

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

for the year ended March 2005

Revenue Receipts

Government of West Bengal

Report of the
Comptroller and Auditor General
of India

for the year ended March 2005

Revenue Receipts

Government of West Bengal

CONTENTS

	Reference to	
	Paragraph	Page
PREFACE		v
OVERVIEW		vii-ix
CHAPTER I		
GENERAL		
Trend of Revenue	1.1	1
Initiative for Mobilisation of Additional Resources	1.2	3
Analysis of budget preparation	1.3	3
Variations between Budget estimates and actuals	1.4	4
Analysis of collection	1.5	5
Cost of collection	1.6	5
Collection of Sales Tax per assessee	1.7	6
Analysis of arrears of revenue	1.8	6
Arrears in assessments	1.9	6
Evasion of Tax	1.10	7
Refunds	1.11	8
Results of Audit	1.12	8
Departmental Audit Committee Meetings	1.13	9
Failure of senior officials to enforce accountability and protect interest of the Government	1.14	9
Settlement of Paragraphs of the Audit Reports	1.15	12
Follow up on Audit Reports-summarised position	1.16	12
CHAPTER II		
SALES TAX		
Results of audit	2.1	15
Incorrect determination of Turnover of Sales	2.2	16
Underassessment of tax due to incorrect deduction	2.3	17
Incorrect exemption on account of stock transfer	2.4	18
Incorrect allowance of concessional rate of tax	2.5	19

	Reference to	
	Paragraph	Page
Non/short levy of penalty for concealment of sales/purchases	2.6	20
Undue allowance of benefit to the dealer	2.7	21
Application of incorrect rate of tax	2.8	22
Short realisation of tax due to incorrect credit	2.9	23
Short raising of demand	2.10	24
Mistake in computation	2.11	25
Non/short levy of purchase tax	2.12	25
Non-levy of tax on sale of Import Replenishment Licence/Special Import Licence/Duty Entitlement Pass Book	2.13	26
Non/short levy of surcharge/additional surcharge	2.14	27
Incorrect determination of contractual transfer price	2.15	28
Non/short levy of interest	2.16	28

CHAPTER III LAND REVENUE

Results of audit	3.1	31
Non-finalisation of leases	3.2	32
Non-realisation of cesses from patta holders	3.3	32
Non-realisation of rent and interest	3.4	33
Short realisation of revenue due to incorrect determination of annual rent	3.5	34
Non-assessment and non-realisation of market value and capitalised value of land transferred to Central Government Department	3.6	35
Loss/non-realisation of lease rent in respect of sairati interests	3.7	35

CHAPTER IV STATE EXCISE

Results of audit	4.1	37
Non-realisation of duty on non/short receipt of Rectified Spirit/Extra Neutral Alcohol during the course of import underbond	4.2	38
Non-levy and non-realisation of excise duty on excess wastage of spirit on re-distillation	4.3	39

	Reference to	
	Paragraph	Page
Non-realisation of Establishment cost	4.4	40
Non-realisation of application fee for renewal of Foreign Liquor Bond/Trade licence	4.5	41

CHAPTER V
MOTOR VEHICLES TAX

Results of audit	5.1	43
Non/short realisation of tax, additional tax and penalty from different types of vehicles	5.2	44
Non-levy of additional fee on transfer of ownership of vehicles	5.3	45
Non/short realisation of dealer's tax	5.4	45
Non-imposition of fine on illegal plying of vehicles with expired certificate of fitness	5.5	46
Non/short realisation of special registration fee	5.6	46
Non-levy of additional tax and penalty from seized vehicles	5.7	47

CHAPTER VI
AMUSEMENT TAX

Results of audit	6.1	49
Review on "Assessment, Collection and Arrears of Amusement Tax including Luxury Tax"	6.2	50

CHAPTER VII
OTHER TAX RECEIPTS

Results of audit	7.1	67
A. ELECTRICITY DUTY		
Assessment, Levy and Collection of Electricity Duty	7.2	68
B. STAMP DUTY AND REGISTRATION FEES		
Non-realisation of deficit Stamp Duty and Registration Fees	7.3	76
C. PROFESSIONS TAX		
Non-realisation of Professions Tax due to non-enrolment	7.4	77

Reference to
Paragraph Page

**CHAPTER VIII
FOREST RECEIPTS**

Results of audit	8.1	79
Loss of revenue due to lack of infra-structure for realisation of transit pass fee	8.2	80
Short realisation of revenue due to irregular deduction of project advance and service charge	8.3	80
Loss of revenue due to delayed remittance of sale proceeds of timber	8.4	81

**CHAPTER IX
MINES AND MINERALS**

Results of audit	9.1	83
Non/short realisation of revenue from minor minerals extracted unauthorisedly	9.2	84
Non/short realisation of cesses on minor minerals	9.3	85
Short realisation of royalty on minor minerals due to application of lower rate	9.4	86

**CHAPTER X
OTHER NON-TAX RECEIPTS**

Results of audit	10.1	87
A. Receipts from Irrigation and Waterways		
Foregoing of revenue due to non-issue of notification	10.2	88
Non-realisation of water rate	10.3	89
Non/short assessment water rate	10.4	90
B. Receipts from Other Departments		
Short receipt of Government revenue due to allowance of admissible rebate on interest	10.5	91

PREFACE

This Report for the year ended 31 March 2005 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising sales tax, land revenue, stamp duty and registration fees, motor vehicles tax, professions tax, electricity duty, state excise, other tax receipts, mines and minerals, forest receipts and other non-tax receipts of the State.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2004-05 as well as those noticed in earlier years but could not be covered in previous years' Reports.



OVERVIEW

I. General

This Report contains 45 paragraphs including one review relating to underassessment/non-realisation/loss of revenue etc. involving Rs.554.93 crore. Some of the major findings are mentioned below:

The total receipts of the Government for the year 2004-05 were Rs.19,918.19 crore. The revenue receipts of Rs.11,270.12 crore comprised Rs.9,924.46 crore from taxes and Rs.1,345.66 crore from non-tax revenue. The State received Rs.6,384.89 crore as its share of divisible Union Taxes and Rs.2,263.18 crore as grants-in-aid.

(Paragraph 1.1)

Test check of records of sales tax, land revenue, state excise, motor vehicles tax, amusement tax, electricity duty, forest and other departmental receipts conducted during the year 2004-05 revealed underassessment/non-realisation/loss of revenue etc. of Rs.1,164.23 crore in 1,268 cases. During the course of the year 2004-05, the concerned departments accepted underassessment etc. of Rs.691.60 crore involved in 709 cases of which 555 cases involving Rs.687.08 crore were pointed out in audit during 2004-05 and the rest in earlier years. A sum of Rs.71.27 lakh was recovered at the instance of audit during the year 2004-05.

(Paragraph 1.12)

As on 30 June 2005, 1,092 inspection reports issued upto December 2004 containing audit observations involving Rs.1,352.76 crore, were outstanding for want of response or final action by the concerned departments

(Paragraph 1.14)

II. Sales Tax

Incorrect determination of turnover of sales in respect of 36 dealers in 38 cases resulted in short levy of tax including surcharge and additional surcharge of Rs.2.95 crore

(Paragraph 2.2)

Underassessment of tax due to incorrect deduction in respect of 46 dealers in 48 cases resulted in short levy of tax including surcharge and additional surcharge of Rs.2.80 crore

(Paragraph 2.3)

Non/short levy of penalty on concealed/fake transactions in 28 cases of 27 dealers resulted in non/short realisation of penalty of Rs.1.77 crore

(Paragraph 2.6)

Application of incorrect rate of tax in assessment of 31 cases of 30 dealers resulted in short levy of tax including surcharge and additional surcharge of Rs.1.08 crore

(Paragraph 2.8)

Incorrect exemption allowed on purchases worth Rs.10.99 crore in 13 cases of 18 dealers resulted in non/short levy of purchase tax of Rs.37.46 lakh

(Paragraph 2.12)

III. Land Revenue

Non-settlement of long term leases for unauthorised occupation of 37.63 acres of non-agricultural land involving market value of Rs.37.99 lakh resulted in non-realisation of rent and salami of Rs.22.24 lakh

(Paragraph 3.2)

IV. State Excise

Inaction on the part of the Department against three licensees resulted in non-realisation of duty of Rs.11.02 crore on short/non-receipt of rectified spirit/extra neutral alcohol during the course of import underbond

(Paragraph 4.2)

Non-raising of demand for chargeable wastage of rectified spirit occurred during the process of redistillation resulted in non-realisation of excise duty of Rs.38.48 lakh

(Paragraph 4.3)

V. Motor Vehicles Tax

Non-imposition/incorrect application of rate of tax and additional tax together with non-levy of penalty for non-payment of tax and additional tax resulted in non/short realisation of revenue of Rs.2.25 crore

(Paragraph 5.2)

Non-levy of additional fee at the time of transfer of ownership of 3,645 vehicles resulted in non-realisation of revenue of Rs.57.51 lakh

(Paragraph 5.3)

VI. Amusement Tax

Inaction of the Department against the proprietors of cinema halls led to non-realisation of composition money of Rs.50.74 crore

(Paragraph 6.2.6)

Non-scrutiny of claims of utilisation of service charges made by proprietors of cinema halls resulted in non-levy of tax of Rs.2.39 crore

(Paragraph 6.2.8)

Non-adherence to the provisions of the Act resulted in non/short levy of tax of Rs.4.57 crore on air-conditioned hotels

(Paragraph 6.2.9)

Despite specific provisions of the Act, clubs were never brought under the purview of tax resulting in non-levy of tax of Rs.5.12 crore

(Paragraph 6.2.10)

VII. Other Tax Receipts

Inaction on the part of the Department to raise demand of electricity duty collected by West Bengal State Electricity Board and Calcutta Electricity Supply Corporation resulted in unauthorised retention of Government dues of Rs.284.82 crore

(Paragraph 7.2.3)

Failure of the assessing authority to raise demand for short payment of electricity duty by the licensees resulted in non-realisation of duty of Rs.39.71 crore

(Paragraph 7.2.5)

Incorrect allowance of rebate despite non-payment of electricity duty within the due date of payment resulted in short realisation of revenue of Rs.9.50 crore

(Paragraph 7.2.6)

VIII. Forest Receipts

Failure of the Department to provide adequate infrastructure in implementation of Government order for realisation of transit pass fee resulted in loss of revenue of Rs.3.75 crore

(Paragraph 8.2)

IX. Mines and Minerals

Inaction of the Department against unauthorised extraction of brick-earth/boulder/stone in excess of permitted quantity/without any quarry permit resulted in non/short realisation of Rs.1.72 crore

(Paragraph 9.2)

X. Other Non-Tax Receipts

Non-issue of notification in respect of 36,75,994 acres of land benefited from irrigation schemes resulted in foregoing of revenue of Rs.13.09 crore

(Paragraph 10.2)

Inaction on the part of the Department to make assessment of irrigated land as per test notes of the engineering divisions resulted in non/short realisation of water rate of Rs.59.54 lakh

(Paragraph 10.4)

THE [illegible]

[Faint, illegible text block]

THE [illegible]

[Faint, illegible text block]

THE [illegible]

[Faint, illegible text block]

THE [illegible]

[Faint, illegible text block]

THE [illegible]

[Faint, illegible text block]

CHAPTER I GENERAL

1.1 Trend of Revenue

Tax and non-tax revenue raised by the Government of West Bengal during the year 2004-05, the State's share of divisible Union Taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are given below:

(Rupees in crore)

Receipts		2000-01	20001-02	2002-03	2003-04	2004-05
I.	Revenue raised by the State Government					
(a)	Tax Revenue	5,944.72	6,534.48	7,046.40 ¹	8,767.91	9,924.46
(b)	Non-tax Revenue	1,214.53	775.88	654.33	605.84	1,345.66
	Total :	7,159.25	7310.36	7,700.73	9373.75	11,270.12
II.	Receipts from the Government of India					
(a)	State's share of net proceeds of divisible Union taxes	4,208.44	4,289.37	4,586.74	5,341.65	6,384.89 ²
(b)	Grants-in-aid	3,154.49	2,938.69	2,237.98	1,893.10	2,263.18
	Total :	7,362.93	7,228.06	6,824.72	7,234.75	8,648.07
III	Total Receipts of the State Government (I+II)	14,522.18	14,538.42	14,525.45	16,608.50	19,918.19³
IV	Percentage of I to III	49	50	53	56	57

1.1.1 Tax Revenue

The details of the tax revenue raised during the year 2004-05 along with the figures for the preceding four years are given below:

¹ In the Report for 2002-03, share of net proceed of Rs.31.34 crore from Central Government was wrongly treated as receipts of the State Government and has since been corrected.

² For details, please see statement No.11 'detailed account of revenue by Minor Heads' in the Finance Accounts of the Government of West Bengal for the year 2004-05.

³ Figures under the 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-'Share of net proceeds assigned to States' booked in the Finance Accounts under A-Tax Revenue have been excluded from revenue raised by the State and included in State's share of divisible union taxes in this statement.

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

(Rupees in crore)

Sl. No.	Head of revenue	2000-01	2001-02	2002-03	2003-04	2004-05	Percentage of increase (+)/ decrease (-) in 2004-05 over 2003-04
1.	(a) Sales Tax	3,377.05	3,499.80	3,668.41	4,276.12	5,086.33	(+) 18.95
	(b) Central Sales Tax	294.37	302.66	523.10	554.46	629.97	(+) 13.62
2.	State Excise	461.61	512.43	566.85	619.96	671.56	(+) 8.32
3.	Stamp Duty and Registration Fees	474.01	555.39	720.41	794.52	1,006.54	(+) 26.69
4.	Taxes and Duties on Electricity	160.19	354.76	145.42	396.16	269.65	(-) 31.93
5.	Taxes on Vehicles	282.53	208.65	249.40	535.37	527.66	(-) 1.44
6.	Other Taxes on Income and Expenditure-Tax on Professions, Trades, Callings and Employment	214.91	223.04	223.34*	229.89	237.43	(+) 3.28
7.	Other Taxes and Duties on Commodities and Services	165.12	163.68	287.33*	366.17	359.68	(-) 1.77
8.	Land Revenue	510.80	711.22	658.29	993.26	1,132.55	(+) 14.02
9.	Other Taxes	4.13	2.85	3.85	2.00	3.09	(+) 53.50
Total		5,944.72	6,534.48	7,046.40	8,767.91	9,924.46	(+) 13.19

* Since revised

1.1.2 Non-tax Revenue

The details of major non-tax revenue raised during the year 2004-05 along with the figures for the preceding four years are given below:

(Rupees in crore)

Sl. No.	Head of revenue	2000-01	2001-02	2002-03	2003-04	2004-05	Percentage of increase (+) / decrease (-) in 2004-05 over 2003-04
1.	Interest	673.60	122.90	102.75	110.11	589.31 ⁴	(+) 435.20
2.	Dairy Development	53.41	56.62	59.30	50.27	38.42	(-) 23.57
3.	Roads and Bridges	24.79	20.42	22.30	22.08	19.57	(-) 11.36
4.	Forestry and Wildlife	22.26	26.72	56.52	45.97	40.44	(-) 12.03
5.	Non-ferrous Mining and Metallurgical Industries	13.51	7.95	6.87	13.91	18.94	(+) 36.16
6.	Food, Storage and Warehousing	65.41	220.79	81.29	27.67	180.23	(+) 551.36
7.	Housing	7.73	7.93	9.94	11.12	13.96	(+) 25.54
8.	Medical and Public Health	45.91	45.63	48.62	47.71	71.51	(+) 49.88
9.	Education, Sports, Art and Culture	17.63	39.61	17.28	21.20	30.67	(+) 44.67
10.	Public works	6.16	5.52	4.78	6.39	7.29	(+) 14.08
11.	Police	54.75	60.99	64.30	44.69	56.85	(+) 27.20
12.	Others	229.37	160.80	180.38	204.72	278.47	(+) 36.02
Total :		1,214.53	775.88	654.33	605.84	1,345.66	(+) 122.11

⁴ Includes Rs.36.35 crore and Rs.27.62 crore by book adjustment per contra debit to 2701- Major and Medium Irrigation and 2711-Flood Control and Drainage respectively.

Increase was due to larger collection of interest from public sector and other undertakings.

The reasons for variations in receipts during the year 2004-05 compared to those of the year 2003-04 as shown in the Finance Accounts are mainly due to larger collection of revenue in the cases of increase and less collection of revenue in the cases of decrease.

1.2 Initiative for Mobilisation of Additional Resources

In the budget for 2004-05, the Government neither introduced any new tax nor proposed enhancement of the existing rate of tax. The Government claimed better collection of tax and non-tax revenues by mobilization of State's own resource through improved method of tax collection. The Government's budget estimate for collection of tax and non-tax revenue was Rs.11,851 crore in 2004-05 against which actual collection was Rs.11,270 crore leaving a deficit in collection of Rs.581 crore. The shortfall was mainly due to less collection from State Excise, Land Revenue, other taxes and duties on commodities and services, and all non-tax revenues except interest receipts.

1.3 Analysis of budget preparation

As per provision of the Budget Manual, the Finance Department shall collect budget estimate and related information both for receipts and expenditure from the concerned administrative departments and prepare budget estimate of the State after necessary changes according to the policy of the Government. In the case of non-receipts of relevant budgetary proposals from the administrative departments, the Finance Department prescribes a guideline for preparing the budget estimate.

Scrutiny of relevant records revealed that the Finance Department did not receive budgetary materials from administrative departments for preparation of budget estimate for 2004-05 and accordingly prepared the budget estimate on the basis of its guidelines as under:

The budget estimate for tax receipts for 2004-05 was prepared with a growth rate of 18 per cent over the revised estimate for 2003-04. Similarly the budget estimate for non-tax receipts for 2004-05 was prepared with a growth rate of 30 per cent over the revised estimate for 2003-04.

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

The budget estimate for 2004-05 appeared to be more realistic in comparison to the previous four years which would be evident from the table below:

(Rupees in crore)

Year	Budget Estimate	Actuals	Percentage of variation of actual collection over budget estimate
Tax Revenue			
2000-01	6,908	5,945	(-) 13.94
2001-02	8,044	6,534	(-) 18.77
2002-03	8,275	7,046	(-) 14.85
2003-04	8,707	8,768	(+) 0.70
2004-05	10,448	9,924	(-) 5.02
Non-tax Revenue			
2000-01	815	1,215**	(+) 49.08
2001-02	1,009	776	(-) 23.09
2002-03	1,808	654	(-) 63.83
2003-04	1,144	606	(-) 47.02
2004-05	1,403	1,346	(-) 4.06

**** Loan of Rs.492.54 crore granted to WBSEB was contra credited to interest receipt.**

1.4 Variations between Budget estimates and actuals

The variations between the Budget estimates and actuals of revenue receipts for the year 2004-05 in respect of the principal heads of tax and non-tax revenue are given below:

(Rupees in crore)

Heads of Revenue	Budget estimates	Actuals	Variations excess(+) or shortfall(-)	Percentage of variation
Tax Revenue				
1. Sales Tax	5,836	5,716	(-) 120	(-) 2.06
2. State Excise	885	672	(-) 213	(-) 24.07
3. Land Revenue	1,260	1,133	(-) 127	(-) 10.08
4. Taxes on Vehicles	549	528	(-) 21	(-) 3.83
5. Stamp Duty and Registration Fees	953	1,006	(+) 53	(-) 5.56
6. Professions Tax	295	237	(-) 58	(-) 19.66
7. Electricity Duty	184	270	(+) 86	(+) 46.74
8. Other Taxes and Duties on commodities and services	482	359	(-) 122	(-) 25.31
9. Others	4	3	(-) 1	(-) 25.00
Total:	10,448	9,924	(-) 523	(-) 5.00
Non-Tax Revenue				
10. Forest Receipts	81	40	(-) 41	(-) 50.62
11. Interest Receipts	180	589	(+) 409	(+) 227.22
12. Dairy Development	105	38	(-) 67	(-) 63.00
13. Food Storage and Warehousing	222	180	(-) 42	(-) 18.92
14. Medical and Public Health	120	72	(-) 48	(-) 40.00
15. Education, Sports, Art and Culture	51	31	(-) 20	(-) 39.22
16. Public Works	7	7	--	--
17. Roads and Bridges	32	20	(-) 12	(-) 37.50
18. Police	113	57	(-) 56	(-) 49.56
19. Major and Medium Irrigation	25	4	(-) 21	(-) 84.00
20. Minor Irrigation	40	21	(-) 19	(-) 47.50
21. Others	427	287	(-) 140	(-) 32.77
Total:	1,403	1,346	(-) 57	(-) 4.06

The reasons for variation though called for in April 2005, have not been received (October 2005).

1.5 Analysis of collection

Break-up of total collection at pre-assessment stage and after regular assessment of sales tax, agricultural income tax, amusement tax for the year 2003-04 and the corresponding figures for the preceding two years as furnished by the Department is as follows:

(Rupees in crore)

Head of Revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection ⁵	Percentage of column 3 to 7
1	2	3	4	5	6	7	8
Sales Tax	2002-03	4,157.00	34.51	Nil	14.78	4,176.73	100
	2003-04	4,766.86	64.75	12.68	104.14	4,740.15	100
	2004-05	5,572.88	81.23	23.95	33.95	5,644.11	99
Agricultural Income Tax	2002-03	1.46	0.97	Nil	0.10	2.33	63
	2003-04	1.30	0.76	0.04	0.43	1.67	78
	2004-05	1.17	0.40	Nil	0.17	1.40	84
Amusement Tax	2002-03	46.73	4.39	Nil	Nil	51.12	91
	2003-04	49.18	2.03	0.09	0.01	51.29	96
	2004-05	55.36	2.33	0.31	0.01	57.99	95

1.6 Cost of collection

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

(Rupees in crore)

Head of Revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India Average percentage of collection for the year 2003-04
Sales Tax	2002-03	4,191.51	73.53	1.75	1.15
	2003-04	4,831.00	73.84	1.52	
	2004-05	5,716.00	75.20	1.32	
State Excise	2002-03	566.85	37.61	6.63	3.81
	2003-04	620.00	38.53	6.21	
	2004-05	672.00	38.45	5.72	
Stamp Duty and Registration Fees	2002-03	720.41	35.54	4.93	3.66
	2003-04	794.00	35.26	4.44	
	2004-05	1,007.00	39.65	3.94	
Taxes on Vehicles	2002-03	249.40	8.40	3.37	2.57
	2003-04	535.00	8.83	1.65	
	2004-05	528.00	9.32	1.77	

⁵ The discrepancy in the net collection of revenue furnished by the department needs reconciliation with the Finance Accounts.

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

It would be seen from the above that the expenditure on collection under the respective heads is higher as compared to the national average except taxes on vehicles.

1.7 Collection of Sales Tax per assessee

The sales tax is the major source of revenue of the state contributing more or less 60 per cent of the total revenue collection. The collection of sales tax per assessee during the last five years as on 2004-05 as furnished by the Finance Department is tabled below:

Year	No. of assessees	Sales Tax Revenue (Rupees in crore)	Revenue/assessee (Rupees in lakh)
2000-01	1,79,011	3,671	2.05
2001-02	1,78,273	3,802	2.13
2002-03	1,85,050	4,192	2.27
2003-04	1,97,292	4,831	2.45
2004-05	2,20,305	5,716	2.59

1.8 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2005 in respect of some principal heads of revenue as furnished by the Departments amounts to Rs.1,718.04 crore of which in four cases Rs.83.76 crore out of Rs.1,249.35 crore were outstanding for more than five years as detailed in the following table:

Head of Revenue	(Rupees in crore)	
	Amount outstanding as on 31 March 2005	Amount outstanding for more than five years as on 31 March 2005
Sales Tax	1,187.26	48.93
Electricity Duty	468.69	Nil
Amusement Tax	25.52	14.35
Agricultural Income Tax	25.52	16.51
Excise Duty	11.05	3.97
Total:	1,718.04	83.76

1.9 Arrears in assessments

The details of cases pending assessment at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of each year during 2002-03 to 2004-05 as furnished by the Departments are given below:

Year	Opening Balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Arrears in percentage (against total cases)
Sales Tax						
2002-03	1,64,936	1,64,673	3,29,609	1,74,576	1,55,033	47
2003-04	1,55,033	2,14,471	3,69,504	1,74,088	1,95,416	53
2004-05	1,95,416	1,62,071	3,57,487	1,73,289	1,84,198	52
Professions Tax						
2002-03	1,80,232	59,899	2,40,131	72,726	1,67,405	70
2003-04	1,67,405	38,955	2,06,360	54,224	1,52,136	74
2004-05	1,52,136	48,331	2,00,467	39,505	1,60,962	80
Electricity Duty						
2002-03	483	82	565	54	511	90
2003-04	511	56	567	512	55	10
2004-05	55	11	66	47	19	29
Amusements Tax						
2002-03	3,874	3,204	7,078	1,863	5,215	74
2003-04	5,215	3,709	8,924	2,575	6,349	71
2004-05	6,349	2,890	9,239	1,986	7,253	79
Agricultural Income Tax						
2002-03	2,097	564	2,661	416	2,245	84
2003-04	2,245	485	2,730	255	2,475	91
2004-05	2,475	495	2,970	324	2,646	89

It would be seen from the above table that percentage of cases pending disposal at the end of each financial year was significantly large.

1.10 Evasion of Tax

The details of cases of evasion of tax detected by the Finance and State Excise Departments, cases finalised and the demands for additional tax raised as reported by the Departments are given below:

Name of tax/duty	Cases pending as on 31 March 2004	Cases detected during 2004-05	Total	No. of cases in which assessments/investigations completed and additional demand including penalty etc., raised		No. of cases pending finalisation as on 31 March 2005
				No. of cases	Amount demanded (Rupees in crore)	
Sales Tax	25*	20	45	13	1.42	32
State Excise	7	Nil	7	Nil	Nil	7
Amusement Tax	21	8	29	9	Nil	20

* Revised figure as furnished by the Department

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

1.11 Refunds

The number of refund cases pending at the beginning of the year 2003-04, claims received during the year and refunds at the close of the year 2004-05, as reported by the departments were as follows:

(Rupees in lakh)

	Sales Tax		Amusement Tax		Agricultural Income Tax	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
Claims outstanding at the beginning of the year	162*	290.90	1	1.31	9	13.02
Claims received during the year	350	300.44	4	7.41	11	38.62
Refunds made during the year	300	378.51	1	1.40	8	16.56
Balance outstanding at the end of the year	212	212.83	4	7.32	12	35.08

* Figure has since been revised by the Department

1.12 Results of Audit

Test check of records of sales tax, land revenue, stamp duty and registration fees, motor vehicles tax, state excise, electricity duty, other tax receipts, forest receipts and other non-tax receipts conducted during the year 2004-05 revealed under-assessment/short levy/loss of revenue amounting to Rs.1,164.23 crore in 1,268 audit observations. During the course of the year the departments accepted under-assessment of Rs.691.60 crore in 709 audit observations of which 555 audit observations involving Rs.687.08 crore were pointed out in audit during 2004-05 and the rest in earlier years and Rs.71.27 lakh has been recovered. No replies have been received in respect of remaining cases.

This Report contains 45 paragraphs including one review relating to non/short levy of taxes, duties, interest and penalties etc., involving Rs.554.93 crore. The Departments accepted audit observations involving Rs.442.16 crore of which Rs.20.69 lakh had been recovered. The departments have contested paragraphs involving Rs.24.59 crore and no reply has been furnished in other cases.

In respect of observations not accepted by the Department, gist of reasons for Department's non-acceptance has been included in the related paragraph itself

along with suitable rebuttal. However, replies from the Government has not been received (October 2005).

1.13 Departmental Audit Committee Meetings

For prompt settlement of very old outstanding Inspection Reports through discussion among senior officers of concerned Administrative Department, the Finance Department and the officers of the office of the Accountant General, West Bengal, Departmental Audit Committees were constituted by the Government in the year 1985.

For this purpose meetings of Audit Committees consisting of the Secretary of the Administrative Department concerned, a senior officer of the Finance Department not below the rank of Joint Secretary and representative of the office of the AG, West Bengal should be convened by the Administrative Department concerned.

During the last three years total number of meetings held and number of paras settled are detailed below:

(Rupees in lakh)

Year	Name of the Department	Number of meeting(s) held	Number of paragraphs settled	Money Value of the paragraphs settled
2002-03	Public Works	1	Nil	Nil
2003-04	Public Works	1	Nil	Nil
	Forest	1	Nil	Nil
2004-05	Public Works	1	Nil	Nil
	State Excise	1	16	16.87

The above table shows that out of total eight Departmental Audit Committees only three Committees held their meetings during last three years. Out of those three, Audit Committee on State Excise settled 16 audit observations involving money value of Rs.16.87 lakh and other two Committees held the meeting only without settling any audit observation. The other departments did not hold Audit Committee Meeting till October 2005 although reminded several times.

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

Accountant General (Receipt, Works and Local Bodies Audit), West Bengal arranges periodical inspection of Government Departments to test check the

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

transactions and verify the maintenance of important accounting and other records as per prescribed rules and procedures. These inspections are followed up with Inspections Reports (IRs). When important irregularities are detected during inspection but not settled on the spot, these are included in IRs issued to the heads of offices inspected with copies to next higher authorities for taking prompt corrective action. Government have provided that first replies to the IRs may be furnished within three weeks of receipt thereof by the heads of offices. The heads of offices/ Government are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly and report their compliance to the Office of the Accountant General within two months from the dates of issue of the IRs. Serious irregularities are also brought to the notice of the Heads of the Departments by the office of the AG.

Inspection Reports issued up to December 2004 disclosed that 3,322 paragraphs involving money value of Rs.1,352.76 crore relating to 1,092 IRs remained outstanding at the end of June 2005. Of these, 192 IRs containing 377 paragraphs involving money value of Rs.52.86 crore had not been settled for more than 10 years by the Finance Department in respect of sales tax, amusements tax, agricultural income tax, professions tax, electricity duty and stamp duty and registration fees, by the Forest Department in respect of forest receipts, by the Commerce and Industries Department in respect of mines and minerals, by the Transport Department in respect of taxes on motor vehicles, by the Land and Land Reforms Department in respect of land revenue and other Departments in respect of other departmental receipts. Even the first replies, required to be received from the heads of offices within three weeks from the date of issue of the IRs, were not received in respect of 1,686 paragraphs of 442 IRs issued between March 1984 and December 2004. As a result, the serious irregularities commented upon in these IRs had not been settled as of 30 June 2005.

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

(Rupees in crore)

Sl. No.	Department	Position of Inspection Reports issued up to December 2004 but not settled at the end of June 2005			Position of Inspection Reports and paragraphs not settled for more than 10 years			Position of Inspection Reports in respect of which first reply not received		
		No. of IRs	No. of Paragraphs	Money value	No. of IRs	No. of Paragraphs	Money value	No. of IRs	No. of Paragraphs	Earliest year to which IR relates
1	Finance									
	(a) Sales Tax	146	664	41.69	5	27	0.50	55	520	2000-01
	(b) Professions Tax	112	292	14.60	32	41	4.3	23	125	2000-01
	(c) Stamp Duty and Registration Fees	263	429	37.87	24	36	1.03	120	153	1995-96
	(d) Electricity Duty	35	95	150.67	12	19	1.90	13	50	1998-99
	(e) Agricultural Income Tax	17	25	1.84	2	5	0.03	6	9	1992-93
	(f) Amusements Tax	65	126	20.35	18	23	0.48	22	47	1985-86
	(g) Luxury Tax	14	22	0.58	Nil	Nil	Nil	9	9	2002-03
2.	Forest									
	Forest Receipts	101	213	61.69	12	15	0.54	48	188	1996-97
3.	Commerce and Industries									
	Mines and Minerals	59	191	19.40	12	26	0.59	28	150	1992-93
4.	Land and Land Reforms									
	Land Revenue	87	460	145.27	33	98	13.45	30	180	1991-92
5.	Excise									
	State Excise	52	163	48.23	1	1	10.07	19	63	1992-93
6.	Transport									
	Motor Vehicles	37	380	12.71	27	57	0.50	43	123	2000-01
7.	Other									
	Departmental Receipts	104	262	797.86	14	29	19.47	26	69	1994-95
	Total	1,092	3,322	1,352.76	192	377	52.86	442	1,686	

The above position indicates the failure of departmental offices to initiate action in regard to the defects, omissions and irregularities pointed out in the IRs of the AG. The Principal Secretaries/Secretaries of the Departments, who were informed of the position through half-yearly reports, also failed to ensure that the concerned officers took prompt and timely action.

1.15 Settlement of Paragraphs of the Audit Reports

The State Legislature constitute a committee on Public Accounts (PAC) for discussion of all the paragraphs of the Receipt Audit Reports after laying of the reports in the State Legislature and to recommend comments for compliance by the Government. Normally 20 *per cent* of the total numbers of paragraphs of the Audit Report are selected every year for such discussion on the basis of questionnaires to the replies of the Government. The remaining paragraphs not selected for discussion are disposed of on the basis of replies of Government only.

The number of selected and unselected paragraphs in respect of which explanatory notes have not been furnished by the Government stood at 32 and 751 + 422 (Part)⁶ respectively.

With the passage of time the outstanding paragraphs are losing the attention of the Government on account of non-availability of relevant records etc. and remain unsettled for want of specific replies of the Government. This inaction on the part of Government had an adverse impact on Government revenue :

- A total number of 59 unselected paragraphs and 232 sub-paragraphs of Sales Tax relating to Audit Report for 1982-83 to 1991-92 had been lying unsettled in the absence of any concrete measures to be taken by the Sales Tax authorities of the State Government. This inaction on the part of the State Government even after a lapse of 13 to 22 years from the year of their inclusion in the Audit Reports has made all the cases to become barred by limitation of time as per provisions of the Act/Rule for the purpose of re-assessment or review. As a result a total revenue of Rs.95.11 crore turned into loss of revenue.

The matter was reported to Government in March, 2005; their reply has not been received (October 2005).

1.16 Follow up on Audit Reports-summarised position

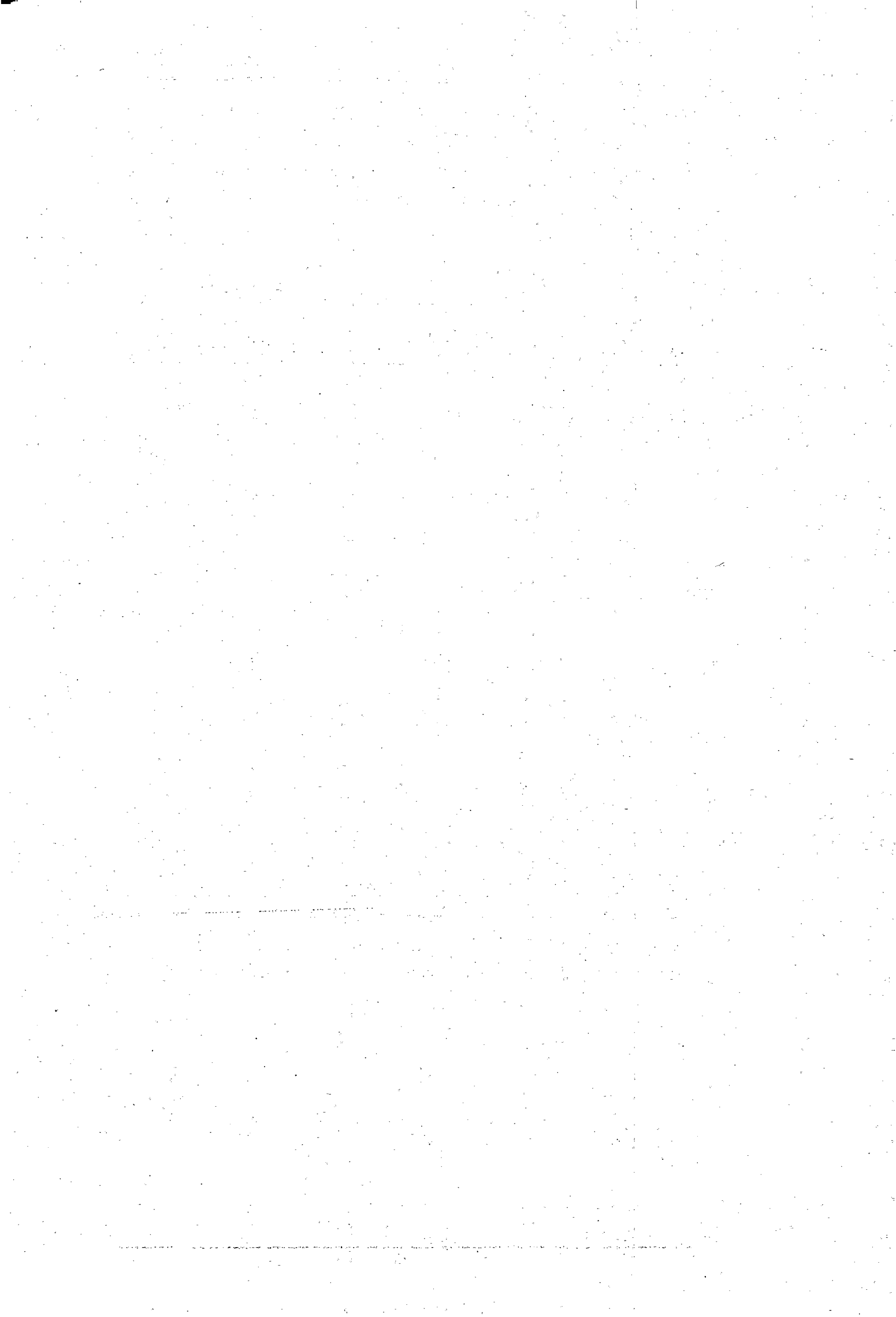
As per the Rules of Procedure of the Committee on Public Accounts of the West Bengal Legislative Assembly (Internal Working) framed in 1997, the

⁶ Unselected Paragraphs of Audit Reports for the years 1981-82 to 1991-92 have since been included in the outstanding list awaiting replies from Government.

concerned Department shall take necessary steps to send its Action Taken Notes (ATN) on the recommendations contained in the Report of the Public Accounts Committee (PAC) on the Audit Report within six months from the date of its presentation to the House. The position of outstanding ATNs due from the departments is shown below:

Particulars of the PAC Report	Date of presentation in the Assembly	Name of the department	Year of Audit Report	No. of ATNs due
Sixth Report of 1987-88	20 April 1988	Excise	1978-79	3
			1980-81	3
Seventeenth Report of 1988-89	5 May 1989	Irrigation and Waterways	1978-79	3
			1983-84	1
Twentysecond Report of 1990-91	26 March 1991	Transport	1979-80	1
			1980-81	1
Second Report of 1991-92	9 April 1992	Board of Revenue	1980-81	4
			1982-83	1
			1983-84	1
			1984-85	1
Seventh Report of 1991-93	23 March 1993	Finance	1983-84	1
Seventeenth Report 1993-94	31 March 1994	Land and Land Reforms	1981-82	1
			1985-86	2
			1986-87	2
Twentysecond Report of 1994-95	17 April 1995	Excise	1984-85	2
Twentyfifth Report of 1994-96	1 August 1995	Transport	1983-84	1
		Home (Police)	1988-89	1
Seventeenth Report of 1998-99	28 June 1999	Land and Land Reforms	1988-89	1
			1990-91	1
			1992-93	1
Twenty ninth Report of 1999-2000	2 December 1999	Irrigation and Waterways	1990-91	1
Eighth Report of 2001-2002	8 July 2002	Forest	1996-97	2
Sixteenth Report of 2002-03	8 July 2003	Finance	1997-98	1
			1998-99	2
Twenty second Report of 2003-04	7 July 2004	Finance	1998-99	8
Total :				46

Department failed to submit ATNs within six months in respect of 46 paragraphs included in the Audit Reports upto the year ended March 1999.



CHAPTER II SALES TAX

2.1 Results of audit

Test check of records relating to sales tax, conducted in audit during the year 2004-05, revealed underassessment of tax and other irregularities involving Rs.41.91 crore in 497 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non/short levy of interest/penalty	219	22.87
2.	Irregular exemption	99	6.60
3.	Application of incorrect rate of tax and mistake in computation	34	1.55
4.	Underassessment of tax due to incorrect deduction	49	3.49
5.	Incorrect determination of gross turnover/taxable turnover	29	3.46
6.	Other cases	67	3.94
Total:		497	41.91

During the course of the year 2004-05, the concerned Department accepted underassessment etc. of Rs.11.18 crore involved in 151 cases of which 123 cases involving Rs.10.58 crore had been pointed out in audit during the year 2004-05 and the rest in earlier years. An amount of Rs.12.22 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.24.50 crore highlighting important observations are given in the following paragraphs:

2.2 Incorrect determination of turnover of sales

Under the West Bengal Sales Tax Act (WBST Act), 1994, turnover of sales in relation to any period, means the aggregate of the sale prices or parts of sale prices receivable by a dealer, or if a dealer so elects, actually received by the dealer during such period. A dealer is liable to pay tax at the prescribed rate on the amount of turnover after allowing the permissible deductions.

Scrutiny of records of 18¹ charge offices in eight² districts revealed that while assessing 36 cases of 34 dealers between June 1999 and September 2003, for the different assessment years ending between March 1997 and March 2001, the assessing authorities incorrectly determined turnover at Rs.573.69 crore instead of Rs.605.62 crore due to non-inclusion of sale value of irregularly exempted goods, transactions of pre/post assessment period etc. in the turnover. This resulted in short determination of turnover of sales of Rs.31.93 crore with consequent short levy of tax including surcharge and additional surcharge of Rs.2.95 crore.

A few instances are given as under:

(Rupees in lakh)

Name of the Charge No. of dealers	Period of assessment/ month of assessment	Nature of irregularities	Turnover determinable	Turnover determined	Turnover short determined	Short levy of tax (including Sc & Asc)
Corporate Division- II 1	March 2000 June 2002	Short determination of turnover of sales due to allowance of exemption for transactions pertaining to pre-assessment period	8,610.15	8,003.57	606.58	35.13
Durgapur 1	March 2001 June 2003	Non-inclusion of sale value of tender form, scrap and stores	2,302.25	1,965.06	337.19	33.72
Naren Dutta Sarani 1	March 2000 June 2002	Short determination of turnover of sales due to excess allowance of export sale	2,584.69	2,370.55	214.14	29.55
Park Street 1	March 2000 June 2002	Short determination of turnover of sales due to non-inclusion of sale value of irregularly exempted transactions	609.35	343.41	265.94	36.70

¹ Asansol, Barrackpore, Berhampore, Behala, Burdwan, Budge Budge, Corporate Division- II & III, Darjeeling, Diamond Harbour, Durgapur, Naren Dutta Sarani, Park Street, Postabazar, Salt Lake, Salkia, Serampore and Siliguri

² Burdwan, Darjeeling, Howrah, Hooghly, Kolkata, Murshidabad, North 24 Parganas and South 24 Parganas

After this was pointed out between May 2002 and August 2004, the Department admitted audit observations in 17 cases involving Rs.1.54 crore. Of these, 10 cases had been/were being proposed to the higher/appellate authority for revision and in two cases notices for review had been sent to the dealer. In 19 cases involving Rs.1.41 crore the Department did not furnish reply/specific reply.

The cases were reported to Government between July 2002 and October 2004 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

2.3 Underassessment of tax due to incorrect deduction

Under the WBST Act and the Rules made thereunder, in determining the taxable turnover of a dealer, a deduction on account of tax collected by him is allowable from the aggregate of sales turnover in accordance with the prescribed formula. The Commissioner, Commercial Taxes, West Bengal, reiterating the provisions in a circular of December 1998, instructed all the assessing officers to restrict the deduction to the amount of sales tax collected by the dealers and included in the turnover.

Scrutiny of records of 24³ charge offices in nine⁴ districts revealed that while assessing 48 cases of 46 dealers between June 2000 and March 2004 for the different assessment years ending between March 1992 and March 2002, the assessing officers allowed deduction of Rs.59.42 crore against their actual collection of tax of Rs.36.92 crore. The excess allowance of deduction of Rs.22.50 crore resulted in short levy of tax of Rs.2.80 crore including surcharge and additional surcharge.

After this was pointed out, the Department accepted between January 2003 and November 2004 audit observations in 29 cases involving Rs.42.72 lakh of which 14 cases had been/were being proposed to the higher/appellate authority

³ Amratala, Asansol, Ballygunge, Barrackpore, Beliaghata, Berhampore, Behala, Bhowanipore, Budge Budge, Chinabazar, Corporate Division- I, II & III, Darjeeling, Jorasanko, Manoharkatra, Naren Dutta Sarani, Park Street, Raiganj, Salt Lake, Serampore, Shibpur, Siliguri and Ultadanga.

⁴ Burdwan, Darjeeling, Hooghly, Howrah, Kolkata, Murshidabad, North 24 Parganas, South 24 Parganas and Uttar Dinajpur.

for revision/re-opening and one case was referred to certificate officer for realisation. In 11 cases involving Rs.90.21 lakh, the Department did not furnish reply/specific reply. In the remaining eight cases involving Rs.1.47 crore, the Department stated that deduction allowed as gross turnover was inclusive of all taxes. The reply was not tenable as the assessing authority in those cases had allowed a deduction of Rs.20.78 crore against actual collection of Rs.8.12 crore resulting in excess allowance of deduction of Rs.12.66 crore involving a tax effect of Rs.1.47 crore.

All the cases were reported to Government between March 2003 and January 2005 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

2.4 Incorrect exemption on account of stock transfer

Under the Central Sales Tax Act, 1956 and the Rules made thereunder, a dealer claiming exemption from his turnover on account of transfer of goods outside the state otherwise than by way of sale, is liable to furnish declarations in Form 'F' duly filled in and signed by the Principal Officer or his agent of the other place of business as a proof of transfer along with evidence of despatch. A single such declaration is required to cover transfer of goods effected during the period of one calendar month. Otherwise, such transfer of goods is liable to be taxed at the normal rate.

Scrutiny of records of seven⁵ charge offices in four⁶ districts revealed between August 2003 and November 2004 that while assessing 12 cases of 12 dealers between May 2002 and April 2004, for the different assessment years ending between March 2000 and March 2002, the assessing authorities allowed dealers' claim of stock transfer of goods to their branches outside the State for Rs.44.93 crore on the basis of declarations in form 'F'. Scrutiny of statement of declarations disclosed that out of this claim, an amount of Rs.2.99 crore was not admissible as the transactions were either found to have been made to non-

⁵ Ballygunj, Burdwan, Corporate Division- II, Esplanade, Park Street, Salt Lake, Siliguri.

⁶ Burdwan, Darjeeling, Kolkata and North 24 Parganas.

existent dealers or were not supported by 'F' forms or individual 'F' form covered transactions beyond one calendar month. Incorrect allowance of exemption of such stock transfer resulted in underassessment of tax of Rs.20.57 lakh including surcharge and additional surcharge.

After this was pointed out, the Department admitted between December 2003 and December 2004 audit observations in seven cases involving Rs 10.64 lakh of which in one case the amount has been recovered while four cases had been proposed for revision/suo-motu revision to the concerned authorities. The Department did not furnish specific reply in five cases involving Rs.9.93 lakh.

All the cases were reported to Government between February 2004 and January 2005 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

2.5 Incorrect allowance of concessional rate of tax

Under the WBST Act and the Rules made thereunder, a dealer is eligible for concessional rate of tax for sales of goods to registered resellers and manufacturing dealers if such sales are supported by prescribed declaration forms furnished by purchasing dealers. Further, intra state as well as inter-state sales of goods to Government Departments are also exigible to tax at the concessional rate subject to production of prescribed certificate from the purchasing Government Departments.

Scrutiny of records of 12⁷ charge offices in five⁸ districts revealed between August 2002 and December 2004 that while assessing 18 cases of 15 dealers between June 2001 and June 2003, for the different assessment years ending between March 1996 and March 2001, the assessing authorities incorrectly levied tax on sale of Rs.8.57 crore at concessional rate instead of prescribed rate as the sales were either not supported by requisite declaration forms/statements/certificates or were made to unregistered dealers/non-Government organisations. Besides, statement of sales for concessional rate

⁷ Alipur, Asansol, Ballygunj, Barrackpore, Behala, Corporate Division- II and III, Durgapur, Lalbazar, Lyons Range, Shibpur and Ultadanga

⁸ Burdwan, Howrah, Kolkata, North 24 Parganas and South 24 Parganas

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

of tax included sales preceding the date of purchase order/the period of assessment. Allowance of such incorrect concession resulted in short levy of tax of Rs.37.37 lakh as tabled below:

Period/Date of assessment	No. of dealers/cases	Nature of observation	Excess allowance (Rupees in crore)	Tax effect (Rupees in lakh)
Between March 1996 and March 2001 Between June 2001 and June 2003	11/14	Sales valued at Rs.68.01 crore were allowed as sales to registered dealers out of which an amount of Rs.5.85 crore was not supported by declaration forms/statements/certificates	5.85	27.87
March 2001 January 2003	2/2	Sales valued at Rs.2.75 crore were allowed as sales to Government Department out of which Rs.2.34 crore were sales to non-Government organisations	2.34	7.14
March 2000 June 2002	2/2	Sales valued at Rs.32.65 crore out of which Rs.38.48 lakh relates to the period preceding the dates of purchase order/period of assessment	0.38	2.36
Total:	15/18		8.57	37.37

After this was pointed out, the Department accepted between August 2002 and December 2004 audit observations in six cases involving Rs.10.98 lakh of which three cases involving Rs.2.62 lakh had been/were being proposed to the higher/appellate authority for revision and in one case revised demand notice was issued. The Department did not furnish reply/specific reply in 12 cases involving Rs.26.39 lakh.

All the cases were reported to Government between December 2002 and January 2005 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

2.6 Non/short levy of penalty for concealment of sales/purchases

Under the WBST Act, if a dealer has concealed any turnover or furnished incorrect particulars thereof with an intention to reduce the amount of tax payable by him, the Commissioner of Commercial Taxes (CCT) may impose by way of penalty a sum which shall not be less than one and a half times and not more than thrice the amount of tax that would have been avoided by him.

According to the instructions (June 1991) of the CCT, West Bengal, where the assessing officer did not initiate penal proceedings in a case, he should record the reasons for not doing so in the assessment order.

Scrutiny of records of 11⁹ charge offices in five¹⁰ districts revealed that while assessing 28 cases of 27 dealers between January 2000 and December 2003, for various assessment periods ending between June 1993 and March 2001, the assessing authorities observed that the dealers had either concealed sales/purchases or made claim for exemption on stock transfer to non-existent dealers aggregating Rs.17.23 crore. Though the assessing authorities levied tax on the concealed/fake transactions, they did not levy/short levied minimum penalty of Rs.1.77 crore.

After this was pointed out, the Department accepted between August 2003 and January 2005 audit observations in 10 cases involving Rs.24.79 lakh. Of these, penalty of Rs.5.15 lakh in two cases had been/was being proposed to the higher/appellate authority for revision and in another case fresh demand of Rs.6.64 lakh had been raised. The Department did not furnish reply/specific reply in three cases involving Rs.30.25 lakh. In 15 cases involving Rs.1.22 crore, the Department stated that imposition of penalty was discretionary, as such it was not levied. The reply was not tenable as the assessing authority stated explicitly in the assessment order that the dealer had suppressed sale. Though the assessing authority levied tax for such suppression; no penalty was levied. No reason for non-imposition of penalty was stated in the assessment order as required as per the CCT's instruction. As such penalty was leviable.

The cases were reported to Government between September 2003 and January 2005 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

2.7 Undue allowance of benefit to the dealer

Under the provisions of the WBST Act, if a dealer, liable to pay tax for any sale of goods, collects any amount in excess of the amount of tax

⁹ Ballygunj, Barrackpore, Behala, Bhowanipore, Budge Budge, Corporate Division- I and III, Salt Lake, Serampore, Sealdah and Shibpur

¹⁰ Hooghly, Howrah, Kolkata, North 24 Parganas and South 24 Parganas.

payable by him for such sale, he is required to deposit such excess collected tax into Government Account, within 30 days from the date of collection under intimation to the CCT for arranging refund to the purchaser on application and submission of relevant documents.

Scrutiny of records of four¹¹ charge offices in Kolkata revealed that eight dealers in eight cases for various periods ranging between March 1999 and March 2001 collected tax of Rs.5.97 crore against tax payable of Rs.5.40 crore resulting in excess collection of tax of Rs.57 lakh which was to be deposited into Government account. Instead, while assessing between May 2001 and June 2003, the assessing authorities allowed the dealers to adjust the excess collected tax against their assessed tax dues. This resulted in allowance of undue benefit of Rs.57 lakh to the dealers.

After this was pointed out between February 2003 and July 2004, the Department accepted audit observations between May 2003 and August 2004 in three cases involving Rs.3.21 lakh of which two cases were proposed to the higher/appellate authorities for revision. In three cases involving Rs.5.71 lakh the Department stated that the dealer had deposited the excess collected tax and in remaining two cases involving Rs.48.08 lakh, the Department stated that late sanction of eligibility certificate had caused excess collection of tax. The reply was not tenable as the concerned dealers did not deposit excess collected tax into the Government account. Instead, the same was adjusted against assessed tax dues of the dealers.

All the cases were reported to Government between October 2003 and January 2005 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

2.8 Application of incorrect rate of tax

Under the WBST Act, rate of tax depends on nature of sales and also on the nature of goods/commodities sold.

¹¹ Beliaghata and Corporate Division- I, II and III

Scrutiny of records of 18¹² charge offices in eight¹³ districts revealed that while assessing 31 cases of 30 dealers between December 1999 and September 2003, for the different assessment years ending between March 1998 and March 2002, there was short levy of tax of Rs.1.08 crore inclusive of surcharge and additional surcharge due to application of incorrect rate of tax.

After this was pointed out, the Department accepted between February 2003 and November 2004 audit observations in 13 cases involving Rs.10.71 lakh of which six cases had been/were being proposed to the higher/appellate authority for revision, in one case fresh demand notice was issued and in three cases notice had been/was being sent to the dealers for *suo motu* review. In one case involving Rs.0.94 lakh, the Department stated that sale of 'adhesive' was written in the assessment order in place of 'chemical' by mistake. The reply is not tenable as the supportive documents justify the commodities to be 'adhesive'. In the remaining 17 cases (Rs.96.09 lakh) the Department did not furnish reply/specific reply.

The cases were reported to Government between March 2003 and November 2004 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

2.9 Short realisation of tax due to incorrect credit

Under the WBST Act, a dealer is liable to pay tax on the basis of self-assessment at the time of furnishing returns of his sales. The amount of tax so paid is adjusted against the tax assessed at the time of final assessment.

Scrutiny of records of Asansol charge office in the district of Burdwan revealed that in assessing two cases of two dealers between March and May 2003, for the assessment years ending between March 2001 and March 2002,

¹² Alipur, Asansol, Ballygunj, Barrackpore, Behala, Belgachia, Bhowanipore, Burdwan, Chandni Chawk, Corporate Division- III, Durgapur, Fairly Place, Postabazar, Princep Street, Purulia, Shibpur, Siliguri and Suri

¹³ Birbhum, Burdwan, Darjeeling, Howrah, Kolkata, North 24 Parganas, Purulia and South 24 Parganas

the assessing officers allowed credit of Rs.2.89 crore instead of Rs.2.71 crore as per tax payment challans. This resulted in allowance of excess credit of Rs.17.50 lakh with consequent short realisation of tax by identical amount.

After this was pointed out between May 2003 and August 2004, the Department admitted the audit observations and stated in one case involving Rs.17 lakh, that revision proposal would be sent to the higher authority.

The cases were reported to Government between July 2003 and October 2004 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

2.10 Short raising of demand

Under the provision of the WBST Act, the assessing authority shall serve a notice of demand in the prescribed form to the dealer after final assessment showing the amount of demand for tax, interest, penalty etc. and specifying the date of payment therein.

Scrutiny of records of four¹⁴ charge offices in three¹⁵ districts revealed that while assessing six cases of four dealers between April 2002 and December 2003, for different assessment periods ending between March 1994 and March 2001, the assessing authorities assessed tax including interest and penalty at Rs.33.78 lakh whereas demand notices were issued only for Rs.12.18 lakh. This resulted in short raising of demand of Rs.21.60 lakh.

After this was pointed out, the Department admitted between May 2003 and August 2004 audit observations in five cases and stated that fresh/revised demand would be issued. In the remaining case the Department did not furnish specific reply.

¹⁴ Alipur, Amratala, Bankura and Behala

¹⁵ Bankura, Kolkata and South 24 Parganas

The cases were reported to Government between March and September 2004 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

2.11 Mistake in Computation

Under the WBST Act, tax, surcharge and additional surcharge are to be levied at the rate applicable from time to time along with interest and penalty, if any, on the goods/commodities sold.

Scrutiny of records of four¹⁶ charge offices in three¹⁷ districts revealed short levy of tax including surcharge and additional surcharge, interest and penalty of Rs.10.58 lakh due to mistake in computation in four cases of four dealers for the assessment years 1999-2000 to 2000-01 assessed between June 2001 and November 2002.

After this was pointed out between August 2002 and February 2004, the Department accepted between September 2002 and February 2004 audit observation in one case involving Rs.0.62 lakh and stated that proposal for *suo motu* revision had been sent to the higher authority. In three cases involving Rs.9.96 lakh the Department did not furnish any specific reply.

The cases were reported to Government between December 2002 and April 2004 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

2.12 Non/short levy of purchase tax

Under the WBST Act, a manufacturer dealer is liable to pay purchase tax at the rate of four *per cent* on all his purchases of goods from unregistered dealers, intended for direct use in manufacture of goods for sale in West Bengal.

Scrutiny of records of nine¹⁸ charge offices in six¹⁹ districts revealed that in assessing 13 cases of 13 dealers between June 1999 and June 2003, the

¹⁶ Alipur, Barrackpur, Salt Lake and Siliguri

¹⁷ Darjeeling, North 24 Parganas and South 24 Parganas

¹⁸ Asansol, Barrackpore, Behala, Chandney Chowk, Collotola, Cossipore, Lalbazar, Raiganj and Siliguri

¹⁹ Burdwan, Darjeeling, Kolkata, North 24 Parganas, South 24 Parganas and Uttar Dinajpur

assessing authorities incorrectly allowed exemption on purchases worth Rs.10.99 crore for the different assessment years ending between March 1997 and March 2002. Of these, in 12 cases purchases valued at Rs.10.75 crore were made from unregistered dealers. However, no purchase tax was levied. In one case purchase tax was levied at the rate of one *per cent* instead of four *per cent* on the purchase of Rs.23.73 lakh made from unregistered dealer. This resulted in non/short levy of purchase tax of Rs.37.46 lakh.

After this was pointed out, the Department admitted between August 2003 and January 2005 audit observations in six cases involving Rs.26.59 lakh of which five cases had been/were being proposed to the higher/appellate authorities for revision. In remaining seven cases involving Rs.10.87 lakh, the Department did not furnish specific reply.

The matter was reported to Government between September 2003 and December 2004 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

2.13 Non-levy of tax on sale of Import Replenishment licence/Special Import Licence/Duty Entitlement Pass Book

Import replenishment (REP) licence, special import licence (SIL) and duty entitlement pass book (DEPB) which are granted by the Chief Controller of Imports and Exports can be transferred by way of sale without endorsement by the licensing authority and are goods taxable under the WBST Act, at the rates prescribed from time to time.

Scrutiny of records of three²⁰ charge offices in the districts of Kolkata and Darjeeling revealed that while assessing four cases of three dealers between June 1999 and June 2002, the assessing authorities did not include their sales of REP licence/SIL/DEPB aggregating Rs.6.07 crore in the gross turnover for the purpose of assessment. This resulted in non-levy of tax including surcharge and additional surcharge of Rs.10.04 lakh.

²⁰ Bhowanipur, Siliguri and Taltala

After this was pointed out, the Department admitted between January 2000 and May 2004 audit observations in all the cases of which two cases had been proposed to the higher authority for *suo motu* revision and in another case fresh demand had been sent to Tax Recovery Officer for realisation.

The cases were reported to the Government between April 2000 and December 2003 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

2.14 Non/short levy of surcharge/additional surcharge

Under the WBST Act, a dealer liable to pay sales tax is also liable to pay surcharge at the rate of 10 *per cent* on the total amount of sales tax payable by him with effect from 1 May 1995. Moreover, a dealer, liable to pay surcharge, is also liable to pay additional surcharge at the rate of five *per cent* on the total amount of tax payable by him with effect from 1 May 1997. These stand abolished with effect from April 2000.

Scrutiny of records of seven²¹ charge offices in four²² districts revealed between January 2003 and October 2004 that in assessing 12 cases of nine dealers between December 1999 and April 2004, for the assessment years ending between June 1995 and March 2000, the assessing authorities either did not levy or short levied surcharge and additional surcharge although tax of Rs.83.38 lakh was levied. This resulted in non/short levy of surcharge/additional surcharge of Rs.9.69 lakh.

After this was pointed out, the Department accepted between February 2003 and December 2004 audit observations in nine cases of which five cases had been proposed to the higher/appellate authorities for revision. In remaining three cases involving Rs.1.14 lakh, the Department did not furnish specific reply.

²¹ Amratala, Asansol, Barrackpur, Behala, Jorasanko, Postabazar and Taltala,

²² Burdwan, Kolkata, North 24 Parganas and South 24 Parganas

All the cases were reported to Government between March 2003 and December 2004 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

2.15 Incorrect determination of Contractual Transfer Price

Under the WBST Act, any transfer of property in goods for valuable consideration involved in the execution of works contract shall be deemed to be a sale of these goods by the person making such transfer attracting levy of tax at the prescribed rates on such Contractual Transfer Price (CTP).

Scrutiny of records of three²³ charge offices in three²⁴ districts revealed that in assessing five cases of five dealers between March 2002 and June 2004, for different assessment years ending between March 2001 and March 2002, the assessing authorities determined CTP at Rs.10.64 crore instead of Rs.13.64 crore due to less inclusion of value of taxable materials involved in the execution of works contract. This resulted in short determination of CTP by Rs.3 crore having a tax effect of Rs.53.45 lakh.

After this was pointed out between April and September 2004, the Department admitted the audit observation in one case and fresh demand had been issued. In four cases the Department did not furnish specific reply.

The cases were reported to Government between July and October 2004 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

2.16 Non/short levy of interest

Under the WBST Act, a dealer who furnishes return in respect of any period by the prescribed date or thereafter but fails to make full payment of tax payable in respect of such period by such prescribed date or fails to furnish a return in respect of any period by the prescribed date or thereafter before

²³ Behala, Raiganj and Siliguri.

²⁴ Darjeeling, South 24 Parganas and Uttar Dinajpur

assessment in respect of such period and on such assessment full amount of tax payable for such period is found not to have been paid by him by such prescribed date or fails to make payment of any tax demanded after assessment by the date specified in the demand notice, is liable to pay simple interest at the prescribed rate for each calendar month of default.

Scrutiny of records of 32²⁵ charge offices in 11²⁶ districts revealed between May 2002 and December 2004 that while assessing/initiating certificate proceedings between June 2000 and August 2004 of 142 dealers in 167 cases, the assessing authorities did not levy or short levied interest of Rs.13.15 crore leviable for delay in payment/non-payment of assessed/advance tax of Rs.25.26 crore.

After this was pointed out, the Department accepted audit observations in 120 cases involving Rs.8.12 crore of which 43 cases were being/had been proposed for revision/*suo motu* revision to the higher/appellate authorities and in 58 cases fresh demand notices were raised/referred to Certificate Officer/Tax Recovery Officer for realisation. In 46 cases involving Rs.4.87 crore, the Department did not furnish reply/specific reply. In one case involving Rs.16.04 lakh the Department stated that the dealer furnished return in time and no interest was leviable. The reply was not tenable as non-furnishing of returns was mentioned in the assessment order itself. Besides, assessed dues of tax was also not paid by the dealer; as such the dealer was liable to pay the interest.

All the cases were reported to Government between June 2002 and January 2005 followed by reminders issued upto June 2005; their reply has not been received (October 2005)

²⁵ Alipur, Amratala, Asansol, Bally, Ballygunj, Bankura, Barrackpore, Behala, Bhowanipore, Bowbazar, Burdwan, Collotola, Corporate Division- I, II and III, Darjeeling, Diamond Harbour, Durgapur, Esplanade, Howrah, Maniktala, Park Street, Purulia, Raiganj, Rajakatra, Salkia, Salt Lake, Serampore, Shyambazar, Siliguri, Suri and Taltala

²⁶ Bankura, Birbhum, Burdwan, Darjeeling, Hooghly, Howrah, Kolkata, North 24 Parganas, Purulia, South 24 Parganas and Uttar Dinajpur



CHAPTER III LAND REVENUE

3.1 Results of audit

Test check of records of land revenue in District Land and Land Reforms (DL & LR) Offices conducted in audit during the year 2004-05, revealed non/short realisation of revenue amounting to Rs.22.99 crore in 137 cases, which broadly fall under the following categories :

<i>(Rupees in crore)</i>			
Sl. No.	Categories	No. of cases	Amount
1	Non-levy/non-realisation of damage fee, rent and salami due to unauthorized occupation of Government land.	13	2.49
2	Non-settlement of land	25	8.95
3	Non-levy and non-realisation of rent and salami	6	4.75
4	Blockage/loss of revenue due to non-leasing of sairati interest	20	1.24
5	Other cases	73	5.56
Total		137	22.99

During the course of the year 2004-05, the concerned Department accepted underassessment etc. of Rs.10.37 crore involved in 98 cases of which 68 cases involving Rs.9.45 crore had been pointed out in audit during the year 2004-05 and the rest in earlier years. An amount of Rs.6.64 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.65.52 lakh highlighting important observations are given in the following paragraphs:

3.2 Non-finalisation of leases

Under the provision of the West Bengal Land and Land Reforms (WBL & LR) Manual, 1991, if the Government land remained in possession of person/persons without any lease, such persons may be offered long term settlement for non-agricultural purposes on realisation of rent payable at four *per cent* of market value of the land and salami at 10 times of the annual rent. In case of application for lease, the same is to be finalized ordinarily within five months from the date of application.

Scrutiny of records of three¹ DL & LR Offices revealed that in four cases two persons, two schools and one educational society had been unauthorisedly occupying 37.63 acres of non-agricultural land involving market value of Rs.37.99 lakh for residential and educational purposes from different dates between 1998 and 2001. The occupiers applied for long term settlement of those lands between January 2001 and August 2002. The concerned Block Land and Land Reforms (BL & LR) Offices initiated action for settlement between May 2002 and July 2003 but the cases were not settled by the Land and Land Reforms (L & LR) Department. Thus non-settlement of land within the prescribed period of five months resulted in blockage of revenue of Rs.22.24 lakh in the shape of rent and salami for the periods varying between 1999 and 2004.

After this was pointed out, the district authorities stated between September 2003 and September 2004 that the matter would be taken up for finalisation of the cases.

Government to whom the cases were reported, stated in July 2005 that the matter would be reviewed. However, report on final action taken has not been received (October 2005).

3.3 Non realisation of cesses from patta holders

As per provisions of the Cess Act, 1880, read with the West Bengal Primary Education Act, 1973, road cess, public works cess and education cess are leviable and realisable on land rent payable by the raiyats. By an order issued

¹ Darjeeling, Jalpaiguri and Murshidabad.

in November 2003 raiyats exempted from payment of land rent are liable to pay all the above cesses² at the rate of 41 paise per rupee of rent with effect from 1408 BS³ (2001-02). The Bhumi Sahayaks posted in the Revenue Inspectors Office under the BL & LR Office are responsible for collection of cesses.

Scrutiny of records of six⁴ DL & LR offices revealed that a total area of 1.24 lakh acres of vested land under 42 BL & LR Offices was distributed among landless persons on raiyati basis for which pattas were given. They were liable to pay cesses of Rs.16.48 lakh for the period between 2001-02 and 2003-04 against which only Rs.0.03 lakh was paid. No action was taken to realise the balance amount. This resulted in non realisation of cesses of Rs.16.45 lakh.

After this was pointed out, the District authorities admitted the audit observation and stated between December 2001 and September 2004 that Bhumi Sahayaks had been directed to recover the cesses.

Government to whom the cases were reported, agreed to review the position and stated in July 2005 that the final outcome would be intimated to audit. Report on the final outcome has not been received (October 2005).

3.4 Non-realisation of rent and interest

Under the provision of the WBL & LR Manual, rent is payable yearly according to the Bengali year which falls due on the last day of the year in respect of which it is paid. In case of default in payment of rent, the lessee is bound to pay, in addition to the arrear of rent interest at the rate of 6.25 *per cent* per annum on the amount of the rent in arrear. In case of non-payment of rent and interest the same are realisable as public demand by certificate proceedings under the Bengal Public Demand Recovery Act, 1913.

Scrutiny of records of two⁵ DL & LR offices revealed that annual lease rent of Rs.10.47 lakh in two cases had not been paid by the lessees for different Bengali years from 1407 BS to 1411 BS (2000-01 to 2004-05). No action was

² Road cess – 6 paise, Public Works cess – 25 paise, Education cess – 10 paise

³ Bengali Calendar Year commencing from 15 April to 14 April of the following year.

⁴ Bankura, Hooghly, Jalpaiguri, Nadia, North 24 Parganas and Tamluk.

⁵ Darjeeling and Hooghly.

taken to recover the same. Besides, interest of Rs.0.94 lakh though leviable was not levied. Inaction on the part of the Department resulted in non-realisation of rent of Rs.10.47 lakh and interest of Rs.0.94 lakh.

After this was pointed out, the district authorities admitted the audit observation and stated between September 2003 and June 2004 that action would be taken to realise the rent and interest as pointed out by audit.

Government to whom the cases were reported, stated in July 2005 that non-payment of lease rent in one case would be reviewed and date of payment in respect of other one would be intimated. Report on further action taken has not been received (October 2005).

3.5 Short realisation of revenue due to incorrect determination of annual rent.

Under the provision of the WBL & LR Manual, Government non-agricultural land may ordinarily be settled on long term lease basis for a period of 30 years. The lessee is, however, entitled to an option of successive renewal of the lease for equal period. At the time of renewal of lease, rent shall be fixed at four *per cent* of the current market value of the land for industrial or commercial purposes. In case of residential purposes such rent shall be 15 times the annual rent previously payable or four *per cent* of the market value of the land at the time of renewal of the lease, whichever is less.

Scrutiny of records of DL & LR office, Murshidabad revealed that the period of the lease of 4.72 acres of land in favour of Food Corporation of India (FCI) at Berhampore expired in August 2001. But the Department on renewal of lease in May 2003 assessed the annual rent at Rs.2.97 lakh as a case of settlement for residential purposes. As FCI is a commercial organisation, the annual rent was required to be assessed at Rs.10.09 lakh i.e. four *per cent* of the market value of land of Rs.2.52 crore. Thus, incorrect determination of annual rent at the time of renewal of the long term lease led to short realisation of revenue of Rs.21.36 lakh for the period from 2001-02 to 2003-04.

The case was pointed out to the Department between September 2003 and June 2004 and to the Government in July 2005. No specific reply has been received (October 2005).

3.6 Non-assessment and non-realisation of market value and capitalized value of land transferred to Central Government Departments

Under the provisions of the WBL & LR Manual, in the case of transfer of land of the State Government to Central Government departments, compensation would have to be paid to the State Government which would ordinarily be the market value of the land and capitalized value of the land revenue assessable thereon. The capitalised value is to be determined one time at 25 times of the annual rent.

Scrutiny of records of the DL & LR Office, Murshidabad revealed that the Border Security Force (BSF) applied for transfer of 3.5 acres of non-agricultural land for construction of border outpost thereon in January 2002 though the land in question was in their possession since 1991. BSF authority repeatedly requested for transfer of the said land but the same has not been transferred till date. There was nothing on record to indicate that the case for transfer of the land was initiated by the district authorities. The lackadaisical attitude of the district authority resulted in non-assessment and non-realisation of market value and capitalized value of the land of Rs.9.26 lakh. In addition, it has also resulted in operational problems for BSF.

After this was pointed out, the district authority stated in September 2004 that the matter was under process.

Government to whom the case was reported, agreed in July 2005 to look into the matter for early disposal. Report on final disposal has not been received (October 2005).

3.7 Loss/non-realisation of lease rent in respect of *sairati* interests

Under the WBL&LR Manual, *sairati*⁶ interests vested in the State, are to be settled on lease terms on realisation of annual lease rent. The Board of Revenue (BOR), however, directed in March 1979 that *sairati* interests should be handed over to the Panchayat institutions for management and control by

⁶ Derived from the word *sair*. The duties which the owner of Hat, Bazar, Markets, Ferries, Fisheries etc. used to levy on commodities sold or benefits derived in those places were designated as *Sair* collections. Such Hats, Ferries, Fisheries etc. are known as *sairati* interests

them. The Divisional Commissioner, Jalpaiguri Division directed the district authorities in January 2003 to resume the water bodies covering more than five acres of area for settlement on annual lease rent basis at minimum rate of rent Rs.4,047⁷ per acre

Scrutiny of records of the DL & LR Office, Cooch Behar revealed that the district authority failed to resume 14 water bodies covering 173.94 acres of water areas from the Panchayats for settlement though each water body was more than five acres of area.. This led to loss of revenue of Rs.7.04 lakh during 2003-04.

After this was pointed out, the Department stated in June 2004 that the matter had been taken up with the concerned authority for resumption of the water areas.

Government to whom the case was reported, agreed in July 2005 to look into the matter. However, report on further action taken has not been received (October 2005).

⁷ Annual rent @ Rs.10,000 per hectare hence, annual rent per acre $\text{Rs.10,000} \div 2.47105 = \text{Rs.4047}$, (one hectare = 2.47105 acre).

CHAPTER IV STATE EXCISE

4.1 Results of audit

Test check of records of state excise revenue conducted in audit during the year 2004-05, revealed non/short realisation of excise duty and other irregularities amounting to Rs.26.64 crore in 67 cases, which broadly fall under the following categories :

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non/short levy of excise duty on chargeable wastage of RS/IMFL	9	1.79
2.	Non/short recovery of privilege fee/additional fee/licence fee/transport pass fee etc.	19	0.68
3.	Non/short realisation of establishment cost.	14	0.32
4.	Loss/blockage of revenue	10	0.17
5.	Others	15	23.68
Total		67	26.64

During the course of the year 2004-05, the Department accepted underassessment etc. of Rs.62.34 crore involved in 38 cases of which 33 cases involving Rs.62.27 crore had been pointed out in audit during the year 2004-05 and the rest in earlier years.

A few illustrative cases involving Rs.11.57 crore highlighting important observations are given in the following paragraphs:

4.2 Non-realisation of duty on non/short receipt of Rectified Spirit/Extra Neutral Alcohol during the course of import underbond

The Bengal Excise Act, 1909 and the Rules made thereunder provide that in the case of import of Rectified Spirit (RS)/Extra Neutral Alcohol(ENA) underbond for potable/other purposes, a licensee is to execute a bond in the prescribed form which envisages that duty and fees at the prescribed rate are to be paid on the quantity of RS/ENA not received/received short at the destination with reference to the quantity despatched from the exporting end.

Scrutiny of records of the Commissioner of Excise, Kolkata and Deputy Commissioner of Excise (Special), Kolkata revealed between February and August 2004 that Commissioner of Excise granted four import permits between December 1999 and December 2002 for import of 7 lakh Bulk Litres (BL) of RS underbond from two distilleries in Uttar Pradesh for potable and other purposes to two licensees one each of Kolkata and Darjeeling. Cross verification of records with those of Excise Department of Uttar Pradesh in July 2005, however, revealed that 4.70 lakh BL of RS were actually despatched from the distilleries of Uttar Pradesh between January 2000 and December 2002 against which 1.84 lakh BL of RS was shown as received at the bonded warehouses of the licensees between January and April 2000. Balance quantity of RS of 2.86 lakh BL was not received at the destination. In another case of Hooghly, it was revealed in January 2004 that the Commissioner of Excise, West Bengal granted one import permit in April 2002 to one licensee to import 2 lakh BL of ENA underbond from Uttar Pradesh for manufacture of foreign liquor against which 0.20 lakh BL of ENA was shown as received. Balance quantity of 1.8 lakh BL was not received at the destination.

As per terms and conditions of the bond agreement, the licensees were liable to pay duties of Rs.6.70 crore on 2.86 lakh BL of RS and Rs. 4.32 crore on 1.8 lakh BL of ENA at the prevailing rates as detailed below:

(Rupees in crore)

Import permit granting authority	Name of the District Excise involved	No. of licensees involved	Quantity to be imported (in lakh BL)	Actual quantity despatched by distilleries	Short receipt (in lakh BL)	Duty realisable at prevailing rate
		Permits issued		Received at the Distilleries		
Deputy Commissioner of Excise (Spl.), Kolkata	Kolkata	$\frac{1}{3}$	5.00	$\frac{2.70}{\text{Nil}}$	2.70	6.35
Commissioner of Excise, West Bengal	Darjeeling	$\frac{1}{1}$	2.00	$\frac{2.00}{1.84}$	0.16	0.35
Commissioner of Excise, West Bengal	Hooghly	$\frac{1}{1}$	2.00	$\frac{\text{NA}}{0.2}$	1.8	4.32
Total						11.02

The excise authorities, however, neither ascertained the actual quantity of RS/ENA dispatched from the exporting state nor issued demand notices for realisation of duty.

After this was pointed out, Deputy Commissioner of Excise (Special) stated in February 2004 that matter was being taken up with the concerned licensees, while Commissioner of Excise, West Bengal stated in March 2004 that action would be taken after obtaining report from district authorities.

The cases were reported to Government between May 2004 and October 2004 followed by reminders issued up to June 2005; their reply has not been received (October 2005).

4.3 Non-levy and non-realisation of excise duty on excess wastage of spirit on re-distillation

Under the West Bengal Excise Act, 1909 and the Rules made thereunder, an excise licence in Form 28B is issued for establishing a private warehouse for deposit and storage of rectified spirit without payment of duty and for the purpose of further rectification of such spirit and sale of spirit so rectified. The said Act and the Rules made thereunder prescribes the maximum limit of allowable wastage at two *per cent* for re-distillation of spirit in a pot still for purposes other than foreign liquor. Wastage of spirit in excess of two *per cent* attracts duty at the highest rate leviable on foreign liquor which is payable immediately after completion of redistillation.

Scrutiny of records of 14 licensees under the Medicine & Toilet Preparation (M & TP) (Excise Duties) Act, 1955, revealed that the licensees held excise

licence in Form 28B for deposit and storage of rectified spirit. During 2000-01 to 2003-04 those licensees redistilled 28,70,376 LPL of spirit in pot stills and produced 27,82,128 LPL of special quality of spirit for the purpose of supply of such spirit for manufacture of medicinal and toilet preparations and/or sale of spirit so rectified. A wastage of 57,408 LPL was admissible against which 88,248 LPL of rectified spirit was allowed during the process of redistillation resulting in excess wastage of 30,840 LPL. No demand was, however, raised for such excess wastage. This resulted in non-levy and non-realisation of excise duty of Rs.38.48 lakh.

The matter was reported to the Government between May 2004 and January 2005 followed by reminder issued up to June 2005; their reply has not been received (October 2005).

4.4 Non-realisation of Establishment cost

Under the provisions of the West Bengal Excise (Foreign Liquor) Rules, 1998, the licensee of a bonded foreign liquor warehouse shall pay a monthly fee in cash equivalent to monthly cost comprising average pay, compensatory allowances and contribution towards leave salary and pension in respect of the excise establishment deployed in the warehouse. Such monthly fee shall be paid within seven days after the expiry of the month to which the fee relates.

Scrutiny of records in two district excise offices¹ between November 2003 and September 2004 revealed that licensees of three bonded foreign liquor warehouses did not pay monthly fee for different periods between June 2002 and August 2004 within the prescribed time. The district excise authority, however, did not take any action to realise the same. This resulted in non-realisation of Rs.10.25 lakh towards establishment cost.

After this was pointed out, the District Excise Officers stated between November 2003 and September 2004 that action would be taken for realisation of the dues.

Government to whom the cases were reported between February and October 2004 stated in August 2005 that action was being taken to realise the outstanding amount of establishment cost in case of one bonded warehouse

¹ Collector of Excise, Kolkata. Superintendent of Excise, Burdwan (West).

whereas Rs 1.29 lakh has been realised at the instance of audit in respect of other warehouse. Report on realisation of remaining establishment cost has not been received (October 2005).

4.5 Non-realisation of Application Fee for renewal of Foreign Liquor Bond/Trade licence

By a notification issued in February 2004, the State Government introduced levy of application fee of Rs.10,000 and Rs.5,000 for renewal of Foreign Liquor (FL) Bond and FL Trade licence respectively from February 2004.

Scrutiny of records of the Collector of Excise, Kolkata relating to renewal of FL Bond licence and FL Trade licence for the year 2004-05, revealed that the application fee was not realised from 35 FL Bond licensees and 56 FL Trade licensees. This resulted in non-realisation of application fee of Rs.6.30 lakh.

After this was pointed out in August 2004, the Collector of Excise, Kolkata stated in August 2004 that steps would be taken for realisation of the same.

Government to whom the cases were reported in October 2004 stated in August 2005 that Rs.4.05 lakh has been realised at the instance of audit. Report on realisation of the balance amount has not been received (October 2005).



CHAPTER V MOTOR VEHICLES TAX

5.1 Results of audit

Test check of records relating to taxes on motor vehicles, conducted in audit during the year 2004-05, revealed non/short realisation of revenue amounting to Rs.3.19 crore in 85 cases, which broadly fall under the following categories:

<i>(Rupees in crore)</i>			
Sl.No.	Categories	No. of cases	Amount
1.	Non/short realisation of tax fee, fine and penalty	38	2.15
2.	Others	47	1.04
Total		85	3.19

During the course of the year 2004-05, the concerned Department accepted underassessment etc. of Rs.3.12 crore involved in 111 cases of which 80 cases involving Rs.2.96 crore had been pointed out in audit during the year 2004-05 and the rest in earlier years. An amount of Rs.10.75 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.3.40 crore highlighting important observations are given in the following paragraphs:

5.2 Non/short realisation of tax, additional tax and penalty from different types of vehicles

The West Bengal Motor Vehicles (WBMV) Tax Act, 1979 and the West Bengal Additional Tax and One Time Tax on Motor Vehicles Act, 1989 as amended in January 2003, prescribe the rate of taxes on motor vehicles according to their use, seating capacity and weight, as the case may be. As per clarification of the Government of West Bengal, Transport Department issued in December 1998 and August 1999, additional tax of 50 *per cent* of road tax is leviable on articulated vehicles, breakdown vans, crane, dumper and tipper. Both the Acts provide for levy of penalty of an amount equal to tax and additional tax in case of non-payment of such taxes beyond 75 days from the due date of payment.

Scrutiny of records of four¹ Regional Transport Offices (RTOs) and Public Vehicles Department (PVD), Kolkata revealed that taxing officers did not levy or short levied tax and additional tax due to non-imposition/incorrect application of rate of tax and additional tax on 124 articulated vehicles, 18 cranes and 972² different types of vehicles. No penalty was also levied on 280³ different types of vehicles for non-payment of tax and additional tax within the specified period. This resulted in non/short realisation of tax, additional tax and penalty of Rs.2.25 crore.

After this was pointed out, four Taxing Officers, stated between June 2002 and July 2004 that demand notice would be/had been issued after proper scrutiny while the taxing officer of Burdwan did not furnish any specific reply.

Government to whom the cases were reported, stated between February and March 2005 that Rs.1.93 lakh and Rs.0.77 lakh had been realised from the owners of private cars and from the cars of private limited company respectively while instruction to realise the tax, additional tax and penalty

¹ Burdwan, Durgapur, Siliguri and South 24 Parganas.

² 52 buses of companies, 528 private service vehicles, 2 Tankers, 10 Contract carriages, 56 Minibus, 15 Tourist buses, 211 Private cars, 6 Deluxe buses, 5 breakdown vans, 50 cars of private limited companies and 37 vehicles of motor training schools.

³ 92 articulated vehicles, 7 cranes, 2 tankers, 10 contract carriages, 56 minibuses, 15 tourist buses, 6 deluxe buses, 5 breakdown vans, 50 cars of private limited companies and 37 vehicles of motor training schools.

from other vehicles had been issued to PVD, Kolkata. Report on further realisation has not been received. (October 2005).

5.3 Non-levy of additional fee on transfer of ownership of vehicles

Under the WBMV Rules, 1989, as amended in 2003, the owners of motor vehicles are liable to pay additional fee on transfer of ownership of their vehicles from December 16, 2003 at the rates prescribed therein.

Test check of records of PVD, Kolkata revealed that the taxing officer had not realised additional fee at the time of transfer of ownership of 3,645 vehicles between December 2003 and March 2004. This resulted in non-levy of additional fee of Rs.57.51 lakh.

After this was pointed out, the taxing officer attributed the short levy to non-entry of the item in computer programme and stated in July 2005 that the item had been included in the programme w.e.f. 29.03.04.

The cases were reported to Government in July 2004 followed by reminders issued up to June 2005; their reply has not been received (October 2005).

5.4 Non/Short realisation of dealer's tax

Under the provisions of the WBMV Tax Act, every person who keeps in his possession or control any motor vehicle as a dealer is required to pay tax on such motor vehicle at the prescribed rate at the time of first registration of the vehicle whether or not the vehicle is driven in any public place. Government of West Bengal by notification in August 2003 enhanced the dealer's tax for various categories of vehicles.

Test check of records of three⁴ RTOs and PVD, Kolkata revealed that dealer's tax was not realised or realised short from 10,905 vehicles of different categories at the time of registration between April 2002 and March 2004. This resulted in non/short realisation of dealer's tax of Rs.35.33 lakh.

The cases were pointed out to the taxing officers between April 2003 and March 2005; no specific reply was furnished.

⁴ Hooghly, Howrah and South 24 Parganas.

Government to whom the cases were reported, directed PVD Kolkata in March 2005, to realise Rs.14.41 lakh. However, report on realisation has not been received (October 2005).

5.5 Non-imposition of fine on illegal plying of vehicles with expired certificate of fitness

Under the Motor Vehicle Act, 1988, no transport vehicle can ply without a valid certificate of fitness (CF). For renewal of CF, the owner of a vehicle is required to apply one month in advance of its expiry. The State Government by a notification issued in July 1995 prescribed a fine at the rate of Rs.3,000 and Rs.2,000 on goods/contract carriages and other vehicles respectively which was revised to Rs.4,000 and Rs.3,000 respectively w.e.f. 14 February 2003 for vehicles plying without valid certificate of fitness.

Scrutiny of records of transport offices of five⁵ RTOs and PVD, Kolkata revealed that the CFs of 159 goods carriages/contract carriage buses and 122 other vehicles were renewed between 1999-2000 and 2003-04 after expiry of validity for a period upto four years and nine months without imposing a fine. There was nothing on record that the vehicles were off the road. This resulted in non-levy of fine of Rs.8.63 lakh.

After this was pointed out, the Taxing Officer, PVD, Kolkata stated in January 2003 that fine was being realised. Other taxing officers did not furnish any specific reply.

The cases were reported to Government between October 2003 and July 2004 followed by reminders issued up to June 2005; their reply has not been received (October 2005).

5.6 Non/Short realisation of special registration fee

The State Government in their order issued in December 1990 permitted plying of heavy goods vehicles having gross vehicle weight above 22,542 kgs. on payment of special registration fee per annum at varying rates depending upon the gross vehicle weight of those vehicles and subject to fulfillment of conditions as prescribed therein.

⁵ Bankura, Hooghly, Murshidabad, Siliguri and South 24 Parganas.

Scrutiny of records of four⁶ RTOs and PVD, Kolkata revealed that no special registration fee on 147 goods vehicles having gross vehicle weight between 22,727 kgs. and 36,600 kgs. was realised between April 1999 and December 2004 although road taxes were paid regularly by their owners. This resulted in non-realisation of special fees of Rs.7.23 lakh.

After this was pointed out, the Taxing Officer, PVD, Kolkata stated in November 2003 that action had been taken to realise the fees while Taxing Officer, Burdwan stated in February 2005 that Rs.18,438 has been realised from owners of eight vehicles. Other taxing officers did not furnish any specific reply.

The cases were reported to Government between November 2003 and January 2005 followed by reminders issued up to June 2005; their reply has not been received (October 2005).

5.7 Non-levy of additional tax and penalty from seized vehicles

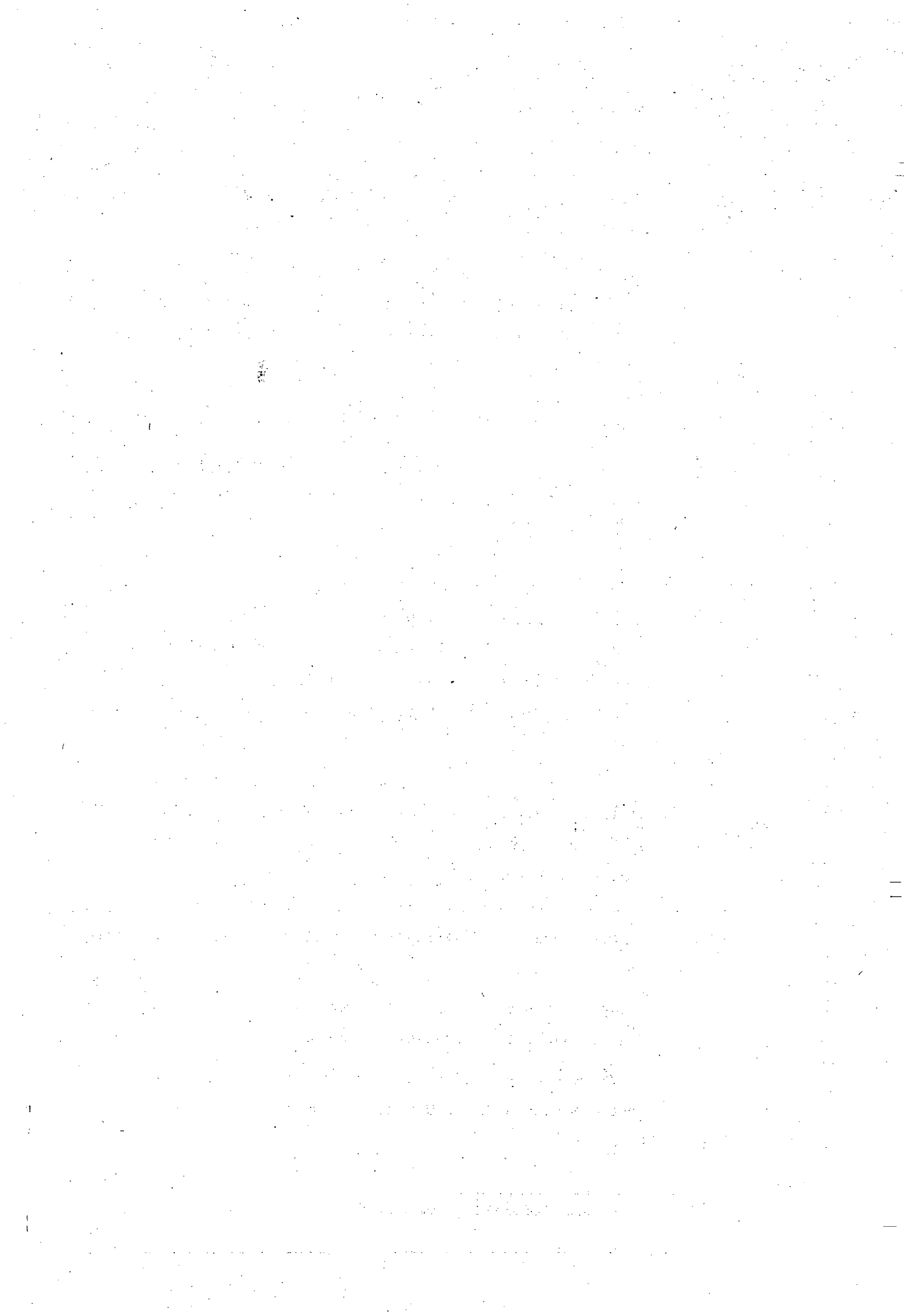
Under the provisions of the WBMV Tax Act, and the West Bengal Additional Tax and One Time Tax on Motor Vehicle Act, 1989, a motor vehicle may be seized for non-payment of tax and additional tax by enforcement authority and may be released on payment of due tax and penalty within 30 days of such detention.

Test check of records of PVD, Kolkata revealed that the taxing officer seized a vehicle in March 2003 for non-payment of tax and additional tax of Rs.4.49 lakh from April 1999 to March 2003. The taxing officer released the vehicle on realisation of road tax of Rs.2.99 lakh. However, additional tax of Rs.1.50 lakh was not realised. Besides, penalty of Rs.4.48 lakh for delayed payment of tax was not imposed. This resulted in non-realisation of additional tax and penalty of Rs.5.98 lakh.

After this was pointed out, the taxing officer stated between November 2003 and January 2004 that demand notice was being issued.

The case was reported to Government in February 2004 followed by reminders issued up to June 2005; their reply has not been received (October 2005).

⁶ Burdwan, Hooghly, Paschim Medinipur and Siliguri.



CHAPTER VI AMUSEMENT TAX

6.1 Results of audit

Test check of records of amusement tax conducted in audit during the year 2004-05, revealed underassessment etc. of tax amounting to Rs.95.62 crore in 67 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl.No.	Categories	No. of cases	Amount
1.	Non/short levy of tax / penalty	8	0.21
2.	Non/short realisation of tax /penalty.	10	0.41
3.	Review on Assessment, Collection and Arrears of Amusement Tax including Luxury tax.	43	94.56
4.	Other cases	6	0.44
Total :		67	95.62

During the course of the year 2004-05, the concerned Department accepted underassessment etc. of Rs. 62.34 crore involved in 38 cases of which 33 cases involving Rs 62.27 crore had been pointed out in audit during the year 2004-05 and the rest in earlier years.

A review on 'Assessment, Collection and Arrears of Amusement Tax including Luxury Tax' involving financial effect of Rs.94.56 crore is given in the following paragraph:

6.2 REVIEW ON "ASSESSMENT, COLLECTION AND ARREARS OF AMUSEMENT TAX INCLUDING LUXURY TAX"

The findings of the review on the procedure of assessment, collection and arrears of amusement tax, including luxury tax, its effectiveness and deficiencies are discussed below:

Highlights

- Inaction of the Department against the proprietors of cinema halls led to non-realisation of composition money of Rs.50.74 crore
[Paragraph 6.2.6]
- Non-scrutiny of claims of utilisation of service charges made by proprietors of cinema halls resulted in non-levy of tax of Rs. 2.39 crore
[Paragraph 6.2.8]
- Non-adherence to the provisions of the Act resulted in non/short-levy of luxury tax of Rs.4.57 crore on air-conditioned hotels.
[Paragraph 6.2.9]
- Despite specific provisions, clubs were not brought under the purview of tax resulting in non-levy of tax of Rs.5.12 crore
[Paragraph 6.2.10]
- Non-fixing of time limit for disposal of appeal cases resulted in blockage of revenue of Rs.3.13 crore
[Paragraph 6.2.15]

6.2.1 Introduction

Assessment, levy and collection of amusement tax in West Bengal are regulated by provisions of the Bengal Amusement Tax (AT Act) Act, 1922, the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax (WBELT Act) Act, 1972 and the West Bengal Entertainment-cum-Amusement Tax (WBEAT Act) Act, 1982 and the Rules made thereunder.

▪ Under the AT Act, entertainment tax is leviable on admission to cinema shows, casual entertainment shows, clubs, amusement parks, horse racing clubs etc. and betting taxes on horse racing. The Act further provides that proprietor of an entertainment shall not admit any person to an entertainment without a ticket stamped with an impressed, embossed,

engraved or adhesive stamp issued by the State Government and denoting that proper entertainment tax has been paid.

- Under the WBELT Act, entertainment tax and luxury tax are payable on the sale of food and drinks, admission fees and room-rent realised by an air conditioned hotel.
- Under the WBEAT Act, a weekly tax is payable on video shows and a monthly tax is payable on cable operation.

Tax, penalty and interest are assessed and collected under the provisions of the above Acts. The sums remaining unpaid form arrears which are recoverable as arrears of land revenue by initiating a certificate case under the Public Demands Recovery (PDR Act) Act, 1913.

Any assessment made under the AT Act and the WBELT Act may be re-opened for re-assessment within four years and two years respectively from the date of such assessment.

The Agricultural Income Tax Department responsible for collection of the tax under the Acts did not have a manual on the working of the Department. Further, no internal audit system was in operation to detect and check defects and errors in assessment, collection and realisation of entertainment tax and luxury tax.

The review focused mainly on collection of tax of the Department from cinema halls, air conditioned hotels, clubs, amusement parks, horse racing and video halls.

6.2.2 Organisational set up

The Principal Secretary, Finance Department, Government of West Bengal is in overall control and superintendence of the Department at the Government level. The Commissioner of Agricultural Income Tax is the head of the Directorate and is assisted by one Additional Commissioner, four Deputy Commissioners, three Assistant Commissioners, 28 Agricultural Income Tax Officers and 58 Inspectors. Agricultural Income Tax Officers are entrusted with the duty of assessment and collection of amusement tax under the Acts.

Review on
amusement

They function under the direct control of the Commissioner in Kolkata and through the District Collectors in the districts.

6.2.3 Audit objectives

The review was conducted to examine whether

- amusement tax in the form of entertainment tax and luxury tax, including penalty and interest, was properly assessed, collected and remitted to Government accounts as provided under the AT Act, the WBELT Act, the WBEAT Act and the Rules framed thereunder;
- adequate steps were taken for realisation of arrears of entertainment tax and luxury tax ;
- there were lacunae in the Acts and Rules ; and
- adequate internal controls were in place.

6.2.4 Scope of audit

Records for the periods from 1999-2000 to 2003-04 of the Commissioner of Agricultural Income Tax, West Bengal and 10¹ Agricultural Income Tax Offices (AITOs) out of a total of 18² AITOs along with the concerned District Collector offices were test checked during the period from October 2004 to March 2005.

Audit findings as a result of that check of records were reported in June 2005 to the Government with a specific request in July 2005 for attending the meeting of Audit Review Committee so that viewpoint of the Government may be taken into account before finalising the review. The meeting was held in July 2005. A nominee from office of the Agricultural Income Tax Commissioner was deputed to attend the meeting though no representative from the Finance Department was present. The results of the discussion have been included in review.

¹ Bankura, Burdwan, Darjeeling, Howrah, Jalpaiguri, Kolkata, Medinipur, North 24 Parganas, Purulia and South 24 Parganas.

² Bankura, Birbhum, Burdwan, Coochbehar, Dakshin Dinajpur, Darjeeling, Hooghly, Howrah, Jalpaiguri, Kolkata, Maldá, Medinipur, Murshidabad, Nadia, North 24 Parganas, Purulia, South 24 Parganas and Uttar Dinajpur.

6.2.5 Trend of revenue

As per provisions of the Budget Manual, the Finance Department shall collect related informations both for receipts and expenditure from the concerned administrative departments and prepare budget estimates of the State after necessary changes according to the policy of the Government.

The position of budget estimates and actual collection of revenue from 1999-2000 to 2003-04 as appeared in the Budget Publication of the Government of West Bengal and as furnished by the Directorate were as under:

(Rupees in crore)

Year	Budget estimates	Actual collection as per the Budget Publication	Actual collection as furnished by the Directorate	Difference (3-4)
1	2	3	4	5
1999-2000	71.68	134.08	63.11	70.97
2000-2001	78.85	141.04	66.72	74.32
2001-2002	77.80	95.03	61.85	33.18
2002-2003	87.49	54.26	51.12	3.14
2003-2004	124.55	56.85	51.28	5.57

The difference between the figures of actual collection as per the Budget Publication and those of the Directorate was due to lack of intra Departmental coordination and an internal control mechanism including the absence of a system of reconciliation. After this was pointed out, the Directorate stated that instructions were being issued to start reconciliation which had not been done for the last few years.

There is a wide variation in between the budget estimates and the actual collection which clearly indicates that the budget estimates are not being prepared in accordance with the provisions of the budget manual.

➤ **Arrears of revenue**

The position of arrears from 1999-2000 to 2003-04 as furnished by the Commissioner of Agricultural Income Tax, West Bengal was as under:

(Rupees in crore)

Year	Opening balance	Demand raised	Demand realised	Closing balance
1999-2000	23.82	The figures could not be furnished by the Directorate.	63.23	23.34
2000-2001	23.34		66.71	23.57
2001-2002	23.57		61.85	26.90
2002-2003	26.90		51.12	22.78
2003-2004	22.78		Not available	Not available

It would be seen from the above that the Department did not have any effective monitoring procedure for watching/raising of annual demands.

Cinema Halls

6.2.6 Non-realisation of composition money from proprietors of cinema halls issuing tickets to viewers unauthorisedly

Under the provisions of the AT Act, no person liable to pay entertainment tax shall be admitted by the proprietor of a cinema hall except with a ticket stamped with an impressed, embossed, engraved or adhesive stamp issued by the State Government and denoting that proper entertainment tax has been paid. Further, the proprietor of a cinema hall shall also furnish a prescribed weekly return within the stipulated time. In case of non-compliance of the above provisions or default in payment of entertainment tax, the assessing authority is empowered to lodge a report with the licensing authority of the cinema halls for cancellation of the licence. Moreover, non-compliance of the above provisions is an offence for which a proprietor shall be punishable by a Court of Law with imprisonment for a term upto two years or fine upto Rs. 3,000 or both. However, the assessing authority is empowered to compound the offence by accepting a sum of money not exceeding Rs. 1,000 or double the amount of tax payable, whichever is greater.

Audit scrutiny of records of cinema halls in two districts out of 10³ districts test checked revealed that

- proprietors of 49 cinema halls admitted viewers by issuing tickets without getting those tickets stamped with an impressed, embossed, engraved or adhesive stamp for years together;
- of these, proprietors of 47 cinema halls also defaulted in furnishing the returns within the stipulated time; and

³ Bankura, Burdwan, Darjeeling, Howrah, Jalpaiguri, Kolkata, Medinipur, North 24 Parganas, Purulia and South 24 Parganas.

- proprietors of 17 cinema halls defaulted in payment of their assessed dues of Rs.2.28 crore

in contravention of the provisions of the Act.

The Department, however, did not lodge any report with the licensing authority for cancellation of the licence of the proprietors. Further, the Department neither served any notice to the proprietors for compounding the offences nor took any action for framing charges and prosecuting them in a Court of Law. As a result, the proprietors did not come forward for payment of assessed dues. This led to non-realisation of assessed dues of Rs.2.28 crore. Besides composition money of Rs.50.74 crore should have been imposed as detailed below:

(Rupees in crore)

Name of the AITO	No. of Cinema halls/cases	Period of assessment between	Date of assessment between	Composition money realisable
North 24 Parganas	10/26	1996-97 & 2001-02	1/2000 & 3/2004	4.94
Kolkata	39/86	1996-97 & 2003-04	4/1999 & 7/2004	45.80
Total:	49/112			50.74

After this was pointed out, the Department admitted the facts. However, it is stated that criminal proceedings were not initiated as they took a prolonged time for finalisation. The contention was not tenable as action as provided in the Act should have been taken. The Department did not even issue notice to the defaulting proprietors for availing the remedy of composition as prescribed under the Act.

6.2.7 Imposition of token penalty

Under the AT Act and the Rules made thereunder, a proprietor of a cinema hall shall furnish a prescribed weekly return within the stipulated time. The assessing authority may impose a penalty for late submission of return, of a sum not exceeding double the amount of entertainment tax assessed i.e. 200 per cent of the tax. However, the Act does not specify the minimum amount of penalty to be levied in such cases. While, in the West Bengal Luxury Tax (WBLT Act) Act, 1994, the minimum amount of penalty for late submission of a return is equal to the amount of tax assessed, i.e. 100 per cent of the tax.

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

Scrutiny of assessment records of eight AITOs revealed that in 222 cases, 99 proprietors failed to submit their returns within the prescribed time. The assessing officers issued show cause notices to the proprietors for late submission of returns. Thereafter, either the proprietors did not furnish reply to the show cause notices or the assessing officers did not find the explanations given by the proprietors as reasonable or sufficient. In spite of these facts, they imposed nominal penalties ranging from 0.005 to 2.89 per cent of the tax payable against the maximum leviable penalty of 200 per cent. Consequently, penalty of Rs.7.93 lakh only was imposed against the maximum penalty leviable of Rs 43.68 crore as detailed below:

(Rupees in lakh)

Name of the AITO	No. of cinema halls/ cases	Period of assessment between	Maximum penalty leviable under the AT Act	Minimum penalty leviable as fixed in the WBLT Act	Penalty levied	Percentage of penalty levied From to
Howrah	11/27	1996-97 & 2003-04	367.61	183.81	0.32	0.03-0.83
North 24 Parganas	13/22	1996-97 & 2001-02	396.33	198.16	0.67	0.05-1.53
Medinipur	14/34	1996-97 & 2002-03	153.69	76.85	0.33	0.08-1.83
Burdwan	20/53	1996-97 & 2002-03	531.05	265.52	0.87	0.04-2.80
Darjeeling	5/8	1999-00 & 2001-02	168.10	84.05	0.10	0.01-0.73
Kolkata	27/46	1991-92 & 2002-03	2,614.22	1,307.11	5.22	0.005-2.89
Purulia	3/3	2000-01 & 2002-03	4.40	2.20	0.01	0.50-1.12
Bankura	6/29	1996-97 & 2002-03	132.47	66.23	0.41	0.18-1.97
Total:	99/222		4,367.87	2,183.93	7.93	0.0036

Moreover, the assessing officers had in no case given any justification for imposition of only a token penalty and it was levied at as low rates as 0.0036 per cent of the assessed tax. Thus there is a need for fixation of minimum amount of penalty leviable in such cases.

After this was pointed out, the Department issued a circular in March 2005 at the instance of audit directing all the assessing officers to discuss the imposition of penalty in the assessment orders in case of late submission of returns.

The Department further stated in June 2005 that an amendment in the provision of penalty is also under consideration.

6.2.8. Non-levy of entertainment tax on inadmissible service charges

Under the AT Act, a proprietor of a cinema hall may realise from viewers, a service charge for maintenance of the cinema hall etc. and an additional service charge for air conditioning of the cinema hall. Entertainment tax shall be levied on such service charges unless the proprietor proves to the satisfaction of the assessing authority that the service charges have been fully utilised or adequate provision has been made in the books of accounts for maintenance etc. and air-conditioning of the cinema hall. Rates of entertainment tax ranged between 10 per cent and 70 per cent during 1999-2000 to 2003-04.

Scrutiny of assessment records of nine AITOs revealed that in 306 cases proprietors had realised service charges of Rs.5.23 crore for maintenance etc. as well as air conditioning of the cinema halls. However, the proprietors had not produced supporting documents regarding utilisation of the service charges or made adequate provisions in the books of accounts. The assessing officers were also silent in their assessment orders about the utilisation of service charges or regarding provision made thereof in the books of accounts and did not levy entertainment tax of Rs.2.39 crore on the service charges of Rs.5.23 crore as detailed below:

(Rupees in crore)

Name of the AITO	No. of cases	Period of assessment between	Date of assessment between	Service charges realised	Entertainment tax leviable
Howrah	42	1996-97 & 2002-03	8/2001 & 1/2004	0.94	0.45
Purulia	28	1998-99 & 2002-03	7/1999 & 11/2003	0.26	0.12
Bankura	7	1996-97 & 2002-03	12/1999 & 2/2004	0.08	0.01
South 24 Parganas	31	2001-02 & 2002-03	12/2002 & 9/2004	0.72	0.20
Jalpaiguri	51	1997-98 & 2000-01	9/1999 & 3/2002	0.38	0.24
Medinipur	58	1996-97 & 2002-03	1/2000 & 3/2004	0.64	0.24
Burdwan	36	1998-99 & 2002-03	1/2000 & 8/2004	0.95	0.44
Darjeeling	14	1999-00 & 2002-03	4/2002 & 9/2003	0.55	0.29
North 24 Parganas	39	1996-97 & 2001-02	5/2000 & 3/2004	0.71	0.40
Total:	306			5.23	2.39

The Department accepted the audit observation in June 2005, however action taken for levy of tax has not been intimated (October 2005).

Hotels

6.2.9. Non/short levy of luxury and entertainment tax on hotels

➤ **Non/short levy of luxury tax on banquet hall charges**

Under the provisions of the WBELT Act, a luxury tax is chargeable on daily charges received by a hotel for an occupied air conditioned room. Government of West Bengal by a notification issued in April 1997 clarified that daily charges for an occupied room shall be the charge for lodging only.

Scrutiny of assessment records of luxury hotels under the AITO, Kolkata revealed that in 25 cases, six hotel authorities received Rs.11.24 crore between 1996-97 and 2002-03 as rental/hire charges for air-conditioned banquet halls as reflected in their annual accounts. However, in 23 out of 25 cases no luxury tax was levied at all while in the remaining two cases it was assessed short at Rs. 1.70 lakh instead of the leviable amount of Rs. 7.51 lakh. This resulted in non/short -levy of luxury tax of Rs.1.14 crore as detailed below:

Name of the hotel	No. of cases	Period of assessment between	Assessment made between	Rental/hire charges received (Rs. in crore)	Luxury tax leviable (Rs. in lakh)	Luxury tax levied (Rs. in lakh)	Non/short levy of luxury tax (Rs. in crore)
A	6	1996-97 & 2001-02	4/1999 & 10/2003	3.40	35.66	Nil	0.36
B	2	1997-98 & 1998-99	2/2000 & 3/2001	0.75	7.51	1.70	0.06
	3	1999-2000 & 2001-02	3/2002 & 2/2004	1.50	14.97	Nil	0.15
C	3	1998-99 & 2000-01	1/2001 & 12/02	0.90	8.95	Nil	0.09
D	6	1996-97 & 2001-02	4/1999 & 2/2004	3.72	38.41	Nil	0.38
E	4	1998-99 & 2001-02	3/2001 & 2/2004	0.86	8.64	Nil	0.09
F	1	2002-03	8/2003	0.11	1.07	Nil	0.01
Total:	25			11.24	115.21	1.70	1.14

After this was pointed out, the Department stated in June 2005 that since banquet halls in the hotels were not rooms for lodging, luxury tax could not be charged under the Act. The contention was not tenable as banquet halls in all these cases were big rooms in the hotels where lodging i.e. temporary accommodation for the purpose of meetings, conferences, entertainment activities etc. was made available on receipt of rental/hire charges. As such luxury tax in these cases was leviable. In addition, the Department also assessed luxury tax in two cases though it was levied short.

➤ **Short determination of Gross Turnover**

Under the provisions of the WBELT Act, an entertainment tax is payable on the sums received for all the services including food and drink and admission fee realised by an air conditioned hotel, providing entertainment. The

minimum rate of tax leviable is 10 *per cent* on the services provided by an air conditioned hotel.

◦ Scrutiny of annual accounts of five⁴ luxury hotels under the AITO, Kolkata revealed that in 25 cases, the hotel authorities received an amount of Rs.719.63 crore between 1996-97 and 2001-02 as income from guests, accommodation, restaurants and bars etc. However, the assessing authorities while completing the assessments between April 1999 and February 2004 excluded Rs.31.48 crore from levy of tax without assigning any reason. Although shown as income viz. 'miscellaneous income/miscellaneous receipts/other services', the classes to which it belonged were not available on record. Consequently, the correct amount of tax leviable could not be ascertained. However, taking the minimum rate of tax of 10 *per cent*, there was a short levy of tax of Rs.3.15 crore. Out of these, 20 cases were more than two years old and could not be re-opened for re-assessment. This resulted in loss of revenue of Rs.2.67 crore.

The Department accepted the audit observation in June 2005; however further action taken to realise Government revenue has not been intimated (October 2005).

◦ Scrutiny of annual accounts of 1997-98 of a night club of a hotel disclosed that it was liable to pay entertainment tax of Rs.35.62 lakh on its gross turnover of Rs.1.19 crore. However, the assessing authority while completing the assessment in March 2000 excluded Rs.1.07 crore on account of sale of food and drinks from gross turnover. This resulted in underassessment of tax of Rs.28.30 lakh.

After this was pointed out, the Department stated in June 2005 that the matter was being examined. Further reply is awaited (October 2005).

Clubs

6.2.10 Non-levy of entertainment tax on clubs

Under the West Bengal Society Registration Act, 1961, clubs are registered with the Registrar of Firms, Societies and Non-trading Corporation, West

⁴ Hindustan International, Oberoi Grand, Radisson the Fort, Taj Bengal and The Park

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

Bengal. Further, as per provisions of the AT Act, any club providing entertainment and receiving payments for entertainment as subscription or contribution from its members for the right of admission shall be liable to pay entertainment tax on such receipts.

The total number of clubs liable to pay tax was not available with department. The department had not made any effort to get the details of clubs registered with the Registrar of Firms and Societies so that these could be brought under the tax-net. However, information obtained by audit from Sales Tax Department revealed that eight clubs situated in Kolkata received subscription or contributions from their members for different years between 1996-97 and 2001-02 for right of admission to various entertainments round the year including musical nights, dance events, indoor/outdoor games, New Year and Christmas celebrations, etc. As per the annual accounts of the clubs available with the Sales Tax Department, subscription/contribution of Rs.25.66 crore was liable to entertainment tax of Rs.5.12 crore as detailed below:

(Rupees in crore)

Name of the club	No. of cases	Period of subscription	Assessment made by Sales Tax Authorities between	Subscription/contribution for admission	Tax payable @ 20 per cent
A	4	1996-97 & 1999-2000	1999-2000 & 2002-03	4.21	0.84
B	4	1997-98 & 2000-01	2000-01 & 2003-04	4.97	0.99
C	4	1998-99 & 2001-02	2000-01 & 2003-04	13.22	2.64
D	3	1999-2000 & 2001-02	2001-02 & 2003-04	0.38	0.08
E	3	1999-2000 & 2001-02	2001-02 & 2003-04	1.31	0.26
F	3	1999-2000 & 2001-02	2001-02 & 2003-04	0.62	0.12
G	2	1996-97 & 1997-98	1999-2000 & 2000-01	0.90	0.18
H	1	1996-97	1999-2000	0.05	0.01
Total:	24			25.66	5.12

After this was pointed out, the Department while accepting the audit observation in June 2005 stated that the clubs liable to pay entertainment tax were being brought under the tax net.

Amusement park

6.2.11. Non-payment of entertainment tax by amusement parks

Under the provisions of the AT Act, "admission to an entertainment" includes admission to any place in which entertainment is held and an entertainment tax is payable on the value of tickets sold for such admission.

As per the records of the AITO, Kolkata the entertainment activities of the Nicco Park and Resorts Ltd. had commenced as early as in mid 1991-92 but the financial records available to audit are from 1999-2000 to 2001-02 only. Scrutiny of records revealed that the park had collected entry fee for admission for different rides like cable car, striking car, fun games, lazy river, tumble tosser, toy trains and water coaster etc. The Entertainment tax, though payable, on the admission fee of Rs.31.17 crore collected by the park between 1999-2000 and 2001-02, was neither paid by the park authority nor demanded by the Department. This resulted in non-levy and consequent non-realisation of Government revenue of Rs.6.24 crore as detailed below:

(Rupees in crore)

Year	Admission fees realised by the park	Entertainment tax payable @ 20 per cent
1999-2000	9.18	1.84
2000-01	10.03	2.01
2001-02	11.96	2.39
Total	31.17	6.24

The Department stated in June 2005 that entertainment tax was neither collected nor paid in respect of the Nicco Park as 'sports and games' were exempted from tax prior to 1 April 2002. The reply is not tenable since entertainment activities of the Park like cable car etc. are not 'sports and games' and were liable to tax.

➤ Scrutiny of records revealed that a hotel "X" within the jurisdiction of AITO, Kolkata collected Rs.2.48 crore on account of admission to its water park named 'Aqua Park' during 1998-99 to 2001-02. Similarly, under the AITO, Darjeeling the authorities of a water park named "Y" collected boating charges of Rs.18.72 lakh between April 2002 and July 2004. However, the tax was neither paid by the proprietors nor was it ever demanded by the Department. This resulted in non-levy and consequent non-realisation of revenue of Rs.53.37 lakh.

The Department accepted the audit observation in June 2005.

Horse racing club

6.2.12. Foregoing of interest due to late issue of notification

Under the AT Act, betting taxes are leviable on all monies paid as a bet by any person who bets on a horse race held in a race course. The racing clubs shall collect taxes from such persons and deposit them to Government account within the prescribed time. Under the Act, interest was not payable prior to May 1990 for delayed payment of tax. In June 1990, the Act was amended and a provision for levy of interest at the rate of two *per cent* per month for delayed payment of tax was introduced. However, the government issued notification for implementation of the same in July 2003. Consequently, no interest could be levied for a period of more than 13 years resulting in foregoing of government revenue.

Scrutiny of records of the AITO, Kolkata revealed the following:

- The Royal Calcutta Turf Club (RCTC) collected tax of Rs.6.97 crore between November 1991 and October 1993 but did not deposit it within the prescribed time. The club started paying the tax in a piecemeal manner from October 1993 to March 2005 until the tax was fully paid. However, interest could not be levied for the period upto July 2003 for delayed payment of tax due to late issue of notification. This resulted in foregoing of Government revenue of Rs.3.78 crore for the period from April 1999 to July 2003. Further, interest of Rs.2.74 crore was not levied by the Department for delayed payment of tax for the period between August 2003 and March 2005.

The RCTC was liable to pay inter state betting tax of Rs. 7.32 crore for the period from 19 December 1986 to 4 April 1990 which was not paid at all. The Public Accounts Committee (PAC), while discussing the Audit Report of 1998-99, recommended in its sixteenth report of 2002-03 in July 2003 that the State Government may set a firm deadline for recovery of dues and possession of the property at D.L. Khan Road, Kolkata from RCTC, after the expiry of which a case must be instituted for realisation of the dues as arrears of land revenue. The State Government, therefore, fixed the deadline of March 2005 in February 2005 i.e. after a lapse of 21 months. The amount has neither been received nor has any action been taken to recover the same as arrears of land revenue. Thus lack of action resulted in non-recovery of Government revenue to that extent.

6.2.13. Non-payment of entertainment tax on horse racing by RCTC

Under the AT Act, entertainment tax shall be charged on all payments for admission to horse racing for entertainment. Further, the Act defines 'admission' as admission as a spectator, an audience and a participant.

Scrutiny of records of the RCTC under the AITO, Kolkata revealed that the club received Rs.1.93 crore as entry money, entrance fee and subscription between 1999-2000 and 2003-04. However, entertainment tax was not paid by the club. The taxing officer also did not raise any demand for the payment of tax. This resulted in non-realisation of entertainment tax of Rs.1.16 crore as detailed below:

(Rupees in crore)

Year	Entry money	Entrance fee and subscription	Total	Tax payable @ 60 per cent
1999-2000	0.12	0.27	0.39	0.24
2000-01	0.12	0.22	0.34	0.20
2001-02	0.16	0.19	0.35	0.21
2002-03	0.15	0.28	0.43	0.26
2003-04	0.18	0.24	0.42	0.25
Total:			1.93	1.16

The Department stated in June 2005 that such receipts were not taxable as those were not paid by the spectators but by the persons taking part in betting on horse racing. The reply is not tenable since the provisions of the Act stipulate that all payments made for admission to horse racing as a spectator or as a participant are taxable.

Video Halls**6.2.14. Non/short levy of penalty and non-realisation of tax on/from the owners of video halls**

Under the provisions of the WBEAT Act, the owner of a video cassette recorder/player set, who makes public performance or commercial exhibition of films through these sets in rural areas, shall pay Rs.600 per week within seven days from the end of each such week. If the owner fails to pay the weekly tax within the specified period, he shall be liable to pay a penalty at the rate of Rs.10 per week till the tax is fully paid. Further, all arrears of such tax and penalty are recoverable from the defaulters, after giving one month's

notice, as an arrear of land revenue under the PDR Act by initiating a certificate case.

Non-initiation of certificate cases for realisation of arrear tax

Scrutiny of records of four AITOs revealed that 87 owners of video halls failed to make payment of weekly tax for different periods between April 1999 and August 2004. Out of these, in 49 cases demand notices were issued between April 2000 and July 2004 and in remaining 38 cases notices were not issued at all. Although in none of the cases the owners paid any tax but certificate proceedings were not initiated for recovery of arrear tax against any defaulter. This resulted in non-realisation of tax of Rs.81.95 lakh as detailed below:

(Rupees in lakh)

Name of the AITO	No. of video halls	Period of default	Amount realisable
Jalpaiguri	21	1.04.1999 to 31.8.2004	19.79
Medinipur	30	6.11.1999 to 31.3.2004	14.06
South 24 Parganas	30	1.04.1999 to 31.3.2004	44.56
Purulia	6	1.04.1999 to 22.7.2003	3.54
Total	87		81.95

The Department accepted the audit observation in June 2005. However, further action taken has not been received (October 2005).

➤ **Non/short imposition of penalty**

Scrutiny of records of AITO, Burdwan, Jalpaiguri and Purulia revealed that 28 owners of video halls failed to make payment of weekly tax within the specified period. The concerned AITOs initiated certificate cases between November 2000 and October 2004 under the PDR Act to realise the due tax. However, scrutiny of the certificate cases revealed that in seven cases no penalty was imposed while in the remaining 21 cases it was imposed short by the concerned AITOs. This resulted in non/short-imposition of penalty of Rs.50.95 lakh as detailed below:

(Rupees in lakh)

Name of the AITO	No. of video halls	Date of initiation of certificate cases between	Penalty to be imposed	Penalty included in the certificate cases	Non/Short imposition of penalty
Burdwan	17	14.11.2000 and 29.10.2004	18.63	5.85	12.78
Purulia	4	4.7.2003 and 6.1.2004	4.67	1.09	3.58
Jalpaiguri	7	17.11.2003 and 9.12.2003	34.59	Nil	34.59
Total	28		57.89	6.94	50.95

The Department accepted the audit observation in June 2005. However, further action taken has not been intimated (October 2005).

6.2.15 Poor disposal of appeal cases

Under the amusement and luxury tax laws of West Bengal, if any proprietor is aggrieved against an order of assessment he may prefer an appeal before the appellate authority within the prescribed time. However, the laws are silent about the time limit within which an appeal case should be disposed of.

Scrutiny of appeal cases in the office of the Commissioner of Agricultural Income Tax revealed that 332 appeal petitions were accepted between 1999-2000 and 2002-03, of which 166 cases were not disposed of by the appellate authority till March 2005. Age-wise analysis of 28 cases involving Rs.3.13 crore is given as under:

(Rupees in crore)

Period of pendency	No. of appeal cases	Amount blocked
More than 48 months but less than 60 months	6	0.91
More than 36 months but less than 48 months	7	0.68
More than 24 months but less than 36 months	7	0.51
More than 12 months but less than 24 months	8	1.03
Total	28	3.13

The Department attributed the reasons of poor disposal to the shortage of officers at the appellate level.

6.2.16. Conclusions and recommendations

In the absence of internal control mechanism, the Department failed to implement the provisions of the Acts and Rules effectively and was unable to keep a watch over assessment and collection of amusement tax and the Government sustained loss of revenue. The Department also failed to recover the arrear of tax by way of periodical review of pending cases and by initiation of certificate proceedings. Effective steps were also not taken by the Department to plug the loopholes in the extant Acts and Rules and to make suitable amendments for better collection of amusement tax.

The State Government may consider the following steps for effective assessment and collection of amusement tax:

- Initiation of legal proceedings against the proprietors of cinema halls for non-payment of tax in advance;
- Amendment in AT Act to specify minimum penalty for late submission of returns by proprietors of cinema halls; and
- Ensure that all clubs are brought under the tax net.

All the cases were reported to the Government in June 2005, followed by reminder issued in June 2005; their reply has not been received (October 2005).

CHAPTER VII OTHER TAX RECEIPTS

7.1 Results of audit

Test check of records in the offices dealing with assessment and collection of electricity duty, stamp duty & registration fees and other tax receipts conducted in audit during the year 2004-05, revealed underassessment/non-levy etc. of tax amounting to Rs.820.36 crore in 172 cases, which broadly fall under the following categories :

<i>(Rupees in crore)</i>			
Sl. No.	Categories	No. of cases	Amount
A. ELECTRICITY DUTY			
1.	Non-assessment/non-realisation of Electricity Duty	24	530.69
2.	Non-assessment/non-realisation of interest	7	171.75
3.	Irregular adjustment of duty	2	58.24
4.	Others	7	50.48
Total:		40	811.16
B. STAMP DUTY AND REGISTRATION FEES			
1.	Non-realisation of deficit Stamp Duty and Registration Fees	44	5.17
2.	Blockage of Government Revenue	32	1.38
3.	Others	24	1.66
Total:		100	8.21
C. OTHER TAX RECEIPTS			
1.	Profession Tax	24	0.43
2.	Luxury Tax and Agricultural Income Tax	8	0.56
Total:		32	0.99
Grand Total:		172	820.36

During the course of the year 2004-05, the concerned Department accepted underassessment etc. of Rs.558.61 crore in 130 cases of which 105 cases involving Rs.557.91 crore had been pointed out in audit during the year 2004-05 and the rest in earlier years. An amount of Rs.1.46 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.396.22 crore highlighting important observations are given in the following paragraphs:

A. ELECTRICITY DUTY

7.2 Assessment, Levy and Collection of Electricity Duty

7.2.1 Introduction

Assessment, levy and collection of electricity duty on consumption of energy within West Bengal are regulated by the Bengal Electricity Duty (ED) Act, 1935 and the West Bengal Duty on Inter State River Valley Authority Electricity (ISRV) Act, 1973 as amended from time to time and the rules framed under both the Acts. Under the ED Act, every licensee has the statutory obligation to collect electricity duty from the consumers along with its energy charges and pay the same to the State Government and furnish returns within the prescribed time. On the other hand, under the ISRV Act, every person/consumer receiving energy from the Inter State River Valley Authority, Damodor Valley Corporation (DVC) has the responsibility to pay duty directly to the State Government in a similar manner as provided in the ED Act. Non-licensees such as owners of cold storages/cinema houses etc. are liable to pay duty for consumption of energy from their unregistered generating sets for own purposes.

The Director of Electricity Duty, West Bengal administers various provisions of the ED Act and Rules with the help of Electricity Duty Officer, Administrative Officer and several Inspecting Officers posted both at headquarters in Kolkata as well as two zonal offices in Asansol and Jalpaiguri. Electricity duty officer is responsible for assessment and collection of duty in respect of licensees viz. West Bengal State Electricity Board (WBSEB) and Calcutta Electric Supply Corporation (CESC) and inspecting officers are responsible for assessment and collection of duty payable by non-licensees of the districts of South 24 Parganas, North 24 Parganas and area of supply of the licensee CESC. In respect of licensees of other districts, Collectors are responsible for assessment and collection of electricity duty.

The Chief Electrical Inspector, West Bengal is responsible for inspection of electrical installations and estimation of duty payable by the consumers of the DVC under the ISRV Act. The District Collectors are responsible for recovery of arrears under both the Acts.

7.2.2 Arrears of Electricity Duty

No record on account of uncollected electricity duty was maintained by the Department, as such, the exact amount of arrears outstanding as on 31 March 2004 could not be ascertained. Scrutiny of returns furnished by the licensee and information collected from the directorate of electricity duty and six¹ Collectorates revealed that the duty recoverable from a licensee and 389 non-licensees amounted to Rs. 207.90 crore as of 31 March 2004 as shown below :

(Rupees in crore)

Licensee / Non-licensee	Period	Recoverable duty
Calcutta Electric Supply Corporation (CESC) Ltd., Licensee	December 1990 to April 1994	117.84
	May 1994 to July 1996	88.12
389 non licensees	April 1999 to March 2004	1.94
Total		207.90

After this was pointed out between November 2004 and March 2005, the Government stated in August 2005 that after proper determination of electricity duty payable by CESC, necessary steps would be taken for realisation. In 96 cases, electricity duty of Rs.11.79 lakh had been realized from non-licensees of eight² districts at the instance of audit. Report on realisation in remaining cases has not been received (October 2005).

7.2.3 Non-realisation of Electricity Duty**From the licensees under the ED Act.**

Under the ED Act and Rules framed thereunder, every licensee is required to collect duty from its consumers and to pay the same to the State Government within 60 days and submit returns within 70 days. State Government by a notification issued in April 2001 enhanced the period of submission of returns from 70 days to 90 days.

Secretary, Finance Department directed WBSEB and CESC in March 2003 to pay electricity duty in cash to the State Government within due date with effect from 1 April 2003

• Non-raising of demand

WBSEB collected electricity duty of Rs 189.92 crore during the period from 2001 to 2003 from its consumers to whom electricity was supplied but it did

¹ Burdwan, Hooghly, Howrah, Jalpaiguri, Paschim Medinipur and Purulia

² Burdwan, Hooghly, Jalpaiguri, Kolkata, North 24 Parganas, Paschim Medinipur, Purulia and South 24-Parganas.

not deposit the same to the Government account. The Department made no efforts to recover the same and even demand notices were not issued. This resulted in non-raising of demand of Rs. 189.92 crore and unauthorized retention of Government money.

CESC Ltd. collected electricity duty of Rs. 167.90 crore from its consumers during the year 2003-04. However, it deposited only Rs.73 crore into the Government account. No action was taken to raise the demand for realising the balance amount of electricity duty of Rs. 94.90 crore from CESC. This resulted in undue benefit of Rs.94.90 crore to CESC in the form of retention of Government money unauthorisedly.

After this was pointed out in March 2005, the Government stated in August 2005 that action was being taken to assess the duty payable by the above two licensees. Report on final action taken has not been received (October 2005).

Incorrect payment of duty by the consumers under ISRV Act.

Under the ISRV Act and Rules framed thereunder, a consumer receiving energy from an inter state river valley authority is required to pay electricity duty at a prescribed rate on the units of energy consumed and to submit monthly returns in prescribed forms in prescribed manner. Where non-payment or incorrect payment of duty has been made, the assessing authority may serve notice to the person liable to pay duty for furnishing data necessary for assessment. If data are not furnished within one month, the assessing authority may assess to the best of his judgement .

Chittaranjan Locomotive Works (CLW) is liable to pay electricity duty for energy consumed in the premises used for residential purposes at the rate of 10 *per cent* of net charge for energy consumed with effect from April 1993.

• Scrutiny revealed that CLW irregularly deposited duty at the rate of eight paise per unit upto October, 2002. In spite of submission of consumption statement, no action to assess the extent of short payment of duty for the period from November 2000 to October 2002 was initiated by the assessing authority. This resulted in short realisation of duty of Rs.44.93 lakh.

After this was pointed out in February 2005, the Government stated in August 2005 that proposal for assessment of duty could not be made as the CLW did not submit the relevant records. The reply is not tenable as no steps were taken to assess the consumer on best judgement basis by the assessing authority.

- As per the provisions of the ISRV Act, electricity duty is leviable on the fuel surcharge which is to be included in gross charge of energy consumed for the purpose of payment of electricity duty.

Durgapur Steel Plant (DSP) receives energy from DVC for consumption in industrial manufacturing and domestic purposes. The DVC raised a bill for Rs.4.94 crore in March 2004 which included fuel surcharge of Rs.1.07 crore for the period from April to December 2003 for consumption of 1,43,31,510 units of energy.

Scrutiny of returns, challans and energy bills submitted by DSP revealed that fuel surcharge³ was excluded from payment of electricity duty. This resulted in short payment of electricity duty of Rs.6.61 lakh.

After this was pointed out in February 2005, the Government stated in August 2005 that the DSP had been advised in March 2005 to pay the short paid amount. Report on realisation has not been received (October 2005).

- **Non-assessment of duty**

Scrutiny revealed that three⁴ consumers neither submitted any return nor paid electricity duty for various periods between November 2001 and March 2004. No action was taken by the assessing authority to call for the consumption data for assessing the duty for the said period. This resulted in non-assessment of duty of Rs.99.22 lakh calculated on the basis of last assessment.

After this was pointed out in February 2005, the Government stated in August 2005 that proposal for assessment of two⁵ consumers had been sent to the

³ Average rate of energy charge was determined at Rs.2.70 per unit (Rs.3.88 crore/ 1,43,31,510 KWH) without taking into consideration the amount of arrear fuel surcharge. The rate of energy should be Rs.3.45 per unit (Rs.4.94 crore/1,43,31,510 KWH).

⁴ Bharat Aluminium Co.Ltd.,Chittaranjan Locomotive Works and Hindustan Cables Ltd.

⁵ Bharat Aluminium Co.Ltd., and Hindustan Cables Ltd.

Collector, Burdwan in May 2005 and the CLW authority had been requested to furnish all relevant records. Report on final outcome has not been received (October 2005).

7.2.4 Irregular excess credit in assessment

The ED Act and Rules framed thereunder provides that every licensee is required to collect duty from its consumers and pay the same to the State Government within 60 days and submit returns thereof within 70 days.

It was noticed that electricity duty of Rs.282.25 crore was due from CESC as on March 2001. Government in November 2001 issued orders for adjustment of Rs.218.68 crore, being the energy charges payable by local bodies to the corporation. However, the assessing authority adjusted the entire amount after allowing rebate of Rs. 5.54 crore resulting in excess adjustment of Rs.58.03 crore.

After this was pointed out in March 2005, the Government stated in August 2005 that the adjustment orders for Rs.58.03 crore could not be issued for want of authentication of energy bills from the concerned local bodies/authorities. After receipt of authentication, action would be taken for regularisation.

The reply of the Government was not acceptable as three more assessments have already been made in 2003-04 and in none of the assessment orders the over adjustment was regularized. Moreover, crediting of the amount in excess of that sanctioned by Government for adjustment was incorrect.

7.2.5 Incorrect deduction of electricity duty by licensees

Under the ED Act, any sum due on account of electricity duty or interest, if not paid within the prescribed period and in the prescribed manner, shall be recoverable as a public demand either from the consumer or from the licensee. For this purpose a return in Form B showing the details of defaulters of electricity duty is required to be submitted to the assessing authority within prescribed period.

Scrutiny of returns submitted by two licensees, WBSEB and CESC revealed that the licensees made less payment of electricity duty of Rs. 39.71 crore for different periods from July 1996 to March 2003. However, the licensees

neither submitted monthly returns in Form 'B' showing the details of defaulters in support of the deduction nor did the assessing authority while finalising the assessments between December 1999 and March 2003 call for the same. In the absence of this vital information the Department is not in a position to recover the duties from the defaulting consumers. This resulted in non-realisation of duty of Rs.39.71 crore.

After this was pointed out in March 2005, the Government did not furnish any specific reply.

7.2.6 Irregular allowance of rebate to CESC

Under the ED Act, a licensee shall be entitled to a rebate for his cost of collection of the duty at the rate of one *per cent* on the amount of duty collected and paid by him within 60 days after expiry of the month for which the duty relates. By a memorandum issued by the Finance Department in July 1970, all the licensees were required to deposit the entire amount of collection of electricity duty to the Government and draw the amount of rebate admissible to them at the prescribed rate by submission of bills for the purpose.

Scrutiny of records revealed that the licensee CESC collected electricity duty of Rs.769.31 crore during the period from July 1996 to March 2003 but did not pay the duty within the due date of payment. Ad-hoc payment of Rs.318.59 crore in cash was made between August 1997 and June 2003 i.e. after expiry of 13 months. The assessing authority, while making assessment of duty between December 1999 and November 2003, allowed Rs.9.50 crore towards rebate which was incorrect. This resulted in short realisation of revenue of Rs 9.50 crore by allowing undue benefit to CESC.

After this was pointed out in March 2005, the Government stated in August 2005 that for the lapse in payment of electricity duty collected, the licensee could not be penalized twice by imposing interest and denying rebate. The reply is not tenable as the rebate is an incentive for prompt collection and remittance of revenue in Government exchequer whereas the interest is a penal measure for retention of Government money. Denial of incentive in the form of rebate is not a penal measure.

7.2.7 Non/short levy of duty on energy consumed in residential complexes of Government establishments

Under the provisions of the ED Act, electricity duty shall not be leviable on the net charge for energy consumed by any Government or Railway administration, save in respect of premises used for residential purposes.

Scrutiny of records revealed that the North Frontier Railway, Katihar Division made payment of electricity duty at lesser energy tariff while two⁶ Railway and two⁷ Defence establishments did not make payment of electricity duty for consumption of energy in residential complexes during various consumption periods between April 1999 and March 2004. No action was, however, taken to assess and realize duty from the Railway and Defence Establishments resulting in non- realisation of electricity duty of Rs 1.36 crore.

After this was pointed out between November and December 2004, the Government stated in August 2005 that proposal for realisation of electricity duty from the Railway authorities had been sent between March and July 2005 to the respective District Collectors. The Defence Authorities had submitted records very recently and proposal for assessment in respect of Garrison Engineer, Hasimara had been sent to the Collector, Jalpaiguri in July 2005. Report on realisation has not been received (October 2005).

7.2.8 Non-finalisation of assessments of non-licensees

Under the ED Act, every person generating energy from diesel generating set, coal based generating plant or gas based generating plant for his own consumption in any industrial or manufacturing process (including cold storages and cinema houses) is liable to pay electricity duty at the prescribed rate if it is not registered under the Act, *ibid*.

The Inspecting Officer (Technical) is responsible for estimation of electricity duty payable by a person other than a licensee in Jalpaiguri and Paschim

⁶ North Frontier Railway – Alipurduar Division and South Eastern Railway – Kharagpur Division

⁷ Garrison Engineer – Binnaguri and Hasimara

Medinipur districts and the responsibility for assessment of electricity duty rests with the Collectors.

Scrutiny of records of Collector, Jalpaiguri and Paschim Medinipur revealed that in 21 cases electrical energy was generated and consumed from diesel generating sets for various consumption periods between June 1979 and October 2004 without registration. In Paschim Medinipur district the Inspecting Officer estimated the duty at Rs.7.24 lakh and sent the proposal for assessments to the Collector, Paschim Medinipur between May 2000 and July 2002. However, the assessment was not finalised till date. Besides, in Jalpaiguri district no estimation was made by the Inspecting Officers. Consequently, the actual amount payable could not be ascertained. However, on the basis of last assessment made the duty was estimated at Rs.3.62 lakh. Non-finalisation of the assessment resulted in non-realisation of electricity duty of Rs.10.86 lakh.

After this was pointed out between November and December 2004, the Government did not furnish any specific reply.

7.2.9 Irregular exemption of duty to CTC

The ED Act provides for exemption of electricity duty payable by some consumers for certain categories of consumption. The Calcutta Tramways Company (CTC) Ltd. is not included in the list of consumers entitled for exemption of electricity duty for consumption of energy.

Scrutiny of records revealed that the licensee CESC supplied energy to CTC but did not collect the electricity duty from the CTC erroneously treating it as an exempted unit. This resulted in loss of revenue of Rs.88.42 lakh during the period from 2000-01 to 2002-03 as detailed below:

(Rupees in lakh)

Period	HT Consumption	LT Consumption	Total Consumption	Electricity Duty leviable @ 7.5 per cent
2000-01	3,48,89,097	93,69,888	4,42,58,985	33.19
2001-02	3,10,43,002	89,23,301	3,99,66,303	29.97
2002-03	3,17,73,623	19,04,195 (upto September 2002)	3,36,77,818	25.26
Total:				88.42

After this was pointed out in March 2005, the Government stated in August 2005 that a reference, seeking authority for allowance of exemption of electricity duty to CTC, had been made with the licensee CESC in June 2005. Report on further development has not been received (October 2005).

B. STAMP DUTY AND REGISTRATION FEES

7.3 Non-realisation of deficit Stamp Duty and Registration Fees

Under the Indian Stamp Act, 1899, as applicable in West Bengal, read with Departmental circular issued in July 1998, where the registering authority has reason to believe that the market value of the property has not been truly set forth in the document presented for registration, he is authorised to register such document provisionally. Thereafter, he is required to ascertain the market value of the property and issue notice to the executant for payment of deficit stamp duty and registration fees, if any, within 30 days from the date of presentation. In the event of non-payment within the stipulated period of 30 days, the case is to be referred to the Collector/Deputy Inspector General of Registration (DIGR) within 15 days for determination of market value of the property and collection of deficit stamp duty and registration fees.

Delay at Registration Offices

Scrutiny of records of 21⁸ Registration Offices revealed that 1,146 documents presented for registration between January 2000 and July 2004 were registered provisionally. Stamp Duty was levied on the consideration of Rs.9.21 crore set forth in the instruments instead of on the market value of the property of Rs.29.74 crore. Notices for payment of deficit stamp duty and registration fees were issued but not paid by the executants within the time limit. The registering authorities did not refer those cases to the Collector/DIGR for taking necessary action. This resulted in blockage of revenue of Rs.1.50 crore.

⁸ ADSRs of Behala, Chandannagar, Domjur, Goas, Haringhata, Indus, Janai, Jangipur, Jamalpur, Kaliaganj, Kalyani, Khargram, Katwa, Mangalkote, Nimita, Ratua, Sonamukhi, Sagardighi, Singur, Tulshihata, Uluberia.

Delay at Collector Offices

Records of 19⁹ registration offices revealed between February and September 2004 that 932 instruments valued at Rs.7.12 crore instead of Market Value of Rs.26.41 crore, had been referred to the respective Collectors between April 1999 and September 2004. However, the concerned Collectors had not initiated any action although one month to 66 months had elapsed since their receipt. Absence of a monitoring system at the higher level resulted in blockage of stamp duty and registration fees of Rs.1.40 crore as determined by the registering officers.

After this was pointed out, registration officers accepted the audit observation and stated between May and September 2004 that action was being taken to realise the amount/to refer the cases to the higher authority.

The cases were reported to the Government between April and November 2004 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

C. PROFESSIONS TAX

7.4 Non-realisation of Profession Tax due to non-enrolment

Under the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, every person coming under the purview of the Act shall be liable to be enrolled and pay tax at the prescribed rates. In the event of any person failing to get himself enrolled and pay tax for any period, the prescribed authority shall assess the tax due to the best of his judgment and serve on him a notice of demand. The amount of tax shall be paid by such person within 15 days from date of receipt of the notice.

Cross verification of records of four¹⁰ unit offices of the Professions Tax with the records of seven¹¹ offices revealed that 73 owners of nursing homes/pathological laboratories, 82 cable operators, 24 kerosene oil dealers, 17 mining lease holders, 13 M.R.I. distributors, 28 licensed hotel owners, 37 licensed money lenders, 17 social function hall owners, 11 petrol/diesel pump

⁹ ADSRs of Behala, Baruipur, Bhagwangola, Chandannagar, Domjur, Egra, Janai, Jangipur, Kandi, Kaliachawk, Khargram, Narayangarh, Nabogram, Singur, Sealdah, Shyampur, Sagardighi; DR, Murshidabad and Registrar of Assurance, Kolkata.

¹⁰ South Unit-III, Medinipur, Central Unit-VII, Baruipur, West Unit-IV, Bankura and North Unit-I, Siliguri.

¹¹ Collectors, Sub-Divisional Offices, Deputy Controller of Food and Supply, Chief Medical Officer of Health, Superintendent of Excise, Municipality and Head Post Office.

owners, nine foreign liquor vendors and 11 video hall owners were not enrolled between 1999-2000 and 2002-03. This resulted in non realisation of professions tax of Rs.17.68 lakh.

After this was pointed out between July 2000 and January 2004, the Professions Tax Officer (PTO), South Unit-III, Medinipur and PTO West Unit-IV, Bankura stated in December 2003 that taxes due would be realised/action was being taken while PTOs North Unit-I, Siliguri and Central Unit-VII, Baruipur did not furnish any specific reply.

The cases were reported to the Government between October 2000 and March 2004, followed by reminders issued upto June 2005, their reply has not been received (October 2005).

CHAPTER VIII FOREST RECEIPTS

8.1 Results of audit

Test check of records of forest receipts in different Divisional Forest Offices, conducted in audit during the year 2004-05, revealed non/short realisation of revenue amounting to Rs.10.81 crore in 74 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl.No.	Categories	No. of cases	Amount
1.	Non/short realisation of revenue/ royalty	22	3.40
2.	Loss of revenue	24	6.53
3.	Non/short realisation of Sales Tax	8	0.16
4.	Others	20	0.72
TOTAL		74	10.81

During the course of the year 2004-05, the Department accepted underassessment etc. of Rs. 5.44 crore involved in 27 cases of which 15 cases involving Rs.4.87 crore had been pointed out in audit during the year 2004-05 and the rest in earlier years. An amount of Rs.31 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.5.14 crore highlighting important audit observations are given in the following paragraphs:

8.2 Loss of revenue due to lack of infrastructure for realisation of transit pass fee

The State Government by an order issued in February 2000 fixed transit pass fee of Rs.50 and Rs.75 per cubic metre (cu.m) for issue of transit pass for timber and veneer respectively imported under open general license (OGL)¹ for transportation to various places.

Scrutiny of records of Divisional Forest Officer (DFO), 24 Parganas (South) Division revealed in July 2004 that timber/veneer were imported to Kolkata through three² docks in West Bengal under OGL for transportation to various places without transit pass and realisation of transit pass fee during the period between 2000-01 and 2002-03. Although the said order was effective from the date of its issue, the same was implemented after a lapse of three years i.e. from the year 2003-04. The Department confirmed that a quantity of 2.5 lakh cu.m. of timber/veneer had been imported per year under OGL. Failure to collect the transit pass fee during the intervening period of three years resulted in loss of revenue of Rs.3.75 crore calculated at the minimum rate of transit pass fee of Rs.50 per cu.m on 7.5 lakh cu.m of timber/veneer.

After this was pointed out, the DFO stated that the said order for realisation of transit pass fee was not given effect from the date of its issue due to lack of infrastructure. Reasons for not providing adequate infrastructure for immediate implementation of Government order were not furnished and the fact remained that delayed action on the part of the Department led to loss of such huge revenue.

Government to whom the matter was forwarded, agreed to review the matter and stated in August 2005 that some remedial measures had been contemplated. Report on remedial measures taken has not been received (October 2005).

8.3 Short realisation of revenue due to irregular deduction of project advance and service charge

The Government accorded administrative approval in their order dated 28 January 2004 to a project on Infrastructure Development and Joint Forest Management (ID & JFM) support activity in North Bengal. Working

¹ OGL – Open general license is an import license issued by the Government of India.

² Khidirpur, Falta and Haldia.

procedure for implementation of the project provides that the West Bengal Forest Development Corporation (WBFDC) will entirely finance the timber operation and firewood operation costs together with infrastructural cost and recover the same from sales relating to the project. Money advanced for infrastructure is to be adjusted in the same year. Moreover, the working procedure, *inter alia*, provides for deduction of service charge of the project at the rate of 17 per cent from net sale proceeds³ by the WBFDC before remittance of net revenue⁴ to the Government after the commencement of the project. In case of non-project work, the admissible deduction towards service charge was 10 per cent of the net sale proceeds of timber.

Scrutiny of records of three forest offices⁵ revealed that WBFDC collected revenue of Rs.4.82 crore during July and December 2003. Out of this, the Corporation did not remit Rs.85.92 lakh to the concerned forest division, treating it as project advance for financing operation costs under ID and JFM Project. Since the work had been completed before issue of orders dated 28 January 2004, the deduction made was inadmissible. Besides, service charge were deducted at the rate of 17 per cent instead of 10 per cent on the net sale proceeds of timber valued at Rs.7.56 crore. This irregular deduction of project advance of Rs.85.92 lakh together with excess deduction of service charge of Rs.52.89 lakh resulted in total short realisation of revenue of Rs.1.39 crore.

After this was pointed out, the concerned offices stated between August 2004 and March 2005 that the matter had been taken up with the WBFDC.

Government to whom the cases were reported, agreed in July 2005 to review the matter. Report on further action taken has not been received (October 2005).

8.4 Loss of revenue due to delayed remittance of sale proceeds of timber

Under the provisions of the West Bengal Financial Rules, all moneys received by or on behalf of the Government either as dues of Government or for deposit, remittance or otherwise shall be brought into Government Account without delay. According to the existing procedure, the harvesting of timber

³ Net sale proceeds = Gross sale proceeds – Operational cost

⁴ Net revenue = Net sale proceeds – service charge.

⁵ DFD, BTR(East), DFD, BTR(West) and DFO, Jalpaiguri Division.

and disposal thereof is entrusted to the WBFDC. The WBFDC is required to remit the revenue realised from sales to the concerned DFO after deduction of usual charges. The present procedure does not provide for charging of interest for delayed remittance of revenue.

Scrutiny of records of two⁶ Forest Offices revealed between February and August 2004 that WBFDC remitted net revenue of Rs.3.25 crore between March 2002 and January 2004 to the concerned Forest Offices on account of sale proceeds of timber though the amount was realised between April 2001 and June 2003. Absence of provision for interest on delayed remittance of revenue by two to 14 months resulted in potential loss of revenue of Rs.15.39 lakh calculated at borrowing rates of interest varying between 8.25 and 9.25 *per cent* prevailing between 2001-02 and 2003-04.

After this was pointed out, both the forest officers stated between March and August 2004 that the matter would be taken up with WBFDC. Report on further development has not been received (October 2005).

Government to whom the cases were reported, agreed in July 2005 to contemplate minimization of the time gap. Report on further action taken has not been received (October 2005).

⁶ DFO, Kurseong Division, : DFD, BTR(West), Alipurduar

CHAPTER IX MINES AND MINERALS

9.1 Results of audit

Test check of records relating to receipts from mines and minerals under different District Land and Land Reforms (DL & LR) offices and Chief Mining Office conducted in audit during the year 2004-05, revealed underassessment, non/short realisation of revenue amounting to Rs.6.09 crore in 95 cases, which broadly fall under the following categories :

<i>(Rupees in crore)</i>			
Sl. No.	Categories	No. of cases	Amount
1.	Non/short assessment of cesses on minor/major minerals	13	0.77
2.	Non/short realisation of price of minor minerals extracted unauthorisedly	35	2.89
3.	Non/short assessment/realisation of surface/dead rent.	5	1.25
4.	Non/short assessment/realisation of royalty and cesses	23	0.66
5.	Other cases	19	0.52
	Total	95	6.09

During the course of the year 2004-05, the concerned Department accepted underassessment etc. of Rs.3.94 crore in 75 cases of which 65 cases involving Rs.3.42 crore had been pointed out in audit during the year 2004-05 and the rest in earlier years. An amount of Rs.2.20 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.2.23 crore highlighting important observations are given in the following paragraphs:

9.2 Non/short realisation of revenue from minor minerals extracted unauthorisedly

Under the provisions of the Mines and Minerals (Regulation and Development) Act, 1957, as amended in 1972 and the Rules made thereunder no person is entitled to undertake any mining operation in any area except under the authority of a valid quarry permit/mining lease. In the event of unauthorised extraction of minor minerals, apart from other penal action, the Department is empowered to recover either the minerals raised unlawfully, or, where such minerals have already been disposed of, the price thereof. Government clarified in August 1981 that quantity of minor minerals extracted or removed in excess of the quantity permitted should also be treated as unauthorised extraction and price thereof should be realised. By an order issued in September 1984, the Board of Revenue; West Bengal fixed the market price of brickearth at Rs.30 per 100 cft. for 1981 with an increase of Rs.1.50 per 100 cft. each year till a new price is fixed by the Director of Mines and Minerals, West Bengal. The price of boulder/stone was fixed at Rs.112.50 per 100 cft. The Department keeps watch over the extraction of minerals through revenue inspectors under the control of the respective Block Land and Land Reforms Officer.

9.2.1 Scrutiny of records of eight¹ District Land and Land Reforms (DL & LR) Offices revealed that in 261 cases brick-field owners and other agencies extracted 244.92 lakh cft of earth for the purpose of manufacturing bricks and other purposes without any valid quarry permit between 2000-01 and 2003-04. The illegal extractions were detected by revenue inspectors under the Block Land and Land Reforms Officers but DL & LR Officers failed to take action to recover the price of brick earth. Out of the total realisable amount of Rs.1.52 crore as price of brick earth the district authorities could realise only Rs.26 lakh. This resulted in non/short realisation of Rs.1.26 crore.

9.2.2 Scrutiny of records of two² DL & LR Offices revealed that in 95 cases quarry permit holders extracted 79.10 lakh cft. of boulder/stone/brick earth in excess of the permitted quantity of 77.35 lakh cft. between 2000-01 and 2003-04.

¹ Coochbehar, Darjeeling, Hooghly, Howrah, Malda, Murshidabad, Nadia and Uttar Dinajpur.

² Birbhum and Uttar Dinajpur.

As against the total realisable amount of Rs.53.11 lakh as price of boulder/stone extracted unauthorisedly, the district authority realised Rs.7.23 lakh only resulting in short realisation of price of Rs.45.88 lakh.

Thus there was a total non/short realisation of Rs.1.72 crore as price of earth and boulder/stone.

After this was pointed out, the district authorities stated between June 2003 and December 2004 that action was being taken to realise the dues.

Government to whom the cases were reported, agreed in July 2005 to look into the matter. Report on further action taken has not been received (October 2005).

9.3 Non/short realisation of cesses on minor minerals

Under the provisions of the Cess Act, 1880, as amended in 1984, read with the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976, holders of quarry permits under the West Bengal Minor Minerals Rules, 1973, are liable to pay different kinds of cesses³ at rates of Rs.2.50 per MT of minor minerals extracted and despatched from the quarry-site with effect from 1 June 1987.

Scrutiny of records of three⁴ DL & LR Offices revealed that in 252 cases the quarry permit holders extracted and despatched 341.15 lakh cft. of minor minerals during the period between 2000-01 and 2003-04. The district authorities failed to realise cesses in 153 cases for extraction of 192.32 lakh cft. of minor minerals as well as made short realisation in 99 cases for extraction of 148.33 cft. of minor minerals. This resulted in non/short realisation of cesses amounting to Rs.36.10 lakh.

After this was pointed out, the district authorities stated between September 2003 and December 2004 that steps were being taken to realise the dues.

Government to whom the cases were reported, agreed in July 2005 to look into the matter. Report on further action taken has not been received (October 2005).

³Public Works Cess – 50 paisa, Road Cess- 50 paisa, Primary Education cess – Re.1 and Rural Employment Cess – 50 paisa. 100 cft. of earth equivalent to 6 MT

⁴ Hooghly, Howrah and Nadia

9.4 Short realisation of royalty on minor minerals due to application of lower rate

Under the West Bengal Minor Minerals Rules, 1973, extraction of minor minerals is permissible on the strength of a quarry permit issued by the Collector on realisation of royalty and other dues in advance at rates as prescribed by the Government. The rate of royalty on earth, sand and stone/boulder was revised with effect from 8 November 2002.

Scrutiny of records of five⁵ DL & LR Offices revealed that the district authorities granted 363 quarry permits for extraction of 86.47 lakh cft. of minor minerals between 8 November 2002 and 31 March 2003 on realisation of royalty of Rs.20.12 lakh instead of Rs.35.06 lakh due to application of rates lower than the revised rate. This resulted in short realisation of royalty of Rs.14.94 lakh.

After this was pointed out, the district authorities stated between June 2003 and September 2004 that action would be taken to realise the dues.

Government to whom the cases were reported, stated in July 2005 that revenue would be realised. However, further report on realisation has not been received (October 2005).

⁵ Cooch Behar, Darjeeling, Jalpaiguri, Murshidabad and Nadia.

CHAPTER X OTHER NON-TAX RECEIPTS

10.1 Results of audit

Test check of records relating to receipts from Irrigation and Waterways and other Departments conducted in audit during the year 2004-05, revealed underassessment, non-realisation and short realisation of revenue amounting to Rs.136.62 crore in 74 cases, which broadly fall under the following categories:

<i>(Rupees in crore)</i>			
Sl.No.	Categories	No. of cases	Amount
1.	Loss of revenue	39	22.95
2.	Non-levy and non-realisation of lease rent	3	0.04
3.	Non-realisation/short levy of interest	2	48.75
4.	Non/short realisation of water rate	5	1.89
5.	Others	25	62.99
	Total	74	136.62

During the course of the year 2004-05, the concerned Department accepted underassessment etc. of Rs.14.89 crore in 34 cases of which 25 cases involving Rs.13.97 crore had been pointed out in audit during the year 2004-05 and the rest in earlier years. An amount of Rs. 7 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.16.65 crore highlighting important observations are given in the following paragraphs:

A. RECEIPTS FROM IRRIGATION AND WATERWAYS

10.2 Foregoing of revenue due to non-issue of notification

As per West Bengal Irrigation (Imposition of Water Rate) Act, 1974, "notified area" means any area in respect of which State Government has by a notification issued, under sub-section (2) of Section 5, declared its intention to impose a water rate. The liability of payment of water rate shall be on the occupiers of land included in the notified area in which water rate is imposed. The rate of water rate for kharif, rabi and boro was Rs.15, Rs.20 and Rs.50 per acre respectively.

Scrutiny of records of 12 engineering divisions in four districts revealed that 19 irrigation schemes were completed between 1975-76 and 1993-94. Out of these, nine engineering divisions under Watershed Management Project created irrigation potential by back feeding of tidal water. Information collected from Irrigation Department and annual plan on Agriculture issued by the District Principal Agricultural Officers revealed that 36,75,994 acres of land were benefited from the schemes during the period from 1999-2000 to 2003-04. However, the areas benefited by irrigation were not declared as notified area and no assessment and collection of water rate was made. This resulted in foregoing of revenue of Rs.13.09 crore as detailed below:

(Rupees in crore)

Name of the district	No. of Engineering Divisions	No. of schemes	Total area irrigated during 1999-2000 to 2003-04 (in acre) K = Kharif R = Rabi B = Boro	Revenue Foregone		Source of information
				Cropwise Loss	Total	
Purulia	3	17	K - 1,57,259 R - 28,816	K - 0.24 R - 0.05	0.29	Irrigation Divisions
South 24 Parganas	5	Peali	K - 9,39,365 R - 2,13,050 B - 80,870	K - 1.41 R - 0.43 B - 0.40	2.24	*
		Tidal Irrigation	K - 2,08,251 B - 5,72,803	K - 0.31 B - 2.87	3.18	
Howrah	2	Do	B - 4,55,317	B - 2.28	2.28	**
East Medinipur	2	Do	B - 10,20,263	B - 5.10	5.10	**
Total	12		36,75,994		13.09	

* Performance evaluation report issued by Institute for Resource Management and Economic Development issued by Dist. Principal Agricultural Officer

** Annual Plan on Agriculture issued by Dist. Principal Agricultural Officer

After this was pointed out in February 2005, the engineering divisions of Purulia district stated that necessary steps would be taken for issue of notification; the other engineering divisions did not furnish any specific reply. The Department stated, as regards tidal irrigation schemes, that action was being taken for issue of notification.

10.3 Non-realisation of water rate

As per the procedure, engineering divisions provide irrigation and prepare test notes of the area benefited by irrigation and on receipt of the test notes, the concerned revenue divisions assess and thereafter publish the final assessment list of water rates for collection.

➤ Non-preparation of test notes

The engineering divisions prepare test notes of actual irrigated area by physical verification of plots with the assistance of works-khalasis which are sent to revenue divisions for assessment and collection.

Scrutiny of records of four¹ engineering divisions in Purulia and Bankura districts revealed that in 19 notified schemes, covering an area of 1,96,439 acres, and 15,791 acres of land were irrigated during kharif and rabi seasons respectively between 1999-2000 and 2003-04. However, test notes in respect of only 10 schemes with an area of 93,254 acres for kharif were sent to the respective revenue divisions for assessment of water rate. Test notes of the remaining nine schemes having 1,03,785 acres for kharif and 15,791 acres for rabi were not prepared and sent to the revenue officers for assessment of water rate. This resulted in non-realisation of Rs.18.64 lakh for the period between 1999-2000 and 2003-04.

After this was pointed out, the Executive Engineer, Purulia Construction, Purulia Investigation & Planning, and Purulia Irrigation Division stated in February 2005 that an attempt would be made for the preparation and submission of test notes; while the Executive Engineer, Right Bank Irrigation Division stated that test notes were under preparation.

¹ Purulia Construction Division, Purulia Investigation & Planning Division, Purulia Irrigation Division and Right Bank Irrigation Division

➤ **Arrears in assessment**

Scrutiny of records of five² revenue divisions revealed that, test notes of kharif and boro crops involving 14,22,635 acres and 5,06,781 acres respectively were received by these revenue divisions during the period between 1999-2000 and 2003-04. But assessment for only 12,99,992 acres of kharif crops was completed by four³ revenue divisions upto March 2005. Assessment of 1,22,643 acres of kharif and 5,06,781 acres of boro area was not completed till March 2005. This resulted in non-assessment and non-realisation of revenue of Rs.2.72 crore as detailed below:

Year	Total test note received	Total area assessed (In acres)	Assessment in arrear (In acres)	Non-realisation of revenue (Rs. in crore)
			Cropwise K (Kharif) @ Rs.15 per acre B (Boro) @ Rs.50 per acre	
1999-2000	4,13,502	2,56,730	K - 32,605 B - 1,24,167	0.67
2000-01	3,68,874	2,56,730	K - 27,143 B - 85,001	0.46
2001-02	3,82,003	2,63,359	K - 27,611 B - 91,033	0.50
2002-03	3,96,472	2,66,445	K - 26,192 B - 1,03,835	0.56
2003-04	3,68,565	2,56,728	K - 9,092 B - 1,02,745	0.53
Total	19,29,416	12,99,992	K - 1,22,643 B - 5,06,781	2.72

After this was pointed out in February 2005, the Damodar Irrigation Revenue Division-II agreed to complete the arrear assessment whereas the other revenue offices did not furnish any specific reply (October 2005).

10.4 Non/Short assessment of water-rate

Under the West Bengal Irrigation (Imposition of Water-Rate) Act, 1974, the owners of land receiving benefit of irrigation in different crop seasons are required to pay water rates as prescribed by Government from time to time. Assessment of water-rates is made by the respective revenue division on receipt of test notes from the engineering divisions of the Irrigation and Waterways Department. According to the instruction issued by the Department in June 1977, any difference between the areas irrigated shown by

² Canal Revenue Divn., Medinipur, Damodar Canal Revenue Divn., Damodar Irrigation Revenue Divn. II, Mayurakshi Canal Divn. - I, Purulia Revenue Unit

³ Canal Revenue Division, Medinipur, Damodar Irrigation Revenue Division II, Mayurakshi Canal Division-I and Purulia Revenue Unit

the engineering divisions and assessment figure as shown by the revenue divisions should be reconciled by both the offices within a period of one month.

Scrutiny of records of the Revenue Officer, Kangshabati Revenue Division-II, Bishnupur revealed in September 2004 that no assessment of water rates for boro and rabi crops for the years 1999-2000 to 2000-01 and 2000-01 to 2003-04 respectively was made in spite of receipt of test notes from the engineering divisions. Furthermore, in the case of kharif crop the total irrigated area as per test notes was 8.27 lakh acres during the period between 2000-01 and 2003-04 but the assessment was made on 6.43 lakh acres, the reason for which was neither stated nor reconciled with the records of the engineering division. This led to non/short assessment of Rs.59.54 lakh as detailed below:

Assessment Year	Irrigation Season	Area irrigated as per test notes (acre)	Rate (per acre) (Rs)	Amount of water rate assessable (area x rate) (Rs in lakh)	Amount of water rate assessed (area x rate) (Rs in lakh)	Non/short assessment of water rate (Rs in lakh)
1999-2000 to 2000-01	Boro	20,903	50.00	10.45	NIL	10.45
2000-01 to 2003-04	Rabi	1,07,463	20.00	21.49	NIL	21.49
2000-01 to 2003-04	Kharif	8,26,983	15.00	124.05	96.45	27.60
Total						59.54

The cases were reported to Government in October 2004 followed by reminders issued upto June 2005; their reply has not been received (October 2005).

B. RECEIPTS FROM OTHER DEPARTMENTS

10.5 Short receipt of Government revenue due to allowance of inadmissible rebate on interest

The Industrial Reconstruction Department (IRD) sanctioned a soft loan of Rs.3 crore to M/s Standard Pharmaceuticals Ltd. in September 2001 under the West Bengal Industrial Renewal Scheme, 2001. The loan was recoverable annually along with interest at the rate of 8.75 *per cent* per annum. A rebate of two *per cent* was admissible for payment of interest in time. The due date for payment of interest for the first year was September 2002.

Scrutiny disclosed that the loanee paid first instalment of interest in September 2003 i.e. after a lapse of 11 months from the due date. However, the Department allowed rebate to the loanee in contravention of the provision of

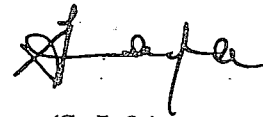
Audit Report (Revenue Receipts) for the year ended 31 March 2005

the scheme. This resulted in short receipt of interest of Rs.6 lakh due to allowance of inadmissible rebate on interest.

This was pointed out to the Department in September 2004. No specific reply was furnished.

The case was reported to the Government in September 2004 followed by a reminder issued in June 2005; their reply has not been received (October 2005).

Kolkata,
The

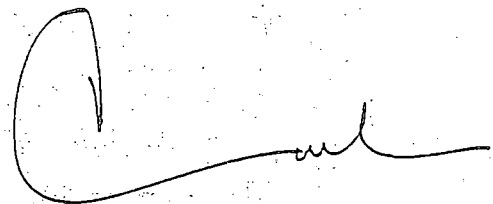


(S. Jafa)

Accountant General (Receipt, Works and Local Bodies Audit)
West Bengal

Countersigned

New Delhi,
The



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