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REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED 31 MARCH 2005

(REVENUE RECEIPTS)

GOVERNMENT OF ORISSA

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PREFACE

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

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

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

OVERVIEW

I General

This report contains 62 paragraphs relating to non levy/short levy of tax, penalty, loss of revenue, interest including one review on "Interest Receipts". The findings involve revenue to the tune of Rs.560.81 crore. Some of the major findings are mentioned below:

The Government's total revenue receipts for the year 2004-05 amounted* to Rs.11,850 crore against Rs.9,440 crore in the previous year. Of this 46.60 *per cent* was raised by the State - Rs.4,177 crore through tax revenue and Rs.1,345 crore through non-tax revenue and 53.40 *per cent* was received from the Government of India, Rs.3,978 crore in the form of State's share of divisible Union taxes and Rs.2,350 crore as grants in aid.

{Para 1.1}

Test check of records of sales tax, motor vehicles tax, state excise, mines and minerals, land revenue, forest and other departmental offices conducted during the year 2004-05, revealed underassessment, short levy/loss of revenue etc. amounting to Rs.936.51 crore in 20,81,333 cases. During the year 2004-05, the concerned departments accepted underassessment etc. of Rs.109 crore, involved in 17,38,232 cases pointed out during 2004-05 and earlier years, of which the departments recovered Rs.6 crore in 16,421 cases.

{Para 1.9}

As on 30 June 2005, 3,653 inspection reports issued upto December 2004 containing 11,067 audit observations involving Rs.1,789 crore were outstanding for want of comments/final action by the concerned departments.

{Para 1.10}

II Sales Tax

Grant of irregular exemption towards export sales resulted in under assessments of tax of Rs.2.17 crore

{Para 2.3}

Determination of transaction between the two dealers of Orissa as inter state sale instead of intra state sale led to underassessment of tax of Rs.3.90 crore.

{Para 2.5.1}

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* **Chapter-I figures in overview have been rounded off to nearest crore.**

Cross verification of records of FCI with the assessment records of three registered rice millers revealed that there was evasion of tax of Rs.77.67 lakh due to suppression of sale turnover of rice.

{Para 2.7}

Short levy of entry tax of Rs.18.07 lakh due to application of incorrect rate.

{Para 2.20}

III Motor Vehicles Tax

Motor vehicle tax and additional tax including penalty amounting to Rs.30.83 crore was not realised in respect of 15,746 vehicles which had valid route permits.

{Para 3.2}

Non realisation of various fees at the revised rates led to loss of Rs.2.01 crore in 1,65,833 cases for the period between 28 January 2003 and 31 March 2004.

{Para 3.3}

Short realisation of one time tax of Rs.51.89 lakh on advalorem basis in respect of 323 vehicles registered between February 2003 and 31 March 2004.

{Para 3.5}

IV Land Revenue, Stamp Duty and Registration Fees

An organisation after taking over the possession of Government land on lease basis, sub-leased the land to other third parties after realisation of cost of land, but did not deposit Government's share which resulted in non realisation of revenue of Rs.11.19 crore.

{Para 4.2}

Although lease for Government land was sanctioned and land was in possession of the lessees, yet demand for Rs.65.97 lakh was not raised against lessees towards premium, ground rent, cess and interest for the years between 1999-2000 and 2003-04.

{Para 4.4}

Cross verification of records of Tahasil offices with reference to 149 documents revealed that kissam of land was incorrectly set forth with lower value due to which there was short realisation of stamp duty and registration fees of Rs.25.64 lakh.

{Para 4.7}

V State Excise

Non observance of the prescribed procedure in settlement of IMFL off shops resulted in loss of revenue of Rs.10.17 crore.

{Para 5.2.1}

Non realisation of revenue of Rs.9.26 lakh due to non affixture of excise adhesive labels on beer bottles imported from out side the State.

{Para 5.5}

VI Forest Receipts

Bamboo coupes in the bamboo potential forest divisions of the State were not worked leading to loss of Rs.8.66 crore of revenue towards royalty.

{Para 6.2}

Non levy of interest of Rs.86.06 lakh on belated payment of royalty on timber.

{Para 6.5}

VII Mining Receipts

Loss of revenue of Rs.16.29 crore due to non raising of demand for royalty and cost of ore for illegal extraction/removal of chromite ore.

{Para 7.3.1}

Non execution of lease deed within the specified period and delay in grant of revocation of renewal order resulted in loss of revenue of Rs.6.23 crore towards cost of ore.

{Para 7.4}

Unauthorised extraction/removal of iron ore in forestland without prior approval of Central Government led to loss of revenue of Rs.5.11 crore towards cost of ore and royalty.

{Para 7.5}

VIII Departmental Receipts

Review on **"Interest Receipts"** revealed the following:-

- Sanction of interest free loan to 30 organisations without adhering to the principles of loan policy and general financial rules resulted in loss of interest of Rs.11.47 crore.

{Para 8.2.8}

- Due to computation error there was short levy of interest amounting to Rs.72.92 crore against one organisation and non levy of interest of Rs.8.44 crore against another organisation.

{Para 8.2.9}

- Release of fresh grants/assistance to five organisations without making any recovery towards outstanding principal and interest resulted in non realisation of interest of Rs.215.53 crore which was inclusive of penal interest of Rs.57.70 crore.

{Para 8.2.10}

- Delay in disbursement of loan released by Government of India to the implementing agencies led to loss of Rs.56.81 crore towards interest.

{Para 8.2.11}

- Non finalisation of terms and conditions of loan granted to one Corporation led to non realisation of interest of Rs.8.45 crore.

{Para 8.2.13}

Non levy of inspection fees against the three distribution companies resulted in non realisation of Government revenue of Rs.5.87 crore.

{Para 8.3}

Raising of demand for inspection fees at the pre revised rate for the years 2002-03 and 2003-04 resulted in short levy of inspection fees of Rs.2.34 crore.

{Para 8.4}

Non levy of electricity duty of Rs.1.86 crore for the year 2003-04 against two companies engaged in generation and distribution of electricity.

{Para 8.5}

CHAPTER-I : GENERAL

1.1 Trend of Revenue Receipts

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

(Rupees in crore)

		2000-2001	2001-2002	2002-2003	2003-2004	2004-2005
I	**Revenue raised by State Government**					
(a)	Tax Revenue	2,184.03	2,466.88	2,871.84	3,301.73	4,176.60
(b)	Non Tax Revenue	685.47	691.75	961.18	1,094.55	1,345.52
Total		**2,869.50**	**3,158.63**	**3,833.02**	**4,396.28**	**5,522.12**
II	**Receipts from Government of India**					
(a)	State's share of divisible Union taxes	2,603.97	2,648.72	2,805.58	3,327.68	3,977.66[1]
(b)	Grants in aid	1,428.55	1,240.64	1,800.17	1,716.28	2,350.41
Total		**4,032.52**	**3,889.36**	**4,605.75**	**5,043.96**	**6,328.07**
III	**Total Receipt of the State Government (I+II)**	**6,902.02**	**7,047.99**	**8,438.77**	**9,440.24**	**11,850.19**
IV	**Percentage of I to III**	**41.57**	**44.82**	**45.42**	**46.57**	**46.60**

1 **For details, please see Statement No.11-Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of the Government of Orissa for the year 2004-05. Figures under the minor head 901-Share of net proceeds assigned to States under the major heads 0020-Corporation Tax; 0021-Taxes on Income other than Corporation Tax; 0028-Other Taxes on Income and Expenditure; 0032-Taxes on Wealth; 0037-Customs; 0038-Union Excise Duties; 0044-Service Tax and 0045-Other Taxes and Duties on Commodities and Services booked in the Finance Accounts under A-Tax Revenue have been excluded from the Revenue raised by the State and exhibited as State's share of divisible Union taxes.**

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

(Rupees in crore)

Heads of Revenue	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	*Per cent*age of increase (+) or decrease (-) in 2004-2005 over 2003-2004
1. (a) Sales Tax	1,293.99	1,350.51	1,532.69	1,546.47	2,061.23	(+) 33
(b) Central Sales Tax	48.13	51.82	72.53	317.50	410.16	(+) 29
2. Taxes and Duties on Electricity	146.71	136.96	172.17	200.43	261.89	(+) 31
3. Land Revenue	53.26	84.48	82.16	103.27	131.59	(+) 27
4. Taxes on Vehicles	178.17	216.37	257.35	280.03	338.11	(+) 21
5. Taxes on Goods and Passengers	194.04	252.04	313.07	377.19	384.93	(+) 2
6. State Excise	135.31	197.46	246.06	256.37	306.61	(+) 20
7. Stamp Duty and Registration Fees	108.52	109.76	135.86	153.07	197.87	(+) 29
8. Other Taxes and Duties on Commodities and Services	14.60	27.62	13.34	14.77	25.14	(+) 70
9. Other Taxes on Income and Expenditure- Tax on Professions, Trades, Callings and Employments	11.30	39.86	46.61	52.63	59.07	(+)12
Total	**2,184.03**	**2,466.88**	**2,871.84**	**3,301.73**	**4,176.60**	

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

Taxes and Duties on Electricity: The increase was stated to be due to more collection of duty on non captive and captive power plants and inspection fees etc.

Land Revenue: The increase in collection was stated to be due to revision of rate of premium for conversion of land, more collection of royalty etc.

Taxes on Vehicles: The increase was stated to be due to increase in vehicle population, better enforcement activities and effective supervision etc.

Stamp duty and registration fees: The increase was stated to be due to disposal of 47A cases and increase of land value.

Reasons for variation in respect of other taxes and duties on commodities and services has not been received from concerned Department (October 2005).

1.1.3 Details of non tax revenue realised during the year 2004-05 alongwith the figures for the preceding four years are given below:

(Rupees in crore)

Heads of Revenue	2000-2001	2001-2002	2002-2003	2003-2004	2004-05	*Per centage* of increase (+) or decrease (-) in 2004-2005 over 2003-2004
1 Non ferrous Mining and Metallurgical Industries	360.33	378.56	443.58	552.06	670.52	(+) 21
2 Forestry and Wild Life	84.79	87.95	97.04	48.64	84.72	(+) 74
3 Interest Receipts	13.09	25.27	76.09	164.38	249.04	(+) 52
4 Education	19.91	24.98	24.31	12.00	15.76	(+) 31
5 Irrigation & Inland Water Transport	20.16	18.40	24.70	36.25	40.45	(+) 12
6 Public Works	15.40	13.99	13.69	15.06	17.05	(+) 13
7 Police	21.44	19.23	13.37	15.55	21.24	(+) 37
8 Medical and Public Health	10.07	10.15	11.24	7.51	12.98	(+) 73
9 Power	3.20	3.18	2.94	2.90	4.19	(+) 44
10 Miscellaneous General Services	8.20	13.92	10.41	5.38	31.70	(+) 489
11 Other Non Tax Receipts	111.363	82.653	227.96	226.35	160.97	(-) 29
12 Co-operation	1.70	1.94	2.09	2.39	2.72	(+) 14
13 Other Administrative Services	15.81	11.52	13.71	6.08	34.18	(+) 462
14 Dairy development	0.007	0.007	0.05	Nil	Nil	
Total	**685.47**	**691.75**	**961.18**	**1,094.55**	**1,345.52**	

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

Non ferrous Mining and Metallurgical Industries: The increase was stated to be due to upward revision of rates on royalty on non coal minerals, minor minerals, increase in sale price of minerals and despatch of more iron ore.

Forestry and Wild Life: The increase was stated to be due to realisation of cost of compensatory afforestation from user agencies.

Police: The increase was stated to be due to collection of arrear dues from Aviation Research Centre, Charbatia and East Coast Railways.

Reasons for variations relating to *interest, education, irrigation and inland water transport, medical and public health* have not been received though called for.

1.2 Variations between budget estimates and actuals

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

(Rupees in crore)

Sl. No.	Heads of Revenue	Budget estimates	Actual receipts	Variations Increase (+) Shortfall (-)	*Per cent*age of Variation
Tax Revenue					
1	Sales Tax	2,063.00	2,471.39	(+) 408.39	20
2	Taxes on Goods and Passengers	300.23	384.93	(+) 84.70	28
3	Taxes and Duties on Electricity	240.84	261.89	(+) 21.05	9
4	Land Revenue	120.00	131.59	(+) 11.59	10
5	Taxes on Vehicles	320.59	338.11	(+) 17.52	5
6	State Excise	290.16	306.61	(+) 16.45	6
7	Stamp Duty and registration Fees	190.90	197.87	(+) 6.97	4
Non Tax Revenue					
8	Mines and Minerals	640.87	670.52	(+) 29.65	5
9	Forest	40.00	84.72	(+) 44.72	112
10	Education	13.26	15.76	(+) 2.50	19
11	Interest	87.07	249.04	(+) 161.97	186
12	Police	8.02	21.24	(+) 13.22	165

Taxes and Duties on Electricity: The increase (nine *per cent*) was stated to be due to collection of arrear dues from M/s. NALCO.

Taxes on vehicles: The increase (five *per cent*) was stated to be due to increase of vehicle population, better enforcement activities, timely review of performance of field functionaries and effective supervision.

Stamp duty and Registration fees: The increase (four *per cent*) was stated to be due to collection of arrear revenue under section 47A of Stamp Act.

Mines and Minerals: The increase (five *per cent*) was stated to be due to increase in despatches of minerals as per market demand and upward revision of rates of royalty of non coal and minor minerals.

Forest: The increase (112 *per cent*) was stated to be due to realisation of cost of compensatory afforestation from user agencies.

Police: The increase (165 *per cent*) was stated to be due to payment of claims by Aviation Research Centre, Charbatia and East Coast Railways.

The reasons for variation for state excise, taxes on goods and passengers, education, interest etc. though called for were awaited.

1.3 Analysis of collection

Breakup of total collection at pre assessment stage and after regular assessment of Sales Tax, Profession Tax, Entry Tax and Luxury 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)	Amount of arrear demand collected	Amount refunded	Net collection	*Per-centage* of column 3 to 7
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1. Sales Tax	2002-03	1,570.33	40.79	35.54	35.36	1,611.30[2]	97.5
	2003-04	1,820.65	37.80	36.61	17.01	1,877.75[3]	97
	2004-05	2,420.87	35.34	34.68	23.54	2,467.35[4]	98.1
2. Profess-ion Tax	2002-03	44.42	--	--	--	44.42	100
	2003-04	50.62	--	--	--	50.62	100
	2004-05	56.16	--	--	--	56.16	100
3. Entry Tax	2002-03	301.63	7.72	2.32	1.20	310.47	97
	2003-04	350.67	17.44	3.45	0.04	371.52	94.4
	2004-05	361.65	19.87	4.81	0.74	385.59	93.8
4. Luxury Tax	2002-03	9.45	--	--	--	9.45	100
	2003-04	11.26	--	--	--	11.26	100
	2004-05	10.15	0.01	--	--	10.16	99.9

The above table shows that percentage of collection of revenue at the assessment stage ranged between 94.4 to 98.1 *per cent* under sales tax and entry tax during the year 2002-03 to 2004-05.

1.4 Cost of Collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2002-03, 2003-04 and 2004-05 along with the relevant all India average percentage of expenditure on collection to gross collection for 2003-04 are given below:

(Rupees in crore)

Heads of Revenue	Year	Gross collection	Expenditure on collection	*Per centage* of expenditure to gross collection	All India average *per centage* for the year 2003-04
Sales Tax	2002-2003	1,646.66	21.36	1.29	
	2003-2004	2,331.60	21.30	0.91	1.15
	2004-2005	2,946.87	23.47	0.80[5]	
Taxes on Vehicles	2002-2003	257.35	9.22	3.58	
	2003-2004	280.14	7.81	2.79	2.57
	2004-2005	338.11	8.82	2.61	
State Excise	2002-2003	246.06	12.62	5.13	
	2003-2004	256.68	13.05	5.08	3.81
	2004-2005	306.70	13.19	4.30	
Stamp Duty and Registrati on Fees	2002-2003	135.86	12.24	9.01	
	2003-2004	154.36	12.82	8.30	3.66
	2004-2005	197.95	11.70	5.91	

It would be seen from above that cost of collection under taxes on vehicles, state excise, stamp duty and registration fee was higher than all India average.

2 **The figures supplied by the Department do not tally with figures of Finance Accounts.**

3 **The difference of Rs.13.78 crore (Departmental figure of Rs.1,877.75 crore minus Rs.1,863.97 crore Finance Accounts figure) yet to be reconciled.**

4 **The difference of Rs.4.04 crore (Departmental figure of Rs.2,467.35 crore minus Rs.2,471.39 crore Finance Accounts figure) yet to be reconciled (October 2005).**

5 **Percentage of expenditure to gross collection for 2004-05 includes Entry Tax, Entertainment Tax and Professional Tax in addition to Sales Tax.**

1.5 Collection of sales tax per assessee

(Rupees in crore)

Year	No. of assessees	Sales tax revenue	Revenue/assessee
2000-2001	58,427	1,351.49	0.023
2001-2002	62,142	1,434.72	0.023
2002-2003	69,743	1,646.66	0.024
2003-2004	74,494	1,894.76	0.025
2004-2005	78,991	2,490.89	0.032

The above table reveals that revenue collection per assessee increased from Rs.0.023 crore in the year 2000-01 to Rs.0.032 crore in 2004-05.

1.6 Analysis of arrears of revenue

As on 31 March 2005, the arrears of revenue under principal heads of revenue as reported by the Departments aggregating Rs.2,259.05 crore were as detailed below:-

(Rupees in crore)

Sl. No	Heads of Revenue	Amount of arrears as on 31 March 2005	Arrears more than five years old	Remarks
1	Sales Tax	1,203.58	527.09	The stages of arrears were as under: o Cases covered by show cause and penalty 336.65 o Demands stayed by ➢ Departmental authorities 180.05 ➢ Supreme Court/High Court 411.05 o Demands covered by Certificate proceedings/ Tax Recovery proceedings 272.41 o Amounts likely to be written off 3.42
2	Taxes on Vehicles	75.94	--	The stages of arrears were as under: o Demands covered by certificate proceedings 31.24 o Recoveries stayed by ➢ High Court/Supreme Court/other Judicial authorities 0.29 ➢ Departmental authorities of Government 4.32 o Amount under dispute 0.20 o Other stages 39.89

(Rupees in crore)

Sl. No	Heads of Revenue	Amount of arrears as on 31 March 2005	Arrears more than five years old	Remarks
3	Entry Tax	41.75	--	The stages of arrears were as under: • Amount covered by show cause and penalty 10.20 • Recoveries stayed by Departmental authorities 13.46 • Demand stayed by High Court 17.75 • Demand covered by Certificate/ tax recovery proceedings 0.34
4	Entertainment Tax	6.25	--	The stages of arrears were as under: • Demand covered by certificate/Tax Recovery proceedings 3.47 • Amount covered by show cause and penalty 2.49 • Recoveries stayed by: ➢ Departmental authorities 0.16 ➢ High Court/ Supreme Court 0.13
5	Land Revenue	19.98	--	Item wise break up was as follows : • Rent 2.38 • Cess 4.44 • Nistar Cess 0.14 • Sairat 3.53 • Misc. Revenue 9.49
6	State Excise	18.56	9.92	The stage wise position of arrears was as under • Covered by certificate proceedings 8.42 • Stayed by High Court/ other judicial authorities 3.30 • Stayed by Departmental authorities 1.75 • Amount under dispute 0.07 • Proposed to be written off 0.03 • Other stages of recovery 4.99

(Rupees in crore)

Sl. No	Heads of Revenue	Amount of arrears as on 31 March 2005	Arrears more than five years old	Remarks
7	Interest	120.31	--	◦ **Co-operation Department** **78.84** ◦ **Industries Department** 41.47 The arrears were due from: ◦ Orissa State Financial Corporation. ➢ Loan in lieu of share capital 7.75 ➢ Interest bearing loan 13.63 ➢ State Aid Rural Industries Program. loan 1.15 ➢ Sales Tax loan 6.04 ➢ Electricity Duty loan 2.95 ➢ Panchayat Samiti Industries loan 0.34 ◦ Industrial Development Corporation 6.93 ◦ IPICOL 0.84 ◦ Orissa Small Scale Industries Corporation 0.67 ◦ Orissa State Leather Corporation 0.61 ◦ Orissa Instrument Comany 0.43 ◦ Orissa Film Development Corporation 0.13
8	Other Departmental Receipts (Rent) G.A Department	9.44	--	The arrears were due from: **Non-Residential Buildings** 0.62 **Residential Buildings** ◦ Retired Govt. Servants 3.47 ◦ MLA's and ex-MLA's 0.50 ◦ Boards and Corporations 0.40 ◦ Private parties 0.62 ◦ Transferred Govt. Servants 1.19 ◦ Certificate cases 0.03 ◦ Central Government employees occupying State Government Quarters and water tax 0.32 ◦ Usual House Rent 2.09 ◦ Recovery stayed by High Court and other judicial authorities 0.20

(Rupees in crore)

Sl. No	Heads of Revenue	Amount of arrears as on 31 March 2005	Arrears more than five years old	Remarks
9	Mines and Minerals	83.88	3.12	The stages of recovery were as under:- ○ Demand covered by certificate proceedings 2.11 ○ Demand locked up in litigation in High Court and other judicial authorities 1.04 ○ Amount under dispute 2.33 ○ Amount covered under write off/ waiver proposal 1.82 ○ Recoverable amount 76.58
10	Irrigation (WR)	87.16	45.23	Industrial Water Rate 87.16
11	Taxes and Duties on Electricity	471.78	--	Item wise breakup was as follows: ○ Non captive 143.46 ○ Captive 292.32 ○ Inspection 36.00
12	Forest	82.81	--	The arrears were due from: ○ Forest lease 6.61 ○ OFDC[6] 71.73 ○ TDCC[7] 4.47
13	Police	37.61	8.60	--

1.7 Arrears in assessments

The details of cases pending assessment at the beginning of the year 2004-05, cases becoming due for assessment during the year, cases disposed of during the year and the number of cases pending finalisation at the end of the year 2004-05 as furnished by the Sales Tax Department in respect of sales tax and entry tax are as follows:

	Opening Balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	*Percentage* of column 5 to 4
1	2	3	4	5	6	7
Sales Tax	2,84,385	2,70,549	5,54,934	2,09,000	3,45,934	37.66
Entry Tax	58,916	1,44,741	2,03,567	91,773	1,11,884	45.08

It can be seen from the above table that the percentage of disposal under sales tax and entry tax were 37.66 *per cent* and 45.08 *per cent* respectively.

6 **Orissa Forest Development Corporation Limited.**

7 **Orissa Tribal Development Cooperative Corporation.**

1.8 Evasion of Tax

The number of cases of evasion of tax detected and assessments finalised during 2004-05 are given below:

Sl No.	Name of tax/duty	Cases pending as on 31 March 2004	Cases detected during 2004-05	Total	No. of cases in which assessment/ investigations completed and additional demand including penalty etc., raised		No. of cases pending finalisation as on 31 March 2005
					No. of cases	Amount of demand (Rs.in crore)	
1	Sales Tax	6,925	5,173	12,098	3,619	16.50	8,479

The revenue involved in the pending cases was not furnished by the Department. It would be seen from the above that the disposal of detected cases was only 29.9 *per cent* in respect of sales tax cases.

1.9 Results of Audit

Test check of the records of sales tax, motor vehicles tax, land revenue, state excise, forest, mines and minerals and other departmental offices conducted during the year 2004-05 revealed underassessment/short levy/loss of revenue etc. amounting to Rs.936.51 crore in 20,81,333 cases. During the course of the year 2004-05, the concerned departments accepted underassessment etc. of Rs.109.11 crore involved in 17,38,232 cases which were pointed out in 2004-05 and in earlier years. Of these, the Departments recovered Rs.6.40 crore in 16,421 cases.

This report contains 62 paragraphs including one review relating to under-assessment/short levy/non levy etc. involving Rs.560.81 crore of which Rs.221.43 crore has been accepted by Government/Department. Recovery made in these cases amounted to Rs.2.67 crore up to July 2005. Audit observations with a total revenue effect of Rs.255.51 crore have not been accepted by the Department/Government but their contentions have been appropriately commented upon in the relevant paragraphs. Replies in the remaining cases have not been received (October 2005).

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

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

The number of IRs and audit observations relating to revenue receipts issued up to 31 December 2004 which were pending settlement by the departments as on 30 June 2005 along with corresponding figures for the preceding two years are given below:

	2003	2004	2005
Number of inspection reports pending settlement	3,655	3,768	3,653
Number of outstanding audit observations	11,081	11,023	11,067
Amount of revenue involved (in crore of Rupees)	1,446.54	1,472.32	1,788.59

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

Department	Nature of receipts	Number of outstanding		Amount of receipts involved (Rs. in crore)	Year to which observations relate	Number of Inspection Reports to which even first replies have not been received
		Inspect-ion reports	Audit observ-ations			
1 Finance	Sales Tax	597	2,461	262.05	1978-79 to 2004-05	69
	Entertainment Tax	76	113	1.76	1975-76 to 2004-05	03
	Luxury Tax	10	11	0.57	1997-98 to 2004-05	--
	Entry Tax	46	64	5.61	2001-02 to 2004-05	28
2 Commerce and Transport (Transport)	Taxes on Vehicles	268	2,830	221.18	1970-71 to 2004-05	40
	Taxes on Goods and Passenger	70	237	1.09	1973-74 to 1987-88	--
3 Revenue	Land Revenue	1,028	2,122	366.52	1975-76 to 2004-05	124
	Stamp Duty and Registration Fees	285	487	52.80	1977-78 to 2004-05	46
4 Excise	State Excise	237	610	131.90	1991-92 to 2004-05	45
5 Forest and Environment	Forest Receipts	438	1,047	125.78	1980-81 to 2004-05	71
6 Steel and Mines	Mining Receipts	114	238	79.72	1974-75 to 2004-05	04
7 Cooperation	Departmental Receipts	55	132	134.80	1976-77 to 2004-05	07
8 Food Supplies and Consumer Welfare	Departmental Receipts	60	90	4.22	1989-90 to 2004-05	02
9 Energy	-do-	51	107	384.85	1992-93 to 2004-05	02
10 General Administration (Rent)	-do-	08	16	4.55	1977-78 to 2004-05	01
11 Works	-do-	21	33	8.19	1992-93 to 2004-05	--
12. Others	-do-	289	469	3.00	1987-88 to 2004-05	--
Total		3,653	11,067	1,788.59		442

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

1.11 Departmental Audit Committee Meetings

In order to expedite the settlement of outstanding audit observations contained in the IRs, departmental Audit Committees have been constituted by the Government. The representatives of Finance Department, Administrative Department and office of the Accountant General (AG) (CW&RA) attend the Committee. The Committees meet regularly to expedite the clearance of outstanding audit observations and ensure that final action is taken on all audit observations outstanding for more than a year. During the year 2004-05, Finance, Transport, Revenue and Forest Departments convened 18, 4, 15 and four Audit Committee meetings respectively. Other Government departments did not take initiative in using the machinery created for settling the outstanding audit observations.

1.12 Response of the Departments to Draft Audit Paragraphs

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

Eighty six DPs being considered for inclusion in this Report were demi officially forwarded to the Secretaries/Principal Secretaries of the concerned departments between February 2005 and June 2005 with a request to verify the factual position and offer comments thereon. Demi official reminders were also issued after the expiry of six weeks time in each case. The position of response to the draft paras is detailed below:

Sl. No.	Name of the Department/Nature of receipt	No. of draft paras forwarded including review	No. of draft paras in respect of which replies were received	No. of draft paras in which replies were not received
1	Finance (Sales Tax & Entry Tax)	27	5	22
2	Transport (Motor Vehicle Tax)	14	--	14
3	Excise (Excise Duty and Fees)	10	--	10
4	Forest and Environment (Forest Receipts)	7	2	5
5	Steel & Mines (Mining Receipts)	7	2	5
6	Revenue (Land Revenue, Stamp Duty and Registration Fees)	11	--	11
7	Energy, Food supplies & Consumer Welfare, Cooperation, Finance, Agriculture, Industries, Housing & Urban Development, Steel & Mines, ST & SC Development, Textiles and Handloom Department (Departmental Receipts)	10	2	8
Total		**86**	**11**	**75**

The Excise Department recovered Rs.1.40 crore at the instance of audit in two audit observations in the year 2004-05.

1.13 Follow up on Audit Reports- summarised position

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

Review of outstanding explanatory memoranda on paragraphs included in the reports of CAG of India (Revenue Receipts) as on 31 March 2005 disclosed that the departments had not submitted remedial explanatory memoranda on 88 paragraphs for the years from 1994-95 to 2002-03 as detailed below.

Year	1989-1990	1991-1992	1992-1993	1993-1994	1994-1995	1995-1996	1996-1997	1997-1998	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	Total
No. of paras in the AR	69	63	54	44	47	40	36	38	40	34	45	45	57	612
No. of paras discussed in PAC	68	51	40	32	21	13	5	3	1	--	5	3	--	242
No. of paras pending for discussion	01	12	14	12	26	27	31	35	39	34	40	42	57	370
No. of paras for which compliance notes awaited from the Departments	--	--	--	--	2	--	1	1	4	7	7	11	55	88

From the above, it would be seen that the non compliance to audit paragraphs stood at 14.38 *per cent* of total paras presented to the Assembly during the above period.

With a view to ensuring accountability of the executive in respect of all the issues dealt with in the Audit Reports, the Public Accounts Committee (PAC) had as early as May 1966 issued instructions to all the Departments of State Government to submit Action Taken Notes (ATN) on the recommendations made by PAC for further consideration within six months of the presentation of PAC Report to the Legislature. However it was noticed from the PAC reports submitted during 10th, 11th and 12th Assembly that 50 Reports containing 345 paras/recommendations were presented by the PAC before the Legislature between February 1991 and March 2005 after examination of the Audit Report (Revenue Receipts) of 14 departments for the years 1985-86 to 2000-01. However, ATNs have not been received in respect of 112 recommendations of the PAC from the concerned departments as of March 2005.

345
112
233

CHAPTER-II : SALES TAX

2.1 Results of audit

Test check of assessments, refund cases and connected documents on sales tax and entry tax of Commercial Tax offices during the year 2004-05 revealed under assessment of tax, incorrect grant of exemption, non/short levy of tax etc. amounting to Rs.94.15 crore in 308 cases which may broadly be categorised as under: -

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
Sales Tax			
1.	Exparte assessment and pendency & disposal of appeal cases and its impact on revenue collection	1	6.48
2.	Short levy of tax due to incorrect computation of taxable turnover	101	37.36
3.	Underassessment of tax due to application of incorrect rate of tax	43	6.71
4.	Underassessment of tax due to irregular grant of exemption	31	16.13
5.	Non levy of surcharge	5	0.08
6.	Non levy of interest	6	0.90
7.	Other irregularities	79	22.89
Total		**266**	**90.55**
Entry Tax			
1.	Non/short levy of entry tax	15	1.72
2.	Non/short levy of penalty	16	1.49
3.	Application of incorrect rate of entry tax	4	0.32
4.	Short levy of entry tax due to irregular deduction	2	0.03
5.	Incorrect computation of taxable turnover	5	0.04
Total		**42**	**3.60**
Grand Total		***308***	***94.15***

During the year 2004-05, the Department accepted under assessment etc. of Rs.11.64 crore in 101 cases which were pointed out in audit in earlier years and Rs.7.14 crore in five cases pointed out in 2004-05. Out of these the Department recovered Rs.42.98 lakh in 37 cases.

A few illustrative cases highlighting important audit observations involving Rs.27.09 crore are discussed in the following paragraphs.

2.2 Exparte assessment and pendency and disposal of appeal cases and their impact on revenue collection

2.2.1 Introduction

Under the provision of Orissa Sales Tax Act, 1947 (OST Act) and Central Sales Tax Act, 1956 (CST Act) and Rules made thereunder, assessment of registered and unregistered dealers is done under Section 12 (4) and 12 (5) of the OST Act and Rule 12 (5) of the CST (Orissa) Rules respectively. For escapement of taxable turnover, reassessment is done under Section 12 (8) of OST Act and Rule 10 of CST (Orissa) Rules. In case of reassessment of escaped / concealed turnover, the OST Act provides for levy of penalty equal to one and half times of tax assessed. If a dealer fails to comply with the terms of the notice for assessment/reassessment issued to him for appearance in person with books of accounts, the assessing officer shall proceed to assess the dealer exparte to the best of his judgement.

Rule 28 of OST Rules, after amendment with effect from 20 July 2001, provides that all proceedings under Section 12 (5) & 12 (8) pending prior to 21 July 2001 shall be disposed of within one year and proceedings initiated thereafter shall be disposed within two years from the date of institution.

Under the provisions of Section 23 of OST Act, if a dealer is aggrieved against an order of assessment of tax, penalty or interest, he may prefer an appeal before the first appellate authority within 30 days from the date of receipt of demand notice served upon him. The first appellate authority in disposing of such appeal cases may reject, confirm, enhance, reduce and annul the assessment or set-aside the assessment and remand to the assessing officers with the direction for re-assessment after such further enquiry as may be directed.

The Commissioner of Commercial Taxes (CCT) in 1962/1994 issued guidelines to complete reassessment proceedings within three months from the date of receipt of appeal orders and instructed the inspecting officers to examine the set aside registers and reassessment cases in course of their inspection and report cases where there has been any deviation.

2.2.2 Non realisation of revenue due to delay in assessments

Under provisions of OST Act, if an unregistered dealer is liable to pay tax but fails to get himself registered and also if the turnover of a registered/ unregistered dealer has escaped assessment or is under assessed, the CCT shall serve upon such dealer a notice asking the dealer to furnish a return within one month from the date of receipt of the notice and to attend in person with books of accounts. If the dealer fails to comply with the terms and conditions of such notice, the CCT shall, after allowing the dealer a reasonable opportunity,

assess the dealer exparte any time after expiry of prescribed period of one month, to the best of his judgment.

OST Act provides that after completion of assessment, demand notice is served upon the dealer with the direction to pay tax within 30 days from the date of receipt of demand notice. If any amount is not paid by the due date, the assessing officer shall issue a showcause notice to pay in addition to tax payable, penalty not exceeding one half of the total amount due within 30 days from the date of service of notice. The amount which remains unpaid after the due date of payment in pursuance of the above notice issued, shall be recoverable as an arrear of public demands through tax recovery proceedings.

Test check of exparte assessment records for the years 2000-01 to 2003-04, in 15 circles[8] between October 2004 and March 2005 revealed the following:-

(Rupees in crore)

Sl. No.	Assessed U/s	Exparte demand		Amount Realised		Amount reduced/annulled/ quashed/ set aside		Demands outstanding	
1	2	3	4	5	6	7	8	9	10
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1	12(5)	4006	50.77	24	0.31	87	0.65	3,895	49.80
2	12(8)	431	16.65	18	0.61	29	2.91	384	13.14
3	12(4)	879	32.13	3	0.13	34	6.85	842	25.15
Total		5,316	99.55	45	1.05	150	10.41	5,121	88.09

Cases covered under Tax Recovery Proceedings		Cases pending in Appeal		Cases where report on follow up action taken is awaited		Cases of closure of business (Out of col.15 &16)	
11	12	13	14	15	16	17	18
No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
87	10.35	114	19.32	3,694	20.13	3,160	17.89
42	2.74	39	0.65	303	9.75	212	6.05
26	3.81	62	4.54	754	16.80	NA*	NA
155	16.90	215	24.51	4,751	46.68	3,372	23.94

* Not available

It would be seen that out of 5,316 cases involving Rs.99.55 crore, the Department could realise only Rs.1.05 crore in 45 cases and initiated certificate proceedings for Rs.16.90 crore in 155 cases. Demands of Rs.88.09 crore in 5,121 cases remained outstanding. Report on follow up action in remaining 4,751 cases involving Rs.46.68 crore was awaited (July 2005) and possibility of recovery of Rs.23.94 crore in 3,372 cases where business had been closed was remote.

After this was pointed out in audit between October 2004 and March 2005, the assessing officers stated between October 2004 and March 2005 that unregistered dealers had already closed down their business and demanded tax could not be collected. In case of registered dealers, the assessing officers agreed to initiate tax recovery proceedings for realisation of demanded tax.

8 **Balasore, Bhadrak, Bhubaneswar-I, Bhubaneswar-II, Cuttack-I (East), Cuttack-I(Central), Cuttack-I (West), Cuttack-II, Cuttack-III, Dhenkanal, Ganjam-I, Puri-I, Rourkela-I, Rourkela-II. and Sambalpur-I**

2.2.3 Allowance of deductions in exparte assessments

Scrutiny of assessment records in three circles (Balasore, Cuttack-I (West), and Sambalpur-I) revealed that while finalising the assessments of eight dealers exparte, the assessing officers allowed between July 2002 and March 2005 deduction of Rs.5.07 crore towards sale of tax paid goods, tax free goods and labour and service charges without verification of books of accounts. This led to under assessment of tax to the extent of Rs.47.94 lakh.

After this was pointed out in audit, the assessing officer of Cuttack-I (West) circle reopened the case in September 2003 and assessing officers of Sambalpur-I and Balasore circle stated between November 2003 and November 2004 that deduction was allowed towards labour charges to the minimum extent and towards first point tax paid goods. The reply is not tenable since allowance of deductions was irregular as the assessing officers had no scope to verify the books of accounts of the dealer to determine the allowable deduction in exparte assessment.

2.2.4 Pendency and disposal of first appeal cases

The CCT issued instructions in 1962/1999 for disposal of first appeal cases within three months from the date of their filing and disposal of cases involving high money value on priority basis. As per norms fixed by the Commissioner in 1991 the Asst. Commissioner of Commercial Taxes (ACCT) in charge of range should write 10 substantive appeal orders and the ACCT should write 40 appeal orders per month exclusive of appeals and other miscellaneous orders passed under different Acts.

Scrutiny of monthly progress reports (MPRs) for the years 2000-01 to 2003-04 in five ranges revealed that demands of Rs. 169.49 crore in 11,453 cases were locked up in appeals as of March 2004, as detailed below:-

(Rupees in Crore)

Name of the range	No. of cases pending as on 01.04.2000/ No. of cases received during the year 2000-01 to 2003-04	Total No.	No, of cases disposed of during the year 2000-01 to 2003-04	No. of cases pending as on 31.03.2004	No. of cases pending for more than 3 months	Cases confirmed	Cases enhanced	Cases annulled/ Cases reduced/ Cases set-aside
				No./ Amount	No./ Amount	No./ Amount	No./ Amount	No./ Amount
Balasore	3057 1744	4801	2086	2715 12.40	1729 3.49	919 17.82	6 0.98	787 22.95
Cuttack-I	2657 2677	5334	3673	1661 37.43	793 5.84	1444 22.80	8 0.12	2099 61.91
Cuttack-II	4233 4384	8617	6772	1845 58.92	1187 30.86	3768 68.54	74 0.95	2414 136.57
Puri	3868 4796	8664	6942	1722 30.42	939 2.10	2753 64.21	37 4.64	3365 76.74
Sundargarh	4617 2595	7212	3702	3510 30.32	2815 12.44	1633 20.09	11 0.47	2025 90.83
Total	**18,432 16,196**	**34,628**	**23,175**	**11,453 169.49**	**7,463 54.73**	**10,517 193.46**	**136 7.16**	**10,690 389.00**

It would be seen that balance 7,463 cases involving Rs.54.73 crore were pending for more than three months. The instructions of CCT to dispose of appeal cases within three months were not followed by the appellate authorities. This resulted in accumulation of appeal cases and blocking of revenue.

2.2.5 Pendency of set aside cases

Test check of records in 13 circles[9] revealed that 2,269 set aside cases were pending as on 1 April 2000 and 1,323 fresh cases were received during the period 2000-01 to 2003-04. Out of 3,592 set aside cases, only 991 cases were disposed of between 2000-01 and 2003-04. Test check of 176 pending cases involving Rs.6 crore pertaining to six circles revealed that the cases were set aside by first appellate officers and remanded to the assessing officers. The pendency of the cases ranged between one and 15 years.

The inspecting officers did not scrutinise the set aside register at the time of inspection. No assessing officer completed reassessment within three months from the date of receipt of appeal orders. Inspecting officers also did not follow CCT's instructions, which indicated lack of internal control in the Department. Lacuna in the Act in not providing any specific time limit for disposal of remand cases led to accumulation of huge pendency.

After this was pointed out between March 2005 and April 2005, all the ACCTs, except ACCT Sundargarh Range, issued instructions between March 2005 and July 2005 to the assessing officers for disposal of remand cases on priority basis. The reply of ACCT Sundargarh Range was awaited (October 2005). The CCT has also issued necessary instructions to all concerned (April/ May2005).

The matter was reported to Government in May 2005; reply had not been received (October 2005).

2.3 Underassessment of tax due to grant of irregular exemption towards export sales

Under the CST Act, a dealer shall not be liable to pay tax on any sale of goods in the course of export of those goods out of the territory of India. Under the provisions of OST Act, penalty for any concealment of turnover equal to one and half times of the tax so assessed is payable in addition to tax. Tyres, tubes and flaps are taxable at 12 *per cent.*

During the audit of Balasore circle, it was noticed in August 2004 that the assessing officer while finalising assessment in May 2003 of a registered dealer for the year 2001-02 engaged in manufacture and sale of tyres, tubes and flaps allowed exemption on export sale of Rs.161.35 crore. Cross verification of records with the Central Excise Department revealed that the dealer had diverted goods worth Rs.5.30 crore for home consumption and paid excise duty of only Rs.1.65 crore. Since these goods were not actually exported, the entire transaction of Rs.6.95 crore was exigible to tax. Allowance of exemption in respect of goods diverted for home consumption

9 **Balasore, Bhadrak, Bhubaneswar-I, Bhubaneswar-II, Cuttack-I(West), Cuttack-I(Central), Cuttack-I(East), Cuttack-II, Cuttack-III, Dhenkanal, Puri-I, Rourkela-I, Rourkela-II.**

resulted in underassessment of tax of Rs.2.17 crore including surcharge and penalty.

After this was pointed out in audit in August 2004, the assessing officer completed the reassessment proceedings in February 2005 raising extra demand of Rs.5.88 crore after taking into account audit findings and the report of the intelligence wing of the Department. Report on recovery was awaited (October 2005).

The matter was reported to Government in January 2005; Government in March 2005 confirmed the fact of raising demand.

2.4 Underassessment of tax due to contravention of declaration

Under the OST Act, where a registered dealer purchases goods of the class or classes specified in his certificate of registration as being intended for use within the state of Orissa by him in the manufacture or processing of goods for sale at concessional rate of tax or free of tax after furnishing a declaration in the prescribed form, but utilises the same for any other purpose, he shall pay the difference in tax. Ore was taxable at 12 *per cent* upto 17 February 2000 and 16 *per cent* thereafter and cement at 12 *per cent*.

2.4.1 During the audit of Rourkela-I circle in September 2004, it was noticed that in case of assessment of a registered dealer for the years 1999-2000 to 2000-01, the assessing officer allowed the purchase of raw materials (non agglomerated iron ore) valued at Rs.19.49 crore at concessional rate of four *per cent* against declaration in Form-IV. The assessee transferred the finished product "agglomerated iron ore"[10] to his sponge iron unit located outside the state without fulfilling the condition of sale. Thus the dealer contravened the provisions of the declaration and was therefore, liable to pay the differential tax of Rs.2.31 crore on purchase price of raw material.

The matter was reported to the Department and Government between September 2004 and January 2005. Government stated in April 2005 that reassessment proceedings had been initiated against the dealer.

2.4.2 During the audit of assessment records of Cuttack-III circle in July 2004, it was noticed that a registered dealer engaged in manufacture of pig iron, purchased cement valued at Rs.3.31 crore at a concessional rate of four *per cent* against declaration in Form IV during the year 2000-01 and utilised it for own construction. The assessing officer while finalising the assessment for the year 2000-01 in March 2004 did not levy the differential tax of eight *per cent* on cost of the cement utilised in works though the purchases against declaration had contravened the provisions. This resulted in underassessment of tax of Rs.30.49 lakh including surcharge.

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10 **Non-agglomerated iron ore i.e. Iron ore lump.**
Agglomerated : Sized iron ore in solid form.

After this was pointed out in July 2004, the Department stated that the assessing officer revised the assessment and raised an additional demand of Rs.30.49 lakh. Further report on recovery is awaited (October 2005).

The matter was reported to Government in January 2005; reply had not been received (October 2005).

2.5 Underassessment of tax in transit sale

Under the CST Act, where sale of any goods in the course of inter state trade or commerce has occasioned the movement of goods from one State to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods to a registered dealer shall be exempt from tax, provided the dealer furnishes a certificate in the prescribed form obtained from the selling dealer from whom the goods were purchased. Electrical goods and machines and spare parts are taxable at the rate of 12 and eight *per cent* respectively under the OST Act.

2.5.1 During the audit of Rourkela-II circle it was noticed in September 2004 that the assessing officer while finalising assessment in December 2002 of a registered dealer dealing in electrical goods for the year 2001-02, rejected the claim of exemption towards transit sale for Rs.42.39 crore as the dealer did not furnish certificate in prescribed form. The transactions were taxed at the rate of four *per cent* treating it as inter state sale instead of 12 *per cent* applicable to intra state sale as the transactions were between the dealers of Orissa. This resulted in underassessment of tax of Rs.3.90 crore including surcharge.

After this was pointed out in September 2004, the assessing officer stated in September 2004 that the dealer had preferred an appeal against the original assessment and that the audit objection would be transmitted to the appellate authority for consideration.

The matter was reported to the Department and Government between September 2004 and January 2005. Government stated in April 2005 that the results would be intimated after finalisation of reassessment proceedings. Further reply has not been received (October 2005).

2.5.2 During the course of audit of Rourkela-II circle it was noticed in September 2004 that while finalising the assessment in January 2004 of a registered dealer dealing in heavy machinery/mechanical equipment for the year 2002-03, claim of exemption of transit sale of Rs.16.52 crore was rejected as the dealer could not furnish the prescribed certificate. The transactions were taxed at the rate of four *per cent* treating as inter state sale instead of eight *per cent* applicable to intra state sale as the transactions were between the dealers of Orissa. This resulted in underassessment of tax of Rs.79.31 lakh including surcharge.

The matter was reported to the Department and Government between September 2004 and January 2005. Government stated in April 2005 that the dealer had preferred an appeal. The assessment was set aside in appeal and returned for reassessment. The results of reassessment are awaited (October 2005).

2.6 Short levy of CST due to allowance of inadmissible concession

Under the CST Act, inter state sale of goods to a registered dealer is taxable at the concessional rate of four *per cent* provided such sale is supported by declarations in Form-C obtained from the registered dealer. Otherwise, in case of goods other than declared goods, tax is leviable at the rate of 10 *per cent* or at the rate applicable to sale of such goods inside the state whichever is higher. Ferro alloys are taxable at the rate of 12 *per cent* upto 31 March 2001 and eight *per cent* thereafter under the OST Act. Government of Orissa in their Finance Department notification of March 2001 prescribed a concessional rate of two *per cent* with effect from 1 April 2001 on inter state sale of ferro alloys supported by declaration in Form-C.

During audit of Dhenkanal circle, Angul in July 2004 it was noticed that while finalising assessments during November 2003 and February 2004 of a registered dealer under the CST Act for the years 2000-01 and 2001-02 the assessing officer allowed concessional rate of tax of four *per cent* on sale turnover of Rs.7.19 crore and Rs. 0.03 crore respectively, accepting invalid and defective declarations in Form-C. Thus, irregular acceptance of declarations for Rs.7.22 crore resulted in underassessment of tax of Rs.70.72 lakh.

After this was pointed out in July 2004, the assessing officer agreed to initiate reassessment proceedings. Further reply has not been received (October 2005).

The matter was reported to Government in November 2004; reply had not been received (October 2005).

2.7 Evasion of tax due to suppression of sale turnover

Under the OST Act, every registered dealer shall keep a true account of the value of goods bought and sold by him. If for any reason, the turnover of a dealer for any period has escaped the assessment under relevant section due to concealment of turnover, the assessment proceedings have to be reopened and the dealer is liable to pay by way of penalty, in addition to the tax assessed, a sum of one and a half times of the tax assessed. Rice is taxable at the rate of four *per cent* under the OST Act.

Cross verification of the records of Food Corporation of India (FCI), Titilagarh division with the transactions made by three registered rice millers of Bolangir-I circle in September 2004 revealed that 2.15 lakh quintals of rice

valued at Rs. 19.09 crore were sold by three dealers to FCI between 2000-01 and 2002-03 against which the dealers disclosed sale of only 1.27 lakh quintals of rice valued at Rs. 11.32 crore in their returns. The assessing officers determined the sale turnover as per the returns furnished by the assessees and levied tax accordingly. This resulted in suppression of sale turnover of Rs. 7.77 crore having tax effect of Rs. 77.67 lakh including penalty.

After this was pointed out in audit in September 2004, the assessing officer reopened the case. Further reply has not been received (October 2005).

The matter was reported to Government in February 2005; reply had not been received (October 2005).

2.8 Irregular grant of incentives under Industrial Policy

Under Industrial Policy Resolution (IPR) 1996, a unit undertaking processing of iron and steel is ineligible for any incentives. Further under the said policy, incremental sales of finished products of an existing medium scale industrial unit which had undergone expansion after 1 March 1996 shall be exempted from tax for a period of seven years from the date of commercial production. The highest sale recorded during the last five years prior to availing exemption shall be the basis for calculation of incremental sales. Iron and Steel and sponge iron are taxable at four *per cent* under the OST Act and in case of inter state sale of declared goods not supported with declaration the rate of tax is eight *per cent.*

2.8.1 During the audit of Rourkela-I circle in September 2004 it was noticed that the assessing officer while finalising assessment in March 2004 of a registered small scale industrial unit processing iron and steel (from HR/CR sheets and coils to MS strips, slit coils and strips) incorrectly allowed exemption of sales tax of Rs.69.90 lakh both on purchase of iron and steel and sale of its finished product during the years 2001-02 and 2002-03.

After this was pointed out in September 2004, the assessing officer stated that the exemption was based on the eligibility certificate issued by the District Industries Centre. The reply is not tenable as the assessing officer erred in allowing exemption to a unit ineligible for incentive under IPR-96 without bringing it to the notice of the Industries Department.

The matter was reported to Government in January 2005; reply had not been received (October 2005).

2.8.2 During the audit of Rourkela-I circle it was noticed in September 2004 that the assessing officer finalised assessment in February 2004 for the year 2001-02 of a registered unit manufacturing sponge iron. The dealer was allowed exemption of tax on sale turnover of 18,241.03 MT against 5,964.505 MT for the year 2001-02. The assessing officer determined the highest sale of 21,236.850 MT as against 35,513.400 MT which was the highest sale

registered during the last five years prior to 2001-02. This resulted in excess exemption for sale turnover of 12,276.55 MT valued at Rs. 7.51 crore calculated at average sale price of Rs. 6,114 per MT which led to underassessment of tax of Rs.60.05 lakh.

After this was pointed out in September 2004, the assessing officer stated in September 2004 that the case would be reopened for further examination. Further reply has not been received (October 2005).

The matter was reported to Government in February 2005; their reply had not been received (October 2005).

2.9 Allowance of inadmissible exemption

Government vide notification of February 2000, decided that no exemption from payment of tax on purchase of raw material, machinery and spare parts thereof, packing materials and on sale of finished products by any industrial unit shall be allowed under the provisions of IPR 96. However the units which are in pipeline as on 1 January 2000 shall be entitled to the incentives subject to fulfilment of certain criteria which stipulate that the industrial unit was registered under the OST Act and had applied for finance from regular financial institution.

During the audit of Cuttack-I (East) circle in September 2004, it was noticed that the assessing officer while finalising between November 2002 and September 2003 the assessment of a registered dealer (SSI manufacturing unit) dealing in detergent powder and liquid for the years 2000-01 to 2002-03 allowed exemption from payment of tax under IPR 1996. But the dealer was not registered as on 1 January 2000 under OST Act and had also not applied for finance from regular financial institution. Since the unit had not fulfilled the eligibility criteria, the exemption allowed was irregular and resulted in non levy of tax of Rs.17.84 lakh.

After this was pointed out in September 2004, the assessing officer initiated reassessment proceedings. Further reply has not been received (October 2005).

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

2.10 Non levy of purchase tax

Under OST Act, sale of seeds certified by authorised agencies under the Seed Act, 1966 and marked poison was not exigible to tax up to 1 July 2000. As per the Seed Act, seeds being unfit for food, feed or oil purposes are marked poison. Paddy is subject to purchase tax of four *per cent.*

During audit of Bhubaneswar-I circle, it was noticed in June 2004 that the assessing officer while finalising the assessments of a registered dealer for the year 1999-2000 allowed the tax free sale of paddy seeds treating the same as poisonous. Since the seeds sold by the dealer were not marked poison, the sale of seeds did not satisfy the condition of tax free sale. The purchase of paddy procured from inside the state valued at Rs.16.11 crore was exigible to purchase tax. Non inclusion of the same resulted in underassessment of purchase tax for Rs.64.45 lakh.

After this was pointed out in June 2004, the assessing officer reopened the case and completed proceedings raising a demand of Rs.64.45 lakh in March 2005. Further report on recovery is awaited (October 2005).

The matter was reported to Government in February 2005; reply had not been received (October 2005).

2.11 Underassessment of tax due to grant of inadmissible deductions

Under the OST Act, "sale price" means the amount payable to a dealer as consideration for the sale or supply of any goods, less any sum allowed as cash discount according to ordinary trade practice, but including any sum charged for anything done by the dealer in respect of the goods at the time of or before delivery thereof.

Scrutiny of assessment records of Sambalpur-I circle in March 2005 revealed that the assessing officer while finalising the assessment of a registered dealer dealing in supply of ballast and stone dust in March 2003 and January 2004 for the years 2000-01 and 2001-02 respectively allowed deduction of Rs.2.60 crore towards transportation charges incorrectly. This resulted in underassessment of tax of Rs.30.32 lakh including surcharge.

After this was pointed out in March 2005, the assessing officer agreed to open the case for reassessment proceedings.

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

2.12 Short levy of tax due to misclassification of supply contract as works contract

Under OST Act, taxable turnover in respect of works contract shall be deemed to be the gross value received or receivable by a dealer for carrying out such contract less the amount of labour and service charges and the turnover is taxable at the rate of eight *per cent* and supply is taxed at the appropriate rate under the Act ibid. Machinery is taxable at 16 *per cent* under the Act.

During the audit of Rourkela-I circle in September 2004, it was noticed that a registered works contractor had received an amount of Rs.1.12 crore towards supply of machinery during the year 1999-2000. While completing the assessment in March 2003, the assessing officer incorrectly determined the divisible contract as composite contract and levied tax at eight *per cent* instead of 16 *per cent* applicable for supply of machinery. Misclassification of supply contract as composite works contract resulted in short levy of tax of Rs.10.30 lakh including surcharge.

After this was pointed out in September 2004, the assessing officer stated in September 2004 that the case would be reexamined. Further reply has not been received (October 2005).

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

2.13 Underassessment of tax due to application of concessional rate of tax

Under the CST Act, small scale industrial units are eligible to avail concessional rate of tax at the rate of one *per cent* instead of four *per cent* on inter state sale of their finished products against declaration in form-C with effect from 1 April 2001. As per Industrial Policy 1989, registered dealers who are certified by the Director of Industries, Orissa as medium or large scale industrial units only, shall be allowed to defer payment of sales tax on the sale of finished products. As per the aforesaid provisions, any unit availing the benefit of deferment is not entitled to avail concessional rate.

During the audit of Balasore circle in July 2004, it was noticed that a medium scale industrial unit availing deferment facility had effected interstate sale of high density poly ethylene sacks amounting to Rs.9.46 crore during 2001-02 and 2002-03. The assessing officer while finalising the assessments in December 2003 taxed incorrectly the entire sale of Rs.9.46 crore at the concessional rate of one *per cent* instead of four *per cent*. This resulted in underassessment of tax of Rs.28.38 lakh.

After this was pointed out in July 2004, the assessing officer agreed to reopen the case. Further reply has not been received (October 2005).

The matter was reported to Government in February 2005; reply had not been received (October 2005).

2.14 Underassessment due to application of lower rate of tax

Under the OST Act, goods not specified in the schedule are subject to tax on sale at the general rate of 12 *per cent* w.e.f 1 July 1990. Tin being unspecified item is taxable at the rate of 12 *per cent*.

During the audit of Bhubaneswar-I circle, it was noticed in June 2004 that while finalising assessment in March 2004 of a dealer for the year 2000-01, the assessing officer assessed the sale turnover of tin amounting to Rs.1.28 crore at the rate of four *per cent* instead of 12 *per cent*. This resulted in short levy of tax of Rs.11.79 lakh including surcharge.

After this was pointed out in June 2004, the assessing officer raised an additional demand of Rs.11.79 lakh.

The matter was reported to Government in February 2005. Government confirmed in April 2005 the fact of raising extra demand of Rs. 11.79 lakh and stated that the dealer had paid Rs.0.73 lakh in December 2004 and had gone in appeal. Further reply had not been received (October 2005).

2.15 Underassessment of tax due to short determination of taxable turnover in works contract

Under OST Act, transfer of property in goods involved in works contract is exigible to tax. Further as held[11] by the apex Court, the value of goods at the time of incorporation in the works, constitutes the measure for levy of tax. Thus the value of material utilised and profit relatable to material taken together constitutes the taxable turnover in works contract. It has also been held that the amount of royalty paid is also includible[12] in the taxable turnover. Works contract is taxable at eight *per cent* under the Act.

2.15.1 During the audit of Koraput-I circle, it was noticed in December 2004 that in the assessment of a registered dealer engaged in works contract for the year 2002-03 the assessing officer determined taxable turnover of Rs.148.68 crore. Cross verification of profit and loss account of the dealer for the year 2002-03 revealed that the dealer disclosed consumption of raw materials valued at Rs.180.96 crore in works and earned a profit of Rs.47.66 crore. Actual utilisation of materials in works and the proportionate profit to the material utilised were not taken into account in the assessment due to which there was short determination of taxable turnover of Rs.51.88 crore. This resulted in underassessment of tax of Rs.4.56 crore including surcharge.

After this was pointed out in audit in December 2004, the assessing officer stated that the value of materials shown in profit and loss (P/L) account was the cost of materials issued from the store head to work head. The reply was not tenable as the P/L account reflected the value of materials utilised but not

11 M/s. Ganon Dunkerly & Co. Vs. State of Rajsthan (88 STC p/204)

12 M/s Cooch Bihar Contractors Association Vs.State of West Bengal, 103 STC-p/477

issued and the proportionate profit to the material utilised in works contract was not taken into account in the assessment.

The matter was reported to Government in February 2005; reply had not been received (October 2005).

2.15.2 Cross check of the assessment order with the entry tax records of a dealer of Cuttack III circle in July 2004 revealed that the dealer purchased goods valued at Rs.7.32 crore including entry tax from outside the state and utilised the same in the execution of a contract during 2002-03. Besides, the dealer had also paid royalty of Rs.70.47 lakh. Thus, the dealer was liable to pay tax of Rs.70.58 lakh including surcharge on his taxable turnover of Rs.8.02 crore. However, the assessing authority assessed the dealer for Rs.5.63 crore and levied a tax of Rs.49.52 lakh including surcharge. This resulted in under assessment of Rs.2.39 crore having a tax effect of Rs.21.06 lakh including surcharge.

After this was pointed out in July 2004, the assessing officer stated in July 2004 that the case would be reexamined.

The matter was reported to Government in February 2005; reply had not been received (October 2005).

2.16 Underassessment of tax due to short determination of taxable turnover

According to Rule 18(1) of Orissa Entry Tax (OET Rules) Rules, 1999 a dealer in motor vehicles becomes liable to pay tax under Sales Tax Act by virtue of sale of such motor vehicles and his tax liability under the Act, shall be reduced to the extent of the tax paid under these rules and entry tax paid/payable shall from part of sale price of motor vehicle. Motor vehicles are taxable at the rate of 12 *per cent* under the OST Act.

During the audit of Rourkela-II and Cuttack-II circles between July 2004 and September 2004, it was noticed from the assessments of two registered dealers of motor vehicles for the years 1999-2000 to 2002-03 that the dealers did not include the entry tax paid in their taxable sale turnover, but disclosed the amount of entry tax set off against the sales tax. The assessing officers also while determining the taxable turnover under the OST Act did not include the entry tax of Rs.9.59 crore paid on the purchase price of the vehicles. This resulted in underassessment of sales tax of Rs.66.33 lakh including surcharge after set off of entry tax.

After this was pointed out in audit in September 2004, the assessing officers agreed to re-examine the cases. Further reply has not been received (October 2005).

The matter was reported to Government in April 2005; reply had not been received (October 2005).

2.17 Non levy of interest

Under OST Act, if the assessing officer is satisfied that a dealer has knowingly or without sufficient cause furnished incorrect returns or information affecting or intended to effect the quantum of tax payable by him or his liability to pay tax for the period for which such assessment is made, he may direct that the dealer shall, in addition to the tax assessed, pay interest at the rate of 10 *per cent* per annum on the tax payable in respect of the taxable turnover not incorporated in the return for a period of 90 days or for the period beginning from the date on which the return was due and ending on the date of assessment whichever is less.

During the audit of Bhubaneswar-II circle, it was noticed in June 2004 that a dealer engaged in providing cellular mobile telephone facilities in Orissa disclosed his sale turnover less than the figure in his books of accounts. The assessing officer while finalising the assessment in October 2003, determined the taxable turnover at Rs.45.94 crore for the year 2002-03 and demanded a tax of Rs.6.06 crore after verifying the books of accounts of the dealer. Though the assessing officer recorded in the assessment order that the gross turnover disclosed by the dealer did not reflect the true picture of the business, yet no interest was levied against the dealer. This resulted in non levy of interest of Rs.14.95 lakh.

After this was pointed out in June 2004, the assessing officer stated in June 2004 that the dealer was not supposed to pay interest. The reply was not tenable since, the dealer had furnished incorrect returns as observed in the assessment order.

The matter was reported to Government in February 2005; reply had not been received (October 2005).

2.18 Loss due to payment of avoidable interest

Under the OST Act, no claim for refund of any tax, penalty or interest paid under this Act shall be allowed in case where there is an order for reassessment until the reassessment is finalised. As per standing orders of CCT of 1962 and September 1994, reassessment proceedings are to be completed within three months from the date of receipt of appeal order.

During the audit of Sambalpur-III circle, Jharsuguda it was noticed in August 2004 that a registered dealer filed second appeal (1994-95) before the Sales Tax Tribunal and got stay order in 15 March 1995 from Hon'ble High Court on the condition to deposit Re.1 crore which would carry 18 *per cent* interest in case of refund. In the second appeal, the case was set aside in March 1996 with the direction for reassessment. The reassessment was completed after lapse of four years in March 2000 resulting in refund of tax of Rs.1.42 crore. In addition the Department paid Re.1 crore towards interest on Re.1 crore deposited as per stay order. Non adherence to the instruction of

CCT to complete reassessment in three months led to payment of avoidable interest of Rs.77.52 lakh for the period between July 1996 and October 2000.

After this was pointed out in audit in August 2004, the assessing officer did not furnish any specific reply in this context.

The matter was reported to Government in February 2005; reply had not been received (October 2005).

Entry Tax

2.19 Underassessment of entry tax due to application of incorrect rate

Under the OET Act, scheduled goods brought into local area for use as raw materials in manufacture are exigible to entry tax at the rate of 50 *per cent* of the rate applicable to such goods with effect from 6 November 2000. Entry tax at the rate of two *per cent* is leviable on electrical goods including motors, materials for transmission tower and conductors/cable for manufacture. Aluminium wire sold as raw material for manufacture of conductors and cables is exigible to tax at the rate of one *per cent*.

Scrutiny of assessment records of Balasore circle in July 2004 revealed that a dealer sold aluminium wires amounting to Rs.35.70 crore during the years 2001-02 to 2002-03 as raw material for manufacture of conductors and cables. The assessing officer while finalising the assessment of the registered dealer engaged in manufacture of aluminium wires levied entry tax at the rate of 0.5 *per cent* instead of one *per cent.* This resulted in short levy of entry tax of Rs.17.85 lakh.

After this was pointed out in audit in July 2004, the assessing officer raised in February 2005 an additional demand of Rs.17.85 lakh. Position of recovery was awaited (October 2005).

The matter was reported to Government in January 2005. Government confirmed in April 2005 the fact of raising extra demand of Rs.17.85 lakh.

2.20 Short levy of entry tax

Under OET Act, every registered dealer is liable to file return to the assessing authority within specified period along with satisfactory proof of payment of full amount of tax payable by him on the basis of such return. 'Biri' a "tobacco product" is exigible to entry tax at the rate of one *per cent*.

Scrutiny of assessment records in Cuttack-I (East) circle and Sambalpur-I circle revealed between October 2004 and February 2005 that while finalising assessments in September 2003 for the years 2000-01 to 2002-03 in respect of three dealers engaged in manufacture and trading of 'Biri', the assessing officer levied entry tax of Rs.2.87 lakh on their sale turnover of Rs.20.94 crore against the leviable amount of Rs.20.94 lakh. This resulted in short levy of entry tax of Rs.18.07 lakh.

After this was pointed out in October 2004 and February 2005, the assessing officers agreed to reopen/reexamine the cases. Further reply has not been received (October 2005).

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

CHAPTER-III TAXES ON MOTOR VEHICLES

3.1 Results of Audit

Test check of records relating to assessment, collection and refunds of motor vehicles tax in the office of the State Transport Authority (STA), Orissa and the Regional Transport Offices (RTOs), conducted during 2004-05 revealed underassessment of tax and loss/blocking of revenue amounting to Rs.40.70 crore in 2,18,915 cases which may broadly be categorised as under:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non levy/realisation of motor vehicles tax/additional tax and penalty.	16,337	31.86
2.	Non/short realisation of compounding fee/permit fee/process fee etc.	1,96,812	2.68
3.	Short realisation/levy of motor vehicles tax/additional tax.	785	2.61
4.	Blockage of revenue due to non disposal of vehicle check reports.	3,535	2.04
5.	Other irregularities.	260	1.04
6.	Non/short realisation of composite tax and penalty.	1,083	0.44
7.	Non/short realisation of trade certificate tax/fee.	100	0.02
8.	Non/short accountal of revenue receipts.	3	0.01
	Total	**2,18,915**	**40.70**

During the year 2004-05, the Department accepted underassessment etc of tax and penalty of Rs.6.46 crore in 4,331 cases inclusive of Rs. 1.55 crore in 799 cases pointed out in 2004-05. The Department recovered Rs.1.86 crore in 2,430 cases including realisation of Rs.70 lakh in 449 cases pointed out in audit during the year 2004-05.

A few illustrative cases highlighting important audit observations involving Rs.36.99 crore are discussed in the following paragraphs.

3.2 Non/short realisation of motor vehicles tax/additional tax

Under the Orissa Motor Vehicles Taxation Act (OMVT Act), 1975 tax due on motor vehicles should be paid in advance within the prescribed period at the rates prescribed in the Act unless exemption from payment of such tax is allowed for the period covered by off road declarations. Penalty is to be charged at double the tax due, if tax is not paid within two months of the expiry of the grace period, i.e. 15 days.

Test check of records of 23 regions[13] between June 2004 and March 2005 revealed that the motor vehicles tax/additional tax of Rs.10.27 crore in 15,746 cases was either not realised or realised short for the period between January 2002 and March 2004. This resulted in non realisation of Government revenue of Rs.30.83 crore including penalty of Rs.20.56 crore as detailed below:

(Rupees in crore)

Sl. No.	No. of regions Nature of irregularities	Period	No. of vehicles	Non realisation of tax	Short realisation of tax	Total	Penalty leviable
1.	20 Non realisation of motor vehicles tax/additional tax from goods vehicles	April 2002 and March 2004	8,078	7.16	-	7.16	14.32
Remarks- The Department recovered tax and penalty of Rs.41.52 lakh in 197 cases and raised demand of Rs.60.85 lakh in 259 cases. Final reply in other cases was not received (October 2005).							
2.	19 Non realisation of motor vehicles tax/additional tax in respect of contract carriages	April 2003 and March 2004	2,452	1.46	-	1.46	2.93
Remarks- The Department recovered tax and penalty of Rs.3.25 lakh in 30 cases and raised demand of Rs.3.25 lakh in 20 cases. Final reply in other cases was not received (October 2005).							
3.	21 Non realisation of motor vehicles tax from tractor trailor combination	April 2003 and March 2004	4,788	1.27	--	1.27	2.55
Remarks- The Department recovered tax and penalty of Rs.3.10 lakh in 31 cases and raised demand of Rs.0.43 lakh in five cases. Final reply in other cases was not received (October 2005).							
4.	22 Non/short realisation of motor vehicles tax/additional tax in respect of stage carriages	January 2002 and March 2004	428	0.31	0.07	0.38	0.76
Remarks- The Department recovered tax and penalty of Rs.12.60 lakh in 40 cases and raised demand of Rs.1.85 lakh in nine cases. Final reply in other cases was not received (October 2005).							
TOTAL			**15,746**	**10.20**	**0.07**	**10.27**	**20.56**

After this was pointed out in audit between June 2004 and March 2005, all the taxing officers agreed to realise the dues.

The matter was brought to the notice of the Transport Commissioner (TC)/ Government in April 2005. The TC stated in June 2005 that Rs.60.47 lakh had been recovered in 298 cases and demand of Rs.66.38 lakh raised in 293 cases. Final reply in other cases had not been received (October 2005).

13 **Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.**

3.3 Non realisation of fees at revised rates

As per Motor Vehicle Act (MV Act), 1988 read with Government of Orissa, Commerce and Transport (Transport) Department notification of January 2003, rate of various fees was revised with effect from 28 January 2003.

Test check of records in STA, Orissa, Cuttack and 26 regions[14] including check gates between June 2004 and December 2004 revealed that in 1,65,833 cases fees for the period between 28 January 2003 and 31 March 2004 was realised at the pre revised rate. Non realisation of fees at the revised rate resulted in short realisation of Rs.2.01 crore.

After this was pointed out in audit between June 2004 and March 2005, STA, Orissa and all RTOs except Cuttack, Koraput and Mayurbhanj stated between June 2004 and March 2005 that the collection of fees was postponed as per Government of Orissa, Commerce and Transport (Transport) Department order of March 2003. The reply was not tenable since executive orders could not overrule the statutory provisions. The RTO, Cuttack, Mayurbhanj and Koraput agreed to realise fees.

The matter was brought to the notice of the TC/Government in April 2005; reply had not been received (October 2005).

3.4 Non realisation of revenue for non disposal of vehicle check reports

In exercise of powers conferred by Section 200 of MV Act, Government of Orissa, Commerce and Transport (Transport) Department in its notification dated 29 September 1995 empowered specific officers of Orissa Motor Vehicles Department to exercise check and realise compounding fees from all motor vehicles committing offences under various sections of the Act ibid. TC issued directives/instructions from time to time for expeditious disposal of pending vehicle check reports (VCRs).

Test check of records of STA, Orissa and 16 regions[15] between July 2004 and March 2005 revealed that 9,502 VCRs remained undisposed out of 44,304 VCRs issued in the year 2003-04. In audit 3,467 VCRs were test checked and it was found that no action was taken to dispose of these reports involving Rs.2 crore resulting in non realisation of Government revenue to that extent.

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14 **Angul, Balasore, Baragarh, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Nawarangapur, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.**

15 **Bhadrak, Bolangir, Chandikhol, Cuttack, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Keonjhar, Koraput, Nayagarh, Nawarangpur, Puri, Rourkela, Sambalpur and Sundargarh.**

After this was pointed out in audit between July 2004 and March 2005, the Department recovered Rs.4 lakh in 69 cases.

The matter was brought to the notice of the TC/Government in April 2005; reply had not been received (October 2005).

3.5 Short realisation of one time tax on advalorem basis

Under section 4A of OMVT Act, the owner of every motor vehicle (being a motor car) covered under schedule I appended to the Act, was liable to pay one time tax at the rate equal to 10 times the annual rate of tax. The said provision was amended with effect from February 2003. As per amended provision, the owner of every motor vehicle (being a motor car) covered under the schedule I appended to the Act is liable to pay one time tax on advalorem basis at five *per cent* of the cost of the vehicle at the time of initial registration.

Test check of the registration records of four regions[16] between July 2004 and February 2005 revealed that the taxing officers realised one time tax of Rs.24.75 lakh only as against Rs.76.64 lakh realisable at revised rate in respect of 323 vehicles registered between February 2003 and March 2004. This resulted in short realisation of Rs.51.89 lakh.

After this was pointed out in audit between July 2004 and February 2005, all the taxing officers agreed between July 2004 and February 2005 for realisation of dues.

The matter was brought to the notice of the TC/Government in April 2005; reply had not been received (October 2005).

3.6 Non realisation of composite tax for goods vehicles under reciprocal agreement

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

Test check of records of STA, Orissa in July 2004 revealed that out of 1,623 goods vehicles registered in the State of Andhra Pradesh authorised to ply in

16 **Bhadrak, Bhubaneswar, Chandikhol and Sambalpur.**

Orissa under reciprocal agreement during 2003-04, composite tax for 898 goods vehicles amounting to Rs. 26.94 lakh was not realised. Besides, penalty of Rs. 10.78 lakh (calculated upto March 2004) was also leviable.

After this was pointed out in audit in July 2004, the STA, Orissa recovered Rs.5.25 lakh in 125 cases.

The matter was referred to the Department/Government in December 2004; reply had not been received (October 2005).

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

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

Test check of records of 19 regions[17] between June 2004 and March 2005 revealed that 102 stage carriages were detected plying without permit between April 2003 and March 2004. Motor vehicles tax/additional tax from these vehicles was either not collected or collected at lesser rates resulting in non/short realisation of tax amounting to Rs.11.36 lakh. Besides, penalty of Rs.22.71 lakh was also leviable.

After this was pointed out in audit between June 2004 and March 2005, the Department recovered tax and penalty of Rs.0.17 lakh in one case and raised demand of Rs.0.53 lakh in one case.

The matter was brought to the notice of the TC/Government in April 2005; reply had not been received (October 2005).

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

Under the OMVT Act and the Rules made thereunder, penalty ranging from 25 to 200 *per cent* of the tax shall be leviable if a vehicle owner has not paid tax and additional tax within the specified period.

17 **Angul, Bargarh, Bhadrak, Bolangir, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Nawarangpur, Phulbani, Rayagada, Sambalpur and Sundergarh.**

Test check of records of 22 regions[18] between June 2004 and March 2005 revealed that in 264 cases, no penalty was levied by the taxing authorities though taxes were paid belatedly. Further in 165 cases, penalty was short levied. Demand notices for realisation of penalty in these cases were not issued by RTOs. This resulted in non/short levy of penalty of Rs.33.42 lakh for the period between April 1999 and March 2004.

After this was pointed out in audit between June 2004 and March 2005, the Department recovered penalty of Rs.1.03 lakh in 13 cases and raised demand of Rs.3.76 lakh in 40 cases.

The matter was brought to the notice of the TC/Government in April 2005; reply had not been received (October 2005).

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

Where, in pursuance of any agreement between the Government of Orissa and Government of any other State, a stage carriage plies on a route partly within the State of Orissa and partly within other State, such stage carriage is liable to pay tax/additional tax calculated on the total distance covered by it, on the approved route in the State of Orissa, at the rates and in the manner specified under the OMVT Act and Rules made thereunder. In case tax is paid beyond two months after the grace period, penalty is to be charged at double the tax due.

Test check of records of STA, Orissa, Cuttack and six regions[19] between June 2004 and February 2005 revealed that motor vehicles tax/additional tax in respect of 39 stage carriages authorised to ply on inter state routes under reciprocal agreement were not realised in full. It was further revealed that 25 stage carriages out of 39 did not pay tax for the last 12 months between April 2003 and March 2004. Thus there was non/short realisation of motor vehicles tax/additional tax of Rs.7.94 lakh. Penalty of Rs.15.88 lakh was also leviable for non payment of dues.

After this was pointed out in audit between June 2004 and February 2005, the Department recovered tax and penalty of Rs.1.50 lakh in three cases and raised demand of Rs.9.02 lakh in 14 cases.

The matter was brought to the notice of the TC/Government in April 2005; reply had not been received (October 2005).

18 Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Jagatsingpur, Jharsuguda, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Nawarangpur, Phulbani, Puri, Rourkela, Sambalpur and Sundargarh.

19 Balasore, Ganjam, Keonjhar, Koraput, Rourkela and Sambalpur.

3.10 Non realisation of motor vehicles tax/additional tax from motor vehicles which violated off road declaration

Under the OMVT Act as amended, motor vehicles tax/additional tax shall be levied on every motor vehicle used or kept for use in the State of Orissa unless prior intimation of non use of the vehicle is given to the Taxing Officer on or before the date of expiry of the period for which tax has been paid, specifying inter alia, the period of non use and the place where the motor vehicle is to be kept during such period. If, at any time, during the period covered by such off road declaration, the vehicle is found to be plying on the road or not found at the declared place, it shall be deemed to have been used throughout the said period. In such case, the owner of the vehicle is liable to pay tax and penalty at double the tax due for the entire period for which it was declared off road.

Test check of records of eight regions[20] between June 2004 and February 2005 revealed that out of 12 motor vehicles under off road declarations for the periods between September 2002 and March 2004, four were detected plying and eight were not found at the declared places by the enforcement staff during the period covered by such off road declarations. No action was taken as per the findings of the reports by the taxing officers to realise the tax and levy penalty for violation of off road declaration. This resulted in non realisation of tax and additional tax of Rs.12.42 lakh including penalty of Rs.8.28 lakh.

After this was pointed out in audit between June 2004 and March 2005, the Department raised demand of Rs.6.03 lakh in four cases.

The matter was brought to the notice of the TC/Government in April 2005; reply had not been received (October 2005).

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

Under the OMVT Act, as amended, when a vehicle in respect of which motor vehicles tax/additional tax for any period has been paid as per registration is proposed to be used in a manner as to cause it to become a vehicle in respect of which higher rate of motor vehicles tax/additional tax is payable, the owner of the vehicle is liable to pay the differential tax. In case of default in payment on due date, penalty of double the tax due is also leviable for the period of delay beyond two months.

Test check of records of 14 regions[21] between July 2004 and February 2005 revealed that 72 stage carriages were permitted to ply temporarily as contract carriage on which higher rate of tax was applicable. Though differential tax was not paid in advance, RTOs did not take any action to raise demand for the

20 Balasore, Bargarh, Bhadrak, Dhenkanal, Ganjam, Mayurbhanj, Sambalpur and Sundergarh.

21 Bargarh, Bhadrak, Bhubaneswar, Chandikhol, Cuttack, Dhenkanal, Ganjam, Keonjhar, Koraput, Phulbani, Puri, Rayagada, Rourkela and Sundergarh.

same. This resulted in non realisation of motor vehicles tax/additional tax of Rs.2.54 lakh. Besides, penalty of Rs.5.08 lakh was also leviable.

After this was pointed out in audit between July 2004 and February 2005, the RTOs recovered Rs.0.42 lakh in two cases. Final replies in other cases were awaited (October 2005).

The matter was brought to the notice of the TC/Government in April 2005; reply had not been received (October 2005).

3.12 Short realisation of composite tax under National Permit Scheme

As per Government of Orissa notification of February 1999, composite tax for goods carriages belonging to other States/Union Territories plying in Orissa under the National Permit Scheme will be payable at the rate of Rs. 5,000 per annum per vehicle in advance in one instalment. In case of delay in payment, penalty of Rs.100 for each calendar month or part thereof is also leviable.

Test check of records in the office of the STA, Orissa between June and July 2004 revealed that composite tax in respect of 185 goods carriages belonging to operators of other States authorised to ply in Orissa during 2003-04 under National Permit Scheme was realised short by Rs. 4.36 lakh as the vehicle operators did not pay composite tax in one instalment. Besides, penalty of Rs.2.20 lakh was leviable due to default in full payment of composite tax. This resulted in short realisation of composite tax of Rs.6.56 lakh.

After this was pointed out in audit between June and July 2004, the TC stated in August 2004 that action would be taken for realisation of dues.

The matter was brought to the notice of Government in December 2004; reply had not been received (October 2005).

3.13 Non realisation of differential tax from private vehicles plying on hire or reward

Under Section 2(22) of MV Act, "maxi cab"[22] plying for hire or reward is to be taxed depending upon the potential nature of use of the vehicle as per circular of 1996 of STA, Orissa. If the vehicle is used privately, an undertaking to that effect in the form of an affidavit before the Registering Authority in the manner prescribed is to be submitted by the owner stating that if at any time, the vehicle is found to be used in contravention of the undertaking, he shall be liable to pay tax under relevant section of OMVT Act. Besides penalty extending upto double the tax is leviable.

22 **"maxi cab" means any motor vehicle constructed or adapted to carry more than six passengers but not more than twelve passengers excluding the driver, for hire and reward.**

Test check of registration records, together with the VCRs in two regions[23] between November and December 2004 revealed that 14 vehicles having seating capacity of more than six passengers but not more than 12 passengers registered on the strength of affidavit that they would be used privately, were detected between August 1999 and February 2004 by the enforcement staff as plying for hire or reward. Even after detection by enforcement staff, no action was taken by the RTOs to realise the differential tax of Rs.1.77 lakh. Besides, penalty of Rs.3.55 lakh was also leviable.

After this was pointed out in audit between November and December 2004, the RTOs agreed in December 2004 to realise the dues.

The matter was brought to the notice of the TC/Government in April 2005; reply had not been received (October 2005).

3.14 Non realisation of trade certificate tax/fees

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

Test check of records of five regions[24] between July 2004 and February 2005 revealed that in respect of 92 dealers, trade certificate tax and fees for the period 2003-04 were not realised. This resulted in non realisation of tax and fees amounting to Rs.2.02 lakh.

After this was pointed out in audit between July 2004 and February 2005, the Department recovered Rs.0.27 lakh in five cases.

The matter was brought to the notice of the TC/Government in April 2005; reply had not been received (October 2005).

23 **Bolangir and Koraput.**

24 **Chandikhol, Cuttack, Koraput, Phulbani and Sambalpur.**

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

4.1 Results of Audit

Test check of records relating to assessment and collection of land revenue and stamp duty and registration fees conducted during the year 2004-05 revealed non collection, non/short assessment and blocking of revenue amounting to Rs.123.33 crore in 47,227 cases which may broadly be categorised as under.

(Rupees in crore)

Sl. No.	Categories	No of cases	Amount
LAND REVENUE			
1.	Non collection of premium etc. from land occupied by local bodies/private parties	2,244	70.69
2.	Non lease/irregular lease of Sairat sources	338	0.89
3.	Non realisation of revenue due to delay in finalisation of OEA cases	254	0.03
4.	Blockade of Government revenue due to non finalisation of OLR cases	2,382	2.91
5.	Miscellaneous/other irregularities	43	0.25
6.	Non assessment/short assessment and short collection of water rates	57	0.60
7.	Non realisation/short realisation of royalty on Minor Minerals	157	0.17
Total		**5,475**	**75.54**
STAMP DUTY AND REGISTRATION FEES			
1.	Blockage of Government revenue due to non clearance of 47-A cases	40,645	46.23
2.	Short levy of stamp duty and registration fees due to under valuation/change of Kisam of documents	115	0.09
3.	Under valuation due to non consideration of highest sale instances	568	0.61
4.	Short realisation due to irregular/misclassification of deeds	424	0.86
Total		**41,752**	**47.79**
Grand total		***47,227***	***123.33***

During the year 2004-05, the Department accepted under assessment etc. of Rs.9.65 crore in 30,117 cases including Rs.1.91 crore in 2,668 cases relating to the year 2004-05. The Department recovered Rs.1.53 crore in 13,609 cases including Rs.8.27 lakh pointed out during the year 2004-05.

A few illustrative cases highlighting important audit observations involving Rs.12.11 crore are discussed in the following paragraphs.

A. Land Revenue

4.2 Non collection of revenue on subleased land

Government of Orissa Revenue Department in their letter of May 1990 issued instructions to the Chairman, Paradeep Port Trust (PPT) not to sublease any land either on temporary or permanent basis. It was subsequently decided in the meetings held in 2000 and 2002 between the Commissioner cum Secretary, Revenue Department, Government of Orissa and Chairman, PPT that in the event of sublease of land out of the alienated[25] land to third parties, the full sale value of land will be shared equally by PPT and State Government on 50:50 basis. Interest is leviable at the rate of 12 *per cent* per annum on arrears with effect from 28 November 1992. Public Accounts Committee while discussing para 4.2.8 of Audit Report (Revenue Receipts) 2000-01 on 7 September 2002 observed that subleased land can be regularised by entering into an agreement with PPT after obtaining Government order.

Test check of records of Tahasildar, Kujanga in January 2005 revealed that PPT had subleased land out of the alienated land and collected total sale value of land without depositing 50 *per cent* share to the State Government.

- PPT collected Rs.10.53 crore towards land premium for subleasing land measuring Ac.87.72 from Indian Oil Corporation (IOC) by March 2000. PPT was liable to pay Rs.5.27 crore towards 50 *per cent* share of the land premium and interest of Rs.2.62 crore from January 2000 to March 2004.

- PPT subleased land measuring Ac.25.00 in village Bhitaragarh to Bharat Petroleum Limited in November 2001 and received Rs.3 crore towards consideration money in November 2001 but did not deposit Rs.1.50 crore towards 50 *per cent* share of land premium. Besides, interest of Rs.42 lakh as of 31 March 2004 was also payable to the State Government for belated payment of State share.

- Cargil India Limited was in possession of an area Ac.23 in village Bhitaragarh which was subleased by PPT. The premium for the land is Rs.2.76 crore worked out at the rate of Rs.12 lakh per acre and PPT is liable to pay Rs.1.38 crore towards land premium.

Thus non collection of revenue on subleased land amounted to Rs.11.19 crore inclusive of interest.

After this was pointed out in audit in January 2005, the Tahasildar, Kujanga stated in February 2005 that there was no information regarding sublease of land and collection of sale value in respect of IOC and Cargil India Ltd.

25 **Alienated land - Land already leased out.**

However, PPT was asked to deposit the amount towards subleasing the land in case of Bharat Petroleum Ltd. The reply was not tenable in view of the fact that the possession of land has been recorded in Records of Rights maintained in tahasil Office. Besides PPT has also confirmed the fact of realisation of sale value of land. The matter was reported to Government in February 2005; reply had not been received (October 2005).

4.3 Blockage of revenue due to delay in finalisation of alienation case

According to Government orders of October 1961, May 1963 and February 1966, Government land can be leased out to local bodies, public sector undertakings, educational and charitable institutions, State and Central Government departments etc. on payment of premium fixed on the basis of market value of the land plus annual ground rent of one *per cent* of the market value. The occupier is liable to pay interest at the rate of 12 *per cent* with effect from 28 November 1992 for the period from date of occupation of land till the date of payment.

Test check of records of Cuttack tahasil revealed in February 2005 that advance possession of the land of Ac.11.158 was handed over to Cuttack Development Authorities (CDA) in August 1996 with the condition to pay premium, rent and cess as would be fixed by Government at the time of sanction of lease. Alienation case initiated in May 2003 for grant of lease to CDA was not finalised till the date of audit. Delay in finalisation of alienation case led to blockage of Government revenue towards premium, ground rent and interest amounting to Rs.9.46 crore as on February 2005.

After this was pointed out in audit in February 2005, tahasildar stated in February 2005 that steps would be taken to finalise the cases early.

The matter was reported to Government in April 2005; reply had not been received (October 2005).

4.4 Non raising of demand

Under the provisions of the Orissa Agricultural Year (Amendment) Act, 1992 and Orissa Cess (Amendment) Act, 1992 read with Government notification of February 1966, interest on belated payment of land revenue is payable from the date of occupation of the Government land. The rate of interest was raised from six *per cent* to 12 *per cent* per annum with effect from 28 November 1992.

4.4.1 Test check of records of Tahasildar Tangi, Choudwar revealed in October 2004 that the Revenue Divisional Commissioner (RDC) (Central Division), Cuttack sanctioned in March 2004 the lease of Government land measuring Ac.3.10 in favour of Executive Engineer (EE), Central Electricity

Supply Company of Orissa, City Distribution Division-II, Cuttack which was already in possession of lessee since 1973 for construction of sub station, sub division office etc., subject to payment of Government dues of Rs.1.21 crore towards premium, ground rent and cess. No demand for interest of Rs.2.33 crore from the date of occupation was raised against the lessee including interest of Rs.50.90 lakh for the period from April 1999 to March 2004.

After this was pointed out in audit in October 2004, the tahasildar agreed in October 2004 to realise the dues along with interest.

The matter was brought to the notice of Government in March 2005; reply had not been received (October 2005).

4.4.2 Test check of records of Tahasildar, Purusotampur revealed in May 2004 that the RDC (Southern Division) Berhampur sanctioned in February 2004 lease of Government land measuring Ac.2.415 in favour of EE Electrical (SOUTHCO) Aska subject to payment of Government dues of Rs.21.86 lakh for construction of sub station and staff quarters etc. Although land was in occupation of SOUTHCO since 1976-77, premium ground rent and cess inclusive of interest from 1976-77 to 2003-04 amounting to Rs.66.49 lakh were not demanded. This resulted in non raising of demand of Rs.15.07 lakh towards ground rent, cess and interest for the period from 1999-2000 to 2003-04 against the lessee.

After this was pointed out in audit in May 2004, the tahasildar raised demand in February 2005 against the lessee.

The matter was brought to the notice of Government in March 2005; reply had not been received (October 2005).

4.5 Conversion of agricultural land for non agricultural purposes

Under Orissa Land Reforms Act (OLR Act), 1960, a rayat is liable to eviction if he has used agricultural land for non agricultural purpose. Such land can, however on an application made by him in the prescribed form, be resettled on lease basis on payment of premium at the prescribed rate plus ground rent at one *per cent* of premium per annum.

Test check of records of two[26] tahasils between January and March 2005 revealed that 158 cases involving conversion of 89.962 acres of agricultural land for non agricultural purpose were instituted between 2002-03 and 2003-04 on receipt of applications from rayats. The cases were pending in tahasil offices for disposal as of March 2005. Non disposal of conversion cases resulted in delay in realisation of Rs.48.72 lakh towards premium and ground rent.

26 Bhubaneswar and Sukinda.

After this was pointed out in audit between January 2005 and March 2005 the Tahasildars agreed between January 2005 and March 2005 to take necessary action for realisation of the dues.

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

4.6 Non realisation of revenue dues from Sairat sources

As per Minor Mineral Concession Rules (MMCR), 1990 minor minerals can be sold or disposed off by public auction as may be prescribed by the concerned authority. Dues payable under these rules if remain unpaid shall be recovered as arrears of land revenue.

Test check of records of Tahasildar, Kujang in January 2005 revealed that Rs.42.39 lakh towards royalty for sairat sources [27] leased for lifting sand during the years 2000-01 to 2002-03 remained outstanding for realisation. The Tahasildar made only two references with PPT, one in August 2002 and another in February 2003 for realisation of dues. Thus ineffective action of the Tahasildar led to non realisation of Government revenue of Rs.42.39 lakh.

After this was pointed out in audit during January 2005, the Tahasildar, Kujanga stated in January 2005 that PPT was asked to pay the balance royalty on sand. The reply was not tenable as steps to institute certificate proceedings were not taken to realise the arrears even after lapse of two years.

The matter was referred to Government in March 2005; reply had not been received (October 2005).

27 **Sairat sources - Minor miscellaneous source of revenue from fisheries, queries, hat & fair, ferry ghats, orchards, standing trees & minor minerals leased out temporarily after public auction.**

B. Stamp Duty and Registration Fees

4.7 Short realisation of stamp duty and registration fees

The Inspector General of Registration (IGR) issued guidelines (September 1993) for determination of value of land. The highest sale price of a land during the last three years preceding the year of execution should be taken as value of land for the purpose of levy of stamp duty and registration fees. In September 2002, Government modified the referability under Section 47(A) of Indian Stamps Act, according to which the highest rate sale instance of land preceding the month in which the document in question is presented for registration will be taken into consideration. While such highest sale is taken, care has to be taken that value of comparable land adjacently located, is taken into consideration. For the purpose of proper valuation the SRs[28] /DSRs[29] are required to be provided with copy of the finally published village maps and Records of Right (ROR) as per IGR, circular of September 1993. In the absence of any documentary evidence to verify value of the adjacent plots, the Registering Officers (ROs) should go for the highest sale price of land during the last three years preceding either the year of execution or the month of execution for the purpose of levy of stamp duty and registration fees.

A test check of records in nine registration offices[30] revealed that 149 documents were registered between 2002 and 2003 at a lower rate compared to the highest sale value of land. No reference was made to RORs and valuation registers maintained in registration offices. Thus violation of IGR guidelines/Government orders resulted in undervaluation of land. Consequently there was short levy of stamp duty and registration fees of Rs.25.64 lakh.

After this was pointed out in audit between June 2004 and January 2005, six ROs[31] admitted the fact of under valuation and agreed between July 2004 and December 2004 to realise the deficit dues. Other ROs agreed to take action after verification of records.

The matter was brought to the notice of IGR/Government in April 2005; replies had not been received (October 2005).

28 Sub Registrars.

29 District Sub Registrars.

30 Angul, Bhadrak, Hatadihi, Jharsuguda, Khandagiri, Patnagarh, Puri, Nayagarh and Rajgangapur.

31 Bhadrak, Hatadihi, Jharsuguda, Patnagarh, Nayagarh and Rajgangpur

CHAPTER-V: STATE EXCISE

5.1 Results of Audit

Test check of records in the offices of the Excise Commissioner, Deputy Commissioner of Excise and Superintendents of Excise conducted during 2004-05 revealed non/short realisation and loss of revenue amounting to Rs.29.44 crore in 427 cases which may broadly be categorised as under:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non/short realisation of duty/licence fee	360	13.25
2.	Loss of revenue due to delay in granting/issue of licence.	44	11.23
3.	Other irregularities	23	4.96
Total		**427**	**29.44**

During the year 2004-05, the Department accepted non levy/short realisation etc. of duty amounting to Rs.3.13 crore in 365 cases pointed out in audit in 2004-05. The Department recovered Rs.1.64 crore in 316 cases including Rs.1.53 crore in 216 cases of 2004-05.

A few illustrative cases highlighting important audit observations involving Rs.11.03 crore are discussed in the following paragraphs. After issue of draft paragraphs the Department recovered Rs.1.40 crore.

5.2 Loss of revenue due to non observance of prescribed procedure for settlement of IMFL "off" shops

Under the Bihar and Orissa Excise Act (BOE Act), 1915, licences of wholesale or retail vend of intoxicants may be granted for one year from 1 April to 31 March following. Government of Orissa in their excise policy for the years 2002-03 and 2003-04 decided that all the existing IMFL off shops of 2001-02 and 2002-03 would be renewed for 2002-03 and 2003-04 respectively without any change in the licence fee and minimum guaranteed quantity (MGQ). The shops, which remained unrenewed, should be settled immediately. Under the provision of excise policy and instruction of Board of Revenue (BOR) such shops should be settled through sale notice. As per section 22 of the BOE Act read with Rule-3 of the Orissa Excise (Exclusive privilege) Foreign Liquor Rules, 1989, before issue of sale notice for auction of the shops, a public notice shall be issued inviting objection from public and obtaining prior approval of concerned Gram Panchayat accorded with concurrence of Gram Sasan under Section 26A of the BOE Act. In case, the bid/negotiated amount does not reach the reserve price, confirmation of Government may be obtained for settlement of the shop.

5.2.1 Scrutiny of records of Superintendent of Excise (SE), Sundergarh revealed between August 2003 and September 2004 that out of 34 IMFL off shops[32] which existed in 2001-02, 18 shops were renewed in 2002-03 and 2003-04. For the rest of 16 shops[33], sale notice for the year 2002-03 was issued on 1 April 2002 without inviting public opinion and obtaining prior approval of Gram Panchayat. A non government organisation filed a writ petition[34] in Hon'ble High Court of Orissa on 16 April 2002 challenging the legality of the sale notice. The Court granted interim stay in April 2002. As such auction sale could not be conducted for settlement of the off shops. For the year 2003-04 sale notice was not issued on the ground that the case was subjudice. The stand taken by the Department was not in order as the stay was granted on auction sale for the year 2002-03. The writ petition, which became infructuous was disposed of on 20 April 2004. Thus due to non observance of the prescribed procedure for the year 2002-03 and taking incorrect plea about subjudice of the case for the year 2003-04, IMFL off shops could not be settled for these years. This resulted in loss of revenue of Rs.10.17 crore worked out on the basis of consideration money and duty on MGQ at the prevailing rates[35].

After this was pointed out in audit, the SE, Sundergarh stated in September 2004 that as the case was subjudice, the shops could not be settled.

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32 **Retail sale of India made Foreign liquor for consumption off the shop premises.**

33 **Bisra Road 1 & 2 Rourkela, Kalinga, Lathikata, Basanti colony, Biramitrapur, Nayabazar, Chhend, Power House Road, Vedvyas, Gandhi Road, Bandomunda, 7 & 8 Area Rourkela, Rajgangapur and Sundergarh No. 2 & 3.**

34 **OJC No.4251/2002 (between Secretary Lok Manch , Rourkela Vs. State of Orissa).**

35 **For the years 2002-03 and 2003-04 Excise duty at the rate of Rs.92 and Rs.100 per LPL respectively.**

The reply was not tenable as prescribed procedure was not followed during 2002-03 and stay was not applicable during the year 2003-04. Further reply had not been received (October 2005).

The matter was reported to the Excise Commissioner (EC)/Government of Orissa in March 2005, reply had not been received (October 2005).

5.2.2 Test check of records of SE, Khurda revealed in July 2003 that the licensee of Tamando IMFL off Shop for 2001-02 did not opt for renewal of license for the year 2002-03. The Collector proposed to shift the shop to Aiginia on 19 April 2002, but the Government did not accept the proposal and directed the Collector for settlement of the shop through auction procedure. Although the Collector repeatedly requested the Government to consider shifting the shop, yet the proposal was not accepted. Ultimately the shop was put to auction and settled on 2 January 2003 at Rs.52,100 against the reserve price of Rs.60,100. Non adherence to the Government's orders and delay in settlement of the shop led to loss of revenue of Rs.17 lakh worked out on the basis of monthly consideration money and duty on MGQ.

After this was pointed out in audit in July 2003 the SE, Khurda stated in August 2003 that the shifting proposal was in anticipation of not achieving reserve price due to which the process of settlement was delayed. The reply was not tenable in view of the provisions of excise policy that the Government was competent to decide the bid value below reserve price.

The matter was reported to EC in September 2003. EC stated (May 2005) that the correspondence between the Collector and Government caused unintentional delay.

5.2.3 Test check of records of eight[36] Excise Districts between October 2003 and February 2005 revealed that 20 Excise off shops were provisionally settled for the year 2002-03 through auction/tender/negotiation. Government confirmed the proposal for settlement of shops after a delay ranging between 42 days and 108 days from the date of provisional settlement. Thus due to delay in confirmation, revenue of Rs.28.82 lakh was foregone in shape of licence fee and duty on MGQ worked out for 21 days and 97 days after deducting three weeks for communication of final orders of the Government.

After this was pointed out between October 2003 and February 2005, all the SEs, except Ganjam stated between October 2004 and February 2005 that after receipt of confirmation from Government, licences were issued. SE, Ganjam stated that such delay was inevitable in the process of taking a decision for settlement of shops below the reserve price. The reply was not tenable since shops were not settled in the specific time frame before the commencement of the next financial year as per the provisions of the Act.

The matter was reported to EC and Government between October 2003 and February 2005; reply had not been received (October 2005).

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36 **Bhadrak, Ganjam, Jharsuguda, Kendrapara, Keonjhar, Mayurbhanj, Puri and Sambalpur.**

5.2.4 Scrutiny of records of SE, Ganjam revealed in September 2004 that four existing country spirit shops held by three exclusive privilege holders (EP Holder) were not renewed for the year 2003-04, on the ground that one of the EP holders was declared defaulter. Collector, Ganjam moved the EC/Government in April 2003 for renewal of four shops at a consideration money of Rs.2.30 lakh per month in favour of the other two EP holders for the year 2003-04. On receipt of Government order in October 2003, licence was issued on 25 October 2003. Thus delay in issue of Government order led to loss of revenue of Rs.23.24 lakh towards licence fee and duty on M.G.Q for the period from May 2003 to 24 October 2003.

After this was pointed out in audit in September 2004, the SE did not furnish any specific reply.

The matter was reported to EC and Government in October 2004; reply had not been received (October 2005).

5.3 Loss of revenue on IMFL made from imported base

As per excise policy of Government of Orissa for the year 2003-04, excise duty at the rate of Rs.100 and Rs.120 per London Proof Litre (LPL) was prescribed for India made whiskey, rum, brandy, vodka etc. and Rs.200 per LPL for IMFL blended with imported element containing more than 20 *per cent* (including scotch bottled in India). In April 2003, Government instructed the EC to accept the certificates from the supplier in good faith indicating that the blended materials were less than 20 *per cent* and in case of any deviation, the supplier would be liable to pay duty at the rate of Rs.200 per LPL. As per provision of Board's Excise Rules 1965, the EC before approval of brands and labels shall make such enquiries and also ensure that samples of liquor are chemically examined before such approval so that the liquor meets the required standards.

5.3.1 Test check of records of SE, Khurda revealed in June 2004 that Orissa State Beverages Corporation Limited (OSBC) procured 12,35,578.0077 LPL of IMFL made from imported base during the year 2003-04 but in no case higher duty of Rs.200 per LPL was charged. It was clearly written on the label that the product was a blend of scotch but no percentage of blending was indicated in the labels. The imported element, scotch, was the dominating element which attracted higher duty. Certificates were obtained from the suppliers stating that their product contained less than 20 *per cent* blend material and excise duty of Rs.100/Rs.120 per LPL was charged in all cases. Higher duty of Rs.200 per LPL could not be levied for want of adequate mechanism for ascertaining the percentage of blending of scotch.

As the excise policy did not prescribe any norm or any mechanism for ascertaining the percentage of blending of scotch, higher duty at the rate of Rs.200 per LPL could not be charged and as such the very purpose of excise policy for augmenting revenue of State was defeated. Government sustained loss of Rs.2.33 crore due to non levy of higher duty at the rate of Rs.200 per

LPL at least on 20 *per cent* of the total procurement of IMFL made from imported base.

After this was pointed out in audit in June 2004 the SE did not furnish any specific reply.

5.3.2 Test check of records of SE of Excise, Khurda revealed (July 2004) that the manufacturers of four brands[37] of IMFL did not disclose the presence of scotch in their labels registered by the EC, Orissa for the year 2003-04, whereas these brands contained scotch which was disclosed on the approved labels in 2002-03. The OSBC procured 3,21,906.0968 LPL of IMFL which did not disclose the presence of scotch in the approved labels in 2003-04 for which higher duty could not be charged. This resulted in loss of Government revenue of Rs.62.48 lakh due to non levy of higher duty at the rate of Rs.200 per LPL at least on 20 *per cent* of the total procured quantity of IMFL which contained scotch.

After this was pointed out in audit the SE, Khurda stated in July 2004 that the distillery officers concerned would be asked to investigate the matter and OSBC authority would be asked to furnish the price structure for the year 2002-03 and 2003-04. The reply was not tenable since Department failed to verify the presence of scotch in above four brands before the approval of brands and labels.

The matter was reported to EC and Government in August 2004, reply had not been received (October 2005).

5.4 Short realisation of transport fee on mohua flower

As per Rule 11 of Board's Excise (Fixation of fees on mohua flower) Rules 1976 as amended in June 2000, rate of fee in respect of a transit pass for transporting mohua flower within the state shall be Rs.10 per quintal.

Test check of records of 11 District Excise Offices[38] between December 2003 and January 2005 revealed that 326 outstill[39] liquor licensees procured 1,83,773.72 quintals of mohua flower in the years 2002-03 and 2003-04 on which transport fee of Rs.0.70 lakh was collected as against Rs.18.37 lakh. No demand for the balance amount was raised which resulted in short realisation of transport fee of Rs.17.67 lakh.

The matter was referred to EC and Government between January 2004 and February 2005 EC in his reply between March 2005 and June 2005 stated that

37 8 PM Rare Whisky, Aristocrat Black Whisky, Mc Dowell's Diplomat Whisky and Bag Piper Whisky.

38 Bargarh, Bhawanipatna, Bolangir, Boudh, Deogarh, Koraput, Nuapada, Paralakhemundi, Rayagada, Sonepur, Sambalpur.

39 Outstill is a system of preparation of intoxicants based on mohua flower.

an amount of Rs.13.34 lakh in respect of eight district excise offices was realised. Final reply in remaining cases had not been received (October 2005).

5.5 Non realisation of revenue due to non affixture of excise adhesive labels

Under the BOE Act and Rules made thereunder, excise adhesive labels (EALs) shall be affixed on each bottle/can of IMFL/beer and on each pouch of country spirit. Further, the OSBC should ensure that no bottle/can is received from outside the State without affixture of EALs. The BOR prescribed on 2 February 2002 a fee of 20 paise for each EAL to be charged for each bottle/can irrespective of size from the manufacturer.

Test check of records of SE, Cuttack in August 2004 revealed that OSBC imported 46,29,227 bottles of beer from outside the State for Manguli Depot without affixture of EALs. Non affixture of EALs led to non realisation of revenue of Rs.9.26 lakh.

After this was pointed out in audit in August 2004, the SE, Cuttack stated that the branch manager would be asked to comply with the audit observation. Further reply had not been received (October 2005).

The matter was brought to the notice of EC/Government in March 2005; reply had not been received (October 2005).

5.6 Irregular renewal of licence of bottling plant

The BOE Act and Rules made thereunder stipulate that licence for the wholesale or retail vend of intoxicants may be granted for one year from 1 April to 31 March following. Government of Orissa in their excise policy for the years 2002-03 and 2003-04 decided to renew the licence of bottling plants on the basis of production capacity in proof litres along with payment of annual renewal licence fee for bonded warehouse attached to manufacturing company. Further, as per the provision of the BOE Act, the holder of a licence to manufacture and sell may surrender the licence on expiry of term and the EC may take over the balance of liquor for disposal under Board's Excise Rules.

Scrutiny of the records of M/s. Hitech Bottling Plant under the control of SE, Sambalpur revealed in November 2004 that the licence of the bottling unit was neither renewed for the year 2002-03 nor was surrendered to the Collector. No action was taken by the EC for disposal of balance liquor of the plant. However, on an application of the ex licensee in June 2003 the earlier licence of 2001-02 was renewed by the Government in October 2003 for the period 1 October 2003 to 31 Mach 2004. Since the validity and renewal of licence is a continuous process and there was no existing licence for the year 2002-03, grant of renewal from 1 October 2003 to 31 March 2004 was irregular which

led to non realisation of license fee of Rs.11.63 lakh for the period from 1 April 2002 to 30 September 2003.

After this was pointed out in November 2004 the EC stated in May 2005 that SE, Sambalpur raised demand of Rs.11.63 lakh as per audit observation. Further report on recovery had not been received (October 2005).

The matter was referred to Government in March 2005, reply had not been received (October 2005).

5.7 Loss of revenue due to delay in issue of notification

Under Section 90 of BOE Act, the BOR is empowered to make/ amend rules for carrying out policies of Government of Orissa. Government of Orissa, Excise Department in their letter of December 2001 directed EC, Orissa to revise the fee on adhesive label to 20 paise per label irrespective of size of bottle/ pack, which should be effective from 31 December 2001. The BOR issued notification revising the fee on 2 February 2002.

Test check of records of SE, Ganjam in June 2002 revealed that excise adhesive labels on 8,33,433 bottles of IMFL and 26,55,000 pouches of country liquor in respect of four[40] manufacturing units were not affixed between 31 December 2001 and 1 February 2002 due to non issue of notification by the BOR. This resulted in loss of revenue of Rs. 6.98 lakh.

After this was pointed out in audit in June 2002 the SE, Ganjam did not furnish any specific reply.

The matter was brought to the notice of EC/Government in March 2005, reply had not been received (October 2005).

40 M/s Ocean Beverages (P) Ltd., M/s Poonam Distillery (P) Ltd., M/s Mahanadi Distilleries (P) Ltd., M/s Aska Co-operative Sugar Industries Ltd.

CHAPTER-VI: FOREST RECEIPTS

6.1 Results of Audit

Test check of records maintained in various forest divisions conducted during 2004-05 revealed non/short levy of interest, loss of revenue etc. of Rs.131.04 crore in 3,356 cases, which may broadly be categorised as under: -

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Loss of revenue due to short delivery/shortage of forest produce	79	10.67
2.	Non/short levy of interest on belated payment of royalty	693	7.73
3.	Non realisation of royalty	14	0.84
4	Other irregularities	2,570	111.80
Total		3,356	131.04

During the year 2004-05, the Department accepted under assessment etc of Rs.18.55 crore in 3,231 cases including Rs.40.24 lakh in 292 cases pointed out in earlier years. The Department recovered only Rs.46.15 lakh in five cases.

A few illustrative cases highlighting important audit observations involving Rs.19.02 crore are discussed in the following paragraphs.

6.2 Loss of revenue due to non working of Bamboo coupes

Under the provisions of Orissa Forest Produce (Control of Trade) Act, 1981, the Orissa Forest Development Corporation Limited (OFDC) was appointed as the agent for extraction of and trade in bamboo with effect from 1 October 1988 in the state of Orissa, on payment of purchase price as fixed by the State Government from year to year. The agent has to extract bamboo from Government forests and pay royalty to the Government on the basis of annual agreement executed as provided under Orissa Forest Produce (control of trade) Rules 1983. The bamboo coupes are operated in cycle of four years in accordance with working plan. The working plan should be ready about one year before its due date of implementation and after obtaining the approval of the Government of India. The State Government should issue final sanction to bring the working plan in force well before expiry of the current working plan.

Test check of records of Principal Chief Conservator of Forests (PCCF), Orissa in January 2005 revealed that extraction of bamboo in 15 divisions[41] where the operation was due in 2003-04 was not done due to expiry of working plans. PCCF did not take timely action for extension/renewal of working plan. Non working of bamboo coupes resulted in loss of Rs.8.66 crore towards royalty on bamboo production of 1,33,270.45 Sale units (SU) worked out on the basis of average two crop years production.

After this was pointed out in audit in January 2005 the PCCF stated in January 2005 that the Government of India did not grant extension to those plans. The reply was not tenable as the proposals for extension/revision of working plans for approval could not be submitted to Government of India even after lapse of one to five years of expiry of working plans. First and Second Preliminary Working Plan Reports were pending with Working Plan Officer/Conservator of Forests/ PCCF for approval. Lapses on the part of the Departmental officers in compilation and submission of revision/ extension of working plans to Government of India for approval before the expiry of current working plan caused loss to the State exchequer.

The matter was reported to Government in February 2005; reply had not been received (October 2005).

41 **Anugul, Baliguda, Bolangir, Boudh, Dhenkanal, Jeypore, Khariar, Nayagarh, Puri (Khurda), Paralakhemundi, Phulbani, Rairakhol, Rayagada, Sambalpur and Sundergarh.**

6.3 Non realisation of Net Present Value (NPV) of forest land diverted for non forest activities

Under the provisions of Forest Conservation Act, 1980 read with orders of Hon'ble Supreme Court issued in November 2002, forest land may be diverted for non forest activities with the approval of Government of India on payment of Net Present Value (NPV)[42] of forest land and other allied charges. As per guidelines issued by Government of India in September 2003, NPV would be charged in all cases where stage-I and final approval have been granted after 30 October 2002.

Test check of records of PCCF revealed in January 2005 that 137.25 hectares of forest land was diverted for non forest purposes in eight forest divisions[43] and handed over to two[44] user agencies. The approval in all these cases was granted after 30 October 2002. Neither the Department raised any demand to realise Rs.7.96 crore towards NPV of forest land nor the user agencies paid the dues. Thus non issue of demand by the Department resulted in non realisation of NPV.

After this was pointed out in audit in January 2005, the PCCF admitted the fact of non raising the demand and stated that demand of Rs.4.74 crore was raised in three cases in respect of DFO, Nawarangpur, Angul and Athamallik.

The matter was reported to Government in February 2005. Government confirmed in September 2005 the fact of raising demand. Report on realisation was awaited (October 2005).

6.4 Blocking of revenue due to non disposal of timber and poles

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

Test check of records of 37 Forest divisions[45] revealed that 50,997.63 cft of timber and 1,837 poles valued at Rs.1.01 crore seized in 2,224 undetected

42 **NPV : Net present value of forest land depending upon the canopy density of the land in question.**
Stage I : Principle approval granted by Govt. of India.
Stage II : Final approval granted by Govt. of India.

43 **Angul, Athamallik, Berhampur, Bolangir, Chilika (Wild life), Ghumusur (South), Nabarangpur and Rairakhol.**

44 **Chief Manager, Power Grid Corporation of India and National Highway Authority of India**

45 **Athagarh, Athamallik, Angul, Anandpur (WL), Baripada, Bamra (WL), Baliguda, Berhampur, Bonai, Boudh, Bolangir (W), Bolangir (E), Bargarh, Cuttack, City Division Bhubaneswar, Deogarh, Dhenkanal, Ghumsur (S), Ghumsur (N), Hirakud (WL), Jeypore, Kalahandi (N), Kalahandi (S), Karanjia, Koraput, Keonjhar, Khurda, Malkangiri, Nabarangpur, Nayagarh, Paralakhemundi, Phulbani, Rourkela, Rayagada, Rairakhol, Sambalpur (S) and Sundergarh.**

(UD) forest offence cases registered between 2001-02 and 2003-04, were lying undisposed. Inaction of the Department for early disposal of timber and poles either by delivery to OFDC or by public auction resulted in blocking of Government revenue of Rs.1.01 crore.

The matter was reported to PCCF/Government in February 2005. The PCCF stated in June 2005 that demand of Rs.18.53 lakh was raised in 374 cases and Rs.0.15 lakh was realised in one case. Reply from Government had not been received (October 2005).

6.5 Non levy of interest on belated payment of royalty on timber

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

Test check of records of 18 forest divisions[46] (between December 2003 and December 2004) revealed that DFOs did not levy interest of Rs.86.06 lakh on belated payment of royalty for the period from 1999-2000 to 2003-04 by OFDC Ltd. The delay in payment of royalty beyond the due date ranged between two and 60 months as detailed below.

(Rupees in lakh)

Period	No of lots	Amount of interest
2 to 12 months	2	0.06
1 to 2 years	198	8.08
above 2 to 5 years	526	77.92
Total	**726**	**86.06**

The matter was brought to the notice of PCCF/Government in February 2005. The PCCF stated in July 2005 that all the DFOs except Rairakhol raised demand of Rs.84.79 lakh towards interest on belated payment of royalty. Government stated in July 2005 that all the concerned DFOs had raised demand towards interest on belated payment of royalty. Report on realisation was awaited (October 2005).

6.6 Loss of revenue due to non achievement of target

Government of Orissa, Forest and Environment Department in their orders of May 2004 appointed OFDC and Tribal Development Co-operative Corporation (TDCC) as agents of Government for collection of sal seeds in 25 and 13 forest divisions of the State respectively for the crop year 2004. The agents were to procure sal seeds as per the target fixed for each forest division

46 **Angul, Athagarh, Athamallik, Baliguda, Bamara (WL), Baripada, Bonai, Dhenkanal, Ghumsura (N), Jeypur, Karanjia, Keonjhar, Khurda, Paralakhemundi, Phulbani, Rairakhol, Rayagarh and Sundergarh.**

and pay royalty at the rate of Rs.250 per MT to the Government for the sal seed collected by them.

Test check of records of 38 divisions in the office of the PCCF revealed in January 2005 that Government fixed target of 24,000 MT for collection of sal seed for the crop year 2004. But the agents collected only 2,684.927 MT sal seeds which was only 11 *per cent* of target. It was observed in audit that neither targets were revised nor reasons for shortfall in collection of sal seed were called for from the agents. The Department did not investigate the factors causing such poor collection. Thus non achievement of target resulted in loss of revenue of Rs.53.29 lakh.

After this was pointed out in audit in January 2005, PCCF stated in January 2005 that the year 2004 was a very bad year, as the harvest of crop depended upon conducive weather and physiological character of the species. The reply was not tenable since the reasons were neither called for from the agents nor investigated by the Department to justify such a huge shortfall. Besides target for collection was not revised in view of any unconducive weather affecting production in the year.

The matter was reported to Government in February 2005; reply had not been received (October 2005).

CHAPTER-VII: MINING RECEIPTS

7.1 Results of Audit

Test check of records maintained in the office of the Deputy Director of Mines and Mining Officers during 2004-05 revealed non/short levy of royalty, dead rent, interest and other irregularities of Rs.58.54 crore in 83 cases which may broadly be categorised as under:

(Rupees in crore)

Sl. No.	Subject	No. of cases	Amount
1.	Irregularities of miscellaneous nature	27	57.48
2.	Non/short levy of royalty/ dead rent	48	0.63
3.	Non/short recovery of interest and non levy of interest	8	0.43
Total		**83**	**58.54**

During the year 2004-05, the Department accepted under assessment etc of Rs.44.96 crore involving 30 cases, which had been pointed out in 2004-05. The Department recovered only Rs.5.30 lakh in 22 cases.

A few illustrative cases highlighting important audit observations involving Rs.29.48 crore are discussed in the following paragraphs

7.2 Short realisation of royalty on high grade Iron Ore

Government of India, Ministry of Mines in their notification of September 2000 amended the Mineral Concession Rules (MC Rules) and inserted a new provision according to which in case processing of run-of-mine[47] mineral is carried out within the lease hold area, royalty shall be chargeable on the processed mineral removed from the lease hold area. Prior to the aforesaid notification, royalty was chargeable on unprocessed mineral i.e. mineral extracted from the seam.

Test check of records of two Mining circles[48] revealed in December 2004 that nine mines[49] of eight lessees were not run-of-mines. The Assessing Officers incorrectly levied royalty of Rs.7.28 crore on 36,51,833.330 MT of processed mineral instead of Rs.8.49 crore on 36,72,545.805 MT of unprocessed mineral fed to the processing plant in 2003-04. This resulted in short levy of royalty of Rs.1.21 crore.

After this was pointed out in December 2004, DDM[50], Joda and Koira stated in December 2004 that royalty was correctly charged on the processed mineral. The replies were not tenable since these mines were not run-of-mines and hence royalty was payable on unprocessed mineral instead of processed mineral.

The matter was brought to the notice of the Department in February 2005, reply had not been received (October 2005).

7.3 Loss of revenue on illegal extraction/removal and disposal of stock of ore

The Mines and Minerals (Development and Regulation) (MM (DR) Act, 1957 provides that no person shall undertake any mining operation in any area, except under and in accordance with the terms and conditions of the mining lease. Whenever any person raises without any lawful authority, any mineral from any land, the Government may recover from such person the price of the mineral so raised, or where such mineral has already been disposed of, the price thereof and royalty etc. may be realised. As per the Government of Orissa, Steel and Mines Department's order of March 1998 all kinds of ores and minerals seized in the field should be disposed of within three months.

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47 The blasted materials containing ore with other foreign materials brought to the crushing plant ore.

48 Joda and Koira.

49 Jilling Longalotta Mines of M/s. E.M.I. Ltd, Jaruri Iron/Mangamese Mines of M/s. Kalinga Mining Corporation Ltd, Nuagoan Iron Mines of M/s. K.J.S. Alluwallia, S.G.B.K. Mines of M/s. O.M.C Ltd, Khandabandha Iron Mine of M/s. O.M.C. Ltd, Khandabandha Iron Mines of M/s. TISCO Ltd, Jajang Iron Mines of M/s. Rungta Mines Ltd, SanIndupur Iron/Manganese Mines of M/s. National Enterprises and Oraghat Mines of M/s. Rungta Sons (P) Ltd.

50 Deputy Director of Mines.

Under MC Rules, in case of belated payment of mining dues simple interest at the rate of 24 *per cent* per annum is chargeable from the sixtieth day of the expiry of the due date till the default continues.

7.3.1 Test check of the records of Jajpur Road Mining Circle, revealed in September 2004 that M/s. Tata Iron & Steel Company Limited (TISCO Ltd.), a lessee applied for second renewal before expiry of a mining lease (i.e. 11 January 1993) over an area of 1,261.476 hectares for chromite ore in Sukinda. Government renewed only 406 hectares and took away the possession of 855.476 hectares in October 1996 from the lessee and handed over the possession to M/s. Orissa Mining Corporation Limited (OMC Ltd.) as custodian. Subsequently Government leased out 89 hectares out of 855.476 hectares to M/s. Jindal Strips Ltd. in August 2001. DDM, Jajpur Road reported in September 2001 that M/s. TISCO Ltd. extracted 2,80,933 MT of beneficiable low grade chromite ore in the area of 89 hectares between October 1996 and May 2000 illegally as it was beyond the mining area renewed in favour of M/s. TISCO Ltd. The Company did not furnish any accounts for the said quantity. Government of Orissa, Department of Steel & Mines in their order of November 2003 decided to hand over 1,88,550 MT of ore to M/s. TISCO on payment of two times of royalty treating M/s. TISCO Ltd as lessee. The Government order to levy two times of royalty was not in consonance with the provisions of the Act ibid. The Department realised Rs.1.47 crore towards two times of royalty on 1,88,550 MT of ore instead of realising cost of ore and royalty. This resulted in loss of revenue of Rs.16.29 crore.

Government would sustain further loss of revenue towards interest at the rate of 24 *per cent* per annum for delay in raising demand.

The Department also detected in November 1999 unauthorised extraction of 63,168 MT of medium grade and 3,640 MT of below low grade chromite ore beyond the area covered in renewal of mining lease of M/s TISCO Ltd. but did not take any step to raise demand and realise Rs.9.36 crore towards the cost of ore and royalty from the lessee for illegal extraction.

Government would sustain further loss of revenue towards interest at the rate of 24 *per cent* per annum for delay in raising demand.

7.3.2 Government also proposed to dispose of the balance quantity of 92,383 MT of ore valued Rs.8.34 crore out of 2,80,933 MT of beneficiable low grade chromite ore through public auction or to deliver the material to OMC or to M/s. TISCO on payment of value of the material. The upset price of chromite was submitted to the DM[51] in February 2004 but returned to the DDM, Jajpur Road in April 2004 with the direction to revise the upset price. As the upset price was not approved, the material had not been disposed of even after a lapse of three years. This resulted in non realisation of revenue of Rs.8.34 crore worked out on the basis of cost price and royalty.

The matter was brought to the notice of the Department/Government in February 2005; reply had not been received (October 2005).

51 Director of Mines.

7.4 Loss of revenue due to revocation of grant order by State Government

Under the provisions of MC Rules, an application for renewal of mining lease shall be made to the State Government 12 months before the expiry of the lease. Mining lease deed shall be executed within six months of the grant order or within such further period as the State Government may allow and if no such lease deed is executed within the said period due to any default on the part of the applicant, the State Government may revoke the order granting the lease. Further under the provisions of the MM(DR) Act, whenever any person raises without any lawful authority any mineral from any land, the Government may recover from such person the mineral so raised or where such mineral has already been disposed of, the price and royalty thereof be realised.

Test check of records of DDM, Rourkela in February 2005 revealed that the State Government renewed a mining lease in January 2001 in favour of M/s. Hindustan Zinc Ltd. for a period of 20 years from 26 November 1994. The lessee did not execute the lease deed within the stipulated period but applied for surrender of the lease area in April 2002. The State Government revoked the renewal of lease order in December 2003. The lessee extracted 2,542 MT of concentrate lead and 3.968.250 kgs of silver between January 2001 and December 2002. Non execution of lease deed and consequent revocation of renewal order made extraction of ore unlawful and illegal. Thus the lessee was liable to pay cost of ore in addition to royalty for ores extracted between January 2001 and December 2003. The State Government took over the possession of the leased area in June and July 2004 without effecting recovery of Rs.6.23 crore towards cost of above minerals.

After this was pointed out in audit in February 2005 the DDM, Rourkela stated in February 2005 that the lessee despatched the ore on payment of usual royalty before receipt of the revocation order. The reply was not tenable as failure to execute the lease deed led to revocation of the grant order. As such production of ore and their despatch from mine was illegal for which the lessee was liable to pay the cost of the ore in addition to royalty. Non recovery of cost of ore before taking over possession led to loss of revenue of Rs.6.23 crore.

The matter was reported to DM and Government in March 2005. Government stated in August 2005 that the lessee was allowed removal as per conditions of lease as the lessee was working under provision of Rule 24-A (1) and royalty was realised. There is no provision in M&M (D&R) Act, 1957 or MC Rules 1960 to handle such situation. The reply is not tenable since as per the admission of the Department there exists no provision in M&M (D&R) Act or MC Rules to handle such situation which is a failure in the system itself.

7.5 Unauthorised extraction/removal of iron ore

The MM (DR) Act, provides that no person shall undertake any mining operation in any area, except under and in accordance with the terms and conditions of mining lease. Whenever any person raises without any lawful authority, any mineral from any land, the Government may recover from such person the price of mineral so raised, or where such mineral has already been disposed of, the price thereof and royalty may be realised. Under MC Rules if an application for renewal of a mining lease is not disposed of by the State Government before the date of expiry of the lease, the period of that lease shall be deemed to have been extended by a further period till the State Government passes order thereon. As per Forest Conservation Act (FC Act) 1980, non forest activities such as mining operation in forest area cannot be undertaken without prior approval of the Central Government, even in case of renewal of mining lease.

Scrutiny of records of Koira Mining Circle under the jurisdiction of DDM, Koira revealed in December 2004 that a mining lease for iron ore over an area of 90.143 hectares expired on 26 August 2001. The lessee applied for renewal of mining lease on 27 July 2000 and continued mining operation under deemed extension[52]. DFO, Sundergarh, however, directed the lessee (25 August 2001) not to undertake mining operation in forest broken land[53] without forest clearance from Central Government. The lessee continued mining operation and extracted 1,86,750[54] MT of different grades of iron ore illegally from 1 September 2001 to 31 October 2004 and kept 13,963.660 MT of iron ore in stock as on 31 October 2004. Thus the lessee was liable to pay Rs.5.09 crore towards cost of ore and Rs.2.25 lakh towards royalty on the closing stock respectively for such illegal mining. DDM neither raised any demand nor took any action to stop the illegal operation.

After this was pointed out in December 2004, the DDM, Koira stated that the dereservation proposal submitted by the lessee in November 1988 was sent to DFO in March 1989 and finally on 22 August 2003 after rectification and the lessee worked under deemed extension. The reply was not tenable as the lessee operated the mines illegally in the forest broken land. After coming into force of FC Act, without the prior approval of the Central Government, no part of the forest land could be used for any mining purpose. Therefore, the assessing officer should have raised demand as soon as illegal extraction was noticed.

The matter was brought to the notice of the Department and Government in February 2005; reply had not been received (October 2005).

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52 **Working of mine pending disposal of renewal application by State Government.**

53 **Breaking or clearing of forest land for mining purpose.**

54 **This production does not include the production of 25,576 MT of fines as the rate of PMV was not available with the Department.**

7.6 Non levy of interest on delayed payment of mining dues

Under the MC Rules, as amended from time to time, in case of belated payment of dead rent, royalty or other mining dues, simple interest at the prescribed rate[55] for the amount in default is chargeable from sixtieth day of the expiry of the due date for the period of default.

Test check of records of five mining circles[56] revealed between June 2004 and January 2005 that interest amounting to Rs.41.57 lakh on belated payment of dead rent and royalty in nine cases from 1999-2000 to 2003-04 was not levied.

After this was pointed out in audit between June 2004 and January 2005 all the mining authorities except DDM, Talcher agreed between June 2004 and December 2004 to raise the demand. The DDM, Talcher did not give any specific reply. However, DM stated in April 2005 that Rs.3.30 lakh was realised in three cases in respect of Mining Officers, Baripada and Bhawanipatna.

The matter was brought to the notice of the Department/Government in March 2005; reply had not been received (October 2005).

7.7 Short realisation of royalty on manganese ore

As per provisions of the MM (DR) Act, read with Government of India (GOI), Ministry of Mines in their notification of September 2000, royalty on manganese ore and concentrate was fixed at three *per cent* and one *per cent* respectively of sale price on advalorem basis. GOI, Ministry of Mines issued guidelines in April 2003 according to which the State Government shall add 20 *per cent* to benchmark value published by the Indian Bureau of Mines for individual mineral for reckoning the sale price for computation of royalty. As per Government of Orissa, Mining and Geology Department notification of August 1974, the Mining Officer shall make quarterly verification of returns furnished by the lessees and shall raise demand for differential royalty, if any, as soon as possible after expiry of each quarter.

Test check of records of Koira Mining Circle revealed in December 2004 that the lessee M/s. TISCO Ltd. paid royalty amounting to Rs.16.47 lakh for the period 2003-04 at the prerevised flat rate on his self assessment instead of Rs.39.21 lakh worked out on the basis of royalty on benchmark value as per the guidelines of GOI. The assessing officer did not check the returns properly and made incorrect assessment of royalty which led to short realisation of royalty of Rs. 22.74 lakh.

After this was pointed out in audit in December 2004 the DDM agreed in December 2004 to assess royalty as per audit observation.

The matter was brought to the notice of the Department/Government in March 2005; reply had not been received (October 2005).

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55 **15% w.e.f 2 October 1982 and 24% w.e.f 1 April 1991.**

56 **Bhawanipatna, Baripada, Koira, Koraput and Talcher.**

CHAPTER-VIII: OTHER DEPARTMENTAL RECEIPTS

8.1 Results of Audit

Test check of assessment and other connected documents pertaining to departmental receipts in the Department of Food Supplies & Consumer Welfare, Co-operation, Energy, General Administration, Steel & Mines and Health & Family Welfare Department during 2004-05 revealed non realisation of revenue, non/short levy of duties/fees etc of Rs.459.31 crore in 18,11,017 cases which may broadly be categorised as under:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Review on Interest Receipts	1	411.92
2.	Non realisation of revenue	3,66,687	14.43
3.	Non/short levy of revenue	14,44,259	20.84
4.	Other irregularities	70	12.12
Total		**18,11,017**	**459.31**

During the year 2004-05, the Departments accepted non/short levy of revenue, non realisation of revenue etc. of Rs.14.72 crore in 17,00,057 cases pointed out in 2004-05 of which Rs.42.65 lakh was realised in two cases.

A few illustrative cases highlighting important audit observations involving Rs.11.77 crore and findings of a review **"Interest Receipts"** involving Rs.411.92 crore are discussed in the following paragraphs.

8.2 Review on "Interest Receipts"

Highlights:

- **Sanction of interest free loans resulted in loss of interest of Rs.11.47 crore.**

(Para-8.2.8)

- **Non levy of interest of Rs.8.44 crore and short levy of Rs.72.92 crore due to computation error.**

(Para-8.2.9)

- **Interest of Rs.35.54 crore on ways and means advance and Rs.215.53 crore on other loans remained unrealised from the loanees.**

(Para-8.2.10)

- **Loss of Rs.56.81 crore towards interest due to delay in disbursement of loan out of funds received from GOI.**

(Para-8.2.11)

- **Loss of interest amounting to Rs.2.74 crore due to improper adjustment of repayment.**

(Para-8.2.12)

- **Sanction of loans without finalisation of terms and conditions resulted in non levy/realisation of interest of *Rs.*8.45 crore.**

(Para-8.2.13)

Introduction

8.2.1 Interest receipt is one of the major sources of non tax revenue of the State. Government in pursuance of its policies for achievement of various objectives, grants loans and advances to local bodies, public sector undertakings (PSUs), co-operative institutions and individuals including Government employees. Loans and advances sanctioned usually carry different rates of interest fixed by the sanctioning authorities keeping in view the purpose of the loan/advance. These are required to be repaid within the stipulated period in periodical instalments along with interest. The terms and conditions such as periodicity of instalments, rate of interest, the mode and manner of repayment of principal and interest are specified in the sanction orders of loan. In case of default in repayment, penal interest is leviable.

Detailed guidelines were issued by the Finance Department (FD) in January 1995 and August 1997 regarding monitoring of loans and advances, timely

repayment of principal and interest thereon, maintenance of loan ledgers etc. Under Chapter 13 of Orissa General Financial Rules (OGFR) Vol-I, system/procedure for sanction of loan, recovery of loans and advances, interest payment and control mechanism for watching timely repayment of principal and interest etc. have been prescribed.

Audit Objectives

8.2.2 The review was conducted with a view:

- to examine the extent of revenue loss due to short/non levy of interest on loans;
- to evaluate the position in raising demand and collection of dues;
- to assess the effectiveness of internal control mechanism and maintenance of records.

Organisational set up

8.2.3 Loans are sanctioned by the administrative departments and ways and means advances[57] are sanctioned by Finance Department (FD) on the recommendation of the administrative departments. Recoveries of loans and advances along with interest are watched by the heads of the departments concerned, according to the instructions of the Government.

Scope of Audit

8.2.4 Mention was made in para 8.2 of report of CAG of India for the year 1996-97 regarding non compliance to the provisions of OGFR and FD circulars issued from time to time on the loan policy on realisation of interest in respect of loans and advances sanctioned by the State Government. In order to ascertain the extent of compliance with the provisions of the Act, Rules and loan policy, a review on "Interest Receipts" for the period from 1999-2000 to 2003-04 was conducted between May 2004 and April 2005 in nine[58] out of 25 loan sanctioning Departments with reference to the loan records maintained by them. Important points noticed in course of review are brought out in the succeeding paragraphs.

Audit findings as a result of test check were reported to the Government/Department in May 2005 with the request for attending Audit Review Committee (ARC) so that the views of Government/Department could be taken into account before finalising the review. The ARC meeting held on 13 July 2005 was attended by Special Secretary, Finance Department,

57 **Ways and means advances means advances for short term to be repaid in same financial year.**

58 **Agriculture, Energy, Finance, Food Supplies & Consumer Welfare, Industry, Handloom & Textiles, S.C & S.T. Development, Steel & Mines and Housing & Urban Development Departments**

Government of Orissa. The review has been finalised taking into account the Department/Government's views that emerged during the ARC.

Trend of Interest receipts

8.2.5 As per the provisions of the Orissa Budget Manual, estimates of revenue receipts should show the amount expected to the realised for the year. Calculation should be based upon the actual demand including any arrear for past years and the probability of their realisation during the year. The Controlling Officers of the administrative departments are required to submit departmental estimate of revenue to the Finance Department. The budget estimates (BEs) and actual collection of interest receipt during the period from 1999-2000 to 2003-04 were as under:

(Rupees in crore)

Year	Budget Estimate	Actuals	Variation Excess (+) Short (-)	Percentage of variation
(1)	*(2)*	*(3)*	*(4)*	*(5)*
1999-2000	20.00	19.46	(-) 0.54	(-) 2.70
2000-2001	25.00	13.09	(-) 11.91	(-) 47.63
2001-2002	20.00	25.27	(+) 5.27	26.35
2002-2003	45.00	76.09	(+) 31.09	69.08
2003-2004	33.00	164.38	(+) 131.38	398.12
TOTAL	**143.00**	**298.29**	**(+) 155.29**	**108.59**

It would be seen that the variation between BEs and actuals ranged from minus 2.70 to 398.12 *per cent*. Actual realisation in the year 2002-03 was not taken as an indicator for preparation of budget estimate for the year 2003-04. The Finance Department stated in May 2005 that due to continuous loss, sickness and closure of unviable borrowing organisations, the budget targets could not be achieved. The reply was not tenable in view of specific requirement of realistic assessment of ability of loanee to repay before the loans are sanctioned in terms of guidelines issued in August 1997. The increase in interest receipts during 2002-03 and 2003-04 was stated to be due to lumpsum payment of Rs.50.68 crore by Grid Corporation of Orissa Limited (GRIDCO) in 2002-03 and Rs.145 crore by GRIDCO and Orissa Mining Corporation (OMC) in 2003-04.

It was further noticed that BEs were not prepared as per the provisions of Orissa Budget Manual. The budget estimates were prepared by the FD by taking actuals of the last three years and anticipated receipts for the year. The controlling officers of the Department did not prepare and submit the budget to the Finance Department.

Outstanding Loans

8.2.6 As per Finance Department Memorandum of August 1997, FD is required to monitor the loans to ensure timely recovery. Even after a lapse of seven years, FD is not in a position to furnish the departmentwise outstanding

position of loan (Rs.3,831.38 crore) and interest accrued thereon. However, as per Finance Accounts of the Government, outstanding loan position of the State during the last five years was as under:

(Rupees in crore)

Year	Opening balance	Loans and advances sanctioned	Total	Amount repaid	Percentage of repayment	Balance
(1)	*(2)*	*(3)*	*(4)*	*(5)*	*(6)*	*(7)*
1999-00	1,186.47	476.04	1,662.51	102.81	6.18	1,559.70
2000-01	1,559.70	635.79	2,195.49	76.58	3.49	2,118.91
2001-02	2,118.91	379.15	2,498.06	131.66	5.27	2,366.40
2002-03	2,366.40	343.23	2,709.63	177.19	6.54	2,532.44
2003-04	2,532.44	1,572.01	4,104.45	273.07	6.65	3,831.38
Total	1,186.47	3,406.22	4,592.69	761.31	16.58	3,831.38

The total arrear loan under different heads pertaining to all Departments went up by 223 *per cent* during last five years and stood at Rs.3,831.38 crore as on 31 March 2004. Although the FD is entrusted with the responsibility of monitoring the loans, information regarding the amount of overdue principal and interest accrued thereon, as well as Department/loanee wise outstanding position of the loans was not available with the Department.

◎ Test check of records of nine Departments[59] in April 2005 revealed that no Department except FD maintained loan ledger as a result of which details of sanction order number, amount of loan sanctioned, rate/penal rate of interest, period of repayment/moratorium period, amount due, collection and balance could not be ascertained in audit. The administrative departments failed to monitor levy and collection of instalments of repayments towards principal and interest due to non maintenance of loan ledger and other details of loan.

Outstanding Interest

8.2.7 In contravention of the guidelines issued by FD in January 1995, seven out of nine Departments test checked did not maintain year wise position of outstanding interest. Only two to five out of 25 loan sanctioning Departments furnished annual statements of loans and interest to FD during the period under review as under:

Year	No. of loan sanctioning departments	No. of departments which did not furnish the statement
1999-00	25	25
2000-01	25	20
2001-02	25	23
2002-03	25	23
2003-04	25	20

As the FD could not work out department/year wise outstanding position of loans and the interest accrued thereon, the actual position of loan and interest

59 Agriculture, Energy, Finance, Food Supply & Consumer Welfare , Industry, Handloom & Textiles., ST & SC Development , Steel & Mines and Housing & Urban Development Departments.

could not be reflected in the Finance Accounts. As there was no maintenance of the required records by six Departments, total interest outstanding in a particular year could not be ascertained. However, the position of outstanding interest in respect of six[60] out of nine Departments test checked was worked out in audit on the basis of progress reports, sanction order statements and cumulative balances as detailed below in the table:

(Rupees in Crore)

Name of the Department	Outstanding interest						
	Up to 31.03.99	1999-00	2000-01	2001-02	2002-03	2003-04	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Agriculture	41.66	5.00	5.16	5.19	5.17	5.19	67.37
Energy	111.61	86.28	102.60	186.57	251.28	299.53	1,037.87
Steel and Mines	-	-	-	-	0.55	3.99	4.54
Textile & Handloom	7.61	1.29	0.57	1.16	1.50	2.90	15.03
SC & ST	1.16	1.88	1.88	1.89	1.90	1.90	10.61
Industry	15.33	7.49	6.24	5.44	3.56	0.36	38.42
Total							**1,173.84**

Sanction of interest free loans resulting in loss of interest

8.2.8 Orissa General Financial Rules and loan policy of the Government of Orissa does not provide for sanction of interest free loan to any organisation for any purpose.

Test check of records in two[61] departments revealed that during 1999-2000 to 2003-04 interest free loan of Rs.57.74 crore was sanctioned and paid to 30 organisations for different purposes. The loans were recoverable in three to 12 annual instalments. This resulted in loss of Rs.11.47 crore towards interest as of 31 March 2004 computed on the basis of lowest rate of interest charged by State Government on loans.

After this was pointed out, Finance Department accepted in June 2004 the audit observation regarding non existence of codified guidelines to grant interest free loans and stated that in view of the financial incapability of the sick PSUs for repayment of the guaranteed loans, Government settled the cases by granting interest free loans. The reply was not tenable as sanction of interest free loan was not covered under the loan policy of the Government.

60 **Finance Department has maintained the year wise position.**

Food Supply and Consumer Welfare Department has no outstanding loan/interest.

61 **Finance and Industries**

Non/short levy of interest

8.2.9 As per the provisions contained in FD circular of August 1997, the loan sanctioning authority is required to maintain loan register in a prescribed format and take timely action for recovery of loan and interest by way of issue of demand notices. In case the loanee fails to discharge the liability in time, suitable legal action should be initiated immediately. The circular also provides for realistic assessment of the ability of the loanee before the loans are sanctioned.

- Test check of records of Energy Department revealed in February 2005 that while raising demand against OHPC[62] in March 2004 for the years 2002-03 and 2003-04, the Department incorrectly computed the interest as Rs.73.05 crore on the loan of Rs.570.36 crore against Rs.145.97 crore at the prescribed rates ranging between 9.8 and 13.5 *per cent*. This resulted in short levy of interest of Rs.72.92 crore. Besides, interest of Rs.497.51 crore demanded as of March 2004 also remained unrealised (October 2005).

After this was pointed out in February 2005, the Department admitted the error and agreed to revise the demand.

- Test check of records of Schedule Tribe and Schedule Caste (ST & SC) Development Department revealed that loan of Rs.10.23 crore was sanctioned in March 1999 in favour of Tribal Development Co-operative Corporation (TDCC) Ltd. for repayment of their outstanding loan with State Bank of India. The loan was recoverable 12 yearly instalments with 15 *per cent* interest. Though the instalments of principal and interest were due for repayment with effect from January 2001, the Corporation did not pay the dues as of March 2004. The Department did not raise demand of Rs.12.70 crore towards principal (Rs. 4.26 crore) and interest (Rs.8.44 crore) as of March 2004.

After this was pointed out in March 2005, the Department stated in April 2005 that demand for principal and interest was not raised due to poor financial position of the TDCC and on the request of the Corporation, a proposal for sanction of fresh grant to square up the loan liability was sent to FD. The reply is not tenable in view of the conditions prescribed for recovery of loan.

Non realisation of interest

8.2.10 The Government of Orissa vide Office Memorandum of October 1975 decided that ways and means advance may be given to the deserving Government Companies, Corporations and Undertakings subject to availability of funds and terms and conditions specified therein. The advance is required to be recovered within the financial year in which it was paid. In

62 Orissa Hydro Power Corporation

case of default by the loanee in respect of the loan and/or payment of interest such amount shall be realised as arrears of land revenue.

Test check of records in FD revealed that ways and means advance of Rs.58.22 crore were sanctioned to seven organisations[63] between June 1999 and January 2003 carrying interest at the rate of 18 *per cent* including penal interest of three *per cent*. Three organisations[64] repaid principal amounting to Rs.10.65 crore (against Rs.13.30 crore) and did not pay interest. However, the Department did not take any action to recover the entire dues while releasing fresh grant/assistance. This resulted in non realisation of loan of Rs. 47.57 crore and interest of 35.54 crore as of March 2004.

After this was pointed out in May 2004, the FD agreed in April 2005 to recover the outstanding dues from loanees at the time of release of budgetary provisions.

- Under the provision of FD circular of August 1997, administrative department shall take timely action for recovery of loans and interest by way of issue of demand notice. As per para 209(2) of OGFR Vol-I and FD circular of September 1993, in the event of default in repayment of principal or interest a penal rate of interest over and above the normal rates is leviable on the borrowing organisation as specified in the sanction order. In case, the loanee fails to discharge the liability in time, legal action should be initiated immediately. Further, the Government vide notification of January 2003 decided that (i) moratorium on debt servicing by GRIDCO and OHPC to State Government would be allowed from the financial year 2001-02 till 2005-06 except the amount in respect of loan from World Bank to the extent the State government is required to pay to the Government of India (GOI), (ii) World Bank loan would be passed on by the State Government to GRIDCO and DISTCOS at 70 *per cent* loan at the rate of 13 *per cent* interest per annum and 30 *per cent* would be grant (iii) GRIDCO should take prompt and effective action for payment of interest towards World Bank loan. In case of default, this should be adjusted out of the release to GRIDCO.

Test check of records of Energy Department revealed that loans of Rs.915.05 crore were granted to five organisations[65] between 1999-2000 and 2003-04 for Power Sector Reform Project Work. The loans were recoverable in 10 annual instalments after moratorium of five years with 13 *per cent* interest. In the event of default in payment of instalments, penal interest of 3.5 *per cent* over and above the normal rate was also leviable. Though the Department raised demand for repayment of loan/interest, the loanee organisations did not repay the dues. No further action to recover the dues was taken by the Department. This resulted in non realisation of interest of Rs.157.83 crore being interest on 70 *per cent* of the World Bank loan payable by the State Government to GOI

63 **Orissa State Co-operative and Rural Development Bank, Co-operative Sugar Industry, Nayagarh, Industrial Development Corporation, Orissa Textile Mill, Sarala Weaver Co-operative Spinning Mill, Aska Spinning Mill and Kali Co Spin.**

64 **Co-operative Sugar Industry, Nayagarh, Industrial Development\Corporation, Calico Spin.**

65 **GRIDCO, CESCO, NESCO, WESCO, SOUTHCO**

157.83
57.70
215.53

in terms of notification of January 2003 *ibid*, besides penal interest of Rs.57.70 crore was also payable for default in payment of the dues.

After this was pointed out, the Department while agreeing to levy the penal interest stated in June 2004 that as per Government Notification of January 2003 moratorium on debt serving was extended to the loanee organisations up to 2005-06. The reply was not tenable as the extended moratorium period was not applicable in case of World Bank loans.

Loss due to delay in disbursement of loan

8.2.11 GOI releases funds for various purposes to the State Government with the condition to disburse the same to the implementing agencies within seven days of release by GOI.

Test check of records of three Departments[66] revealed that out of Rs.924.51 crore released by GOI during 1999-00 to 2003-04 only Rs.922.60 crore was disbursed to the implementing agencies.[67] As the loans released by GOI carry interest ranging between 10.5 *per cent* and 13 *per cent*, the delay in disbursement resulted in loss of interest of Rs.56.81 crore.

After this was pointed out, the administrative departments stated that the delay occurred due to the time taken for obtaining concurrence of FD, unfavourable ways and means position of the State, delay in making budget provisions as well as execution of agreement with the borrowing organisations. The reply was not tenable as delay in releasing the fund beyond seven days contravenes the condition of GOI sanction order. FD may devise a system to release the funds within seven days of their release by GOI.

Loss of revenue due to irregular adjustment of principal against the repayments

8.2.12 As per provision contained in Rule 205(V) of OGFR Vol.-I, unless otherwise specifically stipulated, interest shall be the first charge on repayment.

Test check of records in FD revealed that two[68] implementing agencies repaid Rs.20 crore between April 1999 and January 2000. However, while posting these credits in the loan ledger the FD incorrectly adjusted the amount towards principal instead of crediting into interest account first as required under the provisions of OGFR. Incorrect adjustment of this amount resulted in loss of interest of Rs.2.74 crore.

66 Energy, Housing & Urban Development and Food Supply and Consumer Welfare Department.

67 GRIDCO, CESCO, NESCO, SOUTHCO, WESCO, OSCSC and Urban Local Bodies.

68 Industrial Development Corporation (IDC) & Orissa Hydro Power Corporation (OHPC)

After this was pointed out in May 2004, the Department stated in April 2005 that due to unsound financial position of the PSUs, the amount paid by the units was adjusted towards repayment of principal. The reply is not tenable as adjustment of repayment towards principal before adjustment of interest was against the codal provisions.

Non finalisation of terms and conditions

8.2.13 As per provision contained in Rule 205 and 207 of OGFR Vol-I, no loan shall be sanctioned before the loanee furnishes a written undertaking of acceptance of the terms and conditions. Further, para 5 of the FD circular of August 1997 stipulates that the sanctioning authority shall not draw the loan until a bond in the specified proforma is received from the loanee.

Energy Department sanctioned loan of Rs. 15 crore to GRIDCO between November 1999 and January 2000 from Calamity Relief Fund for repair and restoration of power supply in the cyclone affected areas without furnishing of requisite bond and finalisation of terms and conditions. Disbursement of loan without completing the requisite formalities/terms and conditions resulted in non realisation of interest of Rs.8.45 crore as of March 2004 worked out at the rate of 13 *per cent* per annum applicable to similar loan.

After this was pointed out, the Department stated in April 2005 that the terms and conditions could not be finalised due to pending decision to convert the loan into grant. The reply is not tenable in view of circular of FD of August 1997 and provision of OGFR.

Non levy of penal interest

8.2.14 As per Para 209 (2) of OGFR Vol. I and FD circular of September 1993, in the event of default in the repayment of principal or interest a penal rate of interest over and above the normal rates is leviable on the borrowing organisations as specified in the sanction order.

Test check of records revealed that Industry Department sanctioned two loans to two organisations[69] between March 2001 and March 2002 for various purposes. The loans are repayable in four to nine years including moratorium period of one year with 13 to 15 *per cent* normal rate of interest. In the case of default in payment, penal interest at the rate of 1.5 *per cent* was leviable over and above the normal rates. Though the organisations did not repay the instalments, penal interest of Rs.1.92 lakh was not levied as of March 2004.

After this was pointed out, the Department agreed to levy penal interest against the defaulting organisations.

69 M/s. Orissa State Financial Corporation and M/s. Orissa Small Industries Corporation.

Recommendations

8.2.15 The absence of well-devised control system and lack of coordination between the Finance Department and administrative departments, and improper maintenance of records led to non levy, short realisation, loss of interest and non realisation of interest of Rs.411.92 crore. Despite adverse impact of such loss on the ways and means position, Finance Department made no concrete efforts to enforce the provisions of loan policy and Acts/Rules to realise the overdue principal and interest. Government was not in a position to initiate timely action for their realisation. However, the State Government may consider the following to improve effectiveness of the system.

- ensure maintenance of basic records like loan ledger and DCB register etc.,
- ensure submission of periodical returns etc. and monitoring at FD/ Government level to watch repayment of loans/interest.

8.3 Non levy of inspection fees

Government of Orissa, Department of Energy vide notification of December 2001 revised the fees for testing and inspection of installations effective from 29 March 2002. As per the notification, distribution companies are required to collect inspection fees from domestic and commercial service connections and deposit the same with the Government.

Test check of records of three[70] Electrical Inspectors (EI), revealed in February 2005 that no demand for collection of inspection fees of Rs. 5.87 crore for the years 2002-03 and 2003-04 was raised against three distribution companies. As a result, there was non levy of inspection fees of Rs.5.87 crore.

The matter was reported to Chief Electrical Inspector (CEI)/Government in March 2005. CEI stated in July 2005 that demand towards inspection fees was raised. Final reply on realisation had not been received (October 2005).

8.4 Loss of revenue due to short levy of inspection fees

Indian Electricity Rules (IER) 1956, provide that when an installation is already connected to the supply system of the supplier, every such installation shall be periodically inspected and tested either by inspector or by the supplier as may be directed by the State Government. The rate of fees payable for the categories of installation which are subject to inspection periodically was notified by Energy Department in September 1991 and revised in December 2001, effective from 29 March 2002.

Test check of records of Deputy Electrical Inspector (Dy. EI), Angul and Damanjodi in February 2005 revealed that Dy. EI, Angul levied inspection fees for the years 2002-03 and 2003-04 at the pre revised rate instead of revised rate for substations of distribution companies. This resulted in short levy of inspection fees of Rs.1.95 crore. The Dy. EI, Damanjodi did not include charges for service connection of Rs.39 lakh while raising demand for inspection fees. As a result, Government sustained loss of revenue of Rs.2.34 crore towards inspection fees.

The matter was reported to CEI/Government in March 2005; CEI in June 2005 agreed to raise demand at revised rate.

70 **Balasore, Berhampur & Bhubaneswar.**

8.5 Non levy of electricity duty

Under the Orissa Electricity Duty (OED) Act, 1961 and Rules made thereunder, electricity duty (ED) shall be levied and is payable to Government on the energy consumed by a person who generates such energy for his own consumption.

Scrutiny of records of Superintending Engineer (SE)/Projects Generation Circle, Keonjhar revealed in September 2004 that M/s. Konark Met Coke Limited (KMCL) and M/s. Orissa Sponge Iron Limited (OSIL) generated and consumed 6.19 crore and 3.13 crore units of electricity during the period between April 2003 and March 2004. No demand for Rs. 1.86 crore towards ED was raised. This resulted in non realisation of revenue of Rs. 1.86 crore.

After this was pointed out in audit in September 2004, SE Projects agreed to realise the dues from M/s. OSIL and to initiate a certificate case for recovery of arrears from KMCL.

The matter was reported to Government in October 2004; reply had not been received (October 2005).

8.6 Non/short realisation of electricity duty

Under the provisions of OED Act, as amended from time to time and Rules made thereunder, ED shall be collected from the consumer and paid to Government. The Act further envisage that where such ED collected by licensee from the consumer was not paid to Government within 30 days of expiry of month in which the duty is collected, such licensee shall be liable to pay interest at the rate of 18 *per cent* per annum. Further, under clause 95 of Orissa Electricity Regulatory Commission (OERC) (Condition of Supply) Code, 1998 the amount paid by the consumer shall be first adjusted towards ED and in case of part payment by the consumer, the proportionate share of duty from the total collection shall be adjusted first. The Government raised the rate of ED from 12 paise to 20 paise per unit with effect from October 2001.

- Test check of records of EI, Balasore in February 2005 revealed that a consumer, M/s. Ispat Alloys paid Rs.15.89 crore to the licensee towards energy charges and electricity duty for the period from January 2004 to March 2004. The licensee, North Eastern Electricity Supply Co. (NESCO) however, adjusted the entire amount of Rs.15.89 crore against energy charges instead of remitting Rs.59.51 lakh to Government account towards ED. No demand was raised to realise ED of Rs.59.51 lakh from the licensee. Besides interest of Rs.2.52 lakh leviable for belated payment as of March 2004 was not levied. This resulted in non realisation of Government revenue of Rs.62.03 lakh towards ED and interest.

After this was pointed out in audit in February 2005, the EI, Balasore stated in June 2005 that the licensee NESCO agreed for payment of electricity duty and an amount of Rs.32 lakh deposited towards arrear ED.

The matter was referred to Government in March 2005; reply had not been received (October 2005).

- Test check of records of SE (Project), Generation Circle, Keonjhar in September 2004 revealed that ED of Rs.57.90 lakh was realised from an industrial consumer at the rate of 12 paise per unit for consumption of 6.63 crore units of energy between June 2003 and March 2004 as against Rs.132.67 lakh at the revised rate of 20 paise per unit. The unit was availing exemption prior to 11 June 2003. This resulted in short realisation of Rs.64.67 lakh towards ED. Further interest of Rs.3.03 lakh calculated as of March 2004 is also payable on the outstanding dues. No demand was raised for realisation of Rs.67.70 lakh towards ED including interest.

The matter was reported to the Department and Government in October 2004; reply had not been received (October 2005).

8.7 Loss of revenue due to irregular exemption of electricity duty

As per Industrial Policy, 1996 industrial units engaged in iron and steel processors including cutting sheets, bars, angles, coils, MS sheets, etc. are not eligible for exemption from payment of electricity duty.

Test check of records of Electrical Inspector (EI), Bhubaneswar revealed in February 2005 that M/s. Prinik Industries Private Limited engaged in manufacturing ingots from iron scrap in the process of cutting, melting and casting was allowed exemption from payment of ED of Rs.27.18 lakh for the period between 13 September 2001 and 31 March 2004. The unit being ineligible, grant of exemption from payment of ED was irregular which resulted in loss of revenue of Rs.27.18 lakh.

After this was pointed out in February 2005, the EI Bhubaneswar stated that exemption was granted on the recommendations of District Industry Centre. The reply was not tenable as the EI allowed exemption to an ineligible unit without bringing it to the notice of the Industries Department.

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

8.8 Non realisation of audit fees

Section 62 of Orissa Co-operative Societies (OCS) Act 1962, read with Rule 57 of OCS Rules empowers the Auditor General of Co-operative Societies (AGCS) to cause audit of accounts of such societies which have been assisted

by State Government in any manner by one or more auditors authorised by him. The co-operative societies have to pay fees to the State Government towards cost of audit at the rate prescribed by AGCS with approval of the State Government.

Test check of records in the office of AGCS in January 2005 revealed that Orissa Milk Federation (OMFED) did not pay Rs.12.79 lakh towards audit fees for the years 2000-01 and 2001-02. Although a profit of Rs.15.58 lakh in 2001-02 was exhibited in Profit and Loss account of OMFED, yet audit fee remained unrealised from the Corporation.

After this was pointed out in audit in January 2005, the AGCS stated in June 2005 that OMFED paid Rs.5.82 lakh for the year 2000-01 in the month of March 2005.

The matter was reported to Government in January 2005. Government in July 2005 confirmed the fact of payment of audit fee for the year 2000-01. Realisation of audit fee for the year 2001-02 had not been intimated (October 2005).

Bhubaneswar
The 23 DEC 2005

(Nand Kishore)
Accountant General (CW & RA)
Orissa

Countersigned

New Delhi
The

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