



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

FOR THE YEAR ENDED 31 MARCH 2003

(REVENUE RECEIPTS)

GOVERNMENT OF ORISSA

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PREFACE

This report for the year ended 31 March 2003 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, taxes on motor vehicles, land revenue, stamp duty and registration fees, State excise, forest receipts, mining receipts and other departmental 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 2002-2003 as well as those noticed in earlier years but which could not be covered in the previous years' Reports.

OVERVIEW

1 General

This report contains 57 paragraphs including 3 reviews relating to under-assessment/short-levy/non-levy etc. involving Rs.281.31 crore. Some of the major findings are mentioned below:

- (i) The Government's total revenue receipts for the year 2002-2003 amounted to Rs.8,438.77 crore. Of this 45.42 *per cent* was raised by the State - Rs.2,871.84 crore through tax revenue and Rs.961.18 crore through non-tax revenue and 54.58 *per cent* was received from the Government of India - Rs.2,805.58 crore in the form of State's share of divisible Union taxes and Rs.1,800.17 crore as grants-in-aid.

{Para 1.1}

- (ii) Test check of records of Sales Tax, Motor Vehicles Tax, State Excise, Mines and Minerals, Land Revenue, Forest and Other Departmental offices conducted during the year 2002-2003 revealed under-assessment, short-levy/loss of revenue etc. amounting to Rs.447.09 crore in 1,10,933 cases. During the year 2002-2003, the concerned departments accepted under-assessment etc. of Rs.39.24 crore, involving 43,107 cases pointed out during 2002-2003 and earlier years.

{Para 1.11}

- (iii) As on 30 June 2003, 3,655 inspection reports issued upto December 2002 containing 11,081 audit observations involving Rs.1,446.54 crore were outstanding for want of comments/final action by the concerned departments.

{Para 1.12}

2 Sales Tax

- (i) A review, "**Levy, collection and remittance of sales tax by Public Works Departments**", revealed the following:

- (a) Award of work to unregistered contractors by splitting up of each work into less than Rs.1.00 lakh led to non-deduction of tax at source and loss of revenue of Rs.8.46 crore.

{Para 2.2.8}

- (b) Cross verification of records of Sales Tax office with that of Public Works Divisions revealed escapement of tax of Rs.2.86 crore including penalty due to concealment of gross turnover.

{Para 2.2.9}

- (c) Penalty of Rs.30.26 crore was not levied against the defaulting Divisional officers for the delayed payment of tax deducted in 6758 cases.

{Para 2.2.10(b)}

- (ii) There was short levy of tax of Rs.4.08 crore due to incorrect exemption granted to 7 small scale units and one large scale unit.

{Para 2.3}

- (iii) Irregular exemption from payment of Central Sales Tax to an assessee on his inter-State sale without any purchase particulars as to proof of tax-suffered material, led to short levy of tax of Rs.1.10 crore including penalty.

{Para 2.5}

- (iv) Incorrect determination of intra-state sale as inter-state sale led to under-assessment of tax of Rs.1.04 crore.

{Para 2.6}

- (v) Contravention of provision by utilising goods for sale as raw material for manufacture led to under-assessment of tax of Rs.65.77 lakh.

{Para 2.7}

- (vi) Short determination of taxable turnover resulted in short levy of tax of Rs.33.19 lakh including penalty.

{Para 2.9(1)}

- (vii) Short determination of purchase turnover led to under-assessment of purchase tax of Rs.26.46 lakh.

{Para 2.11}

3 Motor Vehicles Tax

- (i) Non-adherence to financial provisions by the Regional Transport Officer led to short accountal/misappropriation of Government revenue of Rs.26.20 lakh.

{Para 3.2}

- (ii) Motor vehicles tax and additional tax including penalty amounting to Rs.14.43 crore was not realised in respect of 6,076 goods vehicles which had valid route permits.

{Para 3.3}

- (iii) Tax and penalty of Rs.3.33 crore was not realised in respect of 1,728 contract carriages.

{Para 3.4}

- (iv) Motor vehicles tax, additional tax and penalty of Rs.2.76 crore was not realised in respect of 3,508 Tractor-trailor combination as they were neither covered by off-road declaration nor tax was paid in other regions.

{Para 3.5}

4 Land Revenue, Stamp Duty and Registration Fees

- (1) A review, "Arrears in assessment and collection of land revenue", revealed the following:-

- (a) Adoption of lower market value resulted in short assessment of premium and ground rent of Rs.1.24 crore.

{Para 4.2.7(a)}

- (b) Rs.28.07 crore was not realised due to non finalisation of alienation cases.

{Para 4.2.7(b)}

- (c) Government land valued at Rs.1.23 crore was encroached upon by Satya Sai Medical College Hospital since 1993-94.

{Para 4.2.8}

- (d) Premium and ground rent of Rs.5.58 crore was not realised for conversion of agriculture land for non-agriculture purpose.

{Para 4.2.9(a)}

- (e) Salami rent of Rs.3.08 crore was not realised due to non settlement of bebondobasta land.

{Para 4.2.9(b)}

- (f) Royalty on unauthorised lifting of minor minerals valued at Rs.14.89 crore was not realised.

{Para 4.2.10(a)}

- (ii) Cross-verification of records of Tahasil offices with reference to 232 documents revealed that Kissam of land was incorrectly setforth with lower value for which there was loss of stamp duty and registration fees of Rs.87.98 lakh and fine of Rs.11.60 lakh.

{Para 4.3}

5

State Excise

- (i) Delay in issuing licences due to non-finalisation of modalities for supply of country spirit resulted in loss of revenue of Rs.5.12 crore on account of licence fee.

{Para 5.2}

- (ii) There was non-levy of excise duty/fine of Rs.2.61 crore on short production of India Made Foreign Liquor in bottling plants with reference to Minimum Guaranteed Quantity.

{Para 5.4(a)}

6

Forest Receipts

- (i) There was a loss of revenue of Rs.28.06 crore by way of royalty due to non-working of bamboo coupes in the bamboo potential Forest Divisions of the State.

{Para 6.2}

- (ii) Demand of royalty of Rs.3.78 crore was not raised.

{Para 6.3}

- (iii) Interest amounting to Rs.90.91 lakh on belated payment of royalty was not levied.

{Para 6.4}

7

Mining Receipts

- (i) There was non-levy of interest of Rs.94.20 lakh on belated payment of mining dues.

{Para 7.3}

- (ii) Delay in disposal of seized minerals led to blocking of revenue of Rs.89.00 lakh.

{Para 7.4}

- (i) A review, "**Non-realisation of house licence fee, room rent and service charges**", revealed the following:

- (a) Non-realisation of house licence fee from residential quarters and non-residential buildings under the control of General Administration (Rent) Department led to blocking of revenue of Rs.9.12 crore by way of rent.

{Para 8.2.7(ii)(iii)}

- (b) House licence fee of Rs.6.66 crore remained unrealised due to un-authorised grant of rent free quarters by the Irrigation Department.

{Para 8.2.8}

- (c) There was blocking of Government revenue of Rs.3.94 crore due to non-realisation of house licence fee by the Roads & Buildings Department.

{Para 8.2.9}

- (ii) Allowance of concessional rate to M/s Indian Metal & Ferro Alloys Ltd. led to loss of electricity duty of Rs.4.85 crore and interest of Rs.2.09 crore.

{Para 8.3}

- (iii) Rs.4.05 crore of electricity duty on auxiliary consumption of energy was not realised from M/s Indian Charge Chrome Ltd

{Para 8.4}

- (iv) Failure to realise electricity duty at the revised rate from M/s Indian Charge Chrome Ltd. resulted in loss of Rs.2.47 crore.

{Para 8.5}

- (v) There was suppression of realisable electricity duty of Rs.19.00 crore due to adoption of adhoc rate of increase of arrears and non-reconciliation of ED accounts with private Distribution Companies by the Chief Electrical Inspector.

{Para 8.7}

CHAPTER-1 : GENERAL

1.1 Trend of Revenue Receipts

1.1.1 The tax and non-tax revenue raised by the Government of Orissa during the year 2002-2003, 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)					
	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003
I Revenue raised by State Government					
(a) Tax Revenue	1487.13	1704.08	2184.03	2466.88	2871.84
(b) Non-Tax Revenue	557.49	716.48	685.47	691.75	961.18
Total	2044.62	2420.56	2869.50	3158.63	3833.02
II Receipts from Government of India					
(a) State's share of divisible Union taxes	1694.52	1748.45	2603.97	2648.72	2805.58 ¹
(b) Grants-in-aid	815.26	1715.63	1428.55	1240.64	1800.17
Total	2509.78	3464.08	4032.52	3889.36	4605.75
III Total Receipt of the State Government (I+II)	4554.40	5884.64	6902.02	7047.99	8438.77
IV Per centage of I to III	44.89	41.13	41.57	44.82	45.42

¹ For details, please see Statement No.11-Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of the Government of Orissa for the year 2001-2002. Figures under the minor head 901-Share of net proceeds assigned to States under the major heads 0020-Corporation Tax; 0021-Taxes on Income other than Corporation Tax; 0028-Other Taxes on Income and Expenditure; 0032-Taxes on Wealth; 0037-Customs; 0038-Union Excise Duties; 0044-Service Tax and 0045-Other Taxes and Duties on Commodities and Services booked in the Finance Accounts under A-Tax Revenue have been excluded from the Revenue raised by the State and exhibited as State's share of divisible Union taxes.

(a) The details of the tax revenue raised during the year 2002-2003 along with figures for the preceding four years are given below:

(Rupees in crore)						
Heads of Revenue	1998-99	1999-2000	2000-2001	2001-2002	2002-03	Per centage of increase (+) or decrease (-) in 2002-2003 over 2001-2002
1. (a) Sales Tax	930.84	1061.74	1293.99	1350.51	1532.69	(+) 13.49
(b) Central Sales Tax	40.25	45.81	48.13	51.82	72.53	(+) 39.96
2. Taxes and Duties on Electricity	110.13	127.20	146.71	136.96	172.17	(+) 25.71
3. Land Revenue	58.57	50.46	53.26	84.48	82.16	(-) 2.75
4. Taxes on Vehicles	143.18	155.53	178.17	216.37	257.35	(+) 18.94
5. Taxes on Goods and Passengers	0.01	34.18	194.04 ²	252.04	313.07	(+) 24.21
6. State Excise	109.67	114.82	135.31	197.46	246.06	(+) 24.61
7. Stamp Duty and Registration Fees	87.59	102.01	108.52	109.76	135.86	(+) 23.78
8. Other Taxes and Duties on Commodities and Services	6.89	12.33	14.60	27.62	13.34	(-) 51.70
9. Other Taxes on Income and Expenditure-Tax on Professions, Trades, Callings and Employments	--	--	11.30 ³	39.86	46.61	(+) 16.93
Total	1487.13	1704.08	2184.03	2466.88	2871.84	

The reasons for variations in respect of the following items as furnished by the concerned departments were as under:

(a) *Taxes on Vehicles*: The increase was stated to be due to revision of taxation rates, increase in vehicle population, better enforcement activities and effective supervision etc.

(b) *State Excise*: The increase was stated to be due to revision of various fees such as export, import of IMFL beer, label and registration fees, distilling and bottling plant licence fees, storage fee etc.

Reasons for variation in respect of other taxes and duties on commodities and services, stamp duty and registration fees and taxes on duties on Electricity duty from the departments concerned have not been received (November 2003).

2 Represents tax on "Entry of goods into local areas introduced in the State from 1 December 1999.

3 Represents tax on "Professions, Trades and Employment" introduced in the State from 1 November 2000.

(b) Details of non-tax revenue realised during the year 2002-2003 alongwith the figures for the preceding four years are given below:

(Rupees in crore)							
Heads of Revenue	1998-99	1999-2000	2000-2001	2001-2002	2002-03	Per centage of increase (+) or decrease (-) in 2002-2003 over 2001-2002	
1 Non-ferrous Mining and Metallurgical Industries	314.05	320.09	360.33	378.56	443.58	(+)	17.18
2 Forestry and Wild Life	87.30	95.78	84.79	87.95	97.04	(+)	10.34
3 Interest Receipts	19.62	19.46	13.09	25.27	76.09 ⁴	(+)	201
4 Education	12.49	15.11	19.91	24.98	24.31	(-)	2.68
5 Irrigation & Inland Water Transport	13.79	10.51	20.16	18.40	24.70	(+)	34.24
6 Public Works	8.02	8.80	15.40	13.99	13.69	(-)	2.14
7 Police	8.71	10.17	21.44	19.23	13.37	(-)	30.47
8 Medical and Public Health	8.06	11.20	10.07	10.15	11.24	(+)	10.74
9 Power	1.87	2.72	3.20	3.18	2.94	(-)	7.55
10 Miscellaneous General Services	15.65	19.75	8.20	13.92	10.41	(-)	25.22
11 Other Non-Tax Receipts	52.92	181.259	111.363	82.653	227.96 ⁵	(+)	175.79
12 Co-operation	0.98	1.06	1.70	1.94	2.09	(+)	7.73
13 Other Administrative Services	14.03	20.57	15.81	11.52	13.71	(+)	19.01
14 Diary development		0.001	0.007	0.007	0.05	(+)	614
Total	557.49	716.48	685.47	691.75	961.18		

The reasons for variations for the following items as furnished by the concerned Departments were as under.

(a) **Non-Ferrous Mining & Metallurgical Industries:** The increase was stated to be due to upward revision of rates on royalty on coal and increase in dispatch of coal.

(b) **Forestry and Wild life:** The increase was stated to be due to payment of more royalty by Orissa Forest Development Corporation (OFDC Ltd.) towards *Kendu* leaves.

4 Interest receipts includes Rs.58.28 crore realised from Public Sector and other Undertakings.

5 Includes receipt of dividend of Rs.152.22 crore realised from OPGC under dividend head.

(c) **Police** : The reason for decrease in respect of Police receipts was stated to be due to non-collection of arrears from South Eastern Railways, Other State Governments and other parties.

Reasons for variations relating to *education, interest, irrigation and inland water transport* have not been received in August 2003 though called for.

1.2 Initiative for Mobilisation of Additional Resources

Government of Orissa on 11 October 2001, agreed to implement certain time bound fiscal reform measures enumerated in the Memorandum of Understanding (MOU) signed with Government of India for augmentation of Government revenue.

Scrutiny of the relevant records during the course of audit and information made available to audit in respect of implementation of specific time bound measures revealed the following position.

I Resource Mobilisation Measures

Sl. No.	Taxation measures	Action to be taken	Date by which action to be taken	Present position
1	Bringing new forms of entertainment like cable TV, Satellite TV, Video Halls, Jatra and entertainment in hotels and restaurants under the tax net.	New legislation to substitute the present Act of 1946.	December, 2001	New legislation for Entertainment Tax Act was stated to be under consideration of Government (July, 2003)
2	Introduction of Excise Adhesive Labels (EAL)	Notification to be issued.	December, 2001	Originally introduced from April 2001 @ Re.0.50 to Rs.2.00 depending upon pack size and nature of liquor. However, the manufacturers moved the Hon'ble High Court against the high rates of EAL. Subsequently, Government revised the rate to Rs.0.20 per EAL from February 2002. Hence, no EAL fees could be recovered during April 2001 to January 2002.
3	Revision of electricity duty and levy at the generation point to reduce loss of revenue on transmission and distribution loss.	Notification to be issued.	December, 2001	Not implemented as of July, 2003. It was stated to be under process of examination.
4	Levy of premium on conversion of agriculture land for non-agriculture purpose.	Notification to be issued.	December, 2001	Not implemented as of July, 2003.
5	To bring every flat under lease rent instead of the existing practice of charging lease rent for one plot only irrespective of the number of storeys in apartments.	-	December, 2001	Not implemented as of July, 2003. The matter was stated to be under active consideration (July 2003).

Sl. No.	Taxation measures	Action to be taken	Date by which action to be taken	Present position
6	Enhancement of the existing rate of M.V. tax on contract and stage-carriages keeping it at par with the rate prevailing in the neighbouring States.	Notification to be issued.	December, 2001	Implemented from January, 2002.
7	Expansion of luxury tax base.	Amendment of the existing Act	March, 2002	The Act was amended in November, 2002 inserting thirty new items for levy of luxury tax with effect from 1 January 2003
8	Provision for confiscating the carriers of non-duty paid liquor and illicit distilled liquor.	Legislation to be made.	March, 2002	Legislation amending the Bihar and Orissa Excise Act, 1915 not introduced as of July 2003.
9	MRP to be written on liquor bottles.	Notification to be issued.	March, 2002	The department stated (July 2003) that it could not be implemented in view of the provision of the Packaged Commodities (Regulation) Order, 1975.
10	Introduction of service charges at par with the rate of fees prescribed under Rule-32 and 81 of Central Motor Vehicle Rules for issue/renewal of driving licences, registration of motor vehicles etc.	Legislation to be introduced.	March, 2002	Service charge not introduced
11	Change of fixed rate structure of one time MV tax to advalorem system.	Notification to be issued.	March, 2002	Advalorem tax @ 5% of cost of new vehicle introduced vide notification dated 13 February 2003.
12	Increase of the tax payable under Section-5 of Orissa Motor Vehicles Tax Act paid by manufacturers/dealers.	Notification to be issued.	March, 2002	Not implemented as of July, 2003.
13	Rationalisation of Stamp Duty and Registration fees.	Act to be amended.	March, 2002	The Indian Stamp (Orissa Amendment) Act, 2001 issued in January, 2003.
14	Enhancement of cess on land revenue from 75% to 150% of land revenue.	Cess Act to be amended.	March, 2002	Not implemented as of July 2003.
15	Selling of excess urban land in urban areas of the State.	-	March, 2002	The matter was stated to be under active consideration (July 2003).

It would be seen from the above that out of 15 resource mobilisation measures agreed to in the MOU, steps were taken belatedly only in 5 items, while there has been no follow up action on 10 items as of July 2003.

II Cost Recovery and User charges

According to the MOU, the State Government was to issue orders for revision of user charges for urban water supply and for revision of higher education fees and health care rates. Local bodies were to issue orders for revision of user charges for sewerage services. The details are as follows.

Sl. No.	Taxation measures	Action to be taken	Date by which action to be taken	Present position
1	Revision of Tariff on urban water Supply.	Notification to be issued.	November, 2001	The matter was stated to be under active consideration of Government (August 2003)
2	Revision of existing fees collected by urban local Bodies for sewerage services.	Notification to be issued.	December, 2001	The matter was stated to be under active consideration of Government (August 2003)

Sl. No.	Taxation measures	Action to be taken	Date by which action to be taken	Present position
3	Revision of contribution and fees from students in the technical, medical and higher education.	Notification to be issued.	December, 2001.	The fee structure of Government/Private Engineering Schools/Polytechnics and Government colleges was revised in March 2002 applicable from 2002-03 onwards. The fee structure has been revised (June 2002) in respect of post-graduate and under graduate courses in Allopathic, Ayurvedic and Homeopathic Medical Colleges. No reply was received from Higher Education Department, though called for (July 2003).
4	Revision of various fees in hospitals.	Notification to be issued.	March, 2003	Not implemented as of August 2003.

It would be seen from the above that the State Government had not initiated action to implement the above measures except Sl. No.3. The Department stated that no white paper on finance was presented during 2000-2001.

1.3 Variations between budget estimates and actuals

The variations between the budget estimates and actuals of revenue receipts for the year 2002-2003 in respect of the principal heads of tax and non-tax revenue are given below:

(Rupees in crore)					
Sl. No.	Heads of Revenue	Budget estimates	Actual receipts	Variations Increase (+) Shortfall (-)	Per centage of Variation
Tax Revenue					
1	Sales Tax	1665	1605.22	(-) 59.78	3.59
2	Taxes on Goods and Passengers	270	313.07	(+) 43.07	15.95
3	Taxes and Duties on Electricity	200	172.17	(-) 27.83	13.92
4	Land Revenue	85	82.16	(-) 2.84	3.34
5	Taxes on Vehicles	260	257.35	(-) 2.65	1.01
6	State Excise	300	246.06	(-) 53.94	17.98
7	Stamp Duty and registration Fees	140	135.86	(-) 4.14	2.96
Non-Tax Revenue					
8	Mines and Minerals	385.28	443.88	(+) 58.60	15.20
9	Forest	97.00	97.04	(+) 0.04	0.04
10	Education	26.70	24.31	(-) 2.39	0.08
11	Interest	45	76.09	(+) 31.09	69.09
12	Police	19.28	13.37	(-) 5.91	30.65

The reasons for short fall (30.65 per cent) in respect of Police receipts was stated to be due to non-collection of dues from South Eastern Railways, other State Governments and other parties.

The reasons for variation for taxes on goods and passengers, taxes on duties on electricity, state excise, interest etc. though called for were awaited. The variation between budget estimates and actual receipts indicated that the budget estimates were not being framed on realistic basis.

1.4 Analysis of collection

Break-up of total collection at pre-assessment stage and after regular assessment of Sales Tax, Profession Tax, Entry Tax and Luxury Tax for the year 2002-2003 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)	Amount of arrear demand collected	Amount refunded	Net collection	Percentage of column 3 to 8
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1. Sales Tax	2000-01	1313.38	23.85	14.26	20.13	1331.36 ⁶	98.6
	2001-02	1375.17	41.46	18.08	27.26	1407.45 ⁷	97.7
	2002-03	1570.33	40.79	35.54	35.36	1611.30 ⁸	97.5
2. Profession Tax	2000-01	9.15	--	--	--	9.15	100
	2001-02	36.72	--	--	--	36.72	100
	2002-03	44.42	--	--	--	44.42	100
3. Entry Tax	2000-01	207.80	--	--	--	207.80	100
	2001-02	246.06	3.07	0.10	--	249.23	98.7
	2002-03	301.63	7.72	2.32	--	NA	NA
4. Luxury Tax	2000-01	9.63	--	0.33	--	9.96	96.7
	2001-02	8.69	--	--	--	8.69	100
	2002-03	9.45	--	--	--	9.45	100

The above table shows that *percentage* of collection of revenue at the assessment stage ranged between 96.7 to 98.7 *per cent* under sales tax, entry tax and luxury tax during the year 2000-01 and 2001-02.

1.5 Cost of Collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the *percentage* of such expenditure to gross collections during the years 2000-2001, 2001-2002 and 2002-2003 along with the relevant all India average *percentage* of expenditure on collection to gross collections for 2001-2002 are given below:

- 6 The figures supplied by the Department donot tally with figures of Finance Accounts.
- 7 The figures supplied by the Department donot tally with figures of Finance Accounts.
- 8 The difference of Rs.6.08 crore (Departmental figure of Rs.1611.30 crore minus Rs.1605.22 crore Finance Accounts figure) yet to be reconciled (November 2003).

(Rupees in crore)

Heads of Revenue	Year	Gross collection	Expenditure on collection	Per centage of expenditure to gross collection	All India average per centage for the year 2001-2002
1 Sales Tax	2000-2001	1342.12	22.86	1.70	1.26
	2001-2002	1402.33	21.70	1.55	
	2002-2003	1646.66	21.36	1.29	
2 Taxes on Vehicles	2000-2001	178.17	7.86	4.41	2.99
	2001-2002	216.37	7.87	3.64	
	2002-2003	257.35	9.22	3.58	
3 State Excise	2000-2001	135.31	11.80	8.72	3.21
	2001-2002	197.46	11.99	6.07	
	2002-2003	246.06	12.62	5.13	
4 Stamp Duty and Registration Fees	2000-2001	108.52	12.16	11.21	3.51
	2001-2002	109.76	11.70	10.66	
	2002-2003	135.86	12.24	9.01	

The expenditure on collection in all the above heads as a *percentage* of total collection under the respective heads is higher as compared to the national average. The same is significantly high in case of State Excise and Stamp duty and Registration fee.

1.6 Collection of sales tax per assessee

(Rupees in crore)

Year	No. of assesseees	Sales tax revenue	Revenue/assessee
1998-1999	55,540	1027.49	0.018
1999-2000	55,896	1126.56	0.020
2000-2001	58,427	1351.49	0.023
2001-2002	62,142	1434.72	0.023
2002-2003	69,743	1646.66	0.024

The above table reveals that revenue collection per assessee increased from Rs.0.018 crore in the year 1998-99 to Rs.0.024 crore in 2002-03.

1.7 Analysis of arrears of revenue

As on 31 March 2003, the arrears of revenue under principal heads of revenue as reported by the departments were as follows:

(Rupees in crore)

Sl. No.	Heads of Revenue	Amount of arrears as on 31 March 2003	Arrears more than five years old	Remarks
1	Sales Tax	942.32	NA	The stages of arrears were as under: (a) Demands covered by Certificate proceedings/ Tax Recovery proceedings 221.81 (b) Demands stayed by

(Rupees in crore)

Sl. No	Heads of Revenue	Amount of arrears as on 31 March 2003	Arrears more than five years old	Remarks
				(i) Supreme Court/High Court 280.53 (ii) Departmental authorities 147.45 (c) Cases covered by show cause and penalty 291.31 (d) Amounts likely to be written off 1.22 Total 942.32
2	Forest	74.30	N.A.	The arrears were due on account of (a) Forest Lease 11.28 (b) Kendu Leaves 0.17 (c) OFDC 62.85 Total 74.30
3	Mines and Minerals	40.84 ⁹	2.47	The stages of recovery was as under : (a) Recoverable amount 35.28 (b) Demand covered by certificate proceedings 1.55 (c) Amount under dispute 2.23 (d) Demand locked up in litigation in High Court 0.77 (e) Amount covered under write off/waiver proposal 1.01 Total 40.84
4	Taxes on Vehicles	65.08 ¹⁰		The arrears were due from (i) Orissa State Road Transport Corporation 36.56 (ii) Private Vehicles 28.52 Total 65.08 The stages of arrear was as under: (i) Demands covered by certificate proceedings 29.41 (ii) Recoveries stayed by (a) High Court/Supreme Court/other Judicial authorities 1.10 (b) Departmental authorities of Government 0.24 (iii) Amount under dispute 2.50 (iv) Other stages 31.83

9 Of this Rs.31.12 crore stated to have been collected between April 2003 and June 2003.

10 Of this Rs.0.77 crore stated to have been collected between April 2003 and June 2003.

(Rupees in crore)																																														
Sl. No	Heads of Revenue	Amount of arrears as on 31 March 2003	Arrears more than five years old	Remarks																																										
5	State Excise	17.39	NA	The stage wise position of arrears was as under: <table><tr><td>(a)</td><td>Covered by certificate proceedings</td><td>4.45</td></tr><tr><td>(b)</td><td>Stayed by High Court/other judicial authorities</td><td>1.65</td></tr><tr><td>(c)</td><td>Stayed by Departmental authorities</td><td>1.54</td></tr><tr><td>(d)</td><td>Amount under dispute</td><td>0.46</td></tr><tr><td>(e)</td><td>Proposed to be written off</td><td>0.12</td></tr><tr><td>(f)</td><td>Other stages of recovery</td><td>9.17</td></tr><tr><td colspan="2">Total</td><td>17.39</td></tr></table>	(a)	Covered by certificate proceedings	4.45	(b)	Stayed by High Court/other judicial authorities	1.65	(c)	Stayed by Departmental authorities	1.54	(d)	Amount under dispute	0.46	(e)	Proposed to be written off	0.12	(f)	Other stages of recovery	9.17	Total		17.39																					
(a)	Covered by certificate proceedings	4.45																																												
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(e)	Proposed to be written off	0.12																																												
(f)	Other stages of recovery	9.17																																												
Total		17.39																																												
6	Land Revenue	17.55 ¹¹	NA	Item-wise break up was as follows : <table><tr><td>(a)</td><td>Rent</td><td>1.37</td></tr><tr><td>(b)</td><td>Cess</td><td>4.30</td></tr><tr><td>(c)</td><td>Nistar Cess</td><td>0.15</td></tr><tr><td>(d)</td><td>Sairat</td><td>3.30</td></tr><tr><td>(e)</td><td>Misc. Revenue</td><td>8.43</td></tr><tr><td colspan="2">Total</td><td>17.55</td></tr></table>	(a)	Rent	1.37	(b)	Cess	4.30	(c)	Nistar Cess	0.15	(d)	Sairat	3.30	(e)	Misc. Revenue	8.43	Total		17.55																								
(a)	Rent	1.37																																												
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(d)	Sairat	3.30																																												
(e)	Misc. Revenue	8.43																																												
Total		17.55																																												
7	Police	29.72 ¹²	4.27	--																																										
8	Interest	100.90	NA	<table><tr><td>1</td><td>Co-operation Department</td><td>63.33</td></tr><tr><td>2</td><td>Industry Department</td><td>37.57</td></tr></table> The arrears were due from: <table><tr><td>(a)</td><td>Orissa Small Industries Corp.</td><td>0.67</td></tr><tr><td>(b)</td><td>Industrial Development Corp.</td><td>6.06</td></tr><tr><td>(c)</td><td>Orissa Film Development Corp.</td><td>0.18</td></tr><tr><td>(d)</td><td>Orissa Instrument Co.</td><td>0.34</td></tr><tr><td>(e)</td><td>Orissa State Leather Corp.</td><td>0.48</td></tr><tr><td>(f)</td><td>Orissa State Financial Corp.</td><td></td></tr><tr><td>(i)</td><td>Loan in lieu of share capital</td><td>7.28</td></tr><tr><td>(ii)</td><td>Interest bearing loan</td><td>11.42</td></tr><tr><td>(iii)</td><td>State Aid Rural Industries Program. loan</td><td>1.10</td></tr><tr><td>(iv)</td><td>Sales Tax loan</td><td>5.95</td></tr><tr><td>(v)</td><td>Electricity Duty loan</td><td>2.91</td></tr><tr><td>(vi)</td><td>Panchayat Samiti Industries loan</td><td>0.34</td></tr></table>	1	Co-operation Department	63.33	2	Industry Department	37.57	(a)	Orissa Small Industries Corp.	0.67	(b)	Industrial Development Corp.	6.06	(c)	Orissa Film Development Corp.	0.18	(d)	Orissa Instrument Co.	0.34	(e)	Orissa State Leather Corp.	0.48	(f)	Orissa State Financial Corp.		(i)	Loan in lieu of share capital	7.28	(ii)	Interest bearing loan	11.42	(iii)	State Aid Rural Industries Program. loan	1.10	(iv)	Sales Tax loan	5.95	(v)	Electricity Duty loan	2.91	(vi)	Panchayat Samiti Industries loan	0.34
1	Co-operation Department	63.33																																												
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(vi)	Panchayat Samiti Industries loan	0.34																																												

11 Of this Rs.89.77 lakh stated to have been collected between April 2003 and July 2003.

12 Of this Rs.6.80 crore stated to have been collected between April 2003 and June 2003.

(Rupees in crore)

Sl. No	Heads of Revenue	Amount of arrears as on 31 March 2003	Arrears more than five years old	Remarks
				(g) IPICOL 0.84
				Total 37.57
				Grand Total 100.90
9	Irrigation (WR)	75.68	45.22	Industrial Water Rate 75.68
				Total 75.68
10	Other Departmental Receipts (Rent) G.A Department	9.43	NA	The arrears were due from: <u>Non-Residential Buildings</u> 0.90 <u>Residential Buildings</u> 1 MLA's and ex-MLA's 0.58 2 Boards and Corporations 0.50 3 Private parties 0.42 4 Retired Govt. Servants 3.08 5 Transferred Govt. Servants 0.92 6 Certificate cases 0.03 7 Central Government employees occupying State Government Quarters and water tax 0.52 8 Usual House Rent 2.36 9 Recovery stayed by High Court and other judicial authorities 0.12 Total 9.43
11	Entry Tax	27.20	NA	The stages of arrears were as under: (a) Demand stayed by High Court 0.26 (b) Recoveries stayed by Departmental authorities 3.33 (c) Amount covered by show cause and penalty 23.61 Total 27.20
12	Entertainment Tax	5.57	NA	The stages of arrears were as under: (a) Demand covered by certificate/Tax Recovery proceedings 4.18 (b) Recoveries stayed by: (i) High Court/Supreme Court 0.15 (ii) Departmental authorities 0.18

(Rupees in crore)

Sl. No	Heads of Revenue	Amount of arrears as on 31 March 2003	Arrears more than five years old	Remarks
				(c) Amount covered by show cause and penalty 1.06
				Total 5.57
13	Stationery and Printing	4.51	NA	(i) Orissa Govt. Press 4.10
				(ii) Gopalpur Port Project 0.41
				Total 4.51

1.8 Arrears in assessments

The details of cases pending assessment at the beginning of the year 2002-2003, cases becoming due for assessment during the year, cases disposed of during the year and the number of cases pending finalisation at the end of the year 2002-2003 as furnished by the Sales Tax Department in respect of sales tax and entry tax are as follows:

Year	Opening Balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Per-centage of column 5 to 4
1	2	3	4	5	6	7
Sales Tax	3,45,278	2,38,801	5,84,079	3,44,463	2,39,616	59
Entry Tax	50,228	84,051	1,34,279	58,748	75,531	44

It can be seen from the above table that arrears in assessment under sales tax and entry tax have been 59 per cent and 44 per cent respectively.

1.9 Evasion of Tax

The number of cases of evasion of tax detected and assessments finalised during 2002-2003 are given below:

Sl. No.	Name of tax/duty	Cases pending as on 31 March 2002	Cases detected during 2002-03	Total	No. of cases in which assessment/ investigations completed and additional demand including penalty etc., raised		No. of cases pending finalisation as on 31 March 2003
					No. of cases	Amount of demand (Rs. in crore)	
1	Sales Tax	11,014	4,547	15,561	10,571	25.99	4,990
2	State Excise	--	31,851	31,851	--	--	31,851

The revenue involved in the pending cases was not furnished by the departments. It would be seen from the above that the disposal of detected cases was 67.9 *per cent* in respect of Sales Tax cases.

1.10 Refunds

The number of refund cases pending at the beginning of the year 2002-03, claims received during the year and cases pending at the close of the year 2002-03 as reported by the Commercial tax department is given below:

(Rupees in lakh)			
		No. of cases	Amount
1	Claims outstanding at the beginning of the year	1,129	1,531.79
2	Claims received during the year	3,053	7,066.70
3	(a) Refunds made during the year	2,271	3,536.12
	(b) Rejected	177	134.46
4	Balance outstanding at the end of the year	1,734	4,927.91

Non disposal of refund cases increased substantially by 53.6 *per cent* in the year 2002-03.

1.11 Results of Audit

Test check of the records of sales tax, motor vehicles tax, land revenue, state excise, forest, mines and minerals and other departmental offices conducted during the year 2002-2003 revealed under-assessment/short levy/loss of revenue etc. amounting to Rs.447.09 crore in 1,10,933 cases. During the course of the year 2002-2003, the concerned departments accepted under-assessment etc. of Rs.39.24 crore involved in 43,107 cases which were pointed out in 2002-2003 and in earlier years. Of these, the departments recovered Rs.7.21 crore in 3656 cases.

This report contains 57 paragraphs including 3 reviews relating to under-assessment/short-levy/non-levy etc. involving Rs.281.31 crore of which Rs.10.40 crore has been accepted by Government/ Department. Recovery made in these cases amounted to Rs.0.74 crore up to August 2003. Audit observations with a total revenue effect of Rs.0.65 crore have not been accepted by the Department/Government but their contentions being at variance with the facts or legal position have been appropriately commented upon in the relevant paragraphs. Replies in the remaining cases have not been received (November 2003).

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

Audit observations on incorrect assessments, short levy of taxes, duties, fees etc. as also defects in the maintenance of initial records noticed during audit and not settled on the spot are communicated to the heads of departments/offices and other departmental authorities through inspection reports. The heads of departments/offices are required to take corrective action in the interest of Government revenue and furnish compliances within a period of one month.

The number of inspection reports and audit observations relating to revenue receipts issued up to 31 December 2002 which were pending settlement by the departments as on 30 June 2003 along with corresponding figures for the preceding two years are given below:

	2001	2002	2003
1. Number of inspection reports pending settlement	3909	3636	3655
2. Number of outstanding audit observations	12507	11643	11081
3. Amount of revenue involved (in crore of Rupees)	920.26	1375.38	1446.54

Department-wise break up of the inspection reports and audit observations outstanding as on 30 June 2003 is given below:

Department	Nature of receipts	Number of outstanding		Amount of receipts involved (Rs. in crore)	Year to which observations relate	Number of Inspection Reports to which even first replies have not been received
		Inspection reports	Audit observations			
1 Commerce and Transport (Transport)	Taxes on Vehicles	254	2598	154.21	1970-71 to 2002-03	53
	Taxes on Goods and Passenger	70	237	1.09	1973-74 to 1987-88	Nil
2 Finance	Sales Tax	606	2304	151.29	1976-77 to 2002-03	54
	Entertainment Tax	86	118	1.31	1975-76 to 2002-03	18
	Luxury Tax	10	11	0.57	1997-98 to 2002-03	10
	Entry Tax	28	43	0.18	2001-02 and 2002-03	27
3 Revenue	Land Revenue	983	1982	245.24	1975-76 to 2002-03	134
	Stamp Duty and Registration Fees	225	367	42.01	1976-77 to 2002-03	143
4 Forest and Environment	Forest Receipts	516	1456	104.57	1980-81 to 2002-03	65
5 Excise	State Excise	292	837	64.08	1997-98 to 2002-03	64
6 Steel and Mines	Mining Receipts	97	205	29.38	1974-75 to 2002-03	09
7 Cooperation	Departmental Receipts	56	189	264.73	1976-77 to 2002-03	10

Department	Nature of receipts	Number of outstanding		Amount of receipts involved (Rs. in crore)	Year to which observations relate	Number of Inspection Reports to which even first replies have not been received
		Inspection reports	Audit observations			
8 Food Supplies and Consumer Welfare	Departmental Receipts	68	115	3.78	1989-90 to 2002-03	01
9 Energy	-do-	41	82	370.93	1992-93 to 2002-03	05
10 G.A (Rent)	-do-	10	28	4.45	1976-77 to 2002-03	Nil
11 Works	-do-	24	40	5.72	1992-93 to 2002-03	Nil
12. Others	-do-	289	469	3.00	1987-88 to 2002-03	Nil
Total		3655	11081	1446.54		593

It indicates that the Heads of departments/offices, whose records were inspected by Accountant General, failed to discharge due responsibility as (a) they did not send any reply to a large number of IRs/Paragraphs, (b) they did not take remedial measures for the defects, omissions and irregularities pointed out by the Accountant General.

1.13 Departmental Audit Committee Meetings

In order to expedite the settlement of outstanding audit observations contained in the Inspection Reports, Departmental Audit Committees are constituted by the Government. The representatives of Finance Department, Administrative Department and office of the Accountant General (Audit)-II attend the Committee. The Committee meet regularly to expedite the clearance of outstanding audit observations and ensure that final action is taken on all audit observations outstanding for more than a year. During the years 2002-03, Finance, Transport, Revenue, Forest and Mining Department convened 28, three, 10, one and two. Audit Committee meetings respectively. Other Government departments did not take initiative in using the machinery created for settling the outstanding audit observations.

1.14 Response of the Departments to Draft Audit Paragraphs

Government of Orissa, Finance Department, in their circular memorandum instructed (May 1967), various departments of the Government to submit compliance to the draft audit paragraphs floated by the Accountant General (AG) for inclusion in the Audit Reports of the Comptroller and Auditor General (C&AG) within six weeks from the date of receipt of such draft audit paragraphs. The above instructions were reiterated (December 1993) while accepting the recommendation of the High Power Committee on response of the State Governments to the Audit Reports of the C&AG. The draft paras (DP) are normally forwarded by the AG to the Principal Secretary/Secretary of the administrative department concerned through demi-official letters seeking

confirmation of the factual position and comments thereon within the stipulated period of 6 weeks.

Seventy draft paragraphs being considered for inclusion in this Report were demi-officially forwarded to the Secretaries/Principal Secretaries of the concerned departments between January 2003 and August 2003 with a request to verify the factual position and offer comments thereon. Demi-official reminders were also issued after the expiry of six weeks time in each case. The position of response to the draft paras are detailed below:

Sl. No.	Name of the Department/Nature of receipt	No. of draft paras forwarded including review	No. of draft paras in respect of which replies were received	No. of draft paras in which replies were not received
1	Finance (Sales Tax)	26	3	23
2	Transport (Motor Vehicle Tax)	14	1	13
3	Excise (Excise Duty and Fees)	8	-	8
4	Forest and Environment (Forest Receipts)	7	1	6
5	Steel & Mines (Mining Receipts)	6	-	6
6	Energy (Electricity Duty)	5	1	4
7	Revenue (Land Revenue, Stamp Duty and Registration Fees)	2	-	2
8	General Administration, Home, Revenue, Water Resources, Works Departments (Departmental Receipt)	1	-	1
9	Fisheries and ARD (Departmental Receipts)	1	-	1
Total		70	6	64

1.15 Follow up on Audit Reports- summarised position

According to instructions issued by the Finance Department in December 1993, all departments are required to furnish explanatory memoranda duly vetted by audit to the Orissa Legislative Assembly in respect of paragraphs included in the Audit Reports within three months of their being laid on the table of the House.

Review of outstanding explanatory memoranda on paragraphs included in the reports of Comptroller & Auditor-General of India (Revenue Receipts) as on 31.3.2003 disclosed that the departments had not submitted remedial explanatory memoranda on 238 paragraphs for the years from 1989-90 to 2001-02 as detailed below.

Year	1989- 1990	1990- 1991	1991- 1992	1992- 1993	1993- 1994	1994- 1995	1995- 1996	1996- 1997	1997- 1998	1998- 1999	1999- 2000	2000- 2001	2001- 2002	Total
No. of paras in the AR	69	68	63	54	44	47	40	36	38	40	34	45	45	623
No. of paras discussed in PAC	68	51	51	40	32	21	13	5	3	--	--	5	--	289
No. of paras pending for discussion	01	17	12	14	12	26	27	31	35	40	34	40	45	334
No. of paras for which compliance notes awaited from the departments	01	Nil	12	14	12	12	10	8	23	27	34	40	45	238

From the above, it would be seen that the non-compliance to audit paragraphs stood at 38.20 *per cent* of total paras presented to the Assembly during the above period.

With a view to ensuring accountability of the executive in respect of all the issues dealt with in the Audit Reports, the Public Accounts Committee had as early as May 1966 issued instructions to all the departments of State Government to submit Action Taken Notes (ATN) on the recommendations made by PAC for further consideration **within six months** of the presentation of PAC Report to the Legislature. However it was noticed from the PAC reports submitted during 10th, 11th and 12th Assembly that 48 Reports containing 331 paras/recommendations were presented by the PAC before the Legislature between February 1991 and March 2003 after examination of the Audit Report (Revenue Receipts) of 14 departments for the years 1985-86 to 2000-01. However, Action Taken Notes have not been received in respect of 188 recommendations of the PAC from the concerned departments as of March 2003.

The PAC in its meeting held on 28 April 2003 drew the attention of the Chief Secretary to the heavy pendency and directed that the High Power Committee consisting of the Principal Secretary, Finance, Accountant General and Administrative Secretaries be activated to review the action taken by various Government departments on the Comptroller and Auditor General's Report and on PAC's recommendations. Accordingly the High Power Committee has been meeting once every month since June 2003. The Apex Committee under the Chairmanship of the Chief Secretary met only on one occasion on 27 February 2002.

CHAPTER-II : SALES TAX

2.1 Results of Audit

Test check of assessments and refund cases and connected documents of the Commercial Tax offices during 2002-2003 revealed under-assessment of tax, incorrect grant of exemption, short levy of tax etc. amounting to Rs.101.74 crore in 620 cases which may broadly be categorised as under:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Review: Levy, Collection and Remittance of Sales Tax by Public Works Departments	1	68.08
2	Short levy of tax due to incorrect computation of taxable turnover	96	7.28
3	Under-assessment of tax due to application of incorrect rate	58	2.92
4	Incorrect grant of exemption	143	8.08
5	Non levy of surcharge	13	0.34
6	Non levy of interest	22	0.21
7	Other irregularities	287	14.83 *
Total		620	101.74

During the year 2002-2003, the department accepted under-assessment etc. of Rs.10.89 crore in 610 cases which were pointed out in audit in earlier years and Rs.14 lakh in one case pointed out in 2002-03. Out of these, the department recovered Rs.3.68 crore in 194 cases.

A few illustrative cases highlighting important audit observations involving Rs.11.60 crore and findings of a review, "**Levy, collection and remittance of Sales Tax by Public Works Departments**" involving Rs.66.82 crore are discussed in the following paragraphs.

2.2 Review: Levy, collection and remittance of sales tax by Public Works Departments

2.2.1 Highlights

- (i) Award of work to 346 unregistered works contractors by splitting up each work into less than Rs.1.00 lakh resulted in loss of Rs.8.46 crore.

{Para-2.2.8}

- (ii) Cross verification of records of sales tax office with that of Public Works Divisions revealed escapement of tax of Rs.2.86 crore including penalty due to concealment of gross turnover.

{Para-2.2.9}

- (iii) Penalty of Rs.30.26 crore was not imposed against the defaulting Divisional Officers for delayed payment of tax deducted in 6,758 cases.

{Para-2.2.10(b)}

2.2.2 Introduction

The Orissa Sales Tax Act (OST Act), 1947, the Rules made thereunder and executive instructions issued by the Finance Department and the Commissioner of Commercial Taxes (CCT), Orissa, govern the procedure for levy, collection and remittance of tax. The Act defines the taxable turnover in respect of works contract as the gross value received or receivable by a dealer for carrying out such contract, less the amount of labour and service charges incurred for execution of such contract. In order to expedite the process of collection and remittance of tax to Government Account and to prevent evasion of tax by works contractors, the Act imposes responsibilities on all paying authorities (including Government Departments) to deduct the sales tax at source while making payments to contractors and remit the same into the Government Treasury within one week from the date of deduction. The Government in Finance Department issues executive instructions from time to time in order to ensure recovery and prompt remittance of tax at source and to guard against evasion of tax.

2.2.3 Organisational set up

The CCT being the Head of the Commercial Tax Department is in overall control of levy, collection and remittance of sales tax by Public Works Department. In so far as deduction of tax at source is concerned, in the cases

of works contract the deducting authorities i.e. the Executive Engineers under the control of Chief Engineers of all Public Works Departments are responsible for deduction and remittance into Government treasury. In respect of divisions under different irrigation projects concerned FA & CAOs are the deducting authorities.

2.2.4 Audit objectives

Audit was conducted in selected divisional offices of four Public Works Departments and concerned Commercial Tax circles to-

- (i) ascertain the extent to which provisions of the Act and Rules, notifications of the Finance Department and instructions of the CCT were followed in the matter of deduction of tax at source and its remittance to Government Accounts,
- (ii) evaluate effectiveness of the system to check the evasion of tax by works contractors,
- (iii) review the system of inter-departmental co-ordination and information sharing in the matter of liability to tax, between the Public Works Department and Sales Tax Department and
- (iv) assess the effectiveness of the internal control mechanism.

2.2.5 Scope of audit

A review levy, collection and remittance of sales tax by Public Works Departments for the period 1998-99 to 2001-02 was conducted between December 2002 and April 2003. Test check of the records of 64¹³ out of 200 Divisions and Chief Engineer, World Bank Project, Bhubaneswar under the Departments of Works, Water Resources, Housing and Urban Development and Rural Development and 11¹⁴ out of 29 Sales Tax circles in the State was made.

2.2.6 Trend of revenue collection from works contract

The comparative position of collection of Sales Tax on works contract vis-à-vis the total Sales Tax receipts for the four years ending March 2002 is as follows :-

(Rupees in crore)			
Year	Total Sales Tax receipts	Amount of tax collected from Works contracts	Per centage of Col. 3 to 2
1	2	3	4
1998-99	971.09	65.77	6.77
1999-00	1,107.55	59.98	5.41
2000-01	1,342.12	56.73	4.22
2001-02	1,402.33	72.54	5.17

As would be seen from the above table, the collection of sales tax from works contracts ranged from 4.22 per cent to 6.77 per cent of the total tax collected

- 13 Rural Development Department
Rural works Division--Angul, Bhubaneswar, Baripada, Balasore, Bhawanipatna, Cuttack, Dhenkanal, Jajpur, Kendrapara and Keonjhar.
RWSS Division -- Balasore, Baripada, Bhanjanagar, Bhawanipatna, Cuttack, Keonjhar, Puri and Talcher.
Rural Works (Electrical) Division, Bhubaneswar
Works Department
NH Division-- Bhubaneswar, Baripada, Cuttack, Dhenkanal, Keonjhar and Kesinga.
R & B Division-- Bhubaneswar No. II & III, Balasore, Baripada, Bhawanipatna, Charbatia, Dhenkanal and Kendrapara.
Water Resources Department
Prachi Division, Bhubaneswar, Dam Safety (M.P.) Division Bhubaneswar, Baitarani Division Keonjhar and Irrigation Divisions- Balasore, Bhawanipatna, Jajpur and Kendrapara
F.A. & C.A.O. R.I.P. Samal
Head Works Division Samal, Camps and Building Division, Rengali Dam Division, Over-seas Economic co-operation Fund Division No. I to IV, Purjang Canal Division.
Rengali Right Canal Division No. I to IV.
Upper Indravati Right Canal Division No. I to IV, Left Canal Division No. I to IV.
Housing & UD Department
P.H.Division No. I & II Bhubaneswar, Baripada, Cuttack No. I.
- 14 Balasore, Bhubaneswar -II, Bolangir-I, Cuttack-I (West), Cuttack-II, Cuttack-III, Dhenkanal, Ganjam-I, Kalahandi, Keonjhar and Mayurbhanj.

during the period 1998-99 to 2001-02. The tax from works contract had shown a declining trend over the years except during 2001-02.

2.2.7 Survey not conducted by Sales Tax Department

In order to ensure proper account of Tax deducted at source, the CCT issued instructions on 21 April 1999 to all Commercial Tax Officers (CTOs) to undertake an exhaustive survey within their respective jurisdictions. The survey was to identify the deducting authorities, to ensure that tax was being deducted at source as per Act. Appropriate penal action was to be initiated in case of failure to deduct tax or to deposit the same in time.

However, it was observed that no survey was conducted by the concerned Sales Tax authorities resulting in evasion of tax by contractors either due to non-assessment by sales tax authorities or due to concealment of turnover and non-remittance/delay in remittance by the deducting authorities, causing blocking of Government revenues, as highlighted hereunder.

2.2.8 Evasion of tax due to non-assessment of unregistered contractors

(a) Under the OST Act, a dealer engaged in execution of works contract is liable to pay tax with effect from the month immediately following a period not exceeding 12 months, during which his gross turnover exceeds rupees one lakh. Any dealer failing to get himself registered after accrual of liability is liable to pay penalty equal to one and half time of tax due, in addition to the amount of tax assessed. The Act provides for deduction of tax at source if the value of works contract exceeds rupees one lakh. The CCT vide circular in December 2001 directed that all CTOs to prepare a list of all the contractors working in the Public Works/Irrigation Divisions within their jurisdictions and assess them on the basis of turnover.

Test check of records in 22¹⁵ divisions under Works and Rural Development Departments revealed that works valued at Rs.73.21 crore were executed by 346 unregistered contractors during 1998-99 to 2001-02 under the jurisdiction of 11 Sales Tax assessment circles. As the value of each individual works contract had been split up into less than Rs.1 lakh, no deduction of sales tax at source was made from the payments made to these contractors, though the income tax deduction certificates issued by the respective divisions revealed that turnover of the contractors had exceeded Rs.1 lakh and sales tax was required to be deducted at source. Moreover, these contractors being

15 R.W. Division Angul, Bhubaneswar, Cuttack, Dhenkanal, Keonjhar, Kendrapara, Baripada, Balasore, Bhawanipatna, Jajpur and R.W. (Elec) Division, Bhubaneswar
R & B Division Bhubaneswar No. II, Charbatia, Dhenkanal, Bhawanipatna, Baripada Balasore and Kendrapara.
N.H.Division Bhubaneswar, Cuttack, Keonjhar and Baripada.

unregistered under the OST Act, were also not assessed even though they were liable to pay tax. This resulted in evasion of tax and surcharge of Rs.8.46 crore including maximum penalty of Rs.4.93 crore as detailed below.

(Rupees in lakh)								
Sl. No	Name of the circle	No. of Divisions	No. of contractors	Gross value of works received	Value of taxable materials involved	Sales Tax Surcharge	Penalty leviable	Total
1	Bhubaneswar-II	4	51	995.15	560.64	44.85 3.38	67.27	115.50
2	Cuttack-I (West)	1	1	19.75	10.86	0.87 0.02	1.30	2.19
3	Cuttack-II	5	78	2,207.57	1,214.16	97.13 7.72	1,45.70	2,50.55
4	Cuttack-III	1	23	162.06	89.13	7.13 0.49	10.70	18.32
5	Dhenkanal	3	29	416.82	229.25	18.34 0.89	27.51	46.74
6	Keonjhar	2	26	473.25	260.29	20.82 1.31	31.23	53.36
7	Kalahandi	1	23	418.54	230.20	18.42 1.50	27.63	47.55
8	Mayurbhanj	3	52	1,129.20	625.68	50.05 3.33	75.08	1,28.46
9	Balasore	2	59	1,235.04	679.27	54.34 3.57	81.51	1,39.42
10	Ganjam-I	1	3	128.10	102.48	8.20 0.82	12.30	21.32
11	Bolangir-I	1	1	135.94	108.75	8.70 0.87	13.05	22.62
Total			346	7,321.42	4,110.71	328.85 23.90	4,93.28	8,46.03

Had the CTOs obtained the information as directed by CCT the evasion of tax could have been avoided.

(b) Irregular issue of Sales Tax Non-Assessment Certificates (STNAC)

As per the conditions stipulating acceptance of tender, a contractor, in order to be eligible for award of works contract is required to furnish alongwith tender Sales Tax Clearance Certificate (STCC) in the case of registered contractor and Sales Tax Non Assessment Certificate (STNAC) in the case of unregistered dealers obtained from the concerned sales tax authority.

Executive instructions¹⁶ were issued by CCT from time to time for preliminary investigation to be conducted by CTOs regarding genuineness of such unregistered contractors to avoid misuse of STNAC. The CTOs were to enquire whether the contractors were awarded with any work and ascertain the amount received by them, before issue of STNACs.

It was observed in audit that there existed no system for monitoring the issue of STNAC to the unregistered works contractor. In most of the cases STNACs were issued in favour of the unregistered works contractors by the Sales Tax Departments without proper verification from the Works Department. The contractors obtained STNAC year after year from the same Sales Tax circle, and on the strength of such certificate, executed works and received large

16 CCT's Circular No. 16743 dated 31.07.1999 & No. 26145 dated 07.12.2001

payments but evaded tax liability. A few cases, having continuous tax liability out of the cases indicated in above para are given below by way of illustrations:

(Rupees in crore)

Sl. No	Name of the Sales Tax circle	Name of the contractor	Name of the division	Year	Amount received	Reference of STNAC issued.
1	C.T.O., Cuttack-II Circle, Cuttack.	Sri Basanta Kumar Sahoo	Executive Engineer, R & B Division, Kendrapada	1998-99 1999-00 2000-01	0.17 1.39 1.08	No. 3918 dated 13 September 2002.
2	-do-	Sibananda Patra	Executive Engineer, R & B division, Kendrapada	1998-99 1999-00 2000-01 2001-02	0.24 0.50 1.12 0.53	No. 428 dated 12 June 2001
3	-do-	Srinath Mishra	Executive Engineer R & B division, Kendrapara	1999-00 2000-01 2001-02	0.16 0.27 0.30	No. 100 dated 11 April 2001
4	CTO, Mayurbhanj, Baripada.	Bhaskar Chandra Das	Executive Engineer N.H. and R.W. Division, Baripada.	1998-99 1999-00 2000-01 2001-02	0.16 0.17 0.19 0.07	STNAC dated 26 June 02
5	-do-	Ratnakar Gochhayat	-do-	1999-00 2000-01 2001-02	0.16 0.35 0.08	No. 3832 dated 10 April 2002
6	Dhenkanal Circle, Angul	Deepak Kumar Mishra	Executive Engineer, R.W. Divn., Dhenkanal	1999-00 2000-01 2001-02	0.10 0.09 0.03	No. 208 dated 12 May 2000
7	CTO, Keonjhar circle, Keonjhar	Debananda Pradhan	Executive Engineer, N.H. Division, Keonjhar	1998-99 1999-00 2000-01 2001-02	0.11 0.09 0.09 0.02	No. 135/CT dated 6 April 2000 No. 1636/CT dated 19 April 2001

On this being pointed out in audit the concerned CTOs agreed to initiate proceedings against the contractors.

2.2.9 Escapement of tax due to concealment of turnover

Under the OST Act, where the evasion of tax is due to concealment of particulars of turnover the dealer shall pay, by way of penalty in addition to the tax assessed, a sum equal to one and half times of the tax so assessed.

Cross check of records in 6 cases of works contractors of different works divisions with the records of corresponding Sales Tax circles revealed that during 1998-99 to 2001-02 turnover of Rs.19.69 crore had been concealed by the assesseees which resulted in evasion of tax of Rs.1.24 crore including surcharge. Besides penalty of Rs.1.62 crore was also leviable for such concealment.

On this being pointed out all the assessing officers agreed to reopen the cases for reassessments.

2.2.10 Non/delayed remittance of tax deducted at source

As per the provisions of OST Act and Rules made thereunder the tax deducting authority is required to deposit the amount of tax deducted at source from the contractor's bill into the Government Treasury within one week from the date of deduction by a challan, with a copy endorsed to the CTO within whose jurisdiction the works contract is executed, alongwith a copy of certificate containing all relevant particulars of deduction. For contravention of these provisions of the Act, person found responsible is liable to pay a penalty not exceeding twice the amount required to be deducted by him and deposited into Government Treasury.

The CCT vide circular in April 1999 directed all the circle officers to undertake exhaustive survey within their jurisdiction to check whether the tax deducted at source by the deducting authority was being deposited in time.

Audit scrutiny revealed that neither the deducting authority furnished the above particulars of deduction nor any survey was conducted by the CTOs resulting in non remittance/delay in remittance of tax deducted at source as detailed below:

(a) Non-remittance of tax deducted at source

Test check of records in 18 Public works Divisions revealed that in 579 cases sales tax of Rs.56.80 lakh deducted from the bills of contractors and suppliers during the period 1998-99 to 2001-2002 had not been remitted to Government account so far as detailed below :

Name of the Department (No. of divisions)	1998-99		1999-2000		2000-01		2001-02		Total	
	No. of cases	Amount not remitted	No. of cases	Amount not remitted	No. of cases	Amount not remitted	No. of cases	Amount not remitted	No. of cases	Amount not remitted
Works (7)	4	0.58	2	2.53	46	10.35	67	7.98	119	21.44
Water Resources (4)	10	0.22	27	2.02	64	5.77	140	11.23	241	19.24
Rural Development (5)	11	0.18	51	4.49	26	0.45	105	9.42	193	14.54
Housing and Urban Development (2)	4	0.34	6	0.53	3	0.37	13	0.34	26	1.58
Total	29	1.32	86	9.57	139	16.94	325	28.97	579	56.80

For non-deposit of tax deducted at source penalty amounting to Rs.1.14 crore was leviable

(b) Delay in remittance of collected tax

Test check of records in 60 Public Works divisions revealed that in 6758 cases, there had been considerable delay in remittance of Rs.15.13 crore towards tax deducted at source during the period 1998-99 to 2001-2002. The Department-wise break up is given below.

(Rupees in crore)

Name of Department	No. of divisions	1998-1999		1999-2000		2000-2001		2001-2002		Total	
		No. of cases	Amount delayed	No. of cases	Amount delayed	No. of cases	Amount delayed	No. of cases	Amount delayed	No. of cases	Amount delayed
Works	15	523	1.48	545	2.30	554	1.94	620	1.17	2,242	6.89
Water Resources	29	451	1.57	341	1.82	864	1.78	835	1.03	2,491	6.20
Rural Development	14	181	0.14	297	0.40	558	0.66	733	0.73	1,769	1.93
Housing and Urban Development	2	-	-	36	0.02	98	0.05	122	0.04	256	0.11
Total	60	1155	3.19	1219	4.54	2074	4.43	2310	2.97	6,758	15.13

On further analysis, it was observed that delay ranged from 15 days to 2 years as given in the table below:

(Rupees in crore)

Name of the Department	Delay ranging from -					Penalty
	15 to 90 days	91 days to 6 months	6 months to 1 year	1 to 2 years	Total	
Works	4.53	1.07	1.10	0.19	6.89	13.78
Water Resources	3.23	1.53	1.27	0.17	6.20	12.40
Rural Development	0.83	0.40	0.66	0.04	1.93	3.86
Housing and Urban Development	0.09	0.01	-	0.01	0.11	0.22
Total	8.68	3.01	3.03	0.41	15.13	30.26

On this being pointed out in audit, all the Executive Engineers stated that the tax deducted could not be remitted in time for want of adequate letter of credit (LOC), and to enable them to make unavoidable payments. The reply is not tenable as the value of LOC also covers the tax component. Thus, the entire amount was utilised towards payment to contractors without observing the instructions of Finance Department circular of January 2000 for simultaneous issue of separate cheque for payment of Sales Tax while issuing cheques to contractors. So, penalty of Rs. 30.26 crore was leviable on the defaulting Divisional Officers for delayed payment of tax.

On this being pointed out in audit, most of the CTOs stated that the matter would be taken up with the Public Works Departments for deposit of the amount. The reply confirmed that the CTOs have failed to perform their survey duties since as per CCT Circular of April 1999 the CTOs were required to make an exhaustive survey within their jurisdiction to see if the tax deducted at source by the deducting authorities was being deposited in time or not.

2.2.11 Allowance of inadmissible deduction in works contract

Under the OST Act, "taxable turnover" in respect of works contract' shall be deemed to be the gross value received or receivable by a dealer for carrying out such contract, less the amount of labour charges and service charges

incurred for execution of the contract. It has been judicially held¹⁷ that goods involved in execution of works contract when incorporated in the works contract could be classified into a separate category for the purpose of imposition of tax.

In course of cross checking of the assessment orders of 28 assesseees in 6 sales tax circles with their receipts from Government Departments, it was noticed that deductions of Rs.37.00 crore was allowed towards cost of materials used in execution of works contract on the ground that the goods had suffered tax which was incorrect as the entire turnover excluding labour and service charges was taxable. This resulted in short levy of tax for Rs.3.39 crore as detailed below :

(Rupees in crore)				
Name of the circle	No. of cases	Year	Deducted towards cost of materials	Tax and surcharge
Bhubaneswar-I	5	1998-99 and 1999-2000	4.48	0.41
Bhubaneswar-II	8	1997-98 to 2000-2001	18.97	1.74
Ganjam-III	1	1997-98	0.37	0.03
Jagatsinghpur	1	1999-2000	3.86	0.36
Kalahandi	11	1997-98 to 2000-01	3.19	0.29
Koraput-I	2	1998-99	6.13	0.56
Total	28		37.00	3.39

On this being pointed out in audit, the assessing officers stated that no goods could be taxed more than once in the same series of sales. In another similar case the Government stated in June 2002 that goods subjected to tax at one point shall not be taxed at subsequent point in the same series of sales. So the goods purchased on payment of tax and involved in the execution of work shall not be taxed again. This contention is not tenable since the Apex Court classifies goods utilised in works contract into a separate category for imposition of tax.

2.2.12 Non-recovery of tax on hire charges

Under the provisions of the OST Act, sale includes transfer of right to use any goods for any purpose for cash, deferred payment or other valuable consideration. Thus, hire charges are subject to levy of sales tax. The Government of Orissa, Finance Department in November 1997 and Works Department in December 1997 also stipulated that sales tax on hire charges of machineries is to be recovered from the contractors by the Public Works Divisions.

Test check of records in 20 Divisions of Works and Rural Development Departments revealed that sales tax amounting to Rs.42.51 lakh on hire charges of Rs.3.54 crore on account of hire of departmental machineries

¹⁷ The Supreme Court in the case of M/s. Gannon Dunkerley & Co. Vrs State of Rajasthan (1993)-88 STC-204

during the period 1998-99 to 2001-2002 had not been recovered as detailed below.

(Rupees in lakh)

Name of department (No. of divisions)	Amount of hire charges received					Amount of Sales Tax not recovered
	1998- 1999	1999- 2000	2000- 2001	2001- 2002	Total	
Works (10) ¹⁸	29.33	21.35	33.13	25.87	109.68	13.16
Rural Development (10) ¹⁹	65.38	60.30	61.47	57.44	244.59	29.35
Total	94.71	81.65	94.60	83.31	354.27	42.51

On this being pointed out, the concerned Executive Engineers stated that no tax deduction could be made due to absence of Departmental communication. The CTOs agreed to take action in this regard.

The reply of the Divisional Officers is not tenable as the above instructions were issued by the Finance Department and by Works Department to all the Chief Engineers in November 1997 and December 1997 respectively.

2.2.13 Non-recovery of tax from suppliers

As per OST Act, any person responsible to pay any sum to any dealer for supplies made by him to the State Government, shall deduct the amount of sales tax from bills or invoices, to avoid delay of payment of tax by the dealer concerned. The amount of tax deducted at source should be deposited into the Government Treasury within one week from the date of deduction and shall be adjusted by the concerned CTO towards the tax liability of the dealer. Any person contravening the provisions is liable to pay penalty not exceeding twice the amount required to be deducted and deposited.

Test check of records in 10²⁰ divisional offices in 3 Public Works Departments revealed that sales tax to the extent of Rs.1.53 crore as detailed in table below on supply of goods valued at Rs.16.08 crore was not deducted at source during 1999-2000 to 2001-02 from the suppliers. Penalty of Rs.3.06 crore for such contravention was also leviable.

- 18 R & B Divisions: Balasore, Choudwar, Dhenkanal, Kendrapara, Kalahandi, Mayurbhanj, N.H. Division: Bhubaneswar, Baripada, Dhenkanal, Keonjhar
- 19 R.W. Divisions: Angul, Bhubaneswar, Baripada, Balasore, Bhawanipatna, Cuttack, Dhenkanal, Kendrapara, Jajpur, Keonjhar,
- 20 R.W Division Baripada and Jajpur
R.W.S.S Divisions. Balasore, Bhanjanagar, Bhawanipatna, Cuttack-I, Keonjhar and Puri
P.H Division -II Bhubaneswar and R& B Division-III Bhubaneswar

Sl. No.	Name of the Department (No. of Divisions)	1999-2000			2000-2001			2001-2002			Total		
		No. of suppliers	Gross value of supplies	Amount of Sales Tax not deducted	No. of suppliers	Gross value of supplies	Amount of Sales Tax not deducted	No. of suppliers	Gross value of supplies	Amount of Sales Tax not deducted	No. of suppliers	Gross value of supplies	Amount of Sales Tax not deducted
1	Rural Development (8)	16	3.94	0.24	27	6.84	0.72	10	3.86	0.40	53	14.64	1.36
2	Housing and Urban Development (1)	9	0.53	0.07	10	0.62	0.07	5	0.17	0.02	24	1.32	0.16
3	Works (1)	3	0.11	0.01	2	0.02	0.002				5	0.12	0.01
Total (10)		28	4.58	0.32	39	7.48	0.79	15	4.03	0.42	82	16.08	1.53

On this being pointed out in audit, the Divisional Officers who made purchases from 3 dealers of Balasore stated that goods supplied by them were first point tax paid goods. Hence, no tax was deducted at source. The reply of the Divisional Officer is not tenable, since these dealers being manufacturers were the first sellers in the state and they were liable to pay tax.

However, other Divisional Officers replied that due to late receipt of the departmental instructions tax could not be deducted at source.

2.2.14 Lack of Internal Control mechanism

(i) The Finance Department as well as the CCT, Orissa do not have any mechanism to collect, maintain or monitor the overall position of tax deducted at source and its remittance into Government Accounts. No attempt had been made to reconcile the amount of tax deducted at source and the amount of tax remitted into Government Account.

(ii) As per Finance Department circular issued in January 2000 each Head of the Department covered under LC arrangement was required to furnish to CCT the information regarding deduction and remittance of tax. He was also to furnish details of defaulting Drawing and Disbursing Officers/Divisional Officers by 20th of every month in respect of the preceding month in a prescribed proforma. The procedure had not been followed.

(iii) The deducting authorities were not sending copies of TDS certificates to the Sales Tax circles concerned to keep them informed of the activities of the contractors. On the other hand, there had been no concerted effort on the part of Sales Tax authorities to obtain copies of TDS certificates regularly.

2.2.15 Recommendations

The Divisional Officers of Works Divisions did not scrupulously follow the provisions of the Act, while the Commercial Tax Officers failed to initiate action leading to delayed remittance of collected tax. Lack of co-ordination between the executing departments and the Sales Tax Department and the absence of a well-devised control mechanism had kept a large number of works contractors outside the tax ambit. Audit observed that lack of proper management led to irregularities and consequently, loss of revenue, which

could have been avoided had there been monitoring and co-ordination. Despite the adverse impact of such loss on the ways and means position of the State, Finance Department did little to enforce the provisions of the Act and instructions issued thereon.

The State Government may consider the following to improve the effectiveness of the system-

- (i) enforce the instructions on conduct of survey by the Commercial Tax Circles regularly,
- (ii) issue of certificate showing tax deducted at source to the contractors concerned with a copy endorsed to the concerned Circle for follow up action,
- (iii) provide for periodical returns by the executing/deducting authorities to the Commercial Tax Circles in order to keep the Commercial Tax Department informed of the tax liability of the works contractors and
- (iv) strengthen and streamline monitoring to have a better managed system of levy, collection and remittance of tax.

The matter was referred to Government in June 2003; no reply was received (August 2003).

The matter was demi-officially brought to the attention of the Commissioner of Commercial Taxes and Principal Secretary, Finance. Remedial action if any taken has not been intimated (November 2003).

2.3 Incorrect grant of exemption

The OST Act, 1947, read with Industrial Policy Resolutions (IPR) of the State provides as follows:

- (a) Purchase of raw-materials by a new Small Scale Industry (SSI) unit shall be exempted from tax for a period of five years under IPR 1986 and seven years under IPR 1989 and 1992. Sale of finished products shall be exempted from tax for a period of seven years from the date of commercial production (CP) under IPR 1986, 1989 and 1992;
- (b) Sale of finished products only to the extent of increased commercial production of an existing SSI unit over and above the existing installed capacity (IC) shall be exempted from tax for a period of seven years from the date of commercial production provided that the expansion/modernisation/diversification (E/M/D) were undertaken on the basis of a separate project report duly appraised by a financial institution under

IPR 1989 where loan is taken and by the District Industry Centre (DIC) in the case of self financing projects;

(c) Sale of finished products of medium/large industrial unit set up on or after 1st December 1989 to the extent as certified by Director of Industries, Orissa shall be exempted from tax for a period of nine years in case of unit set up in the district of Bolangir.

Certain categories of industries were declared as ineligible units under the IPRs.

Audit scrutiny revealed short levy of tax of Rs.4.08 crore due to incorrect grant of exemption to SSI/large scale units as tabulated below:

(Rupees in lakh)					
Sl. No.	Name of the circle	Assessment year/month of assessment	Commodity/ Rate of tax OST/CST per cent	Inadmissible turnover exempted	Short levy of tax including surcharge
1	Cuttack-II	1997-98 & 1998-99 March 2000 and March 2002	Detergent powder and cake /12 (finished product) (raw material: soda ash, acid slurry etc.)	540.94 392.35	73.89 47.08
M/s. Orissa Detergent Pvt. Ltd., a SSI unit manufacturing Detergent washing powder/cake was set up after 1 August 1980 with installed capacity of 750 MT. The capacity was revised in October 1995 by the General Manager, DIC without a separate appraisal report by the Financial Institution/DIC which was mandatory. The exemption was, however, allowed on 5079.77 MT of finished products over and above the installed capacity and on corresponding raw materials (beyond the period of five years) resulting in short levy of tax. On this being pointed out, the Department stated that reassessment for the year 1997-98 was initiated and case for 1998-99 would be sent to the ACST (Assessment) who had done the assessment. Further reply was awaited.					
2	Cuttack-II	1997-98/ March 2001	Refined edible oil/4	1566.62	70.10
M/s Mahaveer Oil and Refineries, a SSI unit started commercial production in September 1992 with installed capacity of 1200 MT. It undertook expansion without a separate appraisal report by a Financial Institution/DIC which was mandatory raising its installed capacity to 5700 MT. Exemption was allowed on the entire sale (5789.73 MT) of finished products instead of restricting it to the extent of the original installed capacity. On this being pointed out, the Department stated that reassessment proceeding had been initiated. The Commissioner of Commercial Taxes stated (August 2003) that in pursuance of audit observation the reassessment was completed raising extra demand of Rs.70.67 lakh.					
3	Ganjam-III	(a) 1997-98 to 2000-01 between September 1998 and January 2002	Shrimp seeds/12 (finished products) raw materials/12	290.98 8.37	39.32 1.00
		(b) 1997-98 to 1998-99 between March 2000 to December 2001	Shrimp Seeds/12 (finished products) raw materials/12	144.11 1.53	19.02 0.12
M/s. Deep Sun Hatchery (P) Ltd. and M/s. Srinivas Marine (P) Ltd. being "hatchery" units were not eligible for exemption under IPR. On this being pointed out, the Department stated that reassessment proceeding had been initiated. Further reply was awaited.					

(Rupees in lakh)					
Sl. No.	Name of the circle	Assessment year/month of assessment	Commodity/ Rate of tax OST/CST(%)	Inadmissible turnover exempted	Short levy of tax including surcharge
4	Bolangir-II	1996-97 October 1999	High Speed Steel and Alloys/8	719.97	57.60
M/s G.K.W Ltd. (Powmex Steels Ltd.) a large Industrial unit under IPR 1989 was allowed exemption on finished product of 3434.72 MT during 1996-97 against 3000 MT certified by the Director of Industries. This resulted in grant of excess exemption on 434.72 MT. On this being pointed out, the Department stated that demand of Rs.57.60 lakh was confirmed in first appeal. However, after making payment of Rs.29.61 lakh in November 2001 the dealer had preferred second appeal which was pending. Further reply was awaited.					
5	Cuttack-I(West)	1996-97 to 1998-99 between February 2000 and February 2001	Rain coat, great coat, kit bag etc./12	297.83	39.64
M/s Kalinga Industries being a tailoring unit is not eligible for exemption On this being pointed out, the CCT while confirming the fact of raising demand stated in March 2003 that the dealer had preferred appeal against the re-assessment which was pending. Further reply was awaited.					
6	Rourkela-II	1998-99 November 2000	Chemicals/12	114.97	27.92
M/s Crystal Towers, a unit under IPR 1989 started with installed capacity of 720 MT. During 1998-99, exemption was allowed on 1176.35 MT resulting in excess exemption on 456.35 MT. On this being pointed out, the Department stated in that compliance would be furnished after verification of records. Further reply was awaited.					
7	Rourkela-II	(a) 1998-99 to 2000-01 between September 2000 and February 2002	Refractories/16	181.11	16.58
		(b) 1997-98 to 2000-01 between August 2001 and March 2002	Refractories/16	109.04	7.54
Under IPR 1996 exemption of tax is admissible to the extent of fixed capital investment. To restrict the exemption upto the ceiling limit notional calculation of tax was made at the concessional rate of 4 per cent instead of the appropriate rate of 16 per cent. On this being pointed out, the Department stated that reassessment proceeding had been initiated. Further reply was awaited.					
8	Cuttack-I(West)	1996-97 March 2000	Edible Oil/4/10	178.82	8.42
M/s Utkal Refinery Ltd., a SSI unit, was entitled to exemption upto November 1996 on the original installed capacity of 3000 MT and upto October 1998 under expansion to the extent of increased production over 3000 MT. During 1996-97, exemption was allowed beyond November 1996, even though the production was 1472.195 MT which did not exceed the original installed capacity. The matter was reported to the Department, no reply was received. However, Government stated in May 2003 that tax recovery proceedings had been initiated against the dealer for realisation of dues. Further reply was awaited (August 2003).					
Total					408.24

The above cases were reported to Government between November 2000 and April 2003; their reply (except Sl.No.2 and 8) was awaited (November 2003).

2.4 Non levy of tax on contravention of declaration

Under the OST Act, where a registered dealer purchases goods of the class or classes specified in his certificate of registration as being intended for use within the state by him in the manufacture or processing of goods for sale at concessional rate of tax or free of tax after furnishing a declaration in the prescribed form, but utilises the same for any other purpose or transfer the same outside the State, he shall pay the difference in tax or the tax, as the case may be, payable, had he not furnished the declaration. Ammonium Nitrate is taxable at the rate of 12 *per cent* under the Act.

Scrutiny of assessment records in Rourkela-II circle revealed that in case of assessment of a registered dealer for the year 2000-01, the assessing officer allowed (March 2002) the purchase of raw material (Ammonium Nitrate) valued at Rs.21.67 crore at concessional rate of 4 *per cent* against declaration. The assessee had transferred the finished product, "bulk premix", valued at Rs.25.98 crore to his branches outside the State. Thus, the dealer had contravened the provisions of the Act and was liable to pay the differential tax of Rs.1.20 crore on proportionate value of raw materials valued at Rs.15.00 crore utilised in the manufacture of finished goods worth Rs.25.98 crore.

On this being pointed out in audit, the assessing officer agreed in November 2002 to re-examine the case. No further reply has been received (August 2003).

The fact was intimated to Government in March 2003; their reply was awaited (November 2003).

2.5 Irregular exemption from Central Sales Tax

Under the Central Sales Tax Act, 1956, inter-State sale of iron and steel (declared goods) not supported by the prescribed declaration in form-C is taxable at the rate of 8 *per cent*. Government of Orissa in their notification dated 6 April 1991 as amended by notification dated 16 September 1991 exempted inter-State sale of iron and steel made to registered dealers from levy of tax subject to the conditions (i) that the tax under the State Act has been paid in respect of such iron and steel, (ii) that such iron and steel has been sold in the same form in which it was purchased inside the State and (iii) the dealer does not claim reimbursement of the tax paid under the State Act.

Scrutiny of assessment records in Dhenkanal circle revealed that while finalizing in July 2001 the assessment for the year 2000-2001 of a registered dealer, dealing in iron and steel, inter-state sale of iron and steel valued at Rs.5.49 crore was exempted from tax without ensuring the fulfillment of the prescribed conditions. Cross-verification of the records of CTOs Rourkela-I and II circles in audit revealed that the dealers from whom purchases were shown to have been made had either made no transactions with this dealer or

their registration certificates had been cancelled prior to the year 2000-2001. Thus, incorrect exemption from tax resulted in short levy of tax of Rs.43.93 lakh. Besides, the dealer was also liable to pay penalty of Rs.65.90 lakh.

On this being pointed out in audit, the assessing officer stated in October 2002 that the matter had been referred to concerned circles for verification, and necessary proceeding would be initiated after establishment of fact. Further reply in the matter was awaited (August 2003).

The matter was reported to Government in December 2002; their reply was awaited (November 2003).

2.6 Under-assessment of tax

Under the Central Sales Tax Act, 1956 where sale of any goods in the course of inter-state trade or commerce has occasioned the movement of goods from one State to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods to a registered dealer shall be exempt from tax, provided the dealer furnishes a certificate in the prescribed form obtained from the selling dealer from whom the goods were purchased. Electrical goods are taxable at the rate of 12 *per cent* under the State Act. Surcharge at the rate of 10 *per cent* where the gross turnover (GTO) does not exceed Rs.1.00 crore and 15 *per cent* where the GTO exceeds Rs.1.00 crore is also leviable on tax assessed.

During the course of audit of Rourkela-II circle it was noticed that in the assessment of a registered dealer dealing in electrical goods for the year 2000-01, claim of exemption of inter-state sale of Rs.10.60 crore was rejected as the dealer did not furnish the prescribed certificate, and the same was taxed at the rate of 4 *per cent* applicable to inter-state sale. Scrutiny revealed that the transactions were between the dealers of Orissa and should have been treated as intra-State sale instead of inter-state sale. This resulted in under-assessment of tax of Rs.1.04 crore including surcharge of Rs.19.08 lakh.

On this being pointed out in audit, the assessing officer replied in November 2002 that the case would be examined. Further, reply was awaited (August 2003).

The matter was intimated to Government in March 2003; their reply was awaited (November 2003).

2.7 Under-assessment of tax due to escapement of taxable turnover

Under the OST Act, taxable turnover means that part of a dealer's gross turnover during any period which remains after deducting (i) sale of any goods

notified as tax free and (ii) sales to registered dealer on strength of declaration. The Act provides that no dealer shall carry on business other than the goods specified in the certificate of registration.

Scrutiny of assessment records for the year 1996-97 and 1997-98 in Jagatsingpur circle revealed that a dealer received cotton valued Rs.16.44 crore from outside the state for commission sale. The dealer, however, utilised the same for manufacture of cotton yarn. Since the registration certificate of the dealer did not include manufacturing of cotton yarn, the dealer contravened the provisions and was liable to pay tax. Non-levy of tax by the assessing officer resulted in under-assessment of tax of Rs.65.77 lakh.

On this being pointed out in audit, the assessing officer reassessed the case in September 2001 and raised demand of Rs.65.77 lakh. The Hon'ble High Court quashed this assessment on 29 January 2002 and ordered reassessment the case. The assessing officer in reassessment on 26 February 2002 dropped the proceedings.

The matter was reported to Government/CCT(O). The CCT(O) replied in April 2003 that ACCT, Cuttack-II range Cuttack had been directed in February 2003 to initiate suo-motu revision proceedings against the dealer as the reassessment order was erroneous and prejudicial to the interest of revenue. Further reply was awaited (November 2003).

2.8 Short levy of tax due to under-assessment of taxable turnover

(a) Under the OST Act, sale price means amount payable to a dealer as consideration for the sale or supply of any goods, including excise duty, profit margin etc. in respect of goods at the time of or before delivery thereof.

Scrutiny of assessment records in Sambalpur-II circle revealed that a wholesale dealer of India Made Foreign Liquor (IMFL) and beer disclosed his taxable sales turnover of Rs. 1.03 crore during the period 1998-99 to 2000-01 on the basis of purchase turnover of Rs.83.50 lakh. On verification of purchase particulars, it was noticed that the taxable turnover actually worked out to Rs.1.66 crore taking into account excise duty, etc. of Rs. 67.12 lakh including profit margin which was also to be included while arriving out the turnover. This resulted in short determination of taxable turnover by Rs.62.99 lakh with resultant short levy of tax Rs.14.49 lakh including surcharge. Further a penalty of Rs.21.74 lakh was leviable for suppression of taxable turnover.

On this being pointed out in audit, the Department stated in July 2003 that additional demand of Rs.21.48 lakh had been raised. Further, reply was awaited.

The matter was reported to Government in March 2003. Government stated (September 2003) that a demand of Rs.49.50 lakh was raised against the assessee.

(b) Under the OST Act, taxable turnover in respect of works contract shall be deemed to be the gross value received or receivable by a dealer for carrying out such contract, less the amount of labour and service charges incurred for execution of the contract. Works contract is taxable at the rate of eight *per cent*.

Scrutiny of assessment records in Cuttack-II circle revealed that a registered works contractor, during the year 1998-99, utilised materials valued at Rs.6.66 crore in execution of a works contract. The records, however, revealed that only materials worth Rs.4.86 crore had been considered in assessment leaving aside materials for Rs.1.80 crore purchased from outside the State. Adopting a profit margin of 10 *per cent* (as claimed by the assessee in respect of the particular work) the materials valued at Rs.1.98 crore remained unassessed resulting in short levy of tax for Rs.18.18 lakh including surcharge.

On this being pointed out in audit, the assessing officer stated in September 2002 that appropriate action would be taken up after examination of the contract, books of accounts and judicial decision. Further reply was awaited till August 2003.

The matter was reported to Government in January 2003; their reply was awaited (November 2003).

2.9 Short levy of tax due to allowance of inadmissible concession

Under the OST Act, sale of goods of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for use by him in the manufacture or processing of goods for sale, is taxable at a concessional rate of 4 *per cent* subject to production of declaration in the prescribed form. The liability of a registered dealer to sales tax would arise if the facts necessary to establish exemption are not found established, irrespective of whether a declaration was obtained²¹. Cement is taxable at the rate of 12 *per cent* under the Act.

(i) Scrutiny of assessment records in Cuttack-I (East) circle revealed that in the case of a registered dealer dealing in cement, the assessing officer while completing between November 2001 and March 2002 the assessments for the period 1998-99 to 2000-01 allowed concessional rate of tax of 4 *per cent* against form prescribed on sale of cement valued at Rs.3.61 crore made to a registered dealer manufacturing chemical fertilizers and to a works contractor. Since cement is not used in the manufacture of chemical fertilizer²², and construction is neither manufacture nor processing of goods for sale, allowance of concessional rate was irregular. This resulted in short levy of tax of Rs.33.19 lakh including surcharge.

²¹ Netranand Vs. CCT, Orissa [12 STC-169 (Orissa)].

²² J.K. Cotton Spinning and Weaving Mills Co. :Ltd. Vs. Sales Tax Officer, Kanpur [16STC-563 (S.C)].

On this being pointed out in audit, the assessing officer agreed in October 2002 to reopen the case. Further reply was awaited (August 2003).

The matter was reported to Government in March 2003; their reply was awaited (November 2003).

(ii) Scrutiny of assessment records for the year 2000-01 in Ganjam-I circle revealed that in the case of a registered dealer dealing in cement, the assessing officer allowed concessional rate of tax of 4 *per cent* on sale of cement worth Rs.1.51 crore made to a registered works contractor of Cuttack-II circle. Since, construction is neither manufacture nor processing of goods for sale, allowance of concessional rate was irregular. This resulted in short levy of tax of Rs.13.89 lakh including surcharge.

On this being pointed out in audit, the assessing officer raised in September 2002 extra demand of Rs.13.89 lakh out of which the dealer had paid Rs.2.50 lakh in May 2003 and had gone in appeal.

The above matter was referred to Government in February 2003. Government stated (July 2003) that extra demand of Rs.13.89 lakh was raised against the dealer.

(iii) Scrutiny of the assessment records for the year 2001-02 in Cuttack-II circle revealed that in the case of a registered dealer the assessing officer allowed concessional rate of tax of 4 *per cent* on sale of calcined clay valued at Rs.70.13 lakh to a registered purchasing dealer. As calcined clay was not specified in the certificate of registration of the purchasing dealer, the allowance of concessional rate of tax to the said dealer was irregular. This resulted in short levy of tax of Rs.6.17 lakh including surcharge.

On this being pointed out in audit, the assessing officer stated in June 2002 that action would be taken. Further reply was awaited (August 2003).

The matter was reported to Government in April 2003; their reply was awaited (November 2003).

2.10 Under-assessment of tax due to application of lower rate

Under the OST Act, concessional rate of tax (4 *per cent*) is admissible to a registered purchasing dealer, provided a declaration in form-IV is furnished by him to the selling dealer that goods so purchased will be used by him in manufacture, processing or packing of goods for sale. The benefit of use of Form-IV for purchases by registered dealer through works contract was available with effect from April 2001. Under the Act, taxable turnover of works contract is subject to tax at the rate of 8 *per cent*.

Test check of records of Rourkela-II circle revealed that in case of registered dealer engaged in execution of works contract, taxable turnover for the year 2000-01 was determined at Rs.6.28 crore. Out of this Rs.6.15 crore was

assessed to tax at the concessional rate of 4 *per cent* against declaration in form-IV. Audit scrutiny revealed that out of Rs.6.15 crore turnover of Rs.6.10 crore related to the works contract being executed by the assessee. This resulted in under-assessment of tax of Rs.28.08 lakh including surcharge.

On this being pointed out in audit, the assessing officer agreed in November 2002 to examine the case. Further reply was awaited till August 2003.

The matter was reported to Government in March 2003; their reply was awaited (November 2003).

2.11 Under-assessment of purchase tax

Under the OST Act, certain goods have been specified to be taxed on the turnover of purchases. Turnover of purchases means the aggregate of the amount of purchase prices paid and payable by a dealer in respect of the purchase or supply of goods so specified. Bamboos agreed to be severed are subject to purchase tax at the rate of 10 *per cent*.

In course of audit of Koraput-II circle, it was noticed from the assessments of two registered dealers engaged in purchase and sale of forest produce that the dealers did not disclose the payment of royalty of Rs.2.42 crore to Forest Department towards purchase of bamboo agreed to be severed during the years 1995-96, 1996-97 and 1997-98. Cross verification of records revealed that the above payments were made at their head office based on the total sale units of bamboo felled by the divisions. Since royalty is the purchase price of bamboo, non-inclusion of Rs.2.42 crore in their purchase turnover resulted in under-assessment of purchase tax of Rs.26.46 lakh including surcharge of Rs.2.41 lakh.

On this being pointed out in audit, the assessing officer raised between September 2001 and October 2001 extra demands of Rs.63.01 lakh including penalty of Rs.35.08 lakh. Position of recovery was awaited till August 2003.

The matter was reported to Government in January 2003. Government stated in May 2003 that the dealers had paid Rs.10 lakh and stated (September 2003) that the realisation of balance amount was stayed in 2nd appeal.

2.12 Under-assessment of Central Sales Tax

Under the Central Sales Tax Act, 1956 inter-state sale of goods other than declared goods not supported by declaration in form 'C' is taxable at the rate of 10 *per cent* or at the rate applicable to sale of such goods inside the appropriate state, whichever is higher. News print is taxable at the rate of 8 *per cent* under the State Act.

During the audit of Balasore circle, it was noticed from the assessment, for the year 1998-99 under CST Act, of a registered dealer manufacturing different kinds of papers that the assessing officer levied tax at the rate of 5 per cent on sale of newsprint valued at Rs.4.31 crore in inter-state trade and commerce without declaration in form 'C'. This resulted in under-assessment of tax of Rs.21.57 lakh at the differential rate of 5 per cent.

On this being pointed out in audit, the Department stated in April 2003 that additional demand had been raised and adjusted against the exemption limit of the dealer under IPR 1992.

The matter was intimated to Government in January 2003; their reply was awaited (November 2003).

2.13 Short levy of tax due to misclassification of goods

Under the OST Act, mill made fabrics of certain varieties and as described in the first Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957, are exempted from tax. High density poly ethylene (HDPE) sacks made out of HDPE fabrics, being not covered under the above description and judicially held²³ as plastic products, are taxable.

Scrutiny of assessment orders in Rourkela-II circle revealed in case of a registered manufacturer that, while completing the assessments for the periods 1998-99 to 2000-01, the assessing officer treated HDPE sacks as tax free goods and allowed exemption of tax on goods valued Rs.1.82 crore, classifying the same as mill made fabrics instead of plastic goods. This led to short levy of tax of Rs.15.59 lakh including surcharge.

On this being pointed out in audit, the assessing officer stated in November 2002 that matter would be examined. Further reply was awaited till August 2003.

The matter was intimated to Government in April 2003; their reply was awaited (November 2003).

2.14 Incorrect treatment of supply contract as works contract

Under the OST Act, taxable turnover in respect of works contract shall be deemed to be the gross value received or receivable by a dealer for carrying out such contract less the amount of labour charges and service charges. It has been judicially held²⁴ that contract for supply of chips and stone after quarrying them is a transaction of sale, and not that of work and labour. Hard

23 In case of M/s Sooshree Plastics (P) Ltd. V. Union of India (Orissa)(OJC No.2755 of 1988)

24 State of Orissa Vs. Utkal Distributors Ltd.(1974)34-STC-347(Orissa).

M/s Anamolus Seshagiri Rao & Co. Vs. State of Andhra Pradesh(1980) [45 STC-388(AP)].

granite and similar quality stone ballast is taxable at the rate of 12 *per cent* under the Act.

Scrutiny of assessment records in Cuttack-II circle revealed that a dealer executed contracts with Railways for supply and stacking of hard granite and similar quality stone ballast and received payment of Rs.2.41 crore during 1997-98. The assessing officer while completing assessment in March 2001 allowed deduction of Rs.28.94 lakh towards labour and service charges and taxed the balance amount of Rs.2.12 crore at the rate of 8 *per cent* applicable to works contract instead of taxing the whole amount of Rs.2.41 crore at the appropriate rate of 12 *per cent*. This resulted in short levy of Rs.13.38 lakh including surcharge of Rs.1.42 lakh.

On this being pointed out in audit, the assessing officer stated in June 2002 that proceeding would be initiated. Further, reply was awaited (August 2003).

The matter was reported to Government in February 2003; their reply was awaited (November 2003).

2.15 Short levy of penalty

Under the OST Act, as amended from 3 October 2000, where the Sales Tax Officer assesses to the best of his judgement the amount of tax, if any, due from the dealer, he may also direct that the dealer shall pay, by way of penalty, in addition to the tax assessed, a sum equal to one and half times of the tax so assessed.

Scrutiny of assessment records in three circles (Balasore, Dhenkanal and Sambalpur-II) revealed that while completing the assessments of three unregistered dealers and reassessment of two registered dealers after October 2000, the assessing officers levied penalty of Rs. 18,500 as against Rs. 12.49 lakh being equal to one and half times of tax assessed. This resulted in short levy of penalty of Rs.12.31 lakh.

On this being pointed out in audit, the assessing officers of Balasore circle stated in June 2002 that penalty in one case was imposed on best judgement applying discretionary power and in another case, the assessment was re-opened. The assessing officer of Dhenkanal circle stated in May 2002 that penalty in one case was imposed applying discretionary power and in another case, a token penalty was imposed as the dealer got himself registered. The assessing officers of Sambalpur-II circle reopened the assessment in November 2002. The replies in respect of three dealers were not tenable as the actions of assessing officer violated the amended provisions of the Act.

The matter was reported to Government in April 2003. Government stated (September 2003) that extra demand of Rs.13.40 lakh was raised against the assesses.

2.16 Loss of revenue due to non-observance of prescribed procedure for cancellation of Registration Certificate

Under the OST Act, every year by the end of May and November, the Sales Tax Officer shall send to the Commissioner a list of registered dealers whose registration certificates have been cancelled. The Commissioner shall, after such verification and modification publish the name of the dealer whose registration certificate has been cancelled in the Commercial Taxes Gazette.

Scrutiny of assessment records in Koraput-II circle revealed that a registered dealer had sold paper valued at Rs.51.02 lakh during the year 1995-96 to another dealer of Keonjhar circle on the strength of declaration in form-IV and collected tax at the concessional rate of 4 *per cent* which was allowed in the assessment. A cross verification by audit revealed that the registration certificate of the purchasing dealer was cancelled with effect from September 1992. Thus allowance of inadmissible concessional rate of tax resulted in under-assessment of tax of Rs.2.24 lakh including surcharge.

On this being pointed out in audit, the Commercial Tax Officer stated in September 2002 that, as held by the Sales Tax Tribunal (SA No.1487 of 1999-2000), the selling dealer was not responsible since the fact of cancellation of registration certificate of the purchasing dealer was not published in the Commercial Taxes Gazette.

Thus, due to non-observance of the prescribed procedure, government had to incur loss of revenue of Rs.2.24 lakh.

The matter was reported to Government in April 2003; their reply was awaited (November 2003).

2.17 Non-levy of tax on sale of tender paper

Under the OST Act, a Government organisation is a dealer when it, whether or not in the course of business, purchases, sells supplies or distributes goods for cash, deferred payment or valuable consideration. Further as judicially held²⁵, sales tax is leviable on the cost of tender paper. Tender paper is exigible to tax at general rate of 12 *per cent* under the residual entry for all other goods.

Test check of records in 61 Public Works Divisions, revealed that no tax had been levied and collected on the sale of tender papers valued at Rs.10.45 crore during the period 1998-99 to 2001-2002. This had resulted in non-levy of tax amounting to Rs.1.25 crore as detailed below:

25 M/s Hindustan Zinc Ltd. Vs. Commercial Tax Officer, Udaipur reported vide 82-STC(5)-1990.

(Rupees in lakh)							
Name of the Department	No. of Divisions	Cost of tender papers sold				Total	Amount of tax not levied
		1998-1999	1999-2000	2000-2001	2001-2002		
Works	14	31.69	50.48	93.81	63.49	239.47	28.74
Water Resources	29	33.67	63.86	94.00	70.25	261.78	31.41
Rural Development	16	74.34	92.18	171.27	201.32	539.11	64.69
Housing & Urban Development	2	0.50	0.42	0.92	2.46	4.30	0.52
Total	61	140.20	206.94	360.00	337.52	1044.66	125.36

On this being pointed out in audit, most of the Executive Engineers and the concerned CTOs stated that tax on sale of tender papers was not realised for want of specific provision in the Act or instructions from Government. It was, however, stated that clarifications from departmental authorities would be sought.

2.18 Internal Audit System in Commercial Tax Department

The system of internal audit for sales tax was introduced from the year 1975-76 in Finance Department with seven audit parties headed by Commercial Tax Officers (Inspection) to cover 29 circles, 17 assessment units, 23 road check gates and 8 railway receipts (RR) Units.

A review of the internal audit system in the Office of the Commissioner of Commercial Taxes, Orissa revealed that although the periodicity of internal audit was annual, no audit had been conducted since 1999-2000 except for 15 units in 2001-02.

Discontinuance of internal audit resulted in increase of arrears year after year. As of 31 March 2003 there were 1177 unaudited units as detailed below:

Year	OB (Units)	Addition during the year	Clearance during the year	Balance at the close of the year	Percentage of Disposal
1	2	3	4	5	6
1999-2000	886	76	Nil	962	Nil
2000-2001	962	76	Nil	1,038	Nil
2001-2002	1,038	77	15	1,100	1.4
2002-2003	1,100	77	Nil	1,177	Nil

Scrutiny revealed that three posts of Commercial Tax Officer (Inspection) were vacant for 8 years. Even in Cuttack where significant revenue is collected, the post of CTO (Inspection) was kept vacant for 9 years while the Bhubaneswar post was vacant for 5 years and another post kept vacant for 12 years. Consequently 14,028 internal audit paragraphs in 488 Inspection Reports are pending for the period from 1976-77 to 2002-03 without follow up for securing compliance. This shows that the internal audit system under the Commissioner of Commercial Taxes was non-functional. The Department agreed that the internal audit was totally defunct and there would be no possibility of revival due to non filling up of the vacant posts.

There is an urgent need for revamping the internal audit wing since recurring irregularities of underassessment, and non-assessment of sales tax revenue are being pointed out in successive Audit Reports.

CHAPTER-III : TAXES ON MOTOR VEHICLES

3.1 Results of audit

Test check of records relating to assessment, collection and refunds of motor vehicles tax in the office of the State Transport Authority, Orissa and the Regional Transport Offices conducted during 2002-2003 revealed under-assessment of tax and loss/blocking of revenue amounting to Rs.25.47 crore in 18,415 cases which may broadly be categorised as under:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Non-levy/non-realisation of motor vehicles tax/additional tax and penalty	12,514	22.89
2	Blocking of revenue due to non-disposal of vehicle check reports	1,421	0.85
3	Short realisation/short levy of motor vehicles tax/additional tax and penalty	1,595	0.71
4	Non/short realisation of composite tax and penalty	2,383	0.46
5	Non/short accountal of revenue receipts	38	0.27
6	Non/short realisation of compounding, permit, reservation and driving licence fees etc.	353	0.19
7	Other irregularities	56	0.09
8	Non/short realisation of trade certificate tax/fees	55	0.01
Total		18,415	25.47

During the year 2002-2003, the Department accepted under-assessment etc. of tax and penalty of Rs.2.59 crore in 2,028 cases. Of these, the Department had recovered Rs.0.41 crore in 729 cases in earlier years and Rs.0.07 crore in 23 cases pointed out during the year 2002-03.

A few illustrative cases highlighting important audit observations involving Rs.23.65 crore are mentioned in the following paragraphs.

3.2 Short accountal/misappropriation of Government revenue

Under the provisions of Orissa Treasury Code all moneys received by or tendered to Government Servants on account of the revenue of the state should, without undue delay, be paid in full into the treasury or into the bank and shall be included in the Public Account of the State. All monetary transactions should be entered in the cash book as soon as they occur and attested by the head of the office in token of check.

Test check of cash book including subsidiary registers of four regions revealed short accountal/misappropriation of revenue of Rs.26.20 lakh during 2001-02 due to non-adherence to financial provisions by the Regional Transport Officers.

The Regional Transport Officers, Bhubaneswar and Chandikhol stated that the short accountal was due to excess deposit over the collection in previous days. The replies were not tenable, as revenue collected was required to be credited to Government Account forthwith.

The matter was brought to the notice of Government in April 2003. Government in their reply in June 2003 asked the Transport Commissioner to conduct enquiry and to take proper disciplinary action against the employees involved.

3.3 Non-realisation of motor vehicles tax and additional tax in respect of goods vehicles

Under the Orissa Motor Vehicles Taxation (OMVT Act), 1975, tax due on motor vehicles should be paid in advance within the prescribed period at the rates prescribed unless exemption from payment of such tax is allowed for the period covered by off-road declarations. Further, according to the instructions issued in February 1966, by the Transport Commissioner, Orissa, demand notices for realisation of unpaid taxes should be issued within 30 days from the date of expiry of the grace period (15 days) for payment of tax. Motor vehicles tax and additional tax in respect of goods vehicles are to be determined on the basis of the registered laden weight (RLW) of the vehicles and realised at the rates prescribed in item-3 of taxation schedule appended to the Act *ibid*. In case of default, penalty ranging from 25 *per cent* to 200 *per cent* of the tax due is leviable depending upon the extent of delay.

Test check of records of 18 regions²⁶ revealed that tax in respect of 6,076 goods vehicles was not paid during April 2000 to March 2002. These vehicles were neither covered by off-road declarations nor had they intimated the deposit of tax in any other region. Therefore, tax and additional tax amounting to Rs.4.81 crore remained unrealised due to lack of proper monitoring. In addition, penalty amounting to Rs.9.62 crore was also leviable.

26 Balasore, Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Phulbani, Puri, Rayagada, Rourkela, Sambalpur, and Sundargarh.

On this being pointed out in audit, the Department recovered tax and penalty of Rs.0.13 lakh in one case and raised demand of Rs.0.65 lakh in 343 cases. Final reply in other cases was not received.

The matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

3.4 Non-realisation of motor vehicles tax and additional tax in respect of contract carriages

Under the OMVT Act, and rules made thereunder, motor vehicles tax and additional tax in respect of contract carriages are to be realised as per the rates specified on the basis of number of passengers permitted to carry, unless covered by an off-road undertaking.

Test check of records of 16 regions²⁷ revealed that motor vehicles tax and additional tax in respect of 1,728 contract carriages were not realised for different periods between January 2001 and March 2002 even though these contract carriages were not covered by off-road undertakings. This resulted in non-realisation of motor vehicles tax and additional tax amounting to Rs.1.11 crore. Besides, penalty of Rs.2.22 crore was also leviable.

On this being pointed out in audit, the Department raised demand of Rs.29.00 lakh in 137 cases and recovered tax and penalty of Rs.0.01 lakh in one case. Final reply was not received.

The matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

3.5 Non-realisation of motor vehicles tax in respect of tractor-trailor combination

Under the OMVT Act, as amended from time to time, motor vehicles tax in respect of tractor-trailor combination is to be realised as per the rates prescribed on the basis of registered laden weight (RLW) unless covered by an off-road undertaking.

Test check of records of 18 regions²⁸ revealed that motor vehicles tax in respect of 3,508 tractor-trailor combinations were not realised for different periods between April 2001 and March 2002 even though these vehicles were not covered by off-road undertakings. This resulted in non-realisation of motor

27 Balasore, Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Kalahandi, Koraput, Mayurbhanj, Phulabani, Puri, Rourkela, Sambalpur and Sundergarh.

28 Balasore, Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

vehicles tax amounting to Rs.91.94 lakh. Besides, penalty of Rs.1.84 crore was also leviable.

On this being pointed out in audit, the Department raised demand of Rs.10.00 lakh in 129 cases and recovered tax and penalty of Rs.0.19 lakh in 4 cases. Final reply in other cases was not received.

The matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

3.6 Non/short realisation of motor vehicles tax and additional tax in respect of stage carriages

Under the OMVT Act, as amended, motor vehicles tax and additional tax payable in respect of a stage carriage is determined on the basis of passengers (including standees) which the vehicle is allowed to carry and the total distance permitted to be covered in a day as per permit.

Test check of records revealed that in 18 regions²⁹ motor vehicles tax and additional tax of Rs.33.52 lakh in respect of 347 vehicles for the period between April 2000 to March 2003 was either not realised or realised short. This resulted in non-realisation of Government revenue of Rs.1.01 crore including penalty of Rs.67.04 lakh.

On this being pointed out in audit between May 2002 and March 2003, the Department raised demand of Rs.2.00 lakh in 9 cases and recovered tax and penalty of Rs.0.09 lakh in 2 cases. Final reply in other cases was not received.

The matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

3.7 Non/short realisation of motor vehicles tax/additional tax in respect of stage carriages plying without permits

Under the OMVT Act, as amended, motor vehicles tax and additional tax in respect of a stage carriage is leviable on the basis of the number of passengers (including standees) which the vehicle is permitted to carry and the total distance to be covered in a day as per permits. If such a vehicle is detected plying without a permit, the tax/additional tax payable is to be determined on the basis of the maximum number of passengers (including standees) which the vehicles would have carried, reckoning the total distance covered each day as exceeding 320 kilometers i.e. at the highest rate of tax as per taxation schedule.

29 Balasore, Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Phulbani, Puri, Rourkela, Rayagada, Sambalpur and Sundargarh.

In course of audit of 16 regions³⁰ it was noticed that 131 stage carriages were detected plying without permit between April 2001 and March 2002. Motor vehicle tax/additional tax in respect of these vehicles were not collected at the prescribed rates resulting in non/short realisation of tax amounting to Rs.12.98 lakh. Besides, penalty of Rs.25.96 lakh was also leviable.

On this being pointed out in audit, the Department raised demand of Rs.0.63 lakh in 5 cases. Final reply in other cases was not received.

The matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

3.8 Short-realisation of composite tax under National Permit Scheme

As per Government of Orissa Notification (February 1999) composite tax in respect of goods carriages belonging to other States/Union Territories plying in Orissa under the National Permit Scheme shall be payable at the rate of Rs.5,000 per annum per vehicle in advance in one instalment.

Test check of records in the office of the State Transport Authority, Orissa revealed that composite tax in respect of 1,107 goods carriages belonging to the operators of other States authorised to ply in Orissa during 2001-02 under National Permit Scheme was short realised as the vehicle operators had paid composite tax at incorrect rates. This resulted in short realisation of composite tax of Rs.27.59 lakh.

On this being pointed out in audit, Transport Commissioner, Orissa stated in July 2002 that action would be taken to realise the dues. Final reply was awaited (November 2003).

The matter was brought to the notice of Transport Commissioner/Government in March 2003; their reply was awaited (November 2003).

3.9 Non-realisation of motor vehicles tax/additional tax in respect of motor vehicles which violated off-road declaration

Under the OMVT Act, motor vehicles tax/additional tax shall be levied on every motor vehicle used or kept for use in the State of Orissa unless prior intimation of non-use of the vehicle is given to the Taxing Officer on or before the date of expiry of the period for which tax has been paid, specifying inter alia, the period of non-use and the place where the motor vehicle is to be kept during such period. If, at any time, during the period covered by such off-road declaration, the vehicle is found to be plying on the road or not found at the

³⁰ Balasore, Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Keonjhar, Koraput, Mayurbhanj, Phulbani, Puri, Rayagada, Rourkela and Sambalpur.

declared place it shall be deemed to have been used through out the said period. Moreover in such a case the owner of the vehicle would be liable to pay tax and penalty for the above period at the highest rate of tax as per taxation schedule.

Test check of records of 13 regions³¹ revealed that 51 motor vehicles under off-road declarations for the periods between September 2000 and March 2002 were either detected plying or, not found at the declared places by the enforcement staff during the period covered by off-road declarations. But no appropriate steps were taken by the Taxing Officer to realise the tax and levy penalty for violation of off-road declaration. Tax and additional tax payable on these vehicles worked out to Rs.8.64 lakh. Besides penalty of Rs.17.28 lakh was also leviable.

On this being pointed out in audit between May 2002 and March 2003, the Department raised demand of Rs.2.95 lakh in four cases. Final reply in other cases was not received (November 2003).

The matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

3.10 Non/short realisation of motor vehicles tax/additional tax on stage carriages plying under reciprocal agreement on inter-state routes having permits

Where, in pursuance of any agreement between the Government of Orissa and Government of any other State, a stage carriage plies on a route partly within the State of Orissa and partly within other State, such stage carriage is liable to pay tax/additional tax calculated on the total distance covered by it, on the approved route in the State of Orissa, at the rates and in the manner specified under the OMVT Act, as amended and rules made thereunder.

Test check of records of State Transport Authority, Orissa, Cuttack and four regions³² revealed that motor vehicles tax/additional tax amounting to Rs.8.16 lakh for the periods between April 2001 and March 2002 in respect of 45 stage carriages authorised to ply on the inter-state routes under reciprocal agreement was either not realised or realised short. Besides penalty of Rs.16.32 lakh was also leviable.

On this being pointed out in audit, Transport Commissioner, Orissa and the taxing officers agreed between July 2002 and March 2003 to realise the dues.

The matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

³¹ Balasore, Bhubaneswar, Cuttack, Dhenkanal, Ganjam, Kalahandi, Mayurbhanj, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

³² Ganjam, Kalahandi, Mayurbhanj and Rourkela.

3.11 Non/Short levy of penalty

Under the OMVT Act, as amended and the rules made thereunder, penalty shall be leviable if a vehicle owner has not paid tax and additional tax in respect of his vehicle within the specified period.

Test check of records of 18 regions³³ revealed that in respect of 193 cases no penalty was levied by the taxing authority though taxes were paid belatedly and in other 144 cases penalty was short levied. This resulted in non/short levy of penalty to the extent of Rs.24.43 lakh for the period between April 1998 and March 2003.

On this being pointed out in audit, the Department raised demand of Rs.0.41 lakh in 8 cases and recovered Rs.0.22 lakh in 3 cases. Final reply in other cases was not received (November 2003).

The matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

3.12 Non-realisation of differential tax in respect of stage carriages issued with special contract carriage permits

Under the OMVT Act, when a vehicle, in respect of which motor vehicles tax/additional tax for any period has been paid as per registration, is proposed to be used in a manner as to cause the vehicle to become a vehicle in respect of which higher rate of motor vehicles tax/additional tax is payable, the owner of the vehicle is liable to pay the differential tax.

Test check of records of 14 regions³⁴ revealed that 150 stage carriages were permitted to ply temporarily as contract carriages between April 2001 and March 2002 for which tax was not realised at the appropriate higher rate. This resulted in short-realisation of motor vehicles tax/additional tax amounting to Rs.6.18 lakh. Besides, penalty of Rs.12.36 lakh was also leviable.

On this being pointed out in audit, the Department raised demand of Rs.0.36 lakh in 5 cases. Final reply in other cases was not received (November 2003).

The matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

33 Balasore, Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

34 Balasore, Bargarh, Bhubaneswar, Chandikhole, Cuttack, Dhenkanal, Ganjam, Kalahandi, Keonjhar, Mayurbhanj, Phulbani, Puri, Rourkela and Sambalpur.

3.13 Non-realisation of composite tax in respect of Andhra Pradesh goods vehicles under reciprocal agreement

Under the provisions of the OMVT Act, when a goods vehicle enters the State of Orissa under the terms of any agreement between the Government of Orissa and Government of any other State, it is liable to pay additional tax for each entry into the State at the prescribed rates. In respect of goods vehicles belonging to Andhra Pradesh authorised to ply in Orissa under the reciprocal agreement, Government of Orissa decided in February 2001 to levy Rs.3,000 annually on each vehicle as composite tax. The tax was to be paid in advance in lump sum on or before 15 April every year by crossed bank drafts to the State Transport Authority (STA), Orissa. In case of delay in payment, penalty of Rs.100 for each calendar month or part thereof was also leviable in addition to the composite tax.

Test check of records of STA, Orissa, revealed that out of 1,384 goods vehicles belonging to the State of Andhra Pradesh authorised to ply in Orissa under reciprocal agreement during 2001-02, composite tax in respect of 419 goods vehicles amounting to Rs.12.57 lakh was not realised. In addition penalty of Rs.5.03 lakh was also leviable but not levied.

On this being pointed out in audit, STA, Orissa stated in July 2002 that action was being taken to realise the dues. Final reply was awaited.

The matter was referred to Government in March 2003; their reply was awaited (November 2003).

3.14 Non-realisation of differential tax in respect of private vehicles plying on hire or reward

Under Section 2(22) of Motor Vehicles Act, 1988 "maxi cab" means any motor vehicle constructed or adapted to carry more than six passengers, but not more than twelve passengers excluding the driver, plying for hire or reward such a vehicle is to be taxed depending upon the potential nature of use of the vehicle in terms of circular of 1996 of State Transport Authority, Orissa. If the vehicle is used privately, an undertaking to that effect in the form of an affidavit before the Registering Authority, in the manner prescribed, is to be submitted by the owner stating that if at any time, the vehicle is found used in contravention, the owner shall be liable to pay tax under the relevant section of OMVT Act.

Test check of registration records, together with the vehicle check reports in 3 regions³⁵, revealed that 19 vehicles having seating capacity of more than six but not more than twelve excluding the driver, registered on the strength of an affidavit and being taxed under item 6 of schedule-I of OMVT Act, were detected between July 2000 and March 2002 by the enforcement staff as

35 Bolangir, Rourkela and Sambalpur.

plying for hire or reward in contravention of the said undertaking. However, no action was taken to realise the differential tax of Rs.2.13 lakh. Besides, penalty of Rs.4.26 lakh was also leviable.

On this being pointed out in audit between November 2002 and March 2003, concerned taxing officers agreed between November 2002 and March 2003 to realise the dues. Final reply was awaited.

The matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).

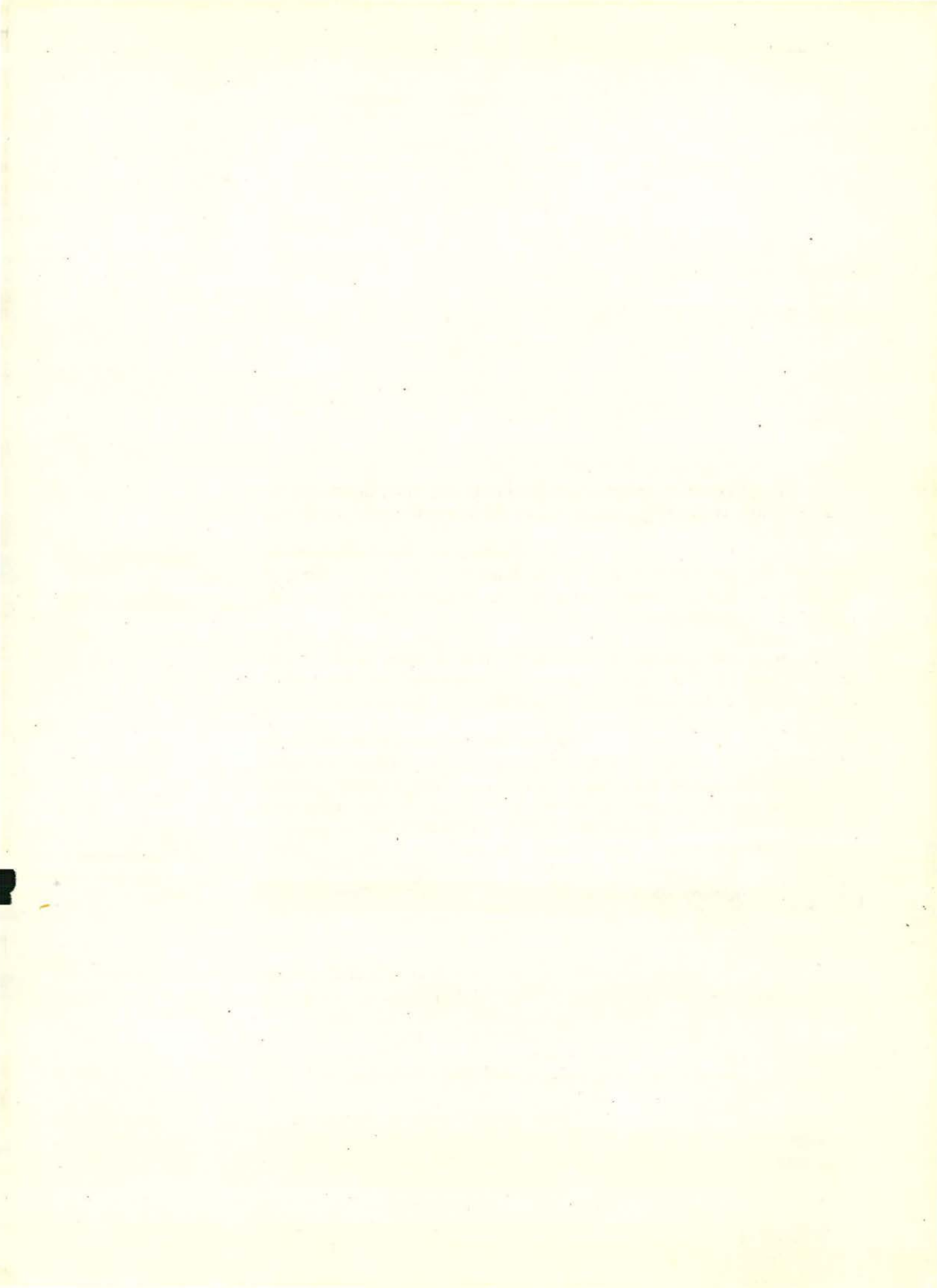
3.15 Non-realisation of Trade Certificate tax/fees

Under the OMVT Act, read with Central Motor Vehicles, Rules, 1989, as amended, dealers in motor vehicles are required to obtain trade certificates from the registering authorities by paying the requisite tax/fees annually in advance. Under the Motor Vehicles Act, 1988, dealer includes a person who is engaged in building bodies on the chassis or in the business of hypothecation, leasing or hire purchase of motor vehicles.

Test check of records of 4 regions³⁶ revealed that in respect of 49 dealers, trade certificate tax and fees for the period 2000-2001 and 2001-2002 were not realised which resulted in non-realisation of tax and fees amounting to Rs.1.25 lakh.

On this being pointed out in audit between October 2002 and February 2003 all taxing officers agreed between October 2002 and February 2003 to realise the dues. Final reply was awaited.

The above matter was brought to the notice of Transport Commissioner/Government in April 2003; their reply was awaited (November 2003).



CHAPTER-IV : LAND REVENUE, STAMP DUTY AND REGISTRATION FEES

(A) LAND REVENUE

4.1 Results of Audit

Test check of records relating to assessment and collection of land revenue and stamp duty and registration fees conducted during the year 2002-2003 revealed non-collection, non/short assessment and blocking of revenue amounting to Rs.145.05 crore in 35,574 numbers of cases which may be broadly categorised as under:

(Rupees in crore)			
Sl. No.	Subject	No. of cases	Amount
1	Review : Arrear on assessment and collection of land revenue.	01	69.63
2	Non-collection of premium etc. from land occupied by local bodies/private parties etc.	29	36.54
3	Non/short realisation of royalty on minor minerals.	51	3.75
4	Blocking of Government revenue due to non-finalisation of OLR cases.	812	3.70
5	Miscellaneous/other irregularities.	219	1.70
6	Non/short assessment and short collection of water rates.	170	0.38
7	Non-lease/irregular lease of sairat sources.	195	0.08
8	Non-realisation of revenue due to delay in finalisation of OEA cases.	20	0.01
Total		1497	115.79
Stamp Duty & Registration Fees			
1	Short levy of Stamp duty and Registration fee due to undervaluation of documents (47-A cases)	33,309	27.31
2	Non/Short levy of Stamp duty and Registration fees due to misclassification	663	1.42
3	Irregular exemption and other irregularities of Stamp duty and Registration fees	105	0.53
Total		34,077	29.26
Grand Total		35,574	145.05

During the course of the year 2002-2003, the department accepted under-assessment etc. of Rs.1.68 crore in 2,571 cases, which had been pointed out by audit in earlier years and had recovered the amount in full.

The findings of a review "Arrears in Assessment and collection of Land Revenue" involving Rs.69.50 crore and a few cases involving money value of Re.1 crore are discussed in the following paragraphs:

4.2 Review : Arrears in Assessment and Collection of Land revenue

4.2.1 Highlights

- (i) Adoption of lower market value resulted in short assessment of premium and ground rent amounting to Rs. 1.24 crore.

{Para 4.2.7(a)}

- (ii) Rupees 28.07 crore was not realised due to non-finalisation of alienation cases.

{Para 4.2.7(b)}

- (iii) Rupees 2.77 crore of revenue was foregone due to un-authorised occupation of Government land.

{Para 4.2.7(c)}

- (iv) There was non/short realisation of premium & ground rent of Rs.11.62 crore.

{Para 4.2.7(d)&(e)}

- (v) Government land valued Rs.1.23 crore was encroached upon by Satya Sai Medical College Hospital since 1993-94.

{Para 4.2.8}

- (vi) Premium and ground rent of Rs.5.58 crore was not realised for conversion of agricultural land for non-agricultural purpose.

{Para 4.2.9(a)}

- (vii) Salami of Rs.3.08 crore was not realised due to non-settlement of bebandobasta land.

{Para 4.2.9(b)}

- (viii) Royalty on unauthorised lifting of minor minerals valued at Rs.14.89 crore was not realised.

{Para 4.2.10(a)}

4.2.2 Introduction

Consequent on abolition of land revenue (Rent on land) with effect from November 1977, the land revenue receipts of the State arise mainly from cess on land, Nistar cess³⁷ on forest land, premium, ground rent and cess on lease of Government land to Government undertakings, public bodies and authorities for various public purposes, salami on bebandobasta³⁸ (unsettled land) land settled in favour of the tenants, assessment and penalties on encroachment of land and also from sale of sairat³⁹ sources including royalty from minor minerals. Interest on belated payment of Government dues is also chargeable where land revenue remains unpaid during the year in which it was due. The levy and collection of land revenue are watched through demand, collection and balance registers maintained in the collectorates and tahasils. Arrears of land revenue are recoverable alongwith interest under Orissa Public Demand and Recovery Act, 1962 (OPDR).

4.2.3 Organisational set up

Revenue Department of the State Government formulates policies and issues executive instructions on assessment and collection of land revenue receipts. The Board of Revenue executes the same with the assistance of 3 Revenue Divisional Commissioners, 30 District Collectors and 171 Tahasildars. The tahasils are divided into revenue circles headed by revenue inspectors who are responsible for collection of land revenue and maintenance of initial records.

4.2.4 Audit Objective

Detailed scrutiny of assessment of revenue cases at various levels, follow up action thereof after decision by the assessing authorities and its impact on revenue collection for the period 1997-98 to 2001-02 was conducted in audit to:

- (i) analyse the arrears and the reasons thereof;
- (ii) ascertain extent of compliance to rules, procedures and Government orders for assessment of revenue and timely collection thereof;
- (iii) seek assurance that appropriate mechanism/system exists to watch and pursue the collection after demand is raised.

37 The receipt collected annually from the tenants in lieu of right to free or concessional enjoyment of forest produce.

38 Land enjoyed by the intermediaries without payment of rent after estate abolition remain unsettled in settlement operation.

39 It includes fisheries, quarries, hats and fairs, ferry ghats, Govt. orchards, stray trees standing on Govt. land & temporary sale of minor minerals and other miscellaneous items.

4.2.5 Scope of audit

A test check of records in the office of the Board of Revenue, Orissa and 43 tahasils (out of 171 tahasils) was conducted between October 2002 and April 2003. The findings are contained in the succeeding paragraphs:

4.2.6 Trend of revenue

(a) Budget estimate vis-a-vis collection of revenue by the Revenue Department for the period 1997-98 to 2001-02 as per Finance Accounts is given below:

(Rupees in crore)				
Year	Budget Estimate	Collection	Variation Increase(+) Shortfall(-)	% of variation
1997-1998	41.39	38.69	(-) 02.70	(-)06.52
1998-1999	60.00	58.57	(-)01.43	(-) 02.38
1999-2000	63.00	50.46	(-)12.54	(-)19.90
2000-2001	56.00	53.26	(-)02.74	(-) 04.89
2001-2002	65.00	84.48	(+) 19.48	(+) 29.97

(b) Arrear of Revenue

As on 31 March 2002, a sum of Rs.14.60 crore was outstanding pending collection (as per Finance Accounts). The year-wise details/stages at which these cases were pending though called for from the Board between October 2002 and May 2003 had not been received till October 2003.

However test check of records of 12 tahasils revealed that a sum of Rs.1.67 crore was outstanding as on 31 March 2002 in different stages as detailed below:

(Amount in lakh)		
1	Certificate dues (un-collectable)	2.88
2	Recovery pending (write off proposals)	13.85
3	Recovery pending (Remission proposals)	69.04
4	Stay by court	81.12
Total		166.89

(c) Non-achievement of target

The Board of Revenue, Orissa, furnished the following figures towards demand, collection and balance (DCB) for the year 1997-1998 to 2001-2002.

(Rupees in crore)

Year	Demand			Collection			Balance			Percentage of Collection
	Arrear	Current	Total	Arrear	Current	Total	Arrear	Current	Total	
1997-98	14.08	24.09	38.17	4.98	20.04	25.02	9.10	4.05	13.15	65.55
1998-99	15.65	26.20	41.85	5.74	22.51	28.25	9.91	3.69	13.60	67.50
1999-00	16.57	26.80	43.37	2.94	20.15	23.09	13.63	6.65	20.28	53.24
2000-01	20.03	32.12	52.15	7.53	29.18	36.71	12.50	2.94	15.44	70.39
2001-02	20.75	44.04	64.79	8.46	41.75	50.21	12.28	2.29	14.57	77.50

The Board of Revenue issued instructions in October 1978 to collect 100 *per cent* for arrears demand and 90 *per cent* in respect of current dues during the year 1978-79. No further instructions had been issued subsequently. Keeping the instructions in view, it would be seen that the Department has not been able to achieve the target in the last 5 years. The shortfall of collection ranged from 23 *per cent* to 47 *per cent*.

4.2.7 Alienation of Government land

The State Government provides land to its own departments, central government departments, government undertakings, public bodies for various public purposes on lease basis on payment of premium which is lump sum consideration or full market value of land, annual ground rent at the rate of 1 *per cent* of the market value of the land and cess at prescribed rate for various categories of lessees under Orissa Government Land Settlement (OGLS) Act, 1962 and Rules made thereunder. In case of default the occupier shall be liable to pay interest at the rate of 6 *per cent* up to 27 November 1992 and at the rate of 12 *per cent* thereafter till the date of payment of dues.

(a) Short assessment of premium and ground rent due to adoption of lower market value

The Inspector General of Registration-Cum-Excise Commissioner, Orissa, Cuttack instructed on 4 September 1993 the Registering Officer will take into consideration, the rate of the highest sale value of land of similar classification in the same village relating to three consecutive years preceding the year in which the document in question is presented for registration.

On scrutiny of records in three tahasils it was seen in three cases that the market value of land was determined on the basis of the average sale value of preceding three years instead of the highest sale value of the land during the proceeding three years. This resulted in short assessment of premium and ground rent of Rs.1.24 crore as given below:

(Rupees in lakh)

Sl. No.	Name of Tahasil	Name of body/undertaking	Area in Acres	No & date of Sanction.	Premium, ground rent Cess due	Premium, ground rent Cess assessed	Amt. short assessed
1	Cuttack Sadar	CDA, Cuttack	22.44	16858 23 March 2002	215.23	104.24	110.99
2	Baragarh	BSNL, Sambalpur	1.00	Nil 27 January 1994	7.50	2.00	5.50
3	Nimapara	GMTD, Bhubaneswar	0.47	833/R 22 February 1999	18.21	10.52	7.69
Total		-	23.91	-	240.94	116.76	124.18

(b) Non finalisation of alienation cases

Government of Orissa, Revenue and Excise Department in letter No. 74793 dated 10 December 1987 addressed to all Revenue Officers issued instructions for expeditious disposal of lease cases in the manner prescribed in OGLS Settlement Rules, 1983.

Further, the Board of Revenue, Orissa vide circular of 6 June 1995 directed all the collectors to take prompt steps to finalise the alienation cases where advance possession of land has already been given. The advance possession was to be sanctioned only in cases of urgency only after submission of proposal with the recommendation to the next higher authority.

Scrutiny of the records in thirteen tahasils revealed that advance possession of Government land measuring 2,859.280 Acres was allowed to different organisations. Though the land was in occupation of the indenting organisations the amount due to the Government in the shape of premium and ground rent could not be realised for want of sanction of alienation cases. This resulted in blocking of Government revenue of Rs.28.07 crore as given below:

(Rupees in lakh)

Sl. No.	Name of the Tahasil	Name of the Body/ Authority	Area In Acres	Premium, Ground rent and Cess due	Premium & Ground rent Realised if any	Balance	Date Of Advance Possession
1	2	3	4	5	6	7	8
1	Cuttack Sadar	C.D.A., Cuttack	64.85	2050.73	-	2050.73	1994
2	Khurda	B.D.A.	33.200	181.85	20.00	161.85	Aug' 1989 & Aug' 1999
3	Talcher	N.T.P.C.	120.190	195.42	50.00	145.42	Dec' 1993
4	Kujang	IDCO, PJRIT	198.49	123.04	-	123.04	2000-01.
5	Puri	Chilika Aquatic Farm	925.08	119.18 ⁴⁰	-	119.18	Dec' 1991
6	Pottangi	Telecomm ICAR	271.00	96.21 ⁴¹	1.72	94.49	Jan' 1992 to March' 1992
7	Sambalpur	M.C.L.	4.950	62.04	25.00	37.04	1990
8	Rourkela	South Eastern Railways	156.35	42.74	-	42.74	1967 to 1974.
9	Bolangir	O.S.H.B.	25.00	17.97	-	17.97	June' 1982
10	Balikuda	Telecomm	0.50	7.12	1.12	6.00	Oct' 1994

40 Includes interest of Rs. 63.68 lakh.

41 Includes interest of Rs.51.09 lakh.

(Rupees in lakh)

Sl. No.	Name of the Tahasil	Name of the Body/ Authority	Area In Acres	Premium, Ground rent and Cess due	Premium & Ground rent Realised if any	Balance	Date Of Advance Possession
1	2	3	4	5	6	7	8
11	Parlakhe-mundi	Telecomm	0.400	5.36	2.19	3.17	Aug' 1994
12	Jagatsinghpur	Telecomm	0.50	12.50	9.38	3.12	Aug' 2001
13	Kholikote	O.S.C.D.C.	1058.770	2.65	-	2.65	1986-87
Total			2859.280	2916.81	109.41	2807.40	

(c) *Unauthorised occupation of Government land by local bodies*

Scrutiny of 4 cases in three tahasils revealed that there had been inordinate delay ranging from 3 to 20 years in finalisation of alienation cases. The land in question requisitioned by the local bodies was in unauthorised occupation by them before sanction of lease. This resulted in blocking of Government revenue to the tune of Rs.2.77 crore as given below:

(Rupees in lakh)

Sl. No.	Name of the tahasil	Name of the body/ Authority	Area In Acre	Date from which in unauthorized occupation	Premium and ground rent due
1	2	3	4	5	6
1	Bhubaneswar	GRIDCO	10.000	August 1995	132.99
2	Jharsuguda	Jharsuguda Municipality	18.850	Since 1993	102.71
3	-do-	O.S.H.B, Bhubaneswar	9.440	Since 1987	37.99
4	Angul	NAC, Angul.	0.100	Since 1999	2.89
Total					276.58

The Department did not have any mechanism to collect, maintain or monitor the overall position of alienation of Government land pending for disposal. As a result pendency of alienation cases in the State as a whole could not be ascertained. On this being pointed out the Board replied that due to shortage of staff and non-receipt of data from the Collectorates, the pending alienation cases could not be finalised.

(d) *Non/short realisation of premium & ground rent*

After sanction of alienation, the indenting body/organisation is required to pay premium, ground rent, cess etc as per the sanction order before execution of lease agreement or before taking advance possession of the land.

During the course of check of records in 7 tahasils, it was noticed in 7 cases that though alienation of Government land was sanctioned and possession of land was handed over, premium and ground rent amounting to Rs.8.86 crore remained non/short realised as detailed below. In addition, interest on belated payment of dues is also leviable.

(Rupees in lakh)								
Sl. No.	Name of the tahasil	Name of the Body/ Authority	Date from which advance possession given	Area in Acre	Date of sanction	Premium/ ground rent payable	Premium/ ground rent paid	Amount non/short assessed
1	2	3	4	5	6	7	8	9
1	Cuttack Sadar	C.D.A., Cuttack	1985 to 1996	81.534	Oct' 2002	712.89	-	712.89
2	Talcher	Heavy Water Project	July 88	14.44	28 Feb' 2001	59.97	-	59.97
3	Nimapara	A.S.I., BBSR	June 75	26.25	Sept' 2002	52.67 ⁴²	-	52.67
4	Berhampur	BDA	January 90	1.00	March' 1999	51.09	14.07	37.02
5	Soro	IDCO	August 89	8.00	5 March 1988	8.64 ⁴³	0.06	8.58
6	Boudh	Women's college, Boudh	1993-94	1.00	Dec' 1999	7.80	-	7.80
7	Koraput	O.S.H.B.	1989-90	0.606	May' 2000	8.15	1.20	6.95
Total						901.21	15.33	885.88

(e) Non-realisation of rent and cess from SAIL*, RSP, Rourkela**

According to the terms and conditions of lease deed agreement executed between SAIL, RSP, Rourkela and Collector, Sundergarh, in the year 1976 in respect of government land leased out, the annual ground rent was to be revised after 25 years. The revision became due on 01 June 2001. Accordingly, Government of Orissa, Revenue Department in their letter 14 March 2002 approved the fixation of ground rent at the rate of 1 per cent of the market value for a period of 20 years with effect from 01 June 2001.

Scrutiny of records in the office of the Tahasildar, Rourkela revealed that the SAIL, RSP, Rourkela was required to pay an amount of Rs.2.46 crore towards annual ground rent for the year 2001-2002 for 15,316.725 acre of land and an amount of Rs.29.50 lakh towards interest for delay in payment. But the amount due remained unrealised till November 2002.

4.2.8 Encroachment of Government land

As per Orissa Prevention of Land Encroachment Act, 1972 (OPLE) and rules made thereunder, any body, authority, private person encroaching upon government land should either be evicted or the land settled (if not objected to), on payment of premium, rent and fine etc. As per Government of Orissa, Revenue and Excise Department's letter of 02 February 1966, cases land occupied without permission of Government were generally to be treated as encroachment cases. Government could settle the land with the occupiers, on payment of the market value which was to be determined as on the date of the recommendation of the Tahasildar, or as on the date of occupation whichever is higher. Information obtained from Board of Revenue, Orissa,

42 Includes only capitalized value of Rs.17.38 lakh and interest of Rs. 35.29 lakh.

43 Includes interest of Rs. 2.23 lakh.

* SAIL: Steel Authority of India Limited.

** RSP: Rourkela Steel Plant.

Cuttack revealed that as on 31 March 2002, of 2,48,637 cases were pending for disposal, the year-wise break up of which was not made available.

Test check of records in the following 3 (three) tahasils revealed that, Government land measuring 19.52 Acre was in the occupation of encroachers and no action was taken by the revenue authority either for eviction of the encroacher or for regularisation of the encroachment. Delay in non-regularisation of encroachment cases resulted in blocking of premium of Rs.1.52 crore as detailed below:

(Rupees in lakh)							
Sl. No.	Name of the Tahasil	Name of the encroacher	No. of cases	Area in Acre	Year of encroachment	Year of institution of cases	Market value
1	Bhubaneswar	Shri Asok Ku. Das, Principal Satya Sai Medical College Hospital	2	10.00	1993-94	1998	123.00
2	Titilagarh	Shri Raising Patra	1	2.02	2000	2001	22.95
3	Dharmasala	M/S Sadbhav Engineering Ltd.	1	7.50	2001	2001	5.63
Total				19.52			151.58

On this being pointed out in audit, Tahasildars, Titilagarh and Dharmasala replied that steps would be taken for eviction and regularisation of cases respectively. Tahasildar, Bhubaneswar stated that reply would be furnished after enquiry.

4.2.9 Land reform measures

Under section 8(A) of the Orissa Land Reform (Amendment) Act, 1993 (OLR) an authorised officer on application made by a raiyat for conversion of any agricultural land belonging to him for purpose other than agriculture may allow such conversion subject to payment of premium calculated at the rate prescribed in the Act.

(a) *Non-realisation of premium and ground rent for conversion of agricultural land for non-agricultural purpose*

During test check of records in audit in 31⁴⁴ tahasils it was revealed that though premium and ground rent were assessed, the Tahasildars failed to realise the same amounting to Rs.5.58 crore in 1397 cases (OLR cases) between 1994 to 2002 involving 910.934 Acre of Government land. Further it was noticed that in these cases the assessed premium and ground rent were neither taken into the DCB register of the tahasil nor follow up action taken for realisation by the Tahasildars.

44 Bargarh, Balasore, Bhubaneswar, Balikuda, Baripada, Berhampur, Bolangir, Boudh, Chatrapur, Cuttack, Dharmasala, Dhenkanal, Digapahandi, Jharsuguda, Jaleswar, Jagatsingpur, Kujanga, Keonjhar, Koraput, Khurda, Lakhanpur, Puri, Pottangi, Paralakhemundi, Rourkela, Rayagada, Sambalpur, Sukinda, Salepur, Talcher, Titilagarh.

(b) Blockage of Revenue due to non-settlement of bebandobasta land under Orissa Estate Abolition Act (OEA)

As per Revenue Department's letter of 06 December 2000, all bebandobasta lands were to be settled by institution of suo-motu proceedings by the concerned Tahasildar/Additional Tahasildar. The entire process of settlement was required to be completed within one year from the issue of instructions. Land recorded in bebandobasta status in the record of right was to be settled on fixation of fair and equitable rent and payment of salami at the rates prescribed in the above Government order.

From the information furnished to audit by Board of Revenue in February 2003, 84,944 cases (OEA cases) measuring 1,01,383.179 Acre of land were pending settlement, despite instructions of the Department to settle these cases within one year of issue of order on 06 December 2000.

Test check of the records in 19⁴⁵ tahasils revealed that in 9,346 cases of bebandobasta land (unsettled land) consisting of 16,158.294 Acre had not been settled as on 31 March 2002 despite Department's orders (December 2000). As a result thereof, an amount of Rs.3.08 crore towards salami was blocked.

4.2.10 Sairat sources

(a) Unauthorised lifting of minor minerals consequent non-realisation of Rs.14.89 crore

As per Orissa Minor Mineral Concession (OMMC) Rules, 1990 permission of the Tahasildar is necessary to lift minor minerals.

Test check of records in four tahasils (Kashipur, Koraput, Pottangi and Rayagada) revealed that, the Deputy Chief Engineer (Construction), South Eastern Railway had unauthorisedly lifted minor minerals without permit from revenue authority. Certificate cases under Orissa Public Demand Recovery (OPDR) Act were booked for recovery of royalty of Rs.14.89 crore. While disposing the Civil Appeal No.2235/1996 the Hon'ble Supreme Court upheld (November 2000) the demand and directed the railway authorities to deposit the amount. No amount had however, been realised so far. Government directed the Collector, Koraput in July 2003 to enforce the provisions of OPDR Act.

(b) Loss of Revenue due to delay in finalisation of settlement of sairat sources

As per Manuals of Tahasil Account (MTA) of Government of Orissa, all sairat sources in a tahasil are required to be settled well before the operating season i.e before April of every year. For that purpose, all the formalities of public

⁴⁵ Angul, Attabira, Berhampur, Bhubaneswar, Bolangir, Chhatrapur, Dharmasala, Dhenkanal, Jagatsinghpur, Jeleswar, Keonjhar, Kholikote, Khurda, Lakhanpur, Nimapara, Puri, Rourkela, Sambalpur and Titlagarh.

auction i.e. proclamation, publication, realisation of bid award and issue of work order etc. are to be completed prior to one month of the commencement of next year.

Test check of records of 7 tahasils revealed that in 78 cases, there had been inordinate delay in initiating the formalities and finalising lease/auction of sairat sources due to which sources were settled below the upset price. Due to non-observation of procedure for settlement of sairat sources in time, sairat sources were sold much below the upset price which led to potential loss of Government revenue of Rs.20.01 lakh.

(Rupees in lakh)					
Sl. No.	Name of the Tahasil	No. of cases	Off-set price	Bid/settled amount	Balance
1	Titilagarh	10	0.69	0.19	0.50
2	Bhubaneswar	4	14.77	4.58	10.19
3	Sukinda	01	0.42	0.08	0.34
4	Attabira	18	4.30	2.11	2.19
5	Sambalpur	12	1.00	--	1.00
6	Kholikhote	3	0.28	--	0.28
7	Keonjhar	30	7.26	1.75	5.51
Total		78	28.72	8.71	20.01

4.2.11 Certificate cases

Arrears of land revenue remaining unrealised is recoverable from the debtor alongwith interest from the date of signing of the certificate upto the date of realisation under Orissa Public Demand and Recovery Act, 1962 (OPDR) provided the arrear is not barred by limitation.

Quarterly review report on disposal of certificate cases for the quarter ending 31 March 2002 compiled by Board of Revenue revealed that as on 01 April 2002, 1,44,939 certificate cases involving an amount of Rs.153.76 crore were pending in various certificate courts (except special certificate courts). The year-wise analysis pendency was not made available to audit. Besides, out of the total pending certificate, cases the number of cases and amounts pertaining to land revenue assessed by the Tahasildars was not known.

Test check of the records of 24 tahasils revealed that 29,269 certificate cases involving Rs. 3.81 crore were pending for disposal as on 31 March 2002. These cases are pending from the year 1965 to 2002.

Age-wise break up of pending cases as available in 24 tahasils⁴⁶ are given below:

46 Angul, Attabira, Aska, Barabil, Baragarh, Boudh, Bolangir, Balasore, Chhatrapur, Digapahandi, Dhenkanal, Dharmasala, Jaleswar, Jagatsinghpur, Jeypore, Khurda, Khalikote, Nilagiri, Puri, Rourkela, Sambalpur, Soro, Sukinda, and Titilagarh.

(Rupees in lakh)		
Pendency in years	No. of cases	Amount
More than 1 year.	6,829	95.25
Between 1 year and 3 years.	3,321	74.80
Between 3 years and 5 years.	3,164	52.93
Between 5 years and 10 years.	10,106	85.40
More than 10 years.	5,849	72.26
Total	29,269	380.64

The OPDR Act or Rules made thereunder don't prescribe any time limit for expeditious disposal of certificate cases. As a result, huge number of cases are allowed to be pending ranging from one year to ten years and more.

4.2.12 Other topics of interest

(i) *Irregular Settlement of Government land in favour of private person*

Government land measuring 2.80 Acre in the village Neulpur was irregularly settled in favour of four persons by the Consolidation Officer and Tahasildar, Dharmasala on the basis of forged documents. Subsequently, on the land in question being acquired by the Railways, the party claimed compensation of Rs.16.04 lakh.

On this being pointed out, the Tahasildar Dharmasala stated that due to irregular settlement of land an appeal was filed in the Court of the Deputy Director (Consolidation). Tahasildar, Dharmasala in January 2003 who requested Special Land Acquisition Officer, Haridaspur not to disburse the compensation amount to the persons in favour of whom lands were settled. Due to irregular settlement of Government land, revenue of Rs.16.04 lakh which would have accrued to Government was held up.

(ii) *Non-realisation of rent and cess from Orissa Cashew Development Corporation*

On test check of records of Sukinda tahasil, it was revealed that land measuring 8,831.27 Acre was sanctioned in 1982 in favour of Orissa Cashew Development Corporation Ltd. (OCDC) for cashew plantation with a stipulation that necessary lease deed be executed within 6 months from the date of sanction. However, the land was handed over to OCDC without executing lease deed. Though in the year 1988, the OCDC proposed surrender of 7,420.08 Acre of land, the land continued to be in its name. Rent and Cess amounting to Rs.38.19 lakh from 1993-94 to 2001-02 remained unrealised. Due to lackadaisical action, the Department neither took over possession of land nor realised the revenue during the last 9 years.

4.2.13 Recommendations

Non-compliance with provision of relevant Acts and rules and prescribed procedures made thereunder, by revenue authorities dealing with alienation of Government land, finalisation of OEA, OLR and sairat source cases led to blocking of Government revenue as well as loss of revenue due to non/short assessment. Board of Revenue failed in ensuring timely and correct assessment and collection of land revenue. The Board has no system of monitoring the progress in respect of any area like collection of arrears, certificate cases, alienation cases, irrecoverable, write off cases and also collecting information from the Collectors. There is an urgent need to tone up the working of the Board of Revenue. The State Government may consider taking following steps to improve the system:

- (i) The relevant Act/Rules need to be amended for time bound assessment and prompt finalisation of alienation, OLR and OEA cases.
- (ii) Suitable mechanism needs to be devised to see that revenue authorities keep a watch over pending assessment cases to avoid adverse impact on revenue.
- (iii) Effective steps should be taken for collection of arrears in a time bound manner.

(B) STAMP DUTY AND REGISTRATION FEES**4.3 Short realisation of Stamp duty and Registration Fee due to under valuation**

The Indian Stamp Act, 1899, provides that facts and circumstances should be fully and truly set forth in the instruments presented before the Registering Officer for assessment of stamp duty and registration fee. Any person who intends to defraud Government shall be punishable with fine, which may extend upto Rs.5000 and where the person is liable to pay duty shall also be liable to pay the deficit amount of duty.

Cross verification of records maintained in four District Sub-Registrars (DSRs) and eight Sub-Registrars⁴⁷ (SRs) with those of concerned tahasil offices revealed that lower Kissam⁴⁸ of land in 232 cases was shown at lower value in the documents. This resulted in short-realisation of stamp duty and registration fee of Rs.87.98 lakh. In addition, fine of Rs.11.60 lakh was also leviable. A few instances of such cases by way of illustrations are given below:

(Rupees in lakh)									
IR No. Para No.	Name of the DSR/SR and Document No.	Kissam as per Regn. Records/ as per Tahasil records	Area in Acre	Considerat- ion money as per document/ value worked out in Audit	Stamp duty due/ levied	Regn. fee due/ levied	Difference		Total
1	2	3	4	5	6	7	Stamp duty	Regn. fee	10
20/02-03 2	DSR, Nayagarh Dct No.4002 dt.23.07.01	Taila-3 Sarada-3	2.42	43.56 0.61	6.40 0.09	0.87 0.01	6.31	0.86	7.17
20/02-03 2	DSR, Nayagarh Dct. No.4003/ 23.7.01	Taila-3 Sarada-3	0.62	11.16 0.16	1.64 0.02	0.22 0.003	1.62	0.22	1.84
19/02-03 3	DSR, Keonjhar Dct. No.1418 26.6.2000	Gharabari beyond 150' Gharabari (1) beyond 60'	0.080	9.53 1.05	1.59 0.18	0.19 0.02	1.41	0.17	1.58
19/02-03 3	DSR, Keonjhar Dct. No.1189 18.6.1999	Gharabari beyond 150' Gharabari (1) beyond 60'	0.100	11.91 1.00	1.99 0.17	0.24 0.02	1.82	0.22	2.04
39/02-03/ 2	SR, Sohela Dct. No.2162 26.10.2000	Patita AA-U	1.98	19.80 0.30	2.12 0.03	0.40 0.006	2.09	0.39	2.48

On this being pointed out in audit, all Registering Officers, except the DSR, Keonjhar, agreed to realise the amount short levied. The position of recovery in these cases and reply from DSR, Keonjhar was awaited (March 2003).

The matter was brought to the notice of Inspector General of Registration/ Government in May 2003; their reply was awaited (November 2003).

47 DSRs-Nayagarh, Keonjhar, Bhadrak, Jharsuguda

SRs- Rajnagar, Tirtol, Badamba, Devidol, Sohela, Bhatli, Titlagarh, Daspalla

48 Kissam of land means the class of land. Valuation of land depends on Kissam

CHAPTER-V : STATE EXCISE

5.1 Results of Audit

Test check of records in the offices of the Excise Commissioner, Deputy Commissioners of Excise and Superintendents of Excise conducted during 2002-2003 revealed non/short realisation and loss of revenue amounting to Rs.14.49 crore in 1,865 cases which may broadly be categorised as under:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Loss of revenue due to delay in granting, issue of licence	994	9.59
2	Non/short realisation of duty/licence fee	190	3.64
3	Other irregularities	681	1.26
Total		1,865	14.49

During the course of the year 2002-2003, the department accepted under-assessment etc. of tax amounting to Rs.0.26 crore in 20 cases out of which Rs.0.21 crore in 3 cases were pointed out in Audit in 2002-03. The Department has recovered Rs.0.19 crore in 19 cases.

A few illustrative cases highlighting important audit observations involving Rs.12.25 crore are discussed in the following paragraphs.

5.2 Loss of revenue due to delay in settlement of country spirit shops

According to Section 38(2) of the Bihar and Orissa Excise Act, 1915 read with Rule-31 of the Orissa Excise Rules, 1965, licences for the wholesale or retail vend of intoxicant may be granted for one year from 1 April to 31 March following. Government of Orissa approved the Excise Policy for the year 2001-02 in March 2001 according to which country spirit shops to be opened in 16 districts of the State during the year 2001-02 were to be settled by way of tender-cum-auction-cum-negotiation. In April 2001, the exclusive right and privilege of carrying on the wholesale trade and distribution of country spirit in the State was also granted to the Orissa State Beverage Corporation Ltd.

Test check of records of the Superintendents of Excise of 14 districts⁴⁹ revealed that licences of 207 country spirit shops though settled in May 2001 were issued on 20 November, 2001 after delay of almost six months as the Secretary to Government, Excise Department directed all the concerned Collectors on 30 May 2001 not to issue licences till the finalisation of modalities of wholesale disposal including selection of manufacturer for supply of country spirit. The licences were finally issued only on 20 November 2001. Applicants of 20 shops under the jurisdiction of Superintendent of Excise, Ganjam refused to take the licences due to delay in issue of licences. Thus, delay in issuing licences due to non-finalisation of modalities for supply of country spirit resulted in loss of revenue of Rs.5.12 crore on account of licence fee.

On this being pointed out in audit, Excise Superintendents attributed this delay to non-finalisation of the modalities regarding wholesale distribution of country spirit by the Government. The reply was not tenable as the Government should have made necessary arrangements before the commencement of the year for supply of country spirit to the licensees in order to avoid loss of revenue.

The matter was referred to Government in January and March 2003; their reply was awaited (November 2003).

5.3 Loss of revenue due to delay in finalisation and implementation of Excise Policy

The Bihar and Orissa Excise Act, 1915 and rules made thereunder stipulate that licence for the wholesale or retail vend of intoxicants may be granted for one year from 1 April to 31 March following. Government of Orissa communicated the Excise Policy for 2001-02 spelling out the procedure for settlement of shops through the process of tender followed by negotiation/auction on 30 March 2001. Further instructions regarding fixation

49 Angul Balasore, Baripada, Cuttack, Dhenkanal, Gajapati Ganjam, Jajpur, Kendrapara, Keonjhar, Khurda, Nayagarh, Phulbani and Puri.

of reserve price were issued on 25 April 2001. Government allowed renewal of existing licences for a period of two months i.e. 1 April 2001 to 31 May 2001 with the existing consideration money and minimum guaranteed quantity (MGQ).

Test check of records of 28 Superintendents of Excise⁵⁰ revealed that 466 IMFL off-shops and 281 out still (OS) liquor shops were renewed for the month of April, May and June 2001 at the existing rate of monthly consideration money plus duty on MGQ of Rs.7.13 crore. These shops were, however, settled afresh in May 2001 and June 2001 with enhanced rate of monthly consideration money plus duty on MGQ of Rs.9.02 crore effective from 1 June 2001 and July 2001. Due to delay in finalisation of Excise Policy for 2001-02, the above shops could not be settled afresh at the increased rate of monthly consideration money plus duty on MGQ for the period 1 April 2001 to 30 June 2001. Thus, the Government sustained a loss of revenue of Rs.3.91 crore.

On this being pointed out in audit, Superintendents of Excise stated that the matter may be referred to Government since it relates to Government Policy.

The matter was referred to Excise Commissioner/Government in February and April 2003; their reply was awaited (November 2003).

5.4 Non-realisation of Excise duty on short production of IMFL

As per Orissa Excise (Exclusive Privilege) Foreign liquor Amendment Rules, 1997 as amended in 1998, all licensees of IMFL bottling plants guarantee minimum guaranteed quantity (MGQ) of 50 *per cent* of the installed capacity of their bottling plant in a year. In case of any shortfall with reference to the MGQ fixed by the Excise Commissioner, the licensee of the bottling plant shall be liable to make payment of the duty for the shortfall at the rate of Rs.10 per London Proof Liter (LPL), the amount is being recovered as arrear dues from the licensee. Default in payment of arrear dues towards MGQ by end of the financial year would entail cancellation of the licence. Government can allow renewal of licence only on payment of arrear MGQ dues along with fine equivalent to 10 *per cent* of the revenue shortfall collectable.

(a) Test check of records of the Superintendents of Excise, Ganjam, Khurda and Sambalpur revealed short production of IMFL in four bottling plants with reference to MGQ for the period mentioned in the following table against each plant. Non levy of excise duty with fine, on short production of IMFL resulted in non-realisation of excise duty of Rs.2.61 crore as detailed below:

50 Angul, Balasore, Baragarh, Bhadrak, Bolangir, Boudh, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Kendrapara, Keonjhar, Khurda, Koraput, Mayurbhanj, Malkangari, Nawarangapur, Nayagarh, Nuapada, Phulabani, Puri, Rayagada, Sambalpur, Sonapur and Sundargarh.

Sl. No.	Year	Name of the licensee	Installed capacity in LPL	Minimum Guaranteed Quantity (MGQ)	Production of IMFL	Short production with reference to MGQ	(Rupees in lakh)		
							Amount		
					(in terms of LPL)		Excise Duty	Fine	Total
1	2001-2002	M/s Ocean Breverage (P) Ltd.	9,92,250 LPL	4,96,125	48,832.740	4,47,292.260	44.73	4.47	49.20
2	2001-2002	M/s Gemini Distilleries Ltd.	12,15,000 LPL	6,07,500	3,25,102.185	2,82,397.815	28.24	2.82	31.06
3	2001-2002	M/s Kaleast Bottling (P) Ltd.	12,15,000 LPL	6,07,500	2,03,911.392	4,03,588.608	40.36	4.04	44.40
4	2/97 to 8/2002	M/s Hitech bottling plant (P) Ltd.	9,00,000 LPL	19,50,000	6,66.705	1,283.295	128.33	8.37	136.70
Total				36,61,125	5,78,513.022	11,34,561.978	241.66	19.70	261.36

On this being pointed out Superintendents of Excise stated between September 2002 and December 2002 that action would be taken on receipt of clarification/instruction from the Government. The reply is not tenable as the Excise Rules clearly stipulate the method of realisation of duty and fine for the shortfall of production with reference to MGQ.

The matter was reported to Government in March 2003; their reply was awaited (November 2003).

(b) Test check of records of Superintendent of Excise, Jharsuguda revealed that although demand notice was issued to M/s East India Bottlers (P) Ltd., Jharsuguda for realisation of Rs.54.97 lakh towards excise duty on short production of IMFL with reference to MGQ for the years 2000-01 and 2001-02, fine at the rate of 10 per cent amounting to Rs.5.50 lakh was not levied.

On this being pointed out, Superintendent of Excise, Jharsuguda stated in February 2003 that the demand would be raised after verification.

The matter was reported to Excise Commissioner/Government in March 2003; their reply was awaited (November 2003).

5.5 Loss of revenue due to adoption of injudicious procedure

Under Section 93 of Bihar and Orissa Excise Act, 1915 all dues of excise revenue may be recovered by the process prescribed for the recovery of arrears of land revenue. The Collector may if he considers necessary, insist upon bank guarantee from any bidder whether from outside or inside the State, up to the extent of the consideration money and the duty for minimum guaranteed

quantity for the entire year. It had been judicially held⁵¹ in 1979 that excise dues of Orissa were not realisable through Certificate proceedings in Bihar.

Test check of records of Superintendents of Excise, Mayurbhanj, Koraput and Malkangiri revealed that despite Hon'ble Patna High Court's judgement of 1979 the Collectors of the three districts sent certificates of public demands between May 1993 and February 1998 to the Collectors of concerned districts of Bihar for initiating 10 certificate proceedings against ex-exclusive privilege⁵² holders of Bihar for realisation of arrear excise dues. Certificate proceedings were quashed by the Hon'ble High Court, Patna in February 1997 as arrear Excise revenue was not considered as arrear of land revenue. Subsequently the Special Leave Petition (SLP) filed by the Collector, Mayurbhanj in September 2002, was also dismissed by the Hon'ble Supreme Court in September 2002 on the ground of delay in filing SLP. Had the bank guarantee covering the dues for the entire financial year been insisted upon and obtained from the bidders, whether from outside or inside the State, the loss of Rs.33.15 lakh could have been avoided.

Thus Excise revenue of Rs.33.15 lakh was lost due to inappropriate action for recovery of arrear dues.

The matter was brought to the notice of Excise Commissioner/Government in March 2003; their reply was awaited (November 2003).

5.6 Loss of revenue due to non-issue of Mohua Flower (storage) licences

As per Rule 4 of the Orissa Excise (Mohua Flower) Rules, 1976 any firm, person, Co-operative Society or Government establishment desiring to store or possess mohua flower for a period ordinarily not exceeding a year, and in a quantity exceeding the limit of retail sale fixed by the Board shall apply to the Collector of the district within which the storage or possession is to be made. The rules provides inter-alia, for issue of permits, on payment of dues in favour of the applicants specifying the place or premises where mohua flower is to be stored or possessed.

Test check of records of Superintendent of Excise, Koraput revealed that no licences were issued for the calender years 2000 & 2001, although 100 applications were received for grant of licences for storage of mohua flower. The said applications were processed but the licences were not issued on the specific orders of the Collector despite the fact that Excise Commissioner in his letter of May 2000 had requested the Collector to issue licences so as to prevent not only loss of revenue but also illegal storage and sale of mohua flowers. As a result, the Government sustained a loss of revenue of Rs.12.03 lakh for the year 2000-01 on account of licence fee.

51 C.W.J.C. No.2039/1995-Binay Prasad Vrs. State of Bihar

52 Exclusive privilege granted by the State u/s-22 of Bihar and Orissa - Excise Act, 1915

On this being pointed out in audit, Excise Commissioner stated in June 2003 that the licences were not issued as Mada Mukti Abhijan⁵³ was going on in the District. The reply was not tenable as issue of storage permit was to prevent the illegal storage and sale of mohua flower which was evident from the letter of Excise Commissioner of May 2000.

The matter was brought to the notice of Excise Commissioner/Government in March 2003; their reply was awaited (November 2003).

5.7 Non realisation of cost of establishment charges

As per Rule-34 (2) of the Board's Excise Rules, 1965, licensees of bonded foreign liquor warehouses, including the warehouses of foreign liquor manufacturing and bottling plants, are required to pay to Government (at the end of each month) fees for deployment of excise staff engaged in supervision of the operations carried out in such warehouses and plants.

Test check of records of two District Excise Officers, Jharsuguda and Koraput revealed that the demand of Rs.6.78 lakh towards cost of establishment charges for different period between April 2000 and March 2002 was not raised against two private bottling plants⁵⁴.

On this being pointed out, Superintendent of Excise, Koraput stated in March 2003 that a demand of Rs.5.90 lakh had been raised against the concerned bottling plant. Further position of recovery and action in other case was awaited (August 2003).

The matter was reported to Excise Commissioner/Government in March 2003; their reply was awaited (November 2003).

5.8 Non-realisation of transport fee on mohua flower

As per Rule 11 of Orissa Excise Mohua Flower (M.F) Rules, 1976 as amended in June 2000, the rate of fee in respect of a pass for transport of mohua flower within the State shall be Rs.10 per quintal payable prior to the grant of the pass.

Test check of the records of Superintendent of Excise, Bargarh revealed that a quantity of 32,342 quintals of mohua flower was procured in 2001-02 by 40 outstill liquor licensees for manufacture of outstill liquor. However, no transport fee of Rs.3.23 lakh was demanded.

53 "Mada Mukti Abhijan" is liquor prohibition campaign.

54 M/s East India Bottlers (P) Ltd.-May 2000 to March 2001 and M/s Umeri Distillery (P) Ltd.-April 2000 to March 2002.

On this being pointed out, Superintendent of Excise issued demand notices for realisation of the above amount in September 2002. Further reply was awaited (November 2003).

Excise Commissioner stated in April 2003 that transportation fee of Rs.2.42 lakh had been realised from 35 licensees and that action would be taken in respect of the other cases.

The matter was brought to the notice of Excise Commissioner/Government in March 2003; their reply was awaited (November 2003).

CHAPTER-VI : FOREST RECEIPTS

6.1 Results of Audit

Test check of records maintained in various Forest Divisions conducted during the year 2002-2003 revealed non/short levy of interest, loss of revenue etc. of Rs.45.46 crore in 2,879 cases, which may broadly be categorised as under:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Loss of revenue due to short delivery/shortage of forest produce	393	30.06
2	Other Irregularities	1,781	7.59
3	Non-realisation of royalty	54	6.90
4	Non/short levy of interest on belated payment of royalty	651	0.91
Total		2,879	45.46

During the course of the year 2002-2003, the Department accepted under-assessment etc. of Rs.7.29 crore in 571 cases, which had been pointed out in audit in earlier years. Of these, the Department recovered only Rs.0.27 crore in 5 cases.

A few illustrative cases highlighting important audit observations involving Rs.40.00 crore are discussed in the following paragraphs.

6.2 Loss of revenue of Rs.28.06 crore due to non-working of bamboo coupes

Under the provisions of the Orissa Forest Produce (Control of Trade) Act, 1981, the Orissa Forest Development Corporation Limited (OFDC) had been appointed as the agent for extraction of and trade in bamboo in the State of Orissa on payment of purchase price as fixed by the Government from year to year. The agent has to extract bamboo from Government forests and pay royalty to the Government on the basis of annual agreement executed as provided under the Orissa Forest Produce (Control of Trade) Rules, 1983. The annual working (extraction) of bamboo is regulated as per prescription of working plan to ensure scientific management of forest.

Test check of records of Principal Chief Conservator of Forests (PCCF) revealed that although the responsibility of extracting and trading in bamboo was entirely entrusted to the OFDC, no agreement was made with the agent either due to the unwillingness of the agent despite having valid working plans for 12 divisions⁵⁵ or due to expiry of working plans for 11 divisions⁵⁶ during the crop years 2000-01 and 2001-02. No bamboo operation was carried out in any of these bamboo potential Forest Divisions during these two years (except for 3 months in 2000-01 in one division). This resulted in loss of bamboo production of 4,31,741 sale units (SU) (based on the average of previous 3 crop years production) valued at Rs.28.06 crore in the shape of royalty payable by the agent. The PCCF did not ensure the working of bamboo operation by the agent nor did he take any alternative steps for 'departmental working' for augmenting government revenue.

On this being pointed out in audit, the PCCF admitted in May 2003 that non-extraction of bamboo by the OFDC for the crop years 2000-01 and 2001-02 resulted in loss of revenue. However, no remedial measures were initiated by the PCCF to prevent further loss of revenue.

The above matter was referred to Government in March 2003; their reply was awaited (November 2003).

6.3 Non-realisation of royalty

Under the provisions of the Orissa Forest Produce (Control of Trade) Act, 1981, the OFDC had been appointed as the agent for extraction of and trade in bamboo with effect from 1 October 1988 in the State of Orissa on payment of purchase price as fixed by the Government from year to year. Accordingly, the agent has been extracting bamboo from Government forests and paying

55 Athagarh, Athamallik, Bamra, Bonai, Dhenkanal, Deogarh, Ghumsur (North), Ghumsur (South), Kalahandi, Nayagarh, Phulbani and Puri.

56 Angul, Baliguda, Bolangir, Boudh, Jeypore, Khariar, Parlakhemundi, Rayagada, Redhakhoh, Sambalpur and Sundergarh.

royalty on the basis of annual agreement executed as provided under the Orissa Forest Produce (Control of Trade) Rules, 1983.

Test check of records of the office of the PCCF revealed that OFDC sold 3,78,209 SU of bamboo against production of 4,39,474 SU of bamboo for the period 1997-98 to 2001-02. No demand of royalty had been raised for the differential 61,265 SU amounting to Rs.3.78 crore. Besides, the royalty of Rs.5.84 crore in respect of balance 1,20,724 SU of bamboo for the period 1988-89 to 1996-97 remained unpaid though a demand for the same had been made by PCCF in February 1998. This resulted in non-realisation of royalty from OFDC of Rs.9.62 crore.

On this being pointed out in audit, PCCF while accepting the audit observations stated in May 2003 that the OFDC had been reminded time and again to settle the amount.

The matter was referred to Government in February 2003; their reply was awaited (November 2003).

6.4 Non-levy of interest on belated payment of royalty on timber

Under Rule-42 of Orissa Forest Contract Rules, 1966, if a contractor fails to pay any instalment of royalty for sale of forest produce by the due date, he is liable to pay interest at the rate of 6.25 *per cent* per annum on the instalment defaulted. These provisions are also applicable to the OFDC which acts as a contractor.

Test check of records of 17 Forest Divisions⁵⁷ revealed that Divisional Forest Officers (DFOs) did not levy interest of Rs.90.91 lakh on belated payment of royalty by OFDC. The delay in payment of royalty beyond the due date ranged between 7 and 60 months as follows:

(Rupees in lakh)		
Period	No. of lots	Amount
7 to 12 months	316	6.25
1 to 2 years	578	54.39
3 to 5 years	235	30.20
5 years and above	2	0.07
Total	1131	90.91

On this being pointed out in audit, DFOs, Bamra and Bolangir raised between June 2002 and December 2002 the demand of Rs.1.28 lakh and other DFOs agreed to raise the demand.

⁵⁷ Baliguda, Bamra, Baripada, Bolangir, Dhenkanal, Deogarh, Ghumsur (North), Ghumsur (South), Jeypore, Keonjhar, Karanjia, Nabarangpur, Nayagarh, Parlakhemundi, Raikhol, Rayagada and Sundargarh.

The above matter was referred to Department/Government in March 2003; their reply was awaited (November 2003).

6.5 Blocking of revenue due to non-disposal of timber and poles

Government of Orissa, Forest and Environment Department in their order of July 1989 issued instructions for early disposal of timber seized in undetected (UD) forest offence cases, either by prompt delivery to the OFDC or by public auction in order to avoid loss of revenue due to deterioration in quality and value due to prolonged storage.

Test check of records of 23 Forest Divisions⁵⁸ revealed that 53,919.70 cfts of timber and 385 poles valued at Rs.84.48 lakh seized in 2093 undetected (UD) forest offence cases registered between 1999-2000 and 2001-02 were lying undisposed of resulting in blockage of revenue.

On this being pointed out DFOs stated between January 2002 and July 2003 that 7,990.609 cft of timber and 228 poles amounting to Rs.17.17 lakh were delivered to OFDC. The action taken in respect of balance quantity of timber and poles had not been received.

The matter was referred to Department/Government in March 2003; their reply was awaited (November 2003).

6.6 Loss of revenue due to deletion of minimum royalty condition

Government of Orissa, Forest and Environment Department in their orders of April 2001 and May 2002 appointed OFDC and Tribal Development Co-operative Corporation Ltd. (TDCC) as agents of Government for collection of sal seeds in 16 and 11 Forest Divisions of the state respectively for the crop year 2001 and 2002. The agents were to procure sal seeds as per the target fixed for each forest division and pay royalty at the rate of Rs.250 per MT to the Government for the sal seed collected by them.

Test check of records of 27 Divisions in the office of the PCCF revealed that the agents failed to collect sal seeds as per the target. The overall shortfall was 24,611.855 MT against the target of 37,599 MT for the year 2001 and 2002 with the shortfall in individual division ranging from 30 to 100 per cent. Consequently, Government had to suffer shortfall in revenue on account of royalty of Rs.61.53 lakh. Moreover, the reasons of such huge shortfall was neither called for from the agents nor investigated by the Department. Audit scrutiny further revealed that till 2000 Crop year, there was a provision for payment of minimum royalty on 75 per cent of the target of the collection of

58 Athagarh, Angul, Bonai, Baliguda, Bamra, Baripada, Boudh, Bolangir, Dhenkanal, Deogarh, Ghumsur(North), Ghumsur (South), Jeypore, Keonjhar, Karanjia, Nayagarh, Nabarangpur, Paralakhemundi, Phulbani, Rairakhol, Rayagada, Sambalpur and Sundargarh Forest Division.

sal seeds, to be paid in advance in one instalment by the agent. However, non-inclusion of such clause for the Crop year 2001 and 2002 had put the Government into loss of Rs.38.43 lakh in the shape of minimum royalty.

On this being pointed out, the PCCF stated in February 2003 that the modalities of procurement of sal seed was fixed by Government and the provision for payment of 75 per cent of estimated royalty before collection of sal seeds was not incorporated in the above Government order. He further stated that the reasons for shortfall would be called for from the concerned DFOs. However, non-inclusion of the provision for payment of minimum royalty on 75 per cent of the targeted collection of sal seed without any plausible reason had caused huge loss to the Government.

The above matter was referred to Department/Government in March 2003; their reply was awaited (November 2003).

6.7 Non-disposal of Kendu leaf seized in forest offence cases and consequent loss of revenue

Under the provisions of the Orissa Forest Act, 1972 perishable forest produce seized in forest offence cases is required to be disposed of promptly by the order of the Magistrate, or directly by the Forest Officer if it is not possible to obtain the order of the Magistrate in time. The PCCF also issued instructions in July 1993 for prompt disposal of *kendu leaves* seized in offence cases to avoid financial loss, as it is prone to speedy decay and deterioration on prolonged storage.

During the course of audit of Forest Division, Bamra, it was noticed that 302.41 quintals of *kendu leaves* seized in 21 forest offence cases between 1998-99 and 2001-02 valued at Rs.11.27 lakh had not been disposed of, resulting in blockage of Government revenue. Abnormal delay in disposal might lead to loss of Government revenue of Rs.11.27 lakh due to prolonged storage.

On this being pointed out in audit, DFO replied that the DFO, *Kendu leaf*, Kuchinda was being reminded periodically to conduct joint verification of stock for auction. The reply was not tenable as it was well known that delay in disposal would fetch low price and immediate action would prevent/reduce loss of Government revenue.

The matter was brought to the notice of PCCF, Orissa/Government in April 2003; their reply was awaited (November 2003).

6.8 Loss due to under-assessment of royalty

According to the Orissa Forest Department Code and the executive instructions issued in November 1979, allotment of coupes and fixation of royalty thereof are to be finalised by mutual discussion and agreement between the local DFO and Divisional Manager of OFDC after taking into account the quality of trees and accessibility to a coupe area on or before 15 July. Delivery of materials was to be done only after the orders of fixation of royalty thereof had been issued and royalty paid at the rate prevailing during the period of despatch.

During the audit of Forest Division Rayagada and Nabarangpur, it was noticed that 48,411.47 cft of irregular lot of timber were delivered to OFDC between 1999-2000 and 2001-2002 but the royalty demanded and realised was at the rate applicable to preceding years instead of the rates applicable during the period of despatch. Failure to raise demand of royalty at the rates applicable for the year in which delivery of timber was made resulted in short realisation of royalty of Rs.2.66 lakh.

The DFO, Nabarangapur stated in January 2003 that matter would be brought to the notice of the concerned authority for necessary action.

The matter was referred to PCCF/Government in April 2003; their reply was awaited (November 2003).

CHAPTER-VII : MINING RECEIPTS

7.1 Results of Audit

Test check of records in the offices of the Deputy Director of Mines and Mining Officers during 2002-2003 revealed non/short levy of royalty, surface rent, dead rent, interest and other irregularities of Rs.4.64 crore in 95 cases which may broadly be categorised as under:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1	Irregularities of miscellaneous nature	75	3.33
2	Non/short recovery of interest and non-levy of interest	8	1.03
3	Non/short levy of royalty/surface rent/dead rent	12	0.28
Total		95	4.64

During the course of the year 2002-2003, the department accepted under-assessment etc. of Rs.3.51 crore in 226 cases, which had been pointed out by audit in earlier years. Of these, the department recovered only Rs.0.91 crore in 115 cases.

A few illustrative cases highlighting important audit observations involving Rs.2.15 crore are discussed in the following paragraphs.

7.2 Non/short realisation of royalty

Under Section-9 of the Mines and Minerals (Regulation and Development) Act, 1957, the holder of a mining lease is liable to pay royalty in respect of any mineral removed or consumed from the leasehold area at the rates specified in the Act. As per mining concession rules, 1960 and the orders of the State Government, the details of opening balance, production, consumption and closing stock of ores/minerals are required to be exhibited in Form 'A' return to be submitted by the lessee in every month for the purpose of assessment of royalty. No reduction of royalty towards shortage/wastage of ores/minerals is admissible. As per Government of India, Ministry of Mines notification on 25 September 2000 royalty would be payable on processed minerals when the processing is carried out within leasehold area.

(a) Non-realisation of royalty

Test check of records of Sambalpur Mining Circle revealed (December 2002) that the lessee M/s Industrial Development Corporation Ltd. (IDC Ltd.), in respect of Dungri Lime Stone Mines, exhibited opening balance of 77,812.630 MT of lime stone in Form 'A' return for February 2002 as against the closing balance of 1,22,400.677 MT in Form 'A' return for the month of January 2002 resulting in shortage of 44,588.047 MT of lime stone. The Mining Officer failed to detect the shortage. This resulted in non-recovery of royalty of Rs.17.84 lakh.

On this being pointed out, Deputy Director of Mines, Sambalpur accepted audit observation and stated in April 2003 that steps would be taken to recover the royalty for the shortage. Further development was awaited (August 2003).

The matter was brought to the notice of Director of Mines/Government in March 2003; their reply was awaited (November 2003).

(b) Short levy of royalty due to beneficiation of ore

Test check of records of Joda Mining circle revealed that 8 lessees had fed 8,60,911.277 MT of high grade lump Iron ore to the beneficiation/processing plant for sizing and recovered therefrom 8,60,904.957 MT of lump and balance quantity of fine ores of similar grades from April 2000 to 24 September 2000. The lessees paid royalty at a lower rate on inferior quality/quantity recovered after beneficiation instead of at a higher rate applicable to the quality/quantity removed from the seam. This resulted in loss of royalty of Rs.14.31 lakh.

On this being pointed out in audit in February 2002, Department stated in October 2002 that demand had been raised in May 2002 against the lessees. Position of recovery was awaited (August 2003).

The matter was brought to the notice of Government in March 2003; their reply was awaited (November 2003).

7.3 Non levy of interest on belated payment of mining dues

Under the mineral concession Rules, 1960 as amended from time to time, in case of belated payment of dead rent, royalty or other mining dues, simple interest at the prescribed rate⁵⁹ for the amount in default is chargeable from the 60th day of the expiry of the due date, for the period of default.

Test check of records of 3 mining circles⁶⁰ revealed that interest amounting to Rs.94.20 lakh on belated payment of royalty and dead rent in 4 cases was not levied.

On this being pointed out, the department raised the demand of Rs.14.34 lakh in two cases and Deputy Director, Mines, Rourkela stated in December 2002 that the matter would be examined. Further action in this matter was awaited (August 2003).

The matter was brought to the notice of Government in March 2003; their reply was awaited (November 2003).

7.4 Blocking of revenue due to non-disposal of seized ores

The Government of Orissa in September 1977 framed Rules for auction sale of surplus and unserviceable mineral stores. Further, Government of Orissa, Steel and Mines Department in their order of March 1998 had stipulated that all kinds of ores and minerals seized in the field should be disposed off within 3 months.

Test check of records of three Mining circles⁶¹ revealed that 4106.493 MT of Manganese Ore and 218 MT of Chromite Ore seized during the period 1996-97 to 2001-02 had not been disposed of by the Department although a period of 1 to 6 years had passed against the period of 3 months prescribed for disposal. Thus, inordinate delay in disposing of the seized materials led to blocking of Government revenue to the tune of Rs.89.00 lakh.

On this being pointed out in audit, the Deputy Directors of the circles stated that as per the instructions of Government/Director of Mines issued in January 2002, the seized materials were to be handed over to M/s Orissa Mining Corporation Ltd. But despite repeated pursuance, the seized materials were not taken over by them. Reply was not tenable as these Government instructions were effective only from January 2002 and seized material could have been disposed of within 3 months of seizure between 1996-97 and 2001-02.

The matter was brought to the notice of the Department/Government in March 2003; their reply was awaited (November 2003).

⁵⁹ 10% w.e.f. 22 July 1976, 15% w.e.f. 02 October 1982 and 24% w.e.f. 01 April 1991.

⁶⁰ Rourkela, Koira and Bhawanipatna.

⁶¹ Joda, Koira and Talcher.



CHAPTER-VIII: OTHER DEPARTMENTAL RECEIPTS

8.1 Results of Audit

Test check of assessment records and other connected documents pertaining to departmental receipts in the Departments of Food Supplies and Consumer Welfare, Co-operation, Energy and General Administration during 2002-2003 revealed non-realisation of revenue, non/short levy of duties, fees etc. of Rs.110.24 crore in 51,485 cases which may broadly be categorised as under:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Review: Non realisation of house licence fee, room rent and service charges.	01	21.62
2	Non-realisation of revenue.	45,749	54.82
3	Non/short levy of revenue.	11	8.66
4	Other irregularities.	5,724	25.14
Total		51,485	110.24

During the year 2002-2003 the Departments accepted non/short levy of revenue, non-realisation of revenue etc. of Rs.12.88 crore in 37,080 cases, out of which 22,409 cases involving Rs.1.87 crore were pointed out during 2002-03 and 14,671 cases involving Rs.11.01 crore in earlier years.

A few illustrative cases highlighting important audit observations involving Rs.32.73 crore and findings of a review, "**Non-realisation of house licence fee, room rent and service charges**" involving Rs.21.62 crore are discussed in the following paragraphs.

8.2 Review: Non-realisation of house licence fee, room rent and service charges

8.2.1 Highlights

- (i) Non-realisation of house licence fee from residential quarters and non-residential buildings under the control of General Administration (Rent) Department led to blocking of revenue of Rs.9.12 crore by way of rent.

{Para 8.2.7(ii)(iii)}

- (ii) House licence fee of Rs.6.66 crore remained unrealised due to unauthorised grant of rent free quarters by the Irrigation Department.

{Para 8.2.8}

- (iii) There was blocking of Government revenue of Rs.3.94 crore due to non-realisation of house licence fee by the Roads & Buildings Department.

{Para 8.2.9}

- (iv) Appropriation of Departmental receipts of Rs.0.58 crore for Departmental expenditure resulted in loss of government revenue to that extent.

{Para 8.2.12}

- (v) Government sustained loss of revenue of Rs.0.17 crore due to free accommodation to 56 Tahasils and CDMO office staff at Malkangiri and unauthorised occupation of Government quarters.

{Para 8.2.10(ii)}

8.2.2 Introduction

As per provisions contained in "The Special Accommodation Rules, 1959" and orders issued in General Administration Department Resolution (September 1998) read with Finance Department Resolution (January 1999) all State/Central Government officials provided with Government accommodation have to pay house licence fee as per rates prescribed thereunder based on the plinth area of the quarters allotted to them. As per rule 107-A of Orissa Service Code a residence allotted to a Government Servant may be retained up to four months in case of resignation, dismissal, removal, retirement, death or transfer of a Government Servant if no administrative

inconvenience is caused. In case of retention of quarters beyond permissible limit or un-authorised occupation, flat licence fee⁶² for one month, standard licence fee for subsequent two months and penal rent at five times of standard licence fee is leviable thereafter.

8.2.3 Organisational set up

The Special Secretary, General Administration Department is in charge of allotment of Government quarters and shopping complex at Bhubaneswar and Cuttack for all the Departments of Government. The Rent Officer, General Administration (Rent) Department is responsible for assessment and realisation of the rent. Rent demand statements are sent to the Drawing and Disbursing Officers (DDOs) for recovery of licence fee from the salary bills of the allottees. The recovery of rent is monitored by the General Administration (Rent). The Heads of Offices of Major Irrigation Projects, District and other Zonal Offices are responsible for allotment of quarters and realisation of licence fee for the officials working under them. As per Government of Orissa Home Department (SGH) Resolutions⁶³ room rent, service and other charges are payable by occupants of MLA Guest House, State Guest House, Bhubaneswar, Utkal Bhawan, Kolkata and Orissa Bhawan/Nivas, New Delhi.

8.2.4 Audit Objective

Detailed analysis of unrealised house licence fee from the Government quarters as well as room rent and service charges from State Government guest houses and its impact on revenue collection for the period from 1997-98 to 2001-02 was conducted in audit to—

- (i) examine the adequacy of compliance with the Acts/Rules and Government instructions.
- (ii) see whether the system prescribed is followed to ensure time bound assessment and realisation of Government revenue.
- (iii) assess the extent of revenue blocked vis-à-vis total revenue.
- (iv) review the efficacy of internal controls and monitoring at the level of Head of the Departments and controlling officers.

62 (i) Flat licence fee is the normal licence fee (ii) Standard licence fee is double of the normal.

63 No.6036-SGHR dated 22.12.1994 and subsequent Resolution No.4272 SGH(R)-31/98-R dated 17.7.1999.

8.2.5 Scope of audit

In order to ascertain the extent of compliance with the provisions of the Special Accommodation Rules and orders issued from time to time by the concerned authorities, a review was conducted for the period 1997-98 to 2001-02 covering General Administration (Rent) Department, 7 Irrigation Projects⁶⁴ (out of 12), 11 Roads and Buildings Divisions⁶⁵ (out of 21), 13 Collectorates⁶⁶ (out of 30) Umerkote Tahasil, State Guest House and MLA Guest House, Bhubaneswar, Utkal Bhawan, Kolkata and Orissa Bhawan/Nivas New Delhi. The results of the review are given in the succeeding paragraphs.

8.2.6 Trend of Revenue

The budget estimates and collections of rent/licence fee for Government quarters during the period from 1997-98 to 2001-02 were as follows :-

Rent/License Fee - Housing (General administration, Works, Irrigation and Power and Housing and Urban Development).

(Rupees in crore)

Year	Budget Estimates	Collections	(+) Excess (-) Shortfall	Percentage of variations Col. 4 to 2
1	2	3	4	5
1997-98	4.69	5.69	(+) 1.00	21.32
1998-99	5.25	7.19	(+) 1.94	36.95
1999-00	6.88	10.47	(+) 3.59	52.18
2000-01	7.22	11.56	(+) 4.34	60.11
2001-02	11.25	11.70	(+) 0.45	3.91

- (i) It would be seen that the budget estimates were unrealistic since budget estimates were fixed even below the amount collected in the previous year. The variations ranged between 21.32 *per cent* during 1997-98 to 60.11 *per cent* in 2000-01.
- (ii) Though the Government had revised the rates of licence fee in September 1998, these orders were not kept in view while preparing the budget estimates for the year 1999-2000 and 2000-01.

64 S.E., Central Irrigation Circle, Prachi Division, Bhubaneswar, Hirakud Main Dam Division, Burla, M.B.B. Project, Cuttack, Rengali Main Dam Division, Rengali, Samal Head Dam Division, Samal, C.E., UIP, Khatiguda, S.E., UKP, Jeypore.

65 Executive Engineers (R&B) Divisions, Baripada, Burla, Cuttack, Jeypore, Keonjhar, Koraput, Malkangiri, Puri, Rourkela, Sambalpur, Sundargarh.

66 Collectors, Angul, Boudh, Cuttack, Gajapati, Keonjhar, Koraput, Malkangiri, Mayurbhanj, Nabarangpur, Nuapada, Puri, Sambalpur and Sundargarh.

Receipts from Guest Houses

(Rupees in lakh)

Year	Budget Estimate	Collection	Shortfall	Percentage Col. 4 to 2
1	2	3	4	5
1998-99	39.39	16.22	(-) 23.17	58.82
1999-00	48.50	29.56	(-) 18.94	39.05
2000-01	50.68	41.80	(-) 8.88	17.52
2001-02	78.56	40.19	(-) 38.37	48.84
Total	217.13	127.77	(-) 89.36	

There was a huge variation ranging between (-) 17.52 per cent to (-) 58.82 per cent between the estimates and collection from Government Guest Houses due to unrealistic estimates. It was seen from the fact that the Home Department being the Administrative Department had no information regarding outstanding room rent and service charges of Orissa Bhawan/Orissa Nivas, New Delhi and Utkal Bhawan, Kolkata. The Department stated in May 2003 that the Principal Resident Commissioner/Manager had been requested to furnish the information.

The position of assessment and realisation of house licence fee (HLF) and service charges of various units was as follows.

8.2.7 General Administration (Rent) Department

As per para 10(i) of General Administration Department Resolution (September 1998) a Government servant in occupation of Government quarter on transfer from his station can retain the Government quarter for one month from the date of relief on payment of flat licence fee and subsequent two months on payment of standard licence fee. For retention of quarter beyond three months, the allottee shall pay five times of standard licence fee. Similarly as per rule 107-A of Orissa Service Code, in case of retirement, death, dismissal or removal from service, the authority competent to allot quarters may allow the Government servant to retain the residence up to a period of four months, if no administrative inconvenience is caused.

From the records of General Administration (Rent) Department, the demand, collection and balance position of licence fee for the period 1997-98 to 2001-02 was as follows:

(Rupees in crore)

Year	OB	Current demand	Total	Budget	Collection	Balance
1997-98	3.41	2.46	5.87	3.84	1.92	3.95
1998-99	3.95	4.89	8.84	4.85	3.03	5.81
1999-00	5.81	5.32	11.13	5.33	3.76	7.37
2000-01	7.37	4.88	12.25	5.60	4.75	7.50
2001-02	7.50	4.90	12.40	9.00	4.24	8.16

- (i) It was observed that the budget estimates were not prepared on a realistic basis over the last 5 years. Although the actuals during 2000-01 was 4.75 crore the Secretary, General Administration Department (Controlling Officer) had proposed a target of Rs.9 crore for 2001-02 which was 189 *per cent* of previous year's collection.
- (ii) It would be seen that the arrears increased to Rs.8.16 crore during 2001-02 as compared to 3.41 crore during 1997-98. Remedial measures were required to realise the arrears and to contain the increasing trend.
- (iii) Apart from the outstanding house licence fee (HLF) of Rs.8.16 crore against residential quarters, Rs.96.11 lakh was also outstanding as on March 2002 against non-residential buildings such as shopping complexes. Thus, total arrears worked out to Rs.9.12 crore.
- (iv) The Rent Officer could not furnish the year-wise analysis of the outstanding dues of Rs.9.12 crore but had furnished party wise break up as detailed below:

(Rupees in lakh)		
Sl. No.	Particulars	Amount
1	Retired Government Servants	293.89
2	Non-Residential Buildings	96.11
3	Transferred Government Servants	121.95
4	Private Parties	38.02
5	MLAs and Ex-MLAs	49.60
6	Central Government	67.76
7	Stayed by Court	19.97
8	Boards and Corporation	41.87
9	Under Certificate cases	5.28
10	Usual Rent	177.95
Total		912.40

- (v) The Government attributed shortfall to giving 357 out of 12,181 Government quarters on rent free basis, non payment of rent by retired Government servants, co-operative stores/canteens and pendency of large number of cases in High Court and other judicial courts.
- (a) **Non-realisation of House Licence Fee (HLF) from retired/deceased Government Servants**

Out of Rs.2.94 crore shown outstanding against retired/deceased government servants as on March 2002, details for Rs.0.12 crore was not made available to audit. General Administration (Rent) Department had intimated the pension sanctioning authorities (PSAs) to recover outstanding HLF of Rs.1.03 crore in 444 cases. But no intimation effecting recovery was received from PSAs. Further, test check of last pay certificates/no dues certificates pertaining to 20 cases of retirement/death/transfer revealed that though General Administration (Rent) Department intimated PSAs to recover HLF, the fact of recovery was not intimated to General Administration (Rent) Department which shows that the Department had no system to monitor recovery of HLF effected by the PSAs.

(b) Non recovery of rent from non-residential building occupants

As per provision of the lease deed a lessee allotted with shop room (non-residential building) has to pay the prescribed rent in cash or cheque to the Rent Officer or deposit the amount in Bhubaneswar Treasury and furnish the original copy of challan to Rent Officer on or before 25th day of the preceding month. In case of default, he shall be liable for eviction under the Orissa Public Premises (Eviction of un-authorised occupants) Act, 1961 and the arrear dues shall be recoverable as a public demand under the Orissa Public Demand Recovery Act, 1962.

Even though Rs.96.11 lakh was outstanding against occupants of 128 non-residential buildings as on March 2002, the complete list of parties and period of pendency was not furnished by the Rent Officer. In such a scenario recovery from the defaulters appears doubtful.

8.2.8 Non-realisation of licence fee from Irrigation Quarters

As per provisions of General Administration Department circular of September 1998 and August 1991, licence fee has to be realised from Government servants as per rates prescribed thereunder based on plinth area of the quarters.

Test check of records in 7 Irrigation Projects revealed that only two projects (Central Irrigation Circle, Prachi Division, Bhubaneswar and Hirakud Main Dam Division, Burla) had been realising house licence fee from the occupants. Two projects (Upper Indravati Project, Khatiguda and Upper Kolab Project, Jeypore) did not realise licence fee of Rs.1.75 crore since inception of the projects on the plea that all the quarters were allowed rent free, no Government order in support of the claim was produced to audit. Two projects, Rengali and Samal had commenced recovery of house rent since 1999-2000 and 2001-02 respectively, licence fee of Rs.2.57 crore remained unrealised for earlier period (April 1997 to June 1999 and April 1997 to March 2001). In addition, arrears of Rs.2.34 crore remained unrealised from the occupants of government quarters. This resulted in non-realisation of licence fee of Rs.6.66 crore as detailed below:

(Rupees in lakh)					
Sl. No.	Name of the Project	No. of quarters	HLF due	HLF realised	Balance
1	E.E., Rengali Dam Division, Rengali	893	209.43	5.77	203.66
2	E.E., Hirakud Main Dam Division, Hirakud	1,382	233.49	45.47	188.02
3	U.K.P., Jeypore	1,683	103.32	Nil	103.32
4	U.I.P., Khatiguda	862	71.97	Nil	71.97
5	E.E., Samal Head Dam Division	689	54.31	1.02	53.29
6	S.E., CIC, Bhubaneswar	367	43.60	20.07	23.53
7	Mahanadi Birupa Barrage Project, Cuttack.	49	22.60	0.85	21.75
Total		5,925	738.72	73.18	665.54

(i) Out of Rs.23.53 lakh outstanding in Central Irrigation Circle, Bhubaneswar as on March 2002, a sum of Rs.1.31 lakh was outstanding against 3 occupants between April 1998 and May 2001, Rs.22.07 lakh was outstanding against 25 retired Government servants, families of 4 deceased employees and 3 employees belonging to other offices occupying 32 quarters. No steps were taken by the Executive Engineer either for eviction of the unauthorised occupants or realisation of house licence fee (HLF).

(ii) Test check of records of Executive Engineer, Hirakud Dam Division, Burla revealed that a sum of Rs.1.88 crore was outstanding against staff who were occupying government quarters for long period. The house rent had not been realised from the occupants regularly.

The Commissioner-cum-Secretary to Government, Water Resources Department accepted (October 2003) the factual position and assured to take a decision in the matter shortly.

8.2.9 Roads and Buildings Divisions

As per provisions of General Administration Department circulars of September 1998 and August 1991, licence fee has to be realised from government servants as per rates prescribed therein based on plinth area of the quarters. It was also seen in audit that the Executive Engineer (Roads & Buildings), Sundargarh was not maintaining any records and was even not aware of no. of quarters under his control, whereby, the loss to Government could not be determined. Scrutiny of records in 6 Roads and Buildings Divisions revealed that Rs.3.94 crore remained unrealised as on March 2002 as detailed below:

Sl. No.	Name of the Division	No. of quarters	Amount due	Reasons
1	Executive Engineer (R&B) Division, Cuttack	2,558	327.82	Failure of the DDO to return the rent roll.
2	Executive Engineer (R&B) Division, Mayurbhanj, Baripada	602	25.80	Failure of the DDO to return the rent rolls after recovery.
3	Executive Engineer (R&B) Division, Rourkela	--	22.81	Rs.19.09 lakh due to failure of DDOs to return the rent rolls and Rs.3.72 lakh due to unauthorised occupation by officials after retirement/ transfer.
4	Executive Engineer (R&B) Division, Keonjhar	66	9.87	Rs.1.22 lakh due to unauthorised occupation by six retirees and Rs.8.65 lakh due to failure of DDO.s to return the rent rolls.
5	Executive Engineer (R&B) Division, Puri	89	4.81	Rs.4.81 lakh due to unauthorised occupation in 5 cases even after the retirement of the employee or after the death of the employees.
6	Executive Engineer (R&B) Division, Sambalpur	75	2.51	Due to unauthorised occupation by one retired employee, no scope of realisation of amount.
Total		3,390	393.62	

Scrutiny of records revealed that none of the Roads & Buildings Divisions except Cuttack maintained any rent register or demand, collection and balance register for the Government quarters under their jurisdiction.

8.2.10 Collectorates

As per provisions of General Administration Department circular of September 1998 and August 1991, licence fee has to be realised from government servants as per rates prescribed therein based on plinth area of the quarters.

Test check of records of 10 Collectorates and one (1) tahasil revealed the following position of outstanding licence fee as on 31 March 2002.

(Rupees in lakh)			
Sl No.	Name of the Collectorate	Amount due	Reasons
1	Collector, Nuapada	5.59	Failure of the DDOs to return the rent rolls.
2	Collector, Cuttack	2.75	Due to un-authorised retention of quarters for the period August 1995 to March 2001.
3	Collector, Koraput	2.53	Non recovery from the employees
4	Collector, Puri	2.50	Un-authorised occupation of quarters in 5 cases.
5	Collector, Sambalpur	2.15	Due to un-authorised occupation by retirees between August 1991 and May 1994.
6	Collector, Angul	0.80	Un-authorised occupation by 5 transferred employees during the period November 2000 and January 2002.
7	Collector, Gajapati	0.45	Due to un-authorised occupation of quarters.
Total		16.77	

(i) Non-maintenance of records

Test check of records of above offices revealed that rent rolls after recovery were not obtained from the DDOs, Demand, collection, balance register and house rent recovery register were not maintained till 2000-01. Due to improper maintenance of registers/records, actual recovery of house rent against different quarters could not be ascertained in audit.

(ii) Un-authorised occupation of Government Quarters

Test check of records of Tahasildar, Umarmkote revealed that 151 quarters of Ex-Dandakaranya Project were handed over to Collector, Nabarangpur between 1991 to 1994. Of these, 132 quarters were allotted to different categories of employees during this period. No rent had been collected from the occupants of these quarters from 1995 to 2001. The rent due worked out to Rs.17.02 lakh.

On this being pointed out the Tahasildar, Umarmkote stated that the defaulters had been asked to deposit the house rent.

(iii) Non-recovery of House Rent

Test check of records of Collector, Koraput revealed that 7 quarters were allotted to the Secretary, Jagannath Temple Parichalana Sanstha (JTSP) in October 1990 vide order Dt. 22 October 1990 subject to payment of house rent. It was, however, noticed that house rent amounting to Rs.6.59 lakh was outstanding from November 1990 to November 2002. Though the notices were issued from time to time the amount was not taken to the demand

collection and balance (DCB) register. This resulted in non-realisation of house rent of Rs.6.59 lakh.

Further, 21 employees had retained government accommodation after their transfer to other stations during October 1997 to October 2001 and were still occupying the quarters. No steps were taken to effect recovery of rent amounting to Rs.6.73 lakh (due upto March 2002) or for eviction.

(iv) Non-recovery of licence fee at revised rates

Government vide order dated 18 September 1998 revised the licence fee with effect from 1 October 1998.

It was, however, noticed in the case of Collector, Boudh and Nawarangpur that the recovery of licence fee was made at the pre-revised rates in respect of 52 quarters allotted to different categories of employees during the period from October 1998 to September 2002. This resulted in short realisation of licence fee of Rs.3.70 lakh.

On this being pointed out, the Collector, Nawarangpur stated that steps would be taken to recover the amount. The Collector, Boudh stated that recovery could not be effected due to non-submission of assessment by the Executive Engineer, Public Works Department.

8.2.11 Outstanding Service Charges and Room Rent of Guest Houses

The records of 4 State owned guest houses revealed outstanding room rent and service charges amounting to Rs.81.01 lakh as detailed below:

(Rupees in lakh)		
Sl No	Name of the Guest House	Outstanding Room Rent, Service, Telephone, Vehicle Charges
1	State Guest House, Bhubaneswar	66.35
2	Orissa Bhawan/Nivas, New Delhi	13.26
3	Utkal Bhawan, Kolkata	1.40
Total		81.01

Verification of the accounts records revealed as under:

- (i) Records of State Guest House, Bhubaneswar revealed outstanding dues of Rs.70.43 lakh as on March 2002 against official, paying and special guests of which Rs.4.08 lakh was realised up to March 2003.
- (ii) Analysis of records in the office of the Manager, State Guest House, Bhubaneswar revealed outstanding arrears in State Guest House, Bhubaneswar as on 31 March 2002 recoverable from Government departments/officials as follows:

(Rupees in lakh)

(a)	Parliamentary Affairs Department, Chief Minister's Secretariat & Minister's Establishment..	19.57
(b)	Members of Legislative Assembly.	14.71
(c)	Ex-Members of Legislative Assembly and Ex-Members of Parliament.	10.61
(d)	All Departments of Government except Parliamentary Affairs Department.	13.79
(e)	Union Ministers and Government of India Officers	5.34
(f)	Government officials and Ministers.	2.43
(g)	Outside State Ministers and Officials	0.18
(h)	Corporations/Undertakings of Government of Orissa	0.99
(i)	Political Parties	1.59
(j)	Private Institutions and Individuals	1.22
Total		70.43

- (iii) The accounts of Orissa Bhawan/Nivas, New Delhi revealed that receipt of Rs.13.26 lakh was outstanding for realisation from 336 persons including Ministers/Ex-Ministers and Members/Ex-Members of Parliament and Legislative Assembly.
- (iv) The year-wise analysis of the outstanding dues shows arrears of more than 10 years amounting to Rs.7.07 lakh relating to the period 1965-66 to 1991-92. No steps have been taken to recover the very old arrears, as such the chances of recovery have become remote.
- (v) The accounts of Utkal Bhawan, Kolkata revealed outstanding amount of Rs.1.40 lakh against 219 persons including 111 Ministers and Ex-Ministers.

8.2.12 Appropriation of departmental receipts towards departmental expenditure

As per Orissa Treasury Code, all monies tendered to or received by a Government servant on account of revenue of the state is to be paid in full into Treasury or bank without undue delay. The utilisation of government receipts towards departmental expenditure is irregular.

During test check of records of two Collectors (Koraput and Malkangiri) and two guest houses (Orissa Bhawan/Nivas, New Delhi and Utkal Bhawan, Kolkata), it was noticed that house licence fee, room rent and service charges recovered in cash during the period 1997-98 to 2001-02 were not deposited into government account but were utilised for departmental expenditure as detailed below :-

(Rupees in lakh)

Sl. No.	Name of office	Amount received	Amount deposited	Amount utilised for departmental expenditure
1	Collector, Koraput	22.80	1.11	21.69
2	Orissa Bhawan/ Nivash, New Delhi	219.39	197.48	21.91
3	Utkal Bhawan, Kolkata	16.19	3.30	12.89
4	Collector, Malkangiri	5.40	3.73	1.67
Total		263.78	205.62	58.16

This resulted in irregular utilisation of government revenue of Rs.58.16 lakh.

8.2.13 Recommendation

Government of Orissa issued guidelines for collection of house licence fee from occupants of Government quarters and room rent and service charges from visitors to State Guest Houses. The extant orders were not scrupulously followed by departmental authorities incharge of assessment and realisation of house licence fee. None of the departmental authorities except GA (Rent) Department have been maintaining basic records like Quarter Allotment Register, House Rent Recovery Register and Demand Collection Balance Register etc. In spite of the Guest House Rules stipulating collection of all charges before the visitors vacate the rooms, huge arrears remained unrealised due to lack of effective action by the Guest House management. No action was taken for levy of penal rent or vacation under Orissa Public Premises Eviction Act from un-authorised occupants or for collection of the arrears under Orissa Public Demands Recovery Act, 1962. Due to non-compliance with codal provisions and inadequate action by the departmental authorities, Government had sustained loss/blockage of revenue of Rs. 21.62 crore.

The State Government may consider taking following steps to improve the effectiveness of the system:

- (i) Effective action needs to be taken to ensure maintenance of all records.
- (ii) Proper coordination between the authorities concerned as well as periodical reconciliation of realised/unrealised revenue should be ensured.
- (iii) The codal procedure for eviction of un-authorised occupants and realisation of penal rent should be enforced.
- (iv) Computerised MIS for rent systems needs to be set-up for effective monitoring at all levels.

8.3 Loss of revenue on account of incorrect exemption of Electricity Duty

Under the provisions of the Orissa Electricity (Duty) Act, 1961 as amended from time to time and the rules made thereunder, Electricity Duty at the rate applicable per unit of electrical energy consumed shall be levied against any person who generates electricity for his own consumption. The same shall be paid to Government within 30 days from the date of levy. Interest at the rate of 18 *per cent* per annum is also leviable for delayed payment of Electricity Duty beyond the prescribed date.

M/s. Indian Charge Chrome Limited (ICCL), Choudwar installed in February 1989 Captive Power Plant (CPP) for its own energy requirement and was availing 50 *per cent* exemption of ED as per the notification issued by Government in Irrigation and Power Department in July 1987. M/s. ICCL and M/s. Indian Metal and Ferro Alloys Ltd., (IMFAL) were registered under Companies Act, 1956 as two separate companies. According to Government, Department of Energy orders of September 1992, the power plant was captive only to M/s. ICCL but not to IMFAL as the latter did not own it. Thus, IMFAL was not eligible for exemption of ED on the energy consumed by it.

During the course of audit of Electrical Inspector, Bhubaneswar, it was noticed that M/s IMFAL had consumed 143.28 crore units of energy generated by CPP of ICCL during the period September 1998 to November 2002. ICCL paid Rs.16.64 crore on behalf of IMFAL based on the concessional rates. Since the CPP did not belong to M/s IMFAL, M/s. IMFAL was liable to pay Rs.21.49 crore for such consumption of energy at the rate of 15 paise per unit. Thus, allowance of concessional rate resulted in ED of Rs.4.85 crore and interest of Rs.2.09 crore as on 31 March 2003 due to non-payment of electricity duty at the appropriate rate.

On this being pointed out, Electrical Inspector, Berhampur, stated in March 2003 that necessary clarification as to procedure of billing was sought for from Chief Electrical Inspector, Bhubaneswar. The reply was not tenable as M/s IMFAL was liable to pay the electricity duty at prescribed rate as CPP did not belong to it. It was also decided by Government that the benefit of electricity duty at the concessional rate was not applicable to M/s IMFAL.

The above matter was brought to the notice of Government in January 2003; their reply was awaited (November 2003).

8.4 Blocking of revenue due to non-realisation of Electricity Duty

The Orissa Electricity (Duty) Act, 1961 (OED Act) and rules made thereunder stipulates that Electricity Duty (ED) shall be levied and paid on the energy consumed by any person generating energy. In case of default, interest at the rate of 18 *per cent* per annum is leviable when ED payable is not paid within 30 days of the expiry of the month in which it is due. Auxiliary consumption of energy being consumed under OED Act is also subject to levy and payment

of ED. This was upheld by the Hon'ble Supreme Court of India in the case of State of Mysore v/s W.C.P. Mills (1975).

Scrutiny of the records of the Electrical Inspector, Bhubaneswar revealed that M/s. Indian Charge Chrome Ltd., Choudwar had not paid ED on their auxiliary consumption of energy of 20.81 crore units for the period November 1999 to November 2002. Non-realisation of ED resulted in blocking of Government revenue of Rs.4.05 crore inclusive of interest of Rs.0.86 crore.

On this being pointed out in audit, Electrical Inspector admitted in October 2002 that the firm did not pay the ED since November 1999 in spite of Government orders to that effect. The reply of the Department was not tenable as no action against the industry had been initiated for realisation of Government revenue.

The matter was reported to Government in February 2003. Government (September 2003) asked the Electrical Inspector to file a certificate case against the defaulting firm.

8.5 Short realisation of Electricity Duty

The Orissa Electricity (Duty) Act, 1961 and rules made thereunder stipulate that Electricity Duty shall be levied on the energy consumed by a person who generates such energy for its consumption. Government of Orissa raised the rate of Electricity Duty from 12 paise to 20 paise per unit w.e.f. 10 October 2001.

Audit scrutiny revealed that M/s. Indian Charge Chrome Ltd (ICCL), Choudwar paid Electricity Duty of Rs.3.25 crore at the rate of 12 paise per unit for the consumption of 27.05 crore units of energy during the period October 2001 to November 2002 as against Rs.5.41 crore (at the revised rate of 20 paise per unit leviable). This resulted in short payment of duty of Rs.2.16 crore. Further interest of Rs. 30.36 lakh calculated up-to March 2003 was also payable. No demand had been raised by the Electrical Inspector, Bhubaneswar for the differential amount resulting in loss of Government revenue of Rs.2.47 crore including interest upto March 2003.

On this being pointed out, Electrical Inspector, Bhubaneswar stated in October 2002 and March 2003 that the firm had not paid ED at revised rate. The reply was not tenable as the Department had not issued demand for the differential duty and had not taken effective steps for realisation of Government revenue.

The matter was reported to Government in January 2003; their reply was awaited (November 2003).

8.6 Non-realisation of Electricity Duty

Under the Orissa Electricity (Duty) Act, 1961 and rules made thereunder ED shall be levied and is payable to the Government on the energy consumed by a person who generates such energy for his own consumption. The Act further envisages that where such duty payable was not paid within the prescribed date, such person shall be liable to pay interest at the rate of 18 *per cent* per annum.

During test check of records of Electrical Inspector, Rourkela, it was noticed (December 2002) that M/s. Konark Jute Mills (KJM) installed a captive power plant at Dhanamandal on May 1987. The unit was allowed electricity duty exemption for 10 years upto 14th May 1997 on power generated by its captive power plant. Though the unit was liable to pay ED on 80.87 lakh units from 15 May 1997, the same was neither paid nor demanded by the Department. The payable worked out to Rs.9.91 lakh upto April 2002. Besides, the unit was also liable to pay interest of Rs.6.76 lakh.

On this being pointed out in audit, Electrical Inspector, Rourkela raised the demand in January 2003. The position of recovery was awaited (July 2003).

The matter was reported to Government in May 2003, Government stated in July 2003 that Chief Electrical Inspector, Bhubaneswar had initiated (April 2003) action against the defaulting firm for realisation of outstanding dues. Further reply was awaited (November 2003).

8.7 Suppression of realisable Electricity Duty

Levy and collection of Electricity Duty (ED) on consumption of energy in Orissa is regulated under the Orissa Electricity (Duty) Act, 1961, and rules made thereunder. Accordingly, the Orissa State Electricity Board (OSEB) and every licensee in the non-captive sector has the statutory obligation to collect ED from the consumers at the prescribed rate and deposit the same into the Government account within thirty days of expiry of the month in which ED has been collected. The function of OSEB for collection and remittance of ED in the non-captive sector was taken over by the Grid Corporation of Orissa (GRIDCO) with effect from 1 April 1996 which was subsequently transferred by GRIDCO in April/September 1999 to four private distribution companies (Central, North-Eastern, Southern and Western Electricity Supply Company).

Test check of the records of the Chief Electrical Inspector (CEI) Orissa revealed that as on 31st March 1999, the reconciled position of ED realisable from GRIDCO was Rs.103.38 crore. Relevant details such as demand, collection, balance and actual arrears on account of electricity duty collectable and payable by four private distribution companies (DISTCOs) from 1999-2000 to 2002-2003 were not available with CEI. Failure on the part of the CEI to maintain electricity duty accounts and to reconcile the electricity duty accounts with the DISTCOs from April 1999 resulted in adhoc depiction of arrears of Rs.125.66 crore as on 31 March 2003. This adhoc figure was

arrived at by adding 5 per cent increase year after year on the arrear figures of March 1999 of GRIDCO. The CEI also did not furnish the figures of arrear electricity duty as on 31 March every year to Audit although the details were called for year after year for depiction in Chapter-I of the Comptroller & Auditor General of India's Audit Report on Revenue Receipts of the Government of Orissa. Scrutiny further revealed that there was an increase of arrears during 1996-97, 1997-98 and 1998-99 Rs.10.36 crore, Rs.11.66 crore and Rs.8.95 crore respectively with an average increase of Rs.10.32 crore per annum as shown below:

(Rupees in crore)

Year	OB	CB	Increase
1996-97	72.41	82.77	10.36
1997-98	82.77	94.43	11.66
1998-99	94.43	103.38	8.95

Thus, there was underestimation of realisable ED of Rs.19.00 crore by adopting 5 per cent adhoc increase every succeeding year instead of adopting average increase of Rs.10.32 crore per annum as worked in audit as detailed below:

(Rupees in crore)

Year	OB	Average annual increase	CB	Closing Balance as shown by CEI	Difference
1999-2000	103.38	10.32	113.70	108.55	5.15
2000-2001	113.70	10.32	124.02	113.98	10.04
2001-2002	124.02	10.32	134.34	119.68	14.66
2002-2003	134.34	10.32	144.66	125.66	19.00

The Chief Electrical Inspector, Orissa stated that the actual arrear position of electricity duty as on 31 March 2003 would be intimated after reconciliation with Distribution Companies. This confirms that there was underestimation of arrears and Government was unaware of further realisable electricity duty of Rs.19.00 crore due to adoption of adhoc rate of increase since 1999-2000 by the Chief Electrical Inspector.

The matter was referred to Government on 23 August 2003. The reply is awaited (November 2003).

8.8 Non-levy of lease rent

Government of Orissa, Fisheries and Animal Resources Development Department accorded permission in May 1996 for handing over of a portion of land of Kausalyaganga Fish Farm to the Managing Director, Orissa State Fisherman's Co-operative Federation Ltd., Bhubaneswar (FISHFED) for pisciculture on lease basis. The lease value of the land was fixed at Rs.1.5 lakh per annum for 74 acres of water area in March 2003. Interest on belated

payment of Government dues is also chargeable at the rate of 12 *per cent* per annum.

Scrutiny of records of the Asst. Director of Fisheries, Kausalayaganga, Bhubaneswar revealed that land covering water area of 65 acres was handed over to FISHFED on April 1997 for pisciculture. Neither the lease agreement deed was executed by FISHFED nor the lease value was levied by the Asst. Director of Fisheries, Kausalyaganga. Delay in fixation of lease value by Government led to non-realisation of revenue of Rs.10.28 lakh including interest of Rs.2.37 lakh.

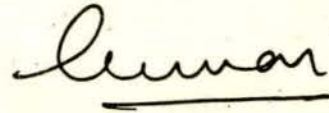
On this being pointed out, the Director of Fisheries, Orissa stated in April 2003 that concerned department had already been requested to execute the lease agreement deed at an early date. Further reply was awaited.

The matter was reported to Government in May 2003; their reply was awaited (November 2003).

Bhubaneswar

Dated :

8 DEC 2003



(M. Naveen Kumar)
Accountant General Audit-(II)
Orissa

Countersigned



New Delhi

Dated :

15 DEC 2003

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

8 DEC 2003

12 DEC 2003

