

**Report of the  
Comptroller and Auditor General of India  
on  
Revenue Sector  
for the year ended 31 March 2014**

**Government of Jharkhand**

*Report No. 3 of the year 2014*

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## PREFACE

This Report is prepared for submission to the Governor of Jharkhand under Article 151 of the Constitution of India.

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

The cases mentioned in this Report are among those which came to notice in the course of test audit of accounts during the year 2013-14 as well as those which came to notice in earlier years but could not be reported in the previous Audit Reports; matter relating to the period subsequent to 2013-14 have also been included, wherever necessary.

The Audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

# OVERVIEW

## OVERVIEW

This Report contains 28 paragraphs including two performance audits and one long paragraph relating to non/short levy/loss of tax/duty having financial implication of ₹ 992.05 crore, out of which ₹ 830.09 crore is recoverable and remaining amount of ₹ 161.96 crore was avoidable notional loss to the Government. The audit observations of ₹ 530.66 crore including notional loss have been accepted by the Government/Departments. Some of the major findings are mentioned in the following paragraphs.

### I. General

The total receipts of the Government of Jharkhand for the year 2013-14 were ₹ 26,136.79 crore against ₹ 24,769.55 crore during 2012-13. The revenue raised by the State Government amounted to ₹ 13,132.50 crore comprising tax revenue of ₹ 9,379.79 crore and non-tax revenue of ₹ 3,752.71 crore. The receipts from the Government of India were ₹ 13,004.29 crore (State's share of divisible Union taxes: ₹ 8,939.32 crore and grants-in-aid: ₹ 4,064.97 crore). Thus, the State Government could raise only 50 *per cent* of the total revenue. Taxes on Sales, Trade etc. (₹ 7,305.08 crore) and Non-ferrous Mining and Metallurgical Industries (₹ 3,230.22 crore) were the major source of tax and non-tax revenue respectively during 2013-14.

(Paragraph 1.1)

The number of Inspection Reports (IRs) and audit observations issued upto December 2013, but not settled by June 2014, stood at 977 and 8,127 respectively involving ₹ 12,704.36 crore. In respect of 203 IRs, issued upto December 2013, even the first replies had not been received though these were required to be furnished within one month of the date of issue of the Report.

(Paragraph 1.6.1)

Test check of the records of 125 units relating to Taxes on Sales, Trade etc., State Excise, Land Revenue, Taxes on Vehicles, Stamps and Registration Fees, Taxes and Duties on Electricity and Mining Receipts conducted during 2013-14, revealed underassessment/short levy/loss of revenue aggregating ₹ 2,313.83 crore in 20,230 cases. During the course of the year, the concerned Departments accepted under-assessment and other deficiencies of ₹ 542.57 crore involved in 16,296 cases and effected recovery of ₹ 8.53 crore in 378 cases in 2013-14.

(Paragraph 1.10)

### II. Taxes on Sales, Trade etc.

A performance audit of “**Assessment, levy and collection of tax on works/supplies contracts**” revealed the following:

- The tax collection increased during 2008-09 to 2012-13 but the Department could have ensured more revenue collections by bringing more contractors under the tax net by utilising TDS details available in the assessment records to detect the unregistered contractors, by instituting a system of exchange of inter-departmental data, by conducting regular market surveys and by cross verification of data/records with other departments. We cross-verified the TDS details of various organisations and found tax

evasion of ₹ 12.57 crore from 21 unregistered works contractors during 2006-07 to 2012-13.

**(Paragraph 2.3.10)**

- Cross verification of the data collected from public works divisions, undertaking units, municipal bodies and the assessment records of big contractors with the assessment records of the 175 contractors/sub-contractors led to detection of suppression of turnover of ₹ 735.69 crore between 2006-07 and 2012-13 and consequent under assessment of tax of ₹ 257.87 crore including penalty/interest of ₹ 165.45 crore.

**(Paragraph 2.3.11)**

- Allowance of inadmissible exemptions from gross turnover by the assessing authorities in case of 72 contractors for the period 2006-07 to 2011-12 resulted in under assessment of tax of ₹ 28.86 crore.

**(Paragraph 2.3.13)**

- Incorrect determination of taxable turnover by ₹ 132.02 crore of six contractors for the period 2008-09 to 2010-11 resulted in under assessment of tax of ₹ 15.43 crore.

**(Paragraph 2.3.14)**

- Misutilisation of declaration Form 'C' by five contractors during the period 2007-08 to 2010-11 resulted in short levy of tax of ₹ 53.91 crore including penalty of ₹ 32.34 crore.

**(Paragraph 2.3.18)**

- Application of incorrect rate of tax by the assessing authorities in case of 48 contractors for the period 2006 -07 to 2010 -11 resulted in short levy of tax of ₹ 34.96 crore.

**(Paragraph 2.3.19)**

- Absence of a mechanism for monitoring of TDS collection and their remittances to the treasury resulted in non/short deposit of TDS of ₹ 3.02 crore including penalty of ₹ 1.51 crore by two contractors during 2009-10.

**(Paragraph 2.3.22.1)**

- Incorrect allowance of adjustment of TDS from the VAT payable by the assessing authorities in case of three contractors resulted in excess adjustment of TDS of ₹ 19.13 lakh for the period 2008-09 and 2009-10.

**(Paragraph 2.3.22.2)**

Irregularities in determination of sales/purchase turnover of 31 dealers registered in 14 Commercial Taxes Circles by the assessing authorities resulted in under assessment of tax and penalty of ₹ 196.46 crore during 2007-08 to 2010-11.

**(Paragraph 2.4.1)**

Incorrect determination of gross turnover of three dealers, registered in two Commercial Taxes Circles, by the assessing authorities resulted in under assessment of tax and penalty of ₹ 15.52 crore during 2008-09 to 2009-10.

**(Paragraph 2.4.2)**



In nine Commercial Taxes Circles, interest of ₹ 23.10 crore was not levied by the assessing authorities in case of 15 assesses during 2007-08 to 2010-11.

**(Paragraph 2.5)**

In Jamshedpur Commercial Taxes Circle, penalty of ₹ 6.64 crore was not levied by the assessing authority for misuse of declarations in Form 'C' by an assessee during 2007-08 to 2009-10.

**(Paragraph 2.6.1)**

In seven Commercial Taxes Circles, in case of 11 assesses, there was inadmissible allowance of Input Tax Credit of ₹ 1.06 crore by the assessing authorities during 2008-09 to 2010-11.

**(Paragraph 2.7)**

### **III. State Excise**

A performance audit of “Levy and collection of excise receipts in Jharkhand” revealed the following:

- In five excise districts, Government was deprived from revenue on account of non-settlement of 82 excise shops of ₹ 24.88 crore during 2011-12 to 2012-13.

**(Paragraph 3.3.8)**

- In three excise districts, interest of ₹ 57.79 lakh on account of delay in deposit of licence fee within stipulated period, though leviable, was not levied by the Department in case of 59 licensees of 140 retail excise shops during 2012-13.

**(Paragraph 3.3.9)**

- The Government was deprived of licence fee of ₹ 137.08 crore during 2009-10 to 2012-13 in 11 excise districts on account of undue exemption from payment of licence fee as provided in new excise policy.

**(Paragraph 3.3.10)**

- In five excise districts, licensees of 263 retail excise shops did not lift minimum guaranteed quota which resulted in non-realisation of excise duty of ₹ 2.00 crore.

**(Paragraph 3.3.11)**

- Delay in institution of certificate proceedings for recovery of arrears, resulted in non-realisation of interest of ₹ 20.12 lakh.

**(Paragraphs 3.3.17)**

### **IV. Taxes on Vehicles**

A long paragraph on “Deficiencies in VAHAN software” revealed the following:

- In eight Transport Offices, in case of 4,647 vehicles, tax of ₹ 2.30 crore was not realised due to acceptance of current tax without clearance of arrears for the period 2008-09 to 2012-13.

**(Paragraph 4.4.1)**

Tax and penalty of ₹ 18.75 crore due for the period between August 2010 and March 2014 from 4,868 vehicle owners pertaining to 16 Transport Offices was neither paid by the owners nor demanded by the Department.

**(Paragraph 4.5)**

In 14 Transport Offices, during 2011-12 to 2012-13, collecting banks remitted the tax revenue collected by them into the Government account after delay ranging between one and eleven months. But the interest of ₹ 9.20 crore payable on delayed remittance was not credited by the collecting banks.

**(Paragraph 4.6)**

In 16 Transport Offices, in case of 1,081 private vehicles whose tax validity expired between August 2008 and January 2014, one-time tax of ₹ 2.21 crore though leviable after expiry of tax validity, was not levied. Besides tax, penalty of ₹ 3.13 lakh was also leviable.

**(Paragraph 4.7)**

## **V. Other Tax Receipts**

### **Land Revenue**

GM *Khas/Kaishre Hind* land measuring 21.845 acres were transferred to Ministry of Railways by Giridih Additional Collector Office without payment of capitalised value of cess of ₹ 4.61 crore.

**(Paragraph 5.4)**

*Gair Mazarua Khas* land was settled with private educational institution without permission of the Government and without receipt of payment of ₹ 30.48 lakh towards *salami* and capitalised value of commercial rent.

**(Paragraph 5.6)**

### **Stamps and Registration Fees**

Absence of a mechanism of inter-departmental exchange of data/information resulted in non-registration of leases executed between 2010-11 and 2012-13 by Road Construction Division, Municipal Council, Circle office etc. and consequent non-levy of Stamp duty and Registration fees of ₹ 1.33 crore.

**(Paragraph 5.11)**

### **Taxes and Duties on Electricity**

Cross-verification of data collected from DVC with assessment records of three assesseees of two Commercial Taxes Circles revealed suppression of purchase of 9.90 crore units of electrical energy between 2004-05 and 2010-11 which resulted in non-levy of electricity duty and surcharge of ₹ 39.62 lakh besides penalty of ₹ 1.61 crore.

**(Paragraph 5.16)**

## **VI. Mining Receipts**

Application of incorrect rate of royalty by five District Mining Officers on dispatch of 47.31 lakh MT of bauxite, coal and iron ore during 2011-12 to 2012-13 in case of 40 lessees resulted in short levy of royalty of ₹ 18.77 crore.

**(Paragraph 6.4)**

Penalty of ₹ 4.21 crore for illegal mining of 3.03 lakh cu.m of minor minerals during the period 2011-12 and 2012-13 was non/short levied in two District Mining Offices.

**(Paragraph 6.6)**



**CHAPTER-I**  
**GENERAL**

## CHAPTER – I: GENERAL

### 1.1 Trend of receipts

**1.1.1** The tax and non-tax revenue raised by the Government of Jharkhand during 2013-14, the State's share of net proceeds of divisible Union taxes, duties assigned to States and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in **Table – 1.1.1**.

**Table – 1.1.1**  
**Trend of revenue receipts**

		(₹ in crore)				
Sl. No.		2009-10	2010-11	2011-12	2012-13	2013-14
	<b>Revenue raised by the State Government</b>					
1	• Tax revenue	4,500.12	5,716.63	6,953.89	8,223.67	9,379.79
	• Non-tax revenue	2,254.15	2,802.89	3,038.22	3,535.63	3,752.71
	<b>Total</b>	<b>6,754.27</b>	<b>8,519.52</b>	<b>9,992.11</b>	<b>11,759.30</b>	<b>13,132.50</b>
	<b>Receipts from the Government of India</b>					
2	• State's share of divisible Union taxes	5,547.57	6,154.35	7,169.93	8,188.05	8,939.32 <sup>1</sup>
	• Grants-in-aid	2,816.63	4,107.25	5,257.41	4,822.20	4,064.97
	<b>Total</b>	<b>8,364.20</b>	<b>10,261.60</b>	<b>12,427.34</b>	<b>13,010.25</b>	<b>13,004.29</b>
3	<b>Total receipts of the State Government (1 &amp; 2)</b>	<b>15,118.47</b>	<b>18,781.12</b>	<b>22,419.45</b>	<b>24,769.55</b>	<b>26,136.79</b>
4	<b>Percentage of 1 to 3</b>	<b>45</b>	<b>45</b>	<b>45</b>	<b>47</b>	<b>50</b>

Source: Finance Accounts of the Government of Jharkhand.

The above table indicates that during the year 2013-14, the revenue raised by the State Government (₹ 13,132.50 crore) was 50 *per cent* of the total revenue receipts. The balance 50 *per cent* of receipts during 2013-14 was from the Government of India.

<sup>1</sup> For details, please see Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government for the year 2013-14. Figures under the major heads 0020 - Corporation tax, 0021 - Taxes on income other than corporation tax, 0028 - Other taxes on income and expenditure (except Minor Head - 107- Taxes on Professions, Trades, Callings and Employments), 0032 - Taxes on wealth, 0044 - Service tax, 0037 - Customs, 0038 - Union excise duties and 0045 - Other taxes and duties on commodities and services- Minor Head - 901 - Share of net proceeds assigned to State booked in the Finance Accounts under "A-Tax revenue" have been excluded from the revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

**1.1.2** The details of tax revenue raised during the period 2009-10 to 2013-14 as given in **Table - 1.1.2**.

**Table – 1.1.2**  
**Details of Tax Revenue raised**

(₹ in crore)

Sl. No.	Head of revenue		2009-10	2010-11	2011-12	2012-13	2013-14	Percentage of increase (+) or decrease (-) in 2013-14 over 2012-13
1	Taxes on Sales, Trade etc.	BE	4,200.00	4,503.00	5,633.25	6,650.00	7,874.50	(+) 18.41
		Actual	3,597.20	4,473.43	5,522.02	6,421.61	7,305.08	(+) 13.76
2	State Excise	BE	500.00	525.00	445.00	650.00	700.00	(+) 7.69
		Actual	322.75	388.34	457.08	577.92	627.93	(+) 8.65
3	Stamps and Registration Fees	BE	274.94	302.50	450.00	490.00	568.00	(+) 15.92
		Actual	238.20	328.35	401.17	492.40	502.61	(+) 2.07
4	Taxes on Vehicles	BE	400.00	440.00	356.00	550.00	639.40	(+) 16.25
		Actual	234.21	312.37	391.92	465.36	494.79	(+) 6.32
5	Taxes and Duties on Electricity	BE	52.49	53.56	100.00	142.00	161.00	(+) 13.38
		Actual	46.87	53.50	72.76	110.72	145.79	(+) 31.67
6	Land Revenue	BE	60.00	66.00	83.49	82.00	95.00	(+) 15.85
		Actual	41.28	130.65	52.94	96.38	229.84	(+) 138.47
7	Taxes on Goods and Passengers - Tax on Entry of Goods into Local Areas	BE	64.06	65.37	30.00	20.00	Not fixed	--
		Actual	12.44	21.08	40.95	0.51	1.08	(+) 111.76
8	Other Taxes and Duties on commodities and services	BE	9.00	12.00	36.75	28.00	34.50	(+) 23.21
		Actual	7.17	8.91	15.05	15.28	22.76	(+) 48.95
9	Taxes on Professions, Trades, Callings and Employments	BE	Enforced by SO 7 dated 29 June 2012			65.00	80.00	(+) 23.08
		Actual				43.49	49.91	(+) 14.76
<b>Total</b>		BE	<b>5,560.49</b>	<b>5,967.43</b>	<b>7,134.49</b>	<b>8,677.00</b>	<b>10,152.40</b>	<b>(+) 17.00</b>
		Actual	<b>4,500.12</b>	<b>5,716.63</b>	<b>6,953.89</b>	<b>8,223.67</b>	<b>9,379.79</b>	<b>(+) 14.06</b>

Source: Finance Accounts of the Government of Jharkhand and the revised estimates as per the Statement of Revenue and Receipts of Government of Jharkhand.

The reasons for variation in receipts in 2013-14 from those of 2012-13 in respect of some principal heads of tax revenue were as under:

**Taxes on Sales, Trade etc.:** The increase of 13.76 *per cent* was attributed (July 2014) by the Department to better and effective tax administration as well as recovery of substantial due of ₹ 72.52 crore.

**Taxes and Duties on Electricity:** The increase of 31.67 *per cent* was attributed (July 2014) by the Department to better tax administration.

**Land Revenue:** The increase of 138.47 *per cent* was attributed (June 2014) by the Department to deposit of dues amounting to ₹ 129.00 crore.

**Other Taxes and Duties on Commodities and Services:** The increase of 48.95 *per cent* was attributed (July 2014) to better and effective tax administration and taxation on cricket matches.

The Commercial Taxes Department did not furnish reason for increase of 14.76 *per cent* in respect of Taxes on Professions, Trades, Callings and Employments despite our query (between April and July 2014).

**1.1.3** The details of the non-tax revenue raised during the period 2009-10 to 2013-14 are indicated in **Table - 1.1.3**.

**Table – 1.1.3**  
**Details of Non-Tax Revenue raised**

(₹ in crore)

Sl. No.	Head of revenue		2009-10	2010-11	2011-12	2012-13	2013-14	Percentage of increase (+) or decrease (-) in 2013-14 over 2012-13
1	Non-ferrous Mining and Metallurgical Industries	BE	2,052.11	2,086.76	2,759.75	3,209.92	3,500.00	(+) 9.04
		Actual	1,733.15	2,055.90	2,662.79	3,142.47	3,230.22	(+) 2.79
2	Forestry and Wild Life	BE	11.35	11.79	4.17	4.80	5.25	(+) 9.38
		Actual	3.57	4.76	3.71	4.22	5.17	(+) 22.52
3	Interest Receipts	BE	270.48	279.41	100.64	65.00	115.00	(+) 76.92
		Actual	153.20	98.74	44.16	72.23	69.48	(-) 3.81
4	Social Security and Welfare	BE	10.02	11.15	33.00	19.00	20.00	(+) 5.26
		Actual	13.49	23.85	15.42	20.48	5.24	(-) 74.41
5	Others	BE	670.91	740.53	711.10	542.37	703.40	(+) 29.69
		Actual	350.74	619.64	312.14	296.23	442.60	(+) 49.41
<b>Total</b>		<b>BE</b>	<b>3,014.87</b>	<b>3,129.64</b>	<b>3,608.66</b>	<b>3,841.09</b>	<b>4,343.65</b>	<b>(+) 13.08</b>
		<b>Actual</b>	<b>2,254.15</b>	<b>2,802.89</b>	<b>3,038.22</b>	<b>3,535.63</b>	<b>3,752.71</b>	<b>(+) 6.14</b>

Source: Finance Accounts of the Government of Jharkhand and the revised estimates as per the Statement of Revenue and Receipts of Government of Jharkhand.

The Departments did not furnish the reasons for excess/shortfall despite our request (August 2014).

## 1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2014 in respect of some principal heads of revenue amounted to ₹ 3,016.16 crore, of which ₹ 1,368.51 crore was outstanding for more than five years as detailed in the **Table – 1.2**.

**Table – 1.2**  
**Arrears in revenue**

(₹ in crore)

Sl. No.	Heads of revenue	Amount outstanding as on 31 March 2014	Amount outstanding for more than five years as on 31 March 2014	Remarks
1	Taxes on Sales, Trade etc.	1,704.67	946.25	Out of ₹ 1,704.67 crore, demands of ₹ 158.77 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 768.85 crore and ₹ 170.04 crore was stayed by the Courts and the other appellate authorities respectively. Demand of ₹ 14.65 crore and ₹ 15.85 crore were held up due to rectification/review application and dealer/party becoming insolvent. Specific action taken in respect of the remaining arrears of ₹ 576.51 crore has not been intimated (November 2014).



**Table – 1.2**  
**Arrears in revenue**

(₹ in crore)

Sl. No.	Heads of revenue	Amount outstanding as on 31 March 2014	Amount outstanding for more than five years as on 31 March 2014	Remarks
2	Non-ferrous Mining and Metallurgical Industries	1,024.74	346.35	Out of ₹ 1,024.74 crore as on 31 March 2014, demand for ₹ 499.02 crore was certified for recovery as arrears of land revenue, recovery of ₹ 398.94 crore and ₹ 8.67 crore was stayed by the Courts and other appellate authorities respectively. Demand of ₹ 4.95 crore and ₹ 2.36 crore was held up due to rectification/ review applications and dealer/party becoming insolvent respectively. Specific action taken in respect of the remaining amount of ₹ 110.80 crore has not been intimated (November 2014).
3	Taxes on Vehicles	262.75	67.53	Out of ₹ 262.75 crore, demands of ₹ 254.53 crore were certified for recovery as arrears of land revenue, recovery of ₹ 1.41 lakh was stayed by the Courts. Specific action taken in respect of the remaining arrears of ₹ 8.21 crore has not been intimated (November 2014).
4	State Excise	24.00	8.38	Out of the closing balance of arrears of ₹ 24.00 crore as on 31 March 2014, demand for ₹ 20.96 crore was certified for recovery as arrears of land revenue, recovery of ₹ one crore was stayed by the Courts and other judicial authorities, recovery of ₹ 10.55 lakh was held up due to parties becoming insolvent and a sum of ₹ 16.08 lakh was likely to be written off. Specific action taken in respect of the remaining amount of ₹ 1.77 crore has not been intimated (November 2014).
<b>Total</b>		<b>3,016.16</b>	<b>1,368.51</b>	

The position of arrears of revenue pending collection at the end of 2013-14 in respect of other Departments was not furnished (November 2014) despite active pursuance by us (between April and July 2014).

### 1.3 Arrears in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment during the year, cases disposed off during the year and number of cases pending finalisation at the end of the year as furnished by the Commercial Taxes Department in respect of value added tax, entertainment tax, electricity duty and taxes on works contracts was as below in **Table - 1.3**.

**Table - 1.3**  
**Arrears in assessments**

Year	Opening balance	New cases due for assessment	Total assessments due	Cases disposed of	Balance at the end of the year	Percentage of column 6 to 4
1	2	3	4	5	6	7
2009-10	13,235	56,106	69,341	49,422	19,919	28.73
2010-11	19,919	64,145	84,064	66,874	17,190	20.45
2011-12	17,190	63,515	80,705	50,473	30,232	37.46

**Table - 1.3**  
**Arrears in assessments**

Year	Opening balance	New cases due for assessment	Total assessments due	Cases disposed of	Balance at the end of the year	Percentage of column 6 to 4
1	2	3	4	5	6	7
2012-13	31,244	58,087	89,331	53,385	35,946	40.24
2013-14	33,505	63,903	97,408	63,519	33,889	34.79

Source: Commercial Taxes Department, Government of Jharkhand.

From the above table, it would be seen that during the year 2012-13 and 2013-14, the figures furnished by the Department differ from those reported as balance in previous year. The reason for difference in arrears in assessments, though called for (August 2014), has not been received (November 2014). Further, as on 31 March 2014, 33,889 cases were pending for finalisation of assessment. This would result in delay in realisation of revenue/loss of revenue due to cases became barred by limitation.

#### **1.4 Evasion of tax detected by the Department**

The details of cases of evasion of tax detected by the Commercial Taxes Department, cases finalised and the demand for additional tax raised as reported by the Department are given in **Table - 1.4**.

**Table - 1.4**  
**Evasion of Tax detected**

Head of revenue	Cases pending as on 31 March 2013	Cases detected during 2013-14	Total	Number of cases in which assessment/investigation completed and additional demand with penalty etc. raised		Number of cases pending for finalisation as on 31 March 2014
				Number of cases	Amount of demand	
Taxes on sales, trade etc.	55	148	203	138	2.92	65

(₹ in crore)

It would be seen from the above table that the number of cases pending at the end of the year was more than number of cases pending at the start of the year.

#### **1.5 Pendency of Refund Cases**

The number of refund cases pending at the beginning of 2013-14, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2013-14 as reported by the Department is given in the **Table – 1.5**.

**Table – 1.5**  
**Details of pendency of refund cases**

Sl. No.	Particulars	VAT/Taxes and Duties on Electricity	
		No. of cases	Amount
1.	Claims outstanding at the beginning of the year	632	4,348.66
2.	Claims received during the year	26	910.80
3.	Refunds made during the year	13	89.49
4.	Balance outstanding at the end of the year	645	5,169.97
5.	Interest paid due to belated refunds	NIL	NIL

(₹ in lakh)

Source: Information furnished by the Commercial Taxes Department.

The outstanding claims at the beginning of 2013-14 differ by two cases and ₹ 40.77 lakh. As per closing balance at the end of 2012-13, the number of cases outstanding was shown as 630 of ₹ 4,307.89 lakh. The reason for difference, though called for (August 2014), has not been received (November 2014).

Jharkhand VAT Act provides for payment of interest, at the rate of six *per cent* per annum, if the excess amount is not refunded to the dealer pending beyond ninety days of the application claiming refund in pursuance to such order till the date on which the refund is granted.

The progress in disposal of the refund cases of Sales Tax/VAT was very slow as compared to claims received.

## 1.6 Response of the Departments/Government towards Audit

We conduct periodical inspections of the Government Departments to test check the transactions and verify the maintenance of the accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the inspection reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to us within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Departments and the Government.

We reviewed the IRs issued upto December 2013 and found that 8,127 paragraphs involving ₹ 12,704.36 crore relating to 977 IRs remained outstanding at the end of June 2014 as mentioned below alongwith the corresponding figures for the preceding two years in **Table - 1.6**.

**Table - 1.6**  
**Details of pending Inspection Reports**

	(₹ in crore)		
	June 2012	June 2013	June 2014
Number of outstanding IRs	963	994	977
Number of outstanding audit observations	6,100	6,945	8,127
Amount involved	9,794.39	10,977.96	12,704.36

**1.6.1** The Department-wise details of the IRs and audit observations outstanding as on 30 June 2014 and the amounts involved are mentioned in the **Table - 1.6.1**.

**Table - 1.6.1**  
**Department-wise details of Inspection Reports**

(₹ in crore)					
Sl. No.	Names of Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1	Commercial Taxes	Taxes on Sales, Trade etc.	211	4,064	4,107.54
		Entry Tax	41	96	24.40
		Electricity Duty	21	54	75.73
		Entertainment Tax etc.	10	10	0.53

**Table - 1.6.1**  
**Department-wise details of Inspection Reports**

Sl. No.	Names of Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	(₹ in crore)
					Money value involved
2	Excise and Prohibition	State Excise	121	633	577.92
3	Revenue and Land Reforms	Land Revenue	84	536	1,778.07
4	Transport	Taxes on Motor Vehicles	199	1,152	496.60
5	Registration	Stamps and Registration Fees	120	396	3,644.35
6	Mines and Geology	Non-ferrous Mining and Metallurgical Industries	170	1,186	1,999.22
<b>Total</b>			<b>977</b>	<b>8,127</b>	<b>12,704.36</b>

Even the first replies, required to be received from the heads of offices within one month from the date of issue of the IRs, were not received for 203 IRs issued from 2003-04 to December 2013. This large pendency of the IRs due to non-receipts of the replies is indicative of the fact that the heads of offices and heads of the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by us in our IRs.

**We recommend that the Government may take suitable steps to design effective procedures to ensure prompt and appropriate response to audit observations. The Government may also institute systems for taking action against officials/officers who fail to send replies to the IRs/ paragraphs as per the prescribed time schedule.**

### **1.6.2 Departmental audit committee meetings**

The Government sets up audit committees to monitor and expedite the progress of the settlement of the IRs and paragraphs in the IRs. The details of the audit committee meetings held during the year 2013-14 and the paragraphs settled are mentioned in the **Table - 1.6.2**.

**Table - 1.6.2**  
**Details of departmental audit committee meetings**

Heads of revenue	Number of meetings held	Number of paragraphs settled	(₹ in lakh)
			Amount
Taxes on Sales, Trade etc.	2	69	2,188.28
Stamps and Registration Fees	1	37	62.39
State Excise	2	150	3,613.06
Taxes on Vehicles	2	56	970.03
Land Revenue	3	46	51.90
Non-ferrous Mining and Metallurgical Industries	2	177	7,601.85
<b>Total</b>	<b>12</b>	<b>535</b>	<b>14,487.51</b>

The progress of settlement of paragraphs pertaining to the Transport Department and Commercial Taxes Department was negligible as compared to the huge pendency of the IRs and paragraphs.

### 1.6.3 Non-production of records to Audit for scrutiny

The programme for local audit of tax/non-tax receipts offices is drawn up sufficiently in advance and intimations are issued, usually one month before we commence the audit, to the Department to enable them to keep the relevant records ready for audit scrutiny.

During 2013-14, 201 records relating to 21 offices of four Departments (Commercial Taxes, Transport, Revenue and Land Reforms and Registration Departments) were not made available to us for audit. The office-wise break-up of such cases is given in the **Table – 1.6.3**.

**Table – 1.6.3**  
**Details of non-production of records**

Name of Office	Number of assessment cases/ records not produced to audit
Dy. Commissioner of Commercial Taxes, Katras	23
Dy. Commissioner of Commercial Taxes, Singbhum	3
District Transport Officer, Dhanbad	5
Dy. Collector Land Reforms (DCLR), Giridih	3
Circle Office, Ghatsila	9
Circle Office, Dhalbhum	8
Circle Office, Musabani	5
Circle Office, Bagodar	11
Circle Office, Dumri	11
Circle Office, Dhanwar	11
Circle Office, Jamua	11
Circle Office, Birni	11
Circle Office, Deori	11
Circle Office, Tisri	11
Circle Office, Ganwan	11
Circle Office, Bengabad	11
Circle Office, Pirtand	11
Circle Office, Gandey	11
Circle Office, Giridih	11
Circle Office, Potka	11
District Sub-Registrar, Sahibganj	2
<b>Total</b>	<b>201</b>

### 1.6.4 Response of the Departments to the draft audit paragraphs

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the Principal Accountant General (PAG) to the Principal Secretaries/Secretaries of the concerned Department, drawing their attention to audit findings and requesting them to send their response within six weeks. The fact of non-receipt of the replies from the Departments/Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Thirty five draft paragraphs (clubbed into 28 paragraphs) including two performance audits and one long draft paragraph were sent to the Principal Secretaries/Secretaries of the respective Departments by name between May and July 2014. The Principal Secretaries/Secretaries of the Departments did not send replies to five draft paragraphs despite issue of reminders (between

July and August 2014) and the same have been included in this Report without the response of the Departments.

### 1.6.5 Follow up on Audit Reports – summarised position

The internal working system on the Public Accounts Committee (PAC), notified in December 2002, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Audit Reports were being delayed inordinately. 166 paragraphs (including performance audit) included in the Audit Report of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Jharkhand for the years ended 31 March 2008, 2009, 2010, 2011 and 2012 were placed before the State Legislature Assembly between July 2009 and July 2013. The action taken explanatory notes from the concerned Departments on these paragraphs were received late with average delay of three months in respect of each of these audit reports. Action taken explanatory notes in respect of 92 paragraphs from the departments which had not been received are mentioned in the **Table – 1.6.5**.

**Table - 1.6.5**

Sl. No.	Audit Report ending on	Date of presentation in the legislature	No. of paragraphs	No. of paragraphs where explanatory notes received	No. of paragraphs where explanatory notes not received
1	31 March 2008	10.07.2009	42	27	15
2	31 March 2009	13.08.2010	41	14	27
3	31 March 2010	29.08.2011	26	10	16
4	31 March 2011	06.09.2012	32	23	09
5	31 March 2012	27.07.2013	25	00	25
<b>Total</b>			<b>166</b>	<b>74</b>	<b>92</b>

The PAC discussed 52 selected paragraphs pertaining to the Audit Reports for the year 2007-08 to 2012-13 and gave its recommendations on one paragraph and one sub-paragraph pertaining to Forest and Mines & Geology Departments incorporated in two Reports (2008-09 and 2009-10). However, ATNs have not been received from these Departments in respect of these recommendations of the PAC.

### 1.7 Analysis of mechanism for dealing with the issue raised by Audit

To analyse the system of addressing the issues highlighted in the Inspection Reports/Audit Reports by the Departments/Government, the action taken on the paragraphs and performance audit included in the Audit Reports of the last 10 years for one Department is evaluated and included in this Audit Report.

The succeeding paragraphs 1.7.1 and 1.7.2 discuss the performance of the **Revenue and Land Reforms Department** under revenue head **Land Revenue** and cases detected in the course of local audit conducted during the last ten years and also the cases included in the Audit Reports for the year 2004-05 to 2013-14.

### 1.7.1 Position of Inspection Reports

The summarised position of inspection reports issued during 2004-05 to 2013-14 in respect of the **Revenue and Land Reforms Department**, paragraphs included in these reports and their status as on 31 March 2014 are tabulated in below **Table-1.7.1**.

**Table - 1.7.1**  
**Position of Inspection Reports**

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IR	Para-graphs	Money value	IR	Para-graphs	Money value	IR	Para-graphs	Money value	IR	Para-graphs	Money value
2004-05	1,469	4,694	418.26	46	154	74.69	40	160	40.33	1,475	4,688	452.62
2005-06	1,475	4,688	452.62	63	241	107.52	56	203	48.15	1,482	4,726	511.99
2006-07	1,482	4,726	511.99	9	44	68.39	261	1,152	15.63	1,230	3,618	564.45
2007-08	1,230	3,618	564.45	12	85	9.49	128	593	57.06	1,114	3,110	516.88
2008-09	1,114	3,110	516.88	13	75	1,153.23	231	1,009	6.26	896	2,176	1,663.85
2009-10	896	2,176	1,663.85	6	28	1.95	296	881	50.27	606	1,323	1,615.53
2010-11	606	1,323	1,615.53	0	0	0	85	198	7.25	521	1,125	1,608.28
2011-12	521	1,125	1,608.28	10	41	12.68	364	523	245.13	167	643	1,375.83
2012-13	167	643	1,375.83	5	41	250.32	51	162	1.77	121	522	1,624.38
2013-14	121	522	1,624.38	5	101	709.04	9	130	580.22	117	493	1,753.20

During the period 2004-05 to 2013-14, we issued 169 IRs containing 810 paragraphs with financial implication of ₹ 2,387.31 crore. At the same time 1,521 IRs involving 5,011 paragraphs with monetary value of ₹ 1,052.07 crore were settled by conducting audit committee meetings with the Department and through regular interactions with them. At present, 117 IRs containing 493 paragraphs with monetary value of ₹ 1,753 crore are pending for settlement, of which 95 IRs containing 344 paragraphs having money value of ₹ 783.49 crore are more than five years old (between 2004-05 and 2008-09).

### 1.7.2 Recovery of accepted cases

The position of paragraphs relating to **Revenue and Land Reforms Department** included in the Audit Reports of last ten years, those accepted by the Department and the amount recovered are mentioned in **Table - 1.7.2**.

**Table - 1.7.2**  
**Recovery of accepted cases**

(₹ in crore)

Year of Audit Report	Number of paragraph included	Money value of the paragraphs	Number of paragraph accepted	Money value of accepted paragraphs	Amount recovered
2003-04	1	0.43	1	0.43	Nil
2004-05	2	339.75	1	327.10	Nil
2005-06	3	0.84	1	0.31	Nil
2006-07	2	14.46	0	0	Nil
2007-08	2	200.13	1	0.29	Nil
2008-09	2	222.81	1	3.67	Nil
2009-10	1	0.52	1	0.11	Nil
2010-11	0	0	0	0	Nil
2011-12	2	14.99	1	4.71	Nil
2012-13	2	4.45	1	3.94	Nil

It is evident from the above table that the progress of recovery even in accepted cases was nil during the last ten years. The recovery of accepted cases should be pursued as arrears are recoverable from the concerned parties. No mechanism for pursuance of the accepted cases had been put up in place by the Department/Government. Further, the arrear cases including accepted audit observation were not available with the office of the Principal Secretary, Revenue and Land Reforms Department. The increase of 138.47 *per cent* in total receipt collection under this head was attributed (June 2014) by the Department to deposit of dues amounting to ₹ 129 crore. However, the Department reported arrear as on 31 March 2013 as ₹ 19.98 crore only.

**The Department may take immediate action to pursue and monitor the recovery of accepted cases.**

### **1.8 Action taken on the recommendations accepted by the Departments/Government**

The draft performance audits conducted by us were forwarded to the concerned Departments/Government for their information with a request to furnish their replies. These performance audits were also discussed in an exit conference and Departments/Government's views were included while finalising the performance audit for the Audit Reports.

We made 55 recommendations in 10 performance audits on the Finance, Commercial Taxes, Transport, Revenue and Land Reforms, Registration, Mines and Geology, Forest and Irrigation Departments featured in the previous five years Audit Reports. Details are mentioned in **Table - 1.8**.

**Table – 1.8**

Year of Audit Report	Name of Performance Audits	Number of recommendations
2008-09	Transition from Sales Tax to Value Added Taxes and application of IT system	7
	Interest Receipts	3
	Forest Receipts	6
2009-10	Working of Revenue and Land Reform Departments	4
	Receipts from Stamp Duty and Registration Fees including IT	10
2010-11	Utilisation of declaration forms in inter-State trade of commerce	4
	Computerisation in Transport Department	6
	Receipts from Major and Medium Irrigation Projects	4
2011-12	Working of Mines and Geology Department in respect of Mining Receipts	5
2012-13	Levy and collection of Electricity Duty in Jharkhand	6
<b>Total</b>		<b>55</b>

Out of these recommendations, Transport Department intimated (August 2014) that only one (fourth) recommendation of the performance audit of “Computerisation in Transport Department”, which featured in the Audit Report for the year 2010-11 has been implemented in April 2014, after the lapse of three years from being recommended. Information about implementation of other recommendations had not been furnished by the Departments.



**We recommend that the Government may consider taking suitable steps to monitor the action to be taken/action taken on assurances given by them against our recommendations included in the performance audits during exit conferences.**

## **1.9 Audit planning**

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which *inter-alia* includes critical issues in the Government revenues and tax administration i.e. Budget Speech, White Paper on State Finances, Reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during the past five years etc.

During the year 2013-14, the audit universe comprised of 505 auditable units, of which 127 units were planned and 125 units were audited. The details are mentioned in **Table - 1.9**.

**Table - 1.9  
Audit Planning**

Sl. No.	Principal Head	Total no. of units	Units planned for audit	Units audited during 2013-14
1	Taxes on Sales, Trade etc.	46	25	25
2	Taxes on Vehicles	27	20	19
3	Stamps and Registration Fees	46	15	15
4	State Excise	23	18	18
5	Land Revenue	307	31	30
6	Non-ferrous Mining and Metallurgical Industries	50	18	18
7	Jharkhand State Mineral Development Corporation	5	00	00
8	Jharkhand State Beverage Corporation Ltd.	1	00	00
<b>Total</b>		<b>505</b>	<b>127</b>	<b>125</b>

Besides the compliance audits mentioned above, two performance audits of “**Assessment, levy and collection of tax on works/supplies contracts**” and “**Levy and collection of excise receipts in Jharkhand**” and a long paragraph on “**Deficiencies in VAHAN software**” pertaining to the Transport Department were also taken up to examine the efficacy of the tax administration of these receipts.

## **1.10 Result of audit**

### **Position of local audit conducted during the year**

Test check of the records of 125 units of Commercial Taxes, State Excise, Transport, Revenue and Land Reforms, Registration and Mines and Geology Departments conducted during the year 2013-14 showed under assessment/short levy/loss of revenue aggregating ₹ 2,313.83 crore in 20,230 cases. During the course of the year, the Departments concerned accepted under

assessment and other deficiencies of ₹ 542.57 crore in 16,296 cases pointed out by us, of which ₹ 535.45 crore involved in 16,263 cases were pointed out during 2013-14 and the rest in the earlier year. The Departments effected recovery of ₹ 8.53 crore in 378 cases in 2013-14.

### **1.11 Coverage of this Report**

This report contains 28 paragraphs (selected from the audit detections made during the local audit referred to above and during earlier years, which could not be included in earlier reports) including two Performance Audits of **“Assessment, levy and collection of tax on works/supplies contracts”** and **“Levy and collection of excise receipts in Jharkhand”** and a long paragraph on **“Deficiencies in VAHAN software”**, involving financial effect of ₹ 992.05 crore out of which ₹ 830.09 crore is recoverable.

The Department/Government have accepted audit observations involving ₹ 530.66 crore including avoidable notional loss of ₹ 161.96 crore and recovered ₹ 8.49 crore. The replies in the remaining cases have not been received (November 2014). These are discussed in succeeding Chapters II to VI.

**CHAPTER-II**  
**TAXES ON SALES,**  
**TRADE ETC.**

## CHAPTER – II: TAXES ON SALES, TRADE ETC.

### 2.1 Tax administration

The levy and collection of Sales Tax/Value Added Tax and Central Sales Tax are governed by the Jharkhand Finance (JF) Act, 2001 (repealed from 1 April 2006), Jharkhand Value Added Tax (JVAT) Act, 2005 and the Central Sales Tax (CST) Act, 1956. The Secretary-cum-Commissioner of Commercial Taxes is responsible for administration of these Acts and Rules in the Commercial Taxes Department (CTD). He is assisted by an Additional Commissioner and Joint Commissioners of Commercial Taxes (JCCT), Joint Commissioners of Commercial Taxes of Bureau of Investigation (IB), Vigilance and Monitoring, along with other Deputy/Assistant Commissioners of Commercial Taxes.

The State is divided into five commercial taxes divisions<sup>1</sup>, each under the charge of a Joint Commissioner (Administration) and 28 circles<sup>2</sup>, each under the charge of a Deputy/Assistant Commissioner of Commercial Taxes (DCCT/ACCT). The DCCT/ACCT of the circle, responsible for levy and collection of tax due to the Government, besides survey, is assisted by Commercial Taxes Officers. A Deputy Commissioner of IB is posted in each division to assist the JCCT (Administration) and a DCCT (Vigilance and Monitoring) is posted under the control of Headquarters in each division.

### 2.2 Results of audit

During 2013-14 we test checked the records of 25 units (having revenue collection of ₹ 6,557.24 crore) out of 46 units relating to Taxes on sales, trade etc. and found non/short levy of tax, irregular allowance of exemption from tax, application of incorrect rates of tax, non-levy of penalty, short levy of tax due to incorrect determination of turnover, irregular allowance of concessional rate of tax, non-levy of penalty for excess collection of tax/mistake in computation etc. involving ₹ 1,343.19 crore in 584 cases as mentioned in the **Table – 2.2.**

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<sup>1</sup> Dhanbad, Dumka, Hazaribag, Jamshedpur and Ranchi.

<sup>2</sup> Adityapur, Bokaro, Chaibasa, Chirkunda, Deoghar, Dhanbad, Dhanbad Urban, Dumka, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamshedpur Urban, Jharia, Katras, Koderma, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi East, Ranchi South, Ranchi Special, Ranchi West, Sahebganj, Singhbhum and Tenughat.

Table – 2.2

			(₹ in crore)
Sl. No.	Categories	No. of cases	Amount
1	“Assessment, levy and collection of tax on works/supplies contracts” – A performance audit	1	488.72
2	Non/short levy of tax	187	345.76
3	Irregular allowance of exemption from tax	73	63.58
4	Application of incorrect rates of tax	52	42.15
5	Non-levy of penalty	54	37.72
6	Short levy of tax due to incorrect determination of turnover	47	117.55
7	Irregular allowance of concessional rate of tax	15	4.51
8	Non-levy of penalty for excess collection of tax/mistake in computation	11	0.52
9	Other cases	144	242.68
<b>Total</b>		<b>584</b>	<b>1,343.19</b>

The Department accepted non/short levy of tax and other deficiencies of ₹ 317.08 crore in 32 cases pointed out by us, of which ₹ 311.96 crore involved in two cases were pointed out during 2013-14 and the rest in earlier year.

In this chapter we present a performance audit of “**Assessment, levy and collection of tax on works/supplies contracts**” having financial implication of ₹ 488.72 crore and few illustrative cases having financial implication of ₹ 252.33 crore. These are discussed in the succeeding paragraphs.

## 2.3 Assessment, levy and collection of tax on works/supplies contracts

### Highlights

- The tax collection increased during 2008-09 to 2012-13 but the Department could have ensured more revenue collections by bringing more contractors under the tax net by utilising TDS details available in the assessment records to detect the unregistered contractors, by instituting a system of exchange of inter-departmental data, by conducting regular market surveys and by cross verification of data/records with other departments. We cross-verified the TDS details of various organisations and found tax evasion of ₹ 12.57 crore from 21 unregistered works contractors during 2006-07 to 2012-13.

**(Paragraph 2.3.10)**

- Cross verification of the data collected from public works divisions, undertaking units, municipal bodies and the assessment records of big contractors with the assessment records of the 175 contractors/sub-contractors led to detection of suppression of turnover of ₹ 735.69 crore between 2006-07 and 2012-13 and consequent under assessment of tax of ₹ 257.87 crore including penalty/interest of ₹165.45 crore.

**(Paragraph 2.3.11)**

- Allowance of inadmissible exemptions from gross turnover by the assessing authorities in case of 72 contractors for the period 2006-07 to 2011-12 resulted in under assessment of tax of ₹ 28.86 crore.

**(Paragraph 2.3.13)**

- Incorrect determination of taxable turnover by ₹ 132.02 crore of six contractors for the period 2008-09 to 2010-11 resulted in under assessment of tax of ₹ 15.43 crore.

**(Paragraph 2.3.14)**

- Misutilisation of declaration Form 'C' by five contractors during the period 2007-08 to 2010-11 resulted in short levy of tax of ₹ 53.91 crore including penalty of ₹ 32.34 crore.

**(Paragraph 2.3.18)**

- Application of incorrect rate of tax by the assessing authorities in case of 48 contractors for the period 2006 -07 to 2010 -11 resulted in short levy of tax of ₹ 34.96 crore.

**(Paragraph 2.3.19)**

- Absence of a mechanism for monitoring of TDS collection and their remittances to the treasury resulted in non/short deposit of TDS of ₹ 3.02 crore including penalty of ₹ 1.51 crore by two contractors during 2009-10.

**(Paragraph 2.3.22.1)**

- Incorrect allowance of adjustment of TDS from the VAT payable by the assessing authorities in case of three contractors resulted in excess adjustment of TDS of ₹ 19.13 lakh for the period 2008-09 and 2009-10.

**(Paragraph 2.3.22.2)**

### **2.3.1 Introduction**

Consequent on the amendments made by the Constitution (46<sup>th</sup> Amendment) Act 1982, States derived power to levy tax on the transactions of works contracts. The assessment, levy and collection of the Value Added Tax (VAT)/Central Sales Tax (CST) on works/supplies contracts is governed by the Jharkhand Value Added Tax (JVAT) Act, 2005, Jharkhand Value Added Tax (JVAT) Rules, 2006, Central Sales Tax (CST) Act, 1956, Central Sales Tax (Registration and Turnover) Rules, 1957, Central Sales Tax (Jharkhand) Rules, 2006 and notifications/instructions issued by the Government from time to time.

Sub-section (lxiii) of Section 2 of the JVAT Act provides that Works Contracts means and includes any agreement for carrying out for cash or deferred payment or other valuable consideration, for assembling, construction, fabrication, erection, installation, modification, fitting out, improvement or repair of any building, road, bridge or commissioning of any other immovable or movable property. As per Rule 2(iii) of the JVAT Rules 2006, Contractee means any person for whom or for whose benefit a work contract is executed and Rule 2(iv) states that Contractor means any person who executes, either himself or through a sub-contractor a works contract. Sub-section (xiii) of Section 2 categorises works contractor as a dealer. Every contractor and supplier whose gross turnover (GTO) of sales or purchases during the year exceeded ₹ 25,000 and ₹ five lakh respectively shall be liable to pay tax in accordance with the provisions of Section 8(5) of this Act. Further, Section 2(g) (ii) of the CST Act states that 'Sale' includes a transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract.

In order to expedite the process of collection and remittance of tax to the Government account and to prevent evasion of tax by contractors, section 44 of the JVAT Act provides that any person making payment of any valuable consideration to a contractor for the execution of a works contract in the State involving transfer of property in goods, whether as goods or in some other form, shall at the time of making payment, deduct tax in advance (TDS) therefrom at the prescribed rates and remit it to Government account. Section 45 of the Act specifies deduction of TDS also in the case of supplies to Governments and other bodies wholly or partly financed by Government, exceeding ₹ one lakh by a supplier during a year at the rate prescribed by the Government.

### **2.3.2 Organisational set-up**

The Commercial Taxes Department is under the purview of the Secretary, Commercial Taxes Department at the Government level. The Secretary of Commercial Taxes is responsible for administration of the Acts and Rules in the Commercial Taxes Department (CTD). At the Department level, Commissioner of Commercial Taxes (CCT) heads the Department. He is assisted by Additional Commissioner and Joint Commissioners of Commercial Taxes, Joint Commissioners of Commercial Taxes of Bureau of Investigation (IB) along with other Deputy/Assistant Commissioners of Commercial Taxes.

The State is divided into five Commercial Taxes Divisions<sup>3</sup>, each under the charge of a Joint Commissioner (Administration). There are 28 Circles<sup>4</sup> functioning under the administrative control of Deputy/Assistant Commissioner of Commercial Taxes (DCCT/ACCT). The DCCT/ACCT of the circle, besides market survey, is responsible for levy and collection of VAT/CST due to the Government. He is assisted by Commercial Taxes Officers.

A Deputy Commissioner of IB is posted in each division to assist the JCCT (Administration) and a DCCT (Vigilance and Monitoring) is posted under the control of Headquarters in each Division.

### **2.3.3 Audit objectives**

We conducted the Performance Audit to assess the efficiency and effectiveness of assessment, levy and collection of tax on works/supplies contracts relating to following aspects:

- the system of registration of works contractors by the Department and monitoring the filing of returns;
- the system if any, of cross verification of data with other Departments;
- the system of scrutiny of returns by the Assessing Authorities (AAs);
- exemptions of tax/deductions from gross turnover claimed by the contractors and allowed by the AAs; and
- the system of tax deduction at source and its proper accountal.

### **2.3.4 Audit Criteria**

- Jharkhand Value Added Tax Act, 2005;
- Jharkhand Value Added Tax Rules, 2006;
- Central Sales Tax (CST) Act, 1956;
- Central Sales Tax (Registration and Turnover) Rules, 1957;
- Central Sales Tax (Jharkhand) Rules, 2006; and
- Notifications/instructions issued from time to time.

### **2.3.5 Audit scope and coverage**

The performance audit covering the assessments made/self assessed and returns filed during the period 2008-09 to 2012-13 was conducted between January and July 2014. Eleven Commercial Taxes Circles<sup>5</sup> (CTCs), out of 28 Circles, in the State were selected by the method of statistical sampling on the basis of works contract receipts generated by each Circle categorising them on the basis of revenue collection into high (above ₹ 50 crore), medium (between ₹ 15 crore and ₹ 50 crore) and low risk (below ₹15 crore) during 2008-09 to

<sup>3</sup> Dhanbad, Dumka, Jamshedpur, Hazaribag and Ranchi.

<sup>4</sup> Adityapur, Bokaro, Chaibasa, Chirkunda, Deoghar, Dhanbad, Dhanbad Urban, Dumka, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamshedpur Urban, Jharia, Katras, Koderma, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi East, Ranchi South, Ranchi Special, Ranchi West, Sahebganj, Singhbhum and Tenughat.

<sup>5</sup> Bokaro, Deoghar, Dhanbad, Jamshedpur, Jamshedpur Urban, Koderma, Pakur, Ranchi South, Ranchi West, Singhbhum and Tenughat.



2012-13. Further, Palamu Commercial Taxes Circle was selected on the request of the Department during entry conference held on 25 February 2014.

### 2.3.6 Audit methodology

- Collection of data/information from State Government Departments/ Board, private/public sector undertakings, autonomous bodies and assessment records of contractors to detect the evasion of tax by suppressing the taxable turnover as well as unregistered works contractors/suppliers;
- Scrutiny of assessment records/returns of works contractors selected on the basis of their gross turnover in the selected CTCs; and
- Cross-verification of collected data/information in the assessment records/ returns of contractors/suppliers with the assessment records of sub-contractors and other contractors.

### 2.3.7 Acknowledgement

We acknowledge the co-operation of the Commercial Taxes Department in providing necessary information and records to us. We held an entry conference on 25 February 2014 with the Joint Commissioner, Commercial Taxes Department, Government of Jharkhand in which the audit objective, scope of audit and its methodology was discussed in detail. The exit conference was held on 13 August 2014 with the Additional Commissioner of Commercial Taxes Department, Government of Jharkhand in which the findings, conclusion and recommendations of the Performance Audit were discussed. The views of the Government/Department have been incorporated in the report.

### 2.3.8 Trend of revenue

The actual receipts from VAT/Taxes on sales, trade etc. along with the works contract receipts during the period 2008-09 to 2012-13 are exhibited in the **Table – 2.3.8**.

**Table – 2.3.8**

Year	Actual receipts	Collection of works contract receipts	(₹ in crore)
			Percentage contribution of works contract receipts in VAT/Sales Tax
2008-09	2,996.20	90.55	3.02
2009-10	3,597.20	136.14	3.78
2010-11	4,473.43	170.87	3.82
2011-12	5,522.02	202.96	3.68
2012-13	6,421.61	278.97	4.34

Source: Finance Account and Information furnished by the Commercial Taxes Department.

From the above it could be seen that the actual receipt increased from ₹ 90.55 crore in 2008-09 to ₹ 278.97 crore in 2012-13 i.e. an increase of 208 *per cent*. However, the percentage of works contract receipts vis-à-vis total VAT/sales tax receipts remained static i.e. it ranged from 3.02 *per cent* to 4.34 *per cent*.

### 2.3.9 Arrears of revenue

The arrears of revenue as on 31 March 2013 were ₹ 216.31 crore. The year-wise position of arrears of revenue in respect of works contract receipts during the period 2008-09 to 2012-13 is depicted in the **Table - 2.3.9**.

**Table - 2.3.9**

Period	(₹ in crore)				
	Opening Balance	Addition during the year	Total	Clearance made during the year	Closing Balance
2008-09	21.16	90.75	111.91	37.15	74.76
2009-10	74.79	135.06	209.85	49.36	160.49
2010-11	160.49	135.20	295.69	59.54	236.15
2011-12	236.15	79.86	316.01	86.61	229.40
2012-13	229.40	100.59	329.99	113.68	216.31

Source: Information furnished by the Commercial Taxes Department.

From the above it could be seen that there was a difference in closing balance of 2008-09 and opening balance of 2009-10 by ₹ 3 lakh. The reason for difference in arrears of revenue was non-furnishing of details of arrears by one circle as attributed by the Department. It could further be seen that the arrears of revenue in respect of works contract increased from ₹ 74.76 crore in 2008-09 to ₹ 216.31 crore in 2012-13 i.e. an increase of 189 *per cent*. This indicates that the revenue collection mechanism of the department was not efficient and effective.

The reasons for increase in arrears and action taken for their realisation though called for (July 2014) have not been furnished. The Department also did not furnish the periodicity of arrears and the cases liable for institution of certificate cases along with the revenue involved. The age-wise analysis of arrears could not be made due to non-availability of periodicity of arrears.

**We recommend that the Government may consider issuing directions to the Department for speedy settlement of the arrear cases by constant monitoring and recovering the arrears as arrears of land revenue by invoking provisions of the Bihar and Orissa Public Demands Recovery Act, 1914.**

### Audit Findings

Audit reviewed the system of assessment, levy and collection of tax on works/supplies contracts and noticed a number of deficiencies which have been discussed in the succeeding paragraphs.

### Assessment of works/supplies contractors

#### 2.3.10 Market Survey, Detection and Registration

Section 25 of the JVAT Act provides that no contractor shall, while being liable to pay tax, carry on business unless he has been registered. Further, Section 71 provides for identification of contractors who are liable to pay tax, but remained unregistered, the prescribed authority shall from time to time cause a survey of unregistered contractors.

Audit scrutiny revealed that though the provision for market survey of unregistered contractors/suppliers was made in the JVAT Act, yet modalities for such survey i.e. areas to be covered, periodicity of the surveys and number of contractors to be covered in each survey have not been prescribed. The CTD informed (June 2014) us that no survey was conducted by the Department during 2008-09 to 2012-13.

The Department/Government in the exit conference accepted our observations and stated that during 2013-14, large numbers of market surveys were conducted and new registrations were made.

While conducting Performance Audit, we detected some cases of unregistered suppliers/works contractors from the statement of TDS, who were eligible for registration. These cases are discussed in the succeeding paragraph.

### **2.3.10.1 Non-registration of contractors**

Under the provisions of Section 8(5) of the JVAT Act, 2005, every contractor whose gross turnover first exceeds ₹ 25,000 during any period of 12 consecutive months shall be liable to pay tax under this Act. Further, Section 38 provides that if a contractor liable to pay tax, in respect of any period, has failed to get himself registered under the Act, the prescribed authority shall proceed to assess the dealer to tax to the best of his judgment and may also direct the dealer to pay by way of penalty a sum equal to the amount of tax so assessed or rupees ten thousand, whichever is greater.

We obtained information/data from various organisations<sup>6</sup> and Commercial Taxes Department (between January and June 2014) and cross verified them with the registration records of four Commercial Taxes Circles<sup>7</sup> as well as database of registered dealers which revealed that 21 unregistered contractors received payments of ₹ 50.28 crore during the period between 2006-07 and 2012-13. Our cross verification revealed that they were not registered under the JVAT Act, though their turnovers had crossed the threshold limits. Due to absence of a mechanism for inter-departmental exchange of data in respect of gross payments made by these organisations to the contractors and non-transfer of contractor wise TDS data from the contractee departments to the CTD, the CTD remained unaware of TDS deposits of various contractors. As such, these contractors liable to pay tax of ₹ 12.57 crore including penalty of ₹ 6.29 crore remained outside the tax net.

The matter was reported to the Government/Department in July 2014. The Department/Government in the exit conference accepted our observations. Further reply has not been received (November 2014).

**The Government may ensure conducting of regular market surveys, inter/intra-departmental cross verification of data/records and may instruct contractee Departments to submit contractor wise TDS payment data to the CTD for registration of works/supplies contractors.**

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<sup>6</sup> Executive Engineers, Rural Works Department, Bokaro, Road Construction Department, Bokaro, Latehar, Garhwa and Daltonganj, Rural Development Special Division, Koderma, Building Construction Division, Ranchi, Jharkhand Bijli Vitran Nigam Ltd. and assessment records of Nagarjuna Construction Company Ltd, Ranchi South Circle.

<sup>7</sup> Bokaro, Palamu, Ranchi South and Ranchi West.

### 2.3.11 Irregularities detected during cross verification

*Cross verification is a distinctive feature of VAT regime. We noticed that the Commercial Taxes Department had no co-ordination with other Departments viz. Rural Works Department (RWD), Road Construction Department (RCD), Building Construction Department (BCD) and Public Sector Undertakings etc. to widen the tax base by identifying the assesses liable to pay VAT. We collected data/information from the works departments like BCD, RCD, RWD etc. Jharkhand Bijli Vitran Nigam (JBVN), Ranchi and Chas Municipality, Bokaro in respect of payments received by the contractors and cross verified the same with the assessment records of the contractors. We further cross verified the data/information regarding gross payments, collected from the assessment records of M/s Hindustan Steel works Construction Ltd. (HSCL), National Building Construction Corporation (NBCC) and M/s Tarapore & Company, with the assessment records of their sub-contractors within the Commercial Taxes Department. In course of cross verification, we came across several irregularities which consequently affected levy and collection of VAT. These irregularities are discussed in the following paragraphs.*

**2.3.11.1** Under the provisions of Section 40(1) of the JVAT Act read with the CST Act, if the prescribed authority has reasons to believe that the dealer has concealed, omitted or failed to disclose willfully, the particulars of such turnover or has furnished incorrect particulars of such turnover and thereby the returned figures are below the real amount, the prescribed authority shall proceed to assess or reassess the amount of tax due from the dealer in respect of such turnover and shall direct the dealer to pay, besides the tax assessed on escaped turnover, by way of penalty a sum equivalent to twice the amount of the additional tax so assessed.

We cross verified (between January and July 2014) the data/information received from 16 works divisions<sup>8</sup>, JBVN, Ranchi and Chas Municipality, Bokaro with the assessment records of 621 out of 12,454 contractors registered in 12 selected Commercial Taxes Circles<sup>9</sup> and noticed in seven Commercial Taxes Circles<sup>10</sup> that the 52 contractors had filed incorrect returns for gross receipts of ₹ 555.71 crore for the period from 2006-07 to 2012-13. The assessments were finalised between March 2009 and July 2013 on the basis of returns filed by them. However, our cross verification with the data/information collected from 16 works divisions, JBVN and Chas Municipality revealed that these contractors had actually received payments of ₹ 1,103.98 crore. Thus, these contractors had concealed turnover of ₹ 548.27 crore. Due to non-operation of mechanism for inter-departmental exchange of data/information for cross-verification purposes, there was under-assessment of tax of ₹ 205.60 crore including penalty of ₹ 137.07 crore.

<sup>8</sup> Executive Engineer, RWD, Bokaro, Dhanbad, Jamshedpur and Ranchi, Executive Engineer, BCD, Bokaro and Ranchi, Executive Engineer, RCD, Bokaro, Dhanbad, Daltonganj, Garhwa, Latehar, Pakur and Ranchi, Executive Engineer, RDS Division, Bokaro and Koderma and Director ADB Project, RCD, Ranchi.

<sup>9</sup> Bokaro, Dhanbad, Deoghar, Jamshedpur, Jamshedpur Urban, Koderma, Pakur, Palamu, Ranchi South, Ranchi West, Singhbhum and Tenughat.

<sup>10</sup> Bokaro, Dhanbad, Palamu, Ranchi South, Ranchi West, Singhbhum and Tenughat.

**2.3.11.2** We cross verified (between January and June 2014) the data/information collected from the assessment records of the contractors<sup>11</sup> with the assessment records of 621 contractors out of 12,454 contractors registered in 12 selected Commercial Taxes Circles and noticed in seven Commercial Taxes Circles<sup>12</sup> that the 33 sub-contractors had filed incorrect returns for gross receipts of ₹ 31.44 crore for the period 2007-08 to 2010-11. The assessments were finalised between February 2010 and March 2013 on the basis of returns filed by them. However, our cross verification with the data/information obtained from assessment records of the contractors revealed that these sub-contractors had actually received payments of ₹ 138.54 crore. Thus, these sub-contractors had concealed turnover of ₹ 107.10 crore. Though the aforesaid data/information was available in the assessment records of main contractors, the AAs did not cross-verify the transactions between main contractors and their sub-contractors due to absence of a mechanism for intra-departmental exchange of data/information for cross-verification purposes. This resulted in under-assessment of tax of ₹ 40.17 crore including penalty of ₹ 26.78 crore.

**We recommend that the Department may institute a system of cross verification of payments received by the sub-contractors from the assessment records of main contractors available with the Department on regular basis along with strengthening the function of Bureau of Investigation and use the same to detect the evasion of tax.**

**2.3.11.3** Under the provisions of Section 40(2) of the JVAT Act, if the prescribed authority upon any information, which has come into his possession before assessment or otherwise, that any registered dealer has concealed any sales or purchase or any particulars thereof, with a view to reduce the amount of tax payable by him or has furnished incorrect statement of his turnover or incorrect particulars of his sales or purchase in the return furnished by him, he shall direct the assessee, in addition to additional tax assessed on suppressed or concealed turnover, to pay by way of interest a sum at the rate of two *per cent* for each month up to the date of assessment.

We cross-verified (between January and July 2014) the data/information received from 11 works divisions<sup>13</sup>, three Public Sector Undertakings units<sup>14</sup> and Chas Municipality, Bokaro with the assessment records of 621 out of 12,454 contractors registered in 12 selected Commercial Taxes Circles and found in seven Commercial Taxes Circles<sup>15</sup> that the 90 contractors received payments of ₹ 272.46 crore for the period 2011-12 to 2012-13 but reflected ₹ 192.14 crore in their returns. Thus, these contractors had concealed turnover of ₹ 80.32 crore on account of sales/receipt turnover in their returns on which

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<sup>11</sup> HSCL, NBCC and Tarapore and Company.

<sup>12</sup> Bokaro, Jamshedpur Urban, Koderma, Palamu, Ranchi South, Ranchi West and Tenughat.

<sup>13</sup> Executive Engineer, RWD, Bokaro and Ranchi, Executive Engineer, BCD, Bokaro and Ranchi, Executive Engineer, RCD, Bokaro, Daltonganj, Garhwa, Latehar, Executive Engineer, RDS Division, Bokaro and Koderma and Director ADB Project.

<sup>14</sup> HSCL, Ranchi, NBCC and Steel Authority of India Ltd, Bokaro Steel Plant.

<sup>15</sup> Bokaro, Jamshedpur Urban, Palamu, Ranchi South, Ranchi West, Singhbhum and Tenughat.

they were liable to pay tax of ₹ 12.10 crore including interest of ₹ 1.60 crore. This indicated the lack of co-ordination between the Departments.

The matter was reported to Government/Department in July 2014. The Department/Government in the exit conference accepted our observations and stated that arrangements are being made to obtain the data from various works departments to detect the defaulters during 2014-15 and necessary action including FIR would be initiated. Further reply has not been received (November 2014).

**It is recommended that the Department may institute a system of cross verification of payments received by the contractors from the other Government Departments with their returns and also to obtain information from these Departments on regular basis and use the same to detect the evasion of tax.**

### **2.3.12 Scrutiny of returns**

Section 33 of the Act read with Rule 18 of the JVAT Rules envisages scrutiny of returns filed by the contractors within fifteen days of the returns being placed on the record of the contractors by the AA. If any mistake is detected, the AA shall serve a notice on the dealer to make payment of the extra amount of tax along with the interest. Further, Section 40(1) of the Act provides levy of penalty besides tax assessed on escaped turnover detected after finalisation of assessment.

We scrutinised the assessment records along with returns filed by the 621 contractors out of 12,454 contractors registered in 12 selected Commercial Taxes Circles and noticed (between January and June 2014) that the returns were not scrutinised by the AAs leading to under-assessment of tax on account of concealment of turnover by the contractors. We detected irregularities based on non-scrutiny of returns which are discussed in succeeding paragraph.

**2.3.12.1** We noticed (between January and June 2014) in seven Commercial Taxes Circles<sup>16</sup> that 13 contractors had filed incorrect returns for gross receipts of ₹ 99.28 crore for the period from 2007-08 to 2010-11. The assessments were finalised between December 2009 and February 2013 on the basis of returns filed by them. However, our scrutiny of periodical returns along with utilisation certificates of declaration forms, audited annual accounts and trading accounts indicated that these contractors had actually received payments of ₹ 178.93 crore. Thus, these contractors had concealed ₹ 79.65 crore on account of receipts turnover in their returns. This indicated that the AAs did not scrutinise the returns with the relevant information available in the records submitted by the concerned contractors which resulted in under-assessment of tax of ₹ 25.83 crore including penalty of ₹ 17.22 crore.

The matter was reported to the Government/Department in July 2014. The Department/Government in the exit conference accepted our observations and stated that information regarding specific action taken in each case is being gathered from respective circles. Further reply has not been received (November 2014).

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<sup>16</sup> Bokaro, Deoghar, Dhanbad, Jamshedpur Urban, Pakur, Ranchi South and Tenughat.

### **2.3.13 Allowance of irregular deductions/exemptions**

*Rule 22 of the JVAT Rules, 2006 provides determination of taxable turnover for the purpose of works contract after deducting from gross turnover, certain charges such as labour charges, charges for planning, designing and architect fee, charges for obtaining on hire of machinery and tools used, cost of consumables, cost of establishment relatable to supply of labour and other similar expenses and profit earned relatable to supply of labour.*

*Our scrutiny indicated a number of mistakes in the assessments finalised by the AAs through which incorrect/excess exemptions were granted. A few instances involving under-assessment of tax of ₹ 28.86 crore are mentioned in the following paragraphs.*

**2.3.13.1** We test checked the assessment records of 621 out of 12,454 contractors registered in 12 selected Commercial Taxes Circles and noticed (between January and June 2014) in nine Commercial Taxes Circles<sup>17</sup> that 37 contractors claimed deductions of ₹ 440.41 crore from their gross turnover of ₹ 1,314.67 crore on account of labour and other like charges, TDS, security deposit, income tax, VAT collection, royalty, excise duty and transporting charges etc. for the period 2006-07 to 2011-12. The AAs while finalising the assessments of these contractors (between September 2008 and March 2013) allowed the claim of exemptions of ₹ 338.18 crore on the basis of submission of corroborative evidences. However, the admissible turnover for deductions/exemptions towards labour and other like charges was ₹ 263.01 crore as per the provisions of the Rule 22(2) of the JVAT Rules, 2006. Thus, non-adherence to the provisions of the JVAT Rules by the AAs resulted in allowance of excess deductions of ₹ 75.17 crore from their gross turnover and consequential under-assessment of tax of ₹ 9.40 crore.

**2.3.13.2** We test checked the assessment records of 621 out of 12,454 contractors registered in 12 selected Commercial Taxes Circles and noticed (between January and June 2014) in eight Commercial Taxes Circles<sup>18</sup> that 26 contractors claimed exemptions of ₹ 350.94 crore from their gross turnover of ₹ 608.01 crore on account of gross profit relatable to supply of labour and services, establishment cost etc. for the period 2006-07 to 2010-11. The AAs while finalising the assessments of these contractors (between February 2009 and March 2013) allowed the claim of exemption of ₹ 223.14 crore on the basis of submission of corroborative evidences. However, the admissible exemptions towards gross profit relatable to supply of labour and services was ₹ 176.37 crore as per the provisions of the Act/Rules. Thus, non-adherence to the provisions of the JVAT Rules by the AAs resulted in allowance of excess exemptions of ₹ 46.77 crore from their gross turnover and consequential underassessment of tax of ₹ 5.85 crore.

**2.3.13.3** We test checked the assessment records of 621 out of 12,454 contractors registered in 12 selected Commercial Taxes Circles and noticed

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<sup>17</sup> Bokaro, Deoghar, Dhanbad, Jamshedpur Urban, Pakur, Palamu, Ranchi South, Ranchi West and Singhbhum.

<sup>18</sup> Bokaro, Deoghar, Jamshedpur Urban, Koderma, Palamu, Ranchi West, Singhbhum and Tenughat.

(between January and June 2014) in six Commercial Taxes Circles<sup>19</sup> that nine contractors claimed exemptions of ₹ 108.92 crore from their gross turnover of ₹ 691.26 crore on account of payment made to sub-contractors in lieu of works executed for them during the period 2006-07 to 2010-11. However, these contractors did not submit the tax invoices issued by the sub-contractors, as required under the Rule 22(1) of JVAT Rules, to get the exemptions from gross turnover. The AAs while finalising the assessments of these contractors (between February 2009 and May 2013) allowed the claim of exemption of ₹ 108.92 crore without taking into consideration non-submission of tax invoices by these contractors. Thus, non-adherence to the provisions of the JVAT Rules by the AAs resulted in allowance of excess exemptions of ₹ 108.92 crore from their gross turnover and consequential underassessment of tax of ₹ 13.61 crore.

The matter was reported to Government/Department in July 2014. The Department/Government in the exit conference accepted our observations and stated that information regarding specific action taken in each case is being gathered from respective circles. Further reply has not been received (November 2014).

#### **2.3.14 Incorrect determination of taxable turnover**

Rule 22 of the JVAT Rules, 2006, provides that the works contractor is liable to pay tax at the appropriate rates, on the total value of goods, transferred in property involved in the execution of works contract. The value of the goods used in execution of work in the contract, declared by the contractor shall not be less than the purchase value of goods.

We test checked the assessment records of 621 out of 12,454 contractors registered in 12 selected Commercial Taxes Circles and noticed (between January and June 2014) in case of six contractors registered in four Commercial Taxes Circles<sup>20</sup> that taxable turnover was determined as ₹ 277.65 crore instead of actual turnover of ₹ 409.67 crore as per returns/records furnished by them for the period 2008-09 to 2010-11. The AAs while finalising the assessments of these contractors (between March 2011 and March 2013) did not consider the figures mentioned in the returns/records resulting in incorrect determination of taxable turnover by ₹ 132.02 crore and consequential underassessment of tax of ₹ 15.43 crore.

The matter was reported to the Government/Department in July 2014. The Department/Government in the exit conference accepted our observations and stated that information regarding specific action taken in each case is being gathered from respective circles. Further reply has not been received (November 2014).

#### **2.3.15 Incorrect allowance of transit sale**

Under Section 6(2) of the CST Act, a claim on account of transit sale is exempted from levy of tax, when the sale has been effected by transfer of documents of the title of the goods during the movement of goods and such

<sup>19</sup> Deoghar, Jamshedpur Urban, Palamu, Ranchi South, Ranchi West and Singhbhum.

<sup>20</sup> Bokaro, Jamshedpur Urban, Koderma and Tenughat.



subsequent sale should also take place during the same movement occasioned by the previous sale subject to furnishing of declarations in Form 'C' and Form 'EI'. As per Rule 12(7) of the CST (Registration and Turnover) Rules 1957, the declaration in Form 'C' and certificate in Form 'EI' or 'EII' shall be furnished to the prescribed authority within three months after the end of the period to which the declaration or the certificate relates. According to Jharkhand Public Works Department Code, Turnkey Projects are composite contract in which design and engineering, supply and installation of equipment and construction of complete works are provided under one contract.

- We test checked the assessment records of 621 out of 12,454 contractors registered in 12 selected Commercial Taxes Circles and noticed (between January and February 2014) in case of two contractors registered in Bokaro and Jamshedpur Commercial Taxes Circles that the AAs while finalising the assessments in March 2013 for the period 2009-10 allowed exemption to these contractors on transit sale valued at ₹ 167.22 crore, though the sales were either not supported by Form 'C' & 'EI' or pertained to earlier year. The AAs though required to scrutinise the returns along with declaration Forms and certificates furnished within three months as per Rule 12(7) of CST Rules, did not adhere to the provisions of the Rules. Lapses on the part of the AAs resulted in incorrect allowance of exemption from tax of ₹ 6.69 crore.

- We further noticed (between January and March 2014) in Ranchi South and Ranchi West Commercial Taxes Circles that three contractors had entered into contracts for supply, design, erection, testing and commissioning of transmission lines and rebuilding of coke oven battery on turnkey basis with Jharkhand State Electricity Board and Bokaro Steel Plant respectively. Consequently, these contractors supplied the equipments valued at ₹ 62.05 crore after purchasing from outside the State. As the equipments were supplied within the State as well as part of turnkey projects, the sale transactions were to be taxed under the JVAT Act. The AAs while finalising the assessments of these contractors (between March 2010 and August 2012) for the period 2007-08 to 2009-10 had allowed the benefit of exempted sales under section 6(2) of the CST Act against furnishing proof of EI and C forms as claimed by these contractors. Thus, the benefit claimed/allowed by the AAs was neither justified nor correct. This resulted in underassessment of tax of ₹ 3.86 crore.

The matter was reported to the Government/Department in July 2014. The Department/Government in the exit conference accepted our observations and stated that information regarding specific action taken in each case is being gathered from respective circles. Further reply has not been received (November 2014).

**We recommend that the Government may issue appropriate directions to the public/private sector undertakings/board/corporation desisting from entering into splitting up of contracts whereby the supply of equipment was treated as transit sale leading to avoidance of tax.**

### **2.3.16 Incorrect allowance of concessional rate of tax**

Under Section 3(a) of the CST Act, sale or purchase of goods shall be deemed to take place in the course of inter-state trade or commerce if the sale or

purchase occasions the movement of goods from one State to another. Further, section 8 provides every registered dealer who in course of inter-state trade and commerce sells to another registered dealer, goods of the class or classes, specified in the certificate of registration of the purchasing dealer, shall be liable to pay tax at concessional rate of two *per cent* from June 2008 of such turnover provided such sales are supported by declarations in Form 'C' issued by the purchasing dealer.

We test checked the assessment records of 621 out of 12,454 contractors registered in 12 selected Commercial Taxes Circles and noticed (between December 2013 and January 2014) in Jamshedpur and Ranchi South Commercial Taxes Circles that two contractors claimed transit sale of ₹ 345.54 crore for the period 2009-10 not supported by declarations in Form 'EI' to substantiate the claim. The AAs while finalising the assessments of these contractors (March 2013) disallowed the claim of transit sale and levied tax at concessional rate of tax on submission of declarations in Form 'C' of this State. As the seller and purchaser belong to the same State, allowance of concessional rate of tax by the AAs to these contractors was in contravention of Section 3(a) of the CST Act. This resulted in incorrect allowance of concessional rate of tax of ₹ 6.91 crore.

The matter was reported to the Government/Department in July 2014. The Department/Government in the exit conference accepted our observations and stated that information regarding specific action taken in each case is being gathered from respective circles. Further reply has not been received (November 2014).

### **2.3.17 Irregularities in grant of Input Tax Credit**

Rule 22(2) of the JVAT Rules provides disallowance of the claim of input tax credit (ITC) in such cases where contractors have not maintained the accounts to determine the correct value of the goods.

We test checked the assessment records of 621 out of 12,454 contractors registered in 12 selected Commercial Taxes Circles and noticed (between January and April 2014) in three Commercial Taxes Circles<sup>21</sup> that five contractors claimed ITC of ₹ 1.29 crore for the period 2008-09 and 2009-10 had not maintained the accounts to assess the correct value of goods. The AAs while finalising the assessments of these contractors (between March 2011 and March 2013) allowed the claim of ITC of ₹ 1.29 crore in contravention of the aforesaid Rule. Thus, non-adherence to the provisions of the JVAT Rules by the AAs resulted in incorrect allowance of ITC of ₹ 1.29 crore.

The matter was reported to the Government/Department in July 2014. The Department/Government in the exit conference accepted our observations and stated that information regarding specific action taken in each case is being gathered from respective circles. Further reply has not been received (November 2014).

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<sup>21</sup> Bokaro, Ranchi South and Ranchi West.

## **Levy of tax on works/supplies contracts**

### **2.3.18 Misuse of declaration forms**

Section 2(ja) of the CST Act specifies the “works contract” which means a contract for carrying out any work that includes assembling, construction, building, altering, manufacturing, processing, fabricating, erection, installation, fitting out, improvement, repair or commissioning of any movable or immovable property. It has been judicially held in case of Prem Kumar & Co. vs. General Manager, East Coast Railway (2011) (41VST118) that transportation of goods from one place to another is purely a contract for transportation, not a works contract. Section 10 of the Act provides for punishment with simple imprisonment, if any person purchases any goods by utilising Form ‘C’ for re-sale, use in the manufacture or processing of goods for sale, telecommunications network, mining activities and generation or distribution of electricity or any other form of power as specified in clause (b) of sub-section (3) of section 8 fails, without reasonable excuse, make use of the goods for any such purpose. Section 10A of the Act further provides imposition of penalty, in lieu of prosecution, a sum not exceeding one and a half times the tax leviable under sub-section (2) of Section 8 of the Act.

We test checked the assessment records of 621 out of 12,454 contractors registered in 12 selected Commercial Taxes Circles and noticed (between January and June 2014) in Dhanbad and Ranchi West Commercial Taxes Circles that Registration Certificates (RC) under CST Act was issued to two contractors for carrying out the business of works contract. Consequently, these contractors utilised declarations in Form C to purchase high speed diesel, lubricants, tyres and tubes valued at ₹ 117.09 crore at concessional rate of tax and consumed the same in the transportation activity during the period 2007-08, 2008-09 and 2010-11. We further noticed that three contractors registered in the same circles purchased furniture, air conditioner, chair, JCB machine etc. valued at ₹ 7.87 crore during 2008-09 to 2010-11 by utilising Form C not covered by their RCs. As these contractors made use of the aforesaid goods for purposes other than those specified in their RCs, they were liable to pay tax besides penalty under Section 10A of the CST Act. However, the AAs while finalising the assessments (between March 2009 and March 2013) or issuing Form C to these contractors did not detect these mistakes. This resulted in unauthorised use of declarations in Form ‘C’ and consequential short levy of tax of ₹ 53.91 crore including penalty of ₹ 32.34 crore.

The matter was reported to the Government/Department in July 2014. The Department/Government in the exit conference accepted our observations and stated that information regarding specific action taken in each case is being gathered from respective circles. Further reply has not been received (November 2014).

### **2.3.19 Application of incorrect rate of tax**

Rule 22 of the JVAT Rules provides taxation at the rate of twelve and half *per cent* on the total consideration received or receivable after providing the prescribed exemptions where VAT contractors have not maintained the accounts to determine the correct value of the goods.

We test checked the assessment records of 621 out of 12,454 contractors registered in 12 selected Commercial Taxes Circles and noticed (between January and June 2014) in eight Commercial Taxes Circles<sup>22</sup> that the AAs while finalising the assessments (between February 2009 and March 2013) of 48 contractors for the period 2006-07 to 2010-11 disallowed the claim of exemption of ₹ 475.96 crore towards labour and other like charges. The AAs had disallowed the aforesaid claim on the ground that these contractors had not maintained the accounts to determine the correct value of the goods. However, the AAs levied tax at the rate of four *per cent* on taxable turnover after providing the prescribed exemptions instead of correct rate of twelve and half *per cent*. Thus, incorrect application of the provisions of the Act and Rules made thereunder by the AAs resulted in short levy of tax of ₹ 34.96 crore.

The matter was reported to the Government/Department in July 2014. The Department/Government in the exit conference accepted our observations and stated that information regarding specific action taken in each case is being gathered from respective circles and further stated that additional demand of ₹ 22.89 lakh was raised in one case of Bokaro Circle. Further reply has not been received (November 2014).

### **2.3.20 Non imposition of interest**

**2.3.20.1** Section 35(5)(b) of the JVAT Act, 2005 provides for levy of interest applicable under this Act on account of disallowance of input tax credit, exemptions and deductions and any other concessions or rebates not supported by requisite evidence as required under the Act, CST Act and rules framed there under. Section 55 (4) of the Act prescribes payment of simple interest at the rate of two *per cent* per month when a dealer is in default or is deemed to be in default in making the payment under Sections 35, 36 and 37 of the Act.

We test checked the assessment records of 621 out of 12,454 contractors registered in 12 selected Commercial Taxes Circles and noticed (between January and June 2014) in five Commercial Taxes Circles<sup>23</sup> that 11 contractors claimed exemption of ₹ 627.91 crore on account of transit sale, labour and services etc. for the period 2007-08 to 2010-11. The AAs while finalising the assessments of these contractors (between March 2010 and March 2013), disallowed the claims of exemptions on account of non-submission of corroborative evidences and levied tax of ₹ 35.52 crore. However, interest of ₹ 22.72 crore, though leviable under the Act, was not levied. Thus, non-adherence to the provisions of the Act and rules made thereunder by the AAs resulted in non-imposition of interest of ₹ 22.72 crore.

**2.3.20.2** Section 43(6) of the JVAT Act stipulates that where a contractor fails to make payment of the tax assessed or any other amount due from him under this Act within thirty days of the date of service of the notice of demand, the prescribed authority shall, after giving the dealer reasonable opportunity of being heard, direct that such dealer shall, in addition to the amount due, pay by

<sup>22</sup> Bokaro, Deoghar, Jamshedpur Urban, Koderma, Palamu, Ranchi South, Ranchi West and Singhbhum.

<sup>23</sup> Bokaro, Jamshedpur, Koderma, Ranchi South and Ranchi West.

way of penalty, a sum equal to two *per cent* of such amount of tax for the period for which payment has been delayed by him after the date on which such amount was due to be paid.

We test checked the assessment records of 621 out of 12,454 contractors registered in 12 selected Commercial Taxes Circles and noticed (between January and June 2014) in six Commercial Taxes Circles<sup>24</sup> that the AAs while finalising the assessments of 19 contractors (between January 2009 and April 2013) for the period 2006-07 to 2010-11, assessed the tax of ₹ 18.35 crore and demand notices were issued accordingly. The notices were served between March 2009 and November 2013. After receipt of notices, ₹ 1.44 crore was partly deposited by two contractors. The AAs did not take any effective steps as a deterrent measure under Section 43(6) of the Act for levy of interest of ₹ 4.34 crore on the recovery of remaining assessed tax of ₹ 16.91 crore. This resulted in non levy of interest of ₹ 4.34 crore on assessed tax of ₹ 16.91 crore.

**2.3.20.3** Under the provisions of Section 40(2) of the JVAT Act, if the prescribed authority upon any information, which has come into his possession before assessment or otherwise, that any registered contractor has concealed any sales or purchase or any particulars thereof, he shall direct the assessee, to pay by way of interest a sum at the rate of two *per cent* for each month on additional tax assessed up to the date of assessment.

We test checked the assessment records of 621 out of 12,454 contractors registered in 12 selected Commercial Taxes Circles and noticed (July 2014) in Ranchi South Commercial Taxes Circle that a contractor had filed incorrect return for nil gross receipts for the period of 2010-11. The AA while finalising the assessment of the contractor (March 2013) determined the gross turnover of ₹ 112.69 crore on the basis of non/short accounting of receipts turnover. However, our scrutiny indicated that interest of ₹ 9.86 crore, though leviable on the additional assessed tax, was not levied. Thus, non-adherence to the provisions of the JVAT Act and rules made thereunder by the AA resulted in non-imposition of interest of ₹ 9.86 crore.

The matter was reported to the Government/Department in July 2014; their replies have not been received (November 2014).

### **2.3.21 Non imposition of penalty**

Under Section 63(3) of the JVAT Act and rules framed thereunder, a contractor with gross turnover exceeding ₹ 40 lakh in a particular year is required to furnish VAT audit report in Form JVAT 409 within nine months from the end of that year failing which the assessing authority shall impose penalty equal to 0.1 *per cent* of the turnover as he may determine.

We test checked the assessment records of 621 out of 12,454 contractors registered in 12 selected Commercial Taxes Circles and noticed (between January and June 2014) in five Commercial Taxes Circles<sup>25</sup> that 25 contractors whose gross turnover was more than ₹ 40 lakh had not submitted the VAT audit report for the period 2006-07 to 2010-11. Our scrutiny indicated that the

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<sup>24</sup> Deoghar, Dhanbad, Jamshedpur Urban, Koderma, Ranchi West and Tenughat.

<sup>25</sup> Bokaro, Deoghar, Palamu, Ranchi South and Ranchi West.

AAs while finalising the assessments of these contractors between February 2009 and March 2013 did not impose penalty of ₹ 29.02 lakh for non-submission of the VAT audit report on the determined gross turnover of ₹ 290.16 crore. This resulted in non-imposition of penalty of ₹ 29.02 lakh.

The matter was reported to the Government/Department in July 2014; their replies have not been received (November 2014).

### **Collection of tax from works/supplies contractors**

#### **2.3.22 Absence of a system for monitoring TDS**

We observed that there was no provision in the JVAT Act 2005 to monitor the collection of TDS by a person responsible for deduction of tax and their remittances to the treasury. As such, the volume of TDS/works contract receipts could not be ascertained correctly by the Department. We present a few illustrative cases showing absence of a system for monitoring of collection and their remittances of TDS in the succeeding paragraphs:

##### **2.3.22.1 Non/short deposit of TDS collected**

Section 44 of the JVAT Act provides that any person making payment of any valuable consideration to a contractor for the execution of a works contract in the State involving transfer of property in goods, whether as goods or in some other form, shall at the time of making payment, deduct tax in advance (TDS) there from at the rate of two *per cent*. Failure to deposit the deducted TDS attracts penalty, a sum equal to the amount of tax which he failed to pay as aforesaid.

We test checked the assessment records of 621 out of 12,454 contractors registered in 12 selected Commercial Taxes Circles and noticed (February and March 2014) from the details of payment made to and TDS deducted from sub-contractors in Bokaro and Jamshedpur Urban Commercial Taxes Circles that two contractors collected TDS of ₹ 1.64 crore during 2009-10 and deposited ₹ 13.29 lakh only. We observed that the AA of Bokaro Circle, though required, did not cross verify the daily collection register with the statement of TDS furnished by the contractor, while the AA of Jamshedpur Urban Circle did not verify the statement of TDS of the contractor with the assessment records of its three sub-contractors registered in the same circle at the time of assessment. Failure on the part of AAs resulted in non/short levy of tax of ₹ 3.02 crore including penalty of ₹ 1.51 crore.

**We recommend that the Government may consider to institute a mechanism for monitoring of TDS collection and their remittances to the treasury through returns by issuing a unique identification number to contractees/big contractors.**

##### **2.3.22.2 Adjustment of excess TDS with VAT payable**

Under the provisions of Section 44(5) of the JVAT Act read with Rule 23(2) of the JVAT Rules, TDS shall be adjustable by the payee, on the authority of the certification in Form JVAT 400 issued to him, with the tax payable by him and the assessing authority shall, on furnishing of such certificate to it, allow

the benefit of such adjustment after due verification of the payment for a particular tax period.

We test checked the assessment records of 621 out of 12,454 contractors registered in 12 selected Commercial Taxes Circles and noticed (between January and March 2014) in three Commercial Taxes Circles<sup>26</sup> in case of three contractors that the AAs while finalising the assessments (between March 2011 and March 2013) incorrectly allowed excess adjustment of TDS of ₹ 19.13 lakh from the VAT payable as mentioned in the **Table - 2.3.22.2**.

**Table - 2.3.22.2**

(₹ in lakh)

Sl. No.	Name of the circle No. of contractor	Period Month of assessment	Nature of observations	TDS claimed by the contractor	TDS adjusted TDS to be adjusted	Excess adjustment of TDS
1	Jamshedpur Urban One	2009-10 March 2013	The contractor had claimed adjustment of TDS of ₹ 25.55 lakh. However, the AA allowed incorrect adjustment of TDS of ₹ 19.89 lakh from the assessed tax instead of adjustable amount of ₹ 6.67 lakh. The incorrect adjustment was on account of inclusion of TDS of ₹ 13.22 lakh deducted on advance payment which was not considered for determination of gross turnover.	25.55	<u>19.89</u> 6.67	13.22
2	Ranchi West One	2008-09 March 2011	The contractor had claimed TDS of ₹ 22.35 lakh through VAT Audit Report on which gross turnover was determined by the AA. However, he had furnished TDS certificates for ₹ 17.97 lakh. The AA while finalising the assessment adjusted the aforesaid TDS from the assessed tax of ₹ 22.06 lakh and created dues of ₹ 4.09 lakh. In pursuance of demand notice, the contractor had filed additional TDS certificate for ₹ 7.99 lakh. Subsequently the dues were adjusted by AA and excess demand of ₹ 3.90 lakh was created. Though the contractor had claimed adjustment of TDS certificates of ₹ 22.35 lakh, acceptance and adjustment of TDS of ₹ 25.95 lakh was incorrect.	22.35	<u>25.95</u> 22.35	3.60
3	Bokaro One	2009-10 March 2013	The AA while finalising the assessment incorrectly adjusted TDS of ₹ 1.67 crore from the assessed tax against furnishing of TDS of ₹ 1.65 crore by the contractor.	164.98	<u>167.29</u> 164.98	2.31
<b>Total</b>				<b>212.88</b>	<b><u>213.13</u></b> <b>194.00</b>	<b>19.13</b>

<sup>26</sup> Bokaro, Jamshedpur Urban and Ranchi West.

The matter was reported to the Government/Department in July 2014. The Department/Government in the exit conference accepted our observations and stated that efforts are being made to monitor the TDS. Further reply has not been received (November 2014).

### **2.3.23 Mistakes in computation of tax**

Under the provisions of the CST/JVAT Act, the assessing authority is to finalise the assessment with utmost care and efficiency. He should see that computation of tax has been done accurately to the best of his knowledge and belief.

We test checked the assessment records of 621 out of 12,454 contractors registered in 12 selected Commercial Taxes Circles and noticed (between February and June 2014) in Ranchi West Commercial Taxes Circle that the AAs while finalising the assessments (between March and June 2013) of two contractors for the period 2009-10 and 2010-11 erroneously levied tax of ₹ 1.47 crore instead of correct amount of ₹ 1.59 crore due to mistake in computation. This resulted in short levy of tax of ₹ 12.12 lakh.

The matter was reported to the Government/Department in July 2014; their replies have not been received (November 2014).

### **2.3.24 Internal Control Mechanism**

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. They help in prevention of frauds and other irregularities. Internal controls also help in the creation of reliable financial and management information systems for prompt and efficient service and adequate safeguards against evasion of Government revenue.

We scrutinised the internal control mechanism of the Commercial Taxes Department regarding levy and collection of tax on works/supplies contract and noticed the following:

#### **2.3.24.1 VAT Audit Wing of the Department**

The system of VAT audit has been envisaged in the JVAT Act and accordingly the VAT Audit Wing of the Department acts as an internal auditor. The criteria and guidelines for selection of dealers for the purposes of audit assessment and tax audit thereof have been notified (July 2011). The Wing has started functioning at Headquarters' level and divisional level at Ranchi, Jamshedpur and Dhanbad. The information furnished (July 2014) by the VAT Audit Wing of the Department regarding the number of contractors selected for audit assessment, observations raised and additional revenue generated at the instance of audit assessment is depicted in the **Table – 2.3.24.1.**



**Table – 2.3.24.1**

(₹ in crore)					
Period	Name of Division	No. of contractors selected for Audit	No. of assessment checked	Nature of irregularities found	Additional revenue generated
2010-11	Ranchi	10	Nil	Nil	
	Jamshedpur	9	Nil	Nil	
	Dhanbad	4	1	Inter-state sale shown as transit sale and short accountal of purchase	3.00
2011-12	Ranchi	10	Nil	Nil	
	Jamshedpur	9	Nil	Nil	
	Dhanbad	4	Nil	Nil	
<b>Total</b>		<b>46</b>	<b>1</b>		<b>3.00</b>

From the above table it could be seen that the VAT Audit Wing had checked one assessment record out of 46 records of contractors selected for audit during 2010-11 and 2011-12. The shortfall in audit is a departure from the main features of VAT regime which is built on the promises of voluntary compliance by the dealers but with a sample selection for audit of cases which acts as a deterrent to the dealers from making false declaration of turnover.

We observed that the criteria determined for selection of the dealers in the notification of July 2011 indicated that such contractors whose volume of turnover exceeds ₹ 10 crore are liable for audit assessment. However, our scrutiny of assessment records of contractors having volume of turnover exceeding ₹ 10 crore *vis-a-vis* assessment records of their sub-contractors having volume of turnover less than ₹ 10 crore revealed several irregularities in payments made by big contractors and receipts by their sub-contractors which consequently affected levy and collection of VAT.

The Department/Government in the exit conference accepted our observations and stated that necessary action would be taken in the light of the audit observation. Further reply has not been received (November 2014).

**We recommend that the Government may consider ensuring periodical audit by the VAT Audit Wing and determine criteria for selection of records of such sub contractors who had received payments from registered big contractors.**

### **2.3.24.2 Bureau of Investigation**

The JVAT Act provides for establishment of the Bureau of Investigation (IB) from 1 April 2006 to function under the control and supervision of the CCT and to discharge such duties as may be assigned to it. However, by an order issued in August 2009 by the CCT, the Divisional IB under the JCCT (Administration) was entrusted with the task of verifying the correctness of payments made by the Public Works Departments/Undertakings in lieu of works contract to the works contractors.

We noticed that though the IB was established in April 2006, the notification regarding assignment of functions was issued in August 2009. The IB did not carry out its assigned duties and remained non functional during the period 2008-09 to 2012-13 as intimated by the Department.

We further observed that the Department did not put in place any mechanism in the notification of August 2009 to monitor the transactions between contractors and their sub-contractors. Our cross verification of these transactions indicated several irregularities/deficiencies which have been discussed in the paragraph 2.3.11.2.

The Department/Government in the exit conference accepted our observation and stated that it has started collection of data from various government works departments/PSUs/municipalities during 2014-15.

**The Government may consider strengthening the functions of IB for regular collection of data/information regarding transactions of works contractors and creation of a database from Departments and undertakings of State/Central Government and other big undertakings for cross-verification of transactions.**

### **2.3.25 Conclusion**

Effectiveness of tax administration depends on the effectiveness of the systems in place for overseeing the entire spectrum of issues that deal with registration, assessment, levy, collection, accounting and monitoring. Survey has not been undertaken to detect unregistered dealers, widen the tax base and augmenting revenue. These system failures led to widespread leakage of revenue which remained undetected. The Department has not established any mechanism for cross verification of intra-departmental database of works contractors/suppliers resulting in escapement of revenue from registered as well as unregistered works contractors. There was no effective system of monitoring the TDS remittances of contractees. Our performance audit revealed that the Department has not made enough efforts to register works contract dealers by using information of TDS remittances received. Apart from the above, cases were also noticed involving irregular grant of deductions, application of incorrect rate of tax etc. due to non-compliance of the Act/Rules by the assessing authorities.

### **2.3.26 Summary of recommendations**

The Government may consider:

- issuing directions to the Department for speedy settlement of the arrear cases by constant monitoring and recovering the arrears as arrears of land revenue by invoking provisions of the Bihar and Orissa Public Demands Recovery Act, 1914;
- ensuring conduct of regular market surveys, inter/intra departmental cross verification of data/records and instituting other suitable measures for registration of works/supplies contractors;
- instituting a system of cross verification of payments received by the sub-contractors from the assessment records of main contractor within the department on regular basis;
- issuing appropriate directions to the public/private sector undertakings/board/corporation desisting from entering into splitting up of contracts

whereby the supply of equipment was treated as transit sale leading to avoidance of tax;

- instituting a mechanism for monitoring of TDS collection and their remittances to the treasury through returns by issuing a unique identification number to contractee/main contractor;
- ensuring periodical audit by the VAT Audit Wing and determine criteria for selection of records of such sub contractors who had received payments from registered big contractors; and
- strengthening the functions of IB for regular collection of data/information regarding transactions of works contractors and creation of database from departments and undertakings of State/Central Government and other big undertakings for cross-verification of transactions.

The Department/Government in the exit conference accepted (August 2014) our all recommendations.

## 2.4 Irregularities in determination of turnover

*Turnover means the aggregate of sale prices received or receivable and purchase prices paid or payable during any given period. Correct determination of turnover is essential for proper assessment and levy of taxes due. The gross turnover of a dealer is taken into account for the purpose of determining his liability for tax but for the purposes of actual levy of taxes, certain deductions are allowed in order to arrive at the taxable turnover.*

*We noticed that the AAs while finalising the assessments had not assessed the taxable turnover of the dealers correctly as per the provisions of the Act. This resulted in non/short levy of tax and penalty of ₹ 211.98 crore as mentioned in paragraphs 2.4.1 and 2.4.2.*

### 2.4.1 Suppression of sales/purchase turnover under JVAT Act

Under the provisions of Section 40(1) read with Section 37 (6) of the JVAT Act and the Section 9 of the CST Act, if the prescribed authority has reasons to believe that the dealer has concealed, omitted or failed to disclose wilfully, the particulars of such turnover or has furnished incorrect particulars of such turnover and thereby the returned figures are below the real amount, the prescribed authority shall proceed to assess or reassess the amount of tax due from the dealer in respect of such turnover and shall direct the dealer to pay, besides the tax assessed on escaped turnover, by way of penalty a sum equivalent to twice the amount of the additional tax so assessed.

We test checked (between March 2012 and March 2014) assessment records of 1,774 dealers out of 51,376 dealers registered in 14 Commercial Taxes Circles<sup>27</sup> and noticed that 31 dealers had disclosed purchase/sales turnover of ₹ 7,832.26 crore during the period between 2007-08 and 2010-11 through periodical returns and VAT audit report in Form JVAT 409 on which the assessments were finalised (between March 2010 and March 2013). However, our scrutiny of usage and requisition of Form C and F, annual return, trading account, annual audited accounts in JVAT 409 and Profit and Loss account and details of road permits submitted by the assesses indicated that the assesses had actually purchased/received/sold goods<sup>28</sup> worth ₹ 9,215.13 crore. Thus, the assesses had concealed turnovers of ₹ 1,382.87 crore on account of purchase/sale of commodities. This indicated that the AAs did not cross verify the returns with the relevant information available in the records submitted by these 31 concerned dealers. This resulted in under assessment of tax of ₹ 196.46 crore including penalty of ₹ 130.97 crore. We mention specific cases in respect of five dealers in four Commercial Taxes Circles based on highest financial implications as mentioned in the **Table – 2.4.1**.

<sup>27</sup> Adityapur, Bokaro, Dhanbad, Dhanbad Urban, Giridih, Jamshedpur, Jamshedpur Urban, Jharia, Katras, Ramgarh, Ranchi East, Ranchi South, Ranchi West and Singhbhum.

<sup>28</sup> Battery, Coal & Coke, Material handling equipments, MS Ingot, Motor vehicles & spares, Steam, Iron & Steel, Industrial gases, Mobile phones, Aluminium products, Petroleum products, HDPE, Machine parts, Detergent powder, Electrical appliances and MS wire & wire.

Table – 2.4.1

Sl. No.	Name of the circle No. of dealer	Period Month of assessment	Nature of observations	(₹ in crore)	
				Suppressed turnover Rate of tax (%)	Short levy of VAT Penalty
1	Ranchi South One	2009-10 January 2013	As per utilisation and requisition of Form F, the dealer had actually received goods valued at ₹ 3,621.56 crore but accounted for ₹ 3,165.79 crore in its trading account on which the assessment was finalised.	455.77 4	18.23 36.46
2	Jamshedpur One	2009-10 March 2013	As per utilisation and requisition of Form F total receipt of goods was ₹ 761.35 crore but in the trading account furnished in JVAT 409 total receipt of goods was shown as ₹ 414.16 crore on which the assessment was finalised.	347.19 4	13.89 27.78
3	Adityapur One	2009-10 March 2013	The dealer had shown inter-State sale of ₹ 32.32 crore during 2009-10 on which the assessment was finalised, however, our scrutiny of details of blue road permit (504 B) furnished by the dealer revealed that the dealer had actually sold/transferred goods, outside the State to the tune of ₹ 115.30 crore.	82.98 12.5	10.37 20.74
4	Jamshedpur One	2009-10 March 2013	As per Annual Audited Accounts, the dealer had actually sold goods worth ₹ 648.35 crore but accounted for ₹ 395.94 crore in its trading account/sales tax returns on which the assessment was finalised.	252.41 4	10.10 20.19
5	Dhanbad One	2008-09 March 2011	As per Audited Annual Account sale turnover was ₹ 328.71 crore but turnover shown by the dealer was ₹ 275.05 crore on which the assessment was finalised.	53.66 4	2.15 4.29

After we pointed out the cases (between March 2012 and March 2014), the AA of Bokaro Circle in two cases revised the assessment order and raised (between November and December 2013) additional demand of ₹ 74.30 lakh, while in other case accepted the audit observation but stated (March 2013) that levy of penalty under Section 37(6) was against the provisions of the Act. The reply was not in order as under Rule 57 of the JVAT Rules, 2006, DCCT is a prescribed authority for the purposes of Section 40 of the Act which provides for levy of penalty under Section 37(6) of the Act.

The AAs stated (between March 2012 and May 2014) that 26 cases would be reviewed.

The AAs of Jamshedpur Urban and Ranchi East Circles did not furnish reply on the audit observation. Further reply has not been received (November 2014).

We reported the matter to the Department/Government between November 2012 and June 2014; their reply has not been received (November 2014).

Similar issue was pointed out in Paragraph No. 2.11.1.1 of the Audit Report (Revenue Sector) for the year ended 31 March 2013, the Government/

Department accepted our observation in 13 cases and issued demand of ₹ 162.92 crore in nine cases (September 2013). However, nature of these lapses/irregularities are still persisting which points to weak internal control of the Department to prevent recurring leakage of revenue.

#### 2.4.2 Incorrect determination of gross turnover under JVAT Act

Under the provisions of the Section 2(xxv) of the JVAT Act, 2005, gross turnover is the aggregate of all amounts received and receivable by a dealer, including the gross amount received or receivable for execution of works contract or the sale of goods made outside the State, in the course of inter-State trade or commerce or export during any given period.

We test checked (between March 2012 and February 2014) assessment records of 167 dealers out of 8,203 dealers registered in Bokaro and Tenughat Commercial Taxes Circles and noticed that in case of three dealers, the GTO was determined as ₹ 12,172.45 crore. However, our scrutiny of the returns furnished by the dealers revealed that the actual GTO was ₹ 12,549.47 crore. The AAs while finalising the assessments between March 2012 and March 2013 did not consider the figures mentioned in the returns/records and determined lesser GTO without assigning any reason. This resulted in incorrect determination of GTO of ₹ 377.02 crore and consequential under assessment of tax of ₹ 15.52 crore as mentioned in the **Table – 2.4.2**.

**Table – 2.4.2**

(₹ in crore)					
Sl. No.	Name of the circle No. of dealer	Period Month of assessment	Nature of observations	Difference Rate of tax (%)	Short levy
1	<u>Bokaro</u> Two	2008-09 & 2009-10 March 2011 and March 2013	We worked out the GTO on the basis of the annual returns furnished by the dealers to ₹ 12,129.89 crore but the assessments were finalised on GTO of ₹ 11,784.75 crore only.	<u>345.14</u> 12.5 & 4	14.25
2	<u>Tenughat</u> One	2009-10 February 2013	As per return and details of central declaration forms furnished by the assessee, we worked out the GTO to ₹ 419.58 crore but the assessment was finalised on ₹ 387.70 crore only.	<u>31.88</u> 4	1.27
<b>Total</b>				<b>377.02</b>	<b>15.52</b>

After we pointed out the cases between March 2012 and February 2014, the DCCT, Bokaro, in one case, accepted (November 2013) our observation and raised demand of ₹ 65.16 lakh, while in the other case it was stated (April 2013) that sale from stockyard located outside the State has been included, hence there was no loss of revenue. The reply was not relevant as the GTO determined by us was on the basis of sales turnover shown by the dealer and usage of declarations in Form C, F and JVAT-506 furnished in support of stock transfer and sale. Hence, the sales from stockyard located outside the State had no connection to GTO determined by us. The DCCT, Tenughat stated (February 2014) that the case would be reviewed. Further reply has not been received (November 2014).

We reported the matter to the Department between February and May 2014; their reply has not been received (November 2014).

Similar issue was pointed out in Paragraph No. 2.11.2 of the Audit Report (Revenue Sector) for the year ended 31 March 2013, the Government/Department accepted our observation and issued demand of ₹ 18.36 lakh in three cases (September 2013). However, nature of these lapses/irregularities are still persisting which points to weak internal control of the Department to prevent recurring leakage of revenue.

## **2.5 Non-levy of interest**

**2.5.1** Under the provisions of Section 35(6) of the JVAT Act 2005 read with Section 9(2) of the CST Act and rules framed thereunder, if the self assessment has not been filed within the prescribed time, the prescribed authority shall assess the amount of tax and interest due from the dealer on the basis of filed returns which have come on record and after making such adjustment as may be necessary including disallowance of exemptions and any other concessions not supported by requisite evidence as required under the Act. Further, Section 30(1) of the Act provides levy of interest at the rate of one *per cent* per month from the date of tax payable to the date of payment or to the date of order of assessment whichever is earlier.

We test checked (between August 2012 and January 2014) the assessment records of 1,018 dealers out of 14,376 dealers registered in five Commercial Taxes Circles<sup>29</sup> and noticed that six dealers, had claimed exemptions, through the periodical returns/JVAT-409, on stock transfer outside/within the State, transit sale, concessional rate of tax during inter-State sale, export sale and ITC valued at ₹ 18,274.16 crore during 2007-08 and 2010-11. The Assessing Authorities while finalising the assessments of these dealers (between March 2011 and January 2014) allowed exemptions and concessional rate of tax on turnover valued at ₹ 16,631.55 crore. The balance turnover of ₹ 1,642.47 crore was levied to tax at the prescribed rates. However, interest amounting to ₹ 15.25 crore, though leviable as per the provisions of the Act, was not levied.

After we pointed out the cases between August 2012 and January 2014, in five cases the AAs stated (between August 2012 and February 2014) that the cases would be reviewed. In one case, the AA Ramgarh stated that the objected amount is not shown in the returns filed by the dealer, hence the objection is not sustainable. The reply was not in order as the dealer had furnished incorrect returns and paid the tax accordingly which was less than the actual tax due, which attracts levy of interest as per Section 35(6) of the JVAT Act, 2005.

We reported the matter to the Department/Government between October 2012 and May 2014; their reply has not been received (November 2014).

Similar issue was pointed out in Paragraph No. 2.13.2 of the Audit Report (Revenue Sector) for the year ended 31 March 2013, the Government/Department issued demand of ₹ 1.12 crore in two cases and stated (September 2013) that in remaining cases the matter was under hearing. Further reply has not been received (November 2014).

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<sup>29</sup> Dhanbad, Dhanbad Urban, Jamshedpur Urban, Ramgarh and Ranchi South.

**2.5.2** Under the provisions of Section 40(2) of the JVAT Act 2005, if the prescribed authority upon any information, which has come into his possession before assessment or otherwise, that any registered dealer has concealed any sale or purchase or any particular thereof, with a view to reduce the amount of tax payable by him or has furnished incorrect statement of his turnover or incorrect particulars of his sales or purchase in the return furnished by him, he shall direct the assessee, in addition to additional tax assessed on suppressed or concealed turnover, to pay by way of interest a sum at the rate of two *per cent* for each month.

We test checked (between August 2013 to February 2014) assessment records of 962 dealers out of 21,754 dealers registered in seven Commercial Taxes Circles<sup>30</sup> and noticed that nine dealers had filed their returns for purchase/sale conceding GTO of ₹ 1,337.96 crore for the periods between 2009-10 and 2010-11. The AAs while finalising the assessments of these dealers (between December 2012 and March 2013) determined the GTO of ₹ 1,600.80 crore enhancing it by an additional amount of ₹ 262.84 crore on the basis of non/short accounting of goods received/sold on Form 'C', under valuation of goods and furnishing incorrect, incomplete and unreliable books of accounts. However, our scrutiny indicated that interest of ₹ 7.85 crore though leviable on the additional assessed tax was not levied. Thus, non-adherence to the provisions of the Act, mentioned *ibid*, by the AAs resulted in non-levy of interest of ₹ 7.85 crore.

After we pointed out the cases (between August 2013 and February 2014), the AA, Ranchi East Circle in two cases discussed (January 2014) the audit observation but did not furnish specific reply on it. The AA, Giridih Circle in one case stated (November 2013) that the assessment has been made on best of his judgement, hence Section 40(2) is not applicable. The reply was not in order, as enhancement of GTO by the AA was based on suppression of turnover by the dealer on specific grounds. However, in the remaining cases, the AAs stated (between August 2013 and February 2014) that the cases would be reviewed.

We reported the matter to the Department/Government (between February and May 2014); their reply has not been received (November 2014).

Similar issue was pointed out in Paragraph No. 2.13.1 of the Audit Report (Revenue Sector) for the year ended 31 March 2013, the Government/Department issued demand of ₹ 45.26 lakh in two cases and stated (September 2013) that in four cases the matter was under hearing. In remaining two cases reply has not been received (November 2014).

## **2.6 Irregularities in compliance to the Central Sales Tax Act**

*Under the provisions of the CST Act, 1956 and the rules/notifications issued thereunder, different declaration forms are prescribed for claiming exemptions/concessions from levy of tax. The Act further provides for imposition of penalty for misuse of declaration forms.*

<sup>30</sup> Dhanbad, Giridih, Jharia, Ramgarh, Ranchi East, Ranchi South and Tenughat.



*We noticed that the AAs did not comply with the provisions of the Act and notifications issued thereunder resulting in short levy of tax and penalty of ₹ 8.52 crore. The cases are described in the succeeding paragraphs:*

### **2.6.1 Misuse of declaration forms**

Under the provisions of Section 8(3) of the CST Act, 1956, a registered dealer can purchase goods from outside the State at concessional rate of tax by using prescribed declarations in Form 'C' for goods intended for resale by him or for use by him in the manufacture or processing of goods for sale or in mining or in the generation or distribution of electricity or any other form of power or in telecommunication network provided such goods are covered by his RC. Failure to do so render the dealer liable to prosecution or in lieu of prosecution, the AA may impose penalty of a sum not exceeding one and a half times of the tax leviable as if the purchase is not supported by the prescribed declaration in Form 'C' under Section 10A of the Act. Further, it has judicially been held in case of Bentec Rubber Pvt. Ltd. Vs State of Kerala (1997) 106 STC 591 that the buyer must sell the goods received from job work, if he uses the goods for further manufacture. The concession is not available to the dealer doing job work.

We test checked (December 2013) assessment records of 91 dealers out of 7,750 dealers registered in Jamshedpur Commercial Taxes Circle and noticed that an assessee had purchased goods for use in manufacturing or processing valued at ₹ 110.65 crore at concessional rate of tax by utilising declarations in Form 'C' between 2007-08 and 2009-10 which was transferred to another manufacturer for further processing (gear boxes) or manufacturer of finished goods (Motor Vehicles) for sale in contravention of judicial pronouncement. The AA while finalising the assessments during March 2010 to March 2013 did not levy penalty on misuse of Form 'C'. This indicated that the AA did not cross-verify the RC under the CST Act or the goods were purchased on concessional rate for the purpose of job work by the assessees before issue of declaration Form 'C'. This resulted in unauthorised use of declaration Form 'C' and consequential non-levy of penalty of ₹ 6.64 crore.

After we pointed out the case (December 2013), the AA stated (December 2013) that the case would be reviewed.

We reported the matter to the Department/Government in April 2014; their reply has not been received (November 2014).

Similar issue was pointed out in Paragraph No. 2.15.1 of the Audit Report (Revenue Sector) for the year ending 31 March 2013, the Department accepted our observation and raised demand of ₹ 1.20 crore in two cases and stated (September 2013) that matter was under hearing in remaining cases. However, nature of lapses/irregularities are still persisting which points to weak internal control of the Department to prevent recurring leakage of revenue.

### **2.6.2 Incorrect allowance of concessional rate of tax under CST**

Under the provisions of Sections 6 and 8 of the CST Act, 1956, concessional rate of tax is applicable on inter-State sale provided such sale is supported by declarations in Form 'C' and 'D' and transfer of goods claimed other than by

way of sale made by the registered dealer to any other place of his business located outside the State or his agent or principal in other States is exempt from levy of tax on production of prescribed declarations in Form 'F' covering transactions during a period of one calendar month between two dealers. If the dealer fails to furnish such declaration, then, the movement of such goods shall be deemed for all purposes of this Act to have been occasioned as a result of sale. Further, the facility of inter-State purchase by the Government Departments against Form 'D' was withdrawn with effect from 01 April 2007.

We test checked (between November 2013 and February 2014) assessment records of 170 dealers out of 14,724 dealers registered in three Commercial Taxes Circles<sup>31</sup> and noticed that six dealers had claimed concessional rate of tax/exemption on inter-State sale/transfer of goods valued at ₹ 1,413.35 crore between 2007-08 and 2010-11. The AAs while finalising the assessments between February 2011 and January 2014, allowed the claim in full on the basis of declarations in Form 'C', 'D' and 'F' submitted by them. However, our scrutiny of the declaration forms revealed that these dealers were eligible for tax exemption/concessional rate of tax on inter-State stock transfer/sales of goods valued at ₹ 1,308.19 crore only due to reasons of submission of forms with deficient value, forms issued in the name of other dealer, submission of Form(s) 'F' covering transactions for more than a month and Form 'D' on which facility for concessional purchase was withdrawn. This resulted in incorrect allowance of tax exemption and consequential under assessment of tax of ₹1.88 crore.

After we pointed out the cases between November 2013 and February 2014, the AAs stated (between November 2013 and February 2014) that the cases would be reviewed. Further reply has not been received (November 2014).

We reported the matter to the Department/Government between February and April 2014; their reply has not been received (November 2014).

Similar issue was pointed out in Paragraph No. 2.15.2 of the Audit Report (Revenue Sector) for the year ending 31 March 2013, the Department accepted our observation and raised demand of ₹ 34.38 lakh in two cases and stated (September 2013) that matter was under hearing in the remaining cases. However, nature of lapses/irregularities are still persisting which points to weak internal control of the Department to prevent recurring leakage of revenue.

## **2.7 Irregularities in grant of Input Tax Credit**

Under the provisions of the Section 18 of the JVAT Act, 2005, the input tax credit to which the registered dealer is entitled, shall be the amount of tax paid by the registered dealer on purchases made within the State during any tax period and shall substantiate such claim by producing declaration in JVAT 404 issued by the preceding VAT selling dealer. ITC shall be allowed proportionately in case of stock transfer of goods outside the State; however, no ITC was admissible on purchase of capital goods unless permitted by the Department under Rule 27 of the JVAT Rules, 2006. Further, under Rule 26(6)(b) of the Rules, where the value of taxable sales is less than five *per cent*

<sup>31</sup> Jharia, Palamu and Ramgarh.

or less of the total value, the VAT dealer shall not be eligible to claim ITC for the tax period. Section 37(6)(c) of the Act further provides imposition of penalty, twice the amount of excess ITC availed.

We test checked (between September 2012 and February 2014) assessment records of 944 dealers out of 34,048 dealers registered in seven Commercial Taxes Circles<sup>32</sup> and noticed that 11 dealers had claimed ITC of ₹ 9.40 crore on intra-State purchase of goods between 2008-09 and 2010-11. The AAs while finalising the assessments (between March 2011 and March 2013) allowed ITC of ₹ 9.30 crore on the basis of declarations in JVAT 404 submitted by dealers and apportionment of ITC. Our scrutiny of declarations in JVAT 404 and details of taxable turnover, however, revealed that these dealers were actually liable for ITC amounting to ₹ 8.24 crore only in accordance with the provisions of the Act/Rules. This resulted in allowance of excess ITC of ₹ 1.06 crore by the AAs. Besides, penalty of ₹ 2.33 crore was also leviable for availing incorrect ITC by these dealers.

After we pointed out the cases (between September 2012 and February 2014), the AA, Ranchi West Circle, in one case stated that demand for the entire amount under observation of ₹ 75.89 lakh had been raised (September 2013). In the remaining 10 cases, the AAs stated (between February 2013 and February 2014) that the cases would be reviewed. Further reply has not been received (November 2014).

We reported the matter to the Department/Government (between April 2013 and April 2014); their reply has not been received (November 2014).

Similar issue was pointed out in Paragraph No. 2.14.1 of the Audit Report (Revenue Sector) for the year ending 31 March 2013. The Department/Government raised demand of ₹ 49.39 lakh in three cases and stated (September 2013) that matter was under hearing in the remaining one case. However, nature of lapses/irregularities are still persisting which points to weak internal control of the Department to prevent recurring leakage of revenue.

## **2.8 Application of incorrect rate of tax under JVAT Act**

Under the provisions of the Sections 9 and 13 of the JVAT Act, 2005 and schedules appended thereunder, motor parts and aviation turbine fuel (ATF) are taxable at the rate of 12.5 and 20 *per cent* respectively under Schedule-II Part D and E of the Act.

We test checked (between December 2013 and January 2014) the assessment records of 642 dealers out of 11,785 dealers registered in two Commercial Taxes Circles (Jamshedpur and Ranchi South) and noticed that three dealers dealing in ATF, motor vehicles, auto parts and components had filed their returns for the period between 2008-09 and 2009-10 admitting the rate of four *per cent*, instead of leviable rates of 20 and 12.5 *per cent*. The AAs also at the time of finalising the assessments of these dealers, between December 2010 and March 2013, did not consider the figures mentioned in the returns/records *vis-à-vis* schedules of the Act and levied tax at incorrect rates. Thus, incorrect

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<sup>32</sup> Adityapur, Giridih, Jamshedpur, Palamu, Ramgarh, Ranchi South and Ranchi West.

application of the provisions of the Act by the AAs resulted in short levy of tax of ₹ 2.80 crore as mentioned in the **Table – 2.8**.

**Table - 2.8**

(₹ in lakh)					
Sl. No.	Name of the circle No. of dealer	Period Month of assessment	Nature of observations	Tax leviable Tax levied	Short levy
1	Jamshedpur One	2008-09 & 2009-10 December 2010 and March 2013	Though, tax on sale of motor vehicles and components was leviable at the rate of 12.5 <i>per cent</i> but tax was levied at the rate of four <i>per cent</i> .	236.14 75.57	160.57
2	Jamshedpur One	2009-10 March 2013	As per reconciliation statement furnished by the dealer on which the assessment was finalised tax at the rate of four <i>per cent</i> was leviable on ₹ 48.37 crore only, however, the AA levied tax at the rate of four <i>per cent</i> on ₹ 56.31 crore.	99.24 31.76	67.48
3	Ranchi South One	2009-10 October 2012	Sale of ATF was ₹ 25.65 crore taxable at the rate of 20 <i>per cent</i> . However, the AA at the time of assessment levied tax at the rate of 20 <i>per cent</i> on ₹ 22.45 crore only and incorrectly levied four <i>per cent</i> on ₹ 3.21 crore.	64.40 12.88	51.52
<b>Total</b>				<b>399.78 120.21</b>	<b>279.57</b>

After we pointed out the cases between December 2013 and January 2014, the AAs stated (between December 2013 and January 2014) that the cases would be reviewed. Further reply has not been received (November 2014).

We reported the matter to the Department/Government in April 2014; their reply has not been received (November 2014).

Similar issue was pointed out in Paragraph No. 2.12 of the Audit Report (Revenue Sector) for the year ending 31 March 2013. The Department/Government raised demand of ₹ 88.69 lakh in three cases and stated (September 2013) that matter was under hearing in the one case while reply in respect of one case has not been furnished (November 2014). However, nature of lapses/irregularities are still persisting which points to weak internal control of the Department to prevent recurring leakage of revenue.

## **2.9 Incorrect allowance of exemption under JVAT Act**

Under the provisions of Rule 35(1) of the JVAT Rules, 2006, a dealer who claims that any amount of his turnover should be exempted from tax on account of goods being specified in Part-E of Schedule-II and for the sales made at the first stage of sale in the State under Section 9 (2) of the JVAT Act, 2005, shall substantiate for such claim before the authority by producing a true declaration issued to him in Form JVAT 403 that the goods in question have already been subjected to tax on the first point of their sale in the State of Jharkhand.

We test checked (between December 2012 and December 2013) assessment records of 163 dealers out of 9,472 dealers registered in Giridih and Palamu Commercial Taxes Circles and noticed that two dealers had purchased liquor (IMFL) of ₹ 26.89 crore during 2009-10 and 2010-11 and furnished declarations in form JVAT 403 for ₹ 24.28 crore to substantiate the claim for tax paid purchase of goods. The AAs while finalising the assessment of these dealers (between September 2011 and March 2013) allowed exemption as tax paid purchase of liquor of ₹ 26.89 crore on the basis of declarations furnished. This resulted in incorrect grant of exemption and consequent under assessment of tax of ₹ 1.14 crore.

After we pointed out the cases between December 2012 and December 2013, the AA, Giridih Circle revised the assessment and raised (February 2013) demand for the amount under our observation of ₹ 2.67 lakh. While AA, Palamu Circle stated (December 2013) that the case would be reviewed. Further reply has not been received (November 2014).

We reported the matter to the Department/Government between April 2013 and February 2014; their reply has not been received (November 2014).

## **2.10 Non-levy of penalty for non-payment of assessed tax**

Under the provisions of Section 43(6) of the JVAT Act, if a dealer fails to make payment of the tax assessed or interest levied or penalty imposed on him or any other amount due from him under this Act within thirty days of the date of service of the notice of demand, the prescribed authority shall, after giving the dealer reasonable opportunity of being heard, direct that such dealer shall in addition to the amount due pay, by way of penalty, a sum equal to two *per cent* of such amount, for every month, for the period for which payment has been delayed by him after the date on which such amount was due to be paid.

We test checked (February 2014) assessment records of 57 dealers out of 2,753 dealers registered in Tenughat Commercial Taxes Circle and noticed that in case of a dealer, demand notice was issued in December 2012 by the AA for payment of VAT and CST for the period 2009-10 amounting to ₹ 42.22 lakh and ₹ 4.60 crore respectively which was received by the dealer in February 2013. The dealer moved to JCCT (Appeal) Court against the tax assessed. The appeal against the assessment of VAT was turned down (May 2013) by the Court, while in the case of assessment of CST, the dealer was instructed to furnish corrected declaration forms within one month. The dealer neither furnished the corrected central declaration forms nor paid the assessed tax. Thus, penalty of ₹ one crore was leviable for non-payment of assessed tax.

After we pointed out the case in February 2014, the AA stated (February 2014) that the case would be reviewed. Further reply has not been received (November 2014).

We reported the matter to the Department/Government in April 2014; their reply has not been received (November 2014).

## **2.11 Mistakes in computation of tax**

Under the provisions of the CST/JVAT Act, the AA is to finalise the assessment with utmost care and efficiency. He should see that computation of tax has been done accurately to the best of his knowledge and belief.

We test checked assessment records (between September 2013 and February 2014) of 390 dealers out of 13,240 dealers registered in five Commercial Taxes Circles<sup>33</sup> and noticed that in case of six dealers the AAs had erroneously levied tax of ₹ 52 lakh instead of correct amount of ₹ 89.47 lakh while finalising assessments between April 2011 and March 2013 for the period 2009-10. Further, in another assessment case, the AA though passed the order to allow ITC of ₹ 8.76 lakh only but erroneously deducted ITC of ₹ 12.47 lakh from the output tax. Thus, mistakes in computing the tax by the AAs resulted in short levy of tax of ₹ 41.18 lakh.

After we pointed out the cases, the AA of Chirkunda Circle, in one case, revised the assessment order and raised (May 2014) additional demand of ₹ 3.71 lakh while in other cases, the AAs stated (between September 2013 and February 2014) that the cases would be reviewed. Further reply has not been received (November 2014).

We reported the matter to the Department/Government between February 2014 and May 2014; their reply has not been received (November 2014).

Similar issue was pointed out in Paragraph No. 2.18 of the Audit Report (Revenue Sector) for the year ending 31 March 2013. The Department/Government accepted our observation and adjusted demand of ₹ 2.09 lakh in one case and stated (September 2013) that matter was under hearing in the remaining one case. However, nature of lapses/irregularities are still persisting which points to weak internal control of the Department to prevent recurring leakage of revenue.

## **2.12 Internal audit**

The system of VAT audit has been envisaged in the JVAT Act. The criteria and guidelines for selection of dealers for the purposes of audit assessment and audit thereof have been notified (July 2011). The Wing has started functioning at Headquarters' level and divisional level at Ranchi, Jamshedpur and Dhanbad. The Department reported (July 2014) that 110 observations having financial implication of ₹ 17.63 crore had been raised during 2010-11, out of them ₹ 6.34 crore involving in 26 cases was settled and ₹ 24.68 lakh was recovered. However, the Department did not report number of cases covered under VAT audit during the year between 2011-12 and 2013-14 despite being requested (between April and July 2014).

<sup>33</sup> Chirkunda, Dhanbad, Giridih, Ramgarh and Tenughat.

**CHAPTER-III**  
**STATE EXCISE**

## CHAPTER – III: STATE EXCISE

### 3.1 Tax administration

The levy and collection of Excise Duty is governed by the Bihar Excise Act, 1915 and the Rules made/notifications issued thereunder, as adopted by the Government of Jharkhand. The Secretary of the Excise and Prohibition Department is responsible for administration of the State Excise laws at the Government level. The Commissioner of Excise (EC) is the head of the Department. He is primarily responsible for the administration and execution of the excise policies and programmes of the State Government. He is assisted by a Deputy Commissioner of Excise and an Assistant Commissioner of Excise at the Headquarters.

The State of Jharkhand is divided into three excise divisions<sup>1</sup>, each under the control of a Deputy Commissioner of Excise. The divisions are further divided into 19 Excise Districts<sup>2</sup> each under the charge of an Assistant Commissioner of Excise/Superintendent of Excise (ACE/SE).

### 3.2 Result of audit

Our test check during 2013-14 of records of 18 out of 23 units (having revenue collection of ₹ 698.37 crore) relating to State Excise revealed non/short levy of excise duty and licence fees etc. involving ₹ 173.46 crore in 1,370 cases details as mentioned in the **Table – 3.2**.

Table - 3.2

Sl. No.	Categories	(₹ in crore)	
		No. of cases	Amount
1	“Levy and collection of excise receipts in Jharkhand” – A performance audit	1	164.79
2	Lifting of liquors without/at reduced rate of licence fees	523	6.41
3	Other cases	846	2.26
<b>Total</b>		<b>1,370</b>	<b>173.46</b>

During the course of the year, the Department accepted non/short realisation of license fee, duty, loss of revenue and other deficiencies of ₹ 139.96 crore in 135 cases pointed out by us during 2013-14.

A performance audit of “**Levy and collection of excise receipts in Jharkhand**” having financial implication of ₹ 164.79 crore is discussed in the following paragraphs.

<sup>1</sup> North Chotanagpur Division, Hazaribag, South Chotanagpur-cum-Kolhan-cum-Palamu Division, at Ranchi and Santhal Pargana Division, Dumka.

<sup>2</sup> Bokaro, Chaibasa, Dhanbad, Deoghar, Dumka, Garhwa, Giridih, Godda, Gumla-cum-Simdega, Hazaribag-cum-Ramgarh-cum-Chatra, Jamshedpur, Jamtara, Koderma, Lohardaga, Pakur, Palamu-cum-Latehar, Ranchi, Sahebganj and Saraikela-Kharsawan.



### **3.3 Levy and collection of excise receipts in Jharkhand**

#### **Highlights**

- In five excise districts, Government was deprived from revenue on account of non-settlement of 82 excise shops of ₹ 24.88 crore during 2011-12 to 2012-13.  
**(Paragraph 3.3.8)**
- In three excise districts, interest of ₹ 57.79 lakh on account of delay in deposit of licence fee within stipulated period, though leviable, was not levied by the Department in case of 59 licensees of 140 retail excise shops during 2012-13.  
**(Paragraph 3.3.9)**
- The Government was deprived of licence fee of ₹ 137.08 crore during 2009-10 to 2012-13 in 11 excise districts on account of undue exemption from payment of licence fee as provided in new excise policy.  
**(Paragraph 3.3.10)**
- In five excise district, licensees of 263 retail excise shops did not lift minimum guaranteed quota which resulted in non-realisation of excise duty of ₹ 2.00 crore.  
**(Paragraph 3.3.11)**
- Delay in institution of certificate proceedings for recovery of arrears, resulted in non-realisation of interest of ₹ 20.12 lakh.  
**(Paragraphs 3.3.17)**

### 3.3.1 Introduction

The seventh schedule to the Constitution of India empowers the State Government to levy excise duty on alcoholic liquors for human consumption, on opium, Indian hemp and other narcotic drugs manufactured or produced in the state and to ensure achievement of maximum revenue through legal sale of intoxicants. State Excise revenue is one of the major sources of tax revenue which constituted 6.69 *per cent* of the total revenue raised by the State Government during 2013-14. It is levied and collected as duty and fee on manufacture, storage, sale, import and export of liquor or intoxicating drugs. Liquor includes Country Spirit (CS), Spiced Country Spirit (SpCS), India Made Foreign Liquor (IMFL), beer etc. The levy and collection of excise revenue is governed by the Bihar Excise Act, 1915 (BE Act) and Rules made/notifications issued thereunder, as adopted by the Government of Jharkhand.

Under the provisions of the BE Act and Rules and Policies made thereunder the Excise and Prohibition Department, Government of Jharkhand adopted (February 2009) a new excise policy which is different from previous excise policy in respect of settlement of retail shops. Earlier settlement was based on auction while in new excise policy shops are to be settled through lottery system on receipt of applications against a particular retail shop. All retail shops were to be divided into groups (maximum three numbers of retail shops included in one group) with a view to generating more excise revenue, checking of illicit liquor, controlling of monopoly of a single unit/person and providing standard liquor to the consumers. Further, the new excise policy, *inter alia*, includes a provision for exemption of licence fee on lifting of 15 *per cent* over the quota of fixed minimum guaranteed quota (MGQ) and thereafter licence fee was chargeable at half the rate of licence fee up to June 2012.

### 3.3.2 Organisational setup

The Secretary of the Excise and Prohibition Department is responsible for administration of the state excise laws at the Government level. The Commissioner of Excise is the head of the department. He is primarily responsible for the administration and execution of excise policies and programmes of the State Government. He is assisted by a Deputy Commissioner of Excise (EDC), an Assistant Commissioner of Excise (ACE) and an Inspector of Excise at the headquarters. He is further assisted by the EDC in excise divisions.

The State is divided into three excise divisions<sup>3</sup> under the control of EDC, who are administrative co-ordinator between department and districts. The divisions are further divided into 19 excise districts<sup>4</sup> each under the charge of

<sup>3</sup> North Chotanagpur, Hazaribag, Santhal Pargana, Dumka and South Chotanagpur-cum-Kolhan-cum-Palamu Division, at Ranchi.

<sup>4</sup> Bokaro, Dhanbad, Deoghar, Dumka, East Singhbhum (Jamshedpur), Garhwa, Giridih, Godda, Gumla-cum-Simdega, Hazaribag-cum-Chatra-cum-Ramgarh, Jamtara, Koderma, Lohardaga, Pakur, Palamu-cum-Latehar, Ranchi-cum-Khunti, Sahibganj, Saraikela-Kharsawna and West Singhbhum (Chaibasa).

an Assistant Commissioner of Excise (ACE)/Superintendent of Excise (SE), who are the actual executors in excise matters at district level.

Jharkhand has one distillery, seven IMFL bottling plants, 13 CS sacheting plants under five zones<sup>5</sup>, four SpCS sacheting plants under Hazaribag and Ranchi zones which are controlled and supervised by the concerned ACEs/SEs/Excise Inspectors.

### **3.3.3 Audit Objective**

The performance audit was conducted to assess the efficiency and effectiveness of levy and collection of excise receipts relating to following aspects:

- the process of fixation of MGQ for districts/shops;
- system of settlement of shops ;
- the deposit and refund of various excise receipts; and
- the mechanism of lifting of liquor.

### **3.3.4 Audit criteria**

The performance audit was conducted with reference to the provisions made under the following Acts/Rules and Executive instructions:

- Bihar Excise Act, 1915 (as adopted by the Government of Jharkhand);
- Jharkhand Financial Rules and Treasury Code;
- Bihar and Orissa Public Demand Recovery Act, 1914;
- New Excise policy issued in February 2009 for settlement of excise retail shops; and
- Resolution/Gazette notifications/Circulars issued by the Department from time to time.

### **3.3.5 Scope and methodology of audit**

The performance audit of “**Levy and collection of excise receipts in Jharkhand**” covering the period 2008-09 to 2012 -13 was conducted between May 2013 and March 2014. Settlement registers/files, licence fee register/files, security deposit register, CS/SpCS sacheting files, records of IMFL bottling plant, revenue files, pass-permit etc. were test checked in eleven<sup>6</sup> out of 19 Excise Districts, Santhal Paragana and South Chotanagpur-cum-Kolhan-cum-Palamu out of three Excise Divisions and office of the Commissioner of Excise. The units were selected on the basis of random sampling method without replacement and revenue potentiality.

### **3.3.6 Acknowledgement**

We acknowledge the co-operation of the Excise and Prohibition Department in providing necessary information and records to audit. We held entry conference with the Secretary-cum-Commissioner of Excise Department on

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<sup>5</sup> Dhanbad, Dumka, Hazaribag, Jamshedpur and Ranchi.

<sup>6</sup> Bokaro, Dhanbad, Deoghar, Dumka, East Singhbhum (Jamshedpur), Hazaribag-cum-Chatra-cum-Ramgarh, Pakur, Ranchi-cum-Khunti, Sahibganj, Saraikela-Kharsawan and West Singhbhum (Chaibasa).

5 February 2014 to discuss the audit objectives, scope and methodology of the performance audit. The exit conference was held on 7 August 2014 with the Secretary-cum-Commissioner, Department of Excise and Prohibition, Government of Jharkhand in which the findings, conclusion and recommendations of the review were discussed. Views of the Government/Department have been suitably incorporated in the report.

### 3.3.7 Trend of excise revenue

According to provisions of the Bihar Financial Rules (BFR), Vol. I (as adopted by the Government of Jharkhand), the responsibility for preparation of estimates of revenues vests with the Finance Department. The Secretary-cum-Commissioner of Excise and Prohibition Department is responsible for the compilation of correct estimates and sending it to the Finance Department on the dates fixed by the latter.

The revised budget estimates and actual receipts from State Excise during the period from 2008-09 to 2013-14 are given in **Table - 3.3.7**.

**Table - 3.3.7**

Year	Revised Budget Estimates	Actual Receipts	Variation excess (+)/shortfall (-)	Percentage of Variation	₹ in crore	
					Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts
2008-09	357.52	205.46	(-) 152.06	(-) 43.00	3,753.21	5.47
2009-10	550.00	322.75	(-) 227.25	(-) 41.31	4,500.12	7.17
2010-11	525.00	388.34	(-) 136.66	(-) 26.03	5,716.63	6.79
2011-12	445.00	457.08	(+) 12.08	(+) 2.71	6,953.89	6.57
2012-13	650.00	577.92	(-) 72.08	(-) 11.09	8,223.67	7.03
2013-14	700.00	627.93	(-) 72.07	(-)10.30	13,132.50	4.78

Source: Finance Accounts and revised estimates as per statement of Revenue and Receipts of Government of Jharkhand.

From the above it could be seen that the Department could not achieve the budget estimates except during 2011-12. The variation between budget estimates and actual receipts ranged between (-) 43 and 2.71 *per cent*. The budget estimates in 2012-13 was as high as 28 *per cent* when compared to the average of the last three years' receipts, which indicates that the budget estimates were not prepared on realistic basis. Further, the Department despite being requested did not produce the budget estimates prepared by it and sent to the Finance Department.

The matter was reported to the Government/Department in June 2014, the Department accepted the matter and stated (August 2014) that for every financial year, target was fixed by the Finance Department without taking any feedback from the Department.

**The Government may issue suitable instructions to the Finance Department for preparing realistic and scientific BEs based on feedbacks received from the Excise and Prohibition Department.**

#### 3.3.7.1 Position of arrears of excise revenue

The arrears of revenue as on 31 March 2014, as furnished by the Department, were ₹ 29.37 crore, of which ₹ 8.38 crore were outstanding for more than five

years. The year-wise position of arrears of revenue during the period 2009-10 to 2013-14 is shown in the **Table – 3.3.7.1**.

**Table – 3.3.7.1**

Year	₹ in crore)	
	Opening balance of arrears	Closing balance of arrears
2009-10	29.39	30.94
2010-11	30.94	30.94
2011-12	30.94	31.07
2012-13	31.07	31.37
2013-14	31.37	29.37

Source: Figures furnished by the Excise and Prohibition Department, Government of Jharkhand.

As per information furnished by the Department, out of the closing balance of arrears of ₹ 29.37 crore as on 31 March 2014, demand for ₹ 20.96 crore was certified for recovery as arrears of land revenue, recovery of ₹ 1.00 crore was stayed by the courts and other judicial authorities, recovery of ₹ 10.55 lakh was held up due to parties becoming insolvent and a sum of ₹ 16.08 lakh was likely to be written off. Specific action taken in respect of the remaining amount of ₹ 7.14 crore has not been intimated (November 2014).

Thus, from the above it would be seen that only 71.35 per cent of the total amount of arrears was recoverable as arrears of land revenue by invoking the provisions of the Bihar and Orissa Public Demand Recovery (PDR) Act, 1914.

**We recommend that the Government may consider issuing directions to the Department for speedy settlement of the arrear cases by constant monitoring and recovering the arrears as arrears of land revenue by invoking provisions of the Bihar and Orissa Public Demands Recovery Act, 1914.**

### **Audit Findings**

The levy and collection of excise duty and other excise receipts is governed by the BE Act and the Rules made/notifications issued thereunder. The excise revenue is collected through challans and deposited into the treasuries at the district level by the District Excise Officers (ACEs/SEs), who are primarily responsible for collection of excise revenue under administrative control of the Commissioner of Excise.

### **Levy of excise duty and licence fees**

#### **3.3.8 Non-settlement of retail excise shops**

Under the provisions of the BE Act, 1915, Rules and policies made thereunder, the Excise and Prohibition Department, Government of Jharkhand by the Resolution No. 367 dated 20 February 2009 followed by a Gazette Notification No. 150 dated 27 March 2009, adopted a new excise policy along with guidelines to settle all retail shops through lottery system in place of bid for auction/tender. In case of non-settlement of retail shops, licensing authorities have the discretionary powers for recommendation for settlement of shops at reduced reserve fee to the Excise commissioner (EC). The EC may approve the settlement proposal at reduced licence fee in the interest of excise

revenue. Further, as per instructions issued vide letter no. 144 dated 17 January 2011 all the ACEs/SEs were made responsible for *cent per cent* settlement of retail excise shops by rationalising the MGQ of the shops.

We noticed from the settlement register, sale notification, licence fee register and lottery register (between May 2013 and February 2014) in 11 test checked excise districts that 1,063 shops remained unsettled during last four years (2009-10 to 2012-13) whose detailed position is as in **Table – 3.3.8**.

**Table – 3.3.8**

Year	No. of sanctioned shops	No. of settled shops	No. of unsettled shops
2009-10 <sup>7</sup>	1,690	1,204	486
2010-11	1,603	1,272	331
2011-12	1,271	1,139	172
2012-13	1,219	1,145	74
<b>Total</b>	<b>5,783</b>	<b>4,760</b>	<b>1,063</b>

From the above it could be seen that in the 11 test checked excise districts the number of sanctioned shops decreased from 1,690 in 2009-10 to 1,219 in 2012-13 i.e. decreased by 27.87 *per cent*. It could further be seen that the number of settled shops decreased from 1,204 in 2009-10 to 1,145 in 2012-13 i.e. 17.69 *per cent* excise shops remained unsettled during the aforesaid period. The reasons for decreasing trend in number of sanctioned shops as well as number of settled shops though called for (August 2014) has not been intimated by the Department.

These issues were pointed out by us in earlier Audit Reports. However, this irregularity still persists in the Department.

In five<sup>8</sup> out of 11 test checked excise districts a list of excise retail shops specifying their MGQ and licence fee, advance licence fee and security money was prepared at district level and sale notification containing all these facts were published between February 2011 and February 2012 for settlement of 37 and 591 retail shops for the period 2011-12 and 2012-13 respectively. Settlement process was conducted on fixed dates. However, 82 retail shops<sup>9</sup> remained unsettled (2011-12: 8 shops and 2012-13: 74 shops) despite publication of sale notifications from time to time. Further, the district excise authorities did not follow the instructions and guidelines regarding settlement of non-settled shops at reduced rate of licence fee and also did not rationalise fixation of MGQ of the shops keeping in view the potentiality of the shops. Thus, the Government was deprived of excise revenue in shape of excise duty and licence fee amounting to ₹ 24.88 crore as detailed in **Table – 3.3.8**.

<sup>7</sup> Shops during the period 2008-09 were settled in single group in the State.

<sup>8</sup> Bokaro, Dhanbad, Jamshedpur, Hazaribag (Ramgarh) and Sahibganj.

<sup>9</sup> Number of shops unsettled/offered: 2011-12: Sahibganj (8/47), 2012-13: Bokaro (8/106), Dhanbad (6/205), Jamshedpur (37/201), Hazaribag-cum-Chatra-cum-Ramgarh {Ramgarh (23/79)}.

Table – 3.3.8

Sl. No.	Name of district	MGQ (in LPL)				Licence Fee	Duty	Total (LF+Duty)
		CS	Sp Cs	IMFL	Beer			
1	Bokaro	3,83,850.00	52,860.00	24,928.00	31,600.00	266.72	38.70	305.42
2	Dhanbad	1,13,470.31	16,467.62	70,592.17	91,376.72	202.21	43.34	245.55
3	Jamshedpur	8,10,957.00	1,06,182.00	3,35,440.00	4,98,828.00	1,120.41	229.11	1,349.52
4	Ramgarh	2,80,696.00	30,738.00	1,16,718.00	1,93,862.00	389.05	80.88	469.93
5	Sahibganj	36,420.00	16,060.00	37,620.00	33,509.00	97.10	20.88	117.98
	<b>Total</b>	<b>16,25,393.31</b>	<b>2,22,307.62</b>	<b>5,85,298.17</b>	<b>8,49,175.72</b>	<b>2,075.49</b>	<b>412.91</b>	<b>2,488.40</b>

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that loss due to non-settlement of excise shops was hypothetical as those shops could not be settled. The reply was not convincing as major excise revenue depend upon settlement of retail shops. In the absence of settlement of shops, Government was deprived of revenue. Further, Department did not make any efforts to fix MGQ as per norms or on the basis of potentiality of the shops for *cent per cent* settlement of retail shops.

**The Government may consider evolving a mechanism to operate the unsettled retail liquor shops to minimize the risk of supply of illicit liquor and to maintain the yield of revenue by rationalizing distribution of MGQ for *cent per cent* settlement of retail shops.**

### 3.3.9 Non-levy of interest on belated deposit of licence fee

Under the provisions of the BE Act and rules made thereunder read with condition no. XIII (*kha*) of letter no.1/Neeti-40-4/2010-286 dated 22 February 2010 and condition No. 13 (*kha*) of sale notification issued under Resolution No. 367, licensees of retail shops were bound to deposit monthly licence fee by 20<sup>th</sup> of each month, failing which interest at the rate of five *per cent* per day is chargeable on the amount due on account of license fee.

We noticed from the licence fee registers and challans in three<sup>10</sup> out of 11 test checked excise districts that 59 licensees of 140 retail shops failed to deposit their monthly licence fee of ₹ 3.23 crore within the stipulated period during the year 2012-13. As per the provisions, interest amounting to ₹ 57.79 lakh at the rate of five *per cent* per day, though leviable, was not levied by the Department for delay ranging between one and 16 days. The details are in the **Table – 3.3.9.**

Table – 3.3.9

Sl. No.	Excise Districts	No. of shops	Amount of Licence Fee due	Period of delay ranging between	Amount of interest @ 5 % per day
1	Dhanbad	14	12.36	1 and 16 days	1.28
2	Hazaribag	31	38.91		7.53
	Ramgarh	21	73.48		26.63
3	Jamshedpur	74	198.42		22.35
	<b>Total</b>	<b>140</b>	<b>323.17</b>		<b>57.79</b>

Further, as pointed out in earlier Audit Reports, during the year 2009-10 to 2011-12, 104 cases of belated deposit of licence fee involving interest of

<sup>10</sup> Dhanbad, Hazaribag-cum-Chatra-cum-Ramgarh and Jamshedpur.

₹ 75.35 lakh were brought to the notice of the Department. Against these, ₹ 34.48 lakh was realised by the Department in earlier years.

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that security money would be refunded to licensees after adjustment of the said amount.

### **3.3.10 Undue financial advantage to the retail licensees**

Under the provisions of new excise policy effective from 2009-10, MGQ of a district is fixed by the Commissioner of Excise and at the district level licensing authority distributes MGQ among the retail shops on potentiality of the shops. Licence fee is to be paid in advance by 20<sup>th</sup> of each month by the licensee which was determined on the basis of fixed MGQ of the retail shop. The retail vendors were bound to lift 1/12 of fixed MGQ. Further, the new excise policy effective from 2009-10 includes a provision for exemption of licence fee on lifting of liquor up to 15 *per cent* over the fixed MGQ and thereafter licence fee was chargeable at half the rate of licence fee (upto June 2012).

We noticed from consumption statement, pass permits and Register 68 (register of passes for export/transport of excisable articles) of retail shops in 11 test checked excise districts that licensees of shops lifted IMFL/Beer more than fixed MGQ during 2009-2010 to 2012-13 due to provisions of exemption of licence fee on lifting of liquor in excess of fixed MGQ. Further, retail vendors were bound to lift 1/12 of fixed MGQ in each month which was complied with but they also availed advantage of lapses in policy by lifting of liquor in excess of MGQ. Thus, making provision for exemption/reduced rate of licence fee on excess lifting of liquor over the fixed MGQ, resulted not only in undue financial advantage to the retail vendors in shape of licence fee amounting to ₹ 137.08 crore but also in non-settlement of shops according to set formula as defined in paragraph no. 3.3.8.

The matter was reported to the Government/Department in June 2014, the Department accepted our observation and stated (August 2014) that exemption of 50 *per cent* of licence fee had been withdrawn (July 2012) on lifting of liquor over 115 *per cent* of the MGQ and action for exemption of licence fee on lifting of liquor over MGQ up to 15 *per cent* would be taken at high level on the recommendation of audit.

**We recommend the Government may consider to withdraw the provision for exemption of licence fee on lifting of liquor in excess of fixed MGQ upto 15 *per cent*.**

### **3.3.11 Short lifting of liquor by retail vendors**

Under the provisions of the BE Act, Rules and policies made thereunder, each licence vendor of a retail excise shop is required to submit weekly requirement of country spirit for the next month to the contractor of the exclusive privilege for wholesale supply of country spirit by the last week of the previous month and is bound to lift MGQ of liquor of each kind fixed by the Department for the shop, failing which excise duty or fiscal penalty equivalent to loss of excise duty suffered by the Government shall be recoverable from the vendor.



We noticed from the consumption statement of liquor and related records in five<sup>11</sup> out of 11 test checked excise districts that vendors of 263 out of 692 shops were required to lift 1.01 crore LPL/BL of CS/SpCS/IMFL/Beer in 2012-13 from whole sale licensees of the districts but only 75.71 lakh LPL/BL of CS/SpCS/IMFL/Beer could be lifted during the year which resulted in short lifting of liquor of 24.86 lakh LPL/BL. We calculated the recoverable excise duty on account of aforesaid short lifting of liquor at ₹ two crore which remained non-levied as detailed in the **Table – 3.3.11**.

**Table – 3.3.11**

Sl. No.	District	No of shops	Types of liquor	MGQ	Lifting	Short Lifting	₹ in lakh)	
							Rate of duty	Loss of duty
1	Bokaro	CS- 17	CS/SpCS	10,24,925	8,07,209	2,17,716	6	13.06
2	Dhanbad	CS- 22	CS/SpCS	7,92,140	7,43,752	48,388	6	2.90
		IMFL- 22	IMFL	3,35,114	2,77,798	57,316	40	22.93
			Beer	2,64,964	2,24,048	40,916	8	3.27
3	Jamshedpur	CS- 58	CS/SpCS	18,25,253	8,63,146	9,62,107	6	57.73
		IMFL- 3	IMFL	1,02,685	93,543	9,142	40	3.66
		Beer- 88	Beer	41,64,179	31,57,510	10,06,669	8	80.53
4	Ranchi-cum-Khunti	CS- 31	CS/SpCS	10,89,708	10,18,145	71,563	6	4.29
		IMFL- 9	Beer	2,80,480	2,26,826	53,654	8	4.29
5	Hazaribag- cum-Chatra-cum-Ramgarh	IMFL- 13	IMFL	1,77,606	1,58,722	18,884	40	7.55
<b>Total</b>		<b>263</b>		<b>1,00,57,054</b>	<b>75,70,699</b>	<b>24,86,355</b>		<b>200.21</b>

Further, as pointed out in earlier Audit Reports, during the year 2009-10 to 2011-12, there were 519 cases of short lifting involving 63.95 lakh LPL/BL resulting into revenue loss of ₹ 975.12 lakh. Against these, ₹ 33.60 lakh was realised by the Department in earlier years.

The matter was reported to the Government/Department in June 2014, the Department accepted the observation and stated (August 2014) that amount involved would be adjusted from the security deposit and result would be intimated.

### **3.3.12 Non-levy of additional licence fee**

Under Section 22 D of the BE Act read with tender notification for wholesale supply of country spirit, the State Government may grant to any person/persons on such conditions and for such terms and conditions and for such period as it may think fit, the exclusive privilege for supplying country liquor on wholesale basis in a zone, on payment of advance licence fee at prescribed rate i.e., at the rate of ₹ four per LPL of fixed MGQ. Further, additional licence fee shall be paid by each licensee of the zone if the total wholesale supply of the zone exceeds the annual MGQ.

We noticed (between May 2013 and March 2014) from scrutiny of excise records, consumption statement and annual stock taking account of sacheting plant of Country Spirit (CS) maintained in two zones<sup>12</sup> that two grants were

<sup>11</sup> Bokaro, Dhanbad, Hazaribag-cum-Chatra-cum-Ramgarh, Jamshedpur and Ranchi.

<sup>12</sup> Ranchi zone comprising the district of Ranchi, Gumla, Lohardaga, Simdega, Khunti, Chaibasa and Seraikela-Kharsawan and Dhanbad zone comprising only Dhanbad excise district.

awarded to two contractors for the period July 2012 to March 2014 for supply of CS in sachets to JSBCL/retail licensees by the Commissioner of Excise. Accordingly, both the contractors deposited required licence fee in advance on the basis of fixed annual MGQ of the zone. Further, we noticed that contractors supplied 43.61 lakh LPL of CS against the fixed MGQ of 39.07 lakh LPL. As per provision of the Act *ibid*, contractors were liable to pay additional licence fee of ₹ 18.16 lakh on excess supply of 4.54 lakh LPL of CS as detailed in the **Table – 3.3.12**.

**Table – 3.3.12**

(₹ in lakh)					
Sl. No.	Zone	Fixed MGQ (In LPL)	Issue (In LPL)	Excess issue during the period July 12 to March 13	Realisable additional LF @ ₹ 4 per LPL
1	Ranchi	20,53,219	23,58,400	3,05,181	12.21
2	Dhanbad	18,54,145	20,02,808	1,48,663	5.95
<b>Total</b>		<b>39,07,364</b>	<b>43,61,208</b>	<b>4,53,844</b>	<b>18.16</b>

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that a sum of ₹ 5.73 lakh was realised by the ACE, Ranchi and ACE, Dhanbad zone has been instructed to realise the amount of additional licence fee.

### 3.3.13 Incorrect allowance of operational wastage

The provisions of the BE Act and Rule 43(C) made thereunder, do not provide for any allowance of wastage on account of deficiency found in production, racking, blending and storage in case of manufacturer of IMFL who has own distillery. Further, the Board of Revenue, Bihar issued a notification dated 7 April 1994 (adopted for application in Jharkhand) which provides that if the distiller also holds separate licence for compounding, blending and bottling of IMFL under the same distiller, 1.5 *per cent* wastage of spirit is allowed to the distillery and shall be inclusive of any of the wastage caused during manufacturing of IMFL.

We noticed from Registers<sup>13</sup> 83, 84, 86, 88 and 68 that annual stock taking account for the year 2011-12 in Ranchi Excise District that a licensee, holding a licence for distillation, compounding, blending and bottling of India Made Foreign Liquor (IMFL) had claimed and was allowed operational wastage of 2.67 lakh LPL of rectified spirit (RS)/extra neutral alcohol (ENA) against permissible limit of 2.39 lakh LPL (1.5 *per cent* of 1.59 crore LPL) for manufacturing of ENA and IMFL against the provision of the Act which resulted in non-levy of excise duty of ₹ 7.11 lakh as detailed in the **Table - 3.3.13**.

**Table - 3.3.13**

(₹ in lakh)					
Kind of spirit	Quantity of spirit available for manufacture of IMFL (LPL)	wastage allowed (LPL)	Permissible wastage (1.5%)	Excess allowance of wastage (LPL)	Non-realisation of excise duty @ ₹ 25 per LPL
RS	66,61,034	1,45,914	2,38,563	28,459	7.11
ENA	92,43,148	1,21,108			
<b>Total</b>	<b>1,59,04,182</b>	<b>2,67,022</b>	<b>2,38,563</b>	<b>28,459</b>	<b>7.11</b>

<sup>13</sup> Register 83 – Register of quantity of spirits collected in the receivers; Register 84 – Register of spirit received into, reduced or blended in and issued from each vat or store cask; Register 86- Register of casks and drums of spirit received; Register 88 – Balance account of spirit in hand and summary of transaction; Register 68 – Register of passes for transport, export of excisable articles for which duty has been paid or on which no duty is levied.

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that concerned ACE has been instructed to ascertain inadmissible wastage and to realise excise duty.

### **Collection of excise duty and licence fees**

#### **3.3.14 Misclassification of excise revenue**

Under the provisions of the Jharkhand Financial Rules and instructions issued thereunder, security money realised from licensees of excise retail shops is accounted for under the head 8443-Civil Deposits and refunded to licensees after adjustment of outstanding dues against them. Further, the non-refundable revenue (application money) is required to be credited under the concerned revenue head 0039-State Excise.

We noticed (between May 2013 and March 2014) from Security Deposit Register and Application Fee Register in four excise districts<sup>14</sup> that during the period from 2010-11 to 2012-13 a sum of ₹ 92.24 lakh (adjusted amount from security deposit: ₹ 75.08 lakh and application money: ₹ 17.16 lakh) was lying under the head 8443-Civil Deposit instead of revenue head 0039 though it was being treated as excise revenue without crediting the amount under concerned revenue head. Thus, non-credit of adjusted amount and application fee into the concerned revenue head 0039-State Excise depicted the inflated picture of excise revenue.

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that report has been called for from all concerned district excise authorities and then decision would be taken.

#### **3.3.15 Non-disposal of remaining stock of liquor**

Under the provisions of the BE Act, a licensee of excise articles, on expiry of licence period, has to sell balance stock to any other licenced vendor of the same articles with the sanction of the Collector. Further, any excisable articles found unfit for human consumption may be destroyed under orders of the Collector.

We noticed from the annual stock taking accounts of IMFL/Beer, in three excise districts<sup>15</sup> that two wholesale licensees of IMFL ceased to operate their business after functioning of Jharkhand State Beverage Corporation Limited (JSBCL). Further, we noticed that the balance stock of liquor (IMFL: 17,859.42 LPL and Beer: 5,132 BL) were not transferred to JSBCL. Similarly, we noticed in Hazaribag excise district that 31,047.94 LPL of unfit SpCS was yet to be destroyed as per provisions of the Act. The details are in the **Table - 3.3.15**.

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<sup>14</sup> Deoghar, Jamshedpur, Ramgarh and Ranchi.

<sup>15</sup> Deoghar, Dhanbad and Hazaribag-cum-Chatra- cum-Ramgarh.

Table - 3.3.15

District	Name of licence	IMFL (in LPL)	Beer (In BL)	Sp.CS (In LPL)	Stock lying from
Deoghar	Licence- I	2,219.40	5,132.00	-	31.12.12
	Licence- II	4,008.69	-	-	31.12.12
<b>Total</b>		<b>6,228.09</b>	<b>5,132.00</b>		
Dhanbad	Licence- I	6,534.81	11,337.00	-	31.12.12
	Licence- II	5,096.52		-	31.12.12
<b>Total</b>		<b>11,631.33</b>	<b>11,337.00</b>		
Hazaribag		-	-	31,047.94	2011-12
<b>Grand Total</b>		<b>17,859.42</b>	<b>16,469.00</b>	<b>31,047.94</b>	

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that matter would be examined and facts would be intimated.

### 3.3.16 Delay in institution of certificate cases

Under the BE Act, 1915 read with Bihar and Orissa Public Demands Recovery Act, arrears can be recovered as arrears of land revenue. The BE Act does not provide for levy of interest for late payment of outstanding amount. As per the Public Demand Recovery Act, interest on public demand to which certificate relates shall be charged at the rate of 12 *per cent* per annum from the date of signing of the certificate up to the date of realisation. Any delay in institution of certificate proceeding would result in loss of revenue in the shape of interest.

We noticed from records pertaining to arrears maintained in Register IX (register of requisitions for certificate cases) in Bokaro excise district, out of 11 test checked excise districts, that a sum of ₹ 24.65 lakh was outstanding against nine defaulter licensees for the period between 2000-02. However, certificate cases were instituted after a delay of five and seven years respectively instead of being reckoned from allowing a grace period of one year after the period in which payment was due as mentioned in the **Table - 3.3.16**.

Table – 3.3.16

No. of defaulters	Amount outstanding from the year	Certificate cases instituted during the year	Delay in institution	Outstanding Amount	(₹ in lakh)
					Interest
5	2001-02	2007-08	5 years	2.45	1.47
4	2000-01	2008-09	7 years	22.20	18.65
<b>Total</b>				<b>24.65</b>	<b>20.12</b>

Delayed institution of certificate cases against the defaulters resulted in non-relisation of interest amounting to ₹ 20.12 lakh.

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that action was being taken on receipt of the report from concerned district in order to institute the certificate cases in time.

### 3.3.17 Non-pursuance of certificate cases

Under the provisions of Bihar Excise Act, 1915 read with Bihar and Orissa Public Demands Recovery Act, arrears of excise revenue can be recovered as arrears of land revenue. As per instructions of Board of Revenue, the Requiring Officer and Certificate Officer are jointly responsible for the

finalisation of certificate cases. There is no time limit provided for finalisation of a certificate case.

We noticed from Register IX in five<sup>16</sup> out of 11 test checked excise districts that 106 cases of certified arrears involving ₹ 9.54 crore were pending for finalisation for a period ranging between two and nine years as detailed in the **Table – 3.3.17**.

**Table – 3.3.17**

				(₹ in lakh)
Sl. No.	District	No. of cases	No. of years for which cases are pending	Amount involved
1	Bokaro	9	4/5	24.65
2	Dhanbad	1	2	7.29
3	Hazaribag	13	2	249.12
	Ramgarh	17	2	428.36
	Chatra	1	2	5.28
4	Jamshedpur	29	3	226.65
5	Ranchi	36	9	12.22
<b>Total</b>		<b>106</b>		<b>953.57</b>

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that instructions had been issued to all districts and divisional authorities for proper pursuance of certificate cases.

### **3.3.18 Internal Control Mechanism**

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. They help in prevention of fraud and other irregularities. Internal controls also help in the creation of reliable financial and management information system for prompt and efficient services and adequate safeguard against non/short collection or evasion of revenue.

We scrutinised the internal control mechanism in the Excise and Prohibition Department regarding levy and collection of excise receipts and noticed the followings:

#### **3.3.18.1 Internal Audit**

The Finance Department ordered in May 1960 that internal audit would be conducted by audit wing of the Finance Department. The internal audit parties are required to conduct *cent per cent* audit of all demands, collection of revenue and verification of amount deposited into the treasury.

We noticed from records of 11 test checked excise districts and two EDC, that no internal audit was conducted in these offices by the Finance Department during 2008-09 to 2012-13. In absence of regular internal audit, the Department remained unaware of the areas of concern and could not take remedial action thereupon.

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that request letter was proposed to be sent to the Finance Department for conducting internal audit of the offices.

<sup>16</sup> Bokaro, Dhanbad, East Singhbhum (Jamshedpur), Hazaribag-cum-Chatra-cum-Ramgarh and Ranchi.

### 3.3.18.2 Excise Intelligence Bureau

The Excise Laws provide for constitution of an Excise Intelligence Bureau (EIB). It is the central detective organisation which works in co-operation with the similar bureaus in other States and with the excise offices in the districts. The officers of the Bureau are under the direct control of the EDC (Hqrs). The Bureau is required to make general and special enquiries in different districts of the State and check inter-state and inter-district movement of liquors. The wing is also required to collect, collate and disseminate information regarding smuggling of liquor.

We noticed from scrutiny of records relating to constitution of EIB that though the Department constituted the EIB in the State in April 2008 but it remained non-functional even after a lapse of five years.

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that at present the Superintendent of Excise has been posted and raids and inspections are being conducted by this wing in the districts.

### 3.3.18.3 Inspection of excise offices/units

Inspection is an important part of internal control mechanism for ensuring proper and effective functioning of department for timely detection of loop-holes, to prevent offences against the excise law and leakage of excise revenue. As the excise department is the second major contributor of tax revenue to state exchequer, periodical inspection at higher levels assumes greater significance. However, no specific duty to inspect excise offices is prescribed for the Commissioner of Excise. As per instructions issued in Chapter II of Appendix 14 by the Board of Revenue under BE Act, the EDC is required to inspect all excise offices/warehouses once in a year at the division level. The ACE/SE is required to inspect district office twice and distilleries/warehouses quarterly in a year. The Inspector/Sub-Inspector of excise is required to inspect all excise retail shops under his jurisdiction once in each month during the year.

We noticed in 11 test checked excise districts and two EDC that only 378 inspections were conducted against the target of 1,23,576 by the various inspecting authorities during 2008-09 to 2012-13, as shown in the **Table – 3.3.18.3**.

**Table – 3.3.18.3**

Year	EDC		ACE/SE		Inspector		Sub-Inspector	
	Target	Inspection conducted	Target	Inspection conducted	Target	Inspection conducted	Target	Inspection conducted
2008-09	44	0	102	0	3,960	0	5,736	19
2009-10	44	0	330	0	11,676	0	15,456	52
2010-11	46	0	342	0	12,600	0	17,496	76
2011-12	47	0	350	0	12,096	0	15,408	155
2012-13	45	0	342	07	12,000	02	15,456	67
<b>Total</b>	<b>226</b>	<b>0</b>	<b>1,466</b>	<b>07</b>	<b>52,332</b>	<b>02</b>	<b>69,552</b>	<b>369</b>

It would be seen from the above that the Department had not achieved the target of inspection in any of the last five years. This indicated lack of internal control and effective monitoring by the Department.

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that instruction was being issued to all districts and divisions to comply the provisions and to submit report to excise headquarter accordingly.

### 3.3.18.4 Human Resource Management

Under the provisions of the BE Act, 1915, the duties of excise officials are to prevent and detect offences against the excise law, to inspect excise units and to ensure proper assessment and collection of excise revenue. All these works may be done properly with the availability of required manpower.

We noticed from the records of sanctioned strength and men-in-position in 11 test checked excise districts and two offices of EDC that there was an acute shortage of man power in all cadres (between 36 and 75 *per cent*) against the sanctioned strength as depicted from the **Table – 3.3.18.4**.

**Table – 3.3.18.4**

Sl. No.	Post	Sanctioned strength	Men- in- position	Shortage	Percentage of shortage
1	Inspector	27	14	13	48
2	Sub-Inspector	93	39	54	58
3	ASI	80	20	60	75
4	Constable	466	144	322	69
5	Clerk	59	38	21	36
6	Driver	19	6	13	68
<b>Total</b>		<b>744</b>	<b>261</b>	<b>483</b>	

From the above it could be seen that these offices were functioning with average of only 35 *per cent* of the sanctioned strength and this might have adversely affected the administration of the Act.

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that recruitment rules has been framed for the Department and intimation about vacancy position has been sent to the competent authority.

**We recommend that the Government may consider ensuring periodical audit by the internal audit wing of Finance Department and making the EIB functional for timely prevention of evasion of excise revenue as well as deployment of man power as per sanctioned strength for effective administration of the Act.**

### 3.3.18.5 Non-maintenance of important registers

Chapter II and XIV under appendices of the BE Act provide for maintenance of various forms, registers and returns to ensure effective control over the timely realisation and deposit of excise revenue.

We noticed in 5<sup>17</sup> out of 11 test checked excise districts that the following important registers were either not being maintained or maintained improperly.

<sup>17</sup> Bokaro, Dhanbad, Dumka, Hazaribag-cum-Chatra-cum-Ramgarh and Ranchi.

### **Challan Register (Form-106)**

Under the provisions of the BE Act, 1915 and Rules made there under, each excise office has to maintain a challan register as per provisions in Excise Form-106 to record all excise receipts deposited into the treasury. All entries made in challan register should carefully be verified and initialed by the ACE/SE as well as countersigned by the concerned Treasury Officer.

We noticed in six excise districts<sup>18</sup> that challan register was either not being maintained or maintained without following provisions. Due to absence of challan register or improper maintenance of challan register, remittances of excise revenue into the treasury could not be verified properly.

### **Register - 89**

This register shows the month wise issue of liquor to retail shops against the allotted quota to be maintained by the contractor.

We noticed in Dumka and Hazaribag excise districts out of 11 test checked districts that both the two contractors operating sacheting plant of CS/SpCS did not maintain Register 89.

### **Registers - 88 and 88A**

The Register 88 shows balance account of spirit in hand and summary of transaction while Register 88A shows all the details for each year to be maintained by the licensees.

We noticed from scrutiny of excise records that in Dumka and Hazaribag districts out of 11 test checked districts two licensees of 19C (IMFL distributor) and a contractor of SpCS sacheting plant did not maintain Registers 88 and 88A.

After we pointed out the cases (July 2014), the Department stated that instructions were being issued to all the concerned districts for compliance.

### **3.3.18.6 Non-disposal of excise offence cases, seized articles and conviction**

The BE Act empowers the excise officers to inspect, search, seize the excise materials, arrest and detain any person for excise offence. The district excise authority is required to maintain the registers, viz; register of cases, person convicted and final report of cases. Further, it provides that when, Magistrate in any case tried by him, decides that things are liable for confiscation, he may either order for confiscation or give the owner of such things an option to pay in lieu of confiscation, such fine as he thinks fit. The excise materials seized in course of search and filed in the court are to be retained till the finalization of the case and later on be disposed of as directed by the order of court.

We noticed from scrutiny of statements and register of offence cases in nine excise districts<sup>19</sup> that 4,635 number of cases were disposed of out of 7,111

<sup>18</sup> Bokaro, Chaibasa, Dhanbad, Hazaribag-cum-Chatra-cum-Ramgarh, Jamshedpur and Ranchi.

<sup>19</sup> Deoghar, Dumka, East Singhbhum (Jamshedpur), Hazaribag-cum-Chatra-cum-Ramgarh, Pakur, Ranchi-cum-Khunti, Sahibganj, Seraikela-Kharsawan and West Singhbhum (Chaibasa).



cases of offence detected during the year 2011-13 as detailed in the **Table – 3.3.18.6**.

**Table – 3.3.18.6**

Year	No of cases detected	No of cases disposed by the ACEs/SEs	No of cases under court/arrested	No of offenders unknown/unfound	Percentage of undisposed cases
2011-12	3,301	2,035	83	1,183	38.36
2012-13	3,810	2,600	137	1,073	31.76
<b>Total</b>	<b>7,111</b>	<b>4,635</b>	<b>220</b>	<b>2,256</b>	

From the above it could be seen that un-disposed excise offence cases ranged between 31.76 and 38.36 *per cent*. The Department also did not have any information on quantity and value of the disposable materials out of total quantity of excise materials seized.

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that instruction was being issued to all concerned districts to take suitable action on seized articles and intimate to the Department.

### **3.3.19 Conclusion**

Excise receipts are one of the major sources of tax revenue of the State. The performance audit revealed a number of deficiencies in levy and collection of excise receipts and non compliance of rules and regulations leading to leakage of revenue. Non-settlement of retail shops, non/short lifting of liquor as per fixed MGQ and extension of undue advantage to the licensees of retail shops by exemption of the licence fee on excess lifting over the fixed MGQ adversely affected the revenue of the State. Further, the internal control framework of the Department was deficient in terms of absence of regular internal audit, non-functioning of Excise Intelligence Bureau and inadequate inspections by the departmental authorities. The shortage of required man power affected the administration of the acts and rules in the Department.

### **3.3.20 Summary of recommendations**

The Government may consider:

- issuing directions to the Department for speedy settlement of the arrear cases by constant monitoring and recovering the arrears as arrears of land revenue by invoking provisions of the Bihar and Orissa Public Demands Recovery Act, 1914;
- evolving mechanism to operate the unsettled shops to minimise the risk of supply of illicit liquor and to maintain yield of revenue with rationalised distribution of MGQ;
- amending provisions in the new excise policy with regard to exemption of licence fee on lifting of liquor in excess of fixed MGQ; and
- reviving Internal Audit and Excise Intelligence Bureau to ensure timely detection and correction of errors in levy and collection of revenue.

**CHAPTER-IV**  
**TAXES ON VEHICLES**

## CHAPTER – IV: TAXES ON VEHICLES

### 4.1 Tax administration

The levy and collection of Motor Vehicles tax and fee in the State is governed by the Jharkhand Motor Vehicles Taxation (JMVT) Act, 2001, rules made thereunder (Jharkhand Motor Vehicles Taxation (JMVT) Rules, 2001), Motor Vehicles (MV) Act, 1988 and Bihar Financial Rules (as adopted by Government of Jharkhand).

At the apex level, the Transport Commissioner (TC), Jharkhand is responsible for administration of the Acts and Rules in the Transport Department. He is assisted by a Joint Transport Commissioner at the Headquarters. The State has been divided into four regions<sup>1</sup> and 22 transport districts<sup>2</sup>, which are controlled by the State Transport Authority (STA), Regional Transport Authorities (RTAs) and District Transport Officers (DTOs). They are assisted by Motor Vehicles Inspectors, the Enforcement Wing and nine check posts<sup>3</sup>.

### 4.2 Results of audit

Our test check of the records of 19 units having revenue collection of ₹ 303.19 crore, out of the total of 27 units during 2013-14 relating to ‘Taxes on Vehicles’ revealed non/short levy of taxes, short levy of taxes due to wrong fixation of seating capacity/registered laden weight, non-realisation of taxes from trailers etc. involving ₹ 40.84 crore in 15,272 cases detailed as in **Table – 4.2**.

Table – 4.2

Sl. No.	Categories	₹ in crore)	
		No. of cases	Amount
1	“Deficiencies in VAHAN software”	1	2.64
2	Non/short levy of taxes	1,970	12.55
3	Short-levy of taxes due to wrong fixation of seating capacity/registered laden weight	160	1.98
4	Non-realisation of taxes from trailers	1,988	2.65
5	Other cases	11,153	21.02
<b>Total</b>		<b>15,272</b>	<b>40.84</b>

During the course of the year, the Department accepted non/short levy of motor vehicles tax, fees, penalties etc. of ₹ 40.39 crore in 14,068 cases, which were pointed out by us in 2013-14. The Department recovered ₹ 1.13 crore in 371 cases.

In this chapter we present a few illustrative cases including a paragraph on “**Deficiencies in VAHAN software**” having financial implications of ₹ 33.91 crore. These are discussed in the succeeding paragraphs.

<sup>1</sup> Dumka, Hazaribag, Palamu and Ranchi.

<sup>2</sup> Bokaro, Chaibasa, Chatra, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Koderma, Latehar, Lohardaga, Palamu, Pakur, Ranchi, Sahebganj, Saraikela-Kharsawan and Simdega.

<sup>3</sup> Bahragora (East Singhbhum), Banskore (Simdega), Chas More (Bokaro), Chauparan (Hazaribag), Chirkunda (Dhanbad), Dhulian (Pakur), Manjhatoli (Gumla), Meghatari (Koderma) and Murisemar (Garhwa).

### **4.3 Non-observance/compliance of the provisions of Acts/Rules**

*The Jharkhand Motor Vehicles Taxation (JMVT) Act, 2001, Motor Vehicles Act, 1988, Bihar Financial Rules (as adopted by the Government of Jharkhand) and Rules made thereunder provide for:*

- (i) *payment of motor vehicles tax by the owner of the vehicle at the prescribed rate;*
- (ii) *timely deposit of collected revenue into the Government account;*
- (iii) *payment of registration fee at the prescribed rate;*
- (iv) *issue and renewal of authorisation of national permit; and*
- (v) *issue and renewal of driving licence.*

*We noticed that the Transport Department did not observe the provisions of the Act/Rules in the cases mentioned in the succeeding paragraphs.*

### **4.4 Deficiencies in VAHAN software**

The Ministry of Road Transport and Highways (MoRT&H), an apex organization under the Central Government, with an objective to provide valuable data for the Centre and State, implemented a scheme for creation of National Database network in 2001 through National Informatics Centre (NIC). *VAHAN* software was designed by NIC for registration of vehicles and payment of tax in the district transport offices. The Government of Jharkhand introduced *VAHAN* application in September 2004.

#### **4.4.1 Acceptance of current tax without clearance of arrear**

Under the provisions of Section 5 of the JMVT Act, 2001 and rules made thereunder, tax is to be paid to the Taxing Officer in whose jurisdiction the vehicles have been registered. Non-payment of taxes in time attracts penalty under Rule 4(2) of the JMVT Rules, 2001 at the rates prescribed depending upon period of delay. Section 12 of the Act *ibid* further provides that the Taxing Officer shall not accept the tax or penalty for the current period unless arrear of taxes and penalty due has been fully paid or settled.

We analysed the database of 'VAHAN' for the period between 2008-09 and 2012-13 of the eight selected district transport offices<sup>4</sup> which indicated that there was break in period of payment of tax in 8,053 cases out of 8,59,874 cases (ORACLE dump file). We test checked (April and May 2014) the taxation registers and found that payment was made manually in 3,406 cases and in the rest 4,647 cases there was gap in tax validity ranging from 3 to 179 months. The offices could not provide any supporting documents for the tax gap. This resulted in non-realisation of tax of ₹ 2.30 crores. We noted that payments made manually can be updated in the system by entering the bank challan number and date. But the application was not suitably designed to flag payment of taxes made manually or block transactions for the subsequent periods when arrear of taxes and penalty is due.

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<sup>4</sup> Chaibasa (West Singhbhum), Daltonganj, Deoghar, Dhanbad, Dumka, Giridih, Gumla and Lohardaga.

After we pointed out the cases between April and May 2014, the Department accepted (August 2014) the audit observation and stated that demand notices have been issued by DTO, Chaibasa for realisation of arrear and instructions have been issued to remaining DTOs for issue of demand notices and institution of certificate cases.

#### **4.4.2 Non-levy of revenue due to irregular clearance of tax position**

Under the provisions of Section 5 of the JMVT Act, 2001 and the Rules made thereunder, tax is to be paid to the Taxing Officer in whose jurisdiction the vehicles have been registered. In case of change of residence/business, the owner of vehicle can pay tax to the new Taxing Officer subject to production of “No Objection certificate” (NOC) from the previous Taxing Officer under Rule 7 of the JMVT Rule 2001. Taxes in respect of a motor vehicle is payable within fifteen days from commencement of the quarter or year, as the case may be. Non-payment of taxes in time attracts penalty under Rule 4(2) of the JMVT Rules, 2001 at the rates prescribed depending upon period of delay.

We analysed the database of VAHAN between the period 2008-09 and 2012-13 of the eight selected district transport offices which indicated that in case of 751 registered vehicles out of 7,71,950 vehicles (ORACLE dump file), the entries in the field **Clear\_To\_date** (Date up to which tax liability was settled) was found for a later date than the entries in the field **Tax\_Upto\_date** (Date upto which tax has been paid). As such, in the above cases, tax clearance was granted for a period in excess of the period for which the tax was actually paid. We test checked (April and May 2014) the taxation registers and found that payment was made manually in 459 cases and in the rest 292 cases the irregular extended clearance of tax validity ranged from 1 to 57 quarters. The office could not provide any supporting document for extended clearance period. Verification of manual records maintained in the offices indicated that irregular clearance of tax was due to manual entry in the system as the software was not equipped with auto generation of clearance date. Deficiencies in the application to fetch the entries into the concerned fields automatically resulted in non-levy of revenue amounting to ₹ 34.14 lakh in the shape of road tax and additional road tax.

After we pointed out the cases between April and May 2014, the Department stated (August 2014) that excess clearance period was due to manual clearance of tax position and necessary instructions have been issued to the concerned DTOs for rectification of irregularity. On our observation, the Government had directed (August 2014) NIC to examine the causes for such irregularities. The Department has stated (August 2014) that in April 2014, VAHAN-2 software had been installed in the transport offices which has provision of auto clearance.

#### **4.5 Non-collection of taxes on vehicles**

Under the provisions of Section 5 and 9 of the JMVT Act, 2001 and Rule 4 of the JMVT Rules, 2001, the owner of a registered vehicle (other than personal vehicles) is liable to pay tax after the date of expiry of the period for which the tax had been paid to the taxation officer in whose jurisdiction the vehicle is registered. The vehicle owner can pay the tax to the new taxing authority in

case of change of residence/business, subject to the production of No Objection Certificate (NOC) from the previous taxing authority. In case of non-payment of tax within the stipulated period, the taxation authority may impose penalty at the prescribed rates. If the delay in payment of tax exceeds 90 days, penalty at twice the amount of taxes due may be imposed. Further, the Rules provide that every taxation officer is required to maintain the Demand, Collection and Balance (DCB) Register which shall be updated periodically in October and March every year to keep effective control over regular and timely realisation of taxes. The District Transport Officers are required to issue demand notices to the defaulters.

**4.5.1** We noticed from test check of the Taxation Register, DCB Registers, Surrender Registers and the computerised data in 16 District Transport Offices<sup>5</sup> between May 2013 and March 2014 that the owners of 2,354 vehicles out of 17,061 vehicles test checked did not pay tax between August 2010 and March 2014. In none of these cases, change of address of the owners or surrender of documents for securing exemption from payment of tax was found on record. As such, they were liable to pay tax. The DTOs did not update the DCB Register periodically, they did not have the details of the number of defaulting vehicle owners and taxes to be realised from them. The District Transport Officers also did not raise demand for tax and penalty against the defaulting vehicle owners resulting in non-levy of tax of ₹ 15.71 crore including penalty of ₹ 10.47 crore.

After we pointed out the cases (between May 2013 and March 2014), the Department stated (August 2014) that demand notices have been issued by the concerned DTOs and an amount of ₹ 68.99 lakh has been recovered in 111 cases by eight DTOs<sup>6</sup>. The DTOs have been instructed to institute certificate cases against the defaulters. Further reply has not been received (November 2014).

**4.5.2** We noticed from test check of the Taxation Register and the computerised data of 8,617 trailers in 16 District Transport Offices<sup>7</sup> between May 2013 and March 2014 that the owners of 2,514 trailers out of 8,617 trailers did not pay road tax and additional motor vehicle tax for the period between August 2010 and March 2014. The District Transport Officers did not update the DCB Register, they therefore did not have details of the number of defaulting vehicle owners and taxes to be realised from them. The Department failed to raise demand on the defaulters. Failure of the Department to enforce the provisions of the Act/Rules resulted in non-levy of tax of ₹ 3.04 crore including penalty of ₹ 2.03 crore.

After we pointed out (between May 2013 and March 2014), the Department stated (August 2014) that demand notices have been issued by the concerned DTOs and an amount of ₹ 9.16 lakh has been recovered in 84 cases by nine

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<sup>5</sup> Bokaro, Chaibasa, Chatra, Deoghar, Dhanbad, Garhwa, Giridih, Gumla, Hazaribag, Jamshehpur, Koderma, Latehar, Lohardaga, Palamu, Ranchi and Simdega.

<sup>6</sup> Bokaro, Chaibasa, Chatra, Gumla, Jamshehpur, Koderma, Lohardaga and Ranchi.

<sup>7</sup> Bokaro, Chaibasa, Chatra, Deoghar, Dhanbad, Garhwa, Giridih, Gumla, Hazaribag, Jamshehpur, Koderma, Latehar, Lohardaga, Palamu, Ranchi and Simdega.

DTOs<sup>8</sup>. The DTOs have been instructed to institute certificate cases against the defaulters. The Department further stated that proposals for one time tax of trailers was being finalised and system for auto generation of demand notices was being prepared. Further reply has not been received (November 2014).

**We recommend that the Government may issue necessary instructions for strengthening the Internal Control System by enforcing adherence to the prescribed rules in respect of periodical updating of the DCB Register.**

#### **4.6 Non-realisation of interest due to delay in deposit of revenue collected by banks**

Under the provisions of Rule 37 of the Bihar Financial Rules (adopted by the Government of Jharkhand), all money received as Government dues should be credited to Government Account. As per instructions of State Transport Commissioner, Jharkhand (January 2001) the amount collected by the banks during April to February should be transferred to the State Bank of India (SBI), Doranda Branch, Ranchi in such a manner that all receipts during a particular month are transferred latest by the first week of the following month. The amount deposited in the month of March, is to be transferred by 31<sup>st</sup> March positively so that all amounts deposited in the financial year are transferred to the Government account in the same financial year. As per the instructions issued by the Reserve Bank of India (RBI) penal interest, on balance exceeding rupees one lakh, is payable by the banks at the rate notified from time to time on delayed remittances to Government Account.

We noticed during the test check of bank statements of remittances of revenue collected in the office of Transport Commissioner, Jharkhand, Regional Transport Authority, Hazaribag and twelve District Transport Offices<sup>9</sup> between May 2013 and March 2014 that the collecting banks i.e. Punjab National Bank, Bank of India, State Bank of India and Axis Bank did not credit a sum of ₹ 982.59 crore for year 2011-12 and 2012-13 into SBI, Doranda Branch, for credit into Government Account within the prescribed time. The delay ranged from one month to 24 months. The collecting banks did not credit interest of ₹ 9.20 crore for delayed transfer of the Government revenue into SBI, Doranda, Ranchi. This indicated that the Department did not monitor and also did not effectively pursue the matter of payment of interest with the collecting banks.

During the exit conference the Transport Commissioner stated (August 2014) that proposal for correspondence with RBI through the Chief Secretary, Government of Jharkhand would be taken. However, banks are now transferring the revenue and keeping the closing balance as nil at the end of the month.

<sup>8</sup> Bokaro, Chaibasa, Chatra, Dhanbad, Gumla, Jamshedpur, Koderma, Lohardaga and Ranchi.

<sup>9</sup> Bokaro, Chatra, Deoghar, Dhanbad, Garhwa, Gumla, Jamshedpur, Koderma, Lohardaga, Palamu, Ranchi and Simdega.

#### **4.7 Non-levy of one time tax on personalised vehicles**

Under the provisions of Section 2(g) of the Jharkhand Motor Vehicles Taxation (Amendment) Act, 2011, Motor car, Omni Bus or Station wagon, having seating capacity of more than four but not exceeding 10 including driver, which are used solely for personal purpose, was brought under the purview of personalised vehicles. The revised rate of one time tax was leviable on cost of vehicle depending on seating capacity and age of the vehicle as per substituted schedule 1 Part (A) of the Act. Further, Section 7(1) of the Jharkhand Motor Vehicle Taxation (JMVT) Act, 2001 envisaged interest at rate of two *per cent* per month on delayed payment of one time tax. Prior to the amendment (upto 22 May 2011) tax was leviable for vehicles with seating capacity of five to 10 seats at the annual rate under Section 7(3) of the Act and penalty was also leviable for non/delay payment of tax. Further, according to the JMVT Rules, 2001 every taxation officer is required to maintain the Demand, Collections and Balance (DCB) Register which shall be updated periodically in October and March every year to exercise control over regular and timely realisation of taxes.

We noticed from test check of the Taxation Register and the computerised data in 16 District Transport Offices<sup>10</sup> between May 2013 and March 2014 that in case of 1,081 out of 5,733 private vehicles with seating capacity five to 10 of whose tax validity expired between August 2008 and January 2014, one time tax of ₹ 2.21 crore including interest of ₹ 56.93 lakh was not levied by the department with effect from May 2011 as DTOs did not review the DCB Registers periodically. Besides, tax of ₹ 3.13 lakh including penalty of ₹ 2.09 lakh upto 22 May 2011 was also leviable.

After we pointed out the cases (between May 2013 and March 2014), the Department stated (August 2014) that demand notices have been issued by the concerned DTOs and an amount of ₹ 33.15 lakh has been recovered in 162 cases by eight DTOs<sup>11</sup>. The DTOs have been instructed to institute certificate cases against the defaulters. Further reply has not been received (November 2014).

#### **4.8 Non-renewal of authorisation of National Permit**

Under the provisions of Section 81 of the Motor Vehicles (MV) Act, 1988 and Rule 87 of the Central Motor Vehicles (CMV) Rules, 1989, a permit other than a temporary or special permit shall be effective for a period of five years and the period of validity of an authorisation shall not exceed one year at a time. This authorisation is a continuous process unless the permit expires or is surrendered by the permit holder. Further, the owner of the vehicle, having national permit have to pay authorisation fee along with consolidated fee annually to operate throughout the country.

We noticed in January 2014 from test check of the National Permit Register in the office of the Transport Commissioner, Jharkhand that in 241 cases out of 14,106 cases subsequent authorisation for national permit for the period

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<sup>10</sup> Bokaro, Chaibasa, Chatra, Deoghar, Dhanbad, Garhwa, Giridih, Gumla, Hazaribag, Jamshedpur, Koderma, Latehar, Lohardaga, Palamu, Ranchi and Simdega.

<sup>11</sup> Bokaro, Chaibasa, Chatra, Dhanbad, Gumla, Jamshedpur, Koderma and Ranchi.



between June 2012 and March 2013 was not renewed during the periodicity of permits. We also observed that there was absence of mechanism for monitoring of the subsequent authorisation during currency of national permits in the office of the Transport Commissioner. This resulted in non-realisation of consolidated fee and authorisation fee of ₹ 42.18 lakh (Consolidated fee of ₹ 39.77 lakh and authorisation fee of ₹ 2.41 lakh).

After we pointed out the cases (January 2014), the Department stated (August 2014) that concerned Regional Transport Authorities have been instructed to issue demand notices for realisation of arrears. Further reply has not been received (November 2014).

Similar issue was pointed out in Paragraph No. 4.11 of the Audit Report (Revenue Sector) for the year ending 31 March 2013, where the Government accepted our observation and stated (July 2013) that show cause notices had been issued to the vehicle owners. Further action taken in this regard has not yet been received (November 2014).

#### **4.9 Non-issue of certificate of registration and driving licence in Smart Card**

Under the provisions of Rules 16 and 48 of the CMV Rules, 1989, the registering/licencing authority shall issue driving licence in Form-6 and where the licencing authority has necessary apparatus for the issue of a smart card type driving licence it shall be issued in smart card (Form-7) and certificate of registration shall be issued to the owner of the motor vehicles in Form 23 or Form 23A (Smart Card). Further, Rule 81 of Central Motor Vehicles Rules, 1989 provides that an additional amount of fee of rupees two hundred shall be charged for issue of certificate of registration and driving licence in smart card effective from May 2002. The Government of Jharkhand had signed an agreement with M/s A K S Smart Card Ltd. in October 2004 and allowed the firm to recover service fee of ₹ 99 for issue of vehicle registration certificate and ₹ 49 for issue of driving licence in Smart Card. Issuance of Smart Card based registration certificate/driving licence was introduced to prevent the use of forged and fake documents in respect of motor vehicles. It was further clarified that the above service fee would be in addition to the fee leviable under the Rules.

We noticed during test check of the Registration Register and Driving Licence Register for the period 2011-12 and 2012-13 of four District Transport Offices<sup>12</sup> between August and October 2013 that 17,853 certificates of registration and 1,934 driving licences were not issued in Smart Card even though *VAHAN/SARATHI* package was installed in the offices. Thus the purpose for which the package was introduced was not served. It was further observed that as per the terms of agreement, installation of hardware and software for issuance of Smart Card was to be completed within 14 and 15 weeks from the date of agreement (October 2004) in the districts of Chatra and Garhwa respectively. Thus, lapses on the part of Government in implementation of issuance of Smart Card based registration certificate/driving licence deprived it of revenue to the tune of ₹ 38.80 lakh.

<sup>12</sup> Chatra, Garhwa, Latehar and Simdega.

After we pointed out the cases (between August 2013 and October 2013), the Department stated (August 2014) that agreement entered with M/s AKS Company (Amity) in 2004 has lapsed and process of retender is underway. Further reply has not been received (November 2014).

Similar issue was pointed out in Paragraph No. 4.14 of the Audit Report (Revenue Sector) for the year ending 31 March 2013, where the Government had held the same stand (July 2013). Non-finalisation of retender for services to issue smart card even after a lapse of one year indicates ineffectiveness of the Government to plug areas of leakage of revenue.

#### **4.10 Short levy of tax due to incorrect determination of seating capacity**

Under the provisions of Section 7(3) of the Jharkhand Motor Vehicles Taxation (Amendment) Act, 2011, taxes shall be paid by the owner of a transport vehicle on seating capacity determined on the criteria of wheelbase. The provision came into effect from 23 May 2011. Further, Section 5 of the Act provides that every owner of a transport vehicle is required to pay road tax and additional motor vehicles tax at the rates specified therein.

We noticed from test check of the Registration/Taxation Register along with verification of the computerised data in 12 District Transport Offices<sup>13</sup>, between May 2013 and March 2014 that out of 1,539 transport vehicles test checked, 181 vehicles paid taxes for the period from May 2011 to 2013-14 adopting seating capacity lower than the seating capacity as per their wheelbase. This indicated that the DTO did not enforce the new provision of the Act during realisation of tax from transport vehicles which resulted in short levy of taxes amounting to ₹ 11.21 lakh.

After we pointed out the cases (between May 2013 and March 2014), the Department stated (August 2014) that demand notices have been issued by the concerned DTOs and an amount of ₹ 0.44 lakh has been recovered in nine cases by DTO, Dhanbad. The DTOs have been instructed to institute certificate cases against the defaulters. Further reply has not been received (November 2014).

Similar issue was pointed out in Paragraph No. 4.15 of the Audit Report (Revenue Sector) for the year ending 31 March 2013, where the Government accepted our observation and stated (July 2013) that instructions had been issued to the concerned DTOs for realisation of amount involved. Further action taken in this regard has not yet been received (November 2014).

#### **4.11 Non-levy of taxes from the date of possession of vehicles**

Under the provisions of Rules 4(1) of the JMVT Rules, 2001, in cases where no tax had previously been paid, the date of acquisition of the vehicle or the date when such tax is imposed by law shall be due date for tax payment. Further, Rules 42 and 47 of the CMV Rules, 1989 provides that no holder of a trade certificate shall deliver a motor vehicle to a purchaser without

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<sup>13</sup> Bokaro, Chaibasa, Chatra, Deoghar, Dhanbad, Garhwa, Giridih, Gumla Hazaribag, Palamu, Ranchi and Simdega.

registration, whether temporary or permanent and application for registration has to be made within seven days from taking delivery of vehicle. Non-payment of taxes in time attracts penalty at the rates prescribed depending upon period of delay, which ranges from 25 to 200 *per cent* of the tax due.

We noticed from test check of the Taxation Register and the computerised data in four district transport offices<sup>14</sup> between May 2013 and January 2014 that the owners of 41 vehicles out of 448 vehicles applied for registration of their vehicles with delay between 78 and 1,449 days. The registering authority levied tax from the date of registration instead of from the date of possession. We observed that till the date of audit (between May 2013 and January 2014) neither the owners of the vehicles paid the tax nor did the registering authority levy tax and penalty on the defaulting vehicles for intervening periods from the date of possession of vehicles to the date of registration. Thus, non-compliance with the provisions of the rule resulted in non-levy of revenue amounting to ₹ 10.54 lakh including penalty of ₹ 7.02 lakh.

After we pointed out the cases (between May 2013 and January 2014), the Department stated (August 2014) that demand notices have been issued by the concerned DTOs and an amount of ₹ 0.93 lakh has been recovered in five cases by DTO, Dhanbad. The DTOs have been instructed to institute certificate cases against the defaulters. The Department further stated that introduction of dealer point registration system has been proposed to stop this irregularity. Further reply has not been received (November 2014).

Similar issue was pointed out in Paragraph No. 4.12 of the Audit Report (Revenue Sector) for the year ending 31 March 2013. The Government accepted our observation and stated (July 2013) that demand notices had been issued in 77 cases involving ₹ 24.55 lakh in DTOs, Bokaro and Dhanbad. In respect of other DTOs, the Government issued instruction to realise the amount. However, the nature of lapses/irregularities is still persisting.

#### **4.12 Non-realisation of trade tax**

Under the provisions of Section 6 of the JMVT Act, 2001, trade tax at the annual rate specified in Schedule-III shall be paid by a manufacturer/dealer in respect of motor vehicles held in possession by him in the course of business. Trade tax is payable (based on the type of vehicle) on a block of seven vehicles, for which returns are required to be submitted in Form B2 by the manufacturer/dealer. The taxation authority after verifying the amount of trade tax renews the trade certificate. In case of non-payment of tax within the stipulated period, the taxation authority may impose penalty at the prescribed rates depending upon the period of delay ranging from 25 to 200 *per cent* of the tax due.

We noticed during test check of the Trade Tax Register and files of two District Transport Offices, Dhanbad and Ranchi between July and November 2013 that three dealers out of 91 dealers of motor vehicles were liable to pay trade tax along with penalty of ₹ 8.44 lakh for the period from April 2011 to December 2012. However, a sum of ₹ 3.20 lakh was paid by two dealers. This

<sup>14</sup> Bokaro, Gumla, Lohardaga and Palamu.

resulted in non-payment of trade tax and penalty of ₹ 5.24 lakh including penalty of ₹ 4.69 lakh.

After we pointed out the cases (between July and November 2013), the Department stated (August 2014) that demand notices have been issued by concerned DTOs for realisation of arrears. The Department further stated that introduction of dealer point registration system has been proposed to stop this irregularity. Further reply has not been received (November 2014).

Similar issue was pointed out in Paragraph No. 4.13 of the Audit Report (Revenue Sector) for the year ending 31 March 2013, the Government accepted our observation and stated (July 2013) that demand had been raised against five dealers involving ₹ 5.13 lakh and recovery of ₹ 51,800 had been made in three cases. The nature of lapses/irregularities are still persisting which shows ineffectiveness of the Inter Control System of the Department to prevent recurring leakage of revenue.

#### **4.13 Internal audit**

The Department informed us that as it has no Internal Audit Wing of its own, the Internal Audit was being conducted by the auditors of the Finance Department. The Department did not furnish overall picture of audit conducted by the Finance Department during 2013-14.

**The Government may consider setting up an Internal Audit Wing so as to ensure effective implementation of the Acts/Rules for prompt and correct realisation of revenue.**

**CHAPTER-V**  
**OTHER TAX RECEIPTS**

## CHAPTER – V: OTHER TAX RECEIPTS

### A. LAND REVENUE

#### 5.1 Tax administration

The Bihar Tenancy Act, 1885, Chotanagpur Tenancy Act, 1908, Santhal Parganas Act, 1949, Bihar Land Reforms Act, 1950, Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, Bihar Bhoodan Act, 1954, Bihar Government Estate (*Khas Mahal*) Manual, 1953, Bihar Public Land Encroachment Act, 1956, Bengal Cess Act, 1880 and Executive orders issued by the Revenue and Land Reforms Department, Government of Jharkhand from time to time governing land revenue in Jharkhand are administered by the Secretary/Commissioner of the Revenue and Land Reforms Department. All important cases of settlement, framing of policies and sanction of alienation of Government land are decided at the Government level. The State is divided into five divisions<sup>1</sup> each headed by a Divisional Commissioner and 24 districts<sup>2</sup> each headed by a Deputy Commissioner. At the district level the Deputy Commissioner is assisted by the Additional Collector/Additional Deputy Commissioner (AC/ADC). Districts are divided into sub-divisions headed by a Sub-Divisional Officer (SDO) who is assisted by a Deputy Collector Land Reforms (DCLR). The sub-divisions are divided into circles each headed by a Circle Officer (CO).

The various receipts under 'Land Revenue' are land rent, *salami*<sup>3</sup>, commercial/residential rent, cess<sup>4</sup> etc.

#### 5.2 Results of audit

During 2013-14 we test checked the records of 30 units of Land Revenue, having revenue collection of ₹ 2.33 crore, out of 307 units. The test checked units revealed non/short levy of cesses and/or interest on arrears of cess, non/short fixation of *salami* and commercial rent, non-settlement of vested lands etc. involving ₹ 384.09 crore in 98 cases as detailed in **Table – 5.2**.

**Table – 5.2**

Sl. No.	Categories	Number of cases	(₹ in crore)
			Amount
1	Non/short levy of cesses/interest on arrears of cess	4	365.90
2	Non/short fixation of <i>salami</i> and commercial rent	5	1.90
3	Non-settlement of vested lands	8	0.78
4	Non-settlement of <i>sairats</i>	3	0.08
5	Other cases	78	15.43
<b>Total</b>		<b>98</b>	<b>384.09</b>

<sup>1</sup> South Chotanagpur (Ranchi), North Chotanagpur (Hazaribag), Santhal Parganas (Dumka), Palamu (Medininagar) and Kolhan (Chaibasa).

<sup>2</sup> Bokaro, Chatra, Dhanbad, Dumka, Deoghar, East Singhbhum, Garhwa, Godda, Giridih, Gumla, Hazaribag, Jamtara, Koderma, Khunti, Latehar, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi, Sahebganj, Saraikela-Kharsawan, Simdega and West Singhbhum.

<sup>3</sup> *Salami* is the market value of the land.

<sup>4</sup> Education cess: 50 per cent, Health cess: 50 per cent, Agriculture Development cess: 20 per cent and Road cess: 25 per cent of the rent (Total 145 per cent).

During the course of the year, the Department accepted non-levy of *salami*, capitalised value of rent, cess etc. of ₹ 4.91 crore in 17 cases, which was pointed out by us in 2013-14.

In this chapter we present a few illustrative cases having recoverable financial implication of ₹ 5.88 crore. These are discussed in the following paragraphs.

## **Audit observations**

### **5.3 Non-observance of the provisions of Acts/Rules**

*The Bihar Government Estates (Khas Mahal) Manual, 1953 and instructions issued from time to time, as adopted by the Government of Jharkhand, provide for:*

- (i) *levy of salami on fresh leases equal to prevailing market value of land besides annual rent at the rate of two and five per cent for residential and commercial purposes respectively of such salami; and*
- (ii) *levy of salami and capitalised value of both commercial rent and cess for permanent settlement of Government land.*

*The Revenue and Land Reforms Department did not observe diligently the provisions of the Acts/Rules resulting in non/short realisation of Government revenue as mentioned in the succeeding paragraphs:*

### **5.4 Non-raising of demand for capitalised value of cess**

By a resolution issued by the Government of Jharkhand in January 2011 under the provisions of the Bihar Estate (Khas Mahal) Manual, 1953 (as adopted by the Government of Jharkhand) in case of permanent transfer of Government land (*Gair Mazarua Khas/Aam* land) for commercial purposes, *salami* equal to prevailing market value of such land and capitalised value of both commercial rent and cess are realisable for transfer of such land. The capitalised value of commercial rent and cess are 25 times of commercial rent and cess respectively.

We noticed (December 2013) during scrutiny of records of permanent transfer of Government land in the three circle offices<sup>5</sup> under Additional Collector Office, Giridih that 16 *Rajyadesh* out of total 29 *Rajyadesh* (ordinances) were issued between May and June 2011 for transfer of 21.845 acres of *Gair Mazarua* (GM) *Khas/Kaishre Hind* land to Ministry of Railways, Government of India (GOI) for construction of new railway track from Koderma to Giridih, without making provisions for payment of capitalised value of cess as stipulated in the resolution issued by the Government. Thus, a sum of ₹ 4.61 crore on account of capitalised value of cess remained outside the purview of the ordinances due to deviation from the provisions of the resolution.

After we pointed out the cases in December 2013, the Additional Collector, Giridih stated (December 2013) that direction would be issued to concerned circle officers for necessary steps in the interest of revenue. Further reply has not been received (November 2014).

We reported the matter to the Government (March 2014); their reply has not been received (November 2014).

Similar issue featured in Paragraph No. 5.8.1 of Audit Report (Revenue Sector) for the year ending 31 March 2013, where the Department stated (between July 2012 and April 2013) that demand would be raised. Further action taken in this regards has not been received (November 2014).

<sup>5</sup> Dhanwar, Jamua and Sadar Giridih.



### **5.5 Non-renewal of lease**

Under the provisions of Rule 9 of the Bihar Government Estates (*Khas Mahal*) Manual and the Rules framed thereunder (as adopted by the Government of Jharkhand), the State Government is to issue notices to the lessee six months prior to the expiry of the lease to apply for renewal of such lease, whereas a lessee is required to apply three months prior to expiry of his lease for renewal. Further, a lessee occupying leasehold property without payment of rent and without renewal of lease is to be treated as a trespasser and has no claim for renewal on past terms and conditions. On fresh leases for residential and commercial purposes, *salami* at the current market value of land besides annual rent at the rate of two *per cent* and five *per cent* respectively for residential and commercial purposes of such *salami* is leviable. Further, as per instructions issued in April 1999 by the Revenue and Land Reforms Department, Government of Bihar, the lessees are liable to pay arrears of double the annual rental at the rate proposed in fresh lease from the date of expiry of earlier lease as penal rent together with the interest at the rate of 10 *per cent* on the differential of proposed rent in the new deeds and rent already paid by the lessee.

We test checked (February 2014) the *Khas Mahal* register/ *Khas Mahal* lease records of Anchal Office, Golmuri cum Jugsalai and noticed that out of total 61 leases, three leases of 1.17 acres of *Khas Mahal* land had expired during 2010-11. However, neither did the lessees apply for renewal of the lease either before or after the date of expiry nor did the Department review the *Khas Mahal* register and issue notices to the lessees to apply for renewal, but the lessees continued to occupy the land and thus, were trespassers. The Department did not take action for settlement or eviction of trespassers. Thus, failure on the part of the Department to review the concerned records periodically and take action for review of expired leases resulted in non-realisation of Government revenue of ₹ 97.01 lakh for the period 2010-11 to 2012-13 in the shape of *salami*, penal rent and interest.

After we pointed out the cases in February 2014 the Anchal Adhikari stated (March 2014) that action would be taken after consulting the higher authorities. Further reply has not been received (November 2014).

We reported the matter to the Government in May 2014; their reply has not been received (November 2014).

Similar issue featured in Paragraph No. 5.9 involving ₹ 10.28 crore in 155 leases of Audit Report (Revenue Sector) for the year ending 31 March 2012, where the Department stated (March 2012) that application for fresh lease were being called for and after acceptance action would be taken to settle the fresh leases. In case of non-acceptance of application, the leases would be evicted. Further action taken in this regards has not been received (November 2014).

### **5.6 Settlement of *Gair Mazarua* land to private educational institution without permission of the Government**

According to the provision of Bihar Estate (*Khash Mahal*) Manual, 1953 (as adopted by the Government of Jharkhand), the procedure for settlement of

*Gair Mazarua* land with private educational institutions is that the managing committee of the private educational institution should apply for land to the District Education Officer. The latter will inspect the site and assess the actual requirement of land for the purpose and thereafter send his proposal to the Collector of the district and also forward a copy thereof to the Education Department. The Collector, if he is satisfied about the requirement of land, may forward the proposal with or without modification to the Revenue Department through the Divisional Commissioner. The Revenue Department thereafter consults the Education Department and the Finance Department then submits necessary memorandum for settlement of land with the private educational institutional concerned to the Cabinet. In case of permanent transfer of Government land (*Gair Mazarua Khas/Aam land*) for commercial purposes, *Salami* equal to prevailing market value of such land and capitalised value of commercial rent are realisable for transfer of such land.

We noticed (between May and June 2013) during scrutiny of land settlement records in Anchal Office, Barkatha (Hazaribag) that Anchal Adhikari had recommended settlement of 4.08 acres of *Gair Mazarua* (GM) *Khas*<sup>6</sup> land on payment of *salami*, and rent (*sa-sulk*). The same was settled to Sarvodaya High School, Alagdiha in January 2011 on the recommendation of Anchal Adhikari by the Sub-Divisional Officer, Barhi (Hazaribag) in contravention to the provisions of the Manual. Also, demand for ₹ 30.48 lakh (*salami* ₹ 13.55 lakh and capitalised value of commercial rent ₹ 16.93 lakh) was not raised.

After we pointed out the case in May 2013, the Anchal Adhikari, Barkatha stated that sanction order from Government would be obtained and action would be taken, while Dy. Collector Land Reform (DCLR), Barhi stated (June 2013) that direction would be given to take suitable steps in the matter. Further reply has not been received (November 2014).

The case was reported to the Government (May 2014); their reply has not been received (November 2014).

## **5.7 Internal audit**

There is no Internal Audit Wing in the Revenue and Land Reforms Department. The internal audit is conducted by the Finance Department from time to time. Information regarding conduct of audit by the Finance Department during 2013-14 was not furnished (November 2014).

<sup>6</sup> *Gair Mazarua Khas* land means land retained by ex-intermediaries and not settled with *Raiyats* which subsequently vested in the State under the Bihar Land Reforms Act, 1950.

## B. STAMPS AND REGISTRATION FEES

### 5.8 Tax administration

The levy and collection of Stamp and Registration fees in the State of Jharkhand is governed by the Indian Stamp Act, 1899 and rules made thereunder and the Registration Act, 1908. On creation of the State of Jharkhand, with effect from 15 November 2000, the existing Acts, Rules and executive instructions of the State of Bihar were adopted by the State of Jharkhand.

### 5.9 Results of audit

During 2013-14, we test checked the records of 15 units (having revenue collection of ₹ 184.87 crore) out of 46 units relating to Stamp duty and Registration fees. The test checked units revealed short levy of Stamp duty and Registration fees, misclassification of land etc. involving ₹ 223.11 crore in 505 cases, as detailed in **Table – 5.9**.

**Table – 5.9**

Sl. No.	Categories	No. of cases	(₹ in crore)
			Amount
1	Short levy of Stamp duty and Registration fees	76	0.35
2	Misclassification of land	1	218.62
3	Other cases	428	4.14
<b>Total</b>		<b>505</b>	<b>223.11</b>

During the course of the year, the Department accepted short levy of Stamp duty and Registration fees etc. amounting to ₹ 1.45 crore in 137 cases pointed out by us during 2013-14.

In this chapter we present a few illustrative cases having financial implications of ₹ 1.33 crore. These are discussed in the succeeding paragraphs.

## 5.10 Non-observance of provisions of Acts/Rules

*The Indian Stamp Act, 1899, the Registration Act, 1908 and Bihar Registration Rules, 1937, Bihar Registration Manual, 1946 and Bihar Stamp (Prevention of under valuation of instruments) Rules, 1995 (as adopted by the Government of Jharkhand) made thereunder provide for:*

- (i) *payment of Registration fees at the prescribed rate; and*
- (ii) *payment of Stamp duty by the executants at the prescribed rate.*

*We noticed that the Registration Department did not observe the provisions of the Act/Rules in cases mentioned below:*

## 5.11 Non-levy of Stamp duty and Registration fees due to non-registration of leases

Under the provisions of Section 17(1) (d) of the Registration Act 1908, leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent is to be compulsorily registered. Stamp duty is chargeable as per article 35 of Schedule I-A of the Indian Stamp Act, 1899 depending on the periodicity of lease and Registration fee is also leviable on the value on which Stamp duty is charged.

**5.11.1** We collected information from office of the Executive Engineer, Road Construction Division, Jamshedpur and cross verified with the records of District Sub Registrar, Jamshedpur which revealed that a lease agreement was executed in February 2013 for transfer of 1.0825 acres of land in favour of a private party for the period of 30 years on a lease premium of ₹ 17.47 crore and an annual rent of ₹ 4.37 lakh. The lease remained unregistered upto January 2014 due to absence of mechanism for inter-departmental exchange of information. The information regarding lease agreements executed by Road Construction Divisions were neither exchanged with the District Sub-Registrar office nor were the documents presented for registration. Thus, non-registration of lease deed resulted in non-levy of Stamp duty and Registration fee of ₹ 1.24 crore including Registration fee of ₹ 53.06 lakh.

After we pointed out the case in January 2014, the Government stated (June 2014) that the concerned deed had not been presented for registration. The Deputy Commissioners of the concerned districts have been instructed to get the lease agreements registered before settlement of lease property. Further reply has not been received (November 2014).

**5.11.2** We obtained information from three offices<sup>7</sup> regarding settlement of *sairat* (the right and interest in respect of revenue earning *hat, bazaar, mela*, trees, ferries etc.) and cross verified (between September 2013 and October 2013) with the records of the District Sub Registrar, Palamu and Sub Registrar, Barhi which revealed that between 2010-11 and 2012-13, out of total 37 *sairats*, 18 *sairats* were settled with different bidders for one year which should have been compulsorily registered in the concerned registry offices but these remained unregistered due to absence of mechanism for inter-departmental exchange of information. This resulted in loss of Stamp

<sup>7</sup> Municipal Council, Medininagar, Dy. Commissioner (Khas Mahal Cell), Palamu and Circle Office, Barhi,

duty and Registration fees amounting to ₹ 9.22 lakh including Registration fee of ₹ 3.88 lakh.

After we pointed out the cases between September 2013 and October 2013, the Government stated (June 2014) that the concerned deed had not been presented for registration. The Deputy Commissioners of the concerned districts have been instructed to get the lease agreements registered before settlement of lease property. Further reply has not been received (November 2014).

Similar issue was pointed out in Paragraph Nos. 6.7.3.2 and 6.7.3.4 of Audit Report (Revenue Sector) for the year ended 31 March 2013: the Government accepted our observation and stated (October 2013) that all the Dy. Commissioners cum Registrars had been requested to take action and to furnish report on the action taken thereon. The Government has not intimated us action taken thereon and the issue still persists.

**We recommend that the Government may consider developing a mechanism where whenever a Government agency gives immovable property on lease it should furnish details of such lease agreements to the concerned registering authorities to ensure their registration.**

#### **5.12 Internal audit**

The department informed us that it has no Internal Audit Wing of its own. The internal audit was being done by the Finance Department but the position of audit conducted by the auditors of Finance Department was not furnished.

**The Government may consider setting up an Internal Audit Wing of the Department so as to ensure effective implementation of the Acts/Rules for prompt and correct realisation of revenue.**

## C. TAXES AND DUTIES ON ELECTRICITY

### 5.13 Tax administration

The Commercial Taxes Department is responsible for levy and collection of Electricity Duty under the provisions of the Bihar Electricity Duty Act, 1948 (BED Act.) and Rules framed thereunder (adopted by the Government of Jharkhand). The Secretary-cum-Commissioner of Commercial Taxes, assisted by an Additional Commissioner, three Joint Commissioners of Commercial Taxes (JCCT) three Deputy Commissioners of Commercial Taxes (DCCT) and two Assistant Commissioners of Commercial Taxes (ACCT), is responsible for administration of the Act and Rules in the Department. The State is divided into five Commercial Taxes Divisions<sup>8</sup> each under the charge of a JCCT (Admn.) and 28 circles, each under the charge of a DCCT/ACCT of the circle. The DCCT/ACCT assisted by Commercial Taxes Officers, is responsible for levy and collection of Electricity Duty.

### 5.14 Results of audit

Our test check of records relating to Electricity Duty in 2013-14 revealed that non/short levy of duty and surcharge etc. involving ₹ 20.70 crore in seven cases as mentioned in **Table – 5.14**.

**Table – 5.14**

Sl. No.	Categories	No. of cases	(₹ in crore)
			Amount
1	Short levy of Electricity Duty	2	11.76
2	Non/short levy of surcharge	2	5.51
3	Other cases	3	3.43
<b>Total</b>		<b>7</b>	<b>20.70</b>

During the course of the year, the Department accepted short levy of Electricity Duty and surcharge etc. amounting to ₹ 2.00 crore in three cases pointed out in previous year.

In this part of the chapter, we present an illustrative case having financial implication of ₹ 2.00 crore, accepted by the Department. This is discussed in the succeeding paragraph.

<sup>8</sup> Dhanbad, Hazaribag, Jamshedpur, Ranchi and Santhal Parganas (Dumka).

### **5.15 Non-observance of provisions of Acts/Rules**

*The Bihar Electricity Act, 1948 and Rules made thereunder, as adopted by the Government of Jharkhand, provide for payment of electricity duty and surcharge at the prescribed rates.*

*We noticed that the Commercial Taxes Department did not observe the provisions of the Act/Rules in the case mentioned in the succeeding paragraph.*

### **5.16 Suppression of purchase of electrical energy**

Under the provisions of Section 4(4-a) of the Bihar Electricity Duty Act, every person other than a licensee who obtains, for sale or partly for his own use and partly for sale, bulk supply of energy generated by a licensee or other person shall pay every month to the State Government at the time and in the manner prescribed, the duty and surcharge payable under Section 3 on the units of energy so obtained and sold or partly sold and partly consumed by him. Further, under the provisions of Section 5A(2) of the Act and Rules made thereunder, every assessee shall pay electricity duty and surcharge due from him within two calendar months of the month to which the duty relates. In case of failure to pay duty and/or surcharge within the due date, the prescribed authority shall impose a penalty upto five *per cent* but not less than two and half *per cent* for each of the first three months or part thereof following the due date and upto 10 *per cent* but not less than five *per cent* for each subsequent month or part thereof.

We collected the data for sale of electrical energy from Damodar Valley Corporation (DVC) to the dealers in Jharkhand and cross-verified it with the records maintained in the Commercial Taxes Circles at Jharkhand. We noticed (June 2013 and May 2014), from the assessment records and periodical returns filed by the 21 dealers registered in Bokaro and Giridih Commercial Taxes Circles that three assessee had purchased and consumed 27.88 crore units of electrical energy from DVC during the period between 2004-05 and 2010-11 but had accounted for 17.98 crore units only in their returns and paid the duty and surcharge accordingly. This resulted in suppression of purchase of 9.90 crore units of electrical energy. The ED and surcharge payable for the suppressed quantity worked out to ₹ 39.62 lakh, besides penalty of ₹ 1.61 crore was also leviable for non-payment of ED and surcharge on the due dates.

After we pointed out the cases (between June 2013 and May 2014), the DCCT, Giridih stated (July 2014) that notices for hearing had been issued, while the DCCT, Bokaro, accepted our observation and raised the demand (July 2014). However, the dealer has filed appeal in the Court of Commercial Tax Commissioner, Jharkhand, Ranchi. Further reply has not been received (November 2014).

We reported the matter to the Government in May 2014; their reply has not been received (November 2014).

### **5.17 Internal audit**

Information regarding status of internal audit was called for (between April and July 2014) from the Department; their reply has not been received (November 2014).



**CHAPTER-VI**  
**MINING RECEIPTS**

## CHAPTER – VI: MINING RECEIPTS

### 6.1 Tax administration

The levy and collection of royalty in the State is governed by the Mines and Minerals (Development and Regulation) Act, 1957, the Mineral Concession Rules, 1960 and the Jharkhand Minor Mineral Concession Rules, 2004.

At the Government level, the Secretary, Mines and Geology Department and at the department level, the Director of Mines is responsible for administration of the Acts and Rules. The Director of Mines is assisted by an Additional Director of Mines (ADM) and Deputy Director of Mines (DDM) at the headquarters level. The State is divided into six circles<sup>1</sup>, each under the charge of a DDM. The circles are further divided into 24 district mining offices<sup>2</sup>, each under the charge of a District Mining Officer (DMO)/Assistant Mining Officer (AMO). The DMOs/AMOs are responsible for levy and collection of royalty and other mining dues. They are assisted by Mining Inspectors (MIs). DMOs and MIs are authorised to inspect the lease hold areas and review production and dispatch of minerals.

### 6.2 Results of audit

Our test check during 2013-14 of the records of 18 units, having revenue collection of ₹ 3,029.73 crore, out of 50 units relating to the Mines and Geology Department revealed non/short levy of royalty, dead rent, penalty and other irregularities involving ₹ 128.44 crore in 2,394 cases as mentioned in the **Table – 6.2.**

Table – 6.2

Sl. No.	Categories	(₹ in crore)	
		No. of cases	Amount
1	Non/short levy of royalty	227	113.67
2	Non/short levy of dead rent	22	0.19
3	Non-levy of penalty	17	5.90
4	Non-institution of certificate proceedings	78	0.01
5	Other cases	2,050	8.67
<b>Total</b>		<b>2,394</b>	<b>128.44</b>

During the course of the year, the Department accepted under-assessments and other deficiencies amounting to ₹ 36.78 crore in 1,904 cases pointed out by us during 2013-14.

The Department recovered ₹ 7.34 crore in six cases including ₹ 7.30 crore involved in five cases, pointed out in draft paragraph by us during 2013-14.

<sup>1</sup> Chaibasa, Daltonganj, Dhanbad, Dumka, Hazaribag and Ranchi.

<sup>2</sup> Bokaro, Chatra, Chaibasa, Daltonganj, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Khunti, Koderma, Latehar, Lohardaga, Pakur, Ramgarh, Ranchi, Sahebganj, Saraikela-Kharsawan and Simdega.

In this chapter a few illustrative cases having recoverable financial implication of ₹ 35.78 crore, the Department accepted audit observation of ₹ 17.21 crore in four cases which have been discussed in the succeeding paragraphs.

### 6.3 Non-observance of the provisions of Acts/Rules

*The Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 and the Minerals Concession (MC) Rules, 1960 provide for payment of royalty on the minerals removed and consumed from the leased area at the rates prescribed, within the due dates.*

*The Mines and Geology Department did not observe the provisions of the Acts/Rules with regard to application of correct rate of royalty, scrutiny and verification of monthly returns etc. in the cases mentioned in paragraphs 6.4 to 6.7 which resulted in non/short levy/realisation of ₹ 35.78 crore.*

### 6.4 Short levy of royalty due to application of incorrect rate

Under the provisions of Section 9 of the MMDR Act, 1957, the holder of a mining lease is required to pay royalty on removal or consumption of the mineral from the leased area at the rate for the time being specified in the Second Schedule in respect of that mineral. Further, Government of India (GOI) prescribed a formula for determination of rate of royalty on coal for various grades on the basis of basic pit head price of Run of Mines (ROM) coal. In case of iron ore and bauxite, the rate of royalty is based on the iron and aluminium metal content respectively in the minerals under Rule 64 D of the MC Rules, 1960.

We test checked (between September 2013 and March 2014) the monthly returns of 198 out of 220 lessees in five Mining Offices<sup>3</sup> and noticed that 40 lessees had dispatched 47.31 lakh MT of different minerals during 2011-12 and 2012-13, on which royalty of ₹ 69.12 crore was levied instead of ₹ 87.89 crore leviable on the basis of basic pit head price of ROM coal notified by the Coal India Limited (CIL), price of iron ore and bauxite published by the Indian Bureau of Mines (IBM) and in case of bauxite used in alumina and aluminium metal extraction royalty calculated on the basis of London Metal Exchange price, as prescribed under provisions of the Act. Thus, the DMOs did not enforce provisions of the Act for application of correct rates. This resulted in short levy of royalty of ₹ 18.77 crore as detailed in the **Table - 6.4**.

**Table – 6.4**

(₹ in lakh)

Sl. No	Name of the office Number of Leases	Name of the mineral Period	Quantity (in lakh MT)	Royalty leviable Royalty levied	Short levied	Remarks
1	Dhanbad 23	Coal 2012-13	39.61	<u>7,472.97</u> 5,739.09	1,733.88	Rate of royalty was not calculated on the basis of basic pit head price of ROM coal as notified by the CIL.
2	Hazaribag 1	Coal 2011-12	0.87	<u>199.19</u> 162.81	36.38	
3	Chaibasa 1	Iron Ore 2012-13	2.78	<u>663.01</u> 590.42	72.59	Royalty was not calculated on the basis of iron content wise average monthly price published by the IBM.
4	Lohardaga 5	Bauxite 2012-13	3.77	<u>431.78</u> 404.88	26.90	Royalty was not calculated on the basis of alumina content as per mining plan.

<sup>3</sup> Chaibasa, Dhanbad, Gumla, Hazaribag and Lohardaga.

Table – 6.4

(₹ in lakh)						
Sl. No	Name of the office Number of Leases	Name of the mineral Period	Quantity (in lakh MT)	Royalty leviable Royalty levied	Short levied	Remarks
5	Gumla 10	Bauxite 2012-13	0.28	<u>21.95</u> 14.39	7.56	Royalty was not calculated on the basis of average monthly price published by the IBM.
<b>Total</b>	<b>40</b>		<b>47.31</b>	<b><u>8,788.90</u></b> <b>6,911.59</b>	<b>1,877.31</b>	

After we pointed out the cases (between September 2013 and March 2014), the DMO, Chaibasa raised (March 2014) the demand for ₹ 72.59 lakh. While, in remaining cases the DMOs stated (between September 2013 and March 2014) that matter would be examined and action would be taken accordingly. Further reply has not been received (November 2014).

We reported the matter to the Government between July 2013 and May 2014; their reply has not been received (November 2014).

Similar issue featured in Paragraph No. 7.7 of Audit Report (Revenue Sector) for the year ended 31 March 2013, where the Government informed (September 2013) that demand had been raised for ₹ 32.08 crore, out of which ₹ 4.23 crore had been recovered. However, the nature of lapses/irregularities are still persisting which shows ineffectiveness of the internal control system of the Department to prevent recurring leakage of revenue.

### 6.5 Short levy of royalty

Under the provisions of Section 9 of the Mines and Minerals (Development and Regulation) Act, 1957, the holder of a mining lease is required to pay royalty in respect of any mineral removed or consumed from the leased area at the rate for the time being specified in the Second Schedule in respect of that mineral. Further, Rule 4(2) of the Colliery Control Rules, 2004 provides that the owner of a colliery is required to declare grade of coal mined in the colliery. The Central Government prescribed formulas as rate of royalty = a + bp, where 'a' is a fixed component and 'bp' = 5 per cent of basic pit head price of ROM coal. Further, royalty was revised to 14 per cent of basic pit head price of ROM coal with effect from 10 May 2012.

We test check (November 2013) the demand files of three lessees out of five lessees in the District Mining Office, Pakur and noticed that a lessee had declared grade of coal for 2012-13 as G-6, G-8 and G-9 on the basis of Gross Calorific Value (GCV). Whereas, the monthly returns submitted in the mining office during 2012-13 the lessee declared dispatch of 67.25 lakh MT of coal as grade C, D, E and F and paid royalty of ₹ 90.58 crore for aforesaid dispatch. Declaration of coal on the basis of Useful Heat Value was discontinued from January 2012 and grading of coal on the basis of Useful Heat Value in the monthly returns was irregular. The DMO was required to scrutinise the monthly returns with the declared grade and accordingly demand was to be raised on the basis of the formulas prescribed. As such, the royalty was calculated at ₹ 102.85 crore on the basis of Grade C as G-6, Grade D and E as G-8 and Grade F as G-9 and by using formulas prescribed by the Central

Government. Thus, incorrect grading of coal on the basis of Useful Heat Value instead of Gross Calorific Value resulted in short levy of royalty of ₹ 12.28 crore.

After we pointed out the case in November 2013, the DMO stated (May 2014) that certificate case had been instituted for realisation of demand under audit observation. Further reply has not been received (November 2014).

We reported the matter to the Government in April 2014; their reply has not been received (November 2014).

Similar issue featured in Paragraph No. 6.8.2 of Audit Report (Revenue Receipts) for the year ended 31 March 2011. The same irregularities are still persisting.

## **6.6 Non/Short levy of penalty for illegal mining**

Under the provisions of Rule 23(e) of the Jharkhand Minor Mineral Concession Rules, 2004, if a lease renewal application of a minor mineral lease is not disposed off by the Collector within the time frame or before the expiry of the lease, it will be presumed that it is extended for next 90 days or till the date of order passed by the sanctioning authority, whichever is earlier. If the lease application is not disposed off within this extended time frame then it is assumed to be rejected. Further, Rule 54(8) provides that any person who does not have any valid mining lease/permit, if he or any agent, manager or contractor on his behalf extracts minor minerals the person shall be presumed to be a party to the illegal extraction and the price of mineral shall be recovered from him.

**6.6.1** We test check (November 2013) the demand files and Demand, Collection and Balance (DCB) Register of 110 leases out of 443 leases of minor minerals in the District Mining Office, Pakur and noticed that a renewal application of a lessee, whose lease validity period had expired in February 2012, had not been disposed off. But the ex-lessee had extracted minerals even after the expiry of extended period of 90 days and dispatched 1.43 lakh cum of stone boulder between June 2012 and March 2013 and paid royalty ₹ 89.82 lakh for the dispatched mineral. Thus, dispatched mineral were liable to be treated as illegal extraction for which price of mineral of ₹ 4.33 crore was recoverable. The DMO did not monitor the lease register and demand file which resulted in short levy of penalty of ₹ 3.44 crore.

After we pointed out the case (November 2013), the DMO, Pakur stated (May 2014) certificate case had been instituted for realisation of demand under audit observation. Further reply has not been received (November 2014).

We reported the matter to the Government in January 2014; their reply has not been received (November 2014).

Under the provisions of Rule 56 of the Jharkhand Minor Mineral Concession Rules, 2004, all promoters or private companies engaged in construction work shall ensure that procurement of minor mineral to be consumed is made from valid lease holder or permit holder through legal transporting challans, failing which they shall be liable to pay royalty and penalty equivalent to the royalty.

**6.6.2** We test check (October 2013) the permit files along with monthly returns of 10 out of 64 permit holders in DMO, Ramgarh and noticed that a contractor of the National Highway Authority of India (NHAI) had been granted two permits in December 2011 and February 2012 for 2,00,000 cum of earth over 21.36 acre area. As per monthly returns submitted by the contractor 1,60,000 cum of earth was procured between January and December 2012 by utilising 8,000 nos. of transporting challans. Further, in December 2012 Mining Inspector conducted inspections on permit areas and reported that mineral was not procured from these areas. As such the procurement reported in monthly returns was illegal and was liable to pay royalty together with penalty equivalent to royalty, amounting to ₹ 76.80 lakh but the District Mining Officer failed to impose the same.

After we pointed out the cases (October 2013), the DMO stated (January 2014) that demand notice has been issued (December 2013). Further reply has not been received (November 2014).

We reported the matter to the Government in December 2013; their reply has not been received (November 2014).

Similar issue featured in second bullet of Paragraph No. 7.4.22.1 of Audit Report (Revenue Sector) for the year ended 31 March 2012. The Government accepted (September 2012) our observations and stated that demand had been raised. However, nature of such lapses/irregularities are still persisting which shows ineffectiveness of internal control system to prevent recurring leakage of revenue.

## **6.7 Excess adjustment of royalty**

Under the provisions of Section 9 of the Mines and Minerals (Development and Regulation) Act, 1957, the holder of a mining lease is required to pay royalty on removal or consumption of the mineral from the leased area at the rate for the time being specified in the Second Schedule in respect of that mineral. Further, the DMO is required to check the periodical monthly returns.

We scrutinised (February 2014) the monthly returns furnished by one colliery<sup>4</sup> under Sijua Area of Bharat Coking Coal Limited (BCCL) in District Mining Office, Dhanbad and noticed that the colliery had shown receipt of 4,05,037.39 MT of grade IV coal from its sister collieries<sup>5</sup> during 2012-13 and adjusted a sum of ₹ 8.51 crore. However, our cross-verification with the monthly returns of the sister collieries revealed that royalty of only ₹ 7.99 crore had been paid. The DMO did not cross-verify the returns submitted by the lessee with the returns of its sister collieries available in the office and allowed incorrect adjustment. This resulted in allowance of excess adjustment of royalty of ₹ 52.02 lakh.

After we pointed out the case in February 2014, the DMO stated (February 2014) that the matter would be examined and action would be taken as per law. Further reply has not been received (November 2014).

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<sup>4</sup> Sendra Bansjora.

<sup>5</sup> Tetulmari and Nichtipur.

We reported the matter to the Government in April 2014; their reply has not been received (November 2014).


Similar issue had also featured in Paragraph No. 7.10 of Audit Report (Revenue Sector) for the year ended 31 March 2013 wherein the Government accepted (September 2012) the cases and raised the demand for ₹ 1.14 crore against our observation of ₹ 94.44 lakh. However, nature of such lapses/irregularities are still persisting which shows ineffectiveness of internal control system to prevent recurring leakage of revenue.

**Ranchi**  
**The**

  
**(Mridula Sapru)**  
**Principal Accountant General (Audit)**  
**Jharkhand**

**Countersigned**

**New Delhi**  
**The**

  
**(Shashi Kant Sharma)**  
**Comptroller and Auditor General of India**