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

**FOR THE YEAR ENDED
31 MARCH 1998**

**No.1
(REVENUE RECEIPTS)**

GOVERNMENT OF ORISSA



ଓଡ଼ିଶା ବିଧାନ ସଭା
ସ୍ଥାପନ କିଆ ଗଦା.....
Laid before the Orissa
Legislative Assembly
ON.....

8 JUL 1999

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TABLE OF CONTENTS

	<i>Reference to</i>	
	<i>Paragraph</i>	<i>Page</i>
→ Prefatory Remarks		(v)
→ Overview		(ix)
CHAPTER-1 ➤ GENERAL		
→ Trend of Revenue Receipts	1.1	3
→ Variation between Budget Estimates and Actuals	1.2	6
→ Analysis of collection	1.3	7
→ Cost of collection	1.4	7
→ Arrears of Revenue	1.5	8
→ Arrears of assessment	1.6	11
→ Fraud and evasion of tax	1.7	11
→ Results of audit	1.8	12
→ Outstanding Inspection Reports and audit observations	1.9	12
CHAPTER-2 ➤ SALES TAX		
→ Results of Audit	2.1	17
→ Short levy of tax due to application of incorrect rate of tax	2.2	18
→ Underassessment of tax due to application of lower rate of tax and non levy of surcharge	2.3	20
→ Incorrect grant of exemption	2.4	24
→ Concealment of taxable turnover	2.5	28
→ Non levy of tax due to contravention of declaration	2.6	31

	Reference to	
	Paragraph	Page
→ Use of invalid declaration forms	2.7	32
→ Short levy of tax due to irregular treatment of "sale contract" as works contract	2.8	34
→ Irregular refund	2.9	35
→ Underassessment of tax due to computation mistake	2.10	36
→ Incorrect exemption of Central Sales Tax	2.11	36

CHAPTER-3 ➤ TAXES ON MOTOR VEHICLES

→ Results of Audit	3.1	41
→ Non/short realisation of composite tax/penalty under National Permit Scheme	3.2	42
→ Non-realisation of composite tax in respect of goods vehicle under reciprocal agreement	3.3	43
→ Short realisation of motor vehicles tax due to application of incorrect rates.	3.4	44
→ Non/short realisation of motor vehicles tax/additional tax on stage carriages under reciprocal agreement	3.5	44
→ Non realisation of motor vehicles tax/additional tax in respect of motor vehicles which violated off-road declaration	3.6	46
→ Underassessment of motor vehicles tax/additional tax in respect of stage carriages detected plying without route permit	3.7	47
→ Non/short realisation of motor vehicles tax and additional tax in respect of stage carriages	3.8	48
→ Non/short levy of penalty for belated payment of motor vehicles tax/additional tax	3.9	49
→ Short realisation of tax in respect of stage carriages used as contract carriages	3.10	50
→ Non-realisation of motor vehicles tax in respect of contract carriages	3.11	51

	Reference to	
	Paragraph	Page
→ Short realisation of Permit fee/Surcharge	3.12	51
→ Non-realisation of tax/fee on trade certificate	3.13	52

CHAPTER-4 ➤ LAND REVENUE

→ Results of Audit	4.1	57
→ Assessment and Collection of water rate	4.2	58
→ Loss of revenue due to irregular transfer of land	4.3	67
→ Loss of revenue due to irregular transfer of forest land	4.4	69
→ Non/short realisation of premium etc.	4.5	72

CHAPTER-5 ➤ STATE EXCISE AND OTHER TAX RECEIPTS

(A) STATE EXCISE

→ Results of Audit	5.1	77
→ Loss of revenue due to lower outturn of rectified spirit from molasses	5.2	77
→ Loss of revenue due to delay in settlement of IMFL off shops	5.3	78
→ Short realisation of excise duty and import fee on India Made Foreign Liquor/Beer	5.4	79

(B) STAMP DUTY AND REGISTRATION FEES

→ Results of Audit	5.5	80
→ Misappropriation of Government Revenue	5.6	81
→ Loss of Revenue due to registration of land/properties in Calcutta	5.7	82
→ Loss of Revenue (stamp duty) due to non-registration of un-secured bonds	5.8	84

	Reference to	
	Paragraph	Page
(C) ENTERTAINMENTS TAX		
-- Results of audit	5.9	85
-- Short levy of Entertainment Tax	5.10	86
CHAPTER-6 ➤ FOREST RECEIPTS		
-- Results of Audit	6.1	89
-- Non-levy of interest on belated payment of consideration money/royalty	6.2	89
-- Short realisation of royalty due to under-assessment	6.3	90
CHAPTER-7 ➤ MINING RECEIPTS		
-- Results of Audit	7.1	95
-- Non-assessment of royalty on shortage of minerals	7.2	96
-- Non-levy of royalty due to off-grading of iron ore.	7.3	98
-- Non-levy of interest on belated payments	7.4	98

PREFATORY REMARKS

This report for the year ended 31 March 1998 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

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

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during 1997-98 as well as those noticed in earlier years but could not be covered in previous years' Reports.

OVERVIEW

OVERVIEW

This report contains 37 paragraphs relating to non-levy, short levy of tax, penalty and interest and one review on "Assessment and collection of Water Rate". The findings involve revenue to the tune of Rs.46.68 crore. Some of the findings are mentioned below:

1. General

(i) *The total revenue raised by the Government of Orissa during the year 1997-98 was Rs.1962.66 crore comprising tax revenue of Rs.1421.74 crore and non-tax revenue of Rs.540.92 crore. While the tax revenue consists mainly of Sales Tax (Rs925.08 crore), the non-tax revenue was mainly from Mines and Minerals (Rs.317.15 crore).*

{Para 1.1}

(ii) *Test check of records of Sales Tax, Motor Vehicles Tax, State Excise, Mines and Minerals, Land Revenue, Forest and other departmental offices conducted during the year 1997-98 revealed underassessment, short levy/loss of revenue amounting to Rs.541.23 crore in 439359 cases. During 1997-98 the concerned departments accepted underassessment etc. of Rs.12.83 crore involved in 17021 cases pointed out in 1997-98 and in earlier years.*

{Para 1.8}

2. Sales Tax

(i) *Application of incorrect rates of tax in respect of different commodities resulted in short levy of tax of Rs.48.35 lakh.*

{Para 2.2}

(ii) *Underassessment of tax due to application of lower rate of tax and non-levy of surcharge resulted in short levy of tax and non/short levy of surcharge to the tune of Rs.207.49 lakh.*

{Para 2.3}

3. Taxes on motor vehicles

- (i) Composite tax and penalty amounting to Rs.20.72 lakh in respect of 2563 vehicles plying under national permit scheme were either not realised or realised short. {Para 3.2}
- (ii) Motor vehicles tax/additional tax including penalties leviable amounting to Rs.26.37 lakh in respect of 53 vehicles which violated off-road declaration were not realised. {Para 3.6(a)}
- (iii) Motor vehicles tax of Rs.3.71 lakh and penalty of Rs.7.41 lakh in respect of 31 stage carriages detected plying without permit were short realised. {Para 3.7}

4. Land Revenue

A review on "Assessment and Collection of Water rate" revealed the following points:

- (i) Non-revision of water rate resulted in short realisation of revenue amounting to Rs.1424.37 lakh during 1996-97. {Para 4.2.6}
- (ii) Non-raising of demand and non-collection of revenue to the tune of Rs.27.02 lakh due to non-assessment of certified area. {Para 4.2.8}
- (iii) Due to irregular transfer of land Government sustained loss of revenue to the tune of Rs.260.19 lakh. {Para 4.3}

5. State Excise and Other Tax Receipts

- (i) *Loss of excise duty of Rs.119.47 lakh due to lower outturn of rectified spirit from molasses.* {Para 5.2}
- (ii) *Misappropriation of Rs.12.14 lakh due to non-remittance of Government revenues.* {Para 5.6}
- (iii) *Loss of stamp duty of Rs.875.00 lakh due to non-registration of unsecured bonds.* {Para 5.8}

6. Mining Receipts

Non-assessment of royalty of Rs.16.74 lakh on shortage of minerals.

{Para 7.2(i)}

CHAPTER-1

GENERAL

	Paragraph	Page
➔ Trend of Revenue Receipts	1.1	3
➔ Variation between Budget Estimates and Actuals	1.2	6
➔ Analysis of collection	1.3	7
➔ Cost of collection	1.4	7
➔ Arrears of Revenue	1.5	8
➔ Arrears of assessment	1.6	11
➔ Fraud and evasion of tax	1.7	11
➔ Results of audit	1.8	12
➔ Outstanding Inspection Reports and audit observations	1.9	12

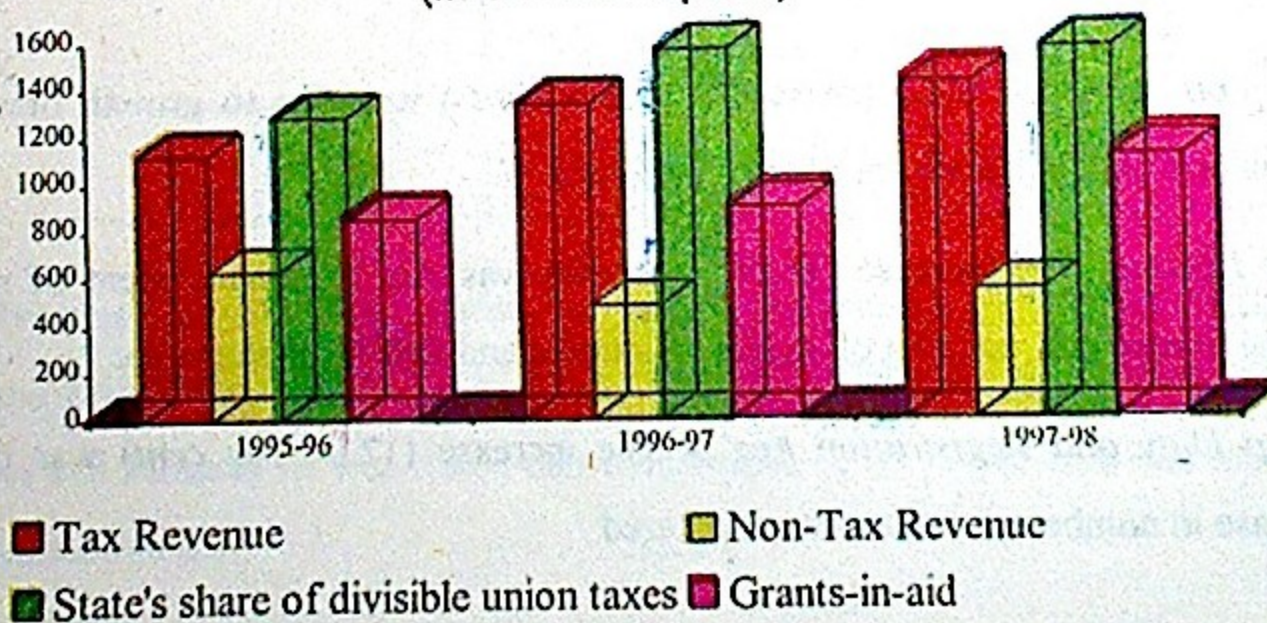
GENERAL

1.1 Trend of Revenue Receipts

1.1.1 The tax and non-tax revenue raised by Government of Orissa during the year 1997-98, the State's share of divisible union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding two years are given below and also exhibited in Chart.

		1995-96	1996-97	1997-98
		(Rupees in Crore)		
I	Revenue raised by State Government			
(a)	Tax Revenue	1127.19	1342.04	1421.74
(b)	Non-Tax Revenue	628.24	481.78	540.92
	Total:	1755.43	1823.82	1962.66
II	Receipts from Government of India			
(a)	State's share of divisible union taxes	1284.93	1565.98	1563.61*
(b)	Grants-in-aid	850.36	896.96	1105.76
	Total	2135.29	2462.94	2669.37
III	Total Receipt of the State Government(I+II)	3890.72	4286.76	4632.03
IV	Percentage of I to III	45.12	42.55	42.37

TOTAL RECEIPTS OF THE STATE
(In crore of rupees)



For details, please see Statement No.- 11- Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of the Government of Orissa for the year 1997-98. Figures under the head "0021- Taxes on Income other than Corporation Tax- share of net proceeds assigned to States" booked in the Finance Accounts under A - Tax Revenue have been excluded from Revenue raised by the State and included in State's share of divisible Union Taxes in this Statement.

Chapter-1

1.1.2 The details of the tax revenue raised during the year 1997-98 alongwith figures for the preceding two years, are given below.

Heads of Revenue	1995-96	1996-97	1997-98	Percentage of increase(+) or decrease(-) in 1997-98 over 1996-97
	(Rupees in Crore)			
1. Sales Tax	716.10	893.51	925.08	(+) 03.53
2. Taxes and duties on electricity	121.35	120.06	127.73	(+) 06.39
3. Land Revenue	39.47	35.20	38.69	(+) 09.91
4. Taxes on Vehicles	107.50	128.25	141.78	(+) 10.55
5. Taxes on goods and passengers	0.01	0.01	0.01	-
6. State Excise	73.44	90.77	105.80	(+) 16.56
7. Stamp duty and registration fees	63.05	68.52	76.77	(+) 12.04
8. Other taxes and duties on commodities and services	6.27	5.72	5.88	(+) 02.80
Total :	1127.19	1342.04	1421.74	

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

- (a) *Taxes on vehicle*:- The increase (10.55 per cent) was due to growth of vehicle population and enhancement of tax rate.
- (b) *State Excise*:- The increase (16.56 per cent) was due to enhancement of rate of annual licence fee, opening of additional outlets and IMFL off shops etc.
- (c) *Stamp Duty and Registration Fee* :- The increase (12.04 per cent) was due to increase in number of documents registered .

1.1.3 The details of major non-tax revenue realised during the years 1995-96 to 1997-98 are given below.

Heads of Revenue	1995-96	1996-97	1997-98	Percentage of increase (+) or decrease(-) in 1997-98 over 1996-97
(Rupees in crore)				
1. Forest	68.26	76.21	73.29	(-) 03.83
2. Mines and Minerals	241.74	269.39	317.15	(+) 17.73
3. Education	11.58	11.26	12.65	(+) 12.34
4. Interest	138.69	13.44	18.69	(+) 39.06
5. Public Health, Sanitation and Water Supply	6.57	9.98	12.95	(+) 29.76
6. Irrigation, Navigation, Drainage and Flood Control Projects	13.26	8.73	8.55	(-) 02.06
7. Police	7.07	10.68	6.60	(-) 38.20
8. Others	141.07	82.09	91.04	(+) 10.90
Total	628.24	481.78	540.92	

Reasons for variations relating to *Education, Interest, Public Health and water supply and Police* though called for (April 1998) have not been received (January 1999). For *Mines and Minerals*, it was stated that the increase of 17.73 per cent was mainly due to higher dispatch of coal.

1.2 Variations between Budget estimates and actuals

The variations between Budget estimates of revenue for the year 1997-98 and the actual receipts under the principal heads of tax and non-tax revenue and the reasons therefor as intimated by the respective departments are given below.

Sl. No.	Heads of Revenue	Budget Estimates	Actual receipts	Variations Increase(+) Shortfall(-)	Percentage of variation
		(Rupees in Crore)			
1.	Sales Tax	1060.00	925.08	(-) 134.92	(-) 12.73
2.	Forest	105.00	73.29	(-) 31.71	(-) 30.20
3.	Taxes and Duties on electricity	138.03	127.73	(-) 10.30	(-) 07.46
4.	Land Revenue	41.39	38.69	(-) 02.70	(-) 06.52
5.	Taxes on vehicles	160.00	141.78	(-) 18.22	(-) 11.39
6.	State Excise	120.00	105.80	(-) 14.20	(-) 11.83
7.	Stamp duty and registration fees	90.00	76.77	(-) 13.23	(-) 14.70
8.	Mines and Minerals	300.00	317.15	(+) 17.15	(+) 05.72
9.	Education	12.59	12.65	(+) 0.06	(+) 0.48
10.	Interest	40.00	18.69	(-) 21.31	(-) 53.28
11.	Police	6.66	6.60	(-) 0.06	(-) 0.90

- (a) *Sales Tax* :- The shortfall (12.73 per cent) was due to non-disposal of cases in different courts, depression in consumer market.
- (b) *Forest*:- The shortfall (30.20 per cent) was due to delay in disposal of kendu leaves and non-salvaging of timber and fire wood due to non-availability of funds.
- (c) *Taxes on Vehicles*:- The shortfall (11.39 per cent) was due to deployment of motor vehicles personnels and requisition of vehicles for general election.
- (d) Reason for variations relating to *State Excise, Stamp Duty and Registration and Interest* though called for (April 1998) have not been received (January 1999).

1.3 Analysis of Collection

The break up of the total collections (at the pre-assessment stage and after regular assessment) of Sales Tax (including Luxury Tax) during the year 1997-98 and the corresponding figures for the preceding two years as furnished by the department are given below.

Year	Amount collected at preassessment stage	Amount collected after regular assessment	Amount of arrear demand collected	Amount refunded	Net collection of tax	Percentage of col. 2 to 6
1	2	3	4	5	6	7
(Rupees in crore)						
1995-96	661.77	48.64	16.41	9.51	717.31*	92
1996-97	795.25	56.40	63.64	25.90	889.39**	89
1997-98	883.62	35.50	14.74	10.83	923.03***	96

The position of revenue collected by Sales Tax Department as detailed above, revealed that the collection of revenue at pre-assessment stage ranged between 89 and 96 per cent during last 3 years ending March 1998.

1.4 Cost of Collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 1995-96, 1996-97 and 1997-98 alongwith the relevant all India average percentage of expenditure on collection to gross collections for 1996-97 are given below:

* The difference of Rs.1.21 crore (Rs.717.31 crore (-) Rs.716.10 crore) yet to be reconciled (January 1999).

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

*** The reasons for difference of Rs.2.05 crore (Rs.925.08 crore (-) Rs.923.03 crore) has not been received (January 1999) though called for.

Chapter-1

Heads of Revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 1996-97
		(Rupees in crore)			
1. Sales Tax	1995-96	716.10	12.46	1.74	1.19
	1996-97	893.51	13.54	1.52	
	1997-98	925.08	14.96	1.62	
2. Taxes on vehicles	1995-96	107.50	1.58	1.47	2.60
	1996-97	128.25	1.97	1.54	
	1997-98	141.78	3.29	2.32	
3. State Excise	1995-96	73.44	6.21	8.46	3.53
	1996-97	90.77	7.87	8.67	
	1997-98	105.80	7.83	7.40	
4. Stamp duty and Registration fees	1995-96	63.05	6.28	9.96	3.37
	1996-97	68.52	6.76	9.87	
	1997-98	76.77	7.29	9.50	

The expenditure on collection of State Excise and Stamp Duty and Registration fees as a percentage of total collection under the respective heads is higher as compared to the national average. The reasons for variations have been called for (October 1998). Reply is awaited.

1.5 Arrears of revenue

As on 31 March 1998, arrears of revenue under principal heads of revenue, as reported by the departments, were as follows:

Head of revenue	Amount of arrears as on 31 March 1997	Amount of arrears as on 31 March 1998	Arrears more than five years old	Remarks
(R u p e e s i n c r o r e)				
1. Sales tax	786.42	971.92	164.40 ^A	<p>The categorywise position of arrears is as under:</p> <p>(a) Demands covered by Certificate proceedings/Tax Recovery Proceedings 108.19</p> <p>(b) Demands stayed by</p> <p>(i) Supreme Court/ High Court 453.46</p> <p>(ii) Departmental authorities 135.67</p> <p>(c) Other stages</p> <p>(i) Under third party notices 33.70</p> <p>(ii) Under show cause notices 236.78</p> <p>(d) Amounts likely to be written off 4.12</p> <p>Total 971.92</p>
2. Mines and Minerals	38.30	37.35	1.81	<p>The categorywise position of arrear is as under</p> <p>(a) Demand covered by certificate proceedings 1.30</p> <p>(b) Demand stayed by High Court/Other Judicial Authorities 0.58</p> <p>(c) Amount likely to be written off (Including disputed amount of Rs.31,230) 0.71</p>

^A Position indicates dues exceeding Rs.2.00 lakh in each case.

Chapter-1

Head of revenue	Amount of arrears as on 31 March 1997	Amount of arrears as on 31 March 1998	Arrears more than five years old	Remarks
(R u p e e s i n c r o r e)				
				(d) Recoverable amount 34.76
				Total 37.35
3. Land Revenue	12.76	13.15	-	Yearwise breakup and specific action taken to effect the recovery has not been furnished.
4. Interest	13.51	39.34	-	Interest on loans by Industry Department 23.10
				Interest on loans by Textile Department 16.24
				Total 39.34
5. Taxes and duties on electricity	9.17	87.93 ^B	-	Specific action taken to effect recovery has not been furnished.
6. Forest	58.43	46.21	-	Yearwise breakup and specific action taken to effect recovery has not been furnished.
7. Taxes on vehicles	29.60	41.58	-	(i) Demand covered by certificate proceedings - 10.76
				(ii) Recovery stayed by departmental authorities. 6.24
				(Other details not available)

The information from other departments, though called for, has not been received ((January 1999)). However, the arrears of revenue in Sales Tax, Interest and Taxes on Vehicles have increased 23.59 per cent, 191.19 per cent and 40.47 per cent respectively during the year 1997-98 as compared to the year 1996-97

^B Provisional

1.6 Arrears in assessment

The details of Sales Tax assessment cases pending at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and the number of cases pending finalisation at the end of each year, during 1993-94 to 1997-98, as furnished by the Department are given below:

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of column 6 to 4
1	2	3	4	5	6	7
1993-94	2,16,627	2,01,294	4,17,921	1,82,287	2,35,634	56
1994-95	2,35,634	1,81,589	4,17,223	1,75,287	2,41,936	58
1995-96	2,41,936	1,85,522	4,27,458	1,79,846	2,47,612	58
1996-97	2,47,612	1,87,650	4,35,262	1,68,837	2,66,425	61
1997-98	2,66,425	1,82,857	4,49,282	1,68,521	2,80,761	62

The above table revealed that the number of outstanding cases went up from 235634 at the end of 1993-94 to 280761 at the end of 1997-98 registering an increase from 56 per cent in 1993-94 to 62 per cent in 1997-98.

1.7 Fraud and evasion of tax

The number of cases of evasion of tax detected by Sales Tax department and assessments finalised during 1997-98 are given below:

		Number of cases
A (i)	Cases pending as on 31 March 1997	15651
(ii)	Cases detected during the year	7873
	Total	23524
B	Cases in which investigations were dropped/ assessments completed during the year	7039
C	Cases which were pending at the end of the year	16485

Chapter-1

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

1.8 Results of Audit

Test check of the records of Sales Tax, Motor Vehicles Tax, State Excise, Forest and other departmental offices conducted during the year 1997-98 revealed underassessment/short levy/loss of revenue amounting to Rs.541.23 crore in 439359 cases. During the course of the year 1997-98 the concerned departments accepted underassessment etc. of Rs.12.83 crore involved in 17021 cases were pointed out in 1997-98 and in earlier years.

This report contains 37 paragraphs and one review involving financial effect of Rs.46.68 crore, of which Rs.0.51 crore were accepted by the Government/Department Recovery made in these cases amounted to Rs.6.22 lakh up to (January 1999). Audit observations with a total revenue effect of Rs.188.34 lakh have not been accepted by the Department/Government but their contentions being at variance with the facts or legal position have been appropriately commented upon in the relevant paragraphs. Replies in the remaining cases have not been received (January 1999).

1.9 Outstanding inspection reports and audit observations

(a) Audit observations on incorrect assessments, short levy of taxes, duties, fees, etc., as also defects in the maintenance of initial records noticed during audit and not settled on the spot are communicated to the heads of offices and other departmental authorities through inspection reports. Serious financial irregularities are reported to the heads of departments concerned and the Government. The heads of offices are required to furnish replies to the inspection reports through the respective heads of departments within a period of one month.

(b) The year-wise break up of the outstanding inspection reports and audit observations issued up to December 1997, as on 30 June 1998 is given as follows:

	Number of Outstanding		Revenue involved (Rupees in lakh)
	Inspection Reports	Audit Observations	
up to 1995-96	2486	7980	14435.55
1996-97	248	1102	5855.51
December 1997	162	950	13213.01
Total	2896	10032	33504.07

(c) Department-wise break up of the inspection reports and audit observations outstanding as on 30 June 1998 is given below:

Department	Nature of receipts	Number of outstanding		Amount of receipts involved (Rupees in lakh)	Year to which observations relate	Number of Inspection Reports to which even first replies has not been received
		Inspection reports	Audit observations			
1. Revenue and Excise	Land Revenue	894	1945	6360.71	77-78 to 97-98	98
	Stamp Duty and Registration Fees	211	260	534.65	76-77 to 97-98	73
	State Excise	213	569	1291.53	73-74 to 97-98	NIL
2. Commerce and Transport (Transport)	Taxes on vehicles	251	2925	2181.48	93-94 to 97-98	10
3. Finance	Sales Tax	549	2266	10738.90	72-73 to 97-98	37
	Entertainments Tax	155	195	106.02	73-74 to 97-98	10
	Luxury Tax	1	1	2.30	97-98	1
4. Forest and Environment	Forest Receipts	515	1707	11395.07	93-94 to 97-98	21
5. Steel and Mines	Mining Receipts	107	164	893.41	74-75 to 97-98	NIL
Total		2896	10032	33504.07		250

Chapter-1

The matter was brought to the notice of the Government between July 1998 and October 1998; intimation regarding steps taken by the Government to settle the outstanding inspection reports and audit observations has not been received (January 1999).

Sl. No.	Particulars	Amount	Year
1
2
3
4
	Total

Government-wise break up of the inspection reports and audit observations as on 30 June 1998 is given below:

Sl. No.	Particulars	Amount	Year	Government-wise break up	
				Inspection Reports	Audit Observations
1
2
3
4
5
6
7
8
9
10
	Total

CHAPTER-2

SALES TAX

	Paragraph	Page
→ Results of Audit	2.1	17
→ Short levy of tax due to application of incorrect rate of tax	2.2	18
→ Underassessment of tax due to application of lower rate of tax and non-levy of surcharge	2.3	20
→ Incorrect grant of exemption	2.4	24
→ Concealment of taxable turnover	2.5	28
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→ Use of invalid declaration forms	2.7	32
→ Short levy of tax due to irregular treatment of "sale contract" as works contract	2.8	34
→ Irregular refund	2.9	35
→ Underassessment of tax due to computation mistake	2.10	36
→ Incorrect exemption of Central Sales Tax	2.11	36

SALES TAX

2.1 Results of Audit

Test check of assessments and refund cases and connected documents of the Commercial Tax Offices, during 1997-98 revealed underassessment of tax, loss of revenue etc amounting to Rs.1632.23 lakh in 473 cases which broadly fall under the following categories

Sl. No.	Category	No. of cases	Amount (Rupees in lakh)
1	Short-levy of tax due to incorrect computation of taxable turnover	26	42.68
2	Underassessment of tax due to application of incorrect rate of tax	54	334.19
3	Incorrect grant of exemption	197	527.44
4	Non-levy of surcharge	35	25.75
5	Non-levy of interest	26	23.00
6	Other irregularities	135	679.17
	Total	473	1632.23

During the course of the year 1997-98 the department accepted underassessment etc of Rs 402.59 lakh involving 293 cases of which 3 cases involving Rs.0.19 lakh were pointed out during 1997-98 and the rest in earlier years.

A few illustrative cases highlighting important audit observations involving Rs.315.24 lakh are mentioned in the following paragraphs

Chapter-2

2.2 Short levy of tax due to application of incorrect rate of tax

(a) Under the provisions of the Orissa Sales Tax Act, 1947, different rates of tax are applicable in respect of different commodities. In 16 cases in 8^{*} circles application of incorrect rate of tax resulted in short levy of tax of Rs 35.50 lakh. Some of the illustrative cases are shown as under :

Sl. No	Name of the circle	Year Assessed	Name of the commodities	Tax-able Turn-over	Rate of tax leviable (%)	Rate of Tax levied (%)	Short levy including surcharge
(R u p e e s i n l a k h)							
1	Balasore	1993-94	Prawn	95.20	08	04	4.19
		1993-94	-do-	200.00	08	04	8.80
Remarks : The assessing officer initiated proceedings for reassessment (February 1998). Further reply has not been received (January 1999).							
2	Mayurbhanj	1993-94	Spare parts of Cycle and Cycle Rickshaw	19.71	12	04	1.71
		1994-95		144.25	12	04	12.61
Remarks : One assessing officer agreed (March 1997) to reopen the cases while others did not agree (March 1997) on the grounds that (i) Spare parts were included in component part (ii) dealers sold component parts (iii) No extra tax would be levied. The reply is not acceptable as no evidence was available in support of fact that sale was of component parts.							
3	Keonjhar	1989-90 and 1990-91	Hire charges of machinery	35.04	12	04	2.95
Remarks : The assessing officer replied (August 1997) that proceedings of reassessment would be initiated. Further reply has not been received (January 1999).							
4	Cuttack-I (West)	1995-96	Auxin (Micro-nutrient)	20.54	12	02	2.26
Remarks : The assessing officer initiated (July 1997) proceedings for reassessment. Further reply has not been received (January 1999).							

* Balasore, Bhubaneswar-I, Bhubaneswar-II, Bolangir-I, Cuttack-I (west), Cuttack-II, Keonjhar and Mayurbhanj

The matter was reported to Government between September 1994 and April 1998, their reply has not been received (January 1999).

(b) Under the Orissa Sales Tax Act, 1947, Art paper, Lustre cote art paper, Sand paper sun cote art card, art board, Ivory card, Chrome coated paper, Cheque paper, Imitation art paper, Packing paper, Cartridge paper, paste board, Mill board, Straw board, Card board, Envelops, Labels, Letter pad, Writing tables, Flat files made out of paper are taxable at the rate of 8 per cent from 21 April 1993. Prior to that, the same were taxable at the rate of 12 per cent upto 30 June 1990 and at the rate of 16 per cent from 1 July 1990. Besides if a dealer purchases goods without payment of tax for resale by furnishing declaration that he will pay tax at the time of resale, but contravenes such declaration, he will be liable to pay tax on the value of the goods so purchased.

During the course of audit of Rourkela-I Circle, it was noticed (February 1998) that the reassessment of a registered dealer of kraft paper and Board etc for the years 1990-91, 1991-92 and 1992-93 was completed (between October 1996 and December 1997) exparte for contravening the conditions of declaration made in Form XXXIV. However, during reassessment, incorrect rate of tax was applied. Besides the tax was levied on the sale turnover instead of its corresponding purchase value for the year 1990-91 and 1991-92. The application of incorrect rate of tax and determination of wrong taxable turnover resulted in underassessment of tax of Rs 12.85 lakh including surcharge.

On this being pointed out in audit (February 1998) the assessing officer agreed to send the cases for 1990-91 and 1991-92 for *suo motu* revision and initiated proceedings (February 1998) for reassessment of the case for 1992-93. Further reply has not been received (January 1999).

The matter was reported to the Government (April 1998), their reply is awaited (January 1999).

Chapter-2

2.3 Underassessment of tax due to application of lower rate of tax and non-levy of surcharge

Under the Central Sales Tax Act, 1956, on inter-State sales of goods (other than declared goods) which are not covered by prescribed declaration, tax is leviable at the rate of ten per cent or at the rate applicable on sale of such goods within the State whichever is higher. However, where the State rate is lower than four *per cent* the tax shall be calculated at the lower rate. Under the Orissa Sales Tax Act, 1947, surcharge at the rate of ten *per cent* is also leviable on the amount of tax payable by the dealer where, in any year his gross turnover exceeds rupees ten lakh.

(i) During the course of audit of Cuttack-I East Circle, it was noticed (May 1997) that a registered dealer sold empty beer bottles valued at Rs 24.06 lakh to an unregistered dealer in the course of inter-State sale during the year 1995-96. The sale was incorrectly assessed to tax at the concessional rate of 4 *per cent* instead of at the rate of 12 *per cent*. This resulted in short-levy of tax of Rs.2.21 lakh including surcharge.

On this being pointed out in audit (May 1997) the assessing officer initiated proceedings (May 1997) for reassessment. Further report has not been received (January 1999).

The matter was reported to Government (August 1997), their reply has not been received (January 1999).

(ii) In the cases mentioned below, on sales of goods (other than declared goods) in the course of inter-State trade or commerce, not covered by declaration in Form 'C', tax was levied at the rate applicable to the sale of such goods inside the State without levying

surcharge. This resulted in short levy of Surcharge of Rs. 101.28 lakh as detailed below

Sl. No	Name of the circle	(a) Year assessed b) No. of cases (dealers)	Description of goods	Turnover of sales not covered by declaration	Amount of tax levied	Amount of surcharge leviable (10 per cent of col.6) but not levied	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Rourkela-II	(a) 1993-94 1994-95 (b) 5 cases	Cement Heavy machinery Refractories etc.	187.38 2525.04	22.49 404.01	2.25 40.40	The assessing officer re-opened the cases (December '96 and January '98). Further reply has not been received (January 1999).
2.	Rourkela-I	(a) 1991-92 (b) 1 case	Industrial Explosive	35.53	5.68	0.57	The assessing officer stated (February 1996) that the assessment has already been barred by limitation and the case is to be decided at the time of hearing on first appeal. Further reply has not been received (January 1999).

Chapter-2

Sl. No	Name of the circle	(a) Year assessed b) No. of cases (dealers)	Description of goods	Turnover of sales not covered by declaration	Amount of tax levied	Amount of surcharge leviable (10 per cent of col.6) but not levied	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
3	Cuttack-II	(a) 1993-94 1994-95 (b) 2 cases	Timber logs Carpet	39.38 202.72	4.73 32.44	0.47 3.24	One assessing officer re-opened the case (December 1996). The other assessing officer stated (November 1997) that the case will be taken up at the time of re-assessment. Further reply has not been received (January 1999).
4	Bhubaneswar-II	(a) 1990-91 1995-96 (b) 2 cases	Soft Ferrites Mineral	101.20 33.35	12.14 5.34	1.21 0.53	One assessing officer stated (May 1996) that the case will be submitted to the appropriate authority for suo motu revision. The other assessing officer re-opened the case (June 1997). Further reply has not been received (January 1999).
5	Sambalpur-III. Jharsuguda	(a) 1993-94 (b) 1 case	Cement	1817.82	218.14	21.81	The assessing officer re-opened the case (December 1996). Further reply has not been received (January 1999).
6	Keonjhar	(a) 1992-93 1993-94 (b) 2 cases	Tea Minerals	38.34 25.20	4.60 4.03	0.46 0.40	The assessing officer re-opened the case (January 1997 and September 1997). Further reply has not been received (January 1999).

Sales tax

Sl. No.	Name of the circle	(a) Year assessed b) No. of cases (dealers)	Description of goods	Turnover of sales not covered by declaration	Amount of tax levied	Amount of surcharge leviable (10 per cent of col.6) but not levied	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
7	Koraput-L. Jeypore	(a) 1994-95 1995-96 (b) 1 case	Cement	1327.97	159.36	15.94	The assessing officer re-opened the case (March 1997). Further reply has not been received (January 1999).
8	Dhenkanal	(a) 1992-93 (b) 1 case	A.C. Sheets	158.41	19.01	1.90	The assessing officer stated (November 1995) that the dealer has preferred appeal and the case is under consideration of the appellate authority. Further reply has not been received (January 1999).
9	Cuttack-I (West)	(a) 1993-94	Electrical goods and Marble Tiles	61.32	7.36	0.74	The assessing officer re-opened one case (May 1997) and in other cases the assessments were barred by limitation. Further reply has not been received (January 1999).
		1994-95 (b) 3 cases	Kendu leaf	642.67	102.82	10.28	
10	Balasore	(a) 1993-94 1995-96 (b) 2 cases	Rubber HDPE PP Fabrics	89.77	10.77	1.08	The assessing officer stated (July '97) that the action would be taken after examination of the case. Further reply has not been received (January 1999).
Total						101.28	

Chapter-2

The matter was reported to Government (Between March 1996 and March 1998); their reply has not been received (January 1999).

(iii) During the course of audit of Cuttack-II Circle, it was noticed (December 1996) that while assessing a dealer (October, 1994 and November 1994) for the years 1992-93 and 1993-94, the assessing officer disallowed the claim of Rs. 517.19 crore for branch transfer of chemical fertiliser (DAP) not supported by prescribed declaration and levied tax at the rate applicable to the sale of such goods inside the State of Orissa without surcharge. This resulted in short levy of surcharge of Rs. 1.04 crore.

On this being pointed out in audit (December 1996), the assessing officer initiated (December 1996) proceedings for reassessment. Further reply has not been received (January 1999).

The matter was reported to Government (March 1997), their reply has not been received (January 1999).

2.4 Incorrect grant of exemption

(a) Under the Orissa Sales Tax Act, 1947, purchase or sale of raw materials when sold to or purchased by a registered dealer, duly certified as Small Scale Industry (SSI) set up on or after 1 April 1986 and starting commercial production thereafter inside the State, is exempt from levy of tax subject to furnishing a declaration in Form I-B. Similarly sale of finished products of aforesaid SSI is also exempted from levy of tax. While exemption of tax on purchase or sale of raw material is allowed for 5 years, such exemption on sale of finished products is allowed for 7 years, from the date of commercial production as certified by the concerned GM, DIC irrespective of change of ownership, if any.

In the following 4 cases, the irregular exemptions allowed beyond the prescribed period resulted in short levy of tax amounting to Rs.4.58 lakh.

Sl. No	Name of circle	Name of commodity	Assessment year	Date upto which exemption was eligible	Period for which exemption was allowed	Taxable turnover	Short levy of tax
						(Rupees in lakh)	
01	Balasore	Cotton waste (Raw material)	1993-94 1994-95	01.09.1993	02.09.1993 to March 1995	9.56	1.26
02	Balasore	Cotton (processed)	1995-96	01.09.1995	02.09.1995 to March 1996	17.78	0.71
Remarks : The assessing officer initiated proceedings for reassessment (February 1998). Final reply has not been received.							
03	Cuttack-II	Compressor	1995-96	07.10.1994	1995-96	6.87	1.21
		Cotton waste	1994-95	30.05.1994	Nov 1994 to Dec. 1994	1.65	0.21
Remarks : The assessing officer initiated the proceedings (June 1997). Further reply is awaited (January 1999).							
04	Dhenkanal (Angul)	Paper Insulated conduction	1995-96	28.02.1994	1995-96	9.03	1.19
Remarks : The assessing officer initiated proceedings (June 1997). Further reply is awaited (January 1999).							
						Total	4.58

The above cases were reported to Government between May 1997 and April 1998, their reply has not been received (January 1999).

(b) Under the Orissa Sales Tax Act, 1947, the State Government notified (16 August 1990) that registered small scale industrial units set up on or after 1 December 1989 and starting commercial production thereafter, were entitled to exemption from payment of Sales Tax on purchase of raw material and on sale of their finished products both for a period of seven years from the date of commercial production. But as per the State Government's notification dated 28 April 1992, no exemptions as indicated above shall be allowed to the industries engaged in "Decorticating, Expelling, Crushing, Perching and Frying of Oil Seeds" with effect from 29 April 1992. However, industrial units which were

Chapter-2

set up and granted sales tax incentives under the notification of August 1990 would continue to avail of the benefit.

During the course of audit of Cuttack-II Circle, it was noticed (June 1997) that a registered dealer who set up in May 1994 an industrial unit engaged in decorticating groundnuts was allowed exemption of purchase turnover of groundnut amounting to Rs.74.16 lakh and the inter-State sale turnover of groundnut seeds (finished products) amounting to Rs.45.95 lakh during the years 1994-95 and 1995-96 on the basis of eligibility certificate issued by the DIC.

Since the industry was set up after the effective date of notification (29 April 1992) declaring decorticating industry ineligible for exemption and the dealer was not in receipt of any sales tax incentive prior to 29 April 1992, the grant of the eligibility certificate by the DIC and the exemption allowed by the assessing officer on the basis of such eligibility certificate were incorrect. This resulted in short levy of tax Rs.6.65 lakh.

On this being pointed in audit (June 1997) the assessing officer stated that exemption was allowed on the basis of the eligibility certificate issued by the DIC, Cuttack. However, he reopened (June 1997) the case. Further reply has not been received (January 1999).

The matter was reported to Government (September 1997); their reply has not been received (January 1999).

(c) Under the Orissa Sales Tax Act, 1947, sale of finished products of Small Scale Industrial (SSI) units set up after 1 August 1980 and before 1 April 1986 and starting commercial production after 1 April 1986 inside the State {continuing unit under Industrial Policy Resolution (IPR) 1989} is exempt from levy of Sales Tax for a period of seven years from 1 December 1989 or from the date of commercial production whichever is later and quantity of finished goods during a particular year to be certified by the concerned GM. DIC

(i) During the course of audit of Mayurbhanj Circle, Baripada it was noticed (February 1998) that a registered SSI unit (a continuing unit of IPR 1980 policy) engaged in manufacturing and selling of "Polyurethine Foams" disclosed inter-State sale worth Rs.219.05 lakh during the year 1993-94 which was exempted from tax at the time of completing assessment (25 February 1995).

However, on cross- verification of the accounts of Central Excise assessment it was observed that the above turnover of Rs.219.05 lakh included sale of "Insulated Engine Hood " valued at Rs.52.39 lakh which was not covered by DIC certificate and the same was not admissible for exemption. This resulted in short levy of tax to the tune of Rs.6.92 lakh (including surcharge).

(ii) As per GM, DIC, Mayurbhanj letter No.2172 date 27 June 1994 the dealer was eligible to tax exemption on sale of finished products (Polyurethane Foams) to the maximum quantity of 180.794 MT during the year 1993-94 .

On scrutiny of assessment records of the dealer (February 1998) it was noticed that during the year 1993-94, the dealer had shown the opening balance 2248 kgs. of finished goods (Polyurethane Foams). During the year dealer produced finished goods 197371 kgs. and sold 180794.220 kgs. The closing stock was shown as 2296 kgs. instead of 18825.780 kgs. Thus there was a sale suppression of 16529.780 kgs. of Polyurethane Foams, valued at Rs.27.99 lakh which resulted in short levy of tax of Rs.4.93 lakh (including surcharge).

On the above being pointed out in audit (February 1998) the assessing officer reopened the case for reassessment (March 1998). Further reply has not been received (January 1999).

The matter was reported to Government (May 1998); their reply has not been received (January 1999).

Chapter-2

(d) Under the Orissa Sales Tax Act, 1947 sale of seeds certified by the seed certification agency under the Seeds Act, 1966 and marked "Poison", when sold in sealed bags or container is exempt from Sales Tax. The Government of Orissa, Agriculture Department vide order dated April 1992 and December 1992 fixed the sale rate of seeds such as Till, Mustard, Biri, Paddy, Arhar, Cotton, B.Gram inclusive of sales tax. As such the sale thereof was not exempt from tax.

During the audit of Bolangir-I Circle, it was noticed (November 1996) that while assessing (March 1996) a registered dealer engaged in procurement and sale of seeds, the assessing authority exempted the sale proceed of above mentioned seeds valued at Rs.13.75 lakh during the year 1992-93 which resulted in underassessment of tax of Rs.1.82 lakh including surcharge.

On this being pointed out in audit (November 1996), the assessing officer initiated (December 1996) reassessment proceedings. The result of reassessment has not been received (January 1999).

The matter was reported to Government (June 1997); their reply has not been received (January 1999).

2.5 Concealment of taxable turnover

(a) Under the Orissa Sales Tax Act, 1947 every registered dealer shall keep a true account of the value of goods bought and sold by him and maintain an annual accounts of stock of goods purchased and sold by him. While finalising the assessment if the assessing officer finds any concealment of purchase or sales, he shall reject the books of accounts of the dealer and complete the assessment to the best of his judgement.

During the audit of Rourkela-I Circle, it was noticed (February 1998) that a dealer was reassessed for the year 1990-91 (in October 1996) based on the sale turnover of Rs.90.26 lakh returned by the dealer. Scrutiny of stock accounts furnished by the dealer,

however, revealed that the dealer actually sold stock valued at Rs 97.14 lakh during the year 1990-91, the sale value of which worked out to Rs 101.99 lakh (after adding profit margin of 5 per cent). Thus, the dealer had concealed sales worth Rs 11.74 lakh which resulted in short levy of tax of Rs 2.07 lakh including surcharge.

On this being pointed out in audit (February 1998), the assessing officer agreed to send the case for *suo motu* revision. Further reply has not been received (January 1999).

The matter was reported to Government (April 1998); their reply has not been received (January 1999).

(b) Under the Orissa Sales Tax Act, 1947 and rules made thereunder, the State Government may notify the points in the series of sales or purchases by successive dealers at which any goods or classes or description of goods may be taxed or exempted from taxation provided that the same goods shall not be taxed at more than one point in the series of sales or purchases.

Government notified (December 1989) that "Iron and Steel" (which were taxable at the last point of sale prior to 1 January 1990) shall be taxed at the first point of sale with effect from 1 January 1990.

During the course of audit of Rourkela-I Circle it was noticed (September 1996 and February 1997) that two registered dealers had balances of stock of Iron and Steel valued at Rs 25.03 lakh as on 31 December 1989 which was purchased without payment of tax on furnishing declaration. As the point of levy of tax was shifted from last point to the first point of sale the dealers were to pay tax on the sale turnover of the entire stock. However, one dealer disclosed sale of goods worth Rs 2.11 lakh during February and March 1990 and paid tax on it but did not disclose any taxable turnover in respect of the remaining stock (Rs 6.78 lakh). The other dealer did not return any taxable turnover from January 1990 to March 1995 though he had a stock of such goods valued at Rs 16.14 lakh as on 1 January 1990. The assessing officer, while completing the assessment (August 1993) for the year

Chapter-2

1990-91 also did not levy tax on such stock of second dealer treating the same as the stock of tax paid goods.

Thus, non-assessment of taxable turnover aggregating to Rs.22.92 lakh resulted in non levy of tax of Rs.91,674.

On this being pointed out in audit (September 1996 and February 1997) one assessing officer initiated proceedings (February 1997) for reassessment and the other assessing officer stated (September 1996) that the matter would be considered at the time of disposal of reassessment proceeding which had already been initiated on other grounds. Further reply has not been received (January 1999) in both the cases.

The matter was reported to Government (November 1996 and July 1997); their reply has not been received (January 1999).

(c) Under the Orissa Sales Tax Act, 1947 taxable turnover of a works contract shall be the gross value received or receivable by a dealer contractor for carrying out such contract less the amount of labour and service charges incurred in the course of execution of such contract. The taxable turnover was exigible to tax at the rate of 4 *per cent* upto 17 August 1995 and thereafter at 8 *per cent*.

During the course of audit of Rourkela-I circle it was noticed (September 1997) that a works contractor received Rs.1654.33 lakh towards gross value of execution of works contract during 1995-96, which includes Design and Engineering charges of Rs.110.43 lakh. While completing the assessment of the contractor for that period, the assessing officer computed (December 1996) the taxable turnover after allowing deductions of (i) 32 *per cent* of the gross receipt of Rs.1654.33 lakh towards labour and service charges and (ii) thereafter the full cost of Rs.110.43 lakh towards Design and Engineering Charges.

Since the whole amount of Rs.110.43 lakh (received by the contractor as Design and Engineering charges) was fully deducted separately, the deductions allowed towards labour and service charges should have been limited to 32 per cent of Rs.1543.90 lakh (Rs.1654.33 lakh - Rs.110.43 lakh) i.e. Rs.494.04 lakh instead of Rs.529.38 lakh (as allowed in the assessment). The excess allowance of deduction of Rs.35.35 lakh led to underassessment of taxable turnover of Rs.35.35 lakh resulting in short levy of tax of Rs.2.41 lakh (including surcharge).

On this being pointed out in audit (September 1997), the assessing officer initiated (September 1997) proceedings for reassessment. Further reply has not been received (January 1999).

The matter was reported to Government (December 1997), their reply has not been received (January 1999).

2.6 Non-levy of tax due to contravention of declaration

Under the Orissa Sales Tax Act, 1947, when a registered dealer purchases goods as specified in his certificate of registration without payment of tax, by furnishing a declaration to that effect in the prescribed form for resale in the State in a manner that such resale subject to tax, but sells those goods in any other manner, the price of the goods so purchased shall be included in the taxable turnover of the dealer and he shall be liable to pay tax thereon. This has been judicially held by Hon'ble High Court of Orissa.

During the course of audit of Rourkela I Circle, it was noticed (August 1996 and August 1997) that two registered dealers purchased non-ferrous goods amounting to Rs.63.20 lakh during the year 1993-94 without payment of tax by furnishing the prescribed declaration forms. Out of these, they sold goods valued at Rs.27.51 lakh (purchase value)

Chapter-2

tax free to small scale units which were also exempted from payment of tax by the assessing officers (July 1995 and March 1997). Thus dealers contravened the provision of declarations, as such the goods were leviable to tax. This resulted in non-levy of tax of Rs.3.63 lakh.

On this being pointed out in audit (August 1996 and August 1997) the assessing officer initiated reassessment proceedings. Further reply has not been received (January 1999).

The Government to whom the cases were reported (October 1996 and December 1997) stated (March 1998) that the demand of Rs.1.61 lakh was raised in one case. Further report on realisation in this case and reply in another case has not been received (January 1999).

2.7 Use of invalid declaration forms

Under the Orissa Sales Tax Act, 1947 and rules made thereunder, a registered dealer who purchases goods from another registered dealer without payment of tax for the purpose specified in his certificate of registration, shall obtain the blank declaration forms from the concerned Sales Tax Officer for issuing them to selling dealer. He shall maintain a true and complete account of all such forms. The selling dealer can claim deduction of such corresponding sales from his gross turnover on furnishing the said declaration received from the purchasing dealer. The Commissioner of Commercial Taxes, Orissa issued (February 1972) instructions to make cross-verification of sales transactions which have been allowed deduction while completing assessment in order to guard against the evasion of tax.

In the following three cases, the assessing officers allowed exemption from the tax on production of invalid declaration forms which resulted non-levy of tax amounting to Rs.3 50 lakh as under

Sl. No.	Name of circle	Year of assessment	Name of commodity	Value	Tax leviable
				(Rupees in lakh)	
1.	Cuttack-I (West)	1995-96	Paper	3.62	0.29
Remarks: The registered dealer sold paper to a new industrial unit on prescribed declaration forms and claimed exemptions. On verification the audit found that the declaration forms were not issued by the department.					
2.	Cuttack-I (West)	1994-95 1995-96	Stationery articles	2.03	0.27
Remarks: The exemption was claimed on the strength of declaration in Form XXXIV. On cross-verification, these declarations were found fake.					
3.	Bolangir-II	1994-95	Non-ferrous goods	22.31	2.94
Remarks: The dealers claimed and were allowed exemption of Rs.21.25 lakh on the strength of original portion (8 Nos.) of declaration form XXXIV furnished by a dealer of Bolangir-II Circle. On verification during the audit of Bolangir-II Circle the purchasing dealer disclosed purchase of hardware goods valued at Rs.0.13 lakh from other dealer of Rourkela and Cuttack in duplicate portion of the declaration forms. This resulted in suppression of sale of goods valued at Rs.22.31 lakh (after adding 5 per cent profit)					
				Total	3.50

On this being pointed out in October 1997 and November 1997, the assessing officer Cuttack-I (West) circle initiated (October 1997) the proceedings for reassessment in one case and in another agreed to consider the case. The assessing officer Bolangir-II stated (November 1997) that compliance would be furnished after examination of report from Rourkela and Cuttack circles. Further reply has not been furnished (January 1999).

The matter was reported to Government (November 1997 and April 1998), their reply has not been received (January 1999).

2.8 Short levy of tax due to irregular treatment of "sale contract" as works contract

Under the Orissa Sales Tax Act, 1947, taxable turnover in respect of works contract shall be gross value received or receivable by the dealer for carrying out such contract less the amount of labour and service charges for the execution of the contract. The taxable turnover of works contract is taxable at 4 per cent upto 17 August 1995 and thereafter at 8 per cent. However, it has been judicially held^{*} that the supply and stacking of hard stone ballast along the railway track, as per specification of Railways, where the contractor has to make his own arrangement for securing ballast, is a "contract for sale" and not "works contract". Therefore tax has to be levied at appropriate rate as applicable to sale of such goods. The hard stone ballast is taxable at the general rate of 12 per cent.

During the course of audit of Dhenkanal and Koraput-II circles it was noticed (between July 1997 and April 1998) that two dealers executed contract with Railways for supply and stacking of stone ballast along the railway track. The dealers received a gross payment of Rs.38.56 lakh (Rs.12.60 lakh in 1993-94 and 1994-95 and Rs.25.96 lakh in 1995-96) towards supply and stacking of ballast. The entire gross payment of Rs.38.56 lakh was required to be taxed at the rate of 12 per cent as sale turnover of ballasts. But while completing the assessment (June 1996) for the years 1993-94 to 1995-96 assessing officers treated the same as works contract and determined the Taxable Turnover at Rs.18.50 lakh (after allowing deduction of Rs.20.06 lakh towards labour and service charges) and taxed at the rate applicable to works contract instead of contract for sale. The application of incorrect rate of tax resulted in short levy of tax of Rs.3.64 lakh.

On this being pointed out in audit (between July 1997 and April 1998), the assessing officer, Dhenkanal circle reopened the case (September 1997) for reassessment while the assessing officer, Koraput-II circle agreed (April 1998) to reopen the case for reassessment after careful examination.

^{*} In the case of Anamolu Seshagiri Rao and Co. Vrs. State of AP (1980) 45 STC 388 (AP)

The matter was reported to Government (between November 1997 and May 1998), their reply is awaited (January 1999).

2.9 Irregular refund

Under the Orissa Sales Tax Act, 1947 and rules made thereunder, tax levied and realised under the State Act in respect of sale or purchase inside the State of goods which are declared under Central Sales Tax (CST) Act, 1956, shall, if such goods are sold in course of inter-State trade or commerce, be refunded to the dealer who has made inter-State sale and has paid the tax under the CST Act, 1956. The burden of proving the claim preferred shall be on the dealer.

During the course of audit of Cuttack-1 (East) Circle, it was noticed (May 1997) that in three cases refund aggregating Rs 28.47 lakh was made during 1996-97 on the grounds that (i) the dealers sold declared good (Black gram) in course of inter-State trade or commerce and paid central sales tax on such sale and (ii) purchase tax under the State Act was paid on the corresponding stock. However, scrutiny in audit revealed that the dealers had purchased a part of the stock from other registered dealers who were liable to pay purchase tax on such stock. Though the dealers did not furnish the proof of payment of tax paid under the Act in respect of such stock, refund was made. Thus refund of tax of Rs 12.10 lakh without confirmation of the fact of payment of the tax was irregular.

On this being pointed out (May 1997) in audit the assessing officer stated (May 1997) that the matter was under examination. No reply has so far been received (January 1999).

The matter was reported to Government (August 1997); their reply has not been received (January 1999).

2.10 Underassessment of tax due to computation mistake

Under the Orissa Sales Tax Act, 1947, the State Government may, from time to time, declare any goods to be liable to purchase tax on turnover. Purchase turnover of 'Prawns and Shrimps' is taxable at the rate of 8 *per cent* from 1 July 1990.

During the course of audit of Bhubaneswar-I Circle, it was noticed (October 1997) that while computing tax at 8 *per cent* on purchase turnover of prawns and shrimps of Rs.71.60 lakh, for the year 1993-94 the amount of tax was incorrectly computed (March 1997) as Rs.63,004 instead of Rs.6.30 lakh resulting in short levy of tax of Rs.5.67 lakh.

On this being pointed out in audit (October 1997), the assessing officer rectified the mistake (October 1997) and raised additional demand of Rs.5.67 lakh. Report on recovery has not been received (January 1999).

The matter was reported to Government (October 1997), their reply has not been received (January 1999).

2.11 Incorrect exemption of Central Sales Tax

Under the Central Sales Tax Act, 1956 and Rules made thereunder, if a purchasing dealer makes a subsequent inter-State sale by transfer of documents of title to the goods during their movement from one State to another, no tax shall be leviable subject to production of the prescribed certificate in form E-1 to be issued by the first seller along with the declaration in "C" form to be issued by last dealer (subsequent purchaser).

During the course of audit of Keonjhar circle, it was noticed that (September 1997), a dealer was allowed (September 1996) exemption of Rs.13.95 lakh in the assessment year 1994-95 on account of inter-State sale of coke against the prescribed certificate in form E-1 and declaration in "C" form. However, scrutiny by audit revealed that the assessee procured purchase order (March 1994) from purchaser of Chennai and directed the selling dealer of

Vizag to send the goods to Chennai. As the instruction to despatch the goods to Chennai was issued by the assessee before the movement of the goods, the required condition of inter-State subsequent sale during the transit were not fulfilled. The exemption allowed was, thus, incorrect and resulted in short levy of tax of Rs.55,798.

On this being pointed out (September 1997) in audit, the assessing officer agreed to initiate the proceedings for reassessment (September 1997). Further reply has not been received (January 1999).

The matter was reported to Government (January 1998), their reply has not been received (January 1999).

CHAPTER-3

TAXES ON MOTOR VEHICLES

	Paragraph	Page
→ Results of Audit	3.1	41
→ Non/short realisation of composite tax/penalty under National Permit Scheme	3.2	42
→ Non-realisation of composite tax in respect of goods vehicle under reciprocal agreement	3.3	43
→ Short realisation of motor vehicles tax due to application of incorrect rates.	3.4	44
→ Non/short realisation of motor vehicles tax/ additional tax on stage carriages under reciprocal agreement	3.5	44
→ Non-realisation of motor vehicles tax/ additional tax in respect of motor vehicles which violated off-road declaration	3.6	46
→ Underassessment of motor vehicles tax/ additional tax in respect of stage carriages detected plying without route permit	3.7	47
→ Non/short realisation of motor vehicles tax and additional tax in respect of stage carriages	3.8	48
→ Non/short levy of penalty for belated payment of motor vehicles tax/additional tax	3.9	49
→ Short realisation of tax in respect of stage carriages used as contract carriages	3.10	50
→ Non-realisation of motor vehicles tax in respect of contract carriages	3.11	51
→ Short realisation of Permit fee/Surcharge	3.12	51
→ Non-realisation of tax/fees on trade certificate	3.13	52

TAXES ON MOTOR VEHICLES

3.1 Results of Audit

Test check of records relating to assessment, collection and refunds of motor vehicles tax in the office of the State Transport Authority, Orissa and Regional Transport Offices conducted in audit during 1997-98 revealed underassessment and losses etc. of revenue amounting to Rs.820.26 lakh in 13981 cases which may broadly be categorised as under.

Sl. No.	Category	No. of cases	Amount (Rs. in lakh)
1.	Short realisation and short levy of motor vehicles tax/additional tax	1135	50.77
2.	Non-levy/realisation of motor vehicles tax/additional tax	1420	316.72
3.	Short/non-realisation of compounding fees	1050	6.37
4.	Short/non-realisation of composite tax	2818	27.29
5.	Short/non-realisation of Trade Certificate fees/taxes	163	3.01
6.	Losses due to other irregularities	7395	416.10
	Total	13981	820.26

During the course of the year 1997-98, the department accepted underassessment etc. of Rs.321.25 lakh involved in 2226 cases which had been pointed out in audit in earlier years.

A few illustrative cases highlighting important audit observations involving financial effect of Rs.683.72 lakh are mentioned in the following paragraphs.

3.2 Non/short realisation of composite tax/penalty under National Permit Scheme

Under the National Permit Scheme, an operator of a goods carriage authorised to ply in Orissa but registered in another State or Union Territory, is liable to pay composite tax at the rate of Rs 5000 *per annum* from 1 September 1993. The rate on multi-axle vehicles will be 25 *per cent* less than the rate applicable for conventional two-axle vehicles. The composite tax is to be paid in advance either in lump sum on or before 15th March or in two equal instalments payable before 15th March and 15th September every year. Where the authorisation for National Permit is granted at any time after the 1st quarter of the financial year, the tax shall be assessed on *pro rata* basis for the remaining quarter(s) of that financial year including the quarter in which such authorisation is granted. Such composite tax is to be deposited through demand drafts with the State Transport Authority of the home State in which the vehicle is registered for onward transmission to the State Transport Authority, Orissa. The Scheme provides for penalty at the rate of Rs. 100 for each month of default or any part thereof.

During the audit of the records of the State Transport Authority, Orissa it was noticed (September 1997) that :

- (a) Composite tax in respect of 583 vehicles was realised only for a part of the year 1996-97 instead of for the full year for which the vehicles were authorised to ply in Orissa. This resulted in non-realisation of composite tax of Rs 14.57 lakh.
- (b) Composite tax in respect of 337 vehicles was short realised for the year 1996-97 during which the vehicles of other State were authorised to ply in Orissa. This resulted in short realisation of composite tax of Rs 2.38 lakh.
- (c) In respect of 1468 vehicles of other States authorised to ply in Orissa under the National Permit Scheme during the period from April 1996 to March 1997 penalty amounting to Rs.3.49 lakh was not collected and Rs 28,500 was short collected in respect of 175 vehicles for belated payment of tax by State Transport Authority.

Orissa. No action was initiated by the State Transport Authority, Orissa to realise the amount.

On being pointed out in audit (September 1997), the State Transport Authority, Orissa stated (between September 1997 and October 1997) that action would be taken to realise the dues after verification of records. No further reply has been received (January 1999)

The cases were reported to Government (February 1998); their reply has not been received (January 1999).

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

Under the provisions of Orissa Motor Vehicles Taxation Act, 1975, where in pursuance of any agreement between the Government of Orissa and Government of any other State, a goods vehicle enters the State of Orissa, it is liable to pay additional tax for each entry into the State at the prescribed rates. However, in respect of goods vehicles belonging to the State of Andhra Pradesh, authorised to ply in the State of Orissa under reciprocal agreement, Government of Orissa decided (August 1986) to levy Rs 1500 annually on each vehicle as composite tax in lieu of the additional tax payable for each entry with effect from July 1986. This was to be paid in advance in lump sum on or before 15 April every year by crossed bank drafts, to the State Transport Authority, Andhra Pradesh for onward transmission to the State Transport Authority, Orissa. In case of delay in payment, penalty of Rs.100 for each calendar month or part thereof is also leviable in addition to the composite tax.

During the course of audit of State Transport Authority, Orissa it was noticed (August 1997) that 235 goods vehicles of Andhra Pradesh were allowed to ply in Orissa under reciprocal agreement during the year 1996-97 but composite tax amounting to Rs.3.52 lakh in respect of these vehicles was not realised. In addition, penalty of Rs.2.82 lakh up to March 1997 was also leviable but not levied.

On this being pointed out in audit (August 1997), the State Transport Authority, Orissa stated (September 1997) that action would be taken to realise the composite tax with penalty. Further report on realisation has not been received (January 1999)

The matter was reported to Government (February 1998); their reply has not been received (January 1999).

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

Under the provision of Orissa Motor Vehicles Taxation Act, 1975 and rules made thereunder tax/additional tax payable depends upon the periodicity of vehicles in Orissa and the registered laden weight of the vehicle. In the case of goods vehicles of other States plying in Orissa the tax/additional tax is required to be collected by the home State and remitted to State Transport Authority, Orissa by means of crossed Bank drafts. In case of default, the vehicle owner shall be liable to pay penalty ranging from 25 per cent to 200 per cent of the tax/additional tax due depending upon the period of delay.

During the course of audit of State Transport Authority, Orissa and of 15 regions (between July 1997 and April 1998) it was noticed that motor vehicles tax/additional tax in respect of 580 goods carriages amounting to Rs.3.67 lakh (of which Rs.1.28 lakh related to 188 goods carriages pertaining to other States) for the period between April 1996 and March 1997 was short realised due to application of incorrect rates depending upon the periodicity and registered laden weight of the vehicles. Besides penalty of Rs.4.79 lakh was also leviable in respect of 392 goods vehicles of the home State.

On being pointed out in audit (between July 1997 and April 1998) all the taxing officers stated that the tax would be realised whereas the State Transport Authority, Orissa stated that action would be taken after ascertaining the position from border check gates. Further reply has not been received (January 1999).

The matter was reported to Government (between January 1998 and May 1998); their reply has not been received (January 1999).

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

Where, in pursuance of any agreement between the Government of Orissa and the Government of any other State, a stage carriage plies on a route partly within the State of

Balasore, Baragarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Kalahandi, Keonjhar, Mayurbhanj, Puri, Rourkela, Sambalpur and Sundargarh.

Orissa and partly within other State, such stage carriage is liable to pay tax/additional tax calculated on the total distance covered by it on such route in the State of Orissa at the rates and in the manner specified under Orissa Motor Vehicles Taxation Act, 1975 and rules made thereunder. Besides, in the event of non-payment of tax/additional tax within a specified period, the vehicle owner is liable to pay penalty extending upto 200 per cent of the tax/additional tax depending upon the period of delay.

A test check of records in 7 regions * (between August 1997 and March 1998) revealed that due to non-compliance of the above provisions there was non/short levy of motor vehicles tax/ additional tax amounting to Rs.4.65 lakh in 29 cases and non-levy of penalty amounting to Rs.9.30 lakh as per details given below:

Sl.No	Number of regions	Number of stage carriages	Period of taxation	Amount of tax			Amount of penalty leviable
				Not levied	Short levied	Total	
				(Rupees in lakh)			
1	2 (Ganjam & Keonjhar)	13 (Owned by Private operators)	Between April 1996 and March 1997	--	0.81	0.81	1.62
2	2 (Chandikhol & Ganjam)	3 (Owned by Private operators)	Between June 1996 and March 1997	0.99	--	0.99	1.98
3	1 (Koraput)	1 (Owned by OSRTC)	Between April 1996 and January 1997	--	0.46	0.46	0.92
4	4 (Balasore, Ganjam, Mayurbhanj & Sambalpur)	12 (Owned by OSRTC)	Between April 1996 and March 1997	2.39	--	2.39	4.78
Total		29		3.38	1.27	4.65	9.30

* Balasore, Chandikhole, Ganjam, Keonjhar, Koraput, Mayurbhanj and Sambalpur

On these being pointed out in audit (between August 1997 and March 1998), all the taxing officers except Koraput agreed (between August 1997 and February 1998) to realise the dues. The taxing officer, Koraput stated (March 1998) that demand notice would be issued after confirming the position.

The cases were reported to Government (between January 1998 and May 1998), their reply has not been received (January 1999).

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

Under the Orissa Motor Vehicles Taxation Act, 1975, motor vehicles tax and additional tax shall be levied on every motor vehicles used or kept for use in the State unless prior intimation of non-use is given to the taxing officer on or before the date of expiry of the period for which tax has been paid, specifying the period of non-use and the place where the motor vehicle is to be kept during such period. If at any time during the period covered by such intimation, the vehicle is found to be plying on the road or not found at the declared place, it shall be deemed to have been used throughout the said period and in such case the owner of the vehicle is liable to pay tax and penalty varying from 25 per cent to 200 per cent depending upon period of delay for the entire period for which it was declared off-road.

(a) During the course of audit of 12 regions* it was noticed (between August 1997 and March 1998) that 53 vehicles which had been declared off-road for various periods (between April 1996 and March 1997) were either detected plying on the road or not found at declared places by the enforcement staff during the period covered by such off-road declarations. But no action was taken by the taxing officers to realise the tax and levy penalty in respect of such vehicles. Tax and additional tax leviable on these vehicles upto

* Balasore, Baragarh, Bhubaneswar, Cuttack, Dhenkanal, Ganjam, Kalahandi, Koraput, Mayurbhanj, Rourkela, Sambalpur and Sundargarh

March 1997 worked out to Rs.8.79 lakh. Besides, penalty of Rs.17.58 lakh was also leviable.

On this being pointed out in audit (between August 1997 and March 1998), all the taxing officers except taxing officers, Koraput and Dhenkanal agreed (between August 1997 and April 1998) to realise the dues. The taxing officer, Koraput and Dhenkanal stated (between March 1998 and April 1998) that action would be taken after verification of records.

The above cases were reported to Government (between January 1998 and May 1998), their reply has not been received (January 1999).

(b) A test check of records of 16^{*} regions (between July 1997 and April 1998) revealed that out of 2097 vehicles which plied in the State during 1996-97, 1827 vehicles did not pay tax at all and 270 vehicles did not pay tax for different periods during 1996-97 though these vehicles were neither covered by off road declarations nor had intimated the deposit of tax in any other region. This resulted in non-realisation of tax of Rs.110.01 lakh. Besides, penalty amounting to Rs.220.02 lakh was also leviable.

On this being pointed out in audit (between July 1997 and April 1998) all the taxing officers agreed to issue demand notices for realisation of dues.

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

Under the Orissa Motor Vehicles Taxation Act, 1975, if any stage carriage is detected plying without a permit, the tax payable is to be determined on the basis of the maximum number of passengers (including standees), which the vehicle would have been permitted to carry, as express service for the entire period not covered by valid permit.

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

reckoning the distance covered each day as exceeding 320 kilometers, attracting the highest rate of tax as per the Taxation Schedule.

During the course of audit of 8 regions^{**}, it was noticed (between August 1997 and April 1998) that 31 stage carriages were detected by the enforcement staff plying without route permit during various periods falling between April 1996 and March 1997 for which motor vehicles tax/additional tax was not assessed and realised at the prescribed rates. This resulted in short realisation of motor vehicles tax/additional tax amounting to Rs.3.71 lakh and penalty of Rs.7.41 lakh.

On this being pointed out in audit (between August 1997 and April 1998) all the taxing officers stated (between August 1997 and April 1998) that action was being taken to issue demand notices for realisation of the dues. Further reports on realisation have not been received (January 1999).

The matter was reported to Government (between January 1998 and May 1998), their reply is awaited (January 1999).

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

Under the Orissa Motor Vehicles Taxation Act, 1975, monthly tax payable in respect of a stage carriage is determined on the basis of the number of passengers (including standees) which the vehicle is permitted to carry and the total distance permitted to be covered in a day as per the permits. Besides, in the event of non-payment of tax within the specified period, the vehicle owner is liable to pay penalty twice the tax due depending upon the period of delay.

A test check of records revealed (between July 1997 and April 1998) that in 17 regions^{*} due to non-compliance of the above provisions there was non/short realisation of motor vehicles tax/additional tax amounting to Rs.77.79 lakh in respect of 591 vehicles for the period falling between April 1996 and March 1997. Besides, penalty of Rs.155.59 lakh was also leviable.

^{**} Balasore, Baragarh, Bhubaneswar, Cuttack, Dhenkanal, Ganjam, Kalahandi and Sambalpur.
^{*} Balasore, Baragarh, Bhubaneswar, Bolangir, Cuttack, Chandikhol, Dhenkanal, Ganjam, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Phulbani, Puri, Rourkela, Sambalpur and Sundargarh.

On this being pointed out in audit (between July 1997 and April 1998) all the taxing officers agreed to realise the dues.

The above cases were reported to Government (between January 1998 and May 1998); their reply has not been received (January 1999).

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

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

A test check of records in 16 regions (between July 1997 and April 1998) revealed that due to non-compliance of the above provision there was non/short levy of penalty amounting to Rs.9.81 lakh in 233 cases as per details given below :

Sl. No.	Number of regions	Number of vehicles	Amount of Penalty			When pointed out in audit	Remarks
			Not levied	Short levied	Total		
			(Rupees in lakh)				
1.	15 ^A	152 (Owned by private operators)	5.71	--	5.71	Between July 1997 and April 1998	The taxing officer, Koraput stated (March 1998) that the cases would be examined while the remaining taxing officers agreed (between July 1997 and April 1998) to realise the dues.
2.	11 ^B	58 (Owned by private operators)	--	2.22	2.22	Between July 1997 and April 1998	The taxing officer, Koraput stated (March 1998) that the cases would be examined while the remaining taxing officers agreed (between July 1997 and April 1998) to realise the dues.
3.	2 ^C	23 (Owned by OSRTC)	1.88	--	1.88	Between December 1997 & March 1998	The taxing Officers agreed (December 1997 and April 1998) to realise the dues.
Total		233	7.59	2.22	9.81		

^A Balasore, Baragarh, Bhubaneswar, Bolangir, Cuttack, Dhenkanal, Ganjam, Kalahandi, Keonjhar, Koraput, Puri, Phulbani, Rourkela, Sambalpur and Sundargarh.

^B Balasore, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Kalahandi, Koraput, Phulbani, Rourkela, Sambalpur and Sundargarh.

^C Kalahandi and Rourkela.

The matter was reported to Government (between January 1998 and May 1998); their reply has not been received (January 1999)

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

Under the Orissa Motor Vehicles Taxation Act, 1975 and the rules made thereunder, when any motor vehicles, in respect of which tax for any period has been paid as per registration, is proposed to be used in a manner as to cause the vehicle to become a vehicle in respect of which higher rate of tax is payable, the owner of the vehicle is liable to pay the differential tax. In determining such differential tax, any broken period in a month is to be considered as full month. In case of delay, the vehicle owner shall be liable to pay penalty ranging from 25 per cent to 200 per cent of the tax /additional tax due depending upon the period of delay.

During the course of audit of 16* regions, it was noticed (between July 1997 and April 1998) that 166 stage carriages were permitted (between April 1997 and March 1998) to ply temporarily as contract carriage for which higher rate of tax was payable but was not realised. This resulted in short realisation of tax amounting to Rs.3.35 lakh. Besides, penalty of Rs.6.71 lakh was also leviable.

On this being pointed out in audit (between July 1997 and April 1998) the concerned taxing officers stated that demand notices would be issued to realise the dues. Further reply has not been received (January 1999).

The cases were reported to Government (between January 1998 and May 1998); their reply has not been received (January 1999).

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

3.11 Non-realisation of motor vehicles tax in respect of contract carriages

Under the Orissa Motor Vehicles Taxation Act, 1975 and rules made thereunder motor vehicles tax in respect of contract carriages is to be realised as per the rates specified in the Act, on the basis of number of passengers permitted (excluding driver) to be carried as per the permit. In case of default, penalty ranging from 25 per cent to 200 per cent of the tax due is leviable depending upon the period of delay.

During the course of audit of three regions (Bhubaneswar, Bolangir and Dhenkanal) it was revealed (between March 1997 and April 1998) that motor vehicles tax and additional tax in respect of 59 contract carriages were not realised for various periods between April 1995 and March 1997 even though these contract carriages were issued with valid route permits. This resulted in non-realisation of tax and additional tax amounting to Rs.2.76 lakh. Besides, penalty of Rs.5.51 lakh was leviable.

On this being pointed out in audit (between March 1997 and April 1998) the taxing officers concerned agreed to realise the tax (between March 1997 and April 1998). Further reply has not been received (January 1999).

The matter was reported to Government (between May 1997 and May 1998); their reply has not been received (January 1999).

3.12 Short realisation of Permit fee/Surcharge

Under the Orissa Motor Vehicles Rules, 1993, application fee, fee for grant, renewal, extension, counter signature or transfer of different kinds of permits including fees and surcharge for grant of permit covering one region and more than one region are payable in respect of different category of motor vehicles at prescribed rate.

During the course of audit of records in five* regions it was noticed (between September 1997 and January 1998) that permits in respect of 701 motor vehicles were issued (between April 1993 and March 1997) without realisation of fee/surcharge at appropriate rates. This resulted in short realisation of permit fee/surcharge of Rs.2.32 lakh.

On these cases being point out in audit (between September 1997 and January 1998), all taxing officers except taxing officer, Rourkela agreed (between October 1997 and January 1998) to realise the differential fee/surcharge. The taxing officer, Rourkela stated (December 1997) that the differential permit fee may not accrue as both Regional Transport Authority, Rourkela and Sundargarh are functioning within the district of Sundargarh. The reply is not tenable as the Regional Transport Authority, Rourkela and Sundargarh were made two separate regions with effect from 31 July 1996. Report on action taken has not been received (January 1999).

The matter was reported to Government (between April 1998 and May 1998), their reply has not been received (January 1999).

3.13 Non-realisation of tax/fees on trade certificate

Under the Orissa Motor Vehicles Taxation Act, 1975, read with Central Motor Vehicles Rules, 1989, manufacturer or dealer in motor vehicles is required to obtain a trade certificate by paying the requisite tax/fees annually in advance from the registering authority within whose area it has its place of business. Under the Motor Vehicles Act, 1988, dealer includes a person who is engaged in the manufacture of motor vehicles or in building bodies for attachment to the chassis.

During the course of audit of 8* regions, it was noticed (between August 1997 and March 1998) that in respect of 156 motor vehicles dealers and body builders, trade

* Cuttack, Phulbani, Puri, Rourkela and Sundargarh.

* Balasore, Baragarh, Chandikhol, Cuttack, Phulbani, Rourkela, Sambalpur, and Sundargarh

certificate tax and fees amounting to Rs.2.89 lakh was not collected during the period between April 1994 and March 1997.

On this being pointed out in audit (between August 1997 and March 1998) all taxing officers stated (between August 1997 and March 1998) that action to realise the dues would be taken. Further reports have not been received (January 1999).

The matter was reported to Government (between January 1998 and May 1998); their reply has not been received (January 1999).

CHAPTER-4

LAND REVENUE

	Paragraph	Page
➔ Results of Audit	4.1	57
➔ Assessment and Collection of water rate	4.2	58
➔ Loss of revenue due to irregular transfer of land	4.3	67
➔ Loss of revenue due to irregular transfer of forest land	4.4	69
➔ Non/short realisation of premium etc.	4.5	72

LAND REVENUE

4.1 Results of Audit

Test check of records relating to assessment and collection of Land Revenue conducted in audit during the year 1997-98 revealed non-assessment, underassessment and non-realisation of revenue amounting to Rs.20,405.82 lakh in 45074 cases which may broadly be categorised as under :

Sl.No.	Category	No. of cases	Amount (Rupees in lakh)
1	Non-Collection of premium etc. from land occupied by local bodies/Government undertaking/Private Parties etc.	422	2581.23
2	Non-assessment/Short assessment and Short Collection of Water Rates	45	1830.24
3	Non-realisation/Short realisation of royalty on minor minerals	61	32.52
4	Non-lease/Irregular lease of Sairat sources	279	212.92
5	Non-levy/Short levy of Court fee	1	0.25
6	Other irregularities	44265	978.78
7	Review	1	14769.88
	Total	45074	20405.82

During the course of the year 1997-98, the department accepted underassessment etc. of Rs.192.06 lakh involved in 9567 cases which had been pointed out in audit in earlier years.

A few illustrative cases highlighting important audit observations involving Rs.1094.53 lakh and findings of a review on "Assessment and collection of Water Rate" involving Rs.1454.37 lakh are mentioned in the following paragraphs.

4.2 Assessment and collection of water rate

4.2.1 Introductory

Water rates are the charges levied by the State Government on the lands irrigated by canal water for irrigation purposes as well as for water supplied for any purpose other than irrigation. Canal for this purpose includes all canals, channels, reservoirs including submerging tanks, tube-wells, drainage works and lift irrigation works constructed, maintained or controlled by the State Government for supply of water.

The assessment, levy and collection of water rate in Orissa is governed by the Orissa Irrigation Act, 1959, the Orissa Irrigation Rules, 1961, and instructions issued by the Government/Board of Revenue, Orissa from time to time.

The Act and Rules contemplate levy of four types of water rates, viz: (i) Compulsory Basic Water Rate (C.B.W.R.) for Kharif crop, (ii) Fluctuating Water Rate (F.W.R.) for Rabi crop, (iii) Special Water Rate (S.W.R.) for use of canal water for industrial purpose and (iv) Licence fee introduced with effect from 26 September 1994 for use of water from Government natural water source for industrial use. The water rates are levied at the prescribed rates notified by the Government from time to time.

The irrigation projects in Orissa are divided into Major, Medium and Minor Projects depending on the culturable command area of the project. The irrigation works and projects

have been classified into four classes on the basis of the guaranteed depth and period of water supply.

The National Water Policy, 1987 as adopted by Government of Orissa in 1994 envisaged the water rates should be such as to convey scarcity value of water resources to the users and to foster the motivation for economy in water use. The rates should be adequate to cover the annual maintenance and operational charges and a part of the fixed costs.

4.2.2 Organisational Set Up

The Revenue and Excise Department of the State Government is the Administrative Department which formulates Government policy relating to assessment, levy and collection of water rates. The Board of Revenue is the Chief controlling authority which exercises control over the levy and collection of the water rates and is assisted by 3 Revenue Divisional Commissioners, Collectors of the Districts, Sub-Collectors of the Sub-Divisions, Tahasildars of each Tahasil and Revenue Inspector of each Revenue Circle of the Tahasil for levy and collection of water rate.

For the purpose of canal administration, the Engineer-in-Chief exercises control through Chief Engineers, Superintending Engineers, Executive Engineers alongwith the supporting staff for running and maintenance of canals and preparation of field measurement papers showing details of area irrigated under different crops liable to water rates.

4.2.3 Scope of Audit

With a view to ascertaining the correctness of levy and collection of water rates a review of records in the offices of the Engineer-in-Chief, Irrigation, Orissa, Chief Engineer, Minor Irrigation, Orissa, Board of Revenue, 36 Tahasils (out of 147 Tahasils), 10 Blocks (out

of 314 Blocks), 7 Collectorates (out of 30 Collectorates), 8 Irrigation Divisions as well as Water Resources Department and Revenue and Excise Department of the State Government was conducted between November 1997 to June 1998.

4.2.4 Highlights

(i) Non-revision of water rate in accordance with commitment given to World Bank resulted in short-realisation of revenue amounting to Rs.1424.37 lakh during 1996-97.

{Para No 4.2.6}

(ii) Non-assessment of certified ayacuts by the Tahasildars in respect of Major/Medium Irrigation Projects resulted in blockage of Government revenue of Rs.27.02 lakh during the year 1992-93 to 1996-97.

{Para No. 4.2.8}

(iii) Short demand of water rate (C.B.W.R.) resulted in loss of revenue of Rs.2.98 lakh during the period between 1992-93 and 1996-97.

{Para No 4.2.9}

(iv) Non-realisation of arrear water rates to the tune of Rs.574.59 lakh till the end of March 1997.

{Para No 4.2.10}

4.2.5 Trend of collection of water rate

The table below indicates the budget estimates and actual revenue realised during last five years.

Year.	Budget estimates on water rates.	Actual collection made.	Shortfall in collection.	Percentage of shortfall to estimates.
(R u p e e s i n l a k h)				
(1)	(2)	(3)	(4)	(5)
1992-93	840.89	489.92	350.97	41.73%
1993-94	882.00	519.30	362.70	41.12%
1994-95	1520.00	412.53	1107.47	72.85%
1995-96	1546.00	712.88	833.12	53.88%
1996-97	1753.00	702.81	1050.19	59.91%

It would be seen that there was shortfall in collection ranging from 41.12 per cent to 72.85 per cent during 1992-93 to 1996-97. Thus the estimates prepared by the Government was not realistic. Although the licence fee at the enhanced rate was introduced with effect from 26 September 1994 for consumption of water from Government water source for industrial/commercial purpose, no bifurcation for the Budget Estimates and the Actual collection was available either in the Board of Revenue or with the Government.

On this being pointed out in audit the reason for shortfall was attributed by the Board of Revenue (November 1997) to wrong assessments of water rate and stay orders given by the Hon'ble High Court of Orissa in individual cases.

4.2.6 Non-revision of water rate

Under the provision of the Orissa Irrigation Act, 1959 and the Rules made thereunder the rate (C.B.W.R.) for different class of irrigation works fixed in 1981-82 were not revised till date (June 1998)

The rates of F.W.R. fixed for different types of Rabi crops and the rate of Special Water used from an irrigation work for any purpose other than irrigation have also not been revised since 24 December 1974 and 10 March 1982 respectively. In the mean time the cost of irrigation infrastructure, cost of materials, labour and wages has increased to a great extent. Consequently, the maintenance cost of the irrigation projects has also gone up.

The World Bank, while granting loan to the State Government during 1994 for Orissa Water Resources Consolidation Project, obtained an assurance from Government on recovery of O & M and cost recovery from the users of Canal Water. The State Water Policy, 1994 was also framed to recover the O & M costs from the users paying for services and periodic adjustment of water rate.

During the course of audit it was revealed that the maintenance and operational charges (as per Finance Account) were substantially higher than the collection of water rates during the period from 1992-93 to 1996-97 as detailed below :

Year.	O&M expenses	Collection of water rates.	Shortfall.	Percentage of collection over O&M expenses.
(Amount in lakh of Rupees)				
(1)	(2)	(3)	(4)	(5)
1992-93	2573.68	489.92	2083.76	19.03
1993-94	2866.21	519.30	2346.91	18.11
1994-95	3550.64	412.53	3138.11	11.61
1995-96	3757.83	712.88	3044.95	18.97
1996-97	4254.37	702.81	3551.56	16.51
Total	17002.73	2837.44	14165.29	

It would be seen that the collection of water rate as compared to O & M expenses was quite inadequate. It decreased from 19.03 *per cent* in 1992-93 to 16.51 *per cent* during 1996-97. The department had to incur an extra expenditure of Rs 14,165.29 lakh on O & M expenses during this period.

(ii) Further, as per commitment of the State Government (July 1995) to World Bank (International Development Association) on grant of O.W.R.C.P. Loans, the Government was committed to enhance the water rates in a phased manner by 31 March 1996 with an assurance that full recovery of costs of operations and maintenance activities of the combined water sector (irrigation and drainage, flood control, bulk water supply to urban and industrial etc.) would be achieved progressively from users with the following targeted schedule: 50% cost recovery by 31 March 1997, 80% by 31 March 1998 and 100% by 31 March 2000 and this situation would be maintained thereafter. As per the agreement, 50% of the O&M cost was to be collected from the beneficiaries (users of water) by enhancing the water rate by the end of 31 March 1997. Accordingly Rs 2127.18 lakh (50% of O&M expenses for the year 1996-97) were required to be realised from the users, against which only Rs.702.81 lakh were realised for the year 1996-97 leaving a short-realisation of Rs. 1424.37 lakh.

On this being pointed out in audit it was stated by the Revenue and Excise Department (May 1998) that a proposal to revise the water rate has been initiated.

4.2.7 Short-accounting of certified ayacuts

On scrutiny of records of the Engineer-in-Chief, Major and Medium Irrigation, Chief Engineer, Minor Irrigation and the Board of Revenue, Orissa it was noticed that there was a discrepancy of 2,26,395 acres between the total ayacut area as certified by the Engineering Authorities and the ayacut area accounted for by the Revenue Authorities as on 31 March 1997 as detailed below :

Engineering Authority figures (In acres) includes ongoing/derelect projects.	Board of Revenue figures (in acres)	Difference (in acres)
30,64,706.00	28,38,311.00	2,26,395.00

The Board of Revenue collects the figures from the Tahasildars through the District Collectors while the Chief Engineers collect figures from the Irrigation Divisions directly. As the certified ayacut reports originate from the Irrigation Divisions and the Tahasildars obtain figures from the Irrigation Divisions, normally there should be no difference between the figures of certified ayacuts by the Engineering Department and those shown by the Board of Revenue.

On this being pointed out by audit, no specific reasons for the difference were furnished by the Board of Revenue (November 1997).

The Revenue and Excise Department stated (July 1998) that administrative measures were being taken to conduct joint verification.

However, out of the difference of 2,26,395.00 acres between the two sets of figures as above a total area of 65,534.67 acres in 1719 villages covering 23 districts was declared non-assessable after joint verification conducted up to 31 December 1991 vide Revenue Department Letter No. 45553/R dated 25 August 1998.

4.2.8 Non-assessment of certified ayacut

Under the provisions of the Orissa Irrigation Act, 1959 and Rules made thereunder, Compulsory Basic Water Rate (C.B.W.R.) at the rates as prescribed by Government from time to time is leviable on the lands coming within the culturable command area of an irrigation work for irrigation. The culturable command area is certified by the Engineering Authorities on

receipt of which the Tahasildar is to assess the water rate (C B W.R.). After finalisation of assessment, demands are raised by the Tahasildars.

Test check of records of four Tahasils (between December 1997 and May 1998) revealed that 33,776 acres of certified area was not assessed by the Tahasildars as on 31 March 1997, which resulted in non-raising of demand and non-collection of revenue of Rs 27.02 lakh during the period between 1992-93 and 1996-97.

On this being pointed out by audit, it was stated by the Tahasildars (May 1998) that the assessment was in progress.

4.2.9 Short demand of water rate

Under the provisions of the Orissa Irrigation Act, 1959 and Rules made thereunder, the Tahasildar is required to assess the compulsory basic water rate on the lands coming within the culturable command area of the irrigation projects according to the classification as stipulated and at the rate as prescribed therein.

Scrutiny of the records of the Tahasildar, Berhampur (April 1998) revealed that the assessable amount of C B W.R. in respect of 38,639.718 acres of different categories of irrigation works comes to Rs.21.53 lakh whereas the Tahasildar assessed Rs 18.55 lakh during the period between 1992-93 and 1996-97. Consequently there was a short assessment and demand of Rs.2.98 lakh.

On this being pointed out by audit, it was stated by the Tahasildar (April 1998) that the case would be re-examined and revised demand raised accordingly.

4.2.10 Arrears in collection

The year-wise demand, collection and balance position of water rate for the past 5 years were as follows :

Year.	O.B.	Demand.	Total.	Collection	Balance	Percentage of collection
(R u p e e s i n l a k h)						
1992-93	464.35	381.70	856.05	489.92	356.13	57.90%
1993-94	356.13	487.49	843.62	519.30	324.32	61.55%
1994-95	324.32	486.17	810.49	412.53	397.96	50.89%
1995-96	397.96	719.25	1117.21	712.88	404.33	63.80%
1996-97	404.33	873.07	1277.40	702.81	574.59	55.01%

The total arrears at the end of 31 March 1997 were Rs.574.59 lakh. It is evident that arrears have increased from Rs.356.13 lakh in 1992-93 to Rs.574.59 lakh in 1996-97 in the absence of effective recovery steps.

On this being pointed out in audit, the Revenue and Excise Department attributed the reasons for accumulation of arrears to (i) Wrong assessment, (ii) Non-supply of water at the tail end and (iii) litigations in respect of industrial use of water. It was further stated by the Revenue Department that the field officers had been instructed to institute certificate cases against the farmers intentionally avoiding payment of water rate (July 1998).

4.2.11 Conclusion

It would, thus, be seen that due to non-revision of water rate since 1981-82 and non-realisation of O&M expenses from the beneficiaries the Government had to sustain a huge loss

of revenue during the period under review. Further there was non-assessment of certified ayacuts, discrepancy between the Engineering figures and the Board of Revenue figures on total certified Ayacuts in the State and increasing trend of arrear water rates.

The Government may take steps to revise the water rate, reconcile the certification figures of certified ayacuts and devise suitable procedures to monitor the recovery of arrear water charges.

4.3 Loss of revenue due to irregular transfer of land

Under the Orissa Estate Abolition Act, 1951 when the Collector is satisfied that any settlement, lease or transfer of land has been made after 1st day of January 1946 with a view to defeating the provisions of the Act, he shall set aside such settlement, lease or transfer and take possession of such property. There is bar to jurisdiction of Civil Courts in respect of any order passed by the Collector under this Act. The Registration Act, 1908 provided that lease of immovable property unless registered can not be received as evidence of any transaction affecting such property.

Scrutiny of records in audit (between March and May 1998) of Collector of Puri and Tahasildar Nimapara revealed that three ex-intermediaries of Paikapada Raja Estate (which vested in the State of Orissa in August 1953 under the OEA Act) created three unregistered lease deeds during 1951, 1952 and 1953 to alienate land measuring AC 520.38 on Puri Konark Marine Drive Road in favour of Sri Gopal Suar. On a protest being lodged by the villagers of Haingra against the grant of such leases, the Anchal Adhikari, Sakhigopal visited the spot and came to the conclusion that the leases were granted with a view to defeating the provisions of the OEA Act. The appellate revenue courts upheld the decision of the Anchal Adhikari and also concluded that the challans and rent receipts produced by Sri Suar in support of payment of

rent and notices issued in pursuance thereof were antedated and created just on the eve of vesting to prevent the suit land from vesting in the State and to claim compensation

Instead of going for second appeal before the Board of Revenue, Orissa, Sri Suar filed original suit (No. 1/1964) before the Sub-judge, Puri. The Sub-judge passed order (January 1965) declaring Sri Suar as tenant in respect of the suit land and directed the State to collect rent from him. The result of the case was intimated by the Government pleader to the Collector on 23 January 1965. The appeal was filed by the Collector, Puri, on 4 May 1966 in the court of District Judge, Puri which was dismissed by the District Judge, Puri as it was barred by limitation. Consequent to the decree in his favour, Sri Suar was recognised as a tenant, his name entered in Tenant's Ledger and rent was realised from him as per letter of the Collector Puri dated 15 October 1991.

The decision of the Collector, Puri to implement the orders of Sub-Judge, Puri without further recourse to legal remedies available to the State, particularly in view of the following facts led to loss of Government land.

- (i) The lease deeds in question were prepared after the cut-off date i.e. 1 January 1946 as prescribed in OEA Act, 1951
- (ii) Jurisdiction of Civil Courts was barred in respect of any order passed under the OEA Act. Therefore, the Sub-Judge had no jurisdiction in the matter.
- (iii) The lease deeds were unregistered and based on oral consent of the landlord and therefore, could not be accepted as evidence of any transaction affecting the suit land. Moreover, such unregistered lease deeds cannot be looked into for the purpose of fixing rent or for period of tenancy (Motilal Vs Umadei 1985 ALJ 484).

Delay and inaction at the levels of Revenue Divisional Commissioner (Central Division), Government pleader and Collector, Puri to file appeal before the District Judge or avail legal

remedies caused loss of valuable Government land measuring AC 520.38 on Puri Konark Marine Drive Road valued at Rs.260.19 lakh (at the rate of Rs 50,000 per acre) fixed by the Revenue and Excise Department letter dated 24 September 1996.

On this being pointed out in audit (May 1998) the Government accepted (September 1998) that this was a clear case of fraud and also intimated that the Collector, Puri was asked (May 1998) to file an appeal/writ against the orders of the District Judge, Puri. Further action taken in the matter is awaited (January 1999).

4.4 Loss of revenue due to irregular transfer of forest land

Under the Orissa Estate Abolition Act, 1951 when the Collector is satisfied that any settlement, lease or transfer of land was made after the 1st day of January 1946 with a view to defeating the provisions of the Act, he shall set aside such settlement, lease or transfer, and take possession of such property. There is bar to jurisdiction of Civil Courts in respect of any order passed by the Collector under this Act. The Registration Act, 1908 provides that lease of immovable property unless registered can not be received as evidence of any transaction affecting such property. Besides dereservation of forest land for non-forest purpose requires the prior approval of the Government of India under the Forest (Conservation) Act, 1980.

Scrutiny of records in audit in the Puri Collectorate and Nimapara Tahasil (March 1998 to May 1998) revealed that the Sutan Estate vested (November 1953) in the State of Orissa under the OEA Act. Shri Nabaghana Rout, his brother and mother filed a Title Suit (133/1984) before the Sub-judge, Puri claiming an area of AC 11.75 of Hal(current) Khata No 2 as the Landlord of the Estate leased out the suit land in favour of their ancestor Shri Bhajani Rout on 21 April 1945 by executing an unregistered lease deed and he converted it into a casuarina garden. This land was recorded with status "Rakhit Anabadi" and Kissam "Bagayat 3-Jhamu

Jungle" with the remark that the land was under adverse possession of Forest Department in village Sahukhanata forming part of the Estate. The Tahsildar, Nimapara had collected rent from Sri Rout from 1953-54 to 1960-61 by opening a Tenant's Ledger in his name. The Sub-Judge, Puri on 23 March 1987 confirmed the title and possession of the plaintiff over the suit land and ordered for correction of Record-of-Right. After losing the case in all the appellate courts, the State filed Civil Review petition (112/92) on 21 October 1992 with prayer for condonation of delay before the Hon'ble High Court of Orissa (the due date was 27 August 1990). The Civil Review petition was dismissed by the High Court as it was barred by limitation. The Special Leave Petition (11835/94) preferred in Hon'ble Supreme Court was also dismissed on 5 August 1994. The Tahasildar, Nimapara allowed mutation of the suit land on 30 July 1997 and corrected the Record-of-Rights in the name of Sri Nabaghana Rout on the same day.

Being aggrieved by the order of the Tahasildar, Nimapara, the Divisional Forest Officer, Puri issued show cause notice (October 1997) to the Tahasildar, Nimapara for violation of the Forest (Conservation) Act, 1980.

Audit scrutiny of the case revealed the following

- (i) Neither any officer of the Forest Department appeared before the Sub-Judge, Puri nor any affidavit was filed by the Forest Department though the Secretary of the Forest Department was made a party to the case.
- (ii) The lease deed was un-registered and could not be taken as evidence.
- (iii) Jurisdiction of Civil Courts was barred in respect of any order passed under the OEA Act.
- (iv) There was inordinate delay at the Government level to file Civil Review Petition before the High Court and consequently the petition became time barred and was therefore dismissed.

- (v) As per old and current Record of Rights of village Sahukhanata the entire land in the village was Anabadi (Government) land and there was no trace of private land in the village. Thus the Tenant's Ledger was concocted and manufactured.
- (vi) The mutation was allowed despite adverse report of the field staff of both Revenue and Forest Department. The possession over the suit land however, remained with the Forest Department.
- (vii) As the kissam of the land was "Jhamu Jungle", the provisions of the Forest (Conservation) Act, 1980 were attracted in this case according to which de-reservation of Forest land for non-forest purpose requires the prior approval of the Central Government. This aspect was not put-forth before the Courts at any stage.
- (viii) No appeal was preferred by the Divisional Forest Officer, Puri (April 1998) before the Sub-Collector, Puri against the mutation order of the Tahasildar, Nimapara though the limitation period of 30 days was over on 29 August 1997.

The above facts indicate that there was a fraud at the Tahasil level. No action was initiated against the errant officials. This led to loss of Government Forest land measuring AC 11.75 the value of which worked out to Rs 5.88 lakh (at the rate of Rs. 50,000.00 per acre) fixed by the Government Revenue and Excise Department. Vide letter dated 24 September 1996.

On this being pointed out in audit (May 1998) it was replied by the Government (September 1998) that the Divisional Forest Officer, Puri had instructed (March 1998) the Assistant Conservator of Forests, Puri to file appeal before the Sub-Collector, Puri against the mutation order of the Tahasildar, Nimapara and the matter was under examination of the Government. Further reply is awaited (January 1999).

4.5 Non/short realisation of premium etc.

According to Government orders of October 1961, May 1963 and February 1966 Government land can be leased out to local bodies, public undertakings and commercial department etc., on payment of premium fixed on the basis of market value of land plus annual ground rent at the rate of 1 per cent of the market value. In addition, cess at 50 per cent of the ground rent up to 1993-94 and 75 per cent thereafter is also leviable under the Orissa Cess Act, 1962. Interest at the rate of 6 per cent per annum up to 1991-92 and at the rate of 12 per cent per annum from 1992-93 onwards is also chargeable on belated payment of dues.

A. State Government Undertakings

(i) A scrutiny in audit of records of Chandabali Tahasil (Bhadrak District) revealed (May 1996) that Orissa State Electricity Board (presently GRIDCO) was in unauthorised occupation of Government land measuring AC. 0.77 with effect from 1st October 1965. The O.S.E.B authority, though, filed requisition for lease of the said land (January 1975), the lease was neither sanctioned nor the lease deed was executed (October 1997), resulting in non-realisation of revenue amounting to Rs.2.22 lakh in the shape of premium, ground rent, cess and interest as on 31 March 1998.

On this being pointed out in audit (May 1996), the Tahasildar, Chandabali stated (May 1996) that the O.S.E.B. was being requested to deposit the amount. Further reply has not been received (January 1999).

The matter was reported to Government (August 1996), their reply has not been received (January 1999).

(ii) Scrutiny of records of Tahasildar, Angul revealed in audit (September 1997) that AC 12.31 decimal of Government land was in occupation of Talcher-Angul-Meramundali Regional Improvement Trust (TAMRIT) between the year 1988 and 1995. Though the leases were sanctioned by the appropriate authority between the years 1988 and 1995, the Trust had neither executed any lease deed nor paid the Government dues so far. This resulted in non-realisation of revenue amounting to Rs.69.41 lakh in shape of premium, ground rent, cess and interest as on 31 March 1998.

On this being pointed out in audit (September 1997), the Tahasildar, Angul stated that the matter would be looked into. Further reply has not been received (January 1999).

The matter was reported to Government (May 1998), their reply has not been received (January 1999).

(iii) Scrutiny of records of Sukinda Tahasil (District Jajpur) revealed (August 1997) that M/s. Orissa Industrial Infrastructure Development Corporation, Bhubaneswar was in occupation of Government land measuring AC. 1874.82 since 21st June 1996 for establishment of Steel Plant. The Corporation has not paid Rs.581.28 lakh on account of premium, ground rent, cess and interest as on 31 March 1998.

On this being pointed out in audit (August 1997), the Tahasildar agreed to take up the matter with the Corporation. Further reply has not been received (January 1999).

The matter was reported to Government (June 1998), their reply has not been received (January 1999).

B. Co-operative Societies

During the course of audit of Tahasildars, Chandabali(Bhadrak) and Angul (between May 1996 and September 1997) it was noticed that 5.45 Acres of Government land were occupied by M/s. Regional Co-operative Marketing Societies (R.C.M.S.), Chandabali and Angul from 7 January 1976 and from the year 1956 respectively. Although both the R.C.M.S. had applied (during 1994 and 1982) for alienation of land in their favour, the same were not finalised so far resulting in non-realisation of revenue to the extent of Rs 175.55 lakh in shape of premium, ground rent, cess and interest as on 31 March 1998.

On this being pointed out in audit (Between May 1996 and September 1997) it was replied by the Tahasildar, Chandabali (May 1996) that the dues would be collected after finalisation of the case, whereas Tahasildar, Angul replied (September 1997) that the land proposed were not yet finally settled and as such the question of payment of premium with interest did not arise. The reply of the Tahasildar, Angul is not tenable in view of Government of Orissa (Revenue and Excise Department) order dated 2 February 1966 where it has been clarified to charge the interest from the date of occupation.

The matters were reported to Government (between August 1996 and May 1998), their replies have not been received (January 1999).

CHAPTER-5

STATE EXCISE AND OTHER TAX RECEIPTS

(A) STATE EXCISE

	Paragraph	Page
-> Results of Audit	5.1	77
-> Loss of revenue due to lower outturn of rectified spirit from molasses	5.2	77
-> Loss of revenue due to delay in settlement of IMFL off shops	5.3	78
-> Short realisation of excise duty and import fee on India Made Foreign Liquor/Beer	5.4	79

(B) STAMP DUTY & REGISTRATION FEES

-> Results of Audit	5.5	80
-> Misappropriation of Government Revenue	5.6	81
-> Loss of Revenue due to registration of land/properties in Calcutta	5.7	82
-> Loss of Revenue (stamp duty) due to non-registration of un-secured bonds	5.8	84

(C) ENTERTAINMENTS TAX

-> Results of Audit	5.9	85
-> Short levy of Entertainment Tax	5.10	86

STATE EXCISE AND OTHER TAX RECEIPTS

(A) STATE EXCISE

5.1 Results of Audit

Test check of the records maintained in the offices of the Excise Commissioner and Superintendent of Excise conducted during the year 1997-98 revealed non realisation short realisation and other losses of revenue amounting to Rs 438.16 lakh in 183 cases which may broadly be categorised as under.

Sl. No.	Category	No. of cases	Amount (Rupees in lakh)
1.	Non-realisation of duty	60	31.07
2.	Short realisation of duty	38	15.66
3.	Loss of revenue due to delay in granting/issue of licence	24	34.67
4.	Other irregularities	61	356.76
	Total	183	438.16

During the course of the year 1997-98, the department accepted under-assessment etc. of Rs.68.09 lakh involved in 13 cases, which had been pointed out in audit in earlier years.

A few illustrative cases highlighting important audit observations involving financial effect of Rs.123.81 lakh are mentioned in the following paragraphs.

5.2 Loss of revenue due to lower outturn of rectified spirit from molasses

Under the provisions of the Board's Excise Rules, 1965, samples of materials used in distilleries for the manufacture of spirit and spirit manufactured therefrom shall be sent to the Chemical

Examiner for examination once in July and again in December each year and at other times, if require.

During the course of audit of the records of a distillery under the control of the Superintendent of Excise, Ganjam (September 1997) it was noticed that 8564.03 MT molasses was used in the distillery during 1996-97 for manufacture of spirit. The samples of molasses were sent to the Chemical Examiner in February 1997. Based on the reports of the Chemical Examiner (April 1997), the outturn of spirit from 8564.03 MT molasses should have 43,79,593.56 LPL at the rate of 511.394 LPL per tonne of molasses. Against this the actual yield was 3583125.000 LPL. This resulted in shortfall in production of spirit of 796468.56 LPL and consequential loss of revenue of Rs 119.47 lakh in the shape of excise duty.

On this being pointed out in audit (September 1997) the Superintendent of Excise, Ganjam stated that the matter was under examination. Further reply has not been received (January 1999).

The matter was reported to Government (March 1998), their reply has not been received (January 1999).

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

According to the Bihar and Orissa Excise Act, 1915 read with Rules made thereunder, licence for the wholesale or retail vend of intoxicants may be granted for each year from 1 April to 31 March. Due to delay in finalisation of the Excise Policy for the year 1996-97, Government instructed (March 1996) the Collectors of the districts to renew licences of F.L. off and on shops, taddy, pachowi, bhanga shops in favour of the existing licences of 1995-96 for a period of four months in the existing terms and conditions with 5 per cent increase in the existing consideration money. In case where the existing licencees would not opt for opening the shops as per terms and conditions, the shops would be closed.

During the course of audit of the Superintendent of Excise, Bhadrak it was noticed (December 1997) that in two IMFL off shops, the old licencees did not opt for renewal of their licences for the year 1996-97. The Government ordered (October 1996) for fresh tender-cum-auction of the said two IMFL off shops. Accordingly, the shops were provisionally settled from 28 October 1996 by the Collector at monthly consideration money of Rs 32,100 and Rs 16,353 in favour of the highest bidders and the proposal was sent to Government (October 1996) for confirmation. Government confirmed the settlement on 4 March 1997 and licences were issued on same date. Thus, due to delay in settlement, the shops remained closed for the period from 1 November 1996 to 3 March 1997 and Government sustained a loss of revenue of Rs.1 99 lakh.

On this being pointed out in audit (December 1997), the Superintendent of Excise stated (January 1998) that the District Excise Officer had taken action as per the instructions received from the Government.

The matter was reported to Government (February 1998), their reply has not been received (January 1999).

5.4 Short realisation of excise duty and import fee on India Made Foreign Liquor/Beer

The Government of Orissa, Revenue and Excise Department revised the rates of excise duty on IMFL and on Beer with effect from 1 July 1996. The rates of import fee on IMFL and Beer were also revised by the Board of Revenue, Orissa with effect from 3 July 1996. The Excise Commissioner, Orissa clarified (July 1996) that if the goods entered into the State of Orissa on or after 1 July 1996, the importer was liable to pay the differential duty.

During the course of audit of 5 District Excise offices*, it was noticed (between September 1997 and January 1998) that Excise duty at the revised rates was not levied on 7241.400 LPL of IMFL and 21.255 BL of Beer although stock was stored in warehouses after 1 July 1996. Similarly, on the import of 25326 LPL of IMFL and 54405 BL of Beer, import fee at the enhanced rate was not charged though the stock was actually stored in warehouses after 3 July 1996. This resulted in short realisation of excise duty and import fee amounting to Rs. 2.35 lakh.

On this being pointed out in audit (between September 1997 and January 1998) the Superintendent of Excise, Koraput, Sundergarh and Puri realised Rs 1.32 lakh (March 1998) Superintendent of Excise, Bhadrak and Ganjam agreed to raise demand. Further reply has not been received (January 1999).

The matter was reported to Government (between November 1997 and February 1998). In their reply (September 1998) it was stated that an amount of Rs 32,760 has been realised in one case. Further report on realisation of dues has not been received (January 1999).

(B) OTHER TAX RECEIPTS

STAMP DUTY AND REGISTRATION FEES

5.5 Results of Audit

Test check of records relating to stamp duty and registration fees in the offices of the District Sub-Registrars/Sub-Registrars conducted during the year 1997-98 revealed short/non-realisation of stamp duty and registration fees and other irregularities amounting to Rs. 1692.99 lakh in 16,904 cases as under :

* Bhadrak, Ganjam, Koraput, Puri, Sundergarh

Sl.No.	Category	No. of cases	Amount (Rupees in lakh)
1	Short levy of stamp duty and registration fees due to under valuation of property.	16363	694.28
2	Short levy of stamp duty and registration fees due to misclassification of deeds.	74	0.80
3	Irregular exemption of stamp duty/other irregularities	467	997.91
	Total	16904	1692.99

A few illustrative cases highlighting important audit observations involving financial effect of Rs.943.53 lakh are mentioned below.

5.6 Misappropriation of Government Revenue

Orissa Treasury Code Volume I provides that all money received by, or tendered to, government servants on account of the revenue of the State shall be paid in full into treasury or into the Bank without undue delay and be included in the Public Accounts of the State. Money received as aforesaid shall not be appropriated to meet departmental expenditure nor otherwise be kept apart from the Public Account of the State.

During the audit of District Sub-Registrar, Khurda at Bhubaneswar it was noticed (August 1997) that Government revenues (Registration fees) realised to the extent of Rs.12.14 lakh in 37 cases between June 1995 and July 1997 were not actually deposited in the Government Treasury though shown to have been remitted into in the cash book. Non-observance of codal provision led to a misappropriation aggregating Rs.12.14 lakh.

On this being pointed out in audit (August 1997) it was replied by the District Sub-Registrar, Khurda (September 1997) that an amount of Rs.3.13 lakh in 8 cases was deposited into Government accounts on 27 August and 1 September 1997 leaving the balance amount of Rs.9.01 lakh un-remitted. The District Sub-Registrar, Khurda filed FIR with the police on 16 September 1997.

The fact of misappropriation was brought to the notice of the Inspector General of Registration, Orissa, Cuttack (October 1997). No reply has been received (January 1999).

The matter was reported to Government (April 1998); their reply has not been received (January 1999).

5.7 Loss of Revenue due to registration of land/properties in Calcutta

Under the provision of the Registration Act 1908, the Registrar of a District in which a Presidency town and Delhi district is included, may receive and register any document referred to in the Act without regard to the situation of property in any part of India. The Act further provides that a copy of document that is registered should be endorsed and a certificate to this effect be forwarded to every Registrar within whose district any part of the property, to which the instrument relates is situated. The Registrar on receiving such copy should follow the procedure prescribed under the Act.

By the Registration (Orissa Amendment) Act, 1991 (19 of 1991) Government of Orissa deleted the aforesaid provision which enabled registration in the Presidency towns and Delhi District in September 1991 with the result such certificates of documents ceased to be valid in Orissa from that date onwards.

(a) Test check of records of Presidency town Calcutta revealed that 47 documents of Orissa were registered at Calcutta during the period from April 1992 to March 1996 even after

the amendment of the Registration Act 1908 in September 1991 by State of Orissa. Thus failure of the department to coordinate and take follow up action with the Government of West Bengal resulted in loss of revenue of Rs.5 35 lakh during April 1992 to March 1996.

(b) An examination of 47 case records relating to sale of land/property pertaining to 9 places (Balasore, Baragarh, Berhampur, Bhadrak, Bhubaneswar, Chhatrapur, Cuttack, Jajpur and Puri) which were registered in Calcutta revealed that in all 47 cases value of land/properties indicated in the deeds was undervalued with respect to price fixed by the respective collectors. An analysis of this revealed as under:

Sl. No.	Valuation of property	Number of documents
1.	Less than 2 times	5
2	More than 2 times but less than 5 times	12
3	More than 5 times but less than 10 times	10
4	More than 10 times	20
	Total	47

The short collection of revenue worked out to Rs 51.04 lakh.

The matter was reported to Government (June 1998).

(c) A report on the "Registration of Instruments of Property Transfer" relating to the properties of Orissa State registered by the Registrar of Presidency towns of Calcutta and Mumbai prepared by the Office of the Comptroller and Auditor General of India was also sent to Principal Secretary to Government of Orissa, Revenue and Excise Department, Bhubaneswar vide Accountant General (Audit)-II, DO letter No.Rep(R)-8-159/97-98/393 dated 2 September 1998. This report highlights 44 cases of invalid registration in contravention of provisions of the Amendment Act 1991 (19 of 1991) registered during the period 1992-93 to 1996-97 and recommends deletion of Section 30(2) of the Act. In reply the State

Government intimated (January 1999) that the matter had been taken up with the Inspector General, Registration of the concerned States for realisation of the differential stamp duty. The State Government has added that they concurred with the recommendation for the deletion of Section 30 (2) of the Act.

5.8 Loss of Revenue (stamp duty) due to non-registration of un-secured bonds

As per Section 3 of the Indian Stamps Act, 1899 read with Section 17 of the Registration Act, 1908, the instruments of unsecured bond is subject to registration and hence attracts stamp duty at the rate of Rs.7.50 per Rs.1000 on the value of such instrument. The time limit for registration of such instrument has been fixed as four months from the date of execution under Section 23 and Section 25 of the Registration Act, 1908.

During the course of audit of Orissa Hydro Power Corporation Ltd. (OHPC) and GRID Corporation of Orissa Ltd. (GRIDCO), it was observed (April 1998) that the OHPC and GRIDCO issued on 10 May 1996, partially convertible unsecured bonds worth Rs.1166.20 crore (Rs.766.20 crore by OHPC and Rs.400 crore by GRIDCO).

The instruments being unsecured bond (which were in the nature of debenture) were required to be registered under the provisions of the Indian Stamps Act, and stamp duty of Rs.8.75 crore was payable by the companies (Rs.5.75 crore by OHPC and Rs.3.00 crore by GRIDCO). However, on an enquiry as to whether such instruments were registered, the District Sub-Registrar, Bhubaneswar stated (April 1998) that no such documents was registered. It was further noticed that the requests made by both the companies for remission of stamp duty on the aforesaid issue of unsecured bonds were turned down (28 January 1998) by the Government of Orissa in view of the Government of India's notification dated 23 July 1997. Despite refusal of the waiver of stamp duty, the Corporations did not register the instruments

(June 1998). Non-registration of instrument by the GRIDCO & OHPC resulted in loss of revenue amounting to Rs.8.75 crore.

The matter was reported to Government (July 1998); their reply has not been received (January 1999).

(C) ENTERTAINMENTS TAX

5.9 Results of Audit

Test check of assessment cases and other connected documents pertaining to Entertainments Tax in the Commercial Tax Offices conducted during 1997-98 revealed underassessment of show tax and surcharge etc amounting to Rs.287.06 lakh in 16 cases which may broadly be categorised as follows.

Sl. No.	Category	No. of cases	Amount (Rupees in lakh)
1	Short levy of show tax	1	0.09
2	Non-levy of surcharge	1	0.96
3	Non-levy of penalty	3	0.27
4	Non-realisation of Entertainment Tax dues	9	285.06
5	Others	2	0.68
	Total	16	287.06

An illustrative case highlighting important audit observation involving financial effect of Rs.2.18 lakh is mentioned in the following paragraph.

5.10 Short levy of Entertainments Tax

Under the Orissa Entertainments Tax Act, 1946 there shall be levied and collected tax on the basis of capacity of cinema houses at the rate of twenty per cent of gross collection capacity on every show in respect of exhibitions under Municipal Council at Cuttack, Bhubaneswar, Puri, Berhampur, Sambalpur and Rourkela with condition that such tax shall be payable on an average of seventy shows per calendar month irrespective of number of shows actually exhibited during a month.

During the course of audit of Ganjam-I Circle, Berhampur, it was noticed (January 1997) that the assessment of a cinema house situated at Berhampur for the years 1991-92, 1992-93 and 1993-94 were completed between August 1995 and March 1996 fixing the compounding tax amount of Rs.50,000 per month for the period from October 1991 to 30 April 1993 instead of Rs.61,492 per month. The allowance of the compound tax at lower rate led to short levy of Entertainments Tax of Rs.2.18 lakh.

On this being pointed out in audit (January 1997), the assessing officer agreed (January 1997) to take action. Report on action taken has not been received (January 1999).

The matter was reported to Government (April 1997), their reply is awaited (January 1999)

CHAPTER-6

FOREST RECEIPTS

	Paragraph	Page
→ Results of Audit	6.1	89
→ Non-levy of interest on belated payment of consideration money/royalty	6.2	89
→ Short realisation of royalty due to under-assessment	6.3	90

FOREST RECEIPTS

6.1 Results of Audit

Test check of records maintained in various Forest Divisions conducted during the year 1997-98 revealed non/short levy of dues and loss of revenue etc. involving an amount of Rs.2036.72 lakh in 3561 cases may broadly be categorised as under :

Sl.No.	Category	No. of cases	Amount (Rupees in lakh)
1	Non-levy/short levy of interest on belated payment of consideration money	148	15.95
2	Non-realisation of compensation	24	19.69
3	Non-realisation of royalty	189	1643.30
4	Loss of revenue due to short delivery/shortage of forest produce	18	3.40
5	Other irregularities	3182	354.38
	Total	3561	2036.72

During the course of the year 1997-98, the department accepted underassessment etc. of Rs.130.16 lakh involved in 2275 cases which had been pointed out in audit in earlier years

A few illustrative cases highlighting important audit observations involving financial effect of Rs.5.78 lakh are mentioned in the following paragraphs.

6.2 Non-levy of interest on belated payment of consideration money/royalty

Under the Orissa Forest Contract Rules, 1966 if a contractor fails to pay any instalment of consideration money for sale of forest coupe(s) by due date, he is liable to pay interest at the

rate of 6.25 *per cent per annum* on the instalments in default. These provisions were also applicable to the Orissa Forest Development Corporation (OFDC) in its capacity as a contractor.

During the course of audit (between August and November 1997) of five forest divisions, it was noticed that in 66 cases of belated payment of consideration money/royalty relating to the years 1993-94 to 1995-96, interest amounting to Rs.4.19 lakh was not levied.

On this being pointed out in audit (between August and November 1997), the Divisional Forest Officer, Deogarh raised (August 1997) the demands of Rs.1.16 lakh against OFDC while other Divisional Forest Officers stated (between September and November 1997) that action would be taken to realise the interest from the Corporation. Further report has not been received (January 1999)

The matter was reported to Government (between November 1997 and January 1998), their reply has not been received (January 1999).

6.3 Short realisation of royalty due to underassessment

According to the provision of Orissa Forest Department Code and the executive instructions issued in November 1979, allotment of coupes and fixation of royalty thereof, are to be finalised by mutual discussion and agreement between the local Divisional Forest Officer (DFO) and Divisional Manager of the Orissa Forest Development Corporation (OFDC) Ltd after taking into account the quality of trees and accessibility to a coupe area subject to final approval of the Zonal Conservator of Forest on or before 15 July. Delivery of materials was to be done only after the orders of the fixation of royalty thereof have been issued

During the audit of Nowrangpur Division (July 1997), it was observed that 17644.84 cft. and 3155.13 cft. of timber were delivered to M/s OFDC Ltd. during 1995-96 and 1996-97, royalty was demanded at the rate applicable for the year 1994-95 and 1995-96 respectively. Similarly, in Puri Division, it was observed (October 1997) that royalty against 113.031 cum. of timber delivered between April 1996 and June 1996, was realised at the rates applicable for 1995-96, thereby resulting in short realisation of royalty of Rs.1.59 lakh (Rs 80,221 relating to DFO, Nowrangpur and Rs.79,224 relating to DFO, Puri).

On this being pointed out in audit (July 1997), DFO, Nowrangpur stated (July 1997) that the demand was raised as per the rates applicable for the year in which lot was formed though the timber was delivered in subsequent years but no specific reply was furnished by the DFO, Puri (October 1997).

The contention of department was not acceptable as the delivery of timber was made during 1995-96 and 1996-97 and the royalty was realised at the rate of 1994-95 and 1995-96 respectively instead of applying the prevailing rate of royalty during the years of delivery.

The matter was reported to Government (August 1997 and January 1998), their reply is awaited (January 1999).

CHAPTER-7

MINING RECEIPTS

	Paragraph	Page
→ Results of Audit	7.1	95
→ Non-assessment of royalty on shortage of minerals	7.2	96
→ Non-levy of royalty due to off-grading of iron ore.	7.3	98
→ Non-levy of interest on belated payments	7.4	98

MINING RECEIPTS

7.1 Results of Audit

Test check of records maintained in the mining offices conducted during the year 1997-98 revealed non/short recovery of dues and loss of revenue etc. amounting to Rs.191.91 lakh in 31 cases which may broadly be categorised as under:

Sl.No	Category	Number of cases	Amount (Rupees in lakh)
1.	Non-levy/short levy of Royalty	15	60.83
2.	Non-levy of interest on belated payment of mining dues	10	7.63
3.	Loss of revenue due to shortage of timber	2	0.13
4.	Other irregularities	4	123.32
	Total	31	191.91

During the course of the year 1997-98, the department accepted under-assessment etc. of Rs.154.26 lakh in 23 cases which had been pointed out in audit in earlier years.

A few illustrative cases highlighting important audit observations involving financial effect of Rs.44.64 lakh are mentioned in the following paragraphs.

7.2 Non-assessment of royalty on shortage of minerals

Under the Mines and Minerals (Regulation and Development) Act, 1957 and Mineral Concession Rules, 1960, the holder of the mining lease is to pay royalty in respect of any mineral removed or consumed from the lease area at the rates specified in the second schedule to the Act.

(i) During the course of audit of the Deputy Director of Mines, Talcher for the year 1995-96, it was noticed (January 1997) that a lessee short accounted for 33,480.73 MT of minerals (Coal) in the opening balance in the monthly return for April 1995 and the same was accepted by the assessing officer. Since the Act does not provide for any relief on account of shortage, royalty was leviable on the entire quantity mined by the lessee. This resulted in non-assessment of royalty amounting to Rs.16.74 lakh.

On this being pointed out in audit (January 1997), the Deputy Director of Mines, Talcher raised demand of Rs.16.74 lakh (May 1997). Report on realisation has not been received (January 1999).

The matter was reported to Government (February 1997); in reply they have stated (December 1998) that the Deputy Director of Mines, Talcher has initiated certificate proceedings for realisation of the amount. Further reply awaited.

(ii) During the course of audit of Koira Mining Circle (District Sundergarh); it was noticed (November 1996) that a lessee (M/s. Orissa Mining Corporation Ltd.) did not disclose any closing balance in respect of iron ore in his monthly return for the month of March 1995. On cross verification by audit with the return submitted by the lessee to the Bureau of Mines, Calcutta for the month of March 1995 it was noticed that the dealer had disclosed closing balance of the ore as 50,292.213 MT. Non-disclosure of the stock in the return to the Mining

Office amounted to shortage of stock at mining site. As no shortage is admissible under the Act, the lessee was liable to pay royalty of Rs.3.52 lakh.

On this being pointed out (November 1996) the department stated (November 1997) that demand of Rs.3.52 lakh has been raised (August 1997). Further report on realisation has not been received (January 1999).

The matter was reported to Government (January 1997), their reply has not been received (January 1999).

(iii) During the course of audit of Jajpur Road Mining Circle (District Jajpur) it was noticed (February 1996) that during September 1993 to March 1995, a quantity of 23,956 020 MT of High grade chromite ore and 3983.360 MT of Medium grade chromite ore were despatched from the Tailengi Mines to Ferro Chrome plant of M/s IDC Ltd. of Jajpur Road. But a quantity of 24093.060 MT of High grade and 4014.920 MT of Medium grade ore were acknowledged by its Ferro-Chrome plant. This indicates excess removal of 168.600 MT of both High and Medium grade (137.040 MT of High grade plus 31,560 MT of Medium grade). This resulted in short levy of royalty amounting to Rs.0.77 lakh.

On this being pointed out in audit (February 1996), the Deputy Director of Mines, Jajpur Road stated (September 1996) that full amount has been realised (July 1996).

The matter was reported to Government (April 1996), their reply has not been received (January 1999).

7.3 Non-levy of royalty due to off-grading of iron ore

Under the Mines and Minerals (Regulation and Development) Act, 1957 and the Mineral Concession Rules, 1960, the holder of a mining lease is to pay royalty in respect of any mineral removed or consumed from the leased area at the rate specified in the second schedule to the Act. No deduction in the quantity removed is permissible for any off-grading or waste of minerals.

During the course of audit of the Deputy Director of Mines, Joda for the year 1996-97, it was noticed (November 1997) that a lessee had deducted 35 035 MT of iron ore (lump), 6220 MT of iron ore (fine) from the closing stock of March 1996 and 21,623 MT of iron ore (lump) and 60 983 MT of iron ore (fine) from the closing stock of March 1997 stating the above quantities as off-grade and the same was allowed by the assessing officer. As no off-grading loss is allowable under the Act royalty was payable on the entire quantity mined by the lessee. This irregular allowance of deduction resulted in short-levy of royalty amounting to Rs.18.93 lakh.

On this being pointed out in audit (November 1997), the assessing officer issued demand notice (November 1997). Report on realisation has not been received (January 1999).

The matter was reported to Government (January 1998), their reply has not been received (January 1999).

7.4 Non-levy of interest on belated payments

In terms of Mineral Concession Rules, 1960, as amended in 1991 and Government of Orissa notification dated 9 August 1974, in cases of belated payment of dead rent, royalty or other Government dues, simple interest at the rate of 24 *per cent* per annum on the amount in default shall be charged from the sixtieth day of the expiry of the due date till the default continues.

During the course of audit of three mining offices (Baripada, Cuttack and Koira) it was noticed (between December 1997 and March 1998) that in 8 cases, interest amounting to Rs.4 68 lakh on belated payment of royalty was not levied.

On this being pointed out in audit (between December 1997 and March 1998), the Deputy Director of Mines/Mining Officer of the circle stated that action would be taken to raise demand for realisation of interest.

The matter was reported to Government (between February 1998 and June 1998) In reply they have stated (September 1998 and December 1998) that an amount of Rs 99,978 was realised (between March 1998 and August 1998) Report on realisation of balance amount of Rs 3 68 lakh has not been received (January 1999)

R.K. Ghose

(R.K.GHOSE)

ACCOUNTANT GENERAL (AUDIT) II
ORISSA

BHUBANESWAR

The

22 FEB 1999

COUNTERSIGNED

V. K. Shunglu

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COMPTROLLER AND AUDITOR GENERAL
OF INDIA

NEW DELHI

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4 MAR 1999