



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

FOR THE YEAR ENDED 31 MARCH 2002

REVENUE RECEIPTS

GOVERNMENT OF ORISSA

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(REVENUE RECEIPTS)

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PREFATORY REMARKS

This report for the year ended 31 March 2002 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 result 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 2001-2002 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 43 paragraphs and 2 reviews relating to under-assessment/short-levy/non-levy etc. involving Rs.260.18 crore. Some of the major findings are mentioned below:

- (i) The Government's total revenue receipts for the year 2001-2002 amounted to Rs.7047.99 crore. Of this, 44.82 *per cent* was raised by the State, Rs.2466.88 crore through tax revenue and Rs.691.75 crore through non-tax revenue and 55.18 *per cent* was received from the Government of India, Rs.2648.72 crore in the form of State's share of divisible Union taxes and Rs.1240.64 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 2001-2002 revealed under-assessment, short-levy/loss of revenue etc. amounting to Rs.422.44 crore in 114026 cases. During the year 2001-2002, the concerned departments accepted under-assessment etc. of Rs.21.47 crore involved in 13147 cases pointed out during 2001-2002 and earlier years.

{Para 1.7}

- (iii) As on 30 June 2002, 3636 inspection reports issued up to December 2001 containing 11643 audit observations involving Rs.1375.38 crore were outstanding for want of comments/final action by the concerned departments.

{Para 1.8}

2 Sales Tax

- (i) A review on "Exemption to industries under Orissa Sales Tax Act" revealed the following:
 - (a) 10 industrial units had defaulted in payment of their dues to the Orissa State Financial Corporation. But they were allowed irregular exemption of Rs.4.74 crore.

{Para 2.2.8}

- (b) There was grant of excess exemption of sales tax of Rs.7.77 crore to 8 industrial units due to enhancement of installed capacity in the eligibility certificate issued by District Industries Centre without fulfilment of the expansion criteria.

{Para 2.2.9}

- (c) There was loss of Sales Tax revenue of Rs.5.67 crore due to excess allowance of exemption to 5 units under IPR, 1992 and IPR, 1996.

{Para 2.2.11}

- (ii) Failure of the department to conduct market survey resulted in non-realisation of tax estimated at Rs.69.45 lakh.

{Para 2.4}

- (iii) Underassessment of purchase turnover led to short assessment of purchase tax of Rs.14.31 lakh.

{Para 2.7}

- (iv) There was evasion of tax of Rs.10.53 lakh due to undervalued sales to favoured buyer.

{Para 2.8}

- (v) Grant of concessional sales to the dealers who were neither engaged in manufacturing activities nor registered, resulted in inadmissible concessional tax of Rs.21.33 lakh.

{Para 2.9}

- (vi) There was evasion of tax of Rs.39.80 lakh due to short accountal of goods or closure of units or fraudulent use of statutory declaration.

{Para 2.10}

- (vii) Application of incorrect rate led to short levy of tax of Rs.27.92 lakh.

{Para 2.11}

3 Motor Vehicles Tax

- (i) Motor vehicles tax and additional tax including penalty amounting to Rs.3.33 crore was not realised in respect of 2305 contract carriages which had valid route permits.

{Para 3.2}

- (ii) Tax and penalty of Rs.1.20 crore was either not realised or short realised in respect of 367 stage carriages.

{Para 3.3}

- (iii) Motor vehicles tax, additional tax and penalty of Rs.15.94 crore was not realised in respect of 8530 goods vehicles/Tractor-trailor combination as they were neither covered by off-road declaration nor tax was paid in other regions.

{Para 3.4}

4 Land Revenue, Stamp Duty and Registration Fees

- (i) Interest on belated payment of premium etc. of Rs.3.25 crore was short levied.

{Para 4.3}

- (ii) A review on "Levy and collection of Stamp duty and Registration fees" revealed the following:

- (a) There was short levy of stamp duty and registration fee of Rs.2.09 crore in 2035 documents on account of non-adherence to the Government notification as well as instructions issued by the Inspector General of Registration (Orissa).

{Para 4.6.6}

- (b) Cross verification of records of Tahasil offices with reference to 379 documents revealed that kissam of land was incorrectly set forth with lower value for which there was loss of Stamp Duty and Registration Fees of Rs.39.35 lakh and fine of Rs.18.95 lakh.

{Para 4.6.7(a)}

- (c) There was loss of Registration fee of Rs. 49.72 lakh due to allowance of irregular exemption.

{Para 4.6.8(ii)}

- (d) Short levy of Stamp duty of Rs.67.13 lakh was noticed due to incorrect computation of Stamp duty.

{Para 4.6.8(iii)}

5 **State Excise**

- (i) There was loss of Excise Duty of Rs.2.46 crore on account of lower outturn of rectified spirit from molasses due to non-adoption of Chemical Examiner's reports.

{Para 5.2}

- (ii) There was non levy of excise duty and penalty of Rs.0.52 crore due to short production of India Made Foreign Liquor in bottling plants with reference to Minimum Guaranteed Quantity.

{Para 5.3}

6 **Forest Receipts**

- (i) Interest amounting to Rs.98.89 lakh on belated payment of royalty was not levied.

{Para 6.2}

- (ii) There was loss of forest revenue of Rs.14.07 lakh due to non-institution of certificate proceedings within the time limit of 30 years before the cases were barred by limitation.

{Para 6.4}

- (iii) There was loss of forest revenue of Rs.7.01 lakh due to non-disposal of minor forest produce.

{Para 6.5}

7 **Mining Receipts**

- (i) There was non-payment of royalty of Rs.1.04 crore due to suppression of stock of coal reported to the Mining Department with reference to the measured stock of the lessee as on 31 March 2000.

{Para 7.2}

- (ii) Non levy of dead rent, surface rent and interest of Rs.1.00 crore due to non-identification of exact area occupied by the lessee resulted in blockage of Government revenue.

{Para 7.3}

- (iii) Non raising of royalty and cost of ore due to illegal mining amounted to Rs.0.46 crore.

{Para 7.4}

8 **Departmental Receipts**

- (a) Demand of Rs. 144.90 crore was not raised against Orissa Hydro Power Corporation and erstwhile Orissa State Electricity Board for drawing water from Hirakud Dam Project for generation of electricity. Further, demand of Rs. 2344.26 crore raised between March 2002 and July 2002 against the Corporation remained unrealised resulting blockage of revenue to that extent.

{Para 8.2.2}

- (b) There was loss of revenue of Rs.2.11 crore due to irregular adjustment against advance deposit of Rs.3 crore for improvement of canal works.

{Para 8.2.3}

- (ii) Non realisation of electricity duty of Rs.61.39 lakh including interest of Rs.19.24 lakh led to blockage of Government revenue.

{Para 8.3}

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 2001-2002, 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 two years are given below:

(Rupees in crore)

		1999-2000	2000-2001	2001-2002
I	Revenue raised by State Government			
(a)	Tax Revenue	1704.08	2184.03	2466.88
(b)	Non-Tax Revenue	716.48	685.47	691.75
Total		2420.56	2869.50	3158.63
II	Receipts from Government of India			
(a)	State's share of divisible Union taxes	1748.45	2603.97	2648.72 ¹
(b)	Grants-in-aid	1715.63	1428.55	1240.64
Total		3464.08	4032.52	3889.36
III	Total Receipt of the State Government (I+II)	5884.64	6902.02	7047.99
IV	Percentage of I to III	41.13	41.57	44.82

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.

1.1.2 The details of the tax revenue raised during the year 2001-2002 along with figures for the preceding two years are given below:

(Rupees in crore)

Heads of Revenue	1999-2000	2000-2001	2001-2002	Percentage of increase (+) or decrease (-) in 2001-2002 over 2000-2001
1. Sales Tax	1107.55	1342.12	1402.33	(+) 4.49
2. Taxes and Duties on Electricity	127.20	146.71	136.96	(-) 6.65
3. Land Revenue	50.46	53.26	84.48	(+) 58.62
4. Taxes on Vehicles	155.53	178.17	216.37	(+) 21.44
5. Taxes on Goods and Passengers	34.18	194.04 ²	252.04	(+) 29.89
6. State Excise	114.82	135.31	197.46	(+) 45.93
7. Stamp Duty and Registration Fees	102.01	108.52	109.76	(+) 1.14
8. Other Taxes and Duties on Commodities and Services	12.33	14.60	27.62	(+) 89.18
9. Other Taxes on Income and Expenditure	--	11.30 ³	39.86	(+) 252.74
Total	1704.08	2184.03	2466.88	

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

- (a) **Land Revenue:** The increase (58.62 per cent) was stated to be due to sincere and effective steps taken by the Revenue administration, collection of miscellaneous receipts and disposal of revenue cases.
- (b) **Taxes on Vehicles:** The increase (21.44 per cent) was stated to be due to revision in tax rates, increase in vehicle population, better enforcement and effective supervision etc.
- (c) **State Excise:** The increase (45.93 per cent) was stated to be due to opening of new country spirit/out still shops, rationalisation of minimum guaranteed quantity and consideration money, enhancement of licence fee, bottling fee etc.

Reasons for variations in respect of Taxes on goods and passengers, Other taxes and duties on commodities and services and Other taxes on Income and Expenditure from the departments concerned have not been received (November 2002) though called for (April 2002).

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.

1.1.3 The details of non-tax revenue realised during the years 1999-2000 to 2001-2002 are given below:

(Rupees in crore)

Heads of Revenue	1999-2000	2000-2001	2001-2002	Percentage of increase (+) or decrease (-) in 2001-2002 over 2000-2001
1. Forest	95.78	84.79	87.95	(+) 3.73
2. Mines and Minerals	320.09	360.33	378.56	(+) 5.06
3. Education	15.11	19.91	24.98	(+) 25.46
4. Interest	19.46	13.09	25.27	(+) 93.05
5. Public Health, Water Supply and Sanitation	14.71	17.83	21.25	(+) 19.18
6. Irrigation and Inland Water Transport	10.51	20.16	18.40	(-) 8.73
7. Police	10.17	21.44	19.23	(-) 10.30
8. Others	230.65 ⁴	147.92	116.11	(-) 21.50
Total	716.48	685.47	691.75	

The reason for decrease (10.30 *per cent*) in respect of Police receipts was stated to be due to non-collection of dues from other State Governments and other parties.

Reasons for variations relating to *Education, Interest, Public Health, Water Supply and Sanitation* have not been received (November 2002) though called for (April 2002).

1.2 Variations between budget estimates and actual

The variations between budget estimates of revenue for the year 2001-2002 and the actual receipts under the principal heads of tax and non-tax revenue and the reasons therefor as intimated by the respective departments are given below:

(Rupees in crore)

Sl. No.	Heads of Revenue	Budget estimates	Actual receipts	Variations Increase (+) Shortfall (-)	Percentage of Variation
Tax Revenue					
1	Sales Tax	1485.00	1402.33	(-) 82.67	(-) 5.57
2	Taxes on Goods and Passengers	250.00	252.04	(+) 2.04	(+) 0.82
3	Taxes and Duties on Electricity	160.00	136.96	(-) 23.04	(-) 14.40

⁴ Includes receipt of dividend of Rs.111.14 crore under dividend head and Rs.17.06 crore under other administrative services head.

(Rupees in crore)

Sl. No.	Heads of Revenue	Budget Estimates	Actual receipts	Variations Increase (+) Shortfall (-)	Percentage of Variation
4	Land Revenue	65.00	84.48	(+) 19.48	(+) 29.97
5	Taxes on Vehicles	220.00	216.37	(-) 3.63	(-) 1.65
6	State Excise	225.00	197.46	(-) 27.54	(-) 12.24
7	Stamp Duty and registration Fees	130.00	109.76	(-) 20.24	(-) 15.57
Non-Tax Revenue					
8	Mines and Minerals	367.57	378.56	(+) 10.99	(+) 2.99
9	Forest	100.00	87.95	(-) 12.05	(-) 12.05
10	Education	22.00	24.98	(+) 2.98	(+) 13.55
11	Interest	20.00	25.27	(+) 5.27	(+) 26.35
12	Police	13.00	19.23	(+) 6.23	(+) 47.92

- (a) **Taxes and Duties on Electricity:** The shortfall (14.40 *per cent*) was stated to be due to non-payment of duty on auxiliary consumption and at the enhanced rate by some of the major Captive Power Plant units like M/s NALCO, M/s ICCL, Choudwar and M/s RSP, Rourkela.
- (b) **Stamp Duty and Registration Fees:** The shortfall (15.57 *per cent*) was stated to be due to non-registration of large number of documents and less sale of stamps than the target fixed.
- (c) **Forest:** The shortfall (12.05 *per cent*) was stated to be due to less payment of royalty by Orissa Forest Development Corporation Ltd.
- (d) **Police:** The excess collection (47.92 *per cent*) was stated to be due to collection of arrears from South Eastern Railways and other parties.

Reasons for variations relating to Land Revenue, State Excise, Education and Interest have not been received (November 2002) though called for (April 2002).

The wide variation between budget estimates and actual receipts reflected a lack of adequate assessment of actual receipts and the possibilities of additional resource mobilisation as the budget estimates were being framed without any specific assessment of receipts from the respective administrative departments.

1.3 Cost of Collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 1999-2000, 2000-2001 and 2001-2002 along with the relevant all India

average percentage of expenditure on collection to gross collections for 2000-2001 are given below:

(Rupees in crore)

Heads of Revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 2000-2001
1 Sales Tax	1999-2000	1107.55	20.70	1.87	1.31
	2000-2001	1342.12	22.86	1.70	
	2001-2002	1402.33	21.70	1.55	
2 Taxes on Vehicles	1999-2000	155.53	7.40	4.76	3.48
	2000-2001	178.17	7.86	4.41	
	2001-2002	216.37	7.87	3.64	
3 State Excise	1999-2000	114.82	11.16	9.72	3.10
	2000-2001	135.31	11.80	8.72	
	2001-2002	197.46	11.99	6.07	
4 Stamp Duty and Registration Fees	1999-2000	102.01	14.41	14.13	4.39
	2000-2001	108.52	12.16	11.21	
	2001-2002	109.76	11.70	10.66	

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 Fees.

1.4 Arrears of Revenue

As on 31 March 2002, 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 2002	Arrears more than five years old	Remarks
1	Sales Tax	861.93	322.07	The stages of arrears were as under: (a) Demands covered by Certificate proceedings/ Tax Recovery proceedings 201.98 (b) Demands stayed by (i) Supreme Court/High Court 266.75 (ii) Departmental authorities 157.91 (c) Under dispute i.e. covered by show cause and penalty 231.37 (d) Amounts likely to be written off 3.92 Total 861.93

(Rupees in crore)

Sl. No	Heads of Revenue	Amount of arrears as on 31 March 2002	Arrears more than five years old	Remarks
2.	Entry Tax	6.84	Nil	The stages of arrears were as under: (a) Demand covered by certificate/Tax Recovery proceedings 0.06 (b) Recoveries stayed by Departmental authorities 1.62 (c) Amount under dispute i.e. covered by show cause and penalty 5.16 Total 6.84
3.	Entertainment Tax	5.30	NA	The stages of arrears were as under: (a) Demand covered by certificate/Tax Recovery proceedings 3.36 (b) Recoveries stayed by: (i) High Court/Supreme Court 0.14 (ii) Departmental authorities 0.23 (c) Amount under dispute i.e. covered by show cause and penalty 1.57 Total 5.30
4.	Taxes on Vehicles	71.15	NA	Item-wise break up was as under : (i) Orissa State Road Transport Corporation 36.56 (ii) Private Vehicles 34.59 Total 71.15
5	Land Revenue	14.60 ⁵	NA	Item-wise break up was as follows : (a) Rent 1.64 (b) Cess 3.80 (c) Nistar Cess 0.13 (d) Sairat 2.84 (e) Misc. Revenue 6.19 Total 14.60
6	Forest	63.46	NA	The item-wise details was as under : (a) Forest Lease 14.14 (b) Kendu Leaves 0.27 (c) OFDC 49.05 Total 63.46

⁵ Of this Rs.0.74 crore collected during April 2002 to June 2002 leaving a balance of Rs.13.86 crore.

(Rupees in crore)

Sl. No	Heads of Revenue	Amount of arrears as on 31 March 2002	Arrears more than five years old	Remarks
7	Mines and Minerals	26.81	2.19	The stages of recovery was as under : (a) Demand covered by certificate proceedings 2.45 (b) Demand locked up in litigation in High Court 0.20 (c) Amount covered under write off/waiver proposal 0.75 (d) Recoverable amount 23.41 Total 26.81
8	Police	21.42	3.40	21 cases involve Rs.21.39 crore having Rs.2 lakh or more in each case.
9	Irrigation (WR)	10.38 ⁶	NA	Item-wise break up was as follows : (i) Compulsory Basic Water Rate 7.03 (ii) Fluctuating Water Rate 3.35 Total 10.38
10	Other Departmental Receipts (Rent) G.A Department	9.12	NA	Item-wise break up was as under : <u>Residential Buildings</u> 1 MLA's and ex-MLA's 0.49 2 Boards and Corporations 0.42 3 Private parties 0.38 4 Retired Govt. Servants 2.94 5 Transferred Govt. Servants 1.22 6 Certificate cases 0.05 7 Central Government employees occupying State Government Quarters and water tax 0.68 8 Usual House Rent 1.78 9 Recovery stayed by High Court and other judicial authorities 0.20 <u>Non-Residential Buildings</u> 0.96 Total 9.12

⁶ Of this Rs.0.32 crore collected during April 2002 to June 2002 leaving a balance of Rs.10.06 crore.

(Rupees in crore)

Sl. No	Heads of Revenue	Amount of arrears as on 31 March 2002	Arrears more than five years old	Remarks
11	Interest	87.77	NA	<p>1 Co-operation Department 53.64</p> <p>2 Industry Department 34.13</p> <p>Item -wise break up was as under :</p> <p>(a) Orissa Small Industries Corp. 0.67</p> <p>(b) Industrial Development Corp. 6.06</p> <p>(c) Orissa Film Development Corp. 0.11</p> <p>(d) Orissa Instrument Co. 0.29</p> <p>(e) Orissa State Leather Corp. 0.42</p> <p>(f) Orissa State Financial Corp.</p> <p>(i) Loan in lieu of share capital 6.82</p> <p>(ii) Interest bearing loan 9.43</p> <p>(iii) State Aid Rural Industries Program. loan 1.06</p> <p>(iv) Sales Tax loan 5.93</p> <p>(v) Electricity Duty loan 3.00</p> <p>(vi) Panchayat Samiti Industries loan 0.34</p> <p>Total 34.13</p> <p>Grand Total 87.77</p>
12	Stationery and Printing	4.50 ⁷	NA	<p>Amount in each case exceeds Rs. 2 lakh (18 cases involving Rs.4.03 crore).</p> <p>Item-wise break up was as follows:</p> <p>(i) Stationery Receipts 0.07</p> <p>(ii) Sale of Gazette 0.03</p> <p>(iii) Other Press 4.35</p> <p>(iv) Other Receipts 0.05</p> <p>Total 4.50</p>
13	State Excise	11.25	NA	<p>The stage wise position of arrears was as under:</p> <p>(a) Covered by certificate proceedings 4.28</p> <p>(b) Stayed by High Court/other judicial authorities 2.56</p> <p>(c) Amount under dispute 0.06</p> <p>(d) Proposed to be written off 0.03</p> <p>(e) Other stages of recovery 4.32</p> <p>Total 11.25</p>

7

Of this Rs.1.42 lakh collected during June 2002 leaving a balance of Rs.4.49 crore as of June 2002.

1.5 Arrears in assessment

The details of Sales Tax assessment cases pending at the beginning of the year, 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 each year during 1997-1998 to 2001-2002 as furnished by the department are given below:

Year	Opening Balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of column 5 to 4
1	2	3	4	5	6	7
1997-1998	2,66,425	1,82,857	4,49,282	1,68,521	2,80,761	38
1998-1999	2,80,761	1,86,439	4,67,200	1,55,498	3,11,702	33
1999-2000	3,11,702	1,84,660	4,96,362	1,49,044	3,47,318	30
2000-2001	3,47,318	1,88,952	5,36,270	1,59,337	3,76,933	30
2001-2002	3,76,933	1,88,983	5,65,916	2,20,640	3,45,276	39

1.6 Fraud and Evasion of Tax

The number of cases of evasion of tax detected by the Sales Tax department and assessments finalised during 2001-2002 are given below:

		Number of cases
A(i)	Cases pending as on 31 March 2001	13,632
(ii)	Cases detected during the year 2001-2002	1,775
	Total	15,407
B	Cases in which investigations were dropped/assessments completed during the year 2001-2002	4,393
C	Cases which were pending at the end of the year (i.e. 31 March 2002)	11,014

The revenue involved in the pending cases was not furnished by the department. It would be seen from the above that the disposal of detected cases was very low (28.5 per cent).

1.7 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 2001-2002 revealed under-assessment/short levy/loss of revenue etc. amounting to Rs. 422.44 crore in 114026 cases. During the course of the year 2001-2002, the concerned departments accepted under-assessment etc. of Rs.21.47 crore involved in 13,147 cases which were pointed out in 2001-2002 and in earlier years. Of these, the departments recovered Rs.1.43 crore in 220 cases.

This report contains 43 paragraphs and 2 reviews relating to under assessment / short-levy/non-levy etc. involving Rs.260.18 crore of which Rs.6.94 crore has been accepted by Government/ Department. Recovery made in these cases amounted to Rs.0.06 crore up to August 2002. Audit observations with a total revenue effect of Rs.7.07 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 2002).

1.8 Outstanding inspection reports and audit observations

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 offices and other departmental authorities through inspection reports. The heads of offices are required to furnish replies to the inspection reports through the respective heads of departments within a period of one month.

The number of inspection reports and audit observations relating to revenue receipts issued up to 31 December 2001 which were pending settlement by the departments as on 30 June 2002 along with corresponding figures for the preceding two years are given below:

	2000	2001	2002
1. Number of inspection reports pending settlement	3769	3909	3636
2. Number of outstanding audit observations	12087	12507	11643
3. Amount of revenue involved (in crore of Rupees)	666.67	920.26	1375.38

Department-wise break up of the inspection reports and audit observations outstanding as on 30 June 2002 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
		Inspect-ion reports	Audit observ-ations			
1. Finance	Sales Tax	631	2892	188.51	1972-73 to 2001-2002	53
	Entertainment Tax	102	152	1.50	1975-76 to 2001-2002	14
	Luxury Tax	11	12	0.69	1997-98 to 2001-2002	11
	Entry Tax	3	4	0.01	2001-2002	4

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			
2. Commerce and Transport (Transport)	Taxes on Vehicles	248	2520	134.45	1970-71 to 2001-2002	36
	Taxes on Goods and Passenger	70	237	1.09	1973-74 to 1987-88	Nil
3. Revenue	Land Revenue	992	2090	254.11	1975-76 to 2001-2002	136
	Stamp Duty and Registration Fees	167	245	29.26	1976-77 to 2001-2002	115
4. Excise	State Excise	266	734	48.13	1977-78 to 2001-2002	40
5. Forest and Environment	Forest Receipts	558	1576	119.35	1967-68 to 2001-2002	45
6. Steel and Mines	Mining Receipts	92	203	27.68	1974-75 to 2001-2002	3
7. Cooperation	Departmental Receipts	61	193	260.26	1976-77 to 2001-2002	11
8. Food Supplies and Consumer Welfare	-do-	65	142	4.38	1982-83 to 2001-2002	Nil
9. Energy	-do-	52	111	292.79	1992-93 to 2001-2002	5
10. G.A (Rent)	-do-	9	25	4.46	1976-77 to 2000-2001	Nil
11. Works	-do-	23	38	5.71	1992-93 to 2001-2002	Nil
12. Others	-do-	286	469	3.00	--	Nil
Total		3636	11643	1375.38		473

Given the huge pendencies and the amount of revenue involved, it is recommended that Government should look into this matter and ensure that effective steps are taken (a) for action against officials who failed to send replies to Inspection Reports/Paras as per the prescribed time schedule, (b) to raise demand and realise the short levy/non-levy of tax, fees, duties and arrears of revenue etc. in time bound manner and (c) to ensure proper response to the audit observations by the departments concerned.

1.9(a) 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.

Fifty six draft paragraphs being considered for inclusion in this Report were demi-officially forwarded to the Secretaries/Principal Secretaries of the concerned departments between December 2001 and June 2002 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)	15	13	2
2	Energy (Electricity Duty)	1	Nil	1
3	Transport (Motor Vehicle Tax)	13	Nil	13
4	Revenue (Land Revenue, Stamp Duty and Registration Fees)	5	5	Nil
5	Excise (Excise Duty and Fees)	7	5	2
6	Steel & Mines (Mining Receipts)	8	1	7
7	Forest and Environment (Forest Receipts)	4	1	3
8	Water Resources	2	Nil	2
9	General Administration (Departmental Receipt)	1	1	Nil
Total		56	26	30

While Revenue and General Administration departments responded to all the paras, Finance, Excise, Steel & Mines and Forest & Environment departments responded to 13,5,1 and 1 paras out of 15,7,8 and 4 paras issued to them respectively. No response was received from the other departments.

1.9(b) Follow up on Audit Reports

Finance Department instructed (May 1967 and May 1968) all departments of the Government to take *suo motu* action to verify the facts and figures mentioned in the Audit Reports presented before the State Legislature and submit a comprehensive note covering all aspects of the cases in the Audit Paragraphs to the Public Accounts Committee (PAC) soon after receipt of the Audit Report. In December 1993, the Finance Department further instructed that the departments should submit explanatory notes on paragraphs included in the Audit Reports indicating the action taken or proposed to be taken within a period of three

months without waiting for any notice or call from PAC. Since the Audit Reports of the Comptroller and Auditor General of India (Revenue Receipts) represent the culmination of the process of statutory audit starting with initial inspection of the accounts records maintained in various offices under departments of Government, it is imperative that they elicit appropriate and timely response from the Executive as a measure of rectification of errors noticed in audit and to safeguard the interests of revenue.

It was noticed that though the Audit Reports (Revenue Receipts) of the Comptroller and Auditor General relating to the State for the years 1989-90 to 2000-2001 were presented to the State Legislative Assembly between December 1991 and March 2002 ten departments did not submit *suo motu* explanatory notes on 221 paragraphs/review paragraphs as of June 2002 to the PAC for examination of the cases as tabulated below:

Year	1989-90	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96	1996-97	1997-98	1998-99	1999-2000	2000-2001	Total
No. of paras in the AR	69	68	63	54	44	47	40	36	38	40	34	45	578
No. of paras discussed in PAC	68	51	51	40	32	21	13	--	--	--	--	--	276
No. of paras pending for discussion	01	17	12	14	12	26	27	36	38	40	34	45	302
No. of paras for which compliance notes awaited from the departments	01	Nil	12	14	12	12	10	19	23	39	34	45	221

From the above, it would be seen that the non-compliance to audit paragraphs stood at 38.24 *per cent* of total paras presented to the Assembly during the above period. Lack of follow up action on Audit Reports by the Departments resulted in non-realisation of substantive revenue to the State besides recurrence of similar errors every year.

1.9(c) Response of the departments to PAC Reports/ Recommendations

The Orissa Legislative Assembly (OLA) Secretariat issued (May 1966) instructions to all departments of the State Government to submit notes showing action taken by the Government on various suggestions, observations and recommendations made by the Public Accounts Committee (PAC) for their consideration within six months after presentation of the PAC Report to the Legislature. The above instructions were reiterated by Government in Finance Department in December 1993 and by the OLA Secretariat in January 1998. The PAC Reports/recommendations are the principal medium by which the Legislature enforces financial accountability of the Executive to the Legislature and it is appropriate that they elicit timely response from the departments in the form of Action Taken Notes (ATNs).

However, it was noticed from the PAC reports submitted during the 10th, 11th and 12th Assembly that 44 Reports containing 315 paras/recommendations were

presented by the PAC before the Legislature during February 1991 to August 2001 after examination of the Audit Reports (Revenue Receipts) of 14 Departments for the year 1985-86 to 1994-95 as detailed below:

Sl. No	PAC Report No./ Date of placement in Assembly.	Department to which relates	No. of paras in PAC Reports	No. of paras for which ATN not received	Reference to C & A.G.'s Audit Reports (R/R)
(10th Assembly)					
1	4th/27.02.1991	Revenue and Excise	21	21	1985-86
2	11th/30.03.1992	Steel and Mining	04	02	1987-88
3	12th/30.03.1992	Home	01	01	1986-87
4	13th/12.11.1992	Fishery and ARD	04	04	1986-87
5	23rd/23.03.1993	Housing and UD	01	Nil	1987-88
6	25th/23.03.1993	Irrigation	01	01	1987-88
7	28th/23.07.1993	Energy	03	Nil	1986-87 & 1987-88
8	29th/23.07.1993	Energy	02	Nil	1988-89 & 1989-90
9	30th/11.11.1993	Commerce and Transport	16	07	1986-87
10	32nd/11.11.1993	Commerce and Transport	05	Nil	1988-89
11	33rd/11.11.1993	Commerce and Transport	03	03	1989-90
12	34th/11.11.1993	Commerce and Transport	29	10	1990-91
13	41st/29.12.1993	Energy	04	03	1990-91
14	46th/25.03.1994	Education	02	02	1990-91
15	50th/25.03.1994	Irrigation	02	02	1988-89 & 1989-90
16	54th/27.09.1994	Water Resources	01	01	1990-91
17	59th/21.12.1994	Forest & Environment	18	Nil	1986-87
18	60th/21.12.1994	Forest & Environment	13	Nil	1987-88
19	61st/21.12.1994	Forest & Environment	05	05	1988-89
20	62nd/21.12.1994	Forest & Environment	16	16	1989-90
21	63rd/21.12.1994	Forest & Environment	16	16	1990-91
(11th Assembly)					
22	5th/14.03.1996	Steel & Mining	03	Nil	1988-89
23	7th/16.03.1996	Finance	14	14	1986-87
24	8th/16.03.1996	Steel & Mining	05	Nil	1989-90
25	13th/22.03.1994	Steel & Mining	08	Nil	1990-91
26	14th/22.03.1996	Forest & Environment	14	14	1991-92
27	15th/22.03.1996	Revenue & Excise	18	18	1986-87
28	19th/31.07.1996	Finance	10	Nil	1987-88
29	20th/31.07.1996	Agriculture	01	01	1988-89
30	21st/31.07.1996	Home	03	03	1988-89
31	25th/27.11.1996	Finance	14	14	1988-89
32	27th/27.11.1996	Law	01	01	1988-89 & 1990-91
33	32nd/27.11.1996	Home	02	02	1987-88
34	43rd/29.03.1997	Home	01	01	1991-92 & 1992-93
35	48th/08.12.1997	Energy	02	02	1991-92
36	49th/08.12.1997	Energy	03	03	1992-93

Sl. No	PAC Report No./ Date of placement in Assembly.	Department to which relates	No. of paras in PAC Reports	No. of paras for which ATN not received	Reference to C & A.G.'s Audit Reports (R/R)
37	52nd/31.03.1998	Forest & Environment	07	06	1992-93
38	62nd/04.08.1999	Finance	02	02	1989-90
39	63rd/04.08.1999	Home	02	Nil	1993-94
(12th Assembly)					
40	6th/15.12.2000	Steel and Mines	8	8	1991-92 & 1992-93
41	9th/27.3.2001	Commerce & Transport	3	3	1992-93
42	13th/-do-	Forest & Environment	2	2	1993-94
43	14th/-do-	Fisheries & ARD	2	2	1992-93
44	18th/9.8.2001	Commerce & Transport (Transport)	23	23	1993-94 & 1994-95
Total			315	213	

However, out of 315 paras contained in the above reports ATN on 213 paras are yet to be submitted by the departments as of June 2002.

CHAPTER: 2 SALES TAX

2.1 Results of Audit

Test check of assessments and refund cases and connected documents of the Commercial Tax offices during 2001-2002 revealed under-assessment of tax, incorrect grant of exemption, short levy of tax etc. amounting to Rs.81.18 crore in 439 cases which may broadly be categorised as under:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1	Irregular/incorrect exemptions/deferment, concession and deductions under the Orissa Sales Tax Act	144	58.67
2	Under-assessment of tax due to application of incorrect rate	72	2.46
3	Non-levy of surcharge	37	2.99
4	Non-levy of interest	39	1.47
5	Other irregularities	136	15.23
6	Short levy of tax due to incorrect computation of taxable turnover	11	0.36
Total		439	81.18

During the year 2001-2002, the department accepted under-assessment etc. of Rs.1.15 crore in 109 cases which were pointed out in audit in earlier years. Out of these, the department recovered Rs.73.86 lakh in 62 cases.

A few illustrative cases highlighting important audit observations involving Rs.7.27 crore and findings of a review on "Exemption to industries under the Orissa Sales Tax Act" involving Rs. 39.46 crore are mentioned in the following paragraphs.

2.2 EXEMPTION TO INDUSTRIES UNDER THE ORISSA SALES TAX ACT

The findings of a review on "Exemption to industries under the Orissa Sales Tax Act" are enumerated below.

2.2.1 Highlights

- ◆ **10 defaulting units in 5 circles were allowed inadmissible exemptions of Rs.4.74 crore**

[Para 2.2.8]

- ◆ **8 units in 6 circles were granted excess exemption of Rs.7.77 crore by way of irregular revision and alteration of their installed capacities**

[Para 2.2.9]

- ◆ **5 units in 4 circles were allowed excess exemption of Rs.5.67 crore under the package scheme of IPR 1992 and 1996**

[Para 2.2.11]

- ◆ **60 units in 8 circles closed down their manufacturing activities after availing incentives which resulted in grant of futile financial benefit of Rs.20.08 crore**

[Para 2.2.12]

2.2.2 Introduction

In order to secure an accelerated growth in the industrial sector of the State, the Government of Orissa formulated various incentive packages from time to time by way of Industrial Policy Resolutions (IPR). The schemes stipulate benefits in the shape of exemptions from tax on purchase of raw materials and sale of finished products in case of small, medium and large scale industries. Large and medium scale industries may also opt for deferment of sales tax in lieu of exemption. To avail of the benefits under the schemes Eligibility Certificates (EC) are issued by Industries Department. Director of Industries (DI) is responsible for issue of EC in case of large and medium scale industries while in case of small scale industrial (SSI) units the Project Manager or General Manager (GM) of the concerned District Industries Centres (DIC) issues the EC based on which the exemption is granted by the Sales Tax Department. There are some classes of industries which are not eligible for benefits under the above scheme.

2.2.3 Organisational set up

At the apex level the Commissioner of Commercial Taxes (CCT), Orissa is responsible for administration of the Act and Rules in the Commercial Tax Department. He is assisted by 11 Additional Commissioners and 48 Assistant/Additional Assistant Commissioner of Commercial Taxes. Additional Assistant Commissioners (Assessment), Commercial Tax Officers and Additional Commercial Tax Officers working in the circles finalise assessments.

The power of registering the industrial units and issuance of EC vests with the Director of Industries, Orissa and the concerned General Manager/Project Manager of DIC under whose jurisdiction the industry is situated.

2.2.4 Scope of audit

In order to ascertain whether incentives were granted in accordance with the provisions made under the Orissa Sales Tax Act, 1947,(Act) and rules made thereunder, stipulations made in the IPR and operational guidelines issued by Industries Department, a review of assessments in 8⁸ out of the 29 circles of the State and test check in 3⁹ circles for the assessment period 1998-99 to 2000-2001 was conducted between August 2001 and March 2002.

2.2.5 Salient features of the scheme of incentives

In pursuance of industrial policies formulated by the Industries Department from time to time, the Government of Orissa, Finance Department, notifies the scheme of incentives under the OST Act, 1947. The salient features of scheme of exemptions/deferments provided under IPR 1989 to IPR 1996 are mentioned below :

8 Balasore, Bhubaneswar-I, Cuttack-I (West), Cuttack-II, Keonjhar, Koraput-I, Puri-II and Rourkela-II.

9 Bolangir-I Ganjam-III and Rourkela-I.

Sl. No	Scheme	Nature of sales tax relief	Period		Conditions for availing the benefit
2	IPR 1992	(a) Exemption of sales tax on purchase of raw materials, spare parts of machinery and on sale of finished products. Exemption applicable to industries commencing fixed capital investment on or after 1 August 1992. (b) New medium/large scale industries are allowed to defer payment of sales tax.	5 years		(i) The total tax exemption on both purchase and sale is limited to a specific percentage of Fixed Capital Investment (FCI) depending on the zonal location of the industry Zone percentage A 100 B 75 C 60 (ii) The unit has to furnish a certificate obtained from the Orissa State Financial Corporation/Industrial Promotion and Investment Corporation of Orissa Ltd. showing clearance of their defaulted dues. On expiry of the period of deferment, the deferred amount of tax is to be paid in 5 annual instalments.
			5 years		
3.	IPR 1996	Exemption of sales tax on purchase of raw materials, spare parts of machinery and sale of finished products. (For industries whose FCI has commenced on or after 01 March 1996 or between 01 April 1995 and 1 March 1996 where option has been exercised for availing benefits under this policy).	Zone	Year	The unit is to be issued with EC by the Director of Industries or the General Manager/Project Manager, DICs towards investment made in the fixed capital. The maximum amount of exemption is 100% of the fixed capital investment irrespective of the zonal location.
			A	7	
			B	6	
C	5				

Under the provisions of IPR 1992 and 1996 the State was divided into three zones viz. A, B and C (classified in descending order of backwardness of the 58 subdivisions of the state) in order to give more preference to industrially underdeveloped areas.

The incentives and concessions granted under various industrial policies up to 1989 were withdrawn with effect from 1 August 1999. Industries except those which were availing benefits as of 1 January 2000 or in the pipeline by that date would no more be entitled to incentives under any policy resolutions.

2.2.6 Non-achievement of industrial growth

The information regarding grant of exemption/deferment under the schemes is compiled by the Commissioner of Commercial Taxes. The year-wise position of benefits availed is as follows :-

(Rupees in crore)

Year	No. of units availing benefits under various IPRs					Amount of tax exempted and deferred
	IPR 1986	IPR 1989	IPR 1992	IPR 1996	Total	
1996-1997	64	575	87	02	728	94.54
1997-1998	48	477	127	25	677	95.92
1998-1999	09	442	148	136	735	92.38
1999-2000	05	271	164	212	652	58.79
2000-2001	-	-	364 ¹³	-	364	40.64
Total	126	1765	890	375	3156	382.27

The overall position of closed industries was not available in the office of the Commissioner of Commercial Taxes, Orissa. However, in case of eight circles test checked in review, it was noticed that out of 840 units availing exemptions under various incentive packages up to IPR 1992, 358 units were closed as of 31 March 2001 as detailed below:

Name of the circle	IPR 1986		IPR 1989		IPR 1992		Total	
	Availed	Closed	Availed	Closed	Availed	Closed	Availed	Closed
Koraput-I	3	1	40	29	4	3	47	33
Cuttack-I West	27	16	16	4	2	0	45	20
Keonjhar	24	12	14	3	12	0	50	15
Balasore	32	19	81	41	8	1	121	61
Rourkela-II	54	26	144	62	24	6	222	94
Cuttack-II	52	23	98	30	28	5	178	58
Puri-II	12	6	39	18	10	3	61	27
Bhubaneswar-I	44	23	52	23	20	4	116	50
Total	248	126	484	210	108	22	840	358

It would be seen from above that 43 per cent of the industries were closed down either during the period of exemption or soon after its expiry. This indicates that the scheme failed to achieve its objectives of industrialisation.

2.2.7 Exemptions to ineligible units

Under the provisions of the IPR and notifications issued by the Finance Department of Government of Orissa, a unit is entitled to exemption on the basis of EC issued by the Director of Industries or General/Project Manager of District Industries Centres. However, iron and steel processing units, printing press and pulse mills are not entitled to the exemption under IPR 1992 and 1996 while an oil mill is entitled to exemption under IPR 1989 only if its input capacity is not less than 10 MTs.

A test check of records of 5 circles revealed that 5 units availed exemption of Rs.0.40 crore during the period from 1996-97 to 2000-01 though the units were not entitled to such benefit. This resulted in incorrect exemption of Rs.0.40 crore as detailed below :

¹³ Relates to both IPR 1992 and IPR 1996.

(Rupees in crore)

Sl. No	Name of the circle	Name of the dealer and scheme	Assessment year/month of assessment	Commodity/ Rate of tax (OST/CST)	Inadmissible turnover exempted	Amount of tax and surcharge exempted	Nature of irregularities
1	Bolangir-I	M/s. Ambika Oil Industries IPR 1989	1998-99 and 1999-2000/ August 2000	Oil seeds/4 Oil/4/10	3.10 2.28	0.12 0.19	An oil mill having input capacity of less than 10 MT was allowed exemption incorrectly.
2	Cuttack-I West	M/s. Radharaman Graphics IPR 1996	1997-98 to 1999-2000/ Between March 1999 and February 2001.	Calendar, Diary and Cards/12	0.25	0.05	The industry being a printing press is an ineligible industry.
3	Cuttack-II	M/s. Tarini Wires IPR 1996	1998-99 to 2000-2001/NA.	M.S. Wire Rods in Coils (Raw materials)/4	0.30	0.01	The industry is an iron and steel processing unit which was not eligible for exemption.
4	Koraput-I	M/s. Shiva Sankar Oil Mill and Shiva Sankar Modern Dal Industries IPR 1992	1999-2000/ March 2001.	Pulses/4	0.33	0.01	The unit is a pulse mill which is not eligible for exemption.
5	Bhubaneswar-I	M/s. Highland Ice Factory. IPR 1996	1996-97 and 1997-98/ November 1999 and February 2001	Ice slab/12	0.16	0.02	Exemption was allowed without supporting eligibility certificate from DIC.
Total :						0.40	

On this being pointed out in audit, all assessing officers except Cuttack-I (West) agreed to examine the case. Assessing officer Cuttack-I (West) stated that the exemption was allowed on the basis of DIC certificate. General Manager, DIC, Cuttack stated that printing work was different from making diary, calendar and cards. The reply is not tenable since the assessing officer in the assessment order has also treated the unit as a printing press.

2.2.8 Exemption to defaulting units

Provisions under the IPR 1992 and notifications issued by Finance Department, Government of Orissa stipulate that a new industrial unit located in the State, where FCI has been made on or after 1 August 1992, shall be eligible for exemption on purchase of raw materials, spare parts of machineries and on sale of finished products subject to production of certificate from the Orissa State Financial Corporation/Industrial Promotion and Investment Corporation of Orissa Limited showing clearance of their defaulted dues. A sick unit revived under IPR 1992, unless otherwise specified by State Level Inter Institutional Committee, can

only avail the exemption provided it fulfils the clearance criteria of defaulted dues.

Test check in 5 circles revealed that 10 industrial units were allowed exemption in assessment during the period from 1996-97 to 1999-2000 though they had defaulted in payment of their dues to the Orissa State Financial Corporation. This resulted in grant of irregular exemption of Rs.4.74 crore as detailed below.

(Rupees in crore)

Sl.No	Name of the circle	No. of cases	Year	Amount
1	Koraput-I, Jeypore	1	1996-97	0.07
2	Balasore	1	1997-98 and 1998-99	0.12
3	Rourkela-II	2	1996-97 to 1999-2000	3.83
4	Cuttack-II	5	1996-97 to 1999-2000	0.20
5	Bhubaneswar-I	1	1996-97	0.52
Total		10		4.74

On this being pointed out in audit, in 4 out of 10 cases it was stated that the cases would be reopened for examination. In one case the assessing officer of Rourkela-II circle stated that the dealer being a sick unit was granted rehabilitation package by State Level Inter Institutional Committee and therefore general provision is not applicable. The reply is not tenable since the benefit on revival to be availed by the dealer has been limited by the Committee to provisions under IPR 1992. In reply in respect of 5 dealers of Cuttack-II circle it was stated that exemption was allowed on the basis of EC issued by the DIC. The reply is not tenable since admissibility of exemption is subject to certificate of clearance obtained from the Orissa State Financial Corporation/Industrial Promotion and Investment Corporation of Orissa Ltd. for which Sales Tax Department is responsible.

2.2.9 Incorrect grant of exemption

Under the OST Act, 1947 a registered industrial unit set up on or after 1 December 1989 and starting commercial production thereafter is entitled to exemption from payment of sales tax on purchase of raw materials and sale of finished products for a period of 7 years. The concerned DIC or the DI is to certify the installed capacity of the unit and the maximum quantity of raw material required by the industry. There is no provision in the IPR to amend the eligibility certificate issued by the DIC once issued unless it fulfils the expansion criteria.

In 6 circles involving 8 units it was noticed that the installed capacities had been enhanced in the ECs issued by the DICs without fulfilment of the expansion criteria. This resulted in grant of excess exemption for Rs.7.77 crore during the period from 1996-97 to 1998-99 as detailed below :

(R u p e e s i n c r o r e)					
Sl. No.	Name of the circle	Assessment year/month of assessment	Commodity/ Rate of tax (%)	Inadmissible turnover exempted	Amount of tax and surcharge exempted
1	Bhubaneswar-I	1997-98/ May 2000	Perfumed hair oil/20	12.66	2.83
			Tooth Powder (Daburial dantamanjan)/6	3.05	0.21
M/s. Maxcare Laboratories Ltd., an SSI unit under IPR 1989 started CP ¹⁴ in June 1993 and was entitled to exemption up to the installed capacity of 1000 KL of hair oil and 600 MT of tooth powder against which exemption up to 2949.50 KL and 883.854 MT respectively has been granted resulting in excess exemption on the sale of 1949.50 KL and 283.854 MT valued at Rs.15.71 crore. The assessing officer stated that the case would be reopened.					
2	Rourkela-II	1996-97 to 1998-99/ between January 1999 and February 2000	Iron and Steel (Raw materials)/4	11.36	0.46
			Electrical Stampings/12	11.50	1.55
M/s. Orient Industries, a unit of M/s Kalinga Processors and Suppliers under IPR 1989 started CP in July 1991 and was entitled to exemption of 1012.50 MT of finished product during the period from 1996-97 to June 1998. As against this the dealer was allowed exemptions of 7352.212 MT during the period. This resulted in grant of excess exemption on sale of 6339.712 MT valued at Rs.11.50 crore and on the corresponding raw material of 6553.389 MT valued at Rs.11.36 crore. On this being pointed out in audit, the assessing officer stated that the case would be reexamined.					
3	Rourkela-I	1996-97 to 1998-99/ between December 1997 and July 2000	Iron and Steel (Raw material)/4	7.11	0.28
			Tawa, Kadai etc (Finished Products)/12	7.96	1.08
M/s. Shree Raj Udyog a unit under IPR 1989 having its original installed capacity of 200 MT per annum was allowed exemption on finished product of 586.830 MT, 3346.900 MT and 1884.580 MT during 1996-97, 1997-98 and 1998-99 respectively. This resulted in grant of excess exemption on sale of 5218.31 MT valued at Rs.7.96 crore. The corresponding excess exemption on purchase of raw materials was for 5243.990 MT valued at Rs.7.11 crore. The assessing officer stated in reply that the exemption was allowed on the basis of EC issued by the DIC The reply is not tenable since the installed capacity had been increased though it did not fulfil the expansion criteria without E/M/D ¹⁵ and it is not admissible.					
4	Balasore	1997-98/ March 2000	HDPE Woven sacks and Fabrics/12	3.72	0.92
				3.12	
M/s. Balasore Polypack Enterprises, a unit under IPR 1989 was entitled to exemption on installed capacity of 46 lakh sacks. Against this the dealer was allowed exemption on sale price of 115.02 lakh sacks which resulted in excess exemption of 69.02 lakh sacks valued at Rs.3.72 crore and on the corresponding purchase of raw material valued at Rs.3.12 crore. On this being pointed out, the assessing officer accepted the observations of audit and stated that necessary action would be taken to reassess the case.					

14 CP- Commercial Production

15 E/M/D- Expansion/Modernisation/Diversification

(Rupees in crore)

Sl. No.	Name of the circle	Assessment year/month of assessment	Commodity/ Rate of tax	Inadmissible turnover exempted	Amount of tax and surcharge exempted
5	Cuttack-II	1997-98/ January 2001	Aluminium Ingot/4	1.80	0.07
			Aluminium Circles/12	1.98	0.27
<p>The unit of IPR 1989 is entitled to exemption on installed capacity of raw material up to 128.5 MT and finished product of aluminium utensils for 126 MT per annum. The dealer is not entitled to exemption on sale of aluminium circles. Against this the dealer availed exemption of 366.643 MT on purchase of raw materials and 230.556 MT on sale of aluminium circles. This resulted in excess exemption of 238.143 MT on purchase valued at Rs.1.80 crore and 230.556 MT on sale valued at Rs.1.98 crore.</p> <p>On this being pointed out, it was stated in reply that the matter would be taken up with the authorities granting EC for further action.</p>					
6	Cuttack-I (West)	1997-98/ March 2001	Triplex glass/12	0.39	0.05
<p>A unit under IPR 1989 was entitled to exemption of 7800 Sqm of Triplex glass, against which the dealer was allowed exemption on 17489.678 Sqm resulting in excess exemption on 9689.678 Sqm valued at Rs. 0.39 crore. The assessing officer accepted the audit observations and reopened the case.</p>					
7	Cuttack-II	1996-97 to 1998-99/ September 1997 and August 1999	Carded/ willowed Cotton/4	0.78	0.03
<p>A unit under IPR 1989 having started CP in July 1991 was entitled for exemption on sale of finished products of 600 MT per annum up to 1997-98 and on 200 MT for 1998-99 (up to July 1998) as per original installed capacity. Against this exemption was allowed on 2336.176 MT from 1996-97 to 1998-99 resulting in grant of excess exemption of 936.176 MT valued at Rs.0.78 crore.</p> <p>On this being pointed out, the assessing officer stated in reply that the matter would be taken up with the DIC for further action at his end.</p>					
8	Cuttack-II	1996-97 and 1997-98/ March 2000 and March 2001	Iron and Steel (Raw-material)/4,	0.10	0.02
			Wirenail and Fabricated items/12	0.11	
<p>Against admissible exemption of 500 MT for both the years, exemption was allowed on finished products of 586.989 MT. This resulted in excess exemption of 86.989 MT valued at Rs.0.11 crore and on corresponding raw-materials valued at 0.10 crore. The assessing officer stated to reopen the case.</p>					
Total					7.77

2.2.10 Inadmissible incentives under the expansion scheme

Under IPR 1989 and notifications of the Finance Department issued thereunder the industrial units undertaking E/M/D are allowed exemption to the extent of increased production over and above the existing installed capacity. Thus, an industrial unit undertaking E/M/D is to pay tax in respect of the original installed capacity after expiry of its exemption period and avail exemption on increased production as a result of E/M/D. Further, in the deferment scheme under IPR 1992 in case of E/M/D, the benefits of deferment should not have the effect of reducing the sales tax paid by the original unit prior to the commencement of E/M/D.

It was noticed in 3 circles that 4 units while availing the benefit of exemption/deferment on expansion did not pay tax on their original installed capacity. This resulted in grant of irregular exemption of Rs.0.80 crore as detailed below.

(Rupees in crore)				
Sl. No.	Name of the circle	Year/month of assessment	Inadmissible turnover exempted	Amount of tax and surcharge exempted
1	Balasure	1997-98/ March 2001	16.89	0.68
The period of deferment of the unit in respect of Furnace No. 1 and 2 was completed during 1996-97. The unit was to avail the benefit of expansion in respect of Furnace No. 4 and 5 during 1997-98. The unit reduced the sale of Furnace No. 1 and 2 by Rs 16.89 crore which resulted in grant of excess deferment. On this being pointed out, it was stated in reply that the case would be reassessed.				
2	Cuttack-I (West)	1997-98 and 1998-99/ October 1999 and March 2000	0.46	0.06
The unit undertook expansion under IPR 1989 increasing the installed capacity from 100 MT to 150 MT of chanachur. The dealer though liable to pay tax on the original capacity of 100 MT valued at Rs.0.46 crore was incorrectly exempted from payment of tax after expiry of original exemption period.				
3	Rourkela-II	1996-97 to 1998-99/ between December 1997 and February 2000	1.37	0.05
The unit had the installed consumption capacity of raw material of 236 MT. On expansion the capacity was increased up to 627 MT. Though liable to pay tax on the original capacity of 236 MT valued at Rs.1.37 crore, the dealer was incorrectly exempted from payment of tax.				
4	Cuttack-I (West)	1997-98 and 1998-99/ October 1999	0.10	0.01
The unit undertook expansion and increased the installed capacity from 80,000 nos. of files to 1,20,000 nos. but was allowed incorrect exemption on the original quantity of product valued at Rs.0.10 crore.				
Total				0.80

On this being pointed out in audit, the assessing officers agreed to re-examine the cases.

2.2.11 Grant of excess exemption under the package schemes of IPR 1992 and 1996

As per incentives available to industrial units set up under IPR 1992 and 1996, the sum total of exemptions a unit is entitled to receive in respect of its purchases and sales within a period of 5 years are linked to investments made in acquisition of fixed capital. Under IPR 1996 the amount of exemptions during the period of eligibility should be certified at a time by the General Manager, DIC. In order to avail of exemption on purchase, a unit under IPR 1992 is to furnish a declaration in its own stationery whereas under IPR 1996 the declaration forms are supplied by the department.

Test check in 4 circles involving 5 cases revealed that excess adjustment towards exemption from tax had been allowed to industrial units which resulted in loss of

revenue of Rs.5.67 crore during the period from 1993-94 to 1999-2000 as detailed below :

(Rupees in crore)

Sl. No	Name of the circle	Assessment Year	Amount of excess benefit
1	Rourkela-I	1993-94 to 1997-98	3.44
The dealer M/s Prakash Industries was allowed incentive packages under IPR 1992. The unit purchases iron ore, reduces the size and sales them outside the State. The unit was entitled to avail incentives up to Rs.2.47 crore. Against this, due to application of a lower rate of tax (4 per cent instead of 16 per cent) the dealer was allowed a total benefit of Rs.5.91 crore resulting in excess exemption of Rs.3.44 crore over the exemption limit. On this being pointed out, no reply was furnished by the assessing officer.			
2	Cuttack-II	1996-97 to 1999-2000	1.90
The dealer M/s Jagannath Polymer was entitled for exemption of Rs. 73.61 lakh under IPR 1996. As against this he was allowed exemption of Rs.2.64 crore resulting in excess exemption of Rs.1.90 crore. On this being pointed out, the assessing officer replied that the case would be considered at the time of assessment proceedings. The assessment for 1998-99 has been completed in March 2002 and the excess exemption was allowed based on the revised EC issued by the DIC which is irregular.			
3	Cuttack-I (West)	1995-96 to 1997-98	0.19
M/s. Laxmi Polythene was a sick unit which was granted benefit under IPR 1992. It was to avail of exemption up to Rs.46.46 lakh (60 per cent of FCI of Rs.77.44 lakh). As against this, it was allowed exemption up to a limit of Rs.65.49 lakh which was in excess by Rs. 19.03 lakh. The assessing officer replied that being a sick unit he was not to be guided by the general rules. The reply is not tenable as the sanction order granting the extended benefits had not exonerated the unit from the general conditions of IPR 1992.			
4	Ganjam-III	1996-97 and 1997-98	0.10
The unit under IPR 1992 was eligible for exemption up to Rs.40.89 lakh on its purchases and sales against which it was allowed exemption of Rs.50.60 lakh which resulted in excess benefit of Rs.9.71 lakh. This was due to non accountal of purchases made against declarations in own stationery. The assessing officer agreed to reopen the case.			
5	Cuttack-II	1996-97 to 1998-99	0.04
The unit set up under IPR 1996 was entitled for exemption of Rs.10.25 lakh. Against this the dealer was allowed exemption of Rs.13.75 lakh resulting in excess exemption of Rs.3.50 lakh. The assessing officer accepted the observation of audit and agreed to reopen the case.			
Total			5.67

2.2.12 Absence of provision for recovery from closed unit

The Orissa Sales Tax Act, 1947 does not stipulate any time period up to which a unit has to maintain a certain level of production after it has availed exemptions under the various industrial policies. The Act also does not provide for recovery of amount of exemption availed by a unit closed during the period of exemption or thereafter.

A test check of 8 circles revealed that 47 units had been closed after availing exemption of Rs.17.21 crore while 13 units closed their manufacturing activities during the currency of exemption after availing the benefits for Rs.2.87 crore as detailed below:-

(Rupees in crore)

Sl No	Name of the circle	Closed during operative period of exemption		Closed after availing exemption		Total	
		No. of units	Amount of exemption availed	No. of units	Amount of exemption availed	No. of units	Amount of exemption availed
1	Koraput-I	--	--	12	1.72	12	1.72
2	Cuttack-I West	--	--	1	0.20	1	0.20
3	Keonjhar	--	--	1	1.87	1	1.87
4	Balasore	3	0.19	5	0.73	8	0.92
5	Rourkela-II	3	2.33	6	2.79	9	5.12
6	Cuttack-II	4	0.30	9	7.85	13	8.15
7	Bhubaneswar-I	1	0.04	8	0.81	9	0.85
8.	Puri-II	2	0.01	5	1.24	7	1.25
Total		13	2.87	47	17.21	60	20.08

The table below gives the period of operation after availing exemptions in respect of the above 47 units which were closed.

Sl. No.	Period of operation before closure	No. of units closed
1	1-6 months	14
2	7-12 months	11
3	13-24 months	14
4	25-44 months	8
Total		47

Thus, it would be seen that 60 units after availing exemption of Rs.20.08 crore closed down and did not contribute towards industrialisation of the State. In absence of any provision, no action could be taken against them.

2.2.13 Conclusion

The preamble of IPR 1989 contemplated that since the previous two policies had led to a remarkable upsurge in the industrial climate of the State further liberalisation of the package of incentives would be able to maintain and enhance the tempo of industrialisation in the State. This was however belied since a large number of industries could walk off unfettered after availing benefits to the fullest extent since there was no penal provisions either in the IPR or in the OST Act to bring them to book. Eligibility Certificates issued by the DIC had been altered or modified liberally by them. Ineligible/defaulting units had been allowed exemptions on one pretext or the other due to absence of proper guiding principles. There existed no co-ordination between the nodal agencies and the tax authorities. As a result, the pace of industrialisation received a set back and the unbridled grant of incentives led to loss of tax revenue.

2.3 Non realisation of deferred tax

As per Government of Orissa, Finance Department Notification dated 16 August 1990, large and medium scale units set up in the districts of Balasore and Puri on or after 1 December 1989 are allowed to defer payment of sales tax collected and admitted as payable on sale of their finished products for a period of 7 years from the date of commercial production. Deferred amount of tax in respect of each year is to be paid in full in the month following the month of commercial production every year in one annual instalment, commencing immediately after the expiry of the period of deferment. In case of breach of conditions the benefit of deferment is to be revoked from the date it was allowed and the entire amount not paid by way of deferment shall be paid at once in one instalment.

(i) In course of audit of Balasore circle it was noticed (May 2001) that M/s Nilagiri Sleepers Ltd. was allowed deferment of tax of Rs.5.18 crore for seven years for the period from 1990-91 to 1996-97 payable from December 1997. The dealer paid Rs.1.24 crore between January 1998 and December 2001, thus defaulting in payment from the very first instalment. Despite breach of conditions by way of non-payment of the deferred tax the order of deferment was neither revoked nor the balance amount collected. This resulted in non-realisation of deferred tax of Rs.3.94 crore.

On this being pointed out (May 2001), the assessing officer stated that the Commissioner has allowed the dealer to repay in monthly instalments and the dealer has agreed to clear the balance amount in phased manner. The reply of the assessing officer is not tenable since there is neither any provision for allowing instalment after breach of conditions nor was the dealer regular in repayment even after allowing him to repay the amount in monthly instalments.

The matter was reported to Government (April 2002); no reply was received (November 2002).

(ii) In course of audit of Bhubaneswar-I circle (September 2000) and further information collected (March 2001) from the circle it was noticed that a registered dealer manufacturing AB switch system was allowed deferment of tax of Rs.79.10 lakh¹⁶ for the period from December 1989 to November 1997. Although payment of first instalment due in December 1997 was defaulted by the dealer, no action was initiated by the assessing officer till February 2001 to revoke the order of deferment and to realise the entire amount in one instalment. By the time action was taken to realise the Government dues, the dealer had closed down the business and Rs.7,568 only was realised through attachment (March 2001). Thus, delay of three years in initiation of recovery proceedings resulted in non-realisation of Rs.79.02 lakh.

¹⁶ This includes Rs.2.52 lakh reported in Para 2.3 (SI.9) of Audit Report 2000-2001.

The matter was reported to Government (April 2002); their reply has not been received (November 2002).

2.4 Sales escaping assessment for want of survey

(a) Under the Orissa Sales Tax Act, 1947, a dealer who manufactures any goods shall be liable to pay tax on sales with effect from the month immediately following a period not exceeding twelve months during which his gross turnover exceeds rupees one lakh. According to the Orissa Commercial Tax Manual, the Inspectors of Sales Tax are required to survey business localities to detect persons who are liable to pay tax but have not been brought into the tax net. Bricks are taxable at the rate of 12 *per cent*.

Cross verification of the records of Bhubaneswar-I circle with the information collected (January 2002) from the Tahasildar, Bhubaneswar revealed (February 2002) that 15 dealers were engaged in the manufacture and sale of kiln burnt bricks during the years 1996-97 to 2000-2001 after obtaining permits on payment of royalty. Though their estimated sale exceeded the non-taxable limit, they escaped tax liability as they had neither got themselves registered nor had the department conducted any market survey to bring them into the tax net. The escaped taxable turnover is estimated at Rs.4.23 crore on 3.38 crore bricks determined on the basis of royalty paid. This led to non-levy of tax estimated at Rs.52.50 lakh.

On this being pointed out in audit, the assessing officer initiated proceedings (February 2002) for assessment of the dealers. The Commissioner of Commercial Taxes, Orissa stated (August 2002) that the assessment proceedings were pending disposal.

The above matter was referred to the Government (April 2002). Government confirmed (October 2002) the fact of pendency of assessment proceedings.

(b) The Orissa Sales Tax Act, 1947 states that a dealer shall be liable to pay tax on sales with effect from the month immediately following a period not exceeding twelve months during which his gross turnover exceeds rupees two lakh. According to the Orissa Commercial Tax Manual, the Inspectors of Sales Tax are required to survey business localities to detect persons who are liable to pay tax but have not been brought into the tax net. Granite stones are taxable at the rate of 12 *per cent*.

During the course of audit of Puri-II circle, Jatni (February 2002), cross verification of the records of the circle office with the information collected from Tahasildar, Khurda revealed that one dealer engaged in extraction of granite stone extracted 3.39 lakh cubic meters of stone during the years from 1996-97 to 2000-2001 after taking lease of the stone quarry on payment of royalty. Though his

estimated sale exceeded the non-taxable limit of Rs 2 lakh, he escaped the tax liability as he had neither got himself registered nor the department could bring him into the tax net by conducting market survey. The escaped taxable turnover is determined at Rs.1.29 crore on 3.39 lakh cubic meter of stone extracted during the above period. This led to non-levy of tax estimated at Rs.16.95 lakh including surcharge of Rs.1.49 lakh.

On this being pointed out in audit (February 2002), the Department raised (July 2002) demand of Rs.21.44 lakh.

The above matter was referred to the Government (May 2002). Government confirmed (October 2002) the fact of raising demand.

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 fulfilment of the prescribed conditions viz. (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.

During the course of audit of Keonjhar circle it was noticed (June 2001) that the assessing officer while finalising (November 2000) the assessment of a registered dealer under the Central Sales Tax Act for the year 1999-2000, exempted sale turnover of iron of Rs.3.71 crore from tax without verifying whether such iron and steel has suffered tax under the State Act and was sold in the same form in which it was purchased. On cross verification by audit conducted through the Commercial Tax Officer, Rourkela-II circle it was noticed that the dealers from whom purchases were shown to have been made had either made no transaction to this dealer or their registration certificates were cancelled with effect from 1 April 1999. Only two transactions of Rs.8.93 lakh were found to be eligible for exemption. Thus, allowance of exemption of Rs.3.62 crore was irregular and led to short levy of tax of Rs.28.99 lakh.

On this being pointed out in audit (June 2001), Government stated (June 2002) that in pursuance to audit objection extra demand of Rs.75.71 lakh including penalty of Rs.45.91 lakh was raised (March 2002).

2.6 Incorrect treatment of supply contract as works contract

Under the Orissa Sales Tax Act, 1947, 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 and the turnover is taxable at the rate of 8 *per cent*. Stone ballast supplied to Railways is a transaction of sale and is taxable at the rate of 12 *per cent*.

During the course of audit of Keonjhar circle, it was noticed (May 2001) that a dealer received payment of Rs.2.66 crore from the Railways during the years from 1997-98 to 1999-2000 towards supply and stacking of machine crushed hard stone ballast. The assessing officer while completing assessment (March 2001) allowed deduction of Rs.1.53 crore towards security deposit and labour and service charges and taxed the balance amount of Rs.1.13 crore at the rate of 8 *per cent* applicable to works contract instead of taxing the whole amount (Rs.2.66 crore) at 12 *per cent*. This irregular assessment resulted in short levy of tax of Rs.26.00 lakh including surcharge of Rs.3.13 lakh.

On this being pointed out in audit (May 2001), Government stated (June 2002) that in pursuance to audit objection re-assessment was completed (March 2002) raising extra demand of Rs.25.24 lakh.

2.7 Under-assessment of purchase tax

Under the Orissa Sales Tax Act, 1947, certain goods have been specified to be taxed on the turnover of purchases. Turnover of purchases means the aggregate of the amounts of purchase prices paid and payable by a dealer in respect of the purchase or supply of goods so specified. Tamarind produced and purchased within the State is taxable at the rate of 8 *per cent*.

During the course of audit of two circles (Koraput-I & Koraput-II), it was noticed (February 2001) that the assessing officers, while completing the assessments (between September 1997 and November 1999) of two registered dealers for the years 1995-96, 1996-97 and 1998-99, determined purchase turnover of tamarind produced and purchased inside the State after taking into account the royalty paid to Government. Scrutiny revealed that the dealers were required to pay minimum procurement price of Rs.1.63 crore to the primary collectors in addition to royalty paid to Government which was not taken into account in determination of the purchase turnover. This led to under-assessment of purchase tax of Rs.14.31 lakh including surcharge of Rs.1.30 lakh.

On this being pointed out (February 2001), the assessing officers raised (December 2001 and January 2002) extra demand of Rs.12.90 lakh.

Government while confirming the fact of raising extra demand stated (June 2002) that the concerned assessing officers have been directed to take follow up action for realisation of the demanded dues.

2.8 Tax evasion due to undervalued sales to favoured buyer

Under the Orissa Sales Tax Act, 1947, if the Commissioner is satisfied that any dealer has, with a view to evading or avoiding payment of tax, effected sales of any goods or class of goods to favoured buyers or shown in his accounts, sales or purchases at prices, which are unreasonably low compared to the prevailing market price of such goods, he may estimate the price of such goods on the basis of market price thereof prevailing at the time when such sales were effected and re-assess the dealer to the best of his judgement. Toothpaste, and toothbrush are taxable at the rate of 12 *per cent* at the first point of sale.

During course of audit of Cuttack-II circle, it was noticed (August 2001) that in the year 1998-99 a registered dealer dealing in toothpaste, and toothbrush sold such goods of Rs.1.12 crore to another dealer for Rs.1.25 crore and paid tax thereon as the first seller. The second dealer, (the purchaser) in turn, sold the same goods in the same locality at Rs.2.22 crore with 77 *per cent* increase which is very high. Thus, the sale turnover of first point tax paid goods, returned by the first seller was unreasonably low. This led to evasion of tax of Rs.10.53 lakh including surcharge.

On this being pointed out in audit (August 2001), the department raised (August 2002) a demand of Rs.33.30 lakh including penalty of Rs. 19.98 lakh.

The matter was referred to the Government (May 2002). Government confirmed (October 2002) the fact of raising demand.

2.9 Grant of inadmissible concession

Under the Orissa Sales Tax Act, 1947 concessional rate of tax (4 *per cent*) is admissible to a registered purchasing dealer, provided a declaration in the prescribed form 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 or in mining or in generation or distribution of electricity.

Test check in 6 circles revealed that in 10 cases sales during the period from 1996-97 to 1999-2000 at concessional rates had been effected to dealers either not engaged in manufacturing activities or were unregistered. This resulted in grant of inadmissible concessional tax of Rs.21.33 lakh including surcharge as enumerated below :

(Rupees in lakh)

Sl. No.	Name of the circle	Assessment year/month of assessment	Name of goods/rate of tax	Turnover taxed at concessional rate	Tax short levied including surcharge	Remarks
1	Rourkela-I	1997-98 to 1999-2000 /NA	Photographic material/16	23.91	3.16	¹⁷ Taking of photographs is a contract for service and not sale.
2	Cuttack-I West	1998-99/ December 1999	Photographic material/16	9.56	1.32	
3	Cuttack-I- West	1997-98/ March 2001	Paper/8	21.26	0.96	The paper was sold to an unregistered dealer.
4	Balasore	1997-98/ March 2001	Prawn feed & seeds/ 12	3.80	0.33	Prawn culture does not come under manufacture ¹⁸ . However prawn feed was sold at the concessional rate of 4 per cent instead of 12 per cent
5	Balasore	1997-98/ March 2000		1.78	0.16	
6	Dhenkanal	1999-2000/ August 2000	Repair of transformer/8	98.42	4.53	Repair work has been taxed at the rate of 4 per cent instead of 8 per cent.
7	Bolangir-I	1996-97 to 1998-99/ March 1999 and July 2000		46.61	2.04	
8	Bolangir-I	1998-99 and 1999-2000/ March 2000 and July 2000		58.56	2.58	
9	Bhadrak	1996-97 and 1997-98/ March 2000 and March 2001	Paper/8	72.90	3.21	The purchasing dealers are themselves not engaged in manufacture and are getting the printing work done from other printing presses.
10	Bhadrak	1996-97 and 1997-98/ March 2000 and March 2001	Paper/ 8	69.09	3.04	
Total					21.33	

On this being pointed out, the assessing officers agreed to re-examine the cases.

The matter was reported to Government (June 2002); their reply was awaited (November 2002).

2.10 Evasion of tax through statutory declarations

Under the provisions of Orissa Sales Tax Act, 1947 the taxable turnover of a registered dealer is determined after deducting therefrom sales made to registered dealers against statutory declarations to the effect that goods so purchased shall be resold in the State subject to levy of tax under the Act.

¹⁷ M/s. Rainbow Colour Lab. and another Vs. State of Madhya Pradesh [118-STC-P-9(SC)]

¹⁸ Clarification issued by the Commissioner of Commercial Taxes, Orissa vide No.6266 Dated -15.2.1999.

(i) Test check in 2 circles revealed that during 1998-99 and 1999-2000, 4 dealers purchased goods valued at Rs.41.79 lakh furnishing declaration (in Form XXXIV) for resale of the goods in the State. As against this they had accounted for goods valued at Rs.0.59 lakh which resulted in under assessment of turnover of Rs.41.20 lakh and evasion of tax of Rs.5.65 lakh as shown below:

(Rupees in lakh)

Sl. No	Name of the circle	Assessment year	Turnover escaped	Commodity/ rate of tax	Amount of tax
1	Puri-II	1998-99 and 1999-2000	16.28	Pens, ball pens/ 12	2.08
2	Mayurbhanj	1998-99	13.37	Non-ferrous metals/ 12 Cosmetics/20	2.15
3	Puri-II	1999-2000	7.87	Pens, ball pens/ 12	1.03
4	Puri-II	1998-99	3.68	Pens, ball pens/ 12	0.39
Total			41.20		5.65

(ii) A registered dealer M/s Shankar Trading Co. in Cuttack-I circle was allowed deduction of Rs.41.70 lakh from his gross turnover against statutory declarations during 1996-97 and 1997-98 towards sales to 11 registered dealers located in 6¹⁹ circles against declarations for re-sale. As stated by the assessing officers of the purchasing dealers, the said forms had not been issued by them. This resulted in avoidance of tax of Rs.5.51 lakh since such forms had been fraudulently used by the purchasing dealers.

(iii) In 3 circles during 1998-1999 and 1999-2000, 4 registered dealers who effected purchases against statutory declarations had closed down their business between September 1998 and April 2002. However, the dealers could not be assessed or in case of assessment, the demand notice could not be served since the dealers had discontinued their business. This resulted in loss of tax of Rs.28.64 lakh as detailed below.

(Rupees in lakh)

Sl. No	Name of the circle	Year	Turnover	Commodity/rate of tax	Amount of revenue loss
1	Dhenkanal	1999-2000	65.70	Photographic materials/16	11.56
2	Kalahandi	1999-2000	22.28	Ball pen/12	3.92
3	Koraput-I	1998-99	70.63	Photographic materials/16	12.43
4	Koraput-I	1998-99	5.54	Ball Pen/12	0.73
Total					28.64

On this being pointed out, the assessing officers agreed to re-examine the cases.

The matter was reported to Government (June 2002); their reply is awaited (November 2002).

19 Balasore, Bhadrak, Ganjam-I, Phulbani, Rourkela-I and Sambalpur-I.

2.11 Short levy of tax due to application of incorrect rate

Under the Orissa Sales Tax Act, 1947, different rates of tax are applicable in respect of different commodities.

It was, however, noticed that in 5 cases application of incorrect rate of tax resulted in short levy of tax of Rs.27.92 lakh as shown below:

(Rupees in lakh)							
Sl. No.	Name of the circle	Year assessed/ Month of assessment	Commo- dities	Taxable turnover	Rate of tax leviable	Rate of tax levied	Short levy of tax including surcharge
1	Bhubaneswar-I	1997-98/ November 2000	Boroplus	67.17	20	6	10.34
2	Cuttack-II	1997-98/ March 2001	Glass tumblers and bottles	35.90 ²⁰ 36.00 ²¹	12 12	4 Nil	8.00
3	Cuttack-I(East)	1998-99 & 1999-2000/ February 2000 and January 2001	Cycle parts	67.72	12	4	5.96
4	Sambalpur-I	1999-2000/ December 2000	Cycle parts	13.57	12	4	1.25
5	Bhubaneswar-II	1997-98/ March 2001	IMFL	7.00 17.31	10 (upto 25 June 1997) 20 (from 26 June 1997)	4 10	2.37
Total							27.92

On this being pointed out in audit (between July 2001 and January 2002), Government stated (between February 2002 and July 2002) that extra demands of Rs.28.70 lakh were raised after re-assessment proceedings.

2.12 Non-levy of surcharge

Under the Central Sales Tax Act, 1956, on inter-State sales of goods other than declared goods which are not covered by prescribed declarations, tax is leviable at the rate of 10 *per cent* or at the rate applicable to sale or purchase of such goods inside the appropriate State whichever is higher. Rate of tax on sale or purchase of such goods inside the State includes 'surcharge' leviable under the State Act; where in any year his gross turnover exceeds rupees ten lakh.

²⁰ Inter-State sales not supported by declaration in Form-'C'.

²¹ Branch transfer of goods not supported by declaration in Form-'F'.

During the course of audit of 5²² circles it was noticed that in 11 cases surcharge of Rs.4.46 lakh though leviable was not levied where the gross turn over of the dealer had exceeded the prescribed limit.

On these being pointed out in audit, the department raised demand of Rs.4.66 lakh in all the cases.

The matter was referred to the Government (April 2002). Government communicated (September 2002) the fact of raising demand.

2.13 Short levy of tax due to under statement of taxable turnover

Under the Orissa Sales Tax Act, 1947, 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. Under the Act the taxable turnover of works contracts is eligible to tax at the rate of 8 *per cent*. The Supreme Court in the case of M/s Gannon Dunkerly & Co. Vs. the State of Rajasthan (1993-88-STC-204) held that goods involved in the execution of works contract when incorporated in the works contract, could be classified into a separate category for the purpose of imposing tax.

(a) During the course of audit of Kalahandi circle, it was noticed (October 2001) that while finalising (July 2000) the assessment of a contractor for the year 1999-2000, deduction of Rs.66.54 lakh was allowed towards cost of cement utilised in the execution of works contract on the ground that such goods had suffered tax earlier, which was incorrect as the entire turnover, excluding labour and service charges is taxable. Since the tax paid materials were not purchased by the contractor but were supplied by the contractee (a Government Corporation) there was no evidence that the assessing officer had satisfied himself that the materials were not received from PWD Division at concessional rates. This resulted in under-assessment of tax of Rs.6.12 lakh including surcharge of Rs.0.80 lakh.

On this being pointed out in audit (October 2001), the assessing officer agreed to reopen the case after consultation with the higher authorities.

The matter was reported to Government (April 2002); their reply is awaited (November 2002).

(b) During the audit of Kalahandi circle, it was noticed (October 2001) that while completing assessment of a works contractor for the year 1999-2000 the assessing officer assessed (March 2001) gross turnover of Rs.11.17 crore after

22 Bhubaneswar-I, Cuttack-I(West), Cuttack-II, Cuttack-III, Keonjhar.

deducting the withheld amount of Rs.27.59 lakh from the gross value of work of Rs.11.44 crore received during the year. This led to under statement of taxable turnover of Rs.18.76 lakh after allowing deduction towards labour and service charges as adopted by the assessing officer, resulting in short levy of tax of Rs.1.73 lakh including surcharge of Rs.0.23 lakh.

On this being pointed out (October 2001), the department raised (June 2002) demand of Rs. 10.78 lakh including surcharge.

The above matter was reported to the Government (May 2002). Government confirmed (October 2002) the fact of raising extra demand.

2.14 Non-levy of tax due to incorrect calculation of taxable turnover

Under the Orissa Sales Tax Act, 1947, sale includes transfer of the right to use any goods for any purpose (whether or not for specified period) for cash, deferred payment or other valuable consideration. The Commissioner of Commercial Taxes, Orissa, clarified (July 1988) that hire charges of any goods should be taxed at the same rate as applicable to the goods hired out. Under the Act, electric meter is taxable at the rate of 12 *per cent*.

During the course of audit of Sambalpur-III circle, Jharsuguda, it was noticed (August 2001) that a registered dealer collected Rs.21.88 lakh during the year 1996-97 and 1997-98 towards hire charges of electric meters as meter rent from the consumers. The amount received towards meter rent escaped assessments completed during March 1999 and March 2001 which resulted in non-levy of tax of Rs.2.92 lakh including surcharge of Rs.0.29 lakh.

On this being pointed out in audit (August 2001), the department raised (June 2002) a demand of Rs.1.85 lakh for 1997-98. Reply for 1996-97 was awaited (November 2002).

Government confirmed (August 2002) the fact of raising of the above demand.

CHAPTER-3 : 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 2001-2002 revealed under-assessment of tax and loss of revenue amounting to Rs.26.06 crore in 18,248 cases which may broadly be categorised as under:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1	Short-realisation/short levy of motor vehicles tax/additional tax and penalty	561	0.68
2	Non-levy/non-realisation of motor vehicles tax/additional tax and penalty	13,274	24.39
3	Non/short realisation of compounding, permit, Reservation and Driving licence fees etc.	753	0.16
4	Non/short realisation of composite tax and penalty	3433	0.75
5	Non/short realisation of Trade Certificate tax/fees	129	0.03
6	Other irregularities	98	0.05
Total		18,248	26.06

During the course of the year 2001-2002, the department accepted under-assessment etc. of tax and penalty amounting to Rs.2.85 crore in 1195 cases which had been pointed out in audit in earlier years. Of these, the department had recovered Rs.9.35 lakh in 106 cases.

A few illustrative cases highlighting important audit observations involving Rs.22.97 crore are mentioned in the following paragraphs.

3.2 Non-realisation of motor vehicles tax/additional tax in respect of contract carriages

Under the Orissa Motor Vehicles Taxation (OMVT) Act, 1975 and rules made thereunder, motor vehicles tax in respect of contract carriages is to be realised as per the rates specified in the Act on the basis of number of passengers permitted to be carried as per the permit. 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 Regional Transport Officers²³(RTOs) (between May 2001 to March 2002) revealed that motor vehicles tax and additional tax in respect of 2305 contract carriages were not realised for various periods (between May 1998 and March 2001) though these vehicles were not covered by off-road undertakings. Therefore tax and additional tax amounting to Rs.1.11 crore and penalty of Rs.2.22 crore thereon remained unrealised.

On this being pointed out in audit (between June 2001 and March 2002), the taxing officers concerned recovered tax of Rs.0.16 lakh including penalty in 2 cases and demand notices were issued in 136 cases for Rs.17.76 lakh including penalty of Rs.11.84 lakh.

The above matter was referred to Government (April 2002). No reply was received from Government (November 2002).

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

Under the Orissa Motor Vehicles Taxation (OMVT) Act, 1975, monthly tax payable in respect of a stage carriage is determined on the basis of the number of passengers (including standees) which the vehicle is permitted to carry and the total distance permitted to be covered in a day as per the permit.

Test check of records of 18 Regional Transport Officers²⁴(RTOs) revealed that motor vehicles tax/additional tax of Rs.40.10 lakh in respect of 367 vehicles for the period between June 1998 and March 2001 was either not realised or realised short. This resulted in non-realisation of Government revenue of Rs.1.20 crore including penalty of Rs.80.20 lakh.

On this being pointed out in audit (between May 2001 and March 2002), all the taxing officers concerned recovered tax of Rs.0.27 lakh including penalty in 4

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

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

cases and demand notices were issued in 22 cases for Rs.9.26 lakh including penalty of Rs.6.17 lakh.

The above matter was referred to the Government (April 2002). No reply was received from Government (November 2002).

3.4 Non-realisation of motor vehicles tax and additional tax in respect of goods vehicles/tractor-trailor combination

Under the OMVT Act, 1975, tax due on motor vehicles should be paid in advance within the prescribed period at the rates specified in the taxation schedule unless exemption from payment of such tax is allowed for the period for which necessary undertaking of temporary discontinuance of use of the vehicle is to be delivered by the owner of the vehicle to the taxing officer on or before the expiry of the terms for which tax has been paid. Further, according to the instructions issued (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.

Test check of records of 18 Regional Transport Officers²⁵(RTOs) (between May 2001 to March 2002) revealed that tax in respect of 8303 vehicles (goods vehicles and tractor-trailor combination) was not paid during April 1998 to March 2001 and in respect of another 227 vehicles, tax was not paid for intervening periods falling between July 1998 and March 2001. These vehicles were neither covered by off-road declarations nor had they intimated the deposit of tax in any other region. Due to non-observance of the prescribed procedure and inaction on the part of the taxing officers, tax amounting to Rs.5.31 crore remained unrealised. In addition, penalty amounting to Rs.10.63 crore was also leviable.

On this being pointed out in audit (between June 2001 and March 2002), the department recovered tax of Rs.0.89 lakh including penalty in 10 cases and demand notices were issued in 846 cases for Rs.1.58 crore including penalty of Rs.1.05 crore. Final reply in other cases was not received.

The above matter was referred to the Government (April 2002). No reply was received from Government (November 2002).

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

3.5 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.5000 per annum per vehicle in advance in one instalment.

Test check of records in the office of the STA, Orissa, revealed (July 2001) that composite tax in respect of 2,771 goods carriages belonging to other States, authorised to ply in Orissa during the year 2000-2001 under National Permit Scheme was short realised as the vehicle operators has paid composite tax at incorrect rates. This resulted in short realisation of composite tax of Rs.67.62 lakh.

On this being pointed out in audit (July 2001), the Transport Commissioner, Orissa, stated (July 2001) that action would be taken for realisation of dues.

The above matter was referred to the Government (December 2001). No reply was received from Government (November 2002).

3.6 Non/short realisation of motor vehicles tax and additional tax in respect of stage carriages plying without permit

Under the Orissa Motor Vehicles Taxation (OMVT) Act, 1975, if a vehicle is detected plying without 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 (express) for the entire period not covered by permit,

Test check of records of 17 Regional Transport Offices²⁶ (RTOs) (between May 2001 and March 2002) revealed that 163 stage carriages were detected plying without permit during various periods between April 1999 and March 2001. Motor vehicles tax/additional tax in respect of these vehicles were neither collected at the prescribed rates nor any vehicle was seized. This resulted in non/short realisation of tax amounting to Rs.19.99 lakh. Besides, penalty of Rs.39.97 lakh was also leviable.

On this being pointed out in audit (between June 2001 and March 2002), the department recovered tax of Rs.0.43 lakh including penalty of Rs.0.29 lakh in 3 cases and demand notices were issued in 4 cases for Rs.1.92 lakh including

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

penalty of Rs.1.28 lakh. Final action taken in respect of the remaining cases not received (November 2002).

The above matter was referred to Government (April 2002). No reply was received from Government (November 2002).

3.7 Non/short realisation of motor vehicles tax/additional tax on stage carriages under reciprocal agreement

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 Orissa Motor Vehicles Taxation Act, 1975 as amended and rules made thereunder.

Test check of records of State Transport Authority, Orissa and nine regions²⁷ (between June 2001 and February 2002) revealed that motor vehicles tax and additional tax amounting to Rs.17.23 lakh in respect of 82 stage carriages including 47 other State stage carriages authorised to ply on inter-State routes under reciprocal agreement was either not realised or realised short. Besides penalty of Rs.34.46 lakh was also leviable.

On this being pointed out in audit (between June 2001 and February 2002), the Transport Commissioner, Orissa and the taxing officers concerned stated that action would be taken to realise the dues. Out of the above cases demand notices were issued in 3 cases for Rs.1.26 lakh including penalty of Rs.0.84 lakh.

The above matter was referred to Government (between December 2001 and April 2002). No reply was received from Government (November 2002).

3.8 Non/short levy of penalty for belated payment of motor vehicles tax and additional tax

Under the Orissa Motor Vehicles Taxation (OMVT) Act, 1975, and rules made thereunder, penalty shall be leviable if a vehicle owner has not paid tax/additional tax in respect of motor vehicles within the specified period. In case of delay, the vehicle owner shall be liable to pay penalty ranging from 25 *per cent* to 200 *per cent* of the tax/additional tax due depending upon the period of delay.

²⁷ Balasore, Bargarh, Cuttack, Ganjam, Keonjhar, Koraput, Mayurbhanj, Sambalpur and Sundargarh.

Test check of records of 18 Regional Transport Offices²⁸ (RTOs) (between May 2001 and March 2002) revealed that there was non/short levy of penalty for delayed payment of taxes. In 212 cases penalty of Rs.16.53 lakh for the period from April 1997 to March 2001 was not levied at all, while in 128 cases penalty of Rs 11.33 lakh for the period from April 1997 to March 2001 was short realised.

On this being pointed out in audit (between May 2001 and March 2002), the department recovered penalty of Rs.0.25 lakh in 7 cases and demand notices were issued in 16 cases for Rs.1.70 lakh. Final action taken in the remaining cases has not been received.

The above matter was referred to Government (April 2002). No reply was received from Government (November 2002).

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

Under the Orissa Motor Vehicles Taxation (OMVT) Act, 1975 as amended, 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 specifying *inter-alia*, the period of non-use and the place where the motor vehicle is to be kept during such period. If during the declared period the vehicle is found to be plying on the road or not found at the declared place it shall be deemed to have been used throughout the said period and in such case the owner of the vehicle is liable to pay tax/additional tax and penalty for the entire period.

Test check of records of 9 Regional Transport Officers²⁹ (RTOs) (between May 2001 and March 2002) revealed that 30 motor vehicles under off-road declarations for various periods (between July 1999 and March 2001) were either detected plying or not found at the declared places by the enforcement staff during the period covered by such off-road declarations. But no effective steps were taken by the taxing officer to realise the tax and levy penalty for violation of off-road declaration. This resulted in non-realisation of tax/additional tax of Rs.5.55 lakh. Besides, penalty of Rs.11.10 lakh was also leviable.

On this being pointed out in audit (between June 2001 and March 2002), all the taxing officers concerned agreed to realise the dues for all cases.

The above matter was referred to Government (April 2002). No reply was received from Government (November 2002).

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

29 Balasore, Bargarh, Chandikhol, Ganjam, Koraput, Mayurbhanj, Phulbani, Puri and Sambalpur.

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

Under the Orissa Motor Vehicles Taxation Act, 1975 (as amended) 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 (between May 2001 and March 2002) of 16 Regional Transport Offices³⁰ (RTOs) revealed that 104 stage carriages were granted contract carriage permits during various periods (between April 1999 and March 2001) which attract higher rate of tax than what is applicable to stage carriages. However, motor vehicle tax/additional tax of Rs.3.46 lakh, being the differential amount of tax was not realised from the owners of these vehicles. Besides, penalty of Rs.6.93 lakh was also leviable.

On this being pointed out in audit, the department recovered tax of Rs.0.42 lakh including penalty in 2 cases and demand notices were issued in 7 cases for Rs.0.41 lakh including penalty of Rs.0.27 lakh. The department stated that demand would be raised in the remaining cases.

The above matter was referred to Government (April 2002). No reply was received from Government (November 2002).

3.11 Non-realisation of composite tax in respect of goods vehicles under reciprocal agreement

Under the provisions of the Orissa Motor Vehicles Taxation Act, 1975 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 the State of Andhra Pradesh authorised to ply in the State of Orissa under reciprocal agreement, Government of Orissa decided (August 1986) to levy Rs.1500 annually on each vehicle as composite tax with effect from July 1986. The tax was payable in advance in lump sum on or before 15 April every year by crossed bank drafts to the State Transport Authority, Andhra Pradesh, for onward transmission to the State Transport Authority, Orissa. In case of delay in payment, penalty of Rs.100 for each calendar month or part thereof is also leviable in addition to the composite tax.

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

Test check of records of the State Transport Authority, Orissa, it was noticed (July 2001) that out of 900 goods vehicles belonging to the State of Andhra Pradesh authorised to ply in Orissa under reciprocal agreement during the year 2000-2001, composite tax in respect of 325 goods vehicles amounting to Rs.4.87 lakh was not realised. In addition, penalty of Rs.3.90 lakh calculated up to March 2001 was also leviable but not levied.

On this being pointed out in audit (July 2001), the State Transport Authority, Orissa, stated (July 2001) that State Transport Authority, Andhra Pradesh will be moved to realise the dues.

The above matter was referred to Government (December 2001). No reply was received from Government (November 2002).

3.12 Short realisation of motor vehicles tax and additional tax due to application of incorrect rates in respect of goods carriages

The Orissa Motor Vehicles Taxation (OMVT) Act, 1975, as amended prescribes different rates of motor vehicles tax and additional tax on the basis of the registered laden weight (RLW) in respect of goods carriages.

Test check of records of 6 Regional Transport Officers³¹ (RTOs) revealed (between June 2001 and March 2002) that motor vehicles tax/additional tax of Rs.3.36 lakh in respect of 20 goods carriages for the period from April 1998 to March 2001 were due for payment, of which Rs.1.96 lakh was realised resulting in short realisation of tax/additional tax amounting to Rs.1.40 lakh. In addition, penalty amounting to Rs.2.80 lakh was also leviable.

On this being pointed out in audit (between July 2001 and March 2002), all the taxing officers concerned stated to issue demand notices for realisation of the dues for all cases.

The above matter was referred to Government (April 2002). No reply was received from Government (November 2002).

3.13 Non-realisation of tax/fees on trade certificate

Under the Orissa Motor Vehicles Taxation (OMVT) Act, 1975, read with the Central Motor Vehicles Rules 1989, manufacturers or dealers in motor vehicles are required to obtain a trade certificate from the registering authorities and required to pay trade certificate tax and fees at the rates prescribed in respect of

³¹ Balasore, Ganjam, Kalahandi, Koraput, Sambalpur and Sundargarh.

two wheelers and other vehicles within whose area the dealers have their place of business.

Test check of records of 6 Regional Transport Officers³² (RTOs) revealed (between June 2001 and March 2002) that trade certificate tax and fees were not collected during the period April 1999 and March 2001 from 95 motor vehicle dealers resulting in non-realisation of revenue amounting to Rs.2.54 lakh.

On this being pointed out in audit (between June 2001 and March 2002), the taxing officers concerned recovered tax/fees of Rs.0.04 lakh in 2 cases and agreed to raise demand in remaining cases.

The above matter was referred to Government (April 2002). No reply was received from Government (November 2002).

32 Balasore, Bhubaneswar, Cuttack, Keonjhar, Rourkela and Sambalpur.

CHAPTER-4 : 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 conducted during the year 2001-2002 revealed non-assessment, under-assessment, non-realisation and blockage of revenue amounting to Rs.21.07 crore in 1561 cases which may broadly be categorised as follows:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1	Non-collection of premium etc. in respect of Government Land occupied by local bodies/private parties	23	11.45
2	Non/short realisation of royalty on minor minerals	94	8.91
3	Blockage of Government revenue due to non-finalisation of Orissa Land Reform (OLR) cases	767	0.32
4	Non-assessment/under-assessment and short collection of water rates	129	0.22
5	Miscellaneous/other irregularities	548	0.17
Total		1561	21.07

During the course of the year 2001-2002, the department accepted under-assessment etc. of Rs.2.34 lakh in 13 cases, which had been pointed out by audit in earlier years and had recovered the amount in full.

A few illustrative cases highlighting important audit observations involving Rs.3.42 crore are mentioned in the following paragraphs.

4.2 Short levy of interest on belated payment of premium etc. in alienation of Government land

Under the provisions contained in Revenue and Excise Department letter dated 2 February 1966 read with Board of Revenue, Orissa, letter Dated 7 August 1996, the occupier of Government land either with permission of Government or without permission is liable to pay interest at the rate of six *per cent* per annum upto 27 November 1992 and twelve *per cent* thereafter on the amount due to Government for the period from the date of occupation of the land till the date of payment of the said amount.

Test check of records of Rourkela Tahasil (December 2000) revealed that two lessees viz. Grid Corporation of Orissa (GRIDCO) and Employees State Insurance Corporation (ESI Corporation) were in occupation of Government land since 4 June 1975 and 20 July 1988 respectively. The lessees made payment of their dues belatedly and were therefore liable to pay interest from the date of occupation of the land. This led to short levy of interest of Rs.3.25 crore as shown below :

(Rupees in lakh)

Name of the lessee	Area leased out (in acre)	Date of occupation	Date of payment of Government dues	Interest leviable	Interest levied	Interest short levied
ESI Corporation, Rourkela	4.000	20 July 1988	24 October 2000	16.48	1.82	14.66
GRIDCO, Rourkela	50.035	4 June 1975	30 March 2000 and 2 April 2002	333.23	22.98	310.25
Total				349.71	24.80	324.91

On this being pointed out in audit (December 2000), the Tahasildar stated (between December 2000 and April 2002) that alienation case would be examined in detail and action will be taken accordingly.

The above matter was referred to Government (April 2002). Government in their interim reply stated (May 2002) that compliance will be furnished after verification of facts and figures.

4.3 Non-realisation of premium and ground rent for conversion of agricultural land

Under the Orissa Land Reforms Act, 1960, a raiyat is liable to eviction if he has used agricultural land for any purpose other than agriculture. Under the Orissa Land Reform (Amendment) Act, 1993 and the rules made thereunder, such land can, on an application made by him in the prescribed form, be resettled on lease basis on payment of premium at the rate prescribed plus ground rent at one *per*

cent of premium per annum. Such land is deemed to be settled on lease basis on payment of premium equal to fifty per cent of prescribed rate if conversion is made prior to the commencement (1 July 1994) of the amended Act.

Test check of records (between June 2000 and January 2002) of 3 Tahasils viz. Cuttack, Tangi-Choudwar and Karanjia revealed that as per the reports of the Revenue Inspectors, 7 conversion cases were booked (between July 1995 and July 1999) involving conversion of 10.12 acres of agricultural land for industrial/commercial purposes which have not been disposed. Due to delay in reporting the conversion cases after lapse of 1 to 8 years and non-disposal of cases pending in Tahasil offices, the department failed to protect the revenue interest of the State. This resulted in non-realisation of revenue amounting to Rs.8.82 lakh up to March 2002 as detailed below:

R u p e e s i n l a k h									
Sl. No.	Name of the Tahasil	No. of cases	Area converted (in acre)	Year of Conversion	Purpose of conversion	Premium	Ground rent	Amount paid	Amount to be realised
1	Cuttack Sadar	1	3.00	1987-88	Vehicle show room-cum-godown	4.50	0.63	Nil	5.13
2	Tangi-Choudwar	4	6.07	between 1992-1996	Coal depot and petrol pump	2.66	0.19	Nil	2.85
3	Karanjia	2	1.05	1995	Industry	0.79	0.05	Nil	0.84
Total		7	10.12			7.95	0.87	--	8.82

On this being pointed out in audit (June 2001), the Tahasildar, Cuttack stated that the amount would be recovered as arrear of land revenue. Tahasildar, Tangi-Choudwar stated (July 2002) that Rs.0.52 lakh was realised. Tahasildar, Karanjia stated that action would be taken after verification of the records.

The above matter was referred to Government (April 2002). Government in their interim reply stated (July 2002) that compliance will be furnished after verification of facts and figures.

4.4 Short realisation of Ground Rent, Cess and Interest

As per Government orders issued in May 1963, February 1966 and April 1987 under Orissa Government Land Settlement Act, the Dhenkanal District Co-operative Milk Producers Union Ltd. was required to pay ground rent and cess at the prescribed rate for occupation of Government land annually. Interest is also payable at the prescribed rate from the date of occupation, on belated payment of Government dues.

Test check of records of Dhenkanal Tahasil revealed (October 2001) that the Society was in occupation of Government land measuring 7.70 acre since 1981. The Society was required to pay Rs.3.98 lakh towards ground rent and cess up to

March 2002 against which it paid only Rs.0.11 lakh in October 2000. The balance amount Rs.3.87 lakh was neither demanded nor paid by the Society. The Society was also liable to pay interest of Rs.4.07 lakh (March 2002). Thus, there was short realisation of Rs.7.94 lakh.

On this being pointed out in audit (October 2001), the Tahasildar raised the demand for the entire amount (July 2002).

The above matter was referred to Government (May 2002). Government in their interim reply stated (July 2002) that compliance will be furnished after verification of facts and figures.

(B) STAMP DUTY AND REGISTRATION FEES**4.5 Results of Audit**

Test check of records relating to Stamp duty and Registration fees in the offices of the District Sub-Registrars/Sub-Registrars during 2001-2002 revealed under-valuation, non/short levy of stamp duty, registration fees and irregular exemption of stamp duty and other irregularities amounting to Rs.59.21 crore in 40597 cases which may broadly be categorised as under:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1	Short levy and short collection of Stamp duty and Registration fees	1	30.95
2	Short levy of Stamp duty and Registration fees due to under-valuation of documents (47-A cases)	39653	26.76
3	Irregular exemption and other irregularities of Stamp duty and Registration fees	687	1.25
4	Non/short levy of Stamp duty and Registration fees due to misclassification	256	0.25
Total		40597	59.21

An illustrative case highlighting important audit observation involving Rs.57.02 lakh and findings of a review on "Levy and collection of Stamp Duty and Registration Fees" involving Rs.30.95 crore are mentioned in the following paragraphs.

4.6 LEVY AND COLLECTION OF STAMP DUTY AND REGISTRATION FEES

The findings of a review on "Levy and collection of Stamp duty and Registration Fees" that revealed loss and blockage of revenue are enumerated below :

4.6.1 Highlights

- ◆ **Non consideration of prevailing value of land led to undervaluation and consequent short levy of stamp duty and registration fees of Rs.92.08 lakh**

[Para 4.6.6(a)]

- ◆ **Non-adherence to guidelines of Inspector General of Registration regarding determination of value of document led to undervaluation and consequent short levy of stamp duty and registration fees of Rs.1.07 crore.**

[Para 4.6.6(b)(i)]

- ◆ **Undervaluation of documents and short realisation of stamp duty, registration fees and fines of Rs.58.30 lakh resulted from incorrect exhibition of kissam of land in documents in 19 units test checked.**

[Para 4.6.7(a)]

- ◆ **There was incorrect exemption of registration fees of Rs.1.20 crore to IDCO and Berhampur Development Authority.**

[Para 4.6.8(i)(ii)(iii)]

- ◆ **Due to misclassification of documents there was under-assessment of Rs.89.49 lakh of stamp duty and registration fees.**

[Para 4.6. 9(i)&(ii)]

4.6.2 Introduction

The levy of stamp duty on registration of instruments is regulated under the Indian Stamp Act, 1899 (Central Act), as adopted by the Government of Orissa and amendments made thereto from time to time. In addition to the stamp duty additional stamp duty is leviable under the Orissa Town Planning and Improvement Trust Act, 1956 and the Orissa Additional Stamp Duty Act, 1970. Under the Orissa Town Planning and Improvement Trust Act, 1956, a surcharge

at the rate of 2 *per cent* on the value of the property transferred, is to be collected in respect of the immovable property situated within a town planning area and at the rate of 3 *per cent* for the areas falling under the Orissa Development Authorities Act, 1982.

According to Government notification of March 1988 the value for consideration of levy of stamp duty should be the value which the registrable document would fetch on the date of its execution. The Inspector General of Registration in his guidelines (September 1993) for determination of value of land instructed that highest sale price of a land during last 3 years preceding the year of execution should be taken as value of land for the purpose of levy of stamp duty and registration fees.

The details of deeds/consideration such as value of land, name of Mouza, Kissam etc. are noted in a register called Valuation Register which is the basic record to ascertain the value of property in a particular area.

4.6.3 Organisational set up

The Inspector General of Registration under Revenue Department is the administrative head of Registration Wing and is designated as the Chief Revenue Controlling Authority. He is assisted by a Joint Inspector General, 3 Deputy Inspectors General and 30 Registrars at the district level and 146 Sub-Registrars at the unit level, who have been empowered to exercise the powers of the collector for prompt disposal of undervaluation cases in the interest of revenue.

4.6.4 Scope of audit

With a view to evaluating the effectiveness of the system of determination of value of property, levy and collection of stamp duty and registration fees, a review was conducted during May 2001 to February 2002 covering the period 1998-1999 to 2000-2001. Records of Revenue Department, Inspector General of Registrations, Orissa and 45³³ out of 176 unit offices of District Sub-Registrars (DSR) and Sub-Registrars (SR) were test checked. Statistical data were collected for the last five years with effect from 1996-97 to 2000-2001.

33 All 30 D.S.Rs. and S.Rs. Basta, Basudevpur, Berhampur (Urban), Dharmasala, Dharmagarh, Dolipur, Jagatpur, Jaleswar, Jaleswarpur, Jatni, Khandagiri, Khurda, Panposh, Salepur, Soro.

4.6.5 Trend of Registration of documents and of revenue

The position of number of documents registered, stamp duty and registration fees collected, budget estimates and the variations between budget estimates and the actual collection for the last five years ending March 2001 is indicated in the table below:

Year	Number of documents registered	Budget Estimates	Actuals	Variation increased (+) shortfall (-)	Percentage of variation.
		(R u p e e s i n c r o r e)			
1996-1997	3,35,520	80.00	68.52	(-) 11.48	(-) 14.35
1997-1998	3,19,195	90.00	76.77	(-) 13.23	(-) 14.70
1998-1999	3,38,508	100.00	87.59	(-) 12.41	(-) 12.41
1999-2000	3,17,114	100.00	102.01	(+) 02.01	(+) 02.01
2000-2001	3,47,223	120.00	108.52	(-) 11.48	(-) 09.57

It would be seen from the above that there is a variation ranging from (-) 09.57 per cent to (-) 14.70 per cent except for 1999-2000. Variations have been attributed to non-registration of documents.

4.6.6 Short realisation of stamp duty and registration fees due to undervaluation of properties

(a) Non adherence to Government notification

As per Section 27 of the Indian Stamp Act, 1899 as adopted by Government of Orissa the consideration if any, the market value of the property and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty with which it is chargeable shall be fully and truly set forth therein.

According to Government notification of March 1988 the value for consideration of levy of stamp duty should be the value which the registrable document would fetch on the date of its execution. As per executive order issued by IGR during September 1993 for determination of value of land, highest sale value of preceding 3 years will be taken into consideration for execution of documents.

Test check of 1373 documents registered between 1998 and 2000 in 33 offices³⁴ of the District Sub-Registrars and Sub-Registrars revealed that the higher value³⁵ which the property would have fetched on the date of registration as required under Government notification of March 1988 was not considered for levy of stamp duty and registration fees. Thus non-implementation of Government notification resulted in short levy of stamp duty and registration fee of Rs.92.08 lakh. A few instances are given below:

(Amount in Rupees)

Name of the DSR- Bhubaneswar							
Document No./Date	Area	Consideration as per Government Notification	Consideration as per document IGR guidelines	Stamp duty leviable/ levied	Registration Fee leviable/ levied	Deficit Stamp duty/ Registration fee	Total
Referral document³⁶ No.4299 Dated 31.7. 2000, Ac. 0.040.17-Rs. 2,63,000 Kissam-Homestead, Rate/Acre-Rs.65,47,175. (Urban)							
4977/31.8.00	Ac.0.550	36,00,946	<u>16,50,000</u> 13,77,442	<u>6,37,367</u> 2,92,050	<u>72,020</u> 33,000	<u>3,45,317</u> 39,020	3,84,337
5115/8.9.00	Ac.0.550	36,00,946	<u>17,00,000</u> 13,77,442	<u>6,37,367</u> 3,00,900	<u>72,020</u> 34,000	<u>3,36,467</u> 38,020	3,74,487
Referral document No.-4493 Dated 9.8. 2000, Ac. 0.048.21-Rs. 3,55,500 Kissam-Gharabari-II, Rate/Acre-Rs.73,73,989. (Urban)							
5195/13.9.00	Ac.0.072	5,30,927	<u>4,32,000</u> 4,00,000	<u>93,974</u> 76,464	<u>10,620</u> 8,640	<u>17,510</u> 1,980	19,490
7010/18.12.00	Ac.0.123.97	9,14,153	<u>4,98,000</u> 4,00,000	<u>1,61,805</u> 88,146	<u>18,290</u> 9,960	<u>73,659</u> 8,330	81,989
Name of the DSR- Puri							
Referral document No.-1813 Dated 17.5.2000, Ac.0.012.25-Rs.1,55,000, Kissam-Gharabari, Rate/Acre-Rs.1,26,53,061.(Urban)							
3142/11.8.00	Ac.0.070	8,85,714	<u>1,90,000</u> 1,80,460	<u>1,56,771</u> 33,630	<u>17,720</u> 3,800	<u>1,23,141</u> 13,920	1,37,061
1899/22.5.00	Ac.0.015	1,89,796	<u>90,000</u> 76,425	<u>33,594</u> 15,930	<u>3,800</u> 1,800	<u>17,664</u> 2,000	19,664

On this being pointed out, the department stated that for calculation of valuation the previous three calendar years excluding the year of presentation was taken into consideration as per guidelines issued by IGR and if the value of property in the current year is taken into consideration the calculation of valuation of property will have to be made everyday. The reply is not tenable since it violates the provisions of Government notification of March 1988. Further audit has observed that even the IGR guidelines have not been followed as discussed in the succeeding para.

(b) Non-adherence to IGR guidelines.

(i) The Inspector General of Registration issued guidelines in the executive order (September 1993) for determination of value of land that the highest sale price of a land during last 3 years preceding the year of execution should be taken as value of land for the purpose of levy of stamp duty and registration fees. While such highest sale is taken, care has to be taken that value of comparable land

³⁴ Balasore, Baripada, Basta, Basudevpur, Berhampur (Urban), Bhawanipatna, Bhubaneswar, Bolangir, Cuttack, Deogarh, Dharmagarh, Dharmasala, Dolipur, Jagatpur, Jajpur, Jaleswar, Jaleswarpur, Jatni, Jeypore, Jharsuguda, Khandagari, Khurda, Malkangari, Nayagarh, Nabarangpur, Panposh, Puri, Phulbani, Rayagada, Salepur, Sonpur, Soro, Sundargarh.

³⁵ Value calculated on the basis of consideration value on similar property situated in the same area registered around the same period.

³⁶ Document considered for working out value of property as at 33

adjacently located is taken into consideration. For the purpose of proper valuation the Sub-Registrar/District Sub-Registrars are required to be provided with copy of the finally published village maps and Records of Right (ROR) as per IGR circular of November 1993. In the absence of any documentary evidence to verify value of the adjacent plots, the Registering Officers should go for highest sale price of land during last three years preceding the years of execution for the purpose of levy of stamp duty and registration fees.

It was noticed during test check of 25 offices³⁷ that 652 documents were registered between 1998 and 2000 at a lower rate compared to the highest sale price of land during last 3 years. No reference was made to village maps, Records of Rights and Valuation Register for proper valuation of the documents. Thus, non-adherence to IGR guidelines resulted in undervaluation of land and consequent short levy of stamp duty and registration fees of Rs.1.07 crore. A few instances are given below:-

(Amount in Rupees)

Name of the DSR- Puri							
Document No./Date	Area	Valuation as per IGR Guidelines.	Consideration value	Stamp duty leviable/ levied	Registration fee leviable/ levied	Deficit Stamp duty/ Registration fee.	Total
Referral document No.-1202 Dated 31.03.1999, Ac.0.013-Rs.1,08,333, KISSAM-GHARBAR, Rate/Acre-Rs.83,33,308 (Urban)							
3138/10.8.00	Ac.0.030	2,50,000	80,000	44,250 14,160	5,000 1,600	30,090 3400	33,490
4242/6.11.00	Ac.0.017	1,41,666	45,900	25,075 8,124	2,840 920	16,951 1,920	18,871
Referral document No.-4656 Dated 16.2.1999, Ac.0.003-Rs.20,000, KISSAM-GHARBAR, Rate/Acre-Rs. 66,66,667. (Urban)							
184/17.1.00	Ac.0.050	3,33,333	2,00,000	59,000 35,400	6,670 4,000	23,600 2,670	26,270
1170/06.4.00	Ac.0.150	10,00,000	4,98,165	1,77,000 88,175	20,000 9,970	88,825 10,030	98,855
Referral document No.-3651 Dated 9.9.1998, Ac.0.008-Rs.50,000, KISSAM-GHARBAR, Rate/Acre-Rs.62,50,000.(Urban)							
889/15.3.00	Ac.0.029	1,81,250	1,45,000	32,081 25,665	3,630 2,900	6,416 730	7,146

On this being pointed out, the Department stated that the value of adjacent plots were taken into consideration during the valuation of the property. Contention of the Department is not acceptable since the required documents like village maps ROR etc. are not available with the registering authority. Although the valuation register is available the highest value of the similar land during preceding three years was also not considered while working out the consideration money for levy of stamp duty and registration fees.

It would be seen that neither the Government notification nor the IGR guidelines are being followed uniformly throughout the state.

37 Bargarh, Baripada, Bhadrak, Bhawanipatna, Bhubaneswar, Bolangir, Chhatrapur, Dharmagarh, Dharmasala, Dolipur, Jajpur, Jatni, Jeypore, Khandagiri, Khurda, Malkangiri, Nayagarh, Nuapada, Panposh, Phulbani, Puri, Rayagada, Sambalpur, Sonepur and Sundargarh.

(ii) Loss of stamp duty and registration fees in Cuttack city

The Government of Orissa, Revenue and Excise Department in their order of July 1989 with a view to prevent undervaluation of documents, fixed market value of land in respect of Cuttack city. The order was withdrawn during February 2001. The market value was however not revised during the period of 12 years when the order was in force, although the value of land and property were ever increasing in Cuttack city.

During test check of the records of DSR, Cuttack (Mouza-Kusunpur) it was noticed that 10 documents valued at Rs.24.62 lakh were registered between 1998 and 2000 at the rates given in the Government order of July 1989 and stamp duty/registration fees of Rs.3.95 lakh were levied. But as per the guidelines issued by the IGR (September 1993) the value of the land for these 10 documents was Rs.72.45 lakh as against Rs.24.62 lakh set forth in the documents. Thus non-review of the market value and non-application of I.G.R. guidelines led to potential loss of revenue in the form of short levy of stamp duty and registration fees amounting to Rs.10.32 lakh.

4.6.7 Under-valuation due to change in Kissam (Classification) of land

As per section 64 of the Indian Stamp Act, 1899, any person who intends to defraud the Government shall be punishable with fine which may extend to five thousand rupees. He shall also be liable to pay the deficit amount of stamp duty i.e. the difference between amounts of stamp duty payable and paid.

(a) On cross verification of the records of Tahasil Offices with reference to 379 documents registered in 19 units³⁸ it was noticed that the kissam of land was incorrectly set forth in the documents. Documents were undervalued due to change in kissam of land which resulted in short realisation of stamp duty and registration fees of Rs.39.35 lakh. Besides the fine of Rs.18.95 lakh for setting forth of incorrect kissam of land in those documents was also chargeable.

(b) Non consideration of value of land fixed by Government (GA Department)

Government of Orissa, General Administration Department fixed (May 1998) the rate of premium of Government land for different purposes i.e. residential, industrial and commercial etc. within Bhubaneswar Municipal area taking into consideration, the extent of development, the carrying capacity of the land and market realities.

³⁸ Basta, Basudevpur, Bhadrak, Bhubaneswar, Bolangir, Dharmasala, Dolipur, Jagatpur, Jajpur, Jaleswar, Jatni, Kendrapara, Khandagiri, Khurda, Nayagarh, Nuapada, Puri, Salipur and Soro.

During test check in 2 units³⁹ it was noticed that 57 documents in respect of private land in Bhubaneswar Municipality area were registered during the period between 1998 and 2000 at a value of Rs.30.33 lakh as against Rs.50.15 lakh as per rate fixed by the Government of Orissa. This undervaluation of documents resulted in short realisation of stamp duty and registration fees of Rs.4 lakh.

4.6.8 Incorrect grant of exemption from payment of stamp duty and registration fees

(i) Government of Orissa, Co-operation Department in their Notification of December 1997 exempted stamp duty and registration fees in respect of the Co-operative Societies under the Orissa Co-operative Societies Act, 1962 for registration of specified documents, viz : (i) Mortgage deed on loan (ii) Hypothecation deed on loan (iii) Collateral security on loan (iv) Agreement deed on loan (v) Bonds on loan. However lease deeds are not exempted from payment of stamp duty/registration fees under the notification.

A test check of record of DSR, Sonapur and Puri revealed that 2 lease deeds valued at Rs.35.75 lakh registered during 1998 and 1999 were exempted from payment of stamp duty and registration fees in violation of the above notification. This resulted in non-realisation of stamp duty and registration fees of Rs.3.37 lakh.

On this being pointed out, the Government of Orissa Revenue Department (February 2002) directed Inspector General of Registration, Orissa, Cuttack to offer his comments on the subject. Their reply is awaited.

(ii) Government of Orissa, Revenue and Excise Department in their notification of April 1998 exempted Stamp duty in excess of 5 *per cent* land value transferred from Government to Industrial Infrastructure Development Corporation (IDCO) and IDCO to Industrial Units. However registration fees has not been exempted by the Government.

Test check of the records of 5 District Sub-Registrars/Sub-Registrars revealed that 96 deeds transferring land from Government to IDCO and from Berhampur Development Authority (BDA) to Private Bodies were executed between 1997-98 to 1999-2000. Though registration fee of Rs.49.72 lakh was leviable on the consideration of Rs.24.85 crore, it was neither demanded nor recovered. This resulted in short levy of registration fees of Rs.49.72 lakh.

On this being pointed out, the SR, Khandagiri stated that IDCO has been requested to deposit the amount. DSR, Rayagada stated that registration fees are

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Bhubaneswar, Khandagiri.

not leviable. This contention is not acceptable that as per the Government letter of January 1998, the registration fees is not exempted in such cases.

(iii) During test check of records in 14 units⁴⁰ it was noticed that in 128 instruments, executed by IDCO valued at Rs.14.93 crore registered between 1997 and 2000 the rate of stamp duty was not correctly computed. This resulted in short levy of stamp duty of Rs.67.13 lakh.

On this being pointed out, in audit D.S.R., Jharsuguda replied that reference has been made to IDCO to deposit the deficit stamp duty.

4.6.9 Under-assessment of stamp duty and registration fees due to misclassification of documents

(i) Under the Indian Stamp Act, 1899, stamp duty is leviable on instruments as per schedule thereto or as prescribed by the Government through notifications issued from time to time. An agreement to lease is chargeable as a lease even though it mentions of the formal lease deed later. The formal lease deed executed later according to the agreement stamped as lease should be chargeable as an ordinary agreement.

On scrutiny of records in 14 units⁴¹ it was noticed that Orissa State Housing Board executed 466 deeds valued at Rs.4.16 crore registered between 1998 and 2000 titled as Agreement to lease. The Registering Authority while registering the document levied stamp duty/registration fees of Rs.3.88 lakh. The instruments were liable to be charged stamp duty/registration fees of Rs.85.44 lakh as that of lease. This resulted in short levy of Rs.81.56 lakh

(ii) In ten registering offices it was noticed that 30 instruments valued at Rs.1.16 crore registered between 1998-2000 were misclassified resulting in short levy of stamp duty and registration fees amounting to Rs.7.93 lakh as detailed below:

(Amount in rupees)					
Name of Sub-Registrar/ District.	No. of instruments <u>Date of execution</u> Consideration value	Nature of misclassification	Stamp duty and Registration fees leviable	Stamp duty and Registration fees levied.	Stamp duty and Registration fees short-levied.
Baripada, Jeyapore, Khurda, and Rayagada	5 14.10.98 to 30.3.2000 5,12,560	Gift deed misclassified as release deed.	92,944	2,020	90,924

40 Angul, Balasore, Bolangir, Berhampur, Bhubaneswar, Cuttack, Dharmasala, Dhenkanal, Jagatpur, Jharsuguda, Khandagiri, Nayagarh, Panposh and Phulbani.

41 Bhawanipatna, Bhubaneswar, Dolipur, Jajpur, Jagatpur, Jharsuguda, Keonjhar, Khandagiri, Khurda, Panposh, Phulbani, Rayagada, Sambalpur and Sundargar.

(Amount in rupees)

Name of Sub-Registrar/ District.	No. of instruments Date of execution Consideration value	Nature of misclassification	Stamp duty and Registration fees leviable	Stamp duty and Registration fees levied.	Stamp duty and Registration fees short-levied.
Parlakhemundi	4 <u>1999 to 2000</u> 2,69,000	Sale deed misclassified as partition deed.	42,779	5,805	36,974
Bhubaneswar	1 <u>23.6.2000</u> 1,00,000	Exchange deed misclassified as release deed	19,700	21	19,679
Baripada, Jeypore	2 <u>6.11.2000</u> 3,33,755	Gift deed misclassified as settlement deed.	48,682	7,416	41,266
Bhadrak	1 <u>19.4.2000</u> 4,38,920	Conveyance deed misclassified as partition deed.	55,743	7,216	48,527
Dolipur, Jagatpur, Khurda	4 13.7.98 to <u>3.2.2000</u> 2,07,500	Conveyance deed misclassified as agreement deed	31,265	24	31,241
Cuttack	1 <u>6.11.1998</u> 50,000	Lease deed misclassified as agreement deed.	8,850	10	8,840
Jeypore, Khurda, Nawarangpur, Nuapada, Sonepur	11 16.3.98 to <u>30.6.2000</u> 11,77,231	Conveyance deed misclassified as release deed.	1,65,340	6,210	1,59,134
Dharmagarh	1 <u>23.7.99</u> 85,00,000	Mortgage deed misclassified as agreement with power of attorney.	3,56,999	300	3,56,699
Total	30		8,22,306	29,022	7,93,284

4.6.10 Inordinate delay in disposal of referred cases booked U/s 47-A of the Indian Stamp Act

Under Section 47-A of the Indian Stamp Act, 1899 the power to decide the cases referred by the Sub-Registrar and District Sub-Registrar vests in the Collector. Government by notification (November 1995) empowered all Sub-Registrars (SR) and District Sub-Registrars (D.S.R.), Deputy Inspector General (D.I.G.) of Registration and Joint Inspector General of Registration to exercise the powers of the Collectors for prompt disposal of undervaluation cases in the interest of revenue.

(a) During test check of records in District Sub-Registers offices⁴² it was noticed that 33804 cases involving stamp duty and registration fees of Rs.26.14 crore were pending as on 31 March 2001 as detailed below:

42 All 30 D.S.Rs.

Pending 47-A Cases

(Rupees in lakh)

Year	Total No. of cases (OB + cases instituted)		Cases decided		Cases pending (Progressive)		Percentage of disposal to total	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	Cases	Amount
1996-97	35,552	1369.35	11,838	275.10	23,684	1094.25	33.32	20.08
1997-98	40,006	1758.49	14,983	458.21	25,023	1300.28	37.45	26.05
1998-99	39,526	1949.05	11,803	314.66	27,723	1634.39	29.86	16.14
1999-2000	40,208	2310.57	8,243	246.29	31,965	2064.28	20.50	10.65
2000-2001	45,323	3035.42	11,519	421.10	33,804	2614.32	25.41	13.87

The number of pending cases has registered a sharp increase from 1999 to 2001. The percentage of disposal of cases to the total number of cases between 1996-97 and 2000-2001 ranged from 20.50 to 37.45 and in respect of amount collected ranged from 10.65 to 26.05, which is very low.

(b) An age-wise analysis of 8,196 cases in ten districts revealed that the cases are pending for disposal from one year to ten years and more. The details are given below:

Sl. No.	Name of the DSR	Cases pending						Total
		More than 10 years	More than 5 years	More than 3 years	More than 2 years	More than 1 year	Less than 1 year	
1	Baragarh	133	158	259	347	474	1015	2386
2	Deogarh	4	6	3	1	6	8	28
3	Sundargarh	24	50	7	2	4	1	88
4	Chatrapur	1059	1738	1196	398	252	320	4963
5	Rayagada	--	12	35	12	3	--	62
6	Koraput	32	13	16	9	15	12	97
7	Nawarangpur	1	1	2	2	5	5	16
8	Jharsuguda	22	46	47	25	31	127	298
9	Boudh	--	--	2	9	9	144	134
10	Angul	--	--	81	8	22	13	124
Total		1275	2024	1648	813	821	1615	8196

(c) *Non-application of best judgement assessment of duty.*

As per Rule-24(3) of Orissa Stamp Rules 1952, if the person or persons fails or fail to attend in response to the notice served under Sub-rule(1) the Collector shall assess the deficient amount to duty to the best of his judgement in respect of undervaluation cases booked U/s 47A of the Indian Stamp Act, 1899.

During test check of 384 cases, involving of Rs.49.29 lakh in 10 units revealed that parties had not been coming forward for valuation even though notices were issued. The Department has not taken any action to assess the duties on best judgement.

4.6.11 Conclusion

Government and Inspector General of Registration, Orissa issued separate guidelines for computation of market value of land which are mutually inconsistent and contradictory. There is no uniformity in the procedure followed by the Registering authorities. Valuation register, which is the basic record for determination of value of property is not updated regularly to ascertain the prevailing value. Village maps and RORs are not available with Registering Officers to verify the location of adjacent plots and kissam (classification) of land to arrive at proper valuation of the land. Instructions issued for allowances of exemption of stamp duty/registration fees are not being adhered to, which led to incorrect determination of market value of land and incorrect computation of consideration value of instruments. Lack of control in maintaining uniform system and correct application of Act and Rules in classifying the documents resulted in short realisation of revenue to the extent of Rs.30.95 crore.

The matter was reported to Government (April 2002); Government in their interim reply stated (June 2002) that compliance will be furnished after verification of the facts and figures.

4.7 Incorrect computation of consideration value of deed

Under the provisions of section 269 UL read with section 269 UC of Income Tax Act, 1961, instrument valued at more than Rs.20.00 lakh shall not be registered unless the prescribed certificate has been obtained from appropriate authority that it has no objection to the transfer of such property for an amount equal to the apparent consideration therefore as stated in the agreement for transfer of the immovable property by executor of the instrument.

Test check of records (June 2001) of District Sub-Registrar, Khurda, revealed that a sale deed was executed vide document No.1094 dated 29.2.2000 by M/s Mamata Drinks and Industries in favour of M/s Hindusthan Coca Cola Bottling South-West Pvt. Ltd. at a consideration value of Rs.1.38 crore as against Rs.4.27 crore mentioned in the Income Tax Certificate. This led to undervaluation of property by Rs.2.89 crore, which resulted in short levy of stamp duty and registration fee of Rs.57.02 lakh.

On this being pointed out in audit (June 2001), it was stated that the value of immovable property (Land and Building) amounting to Rs.1.38 crore was accepted by the Collector and accordingly the document was registered.

The reply is not tenable in audit as the consideration value for transfer of immovable property like plant and machinery and goodwill etc. stated in the agreement for transfer and certificate furnished by the Income Tax Authority was not taken into consideration for the purpose of levying stamp duty and registration fees.

The above matter was referred to Government (April 2002). The department in their interim reply (June 2002) stated that compliance will be submitted after verification of facts and figures.

CHAPTER-5 : STATE EXCISE

5.1 Results of Audit

Test check of records in the offices of the Deputy Commissioners of Excise and Superintendents of Excise conducted during 2001-2002 revealed non/short realisation and loss of revenue amounting to Rs.9.92 crore in 1150 cases which may broadly be categorised as under:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1	Non/short realisation of duty, licence fee	214	7.93
2	Other irregularities (Irregularities of miscellaneous nature)	862	1.10
3	Loss of revenue due to delay in granting of licence	74	0.89
Total		1150	9.92

During the course of the year 2001-2002, the department accepted under-assessment etc. of tax amounting to Rs.0.57 lakh in 51 cases which had been pointed out in audit in earlier years. Of these, the department recovered Rs.0.12 lakh in 20 cases.

A few illustrative cases highlighting important audit observations involving Rs.3.19 crore are mentioned in the following paragraphs.

5.2 Sub-normal yield of spirit from molasses

Under the Board's Excise Rules, 1965, samples of raw materials used in distilleries for manufacture of spirit and spirit manufactured therefrom shall be sent to the Chemical Examiner for examination once in July and again in December each year and at other times, if required. In the absence of any norm Chemical Examiner's report is the only basis provided in the rules on which the production of spirit can be ascertained.

Test check of records (July 2001) of Superintendent of Excise, Ganjam, Chatrapur, it was noticed that 5434.195 Metric Tonne (MT) of molasses was used in the distillery during 2000-2001 for manufacture of spirit. The samples of molasses were sent to Chemical Examiner during December 2000 and January 2001. Based on these reports the out turn of spirit from 5434.195 MT of molasses should have been 2764510 London Proof Litre (LPL) against actual production of 2490949 LPL shown by the distiller. This resulted in shortfall in production of spirit of 273561 LPL involving excise duty of Rs. 2.46 crore.

On this being pointed out in audit (July 2001), the Superintendent of Excise, Ganjam stated that action was being taken to investigate the matter.

The above matter was referred to Government (November 2001). In reply Government stated (July 2002) that the out turn as per the report of the Chemical Examiner of Orissa State Drug Testing and Research Laboratory, Bhubaneswar is approximate and yield of spirit depends upon the extent of fermentation and can not be taken as a conclusive basis for the rate of yield. The reply is not tenable as sample tests of raw materials used for manufacture of spirit are provided under Board's Excise Rules 1965 and should be taken as a guideline for output of spirit and levy of duty in revenue interest of the State.

5.3 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 (M.G.Q) of 50 *per cent* of the installed capacity of their bottling plant in a year. In case of any shortfall in 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 quantity at the rate of Rs 10 per LPL and the amount is to be 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 of the bottling plant. 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.

Test check of records of the Superintendent of Excise, Khurda and Superintendent of Excise, Ganjam (between July 2001 and November 2001) revealed that short production of IMFL in three bottling plants with reference to the MGQ resulted in short realisation of excise duty. The licences of the defaulting bottling plants were not cancelled at the end of the year and licences were renewed without collection of excise duty and fine on short production. This resulted in non-realisation of Excise Duty of Rs.52.08 lakh as detailed below:

(Rupees in lakh)

Sl. No.	Name of the licensee	Minimum Guaranteed Quantity (MGQ)	Production of IMFL (in terms of LPL)	Short production with reference to MGQ	Excise duty and fine		
					Excise Duty	Fine	Total
1	M/s Ocean Beverage (P) Ltd.	259200	16734.762	242465.238	24.25	2.42	26.67
2	M/s Oriental Bottling Plant (P) Ltd.	825000	594024.225	230975.775	23.10	2.31	25.41
	M/s Kaleast Bottling (P) Ltd.						
Total		1084200	610758.987	473441.013	47.35	4.73	52.08

On this being pointed out in audit, the Department accepted the audit observations in two cases and raised demand for Rs.25.41 lakh. In another case the Superintendent of Excise, Ganjam agreed to raise demand.

5.4 Loss of revenue due to delay in confirmation of provisional settlement of new IMFL off-shop

Sub-section 2 of Section 38 of Bihar and Orissa Excise Act, 1915 read with Rule 31 of Orissa Excise Rules, 1965 stipulates that licence for the wholesale or retail vend of intoxicants may be granted for one year from 1 April to 31 March. Government in their instruction July 1975, prescribed that in case of newly sanctioned IMFL off-shops, the whole process starting from inviting of applications upto opening of the shops should be completed within six weeks.

Test check of records of two Superintendents of Excise, Bhadrak and Sundargarh (between September 2001 and December 2001) revealed that after provisional settlement in auction sale, proposals for confirmation of 12 new IMFL off-shops were sent to Government (between April 1999 and December 2000). Out of the 12 IMFL off-shops, only one off-shop was confirmed in time. Government issued confirmation for five IMFL off-shops of Bhadrak district on 21 December 1999 for the year 1999-2000 and for six IMFL off-shops under the Excise circle Sundargarh on 30 April 2001 i.e. after the end of year 2000-2001 respectively. Due to inordinate delay in confirmation, revenue of Rs.14.87 lakh was foregone in shape of licence fee.

On this being pointed out in audit (between September 2001 and December 2001), the Superintendents of Excise stated that there was no delay at district level.

The above matter was referred to Government (April 2002). In reply it was stated (June 2002) that Government is the best judge to grant exclusive privilege and no time limit has been envisaged under the Act. The reply is not tenable as settlement of IMFL off-shops were not done as per the executive instructions of July 1975.

5.5 Loss of Excise duty due to export of malt spirit

According to Section 9(2)(i)(ii) and 10(a)(b) of the Bihar and Orissa Excise Act, 1915, no intoxicant shall be imported or exported or transported unless duty payable under the Act has been paid or a bond has been executed for payment of duty.

Test check of records of the Superintendent of Excise, Khurda (June 1998) revealed that a distillery of Khurda imported 3000 BL of malt spirit under bond in August 1996 from Uttar Pradesh for manufacture of India Made Foreign Liquor. The malt spirit was kept unutilised and thereafter authorised to transport 2970 BL of malt spirit out of the above to M/s Vorin Distilleries, Bangalore (December 1997) without realisation of Excise duty which resulted in loss of revenue of Rs.6.04 lakh.

On this being pointed out (June 1998), the Excise Commissioner, Orissa directed (May 2002) the Superintendent of Excise, Khurda to issue demand notice for realisation of the Excise Duty.

The above matter was referred to Government (April 2002). Government in their reply (July 2002) stated that the spirit was not used within the State but was transferred to M/s Vorin Distillery, Bangalore. The reply is not tenable as the Act does not provide any transfer of spirit from one bottling unit's warehouse in bond in Orissa to another such bottling plant situated outside the State.

CHAPTER-6 : FOREST RECEIPTS

6.1 Results of Audit

Test check of records maintained in various Forest Divisions conducted during the year 2001-2002 revealed non/short levy of interest, loss of revenue, etc. of Rs.31.44 crore in 6352 cases which may broadly be categorised as under:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1	Non-realisation of royalty	123	14.44
2	Other irregularities	4015	11.59
3	Loss of revenue due to short delivery/ shortage of forest produce	592	3.88
4	Non/short levy of interest on belated payment of royalty	1618	1.17
5	Non-realisation of compensation	4	0.36
Total		6352	31.44

During the course of the year 2001-2002, the department accepted under-assessment etc. of Rs.8.18 crore in 121 cases which had been pointed out in audit in earlier years. Of these, the department recovered only Rs.54.94 lakh in 8 cases.

A few illustrative cases highlighting important audit observations involving Rs.1.99 crore are mentioned in the following paragraphs.

6.2 Non-levy of interest on belated payment of royalty

Under the Orissa Forest Contract Rules, 1966, if a contractor fails to pay any instalment of consideration money for sale of forest coupe(s) by due date, he is liable to pay interest at the rate of 6.25 *per cent* per annum on the instalment of default. These provisions are also applicable to the Orissa Forest Development Corporation, which acts as a contractor.

During test check of records of 20 forest divisions⁴³ (between February 2001 and January 2002) it was noticed that the Corporation had defaulted in payment of royalty in case of 1352 divisional lots with the delay ranging from 6 to 84 months beyond the due date for payment. But the Divisional Forest Officers (DFOs) did not levy the interest of Rs.98.89 lakh on belated payment of royalty.

On this being pointed out in audit (between February 2001 and January 2002), 18 DFOs⁴⁴ raised demand of Rs.94.52 lakh (between April 2001 and July 2002). The position of recovery and action taken in other cases is awaited.

The above matter was referred to Government (February 2002). No reply was received from Government (November 2002).

6.3 Blockage of revenue due to non-disposal of timber seized in undetected (UD) forest offence cases

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

Test check of records of 28 Forest Divisions⁴⁵ (between February 2001 and January 2002) revealed that 39300.02 cft. of timber and 700 poles salvaged in 2356 undetected (UD) offence cases registered between 1994-95 and 2000-2001 were lying undisposed of till the date of audit resulting in blockage of revenue of Rs. 78.72 lakh.

43 Athagarh, Angul, Athamallik, Bolangir, Baliguda, Baripada, Kalahandi, Bamra, Boudh, Bonai, Dhenkanal, Ghumusar(s), Jeypore, Karanjia, Keonjhar, Nayagarh, Paralakhemundi, Rairakhol, Rayagada and Khariar.

44 Athamalik, Angul, Athagarh, Bolangir, Baliguda, Baripada, Bamra, Bonai, Boudh, Dhenkanal, Jeypore, Kalahandi, Karanjia, Keonjhar, Nayagarh, Paralakhemundi, Rairakhol and Rayagada.

45 Athamalik, Athagarh, Angul, Bonai, Badrama Wild Life, Baliguda, Bamra, Baripada, Boudh, Bolangir, Chandaka Wild Life, Ghumusar (North), Ghumusar (South), Jeypore, Kalahandi, Keonjhar, Khariar, Mahanadi Wild Life, Nayagarh, Puri, Paralakhemundi, Phulbani, Rairakhol, Rayagada, Satkosia Wild Life, Sambalpur, Sundargarh and Sunabeda Wild Life Divisions.

On this being pointed out (between February 2001 and January 2002), the Divisional Forest Officers stated in reply (between February 2001 and July 2002) that 15063.05 cft of timber involving an amount of Rs.31.81 lakh in 687 cases has been delivered to OFDC Ltd. and Rs.1.97 lakh was realised through auction sale of 791.66 cft in 61 cases. The action taken in respect of the balance quantity of the timber has not been received.

The above matter was referred to Government (April 2002). No reply was received from Government (November 2002).

6.4 Loss of revenue due to failure to initiate certificate cases for recovery

In accordance with the provisions of Orissa Forest Act, 1972 all dues other than fines can be recovered as if it were an arrear of public demand. As per the instructions of the Government (August 1972) all arrears of forest revenue can be realised from the forest contractors within thirty years through institution of certificate proceedings as per the provisions of Orissa Public Demand Recovery Act, 1972.

Test check of records of ten forest divisions⁴⁶ (between September 2000 to March 2002) revealed that Rs.14.07 lakh was outstanding against Forest Contractors in 195 cases relating to the period up to 1970-71. No certificate proceedings were instituted within the time limit of 30 years to recover outstanding dues which eventually became time barred and resulted in loss of revenue.

On this being pointed out in audit (between September 2000 and March 2002), it was stated by six DFOs⁴⁷ that they have submitted write off proposals. The other four DFOs stated that write off proposal would be submitted.

The matter was referred to Government (June 2002). No reply was received from Government (November 2002).

6.5 Loss of revenue due to non-disposal of minor forest produce

Government of Orissa, Forest and Environment Department in their order of December 1997 granted lease of certain items of Minor Forest Produce (MFP) of all forest divisions of the State in favour of the Tribal Development Co-operative Corporation Limited (TDCC Ltd.) for the year 1997-98 subject to the conditions that TDCC Ltd. should pay 50 *per cent* of the provisional royalty of the year

⁴⁶ Athagarh, Bolangir, Boudh, Bamra, Ghumsur (N), Kalahandi, Phulbani, Rayagada, Sambalpur and Sundargarh.

⁴⁷ Bamra, Kalahandi, Phulbani, Rayagada, Sambalpur and Sundargarh.

1997-98 during March 1998 and balance at the end of working season. No minor forest produce should be surrendered during the working season.

Test check of records of Divisional forest division (T), Nabarangapur (January 2001) revealed that the TDCC Ltd. was required to pay provisional royalty of Rs.7.01 lakh for the lease of 13 MFP items before the commencement of working season for the year 1997-98. But the Corporation surrendered 6 items and deposited 50 *per cent* provisional royalty of Rs.2.45 lakh for remaining 7 items. The DFO, Nabarangpur neither issued any work order to the Corporation for 7 items nor conducted auction to dispose of all the 13 MFP items with the result the entire work could not be operated which led to loss of revenue in shape of royalty of Rs.7.01 lakh.

The matter was referred to Government (April 2002). In reply, the department stated that DFO, Nabarangpur is responsible for the loss and he would be asked to explain for non-implementation of Government orders.

CHAPTER-7 : MINING RECEIPTS

7.1 Results of Audit

Test check of records in the offices of the Deputy Director of Mines and Mining Officers during 2001-2002 revealed non/short levy of royalty, surface rent, dead rent, interest and other irregularities of Rs.13.40 crore in 400 cases which may broadly be categorised as under:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1	Irregularities of miscellaneous nature	319	11.25
2	Non/short levy of royalty/surface rent/dead rent	59	1.94
3	Non/short recovery of interest and non-levy of interest	22	0.21
Total		400	13.40

During the course of the year 2001-2002, the department accepted under-assessment etc. of Rs.9.22 crore in 157 cases, which had been pointed out by audit in earlier years. Of these, the department recovered only Rs.2.16 lakh in 2 cases.

A few illustrative cases highlighting important audit observations involving Rs.2.74 crore are mentioned in the following paragraphs.

7.2 Suppression of stock of coal resulting in escapement of royalty

As per Mining Concession Rule, 1960 and the orders of the State Government in respect of assessment and realisation of royalty on ores/minerals, 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 every month to the mining circle along with other documents for the purpose of assessment of royalty on the ores/minerals. It had been judicially⁴⁸ held that removal of any mineral from the seam in the mine and extracting the same through the pit's mouth to the surface satisfy the requirement of section-9 of the Act and give rise to a liability for royalty.

Test check of records of 2 mining circles⁴⁹ (between December 2001 and February 2002) revealed that the lessee (M/s Mahanadi Coalfields Ltd.) in their audited accounts for the year 1999-2000 disclosed measured stock of 11.54 lakh MT of coal at mining sites as on 31 March 2000 as against the closing stock of 9.48 lakh MT of coal shown in their Form-'A' return resulting in suppression of 2.06 lakh MT of stock of coal. This led to avoidance of royalty amounting to Rs.1.04 crore.

On this being pointed out in audit (between December 2001 and February 2002), the Director of Mines, Orissa stated (May 2002) that demand notices have since been issued by the Deputy Director of Mines, Talcher while concerned project officers of M/s MCL under Deputy Director of Mines, Sambalpur have been asked to clarify the discrepancies.

The above matter was referred to Government (April 2002). No reply was received from Government (November 2002).

7.3 Non-realisation of dead rent/surface rent and interest thereon

As per Section 11(2) of the Coal Bearing Areas (Acquisition and Development) Act, 1957, right of mining lease acquired under the Act vests in the Government company and from the date of vesting, the company becomes a lessee of the State Government as for a mining lessee under the Mineral Concession Rules, 1960, and is liable to pay either dead rent or royalty, whichever is higher, at the rates fixed by the Central Government from time to time. In addition, surface rent is also payable under the Act. Interest at the rate of 24 *per cent* per annum is leviable for belated payment of dead rent and surface rent from the sixtieth day of the expiry of the due date till the default continues.

48 Civil appeal 3693-94 of 1998 dated 10.8.1998

49 Sambalpur and Talcher.

Test check of records of Mining circle, Sambalpur revealed (December 2001) that dead rent and surface rent of Rs.37.06 lakh has not been recovered from M/s. Mahanadi Coalfield Ltd. for the total area of 7516.263 hectare given on lease from April 1977 to March 2001. Besides, interest of Rs.63.15 lakh is also leviable.

On this being pointed out in audit (December 2001), it was stated by the Deputy Director of Mines, Sambalpur (April 2002) that delay in issuing demand was, due to non-identification of exact area occupied by the lessee. The Director of Mines stated (May 2002) that demand notices have since been issued on the basis of audit observation.

The above matter was referred to Government (February 2002 and April 2002). No reply was received from Government (November 2002).

7.4 Illegal operation of mines without approved mining plan

The Mines and Minerals (Regulation and Development) Act, 1957, provides that no person shall undertake any mining operation in any area except under and in accordance with the terms and conditions of a mining lease granted by Government under this act and rules made thereunder. Whenever any person violates the aforesaid conditions, working of the mine is to be considered unlawful and recovery of the minerals raised may be made or when such mineral has already been disposed of, the price thereof and the royalty may be realised.

Test check of records of Koraput Mining circle (November 2000) revealed that a lessee (M/s. Utkal Minerals) extracted illegally 7602.692 MT of graphite ore valued at Rs.45.62 lakh from 11th May 1999 to 4th June 2000 without approval of mining plan. The Department had directed not to undertake mining operation till approval of the mining plan. Thus for breach of condition, the lessee was liable to pay cost of the ore and royalty of Rs.46.12 lakh which was not demanded.

On this being pointed out in audit (November 2000), the Deputy Director of Mines, Koraput stated that factual information would be submitted after verification of records.

The above matter was referred to Government (April 2002). Government in their reply (August 2002) stated that the lessee submitted mining plan for approval in August 1998, therefore there was no violation of the provision of the Act for extraction of the mineral. The reply is not acceptable as the plan was approved on 5th July 2000 as such earlier mining operations were illegal.

7.5 Short levy of royalty on minerals due to beneficiation

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 minerals removed or consumed from the leasehold area at the rates specified in the Act. No loss or wastage is admissible under the Act, *ibid.* As per Government of India, Ministry of Mines notification (25 September 2000), when the processing is carried out within the leasehold area, royalty would be payable on processed minerals with effect from the date of notification.

Test check of records of Joda Mining circle, revealed (February 2002) that the lessee M/s Steel Authority of India Ltd. in respect of their Bolani Iron Mines had fed 12.24 lakh MT of unprocessed iron ore in their beneficiation plant and recovered therefrom 10.04 lakh MT of processed ore during the period from April 2000 to September 2000. The royalty was levied on 10.04 lakh MT of processed ore instead of royalty on 12.24 lakh MT of unprocessed ore resulting in short levy of royalty of Rs.18.72 lakh on 2.20 MT of ore.

On this being pointed out in audit (February 2002), Director of Mines, stated (September 2002), that demand for Rs. 18.72 lakh had been raised (August 2002).

The above matter was referred to Government (April 2002). No reply was received from Government (November 2002).

7.6 Non-levy of interest on belated payment of mining dues

Under the Mineral Concession Rules, 1960, as amended with effect from April 1991, in case of belated payment of dead rent, royalty or other mining dues, simple interest at the rate of 24 *per cent* per annum on the amount in default is chargeable from the 60th day of the expiry of the due date till the default continues.

Test check of records of Mining Officer, Baripada revealed (July 2001) that interest of Rs.4.61 lakh on belated payment of royalty in 3 cases was not levied during the period 1998-99 to 1999-2000.

On this being pointed out in audit (July 2001), the Mining Officer, Baripada stated that action would be taken to realise the demand after verification of the records.

The above matter was referred to Government (April 2002). No reply was received from Government (November 2002).

CHAPTER-8 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, General Administration, Works and Water Resources during 2001-2002 revealed non-realisation of revenue, non/short levy of duties, fees etc. of Rs.180.16 crore in 45,279 cases which may broadly be categorised as under:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1	Assessment, levy and collection of industrial water rate/licence fee	1	164.53
2	Non-realisation of revenue	44,816	9.02
3	Non/short levy of revenue	98	4.55
4	Other irregularities	364	2.06
Total		45,279	180.16

During the year 2001-2002 the Departments accepted non/short levy of revenue, non-realisation of revenue etc. of Rs.3.79 lakh in 11,501 cases which were pointed out during 1997-98 and 2001-2002. Of these the Departments recovered Rs.0.37 lakh in nine cases.

A few illustrative cases highlighting important audit observations involving Rs.147.62 crore are mentioned in the following paragraphs.

8.2 Assessment, levy and collection of industrial water rate/licence fee

The assessment, levy and collection of water rate in Orissa is governed by the Orissa Irrigation Act, 1959, Orissa Irrigation Rules 1961 and executive instructions issued by the Government/Board of Revenue from time to time. By an amendment of the above Act and Rules "Licence Fee "(water rate) for use of water from Government water source (a water source created naturally) for purposes other than irrigation was introduced from 26 September 1994. The Orissa Irrigation Rules, 1961 were further amended in 1998 revising the water rate with effect from 18 July 1998. There are, thus, two types of water rate - "Special water rate "for using water from irrigation works and "Licence fee" for using water from Government water source for industrial/commercial purpose.

8.2.1 Arrear water rate/licence fee

The position of arrear water rate/licence fee pending against 92 industrial units as on March 2002 furnished by the department is as follows:

(Rupees in crore)

Category	No. of units	Arrear up to March 1998-99	Arrear in 1999-2000	Arrear in 2000-2001	Arrear in 2001-2002	Total
Private units	61	9.10	0.87	2.43	2.43	14.83
Public sector units	31	17.91	11.52	9.31	9.08	47.82
Total	92	27.01	12.39	11.74	11.51	62.65

Out of Rs.62.65 crore, an amount of Rs.45.13 crore towards arrear water rate/licence fee is disputed and is subjudice. The balance arrears of Rs.17.52 crore includes Rs. 0.58 crore outstanding for realisation from closed units.

8.2.2 Blockage of revenue due to belated levy/non-levy of water rate

As per Orissa Irrigation Act, 1959 and Rules framed thereunder as amended from time to time, water rate at the rate of Rs. 2 from 17 December 1962, Rs.4 from 10 December 1981 and Rs.60 from 18 July 1998 per lakh gallon of water is chargeable upon the user of the water from irrigation source for industrial purpose and discharged back unpolluted or after purification into irrigation project from which the same was drawn.

Orissa Hydro Power Corporation (OHPC) and the erstwhile Orissa State Electricity Board (OSEB) have been drawing water from different projects since 1961 for generation of electricity. Though water rate is leviable from 17 December 1962 for such utilisation of project water, no demand was raised till February 2001. Subsequently demand of Rs. 2,344.26 crore for the period 1981-82 to 2001-02 was raised between March 2001 and July 2002, but no realisation has been made till date (August 2002). However, no demand has been raised for the period December 1962 to March 1990 in respect of Hirakud Dam Project amounting to Rs.144.90 crore. Thus the total dues of Rs.2489.16 crore as detailed below is still outstanding.

(R u p e e s i n c r o r e)

Sl. No.	Name of the Project	Arrears upto March 1999	Arrear in 1999-2000	Arrear in 2000-2001	Arrear in 2001-2002	Total
1	Hirakud	794.81	178.96	98.98	150.25	1223.00
2	Kolab	--	--	101.62 ⁵⁰	15.16	116.78
3	Balimela	122.98	27.61	18.10	22.89	191.58
4	Rengali	554.56	128.30	111.48	112.74	907.08
5	Indrabati	--	6.32	16.16	28.24	50.72
Total		1472.35	341.19	346.34	329.28	2489.16

In reply to the audit observation regarding delay in raising demand/ non-raising of demand and non-realisation of water rate from OHPC, the Chief Engineer, Water Services stated that prior to 1999-2000, the Tahasildars of Revenue Department were vested with the power to raise demand and collect water rate as it was their responsibility. Demands were raised by Executive Engineers during the year 2000-2001 only after they were declared Irrigation Officers. Regarding non-raising of demand by the revenue authority, Under Secretary, Board of Revenue replied (May 2002) that the concerned Collectors were being requested to clarify the position.

8.2.3 Loss of revenue due to irregular adjustment of capital deposit towards water rate

As per Section 11 of Orissa Irrigation Act, 1959 for the purpose of making use of the water of an irrigation work, the watercourses shall be constructed by the persons to be benefited at their own cost.

⁵⁰ Arrears for the period from March 1988 to March 2001.

In course of audit of Mahanadi South Division, Cuttack, it was noticed that at a high level review meeting held on 21 May 1999 between Government and M/s OSWAL Ltd., Paradeep it was decided that M/s. OSWAL Ltd. would deposit Rs.3 crore for improvement of Taladanda canal for drawal of 160 lakh gallon of water per day. The advance deposited of Rs.3 crore by M/s. OSWAL Ltd. would be adjusted towards capital and there would be no interest on such deposit. Out of the advance deposit of Rs.3 crore, an expenditure of Rs.2.11 crore was incurred by the Executive Engineer towards improvement of the water course. Audit scrutiny revealed that in the agreement entered into between Executive Engineer, Mahanadi South Division, Cuttack and M/s. OSWAL Ltd. for payment of water rate, an additional clause No.9 was incorporated on 24 July 2000 into the agreement to the effect that the advance deposit of Rs.3 crore would be adjusted towards monthly water charges. Incorporation of this clause in the agreement by the Executive Engineer was in contravention to the decision taken in the high level meeting and also in violation of Section 11 of Orissa Irrigation Act, 1959 which led to forfeiture of revenue of Rs.2.11 crore as of March 2002.

The Chief Engineer stated (September 2002) that the Executive Engineer has raised the demand on M/s OSWAL Ltd. However, no action to realise the amount has been taken (August 2002).

The matter was reported to Government (June 2002); their reply was awaited (November 2002).

8.3 Non-realisation of Electricity Duty

Under the provisions of Orissa Electricity Duty Act, 1961 as amended from time to time and rules made thereunder, Electricity Duty (ED) shall be collected from the consumer and paid to the State Government on the energy supplied by or on behalf of the State Government. The Act further envisaged that where such ED collected by a licensee from a consumer was not paid to the Government within 30 days of the expiry of the month in which the duty is collected such person shall be liable to pay interest at the rate of 18 *per cent* per annum.

Under provisions of clause 95 of Orissa Electricity Regulatory Commission (Conditions of supply) Code, 1998 the amount paid by the consumer shall be first adjusted towards ED provided that in case of part payment by the consumer, the proportionate share of duty from the total collection shall be adjusted first.

During the course of audit of Electrical Inspector, Rourkela it was noticed (March 2002) that Fertiliser Corporation of India, Talcher made part payment (i.e. Rs.22.33 crore out of Rs.23.03 crore of the energy bill for the period from January 1999 to January 2001. Against proportionate ED of Rs.1.43 crore payable, the Executive Engineer, Electrical Division, Chainpal deposited Rs.95.90 lakh up to February 2001. The Electrical Inspector raised (April 2001) a demand

of Rs.47.15 lakh towards ED and interest of Rs.12.70 lakh. Out of the demanded dues only Rs.5.00 lakh has been deposited in March 2001 and July 2001. No further steps were taken for realisation of the balance dues nor certificate proceedings initiated. Thus, Rs.42.15 lakh still remained unrealised. Besides interest of Rs.19.24 lakh was also payable on belated payment/non-payment (March 2002).

On this being pointed out in audit (March 2002), the Electrical Inspector stated that the matter was under correspondence.

The above matter was reported to Government (April 2002); their reply is awaited (November 2002).

Bhubaneswar
Dated :

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

Countersigned

New Delhi
Dated :

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

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2003**