

661



सत्यमेव जयते

**Report of the
Comptroller and Auditor General of India
on
Revenue Sector
for the year ended March 2012**



**Government of Assam
Report No 2 for the year 2011-12**

Laid before the Legislature on

**Report of the Comptroller and Auditor General of India
for the year ended 31 March 2012**

Report No. 2

Revenue Sector

Government of Assam

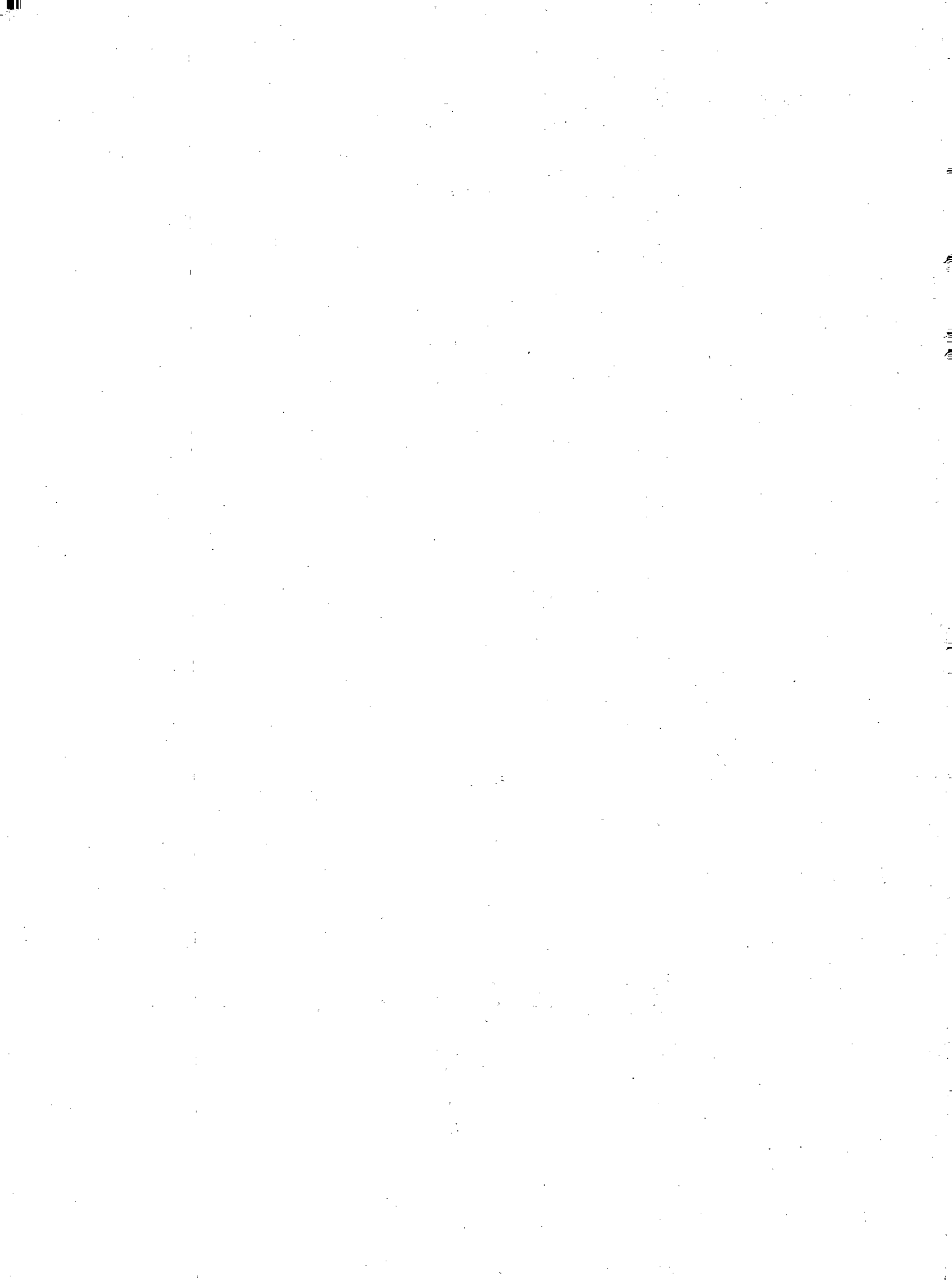


TABLE OF CONTENTS

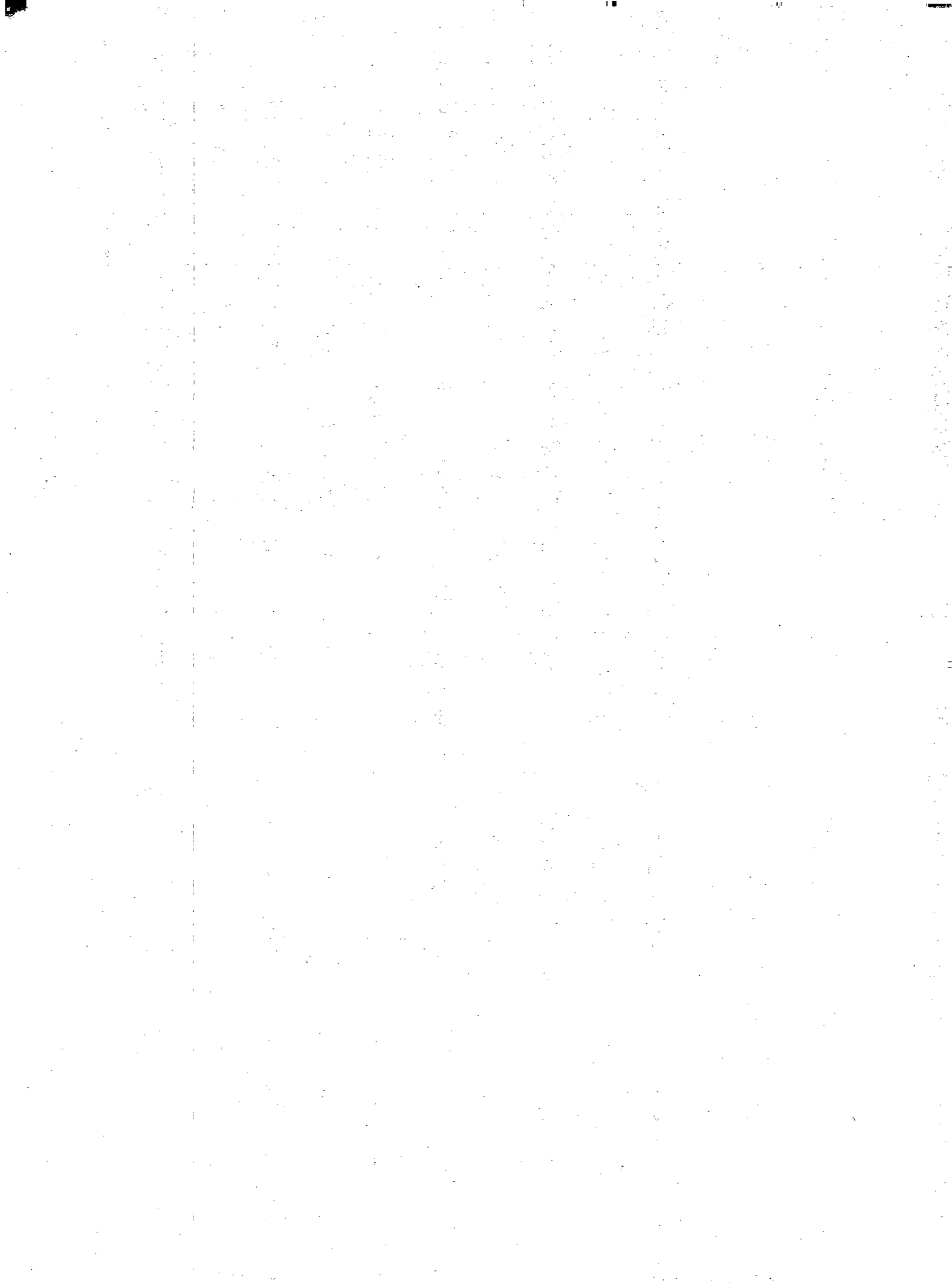
Particulars	Paragraph	Page
Preface		vi
Overview		vii-xi
CHAPTER-1 : GENERAL		
Trend of Revenue	1.1	1
Response of the departments/Government to audit	1.2	4
Failure of senior officials to ensure timely replies and accountability and protect the interest of the State Government	1.2.1	4
Departmental audit committee meetings	1.2.2	6
Response of the departments to the draft audit paragraphs	1.2.3	6
Follow up on Audit Reports - summarised position	1.2.4	7
Compliance with earlier Audit Reports	1.2.5	7
Effectiveness of the mechanism for dealing with the issues raised by Audit	1.3	8
Position of Inspection Reports	1.3.1	8
Assurance given by the Department/Government on the issues highlighted in the Audit Reports	1.3.2	9
Recovery of accepted cases	1.3.2.1	9
Action taken on the recommendations of Audit	1.3.2.2	9
Audit Planning	1.4	11
Results of Audit	1.5	11
Position of local audit conducted during the year	1.5.1	11
This Report	1.5.2	11
CHAPTER-II : TAXES ON SALES, TRADE ETC.		
Tax administration	2.1	13
Budget preparation	2.2	13

Particulars	Paragraph	Page
Trend of receipts	2.3	14
Analysis of arrears of revenue	2.4	15
Assessee profile	2.5	15
Revenue per assessee	2.6	15
Arrears in assessment	2.7	16
Cost of collection	2.8	17
Impact of audit	2.9	17
Results of audit	2.10	18
Working of Recovery Offices in Sales Tax Department in Assam - a performance audit	2.11 - 2.27	19
Other audit observations	2.28	46
VALUE ADDED TAX		
Application of incorrect rate of tax resulted in short levy of tax	2.29	46
Non-conduct of scrutiny/selection of a case for assessment led to non-detection of evasion of tax	2.30	48
Excess allowance of input tax credit	2.31	49
Application of lower rate of tax	2.32	50
Non-completion of best judgment assessment	2.33	51
Irregular adjustment of TDS	2.34	52
Irregular issue of entitlement/authorisation certificate to an industrial unit resulted in undue exemption/remission of tax	2.35	53
Evasion of tax	2.36	55
Non-detection of variation between the figures of audited accounts and those furnished through returns led to evasion of tax	2.37	56
Irregular grant of exemption	2.38	57
Exemption on job work was granted though the item was not eligible for exemption	2.39	58
Determination of taxable goods as non-taxable	2.40	59
Non-detection of concealment of turnover by the assessing officers resulted in short realisation of tax	2.41	60

Particulars	Paragraph	Page
OTHER TAXES		
Irregular application of rate resulted in short levy of entry tax	2.42	61
Failure of the AO to take cognisance of the purchase turnover of a dealer prior to registration/assessment resulted in non-levy of entry tax	2.43	62
Registration of a dealer under Assam Entry Tax Act without taking into account the goods imported prior to the date of registration	2.44	63
Concealment of purchase turnover while filing returns under Assam Entry Tax Act and failure of the assessing officer to detect the same resulted in non-levy of entry tax	2.45	64
Irregular set off of loss of previous year from the assessable tax of current year resulted in short levy of agricultural income tax	2.46	65
CHAPTER-III : STATE EXCISE		
Tax administration	3.1	67
Budget preparation	3.2	67
Trend of receipts	3.3	68
Cost of collection	3.4	69
Impact of audit	3.5	69
Working of internal audit wing	3.6	70
Results of audit	3.7	71
Audit observations	3.8	71
Misclassification of India Made Foreign Liquor resulted in short realisation of excise duty	3.9	72
Non-raising of demand for recovery of excise duty	3.10	74
Non-functioning of bonded warehouse - consequent loss of revenue	3.11	75
Failure of the Superintendent of Excise to properly draw up the 'Order' on physical verification report led to possibility of recovery of revenue doubtful	3.12	77
Non-realisation of establishment charges from bonded warehouses for deployment of excise officers	3.13	79

Particulars	Paragraph	Page
Irregular cancellation of wholesale licence in respect of a bonded warehouse resulted in loss of revenue	3.14	80
Failure of the Superintendent of Excise to collect transport pass fee at revised rates led to short realisation of revenue	3.15	81
Failure of the offices of the Commissioner of Excise, Assam and Superintendent of Excise, Diphu to collect import permit fee at revised rates led to short realisation of revenue	3.16	82
Failure of the Superintendent of Excise, Diphu to collect export pass fee at revised rates led to short realisation of revenue	3.17	82
CHAPTER-IV : MOTOR VEHICLE TAX		
Tax administration	4.1	85
Budget preparation	4.2	85
Trend of receipts	4.3	86
Cost of collection	4.4	87
Impact of audit	4.5	87
Working of internal audit wing	4.6	88
Results of audit	4.7	88
Audit observations	4.8	89
Overloading of vehicles in violation of MV Act led to non-levy and non-realisation of fine	4.9	90
Absence of evidence on remittance of revenue	4.10	93
Motor vehicles tax remaining unrealised	4.11	94
Mis-appropriation of revenue	4.12	95
CHAPTER-V : MINES AND MINERALS		
Tax administration	5.1	97
Trend of receipts	5.2	98
Working of internal audit wing	5.3	99
Results of audit	5.4	99
Non-insertion of standard norms for deduction of operational utilisation in the Petroleum and Natural Gas Rules, 1959 deprived the Government of additional revenue	5.5	100

Particulars	Paragraph	Page
Absence of a system of cross verification of the monthly returns with the annual accounts of the lessee led to non-detection of short payment of royalty	5.6	102
Short realisation of royalty due to payment of royalty at varied rates	5.7	103
Non-submission of claim by Government of Assam for payment of additional royalty on crude oil	5.8	104
Non-levy of interest on delayed payment of royalty	5.9	105
Due to inaction of the Directorate of Geology and Mining, Assam, royalty from cement manufacturing industries remained unrealised	5.10	106
CHAPTER VI : OTHER NON-TAX RECEIPTS		
Results of audit	6.1	109
Assessment, levy and collection of water rates for irrigation/non-irrigation purposes in Assam - a theme audit	6.2	111
Audit observations	6.3	132
Non-realisation of forest royalty on forest produce utilised for departmental works	6.4	132
Non-deduction of value added tax and consequent overpayment to the same extent	6.5	133
Construction/improvement of highland and desiltation of water bodies -avoidable expenditure	6.6	134
Settlement of tenders for supply of feed for captive animals above the prevailing market prices resulted in excess expenditure	6.7	136
Annexures (I to V)		141-146



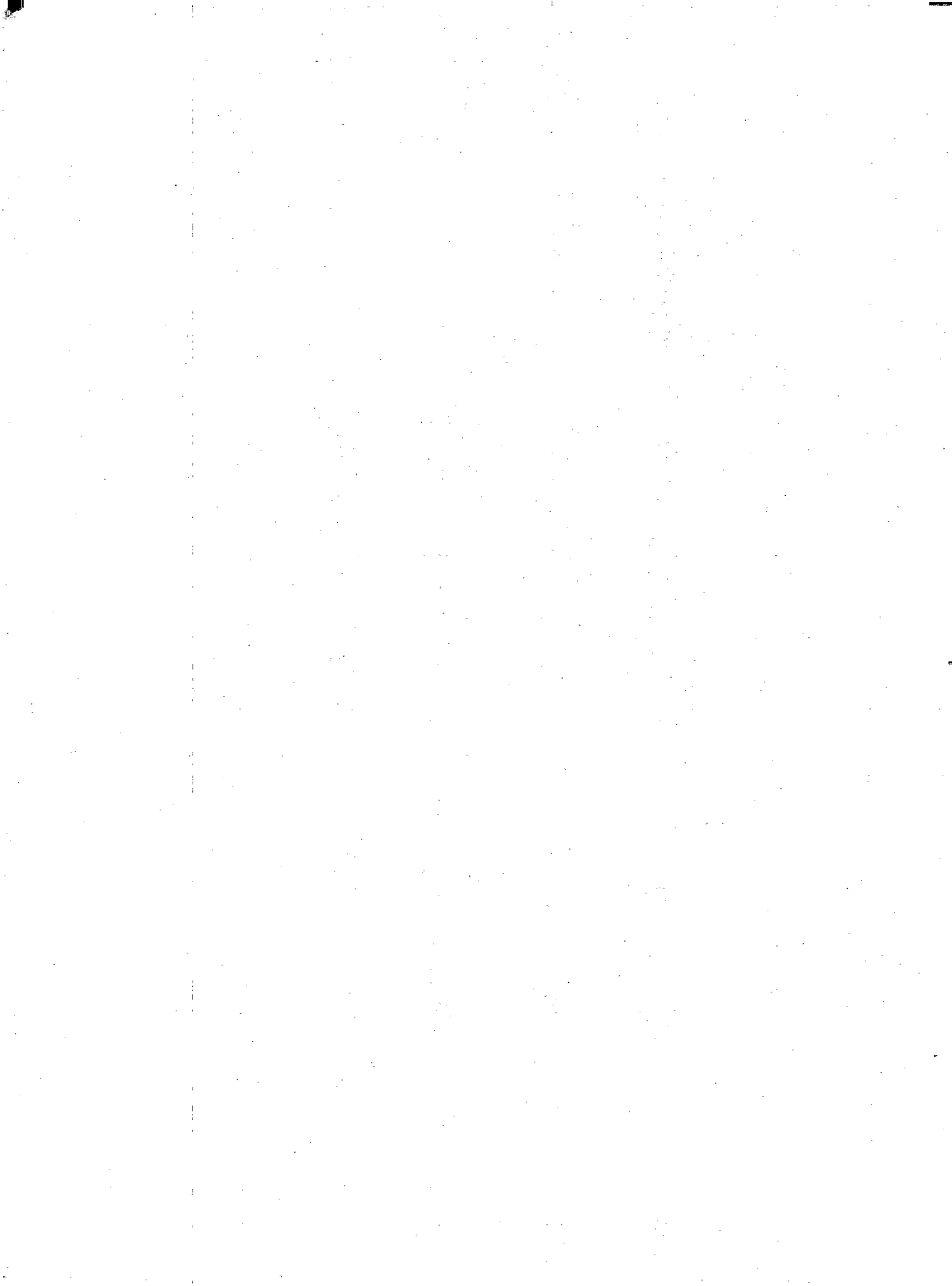
PREFACE

This Report on Revenue Sector of Government of Assam for the year ended 31 March 2012 has been prepared for submission to the Governor of Assam under Article 151(2) of the Constitution of India.

The audit of revenue receipts and expenditure accounts of State Governments is conducted under Section 13 & 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the information on the State revenues, response of the Departments towards audit, audit planning and results of audit of the State Government relating to taxes on sales, trade etc., state excise, taxes on motor vehicles, mining receipts, environment and forest, other tax and non-tax receipts of the State.

The cases mentioned in this Report are among those which came to notice in the course of test check of records during the year 2011-12 as well as those which came to notice in earlier years but could not be included in previous year's reports.

The performance audit on 'Forest Receipts' conducted during the year has been prepared as a standalone report titled 'Report of the Comptroller and Auditor General of India for the year ended 31 March 2012 (Performance audit on Forest Receipts), Government of Assam'.



OVERVIEW

This Report contains 41 paragraphs relating to non/short levy of taxes, royalty, fees, rent, interest and penalty etc., loss of revenue, irregular exemption and other irregularities. It also contains a performance audit on "Working of Recovery Offices in Sales Tax Department in Assam" and a theme audit on "Assessment, levy and collection of water rates for irrigation/non-irrigation purposes in Assam". The above cases involve monetary implication of ₹ 1,486.44 crore. Some of the major findings are mentioned below:

I. GENERAL

- The total receipts of the State for the year 2011-12 were ₹ 27,455.39 crore against ₹ 23,004.94 crore in the previous year. Of this, 38 per cent was raised by the Government through tax revenue (₹ 7,638.23 crore) and non-tax revenue (₹ 2,866.76 crore). The balance 62 per cent was received from the Government of India in the form of State's share of net proceeds of divisible Union taxes (₹ 9,283.53 crore) and grants-in-aid (₹ 7,666.87 crore).

(Paragraph 1.1)

- Failure of senior officials to ensure timely replies and accountability resulted in non-settlement of 2,721 paragraphs involving revenue implication of ₹ 935.88 crore at the end of June 2012.

(Paragraph 1.2.1)

- During the year 2011-12, only two Audit Committee meetings in respect of Environment & Forest and Transport Departments were held in which 202 paragraphs involving ₹ 16.35 crore, were settled.

(Paragraph 1.2.2)

- Test check of records of 148 units of sales/value added tax, motor vehicles, state excise, forest, other tax and non-tax receipts conducted during the year 2011-12 revealed under assessment/short levy/short demand leading to loss of revenue aggregating ₹ 1,864.50 crore in 498 cases.

(Paragraph 1.5.1)

II. TAXES ON SALES, TRADE ETC.

A performance audit on “Working of Recovery Offices in Sales Tax Department in Assam” revealed the following:

- During 2006-07 to 2010-11, the recovery of arrears was in the range of one to two *per cent* while there were 15,795 pending cases involving revenue of ₹ 1,564.31 crore as on 31 March 2011.

(Paragraph 2.11.7)

- Non-availability of information on movable and immovable properties of the certificate debtors with the Assessing Officers handicapped the Recovery Officer to take result oriented action on arrear certificates. Consequently, arrear dues of ₹ 6.94 crore remained unrealised.

(Paragraph 2.13)

- Due to non-initiation/execution of coercive measures/lack of follow up action on warrants of arrest issued, arrear dues involving ₹ 51.11 crore remained unrealised.

(Paragraph 2.15)

- Non-issue/delayed issue of inter-State arrear certificates led to the arrear dues of ₹ 2.26 crore remaining unrealised.

(Paragraph 2.16)

- Due to lack of follow up action on appeal cases, delay in finalisation of appeal cases and delay in reassessment giving effect to the orders of the appellate authorities, the arrear dues of ₹ 8.74 crore remained unrealised.

(Paragraph 2.17)

- Seven cases involving arrear dues of ₹ 4.84 crore have been disposed by the concerned Courts. Due to lack of follow up action/non-compliance of the Courts verdict, the arrear dues of the same amount remained unrealised.

(Paragraph 2.19)

- The rate of interest leviable for belated payment of arrear dues has not been reviewed for almost 100 years. Though the interest rate under Assam VAT Act was fixed as 18 *per cent* per annum, the cases under recovery proceedings still continue to be at 6.25 *per cent*.

(Paragraph 2.22)

- Due to deficiencies in the internal control mechanism, absence of internal audit and absence of a system for periodic review of the register of certificates, the higher authorities in the Department remained unaware about the deficiencies detected during the performance audit.

(Paragraph 2.24)

Other audit observations

Application of incorrect rate of tax resulted in short levy of tax of ₹ 1.44 crore on which interest of ₹ 2.32 crore was additionally leviable.

(Paragraph 2.29)

Non-conduct of scrutiny/selection of a case for assessment led to non-detection of evasion of tax of ₹ 1.33 crore.

(Paragraph 2.30)

Application of lower rate of tax resulted in short realisation of tax of ₹ 40.12 lakh including interest.

(Paragraph 2.32)

Non-completion of best judgment assessment led to evasion of tax of ₹ 25.42 lakh including interest.

(Paragraph 2.33)

Irregular application of rate resulted in short levy of entry tax of ₹ 1.10 crore.

(Paragraph 2.42)

Failure of the assessing officer to take cognisance of the purchase turnover of a dealer prior to registration/assessment resulted in non-levy of entry tax of ₹ 20.03 lakh.

(Paragraph 2.43)

III. STATE EXCISE

Misclassification of India Made Foreign Liquor resulted in short realisation of excise duty of ₹ 29.20 crore.

(Paragraph 3.9)

Non-raising of demand for recovery of excise duty of ₹ 8.75 crore on short production of liquor.

(Paragraph 3.10)

Failure of the SE to properly draw up the 'Order' on physical verification report led to possibility of recovery of revenue amounting to ₹ 2.05 crore doubtful.

(Paragraph 3.12)

IV. MOTOR VEHICLE TAXES

Overloading of vehicles in violation of MV Act led to non-levy and non-realisation of minimum fine of ₹ 518.73 crore, besides endangering public life and property.

(Paragraph 4.9)

Mis-appropriation of revenue of ₹ 5.05 lakh.

(Paragraph 4.12)

V. MINES AND MINERALS

Non-insertion of standard norms for deduction on account of operational utilisation in the Petroleum and Natural Gas Rules, 1959 deprived the Government of additional revenue of ₹ 136.31 crore.

(Paragraph 5.5)

Absence of a system of cross verification of the monthly returns with the annual accounts of the lessee led to non-detection of short payment of royalty of ₹ 26.33 crore including interest.

(Paragraph 5.6)

Non-submission of claim by Government of Assam for payment of additional royalty on crude oil – non-realisation of revenue of ₹ 2.51 crore.

(Paragraph 5.8)

VI. OTHER NON-TAX RECEIPTS

A theme audit on “Assessment, levy and collection of Water Rates for irrigation/non-irrigation purposes in Assam” revealed the following:

- Absence of a prescribed time limit for completion of assessment and issuing demand notices led to non-realisation of water rates of ₹ 50.78 crore.

(Paragraph 6.2.3)

- Government neither prescribed any mechanism for monitoring water drawn for non-irrigation purposes nor fixed the water rates for such usage despite provisions in the Assam Irrigation Act. Consequently, the Department was unaware of the volume of water used in this sector and the Government was deprived of additional sources of revenue.

(Paragraph 6.2.4)

- Loss of water in transit beyond permissible limit led to loss of revenue of ₹ 325.64 crore.

(Paragraph 6.2.8)

- Government is yet to approve and implement the State Water Policy which was required to be implemented by 2004.

(Paragraph 6.2.10)

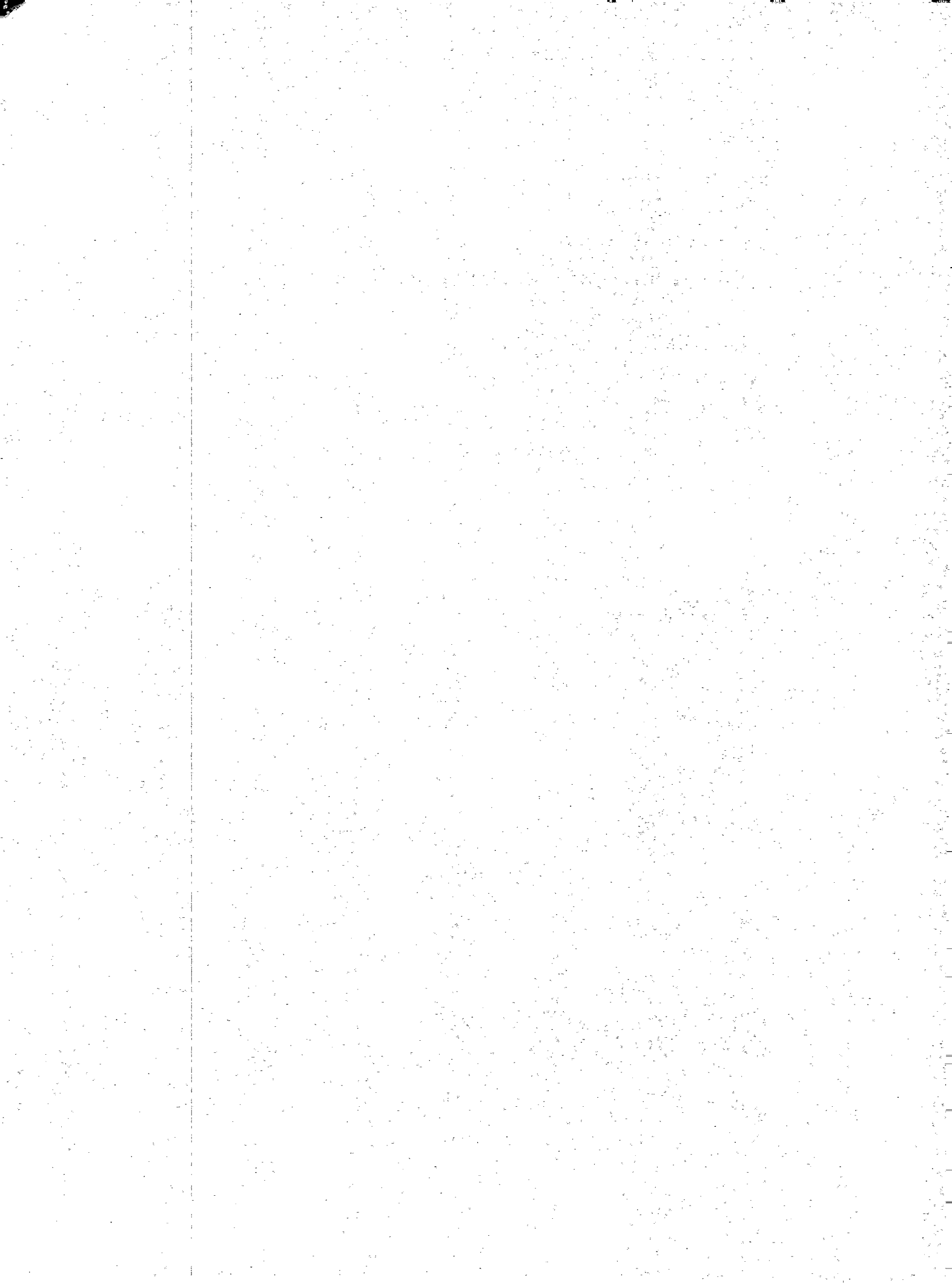
Environment and Forest Department

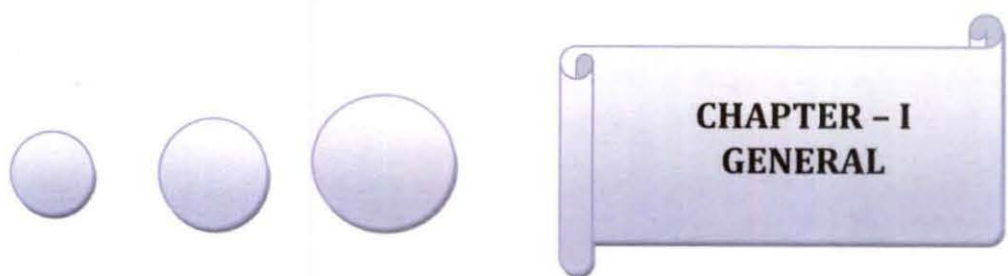
Non-realisation of forest royalty of ₹ 17.86 lakh on forest produce utilised for departmental works.

(Paragraph 6.4)

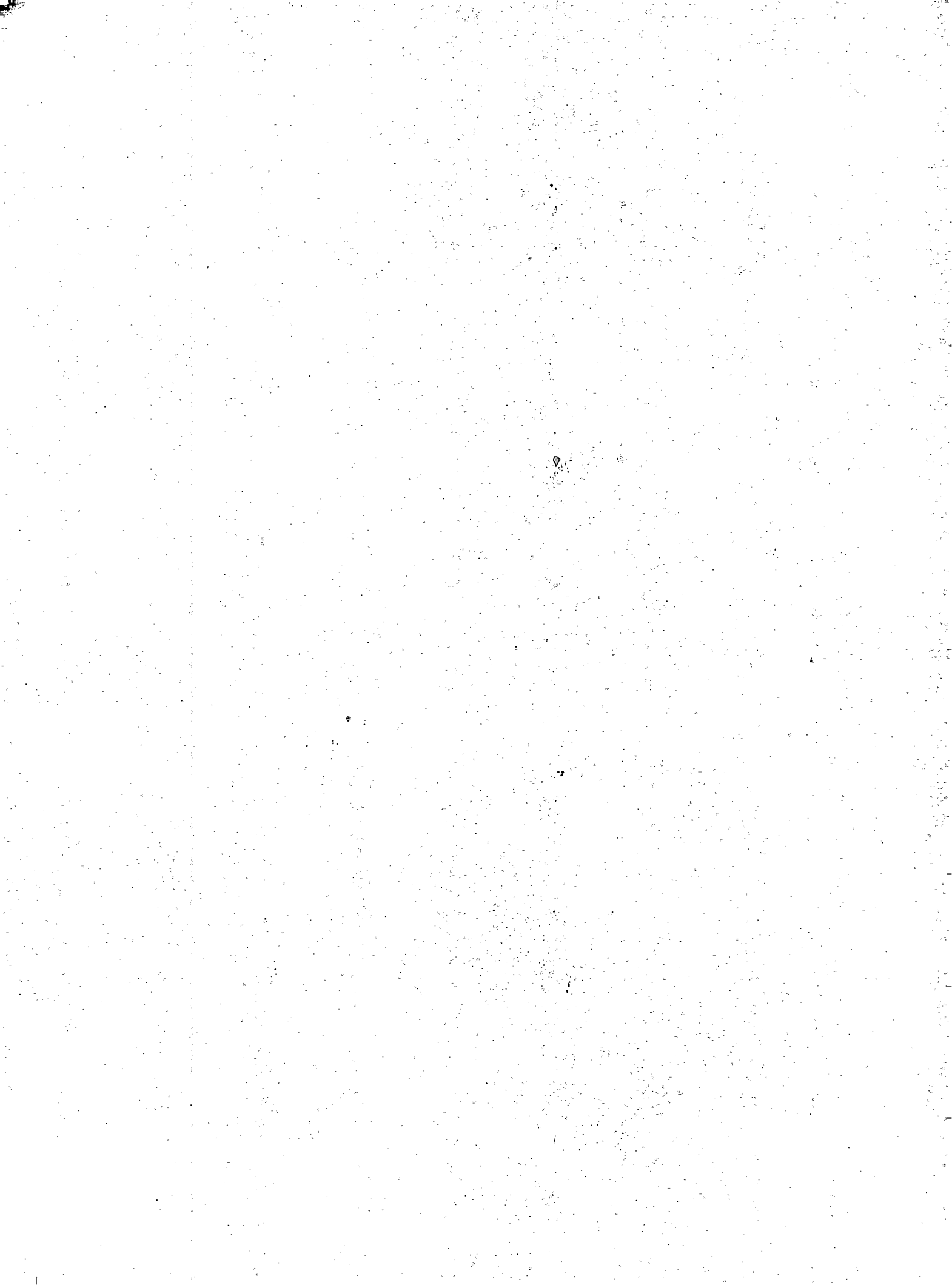
Settlement of tenders for supply of feed for captive animals above the prevailing market prices resulted in excess expenditure of ₹ 18.68 lakh.

(Paragraph 6.7)





CHAPTER - I
GENERAL





CHAPTER-I: GENERAL

1.1 Trend of Revenue

1.1.1 The tax and non-tax revenue raised by the Government of Assam during the year 2011-12, the State's share of net proceeds of divisible Union taxes and duties assigned to State and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in Table 1.

Table 1
Trend of Revenue

(₹ in crore)

Sl. No.	Particulars	2007-08	2008-09	2009-10	2010-11	2011-12
1.	Revenue raised by the State Government					
	• Tax revenue	3,359.50	4,150.21	4,986.72	5,929.84	7,638.23
	• Non-tax revenue	2,134.59	2,271.90	2,752.95	2,373.33	2,866.76
	Total	5,494.09	6,422.11	7,739.67	8,303.17	10,504.99
2.	Receipts from Government of India					
	• Share of net proceeds of divisible Union taxes and duties	4,918.21	5,189.90	5,339.53	7,968.62	9,283.53 ¹
	• Grants-in-aid	4,912.62	6,465.03	6,805.30	6,733.15	7,666.87
	Total	9,830.83	11,654.93	12,144.83	14,701.77	16,950.40
3.	Total receipts of the State Government (1 and 2)	15,324.92	18,077.04	19,884.50	23,004.94	27,455.39
4.	Percentage of 1 to 3	36	36	39	36	38

Source: Finance Accounts.

¹ Note: For details, please see statement No.11: Detailed accounts of revenue by minor heads in the Finance Accounts (Volume-2) of Government of Assam for the year 2011-12. Figures under the "share of net proceeds assigned to States" under the major heads -0020-corporation tax, 0021- taxes on income and expenditure, 0032-taxes on wealth, 0037-customs, 0038-union excise duties, 0044-service tax and 0045-other taxes and duties on commodities and services booked in the Finance Accounts under 'A- tax revenue' have been excluded from revenue raised by the State Government and included in 'States' share of divisible Union taxes' in the above table.

The above table indicates that during the year 2011-12, revenue raised by the State Government (₹ 10,504.99 crore) was 38 per cent of total receipts against 36 per cent in the preceding year. The balance 62 per cent of receipts during 2011-12 was from the Government of India.

1.1.2 Details of tax revenue raised during the period 2007-08 to 2011-12 are mentioned in Table 2.

Table 2
Tax revenue

							(₹ in crore)
Sl. No.	Head of revenue	2007-08	2008-09	2009-10	2010-11	2011-12	Percentage of increase (+)/ decrease (-) in 2011-12 over 2010-11
1.	Taxes on sales, trade etc.	2,691.43	3,110.58	3,535.26	4,318.60	5,693.96	32
2.	State excise	188.71	198.68	239.19	323.12	503.35	56
3.	Stamp duty and registration fees						
	Stamps - judicial	15.08	13.38	9.72	7.66	8.29	8
	Stamps - non-judicial	64.61	55.39	55.56	64.61	90.10	39
	Registration fees	30.22	42.40	43.18	50.57	76.76	52
4.	Taxes and duties on electricity	4.62	22.36	27.07	41.58	36.67	(-) 12
5.	Taxes on vehicles	138.62	145.21	177.26	231.99	293.70	27
6.	Taxes on goods and passengers	12.39	284.67	545.41	478.10	536.39	12
7.	Other taxes on income and expenditure – Tax on professions, trades, callings and employments	124.68	137.73	150.15	160.60	164.27	2
8.	Other taxes and duties on commodities and services	6.24	8.27	8.67	9.93	11.76	18
9.	Land revenue	79.76	113.36	116.91	141.88	139.71	(-) 2
10.	Taxes on agricultural income	3.14	18.18	78.34	101.20	83.27	(-) 18
	Total	3,359.50	4,150.21	4,986.72	5,929.84	7,638.23	29

Source: Finance Accounts.

The following are the reasons for increase/decrease in receipts during 2011-12 over those of 2010-11 as stated by the concerned department(s):

Taxes on sales/trade etc. :- The increase was attributable to increased collection of taxes on petroleum products, liquor, tobacco, bitumen, tea and increase in inter-State sale of coal etc.

State excise :- The increase was due to issue of more licences for India Made Foreign Liquor and restructuring of excise levies thereon.

Stamp duty and Registration Fees :- The increase was attributable to increase in cost of value of land/property and relating to transfer of land.

Taxes and duties on electricity :- The decrease was mainly due to less receipt of grant-in-aid by Assam State Electricity Board from Government of Assam.

Taxes on goods and passengers :- The increase was mainly due to more receipt of entry tax from Numaligarh Refinery Limited in 2011-12 compared to 2010-11.

Taxes on Agricultural Income :- The decrease over the previous year was mainly due to payment of outstanding demand tax of ₹ 13.35 crore during 2010-11 by one Kolkata based firm, increase in cost of manufacture and decrease in average auction price of tea per kilogram.

1.1.3 Details of non-tax revenue raised during the period 2007-08 to 2011-12 are mentioned in Table 3.

Table 3
Non-tax revenue

(₹ in crore)

Sl. No.	Head of revenue	2007-08	2008-09	2009-10	2010-11	2011-12	Percentage of increase (+) / decrease (-) in 2011-12 over 2010-11
1.	Petroleum	1,547.88	1,430.12	1,574.18	1,625.93	1,970.63	21
2.	Interest receipts	240.72	433.16	493.63	415.88	475.93	14
3.	Dairy development	0.09	0.04	0.18	0.20	0.22	10
4.	Forestry and wild life	75.03	115.64	160.56	131.01	152.85	17
5.	Non-ferrous mining and metallurgical industries	0.66	0.54	1.24	0.83	0.85	2
6.	Miscellaneous general services	105.03	104.98	210.88	0.01	0.24	2300
7.	Major and medium irrigation projects	0.36	0.56	0.59	0.38	0.21	(-) 45
8.	Medical and public health	7.15	7.91	7.10	8.42	10.42	24
9.	Co-operation	0.29	0.96	0.28	0.74	0.44	(-) 41
10.	Public works	2.89	3.84	3.95	3.15	3.12	(-) 1

11. Police	13.16	12.69	30.91	25.13	29.51	17
12. Other administrative services	13.57	12.77	102.06	58.89	49.31	(-) 16
13. Coal and lignite	17.88	19.20	37.54	29.35	26.34	(-) 10
14. Roads and bridges	44.08	66.90	79.86	22.62	79.19	250
15. Others ²	65.80	62.59	49.99	50.79	67.50	33
Total	2,134.59	2,271.90	2,752.95	2,373.33	2,866.76	21

Source: Finance Accounts.

Following reasons for variation were reported by the concerned department(s):

Petroleum : The increase was mainly due to increase in the rate of royalty on crude oil and production of natural gas.

Non-ferrous mining and metallurgical industries : The increase was due to collection of arrear royalty.

Major and medium Irrigation Projects : The decrease was due to the fact that most of the beneficiaries are not financially sound and their tendency is to get free services. The beneficiaries under Autonomous District Council Authorities were exempted from irrigation service charges.

Coal and lignite : The decrease was mainly due to decrease in extraction of coal.

Other departments did not inform (November 2012) the reasons for variation, despite requests.

1.2 Response of the departments/Government to audit

The succeeding paragraphs 1.2.1 to 1.2.5 discuss the response of the departments/Government to audit.

1.2.1 Failure of senior officials to ensure timely replies and accountability and protect the interest of the State Government

The Principal Accountant General (PAG) (Audit), Assam conducts periodical inspection of the Government departments to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the inspection reports (IRs) incorporating irregularities detected during such inspection not settled on the spot. The IRs are issued to the heads of offices with copies forwarded to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the PAG within one month from the date of

² Others include 29 major head of accounts.

issue of the IRs. Serious financial irregularities are separately reported to the heads of the departments and the Government.

Review of IRs issued upto December 2011 disclosed that 2,721 paragraphs involving money value of ₹ 935.88 crore relating to 805 IRs remained outstanding at the end of June 2012 as mentioned in Table 4.

Table 4

	June 2010	June 2011	June 2012
Number of outstanding IRs	1,518	871	805
Number of outstanding audit observations	4,033	2,735	2,721
Amount involved (₹ in crore)	767.23	907.46	935.88

Department-wise details of IRs, audit observations pending settlement as on 30 June 2012 and the amounts involved are mentioned in Table 5.

Table 5

Outstanding IRs and paragraphs

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1.	Finance (Taxation)	(a) Taxes on sales, trade, etc.	128	784	371.08
		(b) Taxes on agricultural income	10	47	15.58
		(c) Entry tax, Electricity duty, Entertainment tax, luxury tax, etc.	89	130	5.16
2.	Excise	State excise	66	240	17.00
3.	Revenue	Land revenue	115	321	66.94
4.	Transport	Taxes on motor vehicles	63	204	13.74
5.	Stamps and registration	Stamp duty and registration fees	65	124	3.05
6.	Mines and Minerals	Non-ferrous mining and metallurgical industries	11	55	267.30
7.	Environment and Forest	Forestry and wild life	258	816	176.03
Total			805	2,721	935.88

First replies required to be received from the heads of offices within one month from the date of issue of the IRs were not received in respect of 145 IRs issued upto December 2011. Large pendency of IRs due to non-receipt of the replies is indicative of the fact that the Heads of offices and Heads of the departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the audit in the IRs.

The Government may take suitable steps to install an effective system to ensure prompt and appropriate remedial action on audit observations as well as take appropriate action against officials/officers who do not send replies to the IRs/paragraphs as per the prescribed time schedules and also do not take action to recover amount realisable/outstanding demand in a time bound manner.

1.2.2 Departmental audit committee meetings

The Government set up audit committees to monitor and expedite the progress of settlement of IRs and paragraphs contained in the IRs. Details of audit committee meetings held during 2011-12 and paragraphs settled are mentioned in Table 6.

Table 6
Position of Audit Committee Meetings

(₹ in crore)

Name of the Department	Number of meetings held	Number of paragraphs settled	Amount involved
Environment and Forest (Revenue)	1	188	16.35
Total	1	188	16.35

Besides, one meeting was arranged by Transport Department to discuss and settle audit observations in the IRs on expenditure accounts wherein 14 paragraphs were settled. Audit Committees of the respective departments do not appear concerned about the huge accumulation of audit observations contained in the IRs. Though the matter was taken up for holding the meetings on a regular basis with the concerned departments/Government, no response was received from the other Departments except the above two Departments.

The Government may make it mandatory for the Departments to hold at least one audit Committee meeting every year.

1.2.3 Response of the departments to the draft audit paragraphs

The Finance Department issued instructions (March 1986) to all the departments to furnish replies to draft audit paragraphs within two months. The PAG's office forwards draft paragraphs containing major irregularities prepared on the basis of audit observations to the Secretaries of the concerned departments through demi-official letters drawing their attention to audit findings with the request to send their response within six weeks.

Draft paragraphs/performance audits included in the Report of the Comptroller and Auditor General of India (Revenue Sector) for the year ended 31 March 2012 were forwarded to the Secretaries of the departments between June and September 2012 through demi-official letters with the request to furnish their replies/comments within six weeks. Out of 41 draft paragraphs, two performance audits³ and a theme audit⁴, replies either part or full, of the

³ (i) 'Working of Recovery Offices in Sales Tax Department in Assam' featured in this Report and (ii) Forest Receipts presented as a standalone Report.

⁴ Assessment, levy and collection of Water Rates for irrigation/non-irrigation purposes in Assam.

departmental officers in respect of 31 draft paragraphs *i.e.* 76 per cent had been received (November 2012). Replies of the Government/Department have been received in respect of both the performance audits and the theme audit. The response of Excise Department to any of the draft paragraphs included in this Report has not been received, despite reminders and requests at the level of the Department/Government. The replies received have been appropriately incorporated at respective places in the Report. The fact of non-receipt of replies from the Government is indicated at the end of the relevant paragraph included in this Audit Report.

Thus, similar to the inaction of the Departments in furnishing timely replies to the IRs, the highest officers of the Excise Department and the Government did not send their responses on the draft paragraphs in time, due to which the paragraphs had to be incorporated without their response. This underlines the need for the Departments and Government to be more responsive to audit observations in the interest of State revenue.

1.2.4 Follow up on Audit Reports – summarised position

The Finance Department issued (May 1994) instructions according to which the departments are required to furnish explanatory notes indicating action taken or proposed to be taken and submit Action Taken Note (ATN) to the Assembly Secretariat with a copy to the PAG's office, in respect of paragraphs and performance audits included in the Audit Reports within 20 days from the date of receipt of the Audit Report of respective year.

The Audit Report (Revenue Receipts) for the year ended 31 March 2011 was tabled in the State Legislative Assembly on 30 March 2012. Though the time limit for furnishing ATNs had elapsed, no ATN in respect of any Department had been received.

1.2.5 Compliance with earlier Audit Reports

During the years from 2001-02 to 2010-11, the departments/Government accepted audit observations involving revenue implication of ₹ 402.84 crore (out of the total money value of ₹ 3,752.97 crore) of which only ₹ 16.19 crore had been recovered till March 2012 as mentioned in Table 7.

Table 7
Compliance with earlier Audit Reports

(₹ in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2001-02	43.32	11.77	0.06
2002-03	97.69	51.54	0.34
2003-04	413.82	3.35	0.22
2004-05	71.89	4.93	1.24
2005-06	920.60	1.63	0.04

2006-07	186.03	2.17	0.17
2007-08	241.77	16.25	12.35
2008-09	1,155.59	0.54	0.00
2009-10	385.66	299.39	1.41
2010-11	236.60	11.27	0.36
Total	3,752.97	402.84	16.19

The amount recovered was thus only 4.02 *per cent* of the accepted amount while the Government/departments have accepted only 10.73 *per cent* of the cases included in the Audit Reports. An analysis of above table indicates that while the position of acceptance of cases has increased, percentage of recovery decreased from 4.13 *per cent* during 2010-11 (which also indicated a decrease from 15.67 *per cent* achieved in 2009-10) to 4.02 *per cent* in 2011-12. Thus, the recovery of revenue in accepted cases is registering a decreasing trend which the Government needs to look into.

The Government may issue appropriate instructions to the concerned Departments to install a time-bound mechanism for recovery of revenues atleast in accepted cases which may be monitored by a nodal Department as nominated by the Government.

1.3 Effectiveness of the mechanism for dealing with the issues raised by Audit

In order to analyse the effectiveness of system for addressing the issues highlighted in the IRs/Audit Reports by the departments/Government, the action taken on the paragraphs and performance audits included in the Audit Reports of the last five years by one department has been evaluated and results included in this Audit Report.

The succeeding paragraphs 1.3.1 to 1.3.2.2 discuss the performance of the **Mines and Minerals Department** in dealing with cases detected in the course of local audit conducted during the last five years and also the cases included in the Audit Reports for the years 2006-07 to 2010-11.

1.3.1 Position of Inspection Reports

The summarised position of IRs issued during the last five years, paragraphs included in these reports and their status as on March 2012 are shown in Table 8.

Table 8
Position of Inspection Reports

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2007-08	8	40	97.08	1	7	18.03	-	3	6.22	9	44	108.89
2008-09	9	44	108.89	1	10	44.83	-	6	47.33	10	48	106.39
2009-10	10	48	106.39	1	3	18.15	1	4	-	10	47	124.54
2010-11	10	47	124.54	-	-	-	-	-	-	10	47	124.54
2011-12	10	47	124.54	1	8	142.76	-	-	-	11	55	267.30

1.3.2 Assurance given by the Department/Government on the issues highlighted in the Audit Reports

1.3.2.1 Recovery of accepted cases

The position of paragraphs pertaining to the Mines and Minerals Department included in the Audit Reports of the last five years, those accepted by the Department and the amount recovered are mentioned in Table 9.

Table 9
Status of recovery of accepted cases

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year (2011-12)	Cumulative position of recovery of accepted cases
2006-07	-	-	0	-	Nil	
2007-08	2	9.81	2	9.81	7.59	7.59
2008-09	1	12.50	0	0	Nil	
2009-10	1 ⁵	334.91	1	7.21	Nil	0.04
2010-11	-	-	-	-	Nil	
Total	4	357.22	3	17.02	7.59	7.63

It is noticed that the Department could recover ₹ 7.63 crore which is 44.83 per cent of accepted amount of ₹ 17.02 crore.

1.3.2.2 Action taken on the recommendations of Audit

The performance audits conducted by the PAG are forwarded to the concerned departments/Government with a request to furnish their replies. These performance audits are also discussed in the exit conference and the department's/Government's views received during the exit conferences and at

⁵ Review on Mining Receipts - assessment, levy and collection of royalty, fees and rent.

other points are included while finalising the performance audits for the Audit Reports.

The following paragraph discusses the issues highlighted in the performance audit on the Mines and Minerals Department that featured⁶ in the Audit Report 2009-10 including the recommendations and action taken by the Department/ Government.

Year of Audit Report	Name of the performance audit	Recommendations	Action taken by the Department/ Government
2009-10	Mining Receipts - Assessment, levy and collection of royalty, fees and rent	<p>The Government may consider instituting a system for cross-checking of the returns of the lessees with the primary records of the department as well as other records of the lessees such as annual accounts etc.</p> <p>The Government may consider compiling all orders detailing functions and responsibilities of departmental staff and making a departmental manual.</p> <p>The Government may consider introducing computerised system covering the entire gamut of activities of the Department and introducing online submission of returns and payment thereof to detect evasion and late payment.</p> <p>The Government may consider ensuring internal audit of the directorate.</p> <p>The Government may consider establishing vigilance enforcement/ protection squads/wings to enforce search and seizure, detection of fraud, illegal mining and evasion.</p>	The Department stated that they are yet to take steps towards the recommendations.

Thus, it is seen that the Department is yet to formulate concrete proposals for addressing the recommendations of performance audit, though more than two years have elapsed after the placement of the Audit Report 2009-10 in the State Legislature.

⁶ During the last five years 2005-06 to 2009-10, only one performance audit was conducted.

1.4 Audit Planning

While preparing the annual Audit Plan before the commencement of the year, the unit offices under various departments are categorised as high, medium and low risk units according to their revenue position, risks involved, past trends of audit observations, media reports and other parameters. The audit plan is prepared on the basis of risk analysis which *inter-alia* include critical issues in Government revenues and tax administration *i.e.*, budget speech, White Paper on State finances, reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earning during the past five years, features of 'tax administration', audit coverage and its impact during past five years, etc.

During the year 2011-12, the audit universe comprised of 641 auditable units, of which, 148 units were audited which is 23 *per cent* of the total auditable units. Details are shown in **Annexure-I**. Besides the compliance audit mentioned above, two performance audits and one theme audit as mentioned in paragraph 1.2.3 of this Chapter were also taken up.

1.5 Results of Audit

1.5.1 Position of local audit conducted during the year

Test check of records of 148 units of taxes on sales, trade etc., state excise, motor vehicles, forest and other departmental offices during 2011-12 revealed underassessment/short levy/loss of revenue aggregating ₹ 1,864.50 crore in 498 cases. During the course of the year, the departments concerned accepted underassessment and other deficiencies of ₹ 22.81 crore involved in 67 cases pointed out during 2011-12 and earlier years. The departments collected ₹ 8.73 crore during 2011-12.

1.5.2 This Report

This report contains 41 paragraphs (selected from the audit observations detected during the local audit referred to above and during earlier years which could not be included in earlier reports), one performance audit titled 'Working of Recovery Offices in Sales Tax Department in Assam' and one theme audit titled 'Assessment, levy and collection of water rates on irrigation/non-irrigation purposes'. The performance audit on 'Forest Receipts' has been prepared as a separate stand alone Report titled 'Report of the Comptroller and Auditor General of India for the year ended 31 March 2012, Performance Audit of Forest Receipts, Government of Assam'. The paragraphs, performance audit and the theme audit incorporated in this Report contain audit observations on multiple issues including irregular fixation of rates, deprival of revenue, short/non-levy/realisation of tax,

duty and interest/penalty etc., involving financial effect of ₹ 1,486.44 crore. The departments/ Government have accepted audit observations involving ₹ 128.43 crore out of which ₹ 7.20 crore has been recovered. The replies in the remaining cases have not been received (November 2012). These are discussed in the succeeding Chapters II to VI.

TAX RECEIPTS



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





CHAPTER – II: Taxes on sales, trade etc.

2.1 Tax administration

The Finance (Taxation) Department is responsible for the administration of taxes on sales, trade etc., in the State. The Commissioner of Taxes is the Head of the Department and responsible for administration of all taxation measures and for general control and supervision over the zonal and unit offices and the staff engaged in collection of taxes and to guard against evasion of taxes. He is also the authority for disposing of revision petitions under all Taxation Acts and laws besides providing clarification under Assam Value Added Tax Act, 2003. He is assisted by one Additional Commissioner of Taxes, five Joint Commissioners of Taxes, 15 Deputy Commissioners of Taxes, 25 Assistant Commissioners of Taxes, 165 Superintendents of Taxes, 320 Inspectors of Taxes and other officials in discharging day to day functions both at the Headquarters and regional/unit levels. In addition, there is one Deputy Commissioner of Taxes (Statistics) assisted by one Superintendent of Taxes and two Inspectors of Taxes, two Information Technology Officers and one Finance and Accounts Officer. The Commissionerate of Taxes has one Head Office/Commissioner's Office, 10 Zonal Offices, five Appellate Offices, 34 unit Offices, 23 recovery Offices and 10 check posts.

The functioning of the Department is governed by the provisions of the Assam Value Added Tax Act, 2003 (w.e.f. 01.05.2005); the Central Sales Tax Act, 1956; the Assam Entry Tax Act, 2008 (w.e.f. 01.06.2008); the Assam Professions, Trades, Callings and Employments Taxation Act, 1947; the Assam Tax on Luxuries (Hotels and Lodgings Houses) Act, 1989; the Assam Amusement and Betting Taxation Act, 1939; the Assam Electricity Duty Act, 1964; the Assam Taxation (on Specified Land) Act, 1990; the Assam Agriculture Income Tax Act, 1939 and various administrative orders issued from time to time.

2.2 Budget preparation

Assam Budget Manual lays down that the estimates of revenue receipts should include/project the actual demand including arrears due for past years and the probability of their realisation during the year. According to the Assam Financial Rules, the Finance Department is required to prepare the estimates

of revenue after obtaining necessary information/data from the respective Department/ Government.

The budget estimates of the Finance (Taxation) Department were prepared taking into account the actual collection of the last seven months of the previous year and provisional collection of the first five months of the current financial year. Besides, growth over actual receipts of the previous year as well as expected realisation of tax due to adoption of certain measures for augmentation of revenue was also taken into consideration.

This indicated that though the provisions of Budget Manual were not considered by the Department in letter and spirit, the budgeting was being done methodically. However, in respect of estimation in realisation of arrear tax, it is observed that the Department excluded the past arrears.

2.3 Trend of receipts

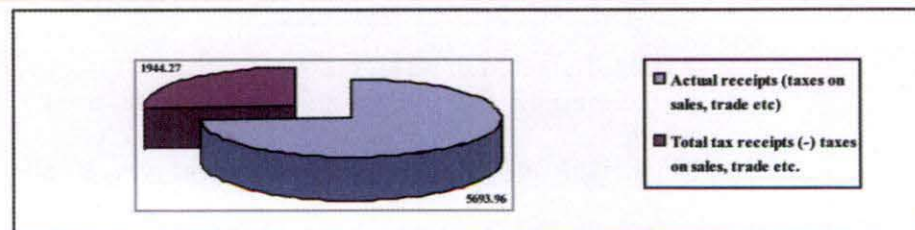
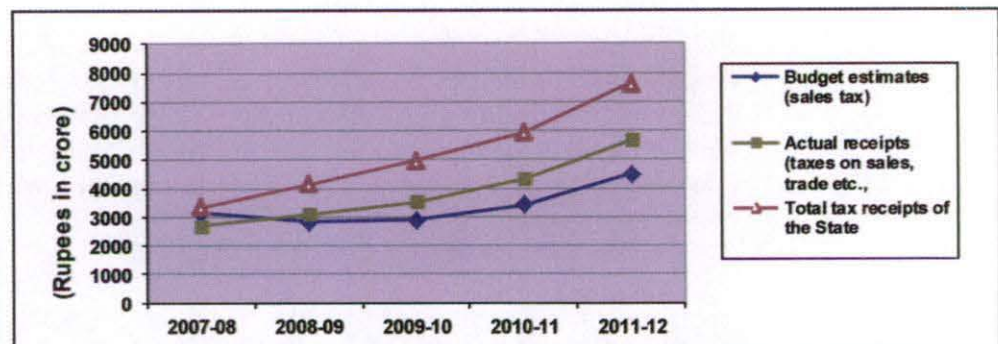
Details of budget estimates, actual receipts from taxes on sales, trade etc. during the period 2007-08 to 2011-12 along with total tax receipts during the same period are exhibited in the following Table 1 and graphs.

Table 1
Trend of receipts

(₹ in crore)

Year	Budget estimates	Actual receipts (Taxes on sales, trade etc.)	Variation excess (+) shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual VAT receipts vis-à-vis total tax receipts
2007-08	3,129.51	2,691.43	(-) 438.08	(-) 14	3,359.50	80
2008-09	2,820.69	3,110.58	289.89	10	4,150.21	75
2009-10	2,900.00	3,535.26	635.26	22	4,986.72	71
2010-11	3,409.00	4,318.60	909.60	27	5,929.84	73
2011-12	4,491.00	5,693.96	1,202.96	27	7,638.23	75

Source: Finance Accounts and Departmental figures.



Position of taxes on sales, trade vis-a-vis total tax receipts during 2011-12

Thus, collection under sales tax/VAT contributed substantially to the tax revenues of the State during the last five years (ranging between 71 and 80 per cent). Overall collection of revenue under sales tax/VAT also showed an increasing trend.

2.4 Analysis of arrears of revenue

The position of arrears of revenue during the period 2007-08 to 2011-12 is depicted in Table 2.

Table 2
Arrears of revenue

(₹ in crore)

Year	Opening balance of arrears	Amount added during the year	Amount collected during the year	Closing balance of arrears
2007-08	681.71	9.60	53.19	638.12
2008-09	638.12	51.88	22.77	667.23
2009-10	667.23	1,221.91	111.25	1,777.89
2010-11	1,777.89	803.48	110.55	2,470.82
2011-12	2,470.82	(-) 362.18	81.56	2,027.08

Source: Figures as furnished by the Department.

The Department stated (September 2012) that the arrears of revenue had increased drastically in 2008-09, 2009-10 and 2010-11 because assessments made under Assam Taxation (on Specified Land) Act, 1990 and Assam Entry Tax Act, 2008 could not be realised due to stay orders from Hon'ble Gauhati High Court and Supreme Court.

2.5 Assessee profile

The total number of assessees under the Assam Value Added Tax Act during 2011-12 was 1,49,007. It was observed that the Department/Commissionerate did not maintain records classifying dealers as large tax payers and small dealers separately. The Department/Commissionerate also did not ascertain the number of dealers who were required to file their returns and number of returns received during the year. On being requested for this information, the Department stated that it would have to be obtained from the field units. This is indicative of weak management information system as the Department should have obtained this information from time to time and prepare a State-wise database of dealers which might be required at any point of time for decision making or framing of appropriate and sound taxation policy.

2.6 Revenue per assessee

Position of total revenue collected *vis-à-vis* number of assessees and revenue per assessee for the years 2007-08 to 2011-12 are shown in Table 3.

Table 3
Revenue per assessee

(₹ in crore)

Year	Number of assessees	Revenue collected	Revenue per assessee
2007-08	1,18,279	2,691.43	0.02
2008-09	89,630	3,110.58	0.03
2009-10	1,06,925	3,535.26	0.03
2010-11	1,25,215	4,318.60	0.03
2011-12	1,49,007	5,693.96	0.04

Source: Figures as furnished by the department.

Revenue per assessee remained at the level of ₹ 3 lakh during 2008-09 to 2010-11 and in 2007-08 it went down to ₹ 2 lakh and increased to ₹ 4 lakh in 2011-12.

2.7 Arrears in assessment

Details of pending assessment cases at the beginning of the year, cases becoming due for assessment during the year, cases finalised during the year and number of cases pending as of March 2012 as furnished by the Department are mentioned in Table 4.

Table 4
Arrears in assessment

(Number of cases)

Name of Acts	Opening balance as on 1 April 2011	Cases added for assessment during 2011-12	Total assessment due during the year 2011-12	Cases disposed during 2011-12	Balance as on 31 March 2012
Sales Tax (AGST/VAT/CST)	14,446	9,912	24,358	14,187	10,171
APTC&ET ¹	32,002	44,248	76,250	41,799	34,451
Entry Tax	2,011	2,273	4,284	2,054	2,230
Luxury (Hotel & Lodging), 1989	411	544	955	401	554
Electricity duty	1,541	541	2,082	388	1,694
Specified Land	833	684	1,517	544	973
Luxury Tax, 1997	2	23	25	5	20
Agricultural Income Tax	1,083	711	1,794	703	1,091
Total	52,329	58,936	1,11,265	60,081	51,184

Source: Figures as furnished by the department.

The Department could complete assessment of only 54 per cent of the total cases due for assessment during 2011-12 and there were 51,184 assessments yet to be completed by the Department. The Department did not have the information on age-wise break up of arrear assessments/ assessments completed during the year to ensure that assessments do not

¹ Assam Professions, Trades, Callings and Employment Taxation.

get time barred leading to loss of revenue due to non-completion of assessments within the stipulated timeline.

It is recommended that the Department may prepare an action plan for completion of pending assessments and also ensure that no assessment becomes time barred causing loss to the State exchequer.

2.8 Cost of collection

The gross collection of taxes on sales, trade etc., expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2009-10 to 2011-12 along with the relevant all India average percentage of expenditure on collection relating to the preceding years are mentioned in Table 5.

Table 5
Cost of collection

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the previous year
2009-10	3,535.26	42.69	1.20	0.88
2010-11	4,318.60	73.10	1.69	0.96
2011-12	5,693.96	43.99	0.77	0.75

Source: Finance Accounts and departmental figures.

Percentage of expenditure on gross collection in respect of the last two years was higher than the all India average cost of collection while during 2011-12, it came closer to the all India average which is encouraging.

2.9 Impact of audit

During 2006-07 to 2010-11, Audit has through inspection reports (IRs), pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 671.80 crore through 1,185 audit observations. Of these, the department accepted audit observations in 241 cases involving revenue of ₹ 12.75 crore and had since recovered ₹ 3.09 crore (24.24 per cent) in 180 cases. The details are shown in Table 6.

Table 6
Impact of audit

(₹ in crore)

Year of Inspection Report	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2006-07	115	173	61.28	14	1.79	5	0.17
2007-08	135	302	110.86	9	0.19	5	0.12
2008-09	77	235	63.82	10	0.77	7	0.26
2009-10	120	237	86.35	85	1.50	85	1.50
2010-11	98	238	349.49	123	8.50	78	1.04
Total	545	1,185	671.80	241	12.75	180	3.09

It is recommended that the Department may take immediate action to install a mechanism to pursue, monitor and ensure prompt recovery of revenue involved in accepted cases.

2.10 Results of audit

Test check of records of 78 units relating to taxes on sales, trade etc., during 2011-12 revealed irregular grant of exemption, non/short levy of tax/interest, turnover escaping assessment and other irregularities involving revenue of ₹ 199.09 crore in 201 cases, details of which are in Table 7.

Table 7
Results of Audit

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	“Working of Recovery Offices in Sales Tax Department in Assam” – A performance audit	01 ²	120.52
2.	Irregular grant of exemption	59	35.00
3.	Non/short levy of tax/interest	65	21.35
4.	Turnover escaping assessment	19	12.10
5.	Irregular adjustment of tax	31	6.22
6.	Other irregularities	26	3.90
	Total	201	199.09

During the course of the year, the Department accepted underassessment and other deficiencies with revenue implication of ₹ 9.98 crore in 32 cases, of which, an amount of ₹ 2.04 crore was realised in 13 cases during 2011-12.

A performance audit on “**Working of Recovery Offices in Sales Tax Department in Assam**” involving revenue implication of ₹ 120.52 crore and a few illustrative cases with money value of ₹ 8.73 crore are mentioned in the succeeding paragraphs.

² This consists of 681 cases.

2.11 Working of Recovery Offices in Sales Tax Department in Assam

Highlights

During 2006-07 to 2010-11, the recovery of arrears was in the range of one to two *per cent* while there were 15,795 pending cases involving revenue of ₹ 1,564.31 crore as on 31 March 2011.

(Paragraph 2.11.7)

Non-availability of information on movable and immovable properties of the certificate debtors with the Assessing Officers handicapped the Recovery Officer to take result oriented action on arrear certificates. Consequently, arrear dues of ₹ 6.94 crore remained unrealised.

(Paragraph 2.13)

Due to non-initiation/execution of coercive measures/lack of follow up action on warrants of arrest issued, resulted in arrear dues involving ₹ 51.11 crore remained unrealised.

(Paragraph 2.15)

Non/delayed issue of inter-state arrear certificates led to the arrear dues of ₹ 2.26 crore remaining unrealised.

(Paragraph 2.16)

Due to lack of follow up action on appeal cases, delay in finalisation of appeal cases and delay in reassessment giving effect to the orders of the appellate authorities, the arrear dues of ₹ 8.74 crore remained unrealised.

(Paragraph 2.17)

Seven cases involving arrear dues of ₹ 4.84 crore have been disposed of by the concerned Courts. Due to lack of follow up action/non-compliance of the Courts verdict, the arrear dues of the same amount remained unrealised.

(Paragraph 2.19)

The rate of interest leviable for belated payment of arrear dues has not been reviewed for almost 100 years. Though the interest rate under Assam VAT Act was fixed as 18 *per cent* per annum, the cases under recovery proceedings still continue to be at 6.25 *per cent*.

(Paragraph 2.22)

Due to deficiencies in the internal control mechanism, absence of internal audit and absence of a system for periodic review of the register of certificates, the higher authorities in the Department remained unaware about the deficiencies detected during the performance audit.

(Paragraph 2.24)

2.11.1 Introduction

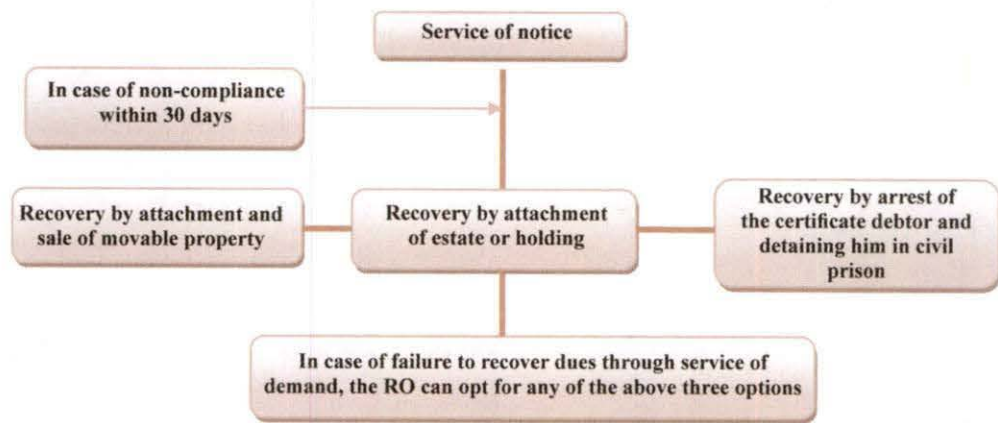
The Sales Tax Department of Government of Assam (Government) is responsible for levy and collection of taxes pertaining to different Taxation Acts³ (the Acts). The provisions of the Assam General Sales Tax (AGST) Act, 1993 and Assam Value Added Tax (AVAT) Act, 2003 being the mother Acts, are applicable *mutatis mutandis* in respect of assessment, levy and collection of tax under the Acts.

Taxes on sales, trade etc., are the major sources of tax revenue of the State and constituted 72.89 per cent⁴ of the total tax revenue raised during 2010-11. The AGST Act, 1993 was in existence up to 30 April 2005 and with effect from 1 May 2005 the AVAT Act was introduced. Under both the Taxation Acts, every registered dealer liable to pay tax is required to file monthly/quarterly/annual return, as the case may be, along with proof of payment of tax due from him. Assessments are required to be completed within three years (AGST Act) and within five years (AVAT Act) from the year to which the assessment related.

Under the AGST/AVAT Act, tax assessed is required to be paid by the assessee in a manner and within the time specified in the notice of demand. Any dealer not satisfied with the demand raised could prefer an appeal with the Appellate Authority or in a Court of Law. In case of failure on the part of the assessee to pay the amount within the date mentioned in the demand notice, the Department is empowered to recover the amount as arrear of land revenue. For this purpose, the Assessing Officer (AO) is required to issue Arrear Certificate (AC) to the officers of the Taxation Department, who are appointed by the Government under the Assam Land and Revenue Regulation, 1886 (ALRR) and the Bengal Public Demands Recovery Act, 1913 (BPDR Act) (as adopted by the Government of Assam) to act as Recovery Officer (RO), who is also known as *Bakijai* Officer. The BPDR Act provides that after an AC is issued by the AO to the RO, the sum can be recovered as public demand (certificate process) as depicted in the following diagram:

³ (1) Assam General Sales Tax Act, 1993/Assam Value Added Tax Act, 2003; (2) The Central Sales Tax (CST) Act, 1956; (3) The Assam Taxation (on Specified Lands) Act, 1990 (ATSL); (4) The Assam Tax on Luxuries (Hotels and Lodging Houses) Act, 1989; (5) The Assam Professions, Trades, Callings and Employments Taxation Act, 1947; (6) The Assam Amusement and Betting Tax Act, 1939; (7) The Assam Electricity Duty Act, 1964; (8) The Assam Agricultural Income Tax Act, 1939 and (9) The Assam Entry Tax Act, 2008.

⁴ Tax revenue = ₹ 5,929.84 crore; sales tax receipts = ₹ 4,318.60 crore



The ROs are to submit report to the Commissioner of Taxes (CT) on collection of arrears, arrears pending collection due to stay orders issued by different Courts and arrears under recovery proceeding through monthly/quarterly/annual returns.

2.11.2 Organisational set up

The Finance (Taxation) Department is responsible for administration of sales tax in the State. The CT is the Head of the Department and responsible for administration of all tax measures and general control and supervision over the zonal and unit offices. He is also the authority for disposing of revision petitions under the Acts. He is assisted by two Additional Commissioners, five Joint Commissioners, ten Zonal Deputy Commissioners and five appellate authorities. There are 34 unit offices and 23 recovery offices headed by the Assistant Commissioner of Taxes/ Superintendents of Taxes. While officers of the units are responsible for assessments and realisation of taxes under the Acts, the ROs are responsible for execution of arrear certificates for recovery of arrears of taxes.

2.11.3 Scope of audit

With a view to ascertaining the extent of arrears, adequacy and effectiveness of the system and procedure prevailing in the Department to recover the tax dues, a performance audit in respect of revenue locked up under various categories of certificate cases under the Acts *vis-à-vis* working of the Recovery Offices in Sales Tax Department was conducted between January and May 2012 with reference to the records available in the office of the CT and subordinate offices under his control. Eight⁵ out of 23 recovery offices were selected by applying statistical sampling technique (simple random sampling without replacement). However, in order to have a proper representation of the State, Guwahati Recovery Office being the capital district was also selected on the basis of number of dealers involved in recovery proceedings, which was, otherwise, not selected through the sampling method applied.

⁵ Dibrugarh, Diphu, Jorhat, Karimganj, Nagaon, North Lakhimpur, Tezpur and Tinsukia.

2.11.4 Audit Objectives

The performance audit was conducted with a view to ascertaining:

- the status of timely issue of arrear certificates by the AOs to the ROs in prescribed format for realisation of arrear dues;
- whether the rules and procedures prescribed in the Act & Rules for recovery were adequate and were being followed scrupulously;
- the extent of efficiency and effectiveness of the system of collecting arrears of tax as per the existing Act and Rules; and
- whether adequate internal control and monitoring mechanism existed for prompt realisation of arrear dues.

2.11.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Taxation Department for providing necessary information and records for audit. An Entry Conference was held on 10 February 2012 wherein scope, objective and methodology of audit were explained to the Secretary, Finance (Taxation) Department and the CT, Assam. The CT explained the measures adopted by the Department for expediting recovery of arrears in respect of certificate cases. The draft performance audit report was forwarded to the Government/Department in August 2012 and was discussed in the exit conference held in October 2012. The Secretary, Finance (Taxation) Department represented the Government and the Department was represented by CT, Assam. The views of the Government/Department have been included in the relevant paragraphs.

Audit findings

2.11.6 Trend of revenue and extent of arrears

As per Section 25 and 44 of the AGST Act and the AVAT Act, any amount that remains unpaid after the due date of payment in pursuance of the notice issued by the AO under different provisions of the Acts shall be recoverable as arrear of land revenue. For the purpose of recovery of any amount as arrear of land revenue, the provisions of the ALRR and BPDR Act are applicable throughout the State and the tax authorities appointed by the Government for the purpose of recovery of tax, interest and penalty have been empowered to act as RO under the Act concerned. On receipt of an arrear certificate from AO, if RO is satisfied that the demand is recoverable, the latter may sign a certificate to be served upon the defaulter.

The position of total amount of tax in arrears and arrears under recovery proceedings as made available by the office of the CT is as in Table 8.

Table 8

(Position of total tax in arrears and arrears under recovery proceedings)

(₹ in crore)

Year	Total revenue collection under the Sales Tax Department	Total arrear under Sales Tax Department	Percentage of arrears to total revenue	Arrear under recovery proceeding	Percentage of arrears under the recovery proceedings to the total tax in arrears
2006-07	2,783.24	681.71	24.49	419.06	61
2007-08	2,691.43	638.12	23.71	427.08	67
2008-09	3,110.58	667.23	21.45	456.34	68
2009-10	3,535.26	1,777.89	50.43	491.31	28
2010-11	4,318.60	2,470.82	57.21	1,564.31	63

During the period 2006-07 to 2010-11, while receipts of the department increased from ₹ 2,783.24 crore to ₹ 4,318.60 crore (55.16 per cent), the arrears during the same period had increased manifold from ₹ 681.71 crore to ₹ 2,470.82 crore (262.44 per cent).

The Department attributed the reasons for abnormal increase in arrears during 2009-10 and 2010-11 to non-realisation of tax in respect of assessments made under the CST Act, 1956, Assam Entry Tax Act, 2008 and Assam Taxation on Specified Land Act, 1990 following stay order of Hon'ble Gauhati High Court against levy of tax on crude oil and natural gas bearing land. Though the position of arrears under recovery proceedings was reviewed by higher authorities monthly/annually, the overall arrears increased steadily from ₹ 419.06 crore in 2006-07 to ₹ 1,564.31 crore at the end of 2010-11 registering an increase of 273.29 per cent.

2.11.7 Trend of recovery

It was observed that no norm/target for disposal of certificate cases or target for recovery of arrears were fixed by the Government/Department. As per information furnished by the office of the CT, the collections made by the 23 recovery offices during the period 2006-07 to 2010-11 are shown in Table 9:

Table 9

(Collections made by 23 recovery offices during the period 2006-07 to 2010-11)

(₹ in crore)

Year	2006-07		2007-08		2008-09		2009-10		2010-11	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
Opening balance as on 1 April	17,603	495.85	16,216	419.06	16,340	427.08	15,976	456.34	13,562	491.31
Arrear certificates received during the year and filed by RO	814	45.81	1,124	67.83	689	50.64	445	77.40	4,002	1,152.14
Proceeding closed for other reasons ⁶	1,752	117.97	736	53.78	707	10.83	723	22.63	1,350	57.84
Total	16,665	423.69	16,604	433.11	16,322	466.89	15,698	511.11	16,214	1,585.61
Recoveries made during the year	242	3.96	264	6.03	346	10.55	234	8.63	419	21.30
Balance at the end of the year ⁷	16,216 ⁸	419.06	16,340	427.07	15,976	456.33	13,562 ⁹	491.31	15,795	1,564.31
Percentage of collections		0.93		1.39		2.26		1.69		1.34

The abrupt increase in collection of arrears during 2010-11 was mainly due to increase in receipts from Coke Industries and recovery as per the direction of the Gauhati High Court. Thus, during 2006-07 to 2010-11, the recovery of arrears was in the range of one to two *per cent* of the total recoverable arrears, while the arrear dues remaining unrealised at the end of March 2011 stood at 15,795 cases involving ₹ 1,564.31 crore.

⁶ Assessment set aside by the appellate authorities, arrear certificates withdrawn by the AOs etc.

⁷ Out of 15,795 certificate cases involving ₹1,564.31 crore, recovery of arrears in 504 certificate cases involving ₹1,144.03 crore stayed by DCT/JCT Appeal, Assam Board of Revenue (ABR), Civil/Other Courts, Hon'ble High Courts and Supreme Court.

⁸ 207 certificate cases amounting to ₹ 67.46 lakh have been transferred to newly created offices of Hailakandi and Halfong which started functioning only during the year 2010-11.

⁹ Due to reallocation of jurisdiction of two unit offices, 1,902 cases involving ₹ 1,117.22 lakh have been transferred from the RO, Tinsukia to RO, Dibrugarh during 2009-10 and such transferred cases have been reported by the concerned unit offices only in 2010-11.

After this was pointed out, the Department stated (October 2012) that the percentage of collection under recovery if compared with the arrear amount excluding the arrears stayed by the different courts would be about five *per cent* during 2010-11. It was, however, stated that efforts are being made to increase the collection above the targeted norm of 10 *per cent*.

The small amount of recoveries underlined the need for strengthening the system of management of arrears, as discussed in the succeeding paragraphs.

2.11.8 Age-wise pendency of recovery cases

Age-wise details of pendency of recovery certificates furnished by the Department are given in Table 10:

Table 10

(Time-wise details of pendency of recovery certificates)

Periodicity of arrears	No. of cases	Amount (₹ in crore)	Percentage of arrears to total dues remaining unrealised
Demand more than 1 year old	1,495	1,009.95	64.56
Demand more than 3 years old	1,346	103.52	6.62
Demand more than 5 years old	3,205	277.96	17.77
Demand more than 10 years old	9,749	172.88	11.05
Total	15,795	1,564.31	100

Thus, out of the total 15,795 cases involving ₹ 1,564.31 crore in the entire State, ₹ 450.84 crore in respect of 12,954 cases remained unrealised for more than five years. Since the Department did not lay down any norm/target for disposal of arrear certificates, recovery of such arrears with the passage of time may not materialise.

Recommendation 1:

The Department may take prompt action by laying down norms/targets for clearance of arrear certificates and monitor the progress at all levels, periodically in respect of cases which are more than five years old to prevent any risk of these arrears not being recovered due to lapse of time.

After this was pointed out, the Department stated (October 2012) that in view of the audit findings, instructions have already been issued to the officers concerned to make special efforts on the cases pending for long periods of time.

2.11.9 Categories of recovery

Out of the 15,795 cases involving ₹ 1,564.31 crore pending recovery in the entire State as on 31 March 2011 as mentioned in the preceding paragraph, 12,402 cases involving ₹ 1,290.44 crore were pending in nine Recovery offices selected for this performance audit. The detailed break-up of number of cases and revenue involved locked up under various categories as of March 2011 are given in Table 11:

Table 11

(Position of number of cases and amount locked in certificate cases in nine test checked districts)

(₹ in crore)

ACs pending within State		ACs Issued to other State		Cases pending with BIFR		Cases pending with Appellate Authority		Cases pending with ABR		Cases pending with Other Courts, High Court/ Supreme Court		Total	
Cases	Amt.	Cases	Amt.	Cases	Amt.	Cases	Amt.	Cases	Amt.	Cases	Amt.	cases	Amt.
11,871	374.33	79	10.40	41	30.13	280	28.24	23	70.21	108	777.13	12,402	1,290.44

An analysis of the 12,402 cases involving ₹ 1,290.44 crore in the nine test checked Recovery Offices indicated that a major portion *i.e.* ₹ 808.41 crore¹⁰ or 63 *per cent* pertained to cases pending against State Government Departments and cases pending in Hon'ble Gauhati High Court. Hence, these were kept outside the ambit of audit scrutiny. Thus, actual recoverable amount in the nine test checked districts selected for the performance audit worked out as ₹ 482.03 crore in 12,318 cases. Further, scrutiny of recovery files¹¹ selected on the basis of involvement of arrear dues revealed that the number of the cases were pending recovery mainly due to (i) absence of provision for reviewing of 'register of certificates'; (ii) non-furnishing of requisite information by AOs to ROs; (iii) delay in issue of arrear certificates; (iv) non-execution of warrant of arrests and inadequate follow up action; (v) non-issue/pursuance of inter-State arrear certificates; (vi) inaction in pursuance of the cases with the Assam Board of Revenue (ABR), Official

¹⁰ (i) 81 certificate cases involving ₹ 51.72 crore relates to State Government Departments, (ii) one certificate case in respect of M/s Hindustan Petroleum Corporation Ltd. involving ₹ 54.67 crore was stayed first by the ABR (November 2007) and then by the Hon'ble Gauhati High Court (March 2008), which is still pending, and

(iii) two certificate cases in respect of M/s Oil India Ltd. Duliajan involving ₹ 702.02 crore was stayed by the Hon'ble Gauhati High Court in August 2010 against levy of tax on crude oil and natural gas bearing land under the Specified Land Act, 2005.

¹¹ In the nine selected Recovery Offices (Dibrugarh, Diphu, Guwahati, Jorhat, Karimganj, Nagaon, North Lakhimpur, Tezpur and Tinsukia).

Liquidators (OL) and Board of Industrial Financial Reconstruction (BIFR); (vii) delay in disposal/lack of follow up action in appeal cases; (viii) lack of monitoring and pursuance of cases pending in High/Supreme Court(s). Observations raised in audit relates to 681 cases involving arrears of ₹ 120.35 crore (24.97 per cent when compared to the total sample size) under various categories (as broadly shown in **Annexure – II**) are discussed in the following paragraphs:

2.12 Absence of provision for review of ‘register of certificates’

It was noticed that the Recovery Offices have been maintaining registers of certificate cases as prescribed under the BPDR Act¹². However, neither the BPDR Act nor any executive instruction of the CT, Assam provides for carrying out periodic review of pending cases. Consequently, the cases remained unattended for a long time. There exists a system of periodic return to be furnished by ROs to the CT for pending cases. But, in the absence of a well laid down system of periodic review and reporting, such cases could not be brought to the notice of CT. This was the principal reason for piling up of arrear certificates year after year without any effective step being taken by the Department to recover the dues and arrest accumulation of the cases as discussed in subsequent paragraphs.

2.13 Non-furnishing of requisite information by assessing officers to ROs

As per Section 25 and 44 of the AGST and AVAT Acts, in respect of any amount that remains unpaid after the due date of payment in pursuance of the notice, the AO is required to send requisition for a certificate in the prescribed form to the RO, giving full particulars of the defaulter such as name and address of the certificate debtor, amount of public demand for which the certificate is to be signed, period for which such demand is due and particulars of assets etc. for realisation of arrear dues.

It was noticed that 900 arrear certificates involving ₹ 308.50 crore were issued by the AOs between 2006-07 and 2010-11 in Guwahati RO. Scrutiny revealed that in 133 out of 900 cases involving ₹ 6.94 crore, the AOs did not mention the requisite information such as whereabouts of the Certificate Debtor (CD), source of realisation of dues and particulars of movable/immovable properties etc. of the CD. In absence of these basic details, RO was handicapped in taking result oriented action on the basis of these arrear certificates devoid of essential data. Though references were made by RO to AOs

for furnishing particulars of the debtors, the requisite information was not made available by the AOs to enable the RO to

¹² Clause 79 of Schedule II attached to BPDR Act.

realise the dues. As a result, revenue of ₹ 6.94 crore remained unrealised for periods ranging from 1 to 6 years. Evidently, vital items of information which were missing in these cases were not available with the AOs as well which underlines the need for seeking declaration of assets, properties including details of bank accounts and names of partners alongwith their assets and bank accounts at the time of registration of dealers.

After this was pointed out, the Department stated (October 2012) that in the application format for registration of dealers under the AVAT Act, it is made mandatory to furnish particulars as suggested by Audit along with the present and permanent address of the applicants and other partners, Directors, *Karta*, etc. It was further stated that in respect of the insufficient particulars of the CDs in the cases pointed out by Audit, the AOs have been directed to provide complete particulars of the CDs to ROs so that proper action can be initiated to realise the arrear dues.

2.14 Non-realisation of arrear dues due to delay in issue of arrear certificates

As per Section 26 of AGST and 45 of the AVAT Acts, in respect of any amount that remains unpaid after the due date of payment in pursuance of the notice issued by the AO under different provisions of the Acts, shall be recoverable as an arrear of land revenue. Scrutiny revealed that there was no provision in the Acts/ Rules laying down a time frame for sending the arrear certificates by AOs to the ROs. However, CT Assam issued guidelines (July 1997) to the Assistant Commissioner of Taxes/ Superintendents of Taxes specifying that if the demand remained unrealised within a period of three months, AO should send the cases to the RO for realisation of the demand through certificate process.

It was noticed that tax dues of ₹ 91.99 lakh against six dealers¹³ were in arrears for the assessment periods between 1993-94 and 2002-03 in the offices of Guwahati and Jorhat ROs under the AGST Act. Consequently, arrear certificate cases were instituted against CDs and referred to ROs between February 2004 and September 2008 (*i.e.* after delays ranging between 5 and 10 years) for recovery of the arrear dues. However, no notice was served as none of the CDs were available at their given addresses. Warrants of arrest were issued after a lapse of three to six years and consequently, the same remained un-executed, due to non-availability of the CDs.

Thus, due to considerable delays in conversion of arrear dues into certificate cases, arrear demand of ₹ 91.99 lakh was not realised. The possibility of recovery now appears remote.

¹³ M/s Debsons Pvt. Ltd., M/s Global Tele System, M/s Green field Tea Co., M/s Jahirul Islam, M/s S A Enterprise and M/s Sharma Tea Co.

After this was pointed out, the Department stated (October 2012) that one dealer (M/s Jahirul Islam) has started making payment. In respect of M/s Sharma Tea Co., it was stated that in absence of proper address and details of the property held by CD, no stringent action could be taken. In respect of the remaining four cases, no specific reply has been received (November 2012).

2.15 Non-execution of warrant of arrest and inadequate follow up action

2.15.1 As per Section 14 of BPDR Act, RO may order execution of a certificate by arresting the CD and detaining in civil prison. The CT, Assam in May 2007 instructed the ROs to take up the matter regarding non-execution of warrant of arrest by police with the Superintendents of Police and Deputy Commissioners of the District concerned.

In office of Guwahati RO, it was noticed that during 2006-07 to 2010-11 the RO sent¹⁴ warrant of arrests in respect of 366 certificate cases involving ₹37.03 crore pertaining to periods between 1996-97 and 2009-10 to different police stations for arrest of the CDs and effecting recovery of dues specifying the dates within which such warrants were to be executed. Of this, an amount of ₹ 0.61 crore was only realised during 2006-07 and 2010-11 in 59 out of 366 certificate cases by executing warrants of arrest. In the remaining 307 cases, neither the warrants of arrest were executed nor any report on action taken, if any, was sent by the police authorities to the RO. The matter of non-execution of warrants of arrest by the police authorities was also not taken up by RO with the Superintendent of Police or the Deputy Commissioner of the district concerned (March 2012) though there were instructions of CT, Assam to this effect. Thus, due to absence of follow up action despite executive instruction of CT, arrear dues of ₹ 36.42 crore remained unrealised for periods ranging from 1 to 15 years.

2.15.2 In other eight selected ROs, it was noticed that 107 certificate cases involving ₹ 15.86 crore were instituted (between February 2001 and April 2010) by ROs as the defaulters failed to pay the arrear dues for different periods between 2000-01 and 2010-11. Scrutiny of recovery files revealed that out of ₹15.86 crore, an amount of ₹ 3.24 crore only was realised through service and pursuance of demand (block diagram at para 2.11.1). No coercive measure was taken by the ROs in the remaining cases to take up the matter with the police authorities for issue of warrants for arrest as per the BPDR Act, except issue of reminders to defaulters intermittently. As a result, arrear dues amounting to ₹12.62 crore remained unrealised for periods ranging from 1 to 11 year(s) even after institution of certificate cases as given in Table 12:

¹⁴ As the defaulters failed to pay the arrear dues inspite of reminders.

Table-12
(Arrear dues realisable)

(₹ in crore)

Name of the Recovery office	Total numbers of certificate cases	Certificate cases issued during the periods	Amount involved	Amount realised	Balance realisable amount
Tezpur	20	May 2006 to May 2010	2.04	0.39	1.65
The Department stated (October 2012) that in seven cases, warrant of arrest have been issued which could not be executed. In respect of four cases, the dealers are not traceable. In remaining cases, the dealers are making part payments.					
Nagaon	17	March 2005 to August 2009	2.05	0.07	1.98
The Department stated (October 2012) that warrants have been issued against the CDs which could not be executed due to non-availability of the CDs.					
North Lakhimpur	4	November 2005 to November 2008	0.98	0.01	0.97
The Department stated (October 2012) that in one case ₹ 50,000 has been recovered. Recovery of balance amount and replies in the remaining cases have not been received (November 2012).					
Karimganj	17	February 2001 to January 2005	1.66	0.06	1.60
The Department stated (October 2012) that in case of one CD involving ₹ 1.03 crore, the firm has reported to be insolvent and has no movable or immovable property. Hence, scope of recovery is remote.					
Jorhat	18	May 2001 to February 2009	4.25	1.88	2.37
Dibrugarh	13	June 2001 to October 2009	2.54	0.65	1.89
Tinsukia	18	April 2006 to December 2010	2.34	0.18	2.16
In respect of the remaining cases under Karimganj, Jorhat, Dibrugarh and Tinsukia ROs, the Department stated (October 2012) that action has been initiated for recovery of dues as per audit observations and these are in various stages. An amount of ₹ 86.94 lakh has been recovered from 15 dealers till date.					
Total	107		15.86	3.24	12.62

2.15.3 It was noticed that in eight certificate cases in the offices of Guwahati, Nagaon and Tezpur ROs, arrear dues amounting to ₹ 2.07 crore were not realised due to the lack of follow up action as detailed in Table 13:

Table 13

(Government revenue remaining unrealised due to lack of follow up action)

Sl. No.	Name of the dealer	Year of transaction and provision of Acts	Date of passing assessment order	Date of institution of certificate case	Dues (₹ in lakh)	Remarks
1.	M/s Barduar Tea and Timber Co., Guwahati	1998 to 2005 (Under the A.T.S.L Act)	N.A	October 2008	41.47	The CD had denied (January 2009) his tax liability claiming that the certificate proceeding was not initiated properly, {prescribed Court fee as required under BPDR Act, was not attached and the assessment periods 1998 and 1999 were time barred since demand notice was issued (2007) after a lapse of eight years}. Thus, due to delay in institution of certificate case (October 2008) in respect of 1998 and 1999, led to the recovery becoming time barred and non-initiation of timely action to rectify the defects and issue fresh demands, the arrear dues remained unrealised. In the meantime, demands pertaining to the period upto 2003 has further become time barred.

2.	M/s Bogidhala Tea Co.	2003 to 2006 (Under the A.T.S.L Act)	N.A	August 2008	32.13	The CD had denied (September 2009) his tax liability claiming that the assessments were completed without any basis. Though three years have elapsed, the Department had not taken any further action on the matter.
3.	M/s Hotel Chilarai Regency, Guwahati	1996 to 2002 (Under the Assam Luxuries Taxation Act)	N.A	November 2003	41.12	The CD had denied his tax liability. Warrant of arrest was issued in October 2004 which could not be executed. The defaulter-issued (September 2006) a cheque for ₹ 1 lakh which was dishonoured by bank. Though nine years have elapsed, the Department had not made any effort to recover the dues of ₹ 41.12 lakh, except issue of one reminder.
4.	M/s Hotel Indiraj, Guwahati	1997 to 2002 (Under the Assam Luxuries Taxation Act)	N.A	October 2003	15.80	A show cause notice was issued in August 2009 indicating as to why warrant of arrest should not be issued for non-payment of dues. Though no reply was furnished by the dealer, no further action was initiated to recover the arrear dues of ₹ 15.80 lakh.
5.	M/s Prag Electricals Ltd., Guwahati	1998-99 to 1999-2000 (Under the AGST Act)	N.A	February 2005	35.38 and 5.02	Demand for ₹5.02 lakh for 1999-2000 was stayed by the Joint CT (appellate authority) in 2005 as the dealer filed a revision petition against the order of assessment. No other records regarding disposal of appeal case were made available to audit. The reason for non-realisation of balance dues of ₹35.38 lakh for 1998-99 was not on record.

In respect of the above five cases, the Department stated (October 2012) that efforts are being made to realise the arrear dues.

6.	M/s Dhullic Tea estate, Tezpur	2004 to 2005 ¹⁵ (Under the A.T.S.L Act)	N.A	February 2007	29.91 and 20.14	Arrear dues of ₹ 29.91 lakh was liquidated by AO in March 2009 under the Assam Taxation (Liquidation of Arrear Dues Rules), 2000. However, no action was initiated by the RO to recover the balance dues of ₹ 20.14 lakh.
----	--------------------------------	--	-----	---------------	-----------------	---

The Department stated (October 2012) that ₹ 3 lakh has been recovered out of ₹ 20.14 lakh.

7.	M/s Food corporation of India, Nagaon	2003-04 (Under the AGST Act)	N.A	March 2008	21.32	The CD informed RO that a revision petition would be filed before Joint CT, Assam against order passed by the AO. Neither the revision petition was filed as evident from the case records nor any action was initiated to recover the arrear dues of ₹ 21.32 lakh.
----	---------------------------------------	------------------------------	-----	------------	-------	---

The Department stated (October 2012) that the case would be reviewed for further action.

¹⁵ Under ATSL Act, assessment year is based on 'calendar year', while the others are on 'financial year'.

In the case of sl. nos. 5 and 6, though a portion of the dues (₹ 37.51 lakh) were under appeal/liquidated as detected by Audit through scrutiny of individual files, these were not mentioned in the registers maintained by the ROs. Consequently, the registers and the reports/returns prepared on the basis of the same did not depict the true and correct picture of arrears in the State.

Recommendation 2:

It is recommended that the Department may issue instructions to the ROs for instituting a system for reviewing the registers at periodic intervals for identification of long pending cases and initiation of prompt follow up action.

2.16 Non-issue/pursuance of inter-State arrear certificates

Under section 12 of the BPDR Act, in a case where a defaulter has shifted his business/residence out of the State, an AC is required to be sent to the District Collector of the concerned State for arranging recovery of Government dues.

Scrutiny revealed that in three cases there were either delays in issuing inter-State ACs or these were not issued resulting in non-recovery of arrear dues of ₹ 2.26 crore as discussed in the following table.

Sl. No.	Name of the dealer	Assessment periods/provision of Acts	Date of assessment order	Arrear dues (₹ in crore)
1.	M/s Baron Electronics PVT. Limited, Guwahati.	1998-99 AGST and CST Act.	April 2000 and February 2004	0.88

The certificate cases were instituted in May 2002 and April 2004 as the defaulter failed to pay the dues. Demand notice was issued but was not served as the dealer closed down business at Guwahati. It was noticed that an inter-State certificate was issued only in January 2012 after a lapse of more than eight to ten years from the date of institution of certificate case. The amount has remained unrealised till date.

2.	M/s BPL limited, Guwahati	2003-04 and 2004-05 AGST Act.	May 2005 and then revised in March 2008	0.77
----	---------------------------	-------------------------------	---	------

The certificate case instituted in April 2009 (as the dealer did not pay the dues) was not realised as the dealer had closed down business in the State. It was noticed that an inter-State certificate was issued to the concerned office in Kolkata for effecting recovery in December 2011 after a lapse of two years from the date of institution of certificate case. This belated action of the AO to assess/reassess the dealer and delay in issue of inter-State certificate did not help in ensuring recovery of arrears.

3.	M/s Tirupati International, Guwahati	1997-98 to 1999-2000 AGST Act.	July 2004	0.61
----	--------------------------------------	--------------------------------	-----------	------

As the dealer failed to pay taxes, certificate case was instituted in December 2004 and demand notice was issued accordingly. However, the demand notice, so issued, was not served as the defaulter was not traceable at his given address and had left for Hyderabad which was evident from a letter issued by the RO to CT, Assam. However, no inter-State certificate, as required under the provision of the BPDR Act, was issued to the District Collector of the concerned State to recover the dues, though the address of the defaulter was available in the records. Thus, due to non-initiation of action by the RO to send the AC to the concerned State for recovery of dues of ₹ 0.61 crore, the possibility of recovery now appears to be remote as more than seven years have elapsed from the institution of certificate case.

After this was pointed out, the Department stated (October 2012) that reminders have been issued to the concerned States for expediting action on the cases.

Recommendation 3:

Government may consider evolving a practical yet timebound monitoring system for issuing inter-State ACs without delay and regularly co-ordinating with their counterparts in other States to whom the certificate cases have been issued.

2.17 Non- realisation of arrear dues due to lack of follow up action on appeal cases, delay in finalisation of appeal cases and delay in reassessment

2.17.1 As per Section 33 and 79 of the AGST and AVAT Acts, any dealer/person who is aggrieved by an order passed by AO may appeal to the appellate authority against such order within sixty days from the date of receipt of the assessment order. The AOs are required to make fresh assessment on the basis of the order passed by the appellate authority.

Scrutiny revealed that though, in the following cases, appeal petitions were dismissed by the appellate authorities, the ROs concerned remained unaware of the disposal of the appeal cases as these were not monitored or followed up by them. Consequently, arrear dues of ₹ 1.94 crore remained unrealised as discussed in the following table:

Sl No.	Name of the dealer	Assessment periods/ provision of Acts	Date of assessment order	Arrear dues (₹ in crore)
1.	M/s Castrol India Limited, Tezpur	2002-03 AGST Act	N.A	1.78

A certificate case was instituted in November 2008 as the defaulter failed to pay the arrear dues. However, the certificate proceeding was stayed (December 2008) as the dealer filed an appeal before the appellate authority against the assessment order. The appellate authority, however, rejected the appeal in March 2010 as the dealer failed to furnish necessary documents in support of discount sales. It was noticed that no further action was initiated by RO to realise the arrear dues of ₹ 1.78 crore though the appeal was disposed in March 2010 and thus the arrear dues remained unrealised.

2.	M/s Sanjay Trading Company, Tezpur.	2006-07 AVAT Act.	N.A	0.12
----	--	----------------------	-----	------

A certificate case was instituted in November 2008 as the defaulter failed to pay the arrear dues. However, the certificate proceeding was stayed (October 2010) as the dealer filed an appeal before the appellate authority against the assessment order. Thereafter the RO did not take any initiative to ascertain the position of the appeal case. However, verification of the records of the Assistant Commissioner of Taxes, Tezpur, revealed that the appeal petition was dismissed in January 2010 and the appellate authority had upheld the assessment order. As such, due to lack of coordination between two unit offices, the Department was not able to recover the arrear dues of ₹ 0.12 crore till date.

After this was pointed out, the Department stated (October 2012) that the CD has approached the ABR which has stayed the case. Further development has not been reported (November 2012).

3.	M/s National Building Construction Corporation Limited, North Lakhimpur.	1998-99 to 2001-02 AGST Act	N.A	0.04
----	--	--------------------------------	-----	------

AC was issued by the Superintendent of Taxes, North Lakhimpur in December 2005 which was returned by the RO in September 2010 as the defaulter had closed down his business. However, cross check by Audit with the records of the Superintendent of Taxes, North Lakhimpur revealed that the dealer had filed an appeal before the appellate authority against the assessment order and the defaulter paid ₹ 4.11 lakh as per orders of the appellate authority. The appeal was finally disposed of in July 2008 with a direction to the dealer to pay the balance amount of ₹ 4.38 lakh. However, no further action was initiated by AO to realise the arrear dues. Thus, due to lack of coordination between two offices, arrear dues of ₹ 4.38 lakh remained unrealised even after finalisation of appeal in July 2008.

After this was pointed out, the Department stated (October 2012) that fresh arrear certificate has been issued against the CD. Further development has not been reported (November 2012).

2.17.2 It was observed that prior to introduction of AVAT Act, taxation laws of the State did not prescribe any time limit for admitting/disposing appeal cases by appellate authorities. However, CT issued instructions in January 1997 to the appellate/revisonal authorities to make sincere efforts to dispose of the appeal/revision petitions within three months from the date of filing.

Scrutiny revealed that despite the instructions of CT, Assam to ensure clearance of the appeal petitions, arrears of ₹ 1.14 crore in respect of 23 cases were pending before the Departmental appellate authorities for more than three months as discussed in the following paragraph:

2.17.2.1 In the offices of Diphu and Nagaon ROs, it was noticed that realisation of arrear tax in respect of 23 certificate cases pertaining to 11 dealers¹⁶ under RO, Diphu and four dealers¹⁷ under RO, Nagaon (instituted

¹⁶ Shri Adesh Pada Gupta, Shri Bura Englang, Shri Bura Sing Tara, M/s Cement Corporation of India, M/s Hills Youth Enterprise, M/s Highland Products Pvt. Ltd., M/s Karbi Valley Plantation Pvt. Ltd., Shri Kareng Rongpi, M/s Lahorijan and Nirmal Kumar Tea Estate, Shri Netram Renghag and Shri Sarim Teren.

¹⁷ M/s Assam Co-operative Jute Mills Ltd., M/s Chapanala Tea Estate, M/s Haulti Tea Estate and M/s Laxmi Enterprises.

between April 1992 and January 2007) were pending due to non-finalisation of appeal cases (the dates of passing of assessment orders were not available in the recovery files neither could be furnished by the RO, Diphu, though called for). Though 3 to 21 years had passed, neither the cases (as mentioned in footnote 16 & 17) were disposed of nor any action was taken by the ROs to pursue the concerned AOs to get the stay orders of the appellate authorities vacated, reasons for which was neither on record nor furnished, though called for. Thus, arrear dues of ₹ 1.14 crore remained unrealised for a period ranging from 3 to 21 years.

Recommendation 4:

The CT, Assam may consider requesting the appellate authorities to expedite disposal of the cases pending with emphasis on the cases against which ACs have been issued.

2.17.3 During test check of the recovery files of a dealer in Guwahati RO, it was noticed that M/s Kailash Chandra Pareek was liable to pay arrears of assessed tax of ₹ 5.66 crore for the periods 1999-2000 to 2002-03. It was also noticed that tax, interest and penalty together amounting to ₹ 4.82 crore were levied (November 2003) on suppressed turnover of ₹ 13.85 crore. The dealer, being aggrieved, filed an appeal on 17 January 2004. The appellate authority set aside (14 July 2004) the assessment order and directed (27 August 2004) the concerned AO to make fresh assessment after giving opportunity to the appellant for production of documents. The AO finalised assessment on 28 November 2005 (after 15 months) and levied tax including interest and penalty of ₹ 5.66 crore, which was also not paid by the dealer. A certificate case was, thus instituted in March 2006 (after four months) and warrant of arrest was issued in February 2007 (after 11 months) which was not executed by the Officer-in-charge of the police station as the defaulter had closed down business and could not be traced at his given address. On the basis of information obtained by the RO that the dealer had relocated to Rajasthan, a reference was made (August 2007) to the CT, Rajasthan to make an enquiry regarding business activity of the dealer at Jaipur. However, while sending the reference, proper address/place of business of the dealer was not mentioned, due to which no action could be taken by the Taxation Department of Rajasthan as reported by the Deputy Commissioner, Jaipur in October 2007. Thus, inordinate delay at various stages, especially at the stage of re-assessment on appeal cases conducted in November 2005 allowed ample opportunity to the dealer to wind up the business and become untraceable. It is apparent from the above that there is every possibility that Government has lost revenue of ₹ 5.66 crore.

After this was pointed out, the Department stated (October 2012) that the matter has been taken up by the RO with the AO for ascertaining the whereabouts of the dealers. Further development has not been reported (November 2012).

2.18 Non-realisation of arrear dues due to inaction in pursuing the cases with Assam Board of Revenue, Official Liquidators and BIFR

2.18.1 As per Section 33 and 80 of the AGST and AVAT Acts, any person who is aggrieved by an order passed by the appellate authority may appeal to the Appellate Tribunal against such order within sixty days from the date of receipt of such order. As per provision of the AVAT Rules, the Assam Board of Revenue (ABR) shall act as Tribunal.

2.18.1.1 It was noticed that the dealer M/s Patel Brothers, was liable to pay arrears of assessed tax¹⁸ of ₹ 2.01 crore for the assessment periods 1998-99 to 2001-02 and certificate case was issued in March 2005 in Guwahati RO to recover the arrear dues. However, the dealer filed an appeal before the appellate authority against the assessment orders which was dismissed by the appellate authority in July 2005. Being aggrieved, the dealer filed an appeal before ABR in January 2006. Verification of the records of the CT, Assam revealed that the appeal petitions were dismissed by ABR in August 2008 while observing that there was loss of revenue due to submission of fake declaration form 'C' by the appellant. Though more than three years have passed from the date of disposal of appeal petition by ABR, no further action has been taken by the RO to follow up and recover arrear dues of ₹ 2.01 crore. Lack of concerted efforts and absence of coordination between field and CT's office resulted in depriving the State exchequer of the recovery of dues.

After this was pointed out, the Department stated (October 2012) that notice has been issued to the CD for clearance of dues. Further development has not been reported (November 2012).

2.18.1.2 It was noticed that four dealers¹⁹ were liable to pay arrears of assessed tax of ₹ 4.21 crore for assessment periods falling between 1996-97 and 2001-02 in Guwahati RO and ACs were issued to RO between July and August 2005 to recover the arrear dues. It was observed that the assessments for all the above periods were completed between January and February 2005 after delays ranging from three to five years from the year of transactions. The dealers filed appeals before the appellate authority against the assessment orders which were rejected (as the dealers failed to furnish required documents against the assessments made by the AOs) by the appellate authority between July 2005 and April 2006. The dealers, however, filed second appeals to ABR between January 2006 and June 2007. Though six years have elapsed from the date of admission of appeals, no follow up action was taken by the RO to ascertain the present position of the cases. Audit has independently attempted to verify the cases from the office of the CT, Assam, but the latter also did not have any further information on the matter. Thus, due to lack of follow up action and ineffective pursuance of the cases with the ABR, arrear dues of

¹⁸ Date of passing of assessment order was not available in the recovery files.

¹⁹ M/s Bhawani Traders, M/s Ganesh Enterprise, M/s New Goyal Trading Co and M/s Lotus India.

₹ 4.21 crore remained unrealised and the State exchequer was deprived of the corresponding amount of revenues/dues.

After this was pointed out, the Department stated (October 2012) that the matter has been taken up with the ABR for status of the cases pending with them. Further developments have not been reported (November 2012).

2.18.1.3 The primary function of the official liquidator (OL) is to administer the assets of companies under liquidation, sale of assets and realisation of all debts of companies under liquidation for the purpose of distributing the same among the various creditors and other shareholders and finally dissolve such companies after the affairs are fully concluded. When a company is wound up by an order of a Hon'ble High Court, the OL attached to the said Hon'ble High Court takes possession of the assets, books of accounts etc., and liquidates the company as per orders of the Hon'ble High Court.

It was observed that there were delays in lodging claims with the OLs and also there was lack of a system of periodical liaison between the ROs and OLs due to which arrears of ₹ 3.95 crore in respect of three cases remained unrealised, as discussed in the following paragraph:

Sl No.	Name of the dealer	Assessment periods/ provision of Acts	Date of assessment order	Arrear dues (₹ in crore)
1.	M/s Kamini Tea Estate, Dibrugarh	1991-92 to 2001-02 AGST, CST, Agricultural Income Tax and Assam Taxation on Specified Land Acts	N.A	1.96

As the dealer failed to pay taxes, certificate cases were instituted during 2003-04 and 2004-05. It was noticed that the Company had gone into liquidation and OL was appointed as per the order issued by the Hon'ble Calcutta High Court in January 2002. However, the Department became aware of it only in June 2011. It was observed that certificate cases were instituted after the Company had gone into Liquidation. Inordinate delay in institution of certificate cases and lack of follow up action in these cases resulted in arrear dues of ₹ 1.96 crore remaining unrealised.

2.	M/s Bharat Berg Limited, Guwahati	1996-97 to 1998-99 AGST Act.	N.A	1.61
----	-----------------------------------	---------------------------------	-----	------

It was noticed that the dealer had stopped commercial activity from 1999 and had gone into liquidation, as per the order passed by the Hon'ble Bombay High Court on 21 December 1999. The OL, Hon'ble Bombay High Court was appointed as Provisional Liquidator (PL) of the Company as reported by the Ex-Chairman and Directors of the liquidated company. PL has auctioned the movable and immovable property of the company and realised the dues which were presently lying in his custody. Although, OL was appointed in December 1999, the Department became aware of it only in April 2003 and claim of ₹ 2.41 crore (₹ 1.61 crore and additional interest of ₹ 0.80 crore) was lodged only in July 2005. Even though six years had elapsed no follow up was taken by the RO except issue of reminders in May 2007 and February 2009. This indicated that the Department had not pursued the matter with the OL vigorously for registering the claims, thus depriving the Government of the dues.

3.	M/s Nagaon Co-operative Sugar Mill Ltd.	2000-01 AGST Act	July 2006	0.38
----	---	---------------------	-----------	------

As the dealer failed to pay taxes, certificate case was instituted and warrant of arrest was issued in September 2008. It was noticed that in August 2011, OL informed that as per books of accounts and audited balance sheet of the dealer (now under liquidation) there is no liability of sales tax which did not indicate the true picture. The assessment was completed after the dealer had closed down business. Thus, inordinate delay in passing the assessment order despite non-payment of admitted tax by the dealer resulted in non-realisation of arrear dues of ₹ 0.38 crore.

After this was pointed out, the Department stated (October 2012) that in respect of M/s Bharat Berg Ltd., reminder was issued to the Liquidator of the Bombay High Court for realisation of arrears, but there has been no response. In respect of M/s Nagaon Co-operative Sugar Mill Ltd., it was stated that the firm was closed a few years back and the matter is lying with the Government of Assam; there seems no prospect of recovery of the arrear dues.

2.18.2 As per the Sick Industrial Companies (Special Provision) Act, 1985, where a reference for declaration as sick unit is filed and proceedings thereon are pending before BIFR, no suit for recovery or enforcement of any dues against the Company shall lie or be proceeded further, except with the consent of the Board.

It was noticed that M/s Umrangsu Cement Ltd., Guwahati, engaged in manufacturing of cement, was liable to pay arrears of assessed tax of ₹ 1.03 crore for the periods 2003-04 and 2004-05 in Guwahati RO under the AGST Act. As the dealer failed to pay the demanded tax, the AO issued arrear certificate in August 2008. On receipt of demand notice, the CD had submitted (September 2008) a copy of the order of BIFR. It was noticed from the order that the dealer's case was decided by BIFR in October 2003 leaving the discretion with the Government of Assam to consider exempting the dealer from payment of taxes. It was further noticed that though more than nine years have passed, no document indicating action taken either by the RO or the CT to pursue with the State Government for decision in this regard could be found on record. Similarly, a dealer M/s Necem Cement Ltd., was liable to pay arrears of assessed tax²⁰ of ₹ 24.87 crore for the periods from 1993-94 to 1996-97 and 2000-01 to 2007-08 in Guwahati RO. It was also noticed that the case was pending with BIFR since September 1997. Thereafter, nothing was on record to indicate that BIFR had issued any order to recover dues of ₹ 24.87 crore (March 2011). As nine to 19 years have passed in above cases, the recovery of the said amounts was quite unlikely which also indicates that there was lack of follow up action in these cases.

After this was pointed out, in respect of M/s Umrangsu Cement Ltd., the Department while admitting that the matter has not been addressed till date, stated (October 2012) that the matter is lying with the Government of Assam. In respect of the other dealer, it was stated that the case was still pending with the BIFR.

Recommendation 5:

Government may consider devising a system for regular and periodical liaison of the specified senior Departmental officers with the ABR, OLs and BIFR to obtain related information and ensure expeditious disposal of cases involving arrear dues.

²⁰ Date of passing of assessment order was not available in the recovery files.

2.19 Non-realisation of arrear dues due to lack of follow up action in respect of cases settled by Courts

As per Section 35 and 80 of the AGST and AVAT Acts, any person who is aggrieved by an order passed by the AO/appellate authority /revisional authority, may appeal in the Court of law.

It was observed that there were instances of lack of follow up action/non-compliance of Court verdict etc., in cases pending with various Courts having jurisdiction over the State of Assam. Analysis of nine cases involving seven dealers having transaction between September 1988 to 1998 revealed that due to lack of

follow up action/non-compliance of Court verdict etc., the Government was deprived of revenues/dues of ₹ 4.84 crore. The details are given in **Annexure – III.**

After this was pointed out, the Department stated (October 2012) that action has been initiated against all the dealers, except two (M/s Dugar Tea Co. Ltd. and M/s Dugar Tea Industries Pvt. Ltd., Guwahati which are pending in the Supreme Court) for realisation of the arrears pointed out by Audit.

Other points of interest

2.20 Non-realisation of arrears of sales tax due to belated assessment and lack of follow up action

During test check of the recovery files of a dealer, M/s A.R.N.V Chemicals (P) Ltd., Ulubari in the office of Guwahati RO, it was noticed that sales tax dues aggregating ₹ 3.01 crore were pending for recovery as per the assessment orders passed for the periods 1999-2000 and 2000-01 under the AGST Act. The assessments for the above periods were completed in May 2005, after a delay of four years as the dealer failed to furnish annual returns of turnover. It was also noticed that in June 2006, a certificate case was instituted against the CD and a warrant of arrest was issued in February 2007 which was not executed by the Officer-in-charge of the police station as the defaulter had closed down business and could not be traced at his given address. No further action was taken by the RO to trace the dealer except issuing (May 2007) reminder to the sales tax unit office to furnish the source of realisation of dues. Though four years have elapsed, the Department has not made any further effort like seeking further information about the dealer from the concerned AO to recover the arrear dues. It is pertinent to mention here that in the present situation, the Department has the risk of not recovering the dues of ₹ 3.01 crore due to the delay in assessments and also absence of timely follow up action against the dealer.

After this was pointed out, the Department stated (October 2012) that the RO has requested the AO to furnish details of the whereabouts of the CD. Further development has not been reported (November 2012).

2.21 Incorrect reflection of arrears in respect of cases settled by appellate authority

As per the existing system, the decision of the appellate authority on a petition filed by a defaulter is to be communicated to the concerned assessing unit where the appellant is registered. The AO is required to convey the decision of the appellate authority to the concerned RO which issues the arrear certificate for realisation of dues.

During test check of the recovery files of three dealers²¹ in Guwahati and Karimganj RO, it was noticed that three certificate cases were shown as pending against the defaulters for arrear dues of ₹ 1.61 crore in the certificate case registers. However, verification of the records of the appellate authority, Guwahati and Karimganj, revealed that appeal petitions were set aside by the

concerned appellate authorities on various dates in October 2001, July 2004 and March 2009. As per the system in place, the unit offices were required to convey the decision of the cases to the ROs, which was not done. Neither did the ROs pursue the matter with the concerned AOs to obtain information about the cases. Consequently, the ROs remained unaware about the dismissal of the cases by the appellate authorities and continued reporting of arrear dues of ₹ 1.61 crore as recoverable. As a result, the amount is still shown as recoverable.

After this was pointed out, the Department stated (October 2012) that it is a fact that sometimes there is a communication gap and the RO is not informed about the outcome of the order passed by the appellate authority. However, as per audit findings, the CT, Assam has issued order to the appellate authorities to mark a copy of the orders to the RO.

²¹ M/s Hatikura Tea Estate, M/s Hotel Rituraj and M/s National Board Ltd.

2.22 Non-levy of interest on the dues realised under certificate cases

Section 16 of the BPDR Act provides for recovery of interest at the rate of 6.25 *per cent* per annum on the demands from the CDs, chargeable from the date of filing of the case up to the date of realisation of dues.

The certificate officers of seven test checked recovery offices did not levy interest of ₹ 3.99 crore on the dues realised against certificate cases during 2005-06 to 2010-11 as shown in Table 14:

Table-14

Non-levy of interest on the dues realised under certificate cases

Sl. No.	Districts	No. of cases	Amount of interest not charged (₹ in crore)
(1)	(2)	(3)	(4)
1.	Guwahati	14	2.07
2.	Tezpur	16	0.75
3.	Nagaon	3	0.17
4.	North Lakhimpur	3	0.17
5.	Jorhat	7	0.39
6.	Dibrugarh	8	0.35
7.	Tinsukia	6	0.09
	Total	57	3.99

It was noticed that proceedings in respect of 15 certificate cases have been closed after recovery of entire dues without charging interest of ₹ 29.02 lakh.

After this was pointed out, the Department while accepting the audit observations stated (October 2012) that efforts are being made to levy and recover the interest alongwith the principal dues.

It was further observed that the rate of interest of 6.25 *per cent* was fixed in 1913, at the time of enactment of the BPDR Act. The rate of interest has not been revised since then keeping in view the current rate of interest in other taxation laws prevailing in the State, as well as levied by banks, financial institutions etc. Interestingly, the rate of interest for unpaid taxes as per the AVAT Act is 18 *per cent*. Therefore, higher rate of interest in respect of cases sent for recovery would act as deterrent/disincentive for the defaulters.

Recommendation 6:

Government may review the rate of interest leviable on collection of arrear dues and enhance it to be at par with those applicable to Government borrowings/public lending rates prevailing in various banks/financial institutions to act as a deterrent/disincentive to habitual and wilful defaulters.

2.23 Non-realisation of arrear dues of ₹ 2.64 crore due to non-adherence to norms fixed by the CT

The taxation laws of the State do not prescribe any monthly instalment of recovery of arrear dues in certificate cases. However, CT, Assam issued instructions in May 2007 to the effect that if RO fixes payment of dues in instalments, then each monthly instalment should not be fixed at less than 10 per cent of the total dues.

During test check of recovery files in Guwahati RO, it was noticed that though the CDs were making monthly payments which were less than 10 per cent of the total dues as shown in the following table, no action was taken by the RO against the CDs to fix the instalment in consonance with the rate of instalment laid down by the CT, Assam.

Table-15

(₹ in crore)

Name of the Recovery office	Name of the certificate debtor	Date of issue Certificate case	Arrear dues	Arrear dues paid	No of instalment paid	Balance dues till date (April 2012)
Guwahati	M/s Tea Brokers (Guwahati) Pvt. Ltd	May 2006	0.14	0.02 (as of June 2008)	18	0.12
	M/s Ganesh Met Coke Industries	June 2010	1.75	1.28 (as of November 2011)	9	0.47
	M/s Balaji Coke Industries	December 2009	4.53	2.48 (as of December 2011)	13	2.05
	Total			6.42	3.78	

Further, in the above cases arrear dues of ₹ 2.64 crore remained unrealised till date.

2.24 Internal Control Mechanism

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules, executive instructions etc. Such control is exercised through internal audit and periodical effective inspection by supervisory officers.

Deficiencies in system of (i) periodical review of the registers; (ii) monitoring the issue of inter-State certificates and regular co-ordination with the counterparts in other States and regular liaison between the ROs and the AOs/appellate authorities/ABR/OLs etc., leading to non-recovery of arrears have been pointed out in some of the preceding paragraphs. During the course of this performance audit, the following further deficiencies in the internal control mechanism were noticed.

2.24.1 Internal audit

It was observed that an Internal Audit Wing (IAW) was created by the Government in May 1998 with staff strength of eight internal auditors in the office of the CT, Assam. However, it was noticed that no norm was fixed as regards the number of recovery offices to be audited in an year. It was further noticed that only one Senior Auditor was posted in the wing. No internal audit was done by the Wing during 2005-06 to 2010-11 in any of the ROs covered in this performance audit. Resultantly, the department could not detect deficiencies noticed by Audit during this performance audit and consequently could not identify the same and put in place preventive/remedial measures.

Recommendation 7:

The IAW may be strengthened by posting sufficient suitable personnel and specific targets fixed for carrying out such audit.

2.24.2 Ineffective monitoring at senior level

Inspection of the unit offices by supervisory officers is one of the most important tools of internal control mechanism. This mechanism allows the inspecting officers to check whether the systems and procedures designed by Department /Government are followed in letter and spirit by the inspected unit. The mechanism also allows the field level personnel to discuss the problem areas with higher authorities and obtain their guidance.

The Department issued several instructions to ROs for expediting collection of arrear dues under the Acts stipulating, *inter alia*, that (i) each monthly instalment should not be fixed at less than 10 *per cent* of the total dues, (ii) effective measures be taken such as prompt issue of arrest warrants and attachment of movable and immovable properties, (iii) if in any case recovery has been stayed by the appellate/revisional authority, the RO should ascertain the position of disposal of appeal/revision and take further necessary action promptly, and (iv) the Zonal Deputy Commissioners will inspect

ROs within his jurisdiction once in every quarter.

It was noticed that inspection of ROs was not done in every quarter by the higher authorities. In a number of cases as discussed in this Report there were specific instances of non-compliance of the instructions listed at (i) to (iii) in the preceding paragraph. Due to non-monitoring of the functioning of the offices of the ROs by higher authorities coupled with non-conduct of regular inspections by the Deputy Commissioners, the higher authorities in the Department remained unaware of the deficiencies detected and pointed out by Audit.

Recommendation 8:

The Department may prescribe specific periodicity and devise check list for inspection of ROs by the supervisory offices.

2.25 Computerisation

The working of the offices of the ROs relating to certificate cases has not been computerised. The Government may consider early and effective computerisation of the entire gamut of activities relating to certificate cases so as to increase the pace of disposal of these cases, which in turn, would act as a deterrent to habitual and wilful defaulters. This would also help in ensuring effective monitoring of the progress of certificate proceedings, disposal of the certificate cases and realisation of dues.

2.26 Conclusion

Sales Tax is a major source of revenue for the State and the CT, Assam has entrusted all the powers of revenue authorities for recovery of the sales tax arrears to the AOs of the Taxation Department. It is, thus, imperative that the Department should promptly and efficiently recover the demand created. During the performance audit it was noticed that there was large accumulation of arrears in certificate cases and absence of a system for (i) periodical review of the registers; (ii) monitoring the issue of inter-State certificates and regular co-ordination with the counterparts in other States and regular liaison between the ROs and the AOs/appellate authorities/ABR/OLs etc., adversely affected the Department's efforts in collection of the demand created. The Department did not adequately monitor certificate cases, thereby defeating the very purpose for which the Legislature had given powers to the Department for recovery of the sales tax demand. Arrear dues remained unrealised due to non-furnishing of requisite information by AOs to ROs. Despite existence of enforceable provisions in the BPDR Act, the ROs failed to take effective and meaningful action to recover arrears of certificate dues. There were instances of inordinate delays in the process of finalisation of appeal cases despite instruction of the CT for quick disposal, which also added to the pendency of the appeal cases. The certificate cases issued to other States were not pursued. Claims lodged with ABR, OL and BIFR were not pursued promptly and effectively when compared with the efforts of Banks and the Income Tax Department. The interest rate for delayed payment of arrear dues under the BPDR Act was fixed about 100 years back, which needed revision. There was absence of internal controls and the activity of this department was not subjected to internal audit during 2006-07 to 2010-11. There is urgent need of automation for speeding up the disposal of public demand cases and for reduction of the pendency of claims. As a result of the above deficiencies, arrear dues involving ₹ 120.52 crore remained unrealised.

2.27 Summary of recommendations

The Government may consider implementing the recommendations under respective paragraphs in the performance audit report with special emphasis on the following:

- *taking prompt action by laying down norms/targets for clearance of arrear certificates and monitor the progress at all levels, particularly in respect of cases which are more than five years old;*
- *evolving a practical yet timebound monitoring system for issuing inter-State arrear certificates without delay and regularly co-ordinating with their counterparts in other States;*
- *requesting the appellate authorities to expedite disposal of the cases pending with them with special emphasis on cases against which arrear certificates have been issued;*
- *devising a system for regular and periodic liaison with the ABR, OLs and BIFR to obtain information about disposal of cases for early settlement of arrear dues;*
- *reviewing the rate of interest leviable on collection of arrear dues and enhance it to be at par with those applicable to Government borrowings/public lending rates prevailing in various banks/financial institutions to act as a deterrent/disincentive to habitual and wilful defaulters; and*
- *streamlining and strengthening the internal control mechanism including the internal audit system and supervision by the senior officers to effectively guide the recovery offices against leakage of Government revenue.*

2.28 Other audit observations

Scrutiny of records relating to sales/value added tax (VAT) in the Taxation Department revealed several cases of non-observation of provisions of Acts/ Rules/departmental orders and other cases as mentioned in the succeeding paragraphs. These cases are illustrative and are based on a test check carried out by Audit. Some of the omissions on the part of assessing officers (AO) are pointed out in audit each year, but not only do the irregularities persist; these remain undetected till next audit is conducted. It is a matter of concern as these observations are also sent to the higher authorities including the Government each time these are detected. Government and the Department need to strengthen measures to effectively monitor the cases, arrest recurrence of the irregularities and improve the internal control system including internal audit so that such mistakes and omissions are detected, corrected and avoided.

VALUE ADDED TAX

2.29 Application of incorrect rate of tax resulted in short levy of tax of ₹ 1.44 crore on which interest of ₹ 2.32 crore was additionally leviable

[Assistant Commissioner of Taxes (ACT), Unit B: Guwahati; June – September 2011]

Under the provisions of the Assam General Sales Tax (AGST) Act, 1993 and the Assam Value Added Tax (AVAT) Act 2003, in cases where specific information is available and the AO has reason to believe that tax has been underassessed, he may assess/re-assess the dealer on best judgment basis under Section 40 of the AVAT Act as a special case within a period of eight years after allowing the dealer an opportunity of being heard.

During scrutiny of the records of three dealers M/s Purbanchal Cables and Conductors Private Limited, M/s P R Associates and M/s Trusses & Towers (P) Ltd {dealing in ACSR²² conductors, confectionaries and pre-stressed concrete (PSC) poles respectively}, it was observed that there was short levy of tax of ₹ 1.44 crore, on which interest of ₹ 2.32 crore was additionally leviable, due to application of lower rate of tax as mentioned in the following table:

²² Alluminium Conductor Steel Re-inforced.

(₹ in crore)

Name of dealer	Assessment year Date of assessment/ scrutiny	Turnover brought under assessment Nature of goods	Taxability
Purbanchal Cable and Conductors Private Ltd	2000-01 to 2004-05 April 2005 and June 2009	14.08 ACSR Conductors	ACSR conductor was taxable at the rate of 12 per cent with effect from 1 January 2000 as per entry No. 60 A under Schedule II of AGST Act. In addition to tax, additional tax at 10 per cent was also leviable.

It was observed that though ACSR conductor was taxable at 12 per cent with additional tax of 10 per cent under the AGST Act from 1 January 2000, the AO while assessing the dealer levied tax at 4.4 per cent resulting in short levy of tax of ₹ 1.24 crore. Interest of ₹ 2.20 crore (calculated upto August 2011) was additionally leviable.

P R Associates	2006-07 February 2010	1.62 Pran Lichi drink	As per AVAT Act, fruit juices are taxable at four per cent. The Commissioner of Taxes, Assam in March 2007 clarified that drinks which contain apart from fruit juices, other ingredients is taxable at 12.5 per cent as unspecified goods.
----------------	--------------------------	--------------------------	---

It was observed that the dealer classified "Pran Lichi Drink" as fruit juice and paid tax at four per cent. Audit has obtained the monogram of "Pran Lichi Drink" and found that it is specifically mentioned that the drink is not a fruit product and it contains only water, sugar and added flavour. However, the AO failed to verify the veracity of the claim of the dealer classifying the above goods as 'fruit juice' which resulted in short levy of tax of ₹ 13.79 lakh. Interest of ₹ 10.75 lakh (calculated upto August 2011) was additionally leviable on the unpaid tax.

M/s Trusses & Towers (P) Ltd.	2009-10 June 2010	71.66 PSC poles	The item 'PSC poles' is taxable at 12.5 per cent and enhanced to 13.5 per cent from 31 October 2009 while the item 'pre-cast concrete (PCC) poles' was taxable at 12.5 per cent till 30 October 2009 which was reduced to five per cent from 31 October 2009.
-------------------------------	----------------------	--------------------	---

It was observed that the dealer paid tax at five per cent on turnover of ₹ 71.66 lakh (for the period from 31 October 2009 to 31 March 2010) instead of 13.5 per cent which was accepted by the AO while scrutinising the dealer. Further scrutiny revealed that as per the application for registration made by the dealer and the audited accounts certified by the Chartered Accountant, the dealer dealt in PSC poles. While submitting the annual return, however, the dealer 'changed' the commodity to 'PCC poles' from 'PSC poles' by overwriting. This escaped the notice of the AO and resulted in short levy of tax of ₹ 6.09 lakh on which interest of ₹ 1.46 lakh (calculated upto August 2011) was additionally leviable.

After this was pointed out, the Department in respect of the dealer at sl. no.1 stated (August 2012) that assessment had been revised and demand notice issued. Further development has not been reported (November 2012). In respect of the dealer at sl. no. 2, the Department furnished (August 2012) a certificate from the Public Analyst of Assam Government which stated that 'Pran Lichi' drinks is fruit drinks. The reply is not acceptable as the monogram of product itself indicates that the drink is a non-fruit product. As regards the dealer at sl. no.3, the Department stated that the PSC pole and PCC pole are one and same technically. The reply is not acceptable as the Government vide notification dated 31 October 2009 reduced the rate of PCC pole at five *per cent* and not that of the PSC pole.

The case was reported to the Government in October 2011 and followed up in April 2012; their reply has not been received (November 2012).

2.30 Non-conduct of scrutiny/selection of a case for assessment led to non-detection of evasion of tax

[ACT, Tezpur; August-September 2011]

Under Section 29 of the AVAT Act, 2003 and Rules made thereunder, a registered dealer whose turnover of taxable goods in any assessment year exceeds ₹ 10 lakh shall submit to the prescribed authority in addition to monthly return, an annual return within two months after the closure of the year to which the return relate. Section 33 of the Act *ibid* provides that all returns shall be subjected to scrutiny to verify the correctness of calculation, input tax credit claimed therein and application and payment of correct rate of tax and interest payable by the dealer.

Further, as per Section 39 of the AVAT Act, no assessment shall be made after the expiry of five years from the end of the year to which the assessment relates. However, in cases where specific information is available, assessment can be made on best judgment basis under Section 40 of AVAT Act as a special case within a period of eight years after allowing the dealer an opportunity of being heard.

From the annual accounts and the audited accounts of M/s Castrol India Limited (dealing in lubricants, brake oil, coolants, greese etc., taxable at 12.5 *per cent*) for 2006-07, it was observed that the dealer had disclosed opening and closing stock of goods as ₹ 1.84 crore and ₹ 3.31 crore respectively and stock receipt during the year as ₹ 83.67 crore. Also, the dealer disclosed inter-State sale and stock transfer during the year as ₹ 14.35 crore and ₹ 16.53 crore. Besides, the dealer has claimed loss of ₹ 3.79 crore. Considering the above, the intra-State sales of the dealer should not have been less than ₹ 47.53

crore²³. However, it was noticed that the dealer disclosed intra-State sales of ₹ 41.74 crore and paid tax accordingly. Thus, the dealer concealed turnover of atleast²⁴ ₹ 5.79 crore and evaded tax of ₹ 72.38 lakh. For non-payment of tax due within the prescribed time, the dealer was also liable to interest of ₹ 60.83 lakh. Since the case was neither scrutinised nor selected for assessment, evasion of tax by the dealer by suppressing the sales turnover remained undetected by the AO. Scope of recovery is remote as the case has become barred by limitation of time unless the Department resorts to taking up the assessment as a special case under Section 40 of AVAT Act.

After this was pointed out, the Department stated (June 2012) that assessment has been revised and demand notice for ₹ 2.26 crore (including interest) was raised. Report on realisation has not been received (November 2012).

The case was reported to the Government in October 2011 and followed up in April 2012; their reply has not been received (November 2012).

2.31 Excess allowance of input tax credit

[ACT, Unit-B; Guwahati; June-September 2011]

The AVAT Act, 2003 provides that Sale price of goods is to be arrived at after reducing the amount allowed by the seller to the purchaser on account of cash discount, commission or trade discount. Section 13 of the AVAT Act further provides that a dealer has to adjust his output tax after allowing deduction due to offer of discount from the previous agreed consideration.

The AVAT Act, 2003 also provides that every return furnished by the dealer shall be scrutinised by the prescribed authority to verify the correctness of calculation, application of correct rate of tax, input tax credit claimed therein and full payment of tax and interest payable by the dealer.

It was observed that the AO while completing the scrutiny of annual return of M/s Mercantile Marketing (India) Private Limited for 2007-2008 and 2008-2009 in July 2009 and March 2011 allowed input tax credit of ₹ 10.79 crore and ₹ 10.15 crore respectively as per claim of the dealer.

Scrutiny revealed that the dealer received trade discount of ₹ 6.68 crore and ₹ 4.32 crore during 2007-2008 and 2008-2009 respectively which were not considered at the time of scrutiny of return which resulted in excess allowance of input tax credit of ₹ 26.72 lakh and ₹ 15.86 lakh during 2007-2008 and

²³ Opening stock (₹ 1.84 crore) + stock receipt (₹ 83.67 crore) – inter-State sales (₹ 14.35 crore) – stock transfers (₹ 16.53 crore) – closing stock (₹ 3.31 crore) – loss (₹ 3.79 crore) = ₹ 47.53 crore.

²⁴ Accepting that the dealer did not have any profit during the year as we have taken into account the loss claimed by the dealer.

2008-2009 respectively. This resulted in short determination of net output tax of ₹ 42.58 lakh.

After this was pointed out, the ACT stated (September 2011) that the AO had been legislatively restricted only to verify the correctness of tax calculation on the shown turnover of sales and purchase in return. The reply of AO is not acceptable as Section 33 specifically states that the prescribed authority shall verify the correctness of calculation, application of correct rate of tax, interest and input tax credit claimed therein. Further, the reply of the ACT is not in conformity with the Circular issued by the CT, Assam dated 12 November 2007 wherein it is stated that the prescribed authorities shall deduct the amount of discounts, incentives received from the selling dealer while calculating the input tax credit.

The case was reported to the Government in October 2011 and followed up in April 2012; their reply has not been received (November 2012).

2.32 Application of lower rate of tax

[ACT, Nagaon; January - February 2010]

As per entry 1 under schedule V attached to the AVAT Act, 2003, 'jute and jute products (except raw jute)' are taxable at 12.5 per cent from 1 May 2005 to 31 March 2008.

During scrutiny of the records relating to a dealer M/s Assam Co-operative Jute Mills Ltd. (dealing in manufacture and sale of jute products) in the above office, it was observed that the dealer while submitting

the returns classified 'jute and jute products' as taxable at four per cent. The AO also, while assessing the dealer in May 2008 for 2005-06 and 2006-07, classified the turnover of ₹ 93.46 lakh and ₹ 1.54 crore respectively as taxable at four per cent though 'jute and jute products' were taxable at 12.5 per cent till March 2008 under AVAT Act. This resulted in short realisation of tax of ₹ 21.03 lakh. Besides, interest of ₹ 19.09 lakh (calculated upto December 2011) was additionally leviable for non-payment of full tax.

After this was pointed out, the Department stated (August 2012) that the dealer dealt in 'sutli'²⁵ which has been inserted in the schedule to the AVAT Act taxable at four per cent with effect from 8 August 2005. Hence, determination of tax at four per cent for turnover relating to 8 August 2005 onwards was correct. However, for the turnover for 1 May 2005 to 8 August 2005 when the item was taxable at 12.5 per cent, the dealer was re-assessed and demand notice for ₹ 4.46 lakh had been raised. Report on realisation has not been received (November 2012). The contention of the Department that the dealer dealt only in 'sutli' taxable at four per cent while as per registration certificate the dealer dealt in 'Jute Product' taxable at 12.5 per cent which includes number of other products made of Jute including the item 'sutli'. **Thus, insertion of the word 'sutli' in the lower rate of tax allowed scope for evasion of tax to the dealers dealing in 'Jute Products'.**

²⁵ A kind of rope made of jute.

The case was reported to the Department/Government in March 2010 and followed up in January 2012; replies have not been received (November 2012).

2.33 Non-completion of best judgment assessment

[Superintendent of Taxes, Morigaon; July-August 2011]

Under Section 37 of the AVAT Act, 2003, if a dealer has not furnished annual return, has knowingly furnished incomplete or incorrect annual return, the prescribed authority shall after issue of a notice to the dealer in the prescribed form and in the prescribed manner so as to give him a reasonable opportunity of being heard, assess him to the best of his judgment.

Further, as per Section 39 of the AVAT Act, no assessment shall be made after the expiry of five years from the end of the year to which the assessment relates. However, in cases where specific information is available, assessment can be made on best judgment basis under Section 40 of AVAT Act as a special case within a period of eight years after allowing the dealer an opportunity of being heard.

It was observed that a dealer M/s Lohit Marketing Limited has submitted quarterly return for 2006-07 showing his tax liability as 'nil'. The dealer did not submit 'annual return' for 2006-07 which was required under the AVAT Act. It was further noticed that the Additional Commissioner of Taxes, Assam has intimated (November and December 2006) the AO that the dealer has purchased cement from outside the State valued at ₹ 1.07 crore during 2006-07. Despite the facts like (i) specific information from the Commissionerate regarding inter-State purchase, (ii) disclosure of 'nil' turnover by the dealer in quarterly returns for the same period and (iii) non-submission of annual return by the dealer, no action was taken by the AO to take up

best judgment assessment under Section 37 of AVAT Act. This resulted in evasion of tax of ₹ 25.42 lakh including interest which the AO failed to detect. Scope of recovery is remote as the case has become barred by limitation of time unless the Department resorts to taking up the assessment as a special case under Section 40 of AVAT Act.

After this was pointed out, the Department stated (February 2012) that the assessments had been revised and demand notice for ₹ 25.91 lakh was raised. Report on realisation has not been received (November 2012).

The case was reported to the Government in August 2011 and followed up in January 2012; their replies have not been received (November 2012).

2.34 Irregular adjustment of TDS

[ACT, Jorhat; January – February 2011]

Under Rule 28 (1) of the AVAT Rules, 2005, if a dealer intends to adjust the tax deposited at source (TDS) from his tax liability, he shall furnish one copy of the TDS certificate and one *challan* copy for adjustment of such deposit against his dues to the prescribed authority.

Further, as per Section 33 of AVAT Act, 2003, every return shall be subject to scrutiny by AO to verify, *inter-alia*, full payment of tax and interest payable by the dealer during the period of return.

It was observed that the AO while scrutinising (January 2010) the annual return of M/s Canoro Resources Limited for 2007-08 and 2008-09, allowed adjustment of TDS amounting to ₹ 5.42 crore though the claim was not supported by TDS certificates/copies of received *challans* as required under the Rules. Since the TDS claimed by the dealer was against tax payable, absence of the same should have been examined and detected by the AO during scrutiny of returns. Failure to do so resulted in

irregular adjustment of TDS of ₹ 5.42 crore.

In reply, the AO stated (March 2012) that after the matter was pointed out by Audit, notice was issued to the dealer who have submitted TDS certificates involving ₹ 5.22 crore. It was also stated that action was being taken to obtain either TDS certificates of the balance amount or recover tax. The reply of the AO highlights the deficiency in scrutiny of return process during which the AO failed to notice non-attachment of TDS certificates and *challans* by the dealer in support of his TDS claims which was subsequently called for after Audit pointed out the matter. From the reply furnished, it was found that the dealer had submitted only TDS certificates while copies of *challans* as mandatorily required were not submitted which the AO failed to notice while endorsing the reply to Audit. Further, TDS certificates/*challans* or recovery particulars in respect of the balance amount of ₹ 19.77 lakh has not yet been furnished by the AO (November 2012).

The case was reported to the Department and the Government in March 2011 and followed up in February 2012; their replies have not been received (November 2012).

2.35 Irregular issue of entitlement/authorisation certificate to an industrial unit resulted in undue exemption/remission of tax of ₹ 18.52 lakh, of which, ₹ 6.80 lakh had already been availed by the unit

[ACT, Silchar; March 2010]

Assam Industrial Sales Tax Concession Scheme (AISTCS), 1997 provides that a new industrial unit is considered eligible for sales tax exemption on purchase of raw materials from within the State of Assam and also sale of finished products manufactured in the State of Assam for a period of seven years subject to a maximum limit of 150 *per cent* of the capital investment. Consequent upon implementation of AVAT Act, 2003 (with effect from 1 May 2005), the existing scheme was replaced by remission scheme and the industrial units are entitled to remission of ninety nine *per cent* of the tax payable by them during return periods until the amount of such remission exceeds the unavailed quantum of monetary ceiling. To avail such exemption, the intending industrial unit shall have to obtain a certificate of authorisation from the concerned sales tax office on the basis of eligibility certificate issued by the Industries Department.

As held by the Supreme Court {in the case of Commissioner of Sales Tax, UP *V/s* Lal Kunwa Stone Crusher (P) Ltd}, crushing stone boulders into smaller stones does not amount to manufacture as the identity of the used raw material and the processed finished products remains same in both the cases.

During scrutiny of the records relating to an industrial unit M/s Popular Stone Crusher Industries (an unit crushing boulders into stone chips), it was observed that eligibility and authorisation certificate was granted to the dealer by the Industries Department and the Taxation Department respectively for exemption/remission of tax under the AISTCS for a period of seven years from 10 June 2003 to 9 June 2010 or attaining the maximum tax limit of exemption/remission of ₹ 18.52 lakh (being 150 *per cent* of capital investment of ₹ 12.34 lakh), whichever is attained earlier. It was also observed that the AO while assessing the dealer for the years 2003-04 to 2007-08 allowed exemption/ remission of tax of ₹ 6.80 lakh, out of the maximum entitlement of ₹ 18.52 lakh.

Since crushing of boulders into stone chips does not amount to 'manufacture'²⁶ as upheld by the apex court

in a similar case pertaining to Commercial Tax Department, the Taxation Department, Government of Assam should have detected the erroneous issue of eligibility certificate by the Industries Department while processing the case

²⁶ Manufacture involves series of processes. Process in manufacture or in relation to manufacture implies not only the production but the various stages through which the raw materials is subject to change by different operations.

for grant of authorisation certificate. Instead the Taxation Department processed and issued the authorisation certificate irregularly which resulted in irregular grant of tax exemption/remission to the dealer amounting to ₹ 18.52 lakh, of which ₹ 6.80 lakh had already been availed, thereby extending undue benefit to the dealer.

After this was pointed out, the Department stated (August 2012) that issue of eligibility certificate by the Industries Department is not irregular as AISTCS applies to industrial units situated in Assam which are eligible for sales tax exemption on finished products manufactured in such units in Assam. The reply of the Department highlights the provisions of AISTCS but this provision is not applicable to the instant case as the most vital aspect *i.e.* 'manufacture' in this case does not cover the activity 'crushing of boulders into stone chips'.

The case was reported to the Government in April 2010 and followed up in January 2012; their replies have not been received (November 2012).

2.36 Evasion of tax

[ACT, Tezpur, August – September 2011]

Under the CST Act, 1956 as it stood during 2006-07, inter-State sale of goods, other than declared goods, to the registered dealers if supported by valid declaration in form 'C' are taxable at the concessional rate of four *per cent*. Otherwise, tax is leviable at the rate of 10 *per cent*, or rate of tax applicable to sale of such goods within the State, whichever is higher. During 2006-07, lubricants was taxable at 12.5 *per cent* in Assam.

The Commissioner of Taxes (CT), Nagaland, in his letter of February 2002 intimated the CT, Assam regarding cancellation of a series of declaration forms 'C' with effect from 11 June 2001. The information was duly circulated to all the unit offices by the CT, Assam in December 2002 to be taken note of at the time of finalising assessments.

As per Section 39 of the AVAT Act, 2003, no assessment shall be made after the expiry of five years from the end of the year to which the assessment relates. However, in cases where specific information is available, assessment can be made on best judgment basis as a special case within a period of eight years after allowing the dealer an opportunity of being heard.

It was observed from the annual return of M/s Castrol India Limited for 2006-07 that the dealer disclosed inter-State sales of ₹ 14.35 crore during the year which were supported by declaration forms 'C'. The case was neither taken up for scrutiny nor was it selected for audit assessment while the timelimit for taking up audit assessment has already expired in March 2012. During scrutiny of the declaration forms submitted by the dealer in support of his claim of concessional rate of tax, it was noticed that one of the forms bearing No. NL 026547 covering transaction of ₹ 98.87 lakh issued by CT, Nagaland was among those which were declared as cancelled way back in 2002. Since the case record was not scrutinised/taken up for

assessment, the irregular claim of concessional rate of tax remained undetected by the Department. This resulted in non-realisation of tax and interest of ₹ 15.46 lakh²⁷. Scope of recovery is remote as the case has become time barred. The Department may resort to assessing the dealer on best judgment basis.

After this was pointed out, the AO stated (June 2012) that a notice has been served on the dealer, who had replaced the invalid declaration form.

The case was reported to the Department and the Government in October 2011 and followed up in January 2012; replies have not been received (November 2012).

²⁷ Turnover covered by invalid declaration form ₹ 98,86,720
 Tax payable at 8.5 *per cent* (12.5 *per cent* – 4 *per cent* paid) = ₹ 8,40,371
 Interest at 1.5 *per cent*/month from April 2007 to December 2011 = ₹ 7,05,011
 Total tax and interest = ₹ 15.46 lakh.

2.37 Non-detection of variation between the figures of audited accounts and those furnished through returns led to evasion of tax

[ACT, Nagaon; January - February 2010]

Under Section 33 (I) of the AVAT Act, 2003, every return in relation to any period furnished by a registered dealer shall be subject to scrutiny by the prescribed authority to verify the correctness of full payment of tax and interest payable by the dealer during such period.

Further, as per Section 39 of the AVAT Act, no assessment shall be made after expiry of five years from the end of the year to which the assessment relates. However, in cases where specific information is available, assessment can be made on best judgment basis under Section 40 of AVAT Act as a special case within a period of eight years after allowing the dealer an opportunity of being heard.

During scrutiny of the records of M/s Pioma Industries {dealing in Rasna products (fruit flavoured) taxable at 12.5 per cent in Assam}, it was observed that the dealer disclosed aggregate taxable turnover as ₹ 30.73 lakh (₹ 19.82 lakh intra-State sales + ₹ 10.82 lakh inter-State sales + ₹ 0.09 lakh stock transfers) during 2006-07 and paid tax accordingly. The case was not scrutinised which was otherwise mandatory as per the AVAT Act. Scrutiny of the returns and the audited accounts submitted alongwith the returns revealed that the dealer had (i) opening stock of ₹ 60.24 lakh; (ii) received goods from outside the State by way of stock transfer worth ₹ 39.93 lakh and

(iii) closing stock of ₹ 7.34 lakh. Considering these and the fact that the dealer dealt only in taxable goods, the minimum²⁸ taxable turnover during the year worked out to ₹ 92.83 lakh (opening stock + stock received minus closing stock), against which the dealer had disclosed taxable turnover of ₹ 30.73 lakh. Thus, the dealer concealed taxable turnover of ₹ 62.10 lakh and evaded tax of atleast ₹ 7.76 lakh on which interest of ₹ 6.52 lakh (calculated upto December 2011) was additionally leviable. Besides, for deliberate concealment of turnover, penalty not exceeding double the tax evaded was also leviable. Had the AO scrutinised the case there was possibility of detection of concealment of turnover and evasion of tax.

Scope of recovery is remote as the case has become barred by limitation of time unless the Department resorts to taking up the assessment as a special case under Section 40 of AVAT Act.

After this was pointed out, the Department stated (August 2012) that assessment was revised and demand notice for ₹ 30.33 lakh (tax ₹ 7.76 lakh, interest ₹ 7.04 lakh and penalty of ₹ 15.52 lakh) had been raised. Report on realisation has not been received (November 2012).

The case was reported to the Government in March 2010 and followed up in February 2012; their replies have not been received (November 2012).

28 Calculation restricted to purchase value of goods without profit element.

2.38 Irregular grant of exemption

[ACT, Tezpur; August – September 2011]

Under the CST Act, 1956, when any dealer claims exemption of tax in respect of any goods by reason of transfer of such goods to any other place of his business out of the State, he may furnish to the AO a valid declaration in Form 'F' duly filled in and signed by the transferee alongwith evidence of dispatch of such goods failing which tax at the prescribed rate is to be charged. The CST Rules provide that one form 'F' should cover the transaction of one calendar month and furnishing forms 'F' is mandatory with effect from May 2002.

Further, as per Section 39 of the AVAT Act, no assessment shall be made after the expiry of five years from the end of the year to which the assessment relates. However, in cases where specific information is available, assessment can be made on best judgment basis under Section 40 of AVAT Act as a special case within a period of eight years after allowing the dealer an opportunity of being heard.

It was observed that the AO while completing the assessment (December 2010) of M/s Durrung Tea Estate, dealing in black tea, for 2005-06 allowed exemption of tax on stock transfer of ₹ 3.23 crore supported by declarations in form 'F'. Scrutiny of the declaration forms 'F' revealed that six 'F' forms covering stock transfer valued at ₹ 77.56 lakh contained transactions more than one calendar month. But, the AO failed to reject the transactions of ₹ 53.44 lakh pertaining to months beyond one calendar month covered by these six declaration forms. This resulted in non-levy of tax and interest of ₹ 10.71 lakh.

It is recommended that the AO may proceed to open the assessment under Section 40 of the AVAT Act.

After this was pointed out, the Department stated (February 2012) that the AO has initiated action to re-assess the dealer. Further development has not been reported (November 2012).

The case was reported to the Government in October 2011 and followed up in February 2012; their replies have not been received (November 2012).

2.39 Exemption on 'job work' was granted though the item was not eligible for exemption under the Assam Industrial Sales Tax Concession Scheme – non-levy of tax and interest of ₹ 7.41 lakh

[ACT, Tezpur; August – September 2011]

The AISTCS, 1997 provides that a new industrial unit shall be exempted from payment of tax for a period of seven years on sale of finished goods manufactured by them, from the date of commencement of production and subject to a maximum limit of 150 per cent of the capital investment whichever is attained earlier. The item 'job work' (carrying out works as per orders) is not included under the AISTCS.

Further, as per Section 39 of the AVAT Act, no assessment shall be made after the expiry of five years from the end of the year to which the assessment relates. However, in cases where specific information is available, assessment can be made on best judgment basis under Section 40 of AVAT Act as a special case within a period of eight years after allowing the dealer an opportunity of being heard.

During scrutiny of the records of a dealer M/s Purbanchal Packages (dealing in manufacture of corrugated cartons and boxes) availing exemption under the AISTCS for a period of seven years from 9 October 1999 or attaining the maximum tax limit of ₹ 23.75 lakh (being 50 per cent of capital investment) whichever is attained earlier, it was observed that the dealer had availed tax exemption of ₹ 17.56 lakh upto April 2005 leaving a balance of ₹ 6.19 lakh (₹ 23.75 lakh minus ₹ 17.56 lakh). During 2005-06 and 2006-07 (upto October 2006), the dealer claimed tax exemption of ₹ 6.42 lakh which was allowed by the AO while scrutinising the returns. Further scrutiny of the tax exemption claimed and allowed revealed that out of ₹ 6.42 lakh, ₹ 3.91 lakh pertained to 'job work'

which was not eligible for grant of exemption under AISTCS. The AO had not deducted this amount of ₹ 3.91 lakh during scrutiny of the returns. Consequently, there was non-levy of tax and interest of ₹ 7.41 lakh.

Scope of recovery is remote as the case has become barred by limitation of time unless the Department resorts to taking up the assessment as a special case under Section 40 of AVAT Act.

After this was pointed out, the Department stated (August 2012) that the assessment has been revised and demand notice for ₹ 9.83 lakh (including interest) was raised. Report on realisation has not been received (November 2012).

The case was reported to the Government in October 2011 and followed up in January 2012; their replies have not been received (November 2012).

2.40 Determination of taxable goods as non-taxable despite instruction of the CT resulted in non-levy and realisation of tax of ₹ 5.22 lakh, including interest

[ACT, Tezpur; August – September 2011]

Under the taxation laws applicable in Assam, a registered dealer shall be liable to pay tax on his taxable turnover at the rate specified in the relevant schedules to the Act. As per entry 34 of schedule 2 attached to the AVAT Act, 2003, 'rice bran' is taxable at four *per cent* in Assam. The CT, Assam vide circular dated 30 January 2008 clarified that 'de-oiled rice bran' is taxable at the rate of four *per cent*.

Further, as per Section 39 of the AVAT Act, no assessment shall be made after the expiry of five years from the end of the year to which the assessment relates. However, in cases where specific information is available, assessment can be made on best judgment basis under Section 40 of AVAT Act as a special case within a period of eight years after allowing the dealer an opportunity of being heard.

During scrutiny of the records of two dealers M/s Sonitpur Solvex Ltd. and M/s Nezone Foods Pvt. Ltd. (dealing in rice bran, de-oiled rice bran, *atta*, *suji* etc.), it was observed that the dealers disclosed sales of 'de-oiled rice bran' as exempted turnover during 2005-06 to 2007-08 for ₹ 74.44 lakh. Of these, the claim of M/s Sonitpur Solvex Ltd. for 2007-08 amounting to ₹ 64.74 lakh was accepted and the dealer assessed accordingly in June 2010. While the turnover of M/s Nezone Foods Pvt. Ltd. (₹ 9.70 lakh) for 2005-06 and 2006-07 was deemed to be assessed as neither scrutiny was conducted

nor the case was taken up for assessment, though the normal period of five years has elapsed. This resulted in non-levy of tax and interest of ₹ 5.22 lakh.

Scope of recovery is remote as the AO has allowed the exemption while completing the assessment in the first case; the second case has become barred by limitation of time and the assessing officer would have to resort to taking up the assessments as special cases under Section 40 of AVAT Act.

After this was pointed out, the Department stated (August 2012) that the assessments have been revised and demand notice for ₹ 4.72 lakh was raised. Report on realisation has not been received (November 2012).

The case was reported to the Government in October 2011 and followed up in January 2012; their replies have not been received (November 2012).

2.41 Non-detection of concealment of turnover by the AO resulted in short realisation of tax of ₹ 6 lakh including interest

[ACT, Unit B: Guwahati; June – September 2011]

The AVAT Act, 2003 read with the CST Act, 1956 provides that if any dealer conceals or fails to fully disclose the particulars of his turnover, the AO may, within eight years from the date of relevant years, make an assessment/re-assessment of the dealer.

During scrutiny of the records of M/s Power Make (dealing in transformers) it was observed that there was suppression of taxable turnover by the dealer which the AO failed to detect as mentioned in the following table.

Name of dealer	Assessment year Date of assessment/ scrutiny	Purchase/turnover suppressed	Tax evaded Interest leviable
		(₹ in crore)	
M/s Power Make	2006-07	0.84	0.03 ²⁹
	March 2011		0.03

The dealer disclosed turnover of ₹ 95.58 lakh as inter-State sale and submitted six declaration forms 'C' which were accepted by the AO while assessing the dealer (March 2011). But, from the utilisation statements of declaration forms submitted by M/s North Eastern Electric Power Corporation Ltd to the Taxation Department in Arunachal Pradesh received by Audit from the counterparts in that State revealed that during 2006-07, the dealer had sold electrical goods valued at ₹ 83.85 lakh against which declaration form 'C' No. GG 313618 was issued by the Arunachal Pradesh based dealer. However, these transactions were not disclosed by the dealer. This resulted in evasion of tax which remained undetected. Scope of recovery is remote as the dealer has already closed down its business and requested (May 2009) the AO to cancel the registration certificate under AVAT and CST Acts.

Thus, there was suppression of turnover of ₹ 84 lakh and consequent evasion of tax of ₹ 3 lakh. Besides, interest of ₹ 3 lakh was additionally leviable for non-payment of tax by the due date. Scope of recovery is remote as the case has become barred by limitation of time unless the Department resorts to taking up the assessment as a special case under Section 40 of AVAT Act.

After this was pointed out, the Department stated (August 2012) that the purchasing dealer of Arunachal Pradesh may commit some omission while furnishing the statement. The reply, furnished without any supporting grounds, is not acceptable as the purchasing dealer in Arunachal Pradesh was a Government of India enterprise and that too the reply of the GOI enterprise

²⁹ Calculated at four per cent, since the sales were covered by valid declaration forms.

was authenticated by the concerned Superintendent of Taxes of that district of Arunachal Pradesh.

The case was reported to the Department/Government in October 2011 and followed up in April 2012; replies have not been received (November 2012).

OTHER TAXES

2.42 Irregular application of rate resulted in short levy of entry tax of ₹ 1.10 crore

[ACT, Guwahati Unit – ‘B’; June- September 2011]

Under the Assam Entry Tax (AET) Act, 2008, items ‘cement’ and ‘HTS Wire, inserts used in Railway tracks’ were taxable at the rate of 12 and 12.5 per cent (with effect from November 2006) respectively.

During scrutiny of the records of a dealer M/s Daya Engineering Works Private Limited (manufacturer of railway PSC sleepers), it was observed that while assessing (4 March 2011) the dealer’s taxable turnover for the years 2006-07 and 2007-08, the AO levied tax at ‘eight’ and ‘zero’ per cent on the items ‘cement’ and ‘HTS wires/ inserts’, instead of 12 and 12.5 per cent.

This resulted in short levy of entry tax of ₹ 1.10 crore as mentioned below:

Year	Item Value (₹ in lakh)	Rate of tax levied leviable	Tax levied	Tax short levied
			Tax leviable	
			(₹ in lakh)	
2006-07	Cement 256.94	8 12	20.55 30.83	10.28
	Cement 296.29	8 12	23.70 35.55	11.85
2007-08	HTS Wire 435.64	0 12.5	Nil 54.45	54.45
	Inserts 266.65	0 12.5	Nil 33.33	33.33
Total				109.91

After this was pointed out, the ACT while accepting the audit observation stated (March 2012) that the assessments for the above years were revised levying tax of ₹ 1.10 crore; of which the dealer had paid ₹ 10.27 lakh in respect of 2006-07. The ACT further stated that since the dealer had failed to pay the dues pertaining to 2007-08, arrear certificate was issued imposing interest of ₹ 6.55 lakh over and above the tax of ₹ 99.64 lakh. Against this,

the dealer had deposited ₹ 18.25 lakh. Report on further recovery has not been received (November 2012).

The case was reported to the Department and the Government in October 2011 and followed up in March 2012; their replies have not been received (November 2012).

2.43 Failure of the AO to take cognisance of the purchase turnover of a dealer prior to registration/assessment resulted in non-levy of entry tax of ₹ 20.03 lakh

[ACT, Guwahati Unit 'B'; June - September 2011]

As per the AET Act, 2001 and 2008 read with the AVAT Act, 2003, upon receipt of an application for registration under the AET Act, the prescribed authority may conduct such inquiry/call for such evidence and information as he deems fit and after the inquiry/considering the evidence and information, if he is satisfied that the application for registration is in order, he shall register the applicant and issue a certificate of registration.

During scrutiny of the records of M/s Reliance Communication Ltd. (dealing in plant and machinery, electrical goods, DG sets, wireless transmission equipments etc), it was noticed that though the dealer in his application for registration under the AET Act had mentioned about commencement of business from 28 September 2007, the AO while registering the dealer under the AET Act, fixed tax liability from 1 June 2008.

Audit scrutiny revealed that the dealer imported telecom goods, laptops, V Sat etc., valued at ₹ 1.77 crore by using road permits³⁰ between November 2007 and March 2008 *i.e.* prior to the registration under AET Act but did not pay any entry tax on the aforesaid items. The AO also failed to take cognisance of the aforesaid turnover while registering the dealer and erroneously fixed the date of tax liability as 1 June 2008 instead of date of commencement of business as disclosed by the dealer while seeking registration. It was further noticed that though the dealer had disclosed (July 2009) purchase of above materials worth ₹ 1.77 crore by using road permits which were available in the records, the AO initiated assessment (June 2011) with effect from 1 June 2008 only. Non-detection of concealment of purchase turnover, thus, resulted in non-levy of entry tax of ₹ 20.03 lakh.

After this was pointed out, the ACT stated (April 2012) that after allowing reasonable opportunity of being heard the dealer was assessed to tax of ₹ 20.03 lakh; of which, the dealer had paid ₹ 10.31 lakh. Report on recovery of balance amount has not been received (November 2012).

³⁰ Since the dealer was registered under AVAT Act since April 2007, road permits for importing goods were issued to him.

The case was reported to the Department and the Government in October 2011 and followed up in January 2012; their replies have not been received (November 2012).

2.44 Registration of a dealer under AET Act without taking into account the goods imported prior to the date of registration resulted in non-realisation of entry tax of ₹ 10.61 lakh

[ACT, Tinsukia; August – September 2011]

As per the AET Act, 2008 read with AVAT Act, 2003, upon receipt of an application for registration under the AET Act, the prescribed authority may conduct such inquiry/call for such evidence and information as he deems fit and after the inquiry/considering the evidence and information, if he is satisfied that the application for registration is in order, he shall register the applicant and issue a certificate of registration.

Under the AET Act, excavators and pump sets of any types are taxable at four *per cent* on the entry of such goods into a local area for consumption, use or sale therein.

During scrutiny of the records of M/s Tribeni Construction (P) Ltd. (civil works contractor) in the above office, it was noticed that the dealer was registered under the AVAT Act, 2003 with effect from 1 May 2005. Accordingly, road permits were issued by the office of ACT for importing goods from outside the State for use in works contracts. Audit scrutiny revealed that during 2005-06 and 2006-07, the dealer imported excavators and pump sets valued at ₹ 2.65 crore on

which entry tax of ₹ 10.61 lakh was leviable. But the dealer did not pay any entry tax on the above imported goods. The AO also failed to notice import of the aforesaid goods while registering the dealer in May 2010 though the aforesaid information was available in the case records of the dealer and the AO was required to make sufficient enquiry to his satisfaction before registering the dealer. Failure of the AO to do this resulted in non-detection of import of goods leading to non-realisation of entry tax of ₹ 10.61 lakh.

The case was reported to the Department and the Government in October 2011 and followed up in January 2012; replies have not been received (November 2012).

2.45 Concealment of purchase turnover while filing returns under AET Act and failure of the AO to detect the same resulted in non-levy of entry tax of ₹ 7.91 lakh

[ACT, Nagaon; November – December 2011]

The AET Act 2001 and 2008 provides that a registered dealer liable to pay tax shall submit to the AO his monthly statement of such purchase alongwith a copy of the *challan* or crossed demand draft for the full amount of tax payable on the purchase value of the goods disclosed in the statement before the expiry of the next succeeding month of purchase.

Clinker, DG sets and motors are taxable at eight *per cent* under AET Act.

During scrutiny of the case records of M/s RJ Cement Industries (manufacturer of cement) it was observed that the dealer submitted 'nil' returns for 2006-07 and 2007-08. The AO accepted the returns and took up assessment for 2008-09 without assessing the dealer for 2006-07 and 2007-08. Audit scrutiny revealed that the dealer imported goods (clinker, DG Set, motor etc.) taxable under the AET Act valued at ₹ 98.83 lakh during

2006-07 and 2007-08 by using road permits issued by the office of the ACT. Though the information on import of taxable goods was available in the case records, the AO failed to co-relate the returns of earlier years (showing 'Nil' turnover) with the utilised road permits which resulted in non-detection of the concealment of purchase turnover leading to non-levy of entry tax of ₹ 7.91 lakh (eight *per cent* on ₹ 98.83 lakh).

The case was reported to the Department and the Government in December 2011 and followed up in February 2012; replies have not been received (November 2012).

2.46 Irregular set off of loss of previous year from the assessable tax of current year resulted in short levy of agricultural income tax of ₹ 4.11 lakh

[Agricultural Income Tax Officer, Assam; March 2011]

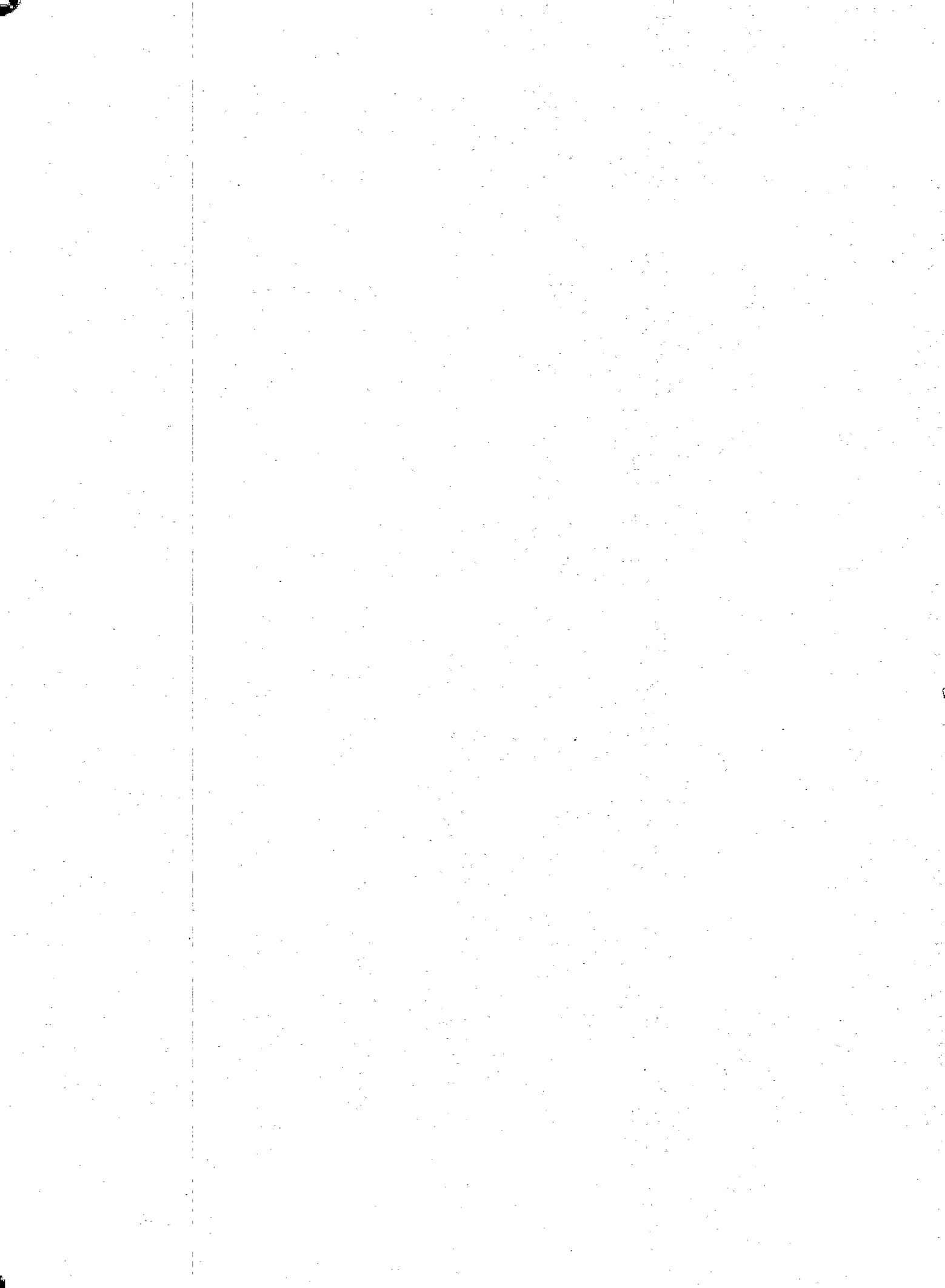
Under the provisions of the Assam Agricultural Income Tax (AAIT) Act, 1939 as amended from time to time, the loss sustained by any assessee in agricultural income for any year is allowed to be carried forward for setting-off against the profit or gains of the following year. However, to get the above benefit, the assessee should file his return of loss by 31 December of the relevant assessment year.

During scrutiny of the records under AAIT Act of a dealer M/s Hanuman Plantation Ltd. in the above office, it was observed that the dealer filed the return for the assessment year 1997-98 in January 1998 showing a loss of ₹ 2.22 lakh. It was noticed that though the claim of loss was submitted after the prescribed period (December 1997 in the instant case), the AO while

completing the assessment in March 2009 admitted the claim to be carried forward and allowed set-off against the taxable income of the subsequent year (1998-99). This irregular allowance of set-off resulted in short levy of tax and interest of ₹ 4.11 lakh.

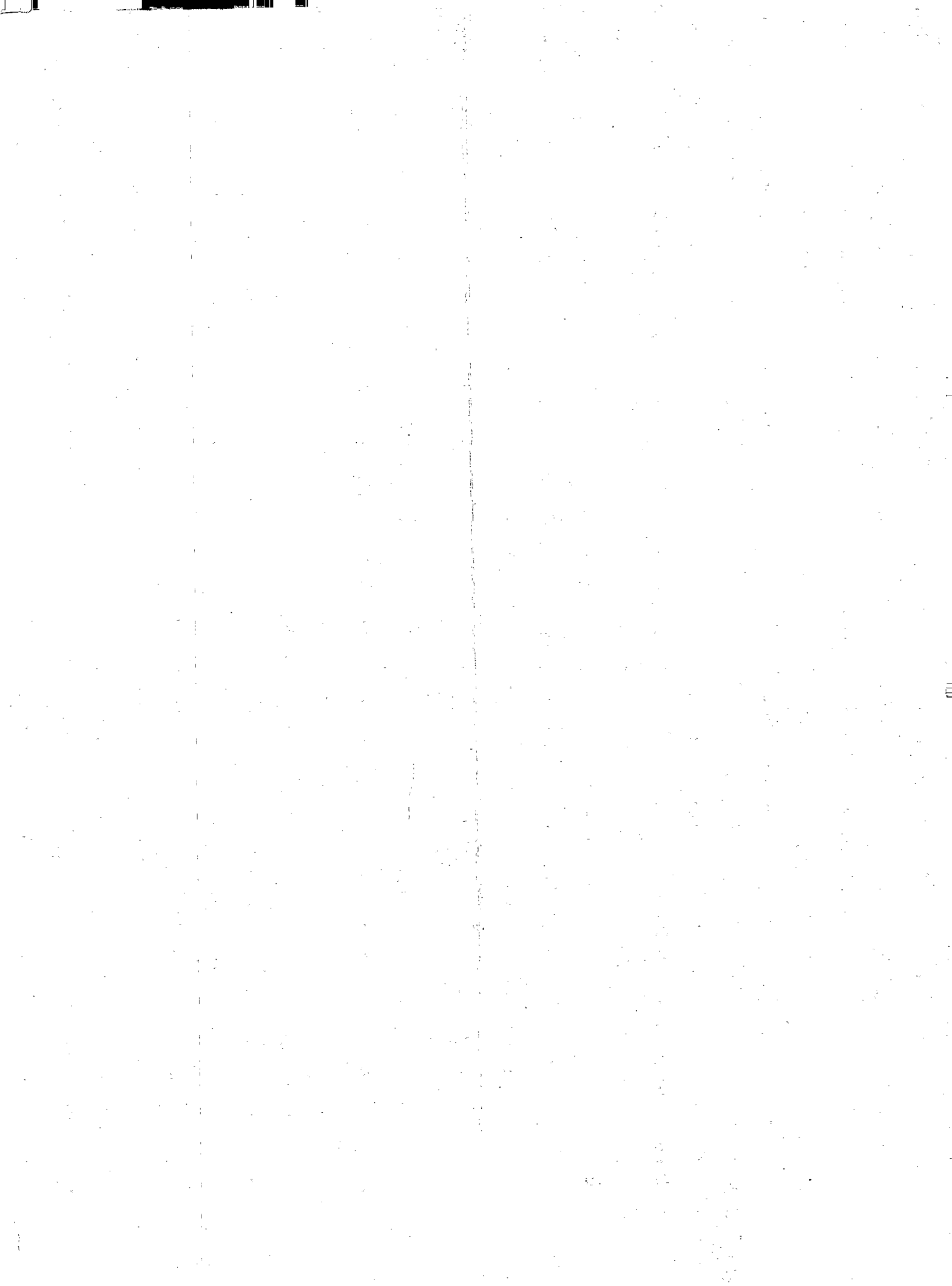
After this was pointed out, the AO while admitting the mistake stated (December 2011) that the assessment has been rectified raising a demand of ₹ 5.67 lakh. The AO further stated in July 2012 that the dealer while paying ₹ 1.42 lakh had preferred an appeal. Further development has not been reported (November 2012).

The case was reported to the Department/Government in April 2011 and followed up in February 2012; their replies have been received (November 2012).





CHAPTER - III
STATE EXCISE





CHAPTER – III: State Excise

3.1 Tax administration

The State Excise Department is responsible for administration and collection of excise revenue under the relevant Acts and Rules and enforcement of the Excise laws on prohibition of illicitly distilled liquor, *Ganja*, *Bhang* and Opium. In addition, the Department has been given the responsibility of enforcing the provisions of Narcotic Drugs & Psychotropic substances Act and the Medicinal & Toilet preparation Act. In Assam, excisable items such as country spirit, Extra Neutral Alcohol (ENA) and other spirits are imported from outside the State. India Made Foreign Liquor (IMFL) and Beer are manufactured and bottled in the State and also imported from outside the State. The functioning of the Department is governed according to the provisions of the Assam Excise Act (AE Act), 1910 and the Assam Excise Rules (AER), 1945 and various administrative orders issued from time to time. The Assam Bonded Warehouse Rules (ABW Rules), 1965 regulate the establishment and working of bonded warehouses.

The Commissioner of Excise is the head of the Department who is assisted by an Additional Commissioner, one Joint Commissioner, one Deputy Commissioner and one chemical examiner at the headquarters. At the district/sub-divisional levels (field formation) there are Superintendents/Deputy Superintendents of Excise who are assisted by Inspectors of Excise and other officials in discharging their day to day functions.

3.2 Budget preparation

As per the provisions of the Assam Budget Manual, the estimates of revenue and receipts should show the actual demand including arrears due and the probability of their realisation during the year. According to the Assam Financial Rules, the Finance Department is required to prepare the estimates of revenue after obtaining necessary information/data from the respective Department/Government.

The Government of Assam, Excise Department stated (June 2012) that the budget estimates were being prepared with the basic objective of enhancement of revenue.

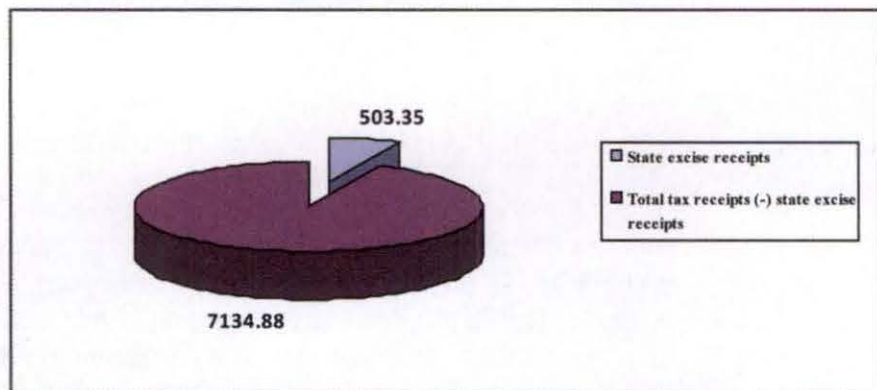
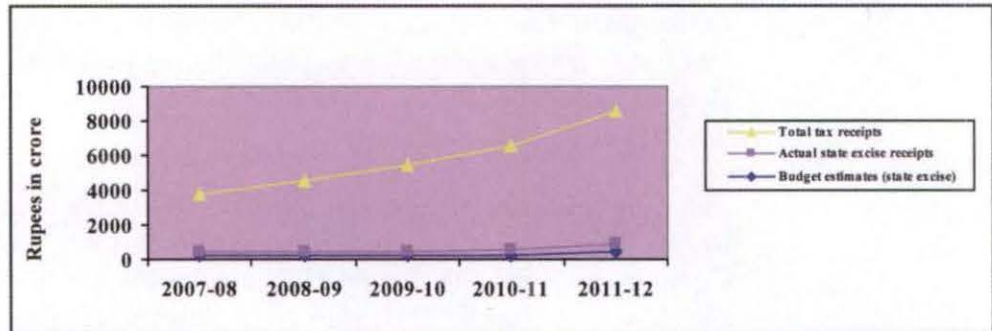
3.3 Trend of receipts

Position of budget estimates, actual receipts under state excise along with total tax receipts of the State during 2007-08 to 2011-12 is exhibited in following Table 1 and graph/pie chart.

Table 1
Analysis of excise receipts

(₹ in crore)

Year	Budget estimates	Actual receipts under state excise	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts {(3) to (6)}
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2007-08	204.92	188.71	(-) 16.21	(-) 8	3,359.50	6
2008-09	223.30	198.68	(-) 24.62	(-) 11	4,150.21	5
2009-10	235.90	239.19	3.29	1	4,986.72	5
2010-11	259.46	323.12	63.66	25	5,929.84	5
2011-12	400.00	503.35	103.35	26	7,638.23	7



The share of excise receipts in the total tax receipts of the State varied between five and seven *per cent* during the last five years.

The Department stated (June 2012) that the reasons for abrupt increase of actual receipts during 2011-12 was attributable to the issue of more IMFL 'On'¹ licences and enhanced re-structuring of excise levies thereon.

3.4 Cost of collection

Details of gross collection of excise duty, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2009-10 to 2011-12 along with the all India average percentage of expenditure on collection of preceding years are mentioned in Table 2.

Table 2
Cost of collection

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage of expenditure on collection of preceding year
2009-10	239.19	22.22	9	3.66
2010-11	323.12	25.94	8	3.64
2011-12	503.35	29.11	6	3.05

The percentage of expenditure to gross collection in all the three years (2009-10 to 2011-12) was significantly higher than the All India average percentage of expenditure on collection. However, the percentage of expenditure during the above three years is showing a decreasing trend which is encouraging.

3.5 Impact of audit

During the period 2006-07 to 2010-11, Audit had, through inspection reports (IRs), pointed out non/short realisation of establishment charge/excise duty, non-payment of licence fee, loss of revenue due to warehouse going dry and other irregularities with revenue implication of ₹ 24.48 crore in 302 cases. Of these, the Department accepted audit observations in 64 cases involving recovery of ₹ 2.70 crore and since recovered ₹ 1.42 crore. Details are shown in Table 3.

¹ Where the licensee is allowed to serve intoxicants in its premises.

Table 3
Impact of audit

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)
2006-07	20	56	8.40	4	0.12	Nil	Nil
2007-08	21	51	1.15	4	0.14	Nil	Nil
2008-09	19	43	1.42	2	0.05	Nil	Nil
2009-10	11	76	5.32	18	1.48	16	1.27
2010-11	15	76	8.19	36	0.91	14	0.15
Total	86	302	24.48	64	2.70	30	1.42

The Department/Government has accepted only 21 *per cent* cases pointed out during the last five years and recovered ₹ 1.42 crore which is more than 52 *per cent* of the accepted amount. However, the percentage of recovery when seen against the total amount objected stood at six *per cent* which needs improvement.

It is recommended that the Department should further improve the system of monitoring the audit paragraphs with special attention on recovery of accepted cases.

3.6 Working of internal audit wing

Internal audit, a component of the internal control mechanism, functions as eyes and ears of the management and is a vital tool which enables an organisation to assure itself that prescribed systems are functioning reasonably well.

It is observed that there is no internal audit wing in the State Excise Department. Inspection of different establishments under the Department is conducted by officers of the department of different levels. Had the Department arranged for conducting internal audit of its records/accounts at periodic intervals, deficiencies detected during local audit could have possibly been detected and rectified.

It is recommended that the Department may arrange for internal audit of its records/accounts either by establishing an internal audit wing or by the Director of Local Audit.

3.7 Results of audit

Test check of records of 12 units relating to the State Excise Department during 2011-12 revealed non-levy of excise duty, non/short realisation of establishment charges, loss due to warehouse going dry and other irregularities involving ₹ 48.13 crore in 76 cases as mentioned in Table 4.

Table 4
Results of audit

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Non-payment of licence fee	06	1.28
2.	Non/short realisation of establishment charges	07	1.26
3.	Loss due to warehouse going dry	01	0.04
4.	Other irregularities	62	45.55
Total		76	48.13

The Department accepted four cases involving ₹ 3.41 lakh pertaining to 2010-11 and recovered the same during 2011-12.

A few illustrative audit observations with financial implication of ₹ 45.19 crore are mentioned in the following paragraphs.

3.8 Audit observations

Scrutiny of the records of the State Excise Department revealed several cases of non-observation of the provisions of the Acts/Rules/departmental orders as mentioned in the succeeding paragraphs. These cases are illustrative and are based on test checks carried out by Audit. Some of the omissions on the part of the departmental officers are pointed out by Audit each year. However, not only do the irregularities persist, these irregularities continue till subsequent audit is conducted. It is a matter of concern as these observations are also sent to the higher authorities including the Government each time these are detected. There is, thus, a need for Government to improve the control and monitoring mechanism, besides putting in place an effective internal audit system so that these omissions are prevented, detected and corrected regularly and promptly.

3.9 Misclassification of IMFL resulted in short realisation of excise duty of ₹ 29.20 crore.

[Superintendent of Excise (SE), Kamrup; November – December 2011]

Under the AE Act, 1910, excise duty at varied rates is leviable based on the 'cost price' of different brands of IMFL/Beer. However, the term 'cost price' has not been defined in the Act nor has the Government issued any notification clarifying the term 'cost price'.

During test check of the records of the SE, Kamrup, records of the Commissioner of Excise (CE), Assam pertaining to grant of label registration was looked into by making a special visit in the latter's office. It was observed that in respect of the distilleries seeking registration of labels for manufacture and sale of IMFL/Beer in and outside the State of Assam,

there is a system of obtaining the ex-distillery price of the brands for issuing the label registration certificates and fixing the classification of the brands. And while issuing the label registration orders by the CE, Assam, specific mention to the effect that "maximum retail price should be fixed after adding 15 per cent profit" on the ex-distillery price is made according to one of the 'terms and conditions' of the label registration certificate. It was further observed that though the CE clearly mentions that the MRP should be fixed after adding 15 per cent as profit element, there was no system of analysing the MRP actually fixed by the distillers to examine whether the classification made initially still held good.

Audit carried out an analysis in respect of one brand *i.e.* AC Black Whisky manufactured by distilleries namely M/s Indo Assam and M/s Himalayan Distilleries under the jurisdiction of SE, Kamrup and the results are as follows:

AC Black Whisky – (registered as luxury brand²)

MRP (per bottle of 750 ml)	₹ 220 (pre-revised) ₹ 240 (revised from July 2011) Calculation made on ₹ 220/ bottle.
Sales tax element/bottle	30 per cent on sale price Or ₹ 51 (220 X 30/100 + 30)
Excise Duty /bottle	₹ 598.90 per case Or ₹ 49.9 per bottle (1 case = 12 bottles)
Price before taxes and duty	₹ 119.10/bottle

² As per Government notification luxury brand is those whose cost price is less than ₹ 1,199 per case.

Profit element – 15 %	₹ 15.53 (119.10 X 15/100 + 15)
Therefore, cost price per bottle	₹ 103.57
Cost price per case	₹ 1,242.84 ✓
Classification	Premium
Rate of duty	₹ 942.50 per case
Difference of duty per case	₹ 343.60 (₹ 942.50 - ₹ 598.90)

Thus, it may be seen that the above brand was classified as luxury brand instead of premium brand and difference of duty payable per case is worked out to ₹ 343.60. During the period between April 2010 and October 2011 both distilleries produced and dispatched 8,49,841 cases of AC Black Whisky for sale in Assam. Considering the excise duty applicable for luxury brands *i.e.* ₹ 598.90 per case, the revenue realised on these 8,49,841 cases works out to ₹ 50.90 crore instead of ₹ 80.10 crore worked out by considering ₹ 942.50 per case applicable to premium brands. Consequently, there was short levy and realisation of excise duty of ₹ 29.20 crore (8,49,841 cases X ₹ 343.60/case).

The case was reported to the Department/Government in January 2012; their replies have not been received (November 2012).

$$\begin{array}{r}
 \underline{1199} \\
 599 - \text{General} \quad G \\
 650 - 799 \Rightarrow \quad R \\
 \underline{870 - 1199} \quad L \\
 \underline{1210 -} \quad P
 \end{array}$$

3.10 Non-raising of demand for recovery of excise duty of ₹ 8.75 crore on short production of liquor

[SE, Kamrup; November – December 2011]

As per the AER, 1945 maximum permissible wastage for blending and bottling of IMFL is one *per cent*. It was observed that Assam Distillery Rules do not prescribe any norm for manufacture of IMFL from extra neutral alcohol (ENA). This is fraught with the risk of evasion of excise duty as duty is payable on IMFL which is produced from ENA and any shortfall in production due to absence of any benchmark would result in loss of revenue.

In the absence of any prescribed benchmark/norm in AER, the norm followed by other distilleries as certified by the concerned inspectors of excise was – one Bulk Litre (BL)³ ENA X 1.66 strength = 1.66 LPL⁴/0.75 degree proof = 2.2213 LPL.

Mention was made in paragraph 3.9 of the Report of the Comptroller and Auditor General of India for the year ended March 2011 (Revenue Receipts), Government

of Assam regarding non-realisation of excise duty on short production of liquor due to absence of formal norm for manufacturing IMFL from ENA. Though the Government had accepted the norms while furnishing their reply to the above audit observation, it was recommended that the Department/Government needs to take immediate steps to notify the norm officially which was being followed by majority of the distilleries.

During test check of the records of M/s Indo Assam Distilleries and bottling Private Limited under the jurisdiction of SE, Kamrup, it was noticed that the distiller used 54,40,172 LPL of ENA during the periods April 2010 to October 2011. As per the norms adopted by the distilleries test checked in audit and also agreed upon by the Government as well as the Inspector in-charge of the distillery commented upon, 54,40,172 LPL of ENA should have yielded

³ 1 BL = 1 litre.

⁴ London proof litre (LPL) – Strength of alcohol is measured in terms of 'degree proof'. Strength of such alcohol 13 parts of which weigh exactly equal to 12 parts of water at 51 degree Fahrenheit is assigned 100 degree proof. Apparent volume of a given sample of alcohol when converted into volume of alcohol having strength 100 degree is called LPL.

10,26,215 cases⁵ of IMFL whereas the distillery showed production of 8,28,134 cases of IMFL.

The shortfall in the yield of 1,98,081 cases of IMFL involved excise duty of ₹ 8.75 crore⁶.

The Department/Government needs to take immediate action to notify the norms officially for manufacturing IMFL from ENA to serve as a benchmark for distilleries and prevent cases of avoidable short production leading to loss of revenue similar to those mentioned in previous Audit Report as well as in this instant case.

The case was reported to the Department/Government in January 2012; their replies have not been received (November 2012).

3.11 Non-functioning of bonded warehouse-consequent loss of revenue of ₹ 4.43 crore

[SE, Kamrup; November – December 2011]

The AER, 1945 provide for maintenance of minimum stock in the warehouses of country spirit and if the stock falls below the specified quantity as fixed by the CE, the licensee is liable to compensate the loss suffered by the Government on account of failure of the warehouse owner to supply country spirit in case of demand. Similar provision for maintenance of minimum stock has been prescribed for retail licensees as well by way of a notification issued by the Government.

Though the AER provide for maintenance of minimum stock for warehouses stocking country spirit as well as retail licensees of IMFL/Beer, there is no such provision for the same in respect of bonded warehouses of IMFL/Beer. Consequently, the Government has no mechanism to safeguard its revenue interest in case of non-functioning of bonded warehouses of

IMFL/Beer without valid reasons. This leaves scope for loss of revenue to Government exchequer.

⁵ 54,40,172 LPL of ENA X 1.66 strength = 9030685.52 BL/8.8 = 10,26,215 cases (1 case = 12 bottles of 750 ml = 9 BL, 1 case = 24 bottles of 375 ml = 9 BL, 1 case = 48 bottles of 180 ml = 8.64 BL, hence average between 8.6 BL and 9 BL per case = 8.8 BL per case has been considered for calculation).

⁶ Total 1,98,801 cases, of which 64,264 cases calculated @ ₹ 419 per case (minimum rate of excise duty leviable on general brands upto September 2010) and the remaining 1,33,817 cases calculated at ₹ 452.79 per case (revised rate of excise duty on general brands applicable from September 2010 onwards).

During scrutiny of records pertaining to M/s SKOL Breweries Bonded Warehouse Limited (licensee) dealing in Beer under the SE office, it was observed that the Bonded warehouse functioning since April 2007 applied (January 2010) for shifting their location from the existing site to a new site which was approved by the Government in June 2010. It was noticed that during the interim period (January to June 2010), the Bonded warehouse functioned normally from its existing place of business.

It was further observed that the bonded warehouse again applied (4 April 2011) for shifting their place of business to yet another place. However, neither any documented reason for this shifting was mentioned in the application nor was the same called for by the Department/Government. Till the date of audit (December 2011) permission of the Government allowing shifting of the Bonded warehouse had not been issued. However, it was noticed that unlike the previous occasion, the licensee stopped the business and neither imported nor sold any consignment of Beer during the period April 2011 to December 2011. This was despite the fact that they were in possession of a godown duly authorised by the Government and four/five excise officials continued providing their services at the existing site of the bonded warehouse.

Thus, due to absence of a provision for maintenance of minimum stock of Beer in bonded warehouses similar to those in force for country spirit and retail IMFL/Beer licensees, there was no mechanism in the Government to safeguard loss of revenue sustained due to non-functioning of the Bonded warehouse for the above period of eight months. An analysis of the transactions of the Bonded warehouse during the preceding 24 months (April 2009 to March 2011) prior to the period of non-functioning indicated that the licensee had imported and sold, at an average, 35,405 cases and 35,865 cases of Beer respectively every month. Considering this as the base, it can be concluded that Government was deprived of revenue of ₹ 4.43 crore⁷ in respect of only the above case.

⁷ 35,405 cases X ₹ 60 (import pass fee) for eight months = ₹ 1.70 crore (import pass fee)
35,865 cases X ₹ 95 (excise duty on sale of beer) for eight months = ₹ 2.73 crore (excise duty); Thus, total deprival of revenue = ₹ 4.43 crore.

It is recommended that the Government may consider introducing provisions for maintenance of minimum stock by the Bonded warehouse of IMFL/Beer and ensure recovery or compensation of loss similar to those in force for country spirit and retail licensees of IMFL/Beer.

The case was reported to the Department/Government in January 2012; their replies have not been received (November 2012).

3.12 Failure of the SE to properly draw up the 'Order' on physical verification report led to possibility of recovery of revenue amounting to ₹ 2.05 crore doubtful

[SE, Dibrugarh; July 2011]

As per Rule 32 of the Assam Bonded Warehouse Rules, 1965 (ABWR), the State Government is not responsible for loss or damage of any spirit in a warehouse by any cause whatsoever and the licensee concerned is liable to pay the *ad-valorem* levy including VAT on the entire stock of excisable goods in excess of admissible allowance of godown breakage. Further, Rule 37 of the above Rules empowers the excise officers to carry out physical verification of the stock held by any bonded warehouse.

It was observed that the SE conducted (2 April 2011) physical stock verification of IMFL/Beer/Wine held in the bonded warehouse of M/s Juri & Co Private Limited, Dibrugarh and 35,067.07 cases were found short as per the stock register. On the basis of the shortage of IMFL/ Beer/Wine so detected during the physical verification of stock, show cause notice was issued (7 April 2011) to the licensee of the bonded warehouse. On receipt of the reply

(dated 18 April 2011) of the licensee, the SE drew up an 'Order' on 25 April 2011 levying duty of ₹ 1.62 crore plus VAT⁸ on the IMFL/Beer/Wine found short during physical verification.

Scrutiny of the 'Order' of SE dated 25 April 2011 and the reply furnished by the licensee dated 18 April 2011 revealed the following:

The 'Order' of SE contained details of the cases as per the stock register *vis-a-vis* those found during physical verification. However, in his reply, the licensee *inter-alia* challenged the mode of physical verification stating that

⁸ VAT was not worked out in the 'Order'.

'physical stocks have been taken on a random basis'. It was noticed that while drawing up the 'Order' on 25 April 2011, the SE did not make any mention about the above contention of the licensee and consequently the most important aspect of the reply furnished by the licensee challenging the fundamentals of 'physical stock verification' remained unanswered in the 'Order'.

It was further noticed that nowhere in his 'Order' the SE had mentioned about the presence of the representative(s) of the licensee which could have enabled the SE to effectively rebut the contention of the licensee challenging the method of stock verification process and thus, making the 'Order' fool proof. It is evident that the physical verification report was not got signed by the representative of the licensee though the verification was carried out in their presence⁹. It was observed that till the date of audit, the licensee had not made payment of the demand raised by the SE.

Thus, failure of the SE to include the contention of the licensee challenging the method of physical verification and rebut it properly mentioning there against the fact that physical verification was carried out in the presence of the representative/owner of the licence holder has rendered the 'Order' of SE, weak in law. Consequently, possibility of recovery of dues of ₹ 2.05 crore (including VAT of ₹ 43.66 lakh) from the licensee, is doubtful.

The case was reported to the Department/Government in August 2011 and followed up in December 2011; their replies have not been received (November 2012).

⁹ As per Excise laws, bonded warehouses are to be kept under lock and key jointly by the licensee and the excise inspector and each would retain one set of the keys of the warehouse. Hence, presence of both licensee or his representative and the excise official is required to open the warehouse.

3.13 Non-realisation of establishment charges from bonded warehouses for deployment of excise officers

[SsE, Dibrugarh, Diphu, Sonitpur and Tinsukia; between September 2010 and August 2011]

The ABWR, 1965 and the Assam Distillery Rules, 1945, provide that the CE shall appoint such excise officer and establishment as he thinks fit to the charge of bonded warehouses/distilleries and for this, the licensees shall pay establishment charges (pay and allowances, leave salary and pension contribution) at the prescribed rates at the end of each calendar month.

During test check of the records of the above SsE, it was observed that 16 bonded warehouses did not pay the establishment charges of ₹ 33.43 lakh due for various periods falling between April 2009 and August 2011 for the excise officials engaged in their warehouses. The concerned SsE also did not issue demand notices to the defaulting bonded warehouses for payment of establishment charges. This is indicative of weakness in monitoring of timely recovery of establishment charges from the licensees by the above offices of the SsE.

Incidentally it may be mentioned that non-remittance/realisation of establishment charges from various licensees of bonded warehouses/distilleries has been pointed out in successive Audit Reports, but the Department/Government has not taken any initiative to install a mechanism to ensure timely recovery of the establishment charges resulting in these amounts remaining outstanding for long periods. The above cases are only illustrative as observed during test check of the units during the year.

It is recommended that the Department/Government may install a regular monitoring mechanism to ensure that the establishment charges are invariably collected within the timeline prescribed in the ABWR, by making the SsE responsible for the same.

The case was reported to the Department/Government between May and October 2011 and followed up between December 2011 and February 2012; their replies have not been received (November 2012).

3.14 Irregular cancellation of wholesale licence in respect of a bonded warehouse resulted in loss of revenue of ₹ 13.50 lakh

[SE, Nagaon; December 2011]

Under Section 31 of AE Act, 1910 any holder of a licence granted under the Act to sell any intoxicant may surrender his licence on the expiry of one month notice in writing given by him to the Collector of his intention to surrender the same and on payment of the fees payable for the whole period for which the licence would have been current, but for such surrender.

Further, Rule 243 of AER provides that the licensees of wholesale bonded warehouses are required to pay annual fee in advance for renewal of their licences. In case of failure to do so, their premises are to be closed till the fees are paid. For operating bonded warehouses, it is mandatory to hold a wholesale licence along with the licence for bonded warehouse.

During scrutiny of the records pertaining to M/s Kallong Valley Enterprise, Bonded warehouse (licensee) in the above office, it was observed that licences for bonded warehouse and wholesale business of IMFL were granted by the Government of Assam to the licensee in May and July 2008 respectively. The licensee started operating the bonded warehouse during 2008-09 but failed to pay the renewal fee of bonded warehouse licence from 1999-2000 onwards and the bonded warehouse was

closed in 2001. After about 10 years, the licensee requested the CE, Assam (September 2009) for renewal of the licence for bonded warehouse and paid renewal licence fees from 1999-2000 to 2009-10 accordingly. It was further observed that the licensee was in possession of separate licences for bonded warehouse and wholesale business. However, the licensee denied having a separate licence for wholesale business and applied for renewal of the licence for bonded warehouse only. The matter was referred (April 2011) to the SE, Nagaon by CE for enquiry and submission of a report. It was noticed that copy of the approval of Government on wholesale licence dated July 1998 was available in the case records of the licensee in the office of the SE from where Audit has obtained a copy of the same. But, the SE instead of mentioning about the same in his report to the CE, pleaded on behalf of the licensee about the poor financial condition and proposed (May 2011) for issue of a fresh wholesale licence to the licensee. On the basis of this report of the SE, a separate wholesale licence was approved by the Government. The CE conveyed (June 2011) Government's approval to revival (June 2011) of the licence of bonded warehouse and issue of fresh wholesale licence to the licensee. Thus, issue of a fresh wholesale licence instead of renewing the erstwhile wholesale licence on payment of requisite fees similar to the renewal of bonded warehouse licence resulted in loss of

potential revenue of ₹ 13.50 lakh¹⁰ to the Government and undue benefit to the licensee to that extent.

The case was reported to the Department/Government in January 2012 and followed up in April 2012; their replies have not been received (November 2012).

3.15 Failure of the SE to collect transport pass fee at revised rates led to short realisation of ₹ 11.71 lakh

[SE, Diphu; July-August 2011]

The Government of Assam notified (29 September 2010) the revised rates of transport pass fee (a fee to be paid in advance before pass for transport of IMFL/Beer is applied for) from ₹ 30 to ₹ 50 per case, with effect from 29 September 2010.

During scrutiny of records in above office, it was observed that despite the revision of rates of transport pass fee with effect from 29 September 2010, four licensees¹¹ under the above SE had deposited transport pass fee at old (lower) rates while applying for pass to transport 40,482 cases of IMFL/Beer between 5- 21 October 2011. The SE failed to notice short payment of transport pass fee at the time of issuing

the passes which resulted in revenue of ₹ 11.71 lakh remaining unrealised. No notice of demand was issued by the SE, Diphu to collect the balance fee till the matter was pointed out by Audit.

The case was reported to the Department/Government in August 2011 and followed up in December 2011; their replies have not been received (November 2012).

¹⁰ ₹ 1 lakh per annum for 1999-2000 to 2010-11 and ₹ 1.50 lakh per annum for 2011-12.

¹¹ M/s ANR Bonded warehouse; M/s Flamingo Breweries Private Limited; M/s Friends Distillery Bottling Industries and M/s Radiant Manufacturers Private Limited.

3.16 Failure of the offices of CE, Assam and SE, Diphu to collect import permit fee at revised rates led to short realisation of ₹ 9.77 lakh

[CE, Assam and SE, Diphu; between June and August 2011]

The Government of Assam notified (29 September 2010) the revised rates of import permit fee for Beer (a fee to be paid in advance before a permit for importing Beer from outside the State is granted) from ₹ 30 to ₹ 60 per case, with immediate effect.

During scrutiny of records in above office, it was observed that despite the revision of rates of import permit fee with effect from 29 September 2010, three licensees¹² had deposited the fee at old (lower) rates while applying for import permits to import 24,900

cases of Beer between 5 October and 20 December 2011. The offices of the CE Assam and SE, Diphu failed to notice short payment of import permit fee at the time of issuing permits which resulted in revenue of ₹ 9.77 lakh remaining unrealised. No notice of demand was issued by the above offices to collect the balance fee till the matter was pointed out by Audit.

The case was reported to the Department/Government in August 2011 and followed up in December 2011; their replies have not been received (November 2012).

3.17 Failure of the SE, Diphu to collect export pass fee at revised rates led to short realisation of ₹ 6.62 lakh

[SE, Diphu; July - August 2011]

The Government of Assam notified (29 September 2010) the revision of rates of fee for export pass (a pass issued to the licensees intending of export IMFL outside the State of Assam) from ₹ 10 to ₹ 50 per case.

During scrutiny of records in above office, it was observed that despite the revision of rates of export pass fee with effect from 29 September 2010, two licensees¹³ had deposited the fee at old/ lesser rates while applying for 17 export passes for exporting 17,600 cases of IMFL. The office of the SE, Diphu failed to notice short payment of export pass fee at the

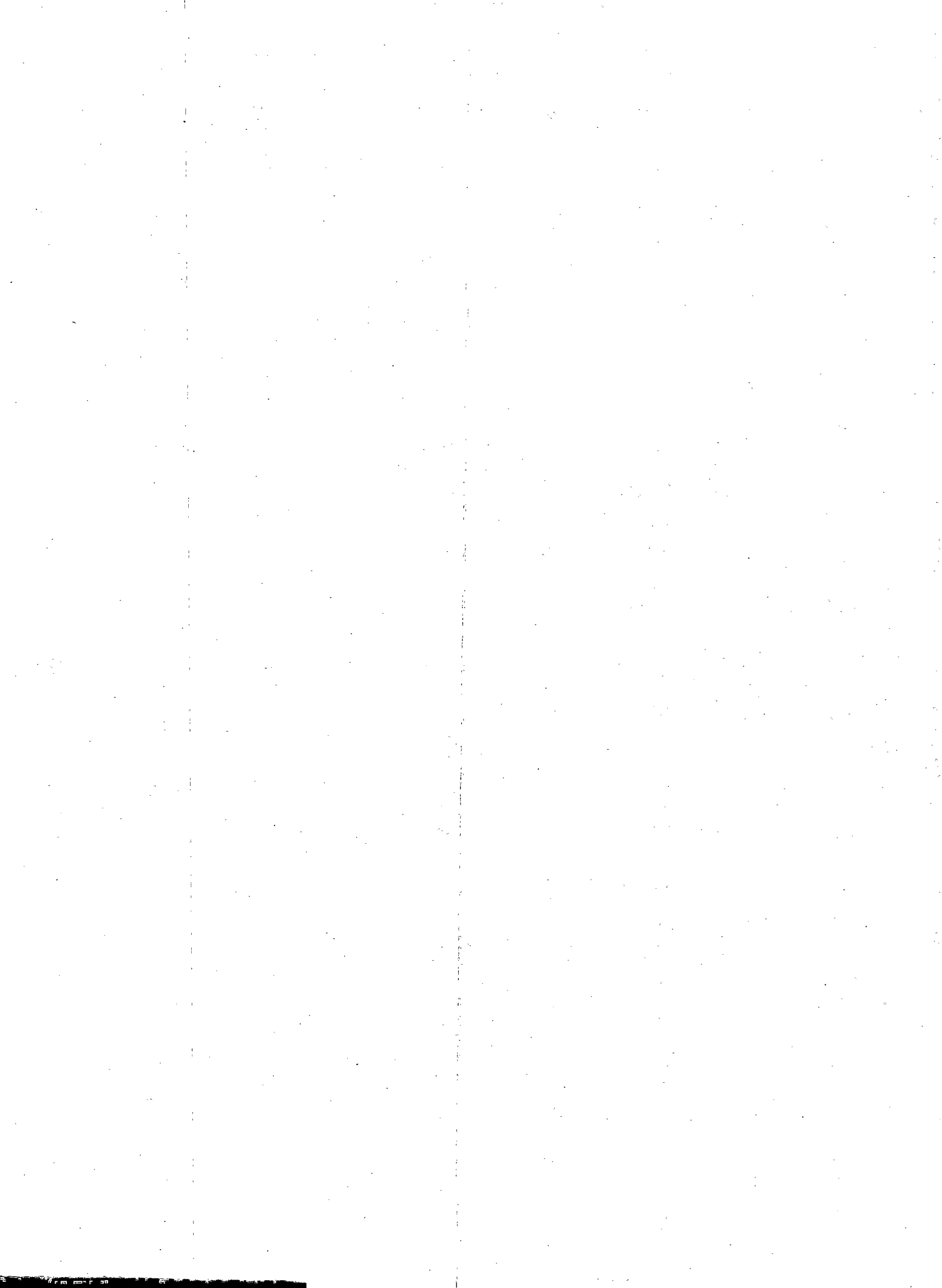
time of issuing the export passes which resulted in revenue of ₹ 6.62 lakh

¹² M/s KDC Bonded warehouse, Guwahati; M/s Mohit Enterprise Bonded warehouse, Tinsukia and M/s Radiant Manufacturers Private Limited, Diphu.

¹³ M/s Flamingo Breweries Private Limited Bonded warehouse, Bokajan and M/s Radiant Manufacturers Private Limited, Diphu.

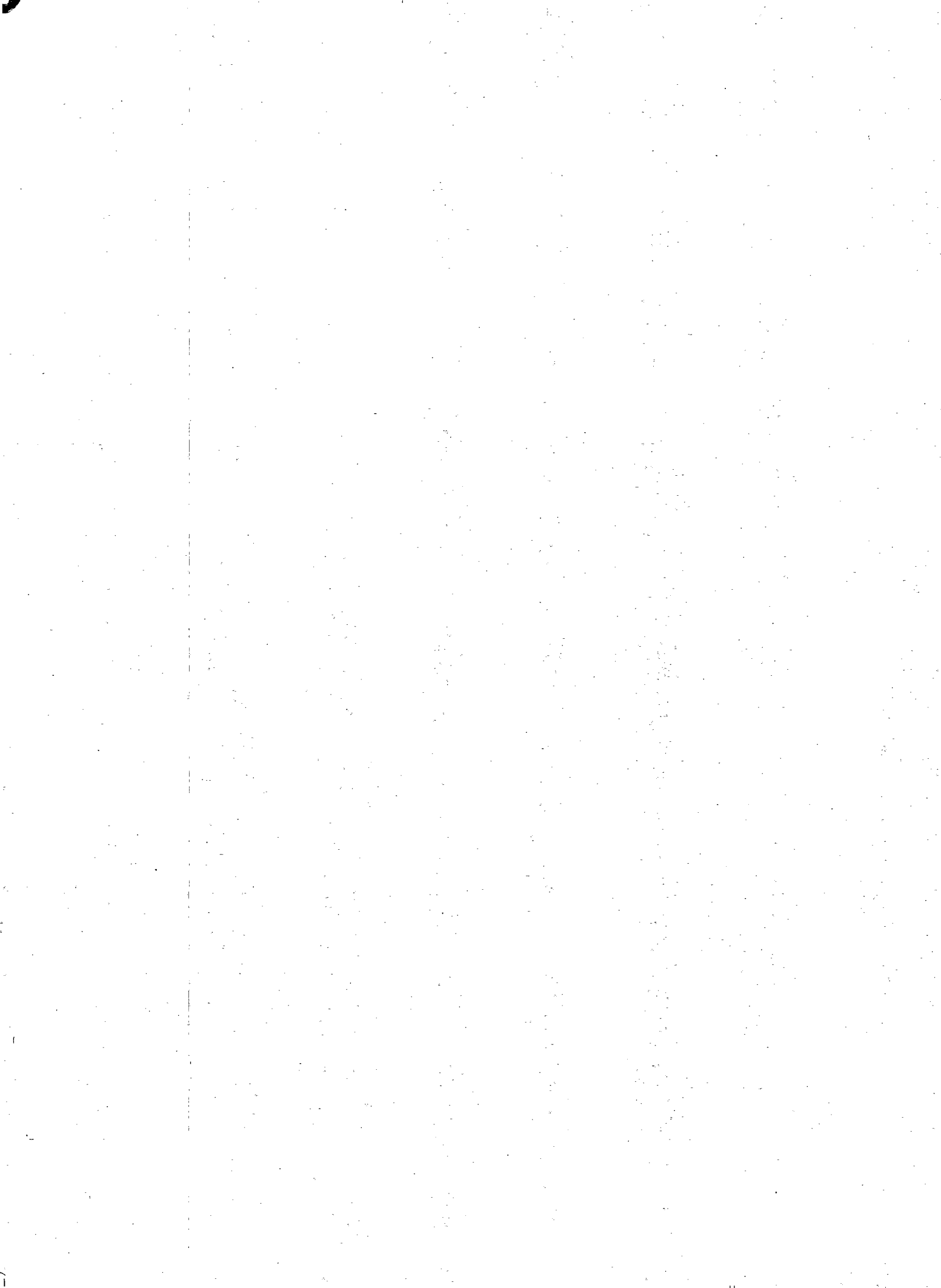
remaining unrealised. No demand notice was issued by the above office to collect the balance fee till the matter was pointed out by Audit.

The case was reported to the Department/Government in August 2011 and followed up in December 2011; their replies have not been received (November 2012).





CHAPTER - IV
MOTOR VEHICLE TAX





CHAPTER – IV : Motor Vehicle Tax

4.1 Tax administration

The Transport Department is responsible for collection of taxes, fees and fines on motor vehicles in Assam. Motor vehicles tax is realised primarily from all vehicles registered in the State. Tax is realised once for 15 years in the case of private vehicles while for commercial vehicles, it is realised each year, at the option of the vehicle owner to pay it every quarter, half yearly or annually. Besides, composite fee in lieu of motor vehicles tax is also collected from commercial vehicles bearing national permit/tourist permit of other States willing to ply in the State. Further, there is provision for levy and collection of fines for various offences which are imposed under the respective Act and Rules. Motor vehicle tax so collected is deposited in the Government exchequer under the major head of account-0041.

The functioning of the Department is governed according to the provisions of the Motor Vehicles Act, 1988, the Assam Motor Vehicles Taxation Act, 1936 and Rules, 2003 and various administrative orders issued from time to time. The Assam Motor Vehicle Taxation Act was amended in May 2011.

The Commissioner of Transport is the head of the Department who is assisted by one Joint Commissioner {who is also the ex-officio Secretary, State Transport Authority (STA)}, one Deputy Commissioner and one Assistant Commissioner of Transport. There are 29 district level offices which are headed by District Transport Officers who are assisted by motor vehicles inspectors and other officials in discharging their day to day functions. They are empowered to implement taxation laws and rules.

4.2 Budget preparation

As per the provisions of the Assam Budget Manual, the estimates of revenue and receipts should show the actual demand including arrears due for past years and the probability of their realisation during the year. According to the Assam Financial Rules, the Finance Department is required to prepare the estimates of revenue after obtaining necessary information/data from the respective Department/ Government.

The Department of Transport stated (September 2012) that in estimating the revenues, tax structure of motor vehicles, trend of revenue, trend of motor

vehicles registered, movement of vehicles across the motor vehicle checkgates, amount of arrears of taxes, etc., are taken into consideration.

4.3 Trend of receipts

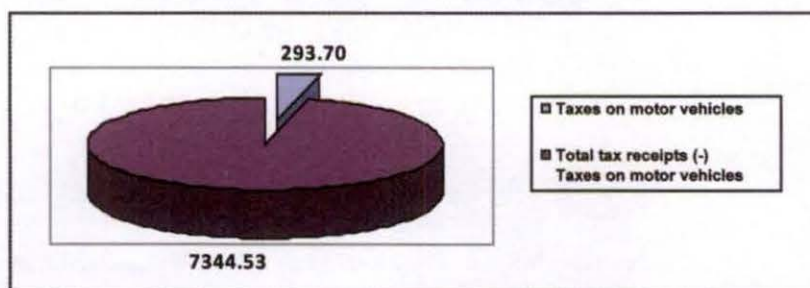
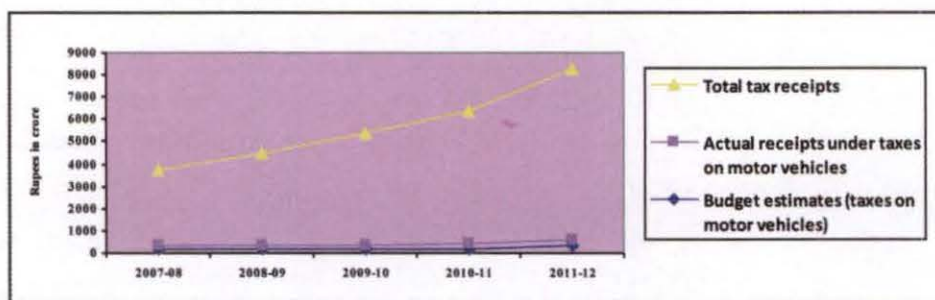
The position of budget estimates, actual receipts under 'Taxes on Motor Vehicles' alongwith the total tax receipts of the State during 2007-08 to 2011-12 are exhibited in the following Table 1 and graph/pie chart.

Table 1
Analysis of taxes on motor vehicles receipts

(₹ in crore)

Year	Budget estimates	Actual receipts of Taxes on Motor Vehicles	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts {(3) to (6)}
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2007-08	191.62	138.62	(-) 53.00	(-) 28	3,359.50	4
2008-09	193.00	145.21	(-) 47.79	(-) 25	4,150.21	3
2009-10	181.51	177.26	(-) 04.25	(-) 2	4,986.72	4
2010-11	189.54	231.99	42.45	22	5,929.84	4
2011-12	290.60	293.70	3.10	1	7,638.23	4

Source: Finance Accounts and Departmental figures.



Position of motor vehicles taxes vis-a-vis total tax receipts during 2011-12

It is noticed from the table above that the percentage of taxes on motor vehicles receipts when compared to the total tax receipts of the State remained at the level of three - four per cent during the last five years.

Though the Department has put in place a mechanism for estimating the revenues, there were substantial variations between budget estimates and actual receipts ranging between (-) 28 and 22 *per cent* during 2007-08 to 2010-11. However, during 2011-12 the Department achieved the targets and the variation percentage was also minimal.

4.4 Cost of collection

Details of gross collection of taxes on motor vehicles, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2009-10 to 2011-12 along with the all India average percentage of expenditure on collection of preceding years are mentioned in Table 2.

Table 2
Cost of collection

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage of expenditure on collection of preceding year
2009-10	177.26	8.62	5	2.93
2010-11	231.99	10.07	4	3.07
2011-12	293.70	11.58	4	3.71

Source: Finance Accounts and Departmental figures.

The percentage of expenditure to gross collection in 2009-10 and 2010-11 was higher than the all India average percentage of expenditure on collection while during 2011-12, it came closer to the all India average.

4.5 Impact of audit

During the period 2007-08 to 2010-11, Audit had, through inspection reports (IRs) pointed out instances of non-realisation of tax, non-assignment of new registration marks, non/short realisation of trade licence fee/certificate fee, non-levy of fine on trucks carrying excess load and other irregularities with revenue implication of ₹ 596.88 crore in 224 cases. Details are shown in Table 3.

Table 3
Impact of audit

Year of Inspection Report	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)
2007-08	20	73	177.66	0	0	0	Nil
2008-09	19	27	2.18	9	0.31	0	
2009-10	15	64	3.30	18	0.77	7	0.06
2010-11	19	60	413.74	85	0.35	13	0.06
Total	73	224	596.88	112	1.43	20	0.12

Thus, against 224 audit observations involving money value of ₹ 596.88 crore, the Department accepted 112 observations involving ₹ 1.43 crore which is barely 0.24 *per cent*. Out of the accepted amount of ₹ 1.43 crore, the Department could recover only ₹ 12 lakh. Recovery of revenue (eight *per cent*) when compared to the number of cases accepted by the Department was extremely poor which points towards a need for strengthening the monitoring mechanism in the Department which would ensure recovery of revenues atleast in respect of the accepted cases.

4.6 Working of internal audit wing

Internal audit, a vital component of the internal control mechanism, functions as eyes and ears of the Department and is a vital tool which enables the management to assure itself that prescribed systems are functioning reasonably well.

The Department stated that the Finance Department has not put in place any separate internal audit system for the Transport Department. Had there been an effective internal audit system in the Department, deficiencies detected during local audit could possibly have been detected, rectified and prevented.

The Department may, in coordination with Finance Department, arrange to conduct internal audit of its records/accounts through the Director of Local Audit regularly.

4.7 Results of audit

Test check of records in seven unit offices of the Transport Department during 2011-12 revealed non/short levy and realisation of fine/motor vehicles taxes amounting to ₹ 671.39 crore in 39 cases as shown in Table 4.

Table 4
Results of audit

(₹ in crore)			
Sl. No.	Category	Number of cases	Amount
1.	Non-levy of fine on overloaded vehicles	01	518.73
2.	Non/short realisation of motor vehicle taxes	07	0.83
3.	Other irregularities	31	151.83
Total		39	671.39

During the course of the year 2011-12, the Department accepted one case involving revenue of ₹ 14.28 lakh and recovered ₹ 4.33 lakh.

A few illustrative audit observations involving revenue implication of ₹ 520.29 crore are mentioned in the following paragraphs.

4.8 Audit observations

Scrutiny of the records of the Transport Department revealed several cases of non-observation of the provisions of Acts/Rules/departmental orders as mentioned in the succeeding paragraphs. These cases are illustrative and are based on test checks carried out by Audit. Such omissions on the part of the departmental officers are pointed out by Audit each year, but not only do the irregularities persist, these remain undetected till subsequent audit is conducted. It is a matter of concern as these observations are also sent to the higher authorities including the Government each time these are detected, but the Government or the Department did not take sufficient measures to monitor the status and arrest their recurrence. There is a need for the Government to strengthen their control and monitoring mechanism including regular internal audit so that these omissions can be prevented, detected and corrected.

4.9 Overloading of vehicles in violation of MV Act led to non-levy and non-realisation of minimum fine of ₹ 518.73 crore, besides endangering public life and property

As per Section 194 of the Motor Vehicles (MV) Act, 1988, whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of the Act shall be punishable with minimum fine of ₹ 2,000 per vehicle and an additional amount of ₹ 1,000 per ton of excess load, together with the liability to pay the charges for off-loading the excess load.

Hon'ble Supreme Court, has, held¹ (September 2005) that trucks having maximum gross vehicle weight of 16.2 tons are permitted to carry payload of nine tons. In view of the immense adverse impact posed by overloading, the Apex Court directed all the State Governments to ensure that the overloaded vehicles, once detected, are not allowed to continue with the excess load after levying fine, and should be off loaded.

Overloaded vehicles, if not detected and off-loaded, not only cause significant damage to the road surface but also cause pollution through auto emissions; besides endangering lives of the road users. If the payload is twice the capacity of the vehicle, the damage caused to the road surface is sixteen times². Moreover, non-detection of overloaded vehicles deprives the State Government of revenue in the shape of fines, which is mandatory.

The State of Meghalaya is rich in coal. The State is landlocked and is connected by road through Assam only, while there is a long international boundary with Bangladesh. Hence, vehicles carrying coal meant for consumption

within the country (except that exported to Bangladesh through international border), have no other option but to enter and ply through Assam to reach their destinations in Assam and beyond.

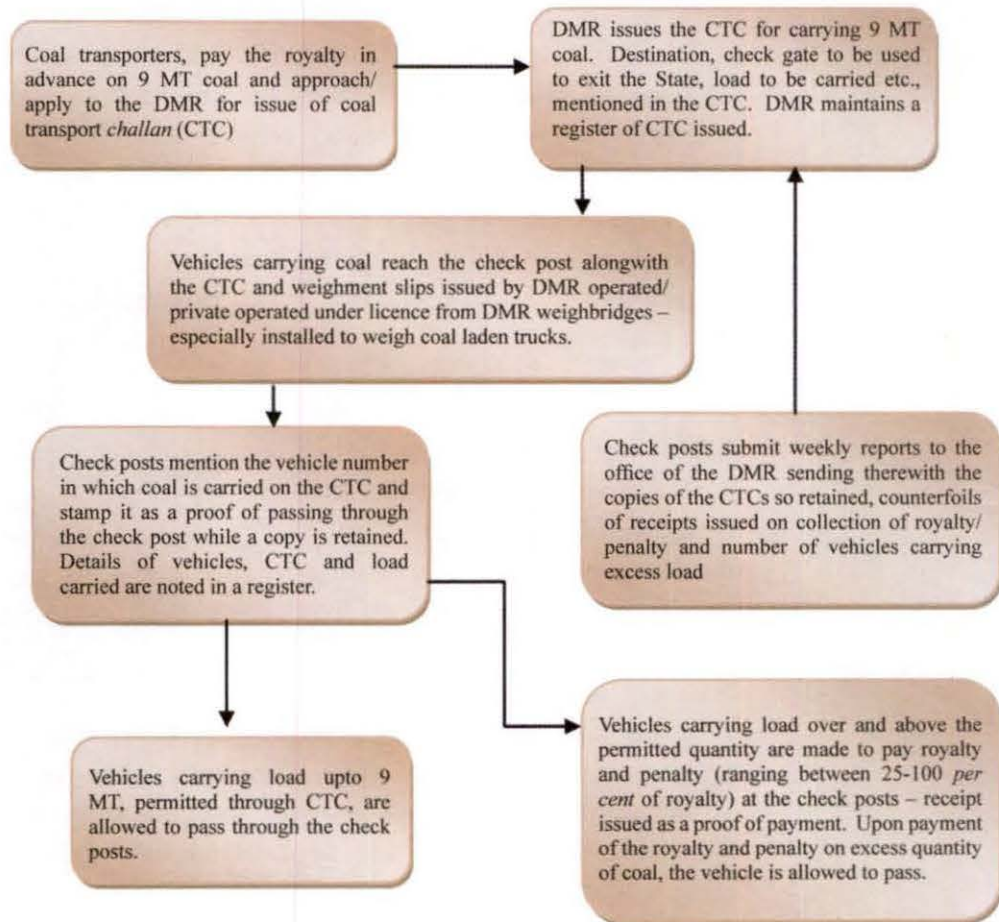
As coal laden trucks coming from the State of Meghalaya are prone to overloading, constant monitoring of these vehicles by the enforcement staff of the Transport department of Government of Assam becomes utmost important. Periodic cross verification of records of the Director of Mineral Resources (DMR), Meghalaya by the Transport department, Assam would enable the latter to detect overloaded vehicles coming over to Assam from Meghalaya. In the review on 'assessment, levy and collection of motor vehicle taxes'

¹ Source : Supreme Court's verdict (September 2005) in the case of *Paramjit Bhasin Vs Union of India and Others* {WP (Civil) 136 of 2003}.

² Source: Secretary (Ministry of Road Transport and Highway), Government of India's D.O letter dated 3 February 2011 to the Chief Secretary of Assam.

incorporated in the Audit Report for the year 2007-08, Government of Assam, non-detection of overloaded vehicles leading to non-levy of fine had been commented upon. The Transport department, Assam was then requested to introduce a system of cross verification of records of concerned departments of other adjoining States to detect overloading. However, as per the reports received from the Transport department, Assam, they were yet to take any action on such cross verifications till August 2011.

Audit has independently attempted to examine the extent of overloaded vehicles coming into and plying through the State of Assam from Meghalaya *vis-à-vis* compliance of the provisions of MV Act and Supreme Court's verdict on arresting overloading by the Transport department of Assam. For this, DMR, Meghalaya, Shillong which controls the movement of coal laden trucks from Meghalaya into Assam and elsewhere in the Country was approached, through the counterparts of Audit in Meghalaya. Through the process, the information on (i) system followed by the DMR to issue coal transport *challans*, (ii) levy and realisation of royalty and penalty on excess load at the check posts and (iii) reports/returns sent by the check posts to the DMR were gathered - as depicted in the following diagram:



Audit scrutiny revealed that in view of the Apex Court's orders, the Government of Meghalaya has reduced the permissible load per truck carrying coal to 9 MT from earlier limit of 15 MT per truck. Accordingly, the DMR, Meghalaya, have restricted the load carrying limit of permits for each truck from 15 MT to 9 MT.

Since the DMR, Meghalaya has the database showing details of number of vehicles carrying coal from Meghalaya to Assam and beyond, information for 2006-07 to 2009-10 on (i) total number of coal laden trucks that had crossed over to Assam from Meghalaya, (ii) quantity of excess load carried by such trucks, (iii) number of trucks which carried the excess load was collected by Audit. It was observed that 6.18 lakh trucks carrying excess load of 48.17 lakh tons over and above the maximum capacity crossed into Assam through three check posts³ located at the exit points of Meghalaya during 2006-07 to 2009-10. As per the provisions of the MV Act and the verdict of the Apex Court, minimum fine of ₹ 605.33 crore was leviable on these vehicles and the excess load of coal unloaded at the risk and cost of the vehicle owner. However, it was noticed that the enforcement wing of the Transport department, Assam could realise ₹ 86.60 crore during all these years and that too from all types of fines collected on various types of offences, of which overloading is one. Thus, the overall position of fines collected by the Transport department, Assam from all types of offences is less than 15 *per cent* of the minimum fine that should have been collected only from overloaded vehicles carrying coal from Meghalaya. This not only resulted in plying of these vehicles in violation of (i) relevant provisions of the MV Act, (ii) verdict of the Apex Court, thus, endangering human lives and public property; besides (iii) non-levy and realisation of minimum fine of ₹ 518.73 crore, which if realised, could have benefitted the State exchequer.

It was also noticed from the records of the Commissioner of Transport, Assam that in view of the Apex Court's observation on overloading, the Transport department has issued order (April and August 2010 *i.e.* after almost five years

from the Supreme Court's verdict) regarding offloading of excess load at the point of detection. Also, they have taken up the matter with the Government of Meghalaya for discouraging overloading of coal trucks, at source. The efforts of the department in curbing overloading of coal laden trucks are yet to bear results as it has been noticed in Audit from the

Initiative in other State:

The Government of Bihar has invoked 'Prevention of damage to Public Property Act, 1984' to curb overloading.

³ Dainadubi (exit towards Goalpara, Assam), Umkiang (exit towards Cachar District, Assam) and Umling (exit towards Guwahati, Assam).

records of exit check posts of DMR that coal trucks were exiting Meghalaya with overloads even during November 2011 and January 2012.

Though the Government of Assam has initiated steps to contain overloading, it is recommended that they consider adopting more stringent measures like invoking of 'Prevention of damage to Public Property Act' as done in Bihar to eradicate the menace of overloading.

The case was reported to the Department/Government in April 2012; replies have not been received (November 2012).

4.10 Absence of evidence of remittance of revenue of ₹ 1.25 crore

[District Transport Office (DTO), Kamrup Enforcement, Guwahati; December 2011]

The General Financial Rules provide that all moneys collected on behalf of the Government shall immediately be credited to the Government Accounts.

As per system in place in the DTOs in Assam, revenue is collected in cash at the receipt counters of the DTOs and subsequently remitted to the Government Account through treasury *challans*.

Further, the officers depositing revenue into Government account shall obtain a treasury advice list at the end of every month and reconcile the revenue remittances with those mentioned in the departmental Cash Book to ensure that there is no discrepancy of any kind.

During scrutiny of the Cash Book and the treasury *challans* maintained in the DTO, Kamrup Enforcement, Guwahati, it was observed that during July 2008 to November 2011 remittance of revenue of ₹ 5.58 crore through 463 treasury *challans* was recorded in the Cash Book. However, of the 463 treasury *challans*, the DTO could produce copies of only 359 treasury *challans* covering revenue remittance of ₹ 4.33 crore. On being requested to produce the remaining 104 *challans* involving revenue of ₹ 1.25 crore by Audit, the DTO stated (December 2011) that all the 359 treasury *challans* pertaining to the period from

July 2008 to November 2011 available in the office have duly been produced for audit scrutiny and the office did not have any other treasury *challan* in their possession. Thus, there was no evidence of remittance of revenue of ₹ 1.25 crore. There was also no proof of periodic reconciliation of revenue remittances between the departmental figures and the treasury figures. Resultantly, the District Transport Officer remained unaware of the absence of

the copies of 104 treasury *challans* involving substantial revenue till the same was pointed out by Audit.

After being requested (December 2011) by Audit, the Treasury Officer, Dispur requested the DTO, Kamrup Enforcement to submit a detailed statement of remittance of revenue for reconciliation with treasury records. The DTO stated in August 2012 that reconciliation of the figures with the records of the Treasury had been initiated and results would be intimated soon. Further reply had not been received (November 2012).

The case was reported to the Department/Government in December 2011 and followed up in February 2012; replies have not been received (November 2012).

4.11 Motor vehicles tax remaining unrealised

[DTOs, Cachar, Lakhimpur; December 2010 and November – December 2011]

The Assam Motor Vehicles Taxation Act, 1936 provides that taxes on motor vehicles are to be paid in advance on or before 15 April of each year or optionally in four equal installments payable on or before 15 April, 15 July, 15 October and 15 January respectively. The Act also provides that every owner of a motor vehicle who fails to pay the appropriate road tax in time shall be liable to pay a fine at a rate of ₹ 5 per day of such delayed payment with effect from 9 May 2002.

Further, as per the provisions of the Act, the District Transport Officer is required to maintain a combined register to watch the recovery of tax. He is also required to review the register at periodic intervals and issue demand notices to defaulters.

It was observed from the combined registers of the above DTOs that the owners of motor vehicles in 161 cases did not pay road tax of ₹ 19.56 lakh for various periods falling between April 2005 and September 2011. In addition to non-realisation of road tax, fine of ₹ 6.59 lakh at prescribed rate of ₹ 5 per day was also leviable in these cases for non-payment of dues within the stipulated time. This indicates that there is a need to reinforce the mechanism of reviewing the combined registers by the DTOs so that demand notices to the defaulting vehicle owners for recovery of the dues are issued in time and regularly.

After this was pointed out, the DTO, Cachar stated (March 2012) that ₹ 4.33 lakh had since been recovered (the reply did not mention the number of cases in which recovery was effected) and efforts were on to recover the balance amount. Further reply of

DTO, Cachar and initial reply/response of the DTO, Lakhimpur and the Department/Government have not been received (November 2012).

It is recommended that the Department/Government issue suitable instruction to DTOs making it mandatory for them to review the combined registers at regular intervals and the status of the same may be monitored by higher authorities in Government at regular intervals.

4.12 Mis-appropriation of revenue of ₹ 5.05 lakh

[DTO, Kamrup Enforcement, Guwahati; December 2011]

The Assam Financial Rules provides that all moneys collected on behalf of the Government shall immediately be credited to the Government Account. As per system in place in the DTOs in Assam, revenue is collected in cash at the receipt counters of the DTOs and subsequently remitted to the Government Account through treasury *challans*. Further, the officers depositing revenue into Government account shall obtain a treasury advice list at the end of every month and reconcile the revenue remittances with those mentioned in the departmental Cash Book to ensure that there is no discrepancy of any kind.

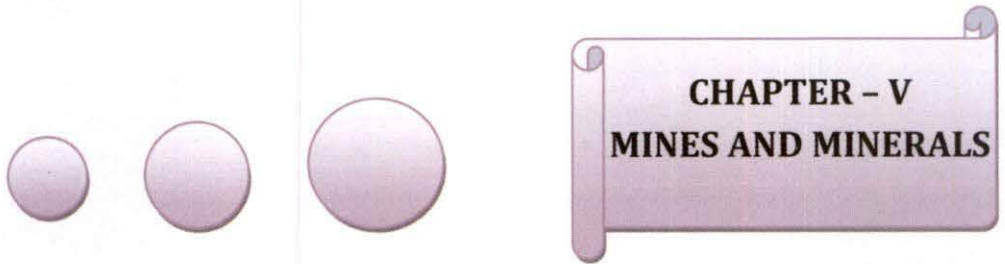
During scrutiny of the Cash Book maintained in the DTO, Kamrup Enforcement, Guwahati, it was observed that there was misappropriation of revenue of ₹ 5.05 lakh by adopting fraudulent means as indicated in the following table:

Sl. No.	Nature of irregularity	Revenue involved (in ₹)
1.	<p>Remittance of ₹ 3,70,602 and ₹ 1,46,676 was recorded in the Cash Book vide treasury <i>challans</i> no. 1/5149 and 1/12446 dated 9 and 29 January 2009 respectively.</p> <p>A cross verification of the records of the Treasury Officer, Dispur indicated that through the same <i>challan</i> numbers, revenue of ₹ 70, 602 and ₹ 46,676 was actually remitted.</p> <p>Thus, by inserting figures in the receipted copies of the treasury <i>challans</i>, revenue of ₹ 4 lakh (₹ 3 lakh in treasury <i>challan</i> no. 1/5149 and ₹ 1 lakh in treasury <i>challan</i> no. 1/12446) was misappropriated.</p>	4,00,000

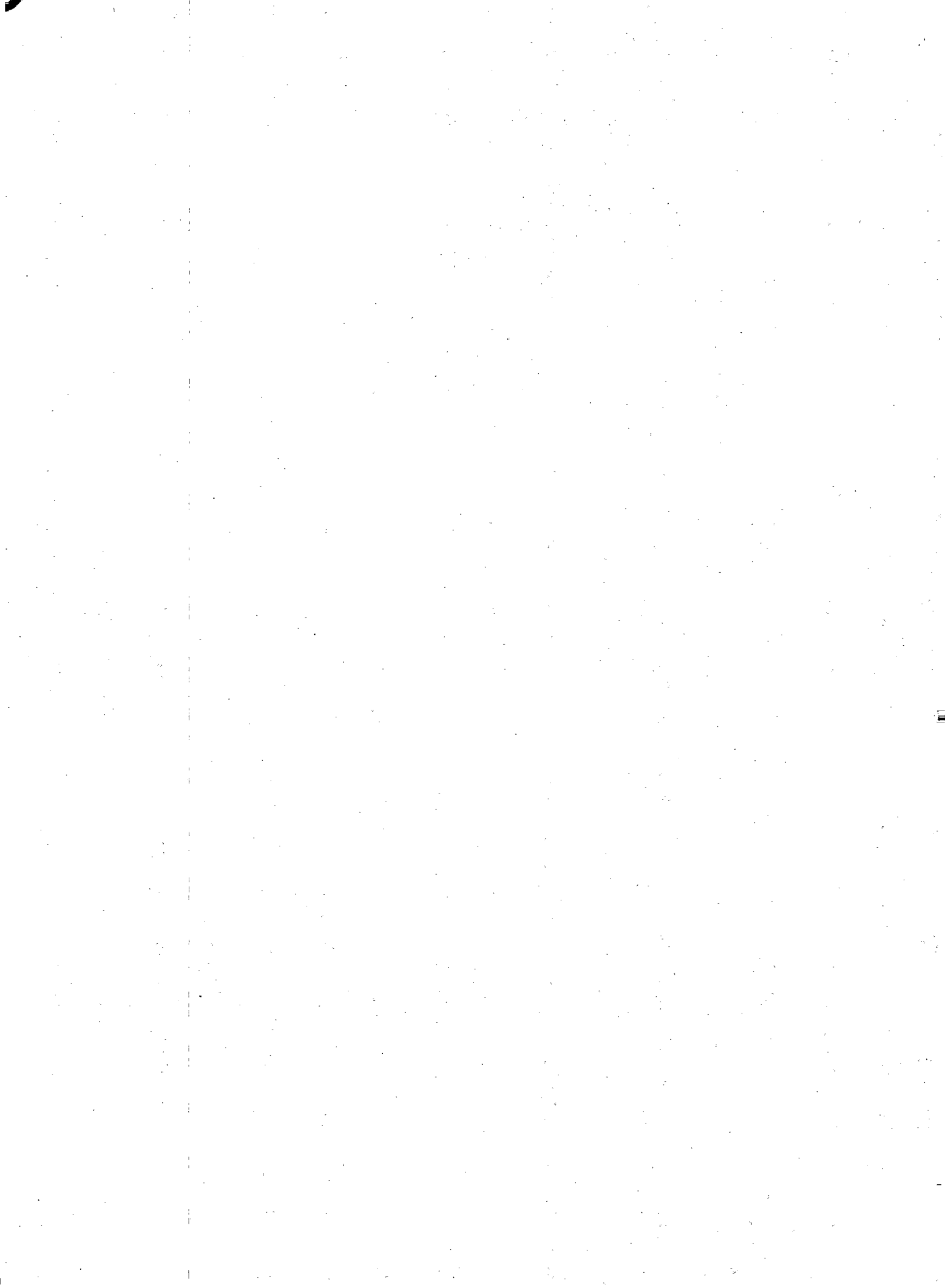
2.	Closing balances of revenue on 29 January and 6 February 2010 were shown as ₹ 6,62,204 and ₹ 5,40,512 respectively. However, the opening balances of revenue on the next days were shown as ₹ 5,87,854 and ₹ 5,12,842 respectively, thereby resulting in misappropriation of revenue of ₹ 1,02,020.	1,02,020
3.	Fine of ₹ 2,500 was collected vide receipt no. 9353145 (book no. 93532) dated 18 July 2010 which was neither accounted for in the Cash Book nor remitted in Government accounts.	2,500
Total		5,04,520

The case was reported to the Department/Government in January 2012 and followed up in February 2012; their replies have not been received (November 2012).

NON-TAX RECEIPTS



**CHAPTER - V
MINES AND MINERALS**





Chapter – V: Mines and Minerals

5.1 Tax administration

Coal, crude oil and natural gas are the major minerals and limestone, boulder, stone and sand are the minor minerals in the State of Assam. The Mines and Minerals Department of the Government of Assam realises revenue from major minerals and from limestone (minor mineral), which comprises application fees for mining lease/prospecting licence, royalty, dead rent, surface rent, fines/penalties and interest on belated payment of dues. Levy and collection of royalty from other minor minerals are entrusted to the Environment and Forest Department.

For conservation, systemic development and regulation of mining activities in India, the Government of India enacted the Mines and Minerals (Development and Regulation) Act (MMDR Act), 1957; the Mineral Concession Rules, 1960; the Mineral Conservation and Development Rules, 1988; the Granite Conservation and Development Rules, 1999 and the Colliery Control Rules, 2004. The mining activities in Assam are governed under the above Acts and the Assam Minor Mineral Rules, 1994 framed by the Government of Assam in exercise of the powers conferred under the MMDR Act. The levy and collection of royalty, dead rent and surface rent on minerals are regulated under the above cited Acts/Rules. The conservation, development and extraction of oil and natural gas are regulated under the Oilfield (Regulation and Development) Act, 1948 and the Petroleum and Natural Gas (PNG) Rules, 1959.

The Commissioner & Secretary, Mines and Minerals Department, is the head at the Government level and the Director of Geology and Mining, Assam is the head of the Department, who is assisted by one Joint Director, four Chief Geologists/Jt. Directors, one Chief Drilling Engineer, one Deputy Chief Chemist, five Deputy Directors/Sr. Geologists, one Mining Engineer, one Sr. Drilling Engineer, two Sr. Chemists, five Chemists, one Assistant Mining Engineer, one Assistant Mechanical Engineer, three Drilling Engineers, 16 Geologists, 27 Assistant Geologists and other ministerial staff.

The Directorate does not have any unit in the field unlike other States where there are formations under the Department/Directorate in the field/district also.

5.2 Trend of receipts

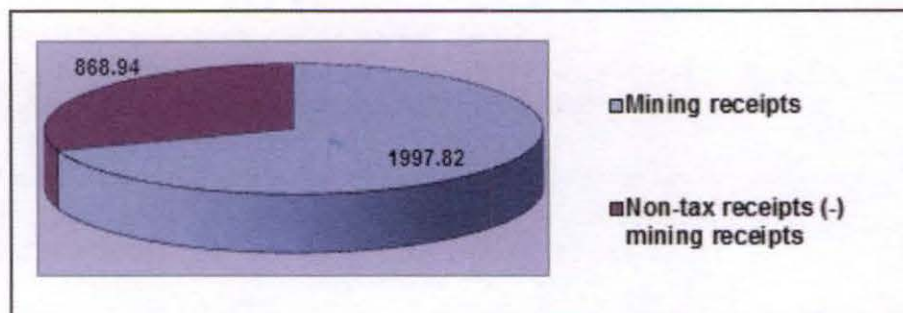
The position of budget estimates, actual receipts under 'mines and minerals' alongwith the total non-tax receipts of the State during 2007-08 to 2011-12 are exhibited in Table 1 and graph/pie chart below.

Table 1
Analysis of mines and minerals

(₹ in crore)

Year	Budget estimates	Actual Mining receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual receipts vis-à-vis total non-tax receipts {(3) to (6)}
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2007-08	1,406.87	1,566.42	159.55	11	2,134.59	73
2008-09	1,755.09	1,449.86	(-) 305.23	(-) 17	2,271.90	64
2009-10	1,718.01	1,612.96	(-) 105.05	(-) 6	2,752.95	59
2010-11	1,656.61	1,656.11	(-) 0.50	(-) 0.03	2,373.33	70
2011-12	1,919.12	1,997.82	78.70	4	2,866.76	70

Source: Finance Accounts and Departmental figures.



Position of mining receipts vis-a-vis total non-tax receipts during 2011-12

It is noticed from the table above that the percentage of mines and minerals receipts when compared to the total non-tax receipts of the State ranged between 59 and 73 per cent during the last five years.

Though the Department has put in place a mechanism for estimating the revenues, there were variations between budget estimates and actual receipts ranging between (-) 17 and 11 per cent during 2007-08 to 2011-12 which the Department needs to look into.

5.3 Working of internal audit wing

Internal audit, a vital component of the internal control mechanism, functions as eyes and ears of the Department and is a vital tool which enables the management to assure itself that prescribed systems are functioning reasonably well.

It was noticed that the Government has not put in place any separate internal audit wing in the Directorate of Geology and Mining nor arranged for any internal audit by the Director of Local Audit or otherwise. Had there been an effective internal audit system in the Department, deficiencies detected during local audit could possibly have been detected, rectified and prevented.

The Department may, in coordination with Finance Department, arrange to set up an internal audit wing in the Directorate or conduct internal audit of its records/accounts through the Director of Local Audit.

5.4 Results of audit

Test check of records of one unit relating to the Mines and Minerals Department during 2011-12 revealed cases of short payment/realisation of royalty, loss due to absence of standard norms for deduction etc. involving ₹ 274.35 crore in eight cases as mentioned in Table 4.

Table 4
Results of audit

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Loss due to absence of standard norms for deduction	01	146.20
2.	Short payment/realisation of royalty	04	124.87
3.	Other irregularities	03	3.28
Total		08	274.35

The Department accepted five cases with revenue implication of ₹ 10.80 crore and recovered ₹ 5.86 crore during 2011-12.

A few illustrative audit observations with financial implication of ₹ 173.44 crore are mentioned in the succeeding paragraphs.

Audit observations

5.5 Non-insertion of standard norms for deduction on account of operational utilisation in the Petroleum and Natural Gas Rules, 1959 deprived the Government of additional revenue of ₹ 136.31 crore.

[Director of Geology and Mining, July – August 2011]

Section 6A (3) of the Oil field (Regulation and Development) Act, 1948 and provisions of PNG Rules, 1959 stipulate that no royalty shall be payable in respect of any crude oil, casing head condensate or natural gas used for drilling or under operation, relating to production of petroleum or natural gas. The Rules as well as the petroleum mining lease agreement do not, however, specify any standard norms for such utilisation.

In view of Oil India Limited (OIL) and Oil & Natural Gas Corporation Limited (ONGCL) claiming substantial percentage of their production as “operational utilisation” (*a percentage of gas used in exploration*) thereby not paying royalty on the same, the Principal Secretary, Mines and Minerals Department, Government of Assam had in May 2002, followed up in November 2008, taken up the issue with the Secretary, Ministry of Petroleum and Natural Gas, Government of India and conveyed Government of Assam’s request to restrict the elements of unavoidable loss in case of natural gas to a maximum of five *per cent*. It was also requested that necessary amendment be made in the PNG Rules incorporating the above clause.

Mention was made in paragraph 6.2.10.1 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 2010 (Revenue Receipts), Government of Assam, regarding loss of revenue due to absence of standard norms for deduction on account of operational utilisation. Periods between 2004-05 and 2008-09 was covered in the above paragraph.

During scrutiny of records of the Director of Geology and Mining, Assam, it was observed that the Government of India is yet to incorporate the aforesaid provision restricting unavoidable loss at five *per cent* in the PNG Rules as per the request of Government of Assam.

It was also noticed that M/s ONGCL produced 92.94 crore¹ SCUM² natural gas during 2009-

¹ 2009-10 = 46.72 crore SCUM and 2010-11 = 46.22 crore SCUM

² Standard cubic meter - unit in which gas is measured.

10 and 2010-11 of which 41.24 crore³ SCUM natural gas *i.e.* 44.38 *per cent* was claimed as operational utilisation and thus, no royalty was paid on the same. In the absence of any standard norms in the PNG Rules and non-inclusion of the same in the PNG Rules by the Government of India as per the request of Government of Assam, the Mines and Minerals Department had no other option, but to accept the returns submitted by M/s ONGCL. Consequently, the State was deprived of revenue of ₹ 136.31 crore⁴ calculated on the volume of natural gas claimed as unavoidable loss over and above the ceiling of five *per cent* proposed by the Government of Assam.

While pointing out the matter in the Audit Report for the year ended 31 March 2010 it was recommended that the State Government may take up the matter with Government of India for amendment of PNG Rules. However, while conducting the present audit, it was found that no tangible progress was made in this regard. It is recommended that the matter may be vigorously pursued by Government of Assam at appropriate level of Government of India for fixing a ceiling for claiming operational utilisation by amending relevant clause of PNG Rules instead of leaving it open ended.

After this was pointed out, the Department stated (August-September 2012) that the proposal for restricting the quantity of unavoidable loss of crude oil and natural gas were made on the basis of production performance of M/s OIL and M/s ONGCL as well as the market value of the hydrocarbons. They also stated that the quantity of unavoidable loss is to be minimised by adopting improved techniques and adequate measures as well as through enforcement of amendment of the relevant regulations so that the producing companies are compelled to pay royalty on quantity beyond the permissible limit fixed by law. It was further stated that as recommended by Audit, the matter would be again pursued with the Government of India for necessary amendment in the PNG Rules.

The case was reported to the Government in September 2011 and followed up in January 2012; their replies have not been received (November 2012).

³ 2009-10 = 21.21 crore SCUM and 2010-11 = 20.03 crore SCUM

⁴ Calculated considering average rates of royalty : 2009-10 = ₹ 1,918.86/thousand SCUM and 2010-11 = ₹ 5,649.13/thousand SCUM on the following:

Total production = 92.94 crore SCUM;

Five per cent of total production = 4.65 crore SCUM (a);

Deduction allowed = 41.24 crore SCUM (b);

(a) - (b) = 36.59 crore SCUM (2009-10 = 18.87 crore SCUM; 2010-11 = 17.72 crore SCUM).

5.6 Absence of a system of cross verification of the monthly returns with the annual accounts of the lessee led to non-detection of short payment of royalty of ₹ 26.33 crore including interest

[Director of Geology and Mining; July – August 2011]

The Oilfield (Regulation and Development) Act, 1948 and Rules made thereunder (PNG Rules, 1959) provide for levy of royalty in respect of oil and natural gas extracted from the leased area at the prescribed rates. The Rules also provide that a lease holder of oil, condensate and natural gas shall furnish full and proper return showing the quantity of crude oil, condensate extracted by him during the preceding month from the mining operation undertaken under the provision of the lease.

During scrutiny of the monthly returns of M/s OIL on extraction of crude oil and natural gas, it was observed that the lessee had disclosed production of 79.70 lakh kilolitres (KL) crude oil/condensate during the years 2009-11 and 17,381.06 lakh SCUM natural gas during 2009-10 on which royalty was paid by the lessee.

To ascertain the correctness of the figures disclosed in the monthly returns by the lessee, a cross verification of these

figures with those reflected in the annual accounts of the lessee for the relevant years and information available in the website of Ministry of Petroleum and Natural Gas (MoPNG) was carried out. It was observed that during the same periods, the annual accounts/information of MoPNG reflected net production of crude/condensate as 80.43 lakh KL and natural gas as 20,260 lakh SCUM. This reveals that the net production of 0.73 lakh KL crude oil/condensate and 2,878.94 lakh SCUM natural gas was suppressed by the lessee and resultantly there was short payment of royalty of ₹ 26.33 crore including interest. Due to the absence of a system of carrying out cross verification of the net production disclosed by the lessee in their monthly returns with those declared in their annual accounts/available in the website of the MoPNG, the Directorate of Geology and Mining, Assam remained unaware of such suppression and therefore did not raise demand for recovery of the royalty and interest short paid by the lessee.

It is recommended that a system needs to be instituted in the Directorate of Geology and Mining, Assam for carrying out cross verification of the figures of net production disclosed by the lessees in their monthly returns with those depicted in their annual accounts/information available in the website of the MoPNG so as to detect suppression of production figures, if any, leading to short realisation of royalty.

After this was pointed out, the Department stated (July 2012) that royalty on crude oil was paid by M/s OIL on the production quantity after adjusting quantity for permissible purposes like unavoidable loss and quantity used for production of petroleum and natural gas. As regards the variation in respect of natural gas the Department stated no royalty shall be payable on natural gas used for petroleum mining operation as per provision of PNG Rules.

The reply is not tenable as Audit has considered the volume of crude oil and natural gas on which royalty was actually paid by M/s OIL and compared the same with the 'net production' as available in the annual accounts/website of MoPNG and clearly, net production is arrived at after allowing all permissible deductions from gross production.

The case was reported to the Government in September 2011 and followed up in January 2012; their replies have not been received (November 2012).

5.7 Short realisation of royalty due to payment of royalty at varied rates

[Director of Geology and Mining; July – August 2011]

According to the PNG Rules, 1959, a lessee shall pay to the State Government a royalty at 10 per cent of the value of natural gas at well head as obtained by the lessee from the leased area.

During scrutiny of the monthly returns submitted by the lessees of natural gas namely M/s OIL and M/s ONGCL during the period from April 2009 to March 2011, it was observed that M/s OIL had paid royalty on

34.66 lakh SCUM natural gas at rates ranging between ₹ 179.53 and ₹ 525.21 per thousand SCUM. However, during the same period, the other lessee M/s ONGCL had paid royalty on natural gas at rates varying between ₹ 185.88 and ₹ 565.45 per thousand SCUM. The payment of royalty at lower rates by M/s OIL compared to rate of royalty paid by M/s ONGCL resulted in short realisation of royalty of ₹ 8.05 crore.

After this was pointed out, the Department stated (September 2012) that ₹ 5.72 crore has been recovered from M/s OIL and a demand notice for interest of ₹ 99.40 lakh has been issued for delayed payment of royalty on natural gas. Report on realisation of the balance amount as well as the interest has not been received (November 2012).

The case was reported to the Government in September 2011 and followed up in January 2012; their replies have not been received (November 2012).

5.8 Non-submission of claim by Government of Assam for payment of additional royalty on crude oil – non-realisation of revenue of ₹ 2.51 crore

[Director of Geology and Mining; July – August 2011]

The Government of Assam granted a Petroleum Mining Lease (PML) on 27 August 2004 for an area of 52.75 sq. km to M/s Canaro Resources Limited (CRL) for Amguri Block under Production Sharing Contract (PSC) to extract crude oil. For this, the State Government agreed to realise royalty on crude oil at fixed rate of ₹ 528 per MT while the balance royalty (in excess of ₹ 528/MT) was to be realised from the Oil Industry Development Board (OIDB) fund as decided by the Government of India. As per the system put in place, the claims for balance royalty by the State Government would be examined by the Director General of Hydrocarbons and submitted to the OIDB for payment to the concerned State Governments.

Mention was made in paragraph 6.2.8.3 of Report of the Comptroller and Auditor General of India for the year ended 31 March 2010 (Revenue Receipts), Government of Assam regarding non-submission of claim for additional royalty of ₹ 10.48 crore on crude oil extracted during April 2006 to March 2009 by M/s CRL.

During scrutiny of the records of the Director of Geology and Mining, Assam, it was observed that the OIDB had made payments of ₹ 17.30 crore being the balance royalty on crude oil extracted by CRL during April 2006 to March 2010. It was further observed from the monthly returns submitted by CRL that during

the months April 2010 to November 2010, CRL extracted 9,723.52 MT crude oil on which royalty of ₹ 3.02 crore was due, of which, royalty of ₹ 51.34 lakh (at ₹ 528 per MT) was paid by CRL. Though the balance amount of ₹ 2.51 crore was to be claimed from OIDB, it was noticed that no claim was raised by the Director of Geology and Mining which resulted in non-realisation of revenue of ₹ 2.51 crore. Besides, despite failure of the CRL to submit monthly returns for December 2010 to March 2011, Director of Geology and Mining, Assam did not take any action to approach the lessee and obtain the returns for those months. Consequently, the Directorate remained unaware of the crude oil extracted by CRL during those months alongwith royalty payable by CRL and the amount of balance royalty that is to be claimed from the OIDB.

After this was pointed out, the Department stated (September 2012) that a demand for ₹ 3.29 crore being the differential royalty for April 2010 to March 2011 has been raised (October 2011) by the Department which was transmitted to the Government of India by the Government of Assam in November 2011. It was further stated that payment is yet to be received. Further development has not been reported (November 2012). As regards non-submission of returns by CRL as pointed out in Audit, the Department did not furnish any reply.

The case was reported to the Government in September 2011 and followed up in January 2012; their replies have not been received (November 2012).

5.9 Non-levy of interest of ₹ 10.27 lakh on delayed payment of royalty

[Director of Geology and Mining; July – August 2011]

The Oilfield (Regulation and Development) Act, 1948 and Rules made thereunder provide that the lessee shall pay royalty in respect of any mineral oil mined, quarried, excavated or collected by him from the leased area at the rates specified in the schedule of the Act. The royalty is to be paid on monthly basis on the last day of the month succeeding the period in respect of which it is payable. The PNG Rules further provide that licence fees, royalties and other payments shall, if not paid within the time specified for such payment, be increased by 200 basis points over the prime lending rate of State Bank of India for the delayed period.

It was observed that there is no system in the Directorate of Geology and Mining, Assam for conducting assessment of royalty independently on the basis of information submitted in the returns of the lessees. It is, therefore, necessary that the returns of the lessees are scrutinised by the Directorate of Geology and Mining, Assam atleast to ensure that there is no delay in payment of Government dues and in case(s) of delay, interest is levied as per the provisions of the PNG Rules.

During scrutiny of the monthly returns of M/s OIL on extraction of natural gas and crude oil respectively for 2009-10, it was

observed that there was delay in depositing royalty amounting to ₹ 2.52 crore for periods ranging between 1-9 months by OIL. Due to delayed payment of royalty, interest at 14.25 per cent (calculated at prime lending rate of SBI plus 200 basis points) was to be levied on the lessee. Due to the failure of the Directorate of Geology and Mining, Assam to properly scrutinise the returns of the lessee, delayed payment of royalty by the lessee remained undetected till this was pointed out by Audit. Consequently, interest for delayed payment of royalty amounting to ₹ 10.27 lakh was not levied.

After this was pointed out, the Department stated (September 2012) that demand notice for ₹ 10.27 lakh being interest for delayed payment of royalty had been issued to M/s OIL in July 2012. Report on realisation has not been received (November 2012).

The case was reported to the Government in September 2011 and followed up in January 2012; their replies have not been received (November 2012).

5.10 Due to inaction of the Directorate of Geology and Mining, Assam, royalty from cement manufacturing industries remained unrealised

[Director of Geology and Mining; July – August 2011]

According to the instruction (January 1983) of Government of Assam, Hill Areas Department, all licensees/lease holders engaged in the mining operation in the area under the jurisdiction of any district council area should deposit 60 per cent of the due royalty to the concerned district council while the remaining 40 per cent to be remitted to the State Government.

The Government also ordered through the same instruction as referred above that it would be the responsibility of the Director of Geology and Mining to ensure that the licensees/lessees pay the royalty due to the district council as well as the State Government.

Further, Section 25 of the Mines and Minerals (Regulation and Development) Act, 1957 empowers the State Governments to recover any sum due under mining leases as arrears of land revenue.

During scrutiny of the monthly returns of the lessees of limestone quarries maintained in the office of the Director of Geology and Mining, Assam, it was observed that two licensees M/s Vinay Cements Limited and M/s North East Cement Limited extracted 42,262 MT and 12,748 MT limestone respectively from areas falling under district councils during the period between April 2010 and March 2011 on which royalty of ₹ 13.86 lakh⁵ was payable to the State Government. Though the lessees submitted returns showing extraction of limestone, they did not pay the requisite royalty on the same. It was noticed that though the responsibility of ensuring realisation of

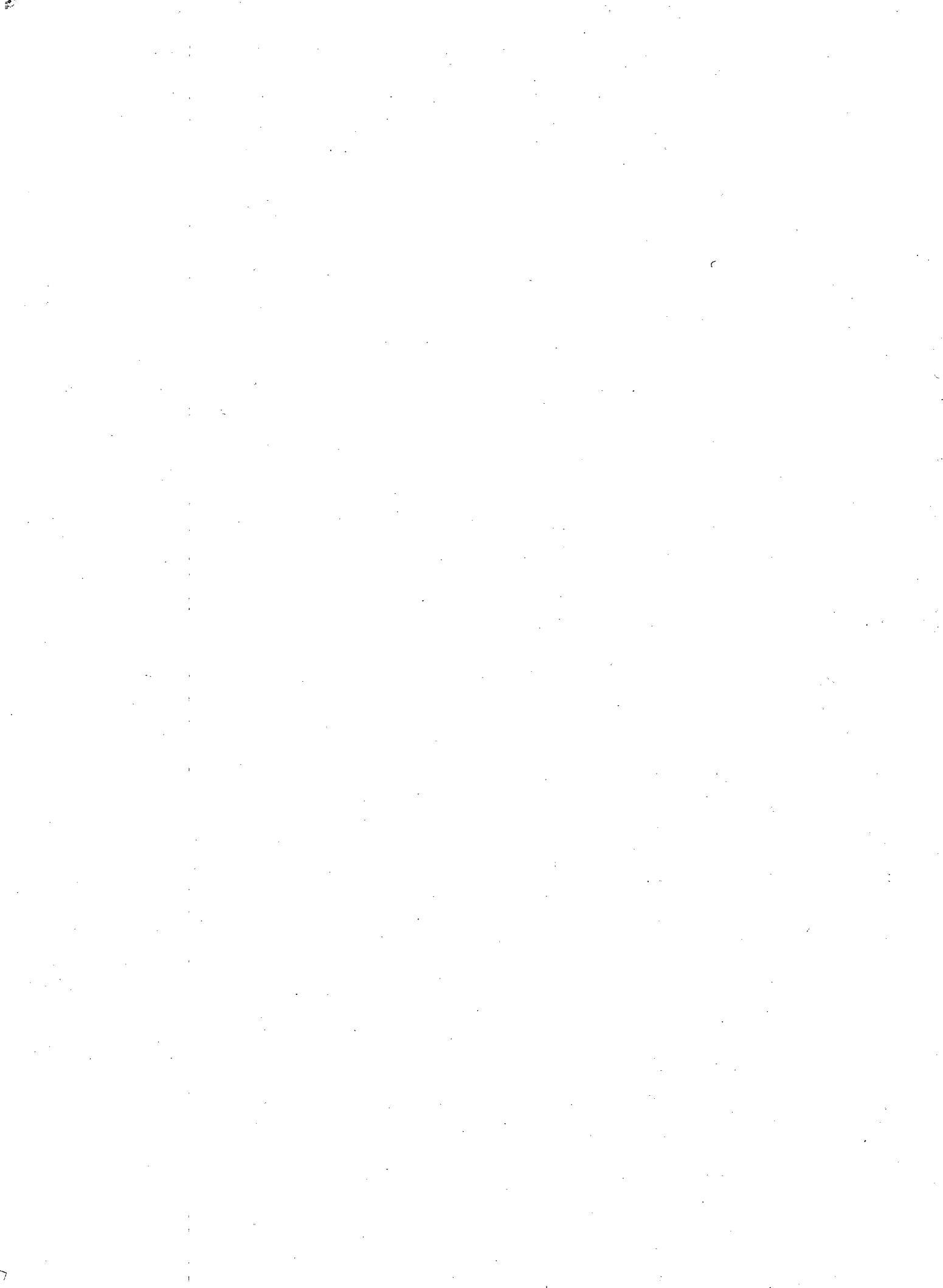
due revenue accrued to the State Government as well as the district councils rested with the office of Director of Geology and Mining, it did not take recourse to provision to effect recovery of dues as arrears of land revenue

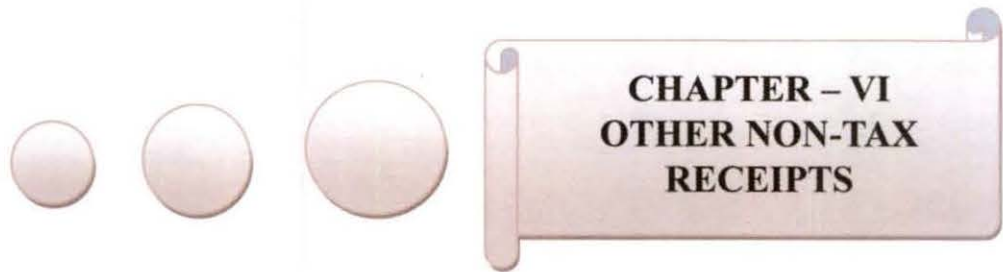
⁵ Rate of royalty /MT of limestone = ₹ 63. Hence, royalty for 55,010 MT of limestone = ₹ 34.65 lakh. Thus, 40 per cent of ₹ 34.65 lakh = ₹ 13.86 lakh.

after its effort (reminder to the lessees issued in June 2011) to recover arrear dues failed. Thus, due to inaction of the Directorate of Geology and Mining to recover the dues by invoking the provisions of the Act resulted in revenue of ₹ 13.86 lakh remaining unrealised.

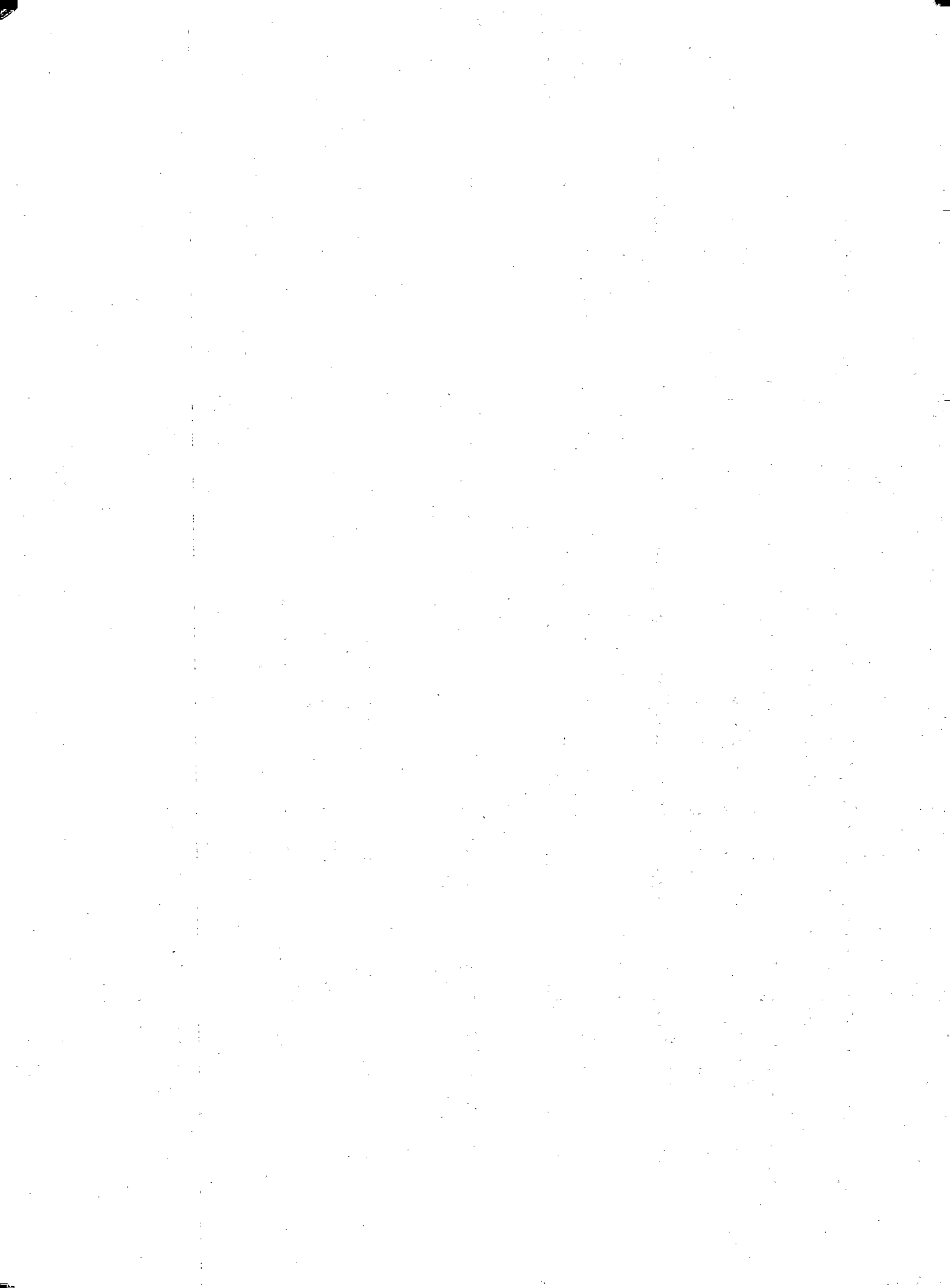
After this was pointed out, the Department while admitting the audit observation stated (September 2012) that M/s Vinay Cements has paid the dues in February 2012 and for delayed payment of royalty, interest of ₹ 3.47 lakh was levied on the lessee which had been paid by them. As regards M/s Necem Cements Ltd., the Department stated that it is a fact that the lessee had not paid royalty for the period April 2010 to March 2011 despite the matter being taken up by the Department with the lessee. It was further stated that the lessee is being notified shortly to clear the dues failing which appropriate action would be taken against the lessee. Further development has not been reported (November 2012).

The case was reported to the Government in September 2011 and followed up in January 2012; their replies have not been received (November 2012).





**CHAPTER – VI
OTHER NON-TAX
RECEIPTS**





CHAPTER – VI: Other Non-Tax Receipts

6.1 Results of audit

During the year 2011-12, a performance audit on 'Forest Receipts'¹ was conducted. Besides, records of 30 units relating to the Environment and Forest Department (E&F Department) were test checked which revealed cases of non/short realisation of royalty, loss/blocking of revenue due to delay in disposal of timber and other irregularities involving ₹ 54.10 crore in 173 cases. Also, a theme audit on 'Assessment, levy and collection of Water Rates for irrigation/non-irrigation purposes in Assam' was conducted in the Irrigation Department which revealed observations involving ₹ 617.44 crore. Details are in Table 1.

Table 1
Results of Audit

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
Irrigation Department			
1.	Theme Audit on - Assessment, levy and collection of water rates for irrigation/non-irrigation purposes in Assam	01	617.44
E&F Department			
1.	Non-realisation of forest revenue	11	23.99
2.	Loss of revenue due to non-settlement/delay in settlement of <i>mahals</i>	10	1.79
3.	Loss of revenue due to delay in disposal of timber	08	1.55
4.	Loss of revenue due to illegal felling and removal of timber	05	0.35
5.	Other irregularities ²	139	26.42
Total		174	671.54

The E&F Department accepted 25 cases with revenue implication of ₹ 1.85 crore of which 11 cases involving ₹ 1 crore pertained to 2011-12 and the rest related to earlier years. During 2011-12, the Department recovered ₹ 74.87 lakh in five cases.

¹ Presented as a separate stand alone Report titled 'Report of the Comptroller and Auditor General of India for the year ended 31 March 2012 (Performance audit on Forest Receipts), Government of Assam.

² This includes 101 paragraphs involving ₹ 13.41 crore pertaining to expenditure accounts.

The theme audit on 'Assessment, levy and collection of water rates for Irrigation/non-irrigation purposes in Assam' and a few illustrative audit observations in respect of E&F Department involving financial implication of ₹ 617.44 crore and ₹ 83.15 lakh respectively are mentioned in the succeeding paragraphs.

6.2 Assessment, Levy and Collection of Water Rates for Irrigation/ non-Irrigation purposes in Assam

6.2.1 Introduction

Water is a scarce and precious national resource to be planned, developed, conserved and managed on an integrated and environmentally sound basis, keeping in view the socio-economic aspects and needs of the States of the country. Usage of water from which revenue is generated can be broadly classified into two categories, viz. for irrigation purposes and non-irrigation purposes. In the planning and operation of systems, water allocation priorities should broadly cover drinking water, irrigation, hydro power, ecology, agro-industries and non-agro industries and navigational and other purposes. As a significant step towards development, conservation, utilisation and management of water, the Water Resources Ministry of the Government of India has chalked out a “National Water Policy” in 1987 which has been subsequently reviewed and updated in 2002.

Water resources in Assam as a whole are substantial. About 8,251 sq km representing 10.5 *per cent* of the total geographical area of the State, is occupied by surface water bodies. Of this, about 6,503 sq km is occupied by



Mighty Brahmaputra - principal source of water in Assam

the river systems including the mighty Brahmaputra and 1,748 sq km by natural wetlands including seasonal and permanent waterlogged and marshy areas and man-made reservoirs and tanks. The annual replenishable groundwater resources of the State are estimated as 27.23 billion cubic metres³ and net annual ground water availability is 24.89 billion cubic metre of which, 4.85 billion cubic metre is for irrigation and 0.59 billion cubic metre

is for domestic and industrial uses. The overall extent of groundwater exploitation in the State is 22 *per cent* – with the lowest figure of two *per cent* in Cachar District and highest 56 *per cent* in Bongaigaon District – and has been categorised as ‘safe’.

³ Source : Dynamic groundwater resources of India – 2004 – prepared by Central Ground Water Board, Ministry of Water Resources, Government of India.

The Assam Irrigation (AI) Act, 1983 and Rules 1997 entrust the Irrigation Department (Department) of the Government of Assam (Government) with the responsibility of management of water supply from any irrigation work⁴ in the State and collection of water rates - a non-tax receipt. Water is supplied through irrigation projects for irrigation purpose on the land under assured/probable gross command area (GCA)⁵ belonging to culturable command area (CCA)⁶. However, administration of water resources used for non-irrigational purposes like generation of electricity, domestic, commercial and industrial use is yet to be streamlined.

The subject, "Assessment, levy and collection of water rates for irrigation and non-irrigation purposes in Assam" covering the period 2005-06 to 2010-11 was audited in two spells between December 2000 – March 2011 and June – July 2012. Audit findings are mentioned in succeeding paragraphs.

15⁷ out of 51 Irrigation Divisions were test checked covering the periods from 2005-06 to 2011-12. Divisions were selected through statistical sampling using population proportionate sampling with replacement (PPSWR) method. Besides, records of the Public Health Engineering Department, Assam Urban Water Supply and Sewerage Board, Assam Power Generation Corporation Limited and some other relevant industries, were also cross checked with those of the Department.

⁴ As per the AI Act, irrigation work means – any part of river, stream, lake, natural collection of surface water or ground water.

⁵ Total area projected for cultivation.

⁶ All land within the irrigable command of an irrigation work which are fit for cultivation.

⁷ 1) CAD Irrigation Division, Kaliabor; 2) Dhansiri Weir Project Irrigation Division; 3) Dhansiri Canal I Irrigation Division; 4) Goalpara Irrigation Division; 5) Guwahati Irrigation Division; 6) Karbi Anglong Irrigation Division; 7) Kokrajhar Irrigation Division; 8) Jamuna CAD Irrigation Division; 9) Mangaldoi Irrigation Division; 10) Nagaon Irrigation Division, 11) Nalbari Irrigation Division; 12) Pahumara Rupahai Irrigation Division; 13) Pathsala Irrigation Division; 14) Rangia Irrigation Division and 15) Tezpur Irrigation Division.

Audit findings**6.2.2 Trend of revenue**

As per the provisions of the Assam Budget Manual, the estimates of revenue and receipts should show the amount expected to be actually realised within the year including arrears for previous years and advance collections for the ensuing year keeping in view probabilities of their realisation during the year.

Details of budget estimates and actual revenue realised from 2005-06 to 2010-11 are given in Table 2.

Table-2
Trend of revenue

(₹ in crore)

Sl. No.	Year	Budget estimates	Actual receipts ⁸	Short fall (-)/ Surplus (+)	Percentage of surplus/shortfall
(1)	(2)	(3)	(4)	(5)	(6)
1.	2005-06	0.52	0.38	(-) 0.14	(-) 26.92
2.	2006-07	0.80	0.62	(-) 0.18	(-) 22.50
3.	2007-08	0.86	0.70	(-) 0.16	(-) 18.60
4.	2008-09	1.05	1.21	(+) 0.16	15.24
5.	2009-10	0.80	1.34	(+) 0.54	67.50
6.	2010-11	1.38	0.80	(-) 0.58	57.97

Source: Budget documents and Finance Accounts.

Though there was consistent growth in actual receipts except in 2010-11, budget estimates were not prepared keeping in view the actual receipts of previous years and there was mismatch between the budget estimates and actual receipts during all the above years. Further, the budget estimates also did not take into account the water rates due for the year as per potential utilised (as shown in column 4 of table 3) which indicates lack of co-ordination between the Finance and Irrigation Department. Sharp increase in actual receipts in 2008-09 and 2009-10 over budget estimates was due to increase in receipts from minor irrigation schemes. However, there exists large scope for optimising the revenue receipts from 'water rates', if the deficiencies pointed in the succeeding paragraphs are rectified by the Government.

⁸ As reported in Finance Accounts of the State.

System deficiencies

6.2.3 Assessment and raising of demand of water rates

As per Sections 41 and 43 of the AI Act, the irrigation officer shall prepare an assessment of water rates for the land in respect of which water was supplied from an irrigation work and serve a demand notice for recovery of water rates so assessed.



It was observed that though the Act and the Rules empowered the irrigation officers to assess and serve demand notices, neither the Act nor the Rules prescribed any time limit for finalising such assessment and serving the notice for demand which could have helped instill the awareness among beneficiaries of the need for payment of water rates. While in some cases demands were not raised on regular basis on beneficiaries of irrigation schemes, in a majority of the cases, demands were not raised at all. Consequently, against the total realisable amount of ₹ 51.08 crore⁹ during the years 2005-06 to 2010-11, the department realised only ₹ 17.30 lakh. This led to non-realisation of ₹ 50.78 crore as of March 2011; the percentage of recovery ranged between 0.05 and 0.11 per cent only, as mentioned in Table 3.

Table-3
Non-realisation of water rates/service charges

(₹ in crore)

Sl. No.	Year	Opening Balance	Water rates due for the year as per potential utilised	Amount to be recovered	Actual Amount recovered	Balance recovery	Percentage of recovery
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	2005-2006	29.33	2.46	31.79	0.035	31.75	0.11
2.	2006-2007	31.75	3.35	35.10	0.020	35.08	0.06
3.	2007-2008	35.08	3.14	38.22	0.019	38.20	0.05
4.	2008-2009	38.20	2.86	41.06	0.020	41.04	0.05
5.	2009-2010	41.04	5.13	46.17	0.031	46.14	0.07
6.	2010-2011	46.14	4.81	50.95	0.048	50.90	0.09
Total			21.75		0.173		

Source: Figures as furnished by the department.

After this was pointed out, the Government stated (August 2012) that the Department has increased the realisation of water charges over the years after

⁹ Opening balance of ₹ 29.33 crore plus the demands during the years 2005-06 to 2010-11 i.e. ₹ 21.75 crore.

the receipt of the Audit Report and they would further try to increase the realisation in future.

Recommendation 1:

The Government may consider prescribing 'timelimit' for completion of assessments and raising of demand.

6.2.4 Water utilised for non-irrigation purposes

In the non-irrigation sector, water is mainly utilised for (i) generation of electricity, (ii) domestic (iii) commercial and (iv) industrial purposes. It was observed that the AI Act has stipulated that supply/use or making available of water for irrigation or any other purposes from any water bodies in the State which includes any part of river, stream, natural collection of surface water or ground water - would attract payment of water rate and usage of water from any irrigation work without prior permission would attract penalty not less than 10 times of the water rate. Despite this, neither the Act and the Rules framed thereunder nor any subsequent Government orders prescribed a mechanism for control and monitoring of the drawal and

Good practices

- In Madhya Pradesh and Chhattisgarh, execution of agreement between the Irrigation Department and the organisation drawing water is mandatory before drawal of water from any sources.
- Further, major states like Madhya Pradesh, Odisha, Chhattisgarh, Maharashtra have notified the water rates separately for water used for irrigation and non-irrigation purposes.

usage of water in non-irrigation sector by the Department. Also, except the rates for water used for irrigation purposes, no water rates have been notified for water used for non-irrigational purposes. Due to these deficiencies, the Government remained unaware about the water drawn and used by various organisations in the State and also failed to tap the revenue potential from the non-irrigation sector as discussed in the succeeding paragraphs. Besides, in absence of a basic rate, the penal clause failed to serve its purpose as a deterrent against unauthorised drawal and usage of water.

6.2.4.1 Water utilised for generation of electricity

Clause 11 of the policy for Small Hydropower Development (Policy) issued by the Assam State Electricity Board notified by Government, Power Department in March 2007 stipulated that royalty and cess¹⁰ on use of water for small hydro power development at the prescribed rates would be payable by the power generating units to the Government for generation of electricity. However, the policy stated that if Irrigation Department fixes any water rates for usage of water for generation of electricity, then such rates would be payable.

Category	Royalty at per unit of net energy generated	Cess per kilo watt
	(₹)	
For projects upto five mega watt	Nil ¹¹	
for above five mega watt	0.25	0.05 ¹²

Audit scrutiny revealed that as water rates for water used for non-irrigation purposes have not been notified by the Irrigation Department, they are constrained to accept the payment of water cess at ₹ 0.05 per kilo watt from the hydro-electricity projects as fixed by the Power Department in the 'Policy' as discussed in the succeeding paragraph.

KarbiLangpi hydro-electricity project

KarbiLangpi hydro- electricity project (KLHEP) – commissioned in March 2007 is located at Amtereng (lower Borpani) in Karbi-Anglong District of Assam. The project has a capacity of 100 mega watt (two units of 50 mega watt each).

Audit scrutiny revealed that the KLHEP had not taken any permission before drawing water from the Borpani river. Consequently, the concerned irrigation division was not aware of the extent of water drawn by the Project. Due to this lack of co-ordination between the above departments, no water cess/royalty due thereon was assessed by the irrigation division.

¹⁰ For power projects on irrigation canal falls/barrages/dams on rivers/streams etc.

¹¹ Provided the entire energy generated is sold within the State of Assam.

¹² Or as specified by the Irrigation Department, Government of Assam.

Further scrutiny of records of the KLHEP revealed that during the periods from 2007-08 to 2011-12, it had drawn 453.68 crore cum of water from Borpani river on which water cess and royalty of ₹ 66.32 crore¹³ at the rates fixed by the Power Department was payable. As no communication was received from the Power Department, the concerned division of the Department neither assessed the dues nor raised any demand for recovery of the same as it did not have any information about drawal of water by KLHEP. In fact, the division was not aware of the fact that the Power Department has prescribed the royalty/water cess on drawal of water by hydro-electric projects.



Water reservoir in Karbi Langpi Project

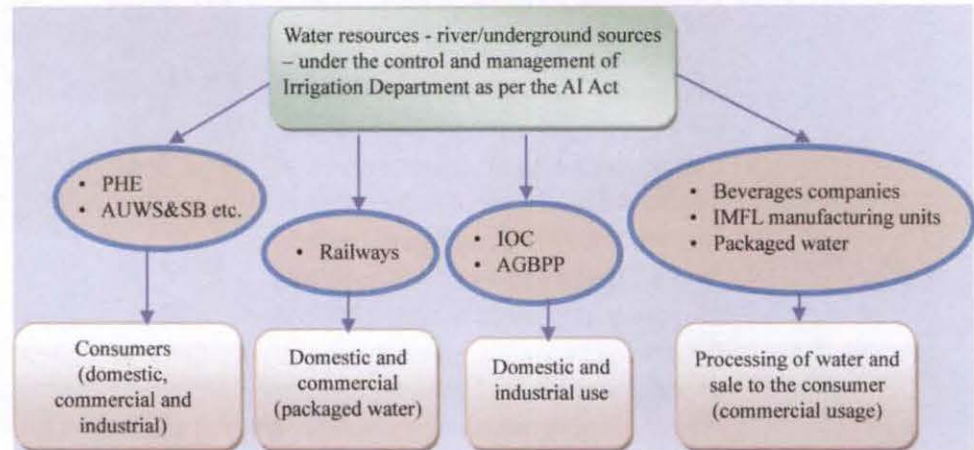
After this was pointed out, the Government stated (August 2012) that as no permission was sought for from the Department for drawing water for generation of power in KLHEP before taking up the project, the Department could make no claim for dues against the water usage. The reply highlights lack of co-ordination between both the departments as pointed out by Audit. Further, the reply was silent regarding the action contemplated by the Government/Department for realisation of the water cess and royalty after this was brought to their notice by Audit.

6.2.4.2 Water used for domestic, commercial and industrial purposes

During the course of audit, it was observed that Railways, Public Health Engineering (PHE) Department, Assam Urban Water Supply and Sewerage Board (AUWS&SB), Indian Oil Corporation (IOC), Assam Gas Based Power Plant (AGBPP) and some other entities/industries were drawing water from underground/river sources in the State without obtaining any permission from the Department. The following flow chart shows drawal of water and its further distribution in case of domestic, commercial and industrial purposes.

¹³ Total energy generated = 221.09 crore units X ₹ 0.30 (royalty and cess) = ₹ 66.32 crore.

Flow chart showing drawal and usage/distribution of water



The volume of water drawn by entities/industries during the period 2005-06 and 2010-11 including the source and purpose of drawal of water are shown in Table 4.

Table 4
Utilisation of water for non-irrigation purposes

Sl. No.	Name of the entity/industry	Source from which drawing water	Volume of water drawn (in lakh cum)	Purpose for which water drawn
1.	Railways ¹⁴	Rivers/underground sources	608.94	Domestic and commercial
2.	Indian Oil Corporation ¹⁵	Do	1,575.79	Domestic and industrial
3.	Assam gas based power plant under North Eastern Electric Power Corporation	Do	195.57	Do
4.	Packaged drinking water units ¹⁶	Underground	2.52	Commercial
5.	Beverages company (Pepsi & Coco-cola)	Do	2.79	Do
6.	IMFL manufacturing units ¹⁷	Do	1.22	Do
7.	Public Health Engineering, Division II, Guwahati ¹⁸	Rivers/underground sources	NA ¹⁹	Domestic and commercial
8.	Assam Urban Water Supply and Sewerage Board ²⁰	Do	359.11	Do
Total			2,745.94	

Source: Information as furnished by the user agencies.

¹⁴ Lumding, Rangia and Tinsukia North Frontier Railway Divisions.

¹⁵ Bongaigaon, Digboi and Noonmati Refineries.

¹⁶ B N Industries, Maa Kamakhya Beverages, Silver drops foods and beverages, Surekha Projects, Udayan Agro Products Private Limited and TFB (India).

¹⁷ M/s Associated Alcohol & Beverages Company (P) Limited, M/s Centenary distilleries (P) Limited, M/s Indo Assam Distilleries (P) Limited, M/s Karnak Distilleries (P) Limited and M/s North East Distilleries (P) Limited.

¹⁸ Urban water supply scheme.

¹⁹ The Department did not furnish the figures, despite specific requests.

²⁰ Dhubri, Guwahati Divisions I and II and Jorhat.

It was noticed that 2,745.94 lakh cum of water was drawn by the few entities/industries test checked by Audit during the period 2005-06 to 2010-11 without permission of the Department. In the absence of a system of monitoring the drawal and usage of water, the Department remained unaware about the volume of water drawn from the rivers/underground sources of the State though some of these agencies/entities were drawing water purely for commercial purposes.

Good practices

In Madhya Pradesh and Chhattisgarh, automated measuring device is to be installed and maintained by the company/industry drawing water and an officer of the Irrigation Department is to inspect the measuring device periodically.

6.2.4.3 Drawal of underground water through bored deep tube wells

As per Section 63 (vi) of AI Act, drawal of water unauthorisedly is an offence and attracts levy of penalty. Further, as per the mandate of the AUWS&SB, the Board is to regulate the drilling of tube wells, public or private, and to control the drawal of underground water in notified urban areas.

It was observed that despite the presence of two distinct departments/ bodies *i.e.* the PHE Department and the AUWS&SB for supply of water for domestic use in the State, only 33 *per cent* of the population in Guwahati has water supplies²¹, that too for 2-3 hours a day. Due to

the failure of these agencies to ensure supply of water to the majority of the population through water drawn from rivers, which are aplenty in the State, a substantial percentage of the population, mainly in urban areas, has resorted to boring deep tube wells and extracting underground water. A number of boring services agencies are operational in Assam.

²¹ City Development Plan, Guwahati available in the website www.jnmurm.nic.in



Boring being done and extraction of water from underground sources

It was further observed that despite clear provisions in the aforesaid Act, there is no system of obtaining permission from competent authority before taking up boring for extraction of water in the State. Even the boring service providers are not required to be registered either with the Department or the AUWS&SB. Also, there is no system of monitoring of water drawn from underground sources through deep tube wells. Resultantly, the authorities neither

have any information about the extent of boring done in their jurisdiction nor do they have any information about the volume of water extracted from underground sources. These deficiencies contributed to uncontrolled exploitation of underground water leading to irreversible adverse impact on the ground water level of the State. Notification of rates for water used for non-irrigation purposes would have enabled the Government to tap the revenue potential from usage of water for industrial purposes.

As per the National Water Policy, there should be a periodical reassessment of the ground water potential on a scientific basis and extraction of ground water resources should be so regulated as not to exceed the recharging possibilities. It has also been envisaged that the detrimental environmental consequences of over-exploitation of ground water need to be effectively prevented by the Central and State Governments.

Recommendation 2:

The Government may consider

- *making it mandatory to execute agreements before drawal of water from any water bodies of the State by any organisation;*
- *installing a system for monitoring the quantity of water drawn for proper assessment and recovery of water rates, cess and royalty;*
- *prescribing water rates for water used in non-irrigational sector as per the provisions of the AI Act in the interest of the revenue of the State;*
- *making it mandatory for the boring services agencies to register*

themselves with the Department and the AUWS&SB besides obtaining periodic reports/returns from them; and

- *bringing water users drawing water through bored deep tube wells under the water rate network and installing meters on the bored deep tube wells to assess the water rate payable.*

After this was pointed out, the Government stated (August 2012) that the issues flagged by Audit had been incorporated in 'The Assam Ground Water Control and Regulation Act (the Act), 2012' enacted by the Government in May 2012. A perusal of the Act indicated that the following Sections addressed the issues raised by Audit.

Reference of Section	Provision
2 (J)	User of ground water means the person or persons or an institution including a company or an establishment whether Government or non-Government who or which extract or use or sell ground water for any purpose including domestic use made either on a personal or community basis.
5 (5)	The State Authority shall also take steps to ensure that exploitation of ground water resources does not exceed the safe yield limit of the aquifers. Wherever there is mismatch, steps will be taken to ensure augmentation of ground water resources in addition to regulatory measures.
5 (6)	The State Authority shall maintain and upkeep the data-base on ground water related information.
6 (1)	Any user of ground water desiring to sink a well in the notified area for any purpose either on personal or community basis as commercial/ industrial user, shall apply to the State Authority in prescribed form of application for grant of a permit for this purpose, and shall not proceed with such sinking without the permission.
7 (1)	Every existing user of ground water in the State shall apply to the State Authority for grant of a Certificate of registration recognising its existing use in the manner prescribed.
9 (1)	Every rig owner shall register his/her machinery with the State Authority in such manner and/or on payment of such fees as may be prescribed.
9 (2)	Every rig owner or operator shall follow the instructions issued by the State Authority from time to time.
10 (2)	The State Authority may impose and realise Annual Water Rates from bulk as well as commercial and industrial users as decided by the Government.
19 (1) – (3)	Specific provisions inserted on 'Rain water harvesting for ground water recharge' in order to improve the ground water situation.

Further perusal of the Act revealed that it *inter-alia* mentions that the Government shall by notification establish an authority namely “The Assam State Ground Water Authority” to exercise the power conferred on and to perform functions assigned to the State Authority under this Act. However, the Government is yet to notify the establishment of the authority due to which though the Act has been notified, its actual implementation could not be initiated.

Recommendation 3:

The Government may expedite notification of “The Assam State Ground Water Authority” so that the provisions of the Act can be implemented, without further delay.

6.2.5 Revenue recovery mechanism

As per provision under Section 81 of the AI Act, water rates not paid on the due date shall be deemed to be an arrear. The divisional irrigation officer may, after an arrear has fallen due in his Division, file a defaulter list in the court of the Deputy Commissioner or Sub-Divisional Officer relating to arrears accruing not earlier than two revenue years previous to preceding 30 June, for the recovery of arrears as public demand under Bengal Public Demand Recovery Act, 1913 (as adopted in Assam).

It was observed that there is no system, in the Department, of periodically reviewing outstanding dues and pursuing the cases for recovery as public demand. Also, no report/return had been prescribed to be furnished by the Divisional officers to higher authorities mentioning the amount of revenue in arrears and their time-wise break up. Consequently, a substantial amount of revenue remained outstanding for more than 15 years. In 13 out of

15 divisions, it was noticed that as of March 2012, an amount of ₹ 33.11 crore pertaining to the period 1994-95 to 2011-12 was pending recovery as mentioned in Table 5.

Table-5
Revenue pending for recovery in 13 Divisions

(₹ in crore)

Sl. No.	Name of Division	Amount	Period
(1)	(2)	(3)	(4)
1.	Jamuna CAD Irrigation Division, Hojai	13.86	1994-95 to 2010-11
2.	Karbi Anglong Irrigation Division, Diphu	7.40	2001-02 to 2010-11
3.	Tezpur Irrigation Division	1.69	2005-06 to 2011-12
4.	Pathsala Irrigation Division	1.77	2001-02 to 2010-11
5.	Pahumara Rupahi Irrigation Division	2.24	2005-06 to 2010-11

6.	Guwahati Irrigation Division	0.75	2000-01 to 2010-11
7.	Dhansiri Weir Project Irrigation Division	0.49	2005-06 to 2011-12
8.	Nagaon Irrigation Division	0.51	2005-06 to 2010-11
9.	Kaliabor CAD Irrigation Division	0.25	2005-06 to 2010-11
10.	Dhansiri Canal I Irrigation Division	0.32	2005-06 to 2011-12
11.	Nalbari Irrigation Division	0.73	2005-06 to 2010-11
12.	Kokrajhar Irrigation Division	1.11	2005-06 to 2010-11
13.	Mangaldoi Irrigation Division	1.99	2005-06 to 2011-12
Total		33.11	

After this was pointed out, the Government stated (August 2012) that necessary instructions have been issued to all Divisions concerned for recovery of water charges including outstanding dues towards irrigation water provided by them. As an effective mechanism to improve realisation of water charges, it has been communicated to the field offices that performance of divisional engineers in respect of realisation of water charges will be reviewed *inter-alia* for reflection in their Annual Performance Reports.

Recommendation 4:

The Government may install a mechanism for periodical review of the outstanding dues in the Divisions and pursuing the cases for recovery as public demand through a time bound action plan. They may also prescribe reports/returns to be furnished by the Divisions to higher authorities for effective monitoring.

6.2.6 Leviability of interest on unpaid dues

As per the form 30 (notice of assessment/demand for water charges) of the Assam Irrigation Water Users Act, 2004, if the amount due on account of water rates is not paid on the due date, it shall be deemed to be an arrear and collected as arrears of land revenue. Besides, the defaulter is also liable to pay an interest at five *per cent* per annum on the arrear amount of water rates.

It was observed that the interest clause for non-payment of water rates is mentioned in the demand notice instead of the Act or Rules. Further, the due date for payment of water rate is within two months from the date of receipt of demand notice. Hence, if demand notice is not issued/delayed, it would have direct bearing on the charging of interest as the interest clause is directly linked with the issue of demand notices.

In 13 Divisions²² supplying irrigation water to different beneficiaries/cultivators it was noticed that though water rates of ₹ 21.68 crore for water supplied for irrigation purpose during the period 2005-06 to 2011-12 was assessed, no demand notice was issued to the beneficiaries. Since the clause for levy of interest on delayed payment of water rates is inserted in the demand notice, non-issue of demand notices in time resulted in non-levy of interest of ₹ 3.38 crore due on the unpaid water rates in these test checked Divisions.

After this was pointed out, the Government stated (August 2012) that instructions had been given to the field offices that while calculating irrigation service charges, interest amount should be calculated along with the principal amount and necessary demand notice should be issued to the beneficiaries from time to time accordingly.

Recommendation 5:

The Government may insert the interest clause as a part of the Act and delink it with the issue of demand notice so as to enable levy of interest automatically in case of delay in payment of water rates.

6.2.7 Internal controls

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

²² (1) Pahumara Rupahi Irrigation Division, (2) Pathsala Irrigation Division, (3) Kaliabor CAD Irrigation Division, (4) Nagaon Irrigation Division, (5) Tezpur Irrigation Division, (6) Dhansiri Weir Project Irrigation Division, (7) Dhansiri Project Irrigation Division Canal-I, (8) Jamuna CAD Irrigation Division, (9) Karbi Anglong Irrigation Division, (10) Guwahati Irrigation Division, (11) Mangaldoi Irrigation Division, (12) Nalbari Irrigation Division and (13) Kokrajhar Irrigation Division.

6.2.7.1 Internal audit

Internal audit, a component of the internal control mechanism, functions as eyes and ears of the management and is a vital tool which enables an organisation to assure itself that prescribed systems are functioning reasonably well.

It was observed that there is neither any Internal Audit Wing (IAW) in the Department, nor has the department arranged for internal audit of any of its activities by the Director of Local Audit. Resultantly, the department could not detect the deficiencies noticed by Audit and consequently could not take preventative/remedial measures in respect of significant areas of its functions.

Recommendation 6:

The Government may consider either setting up an independent IAW or to ensure that the activities of the department are audited by the Director of Local Audit regularly to ensure that omissions pointed out in this Report are rectified and avoided in future.

After this was pointed out, the Government stated (August 2012) that the Department would try to implement internal audit system as early as possible.

6.2.7.2 Management information system (MIS)

MIS is a key tool for ensuring smooth functioning of an organisation. Besides, reports/returns from the field units is a vital tool for MIS and monitoring the activities of the Department by the higher authorities.

It was observed that the MIS mechanism in the Department was weak as evidenced by non-maintenance of water accounts in the Divisions and deficiencies in reports/returns on various issues which have been commented upon in paragraphs 6.2.3 and 6.2.5. It was also noticed that though the Divisions submit reports/returns to the higher authorities, the figures of revenue collected during the period are only mentioned while other details like opening balance of outstanding dues, amount falling due and the amount remaining outstanding at the end of the report period are not mentioned. Due to these deficiencies, the higher authorities in the Department remained unaware about the actual position of revenue realisable, revenue realised and the balance amount due.

Recommendation 7:

The Government may consider revising the formats of the reports/returns to include the detailed position of revenue realisable, revenue realised and revenue remaining outstanding to make the MIS a useful tool in strengthening the management of water rates.

After this was pointed out, the Government stated (August 2012) that as per the suggestions of Audit, instruction has since been issued to the field offices.

6.2.7.3 Information technology

Information technology is a vital tool for strengthening information systems. This allows simulation of processes, transaction performance measurements which are otherwise time consuming and improve data sharing. Overall, IT has immense potential, if properly implemented.

It was observed that the working of the Department had not been computerised. Consequently, the Department could not derive the benefits of information system which hampered, *inter-alia*, sharing of data and monitoring the process of recovery of water rates by various divisions.

Recommendation 8:

The Government may consider early computerisation of the entire gamut of activities of the department through a timebound action plan.

After this was pointed out, the Government stated (August 2012) that computerisation would be taken up in future subject to availability of funds.

Compliance deficiencies

6.2.8 Loss of revenue due to loss of water in transit beyond permissible limit

During the course of supply of water through canals, loss of water in transit is inevitable by way of seepage, evaporation etc. Keeping in view the various factors of losses, transit loss for supply of water is fixed at a maximum of five *per cent* by the department. Water discharged for irrigation purposes cannot be utilised for any purpose other than the irrigation. Further, unauthorised drawal or use of water from any irrigation work attracts levy of penalty which shall not be less than 10 times and not more than 30 times the water rate leviable. The penalty is leviable over and above the water rate.

It was observed that in seven out of 15 irrigation divisions²³, 28.25 lakh cusec²⁴ of water was discharged/released for irrigation during the years 2005-06 to 2010-11. After providing for five *per cent* towards permissible transit loss of water, 26.84 lakh cusec of water was to be utilised for irrigation purpose, against which 21.05 lakh cusec of water was utilised. Thus, there was excess transit loss of 5.79 lakh cusec of water which could have been

utilised in irrigating 115.79 lakh hectare²⁵. As the report/return mechanism did not contain scope for incorporating detailed information on water discharged, water utilised for irrigation, water rates due for recovery and those recovered and water rates pending recovery, the higher authorities remained unaware about the excess loss of water in transit. The Divisions also did not analyse the reasons for such high incidences of loss in transit which was far more than the ceiling prescribed for the purpose. The excess volume of water lost in transit over and above the prescribed percentage had the potential of generating revenue of ₹ 325.64 crore (**Annexure – IV refers**) if the concerned Divisions took necessary steps to plug the leakages beyond the acceptable limits.

After this was pointed out, the Executive Engineers (EEs) of the four divisions²⁶ stated that the main reasons for excess loss of water over the permissible limit was illegal cutting of canals/channels, use in pisciculture, horticulture and domestic purposes etc. From the replies, it was noticed that

²³ (1) Dhansiri Irrigation Division Canal-I, (2) Dhansiri Weir Project Irrigation Division, (3) Guwahati Irrigation Division, (4) Jamuna CAD Irrigation Division, (5) Kaliabor CAD Irrigation Division, (6) Karbi Anglong Irrigation Division and (7) Nagaon Irrigation Division.

²⁴ When water is discharged for irrigation purpose, it is termed as cubic feet per second *i.e.* cusec and 1 cum = 35.31 cubic feet.

²⁵ one cusec in 20 hectare.

²⁶ (1) Dhansiri Project Irrigation Division Canal-I, (2) Dhansiri Weir Project Irrigation Division, (3) Kaliabor CAD Irrigation Division and (4) Nagaon Irrigation Division.

in three divisions²⁷ the excess wastage was mainly due to illegal cutting of canals/channels and though these concerned Divisions were aware of such illegal drawal of water, neither any action was taken by them to stop such illegal drawal of water nor was the minimum penalty of ₹ 134.39 crore²⁸ levied.

After this was pointed out, the Government stated (August 2012) that utmost efforts would be taken to minimise the loss of water in transit even as it is a difficult task with the existing manpower available at divisional offices to check each and every point of outlet.

Recommendation 9:

The Government may prescribe a system of reporting the position of water discharged/released vis-à-vis those utilised to the higher authorities for monitoring. Further, concrete steps may be taken to minimise the inadmissible wastage to enable the department to realise the revenue, otherwise due to the Government.

6.2.9 Under assessment of water rates

The Irrigation Department, Government of Assam in March 2000 revised the water charges as ₹ 281.24 per hectare for *Kharif*, ₹ 562.50 per hectare for *Rabi* and ₹ 751.00 per hectare for *Ahu/early Ahu* with effect from the *Rabi* crop of the year 2000-01.

It was observed that in three out of 15 irrigation divisions²⁹, 96,370.55 hectares of land was utilised for cultivation of *Kharif* crop, 33,364.70 hectares for *Rabi* crop and 1,673.55 hectares for *Ahu/early Ahu* crops during 2005-06 to 2010-11. The divisions assessed the dues as ₹ 89.35 lakh at rates lower than those applicable against total assessable amount of ₹ 4.71 crore as per the

prescribed rates. This resulted in underassessment of water rates of ₹ 3.82 crore. Details are shown in **Annexure- V**.

After this was pointed out, the Government stated (August 2012) that necessary instructions have already been issued to the field offices to assess correctly water rates as per rate fixed by the Government from time to time. The reply, however, remained silent regarding the action contemplated by the Government/department to recover the water rates underassessed in the cases pointed out by Audit.

²⁷ Dhansiri Weir Division, Nagaon Division and Kaliabor CAD Division.

²⁸ Ten times of the water drawn (23,892.66 cusecs water) in excess of the permissible limit involving water rate of ₹ 13.44 crore.

²⁹ (1) Dhansiri Project Irrigation Division Canal-I, (2) Kaliabor CAD Division and (3) Karbi Anglong Irrigation Division.

Other areas of interest**6.2.10 Non-finalisation of the State Water Policy of Assam**

In view of the growing concern for conservation, development and management of water resources throughout the country, the Water Resources Ministry, Government of India has come out with a perspective plan for effective planning and management of this prime natural resource, named as “National Water Policy” in 2002. The plan included various aspects like water resources planning, ground water development, drinking water, irrigation, resettlement and rehabilitation, conservation of water, flood control and management, etc. It was envisaged that the success of the Policy would depend entirely on evolving and maintaining a national consensus and commitment to its underlying principles and objectives and to achieve the desired objectives, State Water Policy backed by an operational action plan was desired to be formulated in a time bound manner within two years.

It was observed that though the National Water Policy envisaged preparation of State Water Policy by the State Governments backed by an operational action plan within two years from the date of publishing of the National Policy *i.e.* April 2002, it took almost five years for the GOA to prepare a draft “State Water Policy of Assam – 2007”. Further, the Government/department has not finalised the draft Policy and consequently it could not be presented in the State Legislature for deliberation. Resultantly, the objectives envisaged in the draft State Policy *i.e.* ensuring preservation and development of all water resources and optimised utilisation of the available resources, judicious and economically sound allocation of water resources to different sectors, facilitation of rainwater harvesting and recharging ground water aquifers etc., remained on paper

without being implemented.

Absence of an overarching Policy controlling the activities of various Departments and agencies, weakened the planning and management of water resources in the State.

After this was pointed out, the Government stated (August 2012) that the draft State Water Policy as prepared by the State Water Resources Department is not yet finalised.

Recommendation 10:

The Government may process the “State Water Policy” and finalise it for presentation in the State Legislature for their perusal, approval and implementation in the State without any further delay.

6.2.11 Conclusion

Water is the most precious natural resource, yet its availability is limited. Uncontrolled and unscientific exploitation without proper monitoring may have disastrous consequences. Significant deficiencies in the management of water resources and recovery of revenue therefrom, was noticed in audit as discussed below.

Despite lapse of more than nine years after the National Water Policy 2002 had come into effect, Government has not framed the State Water Policy and consequently, issues like monitoring and management of water resources could not be ensured. Absence of a prescribed timelimit for completion of assessments and issuing demand notices for recovery of water rates from irrigation sector resulted in non-realisation of substantial revenue and non-levy of interest. There was neither any control nor monitoring of water used in non-irrigation sector which included water used for generation of electricity, domestic, commercial and industrial purposes. The Department thus remained unaware about the water drawn and used in non-irrigation sector in the State. Though the AI Act specified that no water from any water bodies of the State would be used without payment of water rates, Government is yet to notify the rates for water used in non-irrigation sector. Resultantly, substantial revenue potential in the shape of water rate remained untapped. Due to insufficient supply of water for domestic purposes by the PHE Department and the AUWS&SB, substantial population especially in urban areas resorted to boring deep tube well and extraction of water on which the department has no control or monitoring. Besides immense adverse impact on the ground water, this has resulted in leakage of revenue as well. Internal controls in the department needed to be improved as absence of an internal audit wing, defective MIS and non-implementation of computerisation were noticed in the department. As a result of the above deficiencies, non-tax revenue of ₹ 617.44 crore remained unrealised only in respect of irrigation sector while the revenue implication in non-irrigation sector could not be worked out due to non-existence of rates. This evidences that there has been absolute apathy of the Government in fixing water rates for water used in non-irrigation sector which is mainly *used in urban areas and for commercial purposes* and therefore the water users in non-irrigation sector has been allowed to draw and use water without payment of water rates to the Government. However, the water rates for irrigation water supply which is mainly *used by poor farmers* has been fixed long back.

6.2.12 Summary of recommendations

The Government may consider implementing the recommendations included in the respective paragraphs (*except the ones at Recommendation:2, some of which have been implemented*) with special emphasis on the following to rectify the deficiencies:

- *finalising the 'State Water Policy' and presenting it to the State Legislature for its early approval;*
- *prescribing the time limit for completion of assessments and raising of demands;*
- *prescribing the water rates for water used in non-irrigational sector as per the provisions of the AI Act;*
- *installing meters on the bored deep tube wells to assess the water drawn/ water rate payable;*
- *notifying 'the Assam Ground Water Authority' expeditiously for implementing the provisions of the 'Assam Ground Water Control and Regulation Act';*
- *inserting the 'interest clause' as part of the Act and delink it with the issue of demand notice so as to enable automatic levy of interest in case of delay in payment of water rates; and*
- *setting up an independent internal audit wing and revising the formats of the reports/returns to include the detailed position of the water account in the divisions, revenue realisable, revenue realised and revenue remaining outstanding to make the MIS foolproof.*

6.3 Audit observations

Scrutiny of the records of the E&F Department (department) revealed several cases of non-observation of the provisions of the Acts/Rules/departmental orders as mentioned in the succeeding paragraphs. These cases are illustrative and are based on test checks carried out by Audit. Some of these omissions on the part of the departmental officers are pointed out by Audit each year. However, not only do the irregularities persist, these remain undetected till subsequent audit is conducted. It is a matter of concern as these observations are also sent to the higher authorities including the Government each time these are detected. There is, thus, a need for Government to improve the control and monitoring mechanism in the department, besides putting in place an effective internal audit system so that these omissions are prevented, detected and corrected regularly and promptly.

6.4 Non-realisation of forest royalty of ₹ 17.86 lakh on forest produce utilised for departmental works

[Field Director, Tiger Project, Manas; June 2011]

The Government of Assam vide order no. FRS.1/2004/Pt/47 dated 1 September 2009 revised the rates of all classes of forest produce payable by the departments of the State Government for undertaking works in the State.

Further, as per the system in place, while taking delivery of forest produce from the suppliers, payment of forest royalty is to be insisted and if the same is not produced by the supplier, the same should be deducted from the bills of the suppliers while making the payments.

During test check of records in the above office, it was observed that the Division purchased 2,674.77 cft timber, 11,292 cum sand, 1,135 cum chips and 2,461 cum boulders from various suppliers for construction works *i.e.* roads, buildings and bridges. It was noticed that while taking delivery of the forest produces, the Division neither obtained proof of payment of royalty from the suppliers nor deducted the same while making payments. It was further noticed from the Divisional cash book that the forest produce were collected locally.

Not only did the Division not realise royalty of ₹ 17.86 lakh, but the Division extended undue financial benefit to the suppliers to that extent.

After this was pointed out, the department while admitting the fact stated (September 2012) that forest royalty relating to the forest produce utilised in the construction works were not included in the estimates prepared and the forest produce were collected locally. The reply is not convincing as the Rules are explicit about recovery of royalty while usage of forest produce. Further, the reply highlights the need for more effective scrutiny of the estimates by the higher authorities in the department before sanction of the funds.

The case was reported to the Government in July 2011 and followed up in April 2012; their replies have not been received (November 2012).

6.5 Non-deduction of value added tax of ₹ 7.04 lakh and consequent overpayment to the same extent

[Principal Chief Conservator of Forests (PCCF), Assam; June 2011]

As per Section 9 of the Assam Value Added Tax (AVAT) Act, 2003 (implemented from May 2005) the sale of goods listed in the first schedule shall be exempted from tax subject to the condition and exception, if any, set out therein. Further, under Section 47(3) of AVAT Act, every person responsible for making payment in respect of any purchase of goods liable to tax under the Act to the Government, at the time of credit to the account or payment to the payee of such amount, shall deduct an amount calculated at the rate as may be specified in the schedule from such sum towards full satisfaction of the tax payable under the Act.

During scrutiny of the records of the PCCF, Assam, it was observed that work orders for supply of uniform (11,270 shirts and pants) to various divisions were issued³⁰ (July 2008 and January 2009) in favour of M/s Hema Trading (the firm) which accordingly arranged for the cloth and stitching of the uniform. The firm supplied the shirts and trousers to the Forest divisions between August 2008 and April 2009. It was, however, seen that while making the payment of ₹ 56.28 lakh, VAT of ₹ 7.04 lakh recoverable @

12.5 per cent (uniform/ shirts/trousers being unclassified goods is taxable at 12.5 per cent) was not deducted from the suppliers bills, treating the same as exempted goods. Since order for supplying of uniform was given to a firm and the department had got the product in finished form, tax was deductible under AVAT Act from the payment made to the firm irrespective of the fact that the firm had arranged for stitching by sub-contracting the work order.

³⁰ Order No. FG.45/Uniform/2008 dated 31 July 2008 and 12 January 2009.

After this was pointed out, the PCCF stated (August 2011) that the firm was being asked to produce proof of payment of VAT or to deposit the amount in proper head of accounts without delay. Report on further development has not been received (November 2012).

The case was reported to the Government in July 2011 and followed up in April 2012; their replies have not been received (November 2012).

6.6 Construction/improvement of highland and desiltation of water bodies – avoidable expenditure of ₹ 39.57 lakh

[Divisional Forest Officer (DFO), Guwahati Wildlife Division; April 2011]

Administrative approval and expenditure sanction were granted (February 2010) by the Government of Assam, Department of Environment and Forest for desiltation of water bodies within the Pobitora Wildlife Sanctuary during the year 2009-10 at an expenditure of ₹ 64 lakh. Also, sanction for construction/ improvement of highland inside the Sanctuary at a cost of ₹ 40 lakh was granted vide the same orders as referred above.



During scrutiny of the records relating to the above two works it was observed that the work of desiltation of water bodies was carried out in eight places inside Pobitora Wildlife Sanctuary under Guwahati Wildlife Division during March 2010 and 50,400 cum of earth was removed by using excavators.

Earth dumped after desiltation process



Creation of highland and resultant pits

The earth so removed was dumped at various places away from the shore of the water bodies by using dumpers/tippers. An expenditure of ₹ 63 lakh was incurred in the above desiltation process (the remaining ₹ 1 lakh was spent on other items for the work). It was also noticed that during the same period, the Division created new highlands/improved existing highlands at five places inside the Sanctuary by extracting 32,972 cum of earth from within the Sanctuary, incurring an expenditure of ₹ 39.57 lakh.

Thus, while 50,400 cum earth was dug out of the water bodies incurring an expenditure of ₹ 63 lakh, the Division spent another amount of ₹ 39.57 lakh on cutting of 32,972 cum of earth which was required for the creation/improvement of highlands. Had the Division used the earth extracted from the water bodies judiciously and dumped it strategically at the required places, the expenditure of ₹ 39.57 lakh on extracting earth for creation/improvement of highlands could have been avoided. Besides, the large pits created due to cutting of earth from inside the Sanctuary for creation of highlands have the possibility to harm the animals during rainy season when the Sanctuary is usually inundated with flood waters.

After this was pointed out, the department stated (September 2012) that both the works were part of a host of other works for which a special assistance (one time) was received from the Government of India which was received at the fag end of the year. Due to such late receipt of funds, the Division took immediate steps for carrying out the works as sanctioned by the GOI in the interest of the animals. They also stated that the sanctuary is severely affected due to want of funds and thus, the central assistance was very vital and a source of injecting new life into the Sanctuary. The department further stated that the structure of soil of woodland is different from that excavated from water bodies, implying thereby that the latter could not have been used for creation of highlands. This portion of the reply was not acceptable as supporting documents indicating that the department has carried out soil tests were neither found on records during Audit of the Division nor furnished by the department alongwith the reply. Further, information independently obtained by Audit from the Guwahati Metropolitan Development Authority

(GMDA) and Northeast Frontier Railway (NFR) shows that silt excavated from rivers/water bodies has specifically been used for creation of highlands for making embankment/laying railway tracks of height much higher than those of the highlands created in the Sanctuary.

However, the main thrust of the reply indicates that the Division has only carried out the works that were allotted to it through the central assistance of GOI. This when seen against the fact that the soil excavated from the water bodies could have been used for constructing highlands in the lines as done by the NFR and GMDA authorities indicates a need for the E&F Department in Assam as well as GOI to examine the schemes more critically to ensure that funds are not allocated for projects which are avoidable.

The case was reported to the Government in May 2011 and followed up in April 2012; their replies have not been received (November 2012).

6.7 Settlement of tenders for supply of feed for captive animals above the prevailing market prices resulted in excess expenditure of ₹ 18.68 lakh

[DFO, Assam State Zoo Division; June 2011]

As per General Financial Rules (GFR), while incurring expenditure from Government funds, a Government servant is expected to exercise same prudence as a common man would if he is spending money from his own pocket. Further, the GFR provides for negotiating the rates only with L1 tenderer (lowest tenderer) so as to bring down the rates, further.

During test check of the records pertaining to procurement of feed for captive animals in the above Division, the following deficiencies leading to excess expenditure of ₹ 18.68 lakh were noticed.

Before finalising the tenders for supply of feed during the years 2007-08 and 2008-09, market rates were obtained by the Division from various sources like the Deputy Director of Agriculture (Marketing) {DDA (M)} and the Veterinary Officer (VO), Guwahati Municipality Corporation (GMC) as

these agencies survey and maintain market rates of various commodities. The market rates were also independently collected by the Division from the market by forming a Committee consisting of the Assistant Conservator of Forests, Forest Veterinary Officer, Range Officer and the Botanist. Scrutiny of the rates collected by the Committee indicated that these rates were “**retail market rates**” which were higher than the wholesale prices.

Further, an analysis of the rates collected by the Committee through market survey as available in the files of the Division indicated that the rates of items like dressed chicken, broken rice and crushed maize were lower than those obtained from the DDA (M) and the VO (GMC).

Item	Rates collected by Committee	Rates given by DDA (M)/ VO (GMC)	Rate at which settled
Dressed chicken	₹ 100/kg	₹ 150/kg	₹ 149/kg
Broken rice	₹ 12/kg	₹ 15/kg	₹ 17/kg
Crushed maize	₹ 10/kg	₹ 45/Kg	₹ 28/kg

While preparing the comparative statement of the tender rates for selection of bidders, the retail market rates collected by the Committee were not considered as base rates and instead the rates obtained from the DDA (M) and VO (GMC) were mentioned as the base rates though the latter were higher than retail market rate. As a result, the materials were procured at higher rates for which the Division had to incur excess expenditure during 2007-08 and 2008-09.

It was further observed that while finalising the tenders for supply of feed for the year 2009-10, the Division collected the rates from the DDA (M), VO (GMC) and the Kamrup Chamber of Commerce. During this year, the Division did not make any effort to collect the retail prices of commodities independently by deputing forest officials, reasons for which were not available on records/produced to Audit.

An analysis of the settlement of tenders for the year 2009-10 indicated that though the Division obtained the rates of commodities from the Kamrup Chamber of Commerce, these rates were not considered as base rates while preparing the comparative statements of respective commodities. Consequently, tenders for supply of commodities namely gram whole, wheat bran, broken rice and rice (*aijong*) were settled at higher rates.

Audit has independently collected the prevalent retail market rates of the aforesaid commodities in Guwahati during 2009-10 from the website of the Department of Consumer Affairs, GOI.

Item	Rates as per the website of Deptt of Consumer Affairs, GOI	Rates given by DDA (M)/VO (GMC)	Rates at which settled
Gram whole	₹ 37.75/kg	₹ 65/kg	₹ 63/kg
Wheat bran	₹ 15.50/kg	₹ 24/kg	₹ 21.50/kg
Broken rice	₹ 16.80/kg	₹ 20/kg	₹ 21/kg
Rice (ajong)	₹ 16.80/kg	₹ 25/kg	₹ 25/kg

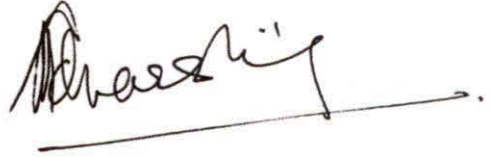
A comparison of these rates with those at which the supply of these items was settled revealed wide variation. These were considered as the base rates while calculating excess expenditure on supply of feeds during 2009-10. The variation would be even greater if the wholesale rates quoted by the Kamrup Chamber of Commerce were taken into consideration.

Thus, despite availability of the prevailing market rates of various items, these were not considered as 'base rates' while preparing the comparative statements, thus defeating the core purpose of collecting the market rates and finalising the contract at competitive rates. This irregularity resulted in excess expenditure of ₹ 18.68 lakh.

After this was pointed out, the department stated (September 2012) that the rates are finalised by taking various aspects into consideration like lowest prices offered, prices prevalent at that time, supply of items throughout the settlement year irrespective of price fluctuation. It was also stated that the quoted prices of the items were scrutinised by the Scrutiny Committee, through which negotiation takes place to reduce the lowest quoted rates to maximum extent. They further stated that most of the items under various ration groups were seasonal in nature and thus the cost of the same was subject to seasonal variation.

The reply did not touch upon the point as to why the retail market rates collected by the Divisional staff from the market during 2007-08 and 2008-09 and those obtained from Kamrup Chamber of Commerce during 2009-10 were *not marked* as 'base rates' while preparing the comparative statements. This would have enabled the Scrutiny Committee to further lower the rates offered by the tenderers and in the absence of the same, the Scrutiny Committee was handicapped and took the 'base rates' as mentioned by the Division in the comparative statements (which were higher than those collected from the market by Divisional staff and Kamrup Chamber of Commerce) for negotiation with the lowest tenderers. Further, the contention of the department that most of the items were seasonal is not tenable as the audit paragraph is on non-seasonal items like chicken, rice, cereals etc.

The case was reported to the Government in July 2011 and followed up in April 2012; their replies have not been received (November 2012).



Place: Guwahati

(C H Kharshiing)

Date: 25 MAR 2013

Accountant General (Audit), Assam

Countersigned



Place: New Delhi

(Vinod Rai)

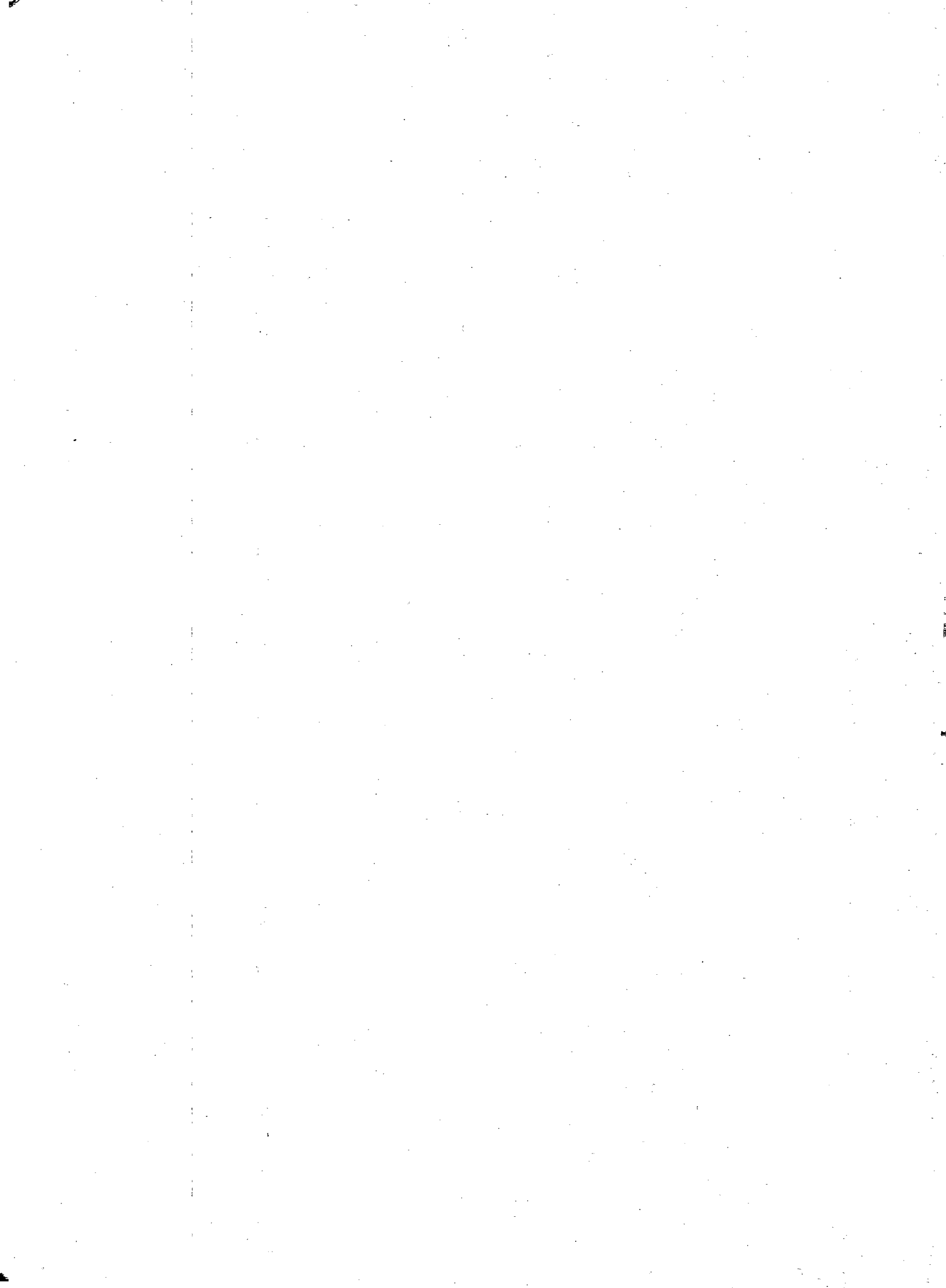
Date: 26 MAR 2013 Comptroller and Auditor General of India

12 MAR 1951

12 MAR 1951



ANNEXURES



Annexure-I

Statement showing number of auditable and audited units during 2011-12

(Reference : Paragraph 1.4)

Sl. No.	Name of the Department	Total number of auditable units	Total number of units due for audit during 2011-12	Units planned for audit during 2011-12	Units actually audited during 2011-12
1.	Sales Tax	218	214	79	78
2.	Transport	52	46	7	7
3.	Stamp Duty & Registration	80	59	10	10
4.	State Excise	50	40	12	12
5.	Agricultural Income Tax	1	1	1	1
6.	Mines and Minerals	1	1	1	1
7.	Land Revenue	151	131	9	9
8.	Forest	88	84	23	30
	Total	641	576	142	148

Annexure – II

Statement showing cases and amount under various categories of recovery

(Reference : Paragraph 2.11.9)

Category	Cases	Amount (₹ in crore)
Non-furnishing of requisite information from assessing officer to RO	133	6.94
Non-realisation of arrear dues due to delay in issue of requisition certificate	6	0.92
Non-execution of warrant of arrest and inadequate follow up action	307	36.42
	114	14.69
Delay in finalisation of appeal cases	23	1.14
Non-realisation of arrear dues due to lack of follow up action on appeal cases	02	0.16
Non-realisation of arrear tax due to delay in reassessment for giving effect to the appellate authority order	01	5.66
Lack of follow up action of cases pending with ABR	05	6.22
Inaction in lodging/pursuing claims with the OL	03	3.95
Lack of follow up action in respect of cases pending with BIFR	11	25.90
Lack of follow up action in respect of cases settled by the Courts	09	4.84
Delay in assessments and lack of follow up action	01	3.01
Incorrect reporting of arrears in respect of cases settled by appellate authority	03	1.61
Non-levy of interest	57	3.99
Non-adherence of instruction issued by the CT, Assam	03	2.64
Non-issue/delay in issue of inter-State certificates	03	2.26
Total	681	120.35

(Note: Cases in order as appearing in the paragraph referred)

Annexure -III

Statement showing deprival of revenue due to lack of follow up action/non-compliance of Court verdict etc

(Reference : Paragraph 2.19)

Sl.No	Name of the dealer	Year of transaction/ provision of Acts	Date of institution of certificate case	Dues (₹ in crore)
1.	M/s Air Transport Corporation (Assam) Ltd., M/s Assam Marble industries and M/s Om Carrying corporation	1995-96 to 1997-98 AGST Act.	July 2005 and August 2005	2.18
<p>The defaulters had filed appeals (May 2005, May 2001 and January 2010) before Hon'ble Gauhati High Court against the orders of assessment. Information collected by Audit from CT, Assam, revealed that all the petitions were disposed by the Hon'ble High Court {Judgement was passed in May 2005 in respect of M/s Om. Carrying Corporation and M/s Air Transport Corporation (Assam) Ltd and in another case of M/s Assam Marble Industries though case was disposed but exact date was not available}. It was, however, observed that the department is yet to collect (June 2012) the certified copies of orders passed by the High Court. This resulted in non-recovery of dues of ₹ 2.18 crore for inordinately long period despite the cases having been disposed by the High Court. Due to lack of concerted efforts and absence of coordination between unit office and CT's office and failure to keep track of the High Court cases by the Department, arrear dues of ₹ 2.18 crore remained unrealised.</p>				
2.	M/s Assam Seeds Corporation Limited, Guwahati.	1994-95 to 1995-96 AGST Act.	July 1998	0.90
<p>The certificate proceedings were kept in abeyance due to stay order issued by the Hon'ble Gauhati High Court (September 2003) which was vacated in October 2005 stating that the demand raised by the AO was correct. It was noticed that only in March 2012 (after a lapse of seven years) a show cause notice was issued for execution of certificate for arrest and imprisonment, if the dues were not paid by the dealer.</p>				
3.	M/s Dugar Tea company, Guwahati.	March 1989 to September 1993, 1993-94 to 1997-98 Assam Finance Sales Tax (AFST) and AGST Acts	March 2004	0.63
<p>The CD filed a petition in August 2004 before the RO denying his tax liability stating that no certificate case can be issued without payment of fee as prescribed under the provision of the Act and the petitioner had already filed an appeal before the Division Bench of the Hon'ble High Court against the judgment of the single bench. Neither the CD submitted to the RO any copy of the writ appeal filed before the High Court nor any action was initiated by the RO since August 2004 to pursue the case.</p>				
4.	M/s Dugar tea industries private limited, Guwahati	September 1988 to June 1993 AFST Act	April 2002	0.42

The certificate proceedings against the defaulter were kept in abeyance due to stay order issued by the Hon'ble Gauhati High Court which was vacated in September 2003 stating that assessment proceedings were correct. It was noticed that in August 2010 the CD had submitted a copy of the judgment passed by the Hon'ble High Court wherein it was mentioned that the petitioner could appeal again against the assessment order to the appellate authority. There was nothing on record that the CD has filed any appeal petition before the appellate authority. Thus, due to inordinate delay in finalisation of the representation submitted by the CD, revenue amounting to ₹41.60 lakh remained unrealised after a lapse of 10 years from the date of institution of certificate case.

5.	M/s Brahma Putra Udyog private Ltd. Guwahati	31 March 1992 to 31 March 1997 AGST Act.	March 2001	0.35
----	--	---	------------	------

The dealer filed revision petition against the assessment order before the Joint Commissioner of Taxes, Assam (appellate authority) which were dismissed in November 2001 and September 2002. However, the certificate proceeding was kept in abeyance due to stay order issued by the Hon'ble High Court which was vacated in March 2003 stating that the dealer failed to submit any satisfactory proof of its claim for exemption and is not entitled to get exemption. However, fresh assessments were to be completed after giving an opportunity to the dealer to produce TDS certificates within a period of 3 months from the date of receipt of certified copy of the Court order. Due to non-finalisation of assessment orders in the light of judgment passed by the Hon'ble High Court, the arrear dues of ₹ 0.35 crore remained unrealised even after a lapse of seven years.

6.	M/s Lion Tea Company, Guwahati.	September 1988 to 1991-92 Assam Finance Sales Tax (AFST) Act	August 1999	0.28
----	---------------------------------	---	-------------	------

It was noticed that RO had not taken any action till date to recover the arrear dues though the Hon'ble Gauhati High Court passed an order in May 1999 to recover the arrear dues from Sri Kamal Chandra Bothra, the proprietor of the said firm. As such, arrear dues of ₹0.28 crore remained unrealised.

7.	M/s Suresh Kumar Jain, Guwahati	1997-98 AGST Act.	August 2001	0.08
----	---------------------------------	----------------------	-------------	------

The certificate proceedings against the defaulter were kept in abeyance due to stay order issued by the Hon'ble Gauhati High Court which was vacated in January 2005 stating that assessment proceeding was correct and the dealer was liable to pay tax. Though seven years have elapsed from the date of passing the order, no further action has been taken by the department to recover the dues.

Annexure- IV

Statement showing excess loss of irrigation water beyond permissible limit during the period from 2005-06 to 2010-11

(Reference : Paragraph 6.2.8)

Sl. No.	Name of division	Total quantity of water utilised for irrigation (in cusec)	Total quantity of water utilised for irrigation (in cusec)	Difference in quantity of water (in cusec)	Permissible transit loss (five per cent)	Excess loss of water (in cusec)	Area to be covered as per norms ¹	Amount involved ² (₹ in lakh)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Dhansiri Weir Irrigation Division	25,647.50	889.67	24,757.83	1,282.38	23,475.45	4,69,509.00	1,320.45
2.	Nagaon Irrigation Division	594.65	312.81	281.84	29.73	252.11	5,042.20	14.18
3.	Kaliabor CAD Division	498.00	308.00	190.00	24.90	165.10	3,302.00	9.29
4.	Dhansiri Canal-I	24,757.83	436.00	24,321.83	1,237.89	23,083.94	4,61,678.80	1,298.43
5.	Guwahati Irrigation Division	6,342.20	4,325.48	2,016.72	317.11	1,699.61	33,992.20	95.60
6.	Jamuna CAD Irrigation Division	6,39,421.85	5,59,413.38	80,008.47	31,971.08	48,037.38	9,60,747.60	2,702.01
7.	Karbi Anglong Irrigation Division	21,28,007.00	15,39,381.00	5,88,626.00	1,06,399.00	4,82,227.00	96,44,540.00	27,124.00
	Total	28,25,269.00	21,05,066.00	7,20,202.69	1,41,262.09	5,78,940.59	1,15,78,811.80	32,563.96

Say ₹ 325.64 crore

¹ 1 cusec = 20 hectares.

² @ ₹ 281.24 per hectares considering as the minimum charge of water rate.

Annexure-V

Statement showing under-assessment of water rates due to incorrect application of water rates during 2005-06 to 2010-11.

(Reference : Paragraph 6.2.9)

Sl. No.	Name of division	Name of crop	Area of land utilised for irrigation (in hectare)	Rate per hectare	Amount to be assessed	Amount actually assessed/ rate at which assessed	Under assessment
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Dhansiri Project Division, Canal-I	Kharif	5480.00	281.24	15.41	9.93 181.20	5.48
2.	Karbi Anglong Irrigation Division	Kharif	86,413.80	281.24	243.03	32.41 37.51	210.62
		Rabi	33,364.70	562.50	187.68	25.01 74.96	162.67
3.	Kaliabor CAD Division	Kharif	4,476.75	281.24	12.59	12.59	0.00
		Early Ahu	1,673.55	751.00	12.57	9.41 562.28	3.16
Total					471.28	89.35	381.93

Say ₹ 3.82 crore

© **COMPTROLLER AND AUDITOR GENERAL OF INDIA**
www.cag.gov.in