सत्यमेव जयते

Report of the Comptroller and Auditor General of India

for the year ended March 2006

Revenue Receipts

Government of West Bengal

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PREFACE

This report for the year ended 31 March 2006 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

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

The cases mentioned in this report are among those which came to notice in the course of test audit of records during the year 2005-06 as well as those noticed in earlier years but could not be covered in previous years' reports.

OVERVIEW

I. General

This report contains 36 paragraphs including one review relating to underassessment/non-realisation/loss of revenue etc. involving Rs.711.36 crore. Some of the major findings are mentioned below:

The total receipts of the Government for the year 2005-06 were Rs.23,725.89 crore of which revenue receipts of Rs.11,407.19 crore comprised Rs.10,388.38 crore tax and Rs.1,018.81 crore non tax revenue. The State received Rs.6,668.33 crore as its share of divisible Union taxes and Rs.5,650.37 crore as grants in aid.

(Paragraph 1.1)

Test check of records of sales tax, land revenue, state excise, motor vehicles tax, amusement tax, electricity duty, forest and other departmental receipts conducted during the year 2005-06 revealed underassessment/non realisation/loss of revenue etc. of Rs.1388.89 crore in 990 cases. During the year 2005-06 the concerned departments accepted under assessments etc. of Rs. 719.58 crore in 497 cases of which 382 cases involving Rs. 705.92 crore were pointed out in audit during 2005-06 and the rest in earlier years.

(Paragraph 1.12)

As on June 2006, 1,152 inspection reports containing audit observations involving Rs.779.99 crore were outstanding for want of response or final action by the concerned departments.

(Paragraph 1.15)

II. Sales Tax

Inaction of the authority led to non raising of demand of evaded tax of Rs.15.62 crore.

(Paragraph 2.2.6.2)

Non observance of provisions resulted in non imposition of minimum penalty of Rs.34.09 crore on suppressed/concealed sales.

(Paragraph 2.2.6.5)

Failure of the department in bringing the brick manufacturers under the tax net led to evasion of tax of Rs.48.25 crore.

(Paragraph 2.2.7)

Inordinate delay in disposal of appeal petitions resulted in evasion of tax of Rs.14.16 crore.

(Paragraph 2.2.11.3)

Inadequate action by the authorities against transporters violating provision of the Act led to evasion of tax and penalty of Rs.239.79 crore.

(Paragraph 2.2.12)

Incorrect exemptions allowed on stock transfer of Rs.24.43 crore to non existent/fake dealers or transactions not covered by 'F' forms resulted in under assessment of tax of Rs.1.80 crore including surcharge and additional surcharge. Minimum penalty of Rs.81.59 lakh was also not imposed.

(Paragraph 2.6)

Non levy of minimum penalty on concealment of sales/purchases of Rs.26.62 crore in 16 cases of 15 dealers resulted in non/short realisation of revenue of Rs.3.34 crore.

(Paragraph 2.8)

Incorrect exemption on account of export sales for Rs.428.29 crore instead of Rs.393.83 crore in 19 cases of 19 dealers resulted in excess exemption of export sales of Rs.34.46 crore which further resulted in short levy of tax of Rs.2.72 crore.

(Paragraph 2.10)

III. Land Revenue

Non settlement of lease in case of 120 jalkars covering 10,419.58 acres resulted in loss of revenue of Rs.8.44 crore and there was a short realisation of lease rent of Rs.3.55 crore from 43 jalkars.

(Paragraph 3.2.1)

Against realisable cess of Rs.98.28 lakh from the patta holders Rs.37.52 lakh was realised resulting in short realisation of cess of Rs.60.74 lakh.

(Paragraph 3.3)

IV. Motor Vehicles Tax

Non levy of tax and additional tax by taxing officers on 32 articulated vehicles, 17 tippers, 5 tankers and 419 different types of vehicles between April 2000 and March 2005 resulted in non realisation of tax, additional tax and penalty of Rs.45.86 lakh.

(Paragraph 4.2)

Realisation of fees at pre revised rates instead of revised rates for grant of driving/learners licence resulted in short realisation of fees of Rs.16.01 lakh.

(Paragraph 4.4)

V. Other Tax Receipts

Non assessment of additional fee on 53,033.20 london proof litre of country spirit obtained in excess during 2004-05 resulted in non realisation of revenue of Rs.14.85 lakh.

(Paragraph 5.2)

Non registration of 11 labels/brands by licensees of 11 bonded warehouses during 2001-02 and 2004-05 for sale of India made foreign liquor resulted in non realisation of fees of Rs.7.10 lakh.

(Paragraph 5.3)

VI. Mines and Minerals

Allowance of irregular claim of Rs.286.43 crore as quality deduction and Rs.52.85 crore as estimated loss on stock of coal from annual value resulted in underassessment of rural employment and primary education cess of Rs.93 crore.

(Paragraph 6.2.3.1)

Assessment of rural employment and primary education cess at reduced rate from December 1997 instead of December 1998 resulted in underassessment of cess of Rs.12 crore.

(Paragraph 6.2.3.2)

Incorrect gradation of coal in the annual declaration and assessment of rural employment and primary education cess on reduced annual value led to short assessment of cess of Rs.9.97 crore.

(Paragraph 6.2.3.3)

Inaction of the department to recover the price of stowing sand extracted in excess of permitted quantity resulted in non realisation of revenue of Rs.2.50 crore.

(Paragraph 6.2.4)

Cess of Rs.1.59 crore on dead rent for various periods between May 1997 and April 2005 was not assessed and levied by district authorities.

(Paragraph 6.2.5)

Raising of demand of Rs.5.78 crore against total demand of Rs.40.10 crore towards royalty and cess and price of minerals for unauthorised extraction resulted in short raising of demand of Rs.34.32 crore.

(Paragraph 6.3.1)

Failure of the district authorities to recover price of brickearth extracted unauthorisedly by 236 brickfield owners resulted in non/short realisation of revenue of Rs.28.38 crore.

(Paragraph 6.3.2)

Non raising of demand towards recovery of price of 29.11 lakh cft. of earth and 2.57 crore cft. of sand extracted unauthorisedly in excess of their permitted quantity resulted in non realisation of revenue of Rs.18.41 crore.

(Paragraph 6.3.3)

VII. Other Non Tax Receipts

Recovery of harvesting cost by West Bengal Forest Development Corporation at a higher rate than the approved enhanced rate during 2001-05 resulted in short realisation of revenue of Rs.7.43 lakh.

(Paragraph 7.2)

Irregular deduction of project advance from the revenue not related to the operational period for which project input advance was made resulted in short realisation of revenue of Rs.44.54 lakh.

(Paragraph 7.3)

CHAPTER I
GENERAL

1.1 Trend of revenue

Tax and non tax revenue raised by Government of West Bengal during the year 2005-06, the State's share of divisible Union taxes and grants in aid received from Government of India during the year and the corresponding figures for the preceding four years are given below:

(Rupees in crore)

	Receipts	2001-02	2002-03	2003-04	2004-05	2005-06
I.	**Revenue raised by the State Government**					
	• Tax revenue	6,534.48	7,046.40[1]	8,767.91	9,924.46	10,388.38
	• Non tax revenue	775.88	654.33	605.84	1,345.66	1,018.81
	Total	**7,310.36**	**7,700.73**	**9,373.75**	**11,270.12**	**11,407.19**
II.	**Receipts from the Government of India**					
	• State's share of net proceeds of divisible Union taxes	4,289.37	4,586.74	5,341.65	6,384.89	6,668.33[2]
	• Grants in aid	2,938.69	2,237.98	1,893.10	2,263.18	5,650.37
	Total	**7,228.06**	**6,824.72**	**7,234.75**	**8,648.07**	**12,318.70**
III.	**Total Receipts of the State Government (I+II)**	**14,538.42**	**14,525.45**	**16,608.50**	**19,918.19**	**23,725.89[3]**
IV.	**Percentage of I to III**	**50**	**53**	**56**	**57**	**48**

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

[2] For details, please see statement No.11 'detailed account of revenue by minor heads' in the Finance Accounts of the Government of West Bengal for the year 2005-06.

[3] Figures under the heads 0020-corporation tax, 0021-taxes on income other than corporation tax, 0032-taxes on wealth, 0037-customs, 0038-union excise duties, 0044-service tax – 'share of net proceeds assigned to States' booked in the Finance Accounts under A – tax revenue have been excluded from revenue raised by the State and included in State's share of divisible Union taxes in this statement.

1.1.1 Tax revenue

The details of the tax revenue raised during the year 2005-06 along with the figures for the preceding four years are given below:

(Rupees in crore)

Sl. No.	Head of revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage of increase (+)/ decrease (-) in 2005-06 over 2004-05
1.	• Sales tax	3,499.80	3,668.41	4,276.12	5,086.33	5,394.81	(+)6.06
	• Central sales tax	302.66	523.10	554.46	629.97	713.97	(+)13.33
2.	State excise	512.43	566.85	619.96	671.56	743.46	(+)10.71
3.	Stamp duty and registration fees	555.39	720.41	794.52	1,006.54	1,177.59	(+)16.99
4.	Taxes and duties on electricity	354.76	145.42	396.16	269.65	382.46	(+)41.84
5.	Taxes on vehicles	208.65	249.40	535.37	527.66	537.56	(+)1.88
6.	Other taxes on income and expenditure-tax on professions, trades, callings and employment	223.04	223.34	229.89	237.43	249.15	(+)4.94
7.	Other taxes and duties on commodities and services	163.68	287.33	366.17	359.68	269.36	(-)25.11
8.	Land revenue	711.22	658.29	993.26	1,132.55	917.11	(-)19.02
9.	Other taxes	2.85	3.85	2.00	3.09	2.91	(-)5.82
	Total	**6,534.48**	**7,046.40**	**8,767.91**	**9,924.46**	**10,388.38**	**(+)4.67**

1.1.2 Non tax revenue

The details of major non tax revenue raised during the year 2005-06 along with the figures for the preceding four years are given below:

(Rupees in crore)

Sl. No.	Head of revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage of increase (+) / decrease (-) in 2005-06 over 2004-05
1.	Interest	122.90	102.75	110.11	589.31	378.08[4]	(-)35.84
2.	Dairy development	56.62	59.30	50.27	38.42	26.44	(-)31.18
3.	Roads and bridges	20.42	22.30	22.08	19.57	19.98	(+)2.10
4.	Forestry and wildlife	26.72	56.52	45.97	40.44	38.61	(-)4.53
5.	Non-ferrous mining and metallurgical industries	7.95	6.87	13.91	18.94	19.88	(+)4.96
6.	Food, storage and warehousing	220.79	81.29	27.67	180.23	191.50	(+)6.25
7.	Housing	7.93	9.94	11.12	13.96	9.67	(-)30.73
8.	Medical and public health	45.63	48.62	47.71	71.51	53.16	(-)25.66
9.	Education, sports, art and culture	39.61	17.28	21.20	30.67	22.64	(-)26.18
10.	Public works	5.52	4.78	6.39	7.29	6.73	(-)7.68
11.	Police	60.99	64.30	44.69	56.85	57.05	(+)0.35
12.	Others	160.80	180.38	204.72	278.47	195.07	(-)29.95
	Total	**775.88**	**654.33**	**605.84**	**1,345.66**	**1,018.81**	**(-)24.29**

The reasons for variations in receipts during the year 2005-06 compared to those of the year 2004-05 in respect of principal heads of revenue as shown in the Finance Accounts were as follows:

- **Stamp duty and registration fees**: The increase (16.99 *per cent*) was mainly due to larger receipts from fees for registering documents.
- **State excise**: The increase (10.71 *per cent*) was mainly due to larger receipts from duty on foreign liquor and spirits.
- **Land revenue**: The decrease (19.02 *per cent*) was mainly due to less receipts on rates and cesses on land.
- **Interest receipts**: The decrease (35.84 *per cent*) was mainly due to less receipts on interest from Public Sector undertakings.

1.2 Initiative for mobilisation of additional resources

In the budget for 2005-06, the Government emphasised the need for mobilizing additional resources primarily through a modern and improved tax system by introduction of value added tax (VAT). Besides, it proposed suitable increase in excise duty on foreign liquor with abolition of annual licence fee and additional licence fee on the same and expected additional revenue collection of Rs.100 crore on that account in the financial year. Accordingly, VAT was introduced in the State with effect from 1 April 2005

[4] Includes credit of Rs.36.44 crore and Rs.29.66 crore by book adjustment per contra debit to 2701-Major and Medium Irrigation and 2711-Flood Control and Drainage respectively.

and the excise duty on foreign liquor was enhanced with effect from 1 May 2005. The Government's budget estimate for collection of tax and non tax revenue was Rs.11,735 crore in 2005-06 against which actual collection was Rs.11,407 crore resulting in overall shortfall in revenue of Rs.328 crore. The shortfall was mainly due to less collection from sales tax, motor vehicles tax, other taxes and duties on commodities and services, profession tax and non tax receipts except interest receipts.

1.3 Analysis of budget preparation

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

Scrutiny of relevant records relating to budget for the year 2005-06, however, revealed that the Finance Department did not receive budgetary materials from most of the administrative departments for preparation of BEs in respect of tax as well as non tax receipts for the year 2005-06 and therefore prepared the BEs taking into account the proposals received from the departments concerned, on the basis of its guidelines as under:

BEs for tax receipts for 2005-06 was prepared with a growth rate of 10 *per cent* over the revised estimate (RE) for 2004-05, while the BE of non tax receipts for 2005-06 was prepared by decreasing RE for 2004-05 by 29 *per cent.*

BE and actuals of tax and non tax revenue for the year 2005-06 and preceding four years were as follows:

(Rupees in crore)

Year	Budget estimate	Actuals	Percentage of variation of actual collection over budget estimate
Tax revenue			
2001-02	8,044	6,534	(-) 18.77
2002-03	8,275	7,046	(-) 14.85
2003-04	8,707	8,768	(+) 0.70
2004-05	10,448	9,924	(-) 5.02
2005-06	10,694	10,388	(-) 2.86
Non tax revenue			
2001-02	1,009	776	(-) 23.09
2002-03	1,808	654	(-) 63.83
2003-04	1,144	606	(-) 47.03
2004-05	1,403	1,346	(-) 4.06
2005-06	1,041	1,019	(-) 2.11

From the table it is evident that except in the case of tax revenue for the year 2003-04, the targets set in the budget have never been achieved and the actual receipts fell short of the BE. During 2005-06, there were wide variations between BEs and actual receipts especially in respect of land revenue, sales tax, motor vehicles tax, stamp duty and registration fees and electricity duty. The actual receipts from non tax revenue, except in 2004-05, have shown a decreasing trend compared to BEs.

This indicates that the procedure followed in preparation of the budget by the Finance Department to increase/decrease the RE at a certain percentage to arrive at the BE proved to be unrealistic, especially in respect of non tax revenue.

1.4 Variations between budget estimates and actuals

The variations between the BEs and actuals of revenue receipts for the year 2005-06 in respect of the principal heads of tax and non-tax revenue are given below:

(Rupees in crore)

Heads of revenue	Budget estimates	Actuals	Variations excess(+) or shortfall(-)	Percentage of variation
Tax revenue				
1. Sales tax	6,503	6,109	(-)394	(-) 6.06
2. State excise	751	743	(-)8	(-) 1.07
3. Land revenue	742	917	(+)175	(+) 23.58
4. Taxes on vehicles	700	538	(-)162	(-) 23.14
5. Stamp duty and registration fees	1,051	1,178	(+)127	(+) 12.08
6. Professions tax	300	249	(-)51	(-) 17.00
7. Electricity duty	288	382	(+)94	(+) 32.64
8. Other taxes and duties on commodities and services	357	269	(-)88	(-) 24.65
9. Others	2	3	(+)1	(+) 50.00
Total	**10,694**	**10,388**	**(-)306**	**(-) 2.86**
Non tax revenue				
10. Forest receipts	58	39	(-)19	(-) 32.76
11. Interest receipts	152	378	(+)226	(+)148.68
12. Dairy development	52	26	(-)26	(-) 50.00
13. Food storage and warehousing	222	192	(-)30	(-) 13.51
14. Medical and public Health	99	53	(-)46	(-) 46.46
15. Education, sports, art and culture	39	23	(-)16	(-) 41.03
16. Public works	8	7	(-)1	(-) 12.50
17. Roads and bridges	28	20	(-)8	(-) 28.57
18. Police	89	57	(-)32	(-) 35.96
19. Major and medium irrigation	5	5	Nil	--
20. Minor irrigation	20	19	(-)1	(-) 5.00
21. Others	269	200	(-)69	(-) 25.65
Total	**1,041**	**1,019**	**(-)22**	**(-) 2.11**

The reply of the departments on the variation between BEs and actuals in respect of forest receipts electricity duty and amusement tax were as follows:

- **Forest receipts**: Ban on felling of trees above 1,000 meter altitude in North Bengal, reduction in forest working due to restriction in the Working Plans etc. leading to shortfall in collection of revenue.
- **Electricity duty**: Non payment of duty by licensees and others.
- **Amusement tax**: Retention of entertainment tax by some cinema halls for subsidy granted to them and default by Royal Calcutta Turf Club in payment of betting tax for three months.

The reasons for variation in respect of other receipts, though called for in April 2006, have not been received (October 2006).

1.5 Analysis of collection

Break-up of total collection at pre assessment stage and after regular assessment of sales tax, agricultural income tax, amusement tax for the year 2004-05 and the corresponding figures for the preceding two years as furnished by the department is as follows:

(Rupees in crore)

Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection[5]	Percentage of column 3 to 7
1	2	3	4	5	6	7	8
Sales tax	2003-04	4,766.86	64.75	12.68	104.14	4,740.15	101
	2004-05	5,572.88	81.23	23.95	33.95	5,644.11	99
	2005-06	5,919.51	86.28	25.44	36.10	5,995.13	99
Agricultural income tax	2003-04	1.30	0.76	0.04	0.43	1.67	78
	2004-05	1.17	0.40	Nil	0.17	1.40	84
	2005-06	2.04	0.26	Nil	0.78	1.52	134
Amusement tax	2003-04	49.18	2.03	0.09	0.01	51.29	96
	2004-05	55.36	2.33	0.31	0.01	57.99	95
	2005-06	57.19	8.51	0.11	7.11	58.70	97

1.6 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2003-04 to 2005-06 along with the relevant all India average percentage of expenditure on collection to gross collection were as follows:

(Rupees in crore)

Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of expenditure on collection for the year 2004-05
Sales tax	2003-04	4,831.00	73.84	1.52	0.95
	2004-05	5,716.00	75.20	1.32	
	2005-06	6,109.00	80.10	1.31	
State excise	2003-04	620.00	38.53	6.21	3.34
	2004-05	672.00	38.45	5.72	
	2005-06	743.00	39.38	5.30	
Stamp duty and registration fees	2003-04	794.00	35.26	4.44	3.44
	2004-05	1,007.00	39.65	3.94	
	2005-06	1,178.00	42.94	3.65	
Taxes on vehicles	2003-04	535.00	8.83	1.65	2.74
	2004-05	528.00	9.32	1.77	
	2005-06	538.00	9.70	1.80	

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

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

1.7 Collection of sales tax per assessee

The sales tax is the major source of revenue of the state contributing more or less 60 *per cent* of the total revenue collection. The collection of sales tax per assessee during the last five years as on 2005-06 as furnished by the Finance Department is tabled below:

Year	No. of assessees	Sales tax revenue *(Rupees in crore)*	Revenue/assessee *(Rupees in lakh)*
2001-02	1,78,273	3,802	2.13
2002-03	1,85,050	4,192	2.27
2003-04	1,97,292	4,831	2.45
2004-05	2,20,305	5,717	2.59
2005-06	2,98,181	6,109	2.05

The above table shows that collection of tax per assessee after showing steady increase from 2001-02 to 2004-05 came down in 2005-06.

1.8 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2006 in respect of some principal heads of revenue as furnished by the departments amounts to Rs.1,936.82 crore of which Rs.91.51 crore were outstanding for more than five years as detailed in the following table:

(Rupees in crore)

Head of revenue	Amount outstanding as on 31 March 2006	Amount outstanding for more than five years as on 31 March 2006
Sales tax	1,305.99	53.82
Electricity duty	547.52	Nil
Amusement tax	40.80	15.14
Agricultural income tax	30.17	17.19
Excise duty	12.34	5.36
Total	**1,936.82**	**91.51**

1.9 Arrears in assessments

The details of cases pending assessment at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of each year during 2003-04 to 2005-06 as furnished by the departments are given below:

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Arrears in percentage *(against total cases)*
Sales tax						
2003-04	1,55,033	2,14,471	3,69,504	1,74,088	1,95,416	53
2004-05	1,95,416	1,62,071	3,57,487	1,73,289	1,84,198	52
2005-06	1,84,198	1,30,038	3,14,236	1,45,160	1,69,076	54
Professions tax						
2003-04	1,67,405	38,955	2,06,360	54,224	1,52,136	74
2004-05	1,52,136	48,331	2,00,467	39,505	1,60,962	80
2005-06	1,60,962	61,765	2,22,727	90,614	1,32,113	59
Amusement tax						
2003-04	5,215	3,709	8,924	2,575	6,349	71
2004-05	6,349	2,890	9,239	1,986	7,253	79
2005-06	7,253	3,872	11,125	3,085	8,040	72
Agricultural income tax						
2003-04	2,245	485	2,730	255	2,475	91
2004-05	2,475	495	2,970	324	2,646	89
2005-06	2,646	467	3,113	553	2,560	82

It would be seen from the above table that percentage of cases pending disposal at the end of each financial year was between 52 and 91.

1.10 Evasion of tax

The details of cases of evasion of tax detected by the State Excise department, cases finalised and the demands for additional tax raised as reported by the departments is given below:

Name of tax/duty	Cases pending as on 31 March 2005	Cases detected during 2005-06	Total	No. of cases in which assessments/investigations completed and additional demand including penalty etc., raised		No. of cases pending finalisation as on 31 March 2006
				No. of cases	Amount demanded	
State excise	7	Nil	7	Nil	Nil	7
Amusement tax	20	9	29	10	NA*	19

*Not available.

1.11 Refunds

The number of refund cases pending at the beginning of the year 2004-05, claims received during the year and refunds at the close of the year 2005-06, as reported by the departments were as follows:

	Sales tax		Amusement tax		Agricultural income tax	
	No. of cases	Amount (Rs. in crore)	No. of cases	Amount (Rs. in lakh)	No. of cases	Amount (Rs. in crore)
Claims outstanding at the beginning of the year	178	3.20	4	7.32	12	0.35
Claims received during the year	385	3.30	4	704.35	30	3.77
Refunds made during the year	330	4.16	6	711.34	23	0.78
Balance outstanding at the end of the year	233	2.34	2	0.33	19	3.34

1.12 Results of audit

Test check of records of sales tax, land revenue, stamp duty and registration fees, motor vehicles tax, state excise, electricity duty, other tax receipts, forest receipts and other non tax receipts conducted during the year 2005-06 revealed under assessment/short levy/loss of revenue amounting to Rs.1388.89 crore in 990 audit observations. During the course of the year the departments accepted Rs.719.58 crore in 497 audit observations of which 382 audit observations involving Rs.705.92 crore were pointed out in audit during 2005-06 and the rest in earlier years and Rs.3.67 crore has been recovered at the instance of audit. No replies have been received in respect of the remaining cases.

This Report contains 36 paragraphs including one review relating to non/short levy of taxes, duties, interest and penalties etc., involving Rs.711.36 crore. The departments accepted audit observations involving Rs.170.81 crore of which Rs.6.83 lakh had been recovered. The departments have contested paragraphs involving Rs.70.58 crore and no reply has been furnished in other cases.

In respect of observations not accepted by the department, gist of reasons for department's non acceptance has been included in the related paragraph itself along with suitable rebuttal. However, replies from the Government have not been received (October 2006).

1.13 Status of recovery against audit observations accepted by Government

A review of Government replies to paragraphs of the Audit Reports for the last five years from 2000-01 to 2004-05, shows that although the magnitude of acceptance by the departments of audit paras is relatively high (Rs.2,407.35 crore) as compared to the revenue effect of audit observations (Rs.3,472.24 crore), the actual recovery of Rs.161.48 crore only is extremely low. A year-wise breakup of recovery of revenue till October 2006 against the acceptance as pointed out in the Audit Report concerned was as follows:

(Rupees in crore)

Year of Audit Report	Revenue effect of the Report	Amount accepted by the departments	Amount recovered
2000-01	1,243.45	1,205.83	0.98
2001-02	133.89	125.27	130.56
2002-03	204.77	150.96	0.29
2003-04	1,335.20	483.13	29.44
2004-05	554.93	442.16	0.21
Total	**3,472.24**	**2,407.35**	**161.48**

1.14 Departmental audit committee meetings

For prompt settlement of very old outstanding inspection reports through discussion among senior officers of concerned administrative department, the Finance Department and the officers of the office of the Accountant General, West Bengal, departmental audit committees were constituted by the Government in the year 1985.

For this purpose, meetings of audit committees comprising the secretary of the administrative department concerned, a senior officer of the Finance Department not below the rank of Joint Secretary and representative of the office of the Accountant General, West Bengal should be convened by the administrative department concerned.

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

(Rupees in crore)

Year	Name of the Department	Number of meeting(s) held	Number of paragraphs settled	Money Value of the paragraphs settled
2003-04	Public works	1	Nil	Nil
	Forest	1	Nil	Nil
2004-05	Public works	1	Nil	Nil
	State excise	1	16	0.17
2005-06	State excise	2	45	2.17

The above table shows that out of eight departmental audit committees only three committees held their meetings during the last three years. Out of those three, audit committee on State excise settled 61 audit observations involving money value of Rs.2.34 crore and other two committees held the meeting without settling any audit observation. The other departments did not hold audit committee meeting till October 2006 despite several reminders.

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

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

Inspection reports issued up to December 2005 disclosed that 3,303 paragraphs involving money value of Rs.780 crore relating to 1,152 IRs

remained outstanding at the end of June 2006. Of these, 244 IRs containing 435 paragraphs involving money value of Rs.57.07 crore had not been settled for more than 10 years by the Finance Department in respect of sales tax, amusements tax, agricultural income tax, professions tax, electricity duty and stamp duty and registration fees, by the Forest Department in respect of forest receipts, by the Commerce and Industries Department in respect of mines and minerals, by the Transport Department in respect of taxes on motor vehicles, by the Land and Land Reforms Department in respect of land revenue and other departments in respect of other departmental receipts. Even the first replies, required to be received from the heads of offices within three weeks from the date of issue of the IRs, were not received in respect of 1,821 paragraphs of 472 IRs issued between October 1986 and December 2005. As a result, the serious irregularities commented upon in these IRs had not been settled as of 30 June 2006.

Department wise break up of IRs and audit observations outstanding as on 30 June 2006 is given below:

(Rupees in crore)

Sl. No.	Department	Position of IRs issued up to December 2005 but not settled at the end of June 2006			Position of IRs and paragraphs not settled for more than 10 years			Position of IRs in respect of which first reply not received		
		No. of IRs	No. of para-graphs	Money value	No. of IRs	No. of para-graphs	Money value	No. of IRs	No. of para-graphs	Earliest year to which IR relates
1.	**Finance**									
	(a) Sales tax	133	708	48.92	11	18	0.38	75	557	2000-01
	(b) Professions tax	97	254	14.29	29	43	4.12	23	124	2000-01
	(c) Stamp duty and registration fees	258	392	38.30	34	41	1.75	128	182	1995-96
	(d) Electricity duty	52	94	151.43	16	22	2.08	6	39	1998-99
	(e) Agricultural income tax	17	25	1.84	3	6	0.04	5	6	1992-93
	(f) Amusements tax	67	125	20.47	21	30	0.96	22	47	1985-86
	(g) Luxury tax	17	25	0.09	--	--	--	11	11	2002-03
2.	**Forest**									
	Forest receipts	99	234	62.70	17	23	0.77	42	164	1996-97
3.	**Commerce and Industries**									
	Mines and minerals	63	223	52.32	15	33	0.88	27	139	1992-93
4.	**Land and Land Reforms**									
	Land revenue	90	505	142.74	39	127	15.26	31	207	1992-93
5.	**Excise**									
	State excise	50	148	69.07	1	1	10.07	22	92	1992-93
6.	**Transport**									
	Motor vehicles	116	346	12.43	29	40	0.03	53	185	2000-01
7.	**Other**									
	Departmental receipts	93	224	164.79	29	51	20.73	27	68	1994-95
	Total	**1,152**	**3,303**	**779.99**	**244**	**435**	**57.07**	**472**	**1,821**	--

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

1.16 Settlement of paragraphs of the Audit Reports

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

The number of selected and unselected paragraphs in respect of which explanatory notes have not been furnished by the Government stood at 30 and 757+ 416 (Part)[6] respectively.

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

1.17 Follow up on Audit Reports-summarised position

As per the Rules of Procedure of the PAC of the West Bengal Legislative Assembly (Internal Working) framed in 1997, the concerned department shall take necessary steps to send its action taken notes (ATN) on the recommendations contained in the Report of the PAC on the Audit Report within six months from the date of its presentation to the House. The position of outstanding ATNs due from the departments is shown below:

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

Particulars of the PAC Report	Date of presentation in the Assembly	Name of the Department	Year of Audit Report	No. of ATNs due
Sixth Report of 1987-88	20 April 1988	Excise	1978-79 1980-81	3 3
Seventeenth Report of 1988-89	5 May 1989	Irrigation and Waterways	1978-79 1983-84	3 1
Twenty second Report of 1990-91	26 March 1991	Transport	1979-80 1980-81	1 1
Second Report of 1991-92	9 April 1992	Board of Revenue	1980-81 1982-83 1983-84 1984-85	4 1 1 1
Seventh Report of 1991-93	23 March 1993	Finance	1983-84	1
Seventeenth Report 1993-94	31 March 1994	Land and Land Reforms	1981-82 1985-86 1986-87	1 2 2
Twenty second Report of 1994-95	17 April 1995	Excise	1984-85	2
Twenty fifth Report of 1994-96	1 August 1995	Transport	1983-84	1
		Home (Police)	1988-89	1
Seventeenth Report of 1998-99	28 June 1999	Land and Land Reforms	1988-89 1990-91 1992-93	1 1 1
Twenty ninth Report of 1999-2000	2 December 1999	Irrigation and Waterways	1990-91	1
Sixteenth Report of 2002-03	8 July 2003	Finance	1997-98 1998-99	1 2
Twenty second Report of 2003-04	7 July 2004	Finance	1998-99	8
Thirty-fifth Report of 2004-05	8 July 2005	Land and Land Reforms	1999-2000	5
Total				**49**

Department failed to submit ATNs within six months in respect of 49 paragraphs included in the Audit Reports upto the year ended March 2000.

CHAPTER II
SALES TAX

2.1 Results of audit

Test check of records relating to sales tax, conducted during the year 2005-06, revealed underassessment of tax and other irregularities involving Rs.887.34 crore in 586 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Incorrect determination of turnover of sales	63	1.75
2.	Underassessment of tax due to incorrect deduction	47	1.43
3.	Irregular exemption	46	3.21
4.	Application of incorrect rate of tax and mistake in computation	55	1.22
5.	Non/short levy of interest and penalty	134	19.48
6.	Review on 'Evasion of Sales Tax'	82	846.74
7.	Others	159	13.51
Total		**586**	**887.34**

During the course of the year 2005-06, the concerned department accepted underassessment etc. of Rs.439.31 crore involved in 242 cases of which 211 cases involving Rs.435.63 crore were pointed out in audit during the year 2005-06 and the rest in earlier years. An amount of Rs.3.73 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.21.28 crore highlighting important observations and a review involving financial effect of Rs.472.26 crore are given in the following paragraphs:

2.2 Review on 'Evasion of Sales Tax'

Highlights

Inaction of the authority led to non raising of demand of evaded tax of Rs.15.62 crore

[Paragraph 2.2.6.2]

Non observance of provisions resulted in non imposition of minimum penalty of Rs.34.09 crore on suppressed/ concealed sales

[Paragraph 2.2.6.5]

Failure of the department to bring the brick manufacturers under the tax net led to evasion of tax of Rs.48.25 crore

[Paragraph 2.2.7]

Non pursuance of cases for recovery of dues from runaway dealers led to evasion of Government revenue of Rs.164.30 crore

[Paragraph 2.2.10]

Inordinate delay in disposal of appeal petitions resulted in evasion of tax of Rs.14.16 crore

[Paragraph 2.2.11.3]

Inadequate action by the authorities against transporters violating provisions of the Act led to evasion of tax and penalty of Rs.239.79 crore

[Paragraph 2.2.12.1]

Recommendations

The State Government may consider taking the following steps to detect and control the evasion of sales tax:

- evolve an internal control mechanism to monitor follow up action and timely disposal of cases of evasion of tax detected by the investigation wings;
- strengthen coordination between the sales tax and other Government departments by setting up a system for regular exchange of information to bring unregistered dealers under the tax net;
- amend the Act/Rules to fix a time limit for initiation of certificate proceedings and monitor the certificate cases initiated by the assessing authorities (AAs) to control evasion by defaulting dealers;
- prepare an updated departmental manual; and
- improve the functioning of the internal audit wing.

2.2.1 Introduction

Assessment, levy and collection of sales tax are governed under the West Bengal Sales Tax (WBST) Act, 1994, the Central Sales Tax (CST) Act, 1956 and the Rules made thereunder. Under the provision of the Acts, every dealer liable to pay sales tax is required to

- get himself registered for carrying on his business;
- file prescribed returns furnishing particulars of sales/purchases etc.; and
- pay assessed dues of tax, penalty and interest within the specified dates.

If a dealer fails to pay his assessed dues within the specified dates, the dues are recovered by initiating certificate proceedings under the provision of the WBST Act and the Bengal Public Demands Recovery (PDR) Act, 1913.

The Bureau of Investigation (BI) under Sales Tax Department has been set up under the Act to investigate the cases of suspicious dealers. The Central Section (CS) under the directorate deals with various functions related to sales tax and has also been entrusted with the work of investigation. Both BI and CS have jurisdiction over the whole of West Bengal and function for prevention of evasion of sales tax by collecting information regarding suspicious dealers, dealing with allegations and complaints, holding inspection, search and seizure after conducting raids on the business place of suspected dealers and investigating into affairs of particular dealers calling for special attention.

2.2.2 Audit objectives

The review was conducted to examine

- effectiveness of the department and its investigation machinery in detecting and controlling evasion of tax.
- performance of the department in properly and promptly assessing and realising tax, penalty and interest on detected cases of evasion; and
- efficacy of the internal controls in the department for realisation of dues from dealers.

2.2.3 Organisational set up

The overall control and superintendence of the sales tax organisation i.e. Directorate of Commercial Taxes is vested with the Commissioner of Commercial Taxes (CCT), who is assisted by two special commissioners, 25 additional commissioners, 89 deputy commissioners (DCCT), 325 assistant commissioners (ACCT), 666 commercial tax officers (CTO) and 1,220 assistant commercial tax officers (ACTO) for administering the provisions of the Acts and the Rules made thereunder. An internal audit wing was set up in May 1991 for ensuring compliance of internal control measures.

BI is headed by an Additional CCT also referred to as Special Officer. He is assisted by one DCCT, seven ACCTs, five CTOs and 26 ACTOs. CS is headed by an Additional Commissioner who is assisted by eight DCCTs, 47 ACCTs, 80 CTOs and 142 ACTOs.

2.2.4 Scope of Audit

The assessment and collection records for the years 2000-01 to 2004-05 of nine out of 17 circle offices and 21 out of 70 charge offices were reviewed during the period from September 2005 to March 2006. The volume of collection of revenue was the criterion for selection of the charge offices. In addition, office of the CCT, BI, CS, internal audit wing, five[1] out of nine range offices and 12[2] out of 27 check posts were also test checked.

2.2.5 Performance of BI and CS in detecting and realising evaded tax

During the review, case records of raids, inspections, searches, seizures and investigations conducted by BI and CS were scrutinized. It was noticed that no norms existed for conducting raids, inspections, seizures and investigations. The raids were conducted after getting information from departmental sources[3]. In the absence of an updated departmental manual, the controls to be exercised at various stages could not be ascertained.

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[1] Durgapur, Kharagpur, Purulia, Raigunj and Siliguiri

[2] Barakar, Berma, Chasmore, Tulin, Chichira, Dalkhola, Duburdih, Melly, Phansidewa, Netaji Subhas International Airport, Netaji Subhas dock and Khidirpur dock

[3] Information from own sources and charge offices

2.2.5.1 Involvement of evaded tax vis-à-vis total sales tax revenue

BI and CS conducted 1,984 raids during 2000-01 to 2004-05 and detected evasion of tax in 1,169 cases. The tax involvement and realisation thereof from these 1,169 cases is detailed below:

(Rupees in crore)

Year	Total sales tax revenue of the State	Total tax involved in the detected cases	Percentage of involvement to the total revenue
2000-01	3,671.38	6.92	0.19
2001-02	3,802.46	7.40	0.19
2002-03	4,191.51	9.59	0.23
2003-04	4,830.58	19.61	0.41
2004-05	5,716.30	20.00	0.35
Total	**22,212.23**	**63.52**	**0.29**

2.2.6 Inadequate follow-up action on cases of evasion detected by BI and CS

Reports containing findings of investigation are sent by BI and CS to the assessing authorities (AAs) for assessment and realisation of evaded tax. Under section 80 of the WBST Act, where assessment of the dealer has already been completed, the assessments need be reopened for assessment and inclusion of the evaded tax.

Examination of case records disclosed that no system existed in any of the charge offices to record the reports of evasion of tax sent by BI and CS and to watch follow up action thereof.

As per information furnished, BI and CS sent 1,169 investigation reports involving evaded tax of Rs.63.52 crore to charge offices for assessment and realisation during 2000-01 to 2004-05. Out of these 271 reports related to the charge offices test checked. 107 reports involving tax effect of Rs.40.25 crore and cases having tax evasion of more than Rs. 3 lakh were cross verified with the respective assessment records in the charge offices. During cross verification, irregularities noticed in 35 cases are discussed below:

2.2.6.1 Non assessment of evaded tax

BI and CS detected suppression of sales of Rs.17.85 crore in three cases by three dealers and sent investigation reports to three[4] charge offices for assessment of the evaded tax between January 2002 and August 2004. The charge offices, however, did not assess those cases of evaded tax till March 2006 i.e. lapse of a period ranging between 19 and 50 months from the date of receipt of the investigation reports. This resulted in non assessment of evaded tax of Rs. 2.75 crore including penalty of Rs.1.65 crore.

After this was pointed out, the department accepted the audit observation. Further report on action taken has not been received (October 2006).

2.2.6.2 Non raising of demand of evaded tax

CS detected suppression of sales of Rs. 194.09 crore by a dealer of Ultadanga charge for the assessment period of March 2000 and sent the investigation report to the charge office in December 2001. The AA assessed tax of Rs. 17.21 crore in March 2002. The dealer preferred appeal and the assessment order was set aside by the appellate authority in May 2003 for reassessment. Scrutiny further revealed that AA reassessed the case in May 2005 i.e. after a lapse of two years but no demand notice was served upon the dealer for Rs.15.62 crore of reassessed tax. This resulted in non raising of demand of evaded tax of Rs.15.62 crore.

After this was pointed in October 2005, the department while admitting the lapse on the part of AA stated that the demand notice was subsequently issued. However, the date of serving the demand notice has not been received (October 2006).

2.2.6.3 Short raising of demand of evaded tax

In two[5] charge offices, AAs completed assessments of two cases of two dealers and assessed tax, penalty and interest of Rs.1.86 crore on suppressed turnover. Scrutiny revealed that the AAs served demand notice of Rs 1.34 crore instead of Rs.1.86 crore upon the dealers. This resulted in short raising of demand of evaded tax of Rs.53 lakh.

[4] Ballygunje, Park Street and Siliguri
[5] Esplanade and Lalbazar

After this was pointed out, the department admitted the audit observation and stated that there was lapse on the part of the AAs. However, report on raising of the demand has not been received (October 2006).

2.2.6.4 Non initiation for realisation of evaded tax

In two[6] charge offices the AAs completed the assessments of two cases of two dealers and assessed tax, penalty and interest of Rs.2.24 crore on the suppressed sales of Rs.6.60 crore and served demand notices upon the dealers. Though the dealers defaulted in payment of assessed dues, for a period ranging between 38 and 82 months, no certificate proceedings were initiated by the AAs to realise the dues till March 2006. Thus, non initiation of certificate proceedings resulted in non realisation of evaded tax, penalty and interest of Rs.2.24 crore.

After this was pointed out, the department admitted the audit observation and stated that there was lapse on the part of the AAs. However, further report on action taken has not been received (October 2006).

2.2.6.5 Non imposition of penalty on concealed/suppressed sales

Under the WBST Act, where the AA is satisfied that any dealer with an intent to reduce the amount of tax payable has concealed any sales/purchases or furnished incorrect statement of his sales/purchases in his returns or otherwise; he may impose penalty of a sum which shall not be less than one and a half times and not more than thrice the amount of tax that would have been avoided by the dealer if the concealment had not been detected. According to instructions of the CCT issued in June 1991, where an AA did not initiate penal proceedings in a case, he should record the reasons for not doing so.

In CS and other six charge offices, the AAs assessed tax of Rs.22.72 crore in 27 cases of 10 dealers on suppressed and concealed sales/purchases of Rs.272.47 crore as detected and reported by BI and CS. But the AAs neither imposed a minimum penalty on the evaded tax nor recorded the reasons for not doing so in the assessment orders. Minimum penalty on the evaded tax works out to Rs.34.09 crore as detailed below:

[6] Bhawanipur and Lalbazar

(Rupees in crore)

Circle / Charge office	No. of cases	Period of assessment between	Date of assessment between	Suppression of sales/purchases	Tax evaded	Minimum penalty not levied
Budge Budge	2	2000-01 and 2001-02	April 2003	27.41	2.26	3.39
Park Street	2	1995-96 and 2002-03	April 1998 and June 2005	13.70	0.87	1.30
Esplanade	1	1996-97	February 2002	4.01	0.48	0.72
Ultadanga	1	1999-00	May 2005	194.09	15.62	23.44
Salt Lake	6	1995-96 and 2000-01	September 2003	3.11	0.31	0.47
Central Section	6	1997-98 and 2000-01	June 2003	14.81	0.84	1.26
Bhawanipur	9	1996-97 and 2001-02	April 1999 and June 2004	15.34	2.34	3.51
Total	**27**			**272.47**	**22.72**	**34.09**

After this was pointed out, the department while admitting the audit observation stated that this was due to non existence of an updated departmental manual and misunderstanding the spirit of the word 'may' in the Act by the AAs. However, the reply of the department is not tenable since the instructions of the CCT issued in June 1991 were reiterated in December 2002, which directed the AAs to impose penalty in deserving cases and in case of non imposition of the penalty, to record the reasons thereof in the assessment order.

Registration

Under the sales tax laws of West Bengal, no dealer liable to pay tax shall carry on business unless he has been registered and possesses a certificate of registration issued by the sales tax authorities.

2.2.7 Evasion of tax due to non registration

Under the provisions of the WBST Act, a dealer shall get himself registered when his turnover exceeds the taxable turnover prescribed under the Act. The taxable quantum for a brick manufacturer is Rs. one lakh. The rate of tax on sale of bricks is 10 *per cent.*

A brick field owner is required to obtain permit for extraction of brick earth from the district land and land reforms offices (DL&LROs).

Cross verification of records of registration of dealers in five charge offices with those available from four[7] DL&LROs in connection with extraction of earth revealed that 488 unregistered dealers extracted, between 2000-01 and 2004-05, brick earth of 19.52 crore cft. equal to 214.63 crore[8] bricks valued at Rs.482.51 crore. The unregistered dealers engaged in the manufacture and sales of bricks escaped payment of tax in spite of their turnover being in excess of the taxable quantum. The charge offices failed to bring the brick manufacturers under the tax net since they did not monitor the collection of sales tax in coordination with the DL&LROs. This resulted in sales escaping assessment and consequent evasion of tax of Rs.48.25 crore as detailed below:

(Rupees in crore)

Charge office	No. of cases	Brick earth extracted (in crore cft)	Number of bricks sold (in crore)	Sale value of bricks	Tax evaded
Durgapur	57	1.37	15.04	33.09	3.31
Midnapore	108	7.35	80.82	177.80	17.78
Asansol	200	6.30	69.29	152.44	15.24
Purulia	73	1.08	11.84	21.31	2.13
Barasat	50	3.42	37.64	97.87	9.79
Total	**488**	**19.52**	**214.63**	**482.51**	**48.25**

After this was pointed out, the department while admitting the audit observation stated that there was need to set up a mechanism for exchange of information between the DL&LROs and the charge offices.

Returns

Under the sales tax laws of West Bengal, a dealer liable to pay sales tax is required to file the prescribed returns within the stipulated time before the AAs furnishing the correct particulars of sales and purchase etc. therein.

2.2.8 Undue benefit to dealers on sales of Schedule IV goods

Under the WBST Act, goods mentioned in Schedule IV of the Act are taxable on the first point of sale in West Bengal. Resale of schedule IV goods, shown to the satisfaction of the CCT to have been purchased within West Bengal and already been taxed at the first point of sale, are exempted from tax. Further, the CCT in his circular issued in December 1999 clarified that the reselling dealers preferring claims of such exemption will have to furnish prescribed

[7] Burdwan, Midnapore, North 24 Parganas and Purulia

[8] Under the West Bengal Minor Mineral Rules, 1959 read with the Commerce and Industries Department notification issued in September 1969, 100 cft of brick earth is equal to 1,382 bricks and wastage of 282 bricks is allowed for processing loss.

purchase documents containing name and addresses of the selling dealers as proof of their claims, so that the sales tax officials can verify the payment of tax at the selling dealers' end.

Scrutiny of 7,844 assessment records of a circle office and six charge offices revealed that, in 390 cases, 122 dealers claimed sales of Rs.946.75 crore as resale of schedule IV goods purchased within West Bengal and preferred claim for exemptions of tax thereof in their returns.

2.2.8.1 Further scrutiny disclosed that in 309 cases of 89 dealers involving tax of Rs.65.53, crore the dealers either furnished incomplete purchase documents or did not furnish the purchase documents at all as detailed below:

(Rupees in crore)

Circle / Charge	No. of cases	Period of assessment between	Assessed between	Sale value of goods	Tax exempted
Asansol	44	1998-99 and 2002-03	May 2001 and March 2005	61.65	3.89
Chowringhee	7	1995-96 and 2000-01	February 2003 and November 2003	31.79	8.77
Durgapur	18	1997-98 and 2002-03	February 2000 and March 2005	27.89	1.80
Ultadanga	5	1997-98 and 2000-01	June 2000 and June 2003	30.37	2.44
Siliguri	156	1997-98 and 2002-03	June 2000 and March 2005	512.80	29.94
Purulia	70	1997-98 and 2002-03	November 2000 and March 2005	160.73	17.86
Midnapore	9	1999-00 and 2001-02	April 2002 and May 2004	12.02	0.83
Total	**309**			**837.25**	**65.53**

2.2.8.2 In the remaining 81 cases involving tax of Rs.7.52 crore, though 33 dealers furnished the purchase documents but no scrutiny or verification was conducted by the AAs to ascertain the correctness of the exemption allowed to the dealers as detailed below:

(Rupees in crore)

Circle / Charge	No. of cases	Period of assessment between	Assessed between	Sale value of goods	Tax exempted
Asansol	37	1999-00 and 2002-03	May 2001 and March 2005	34.70	3.17
Durgapur	11	1999-00 and 2002-03	May 2002 and March 2005	36.70	1.71
Ultadanga	1	1999-00 and 2000-01	May 2005	0.24	0.02
Purulia	10	1999-00 and 2002-03	March 2001 and March 2005	8.21	0.61
Midnapore	22	1999-00 and 2002-03	June 2002 and March 2005	29.65	2.01
Total	**81**			**109.50**	**7.52**

After this was pointed out, the department stated that the AAs exempted such sales after checking the purchase bills. The reply of the department was not tenable since in 309 out of 390 cases the dealers defaulted in production of 'purchase documents'/ 'complete purchase documents' etc. required for availing exemption. Moreover, in the remaining 81 cases, though purchase documents were available no cross verification was conducted with the records of the selling dealers' allowing exemption as stipulated in the circular referred to.

2.2.9 Evasion by way of non/short disclosure of turnover

During the review, in 396 cases the turnover of sales and purchases etc. furnished by the dealers in their returns were cross verified with final accounts and other relevant records. The cross verification revealed the following:

2.2.9.1 Evasion by way of non disclosure of purchases

Scrutiny of final accounts and relevant records in 24 cases of three[9] charge offices disclosed that 10 dealers purchased between March 1999 and March 2003 machinery, furniture, office equipment, electrical equipment etc. valued at Rs.216.16 crore involving a tax effect of Rs.8.65 crore. However, scrutiny of their respective returns and assessment orders made between April 2000 and March 2005 revealed that the dealers did not disclose such purchases in their returns. The AAs also failed to detect the mistake during the assessment proceedings. Consequently, there was evasion of tax of Rs.8.65 crore by way of non disclosure of purchases.

[9] Asansol, Durgapur and Purulia

2.2.9.2 Evasion of tax by short disclosure of turnover

Scrutiny of final accounts of six dealers in four[10] charge offices revealed that in 25 cases dealers earned miscellaneous income/receipts of Rs.136.65 crore during the assessment periods between March 1997 and March 2003. These sales were exigible to tax. However, scrutiny of returns and assessment orders revealed that the dealers neither disclosed such income in their returns nor was it detected by the AAs while finalising the assessment between June 2000 and June 2005. Thus, the dealers evaded tax of Rs.15.25 crore by not disclosing miscellaneous income/receipts in the returns and other records relating to assessment.

Payment of tax

Under the sales tax laws of West Bengal, a dealer is required to pay his dues within the dates specified in the demand notice. Any wilful attempt by a dealer in any manner to evade or defeat sales tax imposed under the laws is an offence and shall be punishable with imprisonment from three months to two years or with fine not exceeding Rs.10,000 or with both. Such an offence is cognizable and non bailable. However, no court shall take cognizance of such an offence except with the previous sanction of the CCT.

2.2.10 Evasion of tax by runaway dealers

The CCT in his circular issued in July 1968 directed all the AAs to pursue cases of defaulting dealers properly in time and take all administrative and legal action to collect the dues as early as possible.

During the review, cases of 189 defaulting dealers were examined. Scrutiny revealed that 20 dealers of nine charge offices in 43 cases defaulted in payment of dues of Rs.164.30 crore. The AAs neither pursued these cases for realisation of dues nor took any administrative/legal action even after a lapse of 14 months to 215 months from the dates specified for payment. The dealers, in the meanwhile, fled from their declared place of business and residence without making any payment. The authorities subsequently declared the dealers untraceable. Dues of Rs.164.30 crore involved in these cases are detailed below:

[10] Asansol, Durgapur, Purulia and Salt Lake

(Rupees in crore)

Charge office	No. of cases	Assessment period between	Date of assessment between	Date specified for payment between	Time lapsed without any action for recovery between	Total assessed dues
Alipur	6	1982-83 and 1993-94	March 1987 and June 1996	April 1988 and August 1996 ,	115 and 215 months	13.69
Behala	7	1997-98 and 2000-01	June 2000 and June 2003	July 2000 and August 2003	31 and 68 months	5.30
Park Street	3	2000-01 and 2001-02	June 2003 and June 2004	August 2003 and January 2005	14 and 31 months	10.54
Salt Lake	4	1998-99 and 2001-02	June 2001 and May 2002	August 2001 and August 2002	43 and 55 months	1.36
Ultadanga	4	1996-97 and 2000-01	June 1999 and June 2003	August 1999 and August 2003	31 and 79 months	1.81
Bhawanipur	4	1995-96 and 1996-97	June 1998 and June 1999	July 1998 and August 1999	79 and 92 months	126.17
Budge Budge	11	1993-94 and 1998-99	May 1996 and April 2001	July 1998 and June 2001	57 and 116 months	2.55
Ballygunj	2	1996-97 and 1997-98	June 1999 and June 2000	August 1999and July 2000	68 and 79 months	2.73
Siliguri	2	1999-00 and 2000-01	February 2002 and June 2003	August 2002 and August 2003	31 and 43 months	0.15
Total	**43**					**164.30**

Cross verification was conducted in 35 cases of the dealers other than the aforesaid cases against whom certificate proceedings were initiated by TRO though declared untraceable by the AAs. Cross verification revealed that the TRO traced out the dealers in 16 cases involving dues of Rs.17.22 crore and started recovery. However, in the aforesaid 43 cases the AAs did not take any administrative steps for legal action including initiation of certificate proceedings for recovery of dues even after a lapse of 21 and 69 months subsequent to the dealers being declared untraceable by the AAs.

Thus, non pursuance of the cases of defaulting dealers for recovery of dues in time as well as non initiation of legal action against them led to evasion of tax of Rs.164.30 crore. This is clearly indicative of internal control failure of the department.

After this was pointed out, the department while admitting the audit observation stated that there is a need for establishing a mechanism through which the ACTOs regularly report on the activities of the dealers and coordination with banks, customs and income tax departments.

Appeal

Under the sales tax laws of West Bengal, if any dealer is aggrieved of any assessment by AA he may prefer an appeal before the appellate authority.

Further, the appellate authority shall not entertain an appeal unless he is satisfied that the appellant dealer has paid tax, penalty etc. admitted by him.

The appellate authority while disposing of any appeal case, may confirm or modify the assessment and direct the AA to make a fresh assessment. From September 2004, the maximum time limit for disposal of an appeal case was fixed at two years but prior to August 2004 no such time limit was prescribed in the laws.

2.2.11 Evasion of tax in appeal cases

During the review, 722 appeal case records of nine[11] appellate authorities were test checked and cross verified with the respective assessment records in the charge offices which revealed the following:

2.2.11.1 Evasion of tax in confirmed appeal cases

In nine[12] charge offices in 48 cases of 37 dealers involving disputed amount of Rs. 34.05 crore, the dealers filed appeal petitions before the appellate authority between August 1998 and November 2003. The appellate authorities confirmed the assessments between September 2001 and September 2005 and directed the dealers to pay the assessed tax on the disputed amount immediately. Further scrutiny revealed that the dealers continued to run their business without payment of their dues. However, the authorities did not initiate certificate proceedings till March 2006 to recover the dues against the defaulting dealers even after a lapse period of 6 to 61 months. As a result, tax of Rs. 34.05 crore could not be realised from the defaulting dealers.

After this was pointed out, the department accepted the audit observation. However, report on further action taken has not been received (October 2006).

2.2.11.2 Evasion of tax in rejected appeal cases

Scrutiny revealed that in 17 cases of four[13] charge offices six dealers filed appeal petitions between July 1999 and September 2004 involving disputed amount of Rs.27.71 crore. The appellate authorities rejected the appeal

[11] DCCT/Chowringhee, 24 Parganas, Kolkata (South), Behala, Siliguri, Corporate Division, Durgapur, Asansol and Midnapur

[12] Midnapur, Corporate Division-I, II and III, Behala, Park Street, Bhawanipur, Alipur and Salt Lake

[13] Corporate Division-I, II, III and Park Street

petitions between February 2001 and May 2005 due to non payment of admitted tax and directed the dealers to file fresh appeal petitions after paying the admitted tax. The dealers neither paid the admitted tax nor preferred fresh appeal petitions. The AAs did not initiate certificate proceedings till March 2006 against the dealers even after a lapse of time of 8 and 60 months which resulted in non realisation of tax of Rs.27.71 crore.

After this was pointed out, the department while accepting the audit observation stated that there was a lapse on the part of the authorities.

2.2.11.3 Evasion of tax due to delay in disposal of appeal cases

In seven cases, of three[14] charge offices involving disputed amount of Rs.14.16 crore, four dealers filed appeal between October 1997 and December 2001 before the appellate authority. Thereafter, the dealers did not turn up before the appellate authority for hearing of the appeal cases. Further scrutiny revealed that the appellate authority confirmed three appeal cases after a considerable lapse of time ranging between 35 and 72 months and did not dispose of the remaining four cases even after a lapse of time between 47 and 57 months till March 2006.

In the meantime, all the dealers closed down their business and fled from their declared place of business. Subsequently, they were declared untraceable by the authorities. Inordinate delay in disposal of the appeal cases by the appellate authority resulted in evasion of tax of Rs.14.16 crore by the dealers.

After this was pointed out, the department accepted the audit observation. However, action taken to recover the amount has not been received (October 2006).

2.2.11.4 Loss of revenue due to delay in reassessment of set aside appeal cases

Under the provisions of the WBST Act, an appellate authority may set aside an assessment order of the AA in any appeal case. Thereafter, AA shall complete the reassessment within two years from the date of appellate order, otherwise the reassessment becomes barred by limitation of time.

[14] Corporate Division-I, Durgapur and Siliguri

Scrutiny revealed that in two cases of two[15] charge offices two dealers preferred appeal involving Rs.2.68 crore. The appellate authority set aside the assessment orders between May 2002 and May 2003 and directed the AAs to reassess the cases. Scrutiny, however, revealed that the AAs did not reassess the cases even after a lapse of 34 to 46 months respectively from the date of the appellate order. As a result, the reassessments became barred by limitation of time and there was loss of revenue of Rs. 2.68 crore.

After this was pointed out, the department accepted the audit observation.

Check posts

Under the sales tax laws of West Bengal, the State Government has set up check posts to ensure that there is no evasion of tax by transporters carrying goods into/out of/through West Bengal.

2.2.12 Evasion of tax by transporters carrying goods through West Bengal

Under the WBST Act, when a vehicle transporting goods enters into West Bengal and is bound for any place outside the State, the transporter shall furnish a transit declaration (TD) at the entry check post stating therein that the goods shall not be sold in West Bengal. He shall also declare in the TD the approximate date and name of the exit check post of West Bengal. The transporter who does not take exit within the date specified and contravenes the provisions of the Act is liable to pay penalty not exceeding 25 per cent of the value of the goods in addition to tax.

In Siliguri range office and Dalkhola, Duburdih, Netaji Subhas dock (NSD), Chichira and Netaji Subhash International Airport (NSIA) check posts, in 1,515 cases transporters carrying goods valued at Rs. 751.98 crore entered West Bengal furnishing TDs at the entry check post but did not report at the exit check post even after a lapse of a period ranging between 11 and 70 months from the specified dates of exit till March 2006. The authorities issued notices in 509 cases to the transporters asking them to appear for assessment. However, none of them responded. Of these, 120 cases pertained to transporters of West Bengal. Thereafter, the authorities did not take follow up

[15] Alipore and Midnapore

action to trace out the transporters by taking up the matter with the concerned motor vehicle authorities. In the remaining 1,006 cases, the authorities did not even issue notices to the defaulting transporters till March 2006. As a result of inaction on the part of the department, the defaulting transporters evaded tax and penalty of Rs.239.79 crore as detailed below:

(Rupees in crore)

Range/ Check post	No. of cases	Specified date of exit from W.B. between	Lapse of period ranging between (in months)	Value of commodity	Tax leviable	Penalty leviable	Total evasion
Siliguri Range	45	May 2001 and April 2005	11 and 58	4.13	0.40	1.03	1.43
Dalkhola Check Post	129	February 2002 and February 05	13 and 49	6.06	0.47	1.52	1.99
NSD Check Post	406	July 2000 and July 2004	20 and 68	317.49	20.46	79.37	99.83
Duburdih Check Post	278	August 2001 and December 2004	15 and 55	18.93	1.43	4.73	6.16
Chichira Check Post	197	August 2001 and November 2004	16 and 55	72.97	3.60	18.25	21.85
NSIA Check Post	460	May 2000 and February 2004	25 and 70	332.41	25.43	83.10	108.53
Total	**1,515**			**751.99**	**51.79**	**188.00**	**239.79**

2.2.13 Non realisation of penalty from defaulting transporters

Under the WBST Act, no transporter can transport any goods into West Bengal without obtaining a prescribed document from the sales tax authorities. In case of contravention, such transported goods are liable to be seized. The goods so seized shall be released on payment of penalty. In case of default in payment of penalty, such seized goods are liable to be auctioned. Further, any amount of penalty which remains unpaid or unrecovered after the auction shall be recovered by initiating certificate case.

Scrutiny of seizure case records of CS revealed that in 137 cases detected between December 2001 and January 2005 goods were transported into West Bengal without prescribed documents. Consequently, the authorities seized the goods and imposed a penalty of Rs.2.82 crore of which the defaulters made part payment of Rs.0.47 crore. The balance penalty of Rs.2.35 crore was not paid by the defaulting transporters till March 2006. However, the authorities neither auctioned the seized goods nor initiated certificate proceedings to recover the amount. This resulted in non realisation of penalty of Rs.2.35 crore from the transporters who contravened the provisions of the Act.

Certificate proceedings

Under the sales tax laws of West Bengal, an AA is empowered to recover dues from a defaulting dealer by initiating certificate proceedings under the PDR Act. For this, a certificate of demand in the prescribed form is prepared and recorded in Register IX of the charge office. Thereafter, the certificate of demand is sent to the concerned CO/TRO who also records the same in Register X of his office. Thereafter, the CO/TRO serves a demand notice upon the defaulting dealer specifying date of payment therein. If the dealer defaults in payment within the prescribed date, the CO/TRO is empowered to recover the dues by attaching/selling the moveable/immovable property of the dealer.

2.2.14 Lack of coordination between charge offices and certificate offices

In a departmental circular issued in May 1944, the CCT directed the AAs for reconciliation of the entries in Register IX of the charge offices with those of Register X of the CO/TRO once in a month to sort out the difference for ensuring proper action in respect of each certificate of demand. The CCT also instructed in July 1968, to render all cooperation and liason to the certificate officers for efficient working in the certificate offices.

2.2.14.1 Certificate of demand cases not traceable

During review of Register IX of nine[16] charge offices, it was noticed that 2,392 certificates of demand involving Rs. 555.83 crore were sent to the TRO, Kolkata between 2000-01 and 2004-05. However, verification of Register X of the TRO revealed that only 2,073 certificates of demand involving Rs. 483.61 crore were recorded. The remaining 319 certificates of demand involving Rs.72.22 crore were not traceable. The whereabouts of these cases were not on record.

Thus, absence of reconciliation between Register IX and X helped the dealers to evade tax of Rs. 72.22 crore.

[16] Alipur, Behala, Budge Budge. Bhawanipur, Corp. Div.-I,II and III, Lalbazar and Park Street

After this was pointed out, the department stated that the cases were under scrutiny and the reply would be sent shortly. However, reply has not been received (October 2006).

2.2.14.2 Non furnishing of information by the charge office

Scrutiny of Register IX of Siliguri charge office revealed that the AAs sent 493 certificates of demand to the CO, Siliguri between 2000-01 and 2004-05 for recovery of Rs. 14.57 crore from the defaulting dealers. The CO, Siliguri returned 469 certificates of demand involving Rs. 14.16 crore to the charge office seeking further information regarding the dealers. The charge office, however, did not furnish the required information sought for by the CO even after a lapse of 12 to 60 months. Consequently, the dues of Rs.14.16 crore remained unrealised.

2.2.15 Performance of internal audit wing

Internal audit wing of the Directorate of Commercial Taxes started functioning from May 1991 as a permanent inhouse mechanism for scrutinizing and detecting irregularities in the assessments of sales tax cases as well as checking of different records/registers to ascertain whether internal control system as envisaged in the Act and Rules made thereunder are properly observed. The Wing is also required to examine the lacunae of the Act and Rules and recommend necessary revision/amendments of the same with copies to other administrative heads for necessary action as well as to take follow up action on audit observations of the IRs issued by the office of the Accountant General, West Bengal.

The wing is headed by the CCT who is assisted by an additional Commissioner, five DCCTs, four ACCTs and five ACTOs.

The wing does not have its manual. As reported, the wing usually conducts audit of around one third of the total charges annually and checks about 10 per cent of assessment cases in each office. The performance of the wing during the last five years is detailed below:

Year	Total No. of charges under the directorate	No. of charges inspected	Opening balance of internal audit paras	Addition during the year	Disposal during the year	Closing balance of paras
2000-01	70	10	2066	396	17	2445
2001-02		4	2445	183	29	2599
2002-03		7	2559	148	16	2731
2003-04		NA				
2004-05						

However, the wing stated that not a single case of evasion of tax was detected by it from 2000-01 to 2004-05.

Thus, the internal audit system was not effective in providing reasonable assurance to the department as regards the existence of adequate safeguards against evasion of tax.

2.2.16 Acknowledgement

Audit findings as a result of test check of records were reported in June 2006 to Government and a meeting of the Audit Review Committee, which included a nominee of the CCT and of the Finance Department, was held in August 2006. The results of the discussion have been suitably incorporated in the review.

2.2.17 Conclusion

The review has revealed that the authorities failed to safeguard the Government revenue due to

- non adherence of rules, regulations and instructions,
- lack of monitoring and internal control mechanism,
- absence of any statutory time limit for initiation of certificate proceedings.

Besides, no step was taken to amend the Acts and Rules to enable the department to plug leakage of revenue by evasion.

2.3 Incorrect determination of turnover of sales

Under the WBST Act and Rules made thereunder, a dealer is liable to pay tax at the prescribed rate on the amount of turnover after allowing permissible deductions.

Scrutiny of records of 19[17] charge offices in six[18] districts revealed that in assessing 33 cases of 32 dealers between February 2002 and June 2004, for different assessment periods ending between March 2000 and March 2002 the assessing authorities (AA) determined gross turnover (GT)/taxable balance (TB) at Rs.285.68 crore instead of Rs.319.55 crore. This was due to irregular exemption of various taxable goods from GT, erroneous calculation of taxable balance, escapement of TB from assessment, non consideration of return figures, non inclusion of excise duty/other income/packing charges etc. in the turnover. This resulted in short determination of GT/TB of Rs.33.87 crore and consequent short levy of tax including surcharge and additional surcharge of Rs.2.50 crore.

After this was pointed out, the Department accepted between December 2004 and August 2006 audit observations in 21 cases involving tax of Rs.87.56 lakh. In the remaining 12 cases involving Rs.1.63 crore the department did not furnish any reply/specific reply.

Government to whom the cases were reported between May 2003 and November 2005 accepted audit observation in six cases involving Rs.56.69 lakh in August 2006. Replies in the remaining cases have not been received (October 2006).

2.4 Short levy of tax due to incorrect deduction

Under the WBST Act and the Rules made thereunder, in determining the taxable turnover of a dealer, deduction on account of tax collected by him, is allowable from the aggregate of sales turnover in accordance with the prescribed formula[19]. Commissioner, Commercial Taxes (CCT), West Bengal, reiterating the provisions in circulars of December 1998 and December 2002 instructed all the AAs to restrict the deduction to the amount of sales tax collected by the dealers and included in their turnover.

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[17] Alipore, Asansol, Behala, Ballygunge, Bowbazar, Corporate Division-I & III, Darjeeling, Durgapur, Esplanade, Maniktala, Medinipur, Monohar Katra, Park Street, Posta Bazar, Salt Lake, Siliguri, Taltala and Ultadanga.

[18] Burdwan, Darjeeling, Kolkata, North 24 Parganas, Paschim Medinipur and South 24 Parganas.

[19] $\frac{\text{rate of tax x the balance of his gross turnover of sales after making deduction therefrom under clause(a)}}{\text{100 plus rate of tax}}$

Scrutiny of records of 16[20] charge offices in six[21] districts revealed that while assessing 41 cases of 41 dealers between February 2002 and February 2005 for different assessment periods ending between March 1994 and March 2003, AAs allowed deduction of Rs.38.60 crore against actual collection of tax of Rs.26.55 crore. Thus excess allowance of deduction of Rs.12.05 crore resulted in short levy of tax of Rs.1.16 crore including surcharge, additional surcharge and additional sales tax.

After this was pointed out, the department accepted between November 2004 and August 2006 audit observations in 20 cases involving tax of Rs.69.82 lakh. In 15 cases involving Rs.31.41 lakh, the department did not furnish any specific reply. In the remaining six cases involving tax of Rs.14.93 lakh, the department stated that deduction was allowed as GT was inclusive of all taxes. The reply was not tenable as the AAs in those cases allowed a deduction of Rs.12.25 crore against actual collection of Rs.10.81 crore resulting in excess allowance of deduction of Rs 1.44 crore involving tax effect of Rs 14.93 lakh.

Government to whom the cases were reported between May 2003 and November 2005 accepted audit observation in 14 cases involving Rs.27.12 lakh in August 2006. Replies in the remaining cases have not been received (October 2006).

2.5 Loss due to assessment barred by limitation of time

Under the Bengal Finance (Sales Tax) Act, 1941, fresh assessment in pursuance of an order of the appellate authority is required to be completed within a period of four years from the date of passing such order and any assessment made thereafter becomes barred by limitation of time. This provision is also applicable to the assessments made under the CST Act.

Scrutiny of records in two[22] charge offices in Kolkata revealed between July 2004 and January 2005 that while disposing of three appeal petitions of two dealers under the State Act and the Central Act for different assessment periods ending between March 1990 and March 1994, the appellate authority

[20] Alipore, Asansol, Beadon Street, Chandney Chowk, Colootola, Corporate Division – I, II and III, Durgapur, Esplanade, Jorabagan, Park Street, Salt Lake, Siliguri, Tamluk and Ultadanga.

[21] Burdwan, Darjeeling, Kolkata, North 24 Parganas, Purba Medinipur and South 24 Parganas.

[22] Beliaghata and Corporate Division – III.

directed the AA between February and July 2000 to complete fresh assessment. But fresh assessment was not completed within four years from the date of appellate order as a result of which the assessments were barred by limitation of time. This resulted in loss of revenue of Rs.35.05 lakh.

The cases were reported to the department/Government between August 2004 and November 2005 followed by reminders issued up to April 2006; their reply has not been received (October 2006).

2.6 Incorrect exemption on account of stock transfer

Under the CST Act and the Rules made thereunder, a dealer claiming exemption from his turnover on account of transfer of goods outside the state otherwise than by way of sale is liable to furnish declaration in form 'F' duly filled in and signed by the principal officer or his agent of the other state as a proof of transfer along with evidence of despatch. Transfer of goods effected during a calendar month is covered in a single declaration, otherwise, such transfer of goods is liable to be taxed at the normal rate.

Further, under the WBST Act, if a dealer has concealed any turnover or furnished incorrect particulars thereof with an intent to reduce the amount of tax payable by him, the CCT may impose by way of penalty a sum which shall not be less than one and a half times and not more than thrice the amount of tax that would have been avoided by him. According to instructions of the CCT issued in June 1991, where the AA did not initiate penal proceedings in a case, he should record the reasons for not doing so.

Scrutiny of records of 15[23] charge offices in seven[24] districts revealed that in assessing 45 cases of 44 dealers between May 2001 and March 2005 for different assessment periods between March 1997 and March 2003, the AAs allowed dealers' claim of stock transfer of goods to their branches outside the state for Rs.819.73 crore on the basis of declaration in form 'F'. Scrutiny of statement of declaration disclosed that out of the claim allowed, an amount of Rs.24.43 crore was not admissible as the transactions were either found to

[23] Alipore, Balurghat, Burtolla, Corporate Division-I, II and III, Durgapur, Esplanade, Ezra Street, Jorabagan, Krishnagar, Lalbazar, Park Street, Salt Lake and Siliguri.

[24] Burdwan, Dakshin Dinajpur, Darjeeling, Kolkata, North 24 Parganas, Nadia and South 24 Parganas.

have been made to non existent/fake dealers or were not supported by 'F' form or 'F' form covered transactions beyond one calendar month. Incorrect allowance of exemption of such stock transfer resulted in underassessment of tax of Rs.1.80 crore, including surcharge and additional surcharge and non imposition of minimum penalty of Rs 81.59 lakh in respect of 12 cases of fake dealers, having tax effect of Rs 54.39 lakh.

After this was pointed out, the department admitted between March 2004 and August 2006 audit observations in 12 cases involving tax of Rs.35.53 lakh. In 12 cases involving tax of Rs.54.39 lakh and penalty of Rs 81.59 lakh, the department stated that dealers were not fake. The reply is not acceptable as the dealers have been declared fake by sales tax authorities of the respective states. In seven cases involving tax of Rs.28.05 lakh, the department stated that production of 'F' form was not mandatory and exemptions were allowed on the basis of alternative evidence. The reply is not tenable in view of the fact that 'F' form where produced by the dealer should be regular in all respects and there was nothing on the record that the exemption was allowed on the basis of alternative evidence. In 14 cases involving tax of Rs.62.04 lakh, the department did not furnish any specific reply.

Government to whom the cases were reported between May 2003 and November 2005 accepted audit observation in six cases involving Rs.18.35 lakh in August 2006 and in two cases involving Rs.8.03 lakh they did not furnish any specific reply. Replies in the remaining cases have not been received (October 2006).

2.7 Undue allowance of benefit to the dealer

Under the provisions of the WBST Act, if a dealer, liable to pay tax for sale of any goods collects any amount in excess of the amount of tax payable by him for such sale, is required to deposit such excess collected tax into Government account within 30 days from the date of collection under intimation to the CCT for arranging refund to the purchaser on application and submission of relevant documents.

Scrutiny of records of four[25] charge offices in Kolkata revealed that 47 dealers in 48 cases for different assessment periods ending between March 1995 and March 2001, collected tax of Rs.40.85 crore against tax of Rs.37.27 crore resulting in excess collection of tax of Rs.3.58 crore. While assessing those cases between June 2000 and January 2004, the AAs allowed the dealers to adjust the excess collected tax against their assessed tax dues. This resulted in undue benefit of Rs.3.58 crore to the dealers.

After this was pointed out, the department in 12 cases involving tax of Rs.47.56 lakh stated that the collected tax was deposited in Government account. The reply was not tenable as the excess collected tax though deposited in Government account, was adjusted against assessed tax dues of the dealers resulting in excess credit in favour of the dealers. In the remaining 36 cases involving Rs.3.10 crore, the department did not furnish any reply/specific reply.

All the cases were reported to Government between February 2004 and November 2005 followed by reminders issued upto April 2006; their reply has not been received (October 2006).

2.8 Non levy of penalty for concealment of sales/purchases

Under the WBST Act, if a dealer has concealed any turnover or furnished incorrect particulars thereof with intent to reduce the amount of tax payable by him, the CCT may impose by way of penalty a sum which shall not be less than one and a half times and not more than thrice the amount of tax that would have been avoided by him. According to instructions of the CCT issued in June 1991, where the AA did not initiate penal proceedings in a case, he should record the reasons for not doing so.

Scrutiny of records of nine[26] charge offices in Kolkata revealed that in assessing 16 cases of 15 dealers between December 2001 and July 2005 for different periods ending between March 1995 and March 2004, the AAs observed concealment of sales/purchases of Rs.26.62 crore. Though the AAs levied tax of Rs.2.23 crore, they did not impose minimum penalty of

[25] Corporate Division – I, II and III and Lalbazar

[26] Armenian Street, Corporate Division – I and II, Beadon Street, Belgachia, Colootola, Ezra Street, Lalbazar and Maniktala

Rs.3.34 crore. Reasons for non imposition of penalty were not recorded in the assessment order.

After this was pointed out, the department stated in five cases involving Rs.1.48 crore that imposition of penalty was not mandatory. The reply is not tenable as the reasons for non imposition of penalty were not recorded in the assessment orders. In one case involving Rs.22.78 lakh, the department stated that the dealer disclosed suppressed turnover in the revised return. The reply is not tenable as disclosure has been made after the search and seizure of the accounts of the dealer by the Bureau of Investigation. In the remaining 10 cases involving Rs.1.63 crore, the department did not furnish any reply/specific reply.

All the cases were reported to Government between December 2004 and November 2005 followed by reminders issued upto April 2006; their reply has not been received (October 2006).

2.9 Incorrect determination of contractual transfer price

Under the WBST Act, any transfer of property in goods for valuable consideration involved in the execution of works contract shall be deemed to be a sale of these goods by the person making such transfer attracting levy of tax at four *per cent* on such contractual transfer price (CTP).

Scrutiny of records of three[27] charge offices in Kolkata revealed that in assessing three cases of three dealers between April and June 2002 for the assessment period ending March 2000, the AAs determined CTP at Rs.1.99 crore instead of Rs.3.18 crore due to less inclusion of value of taxable materials involved in the execution of works contract. This resulted in short determination of CTP of Rs.1.19 crore having a tax effect of Rs.5.50 lakh including surcharge and additional surcharge.

After this was pointed out, the department admitted between October 2003 and January 2004 audit observations in two cases involving Rs.4.80 lakh. In one case involving Rs.0.70 lakh, the department did not furnish any specific reply.

[27] Beadon Street, Belgachia and Sealdah.

The cases were reported to Government between November 2003 and March 2004 followed by reminders issued upto April 2006; their reply has not been received (October 2006).

2.10 Incorrect exemption in course of export

Under the CST Act, sales of goods made in the course of export out of India are exempt from tax if such sales are supported by proper evidence of export. Sales not supported by necessary evidence are to be taxed at the normal rate. Scrutiny of records in eight[28] charge offices in three[29] districts revealed that in assessing 19 cases of 19 dealers for different assessment periods ending between March 2001 and March 2002, the AAs allowed exemption on account of export sales for Rs.428.29 crore instead of Rs.393.83 crore as these transactions were either not supported by evidence or were not covered by the period of assessment. This resulted in excess allowance of export sales of Rs.34.46 crore with consequent short levy of tax of Rs.2.72 crore.

After this was pointed out, the department admitted in August 2006, audit observations in three cases involving tax of Rs.80.72 lakh. In three cases involving tax of Rs.1.07 crore, the department stated that there was no hard and fast rule that the bill date must be prior to the date of the bill of lading. The reply was not tenable as bills of lading, also known as shipping bills, are required to be filed alongwith all original documents such as invoices etc. in the absence of which shipping bills cannot be processed as per the Custom Law Manual. In one case involving Rs.20.54 lakh, the department stated that the dealer was not a direct exporter. The reply is not tenable as the AA has himself stated that the assessee dealer and the exporting dealer are the same. In the remaining 12 cases involving Rs.63.49 lakh, the department did not furnish any specific reply.

The cases were reported to Government between May 2003 and November 2005; their reply have not been received (October 2006).

[28] Alipore, Corporate Division-I, II and III, Bowbazar, Colootola, Park Street, Salt Lake.
[29] Kolkata, North 24 Parganas and South 24 Parganas.

2.11 Non/short levy of purchase tax

Under the WBST Act, a dealer is liable to pay purchase tax at the rate specified from time to time on all purchases of goods from an unregistered dealer, intended for direct use in the manufacture of goods for sale in West Bengal. Further, purchase tax is also payable by a manufacturer dealer if such manufactured goods are transferred by him to any place outside the state or disposed of otherwise than by way of sale within the State.

Scrutiny of records of nine[30] charge offices in three[31] districts revealed that in assessing 15 cases of 15 dealers between December 2001 and June 2004 for different assessment periods between March 2000 and March 2002, the AAs incorrectly allowed exemption of purchase tax on purchases worth Rs.18.62 crore. Of these, in nine cases purchases valued at Rs.3.25 crore were made from unregistered dealers but the purchase tax of Rs 16.69 lakh was not levied. In six cases, tax was incorrectly assessed at Rs.26.78 lakh instead of Rs.79.23 lakh on purchase of Rs.15.37 crore. This resulted in non/short levy of purchase tax of Rs.69.14 lakh.

After this was pointed out, the department accepted audit observations between October 2002 and September 2005, in eight cases involving Rs.26.77 lakh. Specific reply in the remaining seven cases involving tax of Rs.42.37 lakh were not furnished.

The cases were reported to Government between December 2002 and October 2005, followed by reminders issued upto April 2006; their reply has not been received (October 2006).

2.12 Mistake in computation of tax

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

[30] Asansol, Burdwan, Cossipore, Jorabagan, N.D. Sarani, Park Street, Posta Bazar, Siliguri and Taltala.

[31] Burdwan, Darjeeling and Kolkata.

Scrutiny of records of 10[32] charge offices in three[33] districts revealed short levy of tax including surcharge, additional surcharge, interest and penalty of Rs.70.31 lakh due to mistake in computation in 14 cases of 14 dealers for the assessment periods ending between March 1994 and March 2003, assessed between May 2002 and March 2005.

After this was pointed out, the department accepted between June 2003 and September 2005 audit observations in 11 cases involving Rs.56.20 lakh. In the remaining three cases involving Rs.14.11 lakh, the department did not furnish any specific reply.

All the cases were reported to Government between October 2003 and November 2005 followed by reminders issued upto April 2006; their reply has not been received (October 2006).

2.13 Non/short raising of demand

Under the provision of the WBST Act, the AA shall serve notice of demand in the prescribed form to the dealer showing the amount of demand of tax, interest, penalty etc.

Scrutiny of records of two[34] charge offices in Kolkata revealed that while assessing two cases of two dealers between June 2003 and January 2004 for different assessment periods between December 1999 and March 2001, the assessing authorities assessed tax including interest and penalty at Rs.26.51 lakh whereas demand notices were issued for Rs.11.21 lakh only. This resulted in non/short raising of demand of Rs.15.30 lakh.

The cases were reported to the Government between June 2005 and November 2005, followed by reminders upto April 2006; their reply has not been received (October 2006).

2.14 Application of incorrect rate of tax

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

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[32] Alipore, Asansol, Behala, Bowbazar, Corporate Division I and III, Durgapur, Jorabagan, Park Street and Taltala.

[33] Burdwan, Kolkata and South 24 Parganas.

[34] Corporate Division II and III.

Scrutiny of records of 17[35] charge offices in six[36] districts revealed that while assessing 38 cases of 37 dealers between June 2000 and February 2005 for different assessment periods ending between March 1998 and March 2003, there was short levy of tax of Rs.80.85 lakh inclusive of surcharge and additional surcharge due to application of incorrect rate of tax.

After this was pointed out, the department admitted audit observations between November 2004 and August 2006 in 16 cases involving tax of Rs.47.12 lakh. In two cases involving Rs.3.17 lakh it was stated that rubberised cloth was declared good taxable at the rate of 4 *per cent*. The reply was not correct as rubberised cloth is taxable at the rate of 10 *per cent* vide code no 1717100 under WBST Act. In the remaining 20 cases involving tax of Rs.30.56 lakh, the department did not furnish any reply/specific reply.

The cases were reported to Government between May 2003 and November 2005; their reply have not been received (October 2006).

2.15 Non/short levy of interest

Under the WBST Act, a dealer who furnishes return in respect of any period by the prescribed date, or thereafter, but fails to make full payment of tax payable in respect of such period by such prescribed date or fails to furnish a return in respect of any period by the prescribed date or thereafter before assessment in respect of such period and on such assessment full amount of tax payable for such period is found not to have been paid by him by such prescribed date or fails to make payment of any tax demanded after assessment by the date specified in the demand notice, is liable to pay simple interest at the prescribed rate for each calendar month of default.

Scrutiny of records of 30[37] charge offices in six[38] districts revealed between April 2003 and September 2005 that while assessing/initiating certificate

[35] Alipore, Asansol, Ballygunge, Behala, Bhowanipore, Burtola, Colootola, Corporate Division-I & II, Cossipore, Darjeeling, Jorabagan, Lyons Range, Maniktala, Park Street, Salt Lake and Shibpur.

[36] Burdwan, Darjeeling, Howrah, Kolkata, North 24 Parganas, and South 24 Parganas.

[37] Alipore, Asansol, Ballygunj, Behala, Belgachia, Bhowanipore, Burdwan, Corporate Division - I, II and III, Cossipore, Darjeeling, Ezra Street, Fairlie Place, Jalpaiguri, Jorabagan, Jorasanko, Lalbazar, Lyons Range, Manohar Katra, N.D. Sarani, Postabazar, Princep Street, Salkia, Salt Lake, Sealdah, Shyambazar,Siliguri, Strand Road and Taltala.

[38] Burdwan, Darjeeling, Howrah, Jalpaiguri, Kolkata and North 24 Parganas.

proceedings between October 2000 and March 2005 in 90 cases of 80 dealers for different assessment periods ending between March 1992 and March 2002, the AAs did not levy or short levied interest of Rs.3.42 crore for delay in payment/non payment of assessed/advance tax of Rs.9.85 crore.

After this was pointed out, the department accepted audit observations in 60 cases involving Rs.2.24 crore. In the remaining 30 cases involving Rs.1.18 crore, the department did not furnish any reply/specific reply.

Government to whom the cases were reported between May 2003 and November 2005 accepted audit observations in 27 cases involving Rs.36.55 lakh in August 2006 and in one case involving Rs.3.31 lakh they did not furnish any specific reply. Replies in the remaining cases have not been received (October 2006).

2.16 Failure of Decision Support System (DSS) to monitor shipment of goods imported against declaration

Under West Bengal sales tax laws when goods are transported into West Bengal and such goods are bound for any place outside the State the transporter shall make a declaration in the prescribed manner. Under Sub-Section (6) of Section 72 of the WBST Act, the transporter is liable to pay penalty, not exceeding 25 *per cent* of the value of the goods transported, for contravention of the provisions of the Act. The "Transit Pass" (declaration) of the Decision Support System (DSS) maintained by Information System Division (ISD) of the Directorate of Commercial Taxes, West Bengal was introduced to capture data regarding consignments which entered West Bengal and their exit from the State through different check posts within the prescribed period. The system is required to match data of entry check-posts with that of exit check post with the object of ensuring exit of consignments bound for other States.

IT enabled scrutiny of DSS revealed that 4,100 consignments with a value of Rs.402.20 crore entered West Bengal between October 2002 and March 2003 through Khidirpur Dock check post of Kolkata. As per transit declarations, these consignments were to be transported out of West Bengal through different exit check posts. But details of exit of 3,047 consignments with a value of Rs.336.63 crore were not available in the DSS.

A sample of 13 cases each in Chichira and Sonakania check posts was taken for cross verification. Of these, in 23 cases involving Rs.1.36 crore, consignments had not exited as per the manual exit register involving a loss of Rs.34.05 lakh due to non imposition of penalty as per rules. In the other three cases (two in Chichira and one in Sonakania), manual exit registers depicted exit of the consignment though the same was not captured in the DSS. Failure of DSS to monitor movement of goods not only reflects control weakness but also had an adverse impact on revenue collection.

After this was pointed out, ISD stated (June2006) that information as provided might be inadequate or incomplete but in no way was responsible for any loss or leakage of revenue. Reply is not tenable as non exit of the transporter through the exit check post could not be detected in time which resulted in non imposition of penalty.

The matter was reported to Government in May 2006, their reply has not been received (October 2006).

CHAPTER III
LAND REVENUE

3.1 Results of audit

Test check of records of land revenue in district land and land reforms (DL&LR) offices conducted during the year 2005-06, revealed non/short realisation of revenue amounting to Rs.21.32 crore in 83 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No.of cases	Amount
1.	Non levy/non realisation of Government revenue due to unauthorised occupation of Government land	4	1.01
2.	Non settlement of land	8	0.52
3.	Non levy and non realisation of rent and *salami*	21	5.15
4.	Blockage/loss of revenue due to non leasing of sairati interest	11	9.13
5.	Other cases	39	5.51
	Total	**83**	**21.32**

During the course of the year 2005-06, the concerned department accepted observations of Rs.10.67 crore involved in 73 cases of which 43 cases involving Rs.5.64 crore were pointed out in audit during the year 2005-06 and the rest in earlier years. An amount of Rs.1.13 crore was realised at the instance of audit during the year 2005-06.

A few illustrative cases involving Rs.13.22 crore highlighting important observations are given in the following paragraphs:

3.2 Non settlement of *sairati* interest

Under the provisions of the West Bengal Land and Land Reforms (WBL&LR) Manual, 1991 *sairati*[1] interests like big water areas, hats[2], markets, ferries and khal[3] fisheries vested in Government should be settled on lease basis with a registered co-operative society of fishermen. If the lease cannot be granted to a co-operative society, sealed tenders shall be called from bonafide fishermen and lease is to be given to the highest tenderer. The period of lease should not exceed seven years at a time. Collector of a district was required to fix economic rent and realise 25 *per cent* of the lease rent at the time of settlement of *sairati* interests and balance before the beginning of the year. The Commissioner of Jalpaiguri division in January 2003 fixed minimum production of a water body having more than five acres in area at Rs.1,00,000 per hectare per annum and economic rent of such *jalkar*[4] at 10 *per cent* of annual production i.e. Rs.10,000.

3.2.1 Loss and short realisation of lease rents from *sairati* interests

Scrutiny of records revealed between September and December 2005 that in Murshidabad and South 24 Parganas districts, the district authorities leased out only 43 *jalkars* covering an area 4,637.60 acres out of a total of 163 *jalkars* involving an area of 15,057.18 acres. The authorities realised Rs.0.21 crore for the period from 15 April 2003 to 14 April 2005 against the total realisable lease rent of Rs.3.76 crore in respect of these 43 *jalkars*. This resulted in short realisation of lease rent of Rs.3.55 crore. In the remaining cases, no lease settlement was made. Thus, failure of the district authority to settle 120 *jalkars* covering an area of 10,419.58 acres resulted in loss of revenue of Rs.8.44 crore for the same period.

After this was pointed out, the district authority of Murshidabad confirmed the audit observation and stated that action would be taken to realise rent at appropriate rate while the district authority of South 24 Parganas stated that

[1] Derived from the word *sair*. The duties which the owners of *hat, bazaar*, markets, ferries, fisheries etc. used to levy on commodity sold or benefits derived from those places were designated as sair collection. Such *hat*, ferries etc. are known as *sairati* interests.
[2] Hat – Occasional village market.
[3] Khal – Large water channel.
[4] Jalkar – Big water area used for pisciculture.

action would be taken. However, report on action taken from both the district authorities has not been received (October 2006).

The case was reported to Government in May 2006. Their reply has not been received (October 2006).

3.2.2 Loss of revenue due to non settlement of *sairati* interests

Scrutiny of records of two[5] DL & LR offices revealed that in seven cases, water area of 735.57 acres in two block land and land reforms (BL & LR) offices was not leased out during the period from 2000-01 to 2004-05. This resulted in loss[6] of revenue of Rs. 30.69 lakh.

Government to whom the cases were reported stated in June 2006, that the area could not be leased out due to non availability of registered co-operative societies. The reply is not tenable as there was a provision to call for sealed tenders from bonafide fishermen and lease out to the highest tenderer.

3.3 Non/short realisation of cess from *patta* holders

As per provisions of the Cess Act, 1880, read with the West Bengal Primary Education Act, 1973, road cess, public works cess and education cess are leviable on land rent payable by the *raiyats*[7]. By an order issued in November 2003 raiyats exempted from payment of land rent are liable to pay all the above cess[8] at the rate of 41 paise per rupee of rent with effect from 1408 BS[9] (2001-02). The *bhumi sahayaks* posted in the office of the Revenue Inspector under the BL & LR office are responsible for collection of cess.

Scrutiny of records of four[10] DL & LR offices revealed that in 32 BL & LR offices an area of 2.91 lakh acres of vested land was distributed among the landless persons on *raiyati* basis for which *pattas* were given. They were liable to pay cess of Rs.98.26 lakh for the period between 1408BS (2001-02) and 1411 BS (2004-05) against which only Rs.37.52 lakh had been realised. This resulted in non/short realisation of cess of Rs.60.74 lakh.

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[5] North 24 Parganas and South 24 Parganas.

[6] The loss has been worked out on the basis of lease rent of last settlement (in three cases) and economic rent (in four cases).

[7] Raiyat means one who holds lands for agricultural purpose.

[8] Road cess – 6 paise, Public Works cess - 25 paise and Education cess - 10 paise.

[9] Bengali calendar year commencing from 15 April to 14 April of the following year.

[10] North 24 Parganas, Paschim Medinipur, Purulia and South 24 Parganas.

After this was pointed out between March and June 2005, the district authorities stated between March and June 2005 that action would be taken for realisation of cess from the patta holders.

Government to whom the cases were reported in January 2006, did not furnish any specific reply(October 2006).

3.4 Loss of revenue due to non delivery of possession of land

Under the provisions of the WBL & LR Manual, vested non agricultural land may be settled on long term lease basis for a period of 30 years on realisation of annual rent to be fixed by the Collector at four *per cent* of market value of land and *salami*, in lumpsum, at 10 times of the annual rent and the date of commencement of lease will take effect from the date of possession of the land.

Scrutiny of records of the DL&LR Office, South 24 Parganas revealed that a long term lease for two acres of land under Additional Thakurpukur-Metiabruz block was sanctioned by Government in November 1998 to a company at a *salami* of Rs.58.08 lakh and annual rent of Rs.5.80 lakh for a period of 30 years from the date of delivery of possession of the land. The company deposited Rs.63.88 lakh in March 2000 towards *salami* and lease rent for one year. But the district authority failed to hand over possession of the land to the company till August 2006. This resulted in loss of revenue of Rs.23.20 lakh towards lease rent for the period from 2001-02 to 2004-05.

After this was pointed out in June 2005, the district authority stated in June 2005 that on realisation of *salami* and rent for the first year, the company was asked to take delivery of the land but they did not turn up. The reply is not tenable as the company had requested for physical possession of the land in March 2000. It was further revealed that the land was under encroachment of a club and is still used as a playground.

Government to whom the case was reported in February 2006 did not furnish any specific reply(October 2006).

3.5 Non realisation of rent and interest

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

Scrutiny of records of four[11] DL&LR offices revealed that land rent/cess/lease rent of Rs.4.81 lakh in 54 cases was not paid by the *raiyat*/lessee for different periods between 1407 BS and 1411 BS (2000-01 to 2004-05). Out of 54 cases, demand notices were issued only in two cases. In rest of the cases, no action was taken to recover the same. Besides, interest of Rs.0.49 lakh though leviable was not levied. In another case, interest of Rs.2.78 lakh was not levied as land rent and cess of Rs.44.40 lakh for 2003-04 was paid in 2004-05. Inaction on the part of the district authorities resulted in non realisation of rent of Rs.4.81 lakh and interest of Rs.3.27 lakh.

Government to whom the cases were reported, stated in June 2006 that replies from DL & LRO, North 24 Parganas, Purulia and Paschim Medinipur have not been received. Demand of Rs.1.72 lakh in respect of 5.02 acres has been raised by DL & LRO, South 24 Parganas. Report on realisation has not been received (October 2006).

[11] North 24 Parganas, Paschim Medinipur, Purulia and South 24 Parganas.

CHAPTER IV
MOTOR VEHICLES TAX

4.1 Results of audit

Test check of records relating to taxes on motor vehicles conducted during the year 2005-06, revealed non/short realisation of revenue amounting to Rs.2.58 crore in 69 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non/short realisation of tax, additional tax and penalty	36	1.47
2.	Non realisation of revenue due to non disposal of seized vehicles	5	0.20
3.	Non realisation of revenue due to non reference of offence cases to the court of law	5	0.08
4.	Others	23	0.83
Total		**69**	**2.58**

During the course of the year 2005-06, the concerned department accepted underassessment etc. of Rs.64.03 lakh involved in 21 cases which were pointed out in audit during the year 2005-06. An amount of Rs.3.63 lakh involved in 12 cases was realised at the instance of audit in 2005-06.

A few illustrative cases involving Rs.80.98 lakh highlighting important observations are given in the following paragraphs:

4.2 Non levy of tax, additional tax and penalty from different types of vehicles

The West Bengal Motor Vehicles Tax Act (WBMVT Act), 1979 and the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989 as amended in January and September 2003, prescribe the rate of tax on motor vehicles based on their use, seating capacity or weight. As per clarification of the Transport Department issued in December 1998 and August 1999, additional tax of 50 *per cent* of road tax is leviable on articulated[1] vehicles, break down vans, crane, dumper and tipper. Both the Acts provide for levy of penalty of an amount equal to tax and additional tax in case of non payment of such taxes beyond 75 days from the due date.

Scrutiny of records of Public Vehicles Department (PVD), Kolkata, Regional Transport Office (RTO), Burdwan and two Additional Regional Transport Offices (ARTO), Siliguri and Durgapur revealed that taxing officers did not levy tax and additional tax on 32 articulated vehicles, 17 tippers, 5 tankers and 419[2] different types of vehicles between April 2000 and March 2005. The delay in non payment of tax and additional tax ranged between 3 and 59 months for which due tax and additional tax with 100 *per cent* penalty thereon is realisable. This resulted in non levy and consequent non realisation of tax, additional tax and penalty of Rs.45.86 lakh.

After this was pointed out between May 2004 and December 2005, three[3] taxing officers stated in 346 cases involving Rs.44.80 lakh that demand notice would be issued/action would be taken for realisation of dues. Reports on realisation have not been received. Taxing Officer, Burdwan did not furnish any specific reply.

Government to whom the cases were reported in March 2006 did not furnish any specific reply(October 2006).

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[1] A motor vehicle to which a semi-trailer is attached

[2] Goods vehicles 116, Auto rickshaw-251, Vehicles of Motor Training School-31, Deluxe buses-5, Brake down vans-4, Trailer-7, Tractor-3, LMV-2 =419.

[3] ARTO, Durgapur, Siliguri and PVD Kolkata.

4.3 Failure to follow the prescribed system led to non realisation of fine

As per provisions of the WBMV Rules, 1989 the compounding officer including the police officers not below the rank of sub-inspector shall compound the offence with the consent of the offender and issue notice for payment of compounded fine, within seven days from the date of issue of the notice. In case of non payment of compounded fine within the said period, he shall refer the case to the Court of Law for the prosecution of the offender. An offence case register was required to be maintained under the Act.

Scrutiny of records in eight[4] RTO/ ARTO revealed that the compounding officers did not prosecute the offending owners/drivers of motor vehicles in 440 cases detected between April 2000 and December 2004 for their failure to pay compounded fines of Rs.17.14 lakh after expiry of period of notices which ranged between one month and 44 months. This resulted in non realisation of fine of Rs.17.14 lakh due to failure of submission of case for prosecution against the offending driver or owner in the Court of Law.

After this was pointed out, six[5] compounding officers in 293 cases stated between August 2004 and February 2005 that prosecution reports were being sent/submitted to the Court of Law. The remaining compounding officers did not furnish any specific reply.

Government to whom the cases were reported in February 2006 did not furnish any specific reply(October 2006).

4.4 Short realisation of fees due to application of pre revised rates

By an amendment of the Central Motor Vehicles Rules, 1989, in March 2001 Government of India, Ministry of Road Transport and Highways enhanced the rates of fees for grant and renewal of driving/learner's licence from 28 March 2001. The rate of driving licence was further enhanced from 31 May 2002 by an amendment of the Rule.

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[4] Bankura, Darjeeling, Hooghly, Murshidabad, North 24 Parganas, Paschim Medinipur, Siliguri and Tamluk.

[5] Hooghly, Murshidabad, North 24 Parganas, Paschim Medinipur, Siliguri and Tamluk.

Test check of records of RTO Bankura, ARTO Asansol and PVD Kolkata between November 2003 and September 2004 revealed that in 30,980 cases the taxing officers realised fees for grant and renewal of driving/learners licence at pre revised rates between 28 March 2001 and 18 September 2002 instead of revised rates. Thus, application of pre revised rates instead of revised rates resulted in short realisation of fees of Rs.16.01 lakh.

After this was pointed out between November 2003 and September 2004, the Taxing Officer, PVD, Kolkata stated in November 2003 that in 9,724 cases involving Rs.6.23 lakh short payment would be realised at the time of renewal of licence while Taxing Officer, Asansol stated in September 2004, that in 9,959 cases involving Rs.4.98 lakh necessary action for realisation of fees would be taken after verification of office records. However, report on action taken for realisation has not been received. Taxing Officer, Bankura did not furnish any specific reply in 11,297 cases involving Rs.4.80 lakh.

Government to whom the cases were reported in March 2006 did not furnish any specific reply(October 2006).

4.5 Non realisation of revenue due to non disposal of seized vehicles

Under the provisions of the WBMVT Act and the West Bengal Additional Tax and One Time Tax on Motor Vehicles Act, 1989, a motor vehicle may be detained and seized by enforcement authority due to non payment of tax and additional tax and may be released on realisation of due tax and additional tax along with prescribed penalty within 30 days of seizure. The owner is liable to pay double the amount of tax and penalty within a further period of 15 days after expiry of said 30 days and in case of default the vehicle may be sold in auction for realisation of the dues.

Scrutiny of records in PVD, Kolkata and ARTO, Barrackpore and Tamluk between November 2003 and March 2005 revealed that 12 vehicles of different categories were seized between December 2002 and January 2004 for non payment of tax, additional tax and other dues. No action was initiated to auction the vehicles to recover the dues even after lapse of time between 8 and

23 months from the dates of seizure of the vehicles. This resulted in non realisation of revenue of Rs.13.99 lakh due to non disposal of seized vehicles.

After this was pointed out, Taxing Officer, PVD, Kolkata stated between November 2003 and May 2004 that in four cases involving Rs.2.28 lakh necessary action would be taken; in one case involving Rs.0.81 lakh proposal for auction was awaiting the approval of the Director and in the remaining case involving Rs.1.38 lakh action was being taken to realise the dues by placing the vehicle in auction. Taxing Officer, Barrackpore stated in March 2004 that in all the five cases involving Rs.6.19 lakh necessary steps had been taken to form an auction committee headed by Additional District Magistrate. Taxing Officer, Tamluk stated in December 2004 that matter of auction involving Rs.3.33 lakh had been brought to the notice of higher authority. Further progress on all the cases have not been received (October 2006). Government to whom the cases were reported in March 2006 did not furnish any specific reply(October 2006).

4.6 Loss of revenue due to non issuance of statutory forms

The WBMV Rules and Central Motor Vehicles Rules, 1989, prescribe forms for issue of learner licence, driving licence, permit and registration of vehicles which shall be supplied by the registering authority on payment of Rs.5 per page (including both sides of each form).

Scrutiny of records of RTO, Burdwan and ARTO, Siliguri revealed between September and December 2005 that 27,827 learners licence, 5,200 driving licence, 16,880 registration, 2,047 temporary permit and 2,821 permanent permit were granted during the period 2004-05 for which relevant forms were not supplied by the office. Thus, saleable forms were not issued by the registering authorities but obtained from private parties which resulted in loss of revenue of Rs.5.12 lakh.

After this was pointed out between September and December 2005, Taxing Officer, Burdwan did not furnish any specific reply while Taxing Officer, Siliguri stated in December 2005 that there was no supply of forms from

Government. The reply is not tenable as there is nothing on record in support of submission of requisition for the relevant forms.

Government to whom the cases were reported in March 2006 did not furnish any specific reply(October 2006).

CHAPTER V
OTHER TAX RECEIPTS

5.1 Results of audit

Test check of records of State excise, electricity duty and stamp duty and registration fees, conducted during the year 2005-06 revealed non/short realisation, loss, blockage etc. of revenue of Rs.256.51 crore in 124 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
	A. STATE EXCISE		
1.	Non/short levy/receipt of excise duty in chargeable wastage of RS/IMFL	13	42.12
2.	Non/short recovery of privilege/additional/licence/transport pass fees etc	11	1.17
3.	Non/short realisation of establishment cost/HRA	9	0.04
4.	Others	32	6.03
	Total	**65**	**49.36**
	B. ELECTRICITY DUTY		
1.	Non assessment/non realisation of electricity duty	4	175.91
2.	Non assessment/non realisation of interest	2	26.79
3.	Others	2	0.04
	Total	**8**	**202.74**
	C. STAMP DUTY AND REGISTRATION FEES		
1.	Non realisation of deficit stamp duty and registration fees	12	0.91
2.	Loss of revenue due to under valuation of property/misclassification of deed	16	0.41
3.	Others	23	3.09
	Total	**51**	**4.41**
	Grand Total	**124**	**256.51**

During the course of the year 2005-06, the departments concerned accepted audit observations of Rs.202.49 crore involved in 53 cases of which 30 cases involving Rs.201.88 crore were pointed out in audit during the year 2005-06 and the rest in earlier years. An amount of Rs.30.02 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.45.17 lakh highlighting important observations are given in the following paragraphs:

A. STATE EXCISE

5.2 Non realisation of additional fee

Under the provisions of the West Bengal (Payment of Additional Fee on Rectified Spirit for the Manufacture of Country Liquor) Rules, 1999, additional fee payable for different kinds of spirit shall be the difference between the ex warehouse price in force and the ex distillery price of rectified spirit fixed by Government. Further, as per rule 4A of the said Rules as inserted vide notification dated February 2005, additional fee at the prescribed rates, shall also be realised on the excess quantity of spirit obtained due to operation by deduction from the PL Account within seven days from the date of determination.

Scrutiny of annual stock taking reports of one licensee under the Collector of Excise, Kolkata, revealed in November 2005 that while processing country spirit from rectified spirit during 2004-05, there was a net operational increase of 53,033.20 london proof litre (LPL) of country spirit for which no additional fee had been assessed and realised. This resulted in non realisation of additional fee of Rs.14.85 lakh.

Government to whom the case was reported accepted the audit observation and raised demand of Rs.14.85 lakh. They further reported that the assessee had filed an appeal before the West Bengal Taxation Tribunal challenging the notification of February 2005. However, report on realisation has not been received (October 2006).

5.3 Non realisation of registration fee of label/brands of liquor

The West Bengal Excise (Foreign Liquor) Rules, 1998, provide for registration of brand names under which labels and capsules with which India made foreign liquor (IMFL) shall be manufactured and sold. Registration shall be for a period not exceeding one year from 1 April to the 31 March following. Fees for grant of permit on the first registration will be charged at the rates prescribed from time to time.

Scrutiny of records of two[1] excise districts revealed between January 2003 and January 2006 that licensees of 11 bonded warehouses sold IMFL of 11 brands in bottles with different measures without registration of labels/brands during 2001-02 and 2004-05. This resulted in non realisation of registration fees of Rs.7.10 lakh.

After this was pointed out between January 2003 and December 2005, the department stated in June 2006 that in case of five brands of three licensees of Kolkata demand notices had been issued in June 2006, while in the remaining cases, the department furnished no specific reply(October 2006).

5.4 Non realisation of house rent allowance for not providing accommodation for excise officers

The Bengal Excise Act and the Rules made thereunder provide that the contractor/ supplier of a country spirit warehouse or the licensee of a country spirit bottling plant, who fails to provide accommodation to excise officers-in-charge and other establishment posted therein shall pay a fee in cash equivalent to admissible house rent allowance (HRA) with effect from 19 March 2002 in respect of said officers in charge and other establishment.

Scrutiny of records in five[2] district excise offices revealed between September 2003 and October 2005 that contractors/suppliers of five country spirit warehouses and licensees of three country spirit bottling plants failed to provide accommodation to excise officers in charge and other establishment posted therein, for different periods between April 2002 and March 2005, and were liable to pay the relevant fee in cash equivalent to admissible HRA. The respective Deputy Excise Collectors, excepting in one case (Rs.0.99 lakh), however, neither issued demand notices for realisation of the said fee nor took any action against the defaulting licensees for non compliance of the terms and conditions of the licence. This resulted in non realisation of HRA of Rs.5.58 lakh.

Government to whom the cases were reported stated in July 2006 that Rs.3.40 lakh had been realised from four licensees at the instance of audit and demand

[1] Collector of Excise, Kolkata, and Superintendent of Excise, Burdwan (West).
[2] Collector of Excise, Kolkata, Superintendent of Excise, Darjeeling, Hooghly, Purulia, and South 24-Parganas.

notice of Rs.0.99 lakh has been served on another licensee and cases of two licensees were under appeal. In the remaining cases they did not furnish any specific reply(October 2006).

5.5 Non/short realisation of establishment cost.

Under the provisions of the excise rules, the licensee of a bonded warehouse is required to pay a monthly fee in cash equivalent to monthly cost comprising average pay, compensatory allowances and contribution towards leave salary and pension in respect of the excise establishment deployed in the warehouse. Such monthly fee shall be paid within seven days after the expiry of the month to which it relates.

Scrutiny of records of four[3] district excise offices and Deputy Commissioner of Excise (Special), Kolkata revealed between September 2004 and June 2005 that establishment cost of Rs.7.56 lakh for different periods between March 2001 and May 2005 in respect of seven bonded foreign liquor warehouses and three bonded rectified spirit warehouses were either not realised or realised short.

After this was pointed out between September 2004 and June 2005, excise authorities stated that action for realisation of dues will be taken.

The cases were reported to Government between November 2004 and August 2005 followed by reminders issued upto January 2006; their reply has not been received (October 2006).

B. ELECTRICITY DUTY

5.6 Non levy and non realisation of interest for delayed payment of duty

Under the provisions of the West Bengal Duty on Inter State River Valley Authority Act, 1973, as amended with effect from April 2003, where the Inter State River Valley Authority or the licensee or the person liable to pay electricity duty fails to pay electricity duty by the prescribed date, he shall be liable to pay a simple interest at the rate of one *per cent* for each English

[3] Superintendent of Excise, Darjeeling, Jalpaiguri, Paschim Medinipur and South 24 Parganas.

calendar month of default upon so much of the amount of duty payable by him as remains unpaid at the end of each month of default.

Scrutiny of records of the Director of Electricity Duty and Chief Electrical Inspector, West Bengal revealed between January 2005 and January 2006 that M/s Durgapur Steel Plant (DSP), a consumer of Damodar Valley Corporation (DVC) and M/s Indian Iron and Steel Company (IISCo) Limited, Kulti, Burdwan paid electricity duty of Rs.2.98 crore and Rs.0.23 crore for 2003-04 and 2004-05 respectively between September 2003 and September 2005 after a lapse of one to sixteen months from the due date of payment. But no interest was levied and realised from the licensees as per provisions of the Act due to delayed payment. This resulted in non levy and non realisation of interest of Rs.10.08 lakh.

Government to whom the cases were reported, stated in June 2006 that demand for interest had been raised on IISCo and DSP at the instance of audit.

Report on realisation has not been received (October 2006).

CHAPTER VI
MINES AND MINERALS

6.1 Results of audit

Test check of records relating to mines and minerals under different district land and land reforms (DL&LR) offices as well as offices of the Cess Deputy Collector, Chief Mining Officer and other mining officers, conducted during the year 2005-06, revealed underassessment, non/short realisation of revenue amounting to Rs.209.71 crore in 76 cases, which broadly fall under the following categories :

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non/ short assessment of cesses on minor/ major minerals	9	116.58
2.	Non/ short assessment/ realisation of price of minor/ major minerals extracted unauthorisedly	26	88.86
3.	Non/ short assessment/realisation of surface rent/ dead rent	2	0.02
4.	Non/ short assessment/ levy/ realisation of royalty and cess	20	0.42
5.	Other cases	19	3.83
Total		**76**	**209.71**

During the course of the year 2005-06, the concerned department accepted observations of Rs.56.13 crore in 62 cases of which 61 cases involving Rs.56.12 crore were pointed out in audit during the year 2005-06 and the rest in earlier years. An amount of Rs.0.96 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.202.76 crore highlighting important observations are given in the following paragraphs:

6.2 Assessment and collection of mining receipts including coal

6.2.1 Introduction

Under the provisions of the West Bengal Estates Acquisition Act, 1953, right in subsoil including rights in mines and minerals in the estates are vested in the State. Accordingly, extraction of minerals is governed under the Mines and Minerals (Development and Regulation) (MMDR Act) Act, 1957, Mineral Concession Rules (MC Rules) 1960, Cess Act, 1880, West Bengal Primary Education Act, 1973 and West Bengal Rural Employment and Production Act, 1976.

Coal is the most important major mineral available in West Bengal. The receipts from coal comprise royalty or dead rent, surface rent, price for unauthorised extraction, interest for delayed payment, water rate and different kinds of cess.

The Commerce and Industries Department (Mines Branch) is the administrative head of the mining estates of the State with the Principal Secretary as its head at the Government level and the Director of Mines and Minerals as the head of the directorate. The Director of Mines and Minerals assist the department in development and regulation of mines and minerals and grant of mining lease as well as assessment of royalty or dead rent with the assistance of the Chief Mining Officer (CMO) at Asansol and four zonal mining officers (MO) at Siliguri, Suri, Chinsurah and Purulia. The Cess Deputy Collector (CDC), Asansol and the respective district land and land reform officers (DL&LRO) under the Land & Land Reforms Department are responsible for collection of royalty or dead rent as well as assessment and collection of surface rent, water rate and different kinds of cess. As an exception, rural employment (RE) and primary education (PE) cess on coal are assessed and realised by the Assistant Commissioner of Commercial Taxes (ACCT), Asansol charge under the Finance Department. Outstanding dues are recoverable under the Bengal Public Demands Recovery Act 1913.

6.2.2 Scope of Audit

The records of the Commerce and Industries (C&I)Department, Director of Mines and Minerals, CMO Asansol, MOs of Purulia, Suri and Siliguri, CDC Asansol, DL&LRO of Purulia, Bankura, Birbhum, Darjeeling and Jalpaiguri

and ACCT Asansol for the years 2000-2001 to 2004-2005 were examined between October 2005 and February 2006. The audit findings are summarised in the succeeding paragraphs.

6.2.3 Underassessment of RE and PE cess

6.2.3.1 Allowance of inadmissible deduction

Under the West Bengal Rural Employment and Production Act and the West Bengal Primary Education Act as amended in 1992, every lessee of coal mine shall pay RE and PE cess for any financial year on the basis of half of the annual value of the entire coal produced during the two years immediately preceding that financial year. Every owner of a coal bearing land is required to submit a declaration showing the annual value of coal produced and amount of RE and PE cess payable for that year. The Acts do not provide for any deduction on account of any loss occurred after production or on account of quality degradation for assessment and collection of cess.

Scrutiny of declarations and assessment orders of ACCT, Asansol charge revealed that a lessee[1] claimed deduction of Rs.339.28 crore on account of loss on stock and quality deduction. The assessing authority incorrectly allowed the deduction resulting in underassessment of RE and PE cess of Rs.93 crore as detailed below:

(Rupees in crore)

Year	Date of assessment	Quality deduction	Loss on stock of coal	Total deduction allowed	Underassessment of RE and PE cess
1998-99	31.07.02	46.08	15.28	61.36	23.52
1999-2000	-do-	93.67	19.98	113.65	28.41
2000-01	-do-	146.68	17.59	164.27	41.07
Total		**286.43**	**52.85**	**339.28**	**93.00**

6.2.3.2 Application of incorrect rate of RE and PE cess

By a notification issued in December 1998, the rates of RE and PE cess were reduced from 38 *per cent* and seven *per cent* to 20 *per cent* and five *per cent* respectively from 1 December 1998 on the annual value of coal.

[1] M/s Eastern Coal Fields Limited

Test check of records of ACCT Asansol charge revealed that in respect of a company[2] the assessing authority while finalising the assessment in July 2002 for the year 1997-98 and 1998-99 applied reduced rate of 20 *per cent* and five *per cent* in respect of RE and PE cess respectively from December 1997 instead of December 1998. This resulted in underassessment of RE and PE cess of Rs.12 crore during December 1997 to November 1998 as detailed below:

(Rupees in crore)

Period	Date of assessment	Annual value of coal	Rate chargeable	RE and PE cess leviable	Rate charged	RE and PE cess levied	Short levy
1.12.97 to 31.3.98	31.07.02	20.00	45%	9.00	25%	5.00	4.00
1.4.98 to 30.11.98	-do-	40.00	45%	18.00	25%	10.00	8.00
Total							**12.00**

6.2.3.3 Short assessment due to incorrect gradation of coal

Cross verification of records of ACCT Asansol with that of CMO Asansol revealed that M/s Bengal Emta Coal Mines Ltd extracted only 'C' grade coal during April 1999 to March 2001 and submitted returns accordingly to the CMO for assessment of royalty. However, in the annual declaration submitted to ACCT Asansol for assessment of RE and PE cess for the said period, the lessee showed extraction of coal of different grades varying between 'C' and 'G' resulting in reduction in the annual value of coal. The ACCT assessed RE and PE cess accordingly on the reduced value of coal. This resulted in short assessment of cess of Rs. 9.97 crore as detailed below:

(Rupees in crore)

Period of Assessment	Date of assessment	Rate of RE and PE cess	Annual value of coal assessable	Annual value of coal assessed	RE and PE cess assessable	RE and PE cess assessed	Short assessment
1999-2000	30.7.2002	25%	74.48	58.79	18.62	14.70	3.92
2000-01	30.7.2002	-do-	117.94	93.74	29.48	23.43	6.05
Total							**9.97**

6.2.4 Non imposition of price of minerals extracted unlawfully

As per provisions of MMDR Act, no person shall undertake any mining operation in any area except under the terms and conditions of a lease or a

[2] Bharat Coking Coal Limited

quarry permit. In the event of unauthorised extraction of minerals, the State Government is empowered to recover the mineral raised unlawfully or where such minerals have already been disposed of, the price thereof. Under the MC Rules, ordinary sand used for stowing[3] purpose is treated as major mineral, extraction of which can be done under a mining lease. No price has been prescribed for stowing sand.

Scrutiny of records of the C&I Department and four[4] DL & LROs revealed that C & I Department granted temporary working permits to M/s ECL from time to time since August 1999 for extraction of stowing sand from the river-beds. The quantity of sand permitted for extraction against 10 permits was 10.65 crore cft. in three districts. However, as per the statement submitted, M/s ECL extracted 22.21 crore cft. of sand. The DL&LROs while finalising the assessments between October 2000 and February 2005 did not recover the price of sand extracted unauthorisedly. This resulted in non imposition and non realisation of the price of sand of Rs.2.50[5] crore used for stowing purpose as detailed below:

District	Period of permit	Permitted quantity in cft	Extracted quantity in cft	Excess extraction in cft	Royalty involved (in Rs)	Penal price payable (Rs. in crore)
Burdwan	1.3.01 to 31.7.01	1,91,47,306	2,26,47,359	35,00,053	75,601	0.08
Purulia	29.8.00 to 30.6.05	11,99,960	1,64,30,816	1,52,30,856	3,28,986	0.33
Birbhum	- do -	8,61,40,882	18,29,93,004	9,68,52,122	20,92,006	2.09
Total		**10,64,88,148**	**22,20,71,179**	**11,55,83,031**	**24,96,593**	**2.50**

After this was pointed out, DL&LRO Burdwan raised demand of Rs.7.56 lakh in March 2006. However, report on realisation has not been received (October 2006). Final reply from the other two DL & LROs has not been received.

6.2.5 Non assessment of cess on dead rent

Under the Cess Acts read with clarification issued in May 2000, cess on dead rent are realisable at the rate of 86[6] paise per rupee.

[3] Ordinary sand used for filling the pits of a coal mine.
[4] Bankura, Birbhum, Burdwan and Purulia
[5] The price has been worked out at the rate of 10 times of the royalty in accordance with the provisions of the West Bengal Minor Minerals Rules, 1973.
[6] Rural employment cess-45 paise, public works cess-25 paise, primary education cess-10 paise and road cess-6 paise

Test check of records revealed that CDC Asansol and DL&LRO Birbhum did not assess cess of Rs.1.59 crore on dead rent assessed between 12 July 2000 and 4 January 2006 payable for various periods between May 1997 and April 2005. This resulted in non assessment and non levy of cess of Rs.1.59 crore.

After this was pointed out, the assessing authority raised demands for Rs.54.67 lakh in January 2006. Report on realisation has, however, not been received (October 2006). As regards balance amount of cess, CDC Asansol stated that new certificate case for realising cess on dead rent would be initiated on verification of records.

6.2.6 Non assessment of water rate

Under the provisions of the MC Rules and terms and conditions of mining lease, the lessee shall pay water rate at prescribed rate in respect of all parts of surface of lands occupied or used by him. Water rate has been fixed at Rs.54 per acre per annum under the West Bengal Irrigation (Imposition of Water Rate) Act, 1974. The Rules do not specify the authority responsible for assessment and collection of water rate.

During test check of records of CDC Asansol and four[7] DL & LROs, it was noticed that water rate was not assessed and realised on 46,946 acres of land occupied or used by four lessees for extraction of coal. This resulted in non assessment and consequent non realisation of water rate of Rs.98.05 lakh for the various periods between May 1999 and September 2004.

After this was pointed out, DL&LROs of Birbhum and Purulia districts raised demands of Rs.38.29 lakh between December 2005 and March 2006 while DL&LROs of Darjeeling and Bankura districts stated that action would be taken on verification of records. CDC Asansol stated in February 2006 that clarification from Government had been sought for as to which authority was responsible for assessment and collection of water rate.

[7] Bankura, Birbhum, Darjeeling and Purulia

Government to whom the cases were reported, stated in June 2006 that Finance Department would take up the matter with Irrigation and Waterways Department and would decide the authority for assessment.

6.2.7 Non levy of interest

Under the provisions of the MC Rules read with notification issued in January 1979, mining dues other than minor minerals including royalty relating to the quarters ending March, June, September and December every year are required to be paid by the first day of the respective succeeding month. If the quarterly dues remain unpaid on the expiry of the sixtieth day from the due date, the assessing authority shall charge simple interest at 24 *per cent* per annum till the date of payment.

Scrutiny of records of CDC, Asansol revealed that two[8] lessees paid between March 2001 and July 2003 royalty of Rs.2.84 crore for various quarters ending between June 2000 and March 2003. CDC Asansol, however, did not levy and realise interest of Rs.16.55 lakh from the lessee for delay ranging between 31 and 188 days after the expiry of sixtieth day.

After this was pointed out, the assessing authority raised demands of interest against the lessees in August 2006. Report on realisation has, however, not been received (October 2006).

6.2.8 Non initiation of certificate proceeding

Under the provisions of the MMDR Act and Cess Act, any arrear rent, royalty, tax, fee together with cess payable thereon may be recovered from the defaulter lessee in the same manner as an arrear of land revenue under provisions of the Bengal Public Demands Recovery Act, 1913.

Scrutiny of records of CDC Asansol, DL & LROs Birbhum and Bankura districts revealed that dead rent, surface rent and cess payable by two[9] lessees for various periods between May 1999 and April 2003 were assessed and demanded between April 2001 and July 2003. CDC Asansol and the other two DL & LROs did not initiate any certificate proceedings against the lessees for non payment of dues of arrear rents of Rs.1.17 crore and cess of Rs.0.99 crore after lapse of time between 27 and 60 months from the date of

[8] Bengal EMTA Coal Mines Ltd and Indian Iron and Steel Co.
[9] M/s Bharat Coking Coal Ltd. and M/s Eastern Coal Fields Ltd.

issue of demand notice. This resulted in non realisation of revenue of Rs.2.16 crore due to non initiation of certificate proceedings.

After this was pointed out, the CDC Asansol and DL & LRO Bankura stated that certificate proceedings would be started on verification of the records while the DL & LRO Birbhum instructed M/s ECL to make payment of dues. Report on further action taken has not been received (October 2006).

Government to whom the cases were reported furnished no specific reply(October 2006).

6.3 Unauthorised extraction of minerals

Under the provisions of the MMDR Act, as amended in 1972 and the Rules made thereunder, no person is entitled to undertake any mining operation in any area except under the authority of a valid quarry permit/mining lease. Extraction in excess or without valid permit is unauthorised. In the event of unauthorised extraction of minerals, apart from other penal action, State Government is empowered to recover either the minerals raised unlawfully or the price thereof. By an order issued in September 1984, the Board of Revenue, West Bengal fixed the price of brick earth at Rs.30 per 100 cft. for 1981 with an increase of Rs.1.50 per 100 cft. each year. In the absence of fixation of price of sand by the Land and Land Reforms Department, the procurement price at the rate of Rs.680 per 100 cft. fixed by the Public Works (Roads) Department for the relevant period has been taken into consideration.

6.3.1 Short raising of demand for earth and sand extracted unauthorisedly

Scrutiny of records of DL & LRO Hooghly revealed that a company was entrusted with the construction work of Durgapur Expressway. It extracted 281.71 lakh cft. of earth against the permitted quantity of 15.14 lakh cft. and 563.43 lakh cft. of sand without any permit during 2001-05. Thus, extraction of 266.57 lakh cft. of earth and 563.43 lakh cft. of sand was unauthorised for which Rs.1.72 crore and Rs.38.31 crore respectively was recoverable. Besides, Rs.7.42 lakh towards royalty and cess for permitted quantity of earth was also realisable. Thus total demand works out to Rs.40.10 crore. But district authority demanded Rs.5.78 crore only towards royalty and cess on the

total quantity of earth and sand extracted by the company. This resulted in short raising of demand of Rs.34.32 crore.

Government to whom the case was reported stated in June 2006 that the matter was under scrutiny.

6.3.2 Non/short realisation of revenue from minerals extracted unauthorisedly

Scrutiny of records of four[10] DL & LR Offices revealed that in 236 cases brickfield owners and other agencies extracted 45.41 crore cft. of brick earth/earth between 2000-01 and 2004-05 for the purpose of manufacturing bricks and other commercial purposes without valid quarry permits. There were 64 cases of repeated offenders. Such illegal extractions were detected by the revenue inspectors of the BL&LR offices but DL & LR offices, instead of, recovering the price of earth of Rs.28.60 crore, realised only Rs.0.22 crore as royalty. This resulted in non/short realisation of price of earth of Rs.28.38 crore.

Government to whom the cases were reported stated in June 2006 that out of total dues of Rs.36.36 lakh in South 24 Parganas, Rs.2.15 lakh has been realised and in North 24 Parganas Rs.1.06 lakh has been realised in full. Replies from DL & LROs Burdwan and Paschim Medinipur have not been received. In two cases brick field owners paid royalty instead of price of the mineral extracted unauthorisedly. Managing Director, Housing Infrastructure Development Corporation Limited (HIDCO) has requested to waive the demand for unauthorised extraction and the matter is under scrutiny of the C&I Department. In the rest of the cases steps are being taken to recover the price of minerals extracted unauthorisedly.

6.3.3 Non raising of demand on unauthorised extraction of minerals

In Howrah district a company entrusted with widening and strengthening of National Highway No.6, extracted 29.44 lakh cft of earth and 2.67 crore cft. of sand during 2004-05 against the permitted quantity of 33,600 cft. of earth and 9.32 lakh cft. of sand. Thus extraction of 29.11 lakh cft. of earth and

[10] Burdwan (East), North 24 Parganas, Paschim Medinipur and South 24 Parganas.

2.57 crore cft of sand was unauthorised for which price of Rs.18.77 lakh and Rs.18.22 crore respectively was realisable. But the district authority did not raise any demand for its realisation. This resulted in non raising of demand of Rs.18.41 crore towards prices of minerals.

The DL & LRO while admitting the audit observation stated that quantum of earth and sand that had been extracted without permission would be treated as unauthorised and price of earth and sand would be charged thereon.

Government to whom the case was reported stated in June 2006 that the matter was under scrutiny.

6.4 Short realisation of royalty and cess on minor minerals

Under the West Bengal Minor Minerals Rules, 2002 read with the Cess Act, 1880, West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976, extraction of minor minerals is permissible on the strength of a quarry permit issued by the DL&LR offices on realisation of royalty and cess[11] in advance at the rates prescribed by Government. The rates of royalty and cess on different kinds of minor minerals have been revised with effect from 8 November 2002.

Scrutiny of records of three[12] DL & LR offices revealed that in 406 cases the district authorities granted quarry permits for extraction of 111.48 lakh cft. of various kinds of minor minerals such as earth, sand, morrum, boulder, gravel, stone etc. between 8 November 2002 and 30 March 2003. But the district authorities realised royalty and cess of Rs.49.75 lakh at the pre revised rate instead of Rs.76.60 lakh at the revised rate. This resulted in short realization of royalty and cess of Rs.26.85 lakh as detailed below:

[11] Public works cess, road cess, primary education cess and rural employment cess.
[12] Burdwan (East), Paschim Medinipur and Purulia.

(Rupees in lakh)

Name of minerals	Quarry permits issued between	No. of cases	Quantity extracted (Lakh cft.)	Revised rate (Rs. per 100 cft.)	Pre-revised rate (Rs. per 100 cft.)	Difference in rates (Rs. per 100 cft.)	Short realisation
Earth	26.3.2003 and 30.3.2003	9	15.80	royalty-34.00 cess-15.00	20.00 15.00	14.00 --	2.21 --
Sand	8.11.2002 and 10.1.2003	276	59.68	royalty -63.00 cess-15.00	37.50 13.50	25.50 1.50	15.22 00.90
Morrum	11.11.2002 and 13.12.2002	44	20.95	royalty -43.00 cess-15.00	20.00 14.00	23.00 1.00	4.82 0.21
Boulder	26.11.2002 and 16.12.2002	24	5.44	royalty -63.00 cess-15.00	30.00 14.00	33.00 1.00	1.80 0.05
Gravel	3.12.2002	1	1.00	royalty -63.00 cess-15.00	37.50 13.50	25.50 1.50	0.26 0.02
Stone	18.11.2002 and 16.012003	52	8.61	royalty -63.00 cess-24.00	50.00 21.25	13.00 2.75	1.12 0.24
Total		**406**	**111.48**				**26.85 (Royalty-25.43 and Cess-1.42)**

Government to whom the cases were reported stated in June 2006 that Rs.22,325 had been realised by DL & LRO Purulia and reply from Burdwan and Paschim Medinipur has not been received (October 2006).

CHAPTER VII
OTHER NON TAX RECEIPTS

7.1 Results of audit

Test check of records relating to receipts from Forests, Public Works and other departments conducted during the year 2005-06, revealed non/short realisation, blockage, loss etc. of revenue amounting to Rs.11.43 crore in 52 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non/short realisation of revenue	28	8.24
2.	Loss of revenue	15	2.47
3.	Blockage of revenue	6	0.24
4.	Others	3	0.48
	Total	**52**	**11.43**

During the course of the year 2005-06, the concerned department accepted observations of Rs.10.34 crore in 46 cases of which 16 cases involving Rs.6.01 crore were pointed out in audit during the year 2005-06 and the rest in earlier years. An amount of Rs.2.16 crore was realised at the instance of audit.

A few illustrative cases involving Rs.57.93 lakh highlighting important observations are given in the following paragraphs:

A. Forest Receipts

7.2 Short realisation of revenue due to deduction of harvesting cost at higher rate

According to the procedure for disposal of forest produce prescribed by Government in January 1977, allotment sale of timber to Government undertakings and other wood based industries is to be made on cash and carry basis at the rates fixed by the State Price Fixation Committee (SPFC). The work of harvesting of timber and disposal thereof are entrusted to the West Bengal Forest Development Corporation (WBFDC) since 1988-89. According to existing procedure, WBFDC is required to pay operational charges at the prescribed rate to the forest division for extraction of timber and deposit the revenue after recovery of harvesting cost. The harvesting cost of timber is fixed by the SPFC which may be enhanced by an amount not exceeding 20 *per cent* of the approved rate specially in difficult areas like the hills and special operation like cyclone damaged and drift[1].

Scrutiny of records of two divisional forest offices[2] between June 2004 and December 2005 revealed that WBFDC recovered harvesting cost at higher rate than the approved enhanced rate during 2001-05 which resulted in short realisation of revenue of Rs.7.43 lakh as detailed below:

Name of the office audited	Period involved	Quantity of timber *(cum.)*	Harvesting cost admissible	Harvesting cost allowed	Short realisation of revenue (5-4) *(in rupees)*
			Rates (Rs. per cum) / Amount (in rupees)	Rates (Rs. per cum) / Amount (in rupees)	
(1)	(2)	(3)	(4)	(5)	(6)
DFO, Wild Life Division-I, Darjeeling	2001-02	119.810	480 57,509	1,400 1,67,734	1,10,225
DFO, Darjeeling Division	2002-03	405.579	540 2,18,959	1,000 4,05,579	1,86,620
	2003-04	379.615	600 2,27,769	1,000 3,79,615	1,51,846.
		84.730	600 50,838	1,200 1,01,676	50,838
		39.536	600 23,722	1,000 39,536	15,814
	2004-05	545.327	690 3,76,276	1,106 6,03,495	2,27,219
Total					**7,42,562**

After this was pointed out between June 2004 and December 2005 Divisional Forest Officer (DFO), Darjeeling division in one case stated that the

[1] Wood floating on the river or washed ashore by it.
[2] Darjeeling Division and Wild Life Division

harvesting cost of terrain of Darjeeling Forest Division was Rs.1,000. The reply is not tenable as the harvesting cost was fixed at Rs.500 per cu.m by the SPFC in January 2003. DFO, Darjeeling in another case and DFO, Wild Life Division-I furnished no specific reply.

The cases were reported to Government in June 2006; their reply is not specific and complete.

7.3 Short realisation of revenue due to irregular deduction of project advance

Project on infrastructure development and Joint Forest Management (JFM) support in North Bengal was approved on 28 January 2004 by the Forest Department. According to the approved working procedure of the project, WBFDC Ltd. will entirely finance timber operation and firewood operation costs at the prescribed rate and recover the same from the revenue payable to Government. The said working procedure also provides that WBFDC will make an advance for project input (advance to JFM Project) and recover the advance during the period to which the net revenue relates to the project inputs.

Scrutiny of records of two[3] forest offices in August 2005 revealed that WBFDC made a project advance of Rs.44.54 lakh between August and September 2004 for financing operation costs to the above two offices. While remitting the net sale proceeds of auction of timber of Rs.2.26 crore in September 2004 pertaining to the period from January to June 2004, the project advance of Rs.44.54 lakh not related with project input period was recovered by WBFDC. Deduction of project advances from revenue not related to the operational period for which the project input advance was made is irregular and resulted in short realisation of revenue of Rs.44.54 lakh.

Government to whom the case was reported in June 2006 directed WBFDC to refund the amount. Report on refund has not been received (October 2006).

[3] Alipurduar (East and West) and Deputy Field Director, Buxa Tiger Reserve

7.4 Short realisation of Government revenue due to sale of timber below the scheduled rate

The normal procedure for disposal of timber and fire wood of the Forest Department is by auction or tender. Auction of timber is to be made on the basis of reserve price fixed by the price fixation committee according to an order issued by the Forest Department. For timber having mid-girth under bark less than 76 cm, the rates may be reduced by 20 *per cent.*

Scrutiny of records of auctions of two divisional forest offices[4] revealed that WBFDC, Alipurduar fixed reserve price of fresh lots of 'sal' and 'champ' (A class timber) of 206.904 cu.m and jarul (B class timber) of 90.17 cu.m for auction in the year 2003-04 and 2004-05 and sold the lots at Rs.9.08 lakh and Rs.1.81 lakh respectively. The prices so fixed were much below the schedule of rate of Rs.6,400 and Rs.4,000 per cu.m for timber with girth below 76 cm. No reason was recorded for fixing the reserve price below the schedule of rates. Fixation of reserve price and sale of timber at a rate lower than the scheduled rate resulted in short realisation of Rs.5.96 lakh.

Government to whom the cases were reported stated in June 2006 that reason for wide variation between reserve price and the schedule of rate should be kept on record.

B. Public Works Receipts

7.5 Loss of revenue due to realisation of toll tax below the average estimate

Under the Indian Tolls Act, 1851 as amended from time to time the State Government is empowered to levy toll tax at the rates prescribed in respect of bridges over any river/canal constructed or repaired at its expense. Such tax is payable by the owners of the vehicles using bridges and collected departmentally or through private agency as specified.

Scrutiny of records of Executive Engineer, Hooghly Division, PWD in December 2004, revealed that on the basis of a traffic census conducted by the department round the clock on 12, 13 and 14 June 2002, the estimated daily average collection of toll on different types of vehicles, except buses plying over the Mundeswari Bridge, was Rs.32,071 as detailed below:

[4] Alipurduar (East and West) and Deputy Field Director, Buxa Tiger Reserve.

Type of vehicle	Run (average) per day	Rate of toll tax for each run	Total *(in rupees)*
Loaded truck	1,062	Rs.20	21,240
Unloaded truck	934	Rs.10	9,340
Cars/jeep/three wheeler	497	Rs.3	1,491
Average toll tax to be collected per day			**32,071**

Thus based on the frequency of traffic movement, the annual average collection of toll per year comes to Rs.1.17 crore. The total collection of toll during the years 2002-03, 2003-04 and 2004-05 thus works out to Rs.3.51 crore against Rs.2.03 crore collected by the department. This resulted in loss of revenue of Rs.1.48 crore.

Government to whom the case was reported stated in June 2006 that a good number of vehicles had not been paying toll tax. The fact was brought to the notice of the Police authority but non payment could not be checked. This indicates failure of the control mechanism and lack of initiative of the department to enhance collection of revenue.

Kolkata, **(Sarit Jafa)**

The **Accountant General (Receipt, Works and Local Bodies Audit)**

West Bengal

Countersigned

New Delhi, **(Vijayendra N. Kaul)**

The ***Comptroller and Auditor General of India***

ERRATA

Audit Report (Revenue Receipts) – Government of West Bengal for the year 2005-06

Sl.No.	Paragraph No.	Page No.	Line	For	Read
(1)	(2)	(3)	(4)	(5)	(6)
1.	2.2.12	32	7th line from bottom	Rs.751.98 crore	Rs.751.99 crore
2.	2.16	47	13th line from top (caption of the paragraph)	shipment	transport