

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

Government of Jharkhand
Report No. 1 of the year 2013

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PREFACE

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

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising Value Added Tax/Taxes on sales, trade etc., State excise, Taxes on vehicles and other tax receipts and mining receipts. The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

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

OVERVIEW

OVERVIEW

This Report contains 25 paragraphs including one Performance Audit relating to non/short levy/loss of tax/duty having financial implication of ₹ 484.72 crore, of which audit observations of ₹ 311.07 crore have been accepted by the Government/Departments. Of ₹ 484.72 crore, ₹ 404.09 crore is recoverable and the balance amount of ₹ 80.63 crore was notional loss to the Government due to lacunae in the Acts/Rules and losses due to non-observance of norms/norms not being prescribed. Some of the major findings are mentioned in the following paragraphs.

I. General

The total receipts of the Government of Jharkhand for the year 2011-12 were ₹ 22,419.45 crore against ₹ 18,781.12 crore during 2010-11. The revenue raised by the State Government amounted to ₹ 9,992.11 crore comprising tax revenue of ₹ 6,953.89 crore and non-tax revenue of ₹ 3,038.22 crore. The receipts from the Government of India were ₹ 12,427.34 crore (State's share of divisible Union taxes: ₹ 7,169.93 crore and grants-in-aid: ₹ 5,257.41 crore). Thus, the State Government could raise only 45 *per cent* of the total revenue. During 2011-12, VAT/Taxes on Sales, Trade etc. (₹ 5,522.02 crore) and Non-ferrous Mining and Metallurgical Industries (₹ 2,662.79 crore) were the major source of tax and non-tax revenue respectively.

(Paragraph 1.1)

The number of inspection reports and audit observations issued upto December 2011, but not settled by June 2012, stood at 963 and 6,100 respectively involving ₹ 9,794.39 crore. In respect of 225 inspection reports, issued upto December 2011, even the first replies had not been received though these were required to be furnished within one month of the date of issue of the Report.

(Paragraph 1.6.1)

During the years 2006-07 to 2010-11, the Departments/Government accepted audit observations with a total revenue impact of ₹ 1,136.92 crore (out of total observations of ₹ 3,894.36 crore pointed out in the Audit Reports) of which ₹ 785.11 crore had been recovered as of 31 March 2012.

(Paragraph 1.6.6)

Test check of the records of 117 units of Commercial Taxes, State Excise, Motor Vehicles, Land Revenue, Stamps and Registration Fees, Electricity Duty, Mines and Geology conducted during the year 2011-12 revealed underassessments/short levy/loss of revenue aggregating ₹ 1,117.79 crore in 31,791 cases. During the course of the year, the Departments concerned accepted underassessments and other deficiencies of ₹ 306.28 crore involved in 19,193 cases.

(Paragraph 1.9.1)

II. Value added tax/Taxes on sales, trade etc.

Irregularities in determination of sales/purchase turnover resulted in non/short levy of tax and penalty of ₹ 72.83 crore.

(Paragraph 2.11)

In four Commercial Taxes Circles, in case of 19 assesseees, application of incorrect rate of tax resulted in short levy of tax of ₹ 24.17 crore including interest and penalty of ₹ 10 crore.

(Paragraph 2.12)

In five Commercial Taxes Circles, in case of six assesseees, there was inadmissible allowance of Input Tax Credit of ₹ 1.04 crore. Besides, penalty of ₹ 1.80 crore was also leviable.

(Paragraph 2.13)

Misuse of declaration forms by an assessee in Dhanbad Commercial Taxes Circle resulted in short levy of tax of ₹ 31.31 crore including penalty of ₹ 18.79 crore.

(Paragraph 2.15.1)

Penalty of ₹ 16.60 crore was not levied for excess collection of tax in case of two dealers in Katras Commercial Taxes Circle.

(Paragraph 2.16)

III. State Excise

Non/delayed settlement of retail excise shops resulted in loss of excise duty and licence fee of ₹ 80.63 crore.

(Paragraph 3.8)

In four excise districts, short lifting of liquor by 148 retail vendors resulted in non-realisation of Government revenue of ₹ 16.22 lakh.

(Paragraph 3.10)

Application of incorrect rate of licence fee on sale of IMFL in seven hotels, bars and restaurants resulted in short realisation of revenue of ₹ 21 lakh.

(Paragraph 3.11)

IV. Taxes on Vehicles

Tax of ₹ 12.60 crore due for the period between April 2007 and March 2012, from 2,975 vehicle owners was neither paid by the owners nor demanded by the Department.

(Paragraph 4.9)

In Giridih Transport Office, no tax was realised in case of nine vehicles even after the expiry of period of surrender resulting in non-realisation of tax and penalty of ₹ 14.49 lakh.

(Paragraph 4.13)

V. Land Revenue

Non-renewal of 155 leases involving 21.40 acres of *Khas Mahal* land, which had expired between 2004-05 to 2010-11, resulted in non-realisation of revenue of ₹ 10.28 crore in the shape of *salami*, penal rent and interest.

(Paragraph 5.9)

4.82 acres of GM *Khas/Aam* land was transferred for commercial purposes by *Anchal* office, Mandu without realisation of *salami* and capitalised value of ₹ 4.71 crore.

(Paragraph 5.10)

VI. Other Tax Receipts

Stamps and Registration Fees

Cross-verification of data/information collected in respect of 20 mobile service providers from Jharkhand Pollution Control Board, Ranchi with the records of five District Sub-Registrars revealed non-execution of lease deeds and consequent non-levy of Stamp Duty and Registration Fees of ₹ 56.28 lakh. Besides, maximum fine of ₹ 1.14 crore was leviable.

(Paragraph 6.8)

Electricity Duty

In Jharia Commercial Taxes Circle, in case of three assessee levy of Electricity Duty at incorrect rates resulted in short levy of duty of ₹ 1.83 crore.

(Paragraph 6.13)

VII. Mineral Concession, Fees and Royalty

A Performance Audit on “**Working of Mines and Geology Department in respect of Mining Receipts**” revealed the following;

- Jharkhand has not framed a State Mineral Policy along the lines of the Model State Mineral Policy 2010 circulated by the Central Government.

(Paragraph 7.4.2)

- In three offices of Deputy Director of Mines, arrears of ₹ 458.04 crore were pending for recovery.

(Paragraph 7.4.11.1)

- The internal control framework was deficient in terms of inadequate internal audit, non maintenance of important registers, non submission/assessment of returns and inadequate inspections by departmental officers.

(Paragraphs 7.4.13 and 7.4.14)

- Ninety eight per cent of the applications for grant of lease for Major Minerals during the period 2006-11 were pending for disposal.

(Paragraph 7.4.16.1)

- In six Mining Offices, in case of 62 leases, payment of royalty at incorrect rates resulted in short levy of royalty of ₹ 20.43 crore.

(Paragraph 7.4.17.1)

- In the Mining Offices, Bokaro and Dhanbad, downgrading of coal by two collieries resulted in short levy of royalty of ₹ 3.22 crore.

(Paragraph 7.4.17.2)

- In the Mining Offices, Dhanbad and Ramgarh, incorrect accounting of quantity of coal by two collieries resulted in excess adjustment of royalty of ₹ 77.04 lakh.

(Paragraph 7.4.17.3)

- Cross-verification of the returns filed by 56 lessees of six Mining Offices, with records of Commercial Taxes Department, Indian Bureau of Mines etc., revealed suppression of dispatch of mineral resulting in short levy of royalty of ₹ 117.60 crore.

(Paragraph 7.4.18)

- In 10 Mining Offices, extraction of minerals without obtaining permission from the Department, rendered the defaulters liable to pay the price of mineral of ₹ 2.50 crore.

(Paragraph 7.4.22)

CHAPTER-I

GENERAL

EXECUTIVE SUMMARY

Marginal growth rate in revenue receipts of the State	Total tax and non-tax revenue of the State during 2011-12 was ₹ 9,992.11 crore which represented a marginal growth rate of 17.28 <i>per cent</i> over the earlier year. Out of this ₹ 6,953.89 crore was from tax revenue and ₹ 3,038.22 crore from non-tax revenue. The State received ₹ 5,257.41 crore as Grants-in-aid and ₹ 7,169.93 crore as share of net proceeds of divisible Union Taxes.
Poor response of the Department/Government towards audit	We have not received even the first replies to 225 Inspection Reports issued by us upto December 2011.
Non-production of records to audit	Eight offices of four Departments (Mines and Geology, Revenue and Land Reforms, Transport and Registration) did not furnish 33 tax assessment records during 2011-12.
Limited impact of Departmental audit committee meetings	Only 10 Departmental audit committee meetings were held during the year and 149 outstanding paragraphs having financial implication of ₹ 36.68 crore were settled.
Impact of earlier Audit Reports	During the period from 2006-07 to 2010-11, Government accepted audit observations having money value of ₹ 1,136.92 crore, of which ₹ 785.11 crore was realised upto 2011-12.
Results of Audit	We test checked 117 units of various Departments during 2011-12 and noticed short levy of tax, duty, royalty etc. of ₹ 1,117.79 crore in 31,791 cases.

CHAPTER-I: GENERAL

1.1 Trend of revenue receipts

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

(₹ in crore)						
Sl. No.		2007-08	2008-09	2009-10	2010-11	2011-12
I.	Revenue raised by the State Government					
	• Tax revenue	3,473.55	3,753.21	4,500.12	5,716.63	6,953.89
	• Non-tax revenue	1,601.40	1,951.74	2,254.15	2,802.89	3,038.22
	Total	5,074.95	5,704.95	6,754.27	8,519.52	9,992.11
II.	Receipts from the Government of India					
	• State's share of divisible Union taxes	5,109.83	5,392.11	5,547.57	6,154.35	7,169.93
	• Grants-in-aid	1,841.77	2,115.78	2,816.63	4,107.25	5,257.41
	Total	6,951.60	7,507.89	8,364.20	10,261.60	12,427.34
III.	Total receipts of the State Government (I & II)¹	12,026.55	13,212.84	15,118.47	18,781.12	22,419.45
IV.	Percentage of I to III	42	43	45	45	45

The above table indicates that during the year 2011-12, the revenue raised by the State Government (₹ 9,992.11 crore) was 45 *per cent* of the total revenue receipts. The balance 55 *per cent* of receipts, during 2011-12, was from the Government of India.

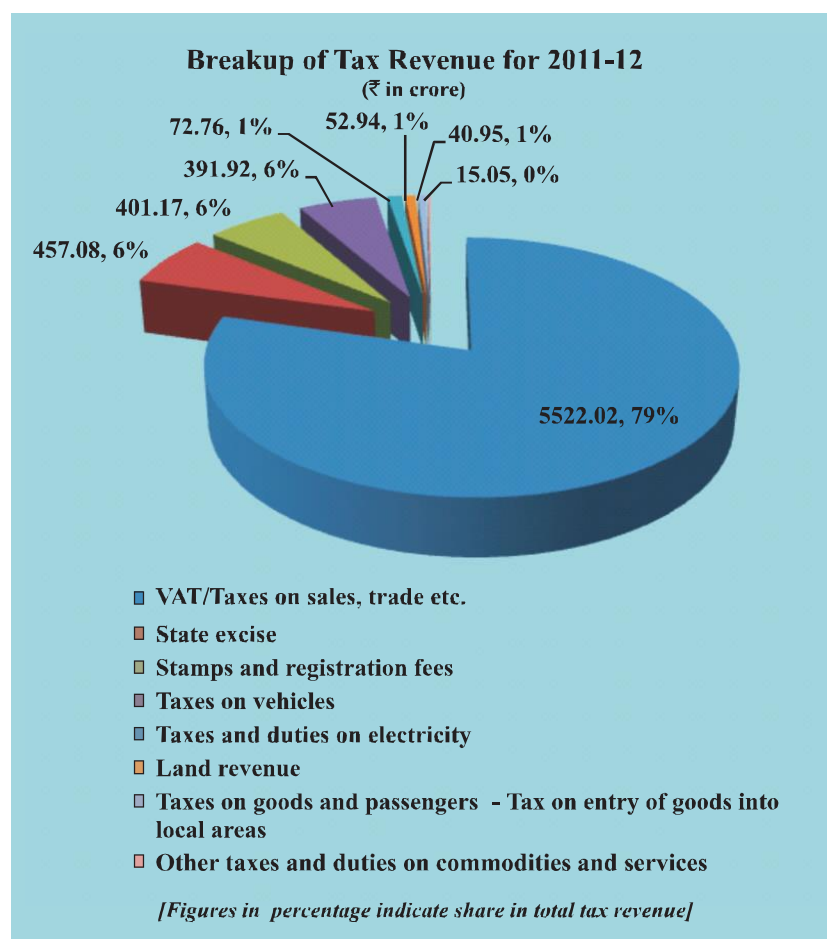
¹ For details, please see Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government for the year 2011-12. Figures under the major heads 0020 - Corporation tax, 0021 - Taxes on income other than corporation tax, 0028 - Other taxes on income and expenditure, 0032 - Taxes on wealth, 0044 - Service tax, 0037 - Customs, 0038 - Union excise duties and 0045 - Other taxes and duties on commodities and services- Minor Head - 901 - Share of net proceeds assigned to State booked in the Finance Accounts under "A-Tax revenue" have been excluded from the revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

1.1.2 The following table presents the details of tax revenue raised during the period 2007-08 to 2011-12:

(₹ in crore)

Sl. No.	Heads of revenue	2007-08	2008-09	2009-10	2010-11	2011-12	Percentage of increase/decrease in 2011-12 over 2010-11
1	VAT/Taxes on Sales, Trade etc.	2,845.88	2,996.20	3,597.20	4,473.43	5,522.02	(+) 23.44
2	State Excise	156.86	205.46	322.75	388.34	457.08	(+) 17.70
3	Stamps and Registration Fees	156.26	192.16	238.20	328.35	401.17	(+) 22.18
4	Taxes on Vehicles	135.67	201.57	234.21	312.37	391.92	(+) 25.47
5	Taxes and Duties on Electricity	76.47	43.47	46.87	53.50	72.76	(+) 36.00
6	Land Revenue	26.26	53.33	41.28	130.65	52.94	(-) 59.48
7	Taxes on Goods and Passengers - Tax on Entry of Goods into Local Areas	71.07	54.02	12.44	21.08	40.95	(+) 94.26
8	Other Taxes and Duties on commodities and services	5.08	7.00	7.17	8.91	15.05	(+) 68.91
Total		3,473.55	3,753.21	4,500.12	5,716.63	6,953.89	(+) 21.64

Source: Finance Accounts of the Government of Jharkhand.



The reasons for variation in receipts in 2011-12 from those of 2010-11 in respect of some principal heads of tax revenue were as under:

VAT/Taxes on Sales, Trade etc.: The increase of 23.44 *per cent* was attributed by the Department to better and effective monitoring of tax administration.

State Excise: The increase of 17.70 *per cent* was attributed by the Department to enforcement of the new Excise Policy of 2009.

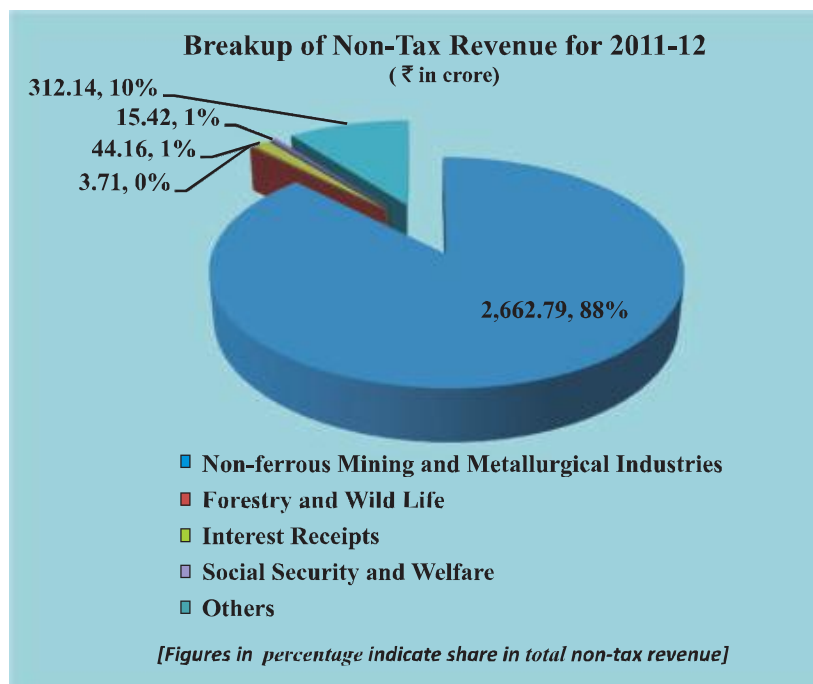
Stamps and Registration Fees: The increase of 22.18 *per cent* was attributed to growth in the real estate sector.

Taxes on Vehicles: The increase of 25.47 *per cent* was attributed to initiation of a system of one time taxation of private vehicles under the Jharkhand Motor Vehicles Tax (Amendment) Act.

1.1.3 The following table presents the details of non-tax revenue raised during the period 2007-08 to 2011-12:

Sl. No.	Heads of revenue	(₹ in crore)					Percentage of increase/decrease in 2011-12 over 2010-11
		2007-08	2008-09	2009-10	2010-11	2011-12	
1	Non-ferrous Mining and Metallurgical Industries	1,177.77	1,477.94	1,733.15	2,055.90	2,662.79	(+) 29.52
2	Forestry and Wild Life	4.06	7.20	3.57	4.76	3.71	(-) 22.06
3	Interest Receipts	87.14	109.53	153.20	98.74	44.16	(-) 55.28
4	Social Security and Welfare	12.57	4.25	13.49	23.85	15.42	(-) 35.35
5	Others	319.86	352.82	350.74	619.64	312.14	(-) 49.63
	Total	1,601.40	1,951.74	2,254.15	2,802.89	3,038.22	8.40

Source: Finance Accounts of the Government of Jharkhand.



The reason for increase in receipts by 29.52 per cent in 2011-12 over the previous year in respect of Non-ferrous Mining and Metallurgical Industries was attributed to increase in the rate of royalty of iron ore.

1.2 Variation between budget estimates and actuals

The variation between the revised budget estimates and actuals of revenue receipts for 2011-12 under the principal heads of tax and non-tax revenue were as mentioned in the following table:

(₹ in crore)

Sl. No.	Heads of revenue	Revised estimates	Actual receipts	Variation (+) increase (-) shortfall	Percentage of variation (+) increase (-) decrease
A. Tax revenue					
1.	VAT/Taxes on Sales, Trade etc.	5,633.25	5,522.02	(-) 111.23	(-) 1.97
2.	State Excise	445.00	457.08	(+) 12.08	(+) 2.71
3.	Stamps and Registration Fees	450.00	401.17	(-) 48.83	(-) 10.85
4.	Taxes on Vehicles	356.00	391.92	(+) 35.92	(+) 10.09
5.	Taxes and Duties on Electricity	100.00	72.76	(-) 27.24	(-) 27.24
6.	Land Revenue	83.49	52.94	(-)30.55	(-) 36.59
7.	Other Taxes and Duties on Commodities and Services	36.75	15.05	(-) 21.70	(-) 59.05
8.	Taxes on Goods and Passengers – Tax on Entry of Goods into Local Areas	30.00	40.95	(+) 10.95	(+) 36.50
B. Non-tax revenue					
1.	Non-ferrous Mining and Metallurgical Industries	2,759.75	2,662.79	(-) 96.96	(-)35.51
2.	Forestry and Wild Life	4.17	3.71	(-) 0.46	(-) 11.03
3.	Interest Receipts	100.64	44.16	(-) 56.48	(-) 56.12
4.	Social Security and Welfare	33.00	15.42	(-) 17.58	(-) 53.27

Source: Finance Accounts of the Government of Jharkhand and the revised estimates as per the Statement of Revenue and Receipts of Government of Jharkhand for the year 2012-13.

The reasons for shortfall in receipts against the BE in respect of Stamps and Registration Fees during 2011-12 was attributed by the Department to the fact that lesser number of instruments were presented for registration.

The other Departments did not inform the reasons for variation despite being requested (June 2012).

1.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during 2011-12 along with the all-India average percentage of expenditure on collection in 2010-11 were as under:

(₹ in crore)

Sl. No.	Heads of revenue	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All-India average percentage of 2010-11
1.	VAT/Taxes on Sales, Trade etc.	5,522.02	50.20	0.91	0.75
2.	Taxes on Vehicles	391.92	4.60	1.17	3.71
3.	State Excise	457.08	15.95	3.49	3.05
4.	Stamps & Registration Fees	401.17	11.34	2.83	1.60

Source: Finance Accounts of the Government of Jharkhand.

The above table indicates that the percentage of expenditure on collection in respect of VAT/Taxes on Sales, Trade, etc. and State Excise was higher than the all-India average and significantly higher in the case of Stamps and Registration Fees. The Department needs to look into the reasons for this and take steps to reduce the high cost of collection. However, we appreciate that the cost of collection on Taxes on Vehicles was much lower than the all-India average.

1.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 in respect of some principal heads of revenue amounted to ₹ 2,030.78 crore, of which ₹ 490.46 crore was outstanding for more than five years as mentioned below:

(₹ in crore)

Sl. No.	Heads of revenue	Amount outstanding as on 31 March 2012	Amount outstanding for more than five years as on 31 March 2012	Remarks
1.	VAT/Taxes on Sales, Trade etc.	1,860.83	371.31	Out of ₹ 1,917.81 crore ² , demands of ₹ 154.45 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 1,304.85 crore and ₹ 2.58 crore was stayed by the Courts and the Government respectively. Demand of ₹ 1.73 crore was held up due to rectification/review of applications. Specific action taken in respect of the remaining arrears of ₹ 454.20 crore has not been intimated (February 2013).
2.	State Excise	31.07	25.29	Out of the closing balance of arrears of ₹ 31.07 crore as on 31 March 2012, demand for ₹ 13.04 crore was certified for recovery as arrears of land revenue, recovery of ₹ 15.98 crore was stayed by the Courts and other judicial authorities, recovery of ₹ 10.56 lakh was held up due to parties becoming insolvent and a sum of ₹ 16.08 lakh was likely to be written off. Specific action taken in respect of the remaining amount of ₹ 1.78 crore has not been intimated (February 2013).
3.	Taxes on Vehicles	137.31	93.86	Out of ₹ 104.44 crore ³ , demands of ₹ 94.80 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 1.48 crore was likely to be written off. Specific action taken in respect of the remaining arrears of ₹ 8.16 crore has not been intimated (February 2013).

² The Department furnished stages of recovery for an amount of ₹ 1,917.81 crore although they had reported total arrears of ₹ 1,860.83 crore.

³ The Department furnished stages of recovery for an amount of ₹ 104.44 crore against the total arrears of ₹ 137.31 crore reported by them.

(₹ in crore)

Sl. No.	Heads of revenue	Amount outstanding as on 31 March 2012	Amount outstanding for more than five years as on 31 March 2012	Remarks
4	Stamps and Registration Fees	1.57	Not furnished	As per information furnished (October 2012) by the Department, recovery of the entire amount of arrears of ₹ 1.57 crore was held up due to rectification/ review of applications in impounded and referred cases.
Total		2,030.78	490.46	

The position of arrears of revenue pending collection at the end of 2011-12 in respect of other departments was not furnished (February 2013) despite reminders and requests.

1.5 Refunds

The refund cases pending at the beginning of 2011-12, claims received during the year, refunds allowed during the year and cases pending at the close of the year are indicated in the following table:

Sl. No.	Particulars	VAT/Taxes and Duty on Electricity	
		No. of cases	Amount
1.	Claims outstanding at the beginning of the year	763	24.84
2.	Claims received during the year	23	7.60
3.	Refunds made during the year	44	4.38
4.	Balance outstanding at the end of the year	742	28.06
5.	Interest paid due to belated refunds	NIL	NIL

Source: Information furnished by the Department

Refund cases under VAT, pending beyond ninety days of the application claiming refund, entail payment of simple interest at the rate of six *per cent* per annum. The Government may, therefore, take effective steps to dispose of the cases within the stipulated period.

1.6 Response of the Departments/Government towards Audit

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

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

We reviewed the IRs issued upto December 2011 and found that 6,100 paragraphs having financial implication of ₹ 9,794.39 crore relating to 963 IRs

remained outstanding at the end of June 2012. The corresponding figures for the preceding two years are mentioned in the following table:

	(₹ in crore)		
	June 2010	June 2011	June 2012 ⁴
Number of outstanding IRs	2,166	1,998	963
Number of outstanding audit observations	10,772	9,320	6,100
Amount involved	7,676.65	11,500.30	9,794.39

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2012 and the amounts involved are mentioned below:

(₹ in crore)					
Sl. No.	Names of Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1	Commercial Taxes	VAT/Taxes on Sales, Trade etc	146	2,665	2,188.57
		Entry Tax	48	112	25.79
		Electricity Duty	44	88	59.35
		Entertainment Tax etc.	22	23	3.59
2	Excise and Prohibition	State Excise	83	364	418.70
3	Revenue and Land Reforms	Land Revenue	247	540	1,375.78
4	Transport	Taxes on Motor Vehicles	135	783	397.80
5	Registration	Stamps and Registration Fees	108	333	3,419.71
6	Mines and Geology	Non-ferrous Mining and Metallurgical Industries	130	1,192	1,905.10
Total			963	6,100	9,794.39

Even the first replies, required to be received from the heads of offices within one month from the date of issue of the IRs, were not received for 225 IRs issued up to December 2011. This large pendency of the IRs due to non-receipts of the replies is indicative of the fact that the heads of offices and heads of the departments did not initiate action to rectify the defects, omissions and irregularities pointed out by us in our IRs.

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

1.6.2 Departmental audit committee meetings

The Government sets up audit committees to monitor and expedite the progress of the settlement of paragraphs in the Inspection Reports (IRs). The details of the 10 audit committee meetings held during 2011-12 and the paragraphs settled are mentioned below:

⁴ Excluding IRs and outstanding observations relating to Forest and Environment Department and Water Resources Department.

Heads of revenue	Number of meetings held	Number of paragraphs settled	(₹ in crore)
			Amount
VAT /Taxes on Sales, Trade etc.	2	18	5.32
Stamps and Registration Fees	1	11	0.56
State Excise	1	23	5.80
Taxes on Vehicles	1	50	22.25
Land Revenue	2	2	0.003
Non-ferrous Mining and Metallurgical Industries	2	45	2.75
Forestry and Wild Life	1	Nil	Nil
Total	10	149	36.68

1.6.3 Non-production of records to Audit for scrutiny

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

During 2011-12, 33 tax assessment records relating to eight offices of four Departments (Mines and Geology, Revenue and Land Reforms, Transport and Registration Departments) were not made available to us for audit. The office-wise break-up of such cases is given below:

Name of Office	Number of assessment cases/ records not produced to audit
District Mining Office, Chatra	3
Deputy Collector Land Reforms (DCLR), Sahebganj	15
DCLR, Gumla	4
District Transport Office, Deoghar	3
Deputy Collector (DC), Stamp, Dumka	1
DC, Stamp, Deoghar	2
District Sub-Registrar (DSR), Jamtara	2
DSR, Godda	3
Total	33

1.6.4 Response of the Departments to the draft audit paragraphs

As per the instructions issued (1966) by the Government of Bihar, as applicable to the Government of Jharkhand, audit observations raised during local inspection are replied by the concerned authorities after issue of inspection reports. The observations of serious irregularities are converted into draft paragraphs and forwarded to the concerned administrative departments/ Government for their replies/comments within six weeks. In case of non-receipt of the reply or if the reply furnished by the Departments/Government is not satisfactory, the draft paragraphs are included in the Audit Report. The Government, after laying the Audit Report in the legislature, forwards explanatory notes on the relevant paragraphs to the Committee on Public Accounts (PAC) for vetting by the Principal Accountant General (PAG). After discussion, the PAC makes recommendations for compliance by the Government within six months for final settlement of the paragraph.

Forty five Draft Paragraphs (clubbed into 25 paragraphs including one Performance Audit included in this Report) were forwarded to the Secretaries

to the Government of the Departments concerned followed by reminders issued between July 2012 and August 2012. The draft Performance Audit was discussed with the Additional Chief Secretary of the Department in August 2012. The reply furnished by the Government in respect of the Performance Audit and to some of the draft paragraphs relating to Commercial Taxes, State Excise, Taxes on Motor Vehicles, Stamps and Registration Fees have been suitably incorporated in the Report. In other cases the Government has not furnished any reply (February 2013).

1.6.5 Follow up on Audit Reports – summarised position

The Committee on Public Accounts stipulates submission of action taken notes (ATNs) by the concerned Department on paragraphs and reviews/Performance Audits included in the Audit Report indicating action taken or proposed to be taken, within three months from the date of presentation of the Audit Report to the legislature. The summarised position of follow-up on Audit Reports is as under:

Sl. No.	Audit Report ending on	Date of presentation in the legislature	No. of paragraphs	No. of paragraphs discussed	No. of paragraphs where explanatory notes received	No. of paragraphs where explanatory notes not received
1	31 March 2000 ⁵	21.03.2002	36	20	17	19
2	31 March 2001	17.12.2003	35	8	09	26
3	31 March 2002	03.08.2004	27	7	11	16
4	31 March 2003	24.03.2005	42	9	25	17
5	31 March 2004	19.12.2005	31	4	22	09
6	31 March 2005	24.08.2006	29	1	24	05
7	31 March 2006	04.04.2007	27	4	17	10
8	31 March 2007	26.03.2008	36	7	14	22
9	31 March 2008	10.07.2009	42	8	25	17
10	31 March 2009	13.08.2010	41	2	14	27
11	31 March 2010	29.08.2011	26	5	03	23
12	31 March 2011	06.09.2012	32	Nil	00	32
Total			404	75	181	223

Our review of the outstanding 404 paragraphs included in 12 Reports of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2000 to 31 March 2011 disclosed that the Departments had submitted explanatory notes on 181 paragraphs only.

This indicates that the executive did not take prompt action on the important issues highlighted in the Audit Reports.

1.6.6 Compliance with the earlier Audit Reports

During the years 2006-07 to 2010-11, the Departments/Government accepted audit observations with a total revenue impact of ₹ 1,136.92 crore (out of total observations of ₹ 3,894.36 crore pointed out in the Audit Reports) of which

⁵ Audit had no information about any decision taken by the competent authority about discussion by PAC of the pending paragraphs of the Audit Reports relating to the areas/districts falling under the jurisdiction of Jharkhand, for the periods prior to the constitution of the State of Jharkhand.

₹ 785.11 crore had been recovered as of 31 March 2012 as mentioned in the following table:

Year of Audit Report	Total money value	Accepted money value	Recovery made	
			during 2011-12 ⁶	Upto 2011-12
2006-07	591.10	201.08	4.88	312.33 ⁷
2007-08	842.65	153.76	35.33	189.79
2008-09	1,171.03	88.57	26.43	220.64
2009-10	237.97	48.74	23.03	36.99
2010-11	1,051.61	644.77	25.36	25.36
Total	3,894.36	1,136.92	115.03	785.11

1.7 Analysis of the mechanism for dealing with the issues raised by Audit

In order to analyse the system of addressing the issues highlighted in the Inspection Reports/Audit Reports by the Departments/Government, the performance of the **Excise and Prohibition Department** to deal with the cases detected in the course of local audit conducted during 2002-03 to 2011-12 and also the cases included in the Audit Reports for the years 2002-03 to 2011-12 was evaluated. The succeeding paragraphs 1.7.1 and 1.7.2 discuss the result of our analysis.

1.7.1 Position of Inspection Reports

The summarised position of inspection reports issued during 2002-03 to 2011-12 in respect of the **Excise and Prohibition Department**, paragraphs included in these reports and their status as on 31 March 2012 are tabulated in the following table:

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IR	Para-graphs	Money value	IR	Para-graphs	Money value	IR	Para-graphs	Money value	IR	Para-graphs	Money value
2002-03	187	1,112	71.73	12	67	21.20	-	-	-	199	1,179	92.93
2003-04	199	1,179	92.93	8	52	27.64	1	85	0.28	206	1,146	120.29
2004-05	206	1,146	120.29	26	209	59.57	-	53	0.31	232	1,302	179.55
2005-06	232	1,302	179.55	17	126	29.16	-	33	0.06	249	1,395	208.65
2006-07	249	1,395	208.65	12	82	21.82	-	9	-	261	1,468	230.47
2007-08	261	1,468	230.47	8	57	72.54	-	36	-	269	1,489	303.01
2008-09	269	1,489	303.01	18	110	82.40	101	510	21.90	186	1,089	363.51
2009-10	186	1,089	363.51	9	48	29.78	104	501	97.36	91	636	295.93
2010-11	91	636	295.93	16	92	211.74	28	203	93.07	79	525	414.60
2011-12	79	525	414.60	19	122	96.33	2	52	11.13	96	595	499.80
Total	1,959	11,347	2,280.67	145	965	652.18	236	1,482	224.11	1,868	10,830	2,708.74

During the period 2002-03 to 2011-12, we issued 145 IRs containing 965 paragraphs with financial implication of ₹ 652.18 crore. At the same time 236 IRs involving 1,482 paragraphs with monetary value of ₹ 224.11 crore

⁶ Figures are based on data/information furnished by the Commercial Taxes, Excise and Prohibition, Mines and Geology and the Transport Department.

⁷ Though the accepted money value was ₹ 201.08 crore, ₹ 153.76 crore and ₹ 88.57 crore, for the Audit Report 2006-07, 2007-08 and 2008-09 respectively, the Government reported recovery of ₹ 312.33 crore, ₹ 189.79 crore and ₹ 220.64 crore after reviewing and accepting cases pointed out in audit.

were settled by conducting audit committee meetings with the Department and through regular interactions with them.

1.7.2 Recovery of accepted cases

During the period 2002-03 to 2011-12, we included 44 paragraphs including one Performance Audit on "**Levy and Collection of State Excise Receipts**" having financial implication of ₹ 443.66 crore in the Audit Reports. The Department has so far accepted 17 paragraphs involving ₹ 26.23 crore⁸. However, during 2007-08 to 2011-12, the Department effected recovery of ₹ 1.42 crore against accepted cases of ₹ 16.00 crore which amounts to only nine *per cent* of the cases accepted during this period.

We recommend that the Government should take appropriate steps to improve the recovery position.

1.7.2.1 Action taken on the recommendations accepted by the Departments/Government

A Performance Audit on "**Levy and collection of State Excise Receipts**" pertaining to the Excise and Prohibition Department was featured in the Audit Report (Revenue Receipts) of the Comptroller and Auditor General of India for the year ended March 2008, wherein the recommendations made by us were that the Government should:

- formulate provision for levy and collection of import pass fee on import of rectified spirit;
- formulate provision for levy of interest on belated payment of dues in Bihar Excise Act;
- prescribe a time limit for instituting and finalising certificate cases; and
- revive Internal Audit and the Excise Intelligence Bureau to ensure timely detection and correction of errors in levy and collection of revenue.

The Government/Department was requested (August 2012) to intimate the system adopted to monitor the action to be taken/action taken on the recommendations included in the Performance Audit and assurances given by them in the exit conference held in September 2008. We have not received any reply in this connection from the Department (February 2013).

1.8 Audit planning

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

⁸ Includes accepted recoverable cases having financial implication of ₹ 1.05 crore for the period 2011-12.

the revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during the past five years etc.

During the year 2011-12, the audit universe comprised of 440 auditable units,⁹ of which 117 units were audited during the year. The details are mentioned in the following table:

Sl. No.	Principal Head	Total no. of units	Units audited during 2011-12
1	VAT/Taxes on Sales, Trade etc.	46	21
2	Taxes on Vehicles	27	17
3	Stamps and Registration Fees	41	13
4	State Excise	23	19
5	Land Revenue	270	30
6	Non-ferrous Mining and Metallurgical Industries	33	17
Total		440	117

Besides the compliance audits mentioned in the table above, a Performance Audit on “**Working of Mines and Geology Department in respect of Mining receipts**” was also taken up to examine the efficacy of the tax administration of these receipts.

1.9 Results of audit

1.9.1 Position of local audit conducted during the year

Our test check of the records of 117 units of Commercial Taxes, State Excise, Motor Vehicles, Land Revenue, Stamps and Registration Fees, Electricity Duty and Mines and Geology conducted during 2011-12, revealed underassessment/short levy/loss of revenue aggregating ₹ 1,117.79 crore in 31,791 cases. During the course of the year, the Departments concerned accepted underassessment and other deficiencies of ₹ 306.28 crore involved in 19,193 cases of which 19,192 cases involving ₹ 306.12 crore was pointed out during 2011-12 and remaining one case in 2010-11.

1.9.2 This Report

This report (Chapters II to VII) contains 25 paragraphs including one Performance Audit on “**Working of Mines and Geology Department in respect of Mining receipts**” relating to short/non-levy of tax, duty and interest, penalty etc. involving financial implications of ₹ 484.72 crore, of which ₹ 404.09 crore is recoverable and the remaining amount of ₹ 80.63 crore was avoidable notional loss to the Government due to non-observance of the provisions of the Acts/Rules. The Departments/Government have accepted audit observations involving ₹ 311.07 crore including avoidable notional loss of ₹ 80.63 crore in respect of State Excise and effected recovery of ₹ 1.49 crore. The replies in the remaining cases have not been received (February 2013).

⁹ Excluding the units of Forest and Environment and Water Resources Department.

CHAPTER-II

VALUE ADDED TAX/ TAXES ON SALES, TRADE ETC.

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	<p>In this Chapter we present a few illustrative cases having recoverable financial implication of ₹ 224.20 crore selected from observations noticed during our test check of records relating to assessment and collection of VAT/Sales tax in the office of the Deputy Commissioners of Commercial Taxes/Assistant Commissioners of Commercial Taxes, where we found that the provisions of the Acts/Rules were not observed.</p> <p>It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.</p>
Marginal increase in tax collection	<p>In 2011-12, the collection of taxes from Value Added Tax (VAT)/Central Sales Tax increased by 23.44 <i>per cent</i> over the previous year which was attributed by the Department to better and effective tax administration.</p>
Internal Audit Wing started functioning	<p>The system of VAT audit has been envisaged in the Jharkhand VAT Act. The criteria and guidelines for selection of dealers for the purposes of audit assessment and audit thereof have been notified (July 2011). The Wing has started functioning at the Headquarters' level and at the divisional level at Ranchi, Jamshedpur and Dhanbad. The Department reported that assessment records of 812 dealers were selected for VAT audit in March 2012.</p>
Recovery by the Department against observations pointed out by us in earlier years	<p>During the period 2006-07 to 2010-11, we had pointed out non/short levy, non/short realisation, under-assessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 2,501.25 crore in 1,861 cases. Of these, the Department/Government accepted audit observations in 266 cases involving ₹ 637.11 crore but recovered only ₹ 77.13 crore.</p>
Results of audits conducted by us in 2011-12	<p>In 2011-12, we test checked the records of 21 units relating to Taxes on sales/VAT and found non/short realisation/levy of tax, penalty etc. involving ₹ 794.65 crore in 629 cases.</p> <p>The Department accepted non/short realisation/levy of tax and other deficiencies of ₹ 68.06 crore in 28 cases pointed out by us during 2011-12. An amount of ₹ 47.81 lakh was recovered in four cases during 2011-12.</p>
Our conclusion	<p>The Commercial Taxes Department needs to improve the internal control system so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.</p>

CHAPTER-II: VALUE ADDED TAX/TAXES ON SALES, TRADE ETC.

2.1 Tax administration

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

The State is divided into five commercial taxes divisions¹, each under the charge of a Joint Commissioner (Administration) and 28 circles², each under the charge of a Deputy/Assistant Commissioner of Commercial Taxes (DCCT/ACCT). The DCCT/ACCT of the circle, responsible for levy and collection of tax due to the Government, besides market survey, is assisted by Commercial Taxes Officers. A Deputy Commissioner of IB is posted in each division to assist the JCCT (Administration) and a DCCT (Vigilance and Monitoring) is posted under the control of Headquarters in each division.

2.2 Trend of receipts

Actual receipts from VAT/Taxes on Sales, Trade etc. during the period 2007-08 to 2011-12 along with the total tax receipts during the same period is exhibited in the following table and chart:

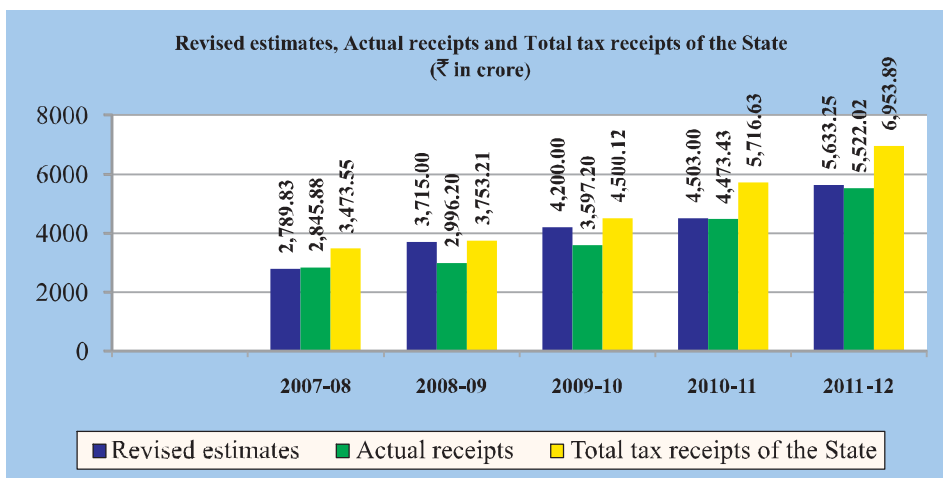
(₹ in crore)

Year	Revised budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual Sales Tax/VAT receipts vis-à-vis total tax receipts
2007-08	2,789.83	2,845.88	(+) 56.05	(+) 2.00	3,473.55	82
2008-09	3,715.00	2,996.20	(-) 718.80	(-) 19.35	3,753.21	80
2009-10	4,200.00	3,597.20	(-) 602.80	(-) 14.35	4,500.12	80
2010-11	4,503.00	4,473.43	(-) 29.57	(-) 0.66	5,716.63	78
2011-12	5,633.25	5,522.02	(-) 111.23	(-) 1.97	6,953.89	79

Source: Finance Accounts and the revised estimates as per Statement of Revenue and Receipts of Government of Jharkhand for 2012-13.

¹ Dhanbad, Dumka, Hazaribag, Jamshedpur and Ranchi.

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



2.3 Cost of collection

The gross collection under Sales Tax/VAT receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during 2007-08 to 2011-12 along with the all-India average of the relevant preceding year are mentioned in the following table:

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All-India average percentage of the preceding year
2007-08	2,845.88	16.66	0.59	0.82
2008-09	2,996.20	24.88	0.83	0.83
2009-10	3,597.20	31.17	0.87	0.88
2010-11	4,473.43	37.48	0.84	0.96
2011-12	5,522.02	50.20	0.91	0.75

Source: Finance Accounts of the Government of Jharkhand.

From the above it may be seen that during 2011-12 the percentage of expenditure on collection was higher than the all-India average.

2.4 Working of Internal Audit Wing

The system of VAT audit has been envisaged in the JVAT Act. The criteria and guidelines for selection of dealers for the purposes of audit assessment and audit thereof have been notified (July 2011). The Wing has started functioning at Headquarters' level and divisional level at Ranchi, Jamshedpur and Dhanbad. The Department reported that assessment records of 812 dealers were selected for VAT audit in March 2012.

2.5 Impact of Audit

Revenue impact

During the period 2006-07 to 2010-11 we 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 ₹ 2,501.25 crore in 1,861 cases. Of these, the Department/Government accepted audit observations in 266 cases involving ₹ 637.11 crore and recovered ₹ 77.13

crore. The number of cases in which recovery was effected not intimated by the Department. The details are shown in the following table:

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered during 2011-12
		No. of cases	Amount	No. of cases	Amount	
2006-07	20	262	428.80	36	36.66	0.03
2007-08	19	446	663.08	84	138.42	12.74
2008-09	17	228	298.33	53	131.51	24.69
2009-10	22	525	640.42	31	6.49	17.39 ³
2010-11	24	400	470.62	62	324.03	22.28
Total	102	1,861	2,501.25	266	637.11	77.13

2.6 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 were ₹ 1,860.83 crore, of which ₹ 371.31 crore were outstanding for more than five years as reported by the Department. The year-wise position of arrears of revenue during the period 2007-08 to 2011-12 is depicted in the following table:

Year	Opening balance of arrears	Closing balance of arrears
2007-08	1,256.80	1,261.41
2008-09	1,261.41	1,737.21
2009-10	1,737.21	1,856.26
2010-11	1,856.26	1,737.74
2011-12	1,737.74	1,860.83

Source: Commercial Taxes Department, Government of Jharkhand.

The Department did not furnish information regarding the addition and clearance of the arrears during these years. However, the Department furnished the stages at which action on arrears of ₹ 1,917.81⁴ crore was pending. Out of ₹ 1,917.81 crore, demands of ₹ 154.45 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 1,304.85 crore and ₹ 2.58 crore was stayed by the Courts and the Government respectively. Demand of ₹ 1.73 crore was held up due to rectification/review of applications. Specific action taken in respect of the remaining arrears of ₹ 454.20 crore has not been intimated (February 2013).

Thus, it would be seen from the above that 68.17 *per cent* of the total amount of arrears was pending settlement with the Courts or with the Government. The arrears recoverable as arrears of land revenue by invoking the provisions of the Bihar and Orissa Public Demands Recovery Act, 1914 were only 8.05 *per cent* of the total amount pending settlement.

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

³ The Department reported recovery of ₹ 17.39 crore against accepted audit observations of ₹ 6.49 crore during 2009-10.

⁴ The Department furnished stages of recovery of arrears for an amount of ₹ 1,917.81 crore against the reported arrears of revenue of ₹ 1860.83 crore as on 31 March 2012. This discrepancy needs to be reconciled by the Department.

2.7 Arrears in assessment

The details of cases pending at the beginning of the year 2011-12, cases becoming due for assessment during the year, cases disposed during the year and number of cases pending finalisation at the end of the year as furnished by the Commercial Taxes Department is shown in the following table:

Year	Opening balance	New cases due for assessment	Total assessments due	Cases disposed of	Balance at the end of the year	Percentage of column 6 to 4
1	2	3	4	5	6	7
2008-09	15,009	36,770	51,779	38,544	13,235	25.56
2009-10	13,235	56,106	69,341	49,422	19,919	28.73
2010-11 ⁵	19,919	64,145	84,064	66,874	17,190	20.45
2011-12	17,190	63,515	80,705	50,473	30,232	37.46

Source: Commercial Taxes Department, Government of Jharkhand.

From the above it would be seen that pendency in finalisation of assessments ranged between 20 to 37 *per cent*. This would result in delay in realisation of revenue/loss of revenue due to cases becoming barred by limitation.

The Department may consider evolving an action plan to finalise the outstanding assessments in a time-bound manner.

2.8 Analysis of collection

The break-up of the total collection at the pre-assessment stage and after regular assessment of VAT/taxes on sales, trade *etc.*, during the year 2011-12 and corresponding figures for the preceding three years as furnished by the Commercial Taxes Department is mentioned in the following table:

(₹ in crore)							
Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Penalties for delay in payment of taxes	Amount refunded	Net collection as per Department (2+3-5)	Net collection as per Finance Accounts	Percentage of column 2 to 7
1	2	3	4	5	6	7	8
2008-09	2,797.40	54.07	0.56	0.47	2,851.00	2,996.20	93.36
2009-10	3,319.44	84.74	0.82	0.06	3,404.12	3,597.20	92.27
2010-11	4,446.53	98.59	2.53	0.07	4,545.05	4,473.43	99.40
2011-12 ⁶	5,557.94	77.30	2.00	4.25	5,630.99	5,522.02	100.65

⁵ The figures furnished by the Department are different from those reflected in the Audit Reports 2009-10 and 2010-11.

⁶ The figures for 2011-12 (Col. 2 to Col. 6) includes amount collected under VAT, Luxury Tax and Entry Tax.

2.9 Results of Audit

During 2011-12 we test checked the records of 21 units relating to VAT/ Taxes on sales, trade etc., and found non/short realisation/levy of tax, penalty etc. involving ₹ 794.65 crore in 629 cases which fall under the following categories:

Sl. No.	Categories	(₹ in crore)	
		No. of cases	Amount
1	Non-levy or short levy of tax	278	325.55
2	Irregular allowance of exemption from tax	114	75.31
3	Application of incorrect rates of tax	74	66.48
4	Non-levy of penalty	67	58.08
5	Short levy due to incorrect determination of turnover	31	212.88
6	Irregular allowance of concessional rate of tax	9	1.57
7	Non-levy of penalty for excess collection of tax/ mistake in computation	12	16.91
8	Other cases	44	37.87
Total		629	794.65

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 68.06 crore in 28 cases pointed out by us during 2011-12 and recovered ₹47.81 lakh in four cases.

In this chapter we present a few illustrative cases having recoverable financial implication of ₹ 224.20 crore. Of these, the Government/Department accepted audit observations of ₹ 68.02 crore in 27 cases and recovered ₹ 44.19 lakh in three cases which have been discussed in the succeeding paragraphs.

2.10 Audit observations

Our scrutiny of assessment records of Value Added Tax (VAT) and Central Sales Tax (CST) indicated several cases of non-observance of the provisions of the Acts/Rules and notifications issued thereunder, suppression of sales/purchase turnover, non registration of dealers, turnover escaping assessment, non/short levy of tax/penalty, incorrect adjustment of Input Tax Credit (ITC), incorrect application of rate of tax etc., as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions on the part of Assessing Authorities (AAs) are pointed out by us each year, but not only do the irregularities persist; these remain undetected till audit is conducted. There is need for the Government to improve the internal control system including strengthening of internal audit.

2.11 Irregularities in determination of turnover

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

We noticed that the AAs while finalising the assessments had not assessed the taxable turnover of the dealers correctly as per the provisions of the Act. This resulted in non/short levy of tax and penalty of ₹ 72.83 crore as mentioned in paragraphs 2.11.1 and 2.11.2.

2.11.1 Suppression of sales/purchase turnover under JVAT Act

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

2.11.1.1 We noticed (between July 2010 and January 2012) from the assessment records in 11 Commercial Taxes Circles⁷ that 20 dealers had filed their returns for purchase/sale of ₹ 913.96 crore during the years 2007-08 and 2008-09. The assessments were finalised between February 2009 and January 2012 on the basis of returns filed by them. However, our scrutiny of records⁸ along with available returns indicated

⁷ Dhanbad, Dhanbad Urban, Giridih, Jamshedpur, Jamshedpur Urban, Jharia, Ranchi East, Ranchi West, Ranchi South, Singhbhum and Tenughat.

⁸ Utilisation certificates of declaration forms, audited annual accounts, trading and manufacturing accounts.

that the dealers had actually sold/purchased goods worth ₹ 1,097.69 crore. We further noticed that the AAs did not cross-verify the returns with the relevant information available in the records submitted by the concerned dealers. Thus, the dealers concealed ₹ 183.73 crore on account of purchase/sale turnover in their returns. The concealment was on account of suppression of sale/purchase of coal, iron ingots, auto parts, cooked food, India Made Foreign Liquor (IMFL), electronic goods, gold and silver, computers and their spare parts etc. This resulted in non/short levy of tax of ₹ 66.36 crore including penalty of ₹ 44.24 crore. We mention specific cases in respect of five dealers in four Commercial Taxes Circles in the following table:

Sl. No.	Name of the circle TIN of the dealer	Period Month of assessment	Nature of observations	(₹ in crore)	
				Suppressed turnover Rate of tax (%)	Short levy of VAT Penalty
1	Ranchi South 20420100082	2007-08 and 2008-09 October 2009 and February 2010	Non-accounting of other expenditure of ₹ 45.63 crore during the years 2007-08 and 2008-09 forming part of trading/manufacturing account resulted in suppression of sale turnover.	45.63 35	15.97 31.94
2	Tenughat 20122200394	2007-08 March 2010	On the basis of Tax Deducted at Source (₹ 49.73 lakh) the actual sales worked out to ₹ 24.87 crore, whereas the dealer had reflected sales turnover of ₹ 12.20 crore through his periodical returns and trading account on which the assessment was finalised.	12.67 12.5	1.58 3.16
3	Dhanbad 20051700252	2007-08 March 2010	Actual sales as per VAT audit report in Form JVAT 409 was ₹ 49.50 crore (domestic sale: ₹ 30.82 crore + export sale: ₹ 18.67 crore). However, the dealer in his annual return and trading account had shown sales of ₹ 12.55 crore (gross sales: ₹ 12.97 crore less tax collected: ₹ 0.42 crore) on which the assessment was finalised.	36.95 4	1.48 2.96
4	Singhbhum 20661100020	2007-08 March 2010	Actual sales as per Form C, Form F, Road permit 504B, VAT audit report and inventories was ₹ 688.26 crore whereas the dealer had reflected sales turnover through his periodical returns and trading account for ₹ 648.72 crore on which the assessment was finalised.	39.54 4 and 1	1.06 2.12
5	Ranch South 20020101563	2007-08 March 2010	The dealer had disclosed purchase turnover of ₹ 34.90 crore in his trading account and GTO was determined at ₹ 72.59 crore by the AA on which tax was levied. However, we noticed that the actual purchase as per annual return in Form JVAT 204 was ₹ 49.54 crore.	14.64 4	0.58 1.16

After we pointed out the cases between July 2010 and January 2012, the AAs of three Commercial Taxes Circles⁹ in three cases raised (between February and September 2012) additional demands of ₹ 3.29 crore. The AA of Ranchi South Commercial Taxes Circle, in the case at Sl. no. 1 of the Table above, stated (January 2012) that the cost of production of the goods was ₹ 45.43 crore and the final product value for sale was ₹ 91.42 crore as reflected in the trading account on which assessments for the years 2007-08 and 2008-09 were finalised. The reply was not relevant as the difference of ₹ 45.99 crore as pointed by the AA pertains to gross profit for both the years. However, the AA did not reply on the issue of non-incorporation of other/manufacturing expenditure of ₹ 45.63 crore in the trading account.

The concerned AAs in all the other cases stated between July 2010 and January 2012 that the cases would be reviewed/examined. Further reply has not been received (February 2013).

The Government in its reply in one case of Ranchi East Commercial Taxes Circle stated (September 2012) that purchase figures were not mentioned in JVAT 409 correctly. The reply was not in order as non-accounting of purchases of LPG and packing materials in the trading account resulted in suppression of purchase turnover and consequential short levy of tax. Replies in all other cases have not been received (February 2013).

2.11.1.2 We collected (September 2011) data relating to payments made to different works contractors under Rajiv Gandhi Gramin Vidyutikaran Yojana (RGGVY) by Jharkhand State Electricity Board (JSEB) and cross-verified (September 2011) the same with the records of Ranchi South Commercial Taxes Circle. We noticed that a works contractor had received payment for a total sum of ₹ 66.19 crore from JSEB during the period 2008-09 under the RGGVY on account of supply and erection. However, our scrutiny (September 2011) of the assessment records of the contractor for the above period indicated that the contractor had shown sales turnover of ₹ 55.46 crore only on which the assessment was finalised in January 2011. Thus, there was suppression of sales turnover by ₹ 10.73 crore. This resulted in underassessment of tax of ₹ 1.29 crore including penalty of ₹ 85.81 lakh.

After we pointed (September 2011) out the matter, the AA of Ranchi South Commercial Taxes Circle stated (January 2012) that the total amount received is the sum of the amounts of two financial years which is under observation. The reply is not in order as the assessment is required to be done on the basis of the amount received in a particular financial year and tax calculated accordingly. In the instant case, the receipts for the financial year 2008-09 only have been taken into account in audit for working out the underassessment of ₹ 1.29 crore. Further reply has not been received (February 2013).

2.11.1.3 We noticed (September 2011) in Ranchi South Commercial Taxes Circle that a dealer, dealing in manufacturing of alumina, assessed between March 2009 and March 2010, did not account for any intra-State stock transfer receipts of bauxite during 2006-07 and 2007-08 from its captive mines at Lohardaga. However, information collected (May 2010) by us from

⁹ Jamshedpur Urban, Ranchi West and Singhbhum.

Lohardaga Commercial Taxes Circle and SE Railway, Lohardaga revealed that the same dealer, registered separately in Lohardaga Commercial Taxes Circle, had shown intra-State stock transfer of bauxite valued at ₹ 41.60 crore in 2006-07 and 2007-08 to its alumina manufacturing unit, registered in Ranchi South Commercial Taxes Circle. This resulted in suppression of stock transfer receipt turnover of ₹ 41.60 crore and consequential underassessment of tax of ₹ 4.99 crore¹⁰ including penalty of ₹ 3.33 crore.

After we pointed (September 2011) out the matter, the AA stated (September 2011) that the case would be reviewed. Further reply has not been received (February 2013).

2.11.2 Incorrect determination of gross turnover under JVAT Act

Under the JVAT Act, gross turnover (GTO) is the aggregate of all amounts received and receivable by a dealer including the gross amount received and receivable for execution of works contract during any given period.

Our scrutiny (January 2012) of the assessment records in Deoghar Commercial Taxes Circle in case of a works contractor revealed that the AA, while finalising the ex-parte assessment for the period 2007-08 in January 2010,

determined the GTO at ₹ 1.93 crore without specifying the source and basis of determination of such turnover and levied tax accordingly. However, we noticed from the periodical returns furnished by the dealer that the actual GTO was ₹ 3.46 crore. Failure of the AA to scrutinise the returns while finalising the assessment, resulted in short determination of taxable turnover of ₹ 1.53 crore and consequential short-levy of tax of ₹ 19.20 lakh.

After we pointed out the case in January 2012, the AA raised (September 2012) additional demand of ₹ 19.59 lakh including penalty of ₹ 39526. Report on recovery is awaited (February 2013).

We reported the matter to the Government in June 2012; their reply has not been received (February 2013).

¹⁰ Tax at the rate of four *per cent* on ₹ 41,59,82,364.73 = ₹ 1,66,39,294.59.
Penalty = 2 x ₹ 1,66,39,294.59 = ₹ 3,32,78,589.18.
Total: Tax + Penalty = ₹ 4,99,17,883.77.

2.12 Application of incorrect rate of tax under JVAT Act

Under the provisions and the Schedules of the JVAT Act, components and parts of motor vehicles, leather products, cement, retreaded tyres and explosives/matrix emulsions are taxable at the rate of 12.5 per cent. By a notification issued in March 2007, the rate of tax was reduced to four per cent from the earlier 12.5 per cent on sale of Heavy Earth Moving Machine (HEMM) parts and High Density Poly Ethylene/Poly Plastic (HDPE/PP) woven fabrics with effect from 6 March 2007. The Act further provides for levy of interest at the rate of one per cent per month (p.m.) and penalty at the rate of two per cent p.m. on non payment of tax and interest payable as per return without sufficient cause.

In four Commercial Taxes Circles¹¹, we noticed between September 2011 and January 2012 from the assessment records that 19 dealers, dealing in components and parts of motor vehicles, explosives/matrix emulsions, retreaded tyres of heavy vehicles, cement, HEMM parts, HDPE/PP woven fabrics and leather products, had filed their returns for the period 2006-07 to 2008-09 at the rate of four per cent though tax on the above commodities was leviable at the rate of 12.5 per cent. The AAs, at the time of finalising

the assessments between January 2009 and March 2011, did not scrutinise the returns *vis-à-vis* the Schedules of the Act and levied tax at the incorrect rate. Incorrect application of the provisions of the Act and notifications by the AAs resulted in short levy of tax of ₹ 24.17 crore including interest and penalty of ₹ 10 crore as mentioned in the following table:

Sl. No.	Number of dealers Circle	Period Month of assessment	Nature of observation	(₹ in crore)
				Short levy of tax including interest and penalty
1.	Sixteen Adityapur	2006-07 to 2008-09 Between January 2009 and March 2011	Tax was levied at the incorrect rate of four per cent instead of the correct rate of 12.5 per cent on sale of auto parts, HEMM parts and HDPE woven fabrics etc. valued at ₹ 163.78 crore during the period 2006-09.	23.82
2.	One Dhanbad	2007-08 February 2010	Tax was levied at the incorrect rate of four per cent instead of the correct rate of 12.5 per cent on sale of cement.	0.17
3.	One Dhanbad Urban	2008-09 April 2010	Tax was levied at the incorrect rate of four per cent instead of the correct rate of 12.5 per cent on sales turnover of explosives valued at ₹ 1.06 crore.	0.12
4.	One Jharia	2007-08 March 2010	Tax was levied at the incorrect rate of four per cent instead of the correct rate of 12.5 per cent on sale of retreaded tyres valued at ₹ 63.87 lakh.	0.06
Total				24.17

¹¹ Adityapur, Dhanbad, Dhanbad Urban and Jharia.

After we pointed out the cases, three AAs¹² raised additional demands of ₹ 9.50 crore in 16 cases (between February and October 2012) of which ₹ 44.19 lakh was recovered in three cases (September 2012).

We reported the matter to the Government in June 2012; their reply has not been received (February 2013).

2.13 Irregularities in grant of Input Tax Credit (ITC)

Under the JVAT Act, a registered dealer is entitled for Input Tax Credit (ITC) on the amount of tax paid by the dealer to another registered dealer on his turnover of purchases made during the tax period. Further, ITC shall not be allowed to a registered dealer in respect of goods used for manufacture of goods for transfer of stock or other than by way of sale or for sale outside the State; however, ITC may be allowed on the tax paid in excess of four *per cent* on such materials used in manufacturing of finished products. Further, where the goods purchased by a registered dealer are returned or incentive is allowed on such purchases by the selling dealer and necessary adjustment is made in the respective accounts, the purchasing dealer shall reverse the ITC already availed by him. The Act also provides for imposition of penalty of a sum equivalent to twice the amount of incorrect ITC availed by him.

We test checked (between July 2009 and February 2012) the assessment records of six assesseees in five Commercial Taxes Circles¹³ for the period 2006-07 to 2008-09 and found that excess ITC of ₹ 1.04 crore was claimed on stock transfer of finished products, incentive on purchase of goods, payment of less input tax at the time of purchase *vis-a-vis* that claimed by the dealer, etc. However, we noticed that the AAs, while finalising the assessments between June 2008 and March 2011, allowed the same

in deviation from the provisions of the Act. This resulted in allowance of excess ITC of ₹ 1.04 crore. Besides, penalty of ₹ 1.80 crore was also leviable. We highlight specific cases in respect of three dealers in the following table:

¹² Adityapur, Dhanbad and Dhanbad Urban.

¹³ Chirkunda, Dhanbad Urban, Giridih, Ranchi West and Tenughat.

				(₹ in lakh)
Sl. No.	Number of dealers Circle	Period Month of assessment	Nature of observation	Inadmissible ITC Penalty leviable
1	One Giridih	2007-08 July 2009	The dealer had reflected purchase of raw materials for ₹ 48.76 crore and claimed ITC of ₹ 1.95 crore (involved in manufacturing activity) which was restricted to ₹ 1.93 crore by the assessing authority under Rule 26 of the JVAT Rules as the dealer had stock transferred its manufactured goods worth ₹ 19.33 crore. However, we calculated the actual admissible ITC as ₹ 1.61 crore on the basis of the formula prescribed under the Act/Rule. Thus, the dealer was allowed excess ITC of ₹ 31.88 lakh ¹⁴ .	<u>31.88</u> 63.76
2	One Chirkunda	2007-08 and 2008-09 Between March and December 2010	The dealer was allowed ITC of ₹ 1.14 crore on intra-State purchase of goods valued at ₹ 28.57 crore though the actual purchase of goods was ₹ 21.59 crore during 2007-08 and 2008-09 on which VAT of ₹ 86.36 lakh was paid by the dealer.	<u>27.87</u> 55.74
3	One Tenughat	2007-08 March 2010	The dealer had claimed ITC of ₹ 96.79 lakh which was limited to ₹ 96.72 lakh by the AA under Rule 26 of the JVAT Rules as the dealer had made stock transfer of goods to outside the State for ₹ 93.48 crore. However, we calculated the admissible ITC as ₹ 73.73 lakh on the basis of the formula prescribed under the Act/Rules. Thus, the dealer was allowed excess ITC of ₹ 22.99 lakh.	<u>22.99</u> 45.98

After we pointed out the cases between July 2009 and February 2012, the AA of Chirkunda Commercial Taxes Circle raised additional demand of ₹ 84.08 lakh in August 2012 in one case and the AAs in all the other cases stated (between August 2009 and September 2011) that the cases would be reviewed. Further reply has not been received (February 2013).

We reported the matter to the Government in June 2012; their reply has not been received (February 2013).

¹⁴ ITC eligible = (Input tax paid × Taxable turnover) ÷ Total turnover:
i.e, (₹ 1,95,04,555.36 × 92,08,56,203.00) ÷ 111,23,17,003.00 = ₹ 1,61,47,277.03.
ITC allowed = ₹ 1,93,35,569.19.
Excess ITC = ₹ 31,88,292.16 (₹ 1,93,35,569.19 - ₹ 1,61,47,277.03).

2.14 Irregularities in grant of exemptions

Under Section 9(3) of the JVAT Act and rules made thereunder, if tax is levied at the first stage of sale in the State of goods specified in Part E of Schedule II of the Act, subsequent sale of the same goods in the State shall not be levied to tax if the dealer making subsequent sale of such goods produces declaration in form JVAT 403, issued by the selling dealer, evidencing that the goods in question have already been subjected to tax at the first point of their sale in the State.

We noticed (July 2011) from the assessment records in Ranchi West Commercial Taxes Circle, that an assessee had purchased liquor (IMFL) valued at ₹ 16.25 lakh during 2008-09 and furnished two declarations in form JVAT 403 to substantiate the claim for tax paid purchase of goods. The AA, while finalising the assessment in October 2010, allowed exemption from levy of tax on sales turnover of

liquor valued at ₹ 68.21 lakh on the basis of declarations furnished. Our scrutiny of the declaration forms however, revealed that these forms were issued in the name of another dealer and were liable to be rejected. This resulted in incorrect grant of exemption and consequent underassessment of tax of ₹ 5.69 lakh¹⁵.

After we pointed out the matter in July 2011, the AA revised the assessment and raised (January 2012) additional demand of ₹ 5.69 lakh. Report on recovery is awaited (February 2013).

We reported the matter to the Government in June 2012; their reply has not been received (February 2013)

2.15 Irregularities in compliance to the Central Sales Tax Act

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

We noticed that the AAs did not comply with the provisions of the Act and notifications issued thereunder resulting in short levy of tax and penalty of ₹ 46.70 crore. The cases are described in the succeeding paragraphs:

¹⁵ Tax at the rate of 35 per cent on ₹ 16,25,175.00 = ₹ 5,68,811.25.

Misuse of declaration forms

Under the CST Act, a registered dealer can purchase goods from outside the State at concessional rate of tax by using prescribed declarations in form 'C' for goods intended for resale by him or for use by him in the manufacture or processing of goods for sale or in mining or in the generation or distribution of electricity or any other form of power or in telecommunication network provided such goods are covered by his registration certificate (RC). Failure to do so renders the dealer liable to prosecution or in lieu of prosecution, the AA may impose penalty of a sum not exceeding one and a half times of the tax leviable as if the purchase is not supported by the prescribed declaration in Form 'C'. A contractor can also avail the facility for concessional rate in the capacity of a dealer.

2.15.1 We test checked (January 2012) the assessment records of an assessee in Dhanbad Commercial Taxes Circle, which indicated that a contractor had purchased spare parts, lubricants, tyres, high speed diesel and machinery items valued at ₹ 35.96 crore and ₹ 49.51 crore at concessional rate of tax by utilising declarations in form 'C' during 2007-08 and 2008-09 respectively and consumed the same in course of execution of contracts instead of re-selling them which was not admissible as per the provision of the CST Act.

The AA while finalising the assessments in March and November 2009 did not levy tax and penalty on misuse of form 'C'. This resulted in unauthorised use of declaration form 'C' and consequential short levy of tax of ₹ 31.31 crore including penalty of ₹ 18.79 crore.

After we pointed out the matter in January 2012 the AA raised (August 2012) an additional demand of ₹ 31.31 crore as pointed out by audit. However, report on recovery is awaited (February 2013).

Incorrect allowance of transit sale

Under the CST Act, a claim on account of transit sale is exempted from levy of tax, when the sale has been effected by transfer of documents of the title of the goods during the movement of goods and such subsequent sale should also take place during the same movement occasioned by the previous sale subject to furnishing of declarations in Form 'C'* and Form 'E1'†.

* 'C' is the central declaration form issued by the purchasing dealer for availing concessional rate of tax.

† The certificate in form 'E1' is issued by the selling dealer in proof of subsequent sale during movement of goods.

2.15.2 We noticed between September 2011 and December 2011 from the assessment records that in case of three dealers in three Commercial Taxes Circles¹⁶, the AAs while finalising the assessments between March 2009 and March 2011 for the period 2006-07 to 2008-09 allowed exemption on transit sale valued at ₹ 115.78 crore, though the sales were either not supported by Form 'C' or the exemption was allowed in excess of the

¹⁶ Jamshedpur, Jamshedpur Urban and Jharia.

eligible turnover on account of transit sale. This resulted in incorrect allowance of exemption from tax of ₹ 14.32 crore.

After we pointed out the cases between September 2011 and December 2011, the AAs stated between September 2011 and December 2011 that the cases would be examined/reviewed. Further reply has not been received (February 2013).

Incorrect allowance of concessional rate of tax under CST

Under the CST Act, every registered dealer who in course of inter-State trade and commerce sells to another registered dealer, goods of the class or classes, specified in the certificate of registration of the purchasing dealer, shall be liable to pay tax at concessional rate of four *per cent* upto March 2007, three *per cent* from April 2007 to May 2008 and two *per cent* from June 2008 of such turnover provided such sales are supported by declarations in Form 'C' issued by the purchasing dealer.

2.15.3 Our test check of the assessment records in Chirkunda and Katras Commercial Taxes Circles between February and March 2012 revealed that two assesseees had claimed concessional rate of tax on inter-State sale of goods valued at ₹ 22.75 crore and ₹ 166.41 crore during 2007-08 and 2008-09 respectively. The AAs, while finalising the assessments in March 2010 and February 2011, allowed the claim in full

on the basis of declarations in form 'C' submitted by them. However, our scrutiny of the declaration forms revealed that in one case the dealer was allowed concessional rate of tax on turnover of ₹ 22.75 crore against 18 numbers of form 'C' valued at ₹ 16.17 crore only. In the other case, out of 34 declaration forms for ₹ 166.41 crore furnished by the dealer in support of concessional rate of tax for the period 2008-09, three forms valued at ₹ 16.22 crore pertained to the year 2009-10. This resulted in incorrect allowance of concession and consequential short levy of tax of ₹ 39.02 lakh.

After we pointed out the cases in February 2012 and March 2012, the AAs agreed to examine/review the cases. Further reply has not been received (February 2013).

2.15.4 We test checked the assessment records of three assesseees in three Commercial Taxes Circles¹⁷ (between September 2011 and February 2012) which revealed that the assesseees had claimed concessional rate of tax on inter-State sale of goods valued at ₹ 94.01 crore, ₹ 144.09 crore and ₹ 84.23 crore respectively during 2008-09. In the case of an assessee in Dhanbad Commercial Taxes Circle, the AA, while finalising the assessment in March 2011, allowed the claim of ₹ 73.84 crore on submission of declarations in form 'C' and levied tax at the rate of two and three *per cent* on sales turnover of ₹ 65.56 crore and ₹ 8.28 crore respectively. Our scrutiny, however, revealed that the dealer had made inter-State sale of ₹ 23.64 crore during April to May 2008. Thus, an amount of ₹ 15.36 crore was leviable to tax at the rate of three *per cent* instead of two *per cent* levied by the AA. In the remaining cases, the

¹⁷ Dhanbad, Jharia and Katras.

AAs, while finalising the assessments in February and March 2011, levied tax at the rate of two *per cent* instead of the correct rate of three *per cent* on the entire transaction of ₹ 33.31 crore and ₹ 19.32 crore respectively during April to May 2008. These mistakes resulted in short levy of tax of ₹ 68 lakh.

After we pointed out the cases in between September 2011 and February 2012, the AAs stated that the cases would be reviewed. Further reply has not been received (February 2013).

We reported the matter to the Government in June 2012; their reply has not been received (February 2013).

2.16 Non-imposition of penalty for excess collection of tax

Under the provision of the JVAT Act, 2005, if any person, being a registered dealer, collects any amount by way of tax in excess of the tax payable by him, he shall be liable to pay, in addition to the tax for which he may be liable, a penalty of an amount equal to twice the sum so collected by way of tax. The Act further provides forfeiture of the excess tax so collected to the State Government.

We noticed (January and February 2012) from the assessment records in the Katras Commercial Taxes Circle, that two dealers dealing in extraction of coal had collected tax of ₹ 24.16 crore from the purchasing dealers against the tax of ₹ 15.86 crore payable by them for the period 2008-09. Thus, the dealers had collected and retained ₹ 8.30 crore in

excess of the tax payable by them. The AA, while finalising the assessments in February 2011, did not detect the excess collection of tax by the dealers. Thus, the dealers were liable to pay penalty of ₹ 16.60 crore¹⁸ besides the excess tax collected of ₹ 8.30 crore.

After we pointed out the cases between January and February 2012, the AA in one case raised (August 2012) an additional demand of ₹ 6.06 lakh while in the other case it was stated in February 2012 that the case would be reviewed. Further reply has not been received (February 2013).

We reported the matter to the Government in June 2012; their reply has not been received (February 2013).

¹⁸

(₹ in crore)					
Circle/TIN	Period/ Month of assessment	Collection of tax admissible	Tax collected	Excess collection of tax	Penalty equivalent to twice the amount of excess tax collected
1	2	3	4	5	6
Katras/ 20851505091	2008-09 February 2011	7.40	7.43	0.03	0.06
Katras/ KT82(c)	2008-09 February 2011	8.46	16.73	8.27	16.54
Total		15.86	24.16	8.30	16.60

2.17 Assessment being barred by limitation of time

Under the provision of Section 35 (6) read with Section 35(8) of JVAT Act, 2005, no assessment for levy of tax and penalty shall be made after expiry of three years from the end of the tax period, in respect of which the tax is assessable. Further, under Section 40(1) read with Section 37(6), if the prescribed authority has reasons to believe that the dealer has concealed, omitted or failed to disclose wilfully, the particulars of his turnover or has furnished incorrect particulars of such turnover and thereby the returned figures are below the real amount, the prescribed authority shall proceed to assess or reassess the amount of tax due from the dealer in respect of such turnover and shall direct the dealer to pay, besides the tax assessed on escaped turnover, by way of penalty a sum equivalent to twice the amount of the additional tax so assessed.

We noticed (August 2011) from the assessment records in Ranchi South Commercial Taxes Circle that in case of a dealer, though the notice for assessment was served (October 2009), the assessment for 2007-08 was not completed within the stipulated period i.e, upto March 2011. As a result, the assessment became barred by limitation of time. We further noticed that according to the report on inspection carried out in the business premises of the dealer in February 2008 by a team of the Department, there was

sales turnover of ₹ 134.50 crore in the first three quarters of 2007-08 alone. As per returns furnished by the dealer, the turnover for the fourth quarter was ₹ 41.41 lakh. Thus, the dealer during 2007-08 had actually sold goods worth ₹ 134.91 crore but had accounted for sales of ₹ 1.61 crore only resulting in suppression of sales turnover by ₹ 133.30 crore. Failure on the part of the AA to complete the assessment within the stipulated period resulted in consequential loss of revenue of ₹ 49.99 crore including penalty of ₹ 33.33 crore.

After we pointed out the matter, the AA accepted (March 2012) the audit observation and raised additional demand of ₹ 20.19 crore by levying tax of ₹ 16.66 crore and interest of ₹ 3.53 crore. However, the reply of the AA is not in consonance with the provisions of the Act as the assessment had already been barred by limitation of time. Further reply has not been received (February 2013).

We reported the matter to the Government in June 2012; their reply has not been received (February 2013).

2.18 Mistakes in computation of tax

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

We noticed (between September 2011 and January 2012) from the assessment records in three Commercial Taxes

Circles¹⁹, in case of three assesseees that the AAs while finalising the assessments (between February 2011 and March 2011) for the period 2008-09, erroneously levied tax of ₹ 8.57 crore instead of the correct amount of ₹ 11.28 crore due to mistake in computation. This resulted in short levy of tax of ₹ 2.71 crore.

After we pointed out the cases between September 2011 and January 2012, the AAs, Dhanbad and Ramgarh Circles in two cases raised (March and August 2012) additional demand of ₹ 2.58 crore. The AA, Jamshedpur Circle stated (December 2011) that the case would be reviewed. Further reply has not been received (February 2013).

We reported the matter to the Government in June 2012; their reply has not been received (February 2013).

¹⁹ Dhanbad, Jamshedpur and Ramgarh.

CHAPTER-III

STATE EXCISE

EXECUTIVE SUMMARY

What we have highlighted in this Chapter

In this Chapter we present a few illustrative cases having financial implication of ₹ 81.93 crore, out of which ₹ 1.30 crore is recoverable. Of this, the Government/Department accepted audit observations of ₹ 81.35 crore in 565 cases and recovered ₹ 23.45 lakh in 108 cases which have been mentioned in the relevant paragraph. The remaining amount of ₹ 80.63 crore was an avoidable notional loss to the Government due to non-observance of the provisions of the Act/Rules regarding non/delayed settlement of Excise shops.

It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.

Marginal increase in tax collection

In 2011-12, the collection of state excise receipts increased by 17.70 *per cent* over the previous year which was attributed by the Department to enforcement of the new Excise Policy.

Very low recovery by the Department of observations pointed out by us in earlier years

During the period 2006-07 to 2010-11, we pointed out non/short levy, non/short realisation of duty, fee etc., with revenue implication of ₹ 401.85 crore in 2,155 cases. Of these, the Department/Government accepted audit observations in 668 cases involving ₹ 124.94 crore. As per information furnished by the Department, recovery of ₹ 49 lakh has been effected out of this during the year 2011-12.

Results of audit conducted by us in 2011-12

In 2011-12 we test checked the records of 19 units relating to excise duty and other state excise receipts and found non/short realisation of duty, fees, penalty etc. involving ₹ 109.30 crore in 908 cases.

Our conclusion

The State Excise Department needs to initiate action to recover the non-realisation, under-charge of duty, etc pointed out by us, more so in those cases where it has accepted our contention.

CHAPTER-III: STATE EXCISE

3.1 Tax administration

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

The State of Jharkhand is divided into three Excise Divisions¹, each under the control of a Deputy Commissioner of Excise. The Divisions are further divided into 19 Excise Districts² each under the charge of an Assistant Commissioner of Excise/Superintendent of Excise (ACE/SE).

3.2 Trend of receipts

According to the provisions of the Bihar Financial Rules, Vol. I (adopted by the Government of Jharkhand) the responsibility for preparation of budget estimates of revenue receipts is vested in the Finance Department. However, the material for the budget estimates is obtained from the concerned Administrative Department which is responsible for the correctness of the material. In case of fluctuating revenue the estimates should be based on a comparison of the last three years' receipts.

Actual receipts from State Excise against the revised estimates during the period 2007-08 to 2011-12 along with the total tax receipts during the same period is exhibited in the following table and chart:

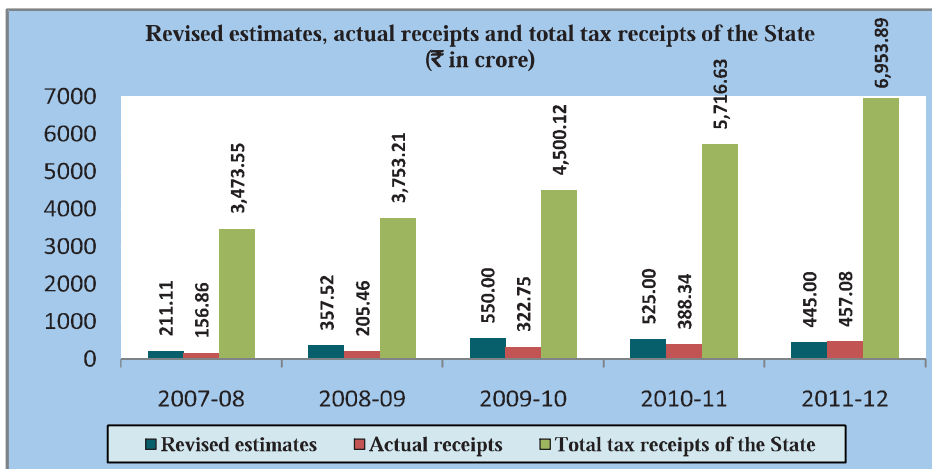
(₹ in crore)

Year	Revised estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual State Excise receipts vis-à-vis total tax receipts
2007-08	211.11	156.86	(-) 54.25	(-) 26	3,473.55	4.52
2008-09	357.52	205.46	(-) 152.06	(-) 43	3,753.21	5.47
2009-10	550.00	322.75	(-) 227.25	(-) 41	4,500.12	7.17
2010-11	525.00	388.34	(-) 136.66	(-) 26	5,716.63	6.79
2011-12	445.00	457.08	(+) 12.08	(+) 2.71	6,953.89	6.57

Source: Finance Accounts, Government of Jharkhand and the revised estimates as per the Statement of Revenue and Receipts of the Government of Jharkhand for 2012-13.

¹ North Chotanagpur Division, Hazaribag, South Chotanagpur Division, Ranchi and Santhal Pargana Division, Dumka.

² Bokaro, Chaibasa, Dhanbad, Deoghar, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Koderma, Lohardaga, Pakur, Palamu-cum-Latehar, Ranchi, Sahebganj and Saraikela-Kharsawan.



The Department could not achieve the budget estimates except during 2011-12. The variation between the revised budget estimates and actual receipts ranged between (-) 43 and 2.71 *per cent*. The revised budget estimates in 2011-12 was as high as 46 *per cent* when compared to the average of the last three years' actual receipts. Further, in response to our query regarding declining trend of the revised budget estimates from 2009-10 and onwards the Department stated that the budget estimates were fixed by the Finance Department. The reason for variation during 2011-12 was attributed by the Department to enforcement of the new Excise Policy.

3.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012, as furnished by the Department, were ₹ 31.07 crore, of which ₹ 25.29 crore were outstanding for more than five years. The year-wise position of arrears of revenue during the period 2007-08 to 2011-12 is shown in the following table:

Year	Opening balance of arrears	Closing balance of arrears
2007-08	38.00	29.16
2008-09	29.16	29.39
2009-10	29.39	30.94
2010-11	30.94	30.94
2011-12	30.94	31.07

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

The Department did not furnish information regarding the addition and clearance of the arrears during the year. As per information furnished by the Department, out of the closing balance of arrears of ₹ 31.07 crore as on 31 March 2012, demand for ₹ 13.04 crore was certified for recovery as arrears of land revenue, recovery of ₹ 15.98 crore was stayed by Courts and other judicial authorities, recovery of ₹ 10.56 lakh was held up due to parties becoming insolvent and a sum of ₹ 16.08 lakh was likely to be written off. Specific action taken in respect of the remaining amount of ₹ 1.78 crore has not been intimated (February 2013).

Thus, from the above it would be seen that only 41.97 *per cent* of the total amount of arrears was recoverable as arrears of land revenue by invoking the provisions of the Bihar and Orissa Public Demands Recovery (PDR) Act, 1914 and 58.03 *per cent* of arrears required appropriate action for settlement.

We recommend that the Government may consider issuing directions to the Department for speedy settlement of the arrear cases by continuously monitoring the arrears recoverable as arrears of land revenue as well as the court cases in the interest of realisation of revenue due.

3.4 Cost of collection

The gross collection under State Excise, expenditure incurred on its collection and the percentage of such expenditure to gross collection during the years 2007-08 to 2011-12, along with the all-India average percentage of cost of collection for the preceding years are mentioned in the following table:

(₹ in crore)				
Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of the preceding year
2007-08	156.86	7.51	4.79	3.30
2008-09	205.46	10.38	5.05	3.27
2009-10	322.75	13.75	4.26	3.66
2010-11	388.34	13.27	3.42	3.64
2011-12	457.08	15.95	3.49	3.05

Source: Finance Accounts of the Government of Jharkhand.

From the above it could be seen that during the period 2007-08 to 2011-12 the percentage of expenditure on collection was higher than the all-India averages, except in 2010-11.

3.5 Impact of Audit

Revenue impact

During the period 2006-07 to 2010-11 we had pointed out in our Inspection Reports, cases of non/delayed settlement of excise shops, non/short realisation of fee, duty, fines etc., with revenue implication of ₹ 401.85 crore in 2,155 cases. Of these, the Department/Government accepted audit observations in 668 cases involving ₹ 124.94 crore. However, the number of cases in which recovery was made was not furnished. The details are shown in the following table:

(₹ in crore)						
Year	No. of units audited	Amount objected		Amount accepted		Amount recovered during 2011-12 out of Col. 6
		No. of cases	Amount	No. of cases	Amount	
1	2	3	4	5	6	7
2006-07	13	144	21.85	106	17.58	0.02
2007-08	11	122	38.97	94	2.06	0.00
2008-09	14	87	92.93	63	38.32	0.00
2009-10	9	242	29.78	241	27.98	0.20
2010-11	19	1,560	218.32	164	39.00	0.27
Total	66	2,155	401.85	668	124.94	0.49

3.6 Results of audit

We test checked the records of 19 units relating to State Excise during the year 2011-12 and found cases of non/short realisation of licence fee, duty, loss of revenue etc. involving ₹ 109.30 crore in 908 cases which fall under the following categories:

Sl. No.	Categories	₹ in crore)	
		No. of cases	Amount
1	Non/delayed settlement of excise shops	446	81.98
2	Delayed-settlement of exclusive privilege for wholesale supply of Country spirit/Spiced Country Spirit (CS/SCS)	13	0.61
3	Short lifting of liquor	141	0.20
4	Undue financial benefits due to unauthorised concession	12	5.32
5	Non-realisation of license fee	11	1.45
6	Other cases	285	19.74
Total		908	109.30

During the course of the year, the Department accepted non/short realisation of licence fee, duty, loss of revenue and other deficiencies of ₹ 81.35 crore in 587 cases pointed out by us during 2011-12.

The Department adjusted the entire amount of ₹ 6.42 lakh from the security deposit in 17 cases on account of an audit observation pointed out by us during 2011-12.

In this chapter we present a few illustrative cases having financial implication of ₹ 81.93 crore, of which ₹ 1.30 crore is actually recoverable. Of these, the Department accepted audit observations of ₹ 81.35 crore in 565 cases and recovered ₹ 23.45 lakh in 108 cases. The remaining amount of ₹ 80.63 crore was notional loss to the Government due to non-observance of the provisions of the Act/Rules regarding non/delayed settlement of excise shops. These are discussed in the following paragraphs.

Audit observations

3.7 Non-observance of the provisions of Act/Rules

The Bihar Excise Act, 1915 and Rules made thereunder (as adopted by the Government of Jharkhand) provide for:

- i) settlement of exclusive privilege for wholesale supply of country spirit (CS) in due time;*
- ii) renewal of licences for vendors/contractors;*
- iii) payment of annual licence fee for wholesale supply of CS , retail excise shops and wholesale supply of India Made Foreign Liquor(IMFL); and*
- iv) lifting of minimum guaranteed quota (MGQ) by excise retail shops.*

Loss/non-realisation of revenue due to non-observance of some of the provisions of the Act/Rules are mentioned in the following paragraphs 3.8 to 3.13.

3.8 Non/delayed settlement of retail excise shops

Under the provisions of the Bihar Excise Act, 1915 and Rules (as adopted by the Government of Jharkhand) and policies made thereunder, the Department of Excise and Prohibition, Government of Jharkhand by resolution/ notification no.-367 and 647 dated 20 February 2009 and 27 March 2009 respectively, adopted a new Excise Policy and framed guidelines to settle all retail shops through lottery system with a view to generate more excise revenue, check sale of illicit liquor, control monopoly of a single unit/person and provide standard liquor to the consumers. For these purposes, licence fee was to be fixed on the minimum guaranteed quota (MGQ) of each category of liquor to be lifted by the licensee. Further, all retail shops were to be divided into groups (maximum three numbers of retail shops were to be included in one group). Besides, the Government prescribed the time period for each stage from receipt of applications from the bidders to conduct of lottery for settlement of excise shops. In case of non-settlement of retail shops, licencing authorities have the discretion to recommend settlement at reduced rates of reserve fee based on MGQ to the Excise Commissioner (EC) for issue of licence to any individual/ committee/company so that the EC can approve the settlement of retail shops in the interest of excise revenue.

3.8.1 We noticed from the Settlement Register and related records between April 2011 and March 2012 in 13 excise districts³ that a list of excise retail shops specifying their MGQ and licence fee, advance licence fee and security money to be paid was prepared at the district level and sale notifications containing all these facts were published in March 2009 and March 2010 for settlement of 223 and 1,678 shops (total 1901 shops) for the years 2009-10 and 2010-11 respectively. However, 407 retail shops remained unsettled during the years (2009-10:31 and 2010-11: 376) despite publication of sale notifications from time to time by the Department. No efforts were made for settlement of the excise shops at reduced rates at

the district level which resulted in loss of excise duty and licence fee amounting to ₹ 80.29 crore.

After we pointed out the matter between April 2011 and March 2012, the Government/Department stated (August 2012) that despite efforts made by the excise officers, the shops could not be settled due to non-availability of willing tenderers. However, the Department also conceded that none of these cases was referred to the Excise Commissioner for settlement at a reduced rate.

³ Number of shops offered/settled: Bokaro (144/50), Dhanbad (249/66), Dumka (79/03), Gumla-cum-Simdega-cum-Lohardaga (99/12), Giridih (106/12), Hazaribag-cum-Ramgarh-cum-Chatra (136/48), Jamshedpur (256/106), Jamtara (50/7), Pakur (34/1), Palamu-cum-Latehar (264/31), Garhwa (121/9), Sahebganj (72/17) and Ranchi (291/45).

Under the provisions of the Bihar Excise Act, 1915 and Rules made thereunder (as adopted by the Government of Jharkhand) settlement of licence for retail sale of liquor shall be made for one excise year or part of the year. Excise year means the financial year beginning from 1 April and ending on 31 March of the next calendar year.

3.8.2 We noticed from the Settlement Register and related records during June 2011 and December 2011 in two excise districts⁴ that four retail excise shops of 2010-11, required to be settled by 31 March 2010, were settled between 7 July 2010 and 1 October 2010

after delays ranging between 3 months 6 days (from 1 April to 6 July 2010) and 6 months (from 1 April to 30 September 2010). As such, MGQ of 42,090 London Proof Litre (LPL) of liquor could not be lifted by the licensees which resulted in loss of licence fee and excise duty of ₹ 33.60 lakh⁵.

After we pointed out the matter in June 2011 and December 2011, the Government/Department stated (August 2012) that settlement of shops was possible due to tireless efforts on the part of the excise officers, even though it was belated settlement, and that all efforts were made to minimise the loss of revenue. However, the fact remains that the concerned ACsE did not exercise their discretionary powers to recommend these cases at reduced rates to the EC as per provisions of the notification.

⁴ Dhanbad and Jamshedpur.

⁵

Category	Quantity in LPL/BL	Licence fee	Excise duty	Amount of licence fee	Amount of excise duty
		Rate per LPL/BL	Rate per LPL/BL		
				(in ₹)	
IMFL	9,763.00	175	25	17,08,525	2,44,075
Beer	11,587.00	15	8	1,73,805	92,696
CS	20,100.00	50	5	10,05,000	1,00,500
SCS	639.99	50	6	31,999.50	3,839.94
Total				29,19,329.50	4,41,110.94
Grand Total				33,60,440.44	

3.9 Delayed settlement of exclusive privilege for wholesale supply of country spirit

Under the provisions of the Bihar Excise Act, 1915 and Rules (as adopted by the Government of Jharkhand) and policies made thereunder, the State Government may grant to any person/persons on such terms and conditions for such period as it may think fit, the exclusive/special privilege for supplying country liquor, on wholesale basis, after sacheting/bottling it. Further, the Excise Commissioner was required to publish a notice for settlement of wholesale supply of country spirit six months prior to expiry of the term of the existing contract specifying the area, quantity, nature and quality of spirit required to be supplied and the warehouse at which the delivery was to be made. If a licence is cancelled due to default on the part of the licensee, the Collector may take the grant under management or transfer the unexpired portion of the grant, at the risk and loss of the said person to any other person.

We noticed (June 2011) from the Settlement Register and related records pertaining to exclusive privilege for wholesale supply of country spirit in Dhanbad that the tender notification for wholesale supply of country spirit (CS) was published in July 2010 instead of January 2010 i.e, after a delay of six months. The reasons for delay in publication of the notification were not found on record. The settlement was finally done in favour of a licensee for 14.67 lakh LPL⁶ of country spirit for the period 1 August 2010 to 31

March 2011 on payment of proportionate licence fee. Thus, due to delayed settlement of exclusive privilege for supply of CS, the Government sustained a loss of excise revenue of ₹ 29.34 lakh⁷.

After we pointed out the matter in June 2011, the Government stated (August 2012) that in case of Dhanbad district a sum of ₹ 24 lakh out of loss of excise revenue of ₹ 29.34 lakh was recovered through supply of 5.90 lakh LPL of CS from Bokaro district. However, our examination of the records of the licensee pertaining to exclusive privilege for wholesale supply of CS in Bokaro excise district, indicated additional wholesale supply of 1.08 lakh LPL only instead of 5.90 lakh LPL as stated by the Department. Thus, action taken on loss of revenue of ₹ 25.03 lakh⁸ on account of differential quantity of 6.26 lakh LPL is awaited (February 2013).

⁶ Annual MGQ = 22, 00,440 LPL, proportionate MGQ for eight months (from 1 August 2010 to 31 March 2011) = 22,00,440*8/12= 14,66,960 i.e. 14.67 lakh LPL

⁷ 7,33,480 LPL X ₹ 4 per LPL= ₹ 29,33,920

⁸ 6,25,804 LPL X ₹ 4 per LPL= ₹ 25,03,216

3.10 Short lifting of liquor by retail vendors

Under the provisions of the Bihar Excise Act, 1915 and Rules made thereunder (as adopted by the Government of Jharkhand) and sale notification issued thereunder, each licenced vendor of a retail excise shop is required to submit his week-wise requirement of country spirit for the next month to the contractor holding exclusive privilege for wholesale supply of country spirit by the last week of the previous month and he is bound to lift the Minimum Guaranteed Quota (MGQ) of liquor of each kind fixed by the Department for the shop, failing which loss of excise duty as well as fiscal penalty equivalent to loss of excise duty suffered by the Government shall be recoverable from the vendor.

We noticed (May 2011 and March 2012) from the Consumption Register of liquor and related records in four excise districts⁹ that 148 retail vendors did not furnish the week-wise requirement of Country Spirit/Spiced Country Spirit (CS/SCS) in due time and lifted 2.23 lakh LPL of liquor against the required MGQ of 5.19 lakh LPL during 2010-11. Thus, there was short lifting of liquor of 2.96 lakh LPL.

We further noticed that the concerned ACsE did not take any steps to recover the excise duty of ₹ 16.22 lakh¹⁰ against the available security deposit of ₹ 21.64 lakh. Besides, fiscal penalty equivalent to loss of excise duty was also leviable.

After we pointed out the cases between May 2011 and March 2012, the Government/Department reported (August 2012) recovery of ₹ 14.45 lakh in respect of Bokaro, Dhanbad and Jamshedpur, while in case of Hazaribag, it was stated that action was being taken to realise the amount of ₹ 1.62 lakh.

⁹ Bokaro, Dhanbad, Hazaribagh-cum-Ramgarh-cum-Chatra and Jamshedpur

¹⁰

Category	No. of shops	Quantity of Annual MGQ to be lifted in LPL	Quantity lifted in LPL	Quantity short-lifted in LPL	Excise duty per LPL	Recoverable Excise duty (in ₹)
CS	105	2,59,723.00	1,04,478.00	1,55,245.00	5.00	7,76,225.00
SCS	43	2,59,599.00	1,18,612.72	1,40,986.28	6.00	8,45,917.68
Total	148	5,19,322.00	2,23,090.72	2,96,231.28		16,22,142.68

3.11 Loss of revenue due to short realisation of licence fee

The Board of Revenue, Jharkhand, by a notification issued in July 2004, revised the annual licence fee for the sale of India Made Foreign Liquor (IMFL) in a hotel, bar, restaurant and club according to the area and location with effect from 31 July 2004. Further, the Urban Development Department (UDD), Government of Jharkhand upgraded Dhanbad Municipality into Municipal Corporation, Dhanbad by incorporating the adjoining areas of Katras, Jharia and Digwadih from September 2009. Accordingly, the annual licence fee for the sale of IMFL in a hotel, bar and restaurant was to be realised at the applicable rate.

We noticed (June 2011) from the Licence Fee register and related records in the office of the ACE, Dhanbad that annual licence fee of seven hotels, bars and restaurants located in Jharia, Digwadih and Katras was realised by applying the incorrect rate for the period 2010-11 without taking into account the fact that

these areas and locations had been upgraded through the UDD notification. The licensees were, therefore, liable to pay licence fee of ₹ 35 lakh¹¹ against which only ₹ 14 lakh (calculated at the rate ₹ 2 lakh per annum) was realised at the rate applicable to hotels, bars and restaurants located in rural areas. This resulted in short realisation of revenue of ₹ 21 lakh.

After we pointed out the case in June 2011, the Department/Government accepted our observation (August 2012), issued notices to the concerned licensees and effected recovery of ₹ 9 lakh from three licensees while two licensees moved the Hon'ble High Court against demand notice of ₹ 6 lakh. The position of realisation of ₹ 6 lakh from the remaining two licensees is awaited (February 2013).

3.12 Short adjustment of dues against security money

Under the provisions of the Bihar Excise Act, 1915 and Rules made thereunder (as adopted by the Government of Jharkhand), read with terms and conditions of the sale notification (June 2008) for settlement of retail excise shops, on receipt of an application from the licensee for refund of security money, the same is refunded by the ACE/SE after adjustment of dues on approval of the Deputy Commissioner (DC). Further, the sale notification also provides for imposition of fiscal penalty equivalent to loss of excise duty suffered by the Government on account of short lifting of the stipulated quota of liquor.

We noticed (between April and September 2011) from the Security Register, Consumption Statement and other relevant records that excise duty (ED) and fiscal penalty (FP) amounting to ₹ 1.13 crore [Ranchi: ₹ 1.08 crore (ED – ₹ 53.98 lakh and FP – ₹ 53.98 lakh) and Palamau -cum- Latehar: ₹ 5.03 lakh (ED - 2.51 lakh and FP – 2.51 lakh) was recoverable due to short

¹¹ Calculated at the rate of ₹ 5 lakh per annum or part thereof.

lifting of the stipulated quota of liquor by two licensees in two excise districts of Ranchi and Palamu-cum-Latehar during 2008-09. In case of Ranchi, a sum of ₹ 38.98 lakh was adjusted from the available security deposit of ₹ 2.37 crore and ₹ 15 lakh was realised by cash. However, the fiscal penalty of ₹ 53.98 lakh was not adjusted. In Palamu-cum-Latehar security deposit of ₹ 34.50 lakh was refunded without adjusting recoverable excise duty and penalty of ₹ 5.03 lakh. We further noticed that the matter regarding levy of fiscal penalty was not brought to the notice of the competent authority (DC) in case of Ranchi while in Palamau-cum-Latehar loss in the shape of excise duty and penalty was not brought to the notice of the concerned DC before release of the security deposit. As such, non-compliance of the provisions of the sale notification issued under the Act resulted in short adjustment of dues of ₹ 59.01 lakh (Ranchi: ₹ 53.98 lakh and Palamau cum Latehar: ₹ 5.03 lakh) from the security deposit.

After we pointed out the cases, the Government/Department stated (August 2012) that a demand notice had been issued to the licensee in case of Palamu-cum-Latehar district for realisation of excise duty and penalty while ACE, Ranchi had been instructed to ensure realisation of penalty. However, report on realisation is awaited (February 2013).

3.13 Non-realisation of licence fee from the licensee of exclusive privilege for wholesale supply of country spirit

Under the provisions of the Bihar Excise Act, 1915 and Rules made thereunder (as adopted by the Government of Jharkhand), the Collector is empowered to take the grant of exclusive privilege for wholesale supply of country spirit under his management at the risk and loss of the holder, if the holder of a licence granted under the Act contravenes any provision of the Act. If the licensee fails to comply with the provisions of the Act or Rules, the amount due in the shape of licence fee is recoverable from the defaulter licensee along with forfeiture of security money till the grant is awarded to another licensee.

We noticed (March 2012) from the Settlement Register and related records pertaining to exclusive privilege for wholesale supply of country spirit (CS) in Hazaribag-cum-Ramgarh-cum-Chatra excise District that grant of exclusive privilege for wholesale supply of CS for the period from 1 August 2008 to 31 March 2011 was awarded to a licensee by the Commissioner of Excise. As per the terms and

conditions of the grant letter, the licensee was liable to deposit annual licence fee in advance at the rate of ₹ 4 per LPL of MGQ fixed and to operate sacheting plant of CS for supply of liquor to retail vendors. However, we noticed that the licensee failed to comply with the terms and conditions of the grant of exclusive privilege as he deposited the licence fee for the period upto March 2010 only. Thus, due to non-compliance to the provisions of the Act/Rules by the grantee, the Government could not realise excise revenue of ₹ 9.49 lakh. We calculated the recoverable excise revenue at the rate of ₹ 4 per LPL on 2.37 lakh LPL for 4 months and 9 days.

After we pointed out the matter in March 2012, ACE, Hazaribag stated (August 2012) that demand of ₹ 9.49 lakh has been raised on the basis of the audit observation.

We reported the matter to the Government in June 2012 followed by a reminder issued in July 2012; their reply has not been received (February 2013).

CHAPTER-IV

TAXES ON VEHICLES

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	<p>In this Chapter we present illustrative cases of ₹ 13.48 crore selected from observations noticed during our test check of records relating to assessment and collection of Taxes from Vehicles in the office of the District Transport Officers, where we found that the provisions of the Acts/Rules were not observed.</p> <p>It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action despite switching over to an IT-enabled system.</p>
Marginal increase in tax collection	<p>In 2011-12, the collection of Taxes from Vehicles increased by 25.47 <i>per cent</i> over the previous year which was attributed by the Department to initiation of a system of one time taxation of private vehicles under the Jharkhand Motor Vehicles Tax (Amendment) Act.</p>
Internal Audit not conducted	<p>No Internal Audit Wing has been set up in the Department. We were informed that audit for 2009-10 and 2010-11 has been taken up by the Finance Department since June 2011. The status of audit in respect of previous years was not informed. Non-conducting of internal audit had its impact in terms of weak internal controls in the Department leading to substantial leakage of revenue. It also led to omissions on the part of the District Transport Officers remaining undetected till we conducted our audit.</p>
Very low recovery by the Department of observations pointed out by us in earlier years	<p>During the period 2006-07 to 2010-11 we had pointed out non/short levy, non/short realisation of tax, fee etc., with revenue implication of ₹ 371.86 crore in 1,20,884 cases. Of these, the Department/Government accepted audit observations in 1,14,631 cases involving ₹ 173.50 crore but recovered only ₹ 7.81 crore during the year 2011-12.</p>
Results of audit conducted by us in 2011-12	<p>In 2011-12 we test checked the records of 17 units relating to taxes on vehicles and found non/short realisation/levy of tax, fees, penalty etc. involving ₹ 21.19 crore in 28,816 cases, of which the Department accepted non/short realisation/levy of tax and other deficiencies of ₹ 13.48 crore in 17,715 cases.</p>
Our conclusion	<p>The Transport Department needs to improve the internal control system including arranging for internal audit so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.</p> <p>It also needs to initiate action to recover the non-realisation, undercharge of tax, etc., pointed out by us, more so in those cases where it has accepted our contention.</p>

CHAPTER-IV: TAXES ON VEHICLES

4.1 Tax administration

The levy and collection of Motor Vehicles tax and fee in the State is governed by the Bihar Motor Vehicles Taxation (BMVT) Act, 1994, rules made thereunder and the Bihar Motor Vehicles (BMV) Rules, 1992. On creation of the State of Jharkhand with effect from 15 November 2000, the existing Acts, Rules and executive instructions of the State of Bihar were adopted by the State of Jharkhand.

At the apex level, the Transport Commissioner (TC), Transport Department, Jharkhand is responsible for administration of the Acts and Rules in the State. He is assisted by a Joint Transport Commissioner at the Headquarters. The State has been divided into four regions¹ and 22 transport districts², which are controlled by the State Transport Authority (STA), Regional Transport Authorities (RTAs) and District Transport Officers (DTOs). They are assisted by Motor Vehicles Inspectors, the Enforcement Wing and nine check posts³.

4.2 Trend of receipts

According to the provisions of the Bihar Financial Rules, Vol. I (adopted by the Government of Jharkhand) the responsibility for preparation of budget estimates of revenue receipts is vested in the Finance Department. However, the material for the budget estimates is obtained from the concerned Administrative Department which is responsible for the correctness of the material. In case of fluctuating revenue, the estimates should be based on a comparison of the last three years' receipts.

Actual receipts from Taxes on Vehicles against the revised budget estimates during the period from 2007-08 to 2011-12 along with the total tax receipts during the same period is exhibited in the following table and graph:

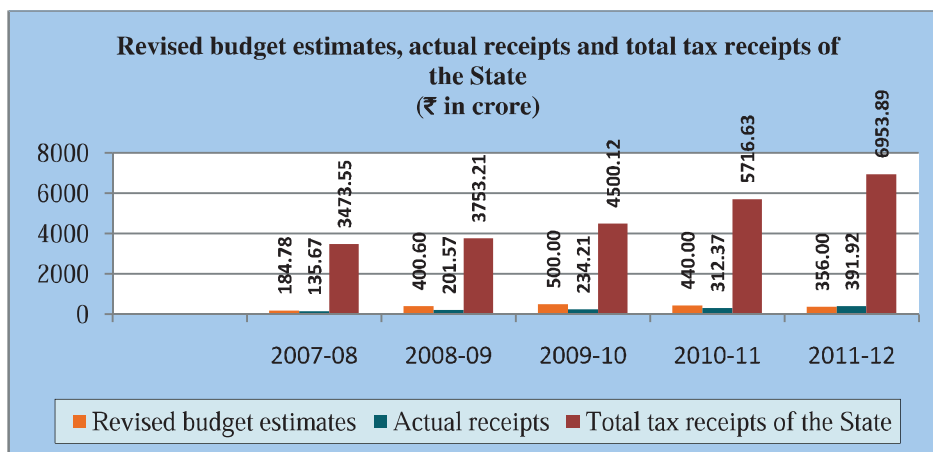
Year	Revised estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts to total tax receipts of the State
2007-08	184.78	135.67	(-) 49.11	(-) 27	3,473.55	3.91
2008-09	400.60	201.57	(-) 199.03	(-) 50	3,753.21	5.37
2009-10	500.00	234.21	(-) 265.79	(-) 53	4,500.12	5.20
2010-11	440.00	312.37	(-) 127.63	(-) 29	5,716.63	5.46
2011-12	356.00	391.92	(+) 35.92	(+)10.09	6,953.89	5.64

Source: Finance Accounts and revised estimates as per Statement of Revenue and Receipts of 2012-13 of the Government of Jharkhand.

¹ Dumka, Hazaribag, Palamu and Ranchi.

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

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



The Department could not achieve the revised budget estimates except during 2011-12. The shortfall compared to the revised budget estimates ranged between 53 and 27 per cent during the period 2007-08 to 2010-11.

We called for (October 2012) the reasons for the declining trend of the revised estimates during 2010-11 and 2011-12 and the procedure for determining the budget estimates from the Finance Department; their reply is awaited (February 2013).

4.3 Cost of collection

The gross collection under Taxes on Motor Vehicles, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2007-08 to 2011-12 are mentioned in the following table:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage of the preceding year
2007-08	135.67	2.90	2.14	2.47
2008-09	201.57	4.03	2.00	2.58
2009-10	234.21	5.02	2.14	2.93
2010-11	312.37	4.83	1.55	3.07
2011-12	391.92	4.60	1.17	3.71

Source: Finance Accounts of the Government of Jharkhand.

From the above it could be seen that the percentage of expenditure on collection was lower than the all-India average in all these years. We appreciate the performance of the Department in this regard.

4.4 Working of Internal Audit Wing

The Department informed us that although it has no Internal Audit Wing of its own, the auditors of the Finance Department have taken up Internal Audit for the years 2009-10 and 2010-11 since June 2011. Information regarding audit conducted for the previous years was not furnished.

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

4.5 Impact of Audit

Revenue impact

During the period 2006-07 to 2010-11 we pointed out in our Inspection Reports cases of non/short levy, non/short realisation of tax, fee etc., with revenue implication of ₹ 371.86 crore in 1,20,884 cases. Of these, the Department/Government accepted audit observations in 1,14,631 cases involving ₹ 173.50 crore and recovered ₹ 7.81 crore. However, the number of cases in which recovery was made has not been furnished. The details are shown in the following table:

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered during 2011-12 out of Col. 6
		No. of cases	Amount	No. of cases	Amount	
1	2	3	4	5	6	7
2006-07	18	25,310	207.33	24,305	63.69	2.50
2007-08	15	58,554	36.97	58,554	36.97	2.03
2008-09	18	26,574	77.79	21,385	26.81	1.52
2009-10	13	3,560	20.74	3,557	17.08	0.70
2010-11	19	6,886	29.03	6,830	28.95	1.06
Total	83	1,20,884	371.86	1,14,631	173.50	7.81

4.6 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 were ₹ 137.31 crore of which ₹ 93.86 crore was outstanding for more than five years. The year-wise position of arrears of revenue during the period 2007-08 to 2011-12 is depicted in the following table:

Year	Opening balance of arrears	Closing balance of arrears
2007-08	128.65	174.30
2008-09	174.30	136.52 ⁴
2009-10	136.52	140.05
2010-11	140.05	117.87
2011-12	117.87	137.31

Source: Transport Department, Government of Jharkhand.

The arrears of revenue increased from ₹ 117.87 crore as on 31 March 2011 to ₹ 137.31 crore on 31 March 2012. The Department did not furnish information regarding addition and clearance of arrears during the year.

As per information furnished by the Department, out of 104.44 crore⁵, demands of ₹ 94.80 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 1.48 crore was likely to be written off. Specific action taken in respect of the remaining arrears of ₹ 8.16 crore has not been intimated (February 2013).

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

⁴ The closing balance of arrears as on 31 March 2009 has been reconciled on the basis of figures furnished by the Department.

⁵ Against the arrears of revenue of ₹ 137.31 crore as on 31 March 2012, the Department furnished stages of action for an amount of ₹ 104.44 crore only.

4.7 Results of Audit

Our test check of the records of 17 units during 2011-12 relating to 'Taxes on Vehicles' revealed non/short collection/levy of tax and other deficiencies involving ₹ 21.19 crore in 28,816 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Non/short levy of taxes	17,714	13.07
2	Short-levy of taxes due to wrong fixation of seating capacity/registered laden weight	24	0.11
3	Other cases	11,078	8.01
Total		28,816	21.19

During the course of the year, the Department accepted non/short levy of motor vehicles tax, fees, penalties, fines etc., of ₹ 13.48 crore in 17,715 cases pointed out by us during 2011-12, which are featured in this Chapter. Out of the accepted cases, the Department effected recovery of an amount of ₹ 59.01 lakh in 139 cases.

Audit observations

4.8 Non-observance/ compliance of the provisions of Acts/Rules

The Bihar Motor Vehicles Taxation Act (BMVT), 1994 (as adopted by the Government of Jharkhand), Motor Vehicles Act, 1988, Bihar Financial Rules (as adopted by the Government of Jharkhand) and Rules made thereunder provide for:

- (i) *payment of motor vehicles tax by the owner of the vehicle at the prescribed rate;*
- (ii) *timely deposit of collected revenue into the Government account; and*
- (iii) *payment of registration fee at the prescribed rate.*

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

4.9 Non-collection of taxes on vehicles

Under the provisions of the BMVT Act and the rules made thereunder, as adopted by Jharkhand, the owner of a registered vehicle (other than personal vehicles) is liable to pay tax after the date of expiry of the period for which the tax had been paid to the taxation officer in whose jurisdiction the vehicle is registered. Further, in case of non-payment of tax within the stipulated period, the taxation authority may impose penalty at the prescribed rates. If the delay in payment of tax exceeds 90 days, penalty at twice the amount of taxes due may be imposed. Further, under the BMVT Rules every taxation officer is required to maintain the Demand, Collection and Balance (DCB) Register which shall be updated periodically in October and March every year to keep effective control over regular and timely realisation of taxes. The district transport officers are required to issue demand notices against the defaulters. The Act further provides that a trailer is a transport vehicle and shall not be eligible for exemption from payment of taxes, irrespective of the nature of its use.

4.9.1 We noticed during test check of the Taxation Registers, DCB Registers, Surrender Registers and the computerised data in 16 District Transport Offices⁶ between April 2011 and March 2012 that the owners of 1,379 vehicles out of 28,096 vehicles did not pay tax between April 2007 and March 2012. Further, the vehicle owners had neither applied for surrender of the vehicles nor were their certificates of registration cancelled. As such, they were liable to pay tax. Thus, owing to failure of the DTOs to update the DCB Register periodically, they did not have details of the number of defaulting vehicle owners and taxes to be realised from them. The District Transport Officers also did not raise demand for tax and penalty against

⁶ Bokaro, Chatra, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Gumla, Hazaribag, Jamshedpur, Koderma, Latchar, Lohardaga, Ranchi, Sahebganj and Simdega.

the defaulting vehicle owners. This resulted in non-levy of motor vehicles tax of ₹ 10.63 crore⁷ including maximum penalty of ₹ 7.09 crore.

After we pointed out the matter (between April 2011 and March 2012), the Government stated in September 2012 that in case of 13 DTOs⁸ demand notices have been issued in 1,076 cases involving ₹ 8.48 crore, of which revenue recovery certificate cases have been instituted in 116 cases involving ₹ 88 lakh pertaining to District Transport Office, Ranchi and ₹ 29.04 lakh involved in 51 cases have been recovered by 10 DTOs⁹. However, the remaining three DTOs¹⁰ stated (between May 2011 and March 2012) that demand notices would be issued against the defaulters. Further reply has not been received (February 2013).

4.9.2 We noticed (May 2011 to March 2012) from verification of taxation registers in 15 District Transport Offices¹¹ that the owners of 1,596 trailers did not pay road tax and additional motor vehicle tax for the period between December 2007 and March 2012. The Department also did not raise demand against the defaulters. Failure of the Department to enforce the provisions of the Act/Rules resulted in non-levy of tax of ₹ 1.97 crore¹² including penalty of ₹ 1.31 crore.

After we pointed out the matter (May 2011 to March 2012), the Government stated in September 2012 that in case of 12 DTOs¹³ demand notices have been issued in 1,346 cases involving ₹ 1.64 crore, of which certificate cases have been instituted in 152 cases involving ₹ 23.47 lakh pertaining to District Transport Office, Ranchi and ₹ 7.20 lakh involved in 82 cases have been recovered by 10 DTOs¹⁴. However, the remaining three DTOs¹⁵ stated (between May 2011 and March 2012) that demand notices would be issued against the defaulters. Further reply has not been received (February 2013).

⁷ **Goods carriage vehicle:** Road Tax (RT) leviable is ₹ 1,662.50 *per annum* and ₹ 136.50 for every additional 250 Kg or part thereof above 8,000 kg registered laden weight (RLW). Additional Road Tax (AT) of ₹ 310 *per annum* above 500 Kg RLW and ₹ 232.50 for every additional 500 kg or part thereof.

Passenger vehicles: RT ₹ 3,485 for seating capacity of 33 persons plus ₹ 53 for every additional person beyond 33 persons. Additional Road Tax ₹ 416 *per annum* having seating capacity more than 32 persons.

⁸ Bokaro, Chatra, Deoghar, Dhanbad, Dumka, Giridih, Gumla, Jamshedpur, Latehar, Lohardaga, Ranchi, Sahebganj and Simdega.

⁹ Bokaro, Dhanbad, Dumka, Giridih, Gumla, Jamshedpur, Latehar, Lohardaga, Ranchi and Sahebganj.

¹⁰ Garhwa, Hazaribag and Koderma.

¹¹ Bokaro, Chatra, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Gumla, Hazaribag, Jamshedpur, Koderma, Latehar, Lohardaga, Ranchi and Sahebganj.

¹² Trailer- Road Tax exceeding 4000 Kg and upto 8000 Kg is ₹ 760 *per annum* plus ₹ 49.50 for every additional 250 Kg or part thereof above 4000 Kg. Additional Road Tax upto 5000 Kg RLW is ₹ 1,440 *per annum*.

¹³ Bokaro, Chatra, Deoghar, Dhanbad, Dumka, Giridih, Gumla, Jamshedpur, Latehar, Lohardaga, Ranchi and Sahebganj.

¹⁴ Bokaro, Deoghar, Dhanbad, Dumka, Giridih, Gumla, Jamshedpur, Lohardaga, Ranchi and Sahebganj.

¹⁵ Garhwa, Hazaribag and Koderma.

4.10 Non/short-realisation of Trade Tax

Under the BMVT Act, Trade tax at the annual rate specified in Schedule-III shall be paid by a manufacturer/dealer in respect of motor vehicles held in possession by him in the course of business. Trade tax is payable (based on the type of vehicle) on a block of seven vehicles, for which returns are required to be submitted in Form-B2. The taxation authority after verifying the amount of Trade tax renews the trade certificate. In case of non-payment of tax within the stipulated period, the taxation authority may impose penalty at the prescribed rates. If delay in payment exceeds 90 days, penalty at twice the amount of tax due may be imposed.

4.10.1 We noticed during test check of the Trade Tax Register and files of four District Transport Offices¹⁶ between July 2011 and March 2012 that 23 dealers of motor vehicles were liable to pay Trade tax along with penalty of ₹ 10.48 lakh for the period between 2009-10 and 2010-11. However, the dealers neither submitted any returns nor made any payments during the period. The DTOs also

did not take any action to obtain the returns and realise the amounts due from the dealers. This resulted in non-payment of Trade tax and penalty of ₹ 10.48 lakh¹⁷ including maximum penalty of ₹ 6.99 lakh.

4.10.2 We noticed during test check of the Trade Tax Register and files of District Transport Offices, Bokaro and Ranchi between July 2011 and January 2012 that six dealers of motor vehicles were liable to pay Trade tax along with penalty of ₹ 9.10 lakh for the period between 2006-07 and 2010-11. However, the dealers made payment of ₹ 4.85 lakh only. Failure of the DTOs to adhere to the codal provisions by accepting the payment of Trade tax without verifying the returns resulted in short payment of Trade tax and penalty of ₹ 4.25 lakh¹⁸ including penalty of ₹ 3.50 lakh.

¹⁶ Deoghar, Hazaribag, Lohardaga and Ranchi.

¹⁷

(in ₹)								
Types of Vehicle	No. of vehicles	Block of seven vehicles	Rate per seven vehicles	Amount of trade tax	Penalty	Total	Amount paid	Non-realisation of tax & penalty
Two-wheeler	3,231	462	400	1,84,800	3,69,600	5,54,400	0	5,54,400
LMV	2,298	329	500	1,64,500	3,29,000	4,93,500	0	4,93,500
Total	5,529			3,49,300	6,98,600	10,47,900	0	10,47,900

¹⁸

(in ₹)								
Type of vehicle	No. of vehicles	Block of seven vehicles	Rate per seven vehicles	Amount of trade tax	Penalty	Total	Amount paid	Short realisation of tax & penalty
Two-wheeler	4,157	594	400	2,37,600	29,856	2,67,456	2,42,356	25,100
LMV	1,504	215	500	1,07,500	1,92,265	2,99,765	46,222	2,53,543
HMV	1,645	235	600	1,41,000	2,01,800	3,42,800	1,96,200	1,46,600
Total	7,306			4,86,100	4,23,921	9,10,021	4,84,778	4,25,243

After we pointed out the matter (between July 2011 and March 2012), the Government stated in September 2012 that in case of four DTOs¹⁹ demand notices have been issued to 25 dealers, out of which certificate cases have been instituted against four dealers pertaining to District Transport Office, Ranchi and recovery of ₹ 1.14 lakh in respect of four dealers has been made by DTOs, Bokaro and Deoghar. Further reply has not been received (February 2013).

4.11 Short levy of tax on issue of temporary registration

Under the provisions of the BMVT Act, as adopted by the Government of Jharkhand, tax shall be levied at the rate of 1/12th of the tax payable for the year at the time of temporary registration of transport vehicles. In case of extension of the period of temporary registration, tax at the rate of 1/12th payable for the year shall be paid on every extension of temporary registration for a period of 30 days or part thereof. A penalty at the prescribed rate is also leviable in case of late payment of tax.

We noticed during test check of the Temporary Registration Register of District Transport Offices, Bokaro and Jamshedpur between November and December 2011 that tax was short levied at the time of temporary registration of 1,895 fully built trucks during 2010-11. We calculated the tax leviable at ₹ 34 lakh. However, the taxing officer realised

₹ 16.52 lakh only which resulted in short realisation of tax amounting to ₹ 17.48 lakh²⁰.

After we pointed out the matter (between November and December 2011), the Government stated in September 2012 that in case of DTO, Jamshedpur a sum of ₹ 16.01 lakh has been realised from M/s Tata Motors, whereas demand notices have been raised by DTO, Bokaro. Further reply has not been received (February 2013).

¹⁹ Bokaro, Deoghar, Lohardaga and Ranchi.

²⁰ For goods carriage Road tax levied is ₹ 1,662.50 + ₹ 136.50 per annum for every additional 250 Kg per or part thereof above 8,000 kg Registered Laden Weight (RLW). Additional tax of ₹ 310 + ₹ 232.50 per annum is levied for every additional 500 kg or part thereof above 500 Kg RLW.

4.12 Loss of interest due to delay in deposit of revenue collected by banks

Under the provisions of the Bihar Financial Rules (adopted by the Government of Jharkhand), all money received as Government dues should be credited to Government Account. As per instructions of State Transport Commissioner, Jharkhand (January 2001) the amount collected by the banks during April to February should be transferred to the State Bank of India (SBI), Doranda Branch, Ranchi in such a manner that all receipts during a particular month are transferred latest by the first week of the following month. The amount deposited in the month of March, is to be transferred by 31st March positively so that all amounts deposited in the financial year are transferred to the Government account in the same financial year. As per the instructions issued by the Reserve Bank of India in January 2007, interest at the rate of eight *per cent* per annum on balance exceeding rupees one lakh, is payable by the banks on delayed remittances to Government account.

We noticed during test check of bank statements of remittances of revenue collected in two District Transport Offices of Bokaro and Dhanbad between December 2011 and January 2012 that the collecting bank i.e. Punjab National Bank did not credit a sum of ₹ 61.29 crore for the year 2010-11 into SBI, Doranda Branch for credit into Government account, within the prescribed time. The delay ranged from one month to 11 months. The collecting bank did not credit interest of ₹ 41.52 lakh for delayed transfer of the Government revenue into SBI, Doranda, Ranchi. The

Department also did not pursue the matter of payment of interest with the collecting bank.

After we pointed out the matter (between December 2011 and January 2012), the Government stated in September 2012 that DTOs, Bokaro and Dhanbad had requested the bank authorities for timely transfer of the collected revenue and to deposit the penal interest. Further reply has not been received (February 2013).

4.13 Non-levy of tax from vehicles involved in surrender

The BMVT Act, 1994, as adopted by the Government of Jharkhand and rules made thereunder provide that if the owner of a motor vehicle does not intend to use his vehicle for a certain period not exceeding six months at a time, he can be exempted from payment of tax by the competent authority provided his claim for exemption is supported by the required documents. For the period of non-use of the vehicle, he is entitled for exemption from payment of tax only after following the prescribed procedure. In the absence of any extension, the vehicle would be deemed to have been used and the vehicle owner would be liable to pay tax. The Act further empowers the taxation officer to enter the premises where the vehicles were kept. If the delay in payment of tax exceeds 90 days, penalty at twice the amount of tax due may be imposed.

We noticed from test check of the Surrender Register of District Transport Office, Giridih in May 2011 that nine vehicles were surrendered between July 2007 and September 2008. However, even after expiry of the prescribed period the vehicles were kept under surrender without the owners seeking further extension and furnishing fresh undertakings for non-use of vehicles during the period, in contravention of the provision of the Act. Thus, the vehicle owners were liable to pay tax and penalty for the period January 2008 to July 2011. The DTO, however, failed to exercise his power of inspection of the premises in which the vehicles were kept. This resulted in non-raising of

demand against the vehicle owners after the expiry of the prescribed period of surrender and consequent non-levy of tax of ₹ 14.49 lakh²¹ including penalty of ₹ 9.66 lakh.

After we pointed out the matter (May 2012), the Government stated in September 2012 that demand notices have been raised by DTO, Giridih. Further reply has not been received (February 2013).

21

(in ₹)							
No. of vehicle (s)	Type/ Model	Seats/ RLW	Rate of Tax (RT+AT)	Penalty	Total	No. of quarters	Amount of Tax & Penalty
3	Bus/ 2003 & 2004	53 I/D	1,110+4,774=5,884*3=17,652	35,304	52,956	9 (3.3.09 to 2.6.11)	4,76,604
2	Bus/ 1990 & 1991	53 I/D	1110+4,508=5,618*2 =11,236	22,472	33,708	10 (30.11.08 to 29.5.11)	3,37,080
1	Bus/ 1994	53 I/D	1,110+4,508=5,618	11,236	16,854	14 (24.1.08 to 23.7.11)	2,35,956
1	Bus/ 2001	53 I/D	1,110+4,774=5,884	11,768	17,652	12 (10.7.08 to 9.7.11)	2,11,824
1	Truck /1985	15660	1,474+1,316=2,790	5,580	8,370	14 (2.1.08 to 1.7.11)	1,17,180
1	M Truck/1996	12000	962+990=1,952	3,904	5,856	12 (15.7.08 to 17.7.11)	70,272
Total							14,48,916

CHAPTER-V

LAND REVENUE

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	<p>In this Chapter we present illustrative cases of ₹ 14.99 crore selected from observations noticed during our test check of records relating to <i>Khas Mahal</i> land and transfer of Government land in the office of the DCLR-<i>Khas-Mahal</i> and <i>Anchal</i> office, where we found that the provisions of the Acts/Rules were not observed.</p> <p>It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.</p>
Decrease in tax collection and wide variation from the budget estimate	<p>In 2011-12, the collection of taxes from Land Revenue decreased by 59.48 <i>per cent</i> over the previous year but the Department did not assign any reason for this. Further, revenue collection during 2011-12 was 36.59 <i>per cent</i> less than the revised estimate.</p>
Internal Audit not conducted	<p>No Internal Audit Wing has been set up in the Department. The Internal Audit is conducted by the Finance Department from time to time. However, information regarding conduct of audit during 2011-12 by the Finance Department was not furnished. Non-conducting of internal audit had its impact in terms of weak internal controls in the Department leading to substantial leakage of revenue. It also led to the omissions on the part of the Circle Officer/<i>Anchal Adhikari</i> and Deputy Collector Land Reforms (DCLR) remaining undetected till we conducted our audit.</p>
Recovery not reported by the Department of observations pointed out by us in earlier years	<p>During the period 2006-07 to 2009-10 we had pointed out non-realisation of revenue due to non-renewal of leases, encroachment of land etc., with revenue implication of ₹ 1,762.89 crore in 5,708 cases. Of these, the Department/Government accepted audit observations in 808 cases involving ₹ 351.13 crore but did not intimate recovery against the cases accepted by them.</p>
Results of audit conducted by us in 2011-12	<p>In 2011-12 we test checked the records of 30 units relating to Land Revenue and found non-realisation of revenue in respect of <i>Khas Mahal</i> land, non-removal/settlement of encroached public land, etc. of ₹ 36.64 crore in 68 cases.</p>
Our conclusion	<p>The Revenue and Land Reforms Department needs to improve the internal control system including strengthening the internal audit mechanism so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.</p> <p>It also needs to initiate action to recover the non-realisation, undercharge of tax, etc., pointed out by us, more so in those cases where it has accepted our contention.</p>

CHAPTER-V: LAND REVENUE

5.1 Tax administration

The laws¹ governing Land revenue in Jharkhand are administered by the Secretary/Commissioner of the Revenue and Land Reforms Department. All important cases of settlement, framing of policies and sanction of alienation of Government land are decided at the Government level. The State is divided into five divisions² each headed by a Divisional Commissioner and 24 districts³ each headed by a Deputy Commissioner. At the district level the Deputy Commissioner is assisted by the Additional Collector/Additional Deputy Commissioner (AC/ADC). Each district is divided into sub-divisions headed by a Sub-Divisional Officer (SDO) who is assisted by a Deputy Collector Land Reforms (DCLR). The sub-divisions are divided into circles/*Anchals* each headed by a Circle Officer (CO)/*Anchal Adhikari* (AA).

The various receipts under 'Land Revenue' are land rent (including cess), *Sairat*⁴, *Salami*⁵, commercial/residential rent etc.

5.2 Trend of receipts

According to the provisions of the Bihar Financial Rules, Vol. I (adopted by the Government of Jharkhand) the responsibility for preparation of budget estimates of revenue receipts is vested in the Finance Department. However, the material for the budget estimates is obtained from the concerned Administrative Department which is responsible for the correctness of the material. In case of fluctuating revenue the estimates should be based on a comparison of the last three years' receipts.

The revised estimates (REs) and actual receipts from Land Revenue during the period 2007-08 to 2011-12 along with the total tax receipts during the same period is exhibited in the following table and chart:

¹ 1. Bihar Tenancy Act, 1885, 2. Chotanagpur Tenancy Act, 1908, 3. Santhal Parganas Act, 1949, 4. Bihar Land Reforms Act, 1950, 5. Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, 6. Bihar Bhoodan Act, 1954, 7. Bihar Government Estate (*Khas Mahal*) Manual, 1953, 8. Bihar Public Encroachment Act, 1950, 9. Bengal Cess 1880, 10. Executive orders issued by the Revenue and Land Reforms Department, Government of Jharkhand from time to time.

² South Chotanagpur (Ranchi), North Chotanagpur (Hazaribag), Santhal Parganas (Dumka), Palamu (Medininagar) and Kolhan (Chaibasa).

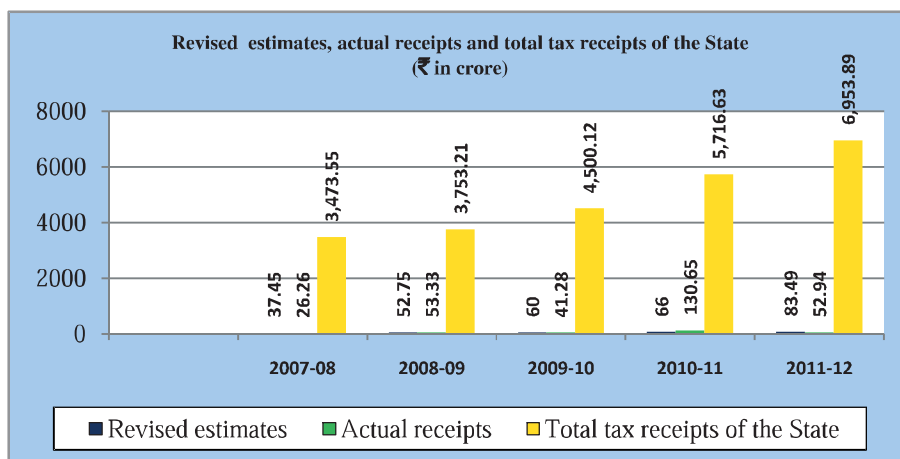
³ Bokaro, Chatra, Dhanbad, Dumka, Deoghar, East Singhbhum, Garhwa, Godda, Giridih, Gumla, Hazaribag, Jamtara, Koderma, Khunti, Latehar, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi, Sahebganj, Saraikela, Simdega and West Singhbhum.

⁴ *Sairat*: The right and interest in respect of revenue earning *hat*, *bazaar*, *mela*, trees, ferries etc.

⁵ *Salami* is the market value of the land. It is a share in the increase of value anticipated during the period of lease.

(₹ in crore)						
Year	Revised estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual Land Revenue receipts vis-à-vis total tax receipts
2007-08	37.45	26.26	(-) 11.19	(-) 29.88	3,473.55	0.76
2008-09	52.75	53.33	(+) 0.58	(+) 1.10	3,753.21	1.42
2009-10	60.00	41.28	(-) 18.72	(-) 31.20	4,500.12	0.92
2010-11	66.00	130.65	(+) 64.65	(+) 97.95	5,716.63	2.29
2011-12	83.49	52.94	(-) 30.55	(-)36.59	6,953.89	0.76

Source: Finance Accounts and revised estimates as per the Statement of Revenue and Receipts 2012-13 of the Government of Jharkhand.



It would be seen from the above that there was wide variation between the REs and the actual receipts. The receipts were as high as 98 per cent above the RE in 2010-11 and as low as 37 per cent in 2011-12. In response to our query, the Finance Department stated (October 2012) that the budget is fixed after detailed discussion with the concerned Administrative Department and on the basis of the average of the last three years' realisation of revenue. However, we observed that the revised estimate in 2011-12 was as high as 11 per cent when compared to the average of the last three years' actual receipts. This indicates that the BEs were not prepared on a realistic basis as per provisions of the Budget Manual.

We recommend that the Government may issue suitable instructions for preparing the BEs on a realistic and scientific basis to ensure that these are close to the actual receipts.

5.3 Working of Internal Audit Wing

There is no Internal Audit Wing in the Revenue and Land Reforms Department. The internal audit is conducted by the Finance Department from time to time. Information regarding conduct of audit by the Finance Department during 2011-12 was not furnished to us (February 2013).

5.4 Impact of Audit

Revenue impact

During the period 2006-07 to 2009-10 we had pointed out cases of non-renewal of leases of *Khas Mahal* land, encroachment of public land, etc., with revenue implication of ₹1,762.89 crore in 5,708 cases. Of these, the Department/Government accepted audit observations in 808 cases involving ₹ 351.13 crore, as shown in the following table:

Year	No. of units audited ⁷	Amount objected		Amount accepted	
		No. of cases	Amount	No. of cases	Amount
2006-07	13	63	22.53	41	7.89
2007-08	12	3,231	588.50	694	5.17
2008-09	9	2,395	1,151.31	55	338.04
2009-10	22	19	0.55	18	0.03
Total	56	5,708	1,762.89	808	351.13

The Department did not report recovery against these cases, though called for (June 2012).

5.5 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2011 were ₹ 10.52 crore. The year-wise position of arrears of revenue during the period 2007-08 to 2010-11 is depicted below:

Year	Opening balance	Addition	Clearance	Closing balance
2007-08	2.35	8.69	9.19	1.85
2008-09	1.85	6.85	7.72	0.98
2009-10	0.98	21.60	13.58	9.00
2010-11	9.00	16.03	14.51	10.52
2011-12	The Department did not furnish the position of arrears.			

Source: Revenue and Land Reforms Department, Government of Jharkhand.

The Department has not furnished the stages at which action on the arrears of revenue is pending.

⁶ *Khas Mahal*: Estates under the direct possession/management of the Government.

⁷ Audit was not conducted in 2010-11 as a performance audit on "Working of Revenue and Land Reforms Department" was featured in the Audit Report 2009-10 covering units audited upto May 2011.

5.6 Results of Audit

During 2011-12 our test check of the records of 30 units relating to Land Revenue revealed short/non-realisation and loss of revenue and other irregularities involving ₹ 36.64 crore in 68 cases which fall under the following categories:

Sl. No.	Categories	Number of cases	(₹ in crore)
			Amount
1.	Non-levy and short levy of cesses and/ or interest on arrears of cesses	3	11.54
2.	Non-settlement of vested lands	5	0.02
3.	Non-settlement of <i>sairats</i>	5	0.06
4.	Non-realisation of revenue due to non renewal of leases	1	10.28
5.	Other cases	54	14.74
Total		68	36.64

In this chapter we present a few illustrative cases having recoverable financial implication of ₹ 14.99 crore which are discussed in the following paragraphs.

5.7 Audit observations

Our scrutiny of records in the offices of the Revenue and Land Reforms Department relating to revenue received from land rent, sairat, salami etc. indicated cases of non-observation of the provisions of the Acts/Rules resulting in non/short levy of land rent/salami as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions are pointed out by us each year, but not only do the irregularities persist, they remain undetected till an audit is conducted.

5.8 Non-observance of the provisions of Acts/Rules

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

- (i) Levy of salami on fresh leases for residential and commercial purposes, at the current market value of the land besides annual rent at the rate of two and five per cent respectively of such salami; and*
- (ii) levy of arrears of double the annual rent at the rate proposed in fresh leases from the date of expiry of the earlier lease, as penal rent*

The Revenue and Land Reforms Department did not observe some of the provisions of the Acts/Rules which resulted in non-realisation of Government revenue as mentioned in the succeeding paragraphs:

5.9 Non-realisation of revenue due to non-renewal of leases

Under the provisions of the Bihar Government Estates (*Khas Mahal*) Manual and Rules framed thereunder (as adopted by the Government of Jharkhand) for grant of lease, the State Government is to issue notices to the lessee six months prior to the expiry of the lease to apply for renewal of such lease, whereas a lessee is required to apply three months prior to expiry of his lease for renewal thereof. A lessee continuing to occupy leasehold property without payment of rent and without renewal of lease is to be treated as a trespasser and has no claim for renewal on past terms and conditions. Further, on fresh leases for residential and commercial purposes, *salami* at the current market value of land besides annual rental at the rate of two *per cent* and five *per cent* respectively for residential and commercial purposes of such *salami* is leviable. As per instructions issued in April 1999 and April 2011 by the Government, the lessees are liable to pay penal rent and interest at the rate of 10 *per cent* on the differential of proposed rent and rent already paid by the lessees. Further, if the lessee is not willing to take the land on lease, the lessee will be evicted.

We test checked (July 2011) the *Khas Mahal* register/ *Khas Mahal* lease records of the Land Reforms Deputy Collector-cum-*Khas Mahal* office, Medininagar and noticed that a total of 155 leases involving 21.40 acres of land had expired between 2004-05 to 2010-11. Neither did the lessees apply for renewal of the lease either before or after the date of expiry nor did the Department review the *Khas Mahal* register and issue notices to the lessees to apply for renewal.

Thus, failure on the part of the Department to review

the concerned records periodically and take action for renewal of expired leases resulted in non-realisation of Government revenue of ₹ 10.28 crore for the period 2004-05 to 2010-11 in the shape of *salami*, penal rent and interest.

After we pointed out the matter in July 2011, the *Khas Mahal* Officer, Medininagar stated (March 2012) that applications for fresh leases are being called for and after acceptance of the cases, action will be taken to settle the fresh leases. In case of non-acceptance of the application, the lessee will be evicted. The fact remains the Department failed to issue notices to the lessees prior to the expiry of the leases as required under the codal provisions.

We reported the matter to the Department and the Government in June 2012 followed by a reminder issued in August 2012; their reply has not been received (February 2013).

5.10 Non-realisation/short computation of *salami* and capitalised value

By a *Rajyadesh* (Ordinance) issued by the Government of Jharkhand between October 2010 and January 2011 under the provisions of the Bihar Estates (*Khas Mahal*) Manual, in case of transfer of Government land (*Gair Mazrua Khas/Aam* Land) for commercial purposes, *salami* at the prevailing market value of such land and 25 times of the commercial rent as capitalised value is realisable before transfer of such land.

We noticed (March 2012) during scrutiny of records relating to transfer of Government land in the Anchal Office, Mandu that in six cases 4.82 acres of *Gair Mazrua* (GM) *Khas* land/*Aam*⁸ land was to be transferred to the National Highway Authority of India, for commercial purposes for widening of

National Highway (NH) 33 during 2010-11, subject to payment of *salami* and capitalised value at current market rates which worked out to ₹ 2.09 crore and ₹ 2.62 crore respectively. However, we noticed that the aforesaid land was transferred in 2010-11 without realisation of *salami* and capitalised value, which was in violation of the *Rajyadesh* issued by the Government. This resulted in non-realisation of land revenue of ₹ 4.71 crore (*Salami* ₹ 2.09 crore and capitalised value ₹ 2.62 crore).

After we pointed out the matter in March 2012, the *Anchal Adhikari*, Mandu raised (August 2012) demand for the entire amount pointed out by us. However, a report on realisation has not been received (February 2013).

We reported the matter to the Government in June 2012 followed by a reminder issued in August 2012; their reply has not been received (February 2013).

⁸ *Gair Mazrua Khas* land means land retained by ex-intermediaries and not settled with *rai-yats* which subsequently vested in the State under the Bihar Land Reforms Act, 1950.

Gair Mazrua Aam land means uncultivated land for public use such as grazing ground, playground, burial ground, graveyards, religious places, village roads etc.

CHAPTER-VI

OTHER TAX RECEIPTS

EXECUTIVE SUMMARY

What we have highlighted in this Chapter

In this Chapter we present illustrative cases of ₹ 3.69 crore selected from observations noticed during our test check of records during 2011-12 relating to Stamps and Registration fees and Taxes and Duties on Electricity in the office of the District Sub-Registrar and Dy. Commissioner of Commercial Taxes, where we found that the provisions of the Acts/Rules were not observed.

It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.

Marginal increase in tax collection

In 2011-12, the collection of Stamps and Registration Fees increased by 22.18 *per cent* over the previous year which was attributed by the Department to growth in real estate sector. We are of the view that the Department needs to streamline its budgeting process as significant variations between Revised budget estimates and Actual receipts were noticed persistently.

In 2011-12, the collection of Taxes and Duties on Electricity increased by 36 *per cent* over the previous year which was attributed by the Department to enhancement in the rate of Electricity Duty with effect from June 2011.

Internal audit not conducted

No information regarding setting up of an Internal Audit wing in the Department was furnished to us though called for. Further, audit was also not conducted by the Finance Department during this period.

Analysis of arrears of revenue

Arrears of revenue remained virtually stagnant over the previous year. The Department did not furnish information regarding addition and clearance of the arrears during the year(s) as well as arrears outstanding for more than five years. As per the information furnished by the Department, recovery of the entire amount of arrear of ₹ 1.57 crore was held up due to rectification/review of applications in impounded and referred cases.

Results of audits conducted by us in 2011-12

In 2011-12, we test checked the records relating to Stamps and Registration Fees and Taxes and Duties on Electricity where we found non/short realisation of duties, fees etc involving ₹ 8.74 crore in 1,335 cases. During the year 2011-12, the Departments accepted audit observations in 862 cases involving ₹ 3.69 crore.

Our conclusion

The Registration Department needs to improve the internal control system including arranging for internal audit so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future. The Department also needs to lower the cost of collection as the percentage of expenditure on collection was significantly higher than the All India average during 2007-12.

It also needs to initiate immediate action to recover the non-realisation, undercharge of tax, etc pointed out by us, more so in those cases where it has accepted our contention.

CHAPTER-VI: OTHER TAX RECEIPTS

A. STAMPS AND REGISTRATION FEES

6.1 Tax administration

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

At the apex level, the Inspector General of Registration, Jharkhand is the head of the Registration Department and is responsible for administration of the Acts and Rules in the State. He is assisted by a Deputy Secretary, an Assistant Inspector General at the Headquarters, an Inspector of Registration, 24 District Sub Registrars (DSRs¹) and eight Sub Registrars (SRs²). The Inspector of Registration is responsible for inspection of all the five divisions³ of the State, while DSRs and SRs are the primary units responsible for levy and collection of Stamps and Registration fees under the IS Act and the Registration Act.

6.2 Trend of receipts

According to the provisions of the Bihar Financial Rules, Vol. I (adopted by the Government of Jharkhand) the responsibility for preparation of budget estimates of revenue receipts is vested in the Finance Department. However, the material for the budget estimates is obtained from the concerned administrative department which is responsible for the correctness of the material. In case of fluctuating revenue the estimates should be based on a comparison of the last three years' receipts.

The revised Budget Estimates (REs) and actual receipts from Stamps and Registration fees during the period 2007-08 to 2011-12 along with the total tax receipts during the same period is exhibited in the following table and chart:

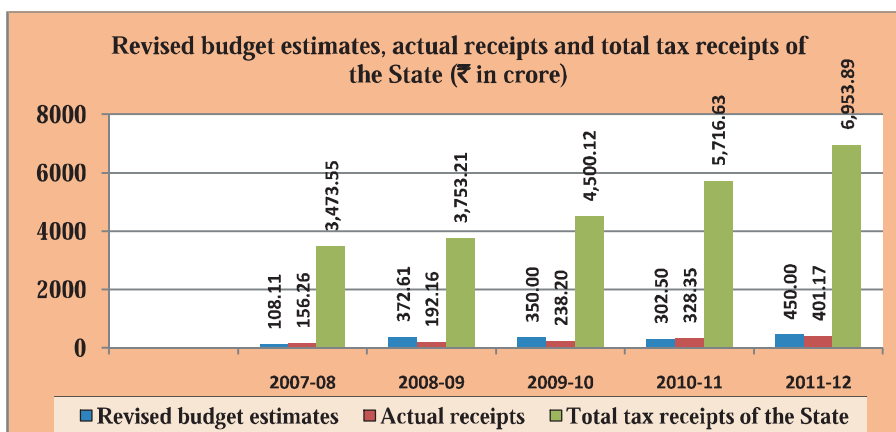
(₹ in crore)						
Year	Revised budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	108.11	156.26	(+) 48.15	(+) 44.54	3,473.55	4.50
2008-09	372.61	192.16	(-) 180.45	(-) 48.43	3,753.21	5.12
2009-10	350.00	238.20	(-) 111.80	(-) 31.94	4,500.12	5.29
2010-11	302.50	328.35	(+) 25.85	(+) 8.55	5,716.63	5.74
2011-12	450.00	401.17	(-) 48.83	(-) 10.85	6,953.89	5.77

Source: Finance Accounts for the year 2010-11 and revised estimates as per the Statement of Revenue and Receipts of 2012-13 of the Government of Jharkhand.

¹ Bokaro, Chatra, Chaibasa, Deoghar, Dhanbad, Dumka, Garwah, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Koderma, Khunti, Latehar, Lohardaga, Pakur, Palamu, Ranchi, Ramgarh, Sahebganj, Simdega and Saraikella.

² Barhi, Chakardharpur, Ghatsila, Hussainabad, Jamua, Nagarutari, Rajdhanwar and Tenughat.

³ Dumka, Kolhan, North Chotanagpur, Palamu and South Chotanagpur.



It would be seen from the above that there was wide variation between the REs and the actual receipts. The actual receipts were as high as 45 per cent above the RE in 2007-08 and as low as 48 per cent below the RE in 2008-09. In response to our query, the Finance Department stated (October 2012) that the budget is fixed after detailed discussion with the concerned Administrative Department and on the basis of the average of the last three years' actual receipts. However, we observed that the RE in 2011-12 was as high as 78 per cent when compared to the average of the last three years' actual receipts. This indicates that the budget estimates were not prepared on a realistic basis as per provisions of the Budget Manual. The Department attributed the reason for shortfall in receipts against the BE during 2011-12 to the fact that lesser number of instruments were presented for registration.

We recommend that the Department may consider streamlining its budgeting process as significant variations between the budget estimates and actual receipts were noticed persistently.

6.3 Cost of collection

The gross collection under Stamps and Registration fees, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the period 2007-08 to 2011-12, along with the all-India average percentages for the relevant preceding years are mentioned in the following table:

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the preceding year
2007-08	156.26	7.81	5.00	2.33
2008-09	192.16	9.91	5.16	2.09
2009-10	238.20	10.98	4.61	2.77
2010-11	328.35	15.39	4.69	2.47
2011-12	401.17	11.34	2.83	1.60

Source: Finance Accounts of the Government of Jharkhand.

The above table indicates that the percentage of expenditure on collection of Stamps and Registration fees was significantly higher than the all-India average each year though it has shown a decreasing trend in 2011-12, which is encouraging.

We recommend that the Government may look into the high cost of collection and take steps to bring it down further to the level of the all-India averages.

6.4 Working of Internal Audit Wing

No information regarding setting up of an Internal Audit Wing in the Department was furnished to us though called for (June 2012). Further, audit of the Registration Department was also not conducted by the Finance Department in 2011-12.

6.5 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 were ₹ 1.57 crore. The year-wise position of arrears of revenue during the period 2007-08 to 2011-12 is depicted below:

Year	₹ in crore)	
	Opening balance of arrears	Closing balance of arrears
2007-08	1.42	1.63
2008-09	1.63	1.45
2009-10	1.45	1.53
2010-11	1.53	1.57
2011-12	1.57	1.57

Source: Information furnished by the Registration Department

The Department did not furnish information regarding addition and clearance of the arrears during this period. As per the information furnished (September 2012) by the Department, recovery of the entire amount of arrear of ₹ 1.57 crore was held up due to rectification/review of applications in impounded and referred cases.

6.6 Results of Audit

Our test check of the records of 13 units relating to Stamps and Registration fees in 2011-12 revealed non/short levy of duty involving ₹ 2.02 crore in 1,325 cases which fall under the following categories:

Sl. No.	Categories	₹ in lakh)	
		No. of cases	Amount
1	Short levy due to misclassification of documents	1	0.40
2	Short realisation of Stamps and Registration fees due to late receipt of revised rates	1	0.002
3	Blocking of Government revenue due to non-disposal of impounded/referred cases	85	18.49
4	Other cases	1,238	183.43
Total		1,325	202.32

During the course of the year, the Department accepted non-levy of Stamps and Registration fees and penalty of ₹ 1.70 crore in 858 cases pointed out by us during 2011-12.

In this chapter we present a case on non-execution of lease deeds having recoverable financial implication of ₹ 1.70 crore.

Audit observations

6.7 Non-observance of provisions of Acts/Rules

The Indian Stamp Act, 1899 and the Registration Act, 1908 and Rules made thereunder provide for:

- (i) *payment of Stamp duty by the executants at the prescribed rate;*
- (ii) *payment of Registration fee at the prescribed rate; and*
- (iii) *registration of documents within the prescribed time limit.*

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

6.8 Non-execution of lease deeds

Under the provisions of Section 17(1) (d) of the Registration Act, 1908, leases of immovable property for any term exceeding one year are to be compulsorily presented for registration within four months from the date of their execution. Stamp duty is chargeable as per Schedule I- A of Section-3 of the Indian Stamp Act and registration fees are leviable as per Table of Fees determined by the Government of Jharkhand from time to time. Further, as per Rule 47 of the Bihar Registration Rules, 1937 (as adopted by Jharkhand) if the documents are presented for registration after four months of their execution, the Registrar, after deciding that such documents should be registered, may direct the concerned District Sub-Registrars to register the documents after payment of fines not exceeding 10 times the registration fee as prescribed under Section 25 or Section 34 of the Registration Act, 1908.

We collected information (September to December 2011) from the Jharkhand State Pollution Control Board, Ranchi in respect of 20 mobile service providers⁴ and found that these companies had entered into lease agreements between 2007-08 and 2011-12 with land/building owners for erection of 858 mobile towers in five districts⁵, for periods between 4 years 11 months and 20 years on payment of annual rent in excess of rupees one hundred. We cross-checked this information with the records of the concerned

District Sub-Registrars (DSRs), but found that these lease documents were not presented for registration, though required to be registered under the Registration Act within four months from the date of execution of the lease agreements. Thus, owing to absence of a mechanism for cross-verification of information between

⁴ Wireless TT Info Services Ltd, Aditya Birla Telecom Ltd, Idea Cellular Infrastructure India Ltd, IDEA Cellular Infrastructure Services Ltd, Quippo Telecom Infrastructure Ltd, Bharti Infrate Ltd, Essar Telecom Infrastructure Ltd, ATC Tower Company of India Pvt Ltd, Dishnet Wireless, GTL Infra Ltd, Bharti Airtel Ltd, Tata Tele Services Ltd, Sistema Shyam Tele Services Ltd, Tower vision India Pvt Ltd, Aster Infrastructure Pvt Ltd, Vodafone Essar Spaceltd Ltd, Bharti Cellular, Xcel Telecom Pvt Ltd, ATC India Tower Corp Pvt Ltd and India Telecom Infra Ltd.

⁵ Bokaro, Deoghar, Dhanbad, Jamshedpur and Ranchi.

the Registration Department and other Departments, local bodies, authorities, etc. the Government was deprived of revenue of ₹ 56.28 lakh⁶ in the form of stamp duty and registration fees. Besides, maximum fine of ₹ 1.14 crore was also leviable as these documents were not presented for registration within the stipulated time.

After we pointed out the cases between January and March 2012, the Government accepted (September 2012) the observation and stated that the concerned Departments had been requested to ensure presentation of lease deeds for registration before issuing 'No Objection Certificate'. Further reply has not been received (February 2013).

We recommend that the Government may consider evolving a mechanism for inter-departmental exchange of information to ensure that documents required to be registered are presented for registration within the prescribed time limit.

6

(Amount in ₹)

Name of the DSR office	No. of agreements executed	Period	Consideration value	Rate of Stamp Duty	Stamp Duty leviable	Rate of Registration Fee upto 17.5.11-1% and from 18.5.11-3%	Registration Fee leviable	Total
DSR, Ranchi	11	11/2007 to 04/2010	7,64,400	3%	22,932	1%	7,644	30,576
	224	05/2007 to 03/2011	3,66,72,000	4%	14,66,880	1%	3,66,720	18,33,600
DSR, Bokaro	20	09/2008 to 09/2009	18,96,000	3%	56,880	1%	18,960	75,840
	108	06/2006 to 09/2010	95,67,600	4%	3,82,704	1%	95,676	4,78,380
DSR, Dhanbad	247	04/2007 to 02/2011	2,99,42,400	4%	11,97,696	1%	2,99,424	14,97,120
DSR, Deoghar	65	05/2007 to 03/2011	56,53,128	4%	2,26,125.12	1%	56,531.28	2,82,656.40
DSR, Jamshedpur	4	12/2008 to 11/2009	3,49,200	3%	10,476	1%	3,492	13,968
	177	04/2007 to 11/2010	2,77,75,200	4%	11,11,008	1%	2,77,752	13,88,760
	2	10/2011	3,84,000	4%	15,360	3%	11,520	26,880
Total	858		11,30,03,928		44,90,061.10		11,37,719.30	56,27,780.40

B. TAXES AND DUTIES ON ELECTRICITY

6.9 Tax administration

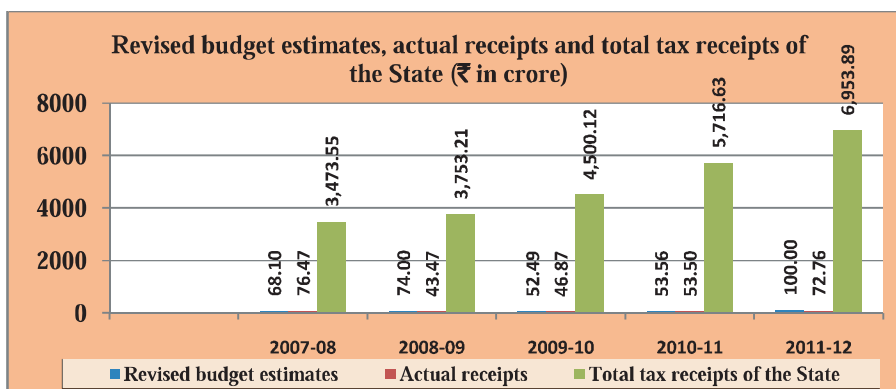
The Commercial Taxes Department is responsible for levy and collection of Taxes and Duties on Electricity under the provisions of the Bihar Electricity Duty Act, 1948 (BED Act) and Rules framed thereunder (adopted by the Government of Jharkhand). The Secretary-cum-Commissioner of Commercial Taxes, assisted by an Additional Commissioner, three Joint Commissioners of Commercial Taxes (JCCT), three Deputy Commissioners of Commercial Taxes (DCCT) and two Assistant Commissioners of Commercial Taxes (ACCT) at the Headquarters, is responsible for administration of the Act and Rules in the Department. The State is divided into five Commercial Taxes Divisions⁷ each under the charge of a JCCT (Admn.) and 28 circles, each under the charge of a DCCT/ACCT of the circle. The DCCT/ACCT assisted by Commercial Taxes Officers, is responsible for levy and collection of Taxes and Duties on Electricity.

6.10 Trend of receipts

The revised budget estimates (RE) and actual receipts from Taxes and Duties on Electricity during the period 2007-08 to 2011-12 along with the total tax receipts during the same period is exhibited in the following table and chart:

(₹ in crore)						
Year	Revised estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	68.10	76.47	(+) 8.37	(+) 12.29	3,473.55	2.20
2008-09	74.00	43.47	(-) 30.53	(-) 41.26	3,753.21	1.16
2009-10	52.49	46.87	(-) 5.62	(-) 10.71	4,500.12	1.04
2010-11	53.56	53.50	(-) 0.06	(-) 0.11	5,716.63	0.94
2011-12	100.00	72.76	(-) 27.24	(-) 27.24	6,953.89	1.05

Source: Finance Accounts and revised estimates as per Statement of Revenue and Receipts of 2012-13 of Government of Jharkhand.



The revised estimates in 2011-12 were as high as 109 per cent of the average of the last three years' actual receipts. The Department attributed (August 2012) the reason for increase in the RE to enhancement in the rate of electricity duty with effect from June 2011.

⁷ Dhanbad, Hazaribag, Jamshedpur, Ranchi and Santhal Parganas.

6.11 Results of Audit

Our test check of the records relating to Taxes and Duties on Electricity in 2011-12 revealed non/short levy of duty/tax involving ₹ 6.72 crore in 10 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Short levy of Electricity Duty	6	2.94
2	Non/short levy of surcharge	4	3.78
Total		10	6.72

During the course of the year, the Department accepted non/short-levy of duty, incorrect rebate on surcharge, etc. of ₹ 1.99 crore in four cases of which three cases involving ₹ 1.83 crore were pointed out in 2011-12 and one case was pointed out in 2010-11.

In this chapter we present a few illustrative cases having recoverable financial implication of ₹ 1.99 crore which are discussed in the succeeding paragraphs.

6.12 Non-observance of provisions of Act/Rules

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

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

6.13 Short levy of Electricity Duty

Under the provisions of the Bihar Electricity Duty Act, as adopted by the Government of Jharkhand, the rate of electricity duty for mining purposes in all premises where the total load exceeded 100 British Horse Power is 15 *paisa* per unit of energy sold or consumed. The duty on sale of electrical energy for industrial purposes is leviable at the rate of two *paisa* per unit. It has been judicially held* that the process of mining comes to an end only when the ore extracted from the mines is washed, screened, dressed and then stacked at the mining site.

- Chowgule & Co. Vs Union of India (1981) 47 STC-124 SC

We noticed (September 2011) during test-check of the assessment records in Jharia Commercial Taxes Circle that three assessee consumed 14.05 crore units of electrical energy for mining purposes during the period between 2002-03 and 2009-10. As such, electricity duty was to be levied at the rate of 15 *paisa* per unit. The Assessing Authority

(AA), while finalising the assessments between March 2007 and August 2010, incorrectly treated the electricity consumed as industrial consumption and levied duty at the rate of two *paisa* per unit. This resulted in short levy of electricity duty of ₹ 1.83 crore.

After we pointed out the cases (May 2012), the Department/Government accepted the observation and stated (September 2012) that additional demand of ₹ 1.40 crore had been raised against two assessee while notice for hearing was issued in the third case. However, report on realisation is awaited (February 2013).

6.14 Incorrect allowance of rebate on surcharge

Under the provisions of the BED Act and Rules made thereunder, as adopted by the Government of Jharkhand, an assessee who deposits the amount of duty payable within the prescribed time limit, shall be allowed a rebate at the rate of one *per cent* of the amount of duty payable. Rebate on surcharge is not admissible as per section-3A of the BED Act.

We noticed (August 2010) during scrutiny of the assessment orders of a licensee in Jamshedpur Urban Commercial Taxes Circle that the AA, while finalising the assessments between February 2010 and July 2010, for the period 2004-05 to 2007-08, incorrectly allowed rebate of one *per cent* on the surcharge of ₹ 16.33 crore which was contrary to the

provisions of the Act mentioned *ibid*. This resulted in underassessment of electricity duty of ₹ 16.33 lakh due to incorrect allowance of rebate on surcharge.

After we pointed out the case (May 2012), the Government stated (September 2012) that additional demand for ₹ 16.33 lakh had been raised. However, a report on realisation is awaited (February 2013).

CHAPTER-VII

MINERAL CONCESSION, FEES AND ROYALTY

EXECUTIVE SUMMARY

What we have highlighted in this Chapter

In this Chapter we present a Performance Audit on “Working of Mines and Geology Department in respect of Mining Receipts” conducted through test check of records of the Department and cross-verification of transactions with other Departments, where we found cases having recoverable financial implication of ₹ 146.31 crore. It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action. We are also concerned that though these omissions were apparent from the records which were made available to us, the District Mining Officers were unable to detect them.

Appreciable increase in revenue collection

In 2011-12, the receipts from Non-ferrous Mining and Metallurgical Industries increased by 29.52 *per cent* over the previous year which was attributed by the Department to increase in rate of royalty of iron ore.

Impact of Audit conducted by us in earlier years

During the period 2006-07 to 2010-11, we pointed out underassessment of royalty etc., with revenue implication of ₹ 1,029.26 crore in 15,948 cases. Of these, the Department/Government accepted audit observations in 12,874 cases involving ₹ 296.59 crore.

Results of audit conducted by us in 2011-12

In 2011-12 we test checked the records of 17 units relating to the Mines and Geology Department and found under-assessment of royalty and other irregularities involving ₹ 147.27 crore in 35 cases.

The Department accepted underassessment and other deficiencies of ₹ 139.70 crore pointed out by us and recovered ₹ 15.95 lakh in the Performance Audit on “Working of Mines and Geology Department in respect of Mining Receipts”.

Our conclusion

The Mines and Geology Department needs to improve the internal control system including strengthening of the internal audit mechanism so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.

It also needs to initiate action to recover the undercharge of royalty, etc., pointed out by us, more so in those cases where it has accepted our contention.

CHAPTER-VII: MINERAL CONCESSION, FEES AND ROYALTY

7.1 Tax administration

The levy and collection of receipts from Mining in the State is governed by the Mines and Minerals (Development and Regulation) Act, 1957, the Mineral Concession Rules, 1960 and the Jharkhand Minor Mineral Concession Rules, 2004. At the Government level, the Secretary, Mines and Geology Department and at the Department level, the Director of Mines is responsible for administration of the Acts and Rules.

7.2 Impact of Audit

Revenue impact

During the period 2006-07 to 2010-11 we had pointed out through our Inspection Reports underassessment of royalty etc., with revenue implication of ₹ 1,029.26 crore in 15,948 cases. Of these, the Department/Government accepted audit observations in 12,874 cases involving an amount of ₹ 296.59 crore and recovered ₹ 29.60 crore. The details are shown in the following table:

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered during 2011-12 out of Col. 6
		No. of cases	Amount	No. of cases	Amount	
1	2	3	4	5	6	7
2006-07	15	592	234.42	228	10.34	2.33
2007-08	14	10,908	407.80	10,114	203.12	20.56
2008-09	20	3,043	210.51	2,507	51.29	0.22
2009-10	11	249	126.65	23	11.26	4.74
2010-11	19	1,156	49.88	2	20.58	1.75
Total	79	15,948	1,029.26	12,874	296.59	29.60

(₹ in crore)

7.3 Results of Audit

Our test check during 2011-12 of the records of 17 units relating to the Mines and Geology Department revealed underassessment of royalty and other irregularities involving ₹ 147.27 crore in 35 cases which fall under the following categories:

Sl. No.	Categories	No. of cases	Amount
			(₹ in crore)
1	Working of Mines and Geology Department in respect of Mining Receipts (A Performance Audit)	1	146.31
2	Non-levy or short levy of royalty and cesses	1	0.08
3	Non-levy of interest	1	0.01
4	Non-levy of penalty/fees	6	0.14
5	Other cases	26	0.73
	Total	35	147.27

In 2011-12, the Department accepted underassessments and other deficiencies amounting to ₹ 139.70 crore pointed out by us and recovered ₹ 15.95 lakh in the Performance Audit on **“Working of Mines and Geology Department in respect of Mining Receipts”**.

In this Chapter, we present the Performance Audit on **“Working of Mines and Geology Department in respect of Mining Receipts”**, which has recoverable financial implication of ₹ 146.31 crore.

7.4 Working of Mines and Geology Department in respect of Mining Receipts

Highlights

- Jharkhand has not framed a State Mineral Policy along the lines of the Model State Mineral Policy 2010 circulated by the Central Government.

(Paragraph 7.4.2)

- In three offices of Deputy Director of Mines, arrears of ₹ 458.04 crore were pending for recovery.

(Paragraph 7.4.11.1)

- The internal control framework was deficient in terms of inadequate internal audit, non maintenance of important registers, non submission/assessment of returns and inadequate inspections by departmental officers.

(Paragraphs 7.4.13 and 7.4.14)

- Ninety eight per cent of the applications for grant of lease for Major Minerals during the period 2006-11 were pending for disposal.

(Paragraph 7.4.16.1)

- In six Mining Offices, in case of 62 leases, payment of royalty at incorrect rates resulted in short levy of royalty of ₹ 20.43 crore.

(Paragraph 7.4.17.1)

- In the Mining Offices, Bokaro and Dhanbad, downgrading of coal by two collieries resulted in short levy of royalty of ₹ 3.22 crore.

(Paragraph 7.4.17.2)

- In the Mining Offices, Dhanbad and Ramgarh, incorrect accounting of quantity of coal by two collieries resulted in excess adjustment of royalty of ₹ 77.04 lakh.

(Paragraph 7.4.17.3)

- Cross-verification of the returns filed by 56 lessees of six Mining Offices, with records of Commercial Taxes Department, IBM etc., revealed suppression of dispatch of mineral resulting in short levy of royalty of ₹ 117.60 crore.

(Paragraph 7.4.18)

- In 10 Mining Offices, extraction of minerals without obtaining permission from the Department, rendered the defaulters liable to pay the price of mineral of ₹ 2.50 crore.

(Paragraph 7.4.22)

7.4.1 Introduction

Mineral resources are finite and non-renewable and constitute a major resource for development. Therefore, the management of this precious resource and its optimal and economical use is a matter of national importance and is to be closely integrated with the overall strategy of development, as exploitation of minerals is to be guided by long-term national goals and perspectives. Minerals are divided into two categories, i.e, major and minor minerals. Minor minerals include building stone, gravel, ordinary clay, ordinary sand and any other mineral as notified by the Government of India (GOI). All other minerals such as coal, bauxite, iron ore etc., are termed as major minerals.

7.4.2 Regulatory framework

Management of mineral resources is the responsibility of both the Central and the State Governments¹. The Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) was enacted by the Central Government and the Mineral Concession (MC) Rules, 1960 was framed thereunder to govern prospecting, mining, assessment, levy and collection of royalty and other mining dues of major minerals. The Jharkhand Minor Minerals Concession (JMMC) Rules, 2004 were framed by the State Government to govern prospecting and mining of minor minerals and assessment, levy and collection of royalty and other mining dues. The recovery of outstanding mining dues in Jharkhand is governed by the Bihar and Orissa Public Demand Recovery (PDR) Act, 1914.

For optimal utilisation of mineral resources and sustainable development of the mineral sector, the National Mineral Policy, 2008 was framed by the Central Government. A Model State Mineral Policy, 2010 was circulated to all the State Governments requiring them to develop suitable mineral policies for their States within the ambit of the National Mineral Policy, keeping in view their local requirements. While states like Rajasthan and Madhya Pradesh have already formulated their own Mineral Policy, in Jharkhand the draft State Mineral Policy has been prepared and is pending approval of the Government (February 2013).

7.4.3 Organisational set-up

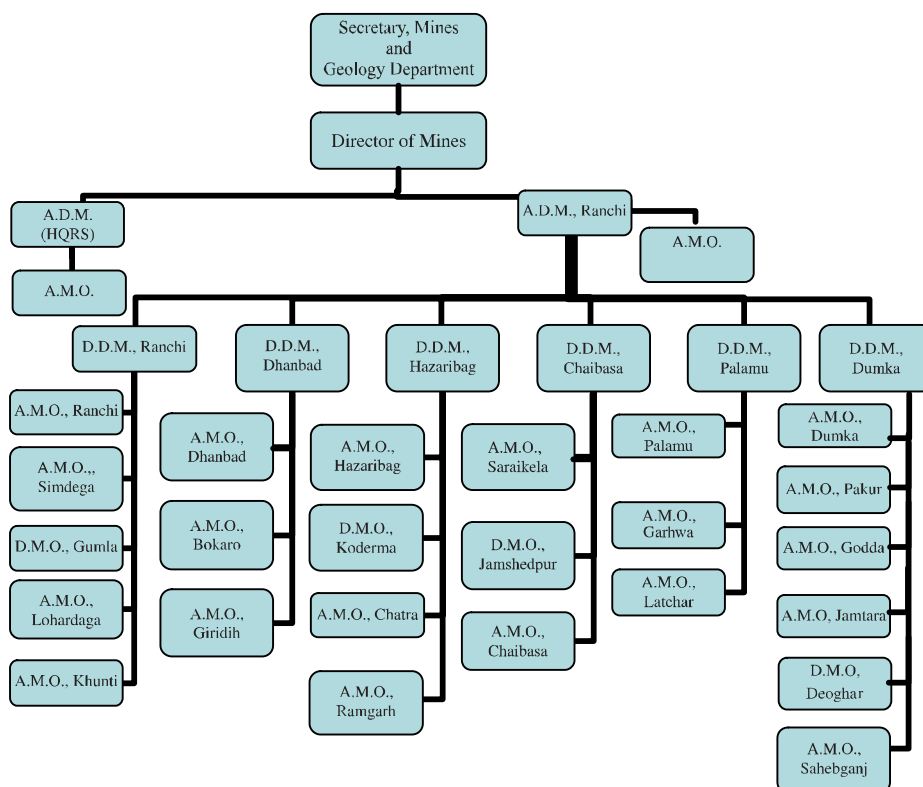
At the Government level, the Secretary, Mines and Geology Department and at the Department level, the Director of Mines is responsible for the administration of the Act and Rules. The Director of Mines is assisted by an Additional Director of Mines (ADM) and an Assistant Mining Officer (AMO) at the Headquarters' level. At the field level, he is assisted by an ADM who is in turn assisted by an AMO and six Deputy Director of Mines (DDM). The State is divided into six Circles², each under the charge of a DDM. The Circles

¹ Entry 54 of the Union List (List I) and entry 23 of the State List (List II) of the Seventh Schedule of the Constitution of India.

² Chaibasa, Dhanbad, Dumka, Hazaribag, Palamu and Ranchi.

are further divided into 24 District Mining Offices (Mining Offices)³, each under the charge of a District Mining Officer (DMO)/Assistant Mining Officer (AMO). The DMOs/AMOs are responsible for levy and collection of royalty and other mining dues. They are assisted by Mining Inspectors (MIs). DMOs and MIs are authorised to inspect the mining lease areas, review production and check dispatch of minerals.

The organisational set-up is depicted in the following chart:

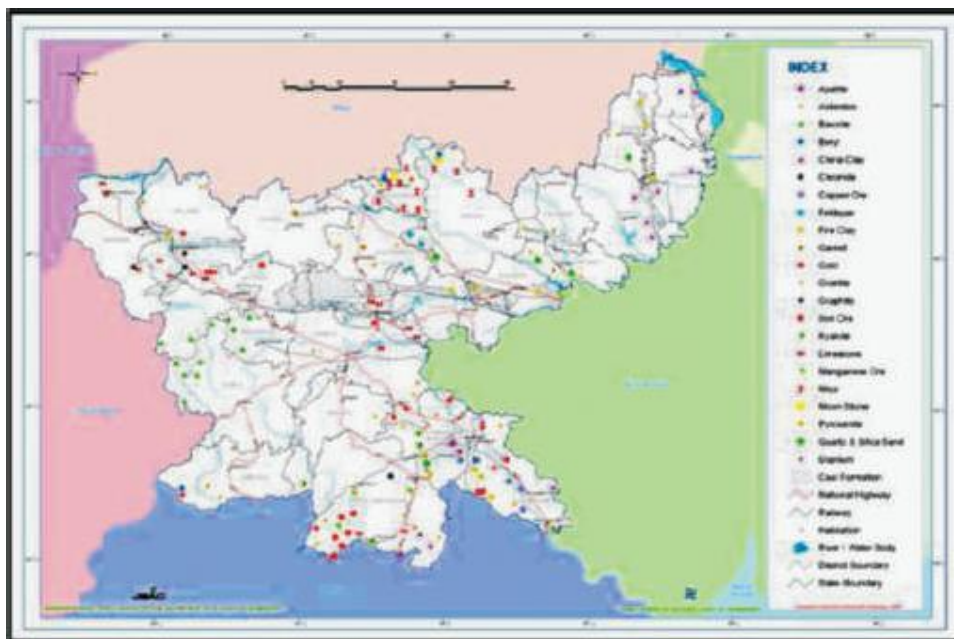


7.4.4 Why we chose the topic

Jharkhand is a leading producer of minerals in India with large deposits of iron ore, copper ore, coal, mica, bauxite, fire clay, graphite, kyanite, lime stone, uranium and other minerals. As per the mineral map of Jharkhand, published by the Directorate of Geology, Government of Jharkhand, the State is a store house of more than 30 types of minerals and is aptly called a “*Museum of Minerals*”. According to the ‘Profile of Directorate of Geology’ published by the Department of Mines and Geology, the State occupies the first position in coal, second position in iron and copper ore and seventh position in bauxite in the country with reserves of 7.39 lakh million tonne, 4,035.74 million tonne, 226.08 million tonne and 117.54 million tonne respectively.

³ Bokaro, Chaibasa, Chatra, Deogarh, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Khunti, Koderma, Latehar, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi, Sahebganj, Saraikela – Kharsawan and Simdega.

The mining receipts of ₹ 2,662.79 crore, raised during 2011-12, constituted 26.65 and 87.64 *per cent* of total revenue (₹ 9,992.11 crore) and non-tax revenue (₹ 3,038.22 crore) respectively.



Source: Directorate of Geology, Government of Jharkhand.

From the above facts, it can be seen that this sector plays a vital role in the national and state economy.

A Performance Audit on “Levy and collection of Mining receipts” was featured in paragraph 7.2 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ending 31 March 2007, to which no compliance has been received from the Department (February 2013). However, two sub-paragraphs (7.2.11.1 and 7.2.11.2) of this Performance Audit were discussed by the Public Accounts Committee in February 2012.

7.4.5 Audit objectives

The Performance Audit was conducted to ascertain whether:

- the provisions of laws, rules and departmental instructions were adequate and enforced properly to safeguard the revenue of the State;
- mining leases or quarry licenses were issued/renewed timely;
- action taken in cases of default or illegal extraction of minerals was effective;
- appropriate steps were taken for detection of fake and defective transit challans; and
- the internal control mechanism in the Department was adequate and effective to check the leakage of revenue.

7.4.6 Audit criteria

The audit criteria for the Performance Audit have been derived from the following sources:

- Mines and Minerals (Development and Regulation) Act, 1957;
- Mineral Concession Rules, 1960;
- Jharkhand Minor Mineral Concession Rules, 2004;
- Jharkhand Mineral Transit Challan Regulation (JMTCR), 2005;
- Bihar and Orissa Public Demand Recovery Act, 1914; and
- Executive and departmental orders issued from time to time.

7.4.7 Audit scope and methodology

The Performance Audit on “Working of Mines and Geology Department in respect of Mining Receipts” was conducted between August 2011 and May 2012. For the Performance Audit records of 12 Mining Offices⁴ out of 24 Mining Offices, three out of six offices of the DDM⁵ and Directorate of Mines pertaining to the period 2006-07 to 2010-11 were test checked. Ten Mining Offices were selected through stratified random sampling without replacement while two Mining Offices (Dhanbad and Ramgarh) were selected on the basis of their high revenue yield. Besides, we also collected data/information from Central Coalfields Limited (CCL), Ranchi, Bharat Coking Coal Limited (BCCL), Dhanbad, Commercial Taxes Department, Jharkhand, Indian Bureau of Mines (IBM) etc. and cross-verified the data with the records maintained in the respective Mining Offices.

7.4.8 Constraints faced by Audit

Efficient and proper record management is a pre-condition for smooth administration of an office/Department. It was found that documentation and up-keep of records was poor in the mining offices/Department, which was a major constraint we faced in obtaining information/data during the course of the Performance Audit. As a result, we could not analyse and make observations in some of the cases. Poor upkeep of records in the Mining Offices are depicted in the following photographs:

⁴ Bokaro, Chaibasa, Dhanbad, Godda, Gumla, Jamtara, Lohardaga, Pakur, Ramgarh, Ranchi, Sahibganj and Saraikela-Kharsawan.

⁵ Dhanbad, Hazaribag, and Ranchi.



District Mining Office, Godda



District Mining Office, Dhanbad

After we pointed this out, the Government attributed (September 2012) poor upkeep of records to limited human resources and lack of infrastructure.

7.4.9 Acknowledgement

We acknowledge the co-operation of the Mines and Geology Department in providing necessary records to Audit. We held an entry conference on 26 August 2011 with the Additional Chief Secretary of the Department, in which the audit objectives, scope and methodology were discussed. The exit conference was held on 24 August 2012 with the Additional Chief Secretary in which the findings of the Performance Audit were discussed. The views of the Government have been incorporated in the Report.

7.4.10 Revenue contribution of mining sector

Receipts under the Major Head 0853 – Non-ferrous Mining and Metallurgical Industries mainly consist of royalty. Other receipts under this head include surface rent, dead rent, application fee, license fee, permit fee, prospecting charges, penalties and interest for delayed/belated payment of dues *etc.*

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

7.4.10.1 Actual receipts under the Major Head -0853 Non-ferrous Mining and Metallurgical Industries (NMMI) against the revised estimates (REs) during the period 2006-07 to 2011-12 along with the total non-tax revenue and total receipts during the same period is exhibited in the following table:

(₹ in crore)

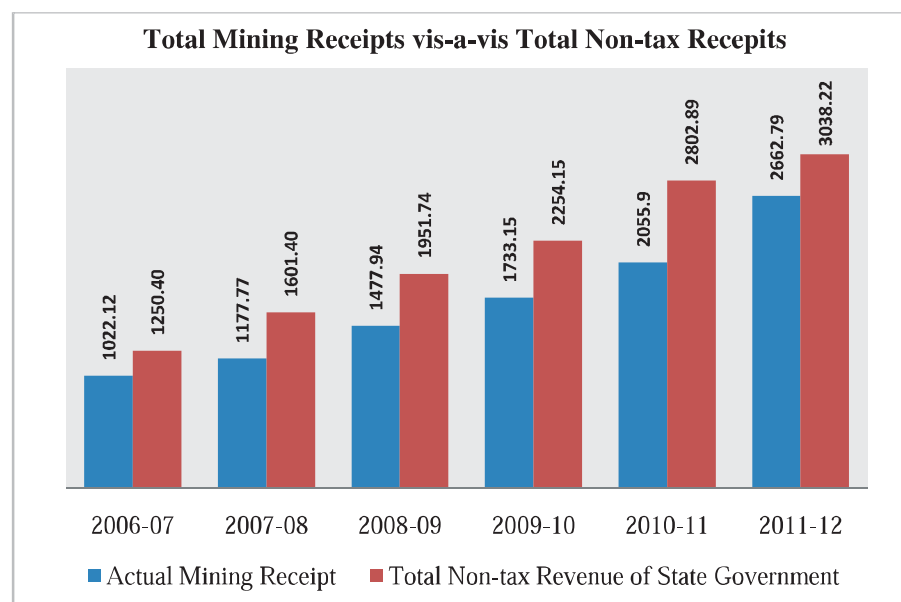
Year	Revised Estimates	Actual Receipts from NMMI	Total Non-tax revenue	Total revenue of the State	Percentage of Variation (col. 2 to 3)	Percentage contribution by mining sector to total revenue of the State (col. 3 to 5)	Percentage contribution by mining sector to Non-tax revenue of the State (col. 3 to 4)
1	2	3	4	5	6	7	8
2006-07	1,200.00	1,022.12	1,250.40	4,438.90	(-) 15	23.03	81.74
2007-08	1,362.00	1,177.77	1,601.40	5,074.95	(-) 14	23.21	73.55
2008-09	1,740.00	1,477.94	1,951.74	5,704.95	(-) 15	25.91	75.72
2009-10	2,126.47	1,733.15	2,254.15	6,754.27	(-) 18.50	25.66	76.89
2010-11	2,086.76	2,055.90	2,802.89	8,519.52	(-) 1.48	24.13	73.35
2011-12	2,759.75	2,662.79	3,038.22	9,992.11	(-) 3.51	26.65	87.64

Source: Finance Accounts, Government of Jharkhand and the revised estimates as per the Statement of Revenue and Receipts of Government of Jharkhand for 2012-13.

The above table indicated that there was shortfall in actual receipts as compared to the REs during 2006-07 to 2011-12. The variations ranged between (-) 18.50 and (-) 1.48 *per cent*.

After we pointed this out, the Government stated in the exit conference (August 2012) that the BEs were prepared by the Finance Department independently and communicated to the Mines and Geology Department.

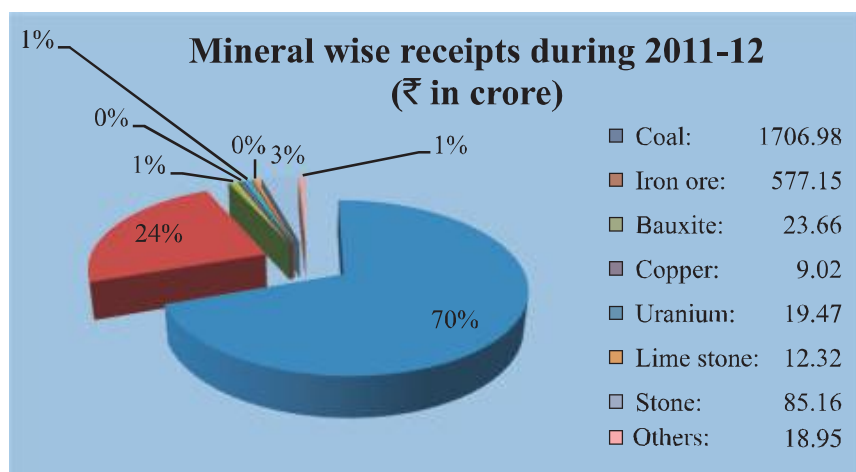
7.4.10.2 Actual receipts⁶ under the Major Head -0853 Non-ferrous Mining and Metallurgical Industries during the period from 2006-07 to 2011-12 along with the total non-tax receipts during the same period is exhibited in the following bar diagram:



7.4.10.3 The mineral wise receipt against the total mining receipts of ₹ 2,452.71 crore⁷ during 2011-12, as furnished by the Department, is shown in the chart below:

⁶ Figures as per Finance Accounts.

⁷ Total mining receipts does not include application fees, receipts from Works Department and arrears.



Source: Department of Mines and Geology

From the above chart it is evident that the Government earns the lion's share of mining receipts from coal and iron ore i.e. 70 and 24 *per cent* respectively, whereas more than 28 other minerals contribute only six *per cent*, although the State occupies the second and the seventh position in the country in terms of reserves⁸ of copper ore (226.08 million tonne) and bauxite (117.54 million tonne) respectively.

Audit findings

The Performance Audit indicated a number of deficiencies which are discussed in the subsequent paragraphs.

7.4.11 Arrears pending collection

Under the MMDR Act and the MC Rules read with the JMMC Rules, royalty, dead rent and other mining dues are required to be paid within the prescribed period. In case of default, recovery is to be made as arrears of land revenue and must be certified for recovery as such in the seventh month from the date of default.

7.4.11.1 Details of certified arrears were called for from three offices of the DDM-cum-CO. According to the information furnished, the position of certified arrears as on 31 March 2011 is given in the following table:

(₹ in crore)			
Sl. No.	Circle	No. of cases	Amount of pending dues
1	Dhanbad	2,265	259.22
2	Hazaribag	1,474	166.21
3	Ranchi	2,659	32.61
Total		6,398	458.04

⁸ Source: Profile of Directorate of Mines and Geology.

Age-wise analysis of the certified arrears was as under:

Period	No. of cases	(₹ in crore)
		Amount
Above 20 years	3,266	15.13
15 to 20 years	1,417	19.28
10 to 15 years	784	50.23
5 to 10 years	403	64.21
Below five years	528	309.19
Total	6,398	458.04

After we pointed this out the Government stated (September 2012) that insufficient manpower and poor infrastructure was the main cause for non-disposal of cases.

7.4.11.2 Non-institution of certificate proceedings

As per notification issued in July 1986 by the Department of Mines and Geology, Government of Bihar, as applicable in Jharkhand, in case of non-payment of mining dues by the lessees, certificate proceedings are required to be instituted after six months of the first notice of demand.

We noticed from the demand files for the year 2010-11 in three Mining Offices⁹ that in 18 out of 55 cases, demands for mining dues of ₹ 65.59 lakh were raised between June 2007 and April 2011 but were not paid (April 2012). Scrutiny of the relevant records

revealed that out of these 18 leases, 14 leases had either expired or were terminated. Even after a lapse of 12 to 58 months, the DMOs did not institute certificate cases for realisation of the dues.

The Government accepted (September 2012) our observation and stated that limited human resources and lack of infrastructure was the main cause for non-institution of certificate proceedings.

7.4.11.3 Certified arrears

Under the provisions of the PDR Act, a notice is essential to confer jurisdiction on the Certificate Officer (CO) for executing the certificate. Further, as per Board of Revenue's instructions under the PDR Act, 1914, the Requiring Officer (RO) and CO are jointly responsible for the punctual disposal of certificate cases and are bound to bring to each other's notice and if necessary to the Collector for undue delay in executing the certificate.

- In the office of the DDM, Ranchi test check of Register-X¹⁰ revealed that notices for recovery of mining dues of ₹ 2.13 crore, pertaining to 25 debtors, were not served after institution of certificate cases between December 2006 and August 2010. As such, the proceedings to recover the dues of ₹ 2.13 crore could not be started.

⁹ Godda, Pakur and Saraikela-Kharsawan.

¹⁰ Register - X is a register of certificate in which details of dues certified to be recovered as arrears of land revenue are recorded. This register is maintained by Certificate Officer.

The Government accepted (September 2012) our observations and stated that limited human resources and lack of infrastructure was the main cause for non-initiation of proceedings.

- We noticed in two DDMs, Hazaribag and Ranchi that 128 certificate cases involving mining dues of ₹ 72.27 lakh were pending for the period between 2006-07 and 2011-12. In the above cases Distress Warrants¹¹ (DW) were issued and sent to the Police Department (PD). The responsibility for execution of DWs lies mainly with the PD. There was nothing on record to show whether the DWs were executed or not. Due to lack of co-ordination between the two Departments, revenue of ₹ 72.27 lakh remained unrealised.
- We noticed from Register X in the office of the DDM, Dhanbad that 28 cases involving dues of ₹ 7.11 crore was outstanding from 1972-73 to 2008-09 for want of comments from the RO. Of these, ₹ 10.56 lakh pertained to the period 2008-09. In violation of the instructions of the Board of Revenue, the CO neither reminded the RO for furnishing the replies nor brought the fact of undue delay on the part of the RO to the notice of the Collector.

7.4.12 Human resource management

We noticed from the statement of sanctioned strength and men-in-position furnished by the 12 test checked Mining Offices that there was acute shortage of MIs and other ancillary staff in the Mining Offices as can be seen in the following table:

(Position as on 31 March 2011)			
Post	Sanctioned Strength	Men in position	Shortage in per cent
District Mining Officer	14	14	0
Mining Inspector	29	13	55
Clerk	48	27	44
Others ¹²	72	46	36

Source: Information furnished by the selected Mining Offices.

As Mining Inspectors are primarily responsible for inspections and field visits, shortage in this rank may have an adverse effect in preventing illegal mining and consequent loss of Government revenue.

We further noticed from the 12 test checked Mining Offices, that in 10 Mining offices, except Mining Office, Gumla and Saraikela-Kharsawan, the MIs were officiating as DMOs. Though MI is a non-gazetted post, they were drawing pay and allowances directly from the respective treasuries. This was in violation of the Bihar Treasury Code Vol.-I which stipulates direct drawal from the treasury by gazetted officers only.

The Government accepted (September 2012) our observation and stated that the matter had been sent to the State Government for policy decision.

¹¹ Letter authorised for recovery of the dues recoverable from defaulters by attachment and auction of the property.

¹² Others include Stenographer, driver, orderly, night guard, etc.

7.4.13 Internal control mechanism

Every department is required to institute an internal control mechanism for its efficient and cost effective functioning by ensuring proper enforcement of laws, rules and departmental instructions. The internal controls also help in creation of reliable financial and management information system for prompt and efficient decision making and adequate safeguard against non/short collection or evasion of revenue. The internal controls instituted should also be reviewed and updated from time to time to maintain their effectiveness. Internal control includes internal audit, inspection by higher authorities and maintenance of prescribed registers.

7.4.13.1 Internal audit

Internal audit is generally defined as control of all controls as it is a means for an organisation to assure itself that the prescribed systems were functioning reasonably well.

As informed by the Department of Mines and Geology, the Department has no internal audit wing of its own. However, the Finance Department (FD) acts as an internal auditor. The internal audit parties are required to conduct cent *per cent* audit of all returns submitted, demand notices issued, accounting of royalty collection, upto date verification of deposit of amount with the treasury records and their credit to the Consolidated Fund of the State.

We called for the information from all 12 test checked Mining Offices regarding audit conducted by FD during 2006-07 to 2010-11 which revealed that as of March 2012, FD had conducted audit for 27 out of 60 financial years in 10 Mining Offices¹³ for different periods between 2006-07 and 2010-11. The details are given below:

Sl. No	Name of Office	Period due for audit by the Finance Deptt.	No. of Years	Period audited by the Finance Deptt.	No. of years audited	No. of years for which audit was not conducted by the Finance Deptt. (col. 4-col. 6)
1	2	3	4	5	6	7
1	DMO, Pakur	2006-07 to 2010-11	5	2008-09 to 2009-10	2	3
2	DMO, Bokaro	2006-07 to 2010-11	5	2006-07 to 2010-11	5	0
3	DMO, Dhanbad	2006-07 to 2010-11	5	2006-07 to 2010-11	5	0
4	DMO, Ramgarh	2006-07 to 2010-11	5	NIL	0	5
5	DMO, Saraikela-Kharsanwa	2006-07 to 2010-11	5	2008-09 to 2010-11	3	2
6	DMO, Gumla	2006-07 to 2010-11	5	NIL	0	5
7	DMO, Lohardaga	2006-07 to 2010-11	5	2008-09 to 2009-10	2	3
8	DMO, Chaibasa	2006-07 to 2010-11	5	2008-09 to 2009-10	2	3

¹³ Bokaro, Chaibasa, Dhanbad, Godda, Jamtara, Lohardaga, Pakur, Ranchi, Sahibganj and Saraikela-Kharsawan.

Sl. No	Name of Office	Period due for audit by the Finance Deptt.	No. of Years	Period audited by the Finance Deptt.	No. of years audited	No. of years for which audit was not conducted by the Finance Deptt. (col. 4-col. 6)
1	2	3	4	5	6	7
9	DMO, Ranchi	2006-07 to 2010-11	5	2008-09 to 2009-10	2	3
10	DMO, Sahibganj	2006-07 to 2010-11	5	2008-09 to 2009-10	2	3
11	DMO, Godda	2006-07 to 2010-11	5	2008-09 to 2009-10	2	3
12	DMO, Jamtara	2006-07 to 2010-11	5	2008-09 to 2009-10	2	3
Total			60		27	33

Reports on results of audit conducted were received in two Mining Offices¹⁴ only for the period 2008-10.

Inadequate number of internal audit inspections resulted in the Department remaining unaware of the areas of malfunctioning in the system and therefore, not being able to take remedial action.

We recommend that the Government may consider establishing an Internal Audit wing separately for the Mines and Geology Department.

7.4.13.2 Non-maintenance of important registers

Records like Raising and Dispatch (RD) Register to depict production and dispatch of minerals by each lessee and Demand, Collection and Balance (DCB) Register for watching raising and collection of demand are required to be maintained as important internal controls to facilitate monitoring of returns and collection of mining revenues. Further, according to the Government instructions of July 1986, mining officers were required to compare every quarter the figures from the files of the lessees with the figures in the DCB register to ascertain their correctness.

We noticed that out of 12 test checked Mining Offices, in five Mining Offices¹⁵ important registers like RD register, DCB Register, Illegal Mining Register and Dealers' License Register were not being maintained¹⁶. Owing to non-maintenance of these registers in the Mining Offices, the DMOs were not able to ascertain the actual amount of royalty payable.

A similar audit observation had featured as Para No. 7.2.14.1 in the Performance Audit on "Levy and collection of mining receipts" in the Audit Report (Revenue Receipts) for the year ending 31 March 2007. Though the Government had accepted those cases and stated that steps were being taken for proper maintenance of the registers and their updation, we found that the same irregularity still persists.

¹⁴ Jamtara and Sahibganj.

¹⁵ Dhanbad, Godda, Jamtara, Lohardaga and Sahibganj.

¹⁶ Registers not maintained: Dhanbad- Raising & Dispatch Register, DCB Register, Illegal Mining Register and Dealer's License Register. Godda- DCB Register. Jamtara- Raising and Dispatch Register. Lohardaga- Illegal Mining Register. Sahibganj- Raising and Dispatch Register and DCB Register.

The Government accepted (September 2012) our observation and stated that due to limited human resources and lack of infrastructure the above registers could not be maintained.

7.4.13.3 Inadequate inspection by departmental officers

As per notification issued by the Mines and Geology Department, Government of Bihar in June 1970, as applicable in Jharkhand, the Director and Dy. Director of Mines were required to inspect the Mining Offices once in a year.

Inspection of the subordinate offices by the higher authorities is an important tool to ensure proper functioning of the offices. We however observed that only four out of 12 offices test-checked by us were inspected by higher authorities during the period 2006-11. The details of these inspections are given

in the following table. These limited inspections did not point out important issues such as non-maintenance of crucial registers.

Year	Name of the district	Date of Inspection	Inspecting authority	Outcome	Remarks
2006-07	Ranchi	28.07.06	Director of Mines	Inspection report was not found in the office.	----
2008-09	Sahibganj	12.12.08	DDM, Hazaribag	Inspection report was not found in the office.	----
	Jamtara	02.12.08	DDM, Chaibasa	The remarks 'satisfactory' were found recorded.	Though the inspection was stated to be satisfactory, we found that the RD register which is a vital document was not being maintained.
	Ranchi	27.11.08	DDM, Ranchi	Inspection report was not found in the office.	----
2009-10	Godda	01.12.09	DDM, Chaibasa	Inspection report was not found in the office.	----

Source: Information furnished by the selected Mining Offices.

The Government accepted (September 2012) our observation and stated that limited human resource and lack of infrastructure were the reasons for inadequate inspections.

7.4.14 Non- submission of monthly returns

Under the JMMC Rules, 2004, if a lessee or a permit holder fails to submit monthly returns up to the 15th day of the following month under Rule 41(3), the lessee or the permit holder is required to pay penalty of ₹ 20 per day per return, limited to ₹ 2500 for each return.

We test checked the Permit registers and related records in the selected Mining Offices and noticed that in Mining Offices, Gumla and Pakur, 16 permit holders had not submitted monthly returns for 65 months between the period 2008-09 and 2010-11. Penalty of ₹ 1.63 lakh

for non-submission of returns, though leviable, was not levied. In the absence of the monthly returns we could not ascertain the correctness of the quantity of

the extracted minerals. In such circumstances, possibility of extraction of minerals beyond the prescribed limit according to the terms and conditions of the permit could not be ruled out.

Further, in the Mining Office, Ranchi, a lessee did not submit monthly returns for 26 months for the period between December 2008 and January 2011. Though notice for payment of dues was issued in March 2011, demand for payment of penalty of ₹ 65,000 on account of non-submission of returns was not raised.

A similar audit observation had been raised as Para No. 7.2.9.5 in the Performance Audit on “Levy and collection of mining receipts” featuring in the Audit Report (Revenue Receipts) for the year ending 31 March 2007. Although the Government of Jharkhand accepted those cases, the same irregularity still persists.

The Government accepted (September 2012) our observation and stated that a demand for an amount of ₹ 2.28 lakh had been raised. Reply on recovery had not been received (February 2013).

7.4.15 Non-assessment of returns

Under the provisions of the JMMC Rules, 2004, in case of minor minerals, the assessing authority shall annually assess the royalty and pass a written assessment order for each and every lease after scrutiny of the lessee’s books and accounts showing raising and dispatch of mineral, consumption and storage, sale bills, attendance of labour and payments made to them etc. Further, the rules provide that in case of non-assessment or under assessment of royalty, the assessing authority shall not start the proceeding for assessment or re-assessment after expiry of five years from that period.

We noticed during test check of records of 12 Mining Offices¹⁷ that as of March 2011, assessments were not done for the period between 2004-05 and 2009-10, though 10,645 returns were due for assessment during that period. As a result, assessment of 3,484 returns pertaining to the period 2004-05 and 2005-06 became barred

by limitation of time. Non-finalisation of assessments was a violation of the provisions of the JMMC Rules and could result in non-realisation/loss of Government revenue.

The Government accepted (September 2012) our observation and stated that insufficient manpower and poor infrastructure was the main cause for non- assessment of records. However, explanations from the DMOs had been sought.

¹⁷ Bokaro, Chaibasa, Dhanbad, Godda, Gumla, Jamtara, Lohardaga, Pakur, Ramgarh, Ranchi, Sahibganj, and Saraikela-Kharsawan.

7.4.16 Management of mining leases

Under the provisions of the MC Rules, 1960, a register in Form 'L' shall be maintained by the State Government incorporating details of applications received for grant of mining leases and details of mining leases granted shall be maintained in Form 'M'.

We noticed in the Directorate of Mines that registers 'L'¹⁸, and 'M'¹⁹, were not being maintained. As such, the Directorate neither has details of leases granted to different lessees nor is there a system of

monitoring timely disposal of the lease applications. This resulted in pendency of renewal applications at the district level as mentioned in paragraph 7.4.16.4.

The Government accepted (September 2012) our observation and stated that these registers were not maintained due to limited human resources and lack of infrastructure. However, the Government assured to issue instructions to maintain these registers.

7.4.16.1 Processing of applications for mining leases

The MC Rules and the JMMC Rules prescribe the procedure for grant of lease for major and minor minerals respectively. In case of minor minerals, the lease application is required to be disposed of by Deputy Commissioner (DC) within 120 days from the date of receipt of the application. For major minerals, the lease application is to be disposed of within 12 months on receipt of the application at the Department/Government level. Further, the MC Rules stipulate that the available area for grant of mining lease should be notified in the official Gazette specifying a date from which such area shall be available for grant of lease.

We noticed that the Lease Application Registers were well maintained in the Mining Offices. The details of applications received in the Mining Offices for grant of lease of major and minor minerals and their disposal are shown in the following table:

Year	Opening Balance	Applications received for mining lease	Total	Applications rejected	Applications disposed of	Closing Balance
Major Mineral						
2006-07	1,157	240	1,397	0	15	1,382
2007-08	1,382	509	1,891	0	0	1,891 ²⁰
2008-09	1,951	419	2,370	0	1	2,369
2009-10	2,369	146	2,515	2	2	2,511
2010-11	2,511	23	2,534	36	3	2,495
Total		1,337		38	21	

¹⁸ Form 'L': consists of date of application of mining lease, date on which application was received, name of applicant with full address etc.

¹⁹ Form 'M': consists of name of the lessee, No. and date of grant of lease, date of execution of mining lease, total area for which lease was granted, mineral for lease originally granted, period for which granted, date and period of renewal, date of assignment of transfer, date of expiry or relinquishment of lease etc.

²⁰ Differs by 60 applications. The closing balance during 2007-08 has been shown as 1891 applications whereas the opening balance of 2008-09 has been taken as 1951 applications.

Year	Opening Balance	Applications received for mining lease	Total	Applications rejected	Applications disposed of	Closing Balance
Minor Mineral						
2006-07	96	241	337	118	116	103
2007-08	103	301	404	122	118	164
2008-09	164	410	574	187	166	221
2009-10	221	482	703	217	197	289
2010-11	289	685	974	358	309	307
Total		2,119		1,002	906	

Source: Information furnished by selected Mining Offices.

The table shows that 4,769 (minor minerals: 2,215 and major minerals: 2,554) applications were due for disposal during the period 2006-11, out of which 1,908 (86.14 *per cent*) and 59 (2.31 *per cent*) applications of minor and major minerals were disposed of (either by way of granting the lease or rejecting the cases) respectively. The disposal of major mineral lease applications was unsatisfactory and needs close monitoring at the apex level as delay in processing of the lease applications may adversely affect the exploitation of minerals and development of mineral based industries, besides causing loss of revenue to the Government.

The Government accepted (September 2012) our observation and stated that limited human resources and lack of infrastructure was the main cause for poor disposal of lease applications.

7.4.16.2 Recommendations made for grant of mining leases

Under Section 11 (3) of the MMDR Act, 1957 priority of selection on applications for grant of lease is required to be given on the basis of (i) special knowledge and experience, (ii) financial resources, (iii) nature and quality of technical staff employed or to be employed, (iv) proposal to invest and (v) such other matter which may be prescribed. Further, Section 11(5) of the Act provides that the State Government may, for any special reasons to be recorded, grant a mining lease to an applicant whose application was received later in preference to an applicant whose application was received earlier.

We were provided seven files at the Directorate Office out of 16 files requisitioned by us relating to recommendations made by the State Government to the Central Government for grant of lease of major minerals. During test check of the comparative statements prepared by a committee under the

Chairmanship of Secretary, Department of Mines and Geology on the basis of details furnished in the applications received for the mining leases, we observed the following discrepancies:

- We noticed from the comparative statement for awarding the grant of lease for mining of iron ore at Parambaljori, West Singhbhum (under DMO, Chaibasa) that 37 applications were received. M/s Anindita Trades & Investment Ltd., though not possessing the required technical/industrial experience and not furnishing details of actual turnover and Income Tax clearance, was recommended (December 2006) for award of the mining lease, while two firms (M/s Rungta Mines Ltd. and M/s Balaji Industrial Ltd.)

although fulfilling all the criteria were not recommended on the grounds that they were recommended for other areas. After approval (May 2007) of the Central Government the lease was granted (August 2010) to M/s Anindita Trades & Investment Ltd. by the State Government.

- We noticed from the comparative statement for awarding the lease for mining of iron and manganese ore at Kodolibad, West Singhbhum that 37 applications were received. M/s Electro Steel Casting Ltd., though not having special knowledge and experience of mining operations was recommended (January 2006) for the award, while a firm, M/s Rungta Mines Ltd., although fulfilling all the criteria prescribed in the MC Rules 1960, was not recommended for the same, on the grounds that it was being considered for award of lease in another area. The approval from the GOI had not been received (February 2013).

After we pointed this out, the Government stated (September 2012) that most of the eligible applicants were not recommended because they had already been recommended for other mining areas in accordance with the provisions of Section 5 (1) and Section 11 (5) of the MMDR Act, 1957. The reply is not in order as there are no such provisions either in Section 5 (1) or Section 11 (5) prohibiting recommendation of applications of lessees who had already been granted leases in other areas or were being considered for grant of other leases.

7.4.16.3 Recommendations made for allotment of coal blocks

We were provided only one file by the Directorate Office regarding allotment of six coal blocks²¹ in the year 2006-07 relating to the Power sector for which 210 applications were received from the Ministry of Coal, Government of India (GOI). During scrutiny of this file, we noticed that a sub-group comprising of Secretary, Department of Energy, Secretary, Department of Mines & Geology and Secretary, Department of Industry was constituted by the Government of Jharkhand to make recommendations on allotment of coal blocks in respect of the applications received from the GOI. When the recommendation of the sub-group was sent (June 2007) to the then Chief Minister (CM) of Jharkhand for his approval, he modified/alterd the names and made final recommendations to the GOI though no reason was assigned for such alteration/modification i.e. inclusion of five²² new companies not recommended by the sub-group and exclusion of three²³ companies recommended by the sub-group in respect of the six coal blocks as a whole. The details of recommendations made by the sub-group and by the then CM together with the details of companies who were finally allotted these coal blocks by the GOI are given in the following table:

²¹ Amarkunda-Murgadangal, Ashok Karkata, Ganeshpur, Mahuagarhi, Patal East and Seregarha.

²² Tata Steel Ltd.; Maithili Energy and Mining Pvt. Ltd.; Gupta Coal Fields & Washeries Ltd.; Essar Power Ltd. and Gagan Sponge Iron Pvt. Ltd.

²³ TVNL, Reliance Energy Ltd. and JSW Steel Ltd.

Sl. No.	Name of Coal Block	Name of companies recommended by the sub-group (with sharing pattern)*	Name of companies recommended by the then CM (with sharing pattern)*	Name of the companies who were allotted coal block by the GOI#
1	Ganeshpur	1. Mittal Steel India Ltd. (100%)	1. Tata Steel Ltd. (50%) 2. Adhunik Thermal Energy Ltd. (50%)	1. Tata Steel Ltd. 2. Adhunik Thermal Energy Ltd.
2	Mahuagarhi	1. CESC Ltd. (100%)	1. CESC Ltd. (70%) 2. Maithili Energy and Mining Pvt. Ltd. (30%)	1. CESC Ltd. 2. JAS Infrastructure.
3	Patal East	1. TVNL (50%) 2. Adhunik Thermal Energy Ltd. (50%)	1. JSEB (50%) 2. Bhushan Power & Steel Ltd. (50%)	1. Bhushan Power & Steel Ltd.
4	Ashok Karkata	1. Bhushan Power & Steel Ltd. (100%)	1. Gupta Coal Fields & Washeries Ltd. (70%) 2. Essar Power Ltd. (30%)	1. Essar Power Ltd.
5	Seregarha	1. JSEB (51%) 2. Reliance Energy Ltd. (49%)	1. Mittal Steel India Ltd. (100%)	1. Arcelor Mittal India Ltd. 2. GVK Powers
6	Amarkunda-Murgadangal	1. Lanco Infratech Ltd. (40%) 2. JSW Steel Ltd. (30%) 3. JSPL (30%)	1. Lanco Infratech Ltd. (40%) 2. JSPL (30%) 3. Gagan Sponge Iron Pvt. Ltd. (30%)	1. JSPL 2. Gagan Sponge Iron Pvt. Ltd.

* The percentage figures in brackets indicate the share of the concerned Company in the coal block.

Percentage shares of the companies in the coal block were not stated in the allocation order.

The matter was reported to the Government (September 2012). We have not received their reply (February 2013).

7.4.16.4 Non-renewal of mining leases

Under the MC Rules, 1960, an application for the renewal of a mining lease shall be made to the State Government in 'Form J' at least 12 months before its expiry, through such officer or authority as the State Government may specify on this behalf. Further, if an application for renewal of mining lease is made within the scheduled time but is not disposed of before the date of expiry of the lease, the period of that lease shall be deemed to have been extended till renewal is granted. Government in an executive order (October 2010) directed that the applications pending for renewal may be sent to the headquarters office within 15 days specifying the deficiencies in the applications.

We scrutinised the register of applications for renewal in the selected Mining Offices which revealed that in three Mining Offices²⁴, 58 out of 139 applications for renewal of major mineral leases were withheld at the district level till 31 March 2011 due to reasons such as lack of forest clearance, non-submission of required documents by the applicants etc. The

pendency ranged between two and 14 years. In 21 cases the lessees were continuing the extraction of mineral, submitting returns and paying royalty. Non-forwarding of applications to the State Government for want of

²⁴ Chaibasa, Godda and Gumla.

documents even after issue of directions of October 2010 was an undue favour to the lessees as the mines are being run without necessary clearances.

The Government accepted (September 2012) our observation and stated that renewal of leases was delayed due to limited human resources and lack of infrastructure. However, this is an important work and priority should have been accorded to this area as there is a risk of mining operations being undertaken in violation of statutory requirements coupled with the possibility of evasion of royalty.

7.4.16.5 Non-working of mining leases

Under the MC Rules, 1960, where the mining operations are not commenced within a period of one year from the date of execution of the lease deed or are discontinued for a continuous period of one year after commencement of such operation and in absence of any request from the lessee, the State Government shall, by an order, declare the mining lease as lapsed and communicate the decision to the lessee.

We scrutinised the Raising and Dispatch Registers of the Mining Offices, Chaibasa and Saraikela-Kharsawan and noticed that mining operations were discontinued in 20 leases²⁵ between the period 2002-03 and 2008-09. The reasons for

discontinuance were not on record but the leases were not declared as lapsed. Had these leases been granted to others, they would have fetched revenue according to the potential of the mines. Besides, discontinuance of mining prevents socio-economic growth of the region, mineral development and employment generation. Although the Raising and Dispatch registers were maintained in both the mining offices and the DMOs were aware of the discontinuance of operations, no steps to declare the leases as lapsed were taken.

The Government accepted (September 2012) our observation and stated that all mining officers have been directed to declare all closed mining leases as lapsed.

7.4.16.6 Non/short levy of dead rent

Under the provisions of the MMDR Act, 1957, the holder of a mining lease, whether granted before or after the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972, shall notwithstanding anything contained in the instrument of lease or in any other law for the time being in force, pay to the State Government, every year, dead rent at such rate, as may be specified, for the time being, in the Third Schedule, for all the areas included in the instrument of lease.

We noticed from scrutiny of the Demand, Collection and Balance (DBC) register that in four mining offices²⁶ in case of 20 leases covering an area of 1,960.811 hectares, the lessees were liable to pay dead rent of ₹ 39.43 lakh between April 2008 and March 2011.

²⁵ China clay (4), Kyanite (1) and Lime stone (12) and Sand stone (3).

²⁶ Godda, Jamtara, Lohardaga and Saraikela-Kharsawan.

However, a demand of ₹ 2.35 lakh was raised by the Department against five lessees only. The absence of periodical checking of the DCB register by the DMOs resulted in non/short levy of dead rent of ₹ 37.08 lakh²⁷.

A similar audit observation had been raised as Para No. 7.2.17 in the Performance Audit on “Levy and collection of mining receipts” featured in the Audit Report (Revenue Receipts) for the year ending 31 March 2007 and the Government had accepted those cases, but the same irregularity still persists.

The Government accepted (September 2012) our observation and stated that a demand for ₹ 37.01 lakh had been raised. Report on recovery had not been received (February 2013).

7.4.17 Royalty assessment and collection

Royalty, being the amount payable to the State Government on account of any extraction/removal or consumption of ores or minerals from any land, is a major source of revenue of the Department of Mines and Geology. The DMOs are required to assess the amount of dead rent and royalty payable by the lessees from the monthly returns submitted to the Mining Department.

During the course of the Performance Audit we came across several instances of non/short levy of royalty due to non-adherence to the provisions of the Act and Rules which have been discussed in the succeeding paragraphs.

7.4.17.1 Short levy of royalty due to application of incorrect rate

Under the provisions of the MMDR Act, 1957, the holder of a mining lease is required to pay royalty on removal or consumption of the mineral from the lease area at the rate for the time being specified in the Second Schedule in respect of that mineral. Further, the Central Government prescribed a formula for determination of rate of royalty of different categories of coal.

- We noticed from scrutiny of the monthly returns furnished by the lessees in four Mining Offices²⁸ that lessees of 42 leases²⁹ dispatched 76.89 lakh metric tonne of different minerals during 2009-11, on which royalty of ₹ 103.03 crore was levied instead of ₹ 116.56 crore leviable resulting in short

levy of royalty of ₹ 13.53 crore as detailed in the following table:

(₹ in lakh)						
Sl. No.	Name of the office Number of leases	Name of the mineral Period	Quantity (in lakh MT)	Royalty leviable Royalty levied	Short levied	Remarks
1.	Bokaro 10	Coal 2009-11	1.84	316.74 288.80	27.94	Rate of royalty was not calculated on the notified price of Coal India Limited.
		Coal 2009-11	45.02	6,599.66 6,424.71	174.95	Incorrect exemption of royalty on the quantity dispatched to units other than power houses.

²⁷ Calculated at the rate of ₹ 400 per hectare upto August 2009 and ₹ 1,000 per hectare from September 2009 onwards.

²⁸ Bokaro, Dhanbad, Ramgarh and Ranchi .

²⁹ Coal (38) and Limestone (4).

(₹ in lakh)

Sl. No.	Name of the office Number of leases	Name of the mineral Period	Quantity (in lakh MT)	Royalty leviable Royalty levied	Short levied	Remarks
2	Dhanbad 16	Coal 2009-11	23.13	3,569.27 2,538.87	1,030.40	Rate of royalty was not calculated on the notified price of Coal India Limited.
3	Ramgarh 11	Coal 2010-11	4.09	822.05 741.83	80.22	Rate of royalty was not calculated on the notified price of Coal India Limited.
		Lime-stone 2010-11	0.25	17.85 15.61	2.24	Royalty was not calculated on the basis of the rate prescribed in the Second Schedule.
4	Ranchi 5	Coal 2010-11	2.56	330.63 293.33	37.30	Rate of royalty was not calculated on the notified price of Coal India Limited.
Total	42		76.89	11,656.20 10,303.15	1,353.05	

Thus application of incorrect rates of royalty resulted in short levy of royalty of ₹ 13.53 crore.

Similar audit observations had been made in Para 7.2.9.3 in the Performance Audit on “Levy and collection of mining receipts” featured in the Audit Report (Revenue Receipts) for the year ending 31 March 2007 and the Government accepted those cases, but the same irregularity still persists.

The Government accepted (September 2012) our observations and stated that a demand of ₹ 13.53 crore had been raised out of which ₹ 15.95 lakh had been realised by the DMO, Bokaro. Further report on recovery had not been received (February 2013).

As per the Second Schedule of the MMDR Act, 1957, the rate of royalty for bauxite is based on the London Metal Exchange aluminium metal price chargeable on the aluminium metal contained in the ore produced for use in alumina and aluminium metal extraction.

- We noticed during scrutiny of the monthly returns furnished by the lessees in Mining Offices, Gumla and Lohardaga that lessees of 20 leases of bauxite dispatched 42.37 lakh tonnes during 2007-11, on which royalty of ₹ 42.07 crore was levied instead of ₹ 48.97 crore resulting in short levy of royalty ₹ 6.90 crore due to

application of incorrect rate as detailed in the following table:

(₹ in lakh)

Sl. No.	Name of the office Number of leases	Name of the mineral Period	Quantity (in lakh MT)	Royalty leviable Royalty levied	Short levied	Remarks
1	Gumla 13	Bauxite 2007-08 to 2010-11	30.12	3,551.34 3,025.27	526.07	Royalty was not calculated on the basis of alumina content as per test report/mining plan.
		Bauxite 2007-08 to 2009-10	0.83	81.75 68.58	13.17	Royalty was not calculated as per the scheduled rate.
2	Lohardaga 7	Bauxite 2009-10 to 2010-11	11.42	1,263.55 1,112.72	150.83	Royalty was not calculated on the basis of alumina content as per mining plan.
Total	20		42.37	4,896.64 4,206.57	690.07	

The Government accepted (September 2012) our observations and stated that a demand of ₹ 6.90 crore had been raised. Report on recovery had not been received (February 2013).

The Government may consider prescribing a mechanism to determine alumina content in bauxite and recover royalty accordingly.

7.4.17.2 Short levy of royalty due to downgrading of coal

The MMDR Act provides for payment of royalty by a lessee on the quantity of mineral removed or consumed from the leased area at the rate prescribed according to the grade of coal. Under the provisions of the Colliery Control Rules 2004, the owner of a colliery shall declare its grade and pay royalty at the rate specified.

We noticed during scrutiny of monthly returns and demand files in Mining Offices, Bokaro and Dhanbad that in 2009-10 and 2010-11 two collieries, one of Central Coalfields Ltd. and another of Bharat Coking Coal Ltd., had paid royalty of ₹ 6.35 crore instead of ₹ 9.57 crore on

dispatch of 2.87 lakh metric tonne of coal by downgrading the grade as washery grade-IV and II from washery grade-III and direct feed coal³⁰ respectively as notified by Central Coalfields Ltd. and Coal India Ltd. Failure of the Department to verify the grades as claimed by the collieries in their returns with those notified by Central Coalfields Ltd. and Coal India Ltd. resulted in short levy of royalty of ₹ 3.22 crore.

A similar audit observation had been raised as Para No. 7.2.9.2 in the review on “Levy and collection of mining receipts” featured in the Audit Report (Revenue Receipts) for the year ending 31 March 2007. Although Government accepted the case, but the same irregularity still persists.

The Government accepted (September 2012) our observation and stated that a demand of ₹ 3.22 crore had been raised. Report on recovery had not been received (February 2013).

7.4.17.3 Excess adjustment of royalty

- We noticed from the monthly returns furnished by the lessees in Mining Office, Ramgarh that during 2009-10 to 2010-11, a colliery had shown receipt of 33,141.22 metric tonne and 12,100.84 metric tonne of coal up to September 2009 and November 2010 respectively from its sister colliery and paid royalty accordingly after adjusting the exemption on receipt of royalty paid coal. However, cross-verification with the records/monthly returns of the sister colliery revealed that it had actually transferred 15,643.96 and 7,442.30 metric tonne only to the above colliery during the corresponding period. Thus, the colliery had availed excess adjustment of royalty for 17,497.26 and 4,658.54 metric tonne of coal. Non-verification of the information available in the records of the Mining Office resulted in allowance of excess adjustment of royalty of ₹ 46.68 lakh³¹.

³⁰ In case of Direct Feed Coal, if ash content is less than the specified limit of ash, the coal attracts bonus price on the basis of one per cent of reduced ash and hence higher royalty is to be levied and *vice versa*. Loss of revenue was calculated on this basis.

³¹ 17,497.26 MT at the rate of ₹ 209 per MT and 4,658.54 MT at the rate of ₹ 217 per MT.

• We noticed from the monthly returns furnished by a colliery in the Mining Office, Dhanbad, that the lessee had shown dispatch of 1,445 metric tonne of washery grade-IV coal during February to March 2011 on which it was liable to pay royalty of ₹ 2.14 lakh. However, the amount of royalty was worked out as (-) ₹ 28.22 lakh which was adjusted against the royalty of ₹ 25.93 lakh worked out against other grades of coal. The reason for depiction of minus balance was not on record. We further noticed that the Raising and Dispatch and DCB Registers were not being maintained in the Mining Office. As such, the DMO was not in a position to ascertain the actual demand payable by the lessee. The incorrect adjustment of figures in the monthly return resulted in incorrect adjustment of royalty of ₹ 30.36 lakh (₹ 2.14 lakh + ₹ 28.22 lakh).

The Government accepted (September 2012) our observations and stated that a demand of ₹ 77.04 lakh had been raised. Report on recovery had not been received (February 2013).

7.4.17.4 Non-levy of royalty

Every brick-kiln owner has to obtain a permit for manufacture of bricks from the concerned DMO and consequently deposit the amount of royalty in advance as per the notified grade.

We noticed from the scrutiny of brick-kiln register together with other related records that in three Mining Offices³², 52 out of 235 brick kiln owners, during 2009-10 to 2010-11, did not pay the royalty either in advance or after manufacturing. However, no action was taken by the DMOs for realisation of royalty. This resulted in non-raising of demand of royalty of ₹ 21.83 lakh.

Similar audit observations had been raised as Para No. 7.2.11.3 in the review on “Levy and collection of mining receipts” featured in the Audit Report (Revenue Receipts) for the year ending 31 March 2007 and the Government accepted those cases, the same irregularity still persists.

The Government accepted (September 2012) our observation and stated that the demand of ₹ 21.83 lakh has been raised. Report on recovery had not been received (February 2013).

7.4.18 Evasion of royalty due to lack of inter-departmental cross-verification

The Government has not specified any system for cross-verification of the data/information of minerals raised and dispatched from the leasehold areas as furnished by the lessees in the returns with information available with Indian Bureau of Mines and other Departments/undertakings of the State/Union Governments with a view to check short payment or evasion of royalty. Our cross-verification of transactions depicted in the returns of some of the lessees with the records of other agencies/Departments revealed a number of discrepancies as discussed in the subsequent paragraphs.

³² Dhanbad, Gumla and Lohardaga.

7.4.18.1 Short levy of royalty due to suppression of dispatch

Under the provisions of Section 9 of the MMDR Act, 1957, the holder of a mining lease is required to pay royalty on removal or consumption of the mineral from the leased area at the rate for the time being specified in the Second Schedule in respect of that mineral.

We cross-verified the quantity of minerals dispatched by lessees as shown in the monthly returns filed in the Mining Offices with the returns filed with the offices of the Commercial Taxes Department, Government of Jharkhand and IBM, Kolkata and Ranchi

during the period 2006-11 which revealed short levy of royalty of ₹ 6.77 crore, as detailed in the following table:

Sl. No.	Name of office	No. of lessees	Year	Name of mineral	Dispatch shown in Mining return Dispatch/sale shown in other Dept./ Organisation's records (in lakh MT)	Qty. Suppressed (in lakh MT) Rate of royalty (₹ per MT)	Deptt./ Organisation with which cross verified	Short levy of royalty (in lakh ₹)
1	Chaibasa	2	2007-08 to 2009-10	Iron Ore	24.10 24.74	0.64 8.00	DCCT, Chaibasa	5.12
2	Saraikela-Kharsawan	1	2006-07	Pyroxenite	0.013 0.027	0.014 25.00	IBM, Kolkata and Ranchi	0.36
3	Chaibasa	12	2006-07 to 2009-10	Iron Ore	172.05 194.12	22.07 8.00		176.56
			2010-11		130.83 135.40	4.57 104.84 [§]		479.12
4	Gumla	1	2010-11	Bauxite	0.70 0.83	0.13 115.50 [§]	15.43	
Total		16						676.59

[§] Royalty of suppressed quantity of Iron ore and Bauxite for the year 2010-11 was calculated at average rate as quantity furnished by the IBM was annual and the rate of royalty was changed monthly on ad-valorem basis.

As per the monthly returns for the month of March 2011, submitted by 32 collieries of Bharat Coking Coal Limited, Dhanbad, four collieries of Central Coalfields Limited, Ranchi and three collieries of Central Coalfields Limited, Ramgarh, the closing stock of coal was shown as 138.48 lakh metric tonne. We cross-verified the closing stock by obtaining the Coal Measurement Report prepared by the Survey Department, Coal India Limited which revealed that the closing stock of the concerned collieries during the above period was only 66.77 lakh metric tonne. Thus, the lessees had suppressed dispatch of 71.71 lakh metric tonne of coal. This resulted in short levy of royalty of ₹ 110.61 crore³³.

We obtained the figures of sand used for stowing purposes from the General Manager, Contract Management Cell (CMC), BCCL, Dhanbad and cross-verified it with the amount of royalty paid in the Mining Office, Dhanbad. We noticed that a lessee (M/s BCCL) had paid royalty of ₹ 76.54 lakh for the quantity of sand transported for stowing purposes. Due to non-maintenance of Raising and Dispatch Register at the Mining Office and poor upkeep of records relating to monthly returns, the reported quantity of

³³ Based on the formula prescribed by the GOI on the rates notified by CIL from time to time.

dispatched sand could not be ascertained from the Mining Office. However, as per the information of CMC, BCCL, the quantity of transported sand for stowing purposes was 20.53 lakh cum for which the actual royalty payable worked to ₹ 98.53 lakh³⁴. Thus, the lessee had short deposited royalty of ₹ 21.99 lakh.

The Government accepted (September 2012) our observations and stated that demand for ₹ 110.99 crore had been raised by five Mining Offices except Mining Office, Chiabasa where instructions had been issued to raise the demand. Reply on recovery had not been received (February 2013).

Apart from the instances of evasion of Government revenue through suppression of dispatch of minerals and consequent short payment of royalty in this report, we have continuously highlighted these irregularities in the past also in the reports of the Comptroller and Auditor General of India. We also observed that in the absence of any penal provision in the Act/Rules, the lessees ended up paying royalty only.

We recommend that the Government may consider instituting a system for inter departmental cross verification of information/data with the returns of the lessees and inserting penal provisions in the Act/Rules to discourage suppression of minerals extracted.

7.4.19 Sectional measurement

According to the notification issued by Government of Bihar in July 1986, as applicable in Jharkhand, in order to verify the actual raising and dispatch of minerals with raising and dispatch furnished by the lessees, sectional measurement in at least 20 per cent cases is to be done by the field officers at the end of the year. The DMO should verify 10 per cent of that data in order to see the correctness of the measurements.

We noticed from the records relating to sectional measurements³⁵ that during 2007-11 only two (Chaibasa and Pakur) out of the test-checked 12 Mining Offices, had conducted sectional measurements. We further noticed that two lessees under these mining offices (Pakur: one and Chaibasa:

one) reflected dispatch of 3.77 lakh cum of stone in their monthly returns during 2001 to October 2008 and June 2007 to March 2011 respectively, whereas as per the sectional measurement conducted (October 2008 and August 2011) by the Mining Offices, the actual dispatch was 5.73 lakh cum. This resulted in suppression of dispatch by 1.96 lakh cum. Though the DMOs had calculated the differential quantity of dispatch, they had not raised the demand for royalty of ₹ 1.18 crore.

The Government accepted (September 2012) our observation and stated that instructions had been issued to other DMOs to conduct sectional measurements.

³⁴ Calculated at the rate of ₹ 4.80 per cum on the basis of payment made by BCCL.

³⁵ Sectional measurement is done by measuring the contours to assess the actual quantity of extraction.

7.4.20 Negative stock of coal

We noticed from the scrutiny of monthly returns in Mining Office, Dhanbad, that six collieries³⁶ under Bharat Coking Coal Ltd., were exhibiting negative stock in their returns. Exhibition of negative stock is incorrect as either the stock should be nil or positive. The DMO did not take any action to check this out, instead the returns were accepted by him.

The Government accepted (September 2012) our observation and stated that instructions had been issued to the concerned DMO for taking appropriate action.

7.4.21 Compliance to environmental norms

The National Mineral Policy, 2008 recognises the close linkage between mining and forest and environment issues. It emphasises upon development of a framework for sustainable development taking care of bio-diversity issues and to ensure that mining activity takes place along with suitable measures for restoration of ecological balance.

By a letter issued in January 2005, Ministry of Environment and Forest, Government of India accorded environment clearance to Panchwara (Central) captive opencast coal mining project of M/s Panem Coal Mines Ltd. for annual production of upto 70 lakh metric tonnes (MT) of coal.

fixed by the Ministry of Environment and Forest, though the production was within the prescribed limits during 2006-07 to 2008-09.

Under the provision of the Water (Prevention and Control of Pollution) Act, 1974 read with the Air (Prevention and Control of Pollution) Act, 1981, an industrial unit has to obtain No Objection Certificate from the State Pollution Control Board before installation of any industry and has to obtain consent every year for operation of the industry.

of Pollution) Act, 1981. Thus, the respective DMOs did not enforce the provisions of the Acts. This indicated an indifferent attitude towards meeting environmental norms.

7.4.21.1 We noticed from the Raising and Dispatch Register in Mining Office, Pakur that the coal company had produced 82.03 lakh and 83.08 lakh MT of coal during 2009-10 and 2010-11 respectively in contravention of the limit

7.4.21.2 We further noticed that in four Mining Offices³⁷, six lessees and 23 Form Q holders³⁸ were operating without obtaining 'NOC' from the State Pollution Control Board in violation of Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control

³⁶ Akashkinari, Block IV, Dharmabandh, Maheshpur, South Govindpur and Teturia.

³⁷ Bokaro, Dhanbad, Godda and Sahibganj.

³⁸ Every such person who deals in minor mineral outside leasehold area/permit area, shall have to obtain a license in Form 'Q' from the competent officer.

7.4.22 Unauthorised extraction

The MMDR Act and the JMMC Rules provide that no person shall undertake mining operations in any area unless he possesses a valid mining lease or permit. In case of unauthorised excavation/illegal mining, the State Government shall recover from such person the minerals so raised or when such mineral has already been disposed of, the price thereof along with the royalty. The MIs and DMOs are responsible for prevention and detection of cases of illegal mining. During the course of the Performance Audit we came across several instances of illegal mining and consequent evasion of Government revenue which are discussed in the subsequent paragraphs.

7.4.22.1 Non/ short levy of price of mineral as penalty

We scrutinised the records relating to illegal mining, royalty clearance, permit register etc. in selected Mining Offices, which revealed the following:

Under the provisions of the JMMC Rules 2004, works contractors are required to purchase minor minerals only from the authorised lessees/permit holders and authorised dealers. It further provides for submission of affidavits in form 'O' and particulars in form 'P' by the works contractors to the Works Department indicating therein details of sources of purchase of minerals, price paid and quantity procured along with the bills. The Works Department, in turn, is required to forward the copies of form 'O' and 'P' to the Mining Department for verification of the details of minerals procured and consumed. In case of non-compliance, the person/firm shall be presumed to be a party to the illegal extraction and the price of the mineral shall be recovered from him under Rule 54(8) of the JMMC Rules mentioned above.

- In Mining Offices, Ramgarh and Ranchi, 2.33 lakh cum of minor minerals³⁹ were procured/consumed by three works contractors in 2010-11, for which royalty of ₹ 37.53 lakh was deposited by them directly in the mining offices. We observed that the affidavits in forms 'O' and 'P' were not available in the records of the mining offices. In the absence of the forms, the entire quantity of the mineral was liable to be treated as illegally extracted and the price of the mineral of ₹ 76.44 lakh was required to be recovered

from the contractors. Omission to do so resulted in short levy of the price of mineral of ₹ 38.91 lakh.

³⁹ Sand-0.74 lakh cum and Earth (including Morrum)-1.59 lakh cum.

Under the provisions of the JMMC Rules 2004, any person who does not have a valid mining lease/permit, if he or any agent, manager or contractor on behalf of him extracts minor minerals the person shall be presumed to be a party to the illegal extraction and the price of mineral shall be recovered from him.

Register and lease files that two lessees at Gumla procured 521.45 cum of stone and one permit holder each at Pakur and Gumla procured 550.82 cum of stone after expiry of the period lease/permit. Thus, all these minerals were liable to be treated as having been illegally extracted for which the price of mineral of ₹ 46.18 lakh was recoverable. However, the mining offices levied a sum of ₹ 7.06 lakh only. This resulted in short levy of the price of mineral of ₹ 39.12 lakh.

- We noticed from the scrutiny of the brick kiln register together with records relating to brick kilns in six Mining Offices⁴¹ that during 2008-09 to 2010-11, 290 brick kilns owners manufactured 19.92 crore bricks. However, no records relating to procurement of royalty paid coal was either furnished by the owners or requisitioned by the DMOs. As per the Inspection Report furnished by the Mining Inspector, Ramgarh, 18.33 metric tonne of coal was required to manufacture one lakh bricks. As such, 36,513 metric tonne of coal would have been consumed in manufacturing of 19.92 crore bricks. This resulted in non-levy of penalty in the form of price of coal which worked out to ₹ 1.72 crore⁴².

The Government accepted (September 2012) our observations and stated that demand of ₹ 2.50 crore had been raised. Reply on recovery had not been received (February 2013).

7.4.23 Mechanism to curb transportation of illegally mined minerals

Under the provisions of the MMDR Act, the State Government may by notification in the Gazette make rules for preventing illegal mining, transportation, storage of minerals, etc. The JMMC Rules also provide that transportation of minerals without a valid transit challan (TC) is irregular. The mining office is also required to maintain a control register for watching issue and utilisation of TCs. Further, DMOs were to ensure that the unutilised challans issued earlier were surrendered before closure or termination of the lease/permit. In course of the Performance Audit we came across cases where the provisions of the Act/Rules were not followed, as discussed in the subsequent paragraphs.

⁴⁰ Gumla, Ranchi and Pakur.

⁴¹ Bokaro, Chaibasa, Dhanbad, Jamtara, Lohardaga and Sahibganj.

⁴² Calculation is based on the basis of CIL's price of the coal taking into consideration the lowest grade coal (G grade) produced in BCCL area.

7.4.23.1 Poor upkeep of DMO's copies of TCs

According to the instructions issued in January 2006 by the Government of Jharkhand, transit challans (TCs) were made applicable for the transportation of all minerals except those transported through ropeway with effect from 1 January 2006. TCs are issued in quadruplicate – (i) Counterfoil, (ii) DMO's copy, (iii) Check post copy and (iv) Transporter's copy. New TCs were to be issued only after submission of the copies of the used/consumed TCs and depositing dues, if any. Further, the DMO's copies of TCs were required to be cross-verified with the original ones submitted with the returns by the lessees.

We noticed that in 10 Mining offices⁴³ out of 12 test checked Offices, reconciliation of challans issued to and submitted (utilised) by the lessees was not being done. This was fraught with the risk of transportation of illegally mined minerals through unauthorised TCs.

We also noticed that the upkeep of the DMO's copies of TCs in the

mining offices was very poor. The TCs submitted by the lessees were not kept in an organised manner to enable them to be easily traced out, which indicated weak controls over watching the proper utilisation of TCs. For instance, in Mining Office, Pakur, the office was unable to furnish the check-post copies of the TCs requisitioned by Audit.

The poor condition of maintenance of counterfoils of TCs is evident from the following photographs:



District Mining Office, Dhanbad



District Mining Office, Pakur



District Mining Office, Sahibganj



District Mining Office, Godda

7.4.23.2 According to the terms and conditions mentioned in the tender notification, the printing press for printing the TCs must be approved by the Government of India/Reserve Bank of India. The printed TCs are issued to the mining offices on requisition from the Directorate. In this connection we observed the following deficiencies:

⁴³ Bokaro, Dhanbad, Godda, Gumla, Jamtara, Lohardaga, Pakur, Ramgarh, Sahibganj and Saraikela-Kharsawan.

- Mining office-wise ledger for issue of TCs was not found maintained in the Directorate.
- Scrutiny of stock register in the Directorate revealed that the closing balance of TCs as on 31 March 2007 was 1,15,000 only and no TCs were received during 2007-08, but 9,64,500 TCs were shown disbursed during the year without mentioning the serial numbers of the TCs. Thus, excess disbursement of 8,49,500 TCs was indicative of improper maintenance of stock register which required investigation.
- One lakh TCs bearing distinctive numbers 5800001 to 5900000 received from the press were rejected. However, evidence of destruction of the TCs was not on record. The forms either rejected or found short⁴⁴ by the field offices were not widely advertised in order to prevent their misutilisation.
- There were several instances where the supplies were less than what was requisitioned by the field offices. In such circumstances, due to short supply of TCs, chances of illegal transportation of minerals could not be ruled out.

The Government accepted (September 2012) our observation and stated that limited human resources and lack of infrastructure was main cause for above irregularities.

7.4.23.3 Lack of control in receipt and issue of TCs

We noticed from the Issue Register of TCs together with the concerned records that in all the 12 test checked Mining Offices, except Mining Office, Chaibasa, the offices had not conducted physical verification of the DMO's copy of the TCs utilised with the TCs issued earlier. The lessee-wise ledger to monitor utilisation of TCs issued earlier was not being maintained. As such the offices were not in a position to ascertain whether all the TCs issued earlier had been utilised properly. This resulted in the following irregularities which we detected in course of our test check:

Sl. No	Name of office	Nature of observation
1	Bokaro	Utilisation of TCs against the dispatch of coal was not being submitted by coal companies. TCs were issued to brick-kiln owners for transportation of bricks, though brick is not a mineral. Further, TCs were issued without obtaining the utilisation certificates of the TCs issued earlier.
2	Dhanbad	Utilisation of TCs against the dispatch of coal was not being submitted by coal companies. 100 nos. of TCs were issued to a lessee having outstanding dues of ₹ 1.16 lakh.
3	Jamtara	TCs bearing numbers 3799676, 3799699, 8899929, 8620314, 4236190 and 4236189 were used without mentioning the registration numbers of the vehicles.
4	Pakur	TCs were not surrendered by two lessees even after the leases were either terminated or surrendered. 3,400 TCs were issued to three lessees, even though monthly returns were not submitted by them (between December 2009 and March 2011).
5	Ramgarh	8,500 nos. of TCs were issued to eight lessees having outstanding dues of ₹ 30.80 lakh.

⁴⁴ DMO, Palamu: 6038101 to 6038200 (100) and 5912401 to 5912500 (100).
DMO, Bokaro: 1896701 to 1896800 and 1026901 to 1027000.

Sl. No	Name of office	Nature of observation
6	Saraikele-Kharsawan	Two dealers transported 46,615.60 metric tonne of iron ore using TCs, though no TCs were issued to them. The DMO however failed to levy penalty of ₹ 2.33 ⁴⁵ crore as price of the mineral.

The Government accepted (September 2012) our observation and stated that instructions had been issued to all DMOs to maintain lessee-wise Transporting Challan Registers and to send monthly statement of utilised TCs to the Headquarters.

- We cross-verified 746 TCs obtained from five mining offices⁴⁶ pertaining to the period 2010-11 with the database of the respective District Transport Offices and found that in case of 21 TCs utilised by 12 lessees, the vehicles in which the minerals were transported were two wheelers and light motor vehicles (Chevrolet Tavera). Since transportation of minerals by two wheelers and on light motor vehicles is not practically feasible, the possibility of misutilisation of these challans cannot be ruled out.

7.4.23.4 Inadequacy of check posts and weighbridges

Under the provisions of the MMDR Act, the State Governments may establish check posts and weighbridges for checking of minerals in transit and maintain registers and forms.

Scrutiny of the records of the test checked 12 Mining Offices revealed that there were no Government check-posts in nine Mining Offices⁴⁷ and no weighbridges in any of the districts. While lack of check-posts may have resulted in minerals being transported without proper checks in terms of quality and quantity, absence of weighbridges also enhanced the possibility of leakage of revenue as the mining authorities had to rely on the quantity as filled up by the lessees in the TCs.

The infrastructure in the check post in Mining Office, Pakur was inadequate as the check post was functioning in a temporary hut as evident from the photographs given below:



Photographs showing check post in Pakur

⁴⁵ Taking price of the mineral at the rate of ₹ 500 per MT.

⁴⁶ Bokaro, Chaibasa, Dhanbad, Jamtara and Pakur.

⁴⁷ Bokaro, Dhanbad, Godda, Gumla, Jamtara, Lohardaga, Ramgarh, Ranchi and Saraikele-Kharsawan.

We cross-verified the check-post copies of the TCs with the copies submitted by the lessees for the month of June 2010 in the Mining Office, Pakur which revealed the following irregularities:

Sl. No.	Name of lessee	Mauja	Area (in Acre)	Qty. as per check post register (in cum)	Qty. as per return (in cum)	Suppressed qty. (in cum)	Short levy of royalty (@ ₹ 25 per cum)	Remarks
1	Maheshwar Sah	Barhabad	1.25	4,698.39	0	4,698.39	1,17,460	Quantity shown dispatched on 385 nos. of TCs as per Check post register
2	Amirul Shekh	Ram-nagar	1.75	3,695.84	0	3,695.84	92,396	Quantity shown dispatched on 232 nos. of TCs as per Check post register
3	Jakir Hussain	Gokulpur	6	659.87	518.27	141.6	3,540	Quantity shown in monthly return was less than in check post register
4	Rajendra Pd. Bhagat	Suraidih	7.4	1,574.62	1,427.36	147.26	3,682	Quantity shown in monthly return was less than in check post register.
5	Lakhanlal Kishku	Sitagarh	0.7	1,850.75	458.79	1,850.75	46,269	Quantity shown dispatched on 118 nos. of TCs (between TC no. 0992561 and 0992700) as per Check post register which was not accounted for in the monthly return.

The Government accepted (September 2012) our observation and stated that work was in progress for implementation of e-governance and IT management system which includes establishment of check-posts and weighbridges as done by the Government of Odisha.

7.4.24 Conclusion

Mining receipts are the largest non-tax receipts and the second largest source of all receipts in the State. The Performance Audit on the Working of Mines and Geology Department in respect of mining receipts revealed a number of deficiencies in the levy and collection of mining receipts and persistent non-compliance of rules and regulations leading to leakage of revenue. The State Government does not have a mineral policy in place in line with the Model State Mineral Policy 2010, circulated by the Government of India. A majority of the applications for grant of lease for major minerals during the period 2006-11 were pending for disposal. No system exists for cross-verification of the information available with other departments/undertakings of the State Government and with the Indian Bureau of Mines to check evasion of royalty. The internal control framework was deficient in terms of inadequate internal audit, non maintenance of important registers, non submission/assessment of returns and inadequate inspections by departmental officers. Consequently, there was substantial leakage of revenue due to non/short levy of royalty, non-raising of demands, application of incorrect rates, non-realisation of dead

rent etc. Insufficient numbers of check posts, non-existence of weighbridges and lack of proper monitoring of the issue and utilisation of Transit Challans resulted in loss of revenue owing to illegal mining. There were vacancies in the key posts of Mining Inspectors.

7.4.25 Summary of recommendations

The Government may consider:

- framing a Mineral Policy in order to exploit minerals scientifically for the long-term economic development of the State;
- putting in place a system to watch timely disposal of lease applications/renewal applications and preparing its own database of mining leases so that appropriate action may be taken on non-working leases;
- establishing sufficient number of check posts and weighbridges besides online issue and monitoring of Transit Challans to prevent unauthorised extraction and their transportation;
- establishing a mechanism for co-ordination with Indian Bureau of Mines/other Departments and developing a system for inter-departmental cross-verification of information/data with the returns of the lessees; and
- filling up the vacancies in the mining offices to enable efficient administration of the Department.

Ranchi
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