were not filing returns, against whom action under Section 24(8) of BVAT Act, 2005 has been taken.

2.1.6 Analysis of collection

The break-up of the total collection at the pre-assessment stage/scrutiny and after regular assessment/scrutiny of Taxes on Sales, Trade *etc.* during the year 2011-12 and the corresponding figures for the preceding four years as furnished by the Commercial Taxes Department is mentioned in the following table:

(₹ in crore)

Year	Amount collected at pre-assessment stage/ scrutiny	Amount collected after regular assessment/ scrutiny	Penalty for delay in payment of taxes and duties	Amount refunded	Net collection as per Department	Net collection as per Finance Accounts	Percentage of column 2 to 7
1	2	3	4	5	6	7	8
2007-08	2,537.11	39.86	2.24	38.00	2,538.97	2,534.80	100.09
2008-09	3,049.18	54.22	1.04	38.92	3,065.52	3,016.47	101.08
2009-10	3,793.15	50.25	1.40	19.86	3,823.54	3,839.29	98.80
2010-11	4,564.98	25.81	2.24	10.80	4,590.79	4,557.18	100.17
2011-12	5,556.18	186.65	2.08	36.99	5,705.84	7,476.36	74.32

The percentage of tax collected before assessment/scrutiny during 2007-08 to 2010-11 reflects voluntary compliance with the provisions of the Acts/Rules by the dealers. However, it declined significantly during 2011-12, which requires to be looked into by the Department/Government.

2.1.7 Impact of audit

Revenue impact

During the period from 2006-07 to 2010-11, we have pointed out 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.*, through our inspection reports, with revenue implication of ₹ 3,946.14 crore in 3,241 cases in respect of Taxes on Sales, Trade *etc.* Of these, the Department/Government had accepted audit observations in 1,130 cases involving ₹ 1,599.97 crore. The recovery, however, was just ₹ 1.54 crore in 238 cases as shown in the following table:

(₹ in crore)

Year	No. of units audited	Pointed out		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2006-07	40	365	62.82	76	2.12	Nil	Nil
2007-08	36	479	315.60	70	2.64	-	0.14

[7] As reported by the Department (August 2012), registration of 47,266 dealers were cancelled during 2011-12 due to non-filling of returns and some other reasons.

2008-09	41	408	665.33	42	616.26	15	0.08
2009-10[8]	36	882	1,263.56	806	920.97	110	0.52
2010-11[9]	48	1,107	1,638.83	136	57.98	113	0.80
Total	**201**	**3,241**	**3,946.14**	**1,130**	**1,599.97**	**238**	**1.54**

This negligible recovery of ₹ 1.54 crore (0.10 *per cent*) against accepted cases involving ₹ 1,599.97 crore indicates lack of promptness on the part of the Government/Department in recovering the Government dues.

We recommend that the Government may take appropriate steps to recover the amounts involved, at least in the accepted cases.

2.1.8 Working of internal audit wing

The internal audit wing called Finance (Audit) works under the Finance Department. The internal audit of the different offices of the Government is conducted on the basis of requisitions received from the administrative departments. However, the Finance Department did not furnish information regarding the number of offices due for audit, audit conducted, number of observations issued and the amounts involved, to us. In Commercial Taxes Department, there were four audit divisions responsible for ascertaining the correctness of accounts maintained by the dealers selected by the CCT. In 2011-12, the Department did not select any unit for internal audit.

2.1.9 Results of audit

In the course of audit of the records of 40 units relating to commercial taxes for the year 2011-12, we found underassessment of taxes and other irregularities involving ₹ 626.82 crore in 1,025 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	**'Internal Control Mechanism in Commercial Taxes Department' (A Performance Audit)**	**1**	**68.68**
	A : Taxes on Sales, Trade *etc.*		
2.	Non-levy/short levy of tax	21	9.51
3.	Suppression of turnover taxes	178	88.80
4.	Excess allowance of Input Tax Credit (ITC)	85	90.69
5.	Underassessment of Central Sales Tax (CST)	16	1.91
6.	Irregular allowance of exemption from tax	137	40.89
7.	Irregular allowance of concessional rate of tax	7	0.96
8.	Excess claim of deduction	72	18.22
9.	Application of incorrect rate of tax	77	21.15
10.	Short levy of tax due to incorrect determination of turnover	18	3.34
11.	Non-levy of penalty for excess collection of tax/mistake in computation	20	0.73
12.	Non-levy of purchase tax	6	0.15

8 Figures for the year 2009-10 also include the data relating to entry tax.

9 Figures for the year 2010-11 also include the data relating to entry tax and entertainment tax.

13.	Excess claim of adjustment of entry tax towards VAT	58	14.27
14.	Other cases	168	22.71
Total		**863**	**313.33**
B : Entry Tax			
1.	Non/short levy of entry tax due to suppression of import value	36	13.52
2.	Application of incorrect rate of entry tax	25	17.72
3.	Other cases	94	212.48
Total		**155**	**243.72**
C : Entertainment tax/Luxury tax			
1.	Non/short levy of entertainment tax	2	0.63
2.	Other cases	4	0.46
Total		**6**	**1.09**
Grand total		**1,025**	**626.82**

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 66.99 crore in 178 cases which were pointed out during the earlier years and an amount of ₹ 2.23 crore was realised in 40 cases.

Audit findings of the Performance Audit on **'Internal control Mechanism in Commercial Taxes Department'** with financial impact of ₹ 68.68 crore and a few other illustrative audit observations involving ₹ 193.10 crore including leviable penalty and interest are mentioned in the succeeding paragraphs.

2.2 Performance Audit on 'Internal Control Mechanism in Commercial Taxes Department'

Highlights

Issuance of notification for reduction of rate of VAT from 12.5 *per cent* to four *per cent* on a commodity without the approval of the competent authority resulted into loss of revenue of ₹ 43.96 crore.

(Paragraph 2.2.7.1)

The rate of entry tax on stone chips, stone boulders and stone ballast was reduced on wrong premise from eight *per cent* to four *per cent* resulting into loss of revenue of ₹ 20 crore.

(Paragraph 2.2.7.2)

Many notifications were issued not as per the authority and procedures laid down under the existing laws.

(Paragraphs 2.2.7.3 to 2.2.7.6)

Due to no follow up action on a letter of the Ministry of Finance, Government of India, despite the Minister's directives, the State Government is losing substantial amount of revenue.

(Paragraph 2.2.8)

A total of 344 cases were pending for *suo-motu* revision in the CCT court involving ₹ 135.52 crore and 953 cases involving ₹ 623.92 crore was pending in the Appellate courts as on March 2012.

(Paragraph 2.2.9)

There was low coverage of dealers for VAT audit by the Department and the criteria for selection of dealers for VAT audit for 2010 -11 was flawed. Absence of Audit plan/control registers affected the audit process.

(Paragraph 2.2.10.2)

No periodicity/target was prescribed/fixed for conducting survey and inspections.

(Paragraph 2.2.12.1)

In 16 test-checked circles, 36.38 to 46.29 *per cent* of the registered dealers had not filed their returns during the year 2007-08 to 2011-12 and about 37 to 60 *per cent* returns filed by the dealers remained un-scrutinised.

(Paragraph 2.2.12.5)

Deficient/non-scrutiny of returns by the AAs resulted in availing of deduction without proper substantiation and under-assessment of VAT and CST of ₹ 29.71 crore.

(Paragraph 2.2.12.5)

Cross-verification of transactions revealed availing of excess ITC and suppression of turnover under VAT and Entry tax .

(Paragraphs 2.2.13.1 to 2.2.13.3)

2.2.1 Introduction

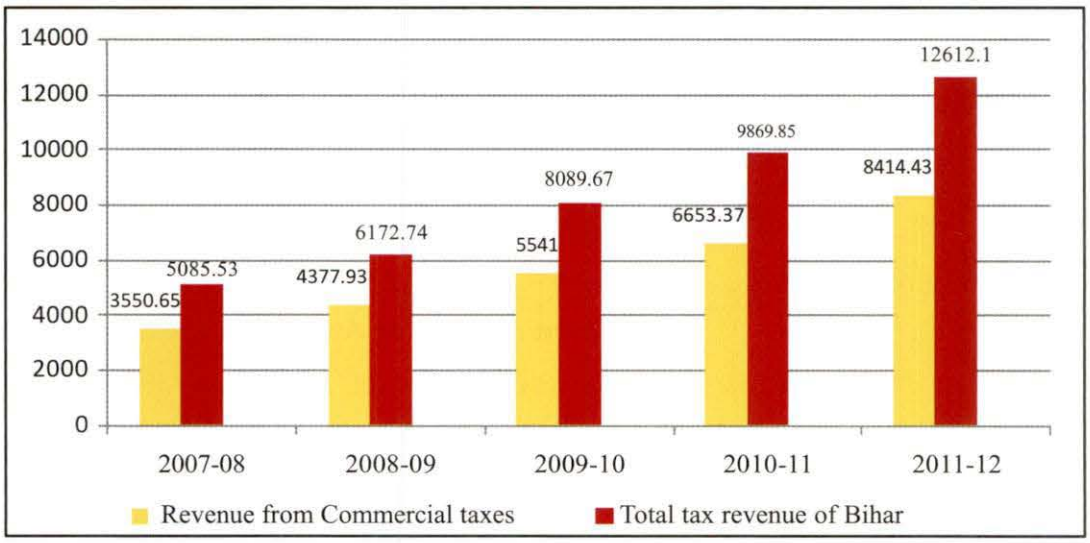
Internal control is an integral component of an organisation's management processes, which is established in order to provide reasonable assurance that the operations are being carried out effectively and efficiently, financial reports and operational data are reliable and the applicable laws and regulations are being complied with, so as to achieve organisational objectives. The internal controls also help in creation of adequate safeguards against evasion of taxes, duties and other irregularities.

The Commercial Taxes Department of Bihar is entrusted with the administration of the eight Statutes, viz. Bihar Value Added Tax Act, 2005, Central Sales Tax Act, 1956, Bihar Entertainment Tax Act, 1948, Bihar Electricity Duty Act, 1948, Bihar Advertisement Tax Act, 2007, Bihar Taxation on Luxuries in Hotels Act, 1988, Bihar Tax on Entry of Goods into Local Area for Consumption, Use or Sale therein Act, 1993 and Bihar Tax on professions, Trades, Callings and Employments Act, 2011. It contributes almost two third of the tax revenue of the Government of Bihar. The share of Department in collection of tax revenue can be seen in the chart below:

Chart-I

Tax revenue of Bihar and taxes collected by Commercial Taxes Department

(₹ in crore)



(Source:- Finance Accounts of Government of Bihar)

As evident from the table above, the Department holds an important position in revenue realisation of the State. To evaluate the safeguards in Internal Control System of the functioning of the Department against evasion of taxes, duties and other irregularities, the Performance Audit has been conducted.

2.2.2 Organisational set up

At the apex level, Principal Secretary-cum-Commissioner Commercial Taxes (CCT) is head of the Department. He is responsible for the administration of the Acts and Rules in the Department. In the exercise of his functions, the CCT is assisted by five Additional Commissioners, three Joint Commissioners of Commercial Taxes (JCCT), 10 Deputy Commissioners of Commercial

Taxes (DCCT)/ Assistant Commissioners of Commercial Taxes (ACCT) and five Commercial Taxes Officers (CTOs) at the headquarters level including the Bureau of Investigation (IB) wing. At the field level the State is divided into nine[10] administrative divisions (including divisional IB), seven[11] appeal divisions and four[12] audit divisions, each headed by a JCCT. The nine administrative divisions are further sub-divided into 49 circles each headed by a DCCT/ACCT assisted by CTOs.

2.2.3 Audit Objectives

The Performance Audit aims to ascertain whether:

- The provisions set out in Acts, Rules, Statues and Regulations etc. are well understood and properly followed;
- There exists an effective and adequate internal control mechanism and monitoring in the Government/Department and the control tools prescribed therein are actually being utilised;
- The circulars/orders/instructions issued from time to time with regard to tax administration are being duly complied with;
- The criteria for selection of dealers for assessment/VAT audit by the Department is in place and duly complied with;
- There exists an effective internal audit system.

2.2.4 Audit Criteria

The Audit criteria for the performance audit have been derived from the following sources:

- Bihar Value Added Tax Act, 2005;
- Central Sales Tax Act, 1956;
- Bihar Entertainment Tax Act, 1948;
- Bihar Electricity Duty Act, 1948;
- Bihar Tax on Entry of Goods into Local Area for Consumption, Use or Sale therein Act, 1993;
- The Rules made under the aforesaid Acts, executive and departmental orders and instructions issued from time to time;
- Rules of Executive Business, 1979.

2.2.5 Scope and methodology of audit

A Performance Audit was conducted between April and August 2012 to ascertain the adequacy and efficacy of the functioning of the internal control measures with respect to the Department covering the period 2007-08 to 2011-12 from the highest level controls to lower level controls and therefore

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10 Bhagalpur, Central, Darbhanga, Magadh, Patna East, Patna West, Purnea, Saran and Tirhut.

11 Bhagalpur, Central, Darbhanga, Magadh, Patna, Purnea and Tirhut.

12 Bhagalpur, Magadh, Patna and Tirhut.

records of the office of the CCT, Bihar including IB Headquarters, three Divisional IBs (Darbhanga, Tirhut and Patna east and west), two appellate divisions (Tirhut and Patna east and west), two Audit Divisions (Tirhut and Patna) and 16[13] out of 49 circles in the State have been examined and the relevant information were procured. The division having most number of circles were selected while in selecting the circles, two highest revenue earning circles of each of the seven divisions and the highest revenue earning circle of the remaining two divisions were selected for performance audit so as to restrict number of circles to 16.

2.2.5.1 Acknowledgement

Indian Audit and Accounts Department acknowledges the cooperation of the Commercial Taxes Department in providing the necessary information and records to Audit. An entry conference was held with the Additional Commissioner Commercial taxes on 2 May 2012 in which the audit objectives, scope and methodology of audit were explained to the Government/Department. The findings of the Performance Audit were forwarded to the Government in October 2012 for their response. An exit conference was held on 4 December 2012 with the Joint Commissioner Commercial taxes in which the audit findings were discussed. The Minutes of the Exit Conference was not returned back to us by the Department despite pursuance and issue of reminders.

2.2.6 Man-power Position

Section 10 (1) of the Bihar Value Added Tax (BVAT) Act, 2005, provides for the name of authorities to be appointed by the State Government, for carrying out the purposes of this Act. Section 10 (3) provides that the CCT may appoint Inspectors of Commercial Taxes.

The post-wise sanctioned strength and men-in-position (as on September 2012) of the Department is given below:

Sl. No.	Name of the post	Sanctioned Posts	Actual posts (Men-in-position)	Vacancy
1.	Additional Commissioner	05 + 01[14]	01	05
2.	Joint Commissioner	23	16	07
3.	Deputy Commissioner	54	38	16
4.	Assistant Commissioner	147	108	39
5.	Commercial Taxes Officer	295	166	129
Total		**525**	**329**	**196**

(Source: Information furnished by the Department)

It was evident from the above table that there was a vacancy of 184 officers (37 *per cent*) in the post of DCCT/ACCT and CTOs who are mainly responsible for operational functions of the Department. Such a huge vacancy

13 Barh, Begusarai, Bettiah, Bhagalpur, Danapur, Darbhanga, Gaya, Hajipur, Katihar, Muzaffarpur west, Patliputra, Patna North, Patna south, Patna special, Purnea and Sasaram.

14 Ex-cadre post.

may adversely affect the functioning of the Department. Audit analysis further revealed that despite the increased activity of the Department, the sanctioned post remained the same during the period from 2007-08 to 2011-12 and no posts of inspector was created by the Department as of September 2012.

After we pointed this out, the Government accepted (January 2013) the audit observation and stated that presently there is shortage of man-power in Commercial Taxes Department. Despite this constraint, revenues of the Department increased nearly fourfold during the period of last seven years. However, steps are being initiated for filling up the vacancies and to enhance the sanctioned strength of the Department and creation of post for inspectors.

2.2.7 Absence of internal control mechanism while issuing the notifications

2.2.7.1 Issue of notification without approval of the competent authority

Notification no. S.O. 77 dated 13 September 2007

As per proviso to Rule 10 of the Rules of Executive Business, no case in regard to which Finance Department is required to be consulted under Rule 12 shall, be discussed by the Council of Ministers unless the Finance Minister has had opportunity for its consideration. Under the provision of Rule 12, no Department shall without previous consultation with the Finance Department authorise any orders which in anyway involve any relinquishment of revenue. Further, Rule 35 provides that the Finance Department shall be consulted before the issue of orders upon all proposals which affect the finances of the State and in particular proposals involving abandonment of revenue. Further, Rule 18(1) of the Rules *ibid* provides that when it has been decided to bring a case before the Council of Ministers, the Department to which the case belongs shall, prepare a memorandum, indicating with sufficient precision the salient facts of the case and the points for decision stating the main arguments for and against the particular course advocated, without over-stressing the advantages or under-stressing the disadvantages to suit the view finally recommended.

During test-check of records in the office of the CCT, we observed in June 2012 that a notification was issued to include "stone chips, stone boulders and stone ballast" into schedule-III[15] of the Bihar Value Added Tax (BVAT) Act, 2005 on 13 September 2007. As a result the aforesaid goods which prior to this notification were subject to VAT at the rate of 12.5 *per cent* (being unspecified item) became subject to VAT at the rate of four *per cent*.

We observed that there was no proposal for reduction of VAT on stone chips, stone boulders and stone ballast from 12.5 *per cent* to four *per cent* from the Commercial Taxes Department. There was no approval and concurrence of the Finance Department for inclusion of these goods in the said notification. The memorandum approved by the Cabinet had also no proposal for amendment in change of rate of VAT on stone chips, stone boulders and

15 Schedule-III- Having commodities taxable at the rate of four *per cent* upto 2010-11 and five *per cent* thereafter.

stone ballast. Despite that, these goods were added into schedule-III through the said notification.

Thus, the notification was issued without the approval of the competent authority and consequently the State exchequer had to sustain loss of revenue on account of VAT amounting to ₹ 43.96 crore during the period from October 2007 to July 2012, worked out on the basis of the difference of rate of tax of 8.5 *per cent* and comparing them with actual realisation of tax on the stone chips, stone boulder and stone ballast at the rate of four-five *per cent* as shown by the Department.

After we pointed this out, the Government stated (January 2013) that the notification no. S.O. 77, dated 13 September, 2007 to reduce VAT rate on stone chips, stone boulders and stone ballast was issued without obtaining the approval of the Cabinet. However, there was no malafide or extraneous consideration for issuing the above notification. Necessary steps would be taken to rectify the defects.

Notification no. S.O. 65 dated 3 July 2008

- The rates of "Plywood, Block board and Flush door including log, plank, veneer, bim and non-sal timber required for their manufacture" were reduced from 12.5 *per cent* to four *per cent*. We observed that reduction of VAT rate on veneer, splint and non-sal soft wood was proposed by the Department as per the Budget speech but the direction of the Minister for checking the corresponding entry of veneer, splint etc. in the West Bengal (WB) VAT Act and to mention the same in the Cabinet note was not duly complied with. We noticed that the revenue implication was also not worked out by the Department for these commodities. We further noticed that the memorandum approved by the Cabinet had no mention of "non-sal timber", rather it was "sawn timber". Therefore, "non-sal timber" was included in the notification without the approval of competent authority.

After we pointed this out, the Government stated (January 2013) that it is true that the direction given by the Minister of Commercial Taxes for checking the corresponding entry in the WB VAT Act and Schedules were not complied with. The comparison between the two entries was neither dealt on the file nor suitably addressed in the Cabinet Note. On comparison of the entry contained in the Cabinet proposal and the then existing entry of West Bengal, it is found that 'Block board' was not there in the West Bengal entry. Similarly, while issuing notification, 'non-sal timber' was mentioned in the notification while approval of the Cabinet was obtained for 'sawn timber'.

- During scrutiny of files pertaining to the notifications issued in December 2009 in the office of the CCT, we observed that a notification was issued to amend serial number 45 of the schedule-III of the BVAT Act.

Notification no. S.O. 289 dated 17 December 2009

We observed that though the Hindi version of the notification had no mention of "Isabgul", the English version contained the name of "Isabgul". The memorandum sent to the Council of Minister, which was approved by them, had also no mention of the aforesaid commodity. It was not proposed for inclusion by the Administrative Department nor was any concurrence given by the Finance Department. Thus, it was evident that the item "Isabgul" was included in the English version of the notification without the approval of competent authority. As a result the rate of isabgul reduced from 12.5 *per cent*

to four *per cent* as per the English version, which created an anomalous situation. A case of application of incorrect rate of tax on isabgul related to Patna north circle has been mentioned in Paragraph 2.6 of this Report.

After we pointed this out, the Government accepted the audit observation and stated (January 2013) that necessary steps would be taken to rectify the defects.

Notification no. S.O. 153 dated 10 June 2011

- A notification was issued in June 2011 to provide exemption, to the existing industrial units that undertake expansion/diversification/ modernisation of their capacity, from payment of Electricity Duty with retrospective effect.

We observed during scrutiny of the file that the 'retrospective effect' was not mentioned in the memorandum approved by the Cabinet. Thus, it was evident that the notification was issued with 'retrospective effect' without the approval of the Cabinet. We also observed that no financial implication was worked out by the Department while proposing the exemption. Thus, undue favour was accorded to the industries.

After we pointed this out, the Government accepted the audit observation and stated (January 2013) that necessary steps would be taken to rectify the defects.

Thus inclusions of goods/entries in the notifications without approval of the competent authority was a serious lapse which pointed towards absence of internal controls towards compliance of the Rule 10, 12 and 18 (1) of the Rules of executive business.

The Government may consider stringent and robust controls for effective compliance of the Rules and procedures to safeguard against such acts.

2.2.7.2 Issue of notifications on wrong premise

Notification no. S.O. 85 dated 13 September 2007

- During test-check of records in the office of the CCT in June 2012, we observed that a notification was issued to reduce the rate of entry tax on 'stone chips, stone boulders and stone ballast" from eight *per cent* to four *per cent*, on 13 September 2007. The primary reason for reduction of the rate of entry tax on the stone chips, as recorded on the file was "to remove the difference between rate of VAT and rate of Entry Tax" on these commodities. The rate of VAT on the stone chips, stone boulders and stone ballast was stated to be at four *per cent* and that of entry tax at eight *per cent* while approving the proposal on the file noting. However, we observed that the prevailing rate of VAT on stone chips was 12.5 *per cent* [16] at the time of according approval (on 11 June 2007) for reduction in Entry Tax rate. The proposal for reduction of rate of Entry Tax on stone chips to bring it at par with the VAT rate on stone chips itself was thus based on wrong premise which led to approval of the proposal of reduction of rate of Entry Tax on stone chips.

Thus, issue of a notification, reducing the rate of Entry Tax on stone chips, stone boulders and stone ballast to four *per cent* based on wrong premise

[16] As per section 14 (1) (d) of BVAT Act, 2005, VAT rate on stone chips was 12.5 *per cent* being goods not specified in any of the schedules i.e. schedule - I, II, III and IV as on 11 June 2007.

resulted into loss of revenue of ₹ 20 crore[17] to the State exchequer during 2008-09 to 2011-12.

After we pointed this out, the Government stated (January 2013) that the proposal for reduction of entry tax rate from eight to four *per cent* was based on wrong premise. However, there was no malafide or extraneous consideration for issuing the above notification. Necessary steps would be taken to rectify the defects.

Notification no. S.O. 65 dated 3 July 2008

- During scrutiny of files pertaining to the notifications issued in July 2008 in the office of the CCT, we observed that the rate of tax on "Plates and Cups made of leaves" was claimed to be reduced from 12.5 *per cent* to zero *per cent* but actually the rate of tax on these commodities was four *per cent* in July 2008 as per entry no. 73 of schedule-III. As a result presently this item is in both the schedule i.e. schedule-I[18] (entry no. 75) as well as schedule-III. Thus, issuance of notification for amendment in the rate of tax on the aforesaid goods was based on wrong premise and hence the intention of the Department to exempt these goods from levy of tax was not fulfilled.

After this was pointed out, the Government accepted the audit observation and stated (January 2013) that necessary steps would be taken to remove the defects.

2.2.7.3 Issuance of notifications under wrong Section

During test-check of records in the office of the CCT the following notifications were issued using the wrong Section of the respective Acts:

Sl. No.	Notification	Gist of notification	Audit Observations
1.	S.O. 9 dated 27 February 2009	Entry tax was exempted on "Paddy, Rice and Wheat".	The notification was issued by using the powers conferred under Section 6[19] instead of 3A[20] of the BTEG Act, to exempt the commodities without assigning any class of dealers, importers or persons, which was irregular. After we pointed this out, the Government accepted the audit observation and stated (January 2013) that necessary steps would be taken to rectify the defects.
2.	S.O. 104 dated 21 May 2010	Entry tax was exempted on "Biri Tobacco".	The notification was issued by using the powers conferred under Section 6 instead of Section 3A of the BTEG Act, to exempt the commodities without assigning any class of dealers, importers or persons, which was irregular. After we pointed this out, the Government accepted the audit observations and stated (January 2013) that necessary steps would be taken to rectify the defects.

17 Calculated on the basis of estimation of loss by the Department.

18 Schedule I- Having goods on which no tax is payable.

19 Section 6 of the BTEG Act provides that, the State Government may by notification and subject to such conditions and restrictions as it may impose, exempt from levy of tax any class of dealers, persons or importers.

20 Section 3A of the BTEG Act provides that "The State Government may, by notification, amend or alter the schedule of this Act or add anything in it".

3.	S.O. 166 dated 29 June 2011	Rate of VAT on High speed Diesel (HSD) was reduced.	The notification was issued, to alter the rate of HSD, a schedule -IV commodity, under the powers conferred to the State Government by clause (c) of sub-section (1) of Section 14 of the BVAT Act, 2005, instead of subsection (2) of Section 14 which states that "The State Government may, by notification, alter any schedule to this Act." After we pointed this out, the Government accepted the audit observations and stated (January 2013) that necessary steps would be taken to rectify the defects.
4.	S.O. 53 dated 6 May 2011	S.O. 79 dated 13 September 2007 was cancelled.	The departmental notification number S.O. 79[21], dated 13 September 2007 was issued under the provision of Section 15 (1) of the BVAT Act, 2005 which provide for payment of compounding tax at the prescribed rate and hence, it can not be cancelled by using powers conferred under Section 15 (1A) which provide for payment of a fixed payment of compounding tax. The notification dated 13 September 2007 was cancelled irregularly. The matter was reported to the Government in October 2012; their reply has not been received (January 2013).
5.	S.O.165 dated 12 August 2010	Rate of Entry tax on Plywood and LPG was reduced.	The amendment was made by exercising the powers conferred to the State Government by sub-section (1) of Section (3) of the BTEG Act, 1993. But, the power to amend or alter the schedule appended to the BTEG Act is prescribed under Section 3A. The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

Issue of the aforesaid notifications under wrong Section denotes that the cases were not being scrutinised thoroughly with respect to the various provisions of the Act, thus indicating absence of internal control mechanisms in the Department.

2.2.7.4 Issuance of notifications without approval of Finance Department

As per proviso to Rule 10 of the Rules of Executive Business, no case in regard to which Finance Department is required to be consulted under Rule 12 shall, be discussed by the Council of Ministers unless the Finance Minister has had opportunity for its consideration. Under the provision of Rule 12 (1) of the Rules of Executive Business, 1979, no Department shall without previous consultation with the Finance Department authorise any orders which in anyway involve any relinquishment ofrevenue.

During test-check of records in the office of the CCT, we observed that the proposals for issuance of the 13 notifications **(Annexure-I)** were sent to the Council of Ministers for their approval without obtaining the approval of the Finance Minister. Though, the same person was holding the charge of the Minister in both the departments i.e. Commercial Taxes as well as Finance, these 13 notifications had not got the approval of the Finance Minister, while in the remaining test-checked notifications, the approval was taken separately both as Commercial Taxes Minister and the Finance Minister.

21 By virtue of this notification the State Government prescribed a rate of 0.5 *per cent* for the dealers opting to pay compounding tax.

As per the Government's own version (January 2013), the views of the Finance Department are finally formulated with the approval of the Finance Minister. Thus incorrect fact was incorporated in the memorandum sent to Cabinet that "The concurrence of Finance Department has been obtained". These notifications were not issued as per the aforesaid Rule and in six[22] out of above mentioned 13 notifications, even the concurrence of the Finance Commissioner was not taken. As a result these notifications were issued irregularly and the competent authority did not get the benefit of the scrutiny by the Finance Department/Minister despite having an effect of loss of revenue of ₹ 192 crore as worked out by the Department.

After we pointed this out, the Government stated (January 2013) that approval of the Finance Minister was not taken by the Finance Department while concurring with the proposal and in six out of 13 proposals even the concurrence of the Finance Department was not taken. It is a procedural lapse, but there was no substantive loss to the public exchequer because these proposals were duly approved by the Cabinet which has full powers to consider and approve or reject a proposal with or without concurrence of the Finance or any other department. Moreover, Finance Minister is also part of the decision making by the Cabinet.

The Government's response confirms the fact that the approval of the Finance Minister/Department was not obtained before sending these 13 proposals to the Cabinet. The reply was not in consonance with the State Government's own version that views of the Finance Department are finally formulated with the approval of the Finance Minister. Moreover, incorrect fact was incorporated in the memorandum sent to the Cabinet that "The concurrence of Finance Department has been obtained" in violation of the provision of aforesaid Rules of executive business, 1979.

2.2.7.5 Imprudent Notification

Notification no. LG-1-19-2010/ LEZ-116 dated 9 April 2010

During test-check of records in the office of the CCT we observed that Section 3-A of the Bihar Entertainment Tax Act, was abolished with effect from April 2010. Under Section 3-B of the Act *ibid*, subject to prescribed conditions, there is a provision for compounding of entertainment tax. This compounding tax was in lieu of the tax payable under Section 3-A of the Entertainment tax Act. The violation of the conditions of compounding scheme, such as alteration in the number of seat or admission rate, would have attracted taxation under Section 3-A on the basis of 'Gross collection capacity[23]'. Thus, after the abolition of Section 3-A there is no alternate way of taxation available for the violation of the compounding and the proprietors were left free to violate the conditions by increasing the admission rate, thus giving them an opportunity of unjust enrichment.

After we pointed this out, the Government accepted the audit observation and stated (January 2013) that certain concomitant changes arising out of repeal of Section 3-A were not made in Section 3-B. This has created an anomalous situation. Necessary steps would be taken to rectify the defects.

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22 S.O. No. 43, 45, 47, 49, 51 dated 04.05.2006 and 167 dated 12.08.2010.

23 Calculated on the basis of number of seats in a cinema hall and the admission rate .

The case of violation of Section 3-B as noticed during the audit is given below:

- ***Short levy of Entertainment Tax***

> Under the provision of sub-section (4) of Section 3-B of Bihar Entertainment tax Act, the option to compounding of tax shall continue to be in force till the end of the financial year in which such option is permitted. Further, the violation of the conditions of the compounding scheme shall make the proprietor from the commencement of the permission liable to pay tax applicable to the Gross collection capacity.

In Hajipur circle, we observed in May 2012 that two Cinema Hall owners had opted to pay the compounding tax under Section 3-B of the Bihar Entertainment Tax Act. But, they altered the admission rate and deviated from the rate specified in the permission during the year 2009-10. Thus they violated the aforesaid provisions. No prior permission of the Commissioner for change in admission rate was found on the records. Therefore, the dealers were liable to be assessed under Section 3-A of the Bihar Entertainment Tax Act, for contravention of the provisions and conditions prescribed under Section 3-B, on the basis of gross collection capacity and were therefore liable to pay entertainment tax of ₹ 99.05 lakh.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

2.2.7.6 Other cases of deviations/shortcomings in the notifications

During test-check of records in the office of the CCT, the following deviations/shortcomings were also noticed:

Sl. No.	Notification No. and date	Gist of Notification	Audit Observations
1.	S.O. 30 dated 1 April 2006	Schedules of the BVAT Act were amended.	Two items (Telephone answering machine and sodium silicate) were included into the schedule-III without approval of the departmental Minister. The final draft notification was also not sent to the Law Department for their vetting in violation of the Rule 52 of the Rules of executive business, 1979. As a result these commodities became four *per cent* taxable instead of 12.5 *per cent*.
2.	S.O. 385 dated 25 October 2011	A Box for name of the Schedule-III and IIIA goods, in the format of returns was prescribed.	As per the cabinet note sent for their approval, there was proposal for inclusion of details of the goods sold in the format of returns. But actually the Box was inserted for the goods covered under Schedule-III and IIIA only. By the time of notification there was no item in the schedule-IIIA. Thus no provision was made in the return to mention the name of goods of other schedules i.e. I, II and IV.
3.	LG -1-06/ 2011/104- Leg dated 27 May 2011	Act was amended but the Rule was not revised.	Section 54 (1) of the BVAT Act, as amended prescribes a monetary limit of ₹ one crore for annual accounts of a dealer to be audited. But no similar amendment was made in the Rule 33 (5) of the BVAT Rules. This inconsistency indicates towards lack of internal controls, while issuing the notification.

4.	S.O. 192 dated 25 September 2008	Rate of VAT on LPG for domestic use was included in schedule-II.	The notification was issued under the powers conferred to the State Government by sub-section (2) of Section 14 of the BVAT Act, 2005, which states that "The State Government may, by notification, alter any schedule to this Act." By the said notification the State Government amended an earlier notification instead of amending the schedule. The amendment was thus irregular.
5.	S.O. 53 dated 6 May 2011	The concession was given to those dealers who opted for compounding.	It was provided that the return of the dealer opting for payment of tax under the compounding scheme shall not be scrutinised and selected for VAT audit. These type of concessions to the dealers, have not been mentioned or intended under the provision of Section 15 (1A) of the BVAT Act. In the absence of scrutiny/Audit no control mechanism was prescribed to detect the violation of the conditions and restrictions as laid down under the BVAT Act and Rules. The notification was issued imprudently, without instituting adequate control mechanism.
6.	S.O. 43 dated 2 July 2007	Authorisation of Jurisdiction of Authorities and delegation of powers.	There was no delegation of jurisdiction for Sheohar district to any authority appointed under the BVAT Act, in the State of Bihar, though it was created in October 1994. As a result no officer has jurisdiction over the Sheohar district.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

The aforesaid deviations/shortcomings in the notifications indicate towards lack of control mechanism in the Department.

2.2.8 Loss of revenue due to non-compliance of order

The Ministry of Finance (Department of Revenue), Government of India (GOI), informed (April 2011) all States (including Bihar) that Sugar and Textile was removed from the schedule of Additional Duty of Excise (AED) by the Central Government and therefore, the State Governments were permitted to levy VAT on them. The share of proceeds of AED also ceased to be distributed among States with effect from that date.

During test-check of file in the office of the CCT in July 2012, we observed that the Minister on 16 May 2011, directed to the Department to initiate proposal for levy of VAT on Sugar and Textile. Accordingly a proposal for levy of VAT on these goods was moved on 25 May 2011 but the said proposal was not put up to the Minister for his consideration and hence no decision on the proposal could be taken till the date of audit (August 2012). Though the State Governments were demanding for permission to levy sales tax/VAT on the AED leviable goods since long and therefore the State Governments of Andhra Pradesh, Odisha, Tamil Nadu and Rajasthan acted swiftly and levied VAT on Sugar and Textile. Thus, the Government of Bihar had suffered not only by not getting the amount in shape of share proceeds of AED from Central Government but also by losing VAT on Sugar and Textiles.

Due to non-compliance of the directives of the Minister the State Government is losing substantial revenue.

After we pointed this out, the Government stated (January 2013) that both Textile and Sugar are commodities of mass consumption and therefore any proposal to levy tax on such commodities, more often than not, would result in stiff resistance from the common man. After withdrawal of AED (in lieu of Sales Tax), only few States levied VAT/ET on these commodities and even most of these States had to withdraw VAT/ET on these commodities due to strong popular protests.

The reply of the Government is contrary to the facts as the aforesaid view of the Government was not recorded on the file till the date of audit (August 2012). The letter of the GOI in this regard remained pending despite the Minister's directives. Even the EC of State Finance Ministers, had decided in October 2011 to levy VAT on Sugar and Textiles at four-five *per cent* from April 2012.

- **Absence of Internal Control Mechanism in CCT Cell**

In course of examination of inward diary maintained in the cell of the CCT, we observed that the incoming letters were diarised as per calendar year and the detail of incoming letters during last three years was as below:

No system of monitoring mechanism of the inward diary was seen.

Sl. No.	Period	No. of letters received
1	2009-10	8,002
2	2010-11	8,531
3	2011-12 (up to 21.08.12)	5,676

It was further observed that there was no column maintained in the diary about the disposal of such letters. Therefore, in the absence of such information, the status of disposal/compliance of the letters could not be ascertained. The diary was never put up before higher authorities for their monitoring and as a result, they had no idea about the pendency of the letters and were also not aware of the disposal of letters. We also observed that important letters were pending. No system of putting up the diaries to the higher authorities was seen.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

2.2.9 Internal controls in the Appeal and Revision Cases

Section 72 of the BVAT Act, provides that any dealer may appeal to the appellate authority, who shall pass such order after giving reasonable opportunity of hearing to the appellant as also the authority whose order has been appealed against. Further, under Section 74 of the Act *ibid* the CCT may, *suo-motu,* call for and examine the record of any proceeding recorded by any authority subordinate to him.

No time-limit was prescribed for appeal and *suo-motu* revision cases.

We observed that Section 73 (7) of the BVAT Act, 2005 prescribes the time limit of six months for disposal of appeal cases filed before the Tribunal, but no such time limit[24] was prescribed in the Act for disposal of appeal and *suo-motu* revision cases by JC (Appeal) and the

[24] In similar case a time limit of six months and one year is prescribed under the VAT Act of Chhattisgarh and Madhya Pradesh respectively.

CCT respectively. It was further observed that the cases are also admitted in the commissioner's court on the representation of the aggrieved dealers which provide as an alternate remedy to appeal in violation to the intended provision of the Act *ibid.*

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

The Government/Department may consider prescribing a time-frame for the disposal of cases in the appellate court as well as in the commissioner's court in the interest of revenue as well as to the aggrieved dealers.

344 cases were pending for revision involving ₹ 135.52 crore in the CCT court starting from1992-93.

- During the course of audit of the register and the statement of *suo-motu* revision cases in the office of the CCT between July and August 2012, we observed that 2,330 cases involving ₹ 767.04 crore were disposed off during 2007-08 to 2011-12 and 344 cases involving ₹ 135.52 crore were pending for disposal as on 31 March 2012. Out of that 88 cases involving amount of ₹ 17.75 crore were more than two years old starting from 1992-93. Thus, due to absence of a time-limit for disposal of *suo-motu* cases, large number of cases involving substantial amount of revenue is locked over the years.

- We further observed that there is no such provision for deposit of any part of the disputed amount by those dealer who prefer for revision under Section 74 of any order for levy of tax, penalty and interest to the CCT, though the court of the CCT provides an alternate remedy to the dealers. It was noticed during audit that recovery of revenue after the disposal of cases were negligible. Thus provision for deposit of certain part of disputed amount like in the cases of JC (Appeal) needed to be in place to ensure realisation of tax to that extent.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

2.2.9.1 Appellate Cases

In Patna appeal division we observed in May 2012 that cases of 169 appellant were disposed off by the JC (Appeal) between August 2009 and April 2010 without the representation of the Department. Out of the 169 cases appeals in 33 cases could only be disallowed and the remaining 136 cases were either allowed or remanded.

We observed that the CCT did not initiate any action for the revision of those 169 cases under Section 74 of BVAT Act to safeguard the revenue forgone, if any, involved therein, rather the matter was handed over to the vigilance wing of the Department for further action. Thus, the control tool available to the CCT was not invoked to safeguard the revenue.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

2.2.9.2 Monitoring and review of Appeal cases at the Headquarters

During scrutiny of the files in the office of the CCT we observed that the monitoring of the appeal cases was not done since January 2011. Before that

the meeting of all the JCs were usually called for quarterly to monitor the disposal of pending appeal cases. Meanwhile, the pending cases rose from 690 cases involving an amount of ₹ 171.79 crore to 953 cases involving an amount of ₹ 623.92 crore during the period from January 2011 to March 2012. Thus absence of monitoring mechanism for review of appeal cases is self evident.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

2.2.10 Internal controls at the different levels of functionaries

2.2.10.1 Inspections of business premises and motor vehicles/transporters

- **Divisional Bureau of Investigation (IBs)**

No target was prescribed to conduct the inspections which led to low number of inspections.

Section 56 of the BVAT Act, 2005, provides that if reasonable grounds exist to suspect, the prescribed authority shall inspect the places of business of the dealer or the person engaged in the business of transporting goods or the owner of warehouse and in case of improper accounting of goods, the authority shall impose a penalty.

We observed that a total of 80,338 to 1,03,837 dealers were registered in the jurisdiction of three[25] divisions during 2007-08 to 2009-10. However inspections of only 346 business premises and 674 motor vehicles were conducted by the officers of the divisional IBs during 2007-08 to 2011-12. Low number of inspections indicates that no fixed target was prescribed by the Depart ment for conducting inspections, though during the same period three to seven officers were posted in each Divisional IBs. We further observed that tax evasion in 345 business premises and 662 vehicles were detected during the inspections and a sum of ₹ 5.27 crore as penalties could be levied and a sum of ₹ 4.56 crore was realised. It was evident that the tax evasion was found in almost all the cases, where inspections were conducted.

- **Headquarter IB**

During the Audit scrutiny of the records of Headquarter IB we observed that inspections of only 41 business premises and 158 transporters/motor vehicles were conducted during 2007-12 by them, despite deployment of nine officers in the Headquarter IB during the same period. A sum of ₹ 1.27 crore as penalties was levied in 41 business premises and 150 vehicles/transporters and ₹ 1.06 crore was realised. Low number of inspections was indicative of absence of any target.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

[25] Darbhanga, Muzaffarpur and Patna east and west.

2.2.10.2 VAT Audit by the Department

Commissionerate level

Section 26 of the BVAT Act, 2005, provides that the CCT may, select any registered dealer for detailed audit of his business, on the basis of a selection model. The audit of a dealer selected, shall be conducted, within a period of thirty six months from the due date. Rule 22 of BVAT Rules provides that the number of registered dealers to be audited by the JC (Audit) every year shall not be more than ten *per cent* of the total number of registered dealers.

During the audit scrutiny of records in the office of the CCT we observed that very low percentage of dealers, ranging from 0.27 *per cent* to 2.67 *per cent*, were selected for VAT audit during 2006-07 to 2010-11 despite the upper limit of 10 *per cent*. The details of dealer selected for VAT audit were as under:

There was Low coverage of dealers selected for VAT audit. The selection process was flawed.

Year	No. of registered dealers	No. of taxpaying dealers out of registered dealers	No. of dealers selected for audit by the Department (percentage in bracket)
2006-07	95,263	48,823	2,546 (2.67)
2007-08	1,23,025	43,127	1,289 (1.05)
2008-09	1,58,350	42,251	1,419 (0.90)
2009-10	1,59,606	45,925	427 (0.27)
2010-11	1,58,268	48,690	2,682 (1.69)

(Source: Information[26] furnished by the Department)

- During the scrutiny of criteria prescribed for selection of dealers for VAT audit by the Department during 2006-07 to 2010-11, it was found that instead of selection from all the registered dealers, selections were made from either the taxpaying dealers or dealers who have filed their returns. Thus no attention was given to those registered dealers who had not filed any return or paid any tax.

- During the examination of the database of the Department maintained in VATIS software we observed that 34 dealers registered in 23 circles were not selected for VAT audit by the Department for the year 2010-11 despite fulfilling the Criteria-IV[27] as well as Criteria-VI[28] prescribed for selection of dealers for audit, thus putting a question mark on the credibility of entire selection process.

- The Geographical dispersion was also not taken into account while prescribing the criteria for selection of dealers for 2010-11 which was evident that the number of dealers selected from Barh, Nawada and Bhabhua circles were in single digit whereas the number of dealers selected from the company circles Patliputra and Patna Special were 179 and 157 respectively.

26 The data in respect of 'No. of registered dealers' and 'No. of taxpaying dealers' for the years 2006-07 and 2010-11 was taken from the Administrative Report, 2010-11 of the Department.

27 Wholesale dealers of IMFL and Country liquor.

28 Works contractors having GTO of ₹ 20 crore.

- Tax evasion/underassessment was found in the past in the cases of dealers awarded with *Bhamashah Samman*[29] and the Government undertakings[30] involved in works contract. Therefore the criteria of 2010-11 for not selecting dealers for audit who were awarded with *Bhamashah Samman* and the Government undertaking engaged in works contract was not proper in the interest of revenue.

- No audit manual was prepared by the Department even after the lapse of seven years to prescribe control mechanisms incorporating various procedural and methodical aspects of audit to streamline the audit process and make it effective.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

The Government may consider making the selection criteria/process, of dealers for VAT audit, more inclusive and transparent.

Joint Commissioner Level

There was absence of control mechanism in the VAT audit process, which led to various deficiencies. The impact of audit was very low. Audit plan was absent.

During the audit scrutiny of the two audit divisions, we observed that demand of a meagre sum of ₹ 6.70 lakh was raised during 2007-08 and 2008-09 in Muzaffarpur Audit division and ₹ 46.00 lakh during 2007-08 in Patna Audit division. As regards the demand raised and revenue realised in the remaining years, it was stated by JCs audit that the figures were not available with them as the concerned files were sent to the concerned circles after audit.

It was also found that no audit plan was prepared on the basis of number of dealers selected for audit and available manpower and man-days so that the selected dealers could be audited within the prescribed time-limit. As a result the slow progress of audit was evident from the fact that no case of 2009-10 selected in March 2011 was audited and only five *per cent* and 56 *per cent* of 2008-09 of Patna and Muzaffarpur division respectively were audited till the date of our audit (May 2012).

We further observed that control registers were not prescribed or maintained for entering the details of various activities related to their functioning. There was absence of follow up action by the audit wing regarding compliance of observations of VAT audit and recovery made thereof by the circles. There was absence of co-ordination between circles and JC Audit with regard to recovery of revenue etc.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

The Government may prescribe an Audit manual and formulate various methods and tools of internal control mechanisms to streamline the audit procedures for making them effective.

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29 The department had detected the tax evasion in case of M/s Anamika Automobile in Saharsa circle which came to our notice during audit in the O/o the CCT.

30 The case related to M/s Hindustan steel works construction Ltd. Which was incorporated in the AR-2010-11 under para no. 2.4 (annexure X, Table 2, sl. no.5, third case).

2.2.11 Internal Audit

The internal audit wing of a Department is a vital component of its internal control mechanism and enables the Department to assure itself that the prescribed systems are functioning appropriately.

There is no separate internal audit wing in the Commercial Taxes Department. The JC Audit conducts audit of only the returns/records of the dealers. The Finance Department (Audit Cell) works as the Internal Audit Department of the Commercial Taxes Department. The information about scope and extent of internal audit was not made available to us by the Commercial Taxes Department and Finance Department.

2.2.12 Internal controls at the circle level

2.2.12.1 Inadequate survey

Section 58 of the BVAT Act provides that with a view to identifying dealers who are liable to pay tax under this Act, but have remained unregistered, the prescribed authority, shall, from time to time, cause a survey of unregistered dealers to be done for this purpose.

We observed that no periodicity or target was prescribed to conduct the survey. During test-check of records in 16 circles, the status of survey conducted during 2007-08 to 2011-12 was as given below:

Year	No. of circles in which survey was conducted	No. of survey conducted	No. of dealers found eligible during survey	No. of dealers applied for registration	No. of dealers got registered	Registration without any security
2007-08	03	221	129	120	120	93
2008-09	05	806	396	366	366	119
2009-10	11	912	696	401	401	154
2010-11	13	871	764	334	327	108
2011-12	08	267	307	190	163	131
Total		**3,077**	**2,292**	**1,411**	**1,377**	**605**

(Source: Information furnished by the Department)

There was absence of target or periodicity to conduct the survey as well as monitoring of survey process.

The above table indicates that only 3,077 surveys were conducted in three to 13 circles out of the 16 circles during 2007-08 to 2011-12, in which 2,292 dealers were found eligible for registration and only 1,377 dealers got themselves registered. Thus, 915 (39.92 *per cent*) eligible dealers did not get themselves registered. It was also evident that no survey was conducted by three to 13 circles. The JC (Administration), Patna stated that he has no role to play on routine basis of monitoring the survey. Thus there was absence of monitoring of survey process.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

2.2.12.2 Registration and security

Section 19 of the BVAT Act, provides that no persons liable to pay tax under Section 3 or Section 4 of this Act shall sell or purchase goods unless he has obtained a certificate of registration. Section 21 of BVAT Act provides that where it appears necessary to the prescribed authority to do so for the proper realisation of the tax payable under this Act, he may, direct a dealer to furnish such security.

During the test-check of records in the office of the CCT it was also found that "International Finance Corporation (IFC)" of the World Bank Group had conducted a study of the Commercial Taxes Department in 2009-10. One of the findings of the IFC was that 80 *per cent* of the eligible dealers were not registered under VAT.

In spite of the above findings of the IFC the Department did not institute any methodology for vertical audit as well as to check the adoption of alternate payment mechanism by dealers. Audit scrutiny also revealed that the number of voluntary registration (41,864) was far more than the number of registration (1,377) done at the instance of survey conducted during 2007-08 to 2011-12.

Voluntary registration was far more than the number of registration at the instance of survey.

The detail of dealers who applied voluntarily and got registered along-with the security is given below:

Year	No. of circles	Dealers applied for registration voluntarily	No. of dealers got registered	No. of dealers denied registration	Registration without any security
2007-08	15	5,816	5,685	131	3,242
2008-09	16	7,424	7,316	108	3,940
2009-10	16	8,453	8,399	54	5,141
2010-11	16	8,257	8,159	98	5,108
2011-12	15	12,454	12,305	149	8,208
Total		**42,404**	**41,864**	**540**	**25,639**

(Source: Information furnished by the Department)

Discretionary provision to obtain the security was indicative of inadequate control mechanism to safeguard the revenue.

The above table indicates that 41,864 dealers got registered but securities in 25,639 (61.24 *per cent*) cases were not obtained from the dealers. In these cases realisation of arrear of revenue, if any, may become difficult. The obtaining of security from the dealers was upon discretion of the AA under the provision of the Act, which was indicative of the fact that the Department has not instituted proper and adequate control mechanism to safeguard the revenue and better realisation of arrears and outstanding liabilities.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

The Government may consider prescribing mandatory submission of security before issuing Registration Certificate.

2.2.12.3 Registration of transporters

Under Rule 3 of the BVAT Rules, the Department made provision for the registration of the transporters engaged in transporting the goods and submission of quarterly returns by them.

We observed that the CCT issued a letter in September 2008, to all the offices under his jurisdiction and instructed that all the circle in-charge shall ensure that all the transporters or carrier or transporting agent or railway container contractor or in-charge of courier under their jurisdiction get registered within one month of issue of the said notification and to inform the headquarter about the action taken by them in this regard. But no report/return or any action taken, if any, either by the circle in-charge or the JC (Administration) was found on the file, till the date of audit (August 2012).

We observed that the survey of transporters was conducted only in three circles out of test-checked 16 circles. Further only 21 transporters got registered during 2008-09 to 2011-12, thus making the circular of September 2008 in which time-limit of one month was laid actually infructuous. They did not obey the instructions of the CCT and non-compliance of instructions was due to lack of internal control mechanism in the Department.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

2.2.12.4 Filing of returns

Under Section 24 of BVAT Act, 2005, every registered dealer shall furnish a quarterly as well as annual return. Rule 29 of the BVAT Rules, 2005, provides that the person making deduction of tax from the bills of works contractor shall send to the appropriate authority a statement in RT-VI and a return in RT-VII for each quarter.

36 to 46 *per cent* of dealers did not file their returns in the 16 test-checked circles during 2007-08 to 2011-12.

We observed that there was lack of monitoring of the compliance of the provisions of the BVAT Act/Rules as the Audit scrutiny in the 16 test-checked circles revealed that 36.38 to 46.29 *per cent* of the registered dealers had not filed their returns during the year 2007-08 to 2011-12. The Department instead of investigating the cases of these dealers either through selection in VAT audit or through IB wing made provision for the cancellation of registration. As a result registration of altogether 13,610 dealers was cancelled for non-filing of returns. The details were as under:

Year	No. of circles	No. of registered dealers	No. of dealers who have not filed their returns	Percentage of dealers not filing return	No. of dealers whose registration was cancelled
2007-08	16	45,660	19,468	42.63	461
2008-09	16	51,944	24,046	46.29	565
2009-10	16	59,806	21,757	36.38	2,240
2010-11	16	66,890	29,864	44.65	3,937
2011-12	16	74,983	30,840	41.13	6,407
Total					**13,610**

(Source: Information furnished by the Department)

We further observed in the 16 selected circles, from the database of the Department maintained in VATIS software that a total of 38,468 dealers had filed the quarterly returns for the year 2010-11, out of those 20,229 dealers (52.58 *per cent*) did not file the annual return till 13 September 2012.

The above findings are indicative of absence of a system for monitoring of the filing of returns.

- **Non-filing of returns/statements by the works division etc.**

We further observed that no register/ledger was prescribed under the BVAT Act to enter these returns/statements (RT-VI and RT-VII) received in the circles for better monitoring and no deterrent measure was prescribed under the BVAT Act or Rule for non/delayed filing of these returns/statements. During the audit scrutiny of the records in 16 circles we observed that, out of 3,680 tax deducting authorities who paid the taxes deducted by them, only 129 such persons (3.5 *per cent*) filed the returns and statement. This indicates that the filing of returns was not being monitored properly.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

2.2.12.5 Deficient/non-scrutiny of returns submitted by the dealers

Under the provision of Section 25 of the BVAT Act, 2005 and Rules framed thereunder, the prescribed authority shall scrutinise every return furnished by the dealer, before the expiry of the due date.

The scrutiny conducted during 2007-08 to 2011-12 by the AAs revealed that there was a gradual increase in the percentage of cases pending for scrutiny, with an exception of 2008-09. It had reached a level of 60 *per cent* in 2011-12. It is a matter of grave concern that 37 to 60 *per cent* of the dealer's return remained un-scrutinised as given below:

37 to 60 *per cent* of the returns remained un-scrutinised during 2007-08 to 2011-12.

Year	No. of cases due for scrutiny	No. of cases scrutinised	No. of cases pending for scrutiny	Percentage of cases pending for scrutiny
2007-08	1,92,648	92,229	98,647	51.20
2008-09	4,65,150	2,92,242	1,72,908	37.17
2009-10	4,63,312	2,20,289	2,43,023	52.45
2010-11	5,36,747	2,54,351	2,82,396	52.61
2011-12	5,00,616	2,03,014	2,98,753	59.67

(Source: Information furnished by the Department)

These indicate towards non-enforcement of aforesaid provision and monitoring by the higher departmental authorities. In response to our questionnaire the CCT had admitted that no target/periodicity is prescribed for monitoring of the scrutiny cases by the higher authority. The JC (Administration), Patna stated that there is no any provision under the BVAT Act for monitoring and test-check of scrutiny cases.

After the Performance Audit findings were forwarded to the Department on 3 October 2012, the CCT issued a circular on 19 October 2012 for proper

scrutiny of the returns of the dealer and fixed a target of minimum of 60 cases of scrutiny for each officers of the circle during each month.

- **Deductions availed by the dealers**

The AAs were required to scrutinise the returns within the prescribed time to ascertain that the deduction claimed by the dealer were substantiated in the manner prescribed. The following cases of availing of deductions without proper substantiation were detected during the Performance Audit of test-checked circles:

Deductions	Provisions	Audit observations
Intra-state stock transfer	Under the provision of Rule 26 of the BVAT Rules, 2005, the dealer was required to furnish a declaration in form D-V obtained from the consignee.	In six circles[31], we observed that six dealers had availed of exemption on account of within the State stock transfer of goods of ₹ 14.78 crore during the period 2008-09 to 2010-11 but did not produce any declaration in form D-V to substantiate their claims. The tax liability on these un-substantiated claims worked out to ₹ 1.83 crore including interest which could not be levied by the AAs. We further observed that the provision of methodology for submission of D-V remained un-amended.
Subsequent sale of schedule-IV goods	Under the provision of Rule 10 of the BVAT Rules 2005, a dealer shall substantiate the claim of subsequent sale of schedule-IV goods by producing declaration in form D-III.	In four circles[32], we observed that four dealers had availed of exemption by claiming deduction on account of subsequent sale of schedule-IV commodities valued at ₹ 16.59 crore during the year 2006-07 to 2010-11, but their corresponding purchases were not supported by a declaration in form D-III. This resulted in short levy of tax of ₹ 3.09 crore.
Sale of goods purchased from dealers permitted to pay tax on the MRP	Under the provision of Section 15 (5) of the BVAT Act, dealer was required to produce a declaration in form D-XI to support the claim of subsequent sale of goods purchased from dealers permitted to pay tax on the MRP.	In two circles[33], we observed that three dealers had availed of exemption on account of sale of goods of ₹ 4.66 crore during 2008-09 and 2009-10 by claiming that the tax was paid on the first point, at the time of purchase at the Maximum Retail Price (MRP) value, but their corresponding purchases were not supported by declaration in form D-XI. This resulted in short levy of tax of ₹ 27.31 lakh including leviable interest of ₹ 8.69 lakh.

ailing of deductions hout prescribed bstantiation resulted under-assessment of T and CST of 29.71 crore licating control aknesses.

31 Begusarai, Darbhanga, Katihar, Muzaffarpur west, Patna south and Purnea.

32 Begusarai, Darbhanga, Gaya and Purnea.

33 Bhagalpur and Danapur.

Inter-state sales and stock transfer	Under the provision of Rule 12 (7) of the CST Rules, the declaration in form 'C' and 'F' shall be furnished within three months to substantiate the claim of concession/ exemption. The CCT also issued (August 2006) a circular directing all the AAs to levy tax along with the interest wherever the dealer did not submit the declarations in form 'C' and 'F' within the prescribed time limit.	In 11 circles[34], we observed that 38 dealers had claimed/availed of exemption/concessions on account of inter-state stock transfer/sale of goods of ₹ 282.68 crore during the period 2008-09 to 2010-11 without substantiating these claims with the requisite declaration forms in 'C' and 'F'. However, the AAs failed to levy tax on the un-substantiated inter-State sales/stock transfer. This resulted in short levy of tax of ₹ 17.23 crore **(Annexure-II).** After we pointed this out, the AAs replied that a demand of ₹ 7.10 crore has been raised in 14 cases relating to Patliputra and Patna Special circles and two dealers submitted the declaration in form 'F' subsequent to our observation and after the time prescribed and hence not allowable. No reply was furnished by the Department in the remaining cases (January 2013).
Sales in the course of export	Section 6 of the BVAT Act read with Section 5 (1) of the CST Act provides that no tax shall be payable on export sale of goods. As per the circular issued by the CCT of Bihar in 1986 and 1991, the claim for exemption is required to be supported by Bill of export.	In two circles[35], we observed that three dealers availed of exemption from turnover on the sale of goods valued at ₹ 52.45 crore in course of export out of the territory of India during the year 2008-09 and 2009-10 without substantiating them with the Bill of export. This resulted in short levy of tax of ₹ 7.28 crore including leviable interest of ₹ 2.05 crore. After we pointed this out, the AA of Patliputra circle replied in January 2013 that a demand of ₹ 61.26 lakh has been raised in one case. No reply has been furnished by the Department in the remaining cases (January 2013).

In aforesaid cases the dealers were liable to submit the declaration forms along-with the returns and within the prescribed time-limit. Non-submission of the same was indicative of deficient/non-scrutiny of returns by the AAs and absence of monitoring in the Department.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

- **Non-submission of evidence of payment of tax**

Evidence of TDS of ₹ 4.08 crore was not submitted by eight works contractors which indicate deficient scrutiny by the AAs.

Rule 27 of the BVAT Rules provide that every dealer shall pay the amount of tax or interest or penalty in the manner prescribed. Further, Rule 29 provides that the works contractor shall furnish a certificate in form C-II, issued by the tax deducting authorities, to the AAs as evidence of payment of tax by deduction at source with the return.

In six circles[36], we observed that eight works contractors though claimed payment of tax of ₹ 4.28 crore by way of Tax Deducted at Source (TDS) in their returns but had submitted the C-II of ₹ 19.75 lakh only as evidence of tax payment by way of TDS during the period 2008-09 to 2010-11. Thus, the claim of payment of balance tax of ₹ 4.08 crore was not supported by requisite evidence which remained un-detected by the AAs.

34 Barh, Begusarai, Bettiah, Bhagalpur, Danapur, Darbhanga, Katihar, Muzaffarpur west, Patliputra, Patna special and Purnea.

35 Patna north and Patliputra.

36 Darbhanga, Hajipur, Katihar, Muzaffarpur west, Patna south and Purnea.

Non-submission of the evidence of payment was indicative of deficient/non-scrutiny of returns by the AAs.

- **Short payment of admitted tax**

Under the provision of Section 24 of the BVAT Act, 2005, every dealer shall deposit the amount of tax payable on or before the fifteenth day of the following month failing which he shall be liable to pay interest at the rate of one and a-half *per cent* per month.

here was short ayment of tax and nterest of ₹ 1.26 crore y nine dealers.

In seven circles[37], we observed that nine dealers had paid the tax of ₹ 18.70 crore only against payable tax of ₹ 19.62 crore admitted as per their returns during the period 2008-09 and 2009-10. Thus, the dealers made short payment of their taxes of ₹ 92.21 lakh which could not be detected by the AAs resulting into non-levy of tax of ₹ 1.26 crore including interest of ₹ 33.48 lakh. The above cases indicate towards deficient/non-scrutiny by the AAs.

After we pointed this out, the AA Patliputra circle stated in January 2013 that a demand of ₹ 38.60 lakh in one case has been raised. The report on recovery is awaited. No reply has been furnished by the Department in the remaining cases (January 2013).

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

2.2.12.6 Other cases of deficient scrutiny

- In Patliputra circle, we observed that a dealer had claimed/availed exemption on the sale of Wheat and Rice of ₹ 215.97 crore during 2009-10 showing them as tax-free goods and ₹ 27.87 crore as sale of goods on which tax was paid at the MRP value on the first point of their sale without substantiating the same with the requisite declaration in form 'D-XI'. The AA though scrutinised the return of first quarter and levied the tax disallowing the claims made during the first quarter but no such scrutiny of the remaining returns of 2009-10 was found done during the prescribed period. Thus, due to non-scrutiny of returns of the three quarters, tax of ₹ 4.36 crore including interest could not be levied.

- In Patna west circle, we observed that a dealer had shown his Gross Turn Over (GTO) of ₹ 7.15 crore during the period 2009-10 whereas the dealer's purchase/receipt during this period was ₹ 22.86 crore on which he had availed/claimed input tax credit and set-off of Entry tax. The AA scrutinised the returns on 29 June 2011 (i.e. after the due time prescribed for scrutiny) and detected the error in the returns and fixed the next date of hearing on 19 July 2011 and again on 27 July 2011. But no further action was taken by the AA till the date of audit (March 2012) even after expiry of eight months. Thus, due to non-finalisation of scrutiny of the returns, the tax of ₹ 4.61 crore including interest and penalty could not be levied.

- In Muzaffarpur west circle, we observed that a dealer had admitted tax at the rate of four *per cent* only instead of the correct rate of 12.5 *per cent* on

[37] Bhagalpur, Danapur, Hajipur, Patliputra, Patna south, Purnea and Sasaram.

the sale of Backhoe Loader (Road construction equipment) of ₹ 5.90 crore during 2009-10. The AA did not scrutinise the returns within the prescribed time. Instead he issued a notice for proceeding under Section 56 of the BVAT Act for production of books of account, though there was sufficient documentary evidence on the record which point towards application of incorrect rate of tax. Thus, due to non-scrutiny of the returns tax of ₹ 2.19 crore including leviable penalty and interest could not be levied.

- **Deferment of VAT liability**

Rule 57 (1) of the BVAT Rules provides for deferment of the liability of a dealer to pay tax under the BVAT Act, 2005. Such deferment shall be equivalent to his un-availed entitlement. Further, Rule 57 (2) provides that no dealer shall be allowed to defer his tax liability unless he applies for.

In Hajipur circle, we observed in April 2012 that a dealer was previously allowed exemption from 14 April 1998 to 13 April 2008 i.e. for 10 years under the erstwhile Bihar Finance Act, 1981. The dealer had the option of preferring for deferment of tax for the un-availed entitlement but the dealer had not applied for deferment under the BVAT Act. Instead he challenged the withdrawal of exemption in the Hon'ble Patna High Court which was pending as of the date of audit. No stay order was issued by the court in this regard. Since, the dealer had not applied for the deferment, therefore he was not eligible for the deferment of his tax liability of ₹11.19 crore. The AA did not disallow the claim of irregular deferment and therefore did not issue any demand notice for the amount of deferred tax of ₹ 11.19 crore besides interest of ₹ 10.12 crore.

No control register was prescribed to monitor the deferment of tax liability. Irregular availing of deferment of VAT resulted in non-levy of tax of ₹ 21.31 crore.

Audit scrutiny further revealed that no specific register was prescribed under the BVAT Act to monitor the deferred amount and its repayment made by the dealer. Due to the absence of such control mechanism, the management was not able to monitor the deferment cases.

The Government may consider prescribing a control mechanism to monitor the deferment cases.

- **Import of goods without road permit (D-IX)**

Section 61 of the BVAT Act, 2005, read with Rule 41 (1) (b) and the notification issued, the person/dealer, transporting the goods of value of more than ₹ Ten thousand from outside the State, shall carry a declaration in Form D-IX.

In four circles[38], we observed that 48 dealers transported all or part of the goods purchased by them from outside the State during 2009-10 and 2010-11, without using the Road Permit declaration in form D-IX, thereby violating the aforesaid provisions. Due to non-existence of any check-posts during this period there was no deterrent for the dealers to transport the consignments without the required declarations in form D-IX. Therefore, possibility of non-accounting of more goods purchased from outside the State by these dealers without using D-IX cannot be ruled out.

[38] Darbhanga, Katihar, Patna special and Purnea.

The above matters was reported to the Government in October 2012; their reply has not been received (January 2013).

2.2.13 Cross-verification by the Department

Under Section 57 of the BVAT Act, 2005, the prescribed authority may, collect information regarding sales/ purchases effected by any class of dealers and cause any of such transactions of sale and purchase to be cross-checked.

Audit scrutiny in 16 test-checked circles revealed that only 308 cases were cross-verified in four circles only during 2007-08 to 2011-12 in which demand of ₹ 40.98 crore was raised and ₹ 25 crore could be realised. Out of this, ₹ 24.97 crore was realised in three cases of Patna Special circle alone and thus remaining circles could realise a meagre sum of ₹ 2.16 lakh only. Low number of cases of cross-verification by the Department is evident.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

However, the cross-checking done during Performance Audit revealed the following shortcomings:

2.2.13.1 Cross verification between one circle to another

- **Incorrect Input Tax Credit (ITC)**

Cross-verification of sales and purchases revealed incorrect availing of ITC resulting in short levy of tax of ₹ 1.94 crore by seven dealers. .

In five circles[39], we observed, in case of seven dealers, that the dealers were availed/allowed ITC on the purchase value of goods of ₹ 78.04 crore during the year 2008-09 and 2009-10. Cross verification of these purchases made by them with the returns/sales statement enclosed with Tax Audit Report (TAR) of the selling dealers registered either in the same circle or other circles, revealed that the selling dealers had actually made sales of goods of ₹ 74.24 crore. Thus, the dealers availed excess ITC of ₹ 44.15 lakh by showing excess purchase value of goods of ₹ 3.80 crore. Irregular claim of ITC in these cases remain undetected due to non-conduct of cross-verification of the purchases, which resulted in excess allowance/availing of the ITC of ₹ 1.94 crore including leviable penalty and interest.

- **Suppression of turnover/import value**

Cross-verification of sales and purchases revealed suppression of turnover resulting in short levy of tax of ₹ 14.03 crore by 13 dealers.

In six circles[40], we observed during cross verification of the returns/records of 13 dealers with those of the other dealers registered in other circles that they had actually purchased/sold goods worth ₹ 176.78 crore during the period 2008-09 and 2009-10, but accounted for purchase/sale of goods of ₹ 149.80 crore only thereby suppressing the purchase/sale by ₹ 26.98 crore which remained undetected by the assessing authorities. This resulted in short levy of tax of ₹ 14.03 crore including leviable penalty of ₹ 9.65 crore and interest of ₹ 1.17 crore **(Annexure-III).**

39 Begusarai, Darbhanga, Gaya, Hajipur and Sasaram.

40 Barh, Begusarai, Katihar, Muzaffarpur west, Patliputra and Purnea .

After we pointed this out, the AA of Patliputra circle replied in January 2013 that a demand of ₹ 17.46 lakh has been raised in two cases. No reply has been furnished by the Department in the remaining cases (January 2013).

Cross-verification of purchases revealed suppression of turnover of entry tax resulting in short levy of entry tax of ₹ 525.28 crore by a dealer. The returns were not scrutinised by the AA.

- In Patna Special circle, we cross-verified the annual return filed by a dealer of Petroleum products, under VAT Act with the returns filed by him under the Entry tax Act, whose returns were not scrutinised till the date of audit even after the expiry of due time and observed that the dealer had disclosed import value of scheduled goods of ₹ 83.06 crore only in ET-V[41] instead of the actual amount of ₹ 856.24 crore as shown in 'RT-III'[42] etc. and thus suppressed import/purchase of scheduled goods of ₹ 773.17 crore during 2009-10. This resulted in short levy of entry tax of ₹ 525.28 crore including leviable penalty and interest.

After we pointed this out, the AA concerned stated in December 2012 that in the similar case of previous year the CCT court had set aside the matter on the ground that the dealer had already paid VAT on the goods in question, so when if entry tax is not paid there is no loss of State revenue. Since entire VAT was deposited by the dealer during 2009 -10 therefore entry tax would not be levied further.

The fact is that every dealer who imports any schedule goods had to pay entry tax under the provision of the BTEG Act and non-payment of entry tax on such a huge amount of import of scheduled goods was not detected by the AA due to non-scrutiny of the returns of even in the large cases, despite being pointed out by us during the previous year also. This is indicative of weak controls towards compliance of the provision of Act and Rules.

2.2.13.2 Cross-verification with other departments

Inter-departmental Cross-verification of sales/purchases revealed suppression of turnover resulting in short levy of tax of ₹ 146.26 crore by 18 dealers.

- In Begusarai circle, we observed that a manufacturer of petroleum products had exhibited the import of "Crude Oil" amounting to ₹ 15,260.86 crore and ₹ 18,547.37 crore during 2009-10 and 2010-11 respectively in his returns. On cross-verification of this information with the information procured from Central Excise Department, we observed that the dealer had actually imported "Crude Oil" from outside the State amounting to ₹ 15,658.09 crore and ₹ 19,187.83 crore during 2009-10 and 2010-11 respectively and thus suppressed the import value of crude oil of ₹ 1,037.69 crore. This resulted into short levy of Entry Tax of ₹ 44.17 crore including leviable penalty and interest.

- In Hajipur circle we observed that a dealer had shown nil turnover in the annual return filed under VAT during 2009-10. On cross-verification with the information of the Customs Department, we noticed that the dealer had actually imported various plastic goods and raw materials worth ₹ 1.95 crore during the same period from the dealers of Nepal through land custom station (LCS), Jogbani. Thus, the dealer had suppressed the entire purchase which resulted into short levy of tax of ₹ 33.95 lakh including leviable penalty and interest.

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41 ET-V- Annual return prescribed under BTEG Act 1993 to be furnished by the dealer for import of scheduled goods during the year.

42 RT-III- Annual return prescribed under BVAT Act, 2005.

- In two circles[43], cross-verification of the returns/records of six works contractors revealed that they actually received payments of ₹ 37.37 crore during 2007-08 and 2009-10 from various agencies but disclosed their turnover of ₹ 7.53 crore only in their returns. This resulted in suppression of turnover ₹ 29.84 crore and short levy of tax of ₹ 7.59 crore including penalty.

- In two circles (Danapur and Patliputra), cross-verification of the returns/records of 10 dealers of India Made Foreign Liquor (IMFL) relating to the year 2007-08 to 2010-11 with the information procured from the Bihar State Beverages Corporation Limited (BSBCL) revealed that these dealers had actually sold IMFL worth ₹ 325.95 crore but they had exhibited a sale of ₹ 284.05 crore only in their returns. Thus, the dealers had suppressed the sales by ₹ 41.91 crore which could not be detected by the assessing authorities. This resulted in short levy of tax of ₹ 94.16 crore including interest and penalty.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

2.2.13.3 Cross-verification with other State

As per the information received from Tamil Nadu, two dealers falling under the Jurisdiction of two circles (Gaya and Patna city east) had received Cardamom of ₹ 12.91 lakh from the dealers of Tamil Nadu by utilising two declarations in form 'F' during the year 2005-06. But on cross verification from the records maintained in these circles we observed that these declaration forms were not issued from the concerned circles and the importing dealers were not found registered. This resulted into loss of revenue of ₹ 2.07 lakh including leviable penalty.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

The Government may consider making a system of cross-verification of transactions of sales and purchases with periodicity and target.

2.2.14 Arrears of revenue

Section 46 of the BVAT Act, provides that prescribed authority shall, for the purpose of recovery of tax/dues have the same powers as are vested in the certificate officer under the Bihar and Orissa Public Demand Recovery (PDR) Act, 1914.

The arrears of revenue accumulated to the tune of ₹ 870.62 crore and despite vesting of powers of certificate officers to the officers of the department, very low number of certificate cases were instituted.

Audit scrutiny revealed that there is no prescribed Demand, Collection and Balance (DCB) register under the BVAT Act. Absence of such DCB register, the monitoring of the realisation of arrears cannot be ascertained resulting into accumulation of the cases of arrears to the tune of ₹ 870.62 crore in 9,810 cases as on 31 March 2012 in the 16 test-checked circles and only 2,721 cases involving an amount of ₹ 131.71 crore were covered by certificate cases. We further observed that despite vesting of powers of a certificate officer to the officers of the Department, only 212 certificate cases involving amount of ₹ 60.39 crore could be instituted by these circles during 2007-08 to 2011-12 and a sum of ₹ 17.50 crore only was

[43] Barh and Hajipur.

realised in 306 cases. The accumulating arrears indicate towards poor monitoring in the Department.

The Department in response to a questionnaire replied that VR-IV is prescribed to keep record of arrears of revenue and to watch its further recovery. The reply of the Department is not correct as VR-IV is mere Register of returns and there is no provision therein to keep a watch on arrears of revenue and their recovery. Further, the data speaks that there was substantial increase in the arrears of revenue during 2007-08 to 2011-12. Therefore, there is need for monitoring at regular basis and prescribing a control register to take care of the arrears and certificate cases.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

2.2.14.1 Insufficient format of VR-IV (Register of Returns)

Rule 21(1) of the BVAT Rules provides that the officer in-charge of the record shall ensure that the full information contained in returns is entered in register in form VR-IV.

During audit scrutiny of the format of VR-IV we observed that there was no provision provided for entries of revised returns. It was further noticed that provision for demand created as a result of proceeding under Section 25, 31 or 32 was prescribed but no provision was prescribed under VR-IV for demand created by virtue of assessment under Section 27, 28, 29, 30 or 33. We further observed that in five[44] out of the 16 test-checked circles; the VR-IV was either not updated or not maintained.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

2.2.15 Compliance of audit observations

Section 33 of the BVAT Act, provides that where an objection has been made by the Comptroller and Auditor General of India in respect of an assessment/ re-assessment/ scrutiny of any return filed under this Act, the prescribed authority shall proceed to re-assess the dealer.

There is no provision under the BVAT Act or Rules prescribing time limit for the compliance of audit observations after the receipt of the report from the office of the Accountant General.

Due to absence of a time-limit for compliance of our audit observation one third cases remained pending. The recovery in the accepted cases was also low.

During the test-check of records in 16 circles we observed that a total of 1,237 number of audit observations were raised by our audit involving an amount of ₹ 2,682.07 crore during 2007-08 to 2010-11. Out of those, in 927 cases compliance was made by the circles and the remaining 310 cases were pending for compliance due to absence of a time-limit. It was further noticed that in 471 cases, demand of ₹ 749.87 crore was raised by the Department but recoveries of ₹ 203.80 crore only could be made which include recovery of ₹ 162.28 crore made in Patna special circle alone.

[44] Barh, Bettiah, Darbhanga, Patna South and Patna Special.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

The Government may consider prescribing a time-limit for compliance of audit objections.

No control register was prescribed to monitor the submission of documents such as TAR, VR-IX and Balance sheet.

2.2.16 Non-submission of documents

We observed that no mechanism or control register was prescribed by the Department to monitor the submission of the Balance sheet, profit and loss account, TAR and VR-IX. During the test-check of records in the selected circles we observed that many vital documents were not submitted by the dealer or submitted incomplete as given below:

Name of circle	Provision	Audit Findings
Bettiah, Hajipur, Katihar, Patna North and Purnea	Rule 33(5) of the BVAT Rules, provides for submission of Balance-sheet and profit and loss account.	We observed that 45 dealers did not submit their Balance sheet and profit and loss account along-with the Tax Audit Report (TAR) during 2009-10 and 2010-11 in violation of the Rule.
Barh, Bettiah, Katihar	Rule 41(6) of the BVAT Rules, provides for submission of account and statement of road permits utilised in VR-IX.	We observed that 50 dealers, though issued the road permit declaration in form D-VIII, D-IX and D-X, had not submitted any account and statement of the forms utilised in the requisite manner in VR-IX during the year 2009-10.

The aforesaid facts were indicative of non-compliance of the provision of Act/ Rules and poor monitoring in the Department.

The matter was reported to the Government in October 2012; their reply has not been received (January 2013).

2.2.17 Conclusions

- The control system in the Department was absent as the provision of Acts/Rules/Statutes etc. were not followed in issuance of notifications for tax-administration.
- Compliance to important communications received in the Department either from the Central Government or other entities was not ensured.
- No periodicity or target was prescribed for conducting survey, inspection or cross verification of the sales/purchases made by the dealers.
- The departmental VAT audit process was un-planned and coupled with flawed selection process of dealers. In fact there was no audit manual in vogue.
- There was lack of compliance to the provision of Acts/Rules, large numbers of dealers were not filing any return/paying any tax and enforcement of provision of scrutiny of returns as well as the monitoring was poor.
- There was lack of enforcement of provision as recovery of arrears of revenue through institution of certificate cases was poor.
- Overall, the Department did not have a robust internal control system, resulting into large scale leakage of revenue.

2.2.18 Summary of recommendations

- **The Government may consider prescribing a proper internal control mechanism to ensure that all notifications are issued after due diligence and thorough scrutiny with respect to the existing laws and with the approval of the competent authority.**
- **The Government may consider prescribing a control mechanism for periodical monitoring/review of the cases of the appellate/revision courts.**
- **The Government may consider prescribing a target for conducting survey and inspections by the Bureau of Investigation.**
- **The Government may consider prescribing a VAT Audit manual and tools of internal controls to streamline the departmental audit process to make them effective.**
- **The Government may consider prescribing a mechanism for effective monitoring of filing of returns and to ensure their proper scrutiny within the due time-limit.**
- **The Government may consider making a system of cross-verification of transactions of sales and purchases with periodicity and target.**

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

The provisions of the Bihar Value Added Tax (BVAT) Act, 2005, Central Sales Tax (CST) Act,1956, Bihar Tax on Entry of Goods into local areas (BTEG) Act, 1993, Bihar Taxation on Luxuries in Hotels Act, 1988 and Rules made thereunder require levy and payment of:

- *taxes on sales, trade etc., entry tax and surcharge, luxury tax etc. by the dealers at the appropriate rates;*
- *tax in advance and within the prescribed period;*
- *penalty at the rate of three times of the tax assessed on escaped turnover in case of concealment of sales/purchases and*
- *interest at the rate of one and a half per cent for delay in payment of tax.*

Non-compliance of the provisions of the Acts/Rules/Instructions in some cases as mentioned in paragraphs 2.4 to 2.18 resulted in non/short levy, underassessment of tax, incorrect exemption/deductions etc. of ₹ 193.10 crore which is indicative of absence of adequate controls in the Department.

A : Taxes on Sales, trade etc.

2.4 Suppression of turnover

Under Section 31 (2) of the Bihar Value Added Tax (BVAT) Act, 2005, if the Assessing Authority (AA) is satisfied that any turnover liable to tax under the Act has been underassessed/escaped assessment, he shall assess or reassess the tax payable within four years and shall impose, besides tax and interest, penalty equivalent to three times the tax payable on escaped turnover.

We observed that the Government/Department did not prescribe a mechanism for cross verification of the turnover as disclosed in the returns with other records of the dealer like utilisation statements of road permits, declaration forms as well as Tax Audit Report (TAR) or information of sales and purchases obtained from the records of other dealers while scrutinising the returns.

Between March 2011 and April 2012, we observed that in 13[45] Commercial Taxes circles, 30 dealers (assessed:1, scrutinised: 7 and self-assessed: 22) purchased/sold goods of ₹ 1,114.18 crore during the period between 2006-07 and 2009-10 as shown in their utilisation statements of road permits (D-IX[46]), statements of declaration form 'C'[47], Tax Audit Report[48] (TAR) and annual return furnished under Entry

45 Bhagalpur, Biharsarif, Gopalganj, Munger, Muzaffarpur (East), Patliputra, Patna (Central), Patna (Gandhi Maidan), Patna (North), Patna Special, Patna (West), Purnea and Samastipur.

46 D-IX- Road permit declaration used to import/purchase the goods for value of ₹ 10,000 or more from outside the State. This accompanies with the goods carrier.

47 Form C- Used to purchase goods at concessional rate in the course of inter-State trade and commerce.

48 TAR- Every dealer having gross turnover of ₹ One crore and above is required to submit TAR certified by a Chartered Accountant before the stipulated date.

tax Act. They, however, accounted for ₹ 1,024.39 crore only in their annual returns thereby suppressing purchase/sale of goods worth ₹ 89.80 crore. As the Department had not issued any instruction for cross checking the information, the AAs could not detect the suppression of turnover, even in those cases where the audit observations were based on the assessed/scrutinised returns. This resulted in underassessment of tax of ₹ 41.35 crore including penalty of ₹ 28.47 crore and leviable interest of ₹ 3.38 crore as detailed in **Annexure-IV**. A few illustrative cases are given below:

(₹ in lakh)

Sl. No.	Name of circle No. of dealers	Period of assessment	Actual purchase Accounted for	Actual sale Accounted for	Amount concealed	Tax Penalty	Interest	Total
1.	Patna Special 6	2008-09 2009-10	65841.30 59884.79	---	5956.51	735.47 2206.42	263.67	3205.56
2.	Patna North 7	2008-09, 2009-10	5,714.47 5,220.27	18,863.70 17,688.14	1,669.75	93.85 281.56	31.27	406.68
3.	Patna Central 3	2009-10	6491.97 5916.34	---	575.63	43.88 131.64	15.14	190.66
4.	Bhagalpur 2	2008-09 2009-10	308.96 100.71	232.08 219.09	221.23	27.65 82.96	8.98	119.59
5.	Patliputra 1	2009-10	3115.65 2936.36	----	179.29	22.41 67.23	7.40	97.04

After we pointed this out, the AA/Joint Commissioner (Administration) accepted the audit observation in respect of seven dealers of three circles (Patliputra, Patna Special and Purnea) and raised demand for ₹ 24.22 crore. We await recovery in the accepted cases and replies in the remaining cases.

The matter was reported to the Government in June 2012; we are yet to receive their reply (January 2013).

2.5 Excess allowance of Input Tax Credit

Section 16 of the BVAT Act provides that when a registered dealer purchases any input within the State of Bihar from another registered dealer after paying him the tax under Section 14 or Section 4 of the Act, he is eligible to claim credit of input tax in the manner prescribed, if the goods are either sold within the State or in the course of inter-State trade and commerce or consumed in the manufacture of goods (other than Schedule-IV goods) for sale within the State or in the course of inter-State trade and commerce. Further, Section 31 of the Act provides for imposition of penalty equivalent to three times of the tax payable for excess/incorrect claim of Input Tax Credit (ITC), besides the amount of interest.

We observed in nine[49] Commercial Taxes circles between January 2011 and May 2012 from the returns of 12 dealers (scrutinised: 3 and self-assessed: 9) that they availed ITC of ₹ 31.57 crore on the purchase of goods valued at ₹ 1,136.89 crore in their annual returns during 2007-08 to 2009-10. However, as per the provision of the Act *ibid*, the dealers were entitled for ITC of ₹ 8.40 crore only on these purchases. Thus, the dealer claimed excess ITC of ₹ 23.17 crore. The penalty for the excess claim amounted to ₹ 69.50 crore and interest thereof worked out to ₹ 8.25 crore. The total revenue impact was ₹ 100.92 crore as detailed in **Annexure-V**. A few illustrative cases are given below:

(₹ in lakh)

Sl. No.	Name of circle No. of dealers	Period of assessment	Actual Entitlement ITC availed	Excess ITC availed	Penalty	Interest	Total
1.	Patliputra 1	2009-10	1,861.47 581.43	1,280.04	3,840.11	422.41	5,542.56
2.	Patna North 2	2008-09, 2009-10	988.72 17.90	970.81	2,912.44	373.36	4,256.62
3.	Patna Special 2	2009-10	48.66 17.92	30.74	92.22	15.53	138.49
4.	Hazipur 1	2009-10	15.94 4.48	11.46	34.39	4.13	49.98
5.	Shahabad 1	2009-10	42.64 35.22	7.42	22.25	2.45	32.11

After we pointed this out, the AA/Joint Commissioner (Administration) accepted the audit observation in respect of three dealers of two circles (Patliputra and Patna special) and raised demand for ₹ 18.37 crore. We await recovery in the accepted cases and replies in the remaining cases.

The matter was reported to the Government in June 2012; we are yet to receive their reply (January 2013).

[49] Buxar, Hajipur, Muzaffarpur (East), Patliputra, Patna (Central), Patna (North), Patna Special, Patna (West & Central) and Shahabad (Ara).

2.6 Short levy of tax due to application of incorrect rate of tax

Under the provision of Section 25 (1) of the BVAT Act, the prescribed authority shall, within the time and the manner prescribed, scrutinise every return filed under sub-sections (1) and (3) of Section 24 for the purpose of ascertaining that the rates of tax have been applied correctly.

Further, under the provision of Section 31 (2) of the BVAT Act, interest and penalty at the prescribed rates are leviable if the dealer fails to disclose full and correct particulars of sale so as to reduce the amount of tax payable.

We observed in 13[50] Commercial Taxes circles between July 2011 and May 2012 that 31 dealers (assessed:1, scrutinised: 6 and self-assessed: 24) assessed their tax at the lower rate of zero to four *per cent* on the sale of various goods valued at ₹ 115.78 crore instead of the correct rate of four to 12.5 *per cent* during 2007-08 to 2009-10. Due to non/deficient scrutiny, the application of incorrect rate of tax remained undetected by the assessing authorities resulting in short levy of tax of ₹ 39.85 crore including interest of ₹ 3.44 crore and leviable penalty of ₹ 27.31 crore as detailed in **Annexure-VI.** A few illustrative cases are given below:

(₹ in lakh)

Sl. No.	Name of circle No. of dealer	Period	Sale value	Commodity	Rate leviable levied (in *per cent*)	Short levy Penalty	Interest	Total
1	Patna North 5	2008-09, 2009-10	2,818.25	Footwear, Sanitary fittings and tiles, construction equipments, Sat isabgul and Hair oil	12.5/4	221.46 664.37	81.42	967.25
2	Buxar 1	2007-08, 2008-09, 2009-10	5,449.11	Husk, Hair oil	4/0 12.5/4	171.45 514.35	77.52	763.32
3	Gandhi Maidan 3	2008-09, 2009-10	1,494.50	Ply-board, Cycle lock and Cartridge	12.5/4	127.03 381.10	41.98	550.11
4	Patna special 5	2008-09, 2009-10	1,345.32	Stationery items, Electrical insulation, Medicines, Electrical goods, Olive oil, Sauce, purie and kech up, Harpik and Lizol.	12.5/ 4 4/0	114.35 343.53	49.29	507.33
5	Patliputra 2	2009-10	1,053.36	Rail-Road equipments and spare parts, Mobile Accessories.	12.5/ 4	89.54 268.61	30.89	389.03

After we pointed this out, the AA/Joint Commissioner (Administration) accepted the audit observation in respect of four dealers of two circles (Patliputra and Patna Special) and raised demand for ₹ 2.03 crore. In one case

50 Aurangabad, Bhagalpur, Biharsarif, Buxar, Hajipur, Patliputra, Patna (Central), Patna (Gandhi Maidan), Patna (Kadamkuan), Patna (North), Patna Special, Samastipur and Shahabad (Ara).

the AA Patna Special circle stated in December 2012 that tax at the rate of four *per cent* was paid treating the commodities (Lizol and Harpik) as disinfectant. The reply is not in consonance with the fact that disinfectant is not mentioned in the schedule - III of the BVAT Act and also is contrary to the instructions issued by the CCT in October 2012 in which he had mentioned that the dealers are paying tax at the lower rate than the prescribed rate on the various types of surface cleaner disinfectants by incorrectly classifying them as pesticides. We await recovery in the accepted cases and replies in the remaining cases.

The matter was reported to the Government in June 2012; we are yet to receive their reply (January 2013).

2.7 Incorrect adjustment of entry tax towards payment of VAT

Under Section 4 (A) of the Bihar Tax on Entry of Goods (BTEG) Act, 1993, if any dealer liable to pay tax under the BVAT Act, by virtue of sale of imported scheduled goods or sale of goods manufactured out of such imported scheduled goods incurs any liability to pay tax at the rate specified under Section 14 of the BVAT Act, his tax liability under the said Act shall stand reduced to the extent of tax paid under the BTEG Act.

In case of a manufacturer the reduction in tax liability shall be allowed to the Small scale, Medium scale and Sick industrial units. Further, in case only a part of the goods manufactured out of the imported scheduled goods is sold within the State of Bihar or in the course of inter-State trade and commerce or in the course of export out of the territory of India, the claim for the reduction in tax liability shall stand proportionately reduced.

We observed in 10[51] Commercial Taxes circles between July 2011 and May 2012 that 12 dealers (assessed: 1 ; scrutinised: 2 and self-assessed: 9) paid entry tax of ₹ 27.75 crore and claimed/were allowed entry tax adjustment of ₹ 26.66 crore toward their VAT liability during the period 2008-09 and 2009-10. Our scrutiny, however, revealed that the dealers were eligible for adjustment of entry tax of ₹ 18.33 crore only because they were not fulfilling the criteria[52] prescribed for availing of the adjustment of entry tax. Thus, the dealers were allowed incorrect adjustment of entry tax of ₹ 8.34 crore which resulted in excess entry tax adjustment against VAT payable to the tune of ₹ 10.91 crore including leviable interest of ₹ 2.57 crore as detailed in **Annexure-VII**.

After we pointed this out, the AA/Joint Commissioner (Administration) accepted the audit observation in respect of two dealers of two circles (Patliputra and Patna Special) and raised demand for ₹ 2.45 crore. We await recovery in the accepted cases and replies in the remaining cases.

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51 Bhagalpur, Darbhanga, Hajipur, Muzaffarpur (East), Patliputra, Patna (North), Patna Special, Patna (South), Saharsa and Shahabad (Ara).

52 (i) The goods imported were not re-sold, (ii) The dealers did not belong to small, medium and sick industries, (iii) The rates of VAT was less than the rate of ET and (iv) Adjustment of ET and the carry forward of ET to next year was done simultaneously.

The matter was reported to the Government in June 2012; we are yet to receive their reply (January 2013).

2.8 Incorrect allowance of concessional rate of tax

Under Section 8 (5) of the Central Sales Tax Act, 1956, the Government of Bihar issued a notification in October 2006 prescribing the rate of tax on the inter-State sale of goods manufactured by small and medium industries at one *per cent*. The Micro, Small and Medium Industries (Regulation and Development) Act, 2006 notified by the Government of India laid down the classification of industries on the basis of the investment in plant and machinery. The dealer availing this benefit had to produce the declaration in form 'C' or form 'D' (before 1 April 2007), as the case may be.

We observed in Patna (North) and Muzaffarpur (East) Commercial Taxes circles between July 2011 and January 2012 that four dealers (self-assessed: 3, scrutinised: 1) were not falling under the category of small or medium industries as per the prescribed parameters[53] of investment in plant and machinery during 2008-09 and 2009-10, but they availed the benefit of concessional rate of tax at the rate of one *per cent* on the inter-State sales of ₹ 74.76 crore. Due to non/ deficient scrutiny, the AAs failed to detect the incorrect availing of concessional rate of tax which resulted in short levy of tax of ₹ 1.74 crore including leviable interest of ₹ 45.73 lakh.

The matter was reported to the Government in June 2012; we are yet to receive their reply (January 2013).

[53] Micro enterprises : investment in plant and machinery - not exceeding ₹ 25 lakh.
Small enterprises : investment in plant and machinery - more than ₹ 25 lakh but not more than ₹ five crore.
Medium enterprises : investment in plant and machinery - more than ₹ five crore but not more than ₹ 10 crore.

2.9 Incorrect allowance of deductions

Under Section 35 of the BVAT Act and Rule 18 of the BVAT Rules, a works contractor is liable for deduction on the items of labour and any other charges such as amount paid to a sub-contractor on account of labour and services, charges for planning, designing and architect fees, charges for obtaining machinery and tools used on hire, cost of consumables, cost of establishment to the extent it is relatable to supply of labour and services, other similar expenses relatable to supply of labour and services, profit earned by the contractor to the extent it is relatable to supply of labour and services and goods or transactions exempted under Section 6 or Section 7 of the BVAT Act.

We observed in seven[54] Commercial Taxes circles between October 2011 and May 2012 from the returns of 13 works contractors (assessed: 3 scrutinised: 1 and self-assessed: 9) that they availed deductions of ₹ 180.54 crore during the period between 2007-08 and 2009-10 on items which were not eligible for deduction under the Act. This resulted in short levy of tax of ₹ 1.73 crore calculated on the apportioned value of materials of ₹ 32.85 crore as detailed in **Annexure-VIII**.

After we pointed this out, the AA/Joint Commissioner (Administration) accepted the audit observation in respect of two dealers of two circles (Munger and Patna special) and raised demand for ₹ 36.54 lakh. We await recovery in the accepted cases and replies in the remaining cases.

The matter was reported to the Government in June and August 2012; we are yet to receive their reply (January 2013).

2.10 Short levy of tax due to submission of irregular evidence of payment of tax

Under the provision of Section 25(1) of the BVAT Act, the prescribed authority shall, within the time and manner prescribed, scrutinise every return for the purpose of ascertaining among other things, that evidence, as prescribed, has been furnished with regard to payment of tax and interest payable, if any. Rule 29(4) of BVAT Rules, provides that the works contractor from whose bills the deductions have been made shall furnish the portion of the C-II marked "Original" to the assessing authority as evidence of payment of tax by deduction at source along with the return filed under Section 24 of the Act *ibid*.

We observed in Patna Special Commercial Taxes circle in March 2012 that in case of a dealer (M/s Peartree Enterprises Pvt. Ltd. TIN- 10010425027), the assessing authority had assessed tax of ₹ 90.01 lakh and ₹ 93.98 lakh for the years 2007-08 and 2008-09 respectively in March 2010 and March 2011. The

54 Auraganabad, Bhagalpur, Hajipur, Munger. Muzaffarpur (East), Patna Special and Samastipur.

dealer had produced 'C-II' as evidence of payment of tax deducted by various tax deducting authorities. On scrutiny of the 'C-II' and statement furnished by the dealer, we noticed that the 'C-II' issued by the Executive Engineer, Road Construction Division, Siwan for ₹ 38.24 lakh and ₹ 55.12 lakh for the year 2007-08 and 2008-09 respectively were actually issued in favour of a Joint Venture M/s HCIL-PEPL JV, New Delhi. Thus, the dealer had irregularly claimed adjustment of tax liability of ₹ 93.36 lakh on the basis of C-II issued in favour of other dealer and therefore he is liable to pay tax of ₹ 1.49 crore including leviable interest of ₹ 55.90 lakh.

After we pointed this out, the AA/Joint Commissioner (Administration) accepted the audit observation and raised the demand for ₹ 1.49 crore. We await recovery in the case.

The matter was reported to the Government in July 2012; we are yet to receive their reply (January 2013).

2.11 Short determination of gross turnover

Under the provision of Section 2(o) of the BVAT Act, gross turnover (GTO) means, for the purpose of levy of tax on sales, in respect of sale of goods, aggregate of sale prices received or receivable by a dealer on sales and includes sale of goods made outside the State of Bihar or in the course of inter-state trade or commerce or export but does not include sale price of goods which borne the incidence of tax on purchases.

We observed in Patna Special Commercial Taxes circle in March 2012 that the GTO of a dealer (M/s Peartree Enterprises Pvt. Ltd. TIN- 10010425027) was determined at ₹ 17.99 crore and ₹ 24.13 crore by the assessing authority while doing the assessment for the years 2007-08 and 2008-09 respectively in March 2010 and March 2011. But, as per statement of payment received and tax deducted thereon submitted by the dealer, he had actually received payment of ₹ 21.61 crore and ₹ 25.34 crore during 2007-08 and 2008-09 respectively. Thus, it was evident that the GTO of the dealer was determined short by ₹ 4.83 crore (2007-08: ₹ 3 .62 crore and 2008-09: ₹ 1.21 crore) which resulted into short levy of tax of ₹ 42.11 lakh worked out on his proportionate sales disclosed in the returns.

After we pointed this out, the AA/Joint Commissioner (Administration) accepted the audit observation and raised the demand for ₹ 42.11 lakh. We await recovery in the case.

The matter was reported to the Government in July 2012; we are yet to receive their reply (January 2013).

2.12 Underassessment of tax

Under Section 35 of the BVAT Act and Rule 18 of the BVAT Rules, a works contractor is liable for deduction on the items of labour and any other charges prescribed therein.

We observed in Patna Special Commercial Taxes circle in March 2012 that in case of a dealer (M/s Peartree Enterprises Pvt. Ltd. TIN- 10010425027), the assessing authority (AA) while finalising the assessment for the period 2008-09 in March 2011, allowed a deduction of ₹ 6.54 crore on analysing the admissibility of item-wise deductions claimed by the dealer on account of labour and other charges etc. But while arriving at the taxable turnover, the AA erroneously allowed deduction of ₹ 8.31 crore instead of ₹ 6.54 crore. Thus, a turnover of ₹ 1.77 crore escaped from the levy of tax which resulted in underassessment of tax of ₹11.31 lakh.

After we pointed this out, the AA/Joint Commissioner (Administration) accepted the audit observation and raised the demand for ₹ 11.31 lakh. We await recovery in the case.

The matter was reported to the Government in July 2012; we are yet to receive their reply (January 2013)

2.13 Non-levy of interest for delayed payment of admitted tax

Under the provisions of Section 24 of the BVAT Act, every dealer shall deposit the tax payable in respect of every month on or before the 15th day of the following month, failing which the dealer shall be liable to pay interest at the rate of one and a half *per cent* per month on the amount due from the date the tax was payable and became due to the date of its payment.

Under the provision of Section 25 (1) the prescribed authority shall, within the time and the manner prescribed, scrutinise every return filed under sub-sections (1) and (3) of Section 24 for the purpose of ascertaining that evidence, as prescribed, has been furnished with regard to payment of tax and interest payable.

We observed in Forbisganj and Saharsa Commercial Taxes circles between March and July 2011 that two dealers (self-assessed) had paid their admitted tax with delays ranging between seven and 349 days during 2008-09 and 2009-10. The assessing authorities did not levy interest of ₹ 8.02 lakh. This resulted in non-levy of interest amounting to ₹ 8.02 lakh.

After we pointed this out, the AA, Forbisganj accepted the audit observation and raised the demand for ₹ 1.38 lakh. We await the recovery in this case and reply in another case.

The matter was reported to the Government between December 2011 and March 2012; we are yet to receive their reply (January 2013).

B: Entry Tax

2.14 Short levy of entry tax due to suppression of import value

Under the provision of Section 8 of the BTEG Act, read with Section 31(2) of the BVAT Act, if the prescribed authority is satisfied that in respect of any assessment, any sale or purchase of goods liable to tax under the Act, has been underassessed or has escaped assessment, the prescribed authority shall assess or reassess the tax payable by such dealer within four years. In case of wilful omission by the dealer to disclose full and correct particulars of such sale or purchase or input tax credit, the prescribed authority shall impose, besides the amount of interest payable, penalty equal to three times the amount of tax which escaped assessment. The penalty imposed shall be in addition to the amount of tax on the escaped turnover.

We observed that the Government/Department did not prescribe a mechanism for cross-verification of the turnover as disclosed in the returns with other records of the dealer like utilisation statements of road permits, declaration forms and TAR as well as returns filed under the BVAT Act.

We cross checked between July 2011 and March 2012, the utilisation of road permits, declaration forms *etc.* with the returns filed by four dealers (scrutinised: 3 and self-assessed: 1), and observed in two[55] Commercial Taxes circles that they disclosed import value of scheduled goods as ₹ 97.57 crore in their returns instead of the actual amount of ₹ 130.56 crore as shown in the declaration forms 'C'[56], 'ET-V[57]' etc. and thus suppressed import/purchase of scheduled goods of ₹ 32.98 crore during 2008-09 and 2009-10. The AAs either did not scrutinise the return or in the three cases which were scrutinised did not detect the suppression which resulted in short levy of entry tax of ₹ 23.67 crore including leviable penalty of ₹ 16.47 crore and interest of ₹ 1.71 crore leviable till the date of audit.

The matter was reported to the Government between June and July 2012; we are yet to receive their reply (January 2013).

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55 Bhagalpur and Patna (Gandhi Maidan).

56 Form C- Used to purchase goods at concessional rate in the course of interstate trade and commerce.

57 ET-V- Annual return prescribed under BTEG Act 1993 to be furnished by the dealer for import of scheduled goods during the year.

2.15 Application of incorrect rate of entry tax

Under the provision of Section 3 of the BTEG Act, 1993 there shall be levied and collected a tax on entry of scheduled goods into a local area at such rate not exceeding 20 *per cent* of the import value of such goods as may be specified by the State Government in a notification published in the Official Gazette subject to such conditions as may be prescribed, provided different rates for different scheduled goods and different local areas may be specified by the State Government. Further, under the provision of Section 8 of the BTEG Act, read with Section 31(2) of the BVAT Act, penalty equivalent to three times of the amount of tax on escaped assessment and interest at the rate of 1.5 *per cent* per month is also leviable on the amount underassessed.

2.15.1 We observed in seven[58] Commercial Taxes circles between July 2011 and March 2012 that 11 self-assessed dealers imported scheduled goods[59] of ₹ 35.63 crore during the period 2008-09 to 2009-10 and assessed themselves by admitting the entry tax at rates lower than the prescribed rates in their returns. Though the AAs were required to scrutinise these returns within the prescribed time and verify the correctness of the application of rates, the same was not done in any of these cases. This resulted in underassessment of entry tax of ₹ 8.80 crore including leviable penalty of ₹ 6.04 crore and interest of ₹ 73.99 lakh as detailed in **Annexure-IX.**

After we pointed this out, the AA/Joint Commissioner (Administration) accepted the audit observation in respect of six dealers of two circles (Patliputra and Patna Special) and raised demand for ₹ 1.04 crore. We await recovery in the accepted cases and replies in the remaining cases.

2.15.2 In Patliputra circle, we observed that two dealers engaged in telecom service had admitted entry tax at the rate of four *per cent* on the import of various 'Electronic goods' valued at ₹ 5.58 crore during 2009-10. The premises of the dealer were inspected by the officers of the concerned circle and recommended to levy entry tax at the rate of eight *per cent* on import of the 'Electronic goods' treating it as an 'Electrical goods', but the AAs while doing assessment levied entry tax at the rate of four *per cent* only on the import of the aforesaid goods. This resulted into underassessment of entry tax of ₹ 96.94 lakh including leviable interest and penalty.

After we pointed this out, the AA accepted the audit observation in January 2013 in one case and raised a demand of ₹ 5.02 lakh. Further report on recovery is awaited.

The matter was reported to the Government between January and August 2012; we are yet to receive their reply (January 2013).

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58 Gopalganj, Hajipur, Muzaffarpur (West), Patliputra, Patna (Gandhi Maidan), Patna Special and Patna (West).

59 "Scheduled Goods" means goods specified in the schedule to the BTEG Act, 1993.

2.16 Non- levy of entry tax and penalty due to non-registration

Under the provision of Rule 3 of the BTEG Rules, read with Section 5 of the BTEG Act, every dealer who is liable to pay tax under the BTEG Act, by virtue of import of scheduled goods, shall make an application for registration to the officer in-charge of the circle within seven days of becoming liable to pay tax under the Act. Further, under the provision of Section 28 of the BVAT Act, read with Section 8 of BTEG Act, if the prescribed authority is satisfied that any dealer was liable to pay tax and wilfully failed to apply for registration, he shall assess to the best of his judgement, the amount of tax due, if any, and he may direct that the dealer shall pay by way of penalty, in addition to the amount of tax assessed, a sum of rupees one hundred for every day of default or an amount equal to the amount of tax assessed, whichever is higher.

We observed in 10[60] Commercial Taxes circles between April 2011 and March 2012 that 11 dealers (scrutinised: five; self-assessed: six) registered under the BVAT Act had imported various scheduled goods of ₹ 26.48 crore during 2007-08 to 2009-10. However, they did not get themselves registered under the BTEG Act, though they were liable to do so. The AAs failed to detect the fact of non-registration, though information relating to their liability for registration was available with the AAs while scrutinising the returns under the BVAT Act. This resulted in non-levy of entry tax of ₹ 2.80 crore including maximum leviable penalty of ₹ 1.40 crore.

The matter was reported to the Government between December 2011 and August 2012; we are yet to receive their reply (January 2013).

60 Bhagalpur, Biharsarif, Buxar, Darbhanga. Gopalganj, Lakhisarai, Munger, Patna (Gandhi Maidan), Patna (West) and Shahabad (Ara).

2.17 Non-realisation of admitted entry tax

Under the provision of Section 3 of the BTEG Act, 1993 read with Rule 4 of the BTEG Rules, there shall be levied and collected a tax on entry of scheduled goods into a local area for consumption, use or sale therein for the purpose of development of trade, commerce and industry in the State, at such rate, not exceeding twenty *per cent* of the import value of the goods, as may be specified by the State Government in a notification published in a official gazette. Further, under the provision of Rule 4 of the BTEG Rules every person liable to pay entry tax shall furnish a monthly/quarterly and annual returns in respect of import of all scheduled goods and tax payable thereon.

We observed in Bhagalpur and Patna (Gandhi Maidan) Commercial Taxes circles between December 2011 and January 2012 that two dealers (scrutinised: 1 and self-assessed: 1) had admitted their entry tax liability worth ₹ 3.70 crore during 2008-09 and 2009-10 in their annual return, but they actually paid the entry tax of ₹ 3.12 crore only. The AAs failed to detect the short deposit of admitted tax while scrutinising the returns in one case and while in other case the returns were not scrutinised within the prescribed due time. This resulted in non-realisation of admitted entry tax of ₹ 84.03 lakh including leviable interest of ₹ 26.24 lakh. This is indicative of control weaknesses in the Department towards compliance of the provision of the Act/Rules.

The matter was reported to the Government in June 2012; we are yet to receive their reply (January 2013).

C: Luxury Tax

2.18 Short levy of Luxury Tax

As per Section 2 (m) of the Bihar Taxation on Luxuries in Hotels Act, 1988, 'Rent' means aggregate of all charges, by whatever called, realised from the occupier of a room in a hotel and includes lodging, boarding or service charges or any sum charged. Further, Section 10 of the Act *ibid* provides that in case any proprietor fails to pay the tax within the due or extended date, he shall be liable to pay, by way of penalty a sum calculated at the rate of rupees fifty for every day of default or an interest at the rate of two and a half per centum of the amount of tax due for every month or part thereof, whichever is higher.

We observed in Patna (Gandhi Maidan) Commercial Taxes circle in October 2011 that a dealer M/s Hotel Maurya, Patna (TIN 10110001659) had not included the amount of service charges to the extent of ₹ 69.43 lakh and ₹ 7.85 lakh in his turnover during 2007-08 and 2009-10 respectively and thus, the dealer concealed the turnover by ₹ 77.28 lakh. We detected the case on the basis of cross-verification of the Gross Turn Over mentioned in the assessment order/returns with the profit and loss account of the dealer. Linking of documents[61] and matching them was necessary to arrive at this figure which was not done by the AA, while doing the assessment in July 2008 and March 2011. This resulted into short levy of Luxury Tax of ₹ 15.37 lakh including leviable interest of ₹ 7.64 lakh.

The matter was reported to the Government in June 2012; we are yet to receive their reply (January 2013).

61 Profit and loss account and the returns.

CHAPTER - III

STATE EXCISE

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present few illustrative cases of ₹ 3.85 crore selected from observations noticed during our test-check of records for the year 2011-12 relating to non/short levy, non/short realisation etc., where we found that the provisions of the Acts/Rules/Government notifications were not observed.
Increase in tax collection	The percentage of receipts from State Excise increased consistently in comparison to the total tax receipts of the State from 10.33 *per cent* to 15.71 *per cent* during the period from 2007-08 to 2011-12, which required to be maintained in subsequent years.
Very low recovery by the Department in respect of observations pointed out by us in earlier years	During the period from 2006-07 to 2010-11, we had pointed out non/short levy, non/short realisation, loss of revenue etc., with revenue implication of ₹ 1,123.49 crore in 3,936 cases in respect of State Excise revenue. Of these, the Department/Government had accepted audit observations in 457 cases involving ₹ 386.03 crore and had recovered ₹ 27 lakh. This negligible recovery of ₹ 27 lakh (0.07 *per cent*) against accepted cases involving ₹ 386.03 crore indicates lack of promptness on the part of the Government/Department in recovering the Government dues.
Results of audit conducted of the units for the year 2011-12	In the course of audit of records of 24 units relating to State Excise revenue for the year 2011-12, we found non/short realisation, loss of revenue and other irregularities involving ₹ 338.94 crore in 134 cases. The Department accepted non/short levy, non/short realisation, loss of revenue and other deficiencies of ₹ 4.32 lakh in three cases, which were pointed out during earlier years. A sum of ₹4.32 lakh in three cases has been recovered. Further, the Department also reported recovery of ₹ 41.30 lakh in one case at the instance of audit.
Our conclusion	The Department needs to improve the internal control system so that weaknesses in the system are addressed and omissions detected by us are avoided in future. It also needs to take appropriate steps to recover the amount involved, at least in the accepted cases.

CHAPTER-III: STATE EXCISE

3.1.1 Tax administration

The assessment, levy and collection of excise revenue in the State is governed by the provisions of Bihar Excise (BE) Act, 1915 and Bihar Excise (Settlement of licences for retail sale of Country/Spiced country liquor, Foreign liquor, Beer and Composite liquor shop) Rules, 2007. It is administered by the Secretary, Department of Registration, Excise and Prohibition (Excise) at the Government level and by the Commissioner of Excise (CE) at the apex level of the Department of Excise and Prohibition. The CE is also the ex-officio Controller of Molasses for the administration and execution of the Bihar Molasses Control Act and Rules. The CE is assisted by one Joint Commissioner of Excise (JCE), one Deputy Commissioner of Excise (DCE) and one Assistant Commissioner of Excise (ACE) at the headquarters level. Further, there is one DCE at each of the four[1] divisional headquarters. At the district level, the Collector of the district is in-charge of the excise administration, assisted by an ACE or by a Superintendent of Excise (SE).

For supply of all types of liquor to retailers of excise shops in the State, the Bihar State Beverage Corporation Limited (BSBCL) headed by a Managing Director was formed in October 2006, to function as an exclusive wholesale depot.

3.1.2 Trend of receipts

The variation between budget estimates and actual receipts from State Excise during the period 2007-08 to 2011-12 along with the total tax receipts during the same period is mentioned below:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts (col.-3) vis-á-vis total tax receipts (col.-6)
1	2	3	4	5	6	7
2007-08	500.00	525.42	25.42	5.08	5,085.53	10.33
2008-09	537.69	679.14	141.45	26.31	6,172.74	11.00
2009-10	850.00	1,081.68	231.68	27.26	8,089.67	13.37
2010-11	1,400.00	1,523.35	123.35	8.81	9,869.85	15.43
2011-12	1,790.00	1,980.98	190.98	10.67	12,612.10	15.71

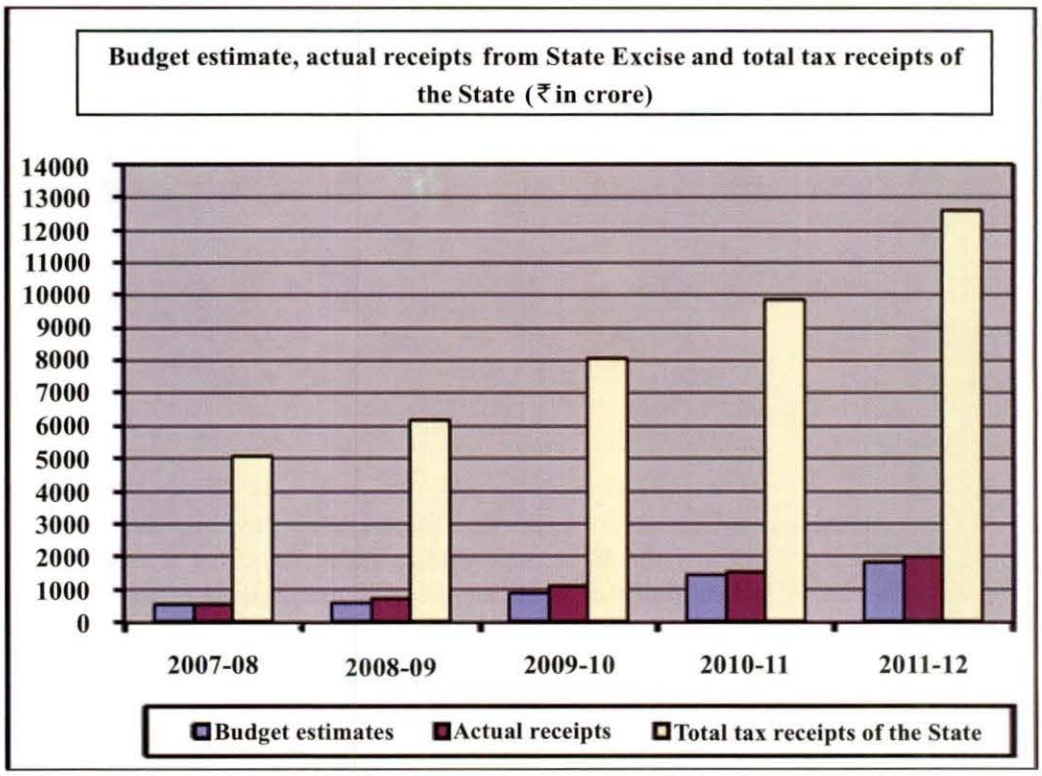
(Source: Revenue and Capital Receipt,(Detail) ; Finance Accounts, Government of Bihar)

The above table indicates that the percentage of receipts from State Excise when compared with the total tax receipts of the State increased consistently

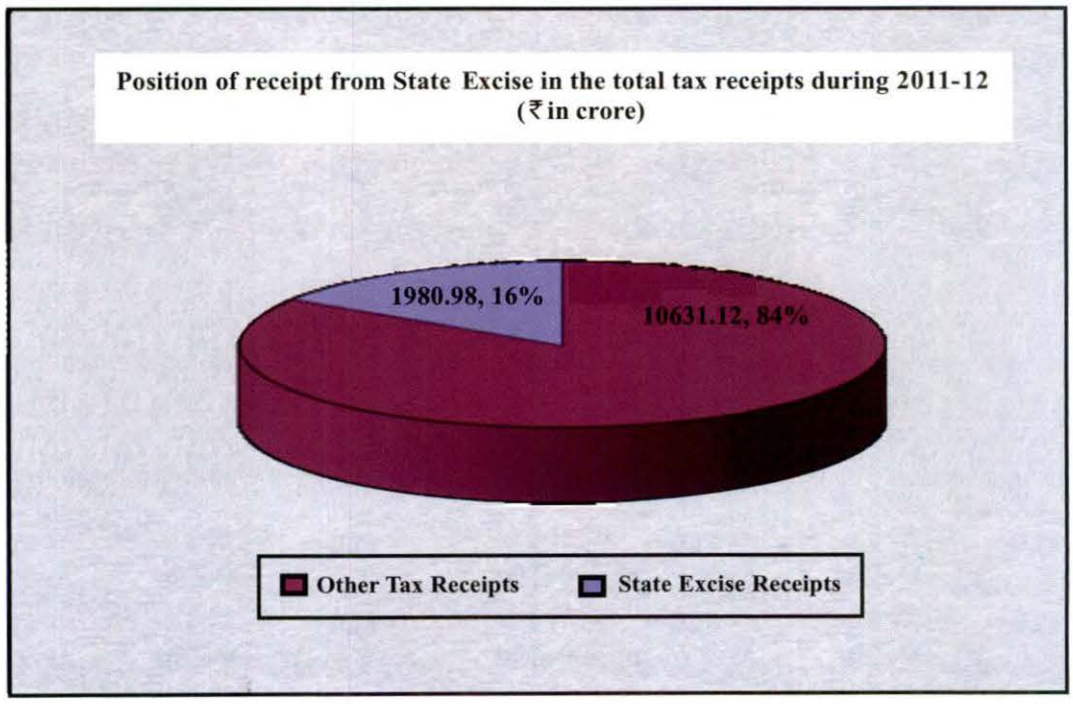
[1] Bhagalpur-cum-Munger, Darbhanga-cum-Kosi-cum-Purnea, Patna-cum-Magadh and Tirhut-cum-Saran.

from 10.33 *per cent* to 15.71 *per cent* during the period from 2007-08 to 2011-12, which is required to be maintained in subsequent years.

The trend of receipts vis-á-vis the estimated receipts of State Excise and total tax receipts are given in the following bar diagram:



The following pie chart depicts the contribution of State Excise receipts to the total tax receipts (₹ 12,612.10 crore) of the State during 2011-12:



3.1.3 Cost of collection

The gross collection of receipt from State Excise, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2007-08 to 2011-12 along with the all-India average percentage of expenditure on collection to gross collections for the relevant previous years are mentioned in the following table:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All-India average percentage for the previous year
2007-08	525.42	22.14	4.21	3.30
2008-09	679.14	24.15	3.56	3.27
2009-10	1,081.68	44.02	4.07	3.66
2010-11	1,523.35	37.65	2.47	3.64
2011-12	1,980.98	41.24	2.08	3.05

The above table indicates that the percentage of expenditure to gross collection in respect of State Excise revenue during 2010-11and 2011-12 were below the all-India average percentage for the previous year. The Department should ensure that this trend is maintained in the subsequent years also.

3.1.4 Impact of audit

Revenue impact

During the period from 2006-07 to 2010-11, we have pointed out through our inspection reports, non/short levy, non/short realisation, loss of revenue etc., with revenue implication of ₹ 1,123.49 crore in 3,936 cases. Of these, the Department/Government had accepted audit observations in 457 cases involving ₹ 386.03 crore and had since recovered ₹ 27 lakh. The details are shown in the following table:

(₹ in crore)

Year	No. of units audited	Pointed out		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2006-07	30	3,404	167.09	258	48.15	Nil	0.15
2007-08	32	149	149.60	4	0.47	Nil	Nil
2008-09	32	113	223.58	43	31.99	12	0.08
2009-10	39	175	451.60	152	305.42	2	0.04
2010-11	38	95	131.62	Nil	Nil	Nil	Nil
Total	**171**	**3,936**	**1,123.49**	**457**	**386.03**	**14**	**0.27**

This negligible recovery of ₹ 27 lakh (0.07 *per cent*) against the accepted cases involving ₹ 386.03 crore indicates lack of promptness on the part of the Government/Department in realising the Government dues.

We recommend that the Government may take appropriate steps to recover the amounts involved, at least in the accepted cases.

3.1.5 Results of audit

In course of audit of records of 24 units relating to State Excise revenue for the year 2011-12, we found non/short realisation, loss of revenue and other irregularities involving ₹ 338.94 crore in 134 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non/delayed settlement of excise shops	27	62.40
2.	Non-settlement of excise shops after cancellation	9	8.54
3.	Loss of revenue due to low yield of spirit/country liquor	1	13.69
4.	Loss due to wastage of spirit including Foreign liquor/denatured spirit etc.	1	1.52
5.	Loss/wastage of molasses in storage, transit and working	1	2.04
6.	Other cases	95	250.75
Total		**134**	**338.94**

During the year 2011-12, the Department accepted underassessment and other deficiencies *etc.* involving ₹ 4.32 lakh in three cases, which were pointed out during 2009-10 and 2010-11and has since been recovered.

Further, the Department also reported (July 2012) recovery of ₹ 41.30 lakh in one case at the instance of Audit.

A few illustrative cases involving tax effect of ₹ 3.85 crore are mentioned in the following paragraphs.

3.2 State Excise Revenue

3.2.1 Introduction

State excise revenue is one of the most important sources of revenue and constituted 15.71 *per cent* of total tax revenue raised by the State Government during 2011-12. This includes revenue derived or derivable from any duty, fee, tax, payment (other than a fine imposed by a Criminal Court) or confiscation imposed or ordered under the Bihar Excise (BE) Act,1915 or any other law for the time being in force relating to liquor or intoxicating drugs.

We conducted test-check of records of the Commissioner of Excise and district excise offices during 2011-12 in order to ascertain the compliance of Act/Rules and instructions of the Government/Department and effectiveness of internal control mechanism to safeguard the interest of revenue.

Our scrutiny of the records revealed several cases of non-compliance of the provisions of the Act/Rules and departmental orders as mentioned in the following paragraphs. These cases are illustrative and are based on test-checks carried out by us.

3.2.2 Finalisation of contract for manufacture and wholesale supply of liquor

The Department of Registration, Excise and Prohibition (Excise) invited (February and May 2009) short term tenders for grant of licence for the period 1 April 2009 to 31 March 2012 and 1 August 2009 to 31 March 2012 for manufacture and wholesale supply of country liquor (CS) and spiced country liquor (SCS) respectively to Bihar State Beverage Corporation Limited (BSBCL). In response, 15 tenderers for supply of CS and five tenderers for supply of SCS submitted the tenders. The Department rejected two tenders (M/s Narang Distillery Ltd. and M/s Lords Distillery Ltd.) for supply of both CS and SCS on the grounds of non-submission of latest income tax return, non-submission of certificate from Registrar of Companies to the effect that the Company was not under liquidation etc. All the remaining 13 tenderers of CS and three tenderers of SCS were granted the licences for supply of CS/SCS in June 2009 and July 2009 respectively in all 38 districts of the State.

In course of test-check of files relating to manufacture and wholesale supply of CS and SCS in the office of the Commissioner of Excise during April-May 2012, we observed the followings:

3.2.2.1 Delay in the tendering process of country liquor

According to the instructions issued by the Board of Revenue in December 1998, new tender shall be invited by the Commissioner of Excise, three months prior to the expiry of the period of the existing contract. On receipt of tenders, the Commissioner of Excise shall submit his recommendations to the Board of Revenue for approval.

We found that though the process to call for tender for supply of CS commenced in November 2007, the Department took long period to finalise the tender and awarded the contracts in June 2009 i.e. much after the expiry of existing contract

period (2005-08) on 31 March 2008. It was observed that the Department granted extensions (three times) to the existing 10 licensees on the grounds mentioned below:

Sl. No.	Period of extension	Ground on which extension was granted by the Department	Audit observation
1	1.4.2008 to 30.9.2008	(i) Whether the tender should be invited for supply of CS in sachets as in the existing contract or in bottles ; (ii) Whether the tender should be for special privilege as in the existing contract or for exclusive privilege; (iii) Whether the number of zones for supply should be increased.	The Department could not take the decision on supply of CS in bottles and invited (February 2009) the tenders to supply liquor in sachets. Thus, the ground, on which the extensions were granted, was either not important enough or was not decided till end.
2	1.10.2008 to 31.3.2009	Pending decision on supply of country liquor in bottles.	
3	1.4.2009 to 30.6.2009	Imposition of model code of conduct for *Lok Sabha* elections.	No comments.

(*Source: File related to manufacture and wholesale supply of CS*)

After this was pointed out, the Department stated (September 2012) that issue of supply of CS in bottles in Public Private Partnership Mode was under consideration at the level of the Government. So it was decided to process the new tender after decision at the Government level in this regard.

However, the fact remains that the Department could not take a decision and finally invited (February 2009) the tenders to supply country liquor in sachets only. Thus, the lackadaisical approach of the Department in inviting and finalising tenders before 1 April 2008 necessitated extensions to the existing suppliers for 15 months beyond the period of contract.

3.2.2.2 Undue favour to suppliers of country liquor

According to the Bihar Liquor (Price Fixation and Control) Rules, 1994 the Board of Revenue will fix the rate of spirit for manufacture of Country Liquor/Spiced Country Liquor.

The NIT provided for submission of tenders for different supply zone. Thus, there was possibility of quoting of different rates for different supply zones by the tenderers. However, the Department did not prescribe any method for determination of uniform rate of supply of CS across the State in that event. The rates of supply of country liquor were fixed at ₹ 2.54 (200 ml) and ₹ 4.49 (400 ml) in April 2009 with the approval of Board of Revenue. Again in June 2009, the rates of supply of CS were revised to ₹ 2.80 (200 ml) and ₹ 5.15 (400 ml) by the Government on

the basis of recommendations of a committee of departmental officers on following grounds:

Sl. No	Ground on which higher price was fixed	Audit observation
1	Future increase in the price of rectified spirit.	At no stage/point of time, the rate of spirit had been increased during the entire period of contract (July 2009 to March 2012). Thus, the apprehension of the Department was wrong and not based on facts.
2	Fall in production of molasses in Bihar.	The production of molasses in nine[2] sugar mills of Bihar increased from 14.11 lakh quintals in 2009-10 to 21.29 lakh quintals in 2011-12. Thus, the apprehension of the Department proved wrong.
3	Fall in production of spirit in distilleries of Bihar.	The production of spirit in three[3] distilleries of Bihar increased significantly from 1.70 crore Bulk Litre (BL) in 2009-10 to 4.04 crore BL in 2011-12. Thus, the apprehension of the Department proved wrong.
4	Likelihood of import of 50 *per cent* rectified spirit from other States in future.	Since out of 13 tenderers, seven tenderers had offered their rate keeping in the fact that they would import spirit from outside the State. Moreover, no evaluation supporting import of 50 *per cent* rectified spirit was on record.

The approval of Board of Revenue was, however, not obtained. We further noticed that the Department fixed (May 2005) rate of supply of CS for the contract period 2005-08 taking into account only five factors, (cost of spirit, bottle/cap/label/cartoon, transportation, processing charges and profit/margin) whereas 13 factors (cost of spirit, film/carat, diesel/electricity, pay/wages, wastage, loan/interest on credit, house rent/loss on house/machine, depreciation, administrative and other overhead charge, licence fee, transportation from warehouse to BSBCL, transportation of spirit and profit/margin) were considered for fixation of rate in April 2009 and June 2009 (for contract of 2009-12).

Thus, revision of rates in June 2009 without approval of the Board of Revenue led to undue benefit of ₹ 107.94 crore to the wholesale suppliers/BSBCL/ retailers of CS in the 38 districts of the State during 2009-12 at the cost of consumers as detailed in **Annexure –X.**

After this was pointed out in audit, the Department stated (September 2012) that L-1 did not agree to supply the CS at their quoted rates in all districts of the State. Thereafter, negotiation was made with L-2 to supply CS in whole

2 Bagaha, Hasanpur, Harinagar, Majhaulia, Narkatiaganj, Riga, Sasamusa, Sidhwalia and Gopalganj (Vishnu Sugar Mill).

3 Harinagar, Narkatiaganj and Riga.

State at uniform rate and the Government determined the rate of supply of CS as ₹ 2.80 for 200 ml and ₹ 5.15 for 400 ml sachets.

However, the fact remains that there did not exist any mechanism for determination of rates and the Department did not obtain the approval of the Board of Revenue at the time of finalising the new rates in June 2009.

3.2.2.3 Undue favour to suppliers of spiced country liquor

The rates of supply of spiced country liquor were fixed at ₹ 8.28 (300 ml) and ₹ 13.85 (600 ml) in April 2009 with the approval of Board of Revenue. Again in July 2009, the rates of supply were revised to ₹ 6.90 (200 ml), ₹ 10.00 (300 ml) and ₹ 17.60 (600 ml) by the Government on the basis of recommendations of a committee of departmental officers on the grounds mentioned in the preceding paragraph 3.2.2.2, which proved wrong.

Thus, revision of rates in July 2009 without approval of the Board of Revenue led to undue benefit of ₹ 4.21 crore to the wholesale suppliers/BSBCL/ retailers of SCS in the 38 districts of the State during 2009-12 at the cost of consumers as detailed in **Annexure –XI**.

After this was pointed out, the Department stated (September 2012) that the Government finalised the tender for SCS on the basis of negotiations with the bidders. However, the Department did not explain the reasons of increasing the rate of supply for manufacture of SCS in July 2009, only three months after fixation of rate in April 2009, without approval of the Board of Revenue.

3.2.2.4 Non-transparency in allotment of supply districts of CS

According to the NIT, in case of acceptance of tender, the Government has right to allot exclusive privilege in any of the supply zones.

The NIT provided for lifting of Minimum Guaranteed Quota (MGQ) for all 38 districts of the State. However, there was no clarity on allotment of number of districts to each successful tenderer thereby leaving scope of favour to any tenderer by the competent authority. As a result, three[4] tenderers were not allotted even a single district of their preference, whereas five[5] tenderers were allotted all the districts of their choice. Further, M/S Saraya Industries was allotted 67.18 *per cent* of its tendered MGQ, whereas M/S Umeri Distillery was allotted only 8.92 *per cent* of its tendered MGQ. It is thus clear that the allotment of supply districts and quantity of liquor was not done in transparent manner.

4 M/S Ally Food Pvt.Ltd, M/S Trigger Goods Pvt. Ltd and M/S Umeri Distillery Pvt. Ltd.

5 M/S Spicy Beverage Pvt Ltd, M/S Nagendra Prasad, M/S Ramji Prasad, M/S Sanjay R.Kumar and M/S Saraya Industries.

3.2.2.5 Supply of sub standard liquor

According to the conditions of licence (Form 27), the country liquor sold should be of good quality and in accordance with the standard prescribed by the Commissioner of Excise. The liquor kept for sale in godown shall be analysed periodically and the licensee is bound to rectify the deficiency found, if any.

In course of scrutiny of sample test reports in the office of the Chemical Examiner, Patna for the period from 2009 -10 to 2011-12, we observed in June 2012 that during 2009-12, out of 491 samples of CS chemically examined, 142 samples were not in accordance with standard strength, 12 contained sediments and in 180 samples, there was shortage in quantity.

Further, on the basis of reports of samples of CS, we verified the position in four[6] excise offices and observed that 91,950.86 LPL of CS, which were of sub-standard preparation or unfit for consumption, were issued to BSBCL for sale to retailers, without any rectification of the deficiency of whole lot from which samples were collected. Thus, supply of lot of CS from where samples were collected before receipt of test report from laboratory not only defeated the purpose of testing but also involve human risk.

After this was pointed out by audit, the Department stated (September 2012) that samples of water and spirit are examined by the Chemical Examiner in every six months (January and August) before manufacture of liquor. Whenever there is complaint against strength and quantity of liquor in retail shops or warehouse or BSBCL, the samples were sent by excise officers to the Chemical Examiner and the related samples were destroyed besides initiation of penal proceedings.

We do not agree as the lot under chemical examination should not have been issued till receipt of test report and the whole lot of CS from where the samples were collected should have been destroyed in case of adverse reports.

6 Aurangabad, Jehanabad, Muzaffarpur and Saran.

3.2.3 Defalcation of excise revenue due to absence of internal control mechanism

The Bihar Excise Rules, 2007 and the conditions of sale notification provides that the monthly installment of licence fee specified in the licence and determined by the Government shall be deposited by the licensee in the Government treasury of the district by the 1st day of the month, which in any event must be deposited by the 20th day of the month and if the day is a holiday, on the next working day, failing which the licence shall be cancelled and all deposited security amount shall be forfeited and the shop shall be settled to the next applicant.

As per Rule 7 read with Rule 37 of the Bihar Financial Rules, Volume-I, it is the responsibility of the departmental authority to see that all sums due to the Government are regularly and promptly assessed, realised and duly credited in the Government account under proper head without any delay.

Further, as per Rule 104 of the Bihar Treasury Code, 1937 (Vol.-I), in case of Excise Department, one copy of challan should be sent to District Excise Officer (DEO) by the treasury concerned. Under provisions of Excise Laws of Bihar Vol.-II, every excise office will maintain a Challan Register in Form-106 and every challan for excise payments presented should be entered in the register after being satisfied of the correctness of the entries therein. The register will be sent to treasury at the end of each day for the signature of the Treasurer. The entries of payments made in other registers should be on production of challan of payments, be also duly compared with the entries made in the challan register, and discrepancies reconciled.

3.2.3.1 During test-check of the Demand and Collection Register of the District Excise Office, Muzaffarpur between April and June 2012, we observed that licence fee of ₹ 41.30 lakh deposited by two[7] licensees during the period April 2010 to November 2011 was not found deposited in the treasury schedule under head '0039 – State Excise'. The concerned branch of State Bank of India also certified (5 June 2012) that the aforesaid sums were not found deposited into the bank and the permits were issued against fake and fictitious payments. As the challan register was not maintained in the office, the District Excise Officer failed to verify the genuineness of the challans submitted by the licensees with the treasury records as provided in the Bihar Financial Rules.

After this was pointed out by us, the Collector, Muzaffarpur accepted the fact and stated (16 June 2012) that the treasury did not furnish the treasury scroll and month-wise copies of challans despite being requested repeatedly and thus

[7] Shri Vidya Sagar : Group No. 28 and 39 (2010-11) and Shri Randhir Kumar : Group No. 19 (2011-12).

challan register could not be maintained and verified by the excise office. However, FIRs had been lodged against the concerned licensees and certificate cases have been instituted. The show-cause notice had also been served to the erring officials. He further reported (3 July 2012) that the entire money had since been recovered (27 June 2012) from the defaulter licensees.

The action taken report against the erring officials has not been intimated to audit.

3.2.3.2 During test-check of demand collection register for the period 2010-11 and 2011-12 (upto July 2011) of the District Excise Office, Patna and verification of remittances from the schedule of the District treasury, we observed in November 2011 that three[8] licensees had deposited ₹ 16,12,460 but shown deposit of ₹ 96,64,460 for the period from June to November 2011 by manipulating the challans for issue of permits. After audit pointed out, two licensees (Sri Chandan Kumar and Sri Kamalesh Kumar) had deposited (August to November 2011) their entire balance licence fees but Sri Rakesh Patel had deposited (November 2011) ₹ 12,95,600 only against the balance payable licence fees of ₹ 27,62,600. This resulted in short deposit of ₹ 14,67,000.

Assistant Commissioner of Excise (ACE) Patna accepted (June 2012) the facts and stated that after verification, FIR had been lodged against the defaulters for submission of fake challans. In case of Rakesh Patel, a certificate case had been instituted for ₹ 13,74,480 only after adjusting security deposit. Further development is awaited (January 2013).

Non-maintenance of challan register and verification of the amount deposited by licensee from the records of treasury as well as non-observance of condition of sale notification as provided in Bihar Excise Rules, 2007 by the Excise officers resulted in defalcation of Government Revenue. Excise Department failed in checking areas of malfunctioning in system and could not take appropriate remedial measures which showed non-existence of internal control mechanism.

The matter was reported to the Government in July 2012; we are yet to receive their reply (January 2013).

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8 Sri Rakesh Patel :Group No. 241; Sri Chandan Kumar :Group No. 12 and 70; Sri Kamalesh Kumar : Group No. 117.

3.2.4 Non-settlement of excise shops after cancellation

Under the provisions of the Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor/foreign liquor/beer and composite liquor shops) Rules, 2007 (effective from 1st July 2007) framed under the Bihar Excise (BE) Act, 1915, the settlement of licence for retail sale of country liquor/spiced country liquor, foreign liquor/ beer, wine and composite liquor shops shall be made through lottery system. According to the New Excise Policy, 2007 and conditions of the sale notification, the excise shops were required to be settled before the commencement of the excise year (beginning from 1st April and ending on 31st March of next year). The Rules *ibid,* further provide for the licensees to deposit one twelfth part of the annual licence fee in each month in advance, failing which the licence shall be cancelled and the security deposit forfeited and the shop shall be re-settled for the remaining period with other willing applicants, as prescribed. Further, Section 42 of the Bihar Excise Act, 1915 provides for imposition of penalty equivalent to the total amount of loss of revenue to the State.

During scrutiny of the settlement files/ registers and demand and collection registers in six[9] District Excise Offices between June 2011 and September 2012, we observed that the licences for nine country/spiced country liquor, four India made foreign liquor and 14 composite liquor shops settled during the excise year 2009-10 to 2011-12 were cancelled between August 2009 and September 2011 due to non-payment of the licence fees. The cancelled shops remained unsettled for remaining period of the excise year. Since these shops were settled for the whole excise year and licences were cancelled due to non-payment of licence fees, action should have been taken for realisation of Government dues from the defaulter as per the provisions of the BE Act, which was not done. This resulted in loss of Government revenue of ₹ 1.87 crore. Besides, penalty of ₹ 1.42 crore is also leviable.

After this was pointed out, ACE/SE stated between June 2011 and July 2012 that the efforts were made to settle the cancelled shops but in absence of willing applicants these shops could not be settled. They further stated that the advance licence fee and security deposits were forfeited as penalty and they were black listed (except Gaya). The reply (July 2012) of the ACE Gaya that section 42 of BE Act relates to cancellation o f shops and not for imposition of penalty is not in consonance with the provisions of the Section 42.

The matter was reported to the Government between November 2011 and June 2012; we are yet to receive their reply (January2013).

9 Bhabhua, Gaya, Katihar, Lakhisarai, Purnea and Saharsa.

3.2.5 Conclusion

The audit of the Department revealed a number of system and compliance deficiencies in its functioning like irregular finalisation of contract for manufacture and wholesale supply of liquor leading to undue favour to suppliers and retail licensees at the cost of customers and supply of sub standard liquor. There was also lack of monitoring and supervision in respect of implementation of Act/regulations of the Department leading to failure of internal control mechanism like defalcation of excise revenue through fake and fictitious payments.

CHAPTER - IV

TAXES ON VEHICLES

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present a few illustrative cases of ₹ 155.58 crore selected from observations noticed during our test-check of records for the year 2011-12 relating to non/short levy, non/short realisation, etc. in the district transport offices, where we found that the provisions of the Acts/Rules/Government notifications were not observed. It is a matter of concern that similar omissions had been pointed out by us repeatedly in the Audit Reports in the past, but the Department did not take corrective action till we pointed these out in audit. We are also concerned that though these omissions were apparent from the records which were made available to us, the District Transport Officers were unable to detect these mistakes in due course.
Increase in tax collection over Budget estimates	In 2011-12, though the collection of taxes on vehicles increased by 5.98 *per cent* as compared to the budget estimates, the percentage of receipt from taxes on vehicles in the total tax receipt of the State decreased marginally over the previous year.
Very low recovery by the Department in respect of observations pointed out by us in earlier years	During the period 2006-07 to 2010-11, we had pointed out non/short levy, non/short realisation, loss of revenue etc., with revenue implication of ₹ 612.03 crore in 1,100 cases in respect of taxes on vehicles. Of these, the Department/Government had accepted audit observations in 900 cases involving ₹ 488.13 crore and had since recovered ₹ 1.35 crore. This low recovery of ₹ 1.35 crore (0.28 *per cent*) against accepted cases involving ₹ 488.13 crore indicates lack of promptness on the part of the Government/ Department in recovering the Government dues.
Results of audit conducted of the units for the year 2011-12	In the course of audit of records of 34 units relating to taxes on vehicles for the year 2011-12, we found non/short levy, non/short realisation, loss of revenue and other irregularities involving ₹ 170.37 crore in 220 cases. The Department accepted non/short levy, non/short realisation, loss of revenue and other deficiencies of ₹ 28.61 crore in 58 cases, of which nine cases involving ₹ 1.53 crore were pointed out during 2011-12 and the rest in earlier years.
Our conclusion	The Department needs to improve the internal control system so that weaknesses in the system are addressed and omissions detected by us are avoided in future. It also needs to take appropriate steps to recover the amount involved at least in accepted cases.

CHAPTER-IV: TAXES ON VEHICLES

4.1.1 Tax administration

The levy and collection of taxes on vehicles in the State is governed by the provisions of Motor Vehicles (MV) Act, 1988; Central Motor Vehicles (CMV) Rules, 1989 and the Bihar Motor Vehicle Taxation (BMVT) Act and Rules, 1994. It is administered by the Principal Secretary, Transport Department at the Government level and by the State Transport Commissioner (STC) at the apex level of the Department. In performance of his duties, the STC is assisted by two Joint State Transport Commissioners at the headquarters. The State is divided into nine[1] regions and 38 districts which are controlled by the Secretaries of the Regional Transport Authorities and the District Transport Officers (DTOs) respectively. They are assisted by Motor Vehicle Inspectors (MVIs) in discharging their duties.

4.1.2 Trend of receipts

The variation between the budget estimates (BEs) and the actual receipts from taxes on vehicles during the period 2007-08 to 2011-12 along with the total tax receipts during the same period is mentioned below:

(₹ in crore)

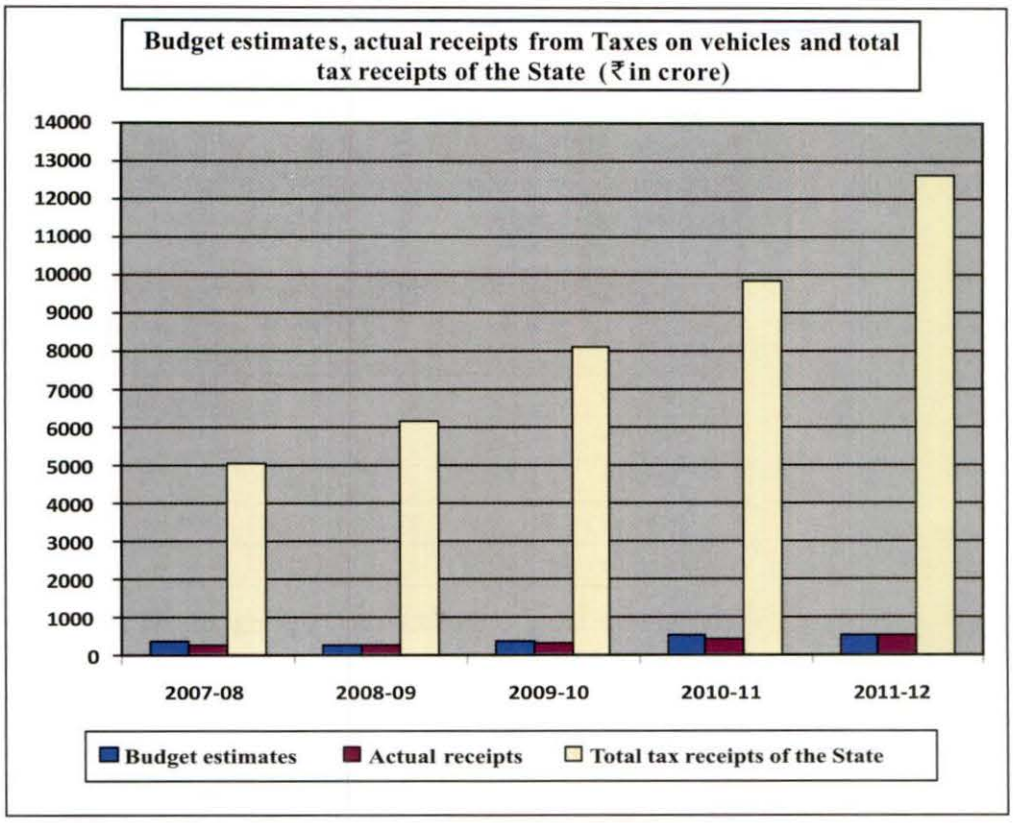
Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts (col.-3) vis-a-vis total tax receipts (col.-6)
1	2	3	4	5	6	7
2007-08	375.00	273.21	(-) 101.79	(-) 27.14	5,085.53	5.37
2008-09	256.60	297.74	(+) 41.14	(+) 16.03	6,172.74	4.82
2009-10	355.00	345.13	(-) 9.87	(-) 2.78	8,089.67	4.27
2010-11	550.00	455.43	(-) 94.57	(-) 17.19	9,869.85	4.61
2011-12	537.00	569.13	(+) 32.13	(+) 5.98	12,612.10	4.51

(Source: Revenue and Capital Receipt,(Detail): Finance Accounts, Government of Bihar)

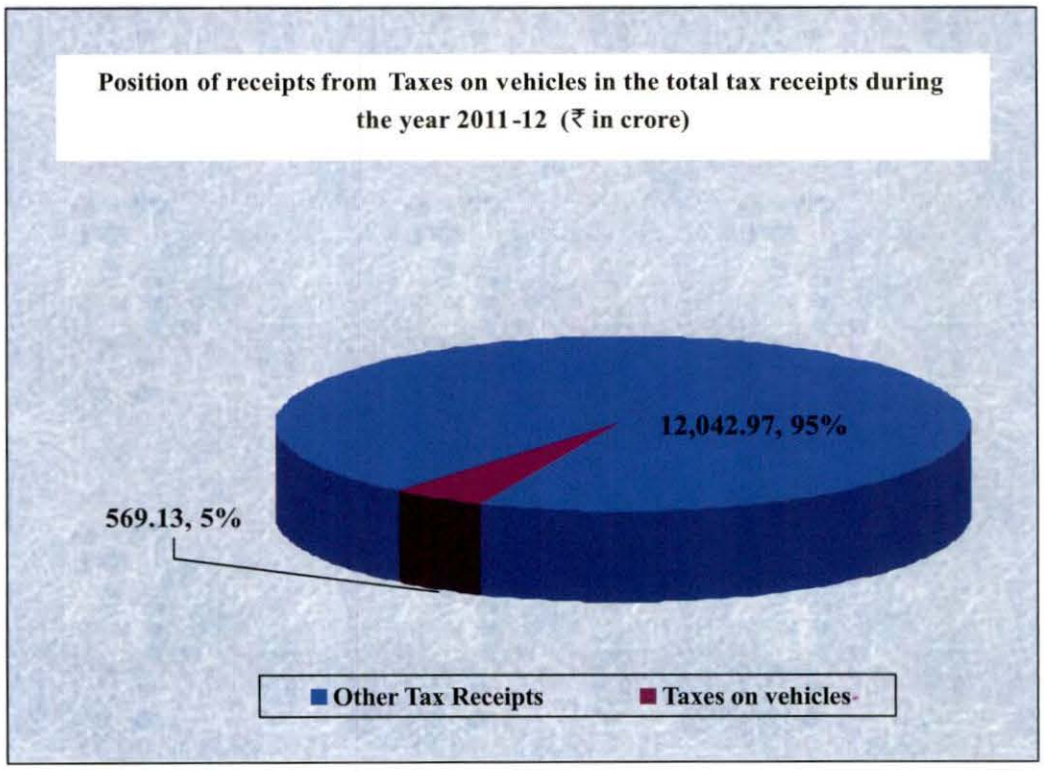
The above table indicates that in 2011-12, though the collection of taxes on vehicles increased by 5.98 *per cent* as compared to the budget estimates, the percentage of receipt from in the total tax receipt of the State decreased over the previous year.

The trend of actual receipts vis-á-vis the estimated receipts of taxes on vehicles and total tax receipts are depicted in the following bar diagram:

[1] Bhagalpur, Darbhanga, Gaya, Katihar, Madhubani, Muzaffarpur, Patna, Purnea and Vaishali.



The following chart depicts the contribution of taxes on vehicles to the total tax receipts (₹ 12,612.10 crore) of the State during 2011-12.



4.1.3 Cost of collection

The gross collection of taxes on vehicles receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2007-08 to 2011-12 along with the all-India average percentage of expenditure on collection to gross collections for the relevant previous years are mentioned below:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the previous year
2007-08	273.21	5.96	2.18	2.47
2008-09	297.74	6.95	2.33	2.58
2009-10	345.13	10.41	3.02	2.93
2010-11	455.43	16.92	3.72	3.07
2011-12	569.13	22.31	3.92	3.71

The above table indicates that during the years 2009-12, the percentage of expenditure on collection was more than the all-India average percentage for the previous year.

The Government needs to take appropriate measures to keep the percentage of expenditure on collection below the all India average in the coming years.

4.1.4 Impact of audit

Revenue impact

During the period from 2006-07 to 2010-11, we had pointed out in our inspection reports cases of non/short levy, non/short realisation, loss of revenue etc., with revenue implication of ₹ 612.03 crore in 1,100 cases. Of these, the Department/ Government had accepted audit observations in 900 cases involving ₹ 488.13 crore and had since recovered ₹ 1.35 crore. The details are shown in the following table:

(₹ in crore)

Year	No. of units audited	Pointed out		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2006-07	47	172	41.63	116	28.49	Nil	Nil
2007-08	47	201	141.29	215	142.94	5	0.37
2008-09	46	218	155.98	210	96.04	4	0.98
2009-10	38	310	253.13	295	201.23	Nil	Nil
2010-11	48	199	20.00	64	19.43	Nil	Nil
Total	**226**	**1,100**	**612.03**	**900**	**488.13**	**9**	**1.35**

The low recovery of ₹ 1.35 crore (0.28 *per cent*) against the accepted cases involving ₹ 488.13 crore indicates lack of promptness on the part of the Government/Department in realising the Government dues.

We recommend that the Government may take appropriate steps to recover the amounts involved, at least in accepted cases.

4.1.5 Working of internal audit wing

There is an internal audit wing called Finance (Audit) which works under the Finance Department and internal audit of the different offices of the Government is conducted on the basis of requisitions received from the Administrative Department. The Department did not furnish further information regarding the number of offices due for audit, audit conducted, number of observations issued and amount involved to us.

4.1.6 Results of audit

In the course of audit of records of 34 units relating to taxes on vehicles for the year 2011-12, we found non/short levy, non/short realisation, loss of revenue and other irregularities involving ₹ 170.37 crore in 220 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1	Non/short levy of taxes	46	13.02
2	Non-realisation of principal and interest	1	149.51
3	Non/short realisation of trade tax	23	1.59
4	Loss of revenue due to non-renewal of driving licence in Form – 7	11	1.83
5	Loss of revenue due to non-realisation of one time tax from tractor/ trailers	20	1.29
6	Loss of revenue due to non-realisation of one time tax from three wheelers	21	1.07
7	Loss of revenue due to non-renewal of registration of personalised vehicles	15	0.28
8	Loss of revenue due to irregular issue of Tax Token	2	0.23
9	Loss of revenue due to irregular issue of driving licence to drive transport vehicles	8	0.08
10	Non-realisation of tax from vehicles involved in surrender	4	0.08
11	Other cases	69	1.39
Total		**220**	**170.37**

During 2011-12, the Department accepted non/short levy, non/short realisation, loss of revenue and other deficiencies of ₹ 28.61 crore in 58 cases, of which nine cases involving ₹ 1.53 crore were pointed out during the course of the year and the rest in earlier years. The Department reported recovery of ₹ 11,000 in one case which was pointed out during the year 2010-11.

A few illustrative cases involving tax effect of ₹ 155.58 crore are mentioned in the following paragraphs.

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

The provisions of the Bihar Motor Vehicles Taxation (BMVT) Act, 1994, Motor Vehicles (MV) Act, 1988 and Rules made thereunder require levy and payment of:

- *taxes on vehicles/additional tax by the vehicle owners at the appropriate rates;*
- *tax/additional tax in advance and within the prescribe period and*
- *penalty up to double the tax, if the tax is not paid within 90 days.*

Non-compliance of the provisions of the Acts/Rules in some cases as mentioned in paragraphs 4.3 to 4.11 resulted in non/short levy, non/short realisation of tax etc. of ₹ 155.58crore.

4.3 Non-realisation of taxes on vehicles

Under Section 5 and 9 of the Bihar Motor Vehicle Taxation (BMVT) Act, 1994, tax on vehicles is to be paid to the taxing officer in whose jurisdiction the vehicle is registered. The vehicle owner can pay the tax to the new taxing officer in case of change of residence/business, subject to the production of No Objection Certificate (NOC) from the previous taxing officer. Further, the taxing officer may exempt the vehicle owner from payment of tax, if he is satisfied that the prescribed conditions have been fulfilled by the vehicle owner. The District Transport Officers (DTOs) are required to issue notice of demands to ensure timely realisation of tax.
Non-payment of tax beyond 90 days attracts penalty at the rate of 200 *per cent* of the tax due. Under Section 22 of the BMVT Act, if the tax or penalty or both has not been paid in accordance with the provisions of the Act, an officer not below the rank of Inspector of Motor Vehicles or any other officer specially authorised by the State Transport Commissioner, may seize the motor vehicles and detain it till the payment of tax.

We observed that the Government/ Department did not install a mechanism for periodic review of the taxation registers by the DTOs and also did not prescribe a time frame within which a notice of demands is to be issued to the defaulting vehicle owners.

During test-check of the taxation registers and the *VAHAN*[2] database in nine[3] District Transport Offices between December 2011 and June 2012, we observed that though the owners of 517 transport vehicles did not pay tax of ₹ 1.89 crore pertaining to the period between September 2005 and December 2011 within the due dates, yet the DTOs neither seized the defaulting vehicles nor initiated action towards realisation of the dues from the defaulting vehicle owners. In none of the cases, change of addresses of the owners or surrender

2 An application developed for registration of vehicles and road tax clearance.

3 Aurangabad, Begusarai, Bhagalpur, Darbhanga, Motihari, Muzaffarpur, Patna, Purnea and Rohtas.

of documents for securing exemption from payment of tax was found on record. This resulted in non-realisation of tax of ₹ 5.67 crore including maximum penalty of ₹ 3.78 crore (**Annexure-XII).**

After this was pointed out by audit between December 2011 and June 2012, the Government/Department stated in October 2012 that the DTO Bhagalpur had issued (April 2012) notice of demands in all the cases. The replies in respect of the remaining eight DTOs are awaited (January 2013).

4.4 Short realisation of one time tax (OTT) from trailers

Under Section 5 and 7 of BMVT Act, 1994 as amended by Bihar Finance Act, 8 of 2010 (effective from 9 April 2010), a one time tax (OTT) of ₹ 4,000 shall be payable by all trailers upto 3,000 Kgs registered laden weight and ₹ 6,000 shall be payable by all trailers more than 3,000 Kgs registered laden weight used or kept for use for other than agricultural purpose. The OTT payable by trailers already registered shall be calculated after deducting the tax amount already paid. Previously the tax on trailers having laden weight of 5000 kgs was ₹ 600 per quarter (Road Tax: ₹ 240 and Additional Tax: ₹ 360) upto 8 April 2010.
Further, under Rule 4(2) of the BMVT Rules, 1994 non-payment of tax within due date attracts penalty ranging between 25 and 200 *per cent* of the tax due.

During scrutiny of the taxation register and Tax Clearance Table of the *VAHAN* database in seven[4] District Transport Offices, we observed between December 2011 and June 2012 that out of 1,449 test-checked trailers, the owners of 405 trailers, which were registered between April 2008 and December 2010, did not pay their OTT at the prescribed rates. The DTOs concerned failed to update the rate in the *VAHAN* database as per the provisions of Bihar Finance Act, 8 of 2010 and also did not raise demands for the tax due against the defaulters which resulted into short realisation of OTT of ₹ 38.72 lakh including the leviable penalty of ₹ 24.77 lakh.

After this was pointed out by audit between December 2011 and June 2012, the Government/Department stated in October 2012 that DTO Katihar issued (October 2012) notice of demands in all the cases. The replies in respect of the remaining six DTOs are awaited (January 2013).

[4] Begusarai, Gaya, Katihar, Muzaffarpur, Patna, Rohtas and Saran.

4.5 Non/short realisation of one time tax/penalty from three wheelers

Under Section 5 and 7 of BMVT Act, 1994 as amended by Bihar Finance Act, 8 of 2010 (effective from 9 April 2010), OTT of ₹ 7,500 and ₹ 5,000 for seven and four seated three wheelers vehicles (excluding driver) respectively shall be levied on all three wheelers up to one year of age at the time of registration for a period of ten years from the date of first registration in the State. The OTT payable by three wheelers already registered shall be calculated after deducting the tax amount already paid and no OTT shall be payable if the vehicle has already paid tax more than ₹ 7,500 and ₹ 5,000, as the case may be. Previously the tax on three wheelers was ₹ 248 per quarter (Road Tax: ₹ 88 and Additional Tax: ₹ 160) upto 8 April 2010.

Further, under Rule 4(2) of the BMVT Rules, 1994 non-payment of tax beyond 90 days attracts penalty at the rate of 200 *per cent* of the tax due.

4.5.1 During scrutiny of the tax statement and Tax Clearance Table of the *VAHAN* database in nine[5] District Transport Offices, we observed between December 2011 and June 2012 that out of 2,594 test-checked three-wheelers, the owners of 465 vehicles, which were registered between October 2009 and February 2011, did not pay their OTT at the prescribed rates. The DTOs not only failed to adhere to the provisions of the Act *ibid* but also did not realise the OTT of ₹ 70.59 lakh including the leviable penalty of ₹ 47.06 lakh.

After this was pointed out by audit between December 2011 and June 2012, the Department stated (October 2012) that DTO Katihar had issued (October 2012) notice of demands in all the cases. The replies in respect of the remaining eight DTOs are awaited (January 2013).

4.5.2 During scrutiny of the taxation register and registration register (*VAHAN* software installed in October 2011 but not updated) in the District Transport Office, Aurangabad we observed in May 2012 that out of 128 test-checked three-wheelers, the owners of 55 vehicles, which were registered between May and November 2010 had paid tax on quarterly basis instead of one time tax. However, the vehicles owners paid the balance of the OTT between January 2011 and February 2012 but the DTO did not realise the penalty for delayed payment of OTT as provided in the Act *ibid.* This resulted in non-realisation of maximum penalty of ₹ 5.06 lakh[6].

The matter was reported to the Government/Department in August 2012; we are yet to receive their reply (January 2013).

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5 Aurangabad, Darbhanga, Gaya, Katihar, Motihari, Muzaffarpur, Patna, Rohtas and Saran.

6 OTT leviable - ₹ 2,61,648; OTT paid - ₹ 2,65,343; Excess Paid - ₹ 3,695; Penalty leviable - ₹ 5,09,536 - ₹ 3,695 (excess OTT paid) = ₹ 5,05,841

4.6 Short realisation of one time tax from personalised vehicles

Under Section 7 of BMVT Act, 1994 as amended by Bihar Finance Act, 2011 (effective from 1 April 2011), on personalised vehicles, OTT for the whole life of the vehicle at the rate of five *per cent* of the cost of vehicle (excluding sales tax) shall be levied at the time of registration.

During scrutiny of the taxation register and computerised database in six[7] District Transport Offices, we observed between February and June 2012 that out of 14,448 test-checked personalised vehicles, the owners of 5,018 vehicles, which were registered between 2 April 2011 and 17 January 2012, did not pay their OTT at the prescribed rates. Thus, the DTOs could not adhere to the provisions of the Act *ibid* which resulted in short realisation of OTT of ₹ 26.84 lakh.

The matter was reported to the Government/Department between June and July 2012; we are yet to receive their reply (January 2013).

4.7 Non-renewal of driving licences in Form -7

As per Rule 16 of Central Motor Vehicle Rules, 1989, where the licensing authority has the necessary apparatus for issue of laminated/ Smart card type driving licences (DLs) the same shall be issued in Form-7. Further as per Rule 16(3) *ibid*, on and from the date of commencement of this sub-rule (31 May 2002), every driving licence issued or renewed by the licensing authority shall be in Form-7. The State Transport Commissioner (STC) also instructed (February 2009) to issue DLs in smart card.

During test-check of the returns furnished by the DTOs in respect of renewal of non-professional DLs and data of *SARATHI*[8] software in four[9] District Transport Offices, we observed between February and April 2012 that out of 49,701 non-professional DLs renewed between April 2010 and March 2012, DLs numbering 48,533 were issued manually in Form 6[10] though the necessary apparatus was available in all District Transport Offices. Thus, due to non-adherence of the provisions of the Rules *ibid*, defeated the purpose to have a National Register of DLs and to provide valuable data for the Centre and State security agencies.

After this was pointed out by audit between February and April 2012, the Government/Department stated in October 2012 that driving licence in Form-7[11] is being issued by DTO Muzaffarpur. The replies in respect of the remaining three DTOs are awaited (January 2013).

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7 Begusarai, Bhojpur, Darbhanga, Muzaffarpur, Rohtas and Saran.

8 An application developed for issue of various licences.

9 Begusarai, Gaya, Muzaffarpur and Patna.

10 Form-6: Driving Licence printed in book form (8x6 cm.) for driving motor vehicles.

11 Form-7: Laminated/Smart card type Driving Licence for driving motor vehicles.

4.8 Irregular issue of tax token

Under the provision of Section 11 and 12 of the BMVT Act and Rules made thereunder, the taxing officer shall grant a receipt and a tax token in prescribed form to every person who pays prescribed tax for the vehicle. Further, the taxing officer shall not accept the tax or penalty, if any, in respect of motor vehicle for the current period unless the arrears of taxes and penalty due have been fully paid. Before issue of tax receipt and tax token, the taxing officer is to satisfy himself that the amount tendered in the payment of tax is equal to the tax payable at the specified rate.

Further, under Rule 4(2) of the BMVT Rules, 1994, non-payment of tax beyond 90 days attracts penalty at the rate of 200 *per cent* of the tax due.

During scrutiny of the taxation register and computerised database in the District Transport Office, Saran, we observed in June 2012 that the taxing authority issued tax tokens for four transport vehicles to vehicle owners by accepting tax for the period from October 2009 to December 2009 without realising the arrear tax and penalties for the period between April 2003 and September 2009, though these were outstanding against them. Issue of tax token without realising outstanding taxes and penalty was in contravention of the provision of the Act and also resulted in short realisation of ₹ 21.94 lakh including penalty of ₹ 14.63 lakh for non-payment of tax.

The matter was reported to the Government/Department in July 2012; we are yet to receive their reply (January 2013).

4.9 Non/short realisation of trade tax from the dealers of motor vehicles

Under Section 6 of the BMVT Act and the Rules framed thereunder, tax at an annual rate as prescribed shall be paid by a manufacturer or a dealer in respect of motor vehicles which are in his possession in course of his business as a manufacturer/dealer. Non-payment of tax within the due date attracts penalty ranging between 25 and 200 *per cent* of the tax due as provided under Section 23 of the Act *ibid* read with Rule 4(2) of the BMVT Rules. Further, the STC instructed all DTOs to initiate legal action for realisation of tax and renewal of trade certificate.

During test-check of the returns furnished by the manufacturers/dealers and the registration registers in seven[12] District Transport Offices, we observed between February and May 2012 that in case of 23 dealers out of 128 dealers of motor vehicles, trade tax at the prescribed rate was either not deposited or deposited short in respect of 33,302 vehicles (29,045 two wheelers and 4,257 three/four wheelers) possessed by them between

[12] Begusarai, Darbhanga, Gaya, Motihari, Muzaffarpur, Patna and Saran.

the period from April 2008 and February 2012. This resulted in non/short realisation of trade tax of ₹ 17.43 lakh including maximum leviable penalty. Though the DTOs were required to examine the stock register of dealers/manufactures for realisation of trade tax, there was nothing on record to indicate that such examination of records were done by them.

The matter was reported to the Government/Department between May and July 2012; we are yet to receive their reply (January 2013).

4.10 Non-realisation of tax from vehicles involved in surrender

Under Section 17 (1) and 19 of the BMVT Act, and Rules made thereunder, when the owner of a motor vehicle does not intend to use his vehicle for a period of more than one month but not exceeding six months at a time, he can be exempted from the payment of tax by the competent authority provided his claim for exemption is supported by the surrender of the documents for the period of non-use of the vehicle. The vehicle owner shall also from time to time furnish an undertaking to the concerned taxing officer for extension, if any, during the said period. In the absence of any further extension, the vehicle shall, for the purpose of this Act, be deemed to have been used throughout the period without the payment of tax. Accordingly, tax including penalty for non-payment of tax beyond 90 days at the rate of 200 *per cent* of the tax due is leviable.

We observed during test-check of taxation registers and surrender registers in District Transport Offices, Motihari and Patna between February and April 2012 that four vehicles were surrendered between February 2008 and July 2009. But even after the expiry of the prescribed period, the vehicles were kept under surrender without the owner seeking further extension and furnishing fresh undertaking, for non-use of the vehicles during the period, in contravention of the provision. Thus, the vehicle owners were liable to pay tax and penalty for the period from May 2008 to December 2011. The DTOs, however, did not raise demand against the vehicle owners after the expiry of prescribed surrender period. This resulted in non-realisation of tax of ₹ 5 lakh including maximum penalty of ₹ 3.33 lakh.

The matter was reported to the Government/Department in June 2012; we are yet to receive their reply (January 2013).

4.11 Non-realisation of principal and interest on loans

Under Rule 321 read with Rule 305 of the Bihar Treasury Code, Vol.-1, loans and advances may be drawn and repaid in accordance with such general or special order the Government may issue in each case.
Further, under provisions of Rule 7 of the Bihar Financial Rules, Volume-1, it is the duty of the departmental controlling officers to see that the dues of the Government are correctly and promptly assessed, collected and paid into the treasury.

During test-check of records (Bill book and Contingent register) and loan files in the office of the State Transport Commissioner (STC), Patna we observed in April 2012 that in compliance to the order of the Hon'ble Supreme Court in case of State of Bihar *vrs* Suraj Deo Singh and others (Civil Appeal No. - 7290 of 1994), the Transport Department granted loan ₹ 458.77 crore during the period between 2008-09 and 2011-12 to the Bihar State Road Transport Corporation (BSRTC) for payment of dues to the employees. As per terms and conditions of the sanctioned order, the loans were to be converted into share capital and if it was not converted within a year, the loans would be repaid in 10 equal annual installments with interest and penal interest at the rate of 13 *per cent* and 2.5 *per cent* per annum respectively.

We further observed that neither any action for conversion of loans into share capital was taken up by BSRTC nor any demand for realisation of principal and interest was raised by the Department till date of audit (April 2012). The outstanding principal, interest and penal interest on the loans advanced during the years 2008-09 to 2010-11 was ₹ 148.05 crore as on 31 March 2012 as detailed below:

Bill No./ Year	Amount of loan (₹ in crore)	Date of payment	Due date of installment	Principal due (₹ in crore)	Interest upto 31.3.2012 at the rate of 13 *per cent* (₹ in crore)	Penal interest upto 31.3.2012 at the rate of 2.5 *per cent* (₹ in lakh)
296/2008-09	10.00	21.1.2009	21.1.2010	1.00	4.16	5.49
			21.1.2011	1.00		2.99
			21.1.2012	1.00		0.49
58/2009-10	84.75	22.6.2009	22.6.2010	8.475	31.21	38.83
			22.6.2011	8.475		17.65
344/2009-10	121.34	19.2.2010	19.2.2011	12.134	31.98	31.18
			19.2.2011	12.134		0.84
216/2010-11	121.34	11.10.2010	11.10.2011	12.134	23.23	14.35
147/2011-12	121.34	15.7.2011	15.7.2012	-	-	-
Total	**458.77**			**56.352**	**90.58**	**111.82 (1.12 crore)**

(Source: Bill Book of STC and Sanction orders of the loans)

Thus, due to failure of BSRTC in converting the loans into share capital (as intimated in August 2012) as well as non-raising of demands by the Department for realisation of principal and interest on loans granted during the period 2008-09 to 2010-11, an amount of ₹ 148.05 crore was not realised.

After this was pointed out in Audit, the STC had requested (May 2012) BSRTC for payment of principal and interest. We are yet to receive the report on recovery of the Government dues (January 2013).

The matter was reported to the Government/Department in July 2012; we are yet to receive their reply (January 2013).

CHAPTER - V

OTHER TAX RECEIPTS

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present few illustrative cases of ₹ 138.74 crore selected from observations noticed during our test-check of records relating to non/short levy, non/short realisation etc., where we found that the provisions of the Acts/Rules/Government notifications were not observed. It is a matter of concern that similar omissions had been pointed out by us repeatedly in the Audit Reports in the past years, but the departments did not take corrective action till we pointed out in audit.
Increase in tax collection	Though there was increasing trend in the collection of tax revenue over the previous years, the contribution of receipts from land revenue in the total tax receipts of the State ranged from 1.33 *per cent* to 1.65 *per cent* during 2007-08 to 2011-12. Further, the receipts from Stamps and Registration Fees increased from ₹ 654.15 crore in 2007-08 to ₹ 1,480.07 crore in 2011-12, however, there was shortfall in collection when compared with the budget estimates during the period 2010-11 and 2011-12.
Very low recovery by the Department in respect of observations pointed out by us in earlier years	During the period from 2008-09 to 2010-11, we had pointed out non/short levy, non/short realisation, loss of revenue etc., with revenue implication of ₹ 180.19 crore in 589 cases in respect of Land Revenue. Of these, the Department/Government had accepted audit observations in 426 cases involving ₹ 102.87 crore and had since recovered ₹ 13.80 lakh. This negligible recovery of ₹ 13.80 lakh (0.13 *per cent*) against accepted cases involving ₹ 102.87 crore indicates lack of promptness on the part of the Government/Department in recovering the Government dues. During the period from 2008-09 to 2010-11, we have pointed out through our inspection reports, non/short levy, non/short realisation, blocking of Government revenue etc., with revenue implication of ₹ 43.32 crore in 211 cases in respect of Stamps and Registration Fees. The Department/Government had accepted audit observations in 195 cases involving ₹ 37.81 crore which also include the cases pointed out by us during earlier years and had since recovered ₹ 1.64 lakh. This negligible recovery of ₹ 1.64 lakh (0.04 *per cent*) against the accepted cases involving ₹ 37.81 crore indicates lack of promptness on the part of the Government/Department in realising the Government dues.
Results of audit conducted of the units for the year 2011-12	In the course of audit of the records of 29 units relating to Land Revenue for the year 2011-12, we found non/short realisation, loss of revenue and other irregularities involving ₹ 144.14 crore in 140 cases, whereas in case of 33 audited entities relating to Stamps and Registration Fees, we found non/short realisation, loss of revenue and other irregularities involving ₹ 8.85 crore in 120 cases.
Our conclusion	The concerned departments need to improve the internal control system so that weaknesses in the system are addressed and omissions detected by us are avoided in future. It also needs to take appropriate steps to recover the amount involved, at least in the accepted cases.

CHAPTER-V: OTHER TAX RECEIPTS

A: LAND REVENUE

5.1.1 Tax administration

The levy and collection of Land Revenue is governed under the Acts and Rules[1] and administered by the Revenue and Land Reforms Department in the State. At the apex level the Principal Secretary-cum-Commissioner is the administrative head and assisted by Divisional Commissioners, Collectors, Additional Collectors, Deputy Collectors and Circle Officers in the field. The circle offices are the primary units which are responsible for levy and collection of land revenue.

5.1.2 Trend of receipts

The variation between budget estimates and actual receipts from Land Revenue during the period 2007-08 to 2011-12 along with the total tax receipts during the same period is mentioned below:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts (col.-3) vis-à-vis total tax receipts (col.-6)
1	2	3	4	5	6	7
2007-08	74.67	82.10	(+) 7.43	(+) 9.95	5,085.53	1.61
2008-09	74.72	101.74	(+) 27.02	(+) 36.16	6,172.74	1.65
2009-10	76.22	123.96	(+) 47.74	(+) 62.63	8,089.67	1.53
2010-11	112.17	139.02	(+) 26.85	(+) 23.94	9,869.85	1.41
2011-12	125.20	167.49	(+) 42.29	(+) 33.78	12,612.10	1.33

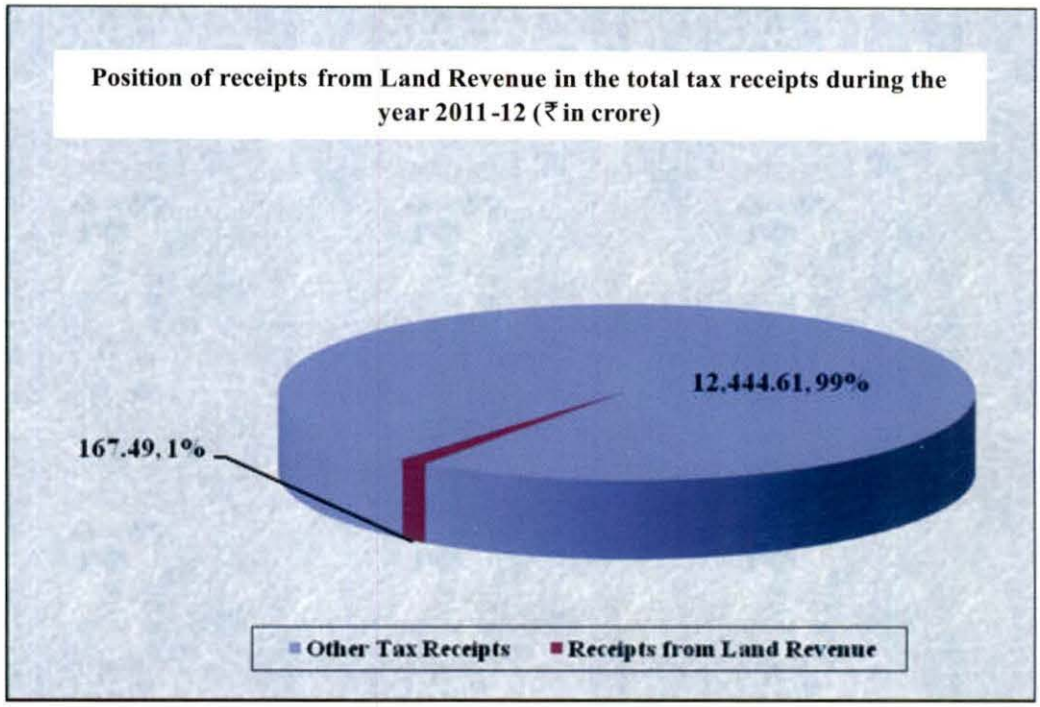
(Source: Revenue and Capital Receipt,(Detail): Finance Accounts, Government of Bihar)

The above table indicates that the contribution of receipts from Land Revenue in the total tax receipts of the State was ranged from 1.33 *per cent* to 1.65 *per cent* during 2007-08 to 2011-12. The collection of land revenue had gradually increased by more than 100 *per cent* from ₹ 82.10 crore in 2007-08 to ₹ 167.49 crore in 2011-12. The budget estimates had also been continuously less than the actual collection in last five financial years.

The Government/Department needs to take appropriate measures to enhance the contribution of receipts from land revenue in the total tax receipts of the State.

The following pie chart depicts the contribution of receipt from Land Revenue to the total tax receipts (₹ 12,612.10 crore) of the State during 2011-12.

[1] The Bihar Tenancy Act, 1908; Bihar Public Land Encroachment Act, 1956; Bihar Government Estate (*Khas Mahal*) Manual, 1953.



5.1.3 Impact of audit

Revenue impact

During the period from 2008-09 to 2010-11, we have pointed out through our inspection reports, non/short levy, non/short realisation, loss of revenue etc., with revenue implication of ₹ 180.19 crore in 589 cases. The Department/ Government had accepted audit observations in 426 cases involving ₹ 102.87 crore which also include the cases pointed out by us during earlier years and had since recovered ₹ 13.80 lakh in seven cases. The details are shown in the following table:

Year	No. of units audited	Pointed out		Accepted		Recovered	
		No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in lakh)
2008-09	59	145	83.08	140	57.37	Nil	Nil
2009-10	61	319	47.85	285	45.50	7	13.80
2010-11	46	125	49.26	01	0.0032	Nil	Nil
Total	**166**	**589**	**180.19**	**426**	**102.87**	**7**	**13.80**

This negligible recovery of ₹ 13.80 lakh (0.13 *per cent*) against the accepted cases involving ₹ 102.87 crore indicates lack of promptness on the part of the Government/Department in realising the Government dues.

We recommend that the Government may take appropriate steps to recover the amounts involved, at least in the accepted cases.

B: STAMPS AND REGISTRATION FEES

5.2.1 Tax administration

The levy and collection of Stamps and Registration Fees in the State is governed by the provisions of the Indian Stamp Act, 1899; the Registration Act, 1908; the Bihar Stamp Rules, 1991 and the Bihar Stamp (Prevention of Under-valuation of Instruments) Rules, 1995. It is administered by the Registration, Excise and Prohibition (Registration) Department headed by the Inspector General, Registration (IGR). The Department functions under the administrative control of the Secretary of the Registration Department who is the chief revenue controlling authority. The IGR is assisted by a Joint Secretary, two Deputy Inspector Generals (DIGs) and four Assistant Inspector Generals (AIGs) at the Headquarters' level. Further, there are nine Inspectors of Registration Office (IROs) at the divisional level. Thirty eight District Registrars (DRs), 38 District Sub Registrars (DSRs) and Sub Registrars (SRs) at the district/primary units are responsible for levy and collection of Stamps and Registration Fees.

5.2.2 Trend of receipts

The variation between budget estimates and actual receipts from Stamps and Registration Fees during the period 2007-08 to 2011-12 along with the total tax receipts during the same period is mentioned below:

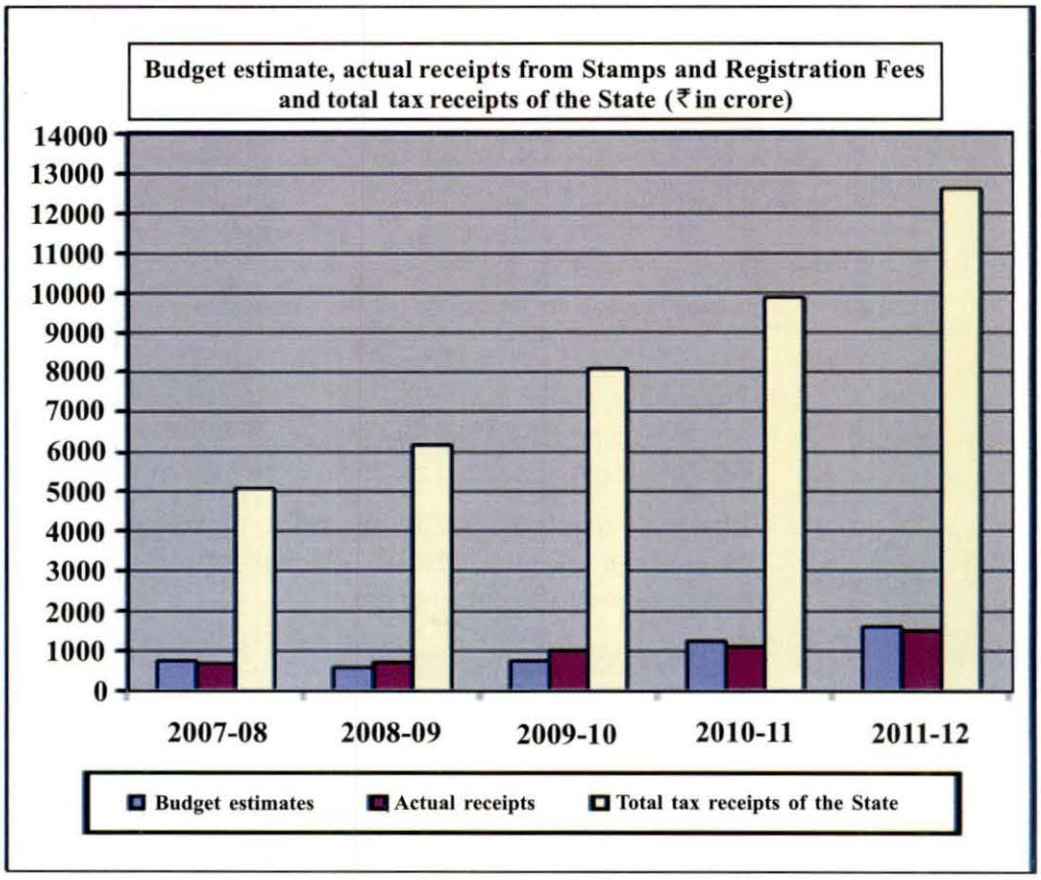
(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts (col.-3) vis-à-vis total tax receipts (col.-6)
1	2	3	4	5	6	7
2007-08	720.00	654.15	(-) 65.85	(-) 9.15	5,085.53	12.86
2008-09	581.02	716.19	(+) 135.17	(+) 23.26	6,172.74	11.60
2009-10	750.00	997.90	(+)247.90	(+) 33.05	8,089.67	12.34
2010-11	1,215.00	1,098.68	(-)116.32	(-) 9.57	9,869.85	11.13
2011-12	1,600.00	1,480.07	(-)119.93	(-) 7.50	12,612.10	11.74

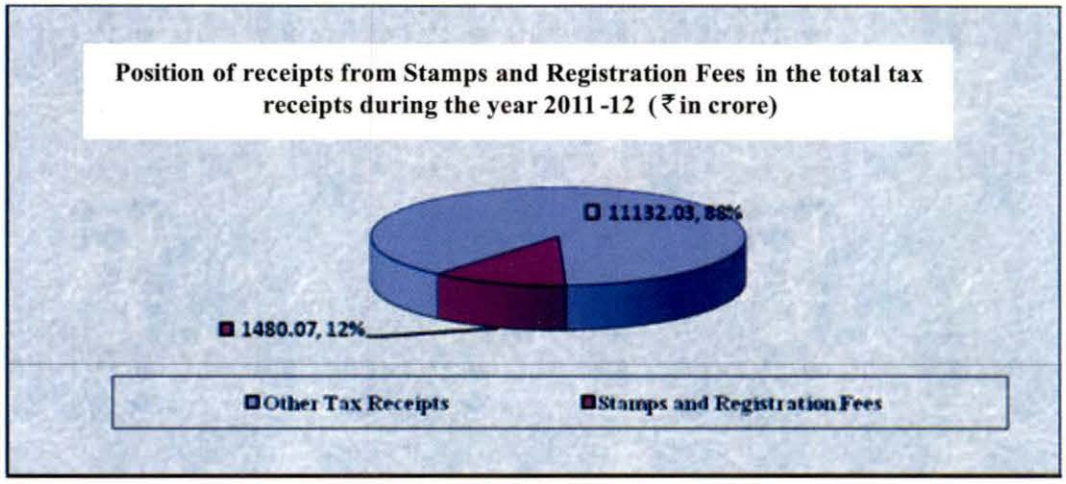
(Source: Revenue and Capital Receipt,(Detail): Finance Accounts, Government of Bihar)

The above table indicates that the receipts from Stamps and Registration Fees increased from ₹ 654.15 crore in 2007-08 to ₹ 1,480.07 crore in 2011-12. However, there was shortfall in collection when compared with the budget estimates during the period 2010-11 and 2011-12. Further, percentage of actual receipts from Stamps and Registration Fees to total tax receipts is showing a downward trend from the year 2009-10, though increased in 2011-12 from the previous year (2010-11).

The trend of actual receipts vis-á-vis the estimated receipts of Stamps and Registration Fees and total tax receipts are given in the following bar diagram:



The following pie chart depicts the contribution of receipt from Stamps and Registration Fees to the total tax receipts (₹ 12,612.10 crore) of the State during 2011-12:



5.2.3 Cost of collection

The gross collection under Stamps and Registration Fees, expenditure incurred on its collection and the percentage of such expenditure to gross collection during the years 2007-08 to 2011-12 along with the all-India average percentage of cost of collection for previous years are mentioned in the following table:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All- India average percentage for the previous year
2007-08	654.15	34.03	5.20	2.33
2008-09	716.19	37.68	5.26	2.09
2009-10	997.90	45.90	4.60	2.77
2010-11	1,098.68	46.58	4.24	2.47
2011-12	1,480.07	43.10	2.91	1.60

The above table indicates that during the year 2007-08 to 2011-12, the percentage of expenditure on collection in respect of Stamps and Registration Fees was higher than the all-India average percentage for the previous year.

The Government needs to take appropriate measures to keep the percentage of expenditure on collection below the all-India average percentage in the coming years.

5.2.4 Impact of audit

Revenue impact

During the period from 2008-09 to 2010-11, we have pointed out, through our inspection reports, non/short levy, non/short realisation, loss of revenue etc., with revenue implication of ₹ 43.32 crore in 211 cases. The Department/ Government had accepted audit observations in 195 cases involving ₹ 37.81 crore which also include the cases pointed out by us during earlier years and had since recovered ₹ 1.64 lakh. The details are shown in the following table:

Year	No. of units audited	Pointed out		Accepted		Recovered	
		No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in lakh)
2008-09	39	81	33.42	95	31.69	Nil	Nil
2009-10	31	92	6.88	86	5.33	2	1.64
2010-11	30	38	3.02	14	0.79	Nil	Nil
Total	**100**	**211**	**43.32**	**195**	**37.81**	**2**	**1.64**

This negligible recovery of ₹ 1.64 lakh (0.04 *per cent*) against the accepted cases involving ₹ 37.81 crore indicates lack of promptness on the part of the Government/Department in realising the Government dues.

We recommend that the Government may take appropriate steps to recover the amounts involved, at least in the accepted cases.

5.3 Results of audit

During the year 2011-12, audit of records of the Land Revenue and Stamps and Registration Fees revealed non/short realisation, loss of revenue and other irregularities involving ₹ 152.99 crore in 260 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
A: Land Revenue			
1.	Non-execution of fresh lease due to violation of terms and conditions or change in purpose of lease	2	130.93
2.	Loss due to non-settlement of *sairats/G.M Khas* land	27	3.21
3.	Non-eviction/settlement of encroached public land	2	4.53
4.	Non-realisation of revenue due to non-renewal of lease	1	0.43
5.	Short realisation of reservation fee	1	1.15
6.	Blockage of Government revenue due to non-disposal of certificate cases	2	0.28
7.	Other cases	105	3.61
	Total	**140**	**144.14**
B: Stamps and Registration Fees			
1.	Blocking of Government revenue due to non-disposal of referred cases	26	4.41
2.	Blocking of Government revenue due to non-disposal of impounded cases	9	0.22
3.	Non-realisation of Government revenue from finalised referred cases	11	1.49
4.	Other cases	74	2.73
	Total	**120**	**8.85**
	Grand total	**260**	**152.99**

(A) During the year 2011-12, the Revenue and Land Reforms Department accepted underassessment and other deficiencies *etc.* involving ₹ 5.81 crore in 45 cases, out of which 10 cases involving ₹ 0.05 crore were pointed out during the course of the year and the rest during the earlier years. The Department reported recovery of ₹ 5,000 in one case pointed out in the year 2010-11.

(B) During the year 2011-12, the Registration, Excise and Prohibition (Registration) Department accepted underassessment and other deficiencies *etc.* involving ₹ 13.90 crore in 67 cases, out of which 23 cases involving ₹ 1.15 crore were pointed out during the course of the year and the rest during the earlier years.

A few illustrative cases involving tax effect of ₹ 138.74 crore are mentioned in the following paragraphs.

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

Our scrutiny of the records of the offices of the Additional/Deputy collectors, Land Revenue and District Sub Registrar/Sub Registrar revealed several cases of non-compliance of the provisions of the Act/Rules and departmental orders as mentioned in the following paragraphs. These cases are illustrative and are based on test-checks carried out by us. Such omissions on the part of the departmental officers 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 and internal audit.

A: LAND REVENUE

5.5 Non-eviction/settlement of encroached public land

Under Section 3 and 6 of the Bihar Public Land Encroachment Act 1956, if a person has encroached upon any public land, he may be evicted or the land may be settled with such person, on payment of rent and damage for the use of such land as per rules laid down in Bihar Government Estate *(Khas Mahal)* Manual, 1953. Further, in accordance with new *Khas Mahal* Policy 2011, such lessees are required to take fresh lease and the lease period shall be of 30 years. The lessees shall also be liable to pay the *salami* equivalent to current market value of land in addition to annual rent of 2 and 5 *per cent* of *salami* for residential and commercial use of the land respectively. In case of discontinuance/ non-payment of annual rent of lease, the lessee shall be liable to pay double of the previous annual rent along with interest thereon at the rate of 10 *per cent* per annum for the period of default.

- We observed in June 2012 from the physical verification report and relevant files of unauthorised occupation/ encroachment of public/*Khas Mahal* land in the office of the Additional Collector (AC), Patna that the AC, Patna had issued letters for cancellation of leases against six lessees during the period from 1997-98 to 2005-06 for breach of conditions as mentioned in the respective leases such as change in the purposes like agricultural to residential, residential to commercial or transferred the right through selling to the present occupiers as per physical verification report of the Collector, Patna (2006-08) under intimation to the Commissioner, Patna/Revenue and Land Reforms Department, Bihar. The Department also issued (2000-01 to 2009-10) letters of cancellation of leases to all the lessees giving direction to the AC, Patna to take action against the defaulter lessees in accordance with the provisions of Acts/Rules. Despite the clear instructions of the Government, neither the lessees in default could be evicted from the *Khas Mahal* land nor the lands were resettled with the lessees till the date of audit (June 2012). Thus, the failure of the Department to evict the encroachers and resettle the land resulted

in non-realisation of *salami*[2] and rent to the tune of ₹ 2 .47 crore. Besides, penal rent and interest is also leviable.

- In the office of the DCLR (East), Muzaffarpur, we observed from physical verification report of DCLR in July 2012 that a piece of *Khas Mahal* land measuring 2.1435 hectare was enrolled in Revisional Survey *Khatiyan* (1962-63) as a place of rest house for the employees of District Board, Muzaffarpur. Out of the aforesaid land, a multi-storeyed Minakshi Hotel was constructed on 43.16 decimal of land unauthorisedly seven years back without obtaining prior permission of the Divisional Commissioner, Muzaffarpur or without making any agreement with the appropriate district authorities for commercial use of that *Khas Mahal* land.

After we pointed this out in audit, the DCLR (East), Muzaffarpur stated (September 2012) that permission for construction of hotel was not given by this office and a notice was being issued to the District Board as well as to the owner of Minakshi Hotel.

Thus, the Department failed to stop the unauthorised construction of hotel on the *Khas Mahal* land which resulted in non-realisation of *salami* and rent of ₹ 2.06[3] crore due to non-execution of proper lease.

We observed from register of encroachment and case files in the office of the DCLR, Patna in February 2012 that four persons had constructed *pakka* houses on 41.97 decimals of public land (*Gairmajarua*[4] *Aam* land) in Lohanipur area of Patna Sadar Anchal during the year 2005-06 to 2007-08. In two cases the DCLR Court had ordered (January 2006) for eviction and in other cases only notices for eviction were issued (January 2008). Neither the public land could be freed from the encroachers nor any action taken was found on record (February 2012).

The matter was reported to the Government/Department in October 2012; their reply has not been received (January 2013).

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2 *Salami* denotes current market value of the land.

3 Calculated on the basis of the market value of land at the rate of ₹ 4,54,300 per decimal for the period 2011-12 - *Salami* : ₹ 1,96,07,588 + Rent at the rate of 5 *per cent* of *salami:* ₹ 9,80,380 (Total ₹ 2,05,87,968).

4 *Gairmajarua* land means uncultivable land which is under the direct control of the Government.

5.6 Management of *Khas Mahal* land under New Policy, 2011

5.6.1 Non-execution of fresh lease due to violation of terms and conditions or change in purpose of lease

With the enactment of New *Khas Mahal* Policy, 2011 in Bihar, if a lessee of *Khas Mahal* land fails to renew the lease and discontinue the payment of annual rent for the lease under clause 2(a) of the said policy or violates the terms and conditions of the lease or deviates the purpose of the lease under clause 5(a), he shall be presumed as trespasser and the Government shall give him an offer to make a fresh lease within a stipulated period of 90 days on new terms and conditions with an evidence of notice served to him. Further, the period of fresh lease shall be of 30 years and the lessee shall be liable to pay the *salami* equivalent to the current market value of land in addition to annual rent of 2 and 5 *per cent* of *salami* for residential and commercial use of the land respectively. In case of discontinuance/non-payment of annual rent of lease, the lessee shall be liable to pay double of old annual rent along with interest thereon at the rate of 10 *per cent* per annum for the period of default.

We observed from the case records of leases relating to *Khas Mahal* lands in two districts (Patna and Muzaffarpur), in June and July 2012 that 21 lessees whose lease deeds were executed during 1935-36 and onwards had either violated the terms and conditions or changed the purposes of lease, such as agriculture to residential or residential to commercial or had sold the lands without obtaining the proper permission of the competent authority or non-payment of annual rent etc. since long (February1981). In all these cases the Department did not cancel the leases followed by fresh leases though they had violated the conditions of lease which resulted in non-realisation of *Salami* and rent of ₹ 130.93 crore. Besides, penal rent and interest is also leviable. Thus, failure on the part of the Department to review the concerned records periodically and to take action for execution of fresh lease indicates that there was lack of internal monitoring control mechanism to guard against violation of the terms and conditions of leases.

After we pointed this out in audit, the AC, Patna stated (June 2012) that after proper verification, action taken would be reported to the audit while AC, Muzaffarpur (July 2012) stated that direction was being issued to DCLR (East), Muzaffarpur for taking proper action. The action taken report is still awaited (January 2013)

5.6.2 Non-realisation of revenue due to non-renewal of *Khas Mahal* leases

In accordance with clause 1(a) of New *Khas Mahal* Policy 2011, if a non-residential and non-commercial lessee has not violated any term and condition of the lease, he shall be liable to pay *salami* equivalent to 5 *per cent* of the current market value of the land and the annual rent be enhanced to 0.5 *per cent* of the current market value of land at the time of renewal at every thirty years.

We observed from application register and files for renewal of leases maintained in the office of the AC, Patna, in June 2012 that three cases of renewal of lease were pending till the date of audit. The applications were pending since two to seven years, which had a revenue effect of ₹ 43.24 lakh. This shows lack of promptness in finalisation of cases by the AC, Patna.

The matter was reported to the Government/Department in October 2012; their reply has not been received (January 2013).

5.7 Management of *Sairats*

5.7.1 Loss of revenue due to non-settlement of *sairat* [5]

Under circular no. 9/sai/7/4-7/2001/668 (a) dated 1 August 2002, advertisement for settlement of *sairat* should be published in local newspaper after fixation of the date of auction. If no bidder appears for auction, then similar procedure for auction should be called for three occasions and the matter should be intimated to higher authority for seeking the guidelines and approval for settlement of *sairat*. The order of settlement should be issued accordingly.

Further, as per circular no. 2/ra/ dated 8 January 1982 of the Revenue Department, Government of Bihar, the Reserve deposit shall be assessed every third year in which 15 *per cent* shall be increased on last year Reserve deposit or settlement amount, whichever is higher.

We observed from files/records of *sairat* maintained in the office of the AC, Patna in June 2012 that one *sairat* located behind Mona cinema for cycle/scooter/other four wheelers stand bearing plot no 1132, *khesra* no. 975, 997 which falls under the jurisdiction of Circle office, Patna Sadar remained unsettled for 15 years (i.e 1996-1997 to 2011-12). The *sairat* was auctioned for ₹ 1.04 lakh in 1995-96, out of which ₹ 72,700 only was realised. Further, it was also observed that this *sairat* was discontinued (from 1996-97) from the *sairat* register without approval of higher authority and at the same time the *sairat* register was never reviewed by the officials to know the reason for discontinuance of this *sairat*. However, a sum of ₹ 74,725 only was realised departmentally during the period between 2009-10 and 2011-12

[5] *Sairat* means the income derived by leasing out fisheries, hats, Melas, Toddy Mahals and ferry rights etc.

without calling auction and without approval of higher authority. Thus, the Government suffered a loss of ₹ 23.74 lakh due to non-settlement of *sairat* through auction which was calculated on the basis of Reserve deposit applicable as per circular of January 1982.

5.7.2 Short realisation of reservation fee of Gandhi Maidan

As per direction issued by the Department vide letter No. 363(9) dated 11 June 2008, a sum of ₹10,000 is to be charged (whole part) per day and ₹ 5 ,000 per day (partial part) for organising any religious activities like prayer, *Namaj*, yoga etc. and a sum of ₹ 2 per square feet is to be charged for reservation for non-commercial activities for reservation of Gandhi Maidan, Patna. Further, ₹ 0.05 per square feet is also to be charged for cleaning the ground space.

We observed in office of the AC, Patna from the files relating to reservation of Gandhi Maidan, Patna in June 2012 that the Principal Secretary, Human Resources Development (HRD) Department, Government of Bihar made requisitions to the Collector, Patna for reservation of Gandhi Maidan for organising non-commercial activities (five events) like *Siksha Diwas*, *Bihar Diwas*, *Pustak Mela* etc. during the year 2010-11 and 2011-12. The Collector, Patna issued notices of demand (between February 2011 and May 2012) for payment of reservation fees at prescribed rates, against which the HRD Department paid reservation charges of ₹ 5.41 lakh (in October 2011) for only one event whereas reservation charges of ₹ 1.15 crore for remaining events were still to be realised (June 2012).

The matter was reported to the Government/Department in October 2012; their reply has not been received (January 2013).

5.7.3 Short realisation of bid amount of *sairat*

As per provisions laid down in Bihar Estate (*Khas Mahal*) Manual, 1953, 50 *per cent* of bid amount of *sairat* should be realised at the time of settlement and another 50 *per cent* should be realised prior to two months from the end of the *sairat* period. If the settlee fails to do so, the action should be taken for cancellation of *sairat* and a fresh tender may be initiated through the open bid.

We observed in July 2012 from the records relating to *sairat* for *hat/bazaars* and *ghats* maintained in the office of the AC, Muzaffarpur for the periods 2010-11 and 2011-12 that 41 *sairats* were settled for ₹ 76.29 lakh and a sum of ₹ 50.02 lakh collected during the aforesaid years. Out of which 26 settlees paid partial bid amount of ₹ 26.63 lakh as against ₹52.90 lakh. No efforts were taken for realisation of balance amount from settlees before the expiration of *sairats*. This resulted in short realisation of bid amount of *sairats* of ₹ 26.27 lakh. The consolidated *sairat* register was also not found maintained.

After we pointed this out in Audit, AC, Muzaffarpur accepted (September 2012) the facts and stated that a sum of ₹ 34,200 had been realised and further demands against 12 lessees had been raised in September 2012. We await the recovery in cases where demands were raised and further development in remaining cases (January 2013).

5.8 Non-realisation of license fee

In accordance with Rule 29 of Bihar Government Estate *(Khas Mahal)* Manual, 1953, shops should be allowed in *Kachahari* compound only to the extent required for the sale of articles which are likely to be required by persons attending the courts, such as refreshment, betel, tobacco and material for writing. District officers should invite application for licenses for these shops in the manner they think proper. The license should be limited to one year and should not be transferable.

We observed from records and register of license fee for the shops in *Kachahari* compounds maintained in the office of DCLR (East), Muzaffarpur, in July 2012 that the shops in and around *Kachahari* compound of this district were running without renewal of license and also without paying of license fee since 1979-80 in contravention of terms and conditions as prescribed in Appendix A (8) of Bihar Estate (*Khas Mahal*) manual 1953. No efforts were taken by the Department to realise the outstanding license fee from the defaulter shop owners and to renew the licenses of the shops. This resulted in non-realisation of license fee of ₹ 52.69 lakh.

After we pointed this out in Audit, AC, Muzaffarpur stated (July 2012) that appropriate direction was being issued to DCLR (East), Muzaffarpur for proper action.

The matter was reported to the Government/Department in October 2012; their reply has not been received (January 2013).

B: STAMPS AND REGISTRATION FEES

5.9 Blocking of Government revenue due to non-disposal of referred cases

Under Section 47(A) of Indian Stamp Act, 1899,(IS Act) where the registering authority has reason to believe that the market value of the property has not been rightly set forth in the instrument, he may refer the same to the Collector for determining its market value. Further, the Commissioner-cum-Secretary and Inspector General of Registration Department, Government of Bihar instructed on 20 May 2006 all Collectors to transfer the cases referred under Section 47(A) to the Inspector of Registration Offices (IRO) concerned for speedy disposal within 90 days.

During scrutiny of the register of referred cases and information made available by the registering authority (District Sub Registrar, Bhojpur) between December 2011 and July 2012, we observed that 27 cases were referred to the IRO, Patna for determination of market value of property under Section 47(A) during the period 2010-11 and 2011-12. Further, we observed that out of these referred cases, 11 cases referred between June 2010 and July 2011 involving ₹ 21.49 lakh were still pending for disposal.

After we pointed this out, the DSR, Bhojpur stated in January 2012 that IRO would be requested for early disposal of pending cases, while IRO, Patna stated in July 2012 that due to shortage of staff and other infrastructural facilities, the referred cases could not be disposed off in time. However, the contention of the Department is not acceptable in view of the norm for disposal of referred cases being within 90 days.

Thus, non-disposal of referred cases resulted in blocking of Government revenue of ₹ 21.49 lakh.

The matter was reported to the Government/Department in October 2012; their reply has not been received (January 2013).

5.10 Non - realisation of Government revenue from finalised referred cases

Section 48 of the IS Act provides that all duties, penalties and other sums required to be paid under the Act may be recovered by the Collector by distress and sale of the movable property of the person from whom the same are due, or by any other process for the time being in force for recovery of arrears of land revenue.

Further, the Secretary-cum-Inspector General of Registration issued instruction to the Collector–cum-District Registrar/ IRO/ DSR in January 2007, if the parties do not pay the stamp duty in finalised referred cases, a notice may be served and after 30 days cases would be instituted under Public Demand Recovery Act, 1914 (PDR Act) after publishing their names in local newspaper for the realisation of stamp duty and registration fees.

During scrutiny of the register of referred cases and information made available by the registering authority (District Sub Registrar, Sasaram) in February 2012, we observed that 22 cases were referred for determination of market value of property under Section 47(A) to the IRO, Patna between 2004-05 and 2011-12. Out of these, nine cases were finalised during July 2010 to December 2010 and a sum of ₹ 36.64 lakh was to be realised as deficit stamp duty including fine imposed by the IRO. No further action was initiated to realise the dues as per aforesaid provision. This omission resulted in non-initiation of Revenue Recovery Certificate Cases under the PDR Act and non-realisation of Government dues of ₹ 46.69 lakh including registration fees.

After this was pointed out, the DSR, Sasaram stated in February 2012 that IRO would be consulted for realisation of dues. However, the contention of the Department is not acceptable in view of the facts that the Revenue Recovery Certificate Cases were to be instituted under PDR Act and dues recovered expeditiously.

The matter was reported to the Government/Department in July 2012, we are yet to receive their reply (January 2013).

CHAPTER - VI

NON-TAX RECEIPTS

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present few illustrative cases of ₹ 9.04 crore selected from observations noticed during our test-check of records relating to non/short levy, non/short realisation etc. in the district mining offices, where we found that the provisions of the Acts/Rules /Government notifications were not observed. It is a matter of concern that similar omissions had been pointed out by us repeatedly in the Audit Reports in the past years, but the Department did not take corrective action till we pointed out in audit.
Increase in tax collection	The collection of receipts from Non-ferrous Mining and Metallurgical Industries consistently increased over the budget estimates during the period from 2007-08 to 2011-12 and also the contribution in the total non-tax receipts increased substantially during the period 2010-11 and 2011-12 over the previous years.
Very low recovery by the Department in respect of observations pointed out by us in earlier years	During the period from 2008-09 to 2010-11, we have pointed out non/short levy, non/short realisation, loss of revenue etc., with revenue implication of ₹ 442.10 crore in 635 cases in respect of receipts from Non-ferrous Mining and Metallurgical Industries. Of these, the Department/ Government had accepted audit observations in 365 cases involving ₹ 309.61 crore which also include the cases pointed out by us during earlier years and had recovered ₹ 4.99 lakh. Negligible recovery of ₹ 4.99 lakh against the accepted cases involving ₹ 309.61 crore indicates lack of promptness on the part of the Government/Department in realising the Government dues.
Results of audit conducted of the units for the year 2011-12	In the course of audit of records of 25 units relating to receipts from Non-ferrous Mining and Metallurgical Industries, we found non/short realisation, loss of revenue and other irregularities involving ₹ 80.39 crore in 177 cases. The Department accepted non/short levy, non/short realisation, loss of revenue and other deficiencies of ₹ 131.12 crore in 148 cases, out of which 46 cases involving ₹ 22.16 crore were pointed out during 2011-12 and the rest in earlier years. An amount of ₹ 4.99 lakh was realised in two cases during the period.
Our conclusion	The Department needs to improve the internal control system so that weaknesses in the system are addressed and omissions detected by us are avoided in future. It also needs to take appropriate steps to recover the amount involved, at least in the accepted cases.

CHAPTER-VI: NON- TAX RECEIPTS

Non-ferrous Mining and Metallurgical Industries

6.1.1 Tax administration

The mining of minerals is governed by the Bihar Minor Mineral Concession Rules (BMMC Rules), 1972 and Mineral Concession Rules (MC Rules), 1960 framed by the State Government under the Mines and Minerals (Regulation and Development) Act (MMRD Act), 1957. The minor minerals available in the State are brick earth, stones, lime stone, sand etc.

The regulation and development of mines and minerals are administered by the Mines and Geology Department with the Commissioner-cum- Principal Secretary as its head at the Government level. The Director of Mines is the head of the Department and is assisted by one Additional Director of Mines and three Deputy Director of Mines (DDMs) at headquarters level. Further, there are nine Deputy Director of Mines at Divisional offices and at the district level, 14 district mining offices are headed by Assistant Director of Mines/Mining Development Officers independently where as Mining Inspectors (MIs) are the in-charge of the remaining 24 district mining offices who are under the control of the Collector of the respective districts and are responsible for assessment, levy and collection of royalty and other mining dues.

6.1.2 Trend of receipts

The variation between budget estimates and actual receipts from Non-ferrous Mining and Metallurgical Industries during the period 2007-08 to 2011-12 along with the total non-tax receipts during the same period is mentioned below:

(₹ in crore)

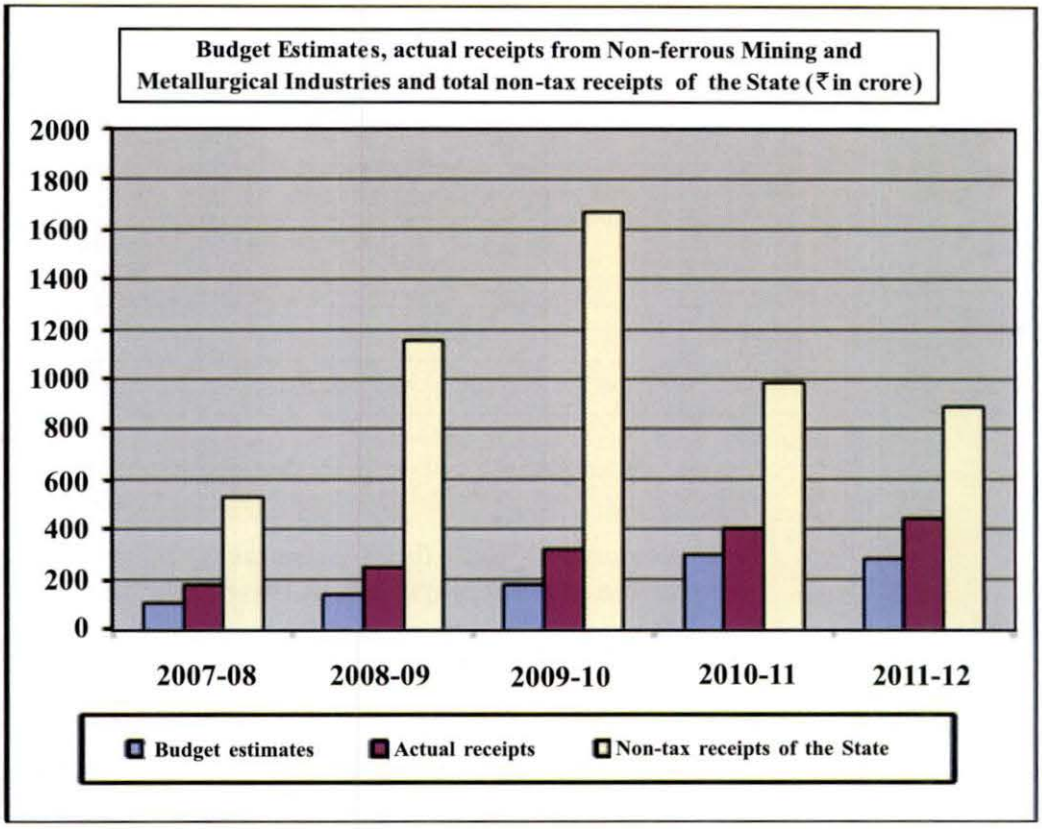
Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual receipts (col.-3) vis-à-vis total non-tax receipts (col.-6)
1	2	3	4	5	6	7
2007-08	102.93	178.66	(+)75.73	(+)73.57	525.59	33.99
2008-09	140.00	245.00	(+)105.00	(+)75.00	1153.32	21.24
2009-10	180.00	319.93	(+)139.93	(+)77.74	1670.42	19.15
2010-11	294.00	405.59	(+)111.59	(+)37.96	985.53	41.15
2011-12	280.00	443.10	(+)163.10	(+)58.25	889.86	49.79

(Source: Revenue and Capital Receipt,(Detail) ; Finance Accounts, Government of Bihar)

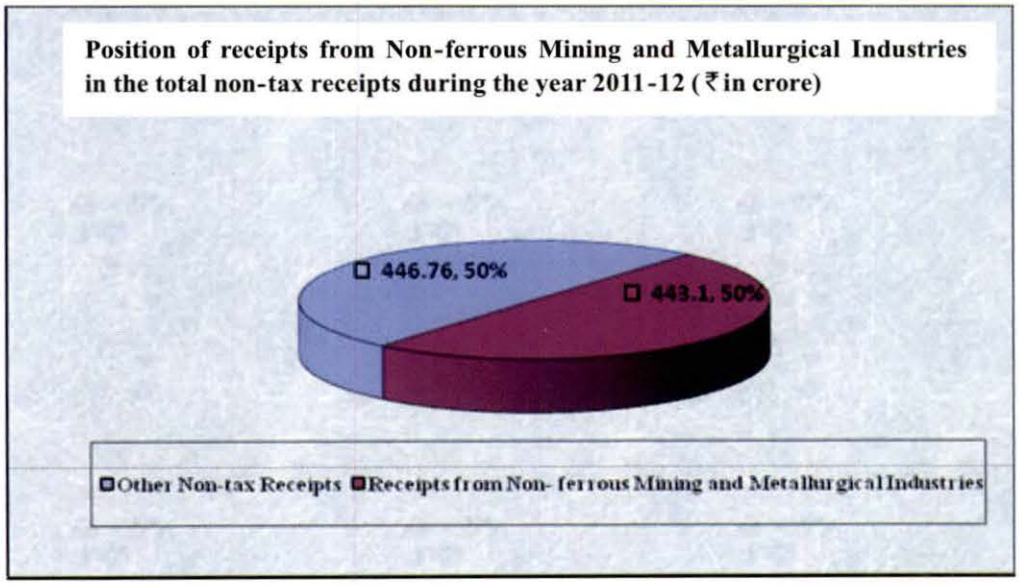
The above table indicates that the collection from Non-ferrous Mining and Metallurgical Industries was consistently more than the budget estimates during the period 2007-08 to 2011-12. The contribution of receipts from

Non-ferrous Mining and Metallurgical Industries in the total non-tax receipts increased substantially during the period 2010-11 and 2011-12 over the previous years.

The trend of actual receipts vis-á-vis the estimated receipts from Non-ferrous Mining and Metallurgical Industries and total non-tax receipts are given in the following bar chart:



The following pie chart depicts the contribution from Non-ferrous Mining and Metallurgical Industries to the total non-tax receipts (₹889.86 crore) of the State during 2011-12:



6.1.3 Impact of audit

Revenue impact

During the period from 2008-09 to 2010-11, we have pointed out, through our inspection reports, non/short levy, non/short realisation, loss of revenue etc., with revenue implication of ₹ 442.10 crore in 635 cases. The Department/Government had accepted audit observations in 365 cases involving ₹ 309.61 crore. However, recovery of only ₹ 4.99 lakh was reported by the Department to have been effected in the accepted cases. The details are shown in the following table:

Year	No. of units audited	Pointed out		Accepted		Recovery
		No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)	(₹ in lakh)
2008-09	44	220	93.47	202	89.46	Nil
2009-10	33	175	230.45	145	218.09	3.20
2010-11	48	240	118.18	18	2.06	1.79
Total	**125**	**635**	**442.10**	**365**	**309.61**	**4.99**

We recommend that the Government may take appropriate steps to recover the amounts involved, at least in the accepted cases.

6.1.4 Results of audit

In the course of audit of records of 25 units relating to receipts from Non-ferrous Mining and Metallurgical Industries, we found non/short realisation, loss of revenue and other irregularities involving ₹ 80.39 crore in 177 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non/short realisation of royalties	28	17.10
2.	Non-levy of penalty for illegal removal of brick earth	17	5.82
3.	Loss due to non-levy of fine for continued contravention	10	1.78
4.	Non-levy of penalty against works contractors for illegal procurement of minerals	23	38.06
5.	Non-realisation of registration fees	5	2.87
6.	Loss of revenue due to delay in notification for settlement of sand *ghats*	7	4.17
7.	Non-levy of interest for belated payment of bid money	9	0.82
8.	Non-levy of interest	23	2.42

9.	Loss of revenue due to non-realisation of royalty for excess dispatch of stone	5	1.35
10.	Non-realisation of auctioned amount and interest thereon from the lessee of stone quarry and stockist licence holder	5	0.46
11.	Other cases	45	5.54
	Total	**177**	**80.39**

During 2011-12, the Department accepted underassessment and other deficiencies *etc.* involving ₹ 131.12 crore in 148 cases, out of which 46 cases involving ₹ 22.16 crore were pointed out during 2011- 12 and the rest during the earlier years. The Department also reported recovery of ₹ 4.99 lakh in two cases which were pointed out during the year 2009-10 and 2010-11.

A few illustrative cases involving tax effect of ₹ 9.04 crore are mentioned in the following paragraphs.

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

Our scrutiny of the records of the District Mining Offices revealed several cases of non-compliance of the provisions of the Act/Rules and Departmental Orders as mentioned in the succeeding paragraphs in this Chapter. These cases are illustrative and are based on a test-check conducted in Audit. Despite such omissions and irregularities being pointed out in previous years, they continue to persist. There is need for the Government to improve the internal control system and internal audit.

6.3 Operation of brick kilns

6.3.1 Non/short realisation of royalty

Under the provisions of Rule 26 (A) and 28 of the Bihar Minor Mineral Concession (BMMC) Rules 1972 and Notification issued (March 2001) thereunder, brick kiln owners are required to pay the consolidated amount of royalty in two equal installments at the prescribed rates, based on the Category of the brick kiln areas after obtaining permit by paying an application fee of ₹ 2,000 per kiln. Further, the BMMC Rules and instructions issued in October 1987, provide that if the brick kiln owner fails to make payment of consolidated amount of royalty in the manner so prescribed, the competent officer shall stop such business and initiate certificate proceedings for realisation of outstanding royalty/penalty under Rule 37 of the BMMC Rules. Besides, interest at the rate of 24 *per cent* per annum may also be charged on the rent, royalty, fee or other sum due to the Government as per Rule 43 (A) of the BMMC Rules.

We observed during test-check of brick kiln register, Mining Inspector's report and other relevant records maintained in the individual files of the brick kiln owners between February and June 2012 in seven[1] District Mining Offices that 435 brick kilns (Category[2]-I: 29, Category-II: 69 and Category-III: 337) were operated in brick season[3] 2010-11 and 2011-12, out of which 346 brick kilns owners had not paid royalty amounting to ₹ 1.99 crore while the balance 89 owners had made partial payment of royalty of ₹ 28.83 lakh against a total amount of ₹ 52.28 lakh. Further scrutiny of files revealed that though these brick kiln owners who had applied for grant of permits and had paid requisite application fee but they did not submit the supporting documents like 'No objection certificate' from the State Pollution Control Board, *Khatiani* of land along with consent of

1 Aurangabad, Bhagalpur, Jamui, Muzaffarpur, Patna, Rohtas, and Saharsa.

2 Category-I: Brick kilns situated in urban areas of Patna, Muzaffarpur, Gaya and Darbhanga having capacity of 45 lakh bricks;
Category-II: Brick kilns situated in urban areas except Patna, Muzaffarpur, Gaya and Darbhanga having capacity of 35 lakh bricks and
Category-III: Brick kilns situated in rural areas having capacity of 25 lakh bricks.

3 Brick season starts from the month of October every year to March of the subsequent year.

the owner of land or an affidavit to that effect etc. Thus permits were not issued in any cases. Further, action was not initiated by the concerned Mining Officers (MOs) to stop their business. Thus, non-initiation of follow up action by the MOs for stopping of illegal operation of brick kilns resulted in non/short realisation of royalty amounting to ₹ 2.23 crore besides interest. Further, the DMOs were also ignorant towards the environmental effect as the mining activities were being carried out in their jurisdiction without No Objection Certificate from the State Pollution Control Board.

After the cases were pointed out in audit, three[4] MOs stated (between September and October 2012) that FIR had been lodged against the defaulter brick kiln owners. MO, Bhagalpur stated (September 2012) that a sum of ₹5.75 lakh had been recovered in 14 cases and the business were stopped in the remaining cases while MOs, Aurangabad and Muzaffarpur stated (September 2012) that the revenue recovery certificate cases had been instituted against the defaulter brick kiln owners for brick season 2010-11 and demand notices had been issued for the brick season 2011-12. The development in other cases is awaited (January 2013).

The matter was reported to the Government/Department in July 2012; their reply has not been received (January 2013).

[4] Jamui, Patna and Saharsa.

6.3.2 Non-levy of penalty for illegal removal of brick earth

Under Rule 4 (1) of the BMMC Rules, no person shall undertake any mining operation in any area, except under and in accordance with the terms and conditions of a quarrying permit or, as the case may be, a mining lease, granted under these Rules.

Rule 40 (8) of the BMMC Rules prescribes that the penalty for any illegal mining includes recovery of the price of the mineral, rent, royalty or taxes as the case may be, for the period during which the land was occupied by such person without any lawful authority. Further, Rule 40(1) of the Rules *ibid* prescribes initiation of criminal proceedings attracting punishment of simple imprisonment that may extend to six months or with fine which may extend to rupees five thousand or both.

We observed between February and March 2012 from the Demand and Collection Register and Permit Register of brick kiln owners, in three[5] District Mining Offices that 355 brick kilns (Category-I: 25, Category-II: 48 and Category-III: 282) were operated in brick season 2010-11 without application for grant of permit along with requisite fee and obtaining quarrying permit for excavation of earth and paying the consolidated amount of royalty. Thus, the excavation of brick earth without quarrying permit was not only illegal but also affecting the ecological balance. Despite the fact that the mining activities were being carried out, the Department did not take any action to stop the business or levy penalty as per the BMMC Rules. Thus, taking the minimum price of mineral equivalent to royalty, there was non-levy of penalty of ₹ 1.97 crore[6], besides environmental effect.

After the cases were pointed out in audit, MOs Nawada and Patna stated (September and October 2012) that FIRs had been lodged against the defaulter brick kiln owners. MO Rohtas (Sasaram) stated (April 2012) that provision of Rule 40(8) of the BMMC Rules was not applicable in these cases as Rule 26 (A) of the BMMC Rules starts with the phrase 'notwithstanding anything contained in these rules', means that no other provision of the Act/Rules would affect the provision laid down under Rule 26(A) and that action for stoppage of the said work had been taken as per Rules. The contention of the MO is contrary to the fact that the mining was done without obtaining the requisite quarrying permit and as such these cases were to be treated as illegal excavation and penalty was leviable under Rule 40(8) of the BMMC Rules. Further developments in the matter were awaited (January 2013).

The matter was reported to the Government/Department in July 2012; their reply has not been received (January 2013).

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5 Nawada, Patna and Rohtas (Sasaram).

6 In absence of actual price of earth excavated, the price has been calculated on royalty payable by the brick kiln owners, which is one of the components for working out cost.

6.3.3 Non-levy of fine for continued contravention of the provisions of Acts/Rules

Section 21(2) of Mines and Minerals (Development and Regulation) Act, 1957 provides that whoever contravenes the provision of the Act, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees, or with both, and in case of a continuing contravention, with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

We observed during test-check between October 2011 and March 2012, from the Certificate Case Register and Demand and Collection Register in the District Mining Offices, Aurangabad and Jehanabad that 12 brick kiln owners continued to operate the kilns without payment of royalty and valid permit between 2006-07 and 2011-12. Although, the MOs had filed Revenue Recovery Certificate cases against the defaulter brick kiln owners during 2007-08 and 2011-12 for realisation of royalty and interest, they failed to stop the business as well as to impose fine for continued contravention as per aforesaid provisions of the Act. The maximum fine leviable for continued contravention of the provision of the Act worked out to ₹ 46.24 lakh.

After this was pointed out in audit, the Deputy Director of Mines, Magadh Division, Gaya stated (September 2012) that Revenue Recovery Certificate cases had been instituted and the Superintendent of Police was being requested for implementation of *kurki*/arrest warrant against the defaulters.

The matter was reported to the Government/Department in April and June 2012; their reply has not been received (January 2013).

6.4 Non-levy of penalty for illegal use of ordinary earth

Ordinary earth used for filling or leveling purpose in construction of embankments, roads, railways and buildings is a minor mineral. In this regard the Government of Bihar vide Gazette Notification (April 2006) fixed the rate of royalty of ordinary earth as ₹ 15 per cubic metre. Under Rule 27 and 28 of the BMMC Rules, any quarrying activities require sanction of the competent authority on payment of requisite fee.

Rule 40(8) of the BMMC Rules prescribes the penalty for illegal mining which includes recovery of the price of the mineral, rent, royalty or taxes as the case may be. Further, Rule 40(1) of the Rules *ibid* prescribes initiation of criminal proceedings attracting punishment of simple imprisonment that may extend to six months or with fine which may extend to rupees five thousand or both.

We observed between October 2011 and May 2012 in three[7] District Mining Offices that a sum of ₹ 60.35 lakh was deducted/deposited by National Building Construction Corporation Ltd., Bhagalpur in two cases and by the works contractors of Railway in two cases as royalty during the period from April 2009 to January 2012, for use of mineral in earth work. We further observed that the works contractors who had removed the minor mineral had not applied for the requisite quarrying permit for the same. Thus, the contractors removed the earth illegally for which they were liable to pay minimum penalty equivalent to the amount of royalty i.e. ₹ 60.35 lakh in terms of the Rules. However, the concerned MOs had neither levied penalty of ₹ 60.35 lakh nor any action for initiation of criminal proceedings was taken in accordance with the provision of the BMMC Rules.

After we pointed out in audit, MO Banka stated (September 2012) that notices of demand had been issued and MO Kishanganj stated (October 2011) that reference had been made to concerned Railway Authorities for withholding the payment of contractor till issuance of Royalty Clearance Certificate. MO Katihar stated (October 2011) that the contractor had paid the royalty and Rule 40(8) of the BMMC Rules was not applicable. The reply is not in consonance with the fact that mining was done without valid permit and as such these cases were to be treated as illegal excavation and penalty was leviable under the Rule 40(8) of the BMMC Rules. Further development is awaited (January 2013).

The matter was reported to the Government/Department in July 2012; their reply has not been received (January 2013).

[7] Banka, Katihar and Kishanganj.

6.5 Non-realisation of interest on delayed payment from settlee of sand *ghats*

Rule 11 (A) of BMMC Rules provides that settlement of sand as minor mineral will be done by public auction by the Collector to the highest bidder on annual basis. Rule 11 (D) of BMMC Rules provides that every such settlement shall be valid only for the calendar year in which it is so made irrespective of the date on which such settlee comes in its possession and in no case shall such settlement or possession continue in the succeeding calendar year.

Further, as per clause 11 of notification of December 2006 issued by the Mines and Geology Department, Government of Bihar, the settlees were required to pay 50 *per cent* of the settlement amount before operation of sand *ghats*, 25 *per cent* up to 15th of March and remaining 25 *per cent* up to 25th September for the calendar year. As per Rule 43 (A) of the BMMC Rules, Government may charge simple interest at the rate of 24 *per cent* per annum on any rent, royalty, fee or other sum due to the Government.

We observed in May 2012 from the settlement files of sand *ghats* and Demand and Collection Register for the year 2010-12 District Mining Office, Banka that two settlees of sand *ghats* paid the settlement amount of ₹ 12.97 crore for calendar year 2011 and 2012 with a delay ranging between eight and 242 days. However, the MO did not initiate any action to realise the interest for delay in payment of Government dues. This resulted in non-realisation of interest of ₹ 77.86 lakh on delayed payment of the settlement amounts.

After we pointed out in audit, MO Banka stated (September 2012) that the settlee of Unit II had deposited a sum of ₹ 34,038 as interest. Further developments in this regard are awaited (January 2013).

The matter was reported to the Government/Department in July 2012; their reply has not been received (January 2013).

6.6 Short realisation of royalty and interest from lease holders of quarry leases

Under Rule 9 (A) of the BMMC Rules, 1972, the Government may by Notification in the Official Gazette, direct that any mineral may be leased out or settled by Public auction/tender in the manner prescribed in Rule 52 of the Rules *ibid* and the period of quarrying lease shall not be less than five years. Sub rule - 4 and 5 provides that the bid amount shall be deposited on a yearly basis in equal installments and each installment shall be deposited before 31st January. If any installment shall not be deposited before prescribed period, 24 *per cent* simple interest per annum shall be charged up to two months and after that action for cancellation shall be taken.

We observed during test-check of 80 leases of stone quarries (between March and May 2012) from the settlement files of stone quarry in four[8] District Mining Offices that 15 stone quarries were auctioned at ₹ 13.26 crore between August 2003 and November 2008. The leaseholders had to pay the bid amount in installments on a yearly basis which accumulated to ₹ 12.86 crore upto May 2012, against which the leaseholders had paid a sum of ₹ 9.65 crore only between June 2005 and March 2012. Besides, interest of ₹ 26.30 lakh on short payment/belated payment of installments of royalty was also chargeable as per aforesaid provision. Despite short payment of yearly installment of royalty, action for cancellation of lease had not been initiated by the concerned MOs against 11 leaseholders and in four cases (three cases of Aurangabad and one case of Jamui), though the leases were cancelled between December 2011 and April 2012, action for realising the dues was not taken as per Schedule-I under Section 3(6) of the Public Demand Recovery (PDR) Act 1914. This resulted in short realisation of revenue amounting to ₹ 3.47 crore including interest.

The matter was reported to the Government/Department in July 2012; their reply has not been received (January 2013).

8 Aurangabad, Banka, Jamui and Rohtas.

6.7 Short realisation of royalty for dispatch of stone in excess of auctioned amount

Under the provisions of Rule 9 (A) of the BMMC Rules, 1972, the Government may by Notification in Official Gazette direct that any mineral contracts be leased out or settled by public auction/tender in the manner prescribed under Rule 52 of the Rules *ibid*. The period of quarrying lease shall not be less than five years and the leaseholders shall pay the royalty in advance in five equal installments before 31st January of each year. Further, if the extracted and dispatched quantity of stone is in excess of annual installment, the leaseholders shall pay the royalty of the excess quantity extracted.

During test-check of settlement files of 119 leases of stone quarry (Gaya-88 and Rohtas-31) and monthly returns submitted by the leaseholders to the District Mining Offices, Gaya and Rohtas, we observed between June 2011 and April 2012 that three stone quarries were auctioned between July 2006 and May 2009 at ₹ 2.72 crore. The leaseholders had extracted 45.91 lakh cubic feet stone valued at ₹ 67.16 lakh (at the rate of ₹ 1.79 per cubic feet in case of boulder and ₹ 1.42 per cubic feet for stone chips) between the period April 2009 and December 2010, against which they paid only ₹ 54.30 lakh. Thus failure of the MOs to verify the monthly returns submitted by the leaseholders resulted in short realisation of royalty of ₹ 12.86 lakh.

The matter was reported to the Government/Department in July 2012; their reply has not been received (January 2013).

6.8 Non-realisation of royalty and penalty for illegal mining

Under the provisions of Rule 9 (A) of the BMMC Rules, 1972, the Government may by Notification in the Official Gazette, direct that any mineral be leased out or settled by public auction/tender in the manner prescribed under Rule 52 of the BMMC Rules *ibid*. The period of quarrying lease shall not be less than five years and the leaseholder shall pay the royalty in advance in five equal installments before 31st January of each year. Rule 40 (8) of BMMC Rules prescribes that the penalty for any illegal mining includes recovery of the price of the mineral, rent, royalty or taxes as the case may be, for the period during which the land was occupied by such person without any lawful authority.

During test-check of settlement files of lease of stone quarry in the District Mining Office, Jamui, we observed (May 2012) that a lease of stone quarry was settled in January 2009 for five years at ₹ 5.62 lakh. Further, during site inspection, the MO found (December 2009) that the leaseholder had extracted and sold 16 lakh cubic feet (45,306.53 cubic metre) of *Murram* from the place outside his leased area.

The MO, however, lodged the FIR (December 2009) and ordered the leaseholder to pay the royalty within 30 days, but did not levy penalty of ₹ 17.22[9] lakh considering the minimum price of the minerals equivalent to royalty for unauthorised extraction of minerals. This resulted in non-levy of penalty of ₹ 17.22 lakh for illegal mining as provided under the Rules *ibid*.

The matter was reported to the Government/Department in July 2012; their reply has not been received (January 2013).

Patna
The 17 APRIL 2013

(P. K. SINGH)
Accountant General (Audit), Bihar

Countersigned

New Delhi
The 22 APRIL 2013

(VINOD RAI)
Comptroller and Auditor General of India

9 Calculation of royalty: $\frac{16,00,000}{35.315}$ cft = 45,306.53 cubic metre x ₹ 38 = ₹ 17,21,648.

ANNEXURE

ANNEXURE-I

(Refer: Paragraph 2.2.7.4)

Issuance of Notifications without approval of Finance Department

Sl. No.	Notification no. and date	Gist of Notification	Revenue implications worked out by the Department
1.	S.O. 30 dated 01.04.2006	Schedule-I, II and III of the BVAT Act was substituted.	Loss of ₹120 crore.
2.	S.O. 32 dated 01.04.2006	Entry tax was levied on food-grains at the rate of 4 *per cent.*	No revenue impact was worked out by the Department while sending the proposal to the Council.
3.	S.O. 90 dated 01.07.2006	One item of schedule-I and 6 Items of schedule-III were amended.	
4.	S.O. 92 dated 01.07.2006	Entry tax was withdrawn on Atta, Maida, suji etc.	
5.	S.O. 43 dated 04.05.2006	Prescribing point of levy on schedule-IV goods.	No revenue impact was worked out by the Department while sending the proposal to the Council.
6.	S.O. 45 dated 04.05.2006	Compounding tax on Brick-kilns.	
7.	S.O. 47 dated 04.05.2006	Levy of tax on MRP on certain goods.	
8.	S.O. 49 dated 04.05.2006	Rate of tax on High speed Diesel was reduced to 20 *per cent.*	
9.	S.O. 51 dated 04.05.2006	Levy of surcharge on HSD and LDO at the rate of 10 *per cent.*	
10.	S.O. 167 dated 12.08.2010	Abolition of notifications issued under section 3A of Entertainment tax Act.	
11.	S.O. 134 dated 12.07.2010	Rate of VAT on Kerosene oil was decreased.	Loss of ₹77 crore.
12.	S.O. 103 dated 14.08.2006	Levy of tax on MRP on certain goods.	Gain of ₹5 crore.
13	S.O. 105 dated 14.08.2006	Agarbattis, oil cake etc. were made tax free.	-
Total			**₹ 192 crore**

ANNEXURE-II

(Refer: Paragraph 2.2.12.5-first bullet, fourth row)

Deduction

(Amount in ₹)

Sl. No.	Name of circle	Name of dealer/TIN	Year	Amount of deduction on account of inter state sale not supported by form C/F	Commodity	Rate of tax leviable/Levied (*in per cent*)	Amount of tax leviable	Amount of tax levied	Non/short levy
1	Bettiah	M/s M.P Chini Industries Ltd. 10260261137	2009-10	3569559 and 1753288	Molasses and Scrap	12.5/2 and 4/2	446195 and 70132	71391 and 35066	374804 and 35066
2	Bhagalpur	M/s Ganpati Traders 10520960083	2009-10	14836620	Edible oil and Kirana	4/2	593465	235306	358159
3	-Do-	M/s Leonard Exports 10524783089	2009-10	8726030	Coal	4/2	349041	174521	174520
4	-Do-	-Do-	2009-10	1279796	-Do-	4/0	51192	Nil	51192
5	Barh	M/s Bharat Wagon & Engg. Co. Ltd. 10020042092	2009-10	99994655	Rail Wagon	4/2	3999786	1999893	1999893
6	Darbhanga	M/s Tirhut Kid Leather 10385120022	2009-10	14473638	Hide and Skin	4/2	578946	289473	289473
7	Muzaffarpur West	M/s Tirhut Dugdh Utpadak Sahkari Sangh Ltd. 10300521084	2009-10	17046107	Ghee and SMP	4/2	353176	176588	176588
					Butter	12.5/2	1027088	164334	862754
8	Danapur	M/s Bhola Ram Steel Pvt. Ltd. 10040203057	2009-10	4782939	Iron and Steel	4/1	191318	47829	143489

9	Patna Special	M/s Johnson & Johnson Ltd. 10010304068	2009-10	43004721	FMCG products	12.5/0	5375590	Nil	5375590
10	-Do-	M/s Gillette India Ltd. 10010189026	2008-09	6620023	-Do-	12.5/0	827503	Nil	827503
			2009-10	2914224	-Do-	12.5/0	364278	Nil	364278
11	-Do-	M/s Procter & Gamble Home Products Ltd. 10010196010	2008-09	2180796	-Do-	12.5/0	272600	Nil	272600
			2009-10	4222174	-Do-	12.5/0	527772	Nil	527772
12	-Do-	ICI India Ltd. 10010117052	2009-10	6298387	Paint	12.5/0	787298	Nil	787298
13	-Do-	M/s Pidilite Industries 10010214149	2009-10	8693519	Adhesive	12.5/0	1086690	Nil	1086690
14	-Do-	M/s Tata Steel Ltd. 10010008018	2009-10	4728619	Iron and Steel	4/2	189145	94572	94573
15	-Do-	M/s Ruchi Soya Industries Ltd. 10010463051	2009-10	22852632	Edible oil	4/0	914105	Nil	914105
16	-Do-	M/s Reliance Industries Ltd. 10010381086	2009-10	2095282	ATF	29/0	607632	Nil	607632
17	-Do-	M/s Bajaj Electrical Ltd. 10010019082	2009-10	2488274	Electrical Goods	12.5/2	311034	49765	261269
18	Patliputra	M/s Mahindra & Mahindra Ltd. 10050022076	2009-10	3861250	Tractor	4/0	154450	Nil	154450
19	-Do-	-Do-	-Do-	2520171	-Do-	4/2	100807	50403	50404
20	-Do-	M/s Reliance Telecom Ltd. 10050157003	2008-09	37625619	Telecom goods	4/0	1505025	Nil	1505025
			2009-10	18216676	-Do-	4/0	728667	Nil	728667
21	-Do-	M/s Nestle India Ltd. 10050123053	2009-10	9390977	Milk product	12.5/0	1173872	Nil	1173872

22	-Do-	M/s Ingram Micro India Pvt. Ltd. 10050498055	2009-10	5901376	Computer	4/2	236055	69004	167051
23	-Do-	-Do-	2009-10	50863747	-Do-	4/0	2034550	Nil	2034550
24	-Do-	M/s Dishnet Wireless Ltd. 10050333058	2009-10	318036493	Telecom Goods	4/0	12721460	Nil	12721460
25	-Do-	M/s Cadbury India Ltd. 10050251093	2008-09	17472736	Chocolate	12.5/0	2184092	Nil	2184092
			2009-10	14965319	-Do-	12.5/0	1870665	Nil	1870665
26	-Do-	M/s Ashoka Leyland Ltd. 10050153026	2009-10	15562266	Motor vehicles	12.5/0	1945283	Nil	1945283
27	-Do-	M/s Unitech Wireless (east) Pvt. Ltd. 10050777059	2009-10	339622842	Telecom goods	4/0	13584914	Nil	13584914
28	-Do-	M/s GTL Infrastructure Ltd. 10050455084	2009-10	25654470	-Do-	4/0	1026179	Nil	1026179
29	-Do-	M/s Reliance Telecom Infrastructure Ltd. 10050415023	2009-10	24581821	-Do-	4/0	983273	Nil	983273
30	-Do-	M/s Tata Tele Service Ltd. 10050254003	2009-10	488002021	-Do-	4/0	19520081	Nil	19520081
31	-Do-	M/s VodaFone Essar Spacetel Ltd. 10050339072	2009-10	432118779	-Do-	4 & 8/0	17762975	Nil	17762975
32	-Do-	M/s Nokia India Pvt. Ltd. 10050394071	2009-10	43762574	Mobile phone	4/0	1750503	Nil	1750503
33	-Do-	M/s IRCTC Ltd. 10050163017	2009-10	141029794	Mineral water	4 & 12.5/0	17566389	Nil	17566389
34	-Do-	M/s Tata Motors Ltd. 10050129067	2009-10	176575002	Motor vehicles	12.5/0	22071875	Nil	22071875
			2009-10	78999107	-Do-	12.5/2	9874888	1579302	8295586

35	-Do-	M/s Whirlpool India Ltd. 10050121016	2009-10	38715346	Consumer durables	12.5/0	4839418	Nil	4839418
36	-Do-	M/s Bosch Ltd. 10050145072	2009-10	28629286	Auto parts	4 & 12.5/0	1603154	Nil	1603154
		-Do-	2009-10	987695	-Do-	4 & 12.5/2	55307	19754	35553
37	-Do-	M/s Philips Electronics India Ltd. 10050266031	2009-10	107611544	Electronic goods	4 & 12.5/2	13174289	2281513	10892776
			2009-10	92471990	-Do-	4 & 12.5/0	11208761	Nil	11208761
38	Purnea	M/s Kali Roller Flour Mills Pvt. Ltd. 10490608007	2009-10	23822000	Food Grain	1/0	238220	Nil	238220
39	-Do-	M/s Venky Re-Rolling Pvt. Ltd. 10490717035	2009-10	5390978	MS-TOR and ROD	4/1	215639	53910	161729
40	Begusarai	M/s Birla Tyre 10364256079	2010-11	3354278	Tyre and Tubes	12.5/0	419285	Nil	419285
41	Katihar	M/s Pawanpurtra Twine Mills (P) Ltd. 10450087033	2009-10	8534654	Jute Twine & Jute Yarn	4/1	341386	85347	256039
Total				**2826842094**			**179815448**	**7477971**	**172337477**

ANNEXURE -III

(Refer: Paragraph 2.2.13.1 Second bullet)

Suppression of turnover/import value

(Amount in ₹)

Sl. No.	Name of circle	Name of dealer/TIN	Year	Source of information (Dealer/TIN)	Sale/Purchase shown by source dealer	Purchase/Sale shown by receiving dealer	Difference in purchase/ Sale	Tax effect	Interest	Penalty	Total
1	Barh	M/s United Spirit Ltd. 10020044032	2009-10	M/s I. Pack 10020996087	4871245	4225209	646036	25841	9303	77523	112667
				M/s Well Pack 10020405066	8892316	1328303	7564013	302561	108922	907683	1319166
2	-Do-	M/s Industrial Packers & Co. 10020060037	2009-10	M/s United Spirit Ltd. 10020044032	13473020	12870311	602709	24108	8679	72324	105111
3	-Do-	M/s Sona Pack & Traders 10021068061	2009-10	M/s United Spirit Ltd. 10020044032	3774341	3640627	133714	5348	1925	16044	23317
4	-Do-	M/s Om Packing 10020779098	2009-10	M/s United Spirit Ltd. 10020044032	6777105	6688378	88727	3549	1278	10647	15474
5	Muzaffarpur West	M/s Harinarayan & Co. 10300704026	2009-10	M/s Mahindra & Mahindra (Jeep Division) 10050023046	463644029	457192609	6451420	806427	290314	2419281	3516022
6	Begusarai	M/s Bharat Agro Agency 10360031069	2009-10	M/s Tafe Motors & Tractors Ltd. 10050327044	5253490	4982330	271160	33895	12456	101685	148036

7	-Do-	M/s Eastern Trading Co. 10360138060	2008-09	M/s L.G Electronics Pvt. Ltd. 10050078045	22584568	6430516	16154052	1995051	1092290	5985153	9072494
8	Patliputra	M/s Whirlpool India Ltd. 10050121016	2009-10	M/s Kumar Distributors 10141041056	55534024	52628496	2905528	363191	125301	1089573	1578065
9	-Do-	M/s TML Distributor Co. Ltd. 10050699082	2009-10	M/s Samrat Automobile Pvt. Ltd. 10082041097	442584996	241026296	201558700	25194837	8692219	75584511	109471567
10	Katihar	M/s Tannu Steel 10452350043	2008-09	M/s Sahayak Bhandar Niyantrak 10450232048	8293908	7270078	1023830	40953	22729	122859	186541
			2009-10		7233566	766871	6466695	258668	97000	776004	1131672
11	-Do-	M/s Bihar Steel 10450199068	2009-10	M/s Sahayak Bhandar Niyantrak 10450232048	2220810	Nil	2220810	88832	35977	266496	391305
12	Purnea	M/s Rohri Motors 10490140079	2009-10	M/s Bajaj Auto ltd. 10050118009	103243075	100770895	2472180	360073	140428	1080219	1580720
13	-Do-	M/s Brajesh Automobile 10490609074	2009-10	M/s Mahindra & Mahindra Ltd. 10050023046	619384903	598156248	21228655	2653582	1034897	7960746	11649225
Total					**1767765396**	**1497977167**	**269788229**	**32156916**	**11673718**	**96470748**	**140301382**

ANNEXURE-IV

(Refer: Paragraph - 2.4)

Table - I
Short levy of tax due to suppression of purchase turnover

(Amount in ₹)

Sl. No.	Circle	Name of the dealer/ TIN	Period	Rate (in *per cent*)	Actual Purchase	Purchase accounted for	Value suppressed	Tax	Interest	Penalty	Total	Difference found in
1.	Bhagalpur	M/s SCI India Ltd. (10520602056) (Self-assessed)	2009-10	12.5	30896000	10071500	20824500	2603062	819965	7809186	11232213	Utilisation of 'C' form and RT - III
2.	Biharsarif	M/s S. R sales (10192168010) (Self-assessed)	2009-10	12.5 & 4	20145411	18440210	1705201	207947	46788	623841	878576	Utilisation of 'C' form and RT - III
3.	Gopalganj	M/s Tomar Tractors (10280354008) (Self-assessed)	2006-07	4	62768256	52862791	9905465	396218	320937	1188654	1905809	ET-V (Annual return under Entry tax) and RT - III
4.	Patliputra	M/s Ashoka Leyland Ltd. 10050153026 (Self-assessed)	2009-10	12.5	311564907	293636023	17928884	2241110	739566	6723330	9704006	Statement of TAR, RT - III and ET V
5.	Patna Central	M/s Ambey Fastners Pvt. Ltd. 10150039067 (Self-assessed)	2009-10	4	64856051	55492206	9363845	374553	129220	1123659	1627432	Statement of TAR and RT - III
		M/s Kumar Distributor Pvt. Ltd. 10150024032 (Self-assessed)	2009-10	12.5 & 4	363563922	331229761	32334161	3378904	1165721	10136712	14681337	Statement of TAR , RT -III, Form C and D IX
		M/s Pinax Steel Industries 10150013071 (Self-assessed)	2009-10	4	220777431	204912178	15865253	634610	218940	1903830	2757380	Statement of TAR and RT - III

6.	Patna North	M/s Ashoka Auto Enterprises Pvt. Ltd. 10100548018 (Scrutinised)	2009-10	12.5 & 4	45306975	44380151	926824	111465	30096	334395	475956	Statement of D-IX and RT-III
		M/s Intex Technologies India Ltd. 10101730060 (Self-assessed)	2009-10	12.5 & 4	254763376	243458843	11304533	488983	132025	1466949	2087957	Statement of D-IX and RT-III
		M/s Shree Shiva Sales 10104536076 (Self-assessed)	2008-09	12.5 & 4	17196262	16056828	1139434	72018	34569	216054	322641	Utilisation of 'C' form and RT-III
		M/s Apex Power and Engineers 10101637037 (Scrutinised)	2008-09	12.5	68542824	44265426	24277398	3034675	1456644	9104025	13595344	Utilisation of 'C' form and RT-III
			2009-10	12.5	51982518	48076349	3906169	488271	146481	1464813	2099565	Utilisation of 'C' form and RT-III
		M/s Sri Dhanuka Agritech Ltd. 10104181056 (Assessed)	2008-09	MRP	133654884	125789866	7865018	397813	184983	1193439	1776235	Statement of D-IX and RT-III
7.	Patna Special	M/s Techno Electric & Engg Co. 10010038094 (Self-assessed)	2008-09	12.5 & 4	106547540	61629703	44917837	4715969	2475884	14147907	21339760	-do-
		M/s Khaitan Electricals Ltd. 10010076021 (Self-assessed)	2009-10	12.5 & 4	76381428	75782238	599190	64585	22281	193755	280621	-do-
		M/s VST Industries Ltd. 10010573049 (Scrutinized)	2009-10	12.5	828597302	470745054	357852248	44731531	15432378	134194593	194358502	Statement of TAR, RT-III and ET V
		M/s Golden Tobacco Ltd. 10010380019 (Self-assessed)	2008-09	12.5	103423924	96998220	6425704	803213	421686	2409639	3634538	Statement of D-IX and RT-III

		M/s Tide Water Oil Company (I) Ltd. 10010205031 (Self-assessed)	2009-10	12.5	451501270	449010010	2491260	311407	107435	934221	1353063	TAR-IV and Assessment Order
		M/s Hindustan Unilever Limited 10010050025 (Self-assessed)	2009-10	12.5	5017678285	4834313789	183364496	22920562	7907593	68761686	99589841	Statement of form F and RT - III
8.	Patna Gandhi Maidan	M/s Revolution Forever Marketing Pvt. Ltd. 10110771042 (Scrutinised)	2008-09	12.5	6997602	3529855	3467747	433468	208065	1300404	1941937	Statement of D-IX and RT-III
		M/s Bharat Commercial Agency 10110116098 (Self-assessed)	2008-09	12.5	18879848	17253075	1626773	203347	94556	610041	907944	Utilisation of 'C' form and RT-III
		M/s Lakhmani Infotec 10110510015 (Self-assessed)	2009-10	12.5	6390767	4980661	1410106	176263	52879	528789	757931	Utilisation of 'C' form and RT-III
9.	Patna West	M/s Chistiya Footwear 10140083084 (Scrutinized)	2008-09	12.5	17681280	16622921	1058359	132295	69454	396885	598634	-do-
10.	Samastipur	M/s Samastipur Leather 10425176044 (Self-assessed)	2009-10	12.5	2988407	1813663	1174744	146843	50660	440529	638032	Utilisation of Form C and RT - III
TOTAL					**8283086470**	**7521351321**	**761735149**	**89069112**	**32268806**	**267207336**	**388545254**	

Table - II

Short levy of tax due to suppression of sale turnover

(Amount in ₹)

Sl. No.	Name of the Circle	Name of the dealer	Period	Rate (in *per cent*)	Actual sale	Sale accounted for	Value suppressed	Tax	Interest	Penalty	Total	Difference found in
1.	Bhagalpur	M/s Anubhav Trading 10524183005 (Self-assessed)	2008-09	12.5	23207528	21909334	1298194	162274	77892	486822	726988	Annexure attached with TAR and RT - III
2.	Biharsarif	M/s Ramjee Singh 10191457097 (Self-assessed)	2008-09	12.5 & 4	105586882	99263032	6323850	300633	117247	901899	1319779	Figures mentioned in C-II and RT - III
3.	Munger	M/s Fort Technocrates Pvt. Ltd. 10561928033 (Scrutinized)	2009-10	12.5 & 4	62987365	60812365	2175000	153740	46122	461220	661082	Figures mentioned in contract and P/L Ac and RT - III
4.	Muzaffarpur East	M/s Satya Sai Concrete 10310706084 (Self-assessed)	2008-09	4	195000	00	195000	7800	3744	23400	34944	RT -III and Schedule attached with balance sheet
			2009-10	12.5	948500	00	948500	118563	35569	355689	509821	Figures mentioned in contract and P/L A/c. and RT - III

5.	Patna North	M/s Gangotri Iron and Steel Company Ltd. 10100734064 (Self-assessed)	2009-10	4	1867343432	1768814336	98529096	3941164	886762	11823492	16651418	Schedule 14 of P&L A/c and RT - III
		M/s Salora International Ltd. 10100785086 (Scrutinized)	2009-10	12.5 & 4	19026506	0	19026506	850979	255294	2552937	3659210	The dealer has not taken the closing stock of 2008-09 as opening stock for 2009-10.
6.	Purnea	M/s Flawless Holdings & Industries Ltd. 10490885039 (Self-assessed)	2008-09	4	779442889	771720887	7722002	308880	111197	926640	1346717	TAR and RT -III
Total					**2858738102**	**2722519954**	**136218148**	**5844033**	**1533827**	**17532099**	**24909959**	

ABSTRACT

(Amount in ₹)

Table	Caption	Actual purchase/sale	Purchase/Sale accounted for	Value suppressed	Short Levy			
					Tax	Interest	Penalty	Total
I	Suppression of Purchase	8283086470	7521351321	761735149	89069112	32268806	267207336	388545254
II	Suppression of Sale	2858738102	2722519954	136218148	5844033	1533827	17532099	24909959
Total		**11141824572**	**10243871275**	**897953297**	**94913145**	**33802633**	**284739435**	**413455213**

ANNEXURE-V

(Refer : Paragraph - 2.5)

Excess allowance of Input Tax Credit (ITC)

(Amount in ₹)

Sl. No.	Name of Circle	Name of Dealer / TIN	Year	Purchase value	ITC availed	Actual entitlement	Excess availing of ITC	Penalty / Interest	Total	Nature of irregularities
1.	Buxar	M/s Mateshwari Traders 10030333016 (Self-assessed)	2008-09	116264026	14075642	13645842	429800	1289400 / 206304	1925504	The purchase on which ITC was claimed was not in conformity with the sale shown by the selling dealer.
2.	Hajipur	M/s Construction & Construction 10291486019 (Self-assessed)	2009-10	41239791	1594370	448055	1146316	3438948 / 412674	4997938	The dealer had paid the input tax of ₹ 448055 only as shown in the Profit and Loss A/c and entitled for ITC to that extent only.
3.	Patna North	M/s Patliputra Tobacco Company 10104194054 (Self-assessed)	2008-09	329013262	40262259	0	40262259	120786777 / 19325884	180374920	The purchase amount on which ITC claimed was not shown in the sale statement of the selling dealer (ITC Munger)
			2009-10	384372193	47280268	0	47280268	141840804 / 14184080	203305152	
		M/s Patliputra Trading Company 10100022084 (Self-assessed)	2008-09	93484417	5305257	0	5305257	15915771 / 2546523	23767551	The purchase amount on which ITC claimed was not shown in the sale statement of the selling dealer (ITC Munger
			2009-10	35650266	4182679	0	4182679	12548037 / 1254804	17985520	
		M/s Agrawal Tube Company 10100718059 (Self-assessed)	2008-09	46030118	1841205	1790213	50992	152976 / 24476	228444	ITC was claimed on the credit notes/ discounts, which was not admissible.

4.	Muzaffarpur East	M/s Bumi Civil Geo JV 10312182036 (Self-assessed)	2009-10	32611821	1361371	1224092	137279	411837 41184	590300	ITC was claimed in excess of the purchase value shown in RT - III
5.	Patliputra	M/s F.C.I 10050225097 (Scrutinized)	2009-10	10081095100	186146730	58143062	128003669	384011007 42241210	554255886	ITC on Additional Tax paid under Section 3AA of BVAT Act, 2005 was not admissible.
6.	Patna Central	M/s Saket PVC Pipe Industries Pvt. Ltd. 10150012004 (Scrutinized)	2009-10	31501745	1517242	1158782	358461	1075383 118292	1552136	The dealer had actually claimed excess ITC on the closing balance of the previous year.
7.	Patna Special	M/s Bharat Petroleum Corp. Ltd. 10010121029 (Self-assessed)	2009-10	5749627	313891	0	313891	941673 103584	1359148	Since the dealer has not sold the ethanol in same form and he was also not a manufacturer hence ITC was not allowable
		M/s Larson and Toubro Ltd. 10010213082 (Scrutinized)	2008-09	113792661	4551707	1791544	2760163	8280489 1449085	12489737	The purchase figure does not match with the data of the selling dealer.
8.	Patna (West & Central)	Ericsson India Pvt. Ltd. 10140872082 (Self-assessed)	2007-08	23660207	2957526	2254895	702631	2107893 337263	3147787	ITC claimed in Return was not in conformity with the purchase shown in the TAR
9.	Shahabad (Ara)	M/s Nipun Radio & Electricals 10160066054 (Self-assessed)	2009-10	34415327	4263556	3522041	741535	2224605 244707	3210847	12.5 *per cent* of ₹ 28063620 comes to ₹ 3507952
	Total			**11368880561**	**315653703**	**83978526**	**231675200**	**695025600** **82490070**	**1009190870**	

ANNEXURE-VI

(Refer : Paragraph - 2.6)

Short levy of tax due to application of incorrect rate of tax

(Amount in ₹)

Sl. No.	Name of the Circle	Name of the Dealer / TIN	Year	Commodity	Rate of tax leviable/ levied (in per cent)	Amount on which difference rate is to be levied	Tax	Interest	Penalty	Total
1	Aurangabad	M/s Salasar Trading Co. 10171909075 (Self-assessed)	2007-08	Bhusi (husk of cereals)	4/0	6660000	266400	195804	799200	1261404
			2008-09		4/0	7015345	280614	155740	841842	1278196
2	Bhagalpur	M/s Glaze Trading India (P) Ltd. 10523097090 (Self-assessed)	2009-10	Wrist Watch	12.5/4	9907422	842131	265271	2526393	3633795
3	Biharsarif	M/s Ganesh Enterprises 10193449067 (Self-assessed)	2009-10	Degree Glass	12.5/4	17391609	1478287	332615	4434861	6245763
		M/s Mohan Enterprises 10193448076 (Self-assessed)	2009-10	Degree Glass	12.5/4	14648345	1245109	280150	3735327	5260586
		M/s Pragati India 10191030006 (Self-assessed)	2007-08	Inverter	12.5/4	6599571	560964	328164	1682892	2572020
			2008-09		12.5/4	10824318	920067	372627	2760201	4052895
			2009-10		12.5/4	14960346	1271629	286117	3814887	5372633

4	Buxar	M/s Punit Construction 10031075066 (Self-assessed)	2007-08	Moram	12.5/4	1200352	102030	67340	306090	475460
		M/s Swarana Kamal Mini Modern Rice Mill 10030806085 (Self-assessed)	2008-09	Husk	4/0	617000	24680	11846	74040	110566
			2009-10		4/0	1093500	43740	13122	131220	188082
		M/s Ashirwad Trading 10031003092 (Self-assessed)	2007-08	Himgange Hair Oil	12.5/4	19830473	1414303	933440	4242909	6590652
			2008-09		12.5/4	33195313	2400611	1152293	7201833	10754737
			2009-10		12.5/4	41564644	2924072	877221	8772216	12573509
		M/s Buxar Trading Co. 10030002052 (Self-assessed)	2007-08		12.5/4	39449792	2803541	1850337	8410623	13064501
			2008-09		12.5/4	47840575	3425306	1644147	10275918	15345371
			2009-10		12.5/4	56724129	4006682	1202004	12020046	17228732
5	Hajipur	M/s Lumbini Beverages Pvt. Ltd. 10290083011 (Self-assessed)	2009-10	Juice based drinks	12.5/4	24794575	2107539	758714	6322617	9188870
6	Patliputra	M/s Phooltas Harsco Rail Solution Pvt. Ltd. 10050043028 (Self-assessed)	2009-10	ADGB Assembly, Hand hamper etc.	12.5/4	102982138	8753482	3019951	26260446	38033879
		M/s Nokia India Pvt. Ltd. 10050394071 (Self-assessed)	2009-10	Charger	12.5/4	2353391	200038	69013	600114	869165
7	Patna Central	M/s Daehsan Trading India Pvt. Ltd. 10153837067 (Self-assessed)	2009-10	Ayurvedic Capsule (i.e. RG-30, GL-90 & RG-360)	12.5/4	12819100	1089623	375920	3268869	4734412
		M/s Kumar Distributors Pvt. Ltd. 10150024032 (Self-assessed)	2009-10	Music System/ Speakers	12.5/4	41076614	3491512	1204571	10474536	15170619

8	Patna Gandhi Maidan	M/s Ajanta Marketing and Sales 10111265038 (Self-assessed)	2009-10	Cycle Lock	12.5/4	10914206	927708	278312	2783124	3989144
		M/s Century Plyboard 10110508075 (Self-assessed)	2008-09	Plywood	12.5/4	44861455	3813224	1715951	11439672	16968847
			2009-10		12.5/4	87747905	7458572	2013814	22375716	31848102
		M/s Lakhmani Infotech 10110510015 (Self-assessed)	2008-09	Cartridge	12.5/4	2515278	213799	102623	641397	957819
			2009-10		12.5/4	3411078	289942	86982	869826	1246750
9	Patna Kadamkuan	M/s Bhola Enterprises 10131500039 (Scrutinized)	2009-10	Ply board (Bagassee board)	12.5/4	9176094	779968	257389	2339904	3377261
10	Patna North	M/s Shree Shiva Sales 10104536076 (Self-assessed)	2008-09	Footwear	12.5/4	15293785	1299972	623986	3899916	5823874
			2009-10		12.5/4	18236851	1550132	465040	4650396	6665568
		M/s S.R. Enterprises 10102545054 (Self-assessed)	2008-09	Sanitary and Tiles	12.5/4	5890554	500697	240335	1502091	2243123
		M/s TIL Ltd. 10104894060 (Self-assessed)	2008-09	Construction Equipment like backhoe, caterpillar etc.	12.5/4	21402606	1819221	873226	5457663	8150110
			2009-10		12.5/4	71216523	6053404	1816021	18160212	26029637
		M/s Dabur Medico 10100076016 (Scrutinized)	2008-09	Sat-isabgol	12.5/4	10459450	889053	426745	2667159	3982957
			2009-10		12.5/4	12798319	1087857	326357	3263571	4677785
		M/s Singh & Sons 10104147009 (Assessed)	2008-09	Himgange Hair Oil	12.5/4	54018845	3819480	1833350	11458440	17111270
			2009-10		12.5/4	72508022	5125690	1537707	15377070	22040467

11	Patna Special	M/s Pidilite Industries Ltd. 10010214052 (Scrutinized)	2008-09	Stationery items, Electrical insulation tape	12.5/4	14281543	1213931	637314	3641793	5493038
			2009-10		12.5/4	22719384	1931147	666246	5793441	8390834
		M/s Asian Paints India Ltd. 10010062053 (Scrutinized)	2008-09	Road marking paints, color world equipments	12.5/4	5958547	506476	265900	1519428	2291804
			2009-10		12.5/4	17785833	1511796	521568	4535388	6568752
		M/s Himalaya Drug Company 10010187086 (Self-assessed)	2008-09	Liv-52 Protec liquid 5 liters, 1 liter	4/0	12504537	500181	262596	1500543	2263320
			2009-10		4/0	14674882	586995	202513	1760985	2550493
		M/s Hindustan Unilever Ltd. 10010050025 (Self-assessed)	2009-10	Olive Oil, Sauce, Puri e & Ketchup	12.5/4	23365000	1986025	685178	5958075	8629278
		M/s Reckitt Benckiser Ind. Ltd. 10010185049 (Scrutinized)	2008-09	Harpik & Lizol	12.5/4	41781654	3214571	1687650	9643713	14545934
12	Samastipur	M/s Hind Footwear 10420434036 (Scrutinized)	2008-09	Footwear	12.5/4	1299757	110479	59659	331437	501575
			2009-10		12.5/4	2460693	209159	75297	627477	911933
13	Shahabad (Ara)	M/s Balajee Enterprises 10161467025 (Self-assessed)	2009-10	DPS Wire & Strips	12.5/4	46420577	3945749	1302097	11837247	17085093
		M/s Chandan Trading Co. 10160096027 (Self-assessed)	2009-10	Sauce	12.5/4	523759	44519	14691	133557	192767
Total						**1157775689**	**91042107**	**34374954**	**273126321**	**398543382**

ANNEXURE-VII

(Refer: Paragraph - 2.7)

Incorrect adjustment of entry tax towards payment of VAT

(Amount in ₹)

Sl. No.	Name of Circle	Name of Dealer / TIN	Year	ET paid	ET adjusted	Actual amount of ET to be adjusted	Difference (Excess adjustment)	Interest	Total	Remarks
1	Bhagalpur	M/s Lagoon Motor Pvt. Ltd. 10525041095 (Self-assessed)	2009-10	497667	495180	245040	250140	75042	325182	Goods imported were not sold but kept in Closing stock.
2	Darbhanga	M/s R.K. Trading 10380615051 (Self-assessed)	2009-10	4612032	4612032	3626200	985832	266175	1252007	Rate of VAT was less than the rate of ET.
3	Hajipur	M/s Lumbini beverages Pvt. Ltd. 10290083011 (Self-assessed)	2009-10	2138767	2138767	0	2138767	769956	2908723	The dealer did not belong to Small, Medium or Sick industries.
4	Muzaffarpur East	M/s Prabhat Zarda Factory (India) Pvt. Ltd. 10310825006 (Scrutinized)	2008-09	823009	823009	0	823009	395044	1218053	The dealer did not belong to Small, Medium or Sick industries.
			2009-10	1856583	1856583	0	1856583	556975	2413558	
5	Patliputra	M/s Exide Industries Ltd. 10050070091 (Self-assessed)	2009-10	114171090	114171090	103934324	10236766	3378133	13614899	Goods imported were not re-sold but supplied as a warranty replacement.

6	Patna North	M/s Amco Batteries Ltd. 10102068008 (Self-assessed)	2008-09	1013658	1013658	680074	333584	160120	493704	Goods imported were not re-sold but supplied as a warranty replacement.
			2009-10	2587001	2587001	2221050	365951	109785	475736	
		M/s Gangotri Iron & Steel Company Ltd. 10100734064 (Self-assessed)	2008-09	9737925	545464	0	545464	245459	790923	The dealer did not belong to Small, Medium or Sick industries.
			2009-10	38383564	40439204	0	40439204	10918585	51357789	
		M/s Greenply Industries Ltd. 10100742018 (Assessed)	2008-09	10612604	8576480	7364850	1211630	581582	1793212	Rate of VAT was less than the rate of ET.
			2009-10	16071862	16071862	9823617	6248245	1874473	8122718	
7	Patna South	M/s Shree Hans Marketing Pvt. Ltd. 10125746096 (Scrutinized)	2008-09	9771800	9569303	7476018	2093285	1067575	3160860	Rate of VAT was less than the rate of ET.
			2009-10	17026312	15516078	13664588	1851490	610992	2462482	
8	Patna Special	M/s Bharat Petroleum Pvt. Ltd. 10010121029 (Self-assessed)	2009-10	14517685	14517685	3629421	10888264	3593127	14481391	Rate of VAT was less than the rate of ET.
9	Saharsa	M/s A.N. Enterprises 10512295078 (Self-assessed)	2008-09	3979840	3979840	3113937	865903	350691	1216594	Rate of VAT was less than the rate of ET.
10	Shahabad (Ara)	M/s Aditya Enterprises 10160514097 (Self-assessed)	2008-09	11126852	11126852	10982404	144448	73668	218116	Adjustment of ET and the carry forward of the ET to next year was done simultaneously.
			2009-10	18609880	18609880	16498509	2111371	696752	2808123	
	Total			**277538131**	**266649968**	**183260032**	**83389936**	**25724134**	**109114070**	

ANNEXURE-VIII
(Refer : Paragraph - 2.9)
Incorrect allowance of deductions

(Amount in ₹)

Sl. No.	Circle	Name of the dealer/TIN	Year	Items of inadmissible deduction	Rate (in percent)	Amount of such deduction	Allowable deduction	Excess deduction allowed on which tax is leviable	Tax on excess deduction claimed/ allowed
1.	Aurangabad	M/s Ram Briksh Singh 10170563006 (Self-assessed)	2009-10	Gross profit and establishment expenses not relatable to labour and services.	12.5 & 4	5102175	2976875	2125300	88625
		M/s Bijay Kumar Singh 10170765057 (Self-assessed)	2009-10	Gross profit and establishment expenses not relatable to labour and services.	12.5 & 4	8265770	6032245	2233525	108364
		M/s Shakti Construction 10170680085 (Self-assessed)	2009-10	Gross profit and establishment expenses not relatable to labour and services.	12.5 & 4	52670020	45372592	7297428	374705
2.	Bhagalpur	M/s Satyendra Kr. Const. Pvt. Ltd. 10522134074 (Self-assessed)	2009-10	Material carried and value of work on which VAT payable by principal .	12.5 & 4	73060234	53015399	20044835	1466280
3.	Hajipur	M/s Narayani Construction 10290339091 (Scrutinized)	2009-10	Gross profit and establishment expenses not relatable to labour and services.	12.5 & 4	27570013	15741314	11828699	603855
		M/s Jain Infra Project Ltd. 10293197002 (Assessed)	2008-09	Payment to regular staff.	12.5 & 4	347054288	335098454	11955834	502216
			2009-10		12.5 & 4	267672093	252366727	15305366	644036

4.	Munger	M/s Niranjan Sharma 10561541003 (Self-assessed)	2007-08	Profit, Establishment expenses and other expenses not relatable to labour and services.	12.5 & 4	78686903	68974635	9712268	620716
			2008-09	Profit, Establishment expenses and Misc. expenses not relatable to labour and services.	12.5 & 4	85570450	48719729	36850721	1978644
			2009-10	Profit , Establishment expenses and Misc. expenses not relatable to labour and services.	12.5 & 4	64234885	57257016	6977869	314109
		M/s Highway & Hydel Projects (P) Ltd. 10562156080 (Self- assessed)	2007-08	Profit, Establishment expenses and Misc. expenses not relatable to labour and services.	12.5 & 4	78552884	74310826	4242058	290872
			2008 - 09	Profit, Establishment expenses and Misc. expenses not relatable to labour and services.	12.5 & 4	73228229	61695717	11532512	574253
			2009-10	Profit, Establishment expenses and Misc. expenses not relatable to labour and services.	12.5 & 4	97186645	84484651	12701994	576747
		M/s Fort Technocrates (P) Ltd. 10561928033 (Self- assessed)	2008-09	Profit, Establishment expenses and Misc. expenses not relatable to labour and services.	12.5 & 4	16091590	11059046	5032544	425794
			2009-10	Profit, Establishment expenses and Misc. expenses not relatable to labour and services.	12.5 & 4	25633457	24703173	930284	65765
		M/s A.B. Construction 10560671010 (Self-assessed)	2009-10	Profit, Establishment expenses and Misc. expenses not relatable to labour and services.	12.5 & 4	13376448	10091772	3284676	313703
5.	Muzaffarpur East	M/s BSC-C&C "JV" 10310938011 (Assessed U/s 56(1)	2009-10	Gross profit not relatable to labour and services.	12.5 & 4	441632631	307273678	134358953	6587216
6.	Patna Special	M/s Pratibha Industries Ltd. 10010905071 (Assessed)	2009-10	Establishment expenses not relatable to labour and services and vehicle hire charges other than to carry tools and equipments.	12.5 & 4	23224214	1756006	21468208	1314928
7.	Samastipur	M/s Vishwanath Sharma 10422207002 (Self-assessed)	2008-09	Gross profit and establishment expenses not relatable to labour and services.	4	26558149	15963598	10594551	423782
TOTAL						**1805371078**	**1476893453**	**328477625**	**17274610**

ANNEXURE-IX

(Refer : Paragraph - 2.15)

Application of Incorrect rate of entry tax

(Amount in ₹)

Sl. No.	Name of the circle	Name of the dealer TIN	Period	Import Value	Commodity	Rate leviable /Rate levied	Difference in tax amount	Penalty leviable	Interest leviable	Total
1	Gopalganj	M/s Amba Cement and Chemicals Pvt. Ltd. 10280133236	2008-09	2580255	Cement	12/5	180618	541854	73150	795622
2	Hajipur	M/s Global India Marketing Co. Ltd. 10291855298	2009-10	53835423	Electrical goods	8/4	2153417	6460251	775230	9388898
3	Muzaffarpur West	M/s Vaishali Power Generating Co. Ltd. (M/s Kantee Bijlee Utpadan Nigam Ltd). 10306100233	2008-09	40349347	LDO (Diesel)	16/8	3227948	9683844	1694673	14606465
				2124174	Electrical goods	8/4	84967	254901	44608	384476
			2009-10	17197189	LDO (Diesel)	16/8	1375775	4127325	474642	5977742
				822713	Electrical goods	8/4	32909	98727	11354	142990
4	Patliputra	M/s B.S.N.L Telecom Project 10050277283	2008-09	6078226	Batteries	8/4	243129	729387	120349	1092865
		M/s Reliance Telecom Ltd. 10050157294	2008-09	5190159	Electrical goods	8/4	207606	622818	105879	936303
		M/s G.T.L Infrastructure Ltd. 10050455278	2009-10	11832535	Air Conditioner	5/4	118325	354975	40822	514122
		M/s Unitech Wireless (East) Pvt. Ltd. 10050662227	2009-10	5072627	Electrical goods	8/4	202905	608715	66959	878579

		M/s Reliance Telecom Infrastructure Ltd. 10050415217	2009-10	6748751	Electrical goods	8/4	269950	809850	89084	1168884
5	Patna Gandhi Maidan	M/s Bahula Marketing Pvt. Ltd. 10110783282	2009-10	61419496	Battery	8/4	2456780	7370340	737034	10564154
6	Patna Special	M/s GTC Ind. Ltd. 10010380213	2009-10	55273279	Tobacco products	16/5	6080060	18240180	2006420	26326660
7	Patna West	M/s Mahavira Electric Company 10140472248	2009-10	87769403	Electrical goods	8/4	3510776	10532328	1158556	15201660
TOTAL				**356293577**			**20145165**	**60435495**	**7398760**	**87979420**

ANNEXURE -X

(Refer Paragraph: 3.2.2.2)

Undue favour to suppliers of country liquor

Table – I (2009 -10)

(Amount in ₹)

Particulars	MRP on the basis of approved rate	MRP on the basis of rate fixed in April 2009	Extra Profit	MRP on the basis of approved rate	MRP on the basis of rate fixed in April 2009	Extra Profit
Item	400 ml Sachet			200 ml Sachet		
Purchase price from manufacturer of Country liquor	5.15	4.49	0.66	2.80	2.54	0.26
50 *per cent* VAT	2.575	2.245		1.40	1.27	
Licence fee at the rate of ₹ 70 per LPL	11.20	11.20		5.60	5.60	
Total	**18.925**	**17.935**		**9.80**	**9.41**	
BSBCL Profit (5 *per cent* of MRP)	1.183	1.121	0.062	0.613	0.588	0.025
Profit of retail licensees (15 *per cent* of MRP)	3.549	3.363	0.186	1.838	1.764	0.074
MRP	**23.66**	**22.42**	**0.908**	**12.25**	**11.76**	**0.359**
No. of sachets sold	13,57,86,364			31,95,10,973		
Total extra profit	**12,32,94,018**			**11,47,04,439**		

Table – II (2010 -11)

(Amount in ₹)

Particulars	MRP on the basis of approved rate	MRP on the basis of rate fixed in April 2009	Extra Profit	MRP on the basis of approved rate	MRP on the basis of rate fixed in April 2009	Extra Profit
Item	400 ml Sachet			200 ml Sachet		
Purchase price from manufacturer of Country liquor	5.15	4.49	0.66	2.80	2.54	0.26
50 *per cent* VAT	2.5750	2.245		1.40	1.27	
Licence fee at the rate of ₹ 70 per LPL	11.20	11.20		5.60	5.60	
Total	**18.925**	**17.935**		**9.80**	**9.41**	
BSBCL Profit (10 *per cent* of MRP)	2.5233	2.3913	0.1320	1.3067	1.2547	0.0520
Profit of retail licensees (15 *per cent* of MRP)	3.7850	3.5869	0.1981	1.9600	1.8820	0.078
MRP	**25.2333**	**23.913**	**0.9901**	**13.0667**	**12.5467**	**0.3900**
No. of sachets sold	21,38,32,695			48,07,22,448		
Total extra profit	**21,17,15,751**			**18,74,81,755**		

Table – III (2011 - 12)

(Amount in ₹)

Particulars	MRP on the basis of approved rate	MRP on the basis of rate fixed in April 2009	Extra Profit	MRP on the basis of approved rate	MRP on the basis of rate fixed in April 2009	Extra Profit
Item	400 ml Sachet			200 ml Sachet		
Purchase price from manufacturer of Country liquor	5.15	4.49	0.66	2.80	2.54	0.26
50 *per cent* VAT	2.575	2.245		1.40	1.27	
Licence fee at the rate of ₹ 70 per LPL	11.20	11.20		5.60	5.60	
Movement fee	1.60	1.60		0.80	0.80	
Total	**20.525**	**19.535**		**10.60**	**10.21**	
BSBCL Profit (10 *per cent* of MRP)	2.736	2.605	0.131	1.413	1.361	0.052
Profit of retail licensees (15 *per cent* of MRP)	4.104	3.907	0.197	2.119	2.041	0.078
MRP	**27.36**	**26.047**	**0.988**	**14.13**	**13.61**	**0.39**
No. of sachets sold	23,31,83,022			54,31,65,046		
Total extra profit	**23,03,84,826**			**21,18,34,368**		

ABSTRACT

Table	Year	Total extra profit		Total
		400 ml Sachet	200 ml Sachet	
I	2009-10	12,32,94,018	11,47,04,439	23,79,98,457
II	2010-11	21,17,15,751	18,74,81,755	39,91,97,506
III	2011-12	23,03,84,826	21,18,34,368	44,22,19,194
Total		**56,53,94,595**	**51,40,20,562**	**1,07,94,15,157**

ANNEXURE - XI

(Refer Paragraph: 3.2.2.3)

Undue favour to suppliers of spiced country liquor

Table – I (2009 -10)

(Amount in ₹)

Particulars	MRP on the basis of approved rate	MRP on the basis of rate fixed in April 2009	Extra Profit	MRP on the basis of approved rate	MRP on the basis of rate fixed in April 2009	Extra Profit	MRP on the basis of approved rate	MRP on the basis of rate fixed in April 2009	Extra Profit
Items	**200 ml sachet**			**300 ml sachet**			**600 ml sachet**		
Purchase price from manufacturer of SCS	6.90	5.52	1.38	10.00	8.28	1.72	17.60	13.85	3.75
50 *per cent* VAT	3.45	2.76		5.00	4.14		8.80	6.925	
Licence fee at the rate of ₹ 70 per LPL	9.10	9.10		13.65	13.65		27.30	27.30	
Total	**19.45**	**17.38**		**28.65**	**26.07**		**53.70**	**48.07**	
BSBCL Profit (5 *per cent* of MRP)	1.2156	1.0863	0.1293	1.7906	1.6294	0.1612	3.3562	3.0044	0.3518
Profit of retail licensees (15 *per cent* of MRP)	3.6469	3.2587	0.3882	5.3719	4.8881	0.4838	10.0688	9.0131	1.0557
MRP	**24.3125**	**21.725**	**1.8975**	**35.8125**	**32.5875**	**2.3650**	**67.1250**	**60.0875**	**5.1575**
Number of sachets sold	1,72,642			30,08,012			8,44,858		
Total extra profit	**3,27,588**			**71,13,948**			**43,57,355**		
Grand Total	**1,17,98,891**								

Note: In the previous contract, only 300 ml and 600 ml bottles were supplied. So, we derived the rate of 200 ml bottle on the basis of rate of 300 ml bottle.

Table – II (2010 -11)

(Amount in ₹)

Particulars	MRP on the basis of approved rate	MRP on the basis of rate fixed in April 2009	Extra Profit	MRP on the basis of approved rate	MRP on the basis of rate fixed in April 2009	Extra Profit	MRP on the basis of approved rate	MRP on the basis of rate fixed in April 2009	Extra Profit
Items	**200 ml sachet**			**300 ml sachet**			**600 ml sachet**		
Purchase price from manufacturer of SCS	6.90	5.52	1.38	10.00	8.28	1.72	17.60	13.85	3.75
50 *per cent* VAT	3.45	2.76		5.00	4.14		8.80	6.925	
Licence fee at the rate of ₹ 70 per LPL	9.10	9.10		13.65	13.65		27.30	27.30	
Total	**19.45**	**17.38**		**28.65**	**26.07**		**53.70**	**48.08**	
BSBCL Profit (10 *per cent* of MRP)	2.593	2.317	0.276	3.820	3.476	0.344	7.160	6.410	0.750
Profit of retail licensees (15 *per cent* of MRP)	3.889	3.476	0.413	5.730	5.214	0.516	10.740	9.616	1.124
MRP	**25.932**	**23.173**	**2.069**	**38.20**	**34.76**	**2.580**	**71.600**	**64.106**	**5.624**
Number of sachets sold	3,08,230			32,51,232			10,72,075		
Total extra profit	**6,37,728**			**83,88,178**			**60,29,350**		
Grand Total	**1,50,55,256**								

Note: In the previous contract, only 300 ml and 600 ml bottles were supplied. So, we derived the rate of 200 ml bottle on the basis of rate of 300 ml bottle.

Table – III (2011 - 12)

(Amount in ₹)

Particulars	MRP on the basis of approved rate	MRP on the basis of rate fixed in April 2009	Extra Profit	MRP on the basis of approved rate	MRP on the basis of rate fixed in April 2009	Extra Profit	MRP on the basis of approved rate	MRP on the basis of rate fixed in April 2009	Extra Profit
Items	200 ml Sachet			300 ml Sachet			600 ml Sachet		
Purchase price from manufacturer of SCS	6.90	5.52	1.38	10.00	8.28	1.72	17.60	13.85	3.75
50 *per cent* VAT	3.45	2.76		5.00	4.14		8.80	6.925	
Licence fee at the rate of ₹ 70 per LPL	9.10	9.10		13.65	13.65		27.30	27.30	
Movement fee at the rate of ₹ 10 per LPL	1.30	1.30		1.95	1.95		3.90	3.90	
Total	**20.75**	**18.68**		**30.60**	**28.02**		**57.60**	**51.97**	
BSBCL Profit (10 *per cent* of MRP)	2.767	2.491	0.276	4.080	3.736	0.344	7.680	6.929	0.751
Profit of retail licensees (15 *per cent* of MRP)	4.150	3.736	0.414	6.120	5.604	0.516	11.520	10.394	1.126
MRP	**27.67**	**24.91**	**2.070**	**40.80**	**37.36**	**2.58**	**76.80**	**69.29**	**5.627**
Number of sachets sold		5,02,783			32,20,287			10,55,189	
Total extra profit		**10,40,760**			**83,08,340**			**59,37,548**	
Grand Total					**1,52,86,648**				

ABSTRACT

Table	Year	Total extra profit			Total
		200 ml Sachet	300 ml Sachet	600 ml Sachet	
I	2009-10	**3,27,588**	**71,13,948**	**43,57,355**	**1,17,98,891**
II	2010-11	**6,37,728**	**83,88,178**	**60,29,350**	**1,50,55,256**
III	2011-12	**10,40,760**	**83,08,340**	**59,37,548**	**1,52,86,648**
Total		**20,06,076**	**2,38,10,466**	**1,63,24,253**	**4,21,40,795**

ANNEXURE-XII

(Refer: Paragraph-4.3)

Non-realisation of taxes on vehicles

(Amount in ₹)

Sl. No.	Name of the DTOs	No. of registered transport vehicles	No. of vehicles test checked	No. of defaulter vehicles	Period of tax calculated	Tax				Penalty	Tax not realised
						Road Tax	Additional Tax	Green Tax	Total		
1	Aurangabad	971	820	44	03/07 to 12/11	454307	772683	83547	1310537	2621074	3931611
2	Begusarai	4,902	530	42	04/06 to 09/11	628801	681868	3742	1314411	2628822	3943233
3	Bhagalpur	5,732	553	28	09/05 to 06/11	381676	656297	32023	1069996	2139992	3209988
4	Darbhanga	2,531	350	34	04/06 to 12/11	472884	620929	36743	1130556	2261112	3391668
5	Motihari	3,422	285	34	10/05 to 09/11	654147	505065	41765	1200977	2401954	3602931
6	Muzaffarpur	20,683	226	82	01/06 to 09/11	2089147	1733985	86614	3909746	7819492	11729238
7	Patna	40,285	404	162	04/06 to 09/11	3162672	2867490	219240	6249402	12498804	18748206
8	Purnea	5,622	628	20	07/07 to 06/11	161258	365067	0	526325	1052650	1578975
9	Rohtas	4,706	500	71	06/07 to 12/11	969496	1153089	71402	2193987	4387974	6581961
Total		**88,854**	**4,296**	**517**		**8974388**	**9356473**	**575076**	**18905937**	**37811874**	**56717811**