

REPORT (PAC)

एडिटा रिपोर्ट
स्थापन रिपोर्ट
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ON 07 JUL 2000

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

for the year ended March 1999

**No. 1
Revenue Receipts**

Government of Orissa

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PREFATORY REMARKS

This report for the year ended 31 March 1999 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, State excise, forest receipts, mining receipts and other non-tax receipts of the State.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during 1998-99 as well as those noticed in earlier years but which could not be covered in previous years' Reports.

OVERVIEW

This report contains 38 paragraphs relating to non-levy, short-levy of tax, penalty and interest and two reviews on "Working of the National Permit Scheme" and "Receipts from Mining of Major Minerals". The findings involve revenue to the tune of Rs.115.19 crore. Some of the findings are mentioned below :-

1 **General**

- (i) *The total revenue raised by the Government of Orissa during the year 1998-99 was Rs.2044.62 crore comprising tax revenue of Rs.1487.13 crore and non-tax revenue of Rs.557.49 crore. While tax revenue consists mainly of Sales Tax (Rs.971.09 crore), the non-tax revenue was mainly from Mines and Minerals (Rs.314.05 crore)*

{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 1998-99 revealed under-assessment, short-levy/loss of revenue amounting to Rs.635.52 crore in 2,27,769 cases. During the year 1998-99, the concerned departments accepted under-assessment etc. of Rs.18.11 crore involved in 6,085 cases pointed out during 1998-99 and in earlier years.*

{Para 1.8}

2 **Sales Tax**

- (i) *Application of incorrect grant of exemption to SSI units resulted in short levy/loss of tax of Rs.3.05 crore.*

{Para 2.3}

- (ii) *Allowance of inadmissible deduction in works contract led to short levy of tax of Rs.36.50 lakh.*

{Para 2.5(a)}

- (iii) *Incorrect withdrawal of attachment order led to non-realisation of demand of Rs.21.16 lakh.*

{Para 2.12}

- (iv) *Non-realisation of arrear demand of Rs.4.20 crore due to incorrect renewal of registration certificate despite arrears and non-pursuance of recovery procedure.*

{Para 2.13}

3 **Taxes on Motor Vehicles**

- (i) *A review on "Working of National Permit Schemes" revealed the following points :-*

- (a) *Non-realisation of composite tax of Rs.1.15 crore in 4,606 cases due to the Government from other States/Union Territories.*

{Para 3.2.9(i)}

- (b) *Realisation of composite tax at a concessional rate resulted in short realisation of tax of Rs.46.52 lakh in 7,170 cases.*

{Para 3.2.9(ii)}

- (ii) *Motor Vehicle tax/additional tax including penalties amounting to Rs.2.33 crore in respect of 495 vehicles was either not levied or short levied.*

{Para 3.3(i)}

- (iii) *Manipulation in the dates of issue of money receipts enabled the vehicle owners to avoid penalty amounting to Rs.3.71 lakh in respect of 337 vehicles.*

{Para 3.4}

- (iv) *Motor vehicles tax/additional tax including penalties amounting to Rs.25.47 lakh was not realised from 52 vehicles which violated off-road declarations.*

{Para 3.5}

- (v) *There was leakage of revenue of Rs.11.72 lakh due to non-imposition of fine for excess load in 137 vehicles at an unified check gate.*
{Para 3.8}
- (vi) *Tax and penalty of Rs.81.63 lakh was not realised from contract carriages which had valid route permits.*
{Para 3.9}
- (vii) *Tax and penalty of Rs.8.50 crore was not realised from vehicles which were neither covered by off-road declarations nor had paid tax in other regions.*
{Para 3.13}

4 **Land Revenue**

- (i) *Government revenue amounting to Rs.2.29 crore was not realised due to non-finalisation/delayed finalisation of lease cases.*
{Para 4.2}
- (ii) *Premium and Ground rent of Rs.39.42 lakh was not assessed/realised towards conversion of agricultural land for other purposes.*
{Para 4.4}

5 **State Excise**

- (i) *Loss of Excise Duty of Rs.1.55 crore on account of lower outturn of rectified spirit from molasses due to non-adoption of Chemical Examiner's report in working out the outturn of stock.*
{Para 5.2}
- (ii) *Failure of licensee to maintain minimum stock resulted in loss of excise revenue amounting to Rs.1.83 crore.*
{Para 5.4}

6 Forest Receipts

- (i) *Short-levy/realisation of royalty of Rs.11.59 lakh due to misclassification and application of incorrect rate of royalty.*

{Para 6.2}

- (ii) *Interest on belated payment of royalty amounting to Rs.17.02 lakh was not levied.*

{Para 6.3}

7 Mining Receipts

A review on "Receipts from Mining of Major Minerals" revealed the following irregularities:-

- (i) *Royalty amounting to Rs.1.20 crore was not realised in respect of minerals found short during physical verification.*

{Para 7.2.5}

- (ii) *Dead rent/Surface rent for the area of mining operation along with interest amounting to Rs.1.24 crore was not realised.*

{Para 7.2.6}

- (iii) *Cess on Dead rent/mining dues amounting to Rs.38.22 crore was not realised.*

{Para 7.2.7}

- (iv) *Suppression of stock resulted in short levy of royalty amounting to Rs.1.16 crore.*

{Para 7.2.8}

- (v) *Non-execution of lease deeds resulted in non-realisation of Stamp Duty and Registration fees amounting to Rs.2.56 crore.*

{Para 7.2.9}

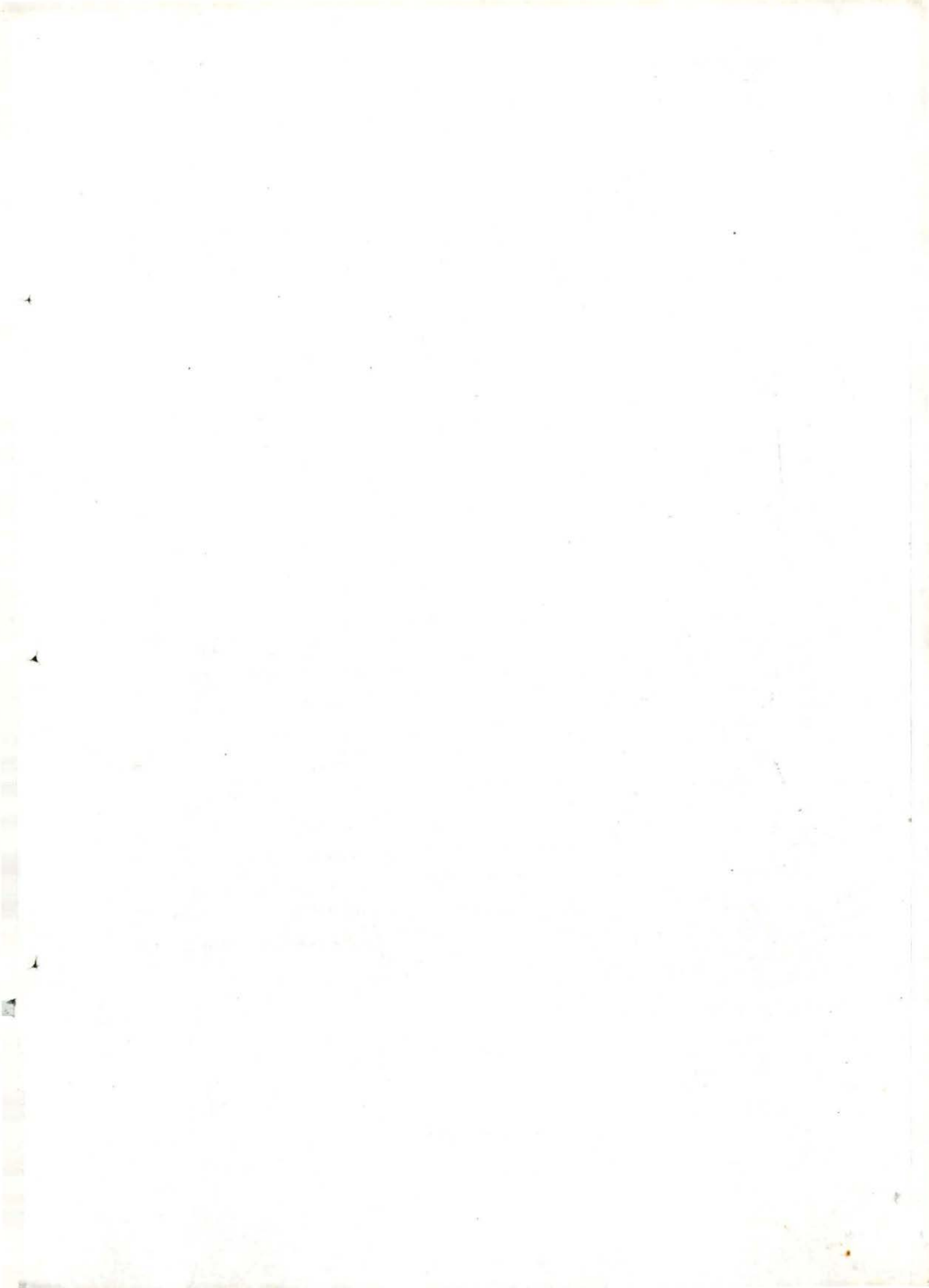
8 **Other Non-Tax Receipts**

- (i) *Guarantee fees amounting to Rs.24.71 crore was not realised from various loanees by Energy, Industries and Housing and Urban Development Departments.*
{Para 8.2}
- (ii) *Reimbursement cost of deployment of Railway Police amounting to Rs.6.03 crore was not realised from Railways.*
{Para 8.3}
- (iii) *Electricity Duty amounting to Rs.9.75 crore was not paid by one private company.*
{Para 8.4}

CHAPTER -1

GENERAL

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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 1998-99, 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 :-

		1996-97	1997-98	1998-99
		(Rupees in Crdre)		
I	Revenue raised by State Government			
(a)	Tax Revenue	1342.04	1421.74	1487.13
(b)	Non-Tax Revenue	481.78	540.92	557.49
	Total:	1823.82	1962.66	2044.62
II	Receipts from Government of India			
(a)	State's share of divisible union taxes	1565.98	1563.61	1694.52*
(b)	Grants-in-aid	896.96	1105.76	815.26
	Total	2462.94	2669.37	2509.78
III	Total Receipt of the State Government(I+II)	4286.76	4632.03	4554.40
IV	Percentage of I to III	42.55	42.37	44.89

* 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 1998-99. Figures under the head "0021- Taxes on Income other than Corporation Tax- share of net proceeds assigned to States" booked in the Finance Accounts under A - Tax Revenue have been excluded from Revenue raised by the State and included in State's share of divisible Union Taxes in this Statement

1.1.2 The details of the tax revenue raised during the year 1998-99 alongwith figures for the preceding two years are given below:

Heads of Revenue	1996-97	1997-98	1998-99	Percentage of increase (+) or decrease (-) in 1998-99 over 1997-98.
	(Rupees in Crore)			
1. Sales Tax	893.51	925.08	971.09	(+) 04.97
2. Taxes and duties on electricity	120.06	127.73	110.13	(-) 13.78
3. Land Revenue	35.20	38.69	58.57	(+) 51.41
4. Taxes on Vehicles	128.25	141.78	143.18	(+) 00.99
5. Taxes on goods and passengers	0.01	0.01	0.01	--
6. State Excise	90.77	105.80	109.67	(+) 03.66
7. Stamp duty and registration fees	68.52	76.77	87.59	(+) 14.09
8. Other taxes and duties on commodities and services	5.72	5.88	6.89	(+) 17.18
Total	1342.04	1421.74	1487.13	

The reasons for variations for the following items, as furnished by the department were as under:-

- (a) *Taxes and duties on Electricity:-* The decrease was due to less consumption of electricity in High Tension (HT) and Extra High Tension (EHT) categories, waiver of minimum charges in new tariff effective from 01.12.98 and uneconomical village electrification which did not result in realisation of Electricity Duty despite there being a huge number of Low Tension (LT) consumers.
- (b) *Land Revenue:-* The increase (51.41 per cent) was stated to be due to more collection of arrears and sairat sources.

Reasons for variation called for from the Departments concerned in respect of stamp duty and registration fee was awaited (November 1999).

1.1.3 The details of major non-tax revenue realised during the years 1996-97 to 1998-99 are given below:-

Heads of Revenue	1996-97	1997-98	1998-99	Percentage of increase (+) or decrease (-) in 1998-99 over 1997-98.
(Rupees in crore)				
1. Forest	76.21	73.29	87.30	(+) 19.12
2. Mines and Minerals	269.39	317.15	314.05	(-) 00.98
3. Education	11.26	12.65	12.49	(-) 01.26
4. Interest	13.44	18.69	19.62	(+) 04.98
5. Public Health, Sanitation and Water Supply	9.98	12.95	12.56	(-) 03.01
6. Irrigation, Navigation, Drainage and Flood Control Projects	8.73	8.55	13.79	<u>(+) 61.29</u>
7. Police	10.68	6.60	08.71	(+) 31.97
8. Others	82.09	91.04	88.97	(-) 02.27
Total	481.78	540.92	557.49	

Reasons for variations relating to *Forest, Education, Interest, Public Health and Water Supply and Police* though called for (April 1999) have not been received (November 1999). For Mines and Minerals, it was stated that the decrease of 0.98 per cent was mainly due to decrease in dispatch of coal which contributed 68.85 per cent of total mineral production of the State besides decrease of dispatch of other minerals.

1.2 Variations between Budget Estimates and Actuals

The variations between Budget estimates of revenue for the year 1998-99 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:

Sl. No.	Heads of Revenue	Budget Estimates (Rupees in Crore)	Actual receipts	Variations Increase (+) Shortfall (-)	Percentage of variation
Tax Revenue					
1	Sales Tax	1248.00	971.09	(-) 276.91	(-) 22.19
2	Taxes and Duties on electricity	140.00	110.13	(-) 29.87	(-) 21.34
3	Land Revenue	60.00	58.57	(-) 01.43	(-) 02.38
4	Taxes on vehicles	175.00	143.18	(-) 31.82	(-) 18.18
5	State Excise	130.00	109.67	(-) 20.33	(-) 15.64
6	Stamp duty and registration fees	100.00	87.59	(-) 12.41	(-) 12.41
Non-Tax Revenue					
7	Mines and Minerals	379.05	314.05	(-) 65.00	(-) 17.15
8	Forest	115.00	87.30	(-) 27.70	(-) 24.09
9	Education	13.16	12.49	(-) 00.67	(-) 05.09
10	Interest	20.56	19.62	(-) 00.94	(-) 04.57
11	Police	07.27	08.71	(+) 01.44	(+) 19.81

- (a) *Sales Tax:-* The shortfall (22.19 per cent) was reported to be mainly due to (i) fixation of unrealistic growth rate (33%) in the budget ignoring the actual growth rate (2.03%) achieved during the previous years, (ii) industrial recession, (iii) crop damages due to untimely rain, (iv) change of policy by Coal India in lifting coal from Mahanadi Coal Fields Ltd. (MCL) area and (v) non-disposal of cases by the Hon'ble Supreme Court /High Court.
- (b) *Taxes on Vehicles:-* The shortfall (18.18 per cent) was due to want of enforcement staff and reduction of vehicle population at the check gates and less receipt of Bank drafts from other States on account of National Permit.
- (c) *Taxes and duties on electricity:-* The variation (21.34 per cent) was due to less consumption of electricity in HT and EHT categories, waiver of minimum charges in new tariff effective from 01-12-98 and uneconomical village electrification.

- (d) *Mines and minerals* :- The variation was due to decrease in dispatch of coal and other minerals.
- (e) Reason for variations relating to *Forest, Land Revenue, Education, Police, State Excise, Stamp Duty and Registration and Interest* though called for (April 1999) have not been received (November 1999).

Government stated (November 1999) that actual receipts of previous years along with proposals for additional resource mobilisation formed the basis for the Budget Estimate for Revenue Receipts. However, at the time these are framed, the administrative departments are not ready with their estimates of receipts.

It was evident that 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 assessments of receipts from the respective administrative departments concerned.

1.3 Analysis of Collection

The break up of the total collections (at the pre-assessment stage and after regular assessment) of Sales Tax during the year 1998-99 and the corresponding figures for the preceding two years as furnished by the department are given below :

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Amount of arrear demand collected	Amount refunded	Net collection of tax	Percentage of col. 2 to 6
1	2	3	4	5	6	7
	(Rupees in Crore)					
1996-97	795.25	56.40	63.64	25.90	889.39**	89
1997-98	883.62	35.50	14.74	10.83	923.03***	96
1998-99	977.89	31.55	18.05	55.61	971.88****	101

** The difference of Rs.4.12 crore (Rs.893.51 crore - Rs.889.39 crore) yet to be reconciled (November 1999).

*** The difference of Rs.2.05 crore (Rs.925.08 crore - Rs.923.03 crore) yet to be reconciled (November 1999) though called for.

**** The reason for difference of (-) Rs.0.79 crore (971.09 crore - 971.88 crore) was awaited (November 1999)

The position of revenue collected by Sales Tax Department as detailed above, revealed that the collection of revenue at pre-assessment stage ranged between 89 and 101 *per cent* during last 3 years ending March 1999.

1.4 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 1996-97, 1997-98 and 1998-99 along with the relevant all India average percentage of expenditure on collection to gross collections for 1997-98 are given below:

Heads of Revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 1997-98
		(Rupees in crore)			
1. Sales Tax	1996-97	893.51	13.54	1.52	1.28
	1997-98	925.08	14.96	1.62	
	1998-99	971.09	21.52	2.22	
2. Taxes on vehicles	1996-97	128.25	1.97	1.54	2.65
	1997-98	141.78	3.29	2.32	
	1998-99	143.18	2.71	1.89	
3. State Excise	1996-97	90.77	7.87	8.67	3.20
	1997-98	105.80	7.83	7.40	
	1998-99	109.67	11.69	10.66	
4. Stamp duty and Registration fees	1996-97	68.52	6.76	9.87	3.14
	1997-98	76.77	7.29	9.50	
	1998-99	87.59	10.92	12.47	

The expenditure on collection of State Excise and Stamp Duty and Registration fees as a percentage of total collection under the respective heads is higher as compared to the national average. The reasons for variations have been called for (September 1999). Reply is awaited.

1.5 Arrears of revenue

As on 31 March 1999, arrears of revenue under principal heads of revenue, as reported by the departments, were as follows:

Head of revenue	Amount of arrears as on 31 March 1998	Amount of arrears as on 31 March 1999	Arrears more than five years old	Remarks
(R u p e e s i n c r o r e)				
1. Sales Tax	971.92	865.38	193.34	The category-wise position of arrears is as under: (a) Demands covered by Certificate proceedings/Tax Recovery proceedings 122.97 (b) Demands stayed by (i) Supreme Court/ High Court 412.51 (ii) Departmental authorities 178.52 (c) Other stages (i) Under third party notices 20.74 (ii) Under show cause notices 126.53 (d) Amounts likely to be written off 4.11 Total 865.38
2. Mines and Minerals	37.35	31.84	2.01	The category-wise position of arrears is as under (a) Demand covered by certificate proceedings 4.58

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Head of revenue	Amount of arrears as on 31 March 1998	Amount of arrears as on 31 March 1999	Arrears more than five years old	Remarks
(R u p e e s i n c r o r e)				
				(b) Demand stayed by High Court/Other Judicial Authorities 0.58
				(c) Amount likely to be written off and disputed amount of Rs.31,632 0.71
				(d) Recoverable amount 25.97
				Total 31.84
3. Land Revenue	13.15	13.60	-	Year-wise break up and specific action taken to effect the recovery has not been furnished.
4. Interest	39.34	26.01	-	Interest on loans by Industry Department 26.01
5. Taxes and duties on electricity	87.93	114.66*	-	Specific action taken to effect recovery has not been furnished.
6. Forest	46.21	57.94	-	Year-wise breakup and specific action taken to effect recovery has not been furnished.
7. Taxes on vehicles	41.58	42.68	-	(i) Demand covered by certificate proceedings - 12.25 (ii) Recovery stayed by departmental authorities. 6.24 (Other details not available)

Information from other departments, though called for, has not been received (November 1999). However, the arrears of revenue in taxes and duties on electricity, taxes on vehicles, land revenue and forest receipts have increased by 30.40 per cent, 2.65 per cent, 3.42 per cent and 25.38 per cent respectively during the year 1998-99 as compared to the year 1997-98.

Provisional figure

1.6 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 1994-95 to 1998-99, 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
1994-95	2,35,634	1,81,589	4,17,223	1,75,287	2,41,936	42
1995-96	2,41,936	1,85,522	4,27,458	1,79,846	2,47,612	42
1996-97	2,47,612	1,87,650	4,35,262	1,68,837	2,66,425	39
1997-98	2,66,425	1,82,857	4,49,282	1,68,521	2,80,761	38
1998-99	2,80,761	1,86,439	4,67,200	1,55,498	3,11,702	33

It would be seen that the number of outstanding cases went up from 2,41,936 at the end of 1994-95 to 3,11,702 at the end of 1998-99 registering an increase from 58 *per cent* in 1994-95 to 67 *per cent* in 1998-99. Year-wise break-up of pending cases could not be furnished though called for (August 1999).

1.7 Fraud and evasion of tax

The number of cases of evasion of tax detected by the Sales Tax department and assessments finalised during 1998-99 are given below:

		Number of cases
A (i)	Cases pending as on 31 March 1998	16,485
(ii)	Cases detected during the year 1998-99	4,611
	Total	21,096
B.	Cases in which investigations were dropped/ assessments completed during the year 1998-99	5,240
C.	Cases which were pending at the end of the year (i.e., 31 st March 1999)	15,856

The revenue involved in the arrear cases was not furnished by the department.

1.8 Results of Audit

Test check of the records of Sales Tax, Motor Vehicles Tax, State Excise, Forest and other departmental offices conducted during the year 1998-99 revealed under-assessment/short levy/loss of revenue amounting to Rs.635.52 crore in 2,27,769 cases. During the course of the year 1998-99 the concerned departments accepted under-assessment etc. of Rs.18.11 crore involved in 6,085 cases which were pointed out in 1998-99 and in earlier years.

This report contains 38 paragraphs and two reviews involving financial effect of Rs.115.19 crore of which Rs.21.29 crore has been accepted by Government/Department by raising of demands. Recovery made in these cases amounted to Rs.4.32 crore up to November 1999. Audit observations with a total revenue effect of Rs.2.91 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 1999).

1.9 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. Serious financial irregularities are reported to the heads of departments concerned and the Government. 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 1998, which were pending settlement by the departments as on 30 June 1999, along with corresponding figures for the preceding two years are given below :

	1997	1998	1999
1. Number of inspection reports pending settlement	2990	2896	3576
2. Number of outstanding audit observations	9776	10032	11558
3. Amount of revenue involved (in crore of rupees)	183.47	335.04	395.74

Department-wise break up of the inspection reports and audit observations outstanding as on 30 June 1999 is given below:

Department	Nature of receipts	Number of outstanding		Amount of receipts involved (Rupees in lakh)	Year to which observations relate	Number of Inspection Reports to which even first replies have not been received
		Inspection reports	Audit observations			
1. Revenue and Excise	Land Revenue	990	2263	6286.15	1977-78 to 1998-99	108
	Stamp Duty and Registration Fees	259	318	1290.22	1976-77 to 1998-99	84
	State Excise	216	555	1619.58	1973-74 to 1998-99	Nil
2. Commerce and Transport (Transport)	Taxes on vehicles	269	3112	2842.15	1994-95 to 1998-99	18
3. Finance	Sales Tax	573	2330	11705.32	1972-73 to 1998-99	37
	Entertainment Tax	161	194	107.25	1973-74 to 1998-99	8
	Luxury Tax	5	5	9.60	1997-98 to 1998-99	3
4. Forest and Environment	Forest Receipts	537	1629	12027.79	1967-68 to 1998-99	23
5. Steel and Mines	Mining Receipts	92	182	364.13	1974-75 to 1997-98	Nil
6. Others	Departmental Receipts	474	970	3322.16	1977-78 to 1998-99	36
Total		3576	11558	39574.35		317

The matter was brought to the notice of the Government between June 1999 and October 1999. Information regarding steps taken by the Government to settle the outstanding inspection reports and audit observations was awaited (November 1999).

CHAPTER -2

SALES TAX

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SALES TAX

2.1 Results of Audit

Test check of assessments and refund cases and connected documents of the Commercial Tax Offices during 1998-99 revealed under-assessment of tax, loss of revenue etc. amounting to Rs.1,896.73 lakh in 460 cases which broadly fall under the following categories :

Sl. No.	Category	No. of cases	Amount (Rs. in lakh)
1	Under assessment of tax due to application of incorrect rate of tax.	131	214.45
2	Incorrect grant of exemption.	55	708.57
3	Non levy of surcharge	18	11.03
4	Short levy of tax due to incorrect computation of taxable turnover.	146	282.74
5	Non levy of interest	15	19.71
6	Other irregularities.	95	660.23
	Total	460	1,896.73

During the course of the year 1998-99, the concerned departments accepted under-assessment etc. of tax dues amounting to Rs.302.73 lakh in 363 cases of which 6 cases involving Rs.32.11 lakh were pointed out during 1998-99 and the rest in earlier years.

A few illustrative cases highlighting important audit observations involving Rs.824.25 lakh are mentioned in the following paragraphs.

2.2 Short levy of tax due to application of incorrect rate

Under the provisions of the Orissa Sales Tax (OST) Act, 1947, different rates of tax are applicable in respect of different commodities. In 8 cases pertaining to 3 circles, application of incorrect rate of tax resulted in short levy of tax amounting to Rs.16.97 lakh as detailed in the table below:

Application of incorrect rate of tax led to short levy of Rs.16.97 lakh.

Sl. No	Name of the circle	Year / Month and year of assessment	Name of the commodities	Taxable turnover (In lakh of Rupees)	Rate of tax leviable/ Rate of tax levied	Short levy including surcharge (In lakh of Rupees)	Remarks
1	Cuttack- I (West)	1994-95/ August 1995	Cycle balls and bearings	15.53	$\frac{12}{4}$	1.37	The Assessing Officer raised (November 1998) an additional demand of Rs.1.37 lakh. Report on recovery was awaited (November 1999).
2	Ganjam-III, Berhampur	1994-95/ January 1995 to March 1996	Cycle spare parts	11.71	$\frac{12}{4}$	0.98	The Assessing officer reopened the cases (July 1999). Further report was awaited (November 1999)
3	Koraput-II, Rayagada	1996-97 and 1997-98/ December 1997 and February 1998	Hire charges of machineries (C.F.Boilers)	257.17	$\frac{16}{12}$	11.32	The Assessing Officer reopened the cases (December 1998). Further report was awaited (November 1999).
4	Cuttack-I (West)	1995-96/ October 1996	Old and condemned vehicles	37.52	$\frac{12}{4}$	3.30	The Assessing Officer raised (March 1999) an additional demand of Rs.3.30 lakh which was confirmed in first appeal. The dealer has filed second appeal. Further report was awaited (November 1999).
Total						16.97	

2.3 Incorrect grant of exemption

(a) Under Orissa Sales Tax Act, 1947, and Industrial Policy Resolution (IPR) 1989, a registered SSI unit, set up on or after 01 December 1989 and starting commercial production thereafter, is entitled to exemption from payment of Sales Tax on purchase of raw material as well as on sale of its finished products for a period of seven years from the date of commercial production.

Incorrect grant of exemption from tax on purchase of groundnut and sale of edible oil and groundnut kernel resulted in short levy of tax aggregating to Rs.268.30 lakh.

During the course of audit of Puri-II Circle, Jatni (September 1998) and further scrutiny made in May 1999 it was revealed that while assessing (between July 1992 and March 1998) a SSI Oil Mill unit for the years 1991-92 to 1996-97, the assessing officer allowed the purchase turnover of groundnut worth Rs.1235.06 lakh and sale turnover of edible oil worth Rs.3499.46 lakh (Intra-State Rs.3216.57 lakh and Inter-State Rs.282.89 lakh) and groundnut kernel worth Rs.597.72 lakh (Inter-State) for the years 1991-92 to 1996-97 to be exempted from tax by treating the unit as an eligible unit under IPR 1989. Further scrutiny of the records of DIC revealed that this dealer had acquired the SSI Oil Mill from another registered dealer. Since this Oil Mill was not a new industrial unit, it was not eligible for exemption. The incorrect grant of exemption as allowed by the assessing officer has resulted in short levy of tax of Rs.268.30 lakh including surcharge.

Out of the above, Rs.84.43 lakh relating to the years 1991-92 to 1993-94 was a loss to Government as the proceedings could not be initiated for reopening the cases due to bar by limitations of time.

On this being pointed out in audit (May 1999), the assessing officer reopened the cases for the years 1994-95 to 1996-97 (May 1999). Further report was awaited (November 1999).

The matter was reported to the Government (July 1999); their reply was awaited (November 1999).

Incorrect grant of exemption from tax on sale of Mustard Oil by a SSI unit without E.C. from DIC led to short levy of tax of Rs.33.05 lakh.

(b) The Industrial Policy Resolution (IPR) 1986 and 1989 provide for exemption of sales tax on sale of finished products by Small Scale Industries (SSIs) set up on or after 01 April 1986 and starting commercial production thereafter. The exemption was available for a period of seven years from the date of commercial production as certified by the concerned District Industries Centre (DIC).

During the course of audit (June 1998) of Balasore Circle, it was noticed that while finalising the assessment (March 1997 to December 1997) of a SSI Oil Mill for the years 1994-95 to 1996-97, the assessing officer allowed exemption on sale of mustard oil worth Rs.751.18 lakh without the requisite Eligibility Certificate (EC) from the concerned DIC. This resulted in short levy of tax of Rs.33.05 lakh including surcharge.

On this being pointed out in audit (June 1998), the Assessing Officer raised (January 1999 and March 1999) demands of Rs.45.15 lakh for the years 1993-94 to 1997-98 which included the amount covered under audit objection. Report on recovery was awaited (November 1999).

The matter was reported to the Government (April 1999); their reply was awaited (November 1999).

(c) Under the Orissa Sales Tax Act, 1947, a registered Small Scale Industrial unit (SSI) set up on or after 01 December 1989 and starting commercial production thereafter is entitled to exemption from payment of sales tax on purchase of raw-material as well as on sale of its finished products for a period of seven years from the date of commercial production. The District Industries Centre (DIC) concerned is to certify the maximum quantity and value of the goods which qualify for the exemption so as to enable the concerned sales tax authorities to restrict the tax benefit to that extent.

During the course of audit of Bhubaneswar-I Circle it was noticed that the assessing authority had allowed (February 1997) exemption for 2,12,768 number of tin containers which was in excess of the quantity prescribed in the Eligibility Certificate by 62,768 resulting in short levy of tax Rs.4.00 lakh during the year 1995-96.

On this being pointed out in audit (October 1997), the assessing officer raised (January 1998) an additional demand of Rs.4.10 lakh which was reduced to nil in first appeal (January 1999). The State has gone for second appeal (June 1999). Further report was awaited (November 1999).

Incorrect grant of exemption from tax on sale of tin containers in excess of the prescribed installed capacity of a SSI unit led to short levy of tax of Rs.4.00 lakh.

The matter was reported to the Government (April 1999); their reply was awaited (November 1999).

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

(a) Under the OST Act, 1947, and rules made thereunder, India Made Foreign Liquor (IMFL) was taxable at the last point of sale at the rate of 4 *per cent* till 13 July 1995. With effect from 14 July 1995, IMFL became taxable at the first point of sale at the rate of 10 *per cent*. For this purpose every registered dealer is required to keep a true account of the value of goods bought and sold by him and maintain an annual stock of goods depicting their opening and closing stocks. If the assessing officer while finalising the assessment detects any concealment of purchases or sales, he shall reject the books of accounts of the dealer and complete the assessment to the best of his judgement. Further, to arrive at a uniform retail sale price of IMFL, the Commissioner of Excise, Orissa issued (April 1982) guidelines which stipulated, inter alia, the inclusion of the license fee or consideration money paid to the Excise Department in the retail sale price of IMFL.

Purchase suppression and non-inclusion of consideration money paid to Excise Department and profit margin on purchase price of IMFL resulted in short levy of tax of Rs.3.22 lakh.

(i) In course of audit of Cuttack-I (Central) Circle, it was noticed (August 1998) that a registered dealer purchased IMFL worth Rs.28.74 lakh during 1994-95 and 1995-96 (upto 13.07.1995) on the strength of declaration* for payment of tax on re-sale. Subsequently, however, he disclosed sale of IMFL worth only Rs.13.37 lakh during the same period. Taking into account the consideration money paid to the Excise Department (Rs.1.90 lakh upto 13.7.1995) and profit margin of 10 *per cent* on purchase cost, as stipulated in the extant instructions, the sale value of remaining stock comes to Rs.20.33 lakh. But the dealer suppressed the entire sales in the subsequent period which resulted in non-levy of tax of Rs.1.22 lakh including surcharge.

On this being pointed out in audit (August 1998), the assessing officer reopened the case (September 1998). The result of reassessment proceeding was awaited (November 1999).

The matter was reported to the Government (June 1999); their reply was awaited (November 1999).

(ii) In course of audit of Cuttack-I West Circle it was noticed (May 1997) that the taxable turnover of an IMFL dealer was computed and assessed (October 1996) by the assessing officer based on the purchase figure of Rs.42.43 lakh disclosed by the dealer for the year 1994-95. On

verification of purchase particulars rendered by the dealer, it was noticed however, that the taxable turnover worked out to Rs.50.11 lakh taking into account consideration money of Rs.3.12 lakh and profit margin of 10 *per cent* (Rs.4.56 lakh) as against which turnover of only Rs.24.87 lakh had been disclosed by the dealer and taken into account by the assessing officer. This resulted in short determination of taxable turnover of Rs.25.24 lakh with resultant short levy of tax amounting to Rs. 1.11 lakh.

On this being pointed out in audit (May 1997) the assessing officer raised (June 1997) extra demand of Rs.1.11 lakh which was realised in full between August and September 1997.

The matter was reported to the Government (April 1999); their reply was awaited (November 1999).

(iii) In course of audit of Keonjhar Circle it was noticed (November 1996) that two dealers purchased IMFL worth Rs.50.78 lakh during the year 1991-92 to 1993-94. By adding the consideration money of Rs.5.68 lakh to the purchase figure and profit margin of 10 *per cent* (Rs.1.83 lakh), the taxable turnover worked out to Rs.58.29 lakh. The assessing officer, however, determined the taxable turnover as Rs.38.12 lakh which resulted in short levy of tax of Rs.88,746 including surcharge.

On this being pointed out in audit (November 1996) the concerned assessing officer raised extra demand of Rs.1.05 lakh (August 1997). Further reply as to realisation was awaited (November 1999).

The matter was reported to Government (May 1999); their reply was awaited (November 1999).

(b) Under the OST Act, 'Tooth Paste' was taxable at 8 *per cent* upto 30 June 1990 and at the rate of 12 *per cent* thereafter.

During the course of audit of Balasore Circle, it was noticed (June 1995) that a dealer purchased taxable goods (tooth paste) worth Rs.11.91 lakh and Rs.16.20 lakh during the years 1990-91 and 1991-92 respectively against declaration in Form 'C', but disclosed such purchases in his returns at only Rs.5.82 lakh and Rs.4.52 lakh, resulting in suppression of purchases worth Rs.17.77 lakh with corresponding suppression of sales of Rs.18.77 lakh in both the years (including annual profit margin at the rate of 5.65 *per cent*). However, the assessing officer while finalising (August 1991 and July 1992) the assessments failed to detect this suppression of purchases. This resulted in

**Non-detection of suppression
of purchase led to short levy
of tax of Rs.2.39 lakh.**

short levy of tax of Rs.2.39 lakh including additional sales tax and surcharge.

On this being pointed out in audit, it was stated that an additional demand of Rs.3.21 lakh had been raised (September 1998). Report on recovery was awaited (November 1999).

The matter was reported to the Government (June 1999); their reply was awaited (November 1999).

(c) During the course of audit of Balasore Circle it was noticed (July 1996) that the assessing officer while finalising (November 1995) the assessment of a dealer engaged in supply of goods for the year 1993-94, failed to take cognizance of one transaction involving Rs.30 lakh. The dealer had received two separate payments (May 1994) for supply of goods totaling Rs.86.50 lakh of which only one transaction of Rs.56.50 lakh was taken into account by the assessing officer. This resulted in short levy of tax of Rs.3.03 lakh. Further, an amount of Rs.1.15 lakh pertaining to another dealer was incorrectly adjusted against the tax liability of the instant dealer. The total short levy of tax worked out to Rs. 4.18 lakh.

Omission to include turnover of Rs.30 lakh in the G.T.O. and wrong adjustment of credit of Rs.1.15 lakh led to short levy of tax of Rs.4.18 lakh.

On this being pointed out in audit (July 1996), the assessing officer raised the extra demand (May 1997). Report on recovery was awaited (November 1999). The matter was reported to Government (May 1999); their reply was awaited (November 1999).

2.5 Short levy of tax due to allowance of incorrect deduction

(a) 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 for execution of the contract. Under the Act *ibid*, taxable turnover of works contract was taxable at the rate of 4 per cent upto 17 August 1995 and at the rate of 8 per cent thereafter.

Allowance of inadmissible deduction towards tax in works contract led to short levy of tax of Rs.36.50 lakh.

During the course of audit of 7 Circles[#] it was noticed (between July 1998 and February 1999) that in 11 cases while finalising (between June 1997 and March 1998) the assessment of works contractors for the years 1994-95 to 1996-97, deductions aggregating to Rs.435.91 lakh were allowed towards cost of materials used in the execution of works contracts on the ground that such goods had suffered tax under the State Act earlier. In view of the provisions of the OST Act, the deductions allowed by the assessing officers were not in order which resulted in short levy of tax of Rs.36.50 lakh including surcharge.

On this being pointed out in audit (between July 1998 and February 1999) in 10 cases, the concerned assessing officers either reopened the case or agreed to reopen. The Commissioner of Commercial Taxes and one assessing officer, however, defended the assessments relying on earlier judgement[&] passed by the Orissa High Court holding inter alia that Sec.5(2)AA(i) is also subject to Sec.8, and if goods involved in a works contract had already been subjected to tax in a series of sale, they would have to be excluded from the taxable turnover. The contention of the assessing officer is not acceptable since the Supreme Court in the case of M/s Gannon Dunkerly & Co. vs. State of Rajasthan (1993) STC-88-204, while deciding whether tax at uniform rate on works contract is leviable or not, observed that the 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. Hence, goods which are involved in the execution of works contract become a separate class of goods and at that point the series of sales which started by payment of tax at the first point breaks and become subject to tax again.

The matter was reported to the Government (June 1999); their reply was awaited (November 1999).

(b) Under the provisions of the Orissa Sales Tax Act, 1947, and Rules framed there under, sale of minerals was taxable at the rate of 16 per cent at the first point of sale with effect from 01 July 1990.

During the course of audit of Kalahandi Circle, it was noticed (March 1998) that a dealer sold mineral (quartz) worth Rs.8.02 lakh during 1994-95 to a registered dealer of the same circle on the strength of declaration*. The

Allowance of inadmissible deduction towards sale of first point taxable goods led to short levy of tax of Rs.1.28 lakh.

[#] (1) Bhubaneswar-I (2) Bhubaneswar-II (3) Bolangir-I (4) Bolangir-II (5) Ganjam-I (6) Ganjam-II (7) Keonjhar.

[&] M/s BHEL Vrs. Union of India (1988) 71-STC-21 (Orissa)
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dealer claimed deduction on the entire amount and the same was allowed by the assessing officer. The instant dealer, being the first seller of the minerals, was however liable to be taxed as per the provisions of the Act. This irregular deduction led to short levy of tax to the tune of Rs.1.28 lakh.

On this being pointed out in audit (March 1998) the assessing officer raised the extra demand (August 1998). The Commissioner of Commercial Taxes (CCT) reported (August 1999) that the case was in appeal.

The matter was reported to Government (April 1999); their reply was awaited (November 1999).

2.6 Non-levy of tax due to misclassification of goods

Under the Orissa Sales Tax Act 1947 and Rules made thereunder 'Drugs' were taxable at the rate of 4 per cent upto 17 August 1995 whereas 'Handloom Cloth of all varieties' was tax free. It was judicially held* that cotton rolled bandage cloth being used for the purpose of healing cuts and wounds would fall under the meaning of 'Drugs and Medicines' and not under 'Handloom Fabrics'.

Misclassification of taxable goods as tax-free led to short levy of tax of Rs.1.20 lakh.

In course of audit of Cuttack-I (Central) Circle, it was noticed (August 1995) that the assessing officer while finalising (between June and November 1994) the assessment of a dealer for the years 1992-93 and 1993-94 has incorrectly classified the sale of bleached gauze and bandage worth Rs.27.29 lakh as tax free sale of handloom cloth instead of as Drugs and Medicines. This resulted in short levy of tax of Rs.1.20 lakh including surcharge.

On this being pointed out in audit (August 1995), the assessing officer raised extra demand of Rs.1.20 lakh (December 1996) which was reduced (August 1997) to nil in first appeal. The State has gone for second appeal against the orders of first appellate authority. Result of the second appeal was awaited (November 1999).

The matter was reported to the Government (April 1999); their reply was awaited (November 1999).

* State of Gujarat vs. C.K. Gauze Bandage Manufacturing Co.-84-STC-571.

2.7 Short levy of tax due to 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 for execution of such works. In case of indivisible works contracts, the component of labour and service charges is determined by the assessing officer at a certain percentage of the gross value of work executed and the turnover is taxed at the appropriate rate of 8 *per cent*. It has been judicially held* that contract for supply of chips and stones after quarrying them is a transaction of sale and not that of work and labour. Accordingly, tax has to be levied at appropriate rate as applicable to sale of such goods. Hard granite and similar quality stone ballast being an unspecified item under the Act is exigible to tax at the rate of 12 *per cent* with effect from 01 July 1990.

Supply contract was incorrectly treated as works contract which led to short levy of tax of Rs.4.13 lakh.

In course of audit of Puri-II Circle, Jatni, it was noticed (November 1998) that a dealer executed a contract during the year 1995-96 for supply and delivery in stacks of 50 mm hard granite and similar quality stone ballast during 1996-97 and received payment of Rs.44.69 lakh towards such supply. From this, deduction of Rs.24.58 lakh was allowed by the assessing officer towards labour and service charges and the balance amount of Rs.20.11 lakh was taxed at the rate of 8 *per cent* applicable to works contract instead of taxing the whole amount of receipt at the appropriate rate of 12 *per cent*. This irregular assessment resulted in short levy of tax of Rs.4.13 lakh inclusive of surcharge.

On this being pointed out in audit (November 1998), the assessing officer re-opened the case. Report on re-assessment was awaited (November 1999).

The matter was reported to the Government (June 1999); their reply was awaited (November 1999).

- (1) State of Orissa Vs. Utkal Distributors Ltd. (1974)34-STC-347 (Orissa) (2) Anamolou Seshagiri & Co. Vrs. State of Andhra Pradesh (1988)45-STC-388 (A.P)

2.8 Short levy of tax due to treatment of intra-State sale as inter-State sale

Under the CST Act, 1956, if a sale or purchase occasions the movement of goods from one State to another or is effected by a transfer of documents of the title of goods during their movement, such sale or purchase shall be deemed to take place in the course of inter-State trade or commerce. The concessional tax rate for inter-State sale of 'Iron ores' is 4 *per cent* if it is covered by valid declaration in prescribed form. The tax rate for intra-State sale of 'Iron ore' is 16 *per cent* as per the OST Act.

Intra-State sale was incorrectly treated as Inter-State sale which led to short levy of tax of Rs.1.54 lakh.

During the course of audit of Keonjhar Circle (Barbil Unit), it was noticed (August 1998) that the assessing officer while finalising (March 1998) the assessment of a dealer, (a mines owner) for the year 1994-95 had allowed the sale of minerals (Iron ores) of Rs.11.32 lakh to another registered dealer of the same Circle against declaration in form-C and levied tax at the concessional rate of 4 *per cent*. The sale of goods by the instant dealer was an intra-State sale exigible to be taxed at the OST rate. The failure of the assessing officer to take cognizance of the above facts resulted in short levy of tax of Rs.1.54 lakh including surcharge.

On this being pointed out in audit, the assessing officer reopened the case (August 1998) for reassessment which was yet to be completed (November 1999).

The matter was reported to Government (June 1999); their reply was awaited (November 1999).

2.9 Short levy of tax due to allowance of inadmissible concession

Under the OST Act, a registered dealer engaged in the generation and distribution of electricity is entitled to purchase goods at a concessional rate of 4 *per cent* subject to production of declaration in Form IV. Dealers engaged in manufacturing of goods and selling thereof are not entitled to any deduction from the sale turnover towards labour and service charges incurred in the course of the said manufacturing.

Allowance of incorrect concession on sale to an ineligible dealer led to short levy of tax of Rs. 1.55 lakh.

During the course of audit of Puri-I Circle (May 1997), the assessing authority allowed a concessional rate of tax of 4 *per cent* on the sale of electrical transformers valued at Rs.15.42 lakh (1995-96) to a division of Orissa State Electricity Board. It was revealed in audit that the above division was not registered dealer in terms of the OST Act. Further, an amount of Rs.1.47 lakh was incorrectly deducted from the gross turnover of the dealer towards labour and service charges incurred in manufacturing, which should have been taxed being a part of taxable turnover at the rate of 12 *per cent*. This resulted in short levy of tax of Rs.1.55 lakh.

On this being pointed out in audit (May 1997) the assessing officer raised (November 1998) the extra demand of Rs.1.55 lakh. The case is in first appeal. Further report was awaited (November 1999).

The matter was reported to the Government (April 1999); their reply was awaited (November 1999).

2.10 Non-levy of penalty

Under the Central Sales Tax Act, 1956, a registered dealer may purchase goods from a dealer outside the State at a concessional rate of tax by furnishing a declaration in prescribed Form 'C', if such goods are covered in his registration certificate for resale, use in manufacture, processing of goods etc. An unregistered dealer is liable for prosecution if he falsely represents that he is a registered dealer. The registering authority may, however, impose in lieu of prosecution, a penalty not exceeding one and half times the amount of tax which would have been levied on such goods.

Non-levy of penalty amounting to Rs.2.78 lakh on account of false representation made by an unregistered dealer.

In the course of audit of Cuttack-II Circle, it was noticed (December 1996) that a dealer registered under the CST Act with effect from 21 June 1992, paid tax in respect of purchases made prior to his registration at concessional rate of four *per cent* by furnishing declarations in Form 'C' which was irregular and rendered the dealer liable for either prosecution or imposition of penalty amounting to a maximum of Rs.2.78 lakh.

On this being pointed out in audit (December 1996), the assessing officer imposed (January 1997) penalty of Rs.2.78 lakh. Report on recovery was awaited (November 1999).

The matter was reported to the Government (June 1999); their reply was awaited (November 1999).

2.11 Short levy of tax due to incorrect exemption of Central Sales Tax

Under the provision of the Central Sales Tax (CST) Act 1956, if any commodity is not exempted generally from tax under Sales Tax Law of the appropriate State, tax is to be levied in the course of inter-state sale at prescribed rates. Rice Bran is taxable at the rate of 4 *per cent* under OST Act and is tax free if sold for use as cattle feed. However it is taxable at the rate of 10 *per cent* if not supported by declaration in Form-C, under CST Act.

Incorrect exemption of tax on sale of goods led to short levy of Rs.2.05 lakh.

In course of audit of Kalahandi Circle (Kesinga and Khariar Road units) it was noticed (July 1998) that two dealers sold rice bran worth Rs.20.54 lakh during 1994-95 and 1996-97 in course of inter-State trade without declaration in Form-C and the same was exempted from tax by the assessing officers while finalising (March 1998 and January 1998) the assessment of the dealers. This incorrect exemption resulted in short levy of Central Sales Tax of Rs.2.05 lakh.

On this being pointed out in audit (July 1998), the assessing officer reopened the case. Further reply has not been received (November 1999).

The matter was brought to the notice of the Government (April 1999); their reply was awaited (November 1999).

2.12 Non-realisation of tax

Under the Orissa Sales Tax Act 1947, and rules framed thereunder, if a dealer fails to pay the tax due to the State, the assessing officer may require any person who holds or may subsequently hold any money for or on account of such dealer, to pay into the Government treasury the amount sufficient to cover the tax due from the dealer in the manner specified in the notice made to that effect. Further, the Revenue Recovery Act, 1890, provides for recovery of public demands from defaulters who may have shifted to outside the State.

Incorrect withdrawal of attachment order led to non-realisation of demand of Rs.21.16 lakh.

During the course of audit of Puri-II Circle, Jatni, it was noticed (August 1995) that consequent upon non-payment of tax of Rs.21.16 lakh for the assessing years 1988-89 to 1991-92 by a cashew nut dealer, the assessing officer had attached the dealer's bank accounts in April 1994 for realisation of Government dues. Being aggrieved, the dealer approached the Commissioner of Commercial Taxes, Orissa (CCT) through a revision petition complaining that against admitted tax of Rs.15.51 lakh, the assessing officer had raised demand of Rs.21.16 lakh. On this the CCT, Orissa directed (May 1994) the assessing officer to vacate the notices of attachment which were accordingly withdrawn (May 1994). A notice was, thereafter served against the dealer on 30 June 1994 for reconciliation of the discrepancies in the demands which was not responded to by the dealer who had since closed down his business and left. The dealer was a permanent resident of Quilon District in Kerala. This led to non-realisation of Government dues amounting to Rs.21.16 lakh.

On this being pointed out in audit (August 1995), the CCT, Orissa stated (February 1999) that the dealer did not turn up for reconciliation of the discrepancy and hence the attachment orders were again issued to different banks (December 1995). The reply is not tenable because had the Commissioner amended the attachment order to the extent of the undisputed liability of tax admitted by the dealer (Rs.15.51 lakh) instead of totally vacating it the department could have at least realised Rs.5.00 lakh which was lying to his credit in the Bank account during the period of first attachment. No inquiry was also made by the department to know if the dealer had any credit balance in his Bank account after the second attachment. No steps were also taken to recover the Government dues by attachment of his properties by invoking the provision of the Revenue Recovery Act, 1890. Further progress of the case was awaited (November 1999).

The matter was reported to the Government (July 1999); their reply was awaited (November 1999).

2.13 Renewal of Registration without clearance of arrear demands

Under the Orissa Sales Tax Act, 1947 and Rules made thereunder, if a dealer fails to pay the arrears of tax due to the State, the arrears shall be realised either by attaching the properties of the dealer through initiation and execution of Tax Recovery (TR) proceedings or by attaching the dues of any third party who owes some amount to the dealer.

Incorrect renewal of R.C. despite arrears and lack of pursuance led to non-realisation of demand of Rs.419.95 lakh.

During the course of audit of Cuttack-I (West) Circle, it was noticed (February 1999) that the R.C. of the dealer was irregularly renewed on two occasions (March 1987 and March 1988) despite heavy dues outstanding against him without recording any reasons in writing. Though the dealer did not pay any of the demands raised from time to time no attempts were made by the assessing officer to realise the dues under the special mode of recovery prescribed under the OST Act. Tax Recovery (TR) proceedings were initiated much later (between June 1995 and January 1999) i.e. after 2 to 8 years of raising demands and Form-2 notices were served by affixure due to closure of business and non-availability of dealers. The total demand against the dealer for which TR proceeding was initiated stood at Rs.419.95 lakh which was yet to be realized from the dealer.

On this being pointed out in audit (March 1999), it was stated by the assessing officer that references had been issued to ward Inspector of Sales Tax (IST) for realisation of dues and that he had been asked to conduct inquiry regarding movable/immovable property of the dealer and the possibility of the realisation of arrear dues from the third parties. Further reply was awaited (November 1999).

The matter was reported to the Government (July 1999); their reply was awaited (November 1999).

CHAPTER-3

TAXES ON MOTOR VEHICLES

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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 1998-99 revealed under-assessment of tax and losses of revenue amounting to Rs.1555.42 lakh in 7,434 cases which may broadly be categorised as under :

Sl.No.	C a t e g o r y	No. of cases	Amount (Rs. in lakh)
1	Short realisation and short levy of motor vehicles tax/additional tax.	984	46.15
2	Non-levy/non-realisation of motor vehicles tax/additional tax.	2253	469.08
3	Short/non-realisation of compounding fees	196	12.68
4	Non-realisation of composite tax	135	2.02
5	Short/non-realisation of Trade Certificate fees/taxes	62	1.04
6	Losses due to other irregularities	3803	822.54
7	Review	1	201.91
	Total	7434	1555.42

During the course of the year 1998-99, the department accepted under-assessment etc. of tax amounting to Rs.161.85 lakh in 1,094 cases which had been pointed out in audit in earlier years.

A few illustrative cases highlighting important audit observations involving Rs.1,279.71 lakh and findings of a review on "Working of the National Permit Scheme" involving Rs.201.91 lakh are mentioned in the following paragraphs.

3.2 Working of the National Permit Scheme

3.2.1 Introduction

The National Permit Scheme was formulated by the Government of India in 1975 under the provisions of the Motor Vehicles Act, 1988, and the Rules made thereunder, namely, the Motor Vehicles (National Permits) Rules, 1975, to promote and facilitate long distance inter-State transportation of goods by road. Under this Scheme, the States and Union Territories are authorized to grant permits to the owners of public carrier vehicles for carriage of goods throughout the territory of India or in such contiguous States not being less than four in number including the home-State.

For issue of a National Permit, the intending operators are required to pay the prescribed permit fees and authorization fees to the home-State in addition to the Motor Vehicles Taxes levied by the home-State concerned as specified in their respective Motor Vehicles Taxation Laws. In addition, composite tax is also required to be paid (for each year) in advance to each State/Union Territory in which permission to operate the vehicle is granted as notified by the States/Union Territory concerned either at a time or in two equal six monthly instalments.

3.2.2 Organisational Set up

The State Transport Authority (STA), Orissa, is the administering authority in respect of issue of National Permits/Grant of authorization and implementation of the Scheme in Orissa. All the work relating to administration of the National Permit Scheme is dealt with in the office of the Transport Commissioner-cum-Chairman, S.T.A., Orissa, Cuttack, assisted by other designated officers, viz. Secretary, Under Secretary and Assistant Secretary. There are 22 numbers of border check gates established by the State Government on the inter-State entry points, connecting Orissa.

3.2.3 Scope of Audit

Out of 22 unified border check gates (inter-State) in Orissa, records relating to the year 1995-96 to 1997-98 of five check gates* as well as S.T.A., Orissa, Cuttack, were test checked during the period from February 1999 to May 1999 to examine inter alia whether the system existing in the Department ensured proper administration, realisation and accounting of receipts relating to the National Permit Scheme and their timely credit to Government account.

* Biramitrapur, Girisola, Jamsola, Laxmannath and Sohella

3.2.4 Trend of Revenue under National Permit Scheme

The total receipts under Motor Vehicles Taxes vis-a-vis receipts under National Permit Scheme (included in total collection) for the last three financial years were as follows:

Year	Total collection under M.V. taxes (Rupees in crore)	Collection towards composite tax etc. under National Permit Scheme (Rupees in crore)	Percentage of collection towards N.P. Scheme over total collection
1995-96	107.50	16.88	15.70
1996-97	128.25	18.17	14.17
1997-98	141.78	18.15	12.80

It would be seen from the above that there was decline in percentage of collection towards National Permit Scheme for the last two years.

3.2.5 Growth of Permits/Authorisation

A permit is issued for 5 years by the S.T.A., as prescribed under the Motor Vehicles Act, 1988, authorizing the use of a motor vehicle as transport vehicle. On payment of prescribed fee and composite tax, authorisation is granted annually/six monthly under the National Permit (N.P.) Scheme by the S.T.A., which confers the right of operation to the holders of such authorisation, to ply the vehicles in the area and period specified in the permit/authorisation.

As per the information furnished by the S.T.A., Orissa, the position of National Permit issued/authorisation granted by the S.T.A., during the period from 1995-96 to 1997-98 was as under :

Year	No. of New permits granted	No. of authorisation issued in respect of permits issued in earlier years	Total number of authorisations issued during the year
1995-96	905	3216	4121
1996-97	1233	4165	5398
1997-98	836	5752	6588

It would be seen from the above that there was drastic decline of 32.20 *per cent* in number of new permits issued during 1997-98 when compared to those issued during 1996-97.

On this being pointed out (May 1999), the Department stated (May 1999) that new operators of goods carriages were not availing of the National Permits.

3.2.6 Inadequate internal control mechanism

The Motor Vehicles (National Permits) Rules, 1975 stipulate that the appropriate authority shall obtain from the National Permit holder, a quarterly return in the prescribed form, containing inter alia the name and complete address of the National Permit holder, the registration mark of the motor vehicle, the National Permit number, a summary of trips made during the quarter, details of taxes and fees, if any, due to the State etc. and in turn, shall forward copies thereof to the appropriate authority of the State concerned. Receipt of such information is required to watch the periodical recoveries and the reasons for non-recovery. It was noticed that no register was maintained in the office of the Transport Commissioner to record such basic information and monitor the recovery of dues from other States. Consequently, the office could not indicate the total number of vehicles of other States plying in Orissa under National Permit Scheme during the period under review. Further, the STA Orissa did not maintain a Demand, Collection and Balance (D.C.B.) Register in respect of other State vehicles covered by National Permits plying in Orissa and there was no system in the Department to ensure that the composite tax due to the State was being realised promptly, fully and within prescribed dates. No efforts were made by the Department to obtain the requisite information from the concerned authorities of other States. Due to non-availability of required information, payment of composite tax, i.e. whether it was paid correctly for relevant periods could not be cross-checked from other connected records such as Bank Draft Registers.

Due to improper/non-maintenance of records information like (i) position of recovery of dues from other States and (ii) number of vehicles plying in Orissa under NP Scheme, the position of prompt realisation of composite tax due could not be ascertained.

On review of 126 forwarding letters containing 3,333 demand drafts, the following deficiencies were noticed.

	<u>No. of cases.</u>
(a) Period for which the vehicles concerned were issued National Permits, were not mentioned	3,175
(b) Authorisation number and validity not mentioned.	1,552
(c) Description of the vehicle, whether conventional or multi-axle etc. not mentioned.	3,312

3.2.7 Receipt and disposal of Bank Drafts (Demand Drafts)

(i) Some of the important defects noticed in course of test check (between March and May 1999) of the Bank Draft Registers and forwarding letters of DDs maintained were tabulated below:-

Sl. No.	Nature of Irregularity	Period	No. of DDs/ Amount (Rupees in lakh)	Delay in receipt/transmission/deposit		
				Between 1 and 6 months	Between 6 and 12 months	Above 12 months
				No. of DDs / Amount (Rupees in lakh)		
1	Late receipt of demand drafts from other States.	1995-96 to 1997-98	<u>5038</u> 136.00	<u>4494</u> 122.14	<u>513</u> 13.29	<u>31</u> 0.57
2	Delay in transmission of demand drafts to other States	1996-97 and 1997-98	<u>31654</u> 791.35	<u>27597</u> 689.93	<u>4057</u> 101.42	—
3	Delay in deposit of demand drafts	1995-96 to 1997-98	<u>11375</u> 283.11	<u>10965</u> 273.29	<u>194</u> 4.84	<u>9</u> 0.15

Out of 11,375 numbers of DDs involving Rs.283.11 lakh test checked with reference to forwarding letters of DDs received from other States towards composite tax, 11,168 numbers of DDs involving Rs.278.28 lakh were deposited with the Bank. Balance of 207 numbers of DDs for Rs.4.83 lakh was neither accounted for in the B.D Registers, nor remitted into treasury resulting in loss of revenue to the State.

(ii) Revalidation of demand drafts

A demand draft requires re-validation if it is not presented to the Bank for payment/credit to payees account within 6 months from the date of its issue. Test check of relevant Bank Draft Registers with Revalidation Register revealed that 4,154 demand drafts for Rs.61.33 lakh were returned to the Banks concerned for re-validation during the years 1995-96 and 1997-98 due to delay in receipts from other States and delay in sending to Bank for encashment. Of these, 3,955 demand drafts for an amount of Rs.57.68 lakh were received back and credited to Government account.

Receipts and disposal of Bank Draft (BD) Register revealed (i) non-accountal of 207 DDs for Rs.4.83 lakh (ii) lack of follow up action in getting time-barred BDs re-validated resulted in non-realisation of Rs.3.65 lakh and (iii) discrepancies between figure as per BD Register and that of the Remittance Register.

However, 199 demand drafts drawn between March 1986 and August 1997 involving Rs.3.65 lakh have not been received after re-validation so far (May 1999). Thus, failure of the department to ensure timely realisation and credit of bank draft to Government account resulted in retention of Rs.3.65 lakh outside the Government account.

(iii) Non-reconciliation of remittances into treasury

The officers-in-charge of cash transaction/cash books are required to periodically reconcile the totals in the Bank Draft Registers with that of the proceeds of the demand drafts deposited into Bank and ensure that all the demand drafts received have been credited to Government account promptly. This was however not done at any time during the period under review. A test check of transaction for three months of November 1995, February 1997 and October 1997 indicated that there were huge differences between deposit figures shown in the subsidiary cash book of Bank Drafts and the figures recorded in the register of Treasury Remittances.

Due to non-reconciliation of the demand drafts with the treasury, the fact of the entire amounts being credited to Government account in time could not be conclusively established.

3.2.8 Non-realisation of composite tax

Under the scheme, the composite tax is required to be paid to the State/Union Territory in which the vehicles are authorised to operate, according to the notifications issued by the concerned States. Such tax shall be paid on or before the 15th of March every year at a time or in two equal instalments on half yearly basis.

Test check of relevant records revealed that an amount of Rs.9.33 lakh in 127 cases due to other States* was not collected by the STA, Orissa for the second half of these years.

3.2.9 Realisation of composite tax in respect of vehicles authorised to ply in Orissa under National Permit Scheme

As per the Notification of Government of Orissa of August 1993, composite tax in respect of goods carriages belonging to other States/Union Territories plying in Orissa under National Permit Scheme granted under the provisions of the Motor Vehicles Act, 1988, is payable at the rate of Rs.5,000/- for every financial year irrespective of the laden weight of the concerned goods carriages. The aforesaid composite tax shall be paid on or before 15th March every year at a time or in two equal instalments on half yearly basis, the first instalment being

* Andhra Pradesh (Rs.1.14 lakh), Assam (Rs.0.08 lakh), Bihar (Rs.2.55 lakh), Delhi (Rs.0.09 lakh), Gujarat (Rs.0.20 lakh), Himachal Pradesh (Rs.0.03 lakh), Madhya Pradesh (Rs.1.70 lakh), Maharashtra (Rs.0.57 lakh), Punjab (Rs.0.07 lakh), Pondichery (Rs.0.02 lakh), Rajasthan (Rs.0.05 lakh), Uttar Pradesh (Rs.0.69 lakh) and West Bengal (Rs.2.14 lakh)

paid before 15th March every year for the period April to September and the second instalment being paid before 15th September every year for the period October to March. When the authorisation in respect of a National Permit is granted at any time after the first quarter of the financial year, the tax shall be assessed on pro-rata basis for the remaining quarter(s) of the financial year including the quarter in which such authorisation is granted.

Test check of Bank Draft Registers revealed the following:-

(i) Arrears of composite tax

Amounts towards composite tax due to Government of Orissa from other States/Union Territories vehicles plying in Orissa under National Permits towards composite tax was not realized as detailed below :-

Year.	No. of cases	Amount (in lakh of rupees)	Name of the States
1995-96	787	19.68	W.B., U.P.
1996-97	842	21.05	A.P., Haryana, Karnataka.
1997-98	2977	74.43	Karnataka, M.P., Rajasthan, A.P., Assam, W.B., Haryana.
Total	4606	115.16	

(ii) Short-realisation of composite tax at concessional rates

Government of Orissa in Commerce and Transport (Transport) Department Notification of August 1993 prescribed that the tax on multi-axle vehicles would be 25 per cent less than the rate applicable for conventional two-axle vehicles. Such concession was however removed from the year 1998-99 vide their Notification dated 24.4.1998.

It was, however, noticed during test check of relevant records that in none of the forwarding letters and/or its enclosures received from the S.T.As/R.T.As of other States/ Union Territory was there any mention of the nature and other particulars of the vehicles which had paid composite tax at concessional rates in support of their being eligible for such concession. Moreover, in the absence of any quarterly returns being received as prescribed under Rule-9 of the Motor Vehicles (National Permits) Rules, 1975 from other States/Union Territories in respect of such vehicles plying in Orissa under National Permit or any other supporting evidence in support of their paying the composite tax at concessional rates as multi-axle vehicles, it was not possible to counter-check their justification for such concession.

Allowance of incorrect concession of composite tax to vehicles other than multi-axle vehicle led to short realisation of composite tax of Rs.46.52 lakh during the years 1995-96 to 1997-98.

Short realisation of composite tax due to such concession worked out to Rs.46.52 lakh in 7,170 cases as follows:

Year	No. of cases	Amount (in lakh of rupees)	Name of the States
1995-96	2374	15.27	Haryana, Nagaland
1996-97	2830	18.57	Karnataka, Nagaland, A.P., Haryana.
1997-98	1966	12.68	Karnataka, Rajasthan, M.P., A.P., Assam, Nagaland, Haryana.
Total	7170	46.52	

(iii) Non-realisation of penalty for belated payment of composite tax

Instructions of Government of India read with the M.V. Taxation Laws of Orissa provide that penalty at the rate of Rs.100/- per month of default or part thereof shall be paid in addition if the composite tax payable under the National Permit Scheme is not paid within the specified period.

Test check of records in the office of the Transport Commissioner revealed that the composite tax payable to Orissa was paid belatedly by vehicle owners of seven States in 1,900 cases. The delay ranged between one and six months. However, against the penalty of Rs.0.80 lakh leviable penalty of Rs. 0.28 lakh only was levied in 252 cases resulting in short levy of penalty of Rs 0.52 lakh.

3.2.10 Ineffective functioning of Border Check Gates

In order to check and prevent leakage of tax, fee and penalty leviable on vehicles entering or passing through the State of Orissa, the State Government had established 22 border check gates at entry points on the inter-State routes connecting Orissa with its neighboring States. Test check of records in 5 such check gates revealed that registers showing the details of vehicles entering in and going out of Orissa were not maintained properly and exhaustively to depict complete details of goods vehicles including type of the vehicles, laden weight, etc. passing through the border check gates. No separate and exclusive registers were being maintained to record the details of goods vehicles of other States passing through the incoming/out going gates under National Permit Scheme.

Loss of revenue due to ineffective functioning of border check gates amounting to Rs.22.42 lakh.

Some of the irregularities noticed were tabulated as under :-

Check Post(s)	Period	Nature of irregularity	No. of cases	Amount (Rupees in lakh)
Sohela, Girisola and Jamsola	Between March 1996 and March 1998	Plying without valid authorisation as per vehicle check reports	77	3.85
Biramitrapur and Laxmannath	Between April 1997 and July 1997	Entered in the State without payment of composite tax as per Bank Draft Register.	301	15.05
Biramitrapur, Girisola and Jamsola	Between March 1996 and March 1998	Allowed to enter in the State without fitness certificate/realisation of prescribed fine.	137	3.42
Girisola	Between April 1996 and March 1998	Collection of composite tax in cash in contravention of the provisions of the scheme.	NA	7.41
Biramitrapur	October 1995	Permitted the vehicles to enter into Orissa without ascertaining the genuineness of National permits.	2	0.10
Total			517	29.83

3.2.11 Internal audit

In spite of an Internal Audit Wing being in existence in the Department, no internal audit of the National Permit Scheme had been conducted so far, nor had any efforts been made to study the defects and problems in implementation of the Scheme.

On being pointed out, the Department stated (April 1999) that internal audit of the National Permit Scheme could not be taken by due to shortage of staff.

3.2.12 Conclusion

The Department failed to develop an effective Management Information System to check pilferage of revenue under the National Permit Scheme. Because of the system defects, the very purpose of streamlining the procedure of smooth and speedy flow of traffic was defeated.

The matter was brought to the notice of Government (June 1999); their reply was awaited (November 1999).

3.3(i) 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. In the event of non-payment of tax within the specified period, the vehicle owner is liable to pay penalty ranging from 25 per cent to 200 per cent of the tax due depending upon the period of delay.

Motor vehicles tax and penalty amounting to Rs.233.04 lakh was not levied from stage carriages having valid permits.

A test check of records revealed (between August 1998 and April 1999) that in 14 regions there was non/short realisation of motor vehicles tax/additional tax amounting to Rs.77.68 lakh in respect of 495 vehicles for the period between April 1997 and March 1998 due to non-compliance of the above provisions. In addition, penalty of Rs.155.36 lakh was also leviable. Details are given below :-

Sl.No	Number of regions	Number of vehicles	Amount of tax			Amount of penalty not
			leviable	levied	non/short levied	levied
			R u p e e s i n l a k h			
1	14 ^A	285 (owned by private operators)	45.46	-	45.46	90.92
2	9 ^B	56 (owned by OSRTC)	24.70	-	24.70	49.40
3	14 ^A	154 (owned by private operators)	43.43	35.91	7.52	15.04
	Total	495	113.59	35.91	77.68	155.36

On this being pointed out in audit (between August 1998 and April 1999), all the taxing officers agreed to issue demand notices for realisation of the dues after verification of records. No further compliance, though called for, has been received (November 1999).

^A Balasore, Bhubaneswar, Chandikhol, Cuttack, Dhenkanal, Ganjam, Keonjhar, Koraput, Mayurbhanj, Phulbani, Puri, Rourkela, Sambalpur and Sundargarh.

^B Balasore, Bhubaneswar, Chandikhol, Ganjam, Keonjhar, Mayurbhanj, Puri, Rourkela and Sambalpur.

The above cases were reported to Government (June 1999); their reply was awaited (November 1999).

(ii) Non/short levy of penalty for belated payment of motor vehicles tax/additional tax

During the course of audit of 14 regions[#] (between August 1998 and April 1999), it was noticed that due to delay in making payment of motor vehicles tax there was non/short levy of penalty amounting to Rs.14.76 lakh in respect of 260 cases (non-levy of Rs.10.69 lakh in respect of 180 cases and short levy of Rs.4.07 lakh in respect of 80 cases) for the period falling between April 1997 and March 1998.

On this being pointed out in audit (between August 1998 and April 1999) the taxing officers, Balasore, Koraput and Puri stated (between August 1998 and April 1999) that the cases would be examined while the remaining taxing officers agreed (between August 1998 and April 1999) to realise the dues.

The matter was reported to Government (June 1999); their reply was awaited (November 1999).

3.4 Undue benefit to the owners of vehicles by issue of back dated money receipts

Under the OMVT Act, 1975 and rules made thereunder, penalty is leviable if a vehicle owner has not paid tax/additional tax in respect of a motor vehicle within 15 days from the due date as prescribed. The penalty ranges from 25 per cent to 200 per cent of the tax/additional tax due depending upon the period of delay.

Manipulation of the date of issue of money receipts enabled the vehicle owners to avoid penalty amounting to Rs.3.71 lakh.

In course of test check of records of Cuttack region, it was noticed (October 1998) that undue benefit was given to the vehicle owners by issue of back dated money receipts although the money receipt books were received (between May 1997 and November 1997) from the Central stock by the cash section after the date of issue as shown on money receipts. The issue of back dated money receipts was intended to avoid imposition of penalty ranging from 25 per cent to 50 per cent, which ultimately resulted in loss of revenue amounting to Rs.3.71 lakh in respect of 337 vehicles for the period falling between May 1997 and November 1997.

[#] Balasore, Bhubaneswar, Chandikhol, Cuttack, Dhenkanal, Ganjam, Keonjhar, Koraput, Mayurbhanj, Phulbani, Puri, Rourkela, Sambalpur and Sundargarh.

On this being pointed out in audit (October 1998), the Transport Commissioner, Orissa stated (August 1999) that on receipt of the audit observation, an enquiry had been conducted which had confirmed the factual position and that Government had been moved (July 1999) to initiate action against the delinquent officers/officials. Further action was awaited (November 1999).

The matter was reported to Government (June 1999); their reply was awaited (November 1999).

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

Under the OMVT Act, 1975, motor vehicles tax and additional tax shall be levied on every motor vehicle used or kept for use in the State unless prior intimation of non-use is given to the Taxation officer on or before the date of expiry of the period for which tax has been paid, specifying the period of non-use and the place where the motor vehicle is to be kept during such period. If at any time during the period covered by such intimation, 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 and penalty varying from 25 per cent to 200 per cent.

Motor vehicles tax and penalty aggregating to Rs.25.47 lakh was not realised from vehicles which violated off-road declaration.

During the course of audit of 6 regions*, it was noticed (between August 1998 and April 1999) that 52 vehicles which had been declared off-road for various periods (between July 1996 and March 1998) were either detected plying on the road or not found at the declared place by the enforcement staff during the period covered by such off-road declarations. But no action was taken by the Taxation officers to realise the tax and levy penalty in respect of such vehicles. Tax and additional tax on these vehicles upto March 1998 worked out to Rs.8.49 lakh. In addition, penalty of Rs.16.98 lakh was also leviable.

On this being pointed out in audit (between August 1998 and April 1999), all the Taxation officers except Taxation officer, Rourkela agreed (between September 1998 and April 1999) to realise the dues. The Taxation officer, Rourkela stated (between August 1998 and September 1998) that the off-road violation cases were under process. Further progress of realisation was awaited (November 1999).

* Cuttack, Dhenkanal, Ganjam, Koraput, Rourkela and Sambalpur.

The above cases were reported to Government (June 1999); their reply was awaited (November 1999).

3.6 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 the 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 such route in the State of Orissa at the rates and in the manner specified under the OMT Act, 1975 and rules made thereunder.

Tax and penalty of Rs.24.04 lakh was not realised from stage carriages under reciprocal agreement.

A test check of records in the STA and 8 regions[#] (between August 1998 and March 1999) revealed that due to non-compliance of the above provisions there was non/short levy of motor vehicles tax/additional tax amounting to Rs.8.01 lakh in 37 cases and non-levy of penalty amounting to Rs.16.03 lakh as per details given below:-

Sl. No	Number of regions	Number of stage carriages	Period of taxation	Non/short levy of tax (Penalty) (In lakh of Rupees)
1	1 STA, Orissa and 3 Regions Dhenkanal, Ganjam and Keonjhar	8 (Owned by private operators)	Between April 1996 and March 1998	0.66 (1.32)
2	1 STA, Orissa and 4 Regions Bhubaneswar, Chandikhol, Ganjam and Keonjhar	21 (Owned by private operators)	Between March 1996 and March 1998	5.42 (10.84)
3	6 Regions Balasore, Bhubaneswar, Chandikhol, Keonjhar, Sambalpur and Sundargarh	8 (Owned by OSRTC ^{**})	Between April 1997 and March 1998	1.93 (3.87)
	Total	37	-	8.01 (16.03)

[#] Balasore, Bhubaneswar, Chandikhol, Dhenkanal, Ganjam, Keonjhar, Sambalpur and Sundargarh.
^{**} Orissa State Road Transport Corporation.

On these being pointed out in audit (between August 1998 and March 1999), the STA, Orissa and all other taxing officers of the concerned regions stated (between August 1998 and March 1999) that necessary action would be taken to realise the dues.

The cases were reported to Government (June 1999); their reply was awaited (November 1999).

3.7 Under-assessment of motor vehicles tax/additional tax in respect of stage carriages detected plying without route permit

Under the OMVT Act, 1975, if any stage carriage is detected plying without a permit, the tax payable should be determined on the basis of the maximum number of passengers (including standees) which the vehicle would have been permitted to carry as express service for the entire period not covered by valid permit reckoning the distance covered each day as exceeding 320 kilometers, attracting the highest rate of tax as per the Taxation Schedule.

Tax and penalty of Rs.12.98 lakh was short realised from stage carriages detected plying without route permit.

During the course of audit of 11 regions[#], it was noticed (between September 1998 and April 1999) that 45 stage carriages were detected by the enforcement staff plying without route permit during various periods falling between April 1997 and March 1998 for which motor vehicles tax/additional tax was not assessed and realised at the prescribed rates. This resulted in short realisation of motor vehicles tax/additional tax amounting to Rs.4.33 lakh. In addition, penalty of Rs. 8.65 lakh at the highest rate was also leviable.

On this being pointed out in audit (between September 1998 and April 1999), the taxing officers agreed (between September 1998 and April 1999) to realise the dues on issue of demand notices and on verification of the cases.

The matter was reported to Government (June 1999); their reply was awaited (November 1999).

[#] Bhubaneswar, Chandikhol, Cuttack, Dhenkanal, Ganjam, Keonjhar, Koraput, Mayurbhanj, Puri, Rourkela and Sambalpur.

3.8 Leakage of revenue due to non-imposition of fine for excess load in goods carriages

Under the MV Act 1988, an officer of the Motor Vehicle Department shall require the driver to convey the vehicle to the weighing device, if he has reason to believe, that the goods vehicle is being used for carrying load in excess of the permissible limit in contravention of Section 113 of the Act. The Act provides for imposition of fine of Rupees two thousand for such contravention and an additional amount of Rupees one thousand per ton of such excess load (Section 194 of the Act *ibid*).

Verification of records of Sales Tax wing with those of Motor Vehicles wing in an unified check gate revealed that 137 vehicles carrying excess laden weight (as per ST wing records) were entered in M.V. wing as within permissible limit (82 cases) and the balance 55 vehicles were not entered in MV register at all. This led to loss of revenue of Rs.11.72 lakh.

During the course of audit of Jamsola Unified Check Gate, it was noticed (June 1998) that 137 goods carriages carrying more than the permissible weight were entered in the records of Sales Tax Wing (movement register for both incoming and outgoing vehicles) during the period between August 1997 and March 1998. Cross verification with the relevant records of the motor vehicle wing revealed that while particulars of 82 goods carriages were recorded in the movement register indicating weights within the permissible limit, particulars of the remaining 55 goods carriages were not even recorded in the relevant records which resulted in non-imposition of fine of Rs.11.72 lakh (Rs.7.28 lakh for 82 vehicles and Rs.4.44 lakh for 55 vehicles).

On this being pointed out in audit (June 1998), the Taxing Officer of the check gate contended that as per practice, the documents (e.g. way bill etc.) accompanying the vehicles showing carriage of goods and their weight as shown therein were not verified at the check gate (Motor Vehicle Wing). The weight carried by the vehicle were recorded in the movement register as per entry made in the weighment register after weighment of the vehicle by the Departmental weigh bridge which did not disclose excess permissible weight. As regards non-entry of vehicles in the check gate records, it was contended that the vehicles might have passed through a by-pass road and other village roads without coming to the Motor Vehicles Tax check gate.

The contention of the Taxing officer was not acceptable as there were sufficient indications in the documents (way bill) carried in support of the goods that vehicles carried excess weight and that the department has failed to check leakage of revenue through unified check gates for which these were established.

The matter was reported to Government (July 1999); their reply was awaited (November 1999).

3.1 Realisation of motor vehicles tax in respect of contract carriage

Under the 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.

Tax and penalty amounting to Rs.81.63 lakh was not realised from contract carriages which had valid route permits.

During the course of audit of 14⁺ regions (between August 1998 and April 1999), it was revealed that motor vehicles tax and additional tax in respect of 584 contract carriages were not realised for various periods between April 1994 and March 1998 even though these contract carriages were issued with valid route permits. This resulted in non-realisation of tax and additional tax amounting to Rs.27.21 lakh. In addition, penalty of Rs.54.42 lakh was also leviable.

On this being pointed out in audit, all the taxing officers agreed to realise the dues except the taxing officers, Bhubaneswar, Koraput and Puri who stated (between December 1998 and April 1999) that action would be taken after verification of records.

The matter was reported to Government (June 1999); their reply was awaited (November 1999).

3.2 Short realisation of tax in respect of stage carriages used as contract carriages

Under the OMVT Act, 1975 as amended from time to time, when a motor vehicle in respect of which tax for any period has been paid as per registration, is proposed to be used in a manner for which higher rate of tax is payable, the owner of the vehicle is liable to pay the differential tax. In determining such differential tax, any broken period in a month is to be considered as a full month.

Differential tax of Rs.11.27 lakh was not realised from stage carriages used as contract carriage.

* Balasore, Bhubaneswar, Chandikhol, Cuttack, Dhenkanal, Ganjam, Keonjhar, Koraput, Mayurbhanj, Phulbani, Puri, Rourkela, Sambalpur and Sundargarh.

During the course of audit of 13 regions[#], it was noticed in audit (between August 1998 and April 1999) that 118 stage carriages were permitted (between April 1997 and March 1998) to ply temporarily as contract carriages for which higher rate of tax was leviable but was not realised. This resulted in non-realisation of tax amounting to Rs.3.76 lakh. In addition penalty of Rs.7.51 lakh was also leviable.

On this being pointed out in audit (between August 1998 and April 1999), all the taxing officers agreed (between August 1998 and April 1999) to issue demand notices/to issue demand notices after verification of the cases for realisation of the dues.

The matter was reported to Government (June 1999); their reply was awaited (November 1999).

3.11 Short realisation of motor vehicles tax due to application of incorrect rates

Under the provisions of OMVT Act, 1975 and rules made thereunder, tax/additional tax payable in respect of goods carriages of other States, depends upon the periodicity of operation of the vehicles in Orissa and the registered laden weight of the vehicle and in respect of home State vehicles on the registered laden weight of such vehicles. In the case of goods vehicles of other States plying in Orissa, the tax/additional tax is required to be collected by the home State and remitted to STA, Orissa by means of crossed bank drafts.

Short-realisation of tax and penalty amounting to Rs.6.99 lakh due to application of incorrect rates.

During the course of audit of STA, Orissa and of 11 regions^{*} (between September 1998 and April 1999) it was noticed that motor vehicles tax/additional tax in respect of 285 goods carriages amounting to Rs.2.33 lakh for the period between April 1997 and March 1998 was short realised due to application of incorrect rates. In addition, penalty of Rs.4.66 lakh was also leviable.

On this being pointed out in audit (between September 1998 and April 1999) all the taxing officers stated (between September 1998 and April 1999) that the tax would be realised whereas the State Transport Authority, Orissa stated (February 1999) that action would be taken to realise the balance tax from the concerned States. Further report on realisation has not been received (November 1999).

[#] Balasore, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Keonjhar, Koraput, Mayurbhanj, Phulbani, Puri, Rourkela, Sambalpur and Sundargarh
^{*} Bhubaneswar, Cuttack, Dhenkanal, Ganjam, Keonjhar, Koraput, Mayurbhanj, Puri, Rourkela, Sambalpur and Sundargarh.

The matter was reported to Government (June 1999); their reply was awaited (November 1999).

3.12 Non-realisation of composite tax in respect of goods vehicle under reciprocal agreement

Under the provisions of the OMVT Act, 1975, where in pursuance of any agreement between the Government of Orissa and Government of any other State, a goods vehicle enters the State of Orissa, it is liable to pay additional tax for each entry into the State at the prescribed rates. However, 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 in lieu of the additional tax payable for each entry with effect from July 1986. The tax/fee was to be paid in advance in lump sum on or before 15 April every year by crossed bank drafts, to the STA, Andhra Pradesh for onward transmission to the STA, Orissa. In case of delay in payment, penalty of Rs.100 for each calendar month or part thereof is leviable in addition to the composite tax.

Non-realisation of composite tax/penalty amounting to Rs.3.56 lakh from goods vehicles of other State.

During the course of audit of STA, Orissa it was noticed (January 1999) that 132 goods vehicles of Andhra Pradesh were allowed to ply in Orissa under the reciprocal agreement during the year 1997-98 but composite tax amounting to Rs.1.98 lakh in respect of these vehicles was not realised. In addition, penalty of Rs.1.58 lakh upto March 1998 was also leviable but not levied.

On this being pointed out in audit (January 1999), the STA, Orissa stated (January 1999) that action had been taken to realise the composite tax alongwith penalty. Realisation of the amounts was awaited (November 1999).

The matter was reported to Government (June 1999); their reply was awaited (November 1999).

3.13 Non-realisation of taxes

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 delivered by the owner of the vehicle to the taxing officer on or before expiry of the term for which tax has been paid. Further, according to the instructions issued by the Transport Commissioner, Orissa (February 1966) demand notices for realisation of unpaid taxes should be issued within 30 days from the date of expiry of the grace period (15 days) of payment of tax. Penalty varying from 25 per cent to 200 per cent of the tax due is leviable depending upon the period of delay.

Tax and penalty of Rs.849.51 lakh was not realised from vehicles which were neither covered by off-road declarations nor had paid tax in other regions.

A test check of daily collection register and register of registration certificate of vehicles of 14 regions[#] (between August 1998 and April 1999) revealed that tax in respect of 3165 vehicles was not paid during the year 1997-98 and in respect of 255 vehicles tax was not paid for different periods during the same year though these vehicles were neither covered by off-road declarations nor had they intimated the deposit of tax in any other region. This resulted in non-realisation of tax of Rs.283.17 lakh. In addition, penalty amounting to Rs.566.34 lakh was also leviable.

On this being pointed out in audit (between August 1998 and April 1999) all the taxing officers agreed (between August 1998 and April 1999) to issue demand notices for realisation of dues. Further progress of realisation was awaited (November 1999).

The above cases were reported to Government (June 1999); their reply was awaited (November 1999).

[#] Balasore, Bhubaneswar, Chandikhol, Cuttack, Dhenkanal, Ganjam, Keonjhar, Koraput, Mayurbhanj, Phulbani, Puri, Rourkela, Sambalpur and Sundargarh.

3.14 Non-realisation of tax/fees on trade certificate

Under the OMVT Act, 1975, read with Central MV Rules 1989, manufacturers or dealers in motor vehicles are required to obtain a trade certificate by paying the requisite tax/fees annually in advance from the registering authority within whose area they have their place of business. Under the Motor Vehicles Act, 1988, dealer includes a person who is engaged in the manufacture of motor vehicles or in building bodies for attachment to the chassis or in the business of hypothecation, leasing or hire purchase of motor vehicles.

Trade certificate tax and fees aggregating to Rs.1.03 lakh was not realised from Motor Vehicle dealers.

During the course of audit of the Rourkela and Sundargarh regions, it was noticed (between September 1998 and November 1998) that trade certificate tax (Rs.51,750) and fees (Rs.51,750) were not collected during the period between April 1997 and March 1998 from 62 motor vehicle dealers, resulting in non-realisation of revenue amounting to Rs.1.03 lakh.

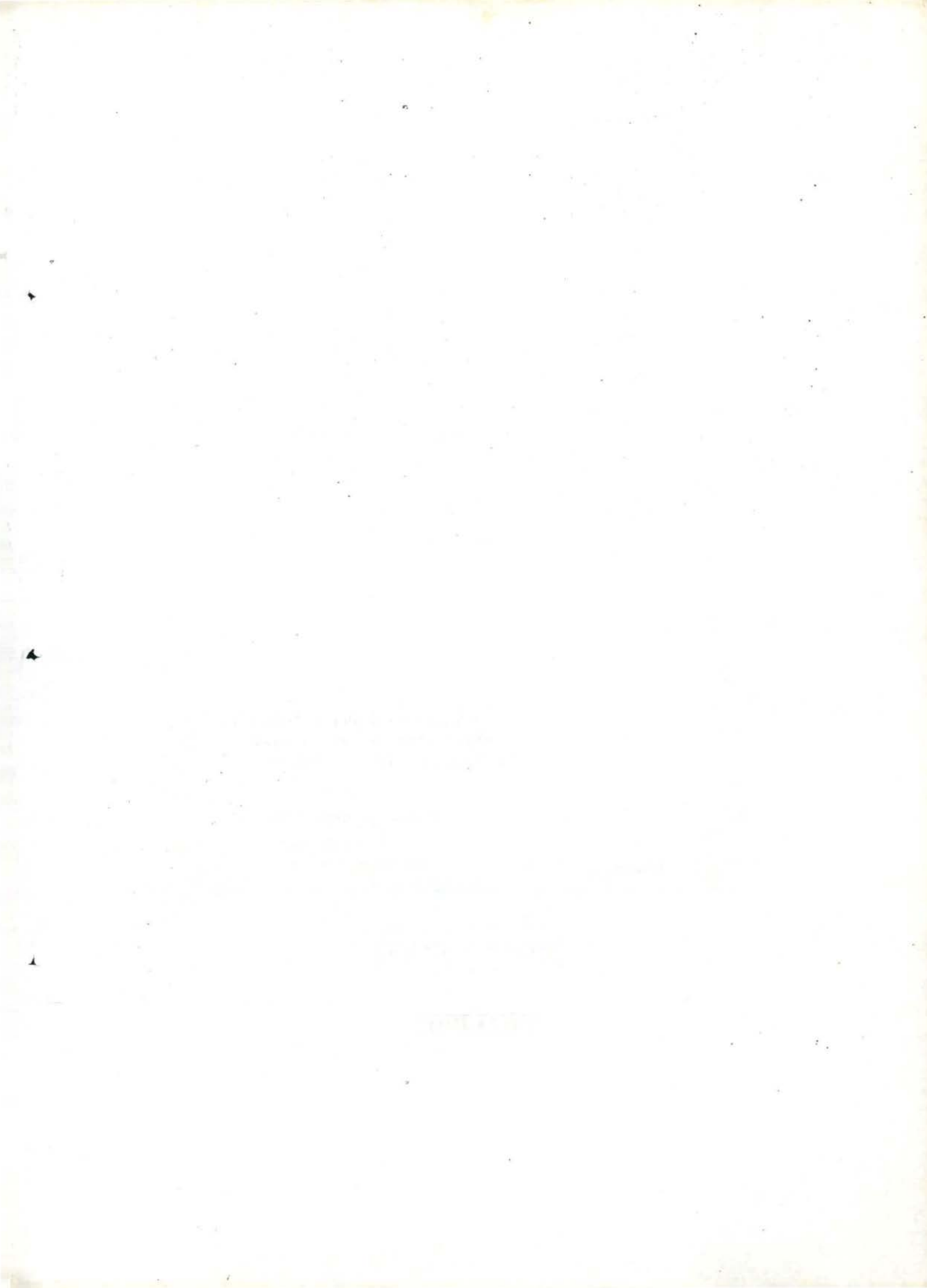
On this being pointed out in audit (between September 1998 and November 1998), the taxing officer, Sundargarh agreed (November 1998) to realise the dues, where as the taxing officer Rourkela stated (September 1998) that action would be taken after examination of the cases.

The matter was reported to Government (June 1999); their reply was awaited (November 1999).

CHAPTER-4

LAND REVENUE

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• Non-realisation of premium etc.	4.2	58
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• Non-assessment and non-realisation of premium and ground rent for conversion of agricultural land	4.4	63



LAND REVENUE

4.1 Results of Audit

Test check of records relating to assessment and collection of Land Revenue conducted during the year 1998-99 revealed non-assessment, under-assessment and non-realisation of revenue amounting to Rs.2,945.57 lakh in 17208 cases which may broadly be categorised as follows:-

Sl. No.	Category	No. of cases	Amount (Rupees in lakh)
1	Non-collection of premium etc. from land occupied by local bodies/private parties etc.	147	1653.22
2	Non/short assessment and short collection of water rates.	24	201.76
3	Non/short realisation of royalty on minor minerals.	351	62.71
4	Non-lease/irregular lease of sairat sources.	152	45.81
5	Blockade of Government revenue due to non-finalisation of OLR cases.	338	734.72
6	Non-realisation of revenue due to delay in finalisation of OEA cases.	16054	108.02
7	Other irregularities.	142	139.33
	Total	17208	2945.57

During the course of the year 1998-99, the department accepted under-assessment etc. of Rs.399.31 lakh in 4480 cases of which 3 cases amounting to Rs.322.17 lakh had been pointed out by audit during 1998-99 and rest in earlier years.

A few illustrative cases highlighting important audit observation involving Rs.280.39 lakh are mentioned in the following paragraphs.

4.2 Non-realisation of premium etc.

According to the Government orders of October 1961, May 1963 and February 1966, Government land can be leased out to local bodies, Public Sector Undertakings, educational and charitable institutions, State and Central Government Departments, etc. on payment of premium fixed on the basis of market value of land plus annual ground rent at the rate of one *per cent* of the market value (0.25 *per cent* in case of educational and charitable institutions). In addition, cess at 50 *per cent* of the ground rent upto 1993-94 and 75 *per cent* thereafter is leviable. Interest at the rate of six *per cent* upto 1991-92 and twelve *per cent* from 1992-93 per annum is also chargeable on belated payment of dues.

Government revenue amounting to Rs.229.44 lakh was not realised due to non-finalisation/delay of finalisation of lease cases.

(i) During the course of audit of records of Bargarh Tahasil, it was noticed (December 1996 and April 1999) that advance possession of Government land measuring 15.44 Acres (10.02 Acres classified as Gochar and 05.42 Acres as village forest) was given (1962-63) to one industrial unit*. The lease was not sanctioned. Subsequently, consolidation operations were undertaken and final Record-Of-Rights (ROR) was published (September 1985) wherein the land in question was recorded in the name of the unit as Pattadar (lessee) and the classification of land (10.02 Acres) changed to Non-Gochar (March 1986) and non forest (05.42 Acres). When this fact came to the notice of the department (January 1993), the Tahasildar sought clarification (February 1993) from the Additional District Magistrate (ADM) whether the lease could be sanctioned to the unit on payment of premium etc. or whether the salami should be realised at the market rate as the land has already been recorded in the name of the unit. The matter was also brought to the notice of the Revenue Divisional Commissioner who directed (January 1994) the Tahasildar to submit a lease proposal to regularize the case. The Tahasildar submitted (December 1995) the lease case to the Collector for regularization of the land in favour of the unit. Pending sanction, the unit has deposited Rupees one lakh (March 1992). However, the case has not been finalised so far (April 1999). Since advance possession was given long back (1962-63) to the unit and the land was incorrectly recorded in the name of the unit as Pattadar and title and classification of land had undergone changes, the delay in processing the case properly resulted in non-realisation of Government dues of Rs.33.07 lakh (Premium Rs.06.72 lakh at the rate of Rs.50,000 per Acre fixed by Government in January 1993, ground rent Rs.02.78 lakh, cess Rs.0.54 lakh and interest Rs.23.03 lakh) from 1962-63 to 1997-98.

* M/s Hira Cement work - A unit of Industrial Development Corporation of Orissa Ltd.(IDCOL)

On this being pointed out in audit (December 1996 and April 1999), the Tahasildar stated (December 1996 and April 1999) that necessary legal action would be taken for correction of ROR after which the lease would be sanctioned and Government dues would be realised.

The matter was reported to Government (May 1999); their reply was awaited (November 1999).

(ii) During the course of audit of Bhubaneswar Tahasil, it was noticed (June 1997 and April 1999) that advance possession of Government land measuring 55 Acres was made over (January 1997) to a Medical Educational and Charitable Trust*. The lease was sanctioned (December 1998) for 30 Acres of land at a premium of Rs.3.5 lakh per Acre (50 per cent of normal rate) with 10 Acres free of premium and the remaining 15 Acres was resumed (February 1999) to the Government. But the Trust has not deposited the Government dues payable by it so far (April 1999). The department has also failed to take effective steps to either realise the dues or resume the land by cancellation of lease. This resulted in non-realisation of Government dues amounting to Rs.133.09 lakh upto March 1998 (Premium Rs.105 lakh, Ground rent Rs.1.4 lakh, Cess Rs.1.05 lakh, Interest Rs.25.64 lakh).

On this being pointed out in audit (between June 1997 and July 1999), the Tahasildar stated (July 1999) that the Government would be moved for realisation of the entire dues from the Trust within the current financial year.

The matter was reported to Government (May 1999); their reply was awaited (November 1999).

(iii) During the course of audit (August 1998) of Angul Tahasil, it was noticed that the Director, Central Rice Research Institute, Cuttack (a unit of Indian Council of Agriculture Research) had applied (May 1994) for lease of 55 Acres of land. In December 1994, the lease case was submitted to the Board of Revenue (BOR) for sanction of lease which raised (February 1995) objection to the proposal on the ground that an area of 1.02 Acre out of the proposed lease area had been earmarked for a public road and returned the case to the Tahasildar, Angul for re-examination. In the meantime (June 1995) advance possession of the land was handed over to the Institute. However the case has not been re-submitted to the BOR so far (November 1999).

Inordinate delay in finalisation of lease case resulted in non-realisation of Government dues amounting to Rs.30 lakh (Premium Rs.21.05 lakh, Ground rent Rs.0.63 lakh, Cess Rs.0.47 lakh and Interest Rs.7.85 lakh) from 1995-96 to 1997-98.

* Binayak Mission Lord Jagannath Institute of Medical Science and Research (a unit sponsored by Thiru Muruga Kireypananda Variyar Thara Thiru Sundara Swamigal (TKVTTTS))

On this being pointed out in the audit (between August 1998 and July 1999), the Tahasildar stated that the case has been re-submitted (July 1999) to the Collector. Further report on sanction of lease and realisation of Government dues has not been received (November 1999).

The matter was reported to Government (May 1999); their reply was awaited (November 1999).

(iv) During the course of audit of Khandapara Tahasil (between January 1997 and August 1999), it was noticed that the erstwhile Orissa State Electricity Board (OSEB) had applied (January 1981) for sanction of lease of Government land (under the management of Khandapara Gram Panchayat) measuring 4.99 acres. Pending approval of competent authority, the OSEB occupied (May 1981) the aforesaid land. Thereafter, the Tahasildar submitted (February 1983) a proposal to the Collector for revocation of the land from the Gram Panchayat to the Government to enable him to process the case for sanction of lease in favour of the OSEB. However, no further action was initiated and the proposal remained pending (April 1999) with the Collector. On an audit observation (January 1997), the proposal was processed and the revocation was sanctioned (August 1999) by the Collector but the case was not processed further for grant of the lease. Thus, inordinate delay in processing the case for revocation of the land and not processing the case further for sanction of lease resulted in non-realisation of Government dues amounting to Rs.17.10 lakh (Premium Rs.05.82 lakh, Ground rent Rs.01.05 lakh, Cess Rs.0.45 lakh, Interest Rs.09.67 lakh and Cost of standing trees Rs.0.11 lakh) from 1981-82 to 1998-99.

On this being pointed out in audit (between January 1997 and August 1999), the Tahasildar stated (August 1999) that the case would be submitted to the competent authority for sanction of lease. Further progress has not been received (November 1999).

The matter was reported to Government (July 1999); their reply was awaited (November 1999).

(v) During the course of audit (between July 1997 and August 1999) of Tangi-Choudwar Tahsil, it was noticed that the Director, Central Rice Research Institute (CRRI), Cuttack took over (April 1994) advance possession of Government land measuring 22.86 acres as per Government order of November 1992. Thereafter, the CRRI applied (April 1995) for sanction of the lease. However, the case was submitted (February 1998) by the Tahasildar to the Collector, Cuttack who returned (October 1998) it with certain objections, but no further action was taken (August 1999) by the Tahasildar to comply with the objections raised by the Collector and get the lease sanctioned. Thus, delay in processing of the case and non-compliance with the objection raised by the Collector resulted in non-realisation of Government dues amounting to

Rs.8.83 lakh (Premium Rs.5.62 lakh, Ground rent Rs.0.22 lakh, Cess Rs.0.17 lakh and Interest Rs.2.82 lakh) calculated at the market rate for the period from 1994-95 to 1997-98.

On this being pointed out in audit (between July 1997 and August 1999), the Tahasildar stated (August 1999) that the case was under process. Further progress was awaited (November 1999).

The matter was reported to Government (July 1999); their reply was awaited (November 1999).

(vi) During the course of audit of Cuttack Tahasil (August 1997 and April 1999), it was noticed that advance possession of Government land measuring 0.283 Acres was made over (February 1996) to Cuttack Municipal Corporation for construction of a market complex which was subsequently regularised by sanction of lease in March 1997 at a premium of Rs.33.63 lakh per acre taking average market value for the preceding 3 years instead of on the basis of highest market value of similar classification of land during the same period. Thus, sanction of lease by applying incorrect formula resulted in short-levy of Government dues amounting to Rs.7.35 lakh (Premium Rs. 4.49 lakh, Ground rent Rs.0.23 lakh, Cess Rs.0.17 lakh and Interest Rs.2.46 lakh) upto March 1998 besides recurring loss of revenue.

On this being pointed out (between August 1997 and August 1999) the Tahasildar, Cuttack stated (August 1999) that a demand for Rs.7.57 lakh including Rs.7.35 lakh was raised (July 1999) against the Cuttack Municipal Corporation, Cuttack. Report on recovery was awaited (November 1999).

The matter was brought to the notice of the Government (July 1999); their reply was awaited (November 1999).

4.3 Non-renewal of leases

Under the Orissa Government Land Settlement Rules 1983, the terms and conditions of settlement of land for the purpose other than agriculture, shall be such as may be determined by the Government from time to time. As provided in the standard form of lease, infringement of any of the conditions embodied in the sanction order shall result in immediate reversion of land to the Government. Under the Orissa Public Demands Recovery Act, 1962, when any Public demand is due, the same can be recovered by instituting certificate cases.

Government revenue amounting to Rs.11.53 lakh was not realised due to non-renewal of leases.

During the course of audit of three Tahasils*, it was noticed (between July 1997 and April 1999) that Government land measuring 3.14 Acres which was occupied by 3 private organizations was regularized (between December 1995 and October 1997) by sanction of lease. The leases were valid for a period of six months. In 2 cases (Cuttack Sadar and Khurda) though the sanction lapsed (between June 1996 and April 1998), no action was taken either to realise the Government dues under the Orissa Public Demand Recovery Act, 1962 by institution of certificate cases or resume the land to Government. In the remaining one case (Hatadihi) the lease deed was executed (February 1997) without realisation of full dues. This resulted in non-realisation of Government dues amounting to Rs.11.53 lakh upto March 1998 calculated at the prevailing market rate as detailed below:-

Sl. No.	Name of the Tahasil	Name of the Lessee	Area occupied in Acres Date of occupation	Period	Amount involved. (Rupees in lakh)				
					Premium	Ground Rent	Cess	Interest	Total
1	Cuttack Sadar	Orissa State Bar Council	0.20 05-04-1994	1994-95 to 1997-98	3.57	0.12	0.09	1.78	5.56
2	Khurda	Viswa Yubak Kendra, New Delhi	1.00 09.04.1996	1996-97 to 1997-98	2.15	0.06	0.05	0.80	3.06
3	Hatadihi (Keonjhar District)	FACOR Randia, Bhadrak	1.94 01.04.1990	1990-91 to 1997-98	1.93	0.26	0.16	0.56	2.91
Total			3.14		7.65	0.44	0.30	3.14	11.53

On this being pointed out (between July 1997 and April 1999) the Tahasildars, Hatadihi and Cuttack Sadar stated that the demand notices were served (between September 1998 and April 1999) against the occupants concerned for realisation of Government dues whereas Tahasildar Khurda stated (April 1999) that the occupant had represented (December 1997) to the Collector for levy of a token premium of one rupee only. No action was, however, taken to dispose off the representation and realise the Government dues (November 1999).

The matter was reported to Government (July 1999); their reply was awaited (November 1999).

* Cuttack Sadar, Hatadihi and Khurda.

4.4 Non-assessment and 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. However, under the Orissa Land Reforms (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 in the amended Act and annual ground rent at one *per cent* of the premium. Such land is deemed to be settled on lease basis on payment of premium at the rate equal to fifty *per cent* of the prescribed rate if the conversion is made prior to the commencement of the amended Act (July 1993).

Premium and Ground rent of Rs.39.42 lakh was not assessed/realised for conversion of agricultural land for other purposes.

During the course of audit of five Tahsils it was noticed (between December 1996 and April 1999) that the Revenue Inspectors reported (between 1971-72 and 1997-98) that in 187 cases agricultural land measuring 81.721 Acres was used for the purpose other than agriculture. Based on these reports, the cases were booked and notices were issued (between 1971-72 and 1997-98) to the defaulting raiyats to appear before the Tahasildar for hearing. However the cases have not been disposed off so far (April 1999). This has resulted in loss of revenue amounting to Rs.39.42 lakh as detailed below.

Sl. No.	Name of the Tahasil	Area in Acres of Agricultural land converted for non-agricultural purposes	Year of conversion	No. of cases	Amount of non-assessment (Rupees in lakh)		
					Premium	Ground rent	Total
1	Angul	11.095	1988-89 to 1995-96	50	6.44	0.16	6.60
2	Bargarh	17.420	1971-72 to 1993-94	26	6.53	0.94	7.47
3	Bhadrak	8.128	1991-92 to 1996-97	54	5.02	0.11	5.13
4	Bhubaneswar	15.463	1988-89 to 1997-98	45	16.72	0.31	17.03
5	Tangi-Choudwar	29.615	1993-94 to 1997-98	12	3.07	0.12	3.19
	Total	81.721	1971-72 to 1997-98	187	37.78	1.64	39.42

On this being pointed out in audit (between December 1996 and April 1999) the Tahasildar stated (between December 1996 and April 1999) that steps were being taken to realise the dues.

The matter was brought to the notice of Government (between May 1999 and June 1999); their reply was awaited (November 1999).

CHAPTER 5

STATE EXCISE

	<i>Paragraph</i>	<i>page</i>
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➤ Non/short realisation of cost of establishment charges from bottling plants/distillery	5.3	68
➤ Failure of licensee to maintain Minimum Stock	5.4	69
➤ Loss of revenue due to delay in settlement of IMFL off shops	5.5	70



STATE EXCISE

5.1 Results of Audit

Test check of records maintained in the offices of the Excise Commissioner and Superintendent of Excise conducted during the year 1998-99 revealed non-realisation and losses of revenue amounting to Rs.780.74 lakh in 110 cases which may broadly be categorised as under:

Sl.No.	Category	No. of cases	Amount (Rs.in lakh)
1	Non-realisation of duty	64	166.64
2	Loss of revenue due to delay in granting/issue of licences	30	50.15
3	Other irregularities	16	563.95
	Total	110	780.74

During the course of the year 1998-99, the department accepted under-assessment of Rs.12.87 lakh in 38 cases which had been pointed out in audit in earlier years.

A few illustrative cases highlighting important audit observations involving Rs.359.44 lakh are mentioned in the following paragraphs.

5.2 Sub-normal yield of Spirit from molasses

Under the provisions of the Board's Excise Rules, 1965, samples of raw material used in distilleries for the 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.

Shortfall in production of spirit due to non-adoption of Chemical Examiner's report in working out outturn of spirit led to a consequential loss of revenue amounting to Rs.155.04 lakh.

During the course of audit (April 1999) of the records of a distillery under the control of the Superintendent of Excise, Ganjam, it was noticed that 4,694.788 MT molasses was used in the distillery during 1997-98 for manufacture of spirit. The samples of molasses were sent to the Chemical Examiner during August 1997 and March 1998. Based on the reports of the Chemical Examiner, the outturn of spirit from 4694.788 metric tonne (MT) molasses should have been 21,49,744 London proof litre (LPL) at the rate of 457.9 LPL per tonne of molasses against the actual yield of 19,77,474 LPL. This resulted in shortfall in production of spirit of 1,72,270 LPL and consequential loss of revenue of Rs.155.04 lakh in the shape of excise duty.

On this being pointed out in audit (April 1999) the Superintendent of Excise, Ganjam, stated that the compliance would be furnished on receipt of the report from the concerned Distillery Officer. Further progress was awaited (November 1999).

The matter was reported to Government (June 1999); their reply was awaited (November 1999).

5.3 Non/short realisation of cost of establishment charges from bottling plants/distillery.

As per the Board's Excise Rules, 1965, framed under the Bihar and Orissa Excise Act 1915, licensees of bonded foreign liquor warehouses including the warehouses of foreign liquor manufacturing and bottling plants are required to pay to Government (at the end of each month) fees for deployment of excise staff engaged in supervision of the operations carried on in such warehouses and plants.

Cost of establishment charges amounting to Rs.2.95 lakh was not realised for the years 1996-97 and 1997-98.

During the course of audit of three District Excise Offices (Ganjam, Rayagada and Sundargarh), it was noticed (between September 1998 and April 1999) that the cost of establishment charges amounting to Rs.2.95 lakh was not realised for the years 1996-97 and 1997-98.

On this being pointed out in audit (between September 1998 and April 1999) all the Superintendents of Excise stated (between September 1998 and April 1999) that action would be taken to realise the amount. Further progress was awaited (November 1999).

The matter was reported to Government (June 1999); their reply was awaited (November 1999).

5.4 Failure of licensee to maintain minimum stock

Under Rule 64 of the Board's Excise Rules, 1965, a licensee is required to maintain a minimum stock of spirit as may be fixed by the Collector at the beginning of the year. As and when the stock of spirit falls below the minimum so prescribed, the licensee shall replenish the stock up to the prescribed minimum and in the event of his failing to do so, the Collector may procure the quantity of spirit required from any source to restore the minimum stock. The licensee shall be liable to compensate any loss to Government revenue which may have incurred owing to his failure to maintain the adequate stock.

Failure of licensee to maintain minimum stock led to loss of revenue of Rs.183.27 lakh.

During the course of audit of records for 1997-98 of one spirit warehouse under the jurisdiction of Superintendent of Excise, Ganjam, it was noticed (April 1999) that the stock of rectified spirit was allowed to go dry by the licensee during the period 30 November 1997 to 04 January 1998 as against the prescribed minimum stock of 50,000 Bulk litre (BL) of spirit fixed by the Collector, Ganjam. However the department failed to initiate any action to restore it to the prescribed minimum stock of spirit. Based on average daily sales (calculated on the basis of average sales per day during the preceding 91 days), the loss of revenue worked out to Rs.183.27 lakh.

On being pointed out in audit (April 1999), the Superintendent of Excise, Ganjam stated that the licensee would be asked to maintain the minimum of stock as per the condition of the licence.

The matter was reported to Government (June 1999); their reply was awaited (November 1999).

5.5 Loss of revenue due to delay in settlement of IMFL off shops

According to the Bihar and Orissa Excise Act, 1915 read with rules made thereunder, license for the wholesale or retail vend of intoxicants may be granted for each year from 1 April to 31 March. Due to delay in finalisation of the Excise Policy for the year 1996-97, Government instructed (March 1996) the Collectors of the districts to renew licenses of all excise shops in favour of the existing licenses of 1995-96 for a period of four months (April 1996 to July 1996) on the existing terms and conditions with 5 per cent increase in the existing consideration money. This was thereafter extended upto 31 October 1996. Further, the rate of license fee was increased by 5 per cent from 1 November 1996 to 31 March 1997. The Excise Policy announced by the Government on 21 March 1997 for the year 1997-98 envisaged that the existing and new IMFL off shops were to be settled through tender-cum-auction-cum-negotiation from 1 June 1997 to 31 March 1998 after observing the usual process of settlement by 31 May 1997.

Delay in settlement of IMFL off shops by the Government led to loss of revenue -Rs.18.18 lakh.

(i) During the course of audit of the records of Superintendent of Excise, Jharsuguda, it was noticed (September 1998) that license of the IMFL off shop was not renewed with effect from 1 May 1996 on the ground that the licensee had committed an irregularity during 1994-95 and the license of the shop was suspended for the period 3 October 1994 to 29 October 1994. The license of the shop was renewed by Government only in February 1997, i.e. after a delay of nine months. Due to delay in this renewal of the shop, the Government sustained a loss of revenue of Rs.3.28 lakh calculated on the basis of consideration money at the rate of Rs.35220 per month with 5 per cent increase from 1 November 1996 for the period 01 May 1996 to 04 February 1997.

On this being pointed out in audit (September 1998), the Superintendent of Excise stated (September 1998) that the action was taken as per the instructions of the Government. The reply was not tenable as the delay of 9 months in renewal of the license after revocation of the suspension remained unexplained.

The matter was reported to Government (July 1999); their reply was awaited (November 1999).

(ii) During the course of audit of Superintendent of Excise Koraput, it was noticed (February 1999) that tenders were invited (May 1997) to settle IMFL off Shops through auction-cum negotiation. In one case, an offer was received for Rs.0.25 lakh per month against the reserve price of Rs.0.54 lakh (21 May 1997). Tenders were again invited (29 July 1997) but no offer was received which was reported by the Collector to the Government on 19.08.1997. Thereafter the

Government sanctioned the license in favour of the original tender at the rates offered by him only in March 1998 i.e. after seven months. Thus the delay on the part of the Government to decide the case resulted in loss of revenue of Rs.1.70 lakh calculated on the basis of consideration money at the rate of Rs.25,000/- per month and loss of potential revenue of Rs.13.20 lakh towards Excise duty on minimum guaranteed quantity offered by the tenderer for the period (01 September 1997 to 25 March 1998).

On this being pointed out in audit (February 1999), the Superintendent of Excise stated (February 1999) that the Government is the final authority in issuing confirmation. The reply was not tenable as the delay of 7 months in settlement of the case remained unexplained.

The matter was reported to Government (June 1999); their reply was awaited (November 1999).

CHAPTER-6

FOREST RECEIPTS

	<i>Paragraph</i>	<i>Page</i>
➤ Results of Audit	6.1	75
➤ Short-levy/realisation of royalty	6.2	76
➤ Non-levy of interest on belated payment of royalty	6.3	77
➤ Loss of revenue due to non-disposal of timber seized in Undetected (UD) Forest Offence Cases	6.4	77

FOREST RECEIPTS

6.1 Results of Audit

Test check of records maintained in various Forest Divisions conducted during the year 1998-99 revealed non/short levy of dues and loss of revenue etc. amounting to Rs.4470.36 lakh in 1442 cases which may broadly be categorised as under:-

Sl.No.	Category	No.of cases	Amount (Rs.in lakh)
1	Non-levy/short levy of interest on belated payment of royalty	184	46.91
2	Non-realisation of compensation	84	250.12
3	Non-realisation of royalty	70	898.03
4	Loss of revenue due to short delivery/shortage of forest produce	77	447.87
5	Other irregularities	1027	2827.43
	Total	1442	4470.36

During the course of the year 1998-99, the department accepted under-assessment etc. of Rs.231.54 lakh involved in 62 cases which had been pointed out in earlier years.

A few illustrative cases highlighting important audit observations involving Rs.47.42 lakh are mentioned in the following paragraphs.

6.2 Short-levy/realisation of royalty

Government of Orissa, Forest and Environment Department in their instructions of November 1979 laid down the principles for fixation and realisation of royalty in respect of timber and firewood delivered to the Orissa Forest Development Corporation Limited (OFDC). Accordingly, the rate of royalty in respect of girand firewood for the year 1996-97 was fixed at Rs.51/- per quintal by the Forest and Environment Department. In case of unsound/defective timber, royalty was fixed at half the royalty of sound timber as approved by the Conservator of Forest, Berhampur Circle, in August 1997.

(a) During the course of audit of Puri Forest Division, it was noticed (December 1998) that the Division had delivered, 21,760 quintals of girand firewood to the Corporation during 1996-97, the amount of royalty of which worked out to Rs.11.10 lakh against which demand of Rs.1.11 lakh only was raised resulting in short raising of demand of royalty to the tune of Rs.9.99 lakh.

On this being pointed out (December 1998) the Divisional Forest Officer, Puri, raised (December 1998) an additional demand of Rs.9.99 lakh against the OFDC. Report on recovery was awaited (November 1999).

The matter was reported to the Government (May 1999); their reply was awaited (November 1999).

Misclassification and application of incorrect rate on disposal of timber led to short levy/realisation of royalty of Rs.11.59 lakh.

(b) During the course of audit of three Forest Divisions,* it was noticed (between September 1998 and January 1999) that royalty for different kinds of timber (logs of sal, teak etc. 3947.24 cft., 286 stacks of girand wood and 24.6545 cum of logs of sal/miscellaneous species) disposed off during the years 1994-95, 1996-97 and 1997-98 was realised at lower rates by classifying sound wood as defective and applying incorrect rates. This resulted in short realisation of royalty of Rs.1.60 lakh calculated at the differential rates.

The matter was reported to the Government (May 1999). Final reply was awaited (November 1999).

* Jeypore, Nayagarh and Puri

6.3 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 the due date, he is liable to pay interest at the rate of 6.25 per cent per annum on the installment(s) in default.

Interest of Rs.17.02 lakh on belated payment of royalty in the years 1993-94 to 1996-97 was not levied.

During the course of audit (between April 1998 and February 1999) of 14 forest divisions* it was noticed that interest amounting to Rs.17.02 lakh was not levied in 413 cases of belated payment of royalty of Rs.327.31 lakh relating to the years 1993-94 to 1996-97.

On this being pointed out in audit (between April 1998 and February 1999), the Divisional Forest Officer, Angul, Deogarh, Ghumsur (North), Phulbani and Sundargarh raised the demands of Rs.4.72 lakh. Report on recovery and final reply in the remaining cases was awaited (November 1999).

The matter was reported to the Government (June 1999); their reply was awaited (November 1999).

6.4 Loss 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 (OFDC) or by public auction in order to avoid loss of revenue due to deterioration in quality and value of such goods due to prolonged storage. Under the provisions of the Orissa Forest Code, Forest Range Officers are responsible for proper accounting and protection of such forest produce till disposal.

A mention was made vide para 6.4 of Audit Reports (Revenue Receipts) of the Comptroller and Auditor General of India on Government of Orissa for the years 1994-95 and 1995-96 regarding shortage/damage of timber seized in UD offence cases due to non disposal in time. Despite these

* Angul, Bamra, Baripada, Bonai, Deogarh, Ghumsur(North), Ghumsur(South), Jeypore, Karanjia, Nayagarh, Phulbani, Puri, Rayagada and Sundargarh.

audit observations, no remedial action was taken by the Department/Government to prevent such losses as evident from the cases discussed below.

(a) In course of audit of nine[#] forest divisions (between May 1998 and February 1999) it was noticed that 10,823.30 cft. of timber valued at Rs.16.48 lakh, on the basis of rates for 1997-98 prescribed by the department, seized under UD offence cases between 1979-80 and 1997-98, was not disposed off till the date of audit.

(b) During the course of audit of Ghumsur (North) forest division it was noticed (January 1998) that 1179.95 cft. of timber and 82 stacks of firewood seized in UD offence cases (between March 1996 and March 1997) was lying undisposed and open to the possibility of pilferage and deterioration. During the subsequent audit (October 1998), it was noticed that the department had conducted physical verification (May 1998) and found the above quantity of timber valued at Rs.2.33 lakh missing. Department informed that the concerned official had been suspended and departmental proceedings initiated against him.

Timber worth Rs.18.81 lakh seized in undetected forest offence cases were not disposed of out of which timber worth – Rs.2.33 lakh was reporting missing.

The matter was brought to the notice of Government (between June 1998 and July 1999); their replies were awaited (November 1999).

[#] Athamallik, Balliguda, Jeypore, Kalahandi, Karanjia, Keonjhar, Nayagarh, Nowrangpur and Sundargarh.

CHAPTER-7

MINING RECEIPTS

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• Results of Audit	7.1	81
• Receipts from Mining of Major Minerals	7.2	82

MINING RECEIPTS

7.1 Results of Audit

Test check of records maintained in the mining offices conducted during the year 1998-99 revealed non/short levy, non-realisation and non-recovery of revenue and interest amounting to Rs.5,811.35 lakh in 38 cases which may broadly be categorised as follows :-

Sl.No.	C a t e g o r y	No. of cases	Amount (Rs.in lakh)
1	Non/short levy of royalty/surface rent/dead rent	12	99.37
2	Non/short realisation of surface rent/royalty	14	1091.90
3	Non/short recovery of interest	7	107.73
4	Other irregularities	4	42.50
5	Review	1	4469.85
	Total	38	5811.35

During the course of the year 1998-99, the department accepted under-assessment of Rs.666.66 lakh in 14 cases which had been pointed out by audit in earlier years.

A case highlighting important findings of a review on "Receipts from Mining of Major Minerals" involving Rs.4469.85 lakh is mentioned in the following paragraph.

7.2 Receipts from Mining of Major Minerals

7.2.1. Introduction

Orissa holds a pre-eminent place amongst the States in India in mineral resources with large deposits of chromite, coal, iron ore, bauxite, dolomite, manganese, limestone and graphite. The grant of concessions and leases for prospecting, mining or extraction of major minerals is governed by the Mines and Minerals (Regulation and Development) Act, 1957, and the Mineral Concession Rules, 1960, made thereunder. The administration of minerals vests with the State Government and the receipts realized from mines and minerals are credited to the Consolidated Fund of the State. Receipts from the mines and minerals consist mainly of application fee, license fee, permit fee, royalty, dead rent, surface rent, fines, penalties and interest on belated payments.

7.2.2. Organizational set up

The laws governing mineral concessions, assessments and collection of mining dues are directly administered by the Steel and Mines Department headed by the Secretary to the Government, Steel and Mines, and the Director of Mines, Orissa, as the Head of the Mining Department, who is assisted by seven Deputy Directors of Mines and seven Mining officers-in-charge of circles concerned.

7.2.3. Scope of Audit

A review was conducted during the period from October 1998 to May 1999 to evaluate the efficiency of the administration of various provisions of the Act/Rules with particular emphasis on the assessment and collection of royalty on major minerals during the period from 1993-94 to 1997-98 in seven out of fourteen Mining Circles, the Directorate of Mines, and the Department of Steel and Mines, Government of Orissa.

7.2.4. Trend of Mining Revenue

The details of mining revenue vis-a-vis dispatch of major minerals during the years 1993-94 to 1997-98 are as indicated below: -

(In crore of Rupees)

Year	Budget Estimates	Actuals (As per Finance Accounts)	Variations between Budget Estimates and Actuals (+) Excess receipts (-) Less receipts	Percentage of Increase(+) Decrease(-) with reference to previous years' collection	Dispatch (in thousand tons)	Percentage Increase(+) Decrease(-) with reference to previous years' dispatch
1993-94	123.86	131.10	(+) 07.24	-	41173	-
1994-95	182.76	170.05	(-) 12.71	(+) 29.71	43117	(+) 4.72
1995-96	217.38	241.74	(+) 24.36	(+) 42.16	52838	(+)22.55
1996-97	260.00	269.39	(+) 09.39	(+) 11.44	56526	(+)06.99
1997-98	300.00	317.15	(+) 17.15	(+) 17.73	62881	(+)11.24

The reasons for variations in collection of revenue and dispatch of minerals as stated by the Director of Mines, Orissa (September 1999) were as follows :-

- (i) as compared to the year 1994-95, the increase in revenue during the year 1995-96 was due to increase in dispatch of coal/non-coal minerals and revision of rate of royalty of coal for the said year, and
- (ii) as compared to the year 1996-97, the increase in revenue during the year 1997-98 was due to revision of rates of royalty on non-coal minerals and increase in dispatch of minerals.

7.2.5 Non-realization of royalty on ores/minerals found short

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 lease hold area at the rates specified in the Second Schedule to the Act. No deduction of royalty towards shortage/wastage of ore/mineral is admissible as per the Act. It had been judicially held* that removal of any mineral from the seam in the mine and extracting the same through the pits' mouth to the surface satisfies the requirement of Section 9 of the Act

Royalty on ores/minerals found short to the tune of Rs.120.09 lakh was not levied.

* State of Orissa and others Vs. Steel Authority of India Ltd. 1998(6) Supreme 281.

1 KD 9/380.

and give rise to a liability for royalty.

(i) Test check of the records of Deputy Directors of Mines, Talcher (February 1999), Rourkela (March 1999) and Koira (March 1999) revealed that royalty amounting to Rs.52.77 lakh was not levied/realized by the Department in respect of shortages of minerals noticed during physical verification of stock as detailed below :

Year of physical verification	Name of the Circle	Shortage (Quantity)	Royalty (In Lakh of Rupees)
1993-94	Talcher circle	45,765.50 MT (Coal)	13.31
1991-92 1993-94	Rourkela circle	1,88,405.56 MT (Lime Stone)	35.19
1993-94 1996-97	Koira circle	23,724.66 MT (Iron Ore)	4.27
Total			52.77

KD 1/353

(ii) Test check of the assessment records of Koira circle for the years 1995-96 to 1997-98 pertaining to Barsuan Iron Ore Mines revealed that the lessee (M/s Steel Authority of India Ltd.) had incorrectly deducted the quantities of fine ore (81249.6 MT) from closing stock of lump ore without adding it to the production account of fine ores. The lessee was liable to pay royalty on the said quantity at the rates applicable to highest grade (in the absence of any grade-wise details recorded in the monthly returns furnished by the lessee) which worked out to Rs.10.56 lakh but the Department had failed to detect this irregularity and as such, the lessee escaped payment of the above royalty.

8/347

(iii) Test check (March 1998) of the records in respect of Rourkela mining circle for the months of March and April 1996 revealed that opening balances of April 1996 were shown at 4,49,317.00 MT of lump ore and 43,620.43 MT of fines as against the closing balances of March 1996 at 4,55,136.84 MT of lump ores and 47,508.31 MT of fine ores respectively resulting in shortage of 5,819.84 MT of lump ore and 3,88,788 MT of fine ore. The Department however failed to raise demand on aforesaid quantity of shortages. The royalty payable at the rate of Rs.25 per MT on the aforesaid quantities of shortages worked out to Rs.2.43 lakh.

8/321

(iv) Test check of assessment records of Koira circle for the period from 1992-93 to 1997-98 revealed (between March 1999 and April 1999) that the lessee (M/S Jindal Strips Ltd.) had paid royalty on 12,60,502.710 MT of processed iron ore during the period from November 1992 to 31 March 1998 instead of the royalty on 19,77,088 MT of unprocessed ore

3887.88 MT - 8/321 KD.

in contravention of the provisions of the Act and the judicial pronouncement cited above, which resulted in short realisation of royalty of Rs.52.42 lakh.

(v) Test check of the records of Deputy Director, Mines, Koira circle (between March 1999 and April 1999) revealed that higher grade of minerals (as per analysis reports of Government laboratory) were dispatched by the lessee in 96 cases during the year 1997-98 on payment of royalty applicable to lower grade minerals. According to the provisions of the Act, the lessees were liable to pay the differential royalty amounting to Rs.1.91 lakh.

On these being pointed out in audit, the Government stated (August 1999) that additional demand of Rs.120.09 lakh had been raised in all the cases referred to above. Report on recovery was awaited (November 1999).

7.2.6. Non-realization of Dead Rent /Surface Rent

As per the Coal Bearing Areas (Acquisition and Development) Act, 1957, where the rights under any mining lease acquired under this Act vest in a Government Company, the Company shall, on and from the date of such vesting be deemed to have become a lessee of the State Government and shall become liable to pay either royalty or dead rent whichever is higher in terms of the Mines and Minerals (Regulations and Development) Act, 1957 at the rates fixed by the Central Government from time to time. In addition, surface rent at the prescribed rate was also payable under the Mineral Concession Rules, 1960.

Dead rent/surface rent along with interest aggregating to Rs.123.66 lakh was not realised.

Test check of records of Deputy Director, Mines, Rourkela Circle (March 1999) alongwith of Mining Circles, Rourkela and Talcher (between February 1999 and March 1999) revealed that M/S Mahanadi Coalfields Ltd. (a Government Company) had acquired (10 July 1989) an area of 8,030.05 Hect for operating the mines under the Act *ibid*. Accordingly, the company being a lessee, was required to pay dead rent for the period from 10 July 1990 to 31 December 1996 (the date after which the company started production) on the area of land covered by the lessee which worked out to Rs.29.51 lakh. In addition, surface rent from 1 October 1989 to 30 June 1998 amounting to Rs.17.65 lakh (for the dues becoming payable in advance by 15 January and 15 July) in respect of 8 mines was also payable. Besides, interest amounting to Rs.76.50 lakh for non-payment of dues upto 30 June 1998 was also payable. However, no demand was raised against the lessee (March 1999). This resulted in non-realisation of Government dues amounting to Rs.123.66 lakh including interest.

On this being pointed out in audit, the Government stated (August 1999) that an additional demand had been raised. Report on recovery was awaited.

⊗ P/180 - Rs 30,34,688 DDM RKL
P/143 - Rs 46,14,895 DDM Talcher
Rs 76,49,583
76.50 lakh

P/106 - Para-15 - 11-13-53

7.2.7 Non-realization of Cess on Dead Rent/Mining dues

As per the provisions of the Orissa Cess (Amendment) Act, 1976 and judicial pronouncement, cess on dead rent/royalty was payable by the lessee in respect of the areas acquired for mining operations from the date of acquisition of the area till 04 April 1991. The Government dues can be realised by the Department by invoking the provisions of the Orissa Public Demands Recovery Act, 1962, through institution of certificate cases. Further, under section 12(b) of the Cess (Orissa) Act, dues become irrecoverable after ten years from the date they become due.

Cess on dead rent/mining dues to the tune of Rs.3,821.82 lakh was not realised.

Test check of records of 3 mining circles[#] (between February and March 1999) revealed that cess on dead rent/royalty amounting to Rs.3821.82 lakh was not paid by the lessee (M/s Mahanadi Coalfields Ltd.) during the period from April 1989 to 04 April 1991 in respect of their coal mines. However, the Department had not initiated any action to recover the above cess dues alongwith interest thereon.

Although a period of 8 to 10 years had already lapsed, action was not taken by the department to effect recovery by invoking the provisions of Orissa Public Demands Recovery Act, 1962. Lack of effective action on the part of the Department to realise the outstanding dues from the lessee may lead to loss of revenue to this extent to the State Government.

On this being pointed out in audit, Government stated (August 1999) that soon after receipt of the payment from the lessee, the matter would be reported to audit. However, no specific course of action to recover the dues was indicated. Final compliance was awaited.

7.2.8. Suppression of Stock of Coal

As per the provisions of the Mines and Minerals (Regulation and Development) Act, 1957 and the orders of the State Government in respect of assessment and realization of royalty on ores/minerals, details of opening balance, production, consumption and closing stock of the ores/minerals are required to be exhibited in Form 'A' and submitted by the lessee every month to the Mining circle along with other documents for the purpose of assessment of royalty.

Non-levy of royalty on coal amounting to Rs.115.54 lakh due to suppression of stock by lessee.

* Judgement of Supreme Court in Civil Appeal No. 9847 in the matter of P. Kannadasan Vrs. State of Tamil Nadu dated 26.07.96-AIR 1996 Supreme Court 2560.

Rourkela, Sambalpur and Talcher

↓ 16.35 crore	↓ 20.63 crore	} & unrecalled cess of Rs 1.11 crore - P/58
↓ 13.53 lakh	↓	
↓ P/106	↓ P/57	
	↓ P/60863	

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Test check of the records of Deputy Directors of Mines, Talcher and Sambalpur circle for the year 1997-98 revealed that the stock figures as per Books of accounts of the lessee as on 31 March 1998 were not in agreement with the closing stock figures as furnished in Form 'A' by the lessee. Suppression of stock by the lessee resulted in short levy of royalty amounting to Rs.115.54 lakh as detailed below :-

Name of the ore/ Minerals	Name of the circle	Stock adopted as per books of accounts	Stock as per Form 'A'	Difference (Excess)	Royalty element involved (in Lakh of Rupees)
		(i n M T)			
Coal	Talcher	2,36,475.000	1,54,434.220	82,040.780	51.89
Coal	Sambalpur	9,89,152.131	8,61,859.530	1,27,292.601	63.65
Total				2,09,333.381	115.54

-P/105
-P/81

In addition, interest @ 24 per cent per annum is also recoverable from the lessee for the delayed payment of royalty.

On this being pointed out in audit the Government stated (August 1999) that clarification to this effect had been called for from the lessee (M/s Mahanadi Coalfields Ltd.). Further progress was awaited.

7.2.9 Non-realization of Stamp Duty and Registration Fee

As laid down in the Indian Registration Act, 1908, a mining lease for a period exceeding one year is required to be executed on payment of prescribed stamp duty and registered on the value in consideration of the lease deed. For determination of such value, Section 26 of the Indian Stamp Act, 1899 and the proviso thereunder enjoins upon the Collector of the district to estimate the annual royalty likely to be payable to Government under the lease having regard to all the circumstances of the case. So far as renewed lease deeds are concerned, the estimation can reasonably be made on average dispatch of minerals during past years. Under the Mineral Concession Rules 1960, an application for renewal of mining lease shall be made to the State Government twelve months before the expiry of lease. Upto 26 September 1994, if an application for first renewal of mining lease made within the prescribed time is not disposed of by the State Government before the date of expiry of the lease, the period of that lease shall be deemed to have been extended by a further period of one year. After 26

Stamp duty and registration fee amounting to Rs.256.40 lakh was not realised due to non execution of lease deeds.

September 1994 the period of that lease shall be deemed to have been extended by a further period till the State Government passes orders thereon.

Test check of records of six[&] mining Circles (between February 1999 and June 1999) revealed that the Mining Officers had forwarded 62 cases of extension of mining lease to the State Government for the period during 1974 to 1997. However, the State Government could not take a decision as to either renewal or revocation of the mining leases despite lapse of periods ranging from 2 years to 23 years. Hence, no formal lease deed could be executed which resulted in non-levy of stamp duty and registration fee amounting to Rs.256.40 lakh (stamp duty Rs.173.69 lakh and registration fee Rs.82.71 lakh). P/75

On this being pointed out in audit, it was stated by the Government (August 1999) that there is no provision in the rules for execution of the lease deed under the category of deemed extension of mining leases. The reply of the Government is not tenable since Government is required under the Mineral Concession Rules to either renew a lease on its expiry or revoke it. By not taking any decision for prolonged periods, Government was forgoing Stamp Duty and Registration Fee which would otherwise have accrued.

7.2.10 Non-evaluation of precious and semi-precious stones

According to the Mines and Minerals (Regulation and Development) Act, 1957, royalty at the rate of twenty *per cent* of the sale price of precious/semi-precious stones at the pits mouth is payable to the State Government by a lessee. In October 1992, the Orissa Mining Corporation (OMC) which had been entrusted with the mining of gem stones as an agent of the State Government was directed by the State Government to sub-lease an area of 35.686 Hects in Kalahandi District (Jillingdhar mining area) to Gem Corporation of Orissa Limited (GEMCO), a joint venture company with OMC. GEMCO commenced mining operations in July 1993 which were subsequently suspended in July 1997.

Blockade of revenue on account of royalty on gem stones of Rs.32.34 lakh due to their non-gradation and non-valuation. P/29

Test check of the records of Mining Officer, Kalahandi circle, Director of Mines, Orissa, and Steel and Mines Department of the Government of Orissa, (between October 1998 and March 1999) revealed that GEMCO had an unsold stock of 7,68,527 gms of gem stones lying ungraded and unevaluated as on 31-3-98.

[&] Joda, Jajpur Road, Keonjhar, Koira, Rourkela and Talcher P/25

It was stated that the grading and evaluation was held up due to differences between the company and the State Government as to the procedure for valuation of stock. As a result, revenue amounting to Rs.32.34 lakh (calculated on disposal value obtained in the past) which would other wise have accrued to the Government, remained blocked.

On this being pointed out in audit, it was stated by the Government (August 1999) that Orissa Mining Corporation was requested for early evaluation and disposal of stones. Final compliance was awaited.

CHAPTER-8

OTHER NON-TAX RECEIPTS

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OTHER NON-TAX RECEIPTS

8.1 Results of Audit

Test check of assessment records and other connected documents pertaining to departmental receipts in the Department of Food, Supplies and Consumer Welfare, Department of Cooperation, Department of Energy, Department of Works, Department of Home, Department of Finance, Industry, Housing and Urban Development during 1998-99 revealed non/short levy/loss of duties/fees amounting to Rs.46,092.14 lakh in 2,01,077 cases which may broadly be categorised as under :

Sl. No.	Category	No. of cases	Amount (Rs. in lakh)
1	Non/Short levy of revenue.	514	5441.55
2	Loss of revenue	196414	148.69
3	Blockade of revenue	1	603.00
4	Other irregularities	4148	39898.90
	Total	201077	46092.14

During the course of the year 1998-99, the concerned departments accepted short/non-levy/loss of revenue of Rs.35.97 lakh in 34 cases out of which 5 cases involving Rs.1.90 lakh were pointed out during 1998-99 and the rest in earlier years.

A few illustrative cases highlighting important audit observations involving Rs.4,055.92 lakh are mentioned in the following paragraphs.

8.2 Non-realisation of Guarantee Fees

Government of Orissa, Finance Department, issued (April 1980), guidelines providing for Guarantees by the State Government for repayment of borrowings (loans, bonds etc.) together with interest thereon by local bodies, co-operative institutions, companies, corporations, etc. which are usually raised to meet their capital needs. For such service rendered and contingent liability undertaken, a 'Guarantee Fee' shall be levied by the State as per the rates indicated in the guidelines.

Guarantee fee of Rs.24.71 crore due to the State was not levied/realised upto 31 March 1999 for the loan period of 1980-81 to 1997-98 by invoking recovery proceedings envisaged in the agreement entered into with the debtor institutions.

A test check of records of four departments, viz. Finance, Industry, Energy and Housing & Urban Development was conducted during March 1999 and April 1999 for the period 1980-81 to 1997-98 along with that of two loanee organizations viz. Orissa State Financial Corporation and the Orissa Small Industries Corporation for whom Government stood as guarantee to assess the efficacy of the levy and collection of such dues. The findings of audit were as follows:

Non-levy/Non-realisation of Government dues towards guarantee fees

As per agreements entered into by the State Government with the debtor institutions, in case of default in payment of fees, Government has the right to recover the amount due as a 'Public Demand' under the Orissa Public Demand Recovery Act, 1962. As per the procedure prescribed under the Act, cases of non-payment of dues are to be transferred to the Certificate Officer who would initiate recovery proceedings as per the provisions of the Act. The Act provides that interest @ 12.5 per cent per annum may be levied from the date of signing of the certificate upto the date of realization of the dues. Although arrear demands amounting to Rs.24.71 crore pertaining to the years 1980-81 to 1997-98 were lying pending for recovery as on 31 March 1999, Government did not invoke the above mentioned provision in any case.

Sl. No	Department	Loanee	Period	Amount of Loan/ Bond	Guarantee Fee			
					Due for payment	Amount paid	Period of payment	Balance to be recovered
					R u p e e s i n c r o r e			
1	Energy	Grid Corporation of Orissa	1982-83 to 1994-95	1304.41	20.80	8.95	March 1989 to March 1999	11.85
		Orissa Power Generation Corporation	1990-91 to 1996-97	642.50	14.72	12.97	August 1992 to November 1998	1.75
		Orissa Hydro Power Corporation	1990-91 to 1996-97	426.19	5.99	3.86	January 1998 to January 1999	2.13
2	Industries	Industrial Development Corporation of Orissa Ltd.	1983-84 to 1994-95	68.32	3.25	0.06	1990-1991	3.19
		Orissa State Financial Corporation	1995-96 to 1997-98	137.78	0.69	Nil	-	0.69
		Orissa Industrial Infrastructure Development Corporation	1986-87 & 1987-88	17.84	0.89	0.10	June 1989 to April 1997	0.79
		Orissa Small Industries Corporation	1986-87 to 1997-98	12.50	0.41	0.36	March 1988 to March 1998	0.05
3	Housing and Urban Development	Orissa State Housing Board	1980-81 to 1996-97	166.41	2.91	0.17	March 1999	2.74
		Orissa Water Supply and Sewerage Board	1992-93 to 1994-95	56.84	0.84	0.10	December 1998	0.74

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Sl. No	Department	Loanee	Period	Amount of Loan/Bond	Guarantee Fee			
					Due for payment	Amount paid	Period of payment	Balance to be recovered
				R u p e e s i n c r o r e				
		Bhubaneswar Development Authority	1993-94 to 1995-96	39.36	0.48	0.09	December 1998	0.39
		Orissa Rural Housing Development Corporation	1995-96 to 1997-98	19.24	0.21	0.05	August 1996.	0.16
		Rourkela Development Authority	1980-81 to 1994-95	12.29	0.23	Nil	-	0.23
	Total			2903.68	51.42	26.71		24.71

On this being pointed out in audit (April 1999), an amount of Rs.4.29 crore was realised as detailed below:-

Sl. No.	Name of the Corporation	Amount Paid (Rupees in crore)	Date of Payment	Date of Audit Observation
1	Orissa Industrial Infrastructure Development Corp.	0.41	25.05.1999	12.04.1999
2	Orissa Power Generation Corporation	1.75	17.04.1999	08.04.1999
3	Orissa Hydro Power Corporation	2.13	20.04.1999	12.04.1999

The matter was reported to the Government (July 1999) in response to which the Departments of Energy and Industries have accepted the facts (August 1999). But replies from Departments of Finance and Housing & Urban Development were awaited (November 1999).

8.3 Non-realisation of reimbursement cost of deployment of Railway Police

As per the provisions of the Orissa Police Manual, 1940 read with Government of India, Ministry of Railways (Railway Board) letter dated 21 February 1983, the cost of Government Railway Police (GRP) is to be shared between the State Government and Railways on 50:50 basis. As per the extant procedure, such claims are to be preferred by the State Government to the Railways periodically.

Reimbursement cost of Rs.6.03 crore towards deployment of police to Railways for the years 1995-96 to 1997-98 was not realised.

Home Police Scrutiny of records of State Police Headquarters, Cuttack, revealed (April 1999) that an amount of Rs.602.74 lakh, being 50 per cent of total cost of Rs.1205.48 lakh, incurred towards GRP deployed for the period from 1995-96 to 1997-98, were not preferred upto April 1999.

On this being pointed out in audit, the Government stated (August 1999) that they had preferred claims in the months of May and June 1999 for the years 1995-96 and 1996-97. Further report on realisation of Government dues amounting to Rs.602.74 lakh from Railways was awaited (November 1999).

8.4 Non-realisation of Electricity Duty

Energy Under the provision of the Orissa Electricity Duty Act, 1961, as amended from time to time and the rules made thereunder, Electricity Duty (ED) at the rate of 12 paise per unit of electrical energy consumed shall be levied against any person not being a licensee or Board who generates electricity for its own consumption and the same shall be paid to Government within 30 days from the date of levy. Interest at the rate of 18 per cent per annum is also leviable for delayed payment of E.D. beyond the prescribed date.

Electricity duty of Rs.9.75 crore for the period from February 1989 to March 1998 payable by a company having a Captive Power Plant was not realised.

During the course of audit of the Office of the Electrical Inspector (E.I), Bhubaneswar it was noticed (October 1998) that a private company* installed a Captive Power Plant (CPP) of 125 MVA capacity for their self consumption in February 1989 at Choudwar in Cuttack District. The

* Indian Charge Chrome Limited (ICCL).

total Electricity duty due to the State for the period from February 1989 to March 1998 was Rs.3007.70 lakh (ED Rs.1894.98 lakh and interest for delayed payment Rs.1112.72 lakh) against which only Rs.2032.68 lakh (ED Rs.919.96 lakh and interest Rs.1112.72 lakh) was paid. This resulted in short payment of Electricity Duty amounting to Rs.975.02 lakh.

On this being pointed out in audit (October 1998), the E.I., Bhubaneswar raised a demand for Rs.975.02 lakh against the company (November 1998) payable within 15 days from the date of receipt of the demand. Subsequently, the Chief Electrical Inspector informed (July 1999 and September 1999) that the outstanding ED dues may be Rs.1.39 crore and that reconciliation was underway and the final figure will be intimated. The reasons for reduction in the ED were, however, not furnished to audit. Government informed (September 1999) that the process of re-computation of the ED payable by the company was underway and that Government directives will be issued shortly. Further progress was awaited (November 1999).

8.5 Non-collection of revenue due to non-registration of traders/users of weights and measures

Under the provisions of the Standards of Weights and Measures (Enforcement) Act 1985 adopted by the State from 1 April 1989 and the rules framed thereunder (July 1993), every person (other than itinerant vendor) who intends to commence or carry on, the use of any weights or measures in any transaction or for industrial production or for protection should get himself registered initially for a period of 5 years against payment of rupees five in the prescribed manner. The above registration may be quinquennially renewed against payment of renewal fees. The unregistered traders/users of weights and measures are punishable with fine which may extend to five hundred rupees, and for second and subsequent offence with imprisonment for a term which may extend to six months, or with fine or with both.

Registration fee of Rs.7.28 lakh from the users of weights and measures was not realised. Besides maximum fine extending upto Rs.728.17 lakh was also not imposed on the defaulter for non-registration.

During the course of audit (between June 1998 and March 1999), it was noticed that the names of 1,45,634 traders/users were not registered in the 'Register of Users' maintained at inspector's Centre for collection of registration fees which resulted in non-collection of revenue of Rs.7.28 lakh. Besides, fine extending to a maximum of Rs.728.17 lakh could also have been imposed.

On this being pointed out in audit (between June 1998 and March 1999), the Government stated (August 1999) that registration fee of Rs.1.87 lakh had since been collected from 37,330 un-registered traders and the balance amount would be collected by undertaking a special drive.

Bhubaneswar

Dated: 24 FEB 2000

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Dated: 03 MAR 2000

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Comptroller and Auditor General of India

