

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

**FOR THE YEAR ENDED
31 MARCH 2006**

(REVENUE RECEIPTS)

Government of Bihar

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PREFACE

This report for the year ended 31 March 2006 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 taxes on sales, trade etc., State excise, taxes on vehicles, land revenue, other tax receipts, mineral concession, fees and royalties and other non tax receipts of the State.

The cases mentioned in this report are among those, which came to notice in the course of test audit of records during the year 2005-06 as well as those which came to notice in earlier years but could not be covered in previous reports.

SECRET

1. This document contains information which is classified "Secret" under the provisions of Executive Order 11652, dated August 14, 1950, and is intended for the use of the personnel of the Central Intelligence Agency and its field offices.

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3. This information is to be controlled and disseminated in accordance with the provisions of the Central Intelligence Agency Security Manual, and the Central Intelligence Agency Security Manual Supplement.

OVERVIEW

This report contains 38 paragraphs including two reviews relating to non/short levy of tax, interest etc. involving Rs 304.68 crore. Some of the major findings are mentioned below:

I. General

Total receipts of the Government of Bihar for the year 2005-06 were Rs 17,836.71 crore. The revenue raised by the State Government amounted to Rs 4,083.40 crore comprising tax revenue of Rs 3,561.10 crore and non tax revenue of Rs 522.30 crore. The receipts from the Government of India were Rs 13,753.31 crore (States' share of divisible Union taxes: Rs 10,420.59 crore and grants in aid: Rs 3,332.72 crore). Thus, the State Government could raise only 23 per cent of total revenue. Taxes on sales, trade etc. (Rs 1,733.60 crore) and interest receipts (Rs 216.07 crore) were the major source of tax and non tax revenue respectively during the year 2005-06.

(Paragraph 1.1.1, 1.1.2 and 1.1.3)

The percentage of cost of collection for taxes on sales trade etc., state excise and stamps and registration fee during the year 2005-06 was notably higher than the all India average percentage.

(Paragraph 1.3)

Test check of the records of commercial taxes, State excise, taxes on vehicles, land revenue, non ferrous mining and metallurgical industries and other departmental offices conducted during the year 2005-06 revealed under assessment/short levy/loss of revenue of Rs 781.66 crore in 3,833 cases. During the year 2005-06, the concerned departments accepted under assessments etc. of Rs 14.56 crore involved in 180 cases out of which 69 cases involving Rs 2.24 crore were pointed out in audit during 2005-06 and rest in earlier years. The concerned departments also reported recovery of Rs 1.25 crore.

(Paragraph 1.10)

The number of inspection reports and paragraphs issued upto December 2005 but not settled by August 2006 stood at 2,823 and 15,324 respectively involving Rs 2,628.21 crore. For 1,973 inspection reports, even first replies have not been received though these were required to be furnished within one month of their receipt.

(Paragraph 1.12)

II. Taxes on sales, trade etc.

Suppression of turnover by 24 dealers of various commodities registered in 14 circles resulted in short levy of tax of Rs 4.37 crore including penalty.

(Paragraph 2.2)

In five commercial taxes circles, allowance of excess deduction on account of export sales resulted in short levy of tax amounting to Rs 1.18 crore including additional tax, surcharge and penalty.

(Paragraph 2.3)

In three commercial taxes circles, the assessing authorities failed to levy minimum penalty of Rs 2.20 crore on suppression of turnover of Rs 21.09 crore.

(Paragraph 2.7)

In 11 commercial taxes circles, allowance of exemption/concessional rate on account of inter State sales of Rs 25.96 crore resulted in under assessment of tax amounting to Rs 1.68 crore including additional tax and surcharge.

(Paragraph 2.10.2)

III. State excise

In 20 excise offices, 180 CS shops, 130 SCS shops and 65 IMFL shops remained unsettled or inoperative departmentally during 2003-04 and 2004-05. This resulted in loss of excise duty and licence fee of Rs 24.46 crore.

(Paragraph 3.2)

IV. Taxes on motor vehicles

In 29 district transport offices, tax dues of Rs 30 crore pertaining to 1,262 transport vehicles for the period April 2003 to December 2005 were neither paid by the vehicle owners nor demanded by the tax authorities concerned.

(Paragraph 4.2.1)

The department did not realise tax of Rs. 1.31 crore for 125 vehicles from the vehicle owners who failed to secure exemption from payment of tax on surrendered vehicles.

(Paragraph 4.3.1)

V. Other tax receipts

A review on "Levy and collection of land revenues" revealed the following:

- Arrears of Rs 113.76 crore was pending for collection as of March 2006.

(Paragraph 5.2.8)

- Non fixation of commercial rent for conversion of agricultural land for commercial purposes by tenants resulted in non realisation of revenue of Rs 4.37 crore.

(Paragraph 5.2.9)

- *Khas mahal* leases were sold/transferred without permission of competent authority. Besides, leases were occupied without payment of rent. This resulted in non levy of revenue of Rs 140.51 crore.

(Paragraph 5.2.11)

- Public land, encroached by persons, was neither got vacated nor settled which resulted in non realisation of Rs 60 lakh in shape of *salami* and rent.

(Paragraph 5.2.14)

- Non settlement of 15,750 acres of *Bhoodan* land with eligible persons resulted in revenue of Rs 12.49 lakh foregone in shape of rent and cess.

(Paragraph 5.2.16)

In eight commercial taxes circles, eight dealers imported scheduled goods worth Rs 66.60 crore during 2001-02 to 2003-04 on which entry tax of Rs 3.09 crore could not be levied due to non registration of the dealers/ non filing of returns under BTEG Act.

(Paragraph 5.3)

Suppression of import value by four dealers of scheduled goods registered in three commercial taxes circles during 2001-02 to 2003-04 resulted in short levy of entry tax of Rs 1.34 crore including minimum penalty.

(Paragraph 5.4)

Interest amounting to Rs 47.81 lakh was not levied on seven sugar factories pertaining to crushing seasons 2002-03 to 2004-05.

(Paragraph 5.7)

VI. Non tax receipts

A review on "Police Receipts" revealed the following:

- Demand of GRP of Rs 9.62 crore pertaining to the years 1979-80 to November 2000 was raised with delay ranging from 4 to 25 years.

(Paragraph 6.2.8.1)

- Irregular adjustment of police receipt of Rs 35.94 crore towards departmental account.

(Paragraph 6.2.8.2)

- Leave salary and pension contribution of Rs 79.44 lakh was not realised from railways.

(Paragraph 6.2.8.3)

- Expenditure of Rs 11.09 crore representing Railway share of GRP cost was irregular.

(Paragraph 6.2.8.4)

- Demand for Rs 1.37 crore being cost of staff of establishment of IG and DIG was not raised.

(Paragraph 6.2.9)

- Demand of Rs 5.35 crore for police forces supplied to commercial institutions and individuals were not raised.

(Paragraph 6.2.10.1 & 6.2.10.2)

In eight districts mining offices, 739 brick kilns were operated in brick season 2003-04 and 2004-05 without payment of prescribed consolidated royalty and without obtaining valid permit. The competent authorities failed to levy penalty of Rs 4.47 crore.

(Paragraph 6.3)

In two divisions, *khatiani* for 2.86 lakh acres of *kharif*, 0.61 lakh acres of *rabi* and 0.14 lakh acres of hot weather crops land irrigated during the years 2000-01 to 2004-05 were not prepared and forwarded to the concerned revenue divisions for raising demand and collection of water rates for Rs 3 crore.

(Paragraph 6.5)

Cross verification of facts and figures in respect of four sub divisions of weights and measures unit revealed that revenue of Rs 2.69 lakh collected by inspectors concerned had not either accounted for in the cash book or accounted for in the cash book but not deposited into treasury. Rs18,859 was however deposited in one sub division, after being pointed out by audit.

(Paragraph 6.8.1)

Demand for Rs 1.87 crore on account of logging, transportation and plantation of trees was not raised by Forest Department. Besides, crediting of Rs 1 crore as revenue receipts instead of keeping it in the form of fixed deposit led to loss of interest of Rs 12.83 lakh.

(Paragraph 6.9.1 & 6.9.2)

CHAPTER I: GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non tax revenue raised by Government of Bihar during the year 2005-06, the States' share of divisible Union taxes and grants in aid received from the Government of India during the year and the corresponding figures for the preceding four years are given below:

(Rupees in crore)

Sl. No.	Particulars	2001-02	2002-03	2003-04	2004-05	2005-06
	Revenue raised by the State Government					
I.	• Tax revenue	2,318.95	2,761.05	2,889.69	3,347.39	3,561.10
	• Non tax revenue	286.70	260.82	320.38	417.79	522.30
	Total	2,605.65	3,021.87	3,210.07	3,765.18	4,083.40
	Receipts from the Government of India					
II.	• States' share of divisible Union taxes	6,176.62	6,549.23	7,627.87	9,117.13	10,420.59
	• Grants in aid	1,057.02	1,397.32	1,617.62	2,831.83	3,332.72
	Total	7,233.64	7,946.55	9,245.49	11,948.96	13,753.31
III.	Total receipts of the State Government¹ (I&II)	9,839.29	10,968.42	12,455.56	15,714.14	17,836.71
IV.	Percentage of I to III	26	28	26	24	23

The above table indicates that during the year 2005-06, the State Government could raise only 23 per cent of the total revenue receipts of Rs 17,836.71 crore and 77 per cent of receipts were from the Government of India. The contribution of revenue raised by the State Government to the total revenue receipts has decreased continuously during the period from 2003-04 to 2005-06.

1.1.2 The details of tax revenue raised during the year 2005-06 alongwith the figures for the preceding four years are given below:

(Rupees in crore)

Sl. No.	Head of revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage of increase (+) / decrease (-) in 2005-06 over 2004-05
1	Taxes on sales, trade etc.	1,412.96	1,647.62	1,637.23	1,890.54	1,733.60	(-) 8.30
2	State excise	238.90	241.95	240.01	272.47	318.59	(+)16.93
3	Stamp duty and registration fees	304.44	348.21	417.56	429.14	505.29	(+)17.74
4	Taxes and duties on electricity	14.08	14.30	17.62	9.54	18.06	(+) 89.31

¹ For details, please see Statement No.11 - Detailed accounts of revenue by minor heads in the Finance Accounts of Government for the year 2005-06. 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", "0037-customs", "0038-union excise duties", "0044-service tax" 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 "revenue raised by the State" and included in "State's share of divisible union taxes" in this statement.

(Rupees in crore)

Sl. No.	Head of revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage of increase (+) / decrease (-) in 2005-06 over 2004-05
5	Taxes on vehicles	141.54	177.98	209.50	212.78	302.44	(+) 42.14
6	Taxes on goods and passengers-tax on entry of goods into local areas	153.32	262.91	305.83	472.88	613.38	(+) 29.71
7	Other taxes and duties on commodities and services	19.62	27.98	28.14	26.65	14.72	(-) 44.77
8	Land revenue	34.08	36.15	33.80	33.39	55.02	(+) 64.78
9	Taxes on agricultural income	0.01	---	---	---	
10	Other taxes on income and expenditure, taxes on professions, trades, callings and employments	---	3.95	---	---	
	Total	2,318.95	2,761.05	2,889.69	3,347.39	3,561.10	(+) 6.38

Reasons for variation in receipts during 2005-06 as compared to 2004-05 as intimated by concerned department was as under:

Taxes and duties on electricity: The increase (89.31 per cent) was due to collection of arrears from the State Electricity Board.

The reasons for increase/shortfall, though called for from other departments, have not been received (October 2006).

1.1.3 The details of non tax revenue raised during the year 2005-06 alongwith the figures for the preceding four years are given below:

(Rupees in crore)

Sl. No.	Head of Revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage of increase (+) / decrease (-) in 2005-06 over 2004-05
1	Interest receipts	11.75	53.01	23.08	75.06	216.07	(+) 187.86
2	Forestry and wild life	17.07	10.04	6.29	7.16	8.89	(+) 24.16
3	Non ferrous mining and metallurgical industries	39.20	61.20	73.34	80.09	100.90	(+) 25.98
4	Miscellaneous general services (including lottery receipts)	13.95	0.60	0.15	9.07	11.77	(+) 29.77
5	Major and medium irrigation	15.58	15.43	26.22	20.82	10.82	(-) 48.03

(Rupees in crore)

Sl. No.	Head of Revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage of increase (+) / decrease (-) in 2005-06 over 2004-05
6	Medical and public health	16.50	13.92	11.97	12.66	15.10	(+) 19.27
7	Fisheries	4.36	4.38	5.07	5.15	5.69	(+) 10.49
8	Roads and bridges	4.05	10.42	10.63	8.43	12.05	(+) 42.94
9	Police	3.98	22.71	16.86	13.72	6.00	(-) 56.27
10	Other administrative services	22.43	15.19	80.72	107.95	34.21	(-) 68.32
11	Other non tax receipt	137.83	53.92	66.05	77.64	100.80	(+) 29.83
	Total	286.70	260.82	320.38	417.79	522.30	(+) 25.01

The reasons for significant variations in receipts from that of previous year, though called for in May 2006 from the departments concerned, have not been received (October 2006).

1.2. Variation between budget estimates and actuals

The variation between budget estimates (BEs) of revenue receipts for the year 2005-06 and the actual receipts under the principal heads of revenue are given below:

(Rupees in crore)

Sl. No.	Revenue head	BEs	Revised estimates	Actual receipts	Variations increase (+) shortfall (-)	Percentage
• Tax revenue						
1	Taxes on sales, trade etc.	2,356.31	2,356.31	1,733.60	(-) 622.71	(-) 26.43
2	State excise	335.00	335.00	318.59	(-) 16.41	(-) 4.90
3	Stamp duty and registration fees	600.00	550.00	505.29	(-) 94.71	(-) 15.79
4	Taxes on vehicles	310.00	310.00	302.44	(-) 7.56	(-) 2.44
5	Taxes and duties on electricity	16.30	16.30	18.06	(+) 1.76	(+) 10.80
6	Land revenue	35.00	35.00	55.02	(+) 20.02	(+) 57.20
7	Other taxes and duties on commodities and services	18.70	18.70	14.72	(-) 3.98	(-) 21.28
8	Taxes on goods and passengers -Tax on entry of goods into local areas	312.00	312.00	613.38	(+) 301.38	(+) 96.60
• Non tax revenue						
1	Non ferrous mining and metallurgical industries	81.00	81.00	100.90	(+) 19.90	(+) 24.57
2	Forestry and wild life	15.00	7.50	8.89	(-) 6.11	(-) 40.73
3	Interest receipts	57.61	57.61	216.07	(+) 158.46	(+) 275.06
4	Water rates (major and medium irrigation)	1.50	1.50	10.82	(+) 9.32	(+) 621.33

The reasons for variations between BEs and actual receipt as reported by the concerned departments was as under:

Taxes on sales, trade etc.: The shortfall (26.43 per cent) was due to introduction of VAT and consequent reduction of rates of taxes on various commodities.

Stamp duty and registration fees: The shortfall (15.79 per cent) was due to preparation of budget estimates at an enhanced level to achieve higher collection.

Taxes on goods and passengers-Taxes on entry of goods into local areas: The increase (96.60 per cent) was due to import of scheduled goods by Power Grid Corporation and Telecom companies and hike of crude oil prices.

The reasons for variation though called for from other departments; have not been received (October 2006).

1.3 Cost of collection

The gross collection of major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2003-04 to 2005-06 alongwith the relevant all India average percentage of expenditure on collection to gross collections for 2004-05 are given below:

(Rupees in crore)						
Sl. No.	Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 2004-05
1	Taxes on sales, trade etc.	2003-04	1,637.23	21.46	1.31	0.95
		2004-05	1,890.54	21.46	1.14	
		2005-06	1,733.60	25.47	1.47	
2	State excise	2003-04	240.01	16.20	6.75	3.34
		2004-05	272.47	16.19	5.94	
		2005-06	318.59	14.78	4.64	
3	Stamp duty and registration fees	2003-04	417.56	22.52	5.39	3.44
		2004-05	429.14	22.02	5.13	
		2005-06	505.29	22.48	4.45	
4	Taxes on vehicles	2003-04	209.50	3.94	1.88	2.74
		2004-05	212.78	3.85	1.81	
		2005-06	302.44	5.09	1.68	

The above table indicates that the percentage of expenditure on collection for taxes on sales, trade etc., State excise and stamp duty and registration fees was more than all India average percentage.

1.4 Collection of sales tax per assessee

Year	No. of assessee	Sales tax revenue (Rupees in crore)	Revenue per assessee (Rupees in lakh)
2001-02	55,077	1,412.96	2.56
2002-03	58,495	1,647.62	2.81
2003-04	49,202	1,637.23	3.33
2004-05	75,582	1,890.54	2.50
2005-06	93,043	1,733.60	1.86

The above table reveals that revenue collection per assessee decreased from Rs 2.50 lakh in the year 2004-05 to Rs 1.86 lakh in 2005-06.

1.5 Analysis of collection

The breakup of total collection at pre assessment stage and after regular assessment of taxes on sales, trade etc. during the year 2005-06 and corresponding figures for preceding four years, as furnished by the Finance (Commercial Taxes) Department is given below:

(Rupees in crore)

Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Penalty for delay in payment of taxes and duties	Amount refunded	Net collection as per department	Net collection as per Finance Account	Percentage of column 3 to 8
1.	2.	3.	4.	5.	6.	7.	8.	9.
Taxes on sales, trade etc.	2001-02	1,387.17	7.94	-	-	1,395.06	1,412.96	98.17
	2002-03	1,584.73	111.43	0.82	3.16	1,693.82	1,647.62	96.18
	2003-04	1,542.98	91.72	1.01	4.17	1,630.53	1,637.23	94.24
	2004-05	1,809.59	78.79	1.37	9.18	1,879.20	1,890.54	95.72
	2005-06	1,664.13	69.92	0.89	17.36	1,716.70	1,733.60	95.99

1.6 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2006 under principal heads of revenue as reported by the departments was Rs 1,344.91 crore of which Rs 378.13 crore were outstanding for more than five years as detailed in the table below:

(Rupees in crore)

Sl. No.	Heads of revenue	Amount outstanding as on 31 March 2006	Arrears more than five years old as on 31 March 2006	Remarks
1	2	3	4	5
1.	Taxes on sales, trades etc.	848.25	351.59	Out of Rs 848.25 crore, demands for Rs 266.77 crore were certified for recovery as arrears of land revenue. Recovery of Rs 263.51 crore and Rs 5.77 crore were stayed by court and Government respectively. Recovery of Rs 8.96 crore was held up due to rectification/review of applications. Specific action taken for the remaining arrears of Rs 303.24 crore, though called for in May and August 2006, has not been intimated (October 2006).
2.	Taxes on vehicles	152.09 ²	NA	Out of Rs 152.09 crore, demand for Rs 100.24 crore was certified for recovery as arrears of land revenue. Specific action taken for the remaining arrears of Rs 51.85 crore, though called for in May and July 2006, has not been intimated (October 2006)

² The amount of arrears does not include figures in respect of district transport offices, Araria, Bhagalpur, Chapra, Darbhanga, Gopalganj, Kaimur, Kishanganj, Lakhisarai, Madhubani, Nawada, Patna, Samastipur, Sheikhpura, Sheohar and Supaul.

(Rupees in crore)

Sl. No.	Heads of revenue	Amount outstanding as on 31 March 2006	Arrears more than five years old as on 31 March 2006	Remarks
3.	Land revenue	113.76	NA	Stages at which the arrears were pending for collection though called for in May 2006, has not been intimated (October 2006).
4.	State excise	21.79 ³	8.21	Out of Rs 21.79 crore, demands for Rs 10.45 crore were certified for recovery as arrears of land revenue. Recovery of Rs 0.94 crore and Rs 0.04 crore were stayed by court and Government respectively. Recovery of Rs 0.16 crore was held up due to rectification/review of applications. Rs 0.32 crore was likely to be written off. Specific action taken for the remaining arrears of Rs 9.88 crore, though called for in May and July 2006, has not been intimated (October 2006).
5.	Tax and duties on electricity	44.08	11.92	Out of Rs 44.08 crore, demands for Rs 0.20 crore were certified for recovery as arrears of land revenue. Specific action taken for the remaining arrears of Rs 43.88 crore, though called for in May and August 2006, has not been intimated (October 2006).
6.	Entry tax	20.90	1.95	Out of Rs 20.90 crore, recovery amounting to Rs 16.81 crore was stayed by courts. Specific action taken for the remaining arrears of Rs 4.09 crore though called for in May and August 2006, has not been intimated (October 2006).
7.	Entertainment tax	2.78	1.87	Out of Rs 2.78 crore, demands for Rs 2.09 crore were certified for recovery as arrears of land revenue. Recovery of Rs 0.02 crore was stayed by courts. Specific action taken for remaining arrears of Rs 0.67 crore though called for in May and August 2006, has not been intimated (October 2006).
8.	Taxes on sugarcane	15.93	2.15	Out of Rs 15.93 crore, demands for Rs 4.57 crore were certified for recovery as arrears of land revenue. Recovery of Rs 0.47 crore and Rs 10.89 crore were stayed by court and Government respectively.
9.	Non-ferrous mining and metallurgical industries	124.81	NA	Out of Rs 124.81 crore, demands for Rs 106.36 crore were certified for recovery as arrears of land revenue. Specific action taken for the remaining arrears of Rs 18.45 crore, though called for in May and July 2006, has not been intimated (October 2006).

³ The amount of arrears does not include figures in respect of district excise offices, Araria, Begusarai, Kishanganj, Nalanda, Nawada, Saharsa and McDowell Distillery, Hathidah.

(Rupees in crore)

Sl. No.	Heads of revenue	Amount outstanding as on 31 March 2006	Arrears more than five years old as on 31 March 2006	Remarks
10.	Forest and environment	0.52 ⁴	0.44	Out of Rs 0.52 crore, demand for Rs 0.36 crore was certified for recovery as arrears of land revenue. Recovery of Rs 0.57 lakh and Rs 7.43 lakh was stayed by court and Government respectively. Specific action taken for remaining arrears of Rs 7.75 lakh though called for in May and July 2006, has not been intimated (October 2006)
	Total	1344.91	378.13	

1.7 Arrears in assessment of sales tax

The details of sales tax assessment cases pending at the beginning of the year, cases becoming due for assessment during the year, cases decided during the year and number of cases pending finalisation at the end of each year during 2001-02 to 2005-06 as furnished by the department are given below:

Year	Opening balance	New cases due for assessment during the year	Total	Cases finalised during the year	Balance at the end of the year	Percentage of column 6 to 4
1	2	3	4	5	6	7
2001-02	1,29,055	1,23,660	2,52,715	55,077	1,97,638	78
2002-03	1,97,638	69,069	2,66,707	58,495	2,08,212	78
2003-04	2,08,212	66,398	2,74,610	49,202	2,25,408	82
2004-05	2,25,408	69,914	2,95,332	75,582	2,19,750	74
2005-06	2,19,750	65,917	2,85,667	64,944	2,20,723	77

1.8 Evasion of tax

In Commercial Taxes Department, out of 273 cases of evasion of tax detected as on 31 March 2006, assessment/investigation was completed in 162 cases and additional demand of Rs 59.16 lakh including penalty was raised during the year 2005-06 leaving a balance of 111 cases pending finalisation.

Information from other departments, though called for in May and August 2006, has not been received (October 2006).

1.9 Refunds

The number of refund cases pending at the beginning of the year 2005-06, claims received during the year, refunds allowed during the year and cases pending at the close of the year (March 2006), as reported by the departments are given below:

⁴ Information regarding Bettiah Circle was not furnished, though called for in May 2006.

(Rupees in crore)

Sl. No.		Sales Tax		Tax on entry of goods into local areas	
		No. of cases	Amount	No. of cases	Amount
1	Claims outstanding at the beginning of the year	3,132	10.67	4	0.20
2	Claims received during the year	117	22.19	2	0.01
3	Refunds made during the year	941	17.36	1	0.01
4	Balance outstanding at the end of the year	2,308	15.50	5	0.20

1.10 Results of audit

Test check of records of sales tax, State excise, motor vehicles tax, stamps and registration fees, electricity duty, other tax receipts, forest receipts, interest receipts and other non tax receipts during the year 2005-06 revealed under assessment/short levy/loss of revenue of Rs 781.66 crore in 3,833 cases. During the year 2005-06, the concerned departments accepted under assessments etc. of Rs 14.56 crore involved in 180 cases. Of these, 69 cases involving Rs 3.26 crore were pointed out in audit during 2005-06 and rest in earlier years. The concerned departments also reported recovery of Rs 1.25 crore.

This report contains 38 paragraphs including two reviews relating to non/short levy of taxes, duties, interest and penalties etc. involving Rs 304.68 crore. The departments/Government accepted audit observations involving Rs 8.07 crore in 23 cases. No replies have been received in remaining cases (October 2006).

1.11 Recovery of revenue of accepted cases

During the years between 2000-01 and 2004-05 the department/Government accepted audit observations involving Rs 140.95 crore of which only an amount of Rs 1.34 crore was recovered as on 31 March 2006 as detailed below:

(Rupees in crore)

Year of Audit Report	Total money value of Audit Report	Accepted money value	Recovery made
2000-01	837.65	64.31	0.67
2001-02	273.55	--	Awaited
2002-03	175.15	0.48	Awaited
2003-04	1,117.71	19.53	Awaited
2004-05	176.92	56.63	0.67
Total	2,580.98	140.95	1.34

Information regarding upto date recovery though called for has not been received.

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

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

Inspection reports issued upto December 2005 disclosed that 15,324 paragraphs involving Rs 2,628.21 crore relating to 2,823 IRs remained outstanding at the end of August 2006. Even first replies required to be received from the heads of offices within one month from the date of issue of IRs, were not received for 1,973 IRs issued upto December 2005.

This large pendency of IRs due to non receipt of replies is indicative of the fact that the heads of offices and heads of departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by the PAG in the IRs.

It is recommended that Government should take suitable steps to ensure that an effective procedure exists for prompt and appropriate response to audit observations, for action against officials/officers failing to send replies to the IRs/paras as per the prescribed time schedules and action to recover loss/outstanding demand in a time bound manner.

1.13 Departmental audit committee meetings

In order to expedite settlement of outstanding audit observations contained in IRs, Government constituted departmental audit committees. The committees are chaired by the administrative secretary of the department concerned and attended among others by the officers concerned of the State Government and of the office of the PAG.

The meetings for reviewing and monitoring the progress of settlement of audit observations/audit paras are required to be held quarterly. During the year 2005-06, not a single audit committee meeting was held. Government departments did not take any initiative for settling outstanding audit observations through these meetings. Government should ensure periodical meetings of these committees for effective progress.

1.14 Response of the departments to draft audit paragraphs

Department of Finance issued directions to all departments to send their response to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. PAG forwards the draft paragraphs to the secretaries of the departments concerned through

demi official letters drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non receipt of replies from the department is invariably indicated at the end of each paragraph included in the audit report.

Thirty eight clubbed draft paragraphs including two reviews included in this Report for the year ended 31 March 2006 were forwarded to the secretaries of the departments concerned between April and August 2006 through demi official letters.

The secretaries of the various departments sent partial replies to five draft paragraphs, including one review, while replies to 33 draft paragraphs including reviews have not been received. Therefore, 33 draft paragraphs including reviews have been included in this report without the response of the department/Government.

CHAPTER - II : TAXES ON SALES, TRADE ETC

2.1 Results of audit

Test check of the records relating to assessments and refund of sales tax in various commercial taxes circles, conducted during the year 2005-06, revealed under assessment of tax of Rs 30.32 crore in 460 cases which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1	Non/short levy of tax	113	7.20
2	Irregular allowance of exemption from tax	92	6.04
3	Non-levy of penalty	26	3.85
4	Irregular allowance of concessional rate of tax	26	4.25
5	Non/short levy of additional tax and surcharge	45	0.94
6	Application of incorrect of rates of tax	25	0.41
7	Short levy due to incorrect determination of turnover	98	7.06
8	Non-levy of penalty for excess collection of tax/mistake in computation	10	0.12
9	Other cases	25	0.45
	Total	460	30.32

During the year 2005-06, the department concerned accepted under assessment etc. of Rs 12.29 crore involved in 58 cases, out of which 24 cases involving Rs 1.54 crore were pointed out during 2005-06 and rest during the earlier years. Of this, the department recovered Rs 1.25 crore .

A few illustrative cases involving tax effect of Rs 16.59 crore are discussed in the following paragraphs:

2.2 Suppression of purchase/sales turnover

Under the provisions of Bihar Finance Act, 1981 (BF Act), read with Central Sales Tax Act, 1956 (CST Act) if the prescribed authority has reason to believe that the dealer has concealed, omitted or failed to disclose wilfully the particulars of turnover or has furnished incorrect particulars of such turnover, the said authority shall 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, penalty not exceeding three times but not less than an amount equivalent to the amount of tax on the escaped turnover.

In 14 commercial taxes circles¹, it was noticed between December 2004 and January 2006 that 24 dealers purchased /sold goods valued at Rs 508.71 crore during the assessment years 1999-2000 to 2003-04, as shown in the purchase/sale, road permit statements and utilisation statements of declaration form 'C' and 'F' etc., while they had accounted for goods valued at Rs 472.79 crore only in their trading accounts and returns etc. thereby suppressing purchase/sale of goods of Rs 35.92 crore. The assessing authorities (AAs) while finalising assessments between January 2003 and June 2005, however, failed to detect suppression of purchase / sales which resulted in short levy of tax of Rs 4.37 crore including additional tax, surcharge and minimum leviable penalty. Of these, a few illustrative cases are given below:

(Rupees in lakh)

Sl. No.	Name of circle/no. of dealers	Period of assessment/month/year of assessment	Commodity	Rate applicable (Per cent)	Actual purchase/ purchase accounted for	Actual sale/ sale accounted for	Amount concealed	Amount of tax/ penalty	Total
1	Samastipur (1)	2000-01 and 2001-02 7/2003 and 7/2004	Jute bag	10	-	5,782.79 5,071.94	710.85	71.09 71.09	142.18
2	Patna Special (3)	2001-02 and 2002-03 2/2004 and 6/2005	Superior kerosene oil	6	27,984.49 27,008.76	4,426.20 3,574.39	1,827.54	49.70 46.99	96.69
			Cement	11					
			Iron and steel	4					
3	Hajipur (5)	2000-01 to 2003-04 between 1/2004 and 10/2004	Country liquor	25	3,096.99 2,676.18	596.09 562.32	454.58	40.12 37.29	77.41
			Concrete sleeper	10					
			Coir mattress	12					
			GI pipe	4					
			PVC pipe	8					
4	Sasaram (1)	2003-04 11/2004	Country liquor	25	-	488.56 431.60	56.96	16.45 14.95	31.40

¹ Begusarai, Bhagalpur, Danapur, Darbhanga, Hazipur, Jamui, Muzaffarpur, Patliputra, Patna North, Patna West, Patna Special, Samastipur, Sasaram and Toghra.

(Rupees in lakh)

Sl. No.	Name of circle/no. of dealers	Period of assessment/month/year of assessment	Commodity	Rate applicable (Per cent)	Actual purchase/purchase accounted for	Actual sale/ sale accounted for	Amount concealed	Amount of tax/ penalty	Total
5	Patliputra (3)	1999-2000 to 2003-04 between 1/2003 and 11/2004	Washing machine	16	1,421.15	2,248.13	66.69	10.88	20.76
			Confectionary goods	8	1,362.82	2,239.77		9.88	
			Edible oil	9					
6	Muzaffarpur (1)	2001-02 and 2002-03 1/2004 and 10/2004	Kesar	8	168.03	-	93.62	9.49	18.13
			Corrugated boxes and bottles	8	74.41			8.64	

After these were pointed out between December 2004 and January 2006, the AA of Patna Special Circle raised demand for Rs 38.47 lakh in one case and in remaining cases the AAs stated that the cases would be reviewed. Further reply has not been received (October 2006).

The cases were reported to Government between June 2005 and May 2006; reply has not been received (October 2006).

2.3 Allowance of excess deduction on account of export sales

CST Act provides that no tax shall be payable on sale of goods which have taken place in course of export beyond the customs frontiers of Indian territory. The Commissioner, Commercial Taxes (CCT) Bihar issued instructions in June and August 1991 that in case of any claim of exemption on export sales, the same should invariably be supported by bill of export and all AAs incharge should cross verify the records with the Customs Department to detect escaped turnover, if any.

2.3.1 Cross verification of assessment records in four commercial taxes circles² with the records maintained in Customs Department revealed between September 2005 and January 2006 that four dealers dealing in different commodities³ disclosed sales turnover of Rs 255.19 crore, on account of export sales made to Nepal in their returns for the assessment years 1999-2000 to 2001-02. The AAs allowed exemption at the time of finalising assessments between February 2004 and March 2005 against the actual value of goods of Rs 252.43 crore as shown in the records of Customs Department. Thus, failure of the AAs to cross verify the records with the Customs Department in accordance with CCT's instructions resulted in irregular allowance of deduction from taxable turnover on account of export sales of Rs 2.76 crore. This resulted in short levy of tax of Rs 1.04 crore including additional tax, surcharge and penalty.

2.3.2 In Hajipur circle, it was noticed in June 2005 that in one case, export sale of goods valued at Rs 95.57 lakh during the years 2000-01 and 2001-02, was

² Bagaha, Kishanganj, Patna City West and Patna Special.

³ Bags, cycles, medicines and petroleum products.

not supported by prescribed documentary evidence like bill of export granted by Customs Department. The AA while finalising the assessment in October 2004, however, exempted the turnover from levy of tax. This resulted in under assessment of tax amounting to Rs 13.79 lakh including additional tax and surcharge.

After this was pointed out, the department stated that the claim was allowed on the basis of payment received from consignee and proof of despatch. The reply is not tenable as bill of export was mandatory for allowing exemption in case of export sales.

The cases were reported to department/Government between April and May 2006; reply has not been received (October 2006).

2.4 Short levy of additional tax

Under the provisions of BF Act and notification issued thereunder, every dealer is required to pay additional tax at the rate of one *per cent* (except liquor on which additional tax of two *per cent* is leviable) on the gross turnover and surcharge thereon unless specifically exempted from levy of additional tax.

In six commercial taxes circles⁴, it was noticed between November 2004 and January 2006, in case of nine dealers dealing in various goods⁵ and assessed between August 2003 and March 2005 that additional tax was levied on turnover of Rs 394.13 crore instead of the correct amount of Rs 448.18 crore for the assessment years 1999-2000 to 2002-03. This resulted in short levy of additional tax of Rs 1 crore including surcharge.

After this was pointed out, the AAs in two cases of Ara and one case of Patna special circle raised demand for Rs 26.46 lakh while in other cases, it was stated that the cases would be reviewed. Further reply has not been received (October 2006).

The cases were reported to Government between March 2005 and May 2006; reply has not been received (October 2006).

2.5 Application of incorrect rate of tax

Under the provisions of BF Act, Government may, from time to time, by notification, specify the rates of tax on any class or description of goods.

In three commercial taxes circles, it was noticed between February and October 2005 that five dealers sold goods valued at Rs 25.61 crore during the assessment years 2000-01 to 2003-04. The AAs while finalising the assessments between March 2004 and March 2005 levied tax at incorrect rates. This resulted in short levy of tax of Rs 1.35 crore including additional tax and surcharge as detailed below:

⁴ Ara, Patliputra, Patna Special, Patna West, Sitamarhi and Teghra.

⁵ Country liquor, Dabur products, electrical goods, IMFL, milk products, motor parts, petroleum products and rectified spirit.

(Rupees in crore)

Sl. No.	Name of circle No. of dealers	Name of commodity	Assessment year Month/year of assessment	Value of goods	Rate of tax (per cent)		Short levy of tax (including additional tax and surcharge)
					Leviable	Levied	
1.	Patliputra (2)	Edible oil	2003-04 10/ 2004	13.85	9	4	1.26
		Mosquito repellent	2002-03 11/ 2004	7.57	8		
2	Hajipur (2)	Coir mattress and three wheeler	2000-01 and 2001-02 03/2004 and 10/ 2004	3.74	12	10	0.08
3	Teghra (1)	Milk powder	2000-01 03/ 2005	0.45	10	8	0.01
Total				25.61			1.35

After this was pointed out, the AA Patliputra Circle in one case raised demand of Rs 1.05 crore while in other cases, it was stated that the cases would be reviewed. Further reply has not been received (October 2006).

The cases were reported to Government between August 2005 and April 2006; reply has not been received (October 2006).

2.6 Non/short levy of penalty for delayed/non payment of admitted tax

Under the provisions of BF Act, if a registered dealer fails to make payment of the tax as shown in the statement/return, the AA shall impose penalty of not less than two and a half *per cent* but not exceeding five *per cent* of the amount of tax for each of the first three months or part thereof following the due date and thereafter not less than five *per cent* but not exceeding 10 *per cent* for each subsequent month or part thereof.

In seven commercial taxes circles,⁶ it was noticed between August 2004 and February 2006 from the assessment records that in 10 cases admitted tax of Rs 34.03 crore pertaining to the assessment years 1999-2000 to 2002-03 was either not deposited or deposited belatedly on which minimum penalty of Rs 1.01 crore was leviable. The AA, Special Circle Patna while finalising assessment of one dealer, however, levied penalty of Rs 9.98 lakh against Rs 53.55 lakh leviable. In remaining cases the AAs did not levy any penalty. This resulted in non/short levy of penalty of Rs 90.90 lakh.

After this was pointed out, AA, Biharsharif raised demand of Rs 10.24 lakh in one case, while in other cases, it was stated that the cases would be examined. Further reply has not been received (October 2006).

The cases were reported to Government between August 2005 and April 2006; reply has not been received (October 2006).

2.7 Non levy of penalty for suppression of turnover

Under the provisions of BF Act, if the prescribed authority in course of any proceeding or otherwise is satisfied that the dealer has concealed any sales or

⁶ Begusarai, Biharsarif, Muzaffarpur, Patna North, Patna Special, Patna South and Teghra.

purchases or any particulars thereof with a view to reduce the amount of tax payable by him or has furnished incorrect particulars of his sales or purchases, the prescribed authority shall direct the dealer to pay, besides the tax assessed on escaped turnover, penalty not exceeding three times but not less than an amount equivalent to the amount of tax on the escaped turnover.

In three commercial taxes circles⁷, it was noticed between December 2004 and January 2006 from the assessment records of three dealers that the AAs, while finalising the assessments between December 2003 and December 2004, detected suppression of sales turnover of Rs 21.09 crore which was not disclosed in the prescribed returns furnished by the dealers for the assessment years 2001-02 and 2002-03. The AAs levied tax of Rs 2.20 crore on suppressed value of sales, but failed to levy minimum penalty of Rs 2.20 crore.

The cases were reported to department/Government between March 2005 and April 2006; reply has not been received (October 2006).

2.8 Non levy of penalty for excess collection of tax

Under the provisions of the BF Act, no registered dealer shall collect from any person any tax on sale of goods in excess of tax liability. In the event of any contravention of the provision of the Act, the prescribed authority shall direct the dealer to pay, by way of penalty, a sum equal to twice the amount of tax so collected.

In Patliputra circle, it was noticed in November 2005 that a dealer collected tax in excess of his tax liability by Rs 6.25 lakh during the assessment year 2001-02. The AA, while finalising the assessment in September 2003 did not levy any penalty. This resulted in non levy of penalty of Rs 12.49 lakh.

The case was reported to department/Government in April 2006; reply has not been received (October 2006).

2.9 Non/short levy of purchase tax

Under the provisions of BF Act, every dealer who purchases goods on which no sales tax is payable and consumes such goods in the manufacture of other goods for sale, shall be liable to pay tax on the purchase price of such goods at the rate at which it would have been leviable on the sale price of such goods.

In three commercial taxes circles⁸, it was noticed between April and August 2005 from the assessment records that four dealers purchased goods⁹ valued at Rs 4.68 crore during the assessment years 2000-01 to 2003-04 from places within the State. These goods were purchased without payment of sales tax and consumed in manufacture of other goods¹⁰ and thus, were liable to levy of purchase tax of Rs 27.86 lakh. The AAs while finalising assessments between August 2003 and October 2004 did not levy purchase tax except in one case under AA Buxar in which purchase tax of Rs 0.47 lakh against Rs 1.86 lakh was levied. This resulted in non/short levy of purchase tax of Rs 27.39 lakh.

⁷ Patliputra, Patna Special and Patna South.

⁸ Buxar, Muzaffarpur and Raxaul.

⁹ Paper label, paddy, slack wax, spices and tin container.

¹⁰ Parafin, residue wax and rice.

The cases were reported to department/Government between January and April 2006; reply has not been received (October 2006).

2.10 Under assessment of CST

Under the CST Act, a dealer who claims exemption/concessional rate of tax on account of interstate sale or transfer of goods to his agent, principal or any other place of his business in other State, is required to produce the details of such interstate sale or such transfer of goods in declaration form C or F, as the case may be, duly authenticated by the recipient. Otherwise, tax is leviable at twice the rate prescribed in case of declared goods and at the rate of 10 per cent or at the rate leviable under the State Act, whichever is higher, in the case of goods other than declared goods. Government of Bihar by issuing a notification in May 1996, granted exemption to industrial units under industrial incentive scheme (IIS), from levy of sales tax on interstate sale of manufactured goods. It was judicially held¹¹ by the Hon'ble Supreme Court that while granting exemption from levy of sales tax on interstate sales, there is an obligation to produce C forms. Additional tax and other taxes leviable under the State Act are also leviable on interstate sales under the CST Act.

2.10.1 In Aurangabad and Danapur circles, it was noticed between October 2004 and September 2005 that two manufacturing units under IIS, claimed exemption on interstate sale of goods¹² of Rs 27.73 crore made during the assessment years 2000-01 and 2001-02. The AAs while finalising the assessment in March 2003 and March 2004 allowed the exemption though the transactions were not supported by declaration in form 'C'. This resulted in under assessment of tax of Rs 2.34 crore.

The cases were reported to department/Government between March 2005 and January 2006; reply has not been received (October 2006).

2.10.2 In 11 commercial taxes circles, it was noticed that 23 dealers claimed exemption/concessional rate from levy of tax on account of interstate sales of Rs 25.96 crore during the assessment years 2000-01 to 2003-04. The AAs while finalising assessments either did not levy tax or levied tax at concessional rates, though such sales were not supported by declaration forms in C and F. This resulted in under assessment of tax of Rs 1.68 crore including additional tax and surcharge as detailed below:

(Rupees in lakh)

Sl. No.	Name of circle/No. of dealers	Assessment years/ Month/year of assessment	Commodity	Sale not supported by declaration form	Rate leviable levied (Per cent)	Tax short levied
1	Katihar (1)	2000-01 03/2005	Jute bags	520.99	10 3	36.47
2	Sitamarhi (1)	2002-03 02/2005	Rectified spirit and denatured spirit	122.94	25 +1+ SC 4	31.30
3	Madhepura (5)	2002-03 and 2003-04 12/2003 to 03/2005	Jute	381.54	6 NIL	22.87

¹¹ State of Rajasthan Vs. Sarvottam Vegetables Products (1996) 101 STC 547 (SC).

¹² Iron and steel and vanaspati.

(Rupees in lakh)

Sl. No.	Name of circle/No. of dealers	Assessment years/ Month/year of assessment	Commodity	Sale not supported by declaration form	Rate leviable (Per cent)	Tax short levied
4	Patna Special (1)	2001-02 03/2003	Petroleum products	248.84	15+1+SC 4	19.43
5	Forbisgani (4)	2002-03 and 2003-04 08/2004 to 10/2004	Jute	478.05	6 3	14.34
6	Gaya (1)	2000-01 and 2001-02 05/2003 and 06/2003	Concrete sleeper	175.50	10 4	10.53
7	Bagaha (1)	2000-2001	IMFL	185.37	25+2+SC 25+2	5.10
8	Patliputra (4)	2000-01 to 2002-03 04/2004 to 10/2004	Car	61.91	12+1+SC 12	6.11
			Refrigerator	167.55	16+1+SC 16	
			Tyre and tube	14.26	10 NIL	
9	Purnea (2)	2000-01 and 2002-03 09/2004 and 03/2005	Fruit juice, tomato juice and ingot	61.77	10 8	5.60
10	Barh (2)	2001-02 to 2003-04 12/2004 to 05/2005	Pulses	83.83	8 NIL	6.71
11	Darbhangha (1)	2002-03 09/2004	Atta, maida and suji	93.76	10 NIL	9.38
Total				2,596.31		167.84

The cases were reported to department/Government between October 2004 and April 2006; reply has not been received (October 2006).

2.11 Incorrect determination of turnover

2.11.1 Under the provisions of BF Act, taxable turnover of a dealer shall be determined after deducting from the gross turnover, the amount of tax actually collected and any other charges in the manner and to the extent as prescribed.

In Patna Special circle, it was noticed in September 2005 that the AA while computing the taxable turnover of a dealer for the assessment year 2002-03 in June 2005, deducted Rs 23.98 crore from the gross turnover on account of tax collected though deduction of Rs 22.87 crore was claimed by the dealer. Turnover of Rs 1.11 crore was therefore, deducted in excess from the gross turnover on account of tax element.

It was further noticed that the AA rejected the claim of the dealer for deduction of Rs 1.73 crore for the same assessment period on account of damage and shortage, but failed to include the amount in the taxable turnover.

Thus, excess allowance of deduction on account of tax element and damage/shortage resulted in short determination of taxable turnover by Rs 2.84 crore and consequent short levy of tax of Rs 37.79 lakh including additional tax and surcharge.

The case was reported to department/Government in May 2006; reply has not been received (October 2006).

2.11.2 Under the provisions of BF Act, gross turnover of a dealer shall be aggregate of sale prices received or receivable by a dealer including the gross amount received or receivable for execution of works contract or for the transfer of right to use any goods for any purpose during any given period and also includes the sale of goods made in the course of interstate trade or export.

2.11.2.1 In Patliputra circle, it was noticed in September 2005, that the AA while finalising the assessment of a dealer for the year 2001-02 in August 2003 though rejected the claim of exemption of Rs 1.61 crore, but while determining the gross turnover failed to include said amount. This resulted in short levy of tax of Rs 23.29 lakh including additional tax and surcharge.

2.11.2.2 Test check of records of Patliputra circle in September 2005 revealed that the AA while finalising the assessment in October 2004 for the year 2002-03 of a dealer dealing in milk products did not account for agricultural marketing fee of Rs 31 lakh in the gross turnover and determined gross turnover of Rs 61.06 crore instead of Rs 61.37 crore. This resulted in short levy of tax of Rs 3.76 lakh including additional tax and surcharge.

The above cases were reported to department/Government in April 2006; reply has not been received (October 2006).

2.12 Incorrect grant of exemption

Under the provisions of BF Act, read with BST Rules as amended from time to time, where any dealer claims that no tax is payable by him on any part of his gross turnover in respect of any goods by reason of transfer of goods by him to any other dealer or to his agent or principal as the case may be, for sale, the burden of proving the claim shall be on the dealer and for this purpose, alongwith other evidence, he shall furnish a declaration in the form IX D as prescribed by the department in February 2000.

In Ara and Samastipur circles, it was noticed in March and May 2005 that in two cases assessed in February 2002 and September 2004, exemption was allowed on stock transfer of goods valued at Rs 1.52 crore during 2000-01 though the claim was not supported by declaration in form IX D. Incorrect grant of exemption resulted in short levy of tax of Rs 16.90 lakh including additional tax and surcharge.

After this was pointed out, the AA in one case of Ara circle raised the demand of Rs 2.67 lakh while in other case the AA, Samastipur stated that the case will be reviewed. Further reply has not been received (October 2006).

The cases were reported to Government between July 2005 and January 2006; reply has not been received (October 2006).

2.13 Short levy of tax

Under the provisions of BF Act read with BST Rules, the State Government by issue of notification in June 1985 and July 2002 specified certain commodities for the purpose of levy of sales tax at multiple points of sale.

In five commercial taxes circles¹³, it was noticed between July 2005 and January 2006, that six dealers sold goods, covered under aforesaid notifications, valued at Rs 19.48 crore during the assessment years 2000-01 to 2002-03. The AAs while finalising the assessments between February 2003 and April 2005 levied tax of Rs 45.79 lakh only instead of the correct amount of Rs 67.96 lakh. This resulted in short levy of tax of Rs 22.17 lakh.

The cases were reported to department/Government in June 2006; reply has not been received (October 2006).

2.14 Short levy of surcharge

Under the provisions of BF Act, every dealer whose gross turnover during a year exceeds Rs 10 lakh shall pay a surcharge at the rate of 10 per cent of tax (including additional tax) payable by him. The State Government in December 2000 exempted certain petroleum products from levy of surcharge on the second and subsequent points of sale.

In Hajipur circle, it was noticed in June 2005 that the AA while finalising the assessment of a dealer in March 2005 dealing in petroleum products determined the gross turnover at Rs 6 crore for the assessment year 2000-01 and incorrectly levied surcharge of Rs 0.03 lakh on tax of Rs 0.34 lakh instead of Rs 6.15 lakh leviable on the correct amount of tax of Rs 61.49 lakh¹⁴. This resulted in short levy of surcharge of Rs 6.12 lakh.

The case was reported to department/Government in April 2006; reply has not been received (October 2006).

2.15 Incorrect allowance of concessional rate of tax

Under the provisions of the BF Act, on sales of goods by a registered dealer to another registered dealer required directly for use in the manufacture or processing or for packing of any goods for sale, tax shall be levied at concessional rate. Corrugated box (CB) used for packing of goods was taxable at a concessional rate of three per cent, otherwise tax was leviable at the normal rate of nine per cent. The concessional rate of tax of CB was, however, withdrawn from January 1985.

In Barh circle, it was noticed in July 2005 from the assessment records of a dealer for the assessment year 2002-03 that the AA while finalising assessment in September 2004 incorrectly levied tax at concessional rate of three per cent on sale of CB valued at Rs 99.10 lakh instead of nine per cent though the grant of concessional rate was withdrawn way back in January 1985. This resulted in short levy of tax of Rs 6.61 lakh including additional tax and surcharge.

The case was reported to department/Government in April 2006; reply has not been received (October 2006).

¹³ Chapra, Darbhanga, Nawada, Patna Special and Purnea.

¹⁴ Calculated on the turnover from April 2000 to 14 December 2000 i.e. upto the date of issue of notification exempting the items.

CHAPTER III: STATE EXCISE

3.1 Results of audit

Test check of the records of the excise offices, conducted during the year 2005-06, revealed under assessments and losses of revenue of Rs 149.90 crore in 2,659 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1	Non/delayed settlement of excise shop	729	34.31
2	Non realisation of license fee	135	0.76
3	Undue financial benefit due to unauthorised concession	2	0.04
4	Other cases	1,793	114.79
	Total	2,659	149.90

During the year 2005-06, the department concerned accepted under assessment etc. of Rs 1.08 crore involved in 83 cases out of which six cases involving Rs 55.92 lakh was pointed out during 2005-06 and rest in earlier years.

A few illustrative cases involving tax effect of Rs 26.91 crore are discussed in the following paragraphs:

3.2. Loss of revenue due to non settlement of excise shops

Under the Bihar Excise Act, 1915 (BE Act) and Rules framed thereunder, excise shops for retail vends of country spirit (CS), spiced country spirit (SCS) and India made foreign liquor (IMFL) are put to auction subject to a licence fee. When the upset fee is not obtained, the Collector of the district may accept a lower fee subject to the approval of the Excise Commissioner (EC). EC issued instructions in June 1995 for departmental operation of shops remaining unsettled.

3.2.1 In seven excise districts¹ it was noticed between March and August 2005 that 75 excise shops (37 CS shops, 26 SCS shops, 12 IMFL shops) remained unsettled and were not operated departmentally during the year 2003-04. This resulted in loss of revenue of Rs 4.81 crore in the shape of license fee and excise duty as worked out on the basis of minimum guaranteed quota (MGQ) and licence fee fixed for the concerned excise shops for the year 2003-04.

After this was pointed out between March and August 2005 the Superintendent (SEs)/Assistant Commissioner of Excise (ACEs) replied between April 2005 and March 2006 that inspite of all efforts, the shops remained unsettled due to non availability of bidders. The reply of the department was not tenable as no efforts were made to settle the shops either by lowering the reserve fee or operating the shops departmentally in the interest of revenue.

The matter was referred to Government between September 2005 and April 2006; reply has not been received (October 2006).

3.2.2 By an instruction issued in October 2003, EC withdrew the instructions of June 1995 regarding departmental operation of unsettled shops and directed all Collectors to review the position of non profit bearing shops at the beginning of settlement and club them with profit bearing shops for settlement in a group.

In 18 excise districts², it was noticed between April 2005 and March 2006 that 300 excise shops (143 CS shops, 104 SCS shops, 53 IMFL) remained unsettled during the year 2004-05. Test check of records did not reveal any review of non profit bearing shops and efforts to settle them by clubbing with profit bearing shops. This resulted in loss of revenue of Rs 19.65 crore in shape of license fee and excise duty as worked out on the basis of MGQ and reserve fee fixed for the concerned excise shops respectively.

After this was pointed out between April 2005 and March 2006, it was stated by the SEs/ACEs that all efforts were made to settle the shops. The reply is not tenable as per instructions of October 2003 efforts for settling shops by clubbing non profit bearing shops with profit bearing shops were not made.

The matter was reported to Government between March and May 2006; reply has not been received (October 2006).

¹ Araria cum Kishanganj, Gopalganj, Katihar, Madhepura, Samastipur, Saran and Siwan.

² Araria-cum-Kishanganj, Bhagalpur-cum-Banka, Bhojpur-cum-Buxar, East Champaran (Motihari), Gaya, Gopalganj, Katihar, Khagaria, Jahanabad-cum-Arwal, Munger-cum-Jamui-cum-Sheikhpura-cum-Lakhisarai, Muzaffarpur, Nalanda, Patna, Rohtas-cum-Kaimur, Saran, Sitamarhi, Siwan and West Champaran.

3.3 Loss of revenue due to non settlement of excise shops after cancellation

Under condition no. 14(b) of the sale notification issued by the department in June 2004 for settlement of excise shops, successful bidder is required to deposit six months license fee immediately after the bid. The balance amount of license fee is to be deposited in equal monthly instalments between July and December by 10th of each month failing which the license shall be cancelled and security money forfeited. Further, each licensee is required to lift the approved MGQ of CS, SCS, IMFL and beer by last day of the month failing which the licence is liable to be cancelled/suspended and shops resettled. The loss, if any, is to be recovered from the defaulters as arrears of land revenue.

In five excise districts³ it was noticed between April and December 2005 that licenses of 38 excise shops (20 CS, 15 SCS and 3 IMFL) were cancelled between July 2004 and January 2005 due to non payment of license fee and short lifting of MGQ by retail licensees. The shops remained unsettled after cancellation throughout the year. This resulted in loss of revenue of Rs 1.50 crore in shape of license fee and excise duty as worked out on the basis of MGQ and license fee fixed for the concerned excise shops.

After this was pointed out, the department stated between April and December 2005 that inspite of efforts the shops could not be settled. The reply is not tenable as records produced to audit show that no efforts were made by department to run the shops through reauction or by reducing the reserve fee to resettle in the area covered by cancelled excise shops to safeguard the interest of revenue.

The matter was reported to Government between February and April 2006; reply has not been received(October 2006).

3.4 Loss of revenue due to default in payment of advance license fee

BE Act and Rules framed thereunder provide that a person whose bid has been accepted by the presiding officer at the auction, must pay six months' advance license fee immediately failing which the licence shall be cancelled and security money forfeited and any loss that may accrue to Government in case it becomes necessary to resell the shop for a lower sum or to keep it unsettled is to be recovered from defaulter. Further, the notification also provides for deposit of security money equal to the reserved fee of the shop by the bidder.

In five excise districts⁴ it was noticed between May 2005 and February 2006 that bidders for 31 excise shops (21 CS, 4 SCS and 6 IMFL) failed to deposit six months' advance license fee for the settlement years 2003-04 and 2004-05. Out of 31 excise shops, 25 excise shops were cancelled by the SEs Katihar, Munger-cum-Jamui-cum-Lakhisarai-cum-Sheikhpura and Saran between June and November 2004 and balance shops were not cancelled by SE Araria-cum-Kishanganj and Gaya. Of the above stated cancelled shops, only one shop was resettled on 6 November 2004 by ACE, Gaya. This resulted in loss of revenue

³ East Champaran (Motihari), Gopalganj, Purnia, Samastipur and Siwan.

⁴ Araria-cum-Kishanganj, Gaya, Katihar, Munger-cum-Jamui-cum-Lakhisarai-cum-Sheikhpura and Saran.

of Rs 94.95 lakh as worked out on the basis of monthly license fee and MGQ fixed for the concerned excise shops.

After this was pointed out, the SE Katihar stated in February 2006 that shops could not be settled due to their non profitability, Reply from other SEs/ACE is awaited (October 2006).

The matter was reported to Government between March and May 2006; reply has not been received (October 2006).

CHAPTER-IV: TAXES ON MOTOR VEHICLES

4.1 Results of audit

Test check of the records of the transport offices during the year 2005-06, revealed non/short levy of motor vehicles tax, fees, penalties, fines etc. of Rs 198.42 crore in 53 cases, which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Non/short levy of tax	1	0.02
2	Short levy of tax due to wrong fixation of seating capacity/RLW	3	10.93
3	Non imposition of fines and penalties	3	0.16
4	Discrepancies in Government revenue deposited under the head 0041 during 2003-04	2	0.02
5	Other cases	44	187.29
	Total	53	198.42

During the year 2005-06, the concerned department accepted under assessment and other irregularities in 27 cases involving Rs 13.99 lakh which was pointed out during the year 2005-06. Of this, the department recovered Rs 0.01 lakh in one case.

A few illustrative cases involving tax effect of Rs 32.98 crore are discussed in the following paragraphs:

4.2 Lack of control over unpaid taxes

Under the Bihar Motor Vehicles Taxation Act (BMVT Act), 1994 tax is to be paid to the registering authority (RA) in whose jurisdiction the vehicle has been registered. The RA may exempt vehicle owner from payment of tax, if he is satisfied that prescribed conditions for securing exemption have been fulfilled by the vehicle owner. In case of change of place of residence/business, the owner can pay tax to the new RA subject to production of no objection certificate (NOC) from the previous RA as prescribed. In order to ensure realisation of dues, RA is required to issue demand notice and in case of non response of vehicle owner, certificate proceedings are to be initiated. Non payment of tax within due date attracts penalty ranging between 25 and 200 per cent of tax due.

Further according to executive instructions of the State Transport Commissioner (STC) issued from time to time, the latest being issued in February 1999, motor vehicle inspector (MVI) is to ensure upto date payment of tax before issue of certificate of fitness (CF).

4.2.1 During test check of entries in taxation registers of 29 district transport offices (DTO)¹, it was noticed between March 2005 and March 2006 that owners of 1,262 vehicles had not paid due tax of Rs 30 crore (including penalty) pertaining to the period from April 2003 to December 2005. Neither issue of demand notice nor fact of change of address of owner or surrender of documents of vehicles for securing exemption from payment of tax during the period of non payment of tax was found on record.

After this was pointed out, DTO, Gaya in June 2006 issued demand notices on 88 vehicles amounting to Rs 2.12 crore. Other DTOs stated that demand notices would be issued for realisation of tax. Further reply including report of recovery has not been received (October 2006).

4.2.2 During cross verification of entries in register of CF with taxation registers in nine DTOs², it was noticed between April 2005 and March 2006 that CF were issued in case of 82 transport vehicles without ensuring upto date tax payment. The omission, besides violation of STC's orders, also resulted in non realisation of tax of Rs 1.53 crore (including penalty) pertaining to the period between April 2001 and February 2006.

After this was pointed out, four DTOs³ replied that the matter would be referred to the concerned MVI. No reply has been received in other cases (October 2006).

The cases were reported to Government between April 2005 and April 2006; reply has not been received (October 2006).

¹ Araria, Arrah, Aurangabad, Begusarai, Bettiah, Bhabhua, Buxar, Chapra, Darbhanga, Gaya, Gopalganj, Jamui, Jehanabad, Khagaria, Kishanganj, Katihar, Madhepura, Madhubani, Motihari, Munger, Muzaffarpur, Nalanda, Patna, Samastipur, Saharsa, Sasaram, Sitamarhi, Siwan and Vaishali.

² Arrah, Aurangabad, Darbhanga, Gaya, Jehanabad, Motihari, Nalanda, Samastipur and Sasaram.

³ Gaya, Nalanda, Samastipur and Sasaram.

4.3 Non realisation/exemption of tax on vehicles involved in surrender

Under the BMVT Act and Rules made thereunder, when owner of a motor vehicle does not intend to use his vehicle for a period not exceeding six months at a time, the owner can be exempted from payment of tax by the competent authority provided that the claim is supported by surrender of certificate of registration (RC), CF and tax token etc., for the period of non use of vehicle. The vehicle owner shall also, from time to time, furnish undertaking to the taxing officer concerned if the extension of the said period is required. The taxing officer is required to carry out physical verification of the parking place of the vehicle at least once a month and shall record the memo of inspection in the case record of vehicle. If at any time during the period covered by an undertaking as aforesaid, the motor vehicle is found being used or is kept at a place other than the place mentioned in the undertaking, such vehicle shall for the purpose of this Act, be deemed to have been used throughout the said period without payment of tax. According to executive instruction issued in December 1990, the DTOs are required to realise arrears of tax before accepting surrender of documents of vehicle for non use.

4.3.1 Scrutiny of taxation register, surrender register and other relevant records pertaining to payment of road tax and additional motor vehicles tax revealed non realisation of tax of Rs 1.31 crore including penalty in respect of 125 vehicles involved in surrender in 13 DTOs⁴ as detailed below:

(Rupees in lakh)

Sl.No.	Name of DT Offices	No. of vehicle	Period of tax involved	Irregularities	Tax effect
1	10 DT Offices ⁵	76	February 2001 to December 2005	Vehicles were kept under surrender beyond six months without fresh undertaking from vehicle owners.	56.23
2	Five DT Offices ⁶	31	January 2002 to March 2005	Acceptance of surrender of vehicles without realising upto date tax.	53.92
3	Sasaram	02	August 2002 to April 2005	Vehicles were not found at specified places.	10.43
4	Chapra	07	March 2004 to October 2005	Physical verification was not done and surrender accepted without the surrender of required documents.	2.16
5	Siwan	09	April 2002 to September 2005	In one case, vehicle was not found in parking place. Extension was not furnished in four cases. Period of surrender was not specified in three cases. Tax token not furnished alongwith RC, CF etc. in one case.	8.67
	Total	125			131.41

4.3.2 It was further noticed from the record of DTO Bettiah that eight vehicle owners applied for exemption from payment of tax for the period between February 2003 and October 2005 on surrender of documents to the DTO.

⁴ Begusarai, Chapra, Gaya, Khagaria, Motihari, Muzaffarpur, Nalanda, Saharsa, Samastipur, Sasaram, Sitamarhi, Siwan and Vaishali.

⁵ Begusarai, Gaya, Khagaria, Muzaffarpur, Nalanda, Saharsa, Samastipur, Sasaram, Sitamarhi and Vaishali.

⁶ Gaya, Motihari, Nalanda, Samastipur and Sitamarhi.

Though the taxing officer failed to carry out even a single physical verification of parking place of any of the vehicles during the period of exemption, these vehicles were allowed to ply on road after the expiry of period of surrender on realisation of tax for subsequent periods. Thus, exemption of tax of Rs 9.33 lakh was granted in these cases without carrying out any physical verification of the parking place of the vehicles which was irregular.

The cases were reported to department/Government between March 2005 and April 2006; reply has not been received (October 2006).

4.4 Delayed transfer of revenue

Under the provisions of the BFR, all transactions must be brought to account without delay and money credited to Government account. According to instructions of STC Patna issued in March 1996 and September 2002 to all DTOs, fees and tax collected by authorised banks during a month are required to be transferred by first week of the following month for credit to Government account. Further, the amount deposited in the month of March is to be transferred by 31 March itself to Government account through treasury challan. STC instructed all DTOs in October 2002 and February 2003 to ensure timely deposit of revenue to Government account.

On scrutiny of monthly receipt, statement of revenue and bank reconciliation statements in three DTOs⁷, it was noticed in June 2005 that Rs 25.61 crore, collected as fees and tax through the authorised banks during the period between July 2003 and April 2005, was transferred to Government account by departmental authorities with delay ranging from one to seven month and 22 days. No internal control mechanism existed to watch timely deposit of revenue into Government account although a number of orders were issued by STC in this regard.

After this was pointed out, the DTOs concerned stated between June 2005 and February 2006 that action would be taken to deposit the revenue into Government account in time.

The cases were reported to Government in April 2006; reply has not been received (October 2006).

4.5 Non/ short realisation of additional registration fee

As per BMVT Rules 1992, if the owner of a vehicle applies for a preferred registration number out of the sequence, an additional fee of Rs 100 shall be levied. Government of Bihar, vide a notification in June 2003 revised the rate of additional fee to Rs 5,000 in each case. The notification also prescribed the amount of additional fee ranging between Rs 5,000 and Rs 25,000 for special registration number specified therein.

In DTOs Bhabhua and Siwan, it was noticed between February and March 2006 that additional registration fee for 147 vehicles were either not realised or realised at pre revised rates instead of revised rates effective from 13 June 2003. This resulted in non/ short realisation of additional registration fee of Rs 7.46 lakh for the period between June 2003 and April 2005.

⁷ Gopalganj, Patna and Siwan.

After this was pointed out, DTO Bhabhua stated in March 2006 that compliance of direction was being made while DTO Siwan stated in February 2006 that notices would be issued to vehicle owners for recovery of dues. Report on recovery is awaited (October 2006).

The cases were reported to Government in April 2006; reply has not been received (October 2006).

4.6 Irregular issue of tax token

The BMVT Act and Rules made thereunder provide that the taxing officer shall grant a receipt and a tax token to every person who pays prescribed tax for the vehicle. Before issue of tax receipt and tax token, the taxing officer is to satisfy himself that the amount tendered in the payment of tax is equal to the tax payable at the rate specified in schedule I and II to the Act. Failure to pay tax within 15 days from the commencement of the year or quarter attracts imposition of penalty.

In three DTOs⁸, it was noticed between January and February 2006, that owners of 22 transport vehicles deposited tax ranging between Rs 2,035 and Rs 9,690 instead of correct rates varying between Rs 4,790 and Rs 11,000 resulting in short realisation of tax of Rs 5.89 lakh. Although tax paid in these cases was less than prescribed rates, the DTOs issued tax token irregularly without realising the balance tax. This resulted in short realisation of tax of Rs 3.09 lakh and plying of vehicles without payment of actual tax. Besides, penalty of Rs 2.80 lakh was also leviable for failure in payment of balance tax by the defaulters.

After this was pointed out, the DTOs concerned while accepting audit observations replied in January and February 2006 that demand notices would be issued. Further reply has not been received (October 2006).

The cases were reported to Government in April 2006; reply has not been received (October 2006).

⁸ Chapra, Gopalganj and Siwan.

CHAPTER V: OTHER TAX RECEIPTS

5.1 Results of audit

Test check of the records of the following receipts, conducted during the year 2005-06, revealed under assessments of tax, fee, duty and losses of revenue etc., of Rs 210.75 crore in 371 cases which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
A	Land revenue		
1	Non/short levy of cess and/or interest on arrears of cess	49	3.51
2	Non fixation of salami and commercial rent	87	16.71
3	Non settlement of vested lands	25	1.27
4	Non settlement of sairats	41	2.03
5	Other cases	70	5.49
6	Review on Levy and collection of land revenue	1	160.63
	Total	273	189.64
B	Entry tax		
1	Non/short levy of tax	29	4.77
2	Irregular allowance of exemption from tax	2	0.14
3	Non levy of penalty	3	0.21
4	Application of incorrect rate of tax	3	0.04
5	Short levy due to incorrect determination of turnover	1	0.16
6	Non levy of penalty for excess collection of tax	1	0.05
7	Other cases	10	0.45
	Total	49	5.82
C	Stamp duty and registration fees		
1	Short levy due to misclassification of documents	2	0.59
2	Short realisation of stamp duty and registration fees due to late receipts of revised rates	2	0.20
3	Other cases	16	1.68
	Total	20	2.47
D	Taxes on sugarcane		
1	Non levy of interest on arrears of tax	12	1.18
2	Non recovery of tax on removal of sugar from factory	5	6.41
3	Other cases	12	5.23
	Total	29	12.82
	Grand Total	371	210.75

During the year 2005-06, the concerned department accepted under assessment etc. involving Rs 1.05 crore in 12 cases which were pointed out during the year 2005-06.

A few illustrative cases including review on "Levy and collection of land revenue" involving tax effect of Rs 165.83 crore are discussed in the following paragraphs:

5.2 Review: Levy and Collection of Land Revenue

Highlights

- Arrears of Rs 113.76 crore was pending for collection as of March 2006.
(Paragraph 5.2.8)
- Non fixation of commercial rent for conversion of agricultural land for commercial purposes by tenants resulted in non realisation of revenue of Rs 4.37 crore.
(Paragraph 5.2.9)
- *Khas mahal* leases were sold/transferred without permission of competent authority. Besides, leases were occupied without payment of rent. This resulted in non levy of revenue of Rs 140.51 crore.
(Paragraph 5.2.11)
- Public land, encroached by persons, was neither got vacated nor settled which resulted in non realisation of Rs 60 lakh in shape of *salami* and rent.
(Paragraph 5.2.14)
- Non settlement of 15,750 acres of *Bhoodan* land with eligible persons resulted in revenue foregone of Rs 12.49 lakh in shape of rent and cess.
(Paragraph 5.2.16)

Recommendations

5.2.1 Government may consider that

- provision of Acts/ Rules and instructions of the department should be followed for assessment and collection of land rent /cess and renewal of leases etc; and
- internal control may be evolved to monitor assessment and collection of revenue.

Introduction

5.2.2 Levy and collection of land revenue in State is governed mainly under the provisions of Bihar Tenancy Act, 1885 (BT Act) as amended from time to time, Bihar Land Reforms Act, (BLR Act), 1950 Bihar Public Land Encroachment Act, 1956 (BPLE Act), Bihar Land Rent (exemptions from payment) Act, 1982 and Bihar Government Estates (*Khas Mahal*) Manual, 1953 and Rules made under these Acts.

With enactment of the BLR Act, effective from 25 September 1950, the management of land, maintenance of records and collection of revenue came under control of Government. Bihar Government Estates (*Khas Mahal*) Manual provides for maintenance of registers and returns for land records, demand, collection and balances of land revenues. Since vesting land in

Government, no survey of land in the state was conducted; consequently, land rent fixed in first decade of the twentieth century is still being levied.

Besides land rent, cess such as road cess, education cess, health cess, and agricultural development cess as provided in Bengal Cess Act, 1880 (as adopted by Bihar and amended from time to time) are leviable.

Organisational set up

5.2.3 The Commissioner cum Secretary, Revenue and Land Reforms Department is the head of the department. He is responsible for administration and execution of the provisions of Acts/Rules in respect of revenue, settlement policies and programmes. For efficient administration, State is divided into nine revenue divisions each under the control of divisional commissioner (DC). The divisions are divided into 38 districts, each headed by Collector who is assisted by Additional Collector (AC). There are 99 sub divisions each headed by sub divisional officer (SDO) who is assisted by Deputy Collector, Land Reforms (DCLR). At the block level there are 510 *anchals* (circles). *Anchal adhikari* (AA) is incharge of circle for assessment and collection of land revenue including cess. The collection of revenue is effected primarily through *halka¹ karmacharis* in each circle.

Audit objectives

5.2.4 The review was conducted with a view to ascertain that:

- provisions of the Acts, Rules and executive instructions are enforced to manage land records properly and to safeguard the revenue of state; and
- there exists an internal control mechanism within the department, which is reliable and working efficiently for levy and collection of land revenue.

Scope of audit

5.2.5 The review of records of four ACs (Revenue), five DCLRs and 14 AAs for the period from 2000-01 to 2004-05 was conducted during the period between February and May 2006. Beside, the records of the Commissioner cum Secretary were also test checked. The points noticed during audit have been included in review.

Internal control mechanism

5.2.6 Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. Internal audit, a vital component of internal control is generally defined as control of all controls to enable an organisation to assure itself that the prescribed systems are functioning reasonably well.

Bihar Government Estate (*Khas Mahal*) Manual provides for maintenance of following registers/returns by Collector and AAs.

¹ A primary unit of a revenue circle.

5.2.6.1 Return I and II are prepared and maintained at *anchal*, subdivision and district level showing consolidated statement of annual demand, collection and balance of revenue. Targets and achievements are monitored by the department through these returns.

Test-check of return I of 34 out of 63 *anchals* revealed that returns I showing consolidated demand, collection and arrear were not maintained properly.

5.2.6.2 Register II is maintained in *anchals*, wherein a separate page is allotted for each tenant in which annual demand of rent is recorded.

During test check of records, 9 out of 19 AAs did not produce register II and in other cases, the register II was not properly maintained.

5.2.6.3 Return III is maintained at *anchal* level comprising of detailed list of defaulters on basis of register II who were not making payment of dues or arrears.

During test check it was revealed that 16 out of 19 AAs were not maintaining return III.

5.2.6.4 Register IX is maintained in *anchal* office in which arrears of land rent, cess and other revenue recoverable under Bihar and Orissa Public Demand Recovery Act, 1914 (PDR Act) are recorded.

Test check revealed that 18 out of 19 AAs were not maintaining register IX.

5.2.6.5 For collection of revenue, a register showing demand in arrears of previous years, demand raised, collections and balances (DCB) during the year is to be maintained in each circle. After the close of year, a list of defaulters is to be prepared which is to be scrutinised by an officer deputed by collector for the purpose who will after enquiry pass order in cases where certificates are to be issued. He should submit a certificate to collector before 1 July that scrutiny of return has been done.

Further, a return which contains DCB of rent and cess of estates are prepared on the basis of entries in DCB Register as stated above.

During test check of return of 34 AAs², one DCLR³ and two ACs⁴, it was noticed that returns did not indicate actual annual rent due for the year and closing balances correctly, and merely represented the target fixed by the department. The opening balance of the year did not tally with the closing balance of previous year. Thus, the closing balance furnished to department by the circles concerned did not represent the actual arrears of rent including cess as confirmed by the department. The details of defaulters were not mentioned and consequently certificate proceedings were not initiated as required under PDR Act.

5.2.6.6 Under the provisions of the PDR Act, certificate proceedings are initiated for realisation of arrears for which the requiring officer (RO) sends

² *Asthawan, Azamnagar, Barh, Bhabhua, Barsoi, Banka, Bounsi, Benipur, Biroul, Bakhtiarpur, Chapra, Chandi, Chanan, Darbhanga, Ekangarsarai, Hilsa, Kako, Katoria, Kalyanpur, Hazipur, Lalganj, Mokama, Nawada, Noorsarai, Bettiah, Katihar, Pandarak, Rahui, Supaul, Sherghati, Sarai Ranjan, Sakra, Ujiarpur and Vaishali.*

³ *Dalsinghsarai.*

⁴ *Darbhanga and Jehanabad.*

proposals to the certificate officer (CO) and make entries of such cases in register IX and the CO after being satisfied that any public demand payable to the collector is due, signs a certificate.

Scrutiny of monthly reports on commercial rent of 19 AAs⁵, four DCLRs⁶ and three ACs⁷ during April 2005 to May 2006, revealed that out of Rs 39.64 crore on account of rent recoverable by the department during the years from 2000-01 to 2004-05, only Rs 0.30 crore was realised. No certificate proceedings were initiated under PDR Act by the department for realisation of dues.

5.2.6.7 The applications received for mutation⁸ of land shall be serially numbered and entered in register VIII. All pending cases should be first entered in red ink and thereafter new cases be entered serially.

Test check of mutation cases and relevant register in AAs, Patna Sadar and Hajipur revealed that applications received for mutations were not entered in register VIII making monitoring of disposal of cases difficult.

5.2.6.8 Government instructions issued in April 1969, provide for disposal of mutation cases within three months followed by monthly inspection by AA and periodical inspection by DCLR.

Scrutiny of mutation register and relevant records of AA, Vaishali revealed abnormal delay ranging from two to three years in disposal of mutation cases. Six cases for the year 2002-03, 14 cases of 2003-04 and 371 cases of 2004-05 were pending till August 2006.

Improper/non maintenance of registers/returns was indicative of non adherence to internal control measures and had adverse effect on the assessment and realisation of revenue as described in succeeding paragraphs:

5.2.7 Trend of revenue

5.2.7.1 BEs and actual receipts during the period from 2000-01 to 2004-05 was as under:

(Rupees in crore)				
Year	BEs	Actual receipts	Excess (+)shortfall (-)	Percentage of variation
2000-01	37.61	34.33	(-) 3.28	9
2001-02	35.00	34.08	(-) 0.92	3
2002-03	56.19	36.15	(-)20.04	36
2003-04	75.00	33.80	(-)41.20	55
2004-05	84.00	33.39	(-)50.61	60

There was substantial variations between BEs and receipt realised which ranged between 36 and 60 per cent during the period from 2002-03 and 2004-05. Reasons for variation though called for in May 2006 were not furnished.

⁵ Barh, Bettiah, Bhabhua, Chapra, Hazipur, Katoria, Lakhisarai, Mokama, Nawada, Noorsarai, Pandarak, Patna Sadar, Rajauli, Rahui, Sakra, Samastipur, Sandesh, Sheikhpura and Shahpur.

⁶ Barsoi, Dalsinghsarai, Nalanda and Supaul.

⁷ Darbhanga, Jahanabad and Saran.

⁸ Transfer of title in Register II/Government record.

5.2.7.2 Bihar Financial Rules Vol-I (BFRs) provides for periodical reconciliation of figures of department with those of Accountant General (A&E).

As per information supplied by the Land Reforms and Revenue Department, it was noticed that there was wide variation between the figures of department and of Accountant General (A&E), as shown under:

(Rupees in crore)

Year	As per Finance Accounts	As per department	Difference	Percentage of variation
2000-01	34.33	25.52	(-)8.81	(-)25.66
2001-02	34.08	27.70	(-)6.38	(-)18.72
2002-03	36.15	32.01	(-)4.14	(-)11.45
2003-04	33.80	31.17	(-)2.63	(-)7.78
2004-05	33.39	34.24	(+)0.85	(+) 2.54

Variations between revenue receipt as per Finance Accounts and departmental figures ranged between (-) 7.78 per cent and (-) 25.66 per cent during the period between 2000-01 to 2003-04, whereas during 2004-05 it was (+) 2.54 per cent in departmental figures. It is evident that department did not reconcile the figures with the figures as booked by the Accountant General (A & E).

Arrear pending collection

5.2.8 According to BT Act, land rent payable by a tenant shall be paid in four equal instalments falling due on the last day of each quarter of the agricultural year⁹. Rent not paid in time shall be deemed to be arrear at the end of the agricultural year which is recoverable through certificate proceedings under PDR Act.

As per information furnished by Government in September 2006, arrears of revenue of Rs 113.76 crore were pending collection for last five years as of March 2006. Yearwise details of arrears of revenue are as under:

(Rupees in crore)

Year	Amount
2000-01	16.52
2001-02	15.44
2002-03	17.76
2003-04	38.61
2004-05	25.43
Total	113.76

However, agewise analysis and stages at which the arrears were pending though called for in May 2006, was not furnished by the department (October 2006).

Non fixation of land rent

5.2.9 Under the provisions of the BT Act as amended with effect from 26 August 1993, a *raiya*¹⁰ may, with prior permission of collector, use the land for purpose other than agriculture purpose. The Collector, before giving such permission, shall redetermine the rent of such land to the extent of five

⁹ Section 53 of B. T. Act, 1885.

¹⁰ *raiya*-a person who has acquired a right to hold land for cultivation by himself or by member of his family and includes his successor.

per cent but not less than three per cent of the market value of such land. If a raiyat has not taken prior permission for such use, Collector may allow such use on payment of double the amount of rent which he would have been liable to pay, had he applied in time for the period between the date of use or the date of application or detection as the case may be.

Scrutiny of case records and entries in commercial rent registers maintained in offices of 18 AAs¹¹ and 6 DCLRs¹² during April 2005 to May 2006 revealed that 799.321 acres of agricultural land involving 869 tenants were utilised for commercial purposes such as saw mills, market shops, petrol pumps, hotels, cinema halls, flour mills and godown etc; without permission and were detected by department during the period from 2000-01 to 2004-05. Commercial rent in these cases was not fixed by departmental authorities resulting in non realisation of revenue of Rs 4.37 crore during the period from 2000-01 to 2004-05 as worked out on the basis of value of land indicated in the case records.

Non renewal of expired leases

5.2.10 Under the Bihar Government Estates (*Khas Mahal*)¹³ Manual and Rules made thereunder for leasehold *Khas Mahal* land, Government is to issue notice to the lessees to apply for renewal of the lease, six months prior to its expiry. The lessee is required to apply for renewal of his lease, three months prior to its expiry.

Mention was made in paragraph 2.4 of the Report of the Comptroller and Auditor General of India (Revenue Receipt), Government of Bihar for the year ended 31 March 1998 on the above subject and revenue implications thereof. Public Accounts Committee (PAC) recommended in July 2003 that lapses may be explained and reported to committee within six months. However, no report has been submitted to the committee, so far (August 2006)

Test check of records between January and June 2006 in the office of Additional Collector, Purnea revealed that 30.865 acres of *Khas Mahal* land held in 179 leases for 30 years were not renewed after their expiry between 1970-71 and 2004-05 and the lessees or their heirs continued to occupy lease hold property without payment of rent. In above cases, though the lessees applied for renewal of their expired leases in time, inaction on the part of the department to renew leases on fresh terms and conditions resulted in non realisation of Rs 13.06 crore as lease rent only during 2001-02 to 2005-06.

After this was pointed out, the Commissioner stated in October 2006 that action for renewal of expired leases was being taken up. Further reply has not been received (October 2006).

Violation of terms and conditions in case of lease in perpetuity

5.2.11 Bihar Government Estates (*Khas Mahal*) Manual provides that in case a lessee who changes the purpose of lease or transfers the property without

¹¹ Balrampur, Barsoi, Biraul, Darbhanga, Ekangarsarai, Goraul, Hazipur, Hilsa, Kanti, Lakhisarai, Motihari, Rajauli, Sakara, Samastipur, Sherghati, Supaul, Ujjarpur and Vaishali.

¹² Aurangabad, Benipur, Dalsighsarai, Darbhanga, Nalanda and Samastipur.

¹³ *khas mahal* means Government estate under the direct management of Government.

approval of competent authority is to be treated as trespasser and shall have no claim for continuation of lease on past terms and conditions of lease agreement and Government may resume such land. The trespassers should be issued notices to notify their intention if they are desirous of taking land on fresh lease by a fixed date. On fresh lease, *salami* at the current market value of land besides annual rent at the rate of two and five *per cent* for residential and commercial purposes respectively is leviable. As penal rent, the defaulter is liable to pay double the rent as envisaged in fresh lease for the period of default together with penal interest at the rate of 10 *per cent* per annum.

Scrutiny of records in the office of AC, Purnea revealed that 280.60 acres of *Khas Mahal* land held by 36 lessees in perpetual lease, either sold or transferred their leasehold land without permission of competent authority and the trespassers/transferees continued to occupy the land without payment of rent since 1983-84. The department failed to resume the land or to make fresh lease on fresh terms and conditions which resulted in non levy of revenue of Rs 140.51 crore (*salami*: Rs 114.23 crore; penal rent: Rs 22.85 crore; and penal interest: Rs 3.43 crore) during the period from 2001-02 to 2005-06.

After this was pointed out, the Commissioner stated in October 2006 that action for eviction against the trespassers was being taken. Further reply has not been received (October 2006)

Non levy of rent and cess due to non assessment of rent on *Kabil lagan*¹⁴ land

5.2.12 Under the provisions of BT Act, Government may, in any case, make an order directing that a survey be made and a record of rights be prepared by revenue officer in respect of lands in any local area, estate or part thereof. The revenue officer shall after publication of the records of rights, assess fair and equitable rent for tenants of every class.

Scrutiny of records of rights and assessment of rent on *Kabil lagan* land in the AA, Purnea, East (Purnea Sadar) revealed that as per municipal survey completed in 1990, 10536.16 acres of *Kabil lagan* land was identified for assessment. Out of which, 146.31 acre only was assessed for rent till 1991-92. Thus, 10389.85 acre was pending for assessment of rent as on March 2006. This resulted in non levy of rent and cess amounting to Rs 1.21 crore for the period 2000-01 to 2004-05.

After this was pointed out, AA Purnea stated (August 2006) that steps were being taken to assess rent on *Kabil lagan* land. The reply is not tenable as considerable period of 17 years has lapsed since publication of records of rights and AA has failed to assess the rent.

Non levy of cess

5.2.13 Under the Bihar Land Rent (Exemption from Payment) Act, 1982, Government exempted small holdings up to two hectares from levy of land rent with effect from 1 April 1978. However, such holdings were not exempted from levy of various cess like road cess, education cess, health cess

¹⁴ *Kabil lagan* holdings are those, which are legally assessable to rent but on which rent has not been assessed so far and which do not come within the purview of sections 5,6, and 7 of the Bihar Land Reforms Act, 1959.

and agricultural development cess leviable under the Bengal Cess Act (1880) as applicable in Bihar. Government while revising the rates of different classes of cess in 1982 instructed all the revenue officers to levy and collect cess from all tenants (*raiya*s) including those who were exempted from payment of land rent.

Scrutiny of records of AC, Muzaffarpur, revealed in April 2005 that demand of various cess were not raised against tenants of small holdings who were exempted from payment of land rent. This resulted in non levy of cess of Rs 88.15 lakh for the period from 2001-02 to 2003-04.

Non removal/settlement of encroached public land

5.2.14 Under BPLE Act, if a person has encroached, any public land, he may be served a notice requiring him to vacate the encroachment or to settle such public land on payment of rent and damages for the use of such land as per rules under Government Estates (*Khas Mahal*) Manual 1953. In case of impairment of the value of the public land by using it for residential/commercial purposes, *salami*¹⁵ at the prevailing market value of such land together with annual residential/commercial rent at the rate of two or five percent as the case may be, of such *salami* is payable respectively.

During test check of records in four AAs¹⁶ it was noticed that 35 persons had encroached 4.42 acres of land and used it for hotels, shops, market and residential houses between the year 1987-88 and 2004-05. No action has been taken by the department either to vacate the encroachment or to settle such land with these persons. This resulted in non realisation of Rs 60 lakh in shape of *salami* and rent calculated for the period 2000-01 to 2004-05.

Non settlement of vested land

5.2.15 The rights of intermediaries in *gair mazarua khas land*¹⁷ (GM Khas) were abolished and all such lands were vested with Government under BLR Act. As per instructions issued by Government from time to time, revenue officer is to examine cases of unsettled *GM khas* land to settle such land with persons of eligible categories, such as scheduled caste, scheduled tribes, backward classes and landless persons at fair and equitable rent.

Scrutiny of monthly progress reports of six AAs¹⁸ and five DCLRs¹⁹ revealed that out of 1,38,044 acres of *GM khas land* vested in Government, 94,451 acres of land was settled with eligible categories up to March 2005 leaving 43,593 acres of land pending for settlement by the department. Non settlement of land with eligible persons had a revenue effect of Rs 35.61 lakh in shape of land rent and cess for the period 2000-01 to 2004-05.

¹⁵ *Salami is the Government share in increased value of land.*

¹⁶ *Benipur, Ekangarsarai, Hazipur and Pusa.*

¹⁷ *Public land, the ownership of which is vested in Government and may be settled with persons of eligible category.*

¹⁸ *Chatarpur, Fatehpur, Goroul, Kako, Nawada, Supaul.*

¹⁹ *Aurangabad, Barsoi, Dalsinghsarai, Darbhanga, Samastipur.*

Non settlement of land donated under Bhoodan Yagna

5.2.16 Under the Bihar Bhoodan Yagna Act, 1954 the land vested in the Bihar Bhoodan Yagna Committee is to be granted to landless persons or to a village community, gram panchayat or co-operative societies by committee in the prescribed manner. The Act provides for conferment of occupancy right on the grantee over such land subject to payment of rent and cess.

On scrutiny of records of four AAs,²⁰ four DCLRs²¹ and two ACs²², it was noticed that out of 36,573 acres of bhoodan land donated during the period 1954-55, 20,823 acres of land was distributed upto 2004-05 leaving a balance of 15,750 acres. Had Government settled the land during the last three to five years, it would have fetched revenue of Rs 12.49 lakh in form of rent and cess during the period between 2000-01 to 2004-05.

Conclusion

5.2.17 The Revenue and Land Reforms Department could not exercise proper internal control for demand and collection from lessees. The returns prescribed were not properly maintained. No certificate proceedings were instituted to recover the arrears. The leases were not revised though the lease holders had applied within prescribed period. Kabil land was not assessed even after delay of 17 years after publication of records of rights. Government failed either to vacate encroachment or settle the same with occupants.

Acknowledgment

Audit findings as a result of test check of records were reported to Government in August 2006 with specific request to attend the meeting of the Audit Review Committee (ARC) of land revenue. Meeting of ARC was held on 31 October 2006 and Additional Secretary (Land Reforms and Revenue) attended the meeting. Reply of the Government has been incorporated in the review.

B. ENTRY TAX**5.3 Non / short levy of tax due to non registration of dealers/non filing of returns**

Under the provisions of Bihar Tax on Entry of Goods into Local Areas for consumption, use or sale therein Act, (BTEG Act) 1993 read with BF Act and Rules framed and instructions issued thereunder, on entry of certain specified goods (scheduled goods) for consumption, use or sale in Bihar, entry tax is levied at the rates prescribed from time to time. Every dealer who is liable to pay tax under the BTEG Act, shall make an application for registration before the prescribed authority within seven days of his becoming liable to pay tax. The prescribed authority after verifying the particulars furnished by the dealer, shall grant him a registration certificate within 30 days from the date of receipt of application. Failure to apply for registration attracts penalty, in addition to tax, at the rate of Rs 50 for each day of default or an amount equivalent to the

²⁰ Barsoi, Chatarpur, Kako and Obra.

²¹ Aurangabad, Benipur, Samastipur and Sherghati.

²² Nawada and Saran.

amount of tax, whichever is less. According to executive instructions of the department issued in November 1998 and May 2002, the assessing authorities (AA) are required to cross verify the returns and other information and initiate proceedings against the defaulting dealers. Further, every dealer liable to pay tax shall furnish an abstract of monthly import of goods, a true and complete return for each quarter and also an annual return in respect of all scheduled goods under BTEG Act and admitted tax payable thereon in accordance with the provisions of BF Act.

Cross verification of information collected in audit from case files, utilisation statements of declaration forms C and F, trading accounts and returns filed under BF Act and CST Act by eight dealers revealed the following:

5.3.1 In five circles²³, it was noticed in June and December 2005 that five dealers imported scheduled goods valued at Rs 60.10 crore between 2001-02 and 2004-05. Of this, two dealers of Special Circle, Patna and Siwan, who imported scheduled goods of Rs 54.11 crore between 2001-02 and 2003-04, did not file any return as required under the Act but paid entry tax of Rs 2.26 crore against payable entry tax of Rs 3.29 crore. In the remaining three cases, the dealers had not paid entry tax of Rs 0.43 crore. This resulted in non / short payment of entry tax of Rs 2.75 crore including penalty which escaped notice of the AA.

5.3.2 In three circles²⁴, it was noticed between October 2004 and November 2005 that three dealers imported scheduled goods valued at Rs 6.50 crore during 2002-03 and 2003-04. The dealers neither got themselves registered nor paid any entry tax under the provisions of BTEG Act. This resulted in non registration of dealers and non levy of entry tax of Rs 34.48 lakh.

The AAs, being common under both the Acts, failed to detect the fact of non registration and non deposit of tax under the BTEG Act through cross verification of figures of periodical returns filed by assesses under both the Acts.

After this was pointed out, the ACCT, Siwan circle stated in August 2006 that entry tax and penalty was deposited by one dealer. The reply was not tenable as proof of payment produced to audit was for Rs 11.79 lakh against payable amount of Rs 26.34 lakh. The DCCT, Patna West circle stated in October 2004 that the dealer concerned has applied for registration while the ACCT, Jehanabad circle stated that steps would be taken for registration of the dealers. In the remaining cases, the ACCTs/DCCTs²⁵ agreed to examine the records. Further reply has not been received (October 2006).

The cases were reported to Government in April 2006; reply has not been received (October 2006).

5.4 Suppression of turnover

Under the provisions of BTEG Act read with BF Act, if the prescribed authority in the course of any proceedings or otherwise is satisfied that any registered dealer has furnished incorrect statement of his turnover or incorrect

²³ Barh, Danapur, Nawada, Special Circle Patna and Siwan.

²⁴ Jehanabad, Patna (West), and Patna City (West).

²⁵ Barh, Danapur, Nawada, Patna City (West) and Special Circle Patna.

particulars of his sales or purchase in the return, he shall after giving the dealer an opportunity of being heard, direct that he shall in addition to any tax, pay by way of penalty a sum not exceeding three times but not less than an amount equal to the amount of tax.

In three commercial taxes circles, it was noticed between September and November 2005 from the assessment records, utilisation of road permit, certificate of declaration forms, purchase statements, trading accounts and returns, that four dealers suppressed value of scheduled goods of Rs 13.86 crore imported/purchased between 2001-02 and 2003-04. The AAs while finalising assessment between December 2003 and December 2004 failed to detect the suppression of turnover. In case of DCCT Danapur, the AA detected suppression of turnover and imposed penalty but failed to levy entry tax while finalising assessment in September 2004. This resulted in short levy of entry tax of Rs 1.34 crore including minimum penalty as shown in the table given below:

(Rupees in lakh)

Sl. No.	Name of the circle Number of dealer	Assessment year Month and year of assessment	Commodity	Rate of tax (in percent)	Actual value of import according to records assessed value	Difference	Amount of leviable tax Penalty	Short levy of Entry Tax
1	DCCT, Patna Special 2	2002-03 Jan. 2004 to June 2004.	Cement	5	7480.74 6250.41	1230.33	61.52 61.52	123.04
			Coal	4	1649.65 1581.91	67.74	2.71 2.71	5.42
2	DCCT, Patna City, West 1	2003-04 Dec. 2004	Waxed Paper, Plastic lamination	5	37.09 7.05	30.04	1.50 1.50	3.00
3	DCCT, Danapur 1	2001-02 Dec. 2003 to Sept. 2004	Iron & steel	4	703.34 645.08	58.26	2.33 (Already imposed)	2.33
Total						1,386.37	68.06 65.73	133.79

The cases were reported to Government between January and April 2006; reply has not been received (October 2006).

5.5 Irregular reduction of tax liability

Under the provisions of BTEG Act and Rules framed thereunder, an importer of scheduled goods becomes liable to pay tax under the BF Act by virtue of sale of such scheduled goods. The liability to pay tax under the BF Act shall stand reduced to the extent of tax paid under BTEG Act. The claim for reduction of liability to pay sales tax is required to be scrutinised by the AA before the next quarterly return falls due. The AA is to satisfy itself regarding the correctness of the claim for reduction and make appropriate endorsement in the assessment records and certificate in form ET-X. Tax liability of the dealer is to be reduced at the time of assessment of sales tax only after production of such certificate.

5.5.1 In Darbhanga circle, it was noticed in January 2006 that a dealer assessed to tax for the year 2002-03 in March 2005, availed reduction in liability of tax of Rs 5.79 lakh payable under BF Act, on the basis of entry tax

paid on the goods valued at Rs 1.16 crore though these goods were not sold during the year. This resulted in irregular adjustment of tax of Rs 5.79 lakh.

After this was pointed out, the DCCT, Darbhanga circle admitted in January 2006 that it was a procedural mistake. Further reply has not been received (October 2006).

5.5.2 In Patliputra circle, it was noticed in December 2005 that a dealer assessed to tax of Rs 4.22 crore under BF Act in July 2005 for the assessment year 2001-02, was allowed reduction in liability of tax to the tune of Rs 11.71 lakh being entry tax paid on purchase of goods valued at Rs 2.54 crore. Of this, goods of Rs 90.21 lakh only was, however, sold to other dealers for resale within the state (through form IX) on which the dealer had no liability to pay tax under BF Act. Adjustment of entry tax of Rs 8.11 lakh was only admissible on the balance amount of Rs 1.64 crore. Reduction allowed in the liability of tax to the tune of Rs 3.60 lakh was, therefore, irregular.

The matter was reported to department and Government in April 2006; reply has not been received (October 2006).

5.6 Non levy of penalty

Under the BTEG Act read with BF Act, if a registered dealer fails to make payment of the tax due by 15th day of the following month, the AA shall, after giving the dealer an opportunity of being heard, impose penalty which may extend to five per cent but not less than two and a half per cent of the amount of tax for each of first three months or part thereof and 10 per cent but not less than five per cent for each subsequent month or part thereof following the due date of payment of tax.

In four commercial taxes circles²⁶, it was noticed between July and December 2005, that four dealers did not deposit admitted tax of Rs 1.14 crore by the due dates for the assessment years 2000-01 to 2002-03. The delay in payment ranged between 12 and 892 days. The AAs, while finalising the assessments between May 2003 and November 2004, however failed to levy penalty of Rs 25.72 lakh.

After this was pointed out, the ACCT, Siwan circle stated in January 2006 that taxes were deposited in time. In remaining cases the officers incharge agreed to examine the cases. The reply of ACCT, Siwan was not tenable as it was apparent from challans and statement furnished by the dealer that the amount was paid belatedly. Further reply has not been received (October 2006).

The cases were reported to Government in April 2006; reply has not been received (October 2006).

C: TAXES ON SUGARCANE

5.7 Non levy of interest

Under the provisions of the Bihar Sugarcane (Regulation of Supply and Purchase) Act, 1981 and Rules framed thereunder, cane tax is payable within 15 days from the closure of the month to which the tax relates. In case of non

²⁶ Bhagalpur, Danapur, Patna Special and Siwan.

payment of tax within due date, interest at the rate of 11 *per cent* per annum is recoverable for the period of delay.

In test check of records of three cane officers²⁷, it was noticed between June and December 2005 that cane tax aggregating Rs 14.93 crore pertaining to the crushing years²⁸ 2002-03 to 2004-05 was assessed as payable by seven sugar factories²⁹. These amounts were, however, paid belatedly between March 2003 and June 2006. Interest amounting to Rs 47.81 lakh³⁰, though leviable, was not levied on the occupiers of factories.

After this was pointed out between June 2005 and January 2006, Government stated in June 2006 that demand notices had been issued in June 2006 to the defaulting factories for payment of interest. Report on recovery is awaited (October 2006).

²⁷ Bettiah, Gopalganj and Ramnagar.

²⁸ crushing year means the year commencing from 1st July in every year and ending on 30th June of the following year.

²⁹ M.P. Udyog Ltd., Majhulia, Haringagar Sugar Mill, Harinagar, New Swadeshi Sugar Mills, Narkatiaganj, Tirupati Sugar Ltd., Bagaha, Bharat Sugar Mill, Sidhwalia, Vishnu Sugar Mill, Harakhua and Sasamusha Mills Ltd., Sasamusha.

³⁰ Calculated at bank rate of 6 per cent prevailing during 2002-05 according to Reserve Bank of India.

CHAPTER-VI: NON TAX RECEIPTS**6.1 Results of audit**

Test check of records of the following receipts conducted during the year 2005-06, revealed loss/non recovery of revenue etc. of Rs 192.27 crore in 290 cases as indicated below:

(Rupees in crore)				
Sl. No.	Categories	No. of cases	Amount	
A	Review on Police Receipts	1	52.38	
	Total	1	52.38	
B	Mines and Minerals			
1	Non/short levy of royalty and cess	4	0.68	
2	Non levy of interest	12	1.23	
3	Non levy of penalty/fees	15	5.90	
4	Non levy of stamp duty and registration fees	11	4.40	
5	Non/short levy of auction money due to non/irregular settlement of <i>sand ghat</i>	5	7.26	
6	Other cases	33	16.73	
	Total	80	36.20	
C	Water Rates			
1	Loss of revenue due to non assessment of target of irrigation	9	1.63	
2	Delay in assessment of water rates	14	4.86	
3	Other cases	61	53.23	
	Total	84	59.72	
D	Weights and Measures			
1	Non realisation of revenue due to non reverification of weights and measures	1	0.13	
2	Revenue not credited to Government treasury	1	0.03	
	Total	2	0.16	
E	Forest Receipts			
1	Loss of revenue due to departmental lapses	76	35.12	
2	Other cases	47	8.69	
	Total	123	43.81	
	Grand Total	290	192.27	

A few illustrative cases including a review on "Police Receipts" involving tax effect of Rs 62.37 crore are discussed in the following paragraphs:

A: POLICE RECEIPTS

6.2 Review: Police receipts

Highlights

- Demand of GRP for Rs 9.62 crore pertaining to the years 1979-80 to November 2000 was raised with delay ranging from four to 25 years.
(Paragraph 6.2.8.1)
- Irregular adjustment of police receipt of Rs 35.94 crore towards departmental account.
(Paragraph 6.2.8.2)
- Leave salary and pension contribution of Rs 79.44 lakh was not realised from railways.
(Paragraph 6.2.8.3)
- Expenditure of Rs 11.09 crore representing Railway share of GRP cost was irregular.
(Paragraph 6.2.8.4)
- Demand for Rs 1.37 crore being cost of staff of establishment of IG and DIG was not raised.
(Paragraph 6.2.9)
- Demand of Rs 5.35 crore for police forces supplied to commercial institutions and individuals was not raised.
(Paragraph 6.2.10.1 & 6.2.10.2)

Recommendations

Government may consider to:

- devise effective and efficient mechanism for timely assessment, raising of demand and collection of police cost;
- maintain demand, collection and balance register by all assessing authorities for assessment of dues and recoveries thereof from time to time;
- avoid unauthorised adjustment towards departmental expenditure from Government revenue; and
- deploy police force to commercial undertakings and private individuals on receipt of police cost in advance.

Introduction

6.2.1 The police receipts in State are governed by Police Act, 1861, Bihar Police Manual 1978 (BPM), Bihar Service Code Volume-I, BFR, Government Accounting Rule, 1990 (GAR) and Indian Railway Financial Code Volume-1.

The receipts of the Police Department mainly comprise recovery of cost of police force supplied to other Governments, (including Railways), public sector undertakings, private companies and individuals etc., fees, fines and forfeitures and miscellaneous receipts such as sale proceeds of condemned Government vehicles, unclaimed/ confiscated goods and wrecker charges for towing disabled vehicles lying on the road.

Organisational set up

6.2.2 Under overall control of Government, Home (Police) Department, the Director General and Inspector General of Police (DGP) is the head of the department who is assisted by Additional Director General of Police (ADGP) and Assistant Inspector General (AIG) of police at headquarters, Inspector General of Police (IG), Deputy Inspector General of Police (DIG) and Senior Superintendents of Police (SSPs)/ Superintendent of Police (SPs) incharge of zones, ranges and districts respectively. There is one IG (Rail) who is responsible for deployment of police force for protection of Railways. He is assisted by one DIG and four Superintendents of Rail Police (SRPs). Besides, there are commandants, Bihar Military Police (BMP) in the state.

DGP is responsible for deployment of police force, assessment and collection of cost of police guards in respect of police personnel deployed in Railways and outside the State where as SP is responsible for assessment and collection of cost of deployment of police guard supplied to institutions/individuals in district concerned.

Audit objectives

6.2.3 The review of police receipts was conducted to ascertain:

- whether provisions of Acts/rules relating to assessment and collection of police cost for deployment of police force were applied correctly and effectively; and
- that internal control mechanism was functioning properly.

Scope of Audit

6.2.4 The review of the records pertaining to the year from 2000-01 to 2004-05 of the office of Secretary, Home (Police) Department, DGP, IG (Rail), four SRPs, 13 out of 40 SSPs/SP and six out of 16 Commandants, BMP was conducted between January and July 2006. Major findings emerging out of review are mentioned in succeeding paragraphs:

Trend of revenue

6.2.5 Bihar budget procedures (BBP) provide that estimates of revenue and receipt should show the amounts expected to be realised within the year. In estimating revenue for the ensuing year, the calculations should be based on actual demand including any arrears due for past years and the probabilities of their realisation during the year. In the case of fluctuating revenue, the estimate should be based on a comparison of the last three years' receipts. BFR provides that the controlling officer should examine the budget proposals

received from the disbursing officer and submit these to Finance Department for further action.

BEs and actual receipts during the last five years were as under:

(Rupees in crore)				
Year	BEs	Actual receipts	Short fall	Percentage of variation
2000-01	149.02	4.70	(-)144.32	97
2001-02	45.00	3.98	(-) 41.02	91
2002-03	46.35	22.71	(-) 23.64	51
2003-04	46.35	16.86	(-) 29.49	64
2004-05	24.67	13.72	(-)10.95	44

The variation between BEs and actual receipts ranged from 44 to 97 per cent during 2000-01 to 2004-05. Reasons for variations though called for in January 2006 were not furnished (October 2006).

During the year 2000-01, though the actual receipt was only Rs 4.70 crore against the BEs of Rs 149.02 crore, the BEs during 2001-02 were reduced to Rs 45 crore against which the actual receipt was merely Rs 3.98 crore, BEs during 2004-05 was further reduced to Rs 24.67 crore as compared to Rs 46.35 crore during 2003-04. The actual receipt during 2002-03 was Rs 22.71 crore as compared to Rs 3.98 crore in 2001-02 and thereafter it continued to decrease. There was nothing on record indicating any rationale behind such *ad hoc* estimation of revenue.

Further, scrutiny of records relating to BEs in the office of the DGP for the years 2000-01 to 2004-05 revealed that the DGP's office did not submit any BEs to the Finance Department. BEs were prepared by the Finance Department on *ad hoc* basis by effecting increase/ decrease in the preceding years BEs. The Finance Department admitted in April 2006 the fact of preparation of BEs on *ad hoc* basis owing to non receipt of BEs from controlling officer(s) concerned. Thus, prescribed procedure under BBP for preparation of BEs was not followed. As such the BEs prepared were unrealistic.

6.2.6 Arrears of revenue

6.2.6.1. According to instructions issued by DGP in August 2000 and from time to time, the progress report for realisation of cost of supply of police force supplied to other Governments, private individuals and commercial undertakings etc; was to be submitted periodically by SSP/SPs to DGP to monitor progress of recovery of outstanding dues for further submission to Government.

The position of arrears pertaining to the year 2000-01 to 2004-05 were called for in January 2006, Information was furnished by DGP after obtaining the same from SSPs/SPs for only 29 out of 40 districts wherein arrears of Rs 7.81¹ crore was outstanding as on March 2006. Year wise details of arrears is as under:

¹ Other Government department: Rs 0.05 crore; other parties : Rs 2.81 crore and bodies/corporation/air port authority: Rs 4.95 crore.

Year	Amount in crore
2000-01	0.18
2001-02	4.22
2002-03	0.98
2003-04	1.12
2004-05	1.31
Total	7.81

The information of arrears prior to 2000-01 was not furnished.

6.2.6.2 Cross verification of details of arrears furnished by DGP with the records of eight districts by audit revealed that there was substantial variation in the figures supplied by DGP and as per records maintained by SSPs/SPs as shown under:

(Rupees in lakh)

Sl No	Name of the district	Arrears according to DGP's office	Arrears according to SPs of districts concerned	Difference
1	Nalanda	38.83	41.88	(-)3.05
2	Lakhisarai	5.41	6.34	(-)0.93
3	Muzaffarpur	7.85	84.84	(-)76.99
4	Madhubani	9.52	52.09	(-)42.57
5	Gaya	Nil	189.30	(-)189.30
6	Motihari	Nil	31.17	(-)31.17
7	Katihar	Nil	57.01	(-)57.01
8	Buxar	Nil	41.81	(-)41.81

Difference in figures of arrears obtained from field offices and furnished by DGP was indicative of lack of monitoring in respect of recovery of demands raised by district police authorities.

Internal control mechanism

6.2.7 Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. Internal audit, a vital component of internal control is generally defined as control of all controls to enable an organisation to assure itself that the prescribed systems are functioning reasonably well. The Finance (Audit) Department, which works as internal auditor has conducted audit of DGP office in the year 2003-04 pertaining to the period upto 1997-98 only. The internal audit report, however, did not contain any observation on the receipts of the department.

6.2.7.1 BFR provides that controlling officer concerned has to see that the dues of Government are correctly and promptly assessed, collected and deposited in the treasury. To monitor the recoveries, a demand, collection and balance register (DCB register) is required to be maintained wherein all demands raised, recovered and balance is to be mentioned.

Test check of records of DGP Office and SSP/SPs offices revealed that in none of the offices, DCB register was maintained. In the absence of these records, raising of demand and recovery thereof could not be ascertained.

Non reconciliation

6.2.7.2 Government of Bihar, Home (Police) Department issued instructions in February 2002, that every drawing and disbursing officer is to prepare a

statement of expenditure year wise and item wise (head wise) alongwith treasury voucher number and date and obtain required certificate after its reconciliation/verification from the Accountant General (Accounts & Entitlement).

The position of expenditure as reported by four SRPs and expenditure according to Accountant General (A&E) was as under:

(Rupees in crore)

Year	Expenditure	SRPs			
		Jamalpur	Katihar	Muzaffarpur	Patna
2001-02	SRP	3.57	7.35	9.86	10.20
	AG	3.12	8.28	5.92	9.37
	Difference	(+)0.45	(-) 0.93	(+)3.94	(+)0.83
2002-03	SRP	3.10	7.69	11.24	11.56
	AG	4.13	10.22	10.16	10.51
	Difference	(-) 1.03	(-) 2.53	(+)1.08	(+)1.05
2003-04	SRP	4.081	8.09	10.22	10.88
	AG	4.084	8.41	8.87	10.78
	Difference	(-)0.003	(-)0.32	(+)1.35	(+)0.10
2004-05	SRP	4.29	8.71	11.15	13.78
	AG	4.35	9.05	10.41	12.80
	Difference	(-) 0.06	(-) 0.34	(+)0.74	(+)0.98

The above table indicates that during the years 2001-02 to 2004-05, there was difference between expenditure figures as reported by the department and those accounted for by the AG. Reasons for variations though called for between February to April 2006 were not intimated.

Recovery of cost of deployment of police force from Railways

6.2.8 BPM provides for charging cost for supply of police force to Central Government departments including Railways. According to provisions of Indian Railway Financial Code Volume-1, the cost of Government Railway Police (GRP) will be shared between State Government and Railways on 50:50 basis, provided the strength is determined with the approval of Railways. Share of cost of police will include pay and allowances in respect of GRP staff including office and supervisory staff upto the level of IG provided they are exclusively incharge of GRP, office expenses and contingencies, cost of pensionary charges, cost of rent of building occupied by GRP staff, apart from medical reimbursement and medical allowances payable to staff.

Abnormal delay in raising demand

6.2.8.1 As per BFR, it is the duty of the controlling officer to see that the dues of Government are correctly and promptly assessed, collected and paid into the treasury.

Test check of records of DGP office revealed that Rs 53.54 crore being 50 percent share of cost of GRP for the period from 1979-80 to 2003-04 was recoverable from Railways. The claims were, however, preferred late and the delay ranged between six months to 25 years as per details given below:

(Rupees in crore)

Sl. No.	Name of Railways/SRP concerned	Period	Amount	Demand raised in	Delay in raising demand between
1.	E Railway / (SRP Patna/Jamalpur)	1992-93 to 14.11.2000	5.81 ²	October 2004	4 to 11 years
2.	NF Railway / (SRP Katihar)	1979-80 to 1991-92	3.81	September 2004	12 to 25 years
3.	E Railway / (SRP Patna/Jamalpur)	15.11.2000 to 30.09.2002	12.27	September 2004	2 to 4 years
4.	NF Railway / (SRP Katihar)	15.11.2000 to 31.03.2004	03.63 01.87	March 2004, September 2004	6 months to 3 years
5.	NE Railway / (SRP- Katihar/Muzaffarpur)	15.11.2000 to 30.09.2002	2.91 0.79 0.88	October 2004, March 2004 and February 2004	1 to 4 years
6.	EC Railway / (SRP- Jamalpur/Katihar/Patna/Muzaffarpur)	1.10.2002 to 31.03.2004	21.57	September 2004	6 months to 2 years
		Total	53.54		

Claim of Rs 9.62 crore was raised with delay ranging between four to 25 years (as shown in Sr. No. 1 and 2). The delay in preferring claims was indicative of lack of proper monitoring over preferring claims.

Irregular adjustment

6.2.8.2 As per BPM read with GAR, all revenue and receipts should be paid, without deduction, into treasury and credited in the accounts. Crediting of net receipts after deduction of expenditure is not allowed. Further, the department of Central Government (including Railways) which received supplies/services will present a bill along with the accepted invoice to its own accounts officer concerned who will make payment by cheque /bank draft drawn in favour of the officer concerned of the supplying Government in settlement of its claim. No expenditure can be incurred from consolidated fund without the vote of legislature.

Government of Bihar gave consent in June 2004 to Railway Board, New Delhi to adjust Rs 35.94 crore out of GRP dues payable to State towards the instalment payable by Government for construction of railway over and under bridge. Accordingly, Railway Board adjusted Rs 35.94 crore out of Rs 53.54 crore dues payable to state from Railways.

As no expenditure can be incurred without budget provision passed by legislature, the adjustment of revenue towards expenditure or its diversion was not in conformity with the provisions of BPM and GAR.

The matter was pointed out in February 2006 to Secretary, Home Department and IG, (Rail). IG (Rail), Patna stated in July 2006 that the matter has been

² Out of Rs 5.81 crore, Rs 0.91 crore pertained to the period 1992-93 to 1995-96. This amount was not included in the demand of Rs 5.83 crore raised by the department in May 1997 as pointed out in the report of CAG (Revenue Receipt) in the year ending March 1999. Reasons for not including the said amount was attributed to non receipt of required certificate from the AG (A&E).

taken up with Government and railway authorities. Further replies have not been received (October 2006).

Non realisation of leave salary and pension contribution

6.2.8.3 As per BPM, pay and allowances of GRP personal including officers, leave salary and pension contribution calculated at the rates prescribed and contingency charges are to be taken into consideration for calculating railway share of police cost.

Scrutiny of records of IG (Rail) revealed that Rs 79.44 lakh pertaining to leave salary and pension contribution of the GRP for the period from 1996-97 to September 2002 was not admitted by Railways.

After this was pointed out, the department replied that the claim was not admitted by Railways for want of AG's certificate. The reply is not tenable as the audit certificate for the year 1996-97 to September 2002 was issued by the AG's which pertains to expenditure incurred during the year. Leave salary and pension contribution is calculated at prescribed rates on yearly basis and audit certificate is not relevant for that purpose.

Irregular expenditure

6.2.8.4 Under the provisions of GAR, the cost of GRP will be shared between State Government and Railway on 50:50 basis provided the strength is determined with the approval of Railways.

Test check of records of SRPs Muzaffarpur and Patna revealed that during the period from 2000-01 to 2004-05, the department deployed 335 to 475 policemen in excess of posts sanctioned/approved by Railways and incurred an expenditure of Rs 22.18 crore. As such the department had incurred irregular expenditure of Rs 11.09 crore being share of Railway as per details given below:

Year	District	Sanctioned strength approved by Railway	Men in position	(+) Excess/ (-) short deployment	Expenditure (Rs in crore)
2000-01	Muzaffarpur	845	823	(-) 22	
	Patna	677	1,034	(+) 357	
	Total	1,522	1,857	(+) 335	1.45
2001-02	Muzaffarpur	845	991	(+) 146	
	Patna	677	1,006	(+) 329	
	Total	1,522	1,997	(+) 475	5.28
2002-03	Muzaffarpur	845	919	(+) 74	
	Patna	677	996	(+) 319	
	Total	1,522	1,915	(+) 393	5.16
2003-04	Muzaffarpur	845	894	(+) 49	
	Patna	677	1,012	(+) 335	
	Total	1,522	1,906	(+) 384	4.69
2004-05	Muzaffarpur	845	938	(+) 93	
	Patna	677	979	(+) 302	
	Total	1,522	1,917	(+) 395	5.60
	Grand Total	-	-	-	22.18

Lacuna in Government Accounting Rule

6.2.9 GAR provide that for calculating Railway share, pay and allowance upto the level of SP are to be included whereas as per Indian Railways Financial Code Vol.I, pay and allowance upto the level of IG (R), provided they are exclusively incharge of GRP, are to be taken into account while calculating Railway share.

Test check of records of DGP revealed that Government incurred an expenditure of Rs 2.74 crore on pay and allowance in respect of establishment of IG (R) and DIG (R) during the period from 2000-01 to 2004-05 but no demand of Rs 1.37 crore being 50 per cent share of Railway was demanded from Railway in terms of provisions contained in Indian Railway Financial Code Vol-1. Thus, Government was deprived of revenue of Rs 1.37 crore.

After this was pointed out, IG (R), Patna stated in July 2006 that the matter has been taken up with railway authorities. Further reply has not been received (October 2006).

Recovery of cost for supply of district police to commercial institutions and individuals

6.2.10 According to BPM read with Police Act, and executive instructions issued by police headquarters from time to time, guards and parties of the police can be supplied to departments of Government of India (GOI), state electricity board, commercial undertakings of public sector of State and Central Government, private individuals and other non Government bodies on payment of cost in advance.

Non raising of demand

6.2.10.1 Test check of files of four SPs and one Commandant revealed that deployment of police force³ was made to different commercial institutions between the period 2000-01 and 2004-05, but demand for police cost of Rs 2.64 crore was neither assessed nor raised as per details given below:

(Rupees in lakh)

Sl. No.	Name of the office	Name of the unit (Strength deployed)	Period	Amount
1	SP Gaya	State Bank of India, Main Branch, Gaya (H:01, C:05)	2000-01 to 2004-05	20.19
		Bank of Baroda, Gaya (H:01, C:05)	2000-01 to 2004-05	20.19
		Maitriya Project, Gaya (H:01, C:04)	2000-01 to 2004-05	16.86
		Road Institute, Gaya (H:01, C:05)	2000-01 to 2004-05	20.19
		Dongeshwari Picket, Gaya (H:01, C:10)	2000-01 to 2004-05	36.86
		Amash Oriental, Gaya (H:03, C:27)	6.02.03 to 8.09.03	14.15
		(H:03, C:16)	15.10.03 to 31.12.04	21.65
		(H:01, C:08)	01.1.05 to 31.03.05	02.08
2	SP Madhubani	State Bank of India, Jhanjharpur, (H:01, C:04)	2000-01 to 2004-05	20.25

³ Head Constable (H) and Constable (C).

(Rupees in lakh)

Sl. No.	Name of the office	Name of the unit (Strength deployed)	Period	Amount
3.	SP Nalanda	State Bank of India, Nalanda (H:01, C:06)	2000-01 to 2004-05	23.53
		Museum, Nalanda (H:01, C:04)	2000-01 to 2004-05	16.86
4.	SSP Patna	TV Tower, Agamkuan (C:01)	2001-02 to 2004-05	03.06
		All India Radio (C:01)	2001-02 to 2004-05	03.06
5.	Commandant BMP-5, Patna	Bihar State Electricity Board, Patna (H:02, C:08)	2001-02 to 2004-05	44.81
			Total	263.74

After this was pointed out between February and June 2006, SSP, Patna raised demand of Rs 6.12 lakh in June 2006 while other SPs stated that demand would be raised.

6.2.10.2 Test check of files of SP of nine districts⁴ relating to deployment of police force also revealed that deployment had been made to ex Governor, ex-CMs, ex MPs, ex Judges, ex MLAs/MLCs, doctors, advocates and other individuals between the period 2000-01 and 2004-05, but demand for police cost of Rs 2.71 crore was neither assessed nor raised as detailed below:

(Rupees in lakh)

Sl. No.	Name of the office	Particulars	Strength deployed		Period	Amount
			Havildar	Constable		
1	SP Buxar	18 individuals (ex MLA-6, others-12)	1	18	2000-01 to 2004-05	41.81
2	SP Gaya	33 individuals (ex MLA-1, Mukhiya-2, Advocate-2, others-28)	-	33	2000-01 to 2004-05	37.13
3	SP Madhubani	10 individuals (ex CM-1, ex-Minister-1, ex-MLA-6, ex MP-1 other-1)	04	09	2000-01 to 2004-05	20.44
4	SP Motihari	17 individuals (MP-1, MLA-1, MLC-1, ex MLA-3, ex MP-3, ex MLC-1, Doctor-1, others-6)	09	24	2004-05	31.17
5	SP Nalanda	1 individual (ex MP-1)	0	1	2003-04 to 2004-05 (22.08.03 to 31.03.05)	01.49
6	SSP Patna	46 individuals (ex-Gov.-1, ex CM-3, ex-Judge-4, ex MP-4, ex MLA-4, Doctor-23, Advocate-5, Others-2)	0	49	2000-01 to 2004-05	41.52
7	SP Katihar	3 individuals (others-3)	0	3	2004-05	2.79
8	SP Muzaffarpur	34 individuals (Others 34)	2	32	2000-01 to 2004-05	81.52
9	SP Jamui	7 individuals (ex MLA-1, Others-6)	3	30	2001-02 to 2004-05	12.81
					Total	270.68

⁴ Buxar, Gaya, Jamui, Katihar, Madhubani, Motihari, Muzaffarpur, Nalanda and Patna.

After this was pointed out between February and June 2006, SSP, Patna stated that demand notice for payment of cost of Rs 41.52 lakh was issued in March 2006 while SPs, Buxar, Gaya, Jamui, Katihar, Madhubani, Motihari, Muzaffarpur and Nalanda stated that demand would be raised.

Conclusion

6.2.11 The department failed to monitor arrears of revenue and maintain the DCB registers to assess the demand and collection thereof. Government revenue was irregularly adjusted towards departmental expenditure without the approval of State legislature. There was abnormal delay in raising demand against Railways and demands were not raised against commercial undertakings and individuals which was due to lack of internal control on the part of department.

Acknowledgement

Audit findings as a result of test check of records were reported to Government in July 2006 with a specific request to attend the meeting of the Audit Review Committee (ARC) of police receipt. A meeting of ARC was held on 20 October 2006 and Additional Secretary (Home) Police attended the meeting and the reply of the Government has been incorporated in the review.

B: MINES AND MINERALS

6.3 Non levy of penalty for illegal mining of brick earth and sand

Under the provisions of Bihar Minor Mineral Concession Rules, 1972 (BMMC Rules) and notification issued thereunder, every brick kiln owner/brick earth remover shall pay amount of prescribed consolidated royalty per annum based on category of brick kiln before issue of permit. Further, Rules provide that whoever removes minor mineral without valid lease/permit shall be liable to pay the price thereof as penalty. Government may also recover from such person rent, royalty or taxes, as the case may be, for the period during which the land was occupied by such person without any lawful authority.

In eight district mining offices⁵ (DMOs), it was noticed between March 2005 and March 2006 that 739 brick kilns were operated in brick season 2003-04 and 2004-05 without payment of prescribed royalty. Brick kiln earth and sand was removed without obtaining permits. Taking the minimum price of mineral equivalent to royalty, there was non levy of penalty of Rs 4.47 crore.

After this was pointed out in March 2006, Assistant Mining Officer (AMO) Motihari stated that no specific provision for imposition of penalty lies under rule 26 (A) of BMMC Rule. The reply of AMO was not tenable as Rule 40 (8) attracts penal provision for illegal removal/excavation of minor minerals/brick kiln earth whereas Rule 26-A deals with payment of consolidated royalty by brick kiln owner having valid permit. Where mining is done without any permit, all such cases are to be treated as illegal excavation and penalty.

⁵ *Bhojpur, Buxar, Gaya, Jahanabad, Lakhisarai, Motihari, Munger and Vaishali.*

imposed under Rule 40(8). No reply was received from other DMOs (October 2006).

The cases were reported to Government between January to April 2006; reply has not been received (October 2006).

6.4 Loss of revenue due to non execution of deeds of settlement

Under the provision of BMMC Rules, settlement of *sand ghats* is done for one calendar year by collector of the district by public auction and a deed of settlement is to be executed within 60 days of the order of the settlement on payment of stamp duty as prescribed in the Indian Stamp Act, 1899. In case of non execution of deed, the settlement order shall be deemed to have been revoked.

In three district mining offices,⁶ 84 *sand ghat* areas were settled at Rs 32.39 crore for the years between 2003 and 2005 without executing deeds of settlement as required under the Rules. This resulted in loss of stamp duty of Rs 2.04 crore (including surcharge of Rs 1.07 crore).

After this was pointed out between October 2004 and August 2005, AMO, Patna stated that demand notices were issued while AMO, Munger stated in May 2005 that action would be taken to recover the amount. Further replies have not been received (October 2006).

The cases were reported to Government in February 2006; reply has not been received (October 2006).

C: WATER RATES

6.5 Non raising of demand due to non preparation of *khatiani*

Under the provisions of Bihar Irrigation Act, 1997 and Rules framed thereunder, preparation of statement of land irrigated (*sudkar*), cultivator wise measurement (*khesra*) and demand statement (*khatiani*) are required to be completed by 30 November for *kharif*, 30 April for *rabi* and 15 June for hot weather crops by Irrigation Department for recovery of water rates from the beneficiaries to whom water is supplied for irrigation purposes and forward the same to revenue divisions for recovery.

In two divisions⁷, it was noticed between May and July 2005, that *khatiani* for 2.86 lakh acres of *kharif*, 0.61 lakh acres of *rabi* and 0.14 lakh acres of hot weather crops land irrigated during the years 2000-01 to 2004-05 were not prepared and forwarded to the concerned revenue divisions for raising demand of water rates of Rs 3 crore.

After this was pointed out between May and July 2005, the executive engineers (EE) concerned stated in June 2005 and July 2005 that *khatiani* would be prepared and sent to revenue divisions for collection.

⁶ Bhojpur, Munger and Patna.

⁷ Bhagalpur division, Bhagalpur and Triveni Canal division, Raxaul.

The cases were reported to Government between October and November 2005; reply has not been received (October 2006).

6.6 Loss of revenue due to settlement of chat land at lower rates

Under the provisions of Bihar Irrigation Manual and instructions issued thereunder, *chat land*⁸ is to be settled on lease for nine months for the period from June to March each year to scheduled caste/ scheduled tribes and landless farmers at prescribed rates. Government revised in April 2002 the rates for settlement of *chat land* at the rate of Rs 1,000 per acre. In addition, water rate is also charged.

In Some canal division, Ara, it was noticed that 730 acres of double crop *chat land* was settled at the old rate of Rs 213 per acre instead of revised rate of Rs 1,163 per acre (including water rates) for the years 2002-03 to 2004-05. This resulted in short realisation of revenue of Rs 14.24 lakh.

After this was pointed out in July 2005, the EE stated that the revised rates were received in the division in March 2005. Reply of the EE is not tenable as the order for the revision of rate was communicated by Engineer in Chief, Water Resources Department, Bihar to all Chief Engineers concerned in the month of April 2002 and the letter of March 2005 as referred to by the EE above was only clarification sought for from the Chief Engineer concerned.

The case was reported to Government in October 2005; reply has not been received (October 2006).

D. WEIGHTS AND MEASURES

6.7 Non realisation of revenue due to non re-verification of weights and measures

Under the provisions of Standards of Weights and Measures (Enforcement) Act, 1985 read with Bihar Standards of Weights and Measures (Enforcement) Rules (BSWM Rules), 1988 made thereunder, every person in possession, custody or control of any weight or measure which he intends to use in any transaction or for industrial production, shall present such weight or measure for verification by an inspector and get it stamped at least once in a year on payment of prescribed fee. Contravention of the Act attracts punishment with fine which may extend to Rs 500. Further, under Rule 17 (3) of the BSWM Rules, if such weights and measures are presented for re-verification after expiry of validity of stamping, an additional fee at half the rates specified in Rules shall be payable for every quarter for the period of delay. The inspectors are required to inspect/test weight or measures randomly at any time within their jurisdiction and also to direct any person having possession of weights or measures to produce the same before them for verification in order to detect any violation of the Act.

⁸ Government land which is situated on both sides of the canal.

Scrutiny of register of users⁹ in the offices of nine inspectors¹⁰ of weights and measures, for the period 2002-03 to 2004-05 revealed that though 2,373 users failed to produce their weights and measures for reverification, no action was initiated by inspectors either to inspect the apparatus at the place of installation or direct the users to produce the same for inspection. This not only resulted in irregular use of apparatus without authorisation, but also led to non realisation of fee and additional fee of Rs 13 lakh (calculated for the period 2002-03 to 2004-05). In addition, fine of Rs 500 in each case was also leviable.

After this was pointed out, the inspectors¹¹ stated between March and May 2006 that reply would be furnished after verification of records. Further reply is awaited (October 2006).

The case was reported to Government in July 2006; reply has not been received (October 2006).

6.8 Revenue not credited to Government account

According to BFR read with Rule 7 of Bihar Treasury Code Vol-I, it is the primary responsibility of departmental authority to see that all revenue receipts due to Government are correctly and properly assessed, realised and credited to Government account without undue delay. BSWM Rules and instructions issued by the Controller, Weights and Measures, Bihar in June 2002, provides that all payments received by the inspectors during a week are required to be deposited in treasury on each Wednesday or any day of the following week.

6.8.1 Cross verification of the details shown in cash book, copy of money receipts and challans for the period from 17 July 2003 to March 2005 as produced to audit by four sub divisions¹² with treasury records revealed that Rs 2.69 lakh collected by inspectors of weights and measures was either not accounted for in the cash book or accounted for in the cash book but not deposited in treasury as per details given below:

(Amount in rupees)				
Name of Sub divisions	Period	Amount collected	Amount deposited in treasury	Balance
Bagaha	2003-04 (17.7.2003 to 31.3.2004)	1,41,929	1,36,608	5,321
	2004-05	1,38,784	1,06,468	32,316
Bettiah	2004-05	1,16,796	57,648	59,148
Narkatiaganj	2003-04 (13.8.2003 to 31.3.2004)	3,05,469	1,99,153	1,06,316
	2004-05	62,531	15,484	47,047
Bettiah Sadar	29.3.2005	18,859	NIL	18,859
Total		7,84,368	5,15,361	2,69,007

⁹ Register of users of weights and measures to be maintained in form prescribed under Rule 10 of BSWM Rules.

¹⁰ Bagaha, Begusarai Sadar, Begusarai Additional, Bettiah, Danapur Sadar, Gaya Sadar, Jehanabad, Narkatiaganj and Sherghati.

¹¹ Bagaha, Begusarai Additional, Begusarai Sadar, Bettiah, Danapur Sadar, Gaya Sadar, Jehanabad, Narkatiaganj and Sherghati.

¹² Bagaha, Bettiah, Narkatiaganj and Bettiah Sadar.

After this was pointed out, the inspector Bettiah Sadar deposited (May 2006) a sum of Rs 18,859 into Government account which was collected in March 2005. Reason for non deposit of the amount was attributed by the inspector to abnormal rush of traders in the last week of March 2005 and ongoing camps being held for collection of revenue during that period. In remaining cases, the inspectors concerned stated (May 2006) that the reply would be furnished after examination of records. Further reply is awaited (October 2006).

6.8.2 Further test check of records of the office of the inspector, incharge Bettiah, Bagaha and Narkatiaganj sub divisions in May 2006 relating to the years 2002-03 to 2004-05, revealed that neither the cash book nor the counterfoil of money receipts issued were properly maintained. Details of cash book and corresponding money receipts for different periods falling between September 2003 and December 2004 which were not produced to audit are given in *Annexure-I*.

In absence of counterfoils of money receipts and cash book, revenue actually collected and remitted into treasury could not be ascertained for the years 2003-04 and 2004-05 (up to December 2004).

After this was pointed out, the inspector stated (May 2006) that his predecessor did not hand over records on his transfer. An inventory of the available records was prepared in the presence of a magistrate on the order of District Magistrate. The cash book and receipt books were not available in the office at the time of preparation of inventory, as such, required documents could not be produced to audit. Thus, it is evident that revenue involved in receipt books which were not handed over by predecessor during September 2003 and December 2004 had been misappropriated.

These cases were reported to Government in July 2006; reply has not been received (October 2006).

E. FOREST RECEIPTS

6.9 Non realisation of Government revenue due to non raising of demand

Government of India (GOI), Ministry of Environment and Forest instructed in March and September 2004 that State Governments should receive funds for compensatory afforestation and net present value from the user agencies for diversion of forest land for non forestry purposes and keep the fund in the form of fixed deposits (FD in nationalised banks only) in the name of concerned divisional forest officer (DFO) or the nodal officer of the State. During the years 2004 to 2006, interest receivable from nationalised banks on FDs ranged between 5.5 and 6.5 per cent.

6.9.1 Test check of records of the Regional Chief Conservator of Forests (RCCF), Muzaffarpur revealed in June 2005 that inter departmental meeting of Forest, Road and Electricity departments held in February 2004 approved felling of trees along National Highway 28¹³ for construction of east west

¹³ 360.57 km to 520 km (UP border to Muzaffarpur).

corridor by the National Highways Authority of India (NHAI). NHAI deposited the provisional amount of Rs 1 crore in May 2004 with the RCCF, Muzaffarpur pending detailed estimate in respect of compensatory afforestation and cost of removal of felled trees. The amount was credited to Government account in May 2004 as forest receipts and order was issued in July 2004 for commencement of the work.

The RCCF, Muzaffarpur in July 2004 submitted detailed estimate of Rs 2.87 crore to the Principal Chief Conservator of Forests (PCCF), Bihar for realisation from NHAI on account of logging, transportation of felled trees and plantation of trees and requested the PCCF to raise demand for the balance of Rs 1.87 crore from NHAI. The demand was, however, not raised till the date of audit (June 2005).

After this was pointed out, RCCF, Muzaffarpur stated in August 2006 that action was being taken to raise demand for balance dues with NHAI. Progress of recovery is awaited (October 2006).

6.9.2 Test check also revealed that the amount of Rs 1 crore received from NHAI was credited to Government account in May 2004 as revenue receipt instead of keeping it in the form of FD as directed by GOI. This led to loss of interest of Rs 12.83 lakh for the period from May 2004 to August 2006.

The matter was reported to department/Government in April and October 2006; reply has not been received (October 2006).

6.10 Non eviction from forest land

Under the provisions of Indian Forest Act (IF Act), 1927 as amended from time to time encroachment of forest land is a cognisable and non bailable offence. Any forest officer not below the rank of DFO, if he has reason to believe that encroachment of Government forest land has taken place, may evict the encroachers and use all the powers conferred on a magistrate under the Bihar Public Land Encroachment Act (BPLE Act), 1956. The Act further provides for realisation of royalty and compensation for damages to forest produce and forest land from encroachers.

Continuance of encroachment and any unauthorised activity on forest land tantamounts to violation of the orders of the Hon'ble Supreme Court¹⁴ directing complete eviction of encroachers. PCCF, Bihar issued instructions in June 2003 for departmental action against forest officers for any slackness in compliance of the Apex Courts' orders.

6.10.1 In Araria forest division, it was noticed in December 2005 that 3.18 hectares of forest land in Arha Madarganj protected forest in Araria forest range (erstwhile Purnea forest division) valued at Rs 18.44 lakh was encroached between 1992-95 but was pending eviction under the forest laws. Instead of using the powers conferred under the BPLE Act, cases were filed in judicial courts between 1992 and 1995 which rejected the cases in April 2002.

¹⁴ Case no WP-202/95.

Test check further revealed that though DFO, Purnia reported to PCCF that eviction process was on, no proceedings except show cause notices issued between May and November 2002 were taken against the encroachers till March 2004, when the records were transferred to newly created Araria forest division. DFO, Araria forest division also did not take any action for eviction of encroachers from forest land till date of audit (December 2005).

After this was pointed out, the RCCF, Muzaffarpur stated in August 2006 that on physical verification of the forest area under encroachment it was found that the forest area was totally barren and devoid of any trees and that DFO has been directed for speedy eviction of the encroached forest land. The extent of loss, of forest produce though called for, has not been reported (October 2006).

6.10.2 In Nawada and Sasaram forest divisions, it was noticed in August and September 2005 that in 13 forest offence cases, encroachment of 35.10 hectare¹⁵ of forest land valued at Rs 2.04 crore was reported by concerned range officers between July and September 2004. In spite of mandatory requirement under the IF Act and specific orders of the Apex Court, no action was taken by the department to ensure eviction of the encroached forest land till date of audit (August and September 2005).

After this was pointed out, the DFO, Nawada stated in August 2005 that reply would be furnished after scrutiny of records while DFO, Sasaram stated in September 2005 that action would be taken for eviction. Further reply has not been received (October 2006).

The cases were reported to Government in April and May 2006; their reply has not been received (October 2006).

6.11 Loss of revenue due to non disposal of confiscated forest produce

IF Act provides that when there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce together with vehicles, tools etc used in committing such offence shall be seized by the forest officer. On report of such seizure, forest officer not below the rank of DFO may confiscate the seized materials and report the matter to appropriate judicial authorities for allowing disposal of the same.

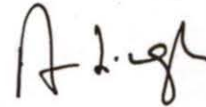
In Tirhut forest division, Muzaffarpur, it was noticed in June 2005 that officials of custom division, Muzaffarpur in April 1998 seized a truck load of 11.265 ton of khair wood valued at Rs 5.63 lakh which was illegally felled and intimated the DFO to take over the seized forest produce for necessary action under forest laws. The DFO in August 1999 ordered for confiscation of seized articles and directed the Range Officer (RO), Muzaffarpur (West) to take possession of the same. Appeal filed by respondents was rejected by the district magistrate cum appellate authority in December 2001 and the materials were finally available for disposal in 2002-03. Despite repeated requests by

¹⁵ Rajauli: 30 hectares in 8 cases; Kauakol: 1.62 hectares in 2 cases; Rohtas: 3.24 hectares in 2 cases and Chenari: 0.24 hectare in one case.

the custom division, the RO failed to take possession of the confiscated materials. The DFO also did not take any action against the erring RO. Subsequently, custom division sold the timber in May 2005 through public auction for Rs 0.68 lakh and credited the same to Central Government account. Thus, failure on the part of the Forest Department to take over the material and dispose of the same resulted in loss of revenue of Rs 5.63 lakh.

After this was pointed out, RCCF, Muzaffarpur stated in August 2006 that process has been initiated to identify the officials responsible for the loss of revenue. Further reply is awaited (October 2006).

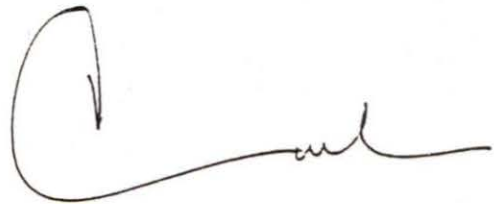
The matter was reported to Government in April 2006; reply has not been received (October 2006).



(ARUN KUMAR SINGH)
Principal Accountant General (Audit)

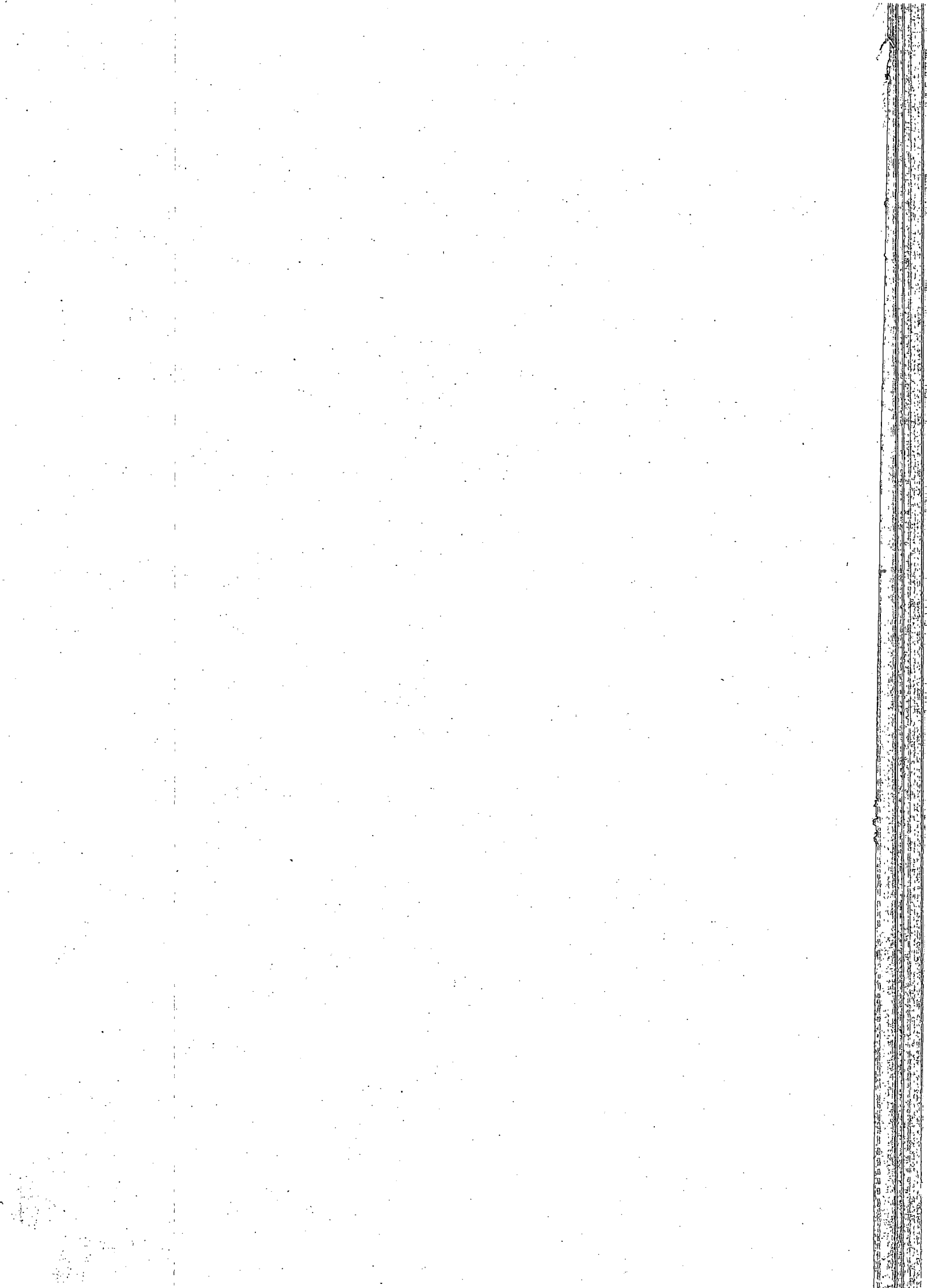
Patna
The 19 MAR 2007

Countersigned



(VIJAYENDRA N. KAUL)
Comptroller and Auditor General of India

New Delhi
The 22 MAR 2007



ANNEXURE-I

(Referred to Para 6.8.2)

Revenue not credited to Government treasury

Sl. No.	Name of Sub division.	Name of document	Period for which cash book / money receipts not produced	Remarks/reply of the department
1	Bettiah	Register	4.9.2003 to 1.12.2003 & 21.7.2004 to 19.12.2004	Ex-Inspector did not hand over records on his transfer. An inventory of the available records was prepared in the presence of a Magistrate by the order of District Magistrate. These records were not available in the office at the time. As such required documents not produced to audit.
		Money Receipt	4.9.2003 to 18.9.2003 & 20.7.2004 to 19.12.2004	
	Money Receipt	Nos. 059348, 059349, 059350, 059398, 059399 and 059400 not found in the cash book (August 2003 and September 2003).		
2	Narkatiaganj	Register	1.2.2004 to 19.12.2004	
3	do	Money Receipt	1.4.2004 to 4.6.2004 & 28.10.2004 to 20.12.2004	
4	do	Money Receipt	Nos. 489501 to 489533 not made available and also not entered in cash book (August 2003)	
5	do	Money Receipt	Nos. 109274 to 109300 not made available and also not entered in cash book (August 2003)	
6	Bagaha	Register	3.5.2004 to 20.12.2004	

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STATE OF NEW YORK

Name of the Corporation	Capital Stock	Surplus	Total
The State of New York	100,000,000	10,000,000	110,000,000
The City of New York	50,000,000	5,000,000	55,000,000
The County of New York	20,000,000	2,000,000	22,000,000
The City of Albany	10,000,000	1,000,000	11,000,000
The City of Buffalo	10,000,000	1,000,000	11,000,000
The City of Syracuse	10,000,000	1,000,000	11,000,000
The City of Rochester	10,000,000	1,000,000	11,000,000
The City of Binghamton	5,000,000	500,000	5,500,000
The City of Utica	5,000,000	500,000	5,500,000
The City of Troy	5,000,000	500,000	5,500,000
The City of Schenectady	5,000,000	500,000	5,500,000
The City of Westchester	5,000,000	500,000	5,500,000
The City of Saratoga	5,000,000	500,000	5,500,000
The City of Hamilton	5,000,000	500,000	5,500,000
The City of Albany	5,000,000	500,000	5,500,000
The City of Rensselaer	5,000,000	500,000	5,500,000
The City of Fulton	5,000,000	500,000	5,500,000
The City of Schoharie	5,000,000	500,000	5,500,000