



**Report of the  
Comptroller and Auditor General of India  
on  
Revenue Sector  
for the year ended March 2018**



लोकहितार्थ सत्यनिष्ठा  
Dedicated to Truth in Public Interest



**Government of Odisha  
Report No. 1 of the year 2020**

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## **PREFACE**

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2018 has been prepared for submission to the Governor of Odisha under Article 151 of the Constitution of India for being laid before the Legislature of the State.

The Report contains significant findings of audit of Receipts and Expenditure of major Revenue earning Departments under Revenue Sector conducted under the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

For the Revenue Receipt functions which are computerised, Audit must necessarily be given access to transaction data, otherwise Revenue Audit functions will be severely impacted.

The instances mentioned in this Report are those, which came to notice in the course of test audit during the period 2017-18 as well as those which came to notice in earlier years, but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2017-18 have also been included, wherever necessary.

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





## OVERVIEW

### I General

This Report contains 22 paragraphs including one detailed Compliance Audit on Regulation of Mohua Flower Utilisation and Production of Out Still Liquor. Some of the major findings are mentioned below:

The State's performance in mobilisation of resources is assessed in terms of tax revenue and non-tax revenue, not including the State's share in central taxes and Grants-in-Aid which is based on the recommendations of the Finance Commission.

The percentage of tax and non-tax revenue raised by State Government to the total revenue of the State increased from 41.58 *per cent* in 2016-17 to 42.60 *per cent* in 2017-18.

(Paragraph 1.1)

During the year 2017-18, as many as 1,401 assessment files, returns, refund registers and other relevant records involving tax effect of ₹ 2,004.18 crore relating to Commercial Tax wing of Finance Department were not made available to audit for scrutiny.

**The Government may ensure that departmental officers invariably produce records to Audit and consider initiating disciplinary action against officers who fail to produce records to Audit, including the records mentioned above.**

(Paragraph 1.6.5)

Test check of records of tax and non-tax receipts revealed under assessment/ short levy/ loss of revenue and other observations amounting to ₹ 795.18 crore in 59,387 cases in the year 2017-18.

(Paragraph 1.9)

### II Value Added Tax, Entry Tax, Goods and Services Tax, etc.

Misclassification of goods resulted in short levy of tax and penalty worth ₹ 64.07 lakh.

(Paragraph 2.5.1 A & 2.5.1 B)

Improper scrutiny of return by Assessing Authorities for delayed payment of tax led to non-levy of interest and penalty of ₹ 73.73 lakh.

(Paragraph 2.5.2)

No action was initiated for levy of penalty of ₹ 5.01 crore against the dealers who had not submitted the Certified Annual Audited Accounts (CAAA).

(Paragraph 2.5.3)

The tax amount under the CST Act and OVAT Act were not correlated to work out the tax and resulted in short levy of tax and penalty of ₹ 28.38 lakh.

(Paragraph 2.5.4)

Minor minerals were not assessed for Entry Tax which resulted in non-levy of tax and penalty of ₹ 56.52 lakh.

(Paragraph 2.6.1)

The Department did not analyse case-wise reasons in respect of 41,159 dealers who did not migrate to GST. Audit could not derive an assurance that all dealers due for registration under GST were actually registered.

**Audit recommends that the Department may analyse case-wise details in respect of 41,159 dealers who did not migrate to GST to ensure that no eligible tax payers are left out of GST.**

**(Paragraph 2.7.8.3)**

In eight Circles, 339 taxpayers filed transitional Input Tax Credit claims amounting to ₹ 42.24 crore. Out of this, 251 cases involving ₹ 39.71 crore were verified and 88 cases (26 per cent) remained unverified in all the Circles.

**Audit recommends that the Department may take effective steps for early disposal of cases which are yet to be scrutinised.**

**(Paragraph 2.7.8.5)**

### **III State Excise**

**Audit of “Regulation of Mohua Flower Utilisation and Production of Out Still Liquor” revealed the following deficiencies:**

- Although Serious Irregularity Reports were drawn for violations of various license condition as committed by the licensees, the fine levied was arbitrary, was not commensurate with the violations and failed to prevent repeated violations.
- Guidelines issued by Excise Commissioner, Odisha (2009) and Act and Rule provisions on manufacture and sale of Out Still liquor were not adhered to by the licensees.

**Audit recommends that the Department may consider strengthening the enforcement and internal control mechanism. The Department may also consider amending rules for imposition of specific penalty amount for each violation.**

**(Paragraph 3.4.5.1 & 3.4.5.2)**

Maximum Retail Price (MRP) of OS liquor pouches sold was not fixed by the Department. In the absence of MRP, the consumers were impacted and left to the vagaries of the OS Liquor shops. Thus, the Department allowed OS liquor sector to remain unregulated.

**Audit recommends that the Department may fix the MRP of OS liquor sold in pouches for regulation of price.**

**(Paragraph 3.4.5.4)**

Purchase of Mohua Flower was made below the minimum sale price notified by Government. The primary producers of MF are the losers while the middlemen (traders) make the benefits. This was due to lack of ensuring compliance with provision by the Department.

**Audit recommends that Department may take required steps to ensure payment of minimum sale price to the vendors as notified by the Panchayati Raj & Drinking Water Department.**

**(Paragraph 3.4.6.1)**

Department had not fixed storage licence fees commensurate with the slabs for storage of MF higher than 5,000 quintals. As a result, it lost the opportunity to earn additional excise revenue in storage licence fee of MFs.

**Audit recommends that the Department may conduct review of storage licence fee commensurate with storage capacity of the licensees.**

**(Paragraph 3.4.6.2)**

#### **Other Audit observations:**

Excise duty of ₹ 8.83 crore was not assessed and demanded from 38 licensees towards short lifting of Minimum Guaranteed Quantity of IMFL and Beer during 2016-17.

**(Paragraph 3.6.1 A)**

Excise duty and fine of ₹ 1.40 crore was short levied on short lifting of Minimum Guaranteed Quantity of IMFL and Beer.

**(Paragraph 3.6.1 B)**

Excise duty of ₹ 22.97 lakh was short levied towards short lifting of Country Spirit against the Minimum Guaranteed Quantity fixed.

**(Paragraph 3.6.2)**

Extra hour operation charges of ₹ 21.54 lakh for carrying out 2,154 extra hour operations beyond the scheduled hours during 2016-17 was not realised from one distillery licensee.

**(Paragraph 3.6.3)**

#### **IV Stamp Duty and Registration Fee**

Stamp Duty and Registration Fee of ₹ 115.69 lakh was short realised on registration of Agreement to Sale, Certificate of Sale and Conveyance deeds.

**(Paragraph 4.5.1, 4.5.2 & 4.5.3)**

#### **V Motor Vehicle Tax**

Motor Vehicle tax and additional tax of ₹ 26.74 crore and penalty of ₹ 53.48 crore not realised from registered owners of 27,413 Goods Carriages and Contract Carriages.

**(Paragraph 5.5.1.1)**

Motor Vehicle tax of ₹ 4.06 crore and penalty of ₹ 8.12 crore was not realised from registered owners of 13,520 Tractor Trailer Combinations, Private Service Vehicles and Educational Institution Buses.

**(Paragraph 5.5.1.2)**

The permit database of State Transport Authority was not interlinked with Regional Transport Authorities which resulted in short realisation of tax.

**(Paragraph 5.5.2)**

Permits were issued to 49 stage carriages as ordinary service in intra state routes although the average distance between the stoppages was more than 25 kilometres. This resulted in short realisation of motor vehicles tax and additional tax worth ₹ 17.37 lakh during 2015-18.

**(Paragraph 5.5.3-A)**

Delay in making provision of tax structures for Air-Conditioned Stage Carriages resulted in loss of potential revenue of ₹ 99.73 lakh during November 2015 to October 2017 in respect of 190 Air Conditioned Stage Carriages.

**(Paragraph 5.5.4)**

## **VI Mining Receipts**

Non-inclusion of sizing charges in the Run-of-Mine price of coal during assessing of royalty resulted in short levy of ₹ 112.26 crore.

**(Paragraph 6.5.1)**

Dead Rent of ₹ 155.95 lakh and Surface Rent of ₹ 16.67 lakh though not paid by the lessees of 65 and 14 mines respectively for different periods between January 2014 to January 2017, was not demanded by Deputy Director of Mines.

**(Paragraph 6.5.2)**

The salary component amounting to ₹ 51.26 lakh in respect of the Government staff posted in private weighbridges was not realised by the Deputy Director of Mines and deposited in Government account.

**(Paragraph 6.5.3)**

# **Chapter I**

## **General**



## CHAPTER I GENERAL

### 1.1 Trend of Revenue Receipts

The revenue receipts of the State for the year 2017-18 comprised of:

- Tax and non-tax revenue raised by Government of Odisha;
- State's share of net proceeds of divisible Union taxes;
- Duties assigned to the State; and
- Grants-in-Aid received from Government of India.

The details of revenue receipts for 2017-18 along with the corresponding figures for the preceding four years have been depicted in **Table 1.1**.

**Table 1.1**  
**Trend of Revenue Receipts**

Sl. No.	Particulars	2013-14	2014-15	2015-16	2016-17	2017-18
		(₹ in crore)				
1	<b>Revenue raised by State Government</b>					
	Tax revenue	16,891.59	19,828.29	22,526.96	22,852.39	27,913.80
	Non-tax revenue	8,378.60	8,070.87	8,711.24	8,043.10	8,367.99
	<b>Total</b>	<b>25,270.19</b>	<b>27,899.16</b>	<b>31,238.20</b>	<b>30,895.49</b>	<b>36,281.79</b>
2	<b>Receipts from Government of India</b>					
	State's net proceeds of divisible Union taxes and duties <sup>1</sup>	15,247.24	16,181.22	23,573.78	28,321.50	31,272.06
	Grants-in-Aid	8,429.42	12,917.50	14,129.46	15,082.40	17,619.94
	<b>Total</b>	<b>23,676.66</b>	<b>29,098.72</b>	<b>37,703.24</b>	<b>43,403.90</b>	<b>48,892.00</b>
3	Total revenue receipts of the State Government (1 and 2)	48,946.85	56,997.88	68,941.44	74,299.39	85,173.79
4	<b>Percentage of 1 to 3</b>	<b>51.63</b>	<b>48.95</b>	<b>45.31</b>	<b>41.58</b>	<b>42.60</b>

**Source: Finance Accounts for the year 2017-18 of Government of Odisha**

The State's performance in mobilisation of resources is assessed in terms of tax revenue and non-tax revenue, not including the State's share in central taxes and Grants-in-Aid which is based on the recommendations of the Finance Commission.

As can be seen from above, the percentage of revenue raised by State Government to the total revenue of the State increased from 41.58 *per cent* in 2016-17 to 42.60 *per cent* in 2017-18. The remaining 57.40 *per cent* was from Government of India.

<sup>1</sup> Statement No 14-Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Odisha for the year 2017-18. Figures under the minor head 901-Share of net proceeds assigned to the States under the major heads 0005-Central Goods and Services Tax, 0008-Integrated Goods and Services Tax, 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 booked in the Finance Accounts under A-Tax Revenue have been excluded from the revenue raised by the State and exhibited as State's share of divisible Union taxes



### 1.1.1 Tax Revenue

The details of tax revenue raised during the period 2013-14 to 2017-18 are given in **Table 1.2**.

**Table 1.2**  
**Details of Tax Revenue raised**

Sl. No.	Head of Revenue	2013-14	2014-15	2015-16	2016-17	2017-18		Percentage of increase (+) or decrease (-) in 2017-18 over 2016-17
						BE	Actual	
1	State Goods and Services Tax (SGST)	--	--	--	--	5,950.00	6,609.27	--
2	Odisha Value Added Tax (OVAT) including Odisha Sales Tax (OST) and Central Sales Tax (CST)	10,728.55	11,816.73	13,096.99	13,402.35	15,840.00	11,521.65	(-) 14.03
3	Taxes and Duties on Electricity	670.11	1,722.60	1,212.21	1,637.14	2,000.00	1,969.74	(+) 20.32
4	Land Revenue	431.26	645.64	588.81	460.00	500.00	542.27	(+) 17.88
5	Taxes on Vehicles	859.67	910.31	1,043.73	1,216.08	1,400.00	1,534.95	(+) 26.22
6	Taxes on Goods and Passengers (Entry Tax)	1,613.46	1,710.87	1,662.99	1,760.51	1,166.00	1,260.49	(-) 28.40
7	State Excise	1,780.13	2,035.24	2,546.94	2,786.02	3,300.00	3,220.99	(+) 15.61
8	Stamp Duty and Registration Fee	605.48	800.23	2,157.07	1,363.72	1,000.00	1,036.68	(-)23.98
9	Other Taxes and Duties on Commodities and Services	53.23	17.70	42.65	46.40	33.99	29.95	(-) 35.45
10	Other Taxes on Income and Expenditure Professions, Trades, Callings and Employments	149.70	168.97	175.57	180.17	194.99	187.81	(+) 4.24
	<b>Total</b>	<b>16,891.59</b>	<b>19,828.29</b>	<b>22,526.96</b>	<b>22,852.39</b>	<b>31,384.98</b>	<b>27,913.80</b>	

**Source: Finance Accounts for the year 2017-18 of Government of Odisha and Annual Financial Statement 2018-19**

Goods and Services Tax (GST) was implemented from 01 July 2017. Further details on implementation of GST are at para 2.7.

Tax revenue accounted for was 32.77 per cent (₹ 27,913.80 crore) of the total revenue (₹ 85,173.79 crore) of the State for the year 2017-18.

There has been increase of 22.15 per cent of tax revenue during the year 2017-18 over the previous year. The revenue under the heads-State Excise, Land revenue and Taxes on Vehicles had increased.

The reduction in tax revenue under OVAT and ET was due to implementation of GST.

Reasons for decrease of revenue in Stamp Duty and Registration Fee was not furnished by the department.

### 1.1.2 Non-tax Revenue

The details of non-tax revenue raised during the period 2013-14 to 2017-18 are indicated in **Table 1.3**.

**Table 1.3**  
**Details of Non-tax Revenue raised**

(₹ in crore)

Sl. No.	Head of Revenue	2013-14	2014-15	2015-16	2016-17	2017-18		Percentage of increase (+) or decrease (-) in 2017-18 over 2016-17
						BE	Actual	
1	Non-ferrous Mining and Metallurgical Industries	5,518.80	5,310.09	5,798.96	4,925.79	6,630.00	6,130.99	(+) 24.47
2	Interest Receipts	1,241.18	330.67	560.42	427.40	421.20	600.71	(+) 40.54
3	Forestry and Wildlife	95.11	61.51	152.99	131.58	46.80	62.79	(-) 52.28
4	Irrigation & Inland Water Transport	451.70	629.60	707.11	775.87	740.40	689.21	(-) 11.17
5	Other Administrative Services	24.44	29.75	37.86	43.84	39.50	14.82	(-) 66.20
6	Public Works	69.72	88.59	77.48	66.31	70.90	68.05	(+) 2.62
7	Police Receipts	44.70	50.00	59.61	54.37	59.00	45.06	(-) 17.12
8	Education	75.86	18.87	66.89	30.79	50.00	23.88	(-) 22.44
9	Medical and Public Health	28.71	33.15	52.70	50.83	51.99	57.79	(+) 13.69
10	Miscellaneous General Services	126.50	118.84	192.08	383.91	207.27	239.87	(-) 37.52
11	Power	4.70	2.18	2.25	8.05	2.57	3.39	(-) 57.89
12	Co-operation	3.34	2.56	2.50	3.16	3.62	6.09	(+) 92.72
13	Other Non-tax Receipts	693.84	1,395.06	1,000.40	1,141.21	567.91	425.34	(-) 62.85
	<b>Total</b>	<b>8,378.60</b>	<b>8,070.87</b>	<b>8,711.24</b>	<b>8,043.10</b>	<b>8,891.16</b>	<b>8,367.99</b>	

**Source: Finance Accounts for the year 2017-18 of Government of Odisha and Annual Financial Statement 2018-19**

The non-tax revenue increased by 4.04 *per cent* during the year 2017-18 over the previous year. The increase was mainly due to rise in mining receipts (24.47 *per cent*). This was due to increase in collection of royalty on Iron and Chromite ore as compared to 2016-17.

### 1.2 Analysis of Arrears of Revenue

The arrears of revenue was ₹ 12,412.64 crore as on 31 March 2018 from some principal heads of revenue like OVAT, Entry Tax (ET) and Mining receipts. Out of this, ₹ 4,575.34 crore was outstanding for more than five years as detailed in **Table 1.4**.

**Table 1.4**  
**Arrears of Revenue**

(₹ in crore)

Sl. No.	Head of Revenue	Total amount outstanding as on 31 March 2018	Amount outstanding for more than five years as on 31 March 2018	Replies of Department
<b>A-Tax Revenue</b>				
<b>0040- Taxes on Sales, Trade, etc.</b>				
1	OVAT (including OST and CST)	7,277.06	2,420.83	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Amount covered by show cause notices and penalty 1,642.43</li> <li>• Amount stayed by                             <ul style="list-style-type: none"> <li>➢ Departmental Authorities 1,820.09</li> <li>➢ Supreme Court/ High Court 3,192.57</li> </ul> </li> <li>• Demands covered by tax recovery proceedings 615.30</li> <li>• Amount likely to be written off 6.67</li> </ul>
<b>0042-Taxes on Goods and Passengers</b>				
2	Entry Tax (ET)	2,656.21	611.27	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Amount covered by show cause notices and penalty 705.70</li> <li>• Recoveries stayed by                             <ul style="list-style-type: none"> <li>➢ Departmental Authorities 874.18</li> <li>➢ Supreme Court/ High Court 1,033.43</li> </ul> </li> <li>• Demands covered by certificate proceedings<sup>2</sup> 42.83</li> <li>• Amount likely to be written off 0.07</li> </ul>
<b>0041-Taxes on Vehicles</b>				
3	Taxes on Vehicles	284.48	158.39	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Demands covered by certificate proceedings/ tax recovery proceedings 137.29</li> <li>• Recoveries stayed by Departmental Authorities 2.22</li> <li>• Recoveries stayed in court of law 6.03</li> <li>• Other stages 138.94</li> </ul>
<b>0039-State Excise</b>				
4	State Excise	62.01	--	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Recoveries stayed by Supreme Court/ High Court 49.47</li> <li>• Demands covered by certificate proceedings/ tax recovery proceedings 9.15</li> <li>• Other stages 3.39</li> </ul>
<b>B-Non-Tax Revenue</b>				
5	Mining Receipts	2,132.87	1,384.85	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Certificate cases 1.55</li> <li>• Amount likely to be written off 2.37</li> <li>• Courts of law 1,857.56</li> <li>• Recoverable dues 271.39</li> </ul>
<b>Total:</b>		<b>12,412.63</b>	<b>4,575.34</b>	

**Source: Concerned Departments**

Arrears of ₹ 2,696.49 crore (21.73 per cent) was pending under appeal cases with the departmental authorities relating to OVAT, ET and Taxes on Vehicles. Similarly, ₹ 806.12 crore (6.49 per cent) remained pending under tax recovery proceedings on account of OVAT, ET Taxes on vehicles, Excise duty and Mining receipts. Further, 36.86 per cent of the total outstanding amount was due for more than five years.

### Recommendation

**The departments needs to review the status of recovery of arrears of revenue periodically and expedite action ensuring the closure of pending arrear cases and effect recoveries, where applicable.**

<sup>2</sup> Proceeding of a Certificate Officer for realisation of public demand

### 1.3 Arrears in Assessments

As per the provisions of the Odisha Value Added Tax (VAT) Act, 2005, every dealer shall be deemed to have been assessed to tax based on the return filed by him if no assessment is made within a period of seven years from the date of filing the return. Assessment under the Central Sales Tax (CST) Act are to be completed within four years. The details of assessment cases pending as on 31 March 2018 relating to Commercial Tax (CT) wing of Finance Department are given in **Table 1.5**.

**Table 1.5**  
**Arrears in Assessments (in numbers)**

Head of Revenue	Opening Balance	New cases due for assessment during 2017-18	Total assessments due	Cases disposed of during 2017-18	Balance at the end of the year	Percentage of disposal (Col. 5 to 4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
OVAT, CST & OST	5,202	2,285	7,487	4,370	3,117	58.37
Entry Tax	653	790	1,443	1,369	74	94.87
Professional Tax	33,506	37,505	71,011	33,652	37,359	47.38
Entertainment Tax	129	90	219	88	131	40.18

Source: Commercial Tax wing of the Finance Department

### 1.4 Evasion of Tax detected by the Department

The details of cases of evasion of tax detected by the CT wing of Finance Department as on 31 March 2018 are given in **Table 1.6**.

**Table 1.6**  
**Evasion of Tax**

Sl. No.	Head of Revenue	Cases pending as on 31 March 2017	Cases detected during 2017-18	Total	Number of cases in which assessment/ investigation completed and additional demand with penalty, etc., raised		Number of cases pending for finalisation as on 31 March 2018
					Number of cases	Amount of demand	
1	OVAT	254	491	745	524	258.31	221
2	OST	26	0	26	0	0	26
3	ET	54	170	224	176	9.69	48
4	CST	16	35	51	32	38.04	19
<b>Total</b>		<b>350</b>	<b>696</b>	<b>1,046</b>	<b>732</b>	<b>306.04</b>	<b>314</b>

Source: Commercial Tax wing of the Finance Department

No action was taken in respect of 26 cases relating to the repealed OST Act which were pending for assessment for more than five years.

## 1.5 Pendency of Refund Cases

The details of refund cases as on 31 March 2018 are given in **Table 1.7**.

**Table 1.7**  
**Details of Pendency of Refund Cases**

(₹ in crore)

Sl. No.	Particulars	OVAT/ OST/ ET	
		No. of cases	Amount
1	Claims outstanding at the beginning of the year	865	118.69
2	Claims received during the year	1,222	312.50
	<b>Total (1+2)</b>	<b>2,087</b>	<b>431.19</b>
3	Refunds made during the year	1,061	133.98
	(a) Refunds granted		
	(b) Refunds rejected/ adjusted	439	131.75
	<b>Total (a+b)</b>	<b>1,500</b>	<b>265.73</b>
4	Balance outstanding at the end of the year	587	165.46

Source: Commercial Tax wing of the Finance Department

71.87 per cent of refund cases relating to OVAT/ OST/ ET were disposed as above during 2017-18.

Odisha VAT Act provided for payment of simple interest at the rate of eight per cent per annum if the refund was not made to the dealer within 60 days from the date of receipt of order for refund or within 90 days from the date of receipt of application for refund till the refund was made. Government bears liability risk towards payment of interest if refund cases are not cleared expeditiously. During the year 2017-18, Government had paid interest of ₹ 44.68 lakh<sup>3</sup> due to such delay in disposal of refund cases.

### Recommendation

**The department needs to ensure timely disposal of refund cases.**

## 1.6 Response to Audit

Timely response to audit findings is one of the essential attributes of good governance as it provides assurance that the Government takes its supervisory role seriously.

### 1.6.1 Follow-up action on earlier Audit Reports

Serious irregularities observed in Audit are included in the Reports of the Comptroller and Auditor General that are presented to State legislature. The internal working system of the Public Accounts Committee laid down that the departments shall submit the explanatory notes on audit paragraphs within three months of tabling the Report. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports are delayed inordinately.

Reports of the CAG of India on Revenue Receipts/ Revenue Sector of the Government of Odisha for the years ended 31 March 2008 to 31 March 2017 containing 402 paragraphs were placed before the State Legislative Assembly between February 2009 and March 2018. The action taken explanatory notes of all the paragraphs of the Audit Report up to the year ended March 2017 were received (September 2019) from the departments concerned.

<sup>3</sup> Interest paid ₹ 44.68 lakh under OST Act as per orders of Hon'ble High Court due to delay in payment

### 1.6.2 Response to Inspection Reports

Periodical inspections of the Government Departments were conducted by the Principal Accountant General (E&RSA), Odisha (PAG). The purpose of such inspection was to seek an assurance about compliance to various rules/ regulations and procedures through test check of the transactions. Inspection Reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot were issued to the heads of the offices inspected. Copies were issued to the next higher authorities for taking prompt corrective action. The heads of offices/ Government were required to promptly comply with the observations contained in the IRs, rectify the defects and omissions. The compliance was to be reported through initial reply within one month from the date of issue of the IRs. Serious financial irregularities were reported to the heads of the Department and the Government.

Inspection Reports issued up to December 2017 disclosed that 7,775 paragraphs of 3,261 IRs involving ₹ 24,236.15 crore remained outstanding at the end of June 2018. The details are mentioned below along with the corresponding figures for the preceding two years in **Table 1.8**.

**Table 1.8**  
**Department-wise details of IRs**

	June 2016	June 2017	June 2018
Number of IRs pending for settlement	2,818	3,032	3,261
Number of outstanding audit observations	6,768	7,549	7,775
Amount of revenue involved (₹ in crore)	21,505.09	22,976.92	24,236.15

Source: Records of the Principal Accountant General (E&RSA)

### 1.6.3 Department-wise details of IRs

The Department-wise details of IRs and audit observations outstanding as on 30 June 2018 including the amounts of revenue receipts are mentioned in **Table 1.8(a)** and **1.8(b)**.

**Table 1.8(a)**  
**Department-wise details of IRs (Revenue Receipts)**

Sl. No.	Name of the Department	Nature of Receipts	Number of outstanding IRs	Number of outstanding audit observations	Money Value involved
1	Finance (CT)	OVAT including OST/ CST	880	2,222	2,936.06
		Entry Tax	347	649	455.24
		Professional Tax	17	22	17.06
		Entertainment Tax	4	4	4.71
2	Excise	State Excise	228	741	878.95
3	Revenue & Disaster Management	Stamp Duty and Registration Fee	576	1,233	465.87
4	Steel & Mines	Mining Receipts	167	505	19,122.38
5	Commerce & Transport	Taxes on Vehicles, Goods and Passengers	326	1,149	288.53
<b>Total</b>			<b>2,545</b>	<b>6,525</b>	<b>24,168.80</b>

Source: Records of the Principal Accountant General (E&RSA)

**Table 1.8(b)**  
**Department-wise details of IRs (Expenditure)**

(₹ in crore)				
Sl. No.	Name of the Department	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1	Finance (CT)	126	197	0
2	Excise	99	150	2.10
3	Revenue & Disaster Management (Registration)	224	333	1.19
4	Steel & Mines	41	102	9.99
5	Commerce & Transport (Transport)	226	468	54.07
<b>Total</b>		<b>716</b>	<b>1,250</b>	<b>67.35</b>

**Source: Records of the Principal Accountant General (E&RSA)**

Audit did not receive even the first replies in respect of 200 IRs issued during 2017-18 from the heads of offices within one month from the date of issue of the IRs as of August 2018. Pendency of IRs due to non-receipt of the replies was indicative of lack of action for rectification of defects, omissions and irregularities pointed out in the IRs.

### **Recommendation**

**The Government may consider having an effective system for prompt and appropriate response to audit observations.**

#### **1.6.4 Departmental Audit Committee (DAC) Meeting**

The Government had set up audit committees to monitor and expedite the progress of settlement of IRs and paragraphs contained therein. The details of audit committee meetings held during the year 2017-18 and the paragraphs settled are mentioned in **Table 1.9**.

**Table 1.9**  
**Details of Departmental Audit Committee Meetings**

(₹ in crore)				
Sl. No.	Name of the Department	Number of meetings held	Number of Paras settled	Amount
1	Finance (CT)	1	24	20.21
2	Commerce & Transport(Transport)	11	133	5.69
3	Excise	4	100	48.36
4	Revenue & Disaster Management (Registration)	7	156	0.32
5	Steel & Mines	0	0	0
<b>Total</b>		<b>23</b>	<b>413</b>	<b>74.58</b>

**Source: Records of the Principal Accountant General (E&RSA)**

During the year 2017-18, no DAC meeting was held by the Steel & Mines Department and only one meeting was held by the Finance Department (CT) which needs improvement.

#### **1.6.5 Constraints in Audit**

The programme of local audit of Tax Revenue/ Non-Tax Revenue offices was drawn up in advance. The intimations were issued usually one month before the commencement of audit to the departments to enable them to keep the relevant records ready for audit scrutiny.

During the year 2017-18, as many as 1,401 assessment files, returns, refund registers and other relevant records involving tax effect of ₹ 2,004.18 crore were not made available to audit for scrutiny. Break-up of these cases are given in **Table 1.10**.

**Table 1.10**  
**Details of non-production of records**

				(₹ in crore)
Name of the Department	Type of Tax/Non-tax revenue	Year in which it was to be audited	Number of cases not audited due to non-production of records to Audit	Tax Amount
Finance (CT)	VAT on sales, trade, etc.	Up to 2016-17	1,096	1,377.27
		2017-18	305	626.91
<b>Total:</b>			<b>1,401</b>	<b>2,004.18</b>

Source: Records of the Principal Accountant General (E&RSA)

There was no case of non-production of records in other departments.

### Recommendation

**The Government may ensure that departmental officers invariably produce records to Audit and consider initiating disciplinary action against officers who fail to produce records to Audit, including the records mentioned above.**

### 1.6.6 Response of Departments to Draft Audit Paragraphs

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India (CAG) were forwarded by the Principal Accountant General to the Principal Secretaries/ Secretaries of the concerned Departments drawing their attention to audit findings. They were also requested to send their response within six weeks. Meetings were also held with concerned Department/ Government and their views and written replies furnished subsequently were suitably incorporated. The fact of non-receipt of replies wherever applicable has also been included in the Audit Report.

Audit forwarded 30 draft paragraphs to the Principal Secretaries/ Secretaries of the respective Departments between May and December 2018. The Principal Secretaries/ Secretaries of the Departments did not send replies to six draft paragraphs<sup>4</sup> despite issue of reminders and those paras have been proposed to be included in this Report without their response.

### Recommendation

**The Government may ensure that departmental officers respond to IRs promptly, take corrective action and work closely with Audit to bring about early settlement of IRs.**

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

The system of addressing the issues highlighted in the IRs/ Audit Reports by the Departments/ Government in respect of Commerce & Transport (Transport) Department was evaluated. The evaluation was on action taken on the paragraphs and PAs included in the Audit Reports of the last 10 years.

<sup>4</sup> State Excise-5 and MV Taxes-1



### 1.7.1 Position of Inspection Reports

The summarised position of the IRs issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2018 are given in **Table 1.11**.

**Table 1.11**

#### Position of Inspection Reports

(₹ in crore)

Sl. No.	Year	Opening balance			Addition during the year			Clearance during the year			Closing balance		
		IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
1	2008-09	306	2,925	336.43	43	309	71.99	5	232	9.62	344	3,002	398.80
2	2009-10	344	3,002	398.80	26	238	67.83	84	550	3.06	286	2,690	463.57
3	2010-11	286	2,690	463.57	38	350	104.16	Nil	35	0.33	324	3,005	567.40
4	2011-12	324	3,005	567.40	18	135	45.81	Nil	6	0.01	342	3,134	613.20
5	2012-13	342	3,134	613.20	58	350	99.36	Nil	Nil	0.04	400	3,484	712.52
6	2013-14	400	3,484	712.52	18	172	59.47	Nil	3	0.04	418	3,653	771.95
7	2014-15	418	3,653	771.95	25	262	105.7	109	2,851	636.02	334	1,064	241.63
8	2015-16	334	1,064	241.63	24	255	150.37	12	323	108.77	346	996	283.23
9	2016-17	346	996	283.23	25	213	77.28	Nil	148	66.38	371	1,061	294.13
10	2017-18	371	1,061	294.13	30	337	139.57	77	271	155.82	324	1,127	277.88

Source: Data maintained in the Principal Accountant General (E&RSA) office

The Government arranged meetings every year between C&T (Transport wing) and PAG's office to settle the old paragraphs. During 2017-18, Department held 11 Audit Committee Meetings in which 133 paras with money value of ₹ 5.69 crore was settled. Considering the pendency, more concerted action, however, needs to be taken to settle the remaining observations.

### 1.7.2 Recovery of Accepted Cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Commerce and Transport (Transport) Department and the amount recovered have been mentioned in **Table 1.12**.

**Table 1.12**

#### Details of recovery of accepted cases

(₹ in crore)

Year of the Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases as on 31 March 2018
2007-08	9	60.37	8	59.20	0.42	8.79
2008-09	8+1(R)	74.06	8	72.51	0.04	9.66
2009-10	7	71.42	6	69.98	10.47	11.38
2010-11	7+1(PA)	72.28	7	70.90	0	14.75
2011-12	12	84.34	11	83.05	0	6.27
2012-13	12	86.42	11	85.34	0.07	4.46
2013-14	14	127.95	13	126.90	0	6.17
2014-15	6	53.85	6	53.85	0.42	2.67
2015-16	3	115.35	3	115.35	2.08	3.86
2016-17	3	56.20	3	56.20	1.63	4.17

Source: Data maintained in the Principal Accountant General (E&RSA) and compliance notes furnished by the Government of Odisha

The progress of recovery even in accepted cases was very slow in each year. The recovery of accepted cases was to be pursued as arrears recoverable from the concerned parties. This

indicated that there was no adequate mechanism for pursuance of the accepted cases by the Department/ Government.

### **Recommendation**

**The Government may review the cases and make special efforts to ensure recovery of accepted cases.**

## **1.8 Audit Planning**

The unit offices under various Departments have been categorised into high, medium and low risk units according to their revenue position, past trends of the audit observations and other parameters. The annual audit plan was prepared on the basis of risk analysis which included critical issues in Government revenue and tax administration.

During the year 2017-18, out of 521 auditable units<sup>5</sup>, 273 units were planned for audit. 267 units<sup>6</sup> were audited which constituted 51.25 per cent of the total auditable units.

## **1.9 Results of Audit**

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

Audit test checked records of 180 of 362 units under five departments<sup>7</sup> relating to VAT, Entry Tax, Goods and Services Tax, State Excise Duty, Stamp Duty and Registration Fees, Motor Vehicle Tax and other Non-Tax receipts during the year 2017-18. Underassessment/ short levy/ loss of revenue aggregating ₹ 795.18 crore in 59,387 cases was observed. During the year, Departments concerned accepted underassessment and other deficiencies of ₹ 303.87 crore involved in 42,159 cases which were pointed out in audit during 2017-18. An amount of ₹ 18.51 crore was realised in 87 cases pertaining to audit findings of 2017-18 and ₹ 82.31 crore was realised in 40,891 cases pertaining to audit findings of previous years.

Similarly, Audit test checked expenditure records of 180 units of aforesaid Departments during the year 2017-18. Irregular expenditure/ payment amounting to ₹ 5.77 crore in 200 cases were noticed. The Departments concerned accepted irregularities of ₹ 0.10 crore in 98 cases pointed out in 2017-18. An amount of ₹ 0.05 crore was realised in eight cases pertaining to audit findings of previous years.

## **1.10 Coverage of this Report**

This Report contains 22 paragraphs selected from the audit findings detected during the local audit carried out in 2017-18 and in earlier years, which could not be included in previous reports.

The financial effect of the paragraphs of this report was ₹ 227.50 crore. The Departments/ Government have accepted audit observations involving ₹ 141.08 crore out of which ₹ 1.20 crore had been recovered. The replies to the paragraphs involving ₹ 9.62 crore have not been received (December 2018). These are discussed in succeeding Chapters II to VI.

<sup>5</sup> Includes 130 units of Forest & Environment Department, five units of C & T (Commerce), 14 units under C & T (Transport) and six units of Odisha Mining Corporation under Steel & Mines department. The Audit paras of these units are featured in Economic Sector Audit Report. Four audit units under Finance Department abolished

<sup>6</sup> Due to abolition of four audit units and merger of two units, audit of 267 units were taken up

<sup>7</sup> Finance (CT), Excise, Commerce & Transport (Transport), Revenue and Disaster Management and Steel & Mines Department



# **Chapter II**

**Value Added Tax, Entry  
Tax and Goods and  
Services Tax, etc.**

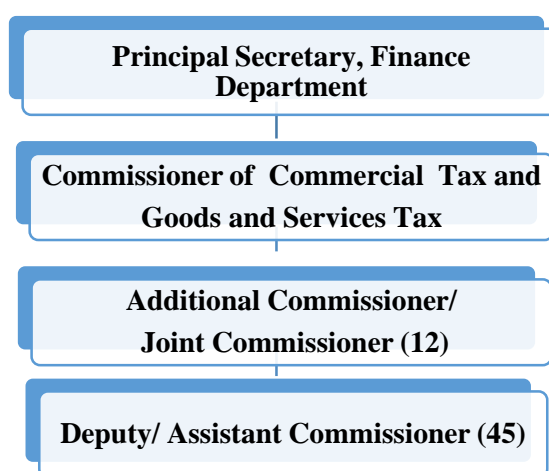


## CHAPTER II

### VALUE ADDED TAX, ENTRY TAX AND GOODS AND SERVICES TAX, *etc.*

#### 2.1 Tax Administration

Assessment and collection of Value Added Tax, Entry Tax, Central Sales Tax, Professional Tax, Entertainment Tax and Goods & Services Tax (implemented from 01 July 2017) are regulated under Odisha Value Added Tax (OVAT) Act, 2004, Odisha Entry Tax (OET) Act, 1999, Central Sales Tax (CST) Act, 1956, Professional Tax Act, Entertainment Tax, 2006 and Odisha Goods and Services Tax (OGST) Act, 2017 and Rules framed thereunder, respectively. The organisational setup for administration of Value Added Tax, Entry Tax and Goods & Services Tax is as under:



#### 2.2 Internal Audit

The Internal Audit Wing (IAW) of the Department which is responsible for evaluating the Internal Control measures in the department has been defunct since 2002-03. The Department had not taken steps to revive IAW despite this deficiency being pointed out in the Audit Reports (Revenue Sector) of the previous years. The Department stated (August 2018) that steps are being taken to revive the same.

#### 2.3 Audit Methodology and Results of Audit

The Government of Odisha's VATIS (Value Added Tax Information System) provides services for filing returns, apply for refund and payment to the registered dealers (VAT, CST and ET). The Commissioner of Commercial Taxes and various Ranges and Circles of Commercial Tax offices are connected to VATIS through dedicated network. The registered dealers access these services through a web based application.

Audit does not have access to the data dump in the VATIS database. The audit units under CCT are selected based on risk parameters such as number of assessments etc., based on consolidated data<sup>1</sup> provided by CCT on an annual basis. During the field audit of the selected audit unit, the audit party places a requisition for data on the returns of the dealers relating to different tax periods, deposit of tax, gross turnover of the dealers, Registration Certificate of dealers and any other information. The requested data is extracted from the VATIS database by the auditee by running an SQL query and the data is provided as Excel

<sup>1</sup> Off-line data containing number of assessments ,revenue generated etc., of all the Circles and Ranges

files. The information collected is used by the audit team to cross verify the selected Assessment Orders and applying audit checks.

During the year 2017-18, audit was conducted in 48 out of 58 units (83.76 per cent) of the CT wing of Finance Department. Revenue collected in the test checked 48 units was ₹ 15,119.95 crore, which constitutes 98.38 per cent of the total revenue collected in 58 units of ₹ 15,368.98 crore. Test check of assessment and other records showed underassessment of tax and other irregularities involving ₹ 83.26 crore in 215 cases. This related to OVAT, CST, Odisha Entry Tax, Odisha Entertainment Tax and Professional Tax which fall under the categories as given in **Table 2.1**.

**Table – 2.1**

**Category of Audit observations on revenue**

Sl. No.	Categories	No. of cases	Amount (₹ in crore)
<b>Sales Tax/ OVAT(including CST)</b>			
1	Under-assessment of tax	25	16.28
2	Irregular/ incorrect/ excess allowance of input tax credit	15	30.28
3	Other Irregularities	120	17.97
	<b>Total</b>	<b>160</b>	<b>64.53</b>
<b>Entry Tax</b>			
4	Under-assessment of tax	13	2.02
5	Irregular/ incorrect/ excess allowance of set off	2	0.49
6	Other Irregularities	34	15.84
	<b>Total</b>	<b>49</b>	<b>18.35</b>
<b>Professional Tax</b>			
7	Other Irregularities	6	0.38
	<b>Total</b>	<b>6</b>	<b>0.38</b>
	<b>Grand Total</b>	<b>215</b>	<b>83.26</b>

During 2017-18, the Department accepted audit findings regarding underassessment and other irregularities of ₹ 9.39 crore in 40 cases relating to current year and realised an amount of ₹ 1.32 crore in six cases pointed out in earlier years.

There are three broad categories of audit observations under Sales Tax/ VAT and CST Act and two broad categories of audit observations under OET Act, which are detailed below. There may be similar irregularities, errors/omissions in other Commercial Taxes units under the department but not covered in the test audit.

Department may, therefore, like to internally examine all the CT units with a view to ensure that the taxes are levied as per provisions of the Act and rules.

**2.4 Audit observations**

Audit test checked assessment records relating to OVAT, CST and OET Acts in CT Range/ Circle offices of the State and found several cases of non-observance of provisions of the Acts and Rules made thereunder. Audit also observed many cases of non-levy and short levy of tax and penalty as mentioned in the succeeding paragraphs in this chapter. Audit points out similar omissions by Assessing Authorities (AAs) year after year. Many of the irregularities, however, persisted and remained undetected till the next audit was conducted. This indicated that the internal control system in the Department was weak and ineffective.

Government needs to improve the internal control system including reviving the internal audit wing to prevent occurrence of such cases.

## Odisha Value Added Tax

### 2.5 Non-observance/ Non-compliance of provisions of the Act and Rules read with Government notifications

The OVAT Act, 2004, the OVAT Rules, 2005 made there under, OET Act, 1999, CST Act, 1956 and CST Rules, 1957 provide for:

- completion of audit assessments by the AAs on the basis of Audit Visit Reports (AVRs);
- levy of tax on the correctly assessed Taxable Turnover (TTO) of outputs after giving due credit/ adjustment of admissible Input Tax Credit (ITC);
- imposition of penalty at prescribed rates in addition to the tax assessed at the audit assessment stage by the AAs;
- demand and collection of tax/ interest/ penalty as per the prescribed procedures; and
- imposition of penalty for non-submission of Certified Annual Audited Accounts (CAAA) within the prescribed date.

The AAs, while finalising the audit assessments of the dealers did not observe some of the aforesaid provisions as mentioned in the following paragraphs:

#### 2.5.1 Short levy of tax due to application of incorrect tax rate

**The Assessing Authorities while finalising the assessment under the Odisha Value Added Tax Act, levied tax at lower rate than the taxable rate for goods not specified in Schedule B and Schedule C like Dolochar, biscuits, waffles and wafers. Misclassification of goods resulted in short levy of tax and penalty worth ₹ 64.07 lakh.**

As per Section 14 (1) of the OVAT Act, 2004, the tax payable by a dealer under the Act shall be levied on his taxable turnover in respect of different goods at the rates specified in Schedule B and Schedule C of the Act. Goods not specified under Part-I and II of Schedule B and Schedule C shall be taxable at the rate of 13.5 *per cent* under Part-III of Schedule B. Further, as per Section 42(5) of the Act, if any tax is assessed during the audit assessment, a penalty equal to twice the amount of tax assessed shall be imposed.

(A) Scrutiny of records in Joint Commissioner of Commercial Taxes (JCCT), Angul Range office (December 2017) revealed that a dealer was engaged in the manufacturing of sponge iron, MS ingot and billets. The dealer sold Dolochar<sup>2</sup> of ₹ 2.23 crore during the assessment period from 01 April 2012 to 31 March 2014 and paid tax of ₹ 11.15 lakh (5 *per cent*). Dolochar being an unspecified item ought to have been taxed at 13.5 *per cent*. The AA assessed (September 2016) the balance tax payable as *nil* on the basis of Audit Visit Report (AVR) which concluded that the dealer had discharged the due tax liability. Tax payable at the rate of 13.5 *per cent* on the unspecified item, however, worked out to ₹ 30.09 lakh. This resulted in short levy of tax of ₹ 18.94 lakh (₹ 30.09 lakh *minus* ₹ 11.15 lakh) due to misclassification of the goods. Besides, as per Section 42(5) of OVAT Act, 2004, penalty of ₹ 37.88 lakh was also leviable. It is pertinent to mention here that while disposing off an appeal of the dealer for an earlier tax period,<sup>3</sup> the Appellate

<sup>2</sup> Dolochar: Produced as a by-product of coal when coal undergoes manufacturing process

<sup>3</sup> April 2010 to December 2011



Authority<sup>4</sup> had upheld (November 2017) that Dolochar was taxable at the rate of 13.5 *per cent* as an unspecified item. AA, however, did not take this decision into account while assessing the dealer for the above assessment period.

In reply, Government stated (September 2018) that a demand of ₹ 87.95 lakh has been raised (July 2018) considering Dolochar as an unspecified item under OVAT Act.

**(B)** Biscuits, waffles and wafers are unspecified items and are taxable at the rate of 13.5 *per cent* under Part-III of Schedule B. Audit scrutinised records of Cuttack-I City Circle office in February 2018. It was noticed that a dealer was engaged in selling biscuits, waffles and wafers valued ₹ 32.50 lakh during 01 April 2013 to 31 March 2015. The AA while finalising the assessment under the OVAT Act (April 2016), levied tax at a rate of five *per cent* on ₹ 28.44 lakh out of the total turnover of ₹ 32.50 lakh. The goods were unspecified under the Schedules appended to the Act and therefore was taxable at the rate of 13.5 *per cent*. As such, the tax payable at the differential rate of 8.5 *per cent* (13.5 *minus* 5) works out to ₹ 2.42 lakh which was short levied. Besides, penalty of ₹ 4.83 lakh *i.e.* twice the amount of tax short levied was also leviable. Thus, there was a short levy of tax due to misclassification of goods.

In reply, Government stated (August 2018) that there was an underassessment of tax. Accordingly, the AA had re-opened the case and raised demand of ₹ 7.25 lakh (June 2018). Further development in this regard is awaited (February 2019).

### **2.5.2 Interest and penalty not levied for delayed payment of tax**

**Assessing Authorities did not detect delayed payment of admitted tax during scrutiny of returns. This led to non-levy of interest worth ₹ 73.73 lakh and penalty thereon.**

As per Section 34 of the OVAT Act, if a dealer, required to file return under the Act, fails without sufficient cause to pay the amount of tax due as per the return, such dealer shall be liable to pay interest in respect of the tax which he fails to pay according to the return at a rate of one *per cent* per month from the due date of filing return to the date of its payment or to the date of order of assessment, whichever is earlier. Further, if the dealer fails to pay the amount of tax due and interest payable thereon, the Commissioner may after giving the dealer a reasonable opportunity of being heard, direct him to pay a penalty at the rate of two *per cent* per month on the tax and interest so payable.

Audit test checked the tax payment details in VAT Information System (VATIS) with the self-assessed returns filed by 1,54,932 dealers in 35 Circles for the tax period 2016-17. It was observed that 3,333 dealers pertaining to 33 Circles<sup>5</sup> had paid tax of ₹ 115.33 crore admitted in their returns relating to 5,113 tax periods<sup>6</sup> with delays ranging from 01 to 508 days. AAs, however, neither issued notice to the dealers nor imposed interest of ₹ 73.73 lakh. Besides, AAs also did not initiate any action for levy of penalty prescribed under the Act.

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<sup>4</sup> Additional Commissioner of Commercial Taxes (Appeal), Odisha, Cuttack

<sup>5</sup> ACCT-Bhanjanagar, DCCT-Angul, Balangir, Balasore, Barbil, Bargarh, Bhadrak, Bhubaneswar-I, Bhubaneswar-II, Bhubaneswar-III, Bhubaneswar-IV, Cuttack-I (Central), Cuttack-I (City), Cuttack I (East), Cuttack-I (West), Cuttack-II, Dhenkanal, Ganjam-II, Jagatsinghpur, Jajpur, Jatni, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Puri, Rayagada, Rourkela-I, Rourkela-II, Sambalpur-I, Sambalpur-II and Sundargarh

<sup>6</sup> Tax period denotes one quarter/ one calendar month during the year 2016-17

Thus, improper scrutiny of returns by AAs for delayed payment of tax led to non-levy of interest and penalty. Also, such delay in submission of returns could not be detected in VATIS.

In reply, Government stated (September 2018) that demand notices for ₹ 33.59 lakh have been issued in 728 cases and penalty, out of which ₹ 3.45 lakh have been realised. In the remaining cases, show-cause notices were issued.

### 2.5.3 Non-initiation of action against dealers for non-submission of Certified Annual Audited Accounts

**As many as 17,146 dealers with gross turnover exceeding rupees one crore for the year 2015-16 had not submitted the copies of Certified Annual Audited Accounts. Penalty of ₹ 5.01 crore as prescribed for delayed submission was, however, not levied.**

Under Section 65(1) of the OVAT Act, 2004 read with Notification<sup>7</sup> dated 11 February 2015 of the CCT, if in respect of any particular year the gross turnover (GTO) of a dealer exceeds rupees one crore, then such dealer shall get his accounts audited by an Accountant within a period of six months from the date of expiry of that year. The dealer should also furnish a true copy of the Certified Annual Audited Accounts (CAAA) duly certified by the Accountant along with the statement of closing stock held at the end of the year to the concerned AA by the end of the month following the expiry of the said period of six months.

Further, Section 65(2) of the Act provides that if a dealer, liable to get his account audited, fails to furnish a true copy of the CAAA accompanied with a statement showing the closing stock in trade held at the end of the year in the prescribed manner, the AA shall, after giving such dealer a reasonable opportunity of being heard, impose upon him a penalty of rupees one hundred per day of default subject to a maximum limit of rupees ten thousand. The CCT in an earlier circular<sup>8</sup> of September 2009, had also prescribed for maintenance of a register to monitor timely receipt of such accounts at the Circle level and to use it as a reference at the time of tax audit and assessment.

Audit scrutinised (between April 2017 and March 2018) records relating to receipt of CAAA in 32 circles<sup>9</sup>. It was observed that 17,146 dealers had GTO exceeding rupees one crore for the year 2015-16. Out of these, 5,014 dealers had not submitted the copies of CAAA for that year within the prescribed date. The delay in submission of CAAs ranged between 181 to 496 days for which penalty amount of ₹ 5.01 crore was leviable.

The AAs did not monitor timely receipt of the CAAA through the prescribed registers, nor was any action initiated against the defaulting dealers by levying penalty. The objective of the CAAA being a reference document, at the time of tax audit and assessment of the dealers was also not achieved.

In reply, Government (August 2018) stated that most of the cases relating to imposition of penalty above ₹ 10,000 are pending before the Revisional Authorities<sup>10</sup> as the dealers are not willing to pay penalty amount in excess of ₹ 10,000 citing latest amendment. The fact,

<sup>7</sup> Notification No. III (III) 14/ 2012/ 2250/ CT, dated 11 February 2015

<sup>8</sup> Circular No. 18755, dated 22 September 2009

<sup>9</sup> Angul, Balangir, Balasore, Barbil, Bhadrak, Bhanjanagar, Bhubaneswar-I, Bhubaneswar-II, Bhubaneswar-III, Bhubaneswar-IV, Cuttack-I (Central), Cuttack-I (City), Cuttack-I (East), Cuttack-I (West), Cuttack-II, Dhenkanal, Ganjam-I, Ganjam-II, Jagatsinghpur, Jajpur, Jatni, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Puri, Rourkela-I, Rourkela-II, Sambalpur-I, Sambalpur-II and Sundargarh

<sup>10</sup> Revisional Authority: Commissioner of Commercial Tax is empowered with revisional power under section 79 of OVAT Act

however, was that the cases pointed out in audit were not exceeding the maximum penalty amount of ₹ 10,000 and were calculated taking into account the amended provision (September 2015).

#### **2.5.4 Short levy of tax due to excess adjustment of Input Tax Credit against Central Sales Tax payable**

**During assessment under Odisha Value Added Tax Act, the Assessing Authority allowed Input Tax Credit (ITC) of ₹ 70.36 lakh to be adjusted against Central Sales Tax payable of ₹ 79.82 lakh. This resulted in excess allowance of Input Tax Credit and short levy of tax of ₹ 9.46 lakh and penalty of ₹ 18.92 lakh.**

As per Rule 7(3)(c) of CST (Odisha) Rules, 1957, where, in case of a dealer, registered under this Act and OVAT Act, 2004, the ITC under the OVAT Act in respect of a month or quarter, as the case may be, exceeds his tax liability under the said Act for that period, the excess ITC shall be set off against the tax payable under this Act and these Rules in the return for the same month or quarter, as the case may be. Further, Rule 12 (3) (g) of the CST (Odisha) Rules, penalty equal to twice the amount of tax so assessed shall be imposed.

Audit scrutinised the assessment records under JCCT, Sambalpur Range (November 2017) and observed that assessment of a dealer was completed (May 2016) under the OVAT Act for the tax period from 01 April 2013 to 31 March 2015. During assessment under OVAT Act, AA allowed ITC of ₹ 70.36 lakh to be adjusted against CST payable. It was, however, noticed that while finalising the assessment of the dealer under the CST Act for the same period, AA allowed adjustment of ITC of ₹ 79.82 lakh<sup>11</sup> against CST payable. This resulted in excess adjustment of ITC of ₹ 9.46 lakh (₹ 79.82 lakh *minus* ₹ 70.36 lakh) which consequently led to short levy of CST of ₹ 9.46 lakh. Besides, Penalty of ₹ 18.92 lakh was leviable as per the prescribed provisions.

Thus, the AA did not correlate the assessment under CST Act and OVAT Act to work out the tax amount which resulted in short levy of tax.

In reply, Government stated (September 2018) that the case has been re-assessed and the amount of ₹ 28,38,621 towards tax and penalty has been demanded from the dealer.

### **Entry Tax**

#### **2.6 Non-observance/ Non-compliance of the provisions of Odisha Entry Tax Act/ Rules read with Government notifications**

The OET Act, 1999 and Rules made there under read with Government notifications issued from time to time provide for levy of tax on the entry of scheduled goods into a local area for consumption, use or sale therein at the prescribed rates and imposition of penalty at prescribed rates for the tax levied in audit assessment.

It was observed that while finalising the assessments, the AAs did not observe the above provisions in some cases as mentioned in the following paragraphs.

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<sup>11</sup> (2013-14: ₹ 66.67 lakh *plus* ₹ 13.15 lakh for 2014-15)

### 2.6.1 Entry Tax on minor minerals not levied

**Assessing Authorities during assessment under Odisha Entry Tax Act exempted payment of tax on minor minerals treating those as non-scheduled goods. This resulted in non-levy of Entry tax of ₹ 18.84 lakh and penalty thereon.**

Section 3(1) of the OET Act 1999 provides that scheduled goods entered into a local area<sup>12</sup> for consumption, use or sale therein are taxable at the rates prescribed in the Schedule appended to the Act. As per Section 9 C (3) of the OET Act, a dealer is assessed for Entry Tax based on the materials available in the Advance Ruling Authority (AVR). The Advance Ruling Authority, Odisha Sales Tax Tribunal had clarified (February 2016) that minerals appearing at Sl. No. 59 of Part I of Schedule to the OET Act is a broad one covering minor minerals within its ambit. Therefore, minor minerals are taxable at the rate of one *per cent*.

Further, Section 9 C (5) of the Act provides for imposition of penalty equal to twice the amount of tax assessed in audit assessment.

As per Section 3 of Mines and Minerals (Development and Regulation) Act, 1957, minor minerals include ordinary clay, sand, morrum and chips, *etc.*

Audit scrutinised the assessment records in two Circles<sup>13</sup> and one Range<sup>14</sup> (between May 2017 and February 2018) relating to three registered dealers. The dealers had purchased chips, metals, sand, boulders, *etc.*, of ₹ 18.84 crore during the period from 2009-10 to 2014-15 from unregistered dealers of Odisha for utilisation in various works related to works contracts. The dealers did not pay entry tax of ₹ 18.84 lakh at the rate of one *per cent* on the purchases. The AAs finalised the assessment (August 2015 to October 2016) of the dealers and treated the goods as non-scheduled goods under the OET Act and exempted from payment of tax. The goods purchased were minor minerals and were classified under the entry “minerals” appearing at Sl. No. 59 of Part I of Schedule to the OET Act. Entry tax of ₹ 18.84 lakh should have been levied at the rate of one *per cent*. Thus, misclassification of goods in assessment of entry tax resulted in non-levy of entry tax. Besides, penalty of ₹ 37.68 lakh equal to twice the amount of tax short-assessed was also leviable.

In reply, Government stated (August 2018) that the cases have been re-opened by the concerned AAs and demands have been raised and ₹ 0.33 lakh has been realised.

## 2.7 Preparedness for transition to Goods and Services Tax (GST)

### 2.7.1 Introduction

Goods and Services Tax (GST) was implemented with effect from 01 July 2017. GST<sup>15</sup> is being levied on intra-State supply of goods and services (*except alcohol for human consumption and five petroleum products*<sup>16</sup>), separately but concurrently by the Union (CGST) and the States (SGST)/ Union Territories (UTGST). Further, Integrated GST (IGST) is being levied on inter-State supply of goods or services (including imports) and

<sup>12</sup> Local area: Local area means the area within the limits of any municipality constituted under the Odisha Municipal Act, 1950, Grama Panchayat constituted under the Odisha Grama Panchayats Act, 1964 and other local authority by whatever name called, constituted or continued any law for the time being in force

<sup>13</sup> DCCT, Cuttack-II and Keonjhar

<sup>14</sup> JCCT, Ganjam Range

<sup>15</sup> Central GST: CGST and State/ Union Territory GST: SGST/ UTGST

<sup>16</sup> Petroleum products : petrol, high speed diesel, crude oil, natural gas and aviation turbine fuel

the Central Government has exclusive powers to levy IGST. Prior to the implementation of GST, Value Added Tax (OVAT) was being levied on Intra State sale of goods in the series of sales by successive dealers as per Odisha VAT Act, 2004 and Central Sales Tax (CST) was being levied on sale of goods in course of inter-State trade or commerce as per CST Act, 1956.

The State Government was empowered to regulate the provisions of OVAT Act whereas provisions relating to GST are being regulated by Centre and State on the recommendation of Goods and Services Tax Council (GSTC) which was constituted with representation from Centre and all the States to recommend on the matters related to GST. The State Government notified (June 2017) the Odisha Goods and Services Tax (OGST) Act, 2017 and the Odisha Goods and Services Tax Rules, 2017, in lieu of various taxes<sup>17</sup> which were subsumed.

Goods and Services Tax Network (GSTN) was set up by the Government of India as a private company to provide IT services. It provides *Front-end IT services* to taxpayers namely registration, payment of tax and filing of returns. *Back-end IT services, i.e.,* registration, approval, taxpayer detail viewer, refund processing, MIS reports, *etc.* are also being provided by GSTN to Model-II<sup>18</sup> States. Odisha has opted for Model-II.

### **2.7.2 Audit objectives**

The audit was conducted with a view:

- to evaluate the preparedness of the State Government for transition to GST;
- to assess the implementation of the provisions regarding migration/ registration of taxpayers, disposal of claims of transitional credits and refunds; and
- to analyse the strategy of the State Government in handling the issues of legacy tax regime.

### **2.7.3 Audit criteria**

The audit criteria were derived from the provisions of the following Acts, Rules and notifications/ circulars issued thereunder:

- Odisha GST Act, 2017;
- Odisha GST Rules, 2017;
- GST (Compensation to States) Act, 2017;
- Acts relating to subsumed taxes and Rules made thereunder;
  - i. Odisha VAT Act, 2004,
  - ii. Central Sales Tax Act, 1956 and
- Other guidelines issued by Central/ State Government and GST Council.

### **2.7.4 Scope of Audit**

The activities of the State Government/ Commercial Taxes Department pertaining to implementation of GST since 101<sup>st</sup> amendment to the Constitution of India upto 31 March 2018 were reviewed. Detailed information regarding 'Registration, Transitional Credit and Refunds' available in the database of GST was sought for from Commissioner, Commercial Taxes and GST (CCT and GST), Odisha for conducting audit. The required information was, however, not provided by the CCT and GST. In the absence of the detailed database, the audit was conducted mainly on the basis of the hard copies of reports of return,

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<sup>17</sup> Value Added Tax, Central Sales Tax, Entry Tax, Luxury Tax and Entertainment Tax

<sup>18</sup> Model-I States: only front-end services provided by GSTN, Model-II States: both Front-end and Back-end services provided by GSTN



reports of refund, non-filers etc., available with Circle Authorities. Besides, records/ information provided by the Commissioner, Commercial Taxes and GST, Odisha relating to migration of dealers, claims of transitional credits and refunds as well as the issues relating to legacy tax regime were examined.

### 2.7.5 Status of data sharing

With automation of the collection of GST having taken place, it is essential for Audit to have access to GST data to transition from sample checks to a comprehensive check of all transactions. Principal Accountant General (Economic and Revenue Sector Audit) has written to Commissioner of CT & GST, Odisha to provide access to GST data (April 2018 and June 2018). However, access to data is yet to be provided. A stand was taken by the State that a clarification had been sought from GST Council regarding guidelines and procedures to be followed in providing access to the data to maintain uniformity with other states.

The reply is not acceptable as Section 18 of the CAG's DPC Act, 1971 provides CAG with the mandate to access any record, accounts and other documents that are relevant to his inquiry. Further, as per Section 16 of the DPC Act, it shall be the duty of the CAG to audit all receipts which are payable into the Consolidated Fund of India and each State. Thus, not having access to the data pertaining to all GST transactions is violation of the provisions of CAG's DPC Act and has come in way of comprehensively auditing the GST receipts.

### 2.7.6 Trend of Revenue

The total receipts under GST regime *i.e.*, from July 2017 to March 2018 were ₹ 8,421.71 crore which comprised of GST (₹ 6,609.27 crore), taxes on non-GST goods (₹ 1,812.44 crore) and advance apportionment of integrated GST ₹ 482.00 crore against ₹ 10,881.55 crore under pre-GST taxes during the same period of the previous year 2016-17.

Actual receipts during 2017-18 under pre-GST taxes<sup>19</sup> and GST including compensation were as follows:

Year	Budget Estimate (BE)	Receipts under pre-GST taxes and Taxes on Non-GST goods	Receipts under GST			Total receipts under pre-GST taxes and GST	Increase in Per cent	Compensation received	Total receipt
			SGST	Advance apportionment of integrated GST	Total				
2013-14	12,595.00	12,342.01	-			12,342.01		-	12,342.01
2014-15	14,175.28	13,527.60	-			13,527.60	9.61	-	13,527.60
2015-16	14,355.00	14,759.98	-			14,759.98	9.11	-	14,759.98
2016-17	15,486.00	15,162.86	-			15,162.86	2.73		15,162.86
2017-18*	22,956.00 <sup>20</sup>	5,040.32				5,040.32	3.71	2,264.00	15,726.03
2017-18#		1,812.44	6,127.27	482.00	6,609.27	8,421.71			

Source: Finance Accounts and information furnished by Commissioner of Commercial Taxes and GST

\* April to June 2017, # July 2017 to March 2018

<sup>19</sup> Value Added Tax, Central Sales Tax, Entry Tax, Luxury Tax and Entertainment Tax

<sup>20</sup> Budget estimate (BE) for pre-GST taxes ₹ 17,006 crore and SGST ₹ 5,950 crore

There was an overall increase of 3.71 *per cent* in pre-GST and GST revenue during 2017-18 as compared to pre-GST revenue of 2016-17 as noted above.

### **2.7.7 Legal/ statutory preparedness**

The State Government notified (June 2017) the Odisha Goods and Services Tax Act, 2017 and the Odisha Goods and Services Tax Rules, 2017. E-way bill system was implemented in the State on inter-State transactions with effect from 01 April 2018 and on intra-State transactions with effect from 01 June 2018. Further, necessary notifications were issued by the State Government from time to time for facilitating implementation of GST in the State. The State Government/ Commercial Taxes Department had issued 150 notifications/ circulars/ orders till September 2018 to facilitate implementation of GST in the State.

Since Odisha had opted model-II for implementation of GST, back-end applications like registration, return scrutiny, audit, assessment, appeal, enforcement, MIS reports, etc. for GST administration were being developed by GSTN. As per information provided (March 2019) by the Department, all these modules have been developed by GSTN partly. For access to the back-end applications, leased line connectivity has been provided by GSTN from their Data Centre to Odisha State Data Centre. All the field offices are connected to the Odisha State Data Centre through State-wide Multi-Protocol Level Switching (MPLS) Network.

### **2.7.8 Implementation of GST**

#### **2.7.8.1 Filing of returns**

As per Rule 59 to 61 of Odisha GST Rules, 2017, taxpayers other than composition taxpayers<sup>21</sup> were required to furnish details of outward supplies of goods or services in Form GSTR-1<sup>22</sup>, details of inward supplies of goods or services in Form GSTR-2<sup>23</sup> and a return in Form GSTR-3 (electronically generated by system on the basis of information furnished through GSTR-1 and GSTR-2) monthly, whereas composition taxpayers were required to file a quarterly return GSTR-4.

The prescribed process of return filing has been amended to address the teething troubles in initial period of the new tax regime. Therefore, filing of GSTR-2 and GSTR-3 was postponed and all taxpayers were mandated to submit a simple monthly return in Form GSTR-3B<sup>24</sup> with payment of tax by 20<sup>th</sup> of the succeeding month. Further, taxpayers having turnover below ₹ 1.5 crore were to file GSTR-1 on quarterly basis.

#### **2.7.8.2 Registration of taxpayers**

Every person registered under any of the pre-GST laws and having a valid Permanent Account Number (PAN) was to be issued a certificate of registration on provisional basis. Final certificate of registration was to be granted on completion of prescribed conditions.

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<sup>21</sup> As per section 10 of the GST Act, a registered person whose aggregate turnover in the preceding financial year does not exceed ₹ 1 crore may opt to pay tax under composition scheme

<sup>22</sup> GSTR-1: (a) Invoice wise details of all inter-State and intra-State supplies made to the registered persons and inter-State supplies with invoice value more than ₹ 2.50 lakh made to the unregistered persons, (b) consolidated details of all intra-State supplies made to unregistered persons and State wise inter-State supplies with invoice value up to ₹ 2.50 lakh made to the unregistered persons and (c) debit and credit notes, if any, issued during the month

<sup>23</sup> GSTR-2: (a) Invoice wise details of all inter-State and intra-State supplies received from the registered persons or unregistered persons, (b) Import of goods and services made and (c) Debit and credit notes, if any, received from supplier

<sup>24</sup> GSTR-3B: A monthly return required to be filed by all taxpayers other than composition taxpayers

Further, taxpayers having turnover of more than the threshold limit of ₹ 20 lakh were required to be registered under GST.

### 2.7.8.3 Migration of existing taxpayers

As per Rule 24 of the OGST Rules, 2017, every person registered under any of the existing laws and having a valid PAN shall enrol on the common portal by validating his email address and mobile number, either directly or through a Facilitation Centre notified by the Commissioner. Upon enrolment, the said person shall be granted registration on a provisional basis. The final certificate of registration shall be made available to the registered person electronically, if the information and the particulars furnished in the application are found to be correct and complete.

As per information provided (January 2019) by the Department, the position of provisional registration and final registration of existing registered dealers in the Commercial Taxes Department were as given below:

Sl. No.	Details	Number	Percentage
1	Total number of existing registered dealers as on 30 June 2017 under pre-GST laws having valid PAN and provided with provisional Id	1,83,442	-
2	Provisional Registration		
	(a) No. of dealers registered provisionally	1,80,291	98.28
	(b) No. of dealers did not enrol	3,151	1.72
3	Final Registration		
	(a) No. of dealers issued final registration certificate	1,25,996	69.88
	(b) remaining dealers provisionally registered but not allotted final registration certificate due to non-completion of registration process	54,295	30.12

Source: Information furnished by the Commissioner of Commercial Taxes and GST

The above table shows that 98.28 *per cent* of the existing dealers completed the preliminary enrolment. Out of the dealers enrolled, 69.88 *per cent* completed the migration process and were finally registered under GST.

In respect of the remaining 54,295 dealers, who were provisionally registered but not allotted final registration certificate, the Commissioner stated (January 2019) that 13,136 dealers were issued with GST Identification Number (GSTIN) through fresh registration or migration of the registration granted under Service Tax and Central Excise. The remaining 41,159 dealers (54,295 *minus* 13,136) were assumed to be dealing in non-GST goods such as liquor, exclusive petroleum products and GST exempted goods such as paddy, rice, pulses, wheat and false flour (non-branded), hence, did not migrate to GST. Similarly, some dealers having turnover below the threshold limit of ₹ 20 lakh preferred not to migrate and the remaining dealers who did not migrate to GST were assumed to be non-serious dealers and hence were not pursued.

Department, however, did not provide the data that supported the above assumptions. Audit, therefore, could not provide an assurance that all dealers due for registration under GST were actually registered.

#### Recommendation

**The Department may need to analyse case-wise details in respect of 41,159 dealers who did not migrate to GST to ensure that no eligible tax payers are left out of GST.**



#### 2.7.8.4 Allocation of taxpayers between Centre and State

##### (A) Existing registered taxpayers of Commercial Taxes and Central Excise Departments:

As per recommendation of GST Council, 90 per cent of existing registered taxpayers having turnover up to ₹ 1.5 crore and 50 per cent of existing registered taxpayers having turnover of more than ₹ 1.5 crore were to be allotted to the State. Accordingly, 1,37,310 dealers<sup>25</sup> migrated to GST in the State were allocated between the Central Tax Authorities and State Tax Authorities (in two phases, 1,31,791 in November 2017 and 5,519 in May 2018). The details are as under.

	Centre	State	Total
Dealers having turnover > ₹ 1.5 crore (50:50 ratio)	8,576	8,590	17,166
Dealers having turnover < ₹ 1.5 crore (10:90 ratio)	12,064	1,08,080	1,20,144
<b>Total</b>	<b>20,640</b>	<b>1,16,670</b>	<b>1,37,310</b>

Source: Portal of the website of the Commercial Taxes Department

Thus, out of total 1,37,310 dealers (taxpayers) allocated up to 26 May 2018, the State was allotted the jurisdiction over 1,16,670 taxpayers.

##### (B) New taxpayers:

Jurisdiction of newly registered taxpayers is being allotted to the State and Centre by GST portal electronically during submission of application for registration by the taxpayers. Position of new registration under the jurisdiction of State as on 19 November 2018 is as under:

Taxpayers under Regular Scheme	Taxpayers under Composition <sup>26</sup> Scheme	Total
45,968	8,111	54,079

Source: Data furnished by the Commissioner of Commercial Taxes and GST

#### 2.7.8.5 Transitional credit

As per Rule 117 of Odisha GST Rule read with Section 140 of Odisha GST Act, the registered taxpayers were entitled to take credit of amount of input tax credit carried forward in the VAT return filed under the pre-GST law and credit of un-availed input tax credit in respect of capital goods not carried forward in the returns. Further, the taxpayers were also entitled to take credit of VAT in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on which credit was not claimed in earlier law and the taxpayer is eligible for input tax credit on such inputs under the OGST Act. The registered persons were required to apply in prescribed form TRAN-1. The taxpayers, however, shall not be allowed to take credit where all the returns required under the pre-GST law for the period of six months immediately preceding the “appointed date”<sup>27</sup> were not furnished.

Department stated (August 2018 and January 2019) that 6,212 applications were received towards claim of transitional credit worth ₹ 275.88 crore. Out of the same, in 5,823 cases, the taxpayers had filed returns under the existing laws for last six months prior to the appointed date and in 389 cases, returns for last six months were not filed by the taxpayers.

<sup>25</sup> Dealers migrated under State Tax Authorities: 1,25,996 and under Central Tax Authorities :11,314

<sup>26</sup> As per Section 10 of the GST Act, a registered person whose aggregate turnover in the preceding financial year does not exceed ₹ 1 crore may opt to pay tax under composition scheme

<sup>27</sup> The term ‘appointed date’ is 01 July 2017 i.e. the date from which the GST was introduced

Out of 5,823 cases, the amount of claim in 453 cases, however, matched with the balances carried forward in the last returns and in 3,510 cases, the amount claimed was in excess of the balances carried forward. The taxpayers who have claimed excess credit without valid reasons have been asked by the Department to either reverse the excess credit amount or to deposit the said amount under intimation to the concerned Circles. The remaining 1,860 taxpayers<sup>28</sup> had claimed transitional SGST credit less than the credit available in the VAT return of June 2017 and verification of such cases were not taken up.

During local audit of 11<sup>29</sup> out of total 45 Circles taken up during April to October 2018, Audit analysed the status of verification of claims of transitional credit and examined the records relating to the cases disposed off. It was observed that in eight Circles, 339 taxpayers filed transitional ITC claims amounting to ₹ 42.24 crore. Out of these, 251 cases involving ₹ 39.71 crore were verified. Thus, 88 cases (26 per cent) remained un-verified in these eight Circles. Three Circles<sup>30</sup> stated that no data relating to transitional ITC claim was available with them.

### Recommendation

**The Department may take effective steps for early disposal of cases which are yet to be scrutinised.**

#### 2.7.8.6 Refund under GST

As per Section 54 of the OGST Act, 2017, any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed.

Refund module under GSTN was not made operational. Hence, the refunds are being allowed through manual system to the applicants. Specific procedures were prescribed for refund of the balance amount in the electronic cash ledger or unutilised input tax credit at the end of particular tax period. Refund of unutilised input tax credit was allowed in case of zero-rated supplies made without payment of tax or when the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies.

As per the information furnished (January 2019) by the Commissioner of Commercial Taxes and GST, Odisha, 2,436 applications for refund of ₹ 619.69 crore<sup>31</sup> were received during the period from July 2017 to November 2018. Out of these, 2,198 applications involving refund of ₹ 562.87 crore have been disposed off. The remaining 238 applications involving refund claims for ₹ 56.82 crore were pending for disposal. The details are given below:

#### Status of disposal of GST refunds

Sl. No.	Details	No. of applications	Amount (₹ in crore)
1	Claims received	2,436	619.69
2	Claims allowed	1,661	556.05
3	Claims disallowed	537	6.84
4	Total claims disposed off	2,198	562.87
5	Claims pending for disposal	238	56.82

Source: Commissioner of Commercial Taxes and GST, Odisha

<sup>28</sup> 5,823 - (3,510 + 453) = 1,860

<sup>29</sup> Bhubaneswar-I, Boudh, Cuttack-I (East), Deogarh, Dhenkanal, Jajpur, Jatni, Kendrapara, Keonjhar, Phulbani and Sonepur  
Bhubaneswar-I, Boudh and Phulbani

<sup>31</sup> SGST: 948 applications (₹ 244.45 crore), CGST: 985 applications (₹ 47.19 crore), IGST: 388 applications (₹ 112.72 crore) and Cess: 115 applications (₹ 215.34 crore)

During local audit in 11 out of total 45 Circles taken up during April to October 2018, Audit analysed status of verification of refund claims and examined the records relating to cases disposed off. It was observed that out of 15 cases of refund claims involving ₹ 36.91 crore received in four Circles, two claims involving ₹ 0.15 crore had been disposed of by one Circle and 13 claims involving ₹ 36.76 crore had not been disposed of by the remaining three Circles. No refund claims was received in seven Circles.

### **2.7.9 Legacy issues**

GST is a revolutionary step which is set to replace a significant part of the State tax system. It will involve the entire manpower of the Department, hence, it is necessary that proper steps are taken so as to resolve the pending issues of the legacy system and effectively implement the new system.

Commissioner of Commercial Taxes and GST issued (March 2018) a work plan and instructed all the field offices for clearance of legacy issues like processing of refund, tax audit, assessment, recovery of arrears, etc. under the subsumed Acts. Further, the Odisha Finance Service cadre has also been restructured and additional posts have been created at higher management level in statutory functions like appeal, revision, etc. pertaining to legacy issues.

#### **2.7.9.1 Assessment pending under the subsumed Acts**

As per the provisions of the OVAT Act, 2005, every dealer shall be deemed to have been assessed to tax based on the return filed by him if no assessment is made within a period of seven years from the date of filing the return. Assessment under the Central Sales Tax (CST) Act are to be completed within four years.

As per the information furnished (August 2018) by the Commissioner, 3,191 assessments under the subsumed Acts were pending at the end of the year 2017-18. The details are given below:

Head of revenue	Opening balance	Addition during 2017-18	Total	Assessments finalised during 2017-18	Balance at the end of the year	Percentage of disposal
0040- Taxes on Sales, Trade, etc. (which includes OVAT, CST).	5,202	2,285	7,487	4,370	3,117	58.37
0042- Taxes on Goods and Passengers (which includes OET).	653	790	1,443	1,369	74	94.87
<b>Total</b>	<b>5,855</b>	<b>3,075</b>	<b>8,930</b>	<b>5,739</b>	<b>3,191</b>	<b>-</b>

**Source: Commissioner of Commercial Taxes and GST**

It can be seen from the above table that though the disposal of assessments under the Odisha Entry Tax Act was reasonable, the disposal under the OVAT and CST Acts were slow.

This indicated that the Department had not taken effective steps to clear the legacy issues till the issue of work plan in March 2018.

The Commissioner of Commercial Taxes and GST, Odisha stated (January 2019) that assessment of 1,962 cases under OVAT, CST and OET Acts have been taken up as of 30 November 2018. He further stated that after introduction of GST from 01 July 2017, the entire Commercial Tax administration was involved in handholding of stakeholders,

conducting GST trainings and awareness campaigns. The officers are working on eliminating the legacy issues including assessments under the erstwhile Acts after getting prepared for implementation of GST.

#### Recommendation

**The Department needs to finalise the assessments timely under the subsumed Acts in order to focus on the administration of GST only.**

#### 2.7.9.2 Recovery of arrears

Tax arrears (VAT, CST and Entry Tax) of ₹ 9,689.46 crore as on 01 April 2017 increased by ₹ 243.81 crore to ₹ 9,933.27 crore as on 31 March 2018. Out of these, ₹ 5,700.53 crore outstanding under three categories<sup>32</sup> was pending with the Department. Rest were pending in courts of law or amount was to be written off.

The Commissioner of Commercial Taxes and GST replied (January 2019) that tax recovery proceedings were being monitored by him every month.

#### Recommendation

**The Department needs to expedite the cases stayed by the Departmental authorities and vigorously pursue the cases covered under show cause notices and tax recovery proceedings for early recovery of arrears.**

#### 2.7.9.3 Refunds relating to pre-GST period

As per Section 142 (3) of GST Act, 2017, every claim for refund filed by any person before, on or after the appointed day for refund of any amount of input tax credit, tax, interest or any other amount paid under the existing law, shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be refunded to him in cash in accordance with the provisions of the said law:

The pending refund cases under the pre-GST taxes as of 31 March 2018 were as follows:

Sl. No.	Particulars	Sales Tax/ VAT/ Entry Tax	
		No. of cases	Amount (₹ in crore)
1	Claims outstanding at the beginning of 2017-18	865	118.69
2	Claims received during 2017-18	1,222	312.50
	<b>Total</b>	<b>2,087</b>	<b>431.19</b>
3	Refunds made during the year		
	(a) Refunds granted	1,061	133.98
	(b) Refunds rejected/ adjusted	439	131.75
	<b>Total (a+ b)</b>	<b>1,500</b>	<b>265.73</b>
4	Balance outstanding at the end of the year	587	165.46

Source: Commissioner of Commercial Taxes and GST

#### Recommendation

**The Department may take effective steps for clearance of all the pending refund cases under the subsumed Acts to focus on the GST administration only.**

<sup>32</sup> (i) Amount covered under show cause notices: ₹ 2,348.13 crore, (ii) Amount stayed by Departmental authorities: ₹ 2,697.27 crore and (iii) Amount covered under tax recovery proceedings: ₹ 658.13 crore

### **2.7.10 Conclusion**

The Department completed the migration of 69.88 *per cent* of the existing taxpayers to GST and the reasons for non-migration of the remaining 30.12 *per cent* of existing taxpayers were not analysed. Verification of claims of transitional credits were not completed. There were arrears in assessments and arrears in collection of tax demanded under the subsumed Acts. Disposal of claims of refunds under the subsumed Acts were also in arrears.

# **Chapter III**

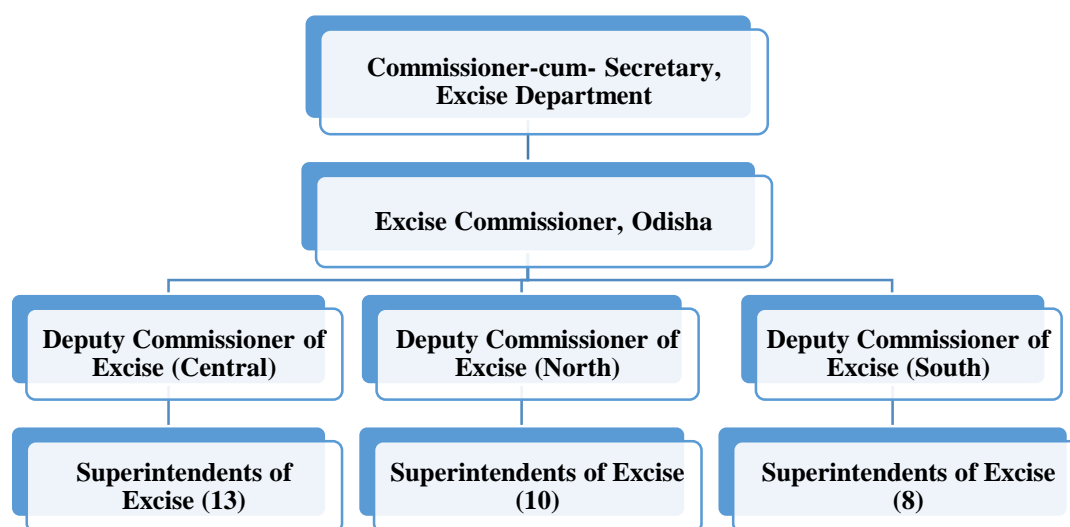
## **State Excise**



## CHAPTER III STATE EXCISE

### 3.1 Tax Administration

Levy and collection of Excise Duty is regulated under the Odisha Excise Act, 2008 and Rules made thereunder by the Government. The organisational setup for administration of excise revenue is as under:



### 3.2 Internal Audit

Internal Audit Wing (IAW), which is responsible for evaluating the Internal Control measures in the department and its field offices, was functioning since June 2010. During 2017-18, the IAW covered nine units out of 16 units planned for audit. The shortfall in conducting audit was attributed to shortage of manpower by the Department. It was observed that 505 paragraphs of Internal Audit Reports having money value of ₹ 137.31 crore issued during 2011-12 to 2017-18 were pending for want of disposal as on 31 March 2018.

### 3.3 Results of Audit

During 2017-18, audit was conducted in 18 out of 37 State Excise units (48.65 per cent). Revenue collected in the test checked 18 units was ₹ 2,502.88 crore, which was 89.83 per cent of revenue collected in 37 units of ₹ 2,786.23 crore. Audit observed non-realisation/ short-realisation of excise duty and non/ short recovery of license fee/ interest, fine and other irregularities involving ₹ 71.01 crore in 638 cases as indicated in the **Table 3.1** as follows.



**Table 3.1**  
**Category of Audit observations on revenue receipts**

Sl. No.	Categories	Number of cases	Amount (₹ in crore)
1	Non realisation/ short-realisation of excise duty	317	66.29
2	Non/ short recovery of licence fee/ interest and fine	11	0.22
3	Other irregularities	310	4.50
<b>Total</b>		<b>638</b>	<b>71.01</b>

Results of Audit includes a detailed compliance audit on “Regulation of Mohua Flower Utilisation and Production of Out Still Liquor”.

Department accepted the under assessments and other deficiencies worth ₹ 62.25 crore in 388 cases pointed out during the year and realised ₹ 16.15 crore in 70 cases pointed out in earlier years.

There are two broad categories of audit observations which are detailed below. There may be similar irregularities, errors/ omissions in other State Excise Units under the department but not covered in the test audit. Department may, therefore, like to internally examine all the other units not test checked in audit with a view to ensure that excise duty/ fees are levied as per provisions of the Act and rules.

### **3.4 Detailed Compliance Audit on “Regulation of Mohua Flower Utilisation and Production of Out Still Liquor”**

#### **3.4.1 Introduction**

*Bassia latifolia* or *Bassia longifolia* (Mohua tree) is largely found in the Central and North Indian plains and forests. It is commonly known as mahua or mohwa. The Mohua Flower (MF) is the base material for production of Out Still<sup>1</sup> (OS) liquor. OS liquor is produced and sold in 21<sup>2</sup> out of 30 districts in Odisha. The Excise Department regulates the import<sup>3</sup>, export<sup>4</sup>, transport<sup>5</sup> and utilisation of MF and production and sale of OS liquor. The Department earns revenue by levying storage licence fee, transport fee, import fee, export fee and utilisation fee on MF and realisation of consideration money from OS licensees<sup>6</sup>. No Excise duty or Value Added Tax is levied on manufacture and sale of OS liquor. The Exclusive Privilege (EP) holders<sup>7</sup> who were engaged in production of OS liquor, purchase MF directly from the people of the local areas. They also purchase MFs from other districts. MF has been declared as a minor forest produce since the year 2000. The minimum sale price for sale and purchase of MF was regulated by the Gram Panchayats of Panchayati Raj & Drinking Water Department.

The possession and storage of MF was regulated under Odisha Excise (Mohua flower) Rules, 1976. The production and sale of OS liquor was regulated by the Instructions framed by the Board of Revenue, Odisha which was substituted by Odisha Excise Rules, 2017.

<sup>1</sup> Out Still means a Still in a licensed premises, other than a distillery, in which country liquor is manufactured out of fermented Mohua Flower

<sup>2</sup> Angul, Bargarh, Berhampur, Balangir, Boudh, Deogarh, Dhenkanal, Gajapati, Ganjam, Jharsuguda, Kalahandi Keonjhar, Koraput, Malkangiri, Mayurbhanj, Nabarangpur, Nuapada, Rayagada, Sambalpur, Subarnpur and Sundargarh

<sup>3</sup> To bring into State from any other State or Country

<sup>4</sup> To take out of the State to any other State or Country

<sup>5</sup> To remove from one place to another within the State

<sup>6</sup> Authorised to manufacture OS liquor in their premises called Main shops and sale of liquor in Branch shops and also in Main shops. They also purchase and store Mohua Flower and utilise it in manufacture of OS liquor on obtaining Storage licence for the purpose

<sup>7</sup> Persons having exclusive license to produce and sale OS liquor

Further, after occurrence of liquor tragedies in the State in 2006 and 2009, executive instructions were issued by the Government to ensure effective control over illicit manufacture and sale of OS liquor also. The production of OS liquor witnessed an increasing trend during 2015-16 to 2017-18. It increased from 602.72 LPL<sup>8</sup> in 2015-16 to 692.29 LPL in 2017-18 in the entire State of Odisha.

Similarly, excise revenue increased from ₹ 135.59 crore in 2015-16 to ₹ 188.80 crore in 2017-18 in eight test checked districts.

### 3.4.2 Audit objectives

Audit was carried out with the objective of assessing:

- Compliance to the Act/ Rule provisions and guidelines issued for production and sale of OS liquor.
- If the enforcement measures were adequate to ensure that the conditions of the license granted to OS liquor shops were complied;
- If internal control measures existed to provide oversight over the production of OS liquor by the licensees; and
- Mechanism existed to ensure that Mohua Flower was purchased by the licensees as per the minimum sale price notified.

### 3.4.3 Audit Criteria

Following are the Audit criteria:

- Bihar and Orissa Excise Act, 1915 substituted by Odisha Excise Act, 2008;
- Boards Excise Rules, 1965 substituted by Odisha Excise Rules, 2017;
- Orissa Excise (Mohua Flower) Rules, 1976 substituted by Odisha Excise Rules, 2017;
- Annual Excise Policies (AEPs) of the Government (2015-16 to 2017-18); and
- Instructions issued by Board of Revenue, Odisha.

### 3.4.4 Scope of Audit and Audit Methodology

Audit was conducted between April and July 2018 in eight<sup>9</sup> out of 21 District Excise Offices (DEOs) for the audit period 2015-16 to 2017-18. Duly taking into account the Mohua Flower utilised and OS liquor produced under their jurisdiction, the DEOs were selected on the basis of stratified random sampling. Audit also collected and collated available data and information on utilisation of MF and production of OS liquor from the Excise Commissioner (EC) office and Excise Department. Further, audit party conducted joint verifications in 83 OS liquor main shops out of 264 shops to test check the compliances of the provisions of the Act and Rules.

## Audit findings

### 3.4.5 Enforcement Activities

Audit test checked enforcement activities of the Department relating to purchase of MF, production and sale of OS liquor and found the following deficiencies:

<sup>8</sup> London Proof Litre (LPL): Strength of liquor as ascertained by means of the sykes' hydrometer or any other instrument prescribed for the purpose by the Commissioner and denotes that spirit which at the temperature of 10.55 degrees centigrade weighs exactly 12/13 part of an equal measure of distilled water. It is an imaginary standard which provides a basis for calculation of the alcoholic content of any spirit for the purpose of levying duty

<sup>9</sup> Bargarh, Ganjam, Kalahandi, Keonjhar, Mayurbhanj, Nuapada, Sambalpur and Sundargarh

**3.4.5.1 Weak enforcement led to violation of licence condition**

**Although Serious Irregularity Reports were drawn for violations of various license condition committed by the licensees, the fine levied was arbitrary, was not commensurate with the violations and failed to prevent repeated violations. This indicated ineffective enforcement measures.**

As per clause (c) of Section 64 of the Odisha Excise Act, 2008, if any holder of a license, permit or pass granted under this Act, or any person in his employment and acting on his behalf wilfully does any act in breach of any of the condition of the license, permit or pass, for which a penalty is not prescribed elsewhere in this Act, he shall be liable to fine which may extend up to fifty thousand rupees. The fine is levied on the basis of Serious Irregularity Report (SIR) drawn against the licensee for offence committed by him.

Audit scrutinised enforcement related records in all the selected eight Superintendents of Excise (SEs). It was noticed that seven SEs (except SE, Nuapada) had drawn 32 SIRs against 28 OS liquor licensees during the years 2015-16 to 2017-18 and fines were levied and realised. The fine levied, however, was arbitrary, was not commensurate with the violations, ranged from ₹ 1,000 to ₹ 50,000, was too less to act as a deterrent and failed to prevent repeated violations. It was further noticed that 4 out of 28 licensees repeatedly committed violation of license conditions although SIRs were drawn during previous years as shown in **Table No.1**.

**Table No.1**

**Repeated violations in the OS shops during 2015-16 to 2017-18**

Sl. No.	Name of the OS Licensee/ District/No. of SIRs	Year	Type of Irregularities	Penalty levied (in ₹)
1	Kakbhata/ Kalahandi/2	1) 2016-17	<ul style="list-style-type: none"> <li>• Adulteration - mixing two bags of Gur of 30 kg</li> <li>• Irregular purchase of Mohua flower 258 quintals</li> </ul>	5,200
		2) 2017-18	<ul style="list-style-type: none"> <li>• Adulteration - mixing unknown materials in MF wash like plants , roots and leaves</li> <li>• Non -display of sign board</li> <li>• MF wash room not neat and clean</li> <li>• No mandatory information on poly packs</li> <li>• No code number</li> <li>• Not ensuring approved strength</li> </ul>	5,000
2	Tikira/ Keonjhar/2	1) 2015-16	<ul style="list-style-type: none"> <li>• Discrepancy in book balance of MF stock</li> <li>• Non display of sign board</li> </ul>	2,000
		2) 2016-17	<ul style="list-style-type: none"> <li>• Discrepancy in book balance of MF stock</li> <li>• No packing machine</li> </ul>	2,000
3	Anandpur/ Keonjhar/2	1) 2015-16	<ul style="list-style-type: none"> <li>• Distillation of OS liquor after sun set</li> <li>• MF stock discrepancy and loose liquor</li> </ul>	50,000
		2) 2017-18	<ul style="list-style-type: none"> <li>• Distillation of OS liquor after sun set</li> </ul>	50,000
4	Kuarmunda/ Sundergarh/2	1) 2016-17	<ul style="list-style-type: none"> <li>• No manufacturing date on poly pack</li> </ul>	50,000
		2) 2017-18	<ul style="list-style-type: none"> <li>• Shortage of OS liquor</li> <li>• Poly packs contained 180 ml strength of liquor</li> </ul>	50,000

During joint verification of premises of the 83 OS liquor shop licensees under selected eight SEs, it was noticed that there was violation of license conditions by all the licensees and not restricted to the 28 licensees against whom SIRs were drawn. The penalty amount varied from district to district for similar violations by the licensees. In the absence of specific penalty amount for each violation, the SEs had used the penalty provision arbitrarily. As observed from the table above, the number of violations committed by licensee at Sl. No. 1 increased in the subsequent years as the penalty levied was very less and decreased every year. Also, there was also no provision prescribed in the Odisha Excise Act to levy increased penalty in case of repeated violations of license conditions.

No specific reply in this regard was furnished by the Department.

### 3.4.5.2 Guidelines issued not implemented

**The guidelines issued by the Excise Commissioner, Odisha in 2009 and the directions of Hon'ble High Court of Odisha in November 2011 were not adhered to by the licensees of Out Still liquor. Thus, the guidelines largely remained on paper.**

Excise Commissioner, Odisha issued guidelines (August 2009) on sale of OS liquor. Hon'ble High Court of Odisha while disposing one writ petition (November 2011) also expressed their displeasure for non-implementation of these guidelines and directed to take necessary action for strict implementation of the prescribed guidelines and to initiate criminal proceedings for violation. Excise Commissioner reiterated the guidelines in March 2014. The instructions were also reiterated in each AEPs for its compliance.

The details of non-adherence of the guidelines issued and provisions of AEPs were as under:

#### i) Unauthorised use of identification mark and secret code

The guidelines of the EC (August 2009) provided that Poly packs shall contain code number and identification mark of the shop approved by the concerned SEs, net content, strength of the liquor, manufacturing date of liquor and name of the manufacturer in order to regulate and standardise the OS Liquor.

It was noticed that, in 27 out of 83 OS shops (32.53 *per cent*) under three DEOs<sup>10</sup>, the SEs had not approved the identification mark and unique codes. In the absence of the approvals, 22 OS shops used their own identification mark and unique codes. Out of the remaining 56 shops, to whom identification marks and unique codes were allotted, seven OS shops (8.43 *per cent*) under two DEOs<sup>11</sup> used different identification marks.

This defeated the purpose of allotment of unique code and identification marks which was to ensure secured supply of unadulterated and quality liquor. The DEOs had, however, failed to enforce the guidelines and to initiate criminal proceedings against the violating licensees.

In reply, Department stated (December 2018) that most of the manufacturing units were complying with the stipulation. The fact, however, remained that licensees were either using identification marks other than the approved ones or were selling liquor pouches without unique code and identification marks.

<sup>10</sup> SE, Ganjam, Keonjhar and Mayurbhanj

<sup>11</sup> SE, Nuapada and Sambalpur

## ii) Sale of liquor after expiry date

The guidelines of the EC (August 2009) further provided that liquor shall be destroyed by the licensee after the expiry of 15 days from the date of manufacture of the liquor and the excise officer in charge of the OS shop will ensure this and give a certificate to that effect.

- It was noticed in Audit that one shop<sup>12</sup> was closed since 03 July 2016 due to non-payment of monthly consideration money<sup>13</sup>. The balance stock of 3,500 liters of the said shop was sold after closure of the shop. Out of this, 1,570 liters of liquor was sold after 17 July 2016, by when the complete stock would have expired. No action was taken by the concerned Charge Officer<sup>14</sup> to destroy the expired liquor and furnish a certificate to that effect. Further, the concerned SE also did not ensure that the expired liquor was destroyed.

In reply, Department stated (December 2018) that instructions were complied by the manufacturing units and when deviation was noticed, action as deemed proper was initiated by the SEs. The SEs too had replied that inspections at all levels were carried out regularly. No specific reply to the irregularity pointed out by audit was furnished. Further, no Serious Irregularity Report (SIR) for sale of liquor after expiry date was drawn during last three years, with the exception of five SIRs, though inspections at all levels were carried out regularly.

- In 56 out of 83 OS shops (67.46 per cent) under all the eight selected DEOs OS liquor poly packs did not bear the manufacturing date. In the absence of manufacturing date, sale of expired liquor could not be ruled out. Required action, however, was not taken by the concerned SEs during their routine inspection of shops to ensure manufacturing date on the poly packs.

In reply, Department stated (December 2018) that SIRs were being drawn by concerned SEs where irregularities were noticed. Audit, however, noted that only five SIRs were drawn in this regard during last three years as verified in audit.

### **3.4.5.3 Adulteration of OS liquor**

MF is the base material for production of OS liquor. As per para 4.2.6 of Annual Excise Policies 2015-16 to 2017-18, use of Gur (Jaggery) or any substitute in place of MF have been strictly prohibited. Further, Annual Excise Policies stipulated that the EP holders shall be held guilty of violation of legal provisions and shall be imposed with penalty if found to be using any substance in place of Mohua for making OS liquor. Under Section 64 (b) of the Act, for breach of any of the condition of the licence, for which a penalty is not prescribed elsewhere in this Act, the licensee shall be liable to fine which may extend to fifty thousand rupees.

Audit conducted Joint Verification in 83 OS Shops under eight DEOs. It was noticed that 26 licensees under four SEs<sup>15</sup> were using Gur either with MF (before fermentation) or with MF wash<sup>16</sup> (during and after fermentation) for production of OS liquor. Out of the 26 licensees, three licensees under two SEs<sup>17</sup> were using Gur in MF and 23 licensees under all the four SEs were using Gur in MF wash. Also, 40 licensees under seven SEs (except SE, Keonjhar) were using other substances like leaves of Neem, Sahaj, Bakhar and ladies

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<sup>12</sup> Thakurani OS shop

<sup>13</sup> Consideration money: Monthly licence fee fixed by the State Government for OS Liquor shop by auction, e-auction, e-tender or otherwise

<sup>14</sup> Officer in the rank of Sub-Inspector in charge of OS shop

<sup>15</sup> Ganjam, Kalahandi, Mayurbhanj and Nuapada

<sup>16</sup> MF wash is the fermenting or fermented liquid of MF before distillation

<sup>17</sup> Pastipada under SE, Kalahandi, PurunaBaripada and Rasgobindopur under SE, Mayurbhanj

finger. It was also noticed that seven licensees under three SEs<sup>18</sup> were using both Gur and other substances like Neem, Sahaj, Bakhar and ladies finger.

SEs, however, failed to take effective steps to enforce the stipulation contained in the AEPs and strict implementation of the prescribed guidelines as directed by Hon'ble High Court of Odisha by initiating legal action. The deficiency persisted despite six SIRs being drawn against five licensees during 2015-16 to 2017-18. Further, fine up to a maximum of ₹ 13.00 lakh (26 licensees\*₹ 50,000) in respect of licensees mixing Gur and ₹ 20.00 lakh (40 licensees\*₹ 50,000) in respect of licensees mixing other substances was also not levied.

Mixing of Gur and other prohibited substances<sup>19</sup> in preparation of OS liquor resulted in higher amounts of fermentable sugar in the yield.

In reply, Department stated (December 2018) that penal provisions for such violation have been introduced in the Excise Policy for the year 2018-19. In the absence of penalty provision, SEs also failed to levy fine under Section 64 (b) of the Act.

#### **3.4.5.4 Maximum Retail Price of OS liquor not fixed by the Department**

As per instruction No.122 framed by the Board of Revenue, Odisha, maximum, minimum or a fixed price was required to be fixed by the Board for the retail sale of any intoxicant and opium. In such areas a licensee is prohibited from selling at prices in contravention of the prices so fixed. As per Annual Excise Policy of 2017-18 notified by Government, the MRP of OS liquor is to be decided by the department adopting the prescribed procedure and displayed on pouches sold.

It was noticed in Audit that MRP of OS Liquor was not fixed by the Department. During test check of poly packs, it was noticed that 16 out of 83 shops (19.28 per cent) only had printed the sale price on the OS pouches. There was no display of sale price on pouches of OS liquor in the remaining 67 shops (80.72 per cent). In the absence of MRP notified by the Government, there was no uniformity in sale prices. OS pouches were sold at various rates which ranged between ₹ 16 to ₹ 45 per 200 ml Poly pack during 2018 as verified from the sale prices printed on the pouches in respect of 16 shops. In the absence of MRP, the poor consumers were impacted and left to the vagaries of the OS Liquor shops.

In reply, Department stated (December 2018) that the absence of uniformity in sale of OS liquor was on account of varying price of Consideration money<sup>20</sup> and also because, no price list has been cited in the Annual Excise Policies. The fact, however, remained that while Department had fixed MRP in case of sale of IMFL and Beer irrespective of Consideration money, it had failed to do so in the case of OS Liquor. As admitted, Department also failed to notify the price list in the AEPs. This denotes that the Department allowed OS liquor sector to remain unregulated.

#### **3.4.5.5 Potassium Ferro cyanide test not conducted by Inspecting Officers**

As per Rule 230 (9) of the Odisha Excise Rules 2017, Potassium Ferro cyanide test for excess copper should be applied during inspection by all Inspecting Officers. Potassium Ferro cyanide test is applied to freshly distilled spirit to test presence of excess copper and presence of iron. If iron is found to be present in the spirit, the sample shall be sent to chemical laboratory for analysis.

<sup>18</sup> SE, Mayurbhanj, Nuapada and Ganjam

<sup>19</sup> As per Licence condition, use of Gur or any substitute in place of Mohua flower is strictly prohibited

<sup>20</sup> Consideration money: Monthly licence fee fixed by the State Government for OS Liquor shop by auction, e-auction, e-tender or otherwise



It was noticed that the Inspecting Officers had not conducted any Potassium Ferro cyanide test in any of the 83 OS main shops test checked in audit during 2015-16 to 2017-18.

In the absence of Potassium Ferro cyanide test, it could not be ascertained whether the liquor produced and sold during the period contained iron or excess copper thereby rendering the liquor unfit for human consumption.

In reply, Department stated (December 2018) that the SEs shall be instructed to follow the guidelines issued.

### **3.4.6 Review of provisions for purchase and storage of Mohua flower**

Audit reviewed the provisions for purchase and storage of Mohua Flower and found the following deficiencies:

#### **3.4.6.1 Purchase of MF below minimum sale price**

**The purchase of Mohua Flower was made at a rate ranging between ₹ 1,200 to ₹ 1,800 per quintal by 15 out of 62 licensees which was below the minimum sale price of ₹ 2,000 per quintal prescribed by the Panchayati Raj & Drinking Water Department. This deprived rural producers of ₹ 663.04 lakhs on sale of Mohua Flower.**

The minimum sale price of MF was fixed (November 2015) by the Panchayati Raj & Drinking Water Department, Government of Odisha. As per the said notification, the minimum sale price of MF was ₹ 2,000 per quintal during 2015-16 to 2017-18.

Audit conducted joint verification of 62 OS liquor shops under five<sup>21</sup> out of eight DEOs to ascertain the purchase price of MF. It was noticed that the purchase of MF by 15 licensees under three DEOs<sup>22</sup> was made at a rate ranging between ₹ 1,200 to ₹ 1,800 per quintal which was below the minimum sale price notified by Government. It was noticed that the licensees purchased 1,42,774 quintal of MFs from local areas during 2015-16 to 2017-18. Purchase of MF at price lower than the minimum sale price was clearly a distress sale for the primary gatherers affecting their economic condition. During the period 2015-16 to 2017-18, there was loss of revenue for the rural producers of ₹ 663.04 lakhs<sup>23</sup> from sale of MF, while there was undue benefit for the licensees. Details in **Appendix-I**.

Department failed to take required steps to ensure payment of minimum sale price to the producers as notified by the Panchayati Raj & Drinking Water Department.

In reply, Department stated (December 2018) that the rate of MF varies depending upon production as it is a seasonal forest produce. The rate of MF was ₹ 2,000 to ₹ 4,500 per quintal during last year. The fact, however, remained that the rate of purchase of MF by the licensees was between ₹ 1,200 to ₹ 1,800 per quintal during 2015-18, which resulted in undue benefit to the licensees.

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<sup>21</sup> Bargarh, Ganjam, Keonjhor, Nuapada and Sundargarh

<sup>22</sup> Bargarh, Ganjam, and Sundargarh

<sup>23</sup> Purchase price 1,42,774 quintal @ ₹ 20 per kg = ₹ 2,855.48 lakh

Purchase price paid by the licensees @ ₹ 12 to ₹ 18 = ₹ 2,192.43 lakh

Price paid less = ₹ 663.04 lakh

### 3.4.6.2 Deficient Storage license fee structure for Mohua Flower

**The Department had not fixed any license fee slabs for storage of higher quantity of Mohua Flower. This denied the opportunity for State to realise additional excise revenue from Mohua Flower storage license fee.**

As per Rule 207 of the Odisha Excise Rules, 2017, any firm, person or Co-operative society can store MFs on obtaining a permit from the Collector on payment of the prescribed fees as determined by the Government. As such, the AEP prescribes the storage license fee for storage of MF every year. There was regular revision in this storage license fee and the fee structure was last revised in AEP of 2017-18. The storage categories were fixed in 1976 and did not undergo any revision since then. As per AEP of 2017-18, the category wise license fee for storage of MF for OS licensees were as follows **Table No.2**.

**Table No.2**

#### Storage license fee during 2015-18

Sl. No	Storage category (in quintals)	Storage license fee 2015-16 ( in ₹ )	Storage license fee 2016-17 ( in ₹ )	Storage license fee 2017-18 ( in ₹ )
1	Up to 500	6,600	7,590	8,730
2	501 to 1,000	13,200	15,180	17,460
3	1,001 to 2,001	26,400	30,360	35,000
4	2,001 to 5,000	52,400	60,260	69,300
5	More than 5,000	66,000	75,900	87,290

In this regard, it was noticed in audit that in three<sup>24</sup> out of eight DEOs, 57 out of 139 licensees purchased and stored MFs with quantities more than 5,000 quintals up to 30,000 quintals during 2015-16 to 2017-18 as shown in **Table No.3**.

**Table No.3**

#### Licensee-wise storage details during 2015-18

Sl. No	Storage category (in quintals)	No of licensees	Storage during three years 2015-18 (in quintals)
1	Up to 500	82	--
2	501 to 1,000		
3	1,001 to 2,001		
4	2,001 to 5,000		
5	5,001 to 10,000	39	2,92,544
6	10,001 to 15,000	11	1,32,808
7	15,001 to 20,000	03	51,643
8	20,001 to 25,000	02	43,123
9	25,001 to 30,000	02	55,332

In the absence of a rationalised rate structure for quantities above 5000, it was observed that these licensees paid an additional storage license fee amount ranging between ₹ 13,600<sup>25</sup> to ₹ 17,990<sup>26</sup> only for the period 2015-16 to 2017-18. This was an increase from the fee slab at Sl. No.4 by 20.6 *per cent* to 26.95 *per cent* for three years. During the same period, however, the licensees had stored MFs ranging from 5,053 quintals<sup>27</sup> up to 30,034

<sup>24</sup> SEs of Bargarh, Kalahandi and Sambalpur

<sup>25</sup> 66,000-52,400=13,600; Difference in Sl. No. 4 and 5 of Storage licence fees in 2015-16

<sup>26</sup> 87,290-69,300=17,990; Difference in Sl. No. 4 and 5 of Storage licence fees in 2017-18

<sup>27</sup> Prakashpur OS shop under SE, Bargarh



quintals.<sup>28</sup> Since the Department had not fixed storage licence fees commensurate with the slabs for storage of MF higher than 5,000 quintals, it lost the opportunity to earn additional excise revenue in storage licence fee of MFs.

Accepting the audit observation, Department stated (December 2018) that they have suggested to Government to include Sl. No.5 storage category (5001 to 10000 quintals) with storage fee of ₹ 1,00,000 and one new storage category, Sl. No.6 above 10,000 quintals) with storage fee of ₹ 1,20,000.

### **3.4.7 Internal Control**

Audit test checked the internal control mechanism of the Department and found the following deficiencies.

#### **3.4.7.1 Production reported of OS liquor from MF not realistic**

**The out turn of OS liquor from fermentation of Mohua Flower was exactly 0.42 London Proof Litre per Kg every year. The out turn did not register any increase or decrease from the threshold limit of 0.42 London Proof Litre per Kg of material in any case indicating possible false reporting.**

Under the explanation to Rule 230 (5) of Odisha Excise Rules, 2017, fermentation of MF is usually completed within 48 hours at the average of Indian temperature of 85°F and the out turn per Kg of materials exceeds 0.42 LPL. Further, if the vendor's account shows that the period of fermentation exceeds three days and the out turn is lower than 0.42 LPL per Kg, an enquiry should be made into the cause and the entire process of fermentation and distillation closely watched. Where substantial evidence is available about the falsification of the account by the licensee, a serious irregularity report should be made against him.

As seen from the Annual Review Meeting reports for the years 2015-2018, the out turn from fermentation of MF was exactly 0.42 LPL every year in all the test checked 83 OS shops under selected eight DEOs. The out turn did not register any increase or decrease from the threshold limit of 0.42 LPL per Kg of material in any case. This indicated possible false reporting of out-turn from MF as shown in the **Appendix-II**. Though this reporting of out-turn was persisting from long time, no action was taken to cross check the actual out turn.

In reply, Department stated (December 2018) that the concerned Excise Officers are being instructed to ensure reflection of actual outturn of liquor in their accounts.

### **Conclusion and Recommendations**

Serious Irregularity Reports were drawn for violations of various license conditions committed by the licensees. The fine levied was, however arbitrary, was not commensurate with the violations and failed to prevent repeated violations indicating in ineffective enforcement measures. Guidelines issued (August 2009) by the Excise Commissioner, Odisha to prevent sale of illicit OS liquor could not be effectively implemented.

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<sup>28</sup> Ambapali OS shop under SE, Bargarh

**Recommendation**

**Department may consider strengthening the enforcement and internal control mechanism. The Department may also consider amending rules for imposition of specific penalty amount for each violation.**

Maximum Retail Price (MRP) of OS liquor pouches sold was not fixed by the Department. In the absence of MRP, the consumers were impacted and left to the vagaries of the OS Liquor shops. Thus, the Department allowed OS liquor sector to remain unregulated.

**Recommendation**

**Department may fix the MRP of OS liquor sold in pouches for regulation of price.**

Purchase of Mohua Flower was made below the minimum sale price notified by Government. The primary producers of MF are the losers while the middlemen (traders) make the benefits. This was due to lack of ensuring compliance with provision by the Department.

**Recommendation**

**Department may take required steps to ensure payment of minimum sale price to the vendors as notified by the Panchayati Raj & Drinking Water Department.**

Department had not fixed storage licence fees commensurate with the slabs for storage of MF higher than 5,000 quintals. As a result, it lost the opportunity to earn additional excise revenue in storage licence fee of MFs.

**Recommendation**

**Department may conduct review of storage licence fee commensurate with storage capacity of the licensees.**

### 3.5 Other Audit observations

Audit scrutinised the assessment records on State Excise Duty and associated fees in the District Excise Offices (DEOs) and found several cases of non-observance of the provisions of the Act/ Rules/ Annual Excise Policies (AEPs). There was non-levy/ short levy and non-realisation of ED, fees and fines, *etc.*, as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by Audit. Such omissions on the part of the Superintendents of Excise (SE) are pointed out by Audit each year. The irregularities, however, persisted and remained undetected until the next audit was conducted. There was need for the Department to improve the internal control system including strengthening of internal audit to avoid recurrence of such irregularities.

### 3.6 Provisions of the Acts/ Rules/ Annual Excise Policies and instructions of Government not observed

*The Bihar and Odisha Excise (B&OE) Act, 1915 and Rules made thereunder by the Government as well as by the Board of Revenue (BoR) read with the Excise Manual, AEPs and notifications of Government provide for levy and collection of ED and charges like establishment cost and extra hour operation charge, etc., at the prescribed rates.*

*The SEs, while finalising the assessments, did not observe the above provisions in some cases which resulted in non-levy and non-realisation of ED/ fees, fines, penalty, etc. as follows:*

### 3.6.1 Excise Duty short/ non-levied for short lifting of IMFL/ Beer

**Excise duty and fine of ₹ 1.40 crore was short demanded against short lifting of India Made Foreign Liquor and Beer by four licensees during 2016-17. Similarly, Excise duty of ₹ 8.83 crore was not assessed and levied for short lifting of India Made Foreign Liquor and Beer by 38 licensees.**

Rule 6A of Odisha Excise Exclusive Privilege (Foreign Liquor) Rules, 1989 provides that every successful bidder of foreign liquor 'OFF' shop<sup>29</sup> shall, before obtaining licence, guarantee the sale of the Minimum Guaranteed Quantity (MGQ) of foreign liquor as fixed by the EC. In case of failure on the part of the licensee to lift the stock from Odisha State Beverage Corporation (OSBC) Ltd. as guaranteed, action may be taken to make good the loss of ED which shall be recovered from the bank guarantee obtained by the Collector. In case bank guarantee is not sufficient, ED will be recovered on demand along with fine at the rate of 10 *per cent* from the licensee.

In terms of Annual Excise Policy (AEP) 2016-17, ED on IMFL worked out to ₹ 292 per LPL taking into account the specific component prescribed (₹ 260) and the *ad valorem* component of ED<sup>30</sup> for the lowest priced IMFL. Similarly, ED on Beer was ₹ 59 per BL<sup>31</sup> as clarified by Government in March 2017.

#### (A) Non levy of Excise Duty

As per instruction of Government (May 2015), Exclusive Privilege holders<sup>32</sup> retailing IMFL/Beer were given option to lift IMFL in LPL involving equal amount of ED as that of the MGQ of the Beer in BL fixed in respect of their respective shops. Government, however, decided (March 2016) to discontinue the interchangeability of MGQ in lifting of Beer and IMFL from 01 April 2016 which was again allowed from 29 November 2016 for the remaining period of the financial year 2016-17.

It was noticed that 38 licensees under ten<sup>33</sup> Excise Offices short lifted 10.36 lakh BL of Beer and 1.27 lakh LPL of IMFL from OSBC Ltd. during 2016-17. Concerned SEs, however, did not assess and levy the ED payable along with fine for such short lifting. ED payable on such short lifting worked out to ₹ 4.34 crore and ₹ 3.69 crore respectively, totaling to ₹ 8.03 crore after allowing interchangeability of MGQ in lifting of Beer and IMFL involving equal amount of ED during November 2016 to March 2017. Fine of ₹ 0.80 crore was also leviable.

The SEs had failed to raise demand in respect of short lifted quantity despite maintaining the MGQ records that contains shop-wise lifting position of Beer and IMFL.

In reply, SEs stated (May to December 2017) that demand for short lifting of Beer and IMFL would be made as per AEP of 2016-17. The matter was intimated to the EC Odisha, Cuttack (April 2018) and Government (May 2018). The reply is awaited.

#### (B) Short levy of Excise Duty

Audit scrutinised the records relating to MGQ and lifting of IMFL and Beer. It was observed that four licensees under SE, Sundargarh did not lift the MGQ fixed against their

<sup>29</sup> A shop where alcoholic beverages in bottles or cans are sold for consumption off the premises

<sup>30</sup> The minimum landing cost of 6.75 LPL of IMFL was ₹ 431.90. The landing cost per LPL of IMFL was ₹ 63.99 = ₹ 64. *Ad valorem* 50 *per cent* thereon amounts to ₹ 32. Hence, ED on IMFL is ₹ 292 per LPL (fix component ₹ 260 + ₹ 32)

<sup>31</sup> Bulk Litre

<sup>32</sup> Persons having exclusive licence to sell liquor

<sup>33</sup> Balasore, Bargarh, Berhampur, Balangir, Cuttack, Dhenkanal, Ganjam, Khordha, Rayagada and Sundargarh

shops for 2016-17. The licensees lifted 2.48 lakh LPL of IMFL against MGQ of 3.08 lakh LPL and 1.82 lakh BL of Beer against MGQ of 4.54 lakh BL from OSBC Ltd. This resulted in short lifting of 0.60 lakh LPL of IMFL and 2.72 lakh BL of Beer. The ED leviable for such short lifting was ₹ 3.69 crore<sup>34</sup> including the fine. ED of ₹ 2.29 crore, however, was demanded, which was worked out without taking into account the *ad valorem* component of duty. This resulted in short levy of ED and fine of ₹ 1.40 crore.

In reply, SE, Sundargarh stated (November 2017) that the demand for ED & fine on short lifting of Beer and IMFL will be raised as per AEP 2016-17.

The matter was intimated to the Excise Commissioner (EC), Odisha, Cuttack (April 2018) and to Government (May 2018). The reply is awaited.

### 3.6.2 Short realisation of Excise Duty on short lifting of Country Spirit

**Failure to recover the *ad valorem* component on lifting of Country Spirit less than the Minimum Guaranteed Quantity led to revenue loss of ₹ 22.97 lakh.**

Rule 6A of the Odisha Excise Exclusive Privilege Rules, 1970, prescribes that every successful bidder of Country Spirit (CS) shop shall, before obtaining licenses, guarantee the sale of the Minimum Guaranteed Quantity (MGQ) of CS as fixed by the Collector. Sub Rule 2 (ii) & (iii) prescribed that the Commissioner may, wherever if he deems it necessary, permit the licensee to lift the short drawn MGQ of any month other than the month of March in any subsequent month or months. If any quantity of CS remains un-lifted permission to lift is not accorded if it is beyond the last day of February. Further, under Sub Rule 3(1), no licensee shall lift less than the specified MGQ of CS in any month. In case of failure on the part of the licensee to lift the stock as guaranteed, ED shall be recovered from the bank guarantee obtained by the Collector. The minimum ED on Country Spirit was fixed as ₹ 66.10 per LPL for the year 2016-17.

Audit scrutinised the records relating to lifting of MGQ of CS in District Excise Office, Balasore. It was observed that CS shops<sup>35</sup> pertaining to three licensees did not lift their MGQ fixed by the Collector during 2016-17. The shops lifted from OSBC Ltd. 0.30 lakh LPL against MGQ of 0.71 lakh LPL which resulted in short lifting of 0.41 lakh LPL. The ED for such short lifting worked out to ₹ 27.39 lakh. The licensees had deposited ED worth ₹ 4.42 lakh at the rate of ₹ 10 per LPL, including fine<sup>36</sup>, without including the *ad valorem* component<sup>37</sup> of duty. This resulted in short realisation of ED on short lifting of MGQ worth ₹ 22.97 lakh. Superintendent of Excise did not demand the balance ED on such short lifting of MGQ although the ED paid was without inclusion of *ad valorem* component.

In reply, SE, Balasore stated (March 2018) that demand would be raised for realisation of differential ED. Subsequently, demand notice was issued in March 2018.

The matter was intimated to the EC, Odisha, Cuttack (May 2018) and to Government (May 2018). The reply is awaited.

<sup>34</sup> The four licensees had short lifted both IMFL and Beer and hence no interchangeability was applicable

<sup>35</sup> Motiganj, Bhoisahi and Fuladi

<sup>36</sup> Fine at the rate of 10 *per cent* was collected along with duty on short lifted MGQ although no provision for such fine existed for Country Spirit Liquor under the Excise Act/ Rules

<sup>37</sup> Landing cost of one case (3 LPL) of CS = ₹ 336.58, Landing cost of one LPL = ₹ 112.19, *Ad valorem* component = 50% of landing cost = ₹ 56.10

### **3.6.3 Charges for extra hour operations not realised**

**Extra hour operation charges of ₹ 21.54 lakh for carrying out 2,154 hour operations beyond the scheduled hours during 2016-17 was not realised from one distillery.**

Rule 20 of Board's Excise Rules, 1965 provides that all operations in a distillery, bottling unit and brewery which require the presence of an Excise Officer shall be stopped on Sundays and other Holidays. Further, the Unit may function for more than one shift with prior permission of the EC and additional staff shall be posted as determined by the EC. As per the amended (2005) provision, the licensee shall pay ₹ 1,000 per each extra hour of operation of their Unit beyond the scheduled hours in addition to the overtime fees payable to the Excise staff.

Mention was made in earlier Audit Reports<sup>38</sup> regarding non-realisation of charges for extra hour operations in one distillery<sup>39</sup> under SE, Ganjam. Scrutiny of relevant records (July 2017) relating to the same distillery for the year 2016-17 showed that the irregularity persisted. The licensee carried out 2,154 hours of operation beyond scheduled hours during 2016-17. The licensee, however, did not pay the required charges of ₹ 21.54 lakh towards extra hour operations beyond the scheduled hours. SE, Ganjam failed to raise demand for realisation of extra hour operation charges despite maintaining the records containing the days of extra hour operation for each month.

In reply, SE, Ganjam stated (July 2017) that the demand would be raised for realisation of charges towards extra hour operations. Subsequently, SE, Ganjam raised the demand (September 2017) to realise the above dues. The demanded amount, however, was yet to be realised (April 2018).

The matter was intimated to the EC, Odisha, Cuttack and to Government (May 2018). The reply was awaited.

### **3.6.4 Fees towards cost of establishment not realised**

**Superintendent of Excise did not raise demand for realisation of the cost of establishment of ₹ 12.35 lakh for the year 2016-17 relating to one Bottling unit and one Distillery.**

As per Rule 33(3) of the Board's Excise Rules 1965, potable foreign liquor shall not be stored either in shape of bottles or bulk or compounded, blended, reduced, bottled in the warehouse or store-room in bond and issued or sold therefrom otherwise than in the presence of an Excise Officer. Further, as per Rule 34(1) and 34(2) of the Rules *ibid*, the EC shall appoint the Excise Officers for proper supervision of the operations carried out in each warehouse or storeroom mentioned in Rule 33(3). The licensee shall pay to the State Government, at the end of each calendar month, such fees which shall not exceed the whole of the cost of the excise staff employed for the purpose.

Audit test checked records on realisation of cost of establishment of Excise Officers posted in Bottling/ Distillery units in two SE offices<sup>40</sup>. It was observed that five excise officials were posted in one Bottling unit and in one Distillery during 2016-17 for supervision of operations of those units. The units did not deposit the gross salary paid to the excise staff

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<sup>38</sup> Audit Reports for the year ending March 2015, March 2016 and March 2017

<sup>39</sup> M/s. Aska Co-operative Sugar Industries Ltd.

<sup>40</sup> Ganjam and Khordha

as fees towards cost of establishment at the end of each calendar month. The SEs did not raise demand for realisation of the same. Thus, the cost of establishment of ₹ 12.35 lakh remained un-realised.

In reply, the SEs, stated (July 2017) to raise demand for realisation of the establishment cost.

The matter was intimated to the EC, Odisha, Cuttack (April 2018) and to Government (June 2018). The reply was awaited.



# **Chapter IV**

## **Stamp Duty and Registration Fee**



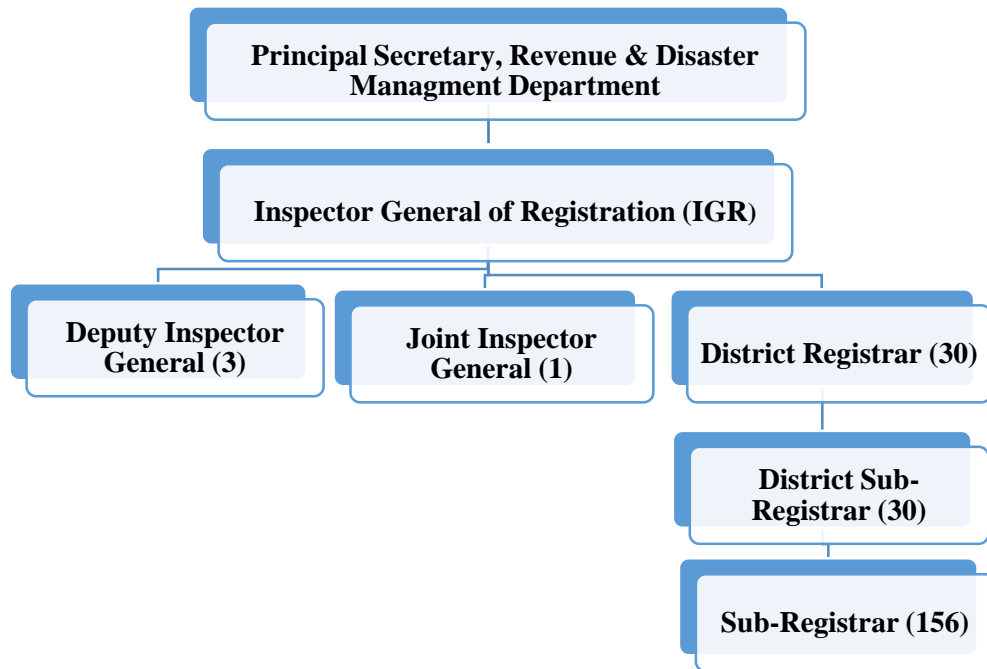


## CHAPTER IV

### STAMP DUTY AND REGISTRATION FEE

#### 4.1 Tax Administration

Receipts from Stamp Duty (SD) and Registration Fee (RF) are regulated under the Indian Stamp Act 1899 (IS Act), the Registration Act 1908 and the Rules framed thereunder. The organisational setup for administration of Stamp Duty and Registration fee is as under:



#### 4.2 Internal Audit

The Internal Audit Wing (IAW) of R&DM Department which is responsible for evaluating the Internal Control measures in the department and its field offices was created in the year 1969. During 2017-18, the IAW planned audit of 58 units but was able to cover 38 units. The shortfall was attributed to shortage of manpower by the Department. Further, 10,367 paragraphs of Internal Audit Reports issued up to March 2018 having money value of ₹ 3,705.36 crore were pending for disposal as on 31 March 2018.

#### 4.3 Audit Methodology and Results of Audit

The Revenue & Disaster Management Department uses the e-Registration database to maintain the meta-data on the documents registered in the Sub-Registrar (SR) and District Sub-Registrar (DSR) offices. The meta-data includes instrument registration number, classification of deed, information relating to parties involved, consideration, stamp duty and registration fee that was collected, etc. All the documents registered are scanned and stored in a Central server by the Registration offices. All the Registration offices and the Inspector General of Registration (IGR) are linked to the e-registration database through Odisha State Wide Area Network (OSWAN) & Virtual Private Network (VPN). All the Registration offices login as clients to the central server for retrieval and updating of any

data pertaining to the particular Registration office only. Citizens access the services over the IGR website.

Audit does not have access to the data dump of the central server in the e-Registration database. The audit units under IGR are selected based on risk parameter such as revenue generated, etc. based on consolidated data provided by IGR on an annual basis. During the field audit of the selected audit units, a login based access to the e-registration database is provided to the audit team. This login provides access to meta-data of documents registered by the particular audit unit only. Further, Audit can also access the Fee Book, Valuation Report and scanned images of deeds. The meta-data is extracted and used for audit planning in terms of selection of sample of deeds to be audited.

During 2017-18, audit was conducted in 57 out of 183 units (31.15 *per cent*) of the Registration wing of the R&DM Department. Revenue collected in the test checked 57 units was ₹ 891.20 crore, which constituted 65.35 *per cent* of the total revenue of ₹ 1,363.72 crore collected by 183 units. Test check of assessment and other records showed incorrect determination of market value of property, irregular exemption on housing loan and non/ short levy of Stamp Duty and Registration Fee on various documents registered and other irregularities involving ₹ 251.75 crore in 450 cases, which are as given in the **Table 4.1** below.

**Table 4.1**  
**Category of Audit observations on revenue receipts**

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Non/ short levy of SD&RF on various documents registered	289	251.12
2	Incorrect determination of market value of property and irregular exemption on housing loan	161	0.63
<b>Total</b>		<b>450</b>	<b>251.75</b>

During 2017-18, the Department accepted underassessment and other deficiencies of ₹ 5.76 crore that was pointed out in earlier years. An amount of ₹ 0.64 crore in one case, pointed out in the current year, and an amount of ₹ 0.12 crore in six cases, pointed out in earlier years, was realised.

There are two broad categories of audit observations which are detailed below. There may be similar irregularities, errors/ omissions in other Registration Units under the department but not covered in the test audit. Department may, therefore, like to internally examine all the other units with a view to ensure that the duty and fee are levied as per provisions of the Act and rules.

#### **4.4 Audit observations**

Audit scrutinised records relating to assessment and collection of SD&RF and found short realisation of revenue on agreement to sale, certificate of sale and in valuation of land and building as mentioned in the succeeding paragraphs. These cases are illustrative and are based on test check carried out by audit.

#### 4.5 Non-observance of the provisions of the Acts/ Rules and Government instructions

*The Indian Stamp (IS) Act 1899 and the Registration Act 1908 prescribed that agreement to sale involving delivery of possession of any immovable property to sell such property shall be deemed to be a conveyance and accordingly, the SD shall be payable. Deeds of certificate of sale are to be charged to duty as conveyance on the legal process of transferring property from one owner to another. Conveyance deeds are to be registered on realisation of SD&RF at the prescribed rates on the consideration truthfully and correctly mentioned therein keeping in view the benchmark value<sup>1</sup> (BMV) of the Government of Odisha. The documents where properties were shown to be undervalued were to be impounded for correct valuation for realisation of differential SD and RF.*

*Non-observance of the provisions of the above Acts by the Registering Authorities (RA) in the cases as mentioned in the following paragraphs resulted in short realisation of SD and RF.*

##### 4.5.1 Short levy of Stamp Duty and Registration Fee on Agreement to sale

**The Registering Officer did not levy Stamp Duty and Registration Fee on ‘Agreement to sale’ deeds as Conveyance where possession was deemed to have been delivered as per the recital. Due to misclassification, Stamp Duty and Registration Fee of ₹ 64.14 lakh was short levied.**

As per Schedule 1-A of Article 23 of the Indian Stamp Act 1899, (Odisha Amendment Act 2014) read with the explanation thereon, an Agreement to sale involving delivery of possession of any immovable property shall be deemed to be a conveyance and accordingly, SD shall be payable on the instrument on the basis of the market value of the property which is a subject matter of such instrument. Provided that the SD already paid on such agreement to sale shall at the time of execution of the sale deed by the same person in pursuance of such agreement be adjusted towards the total amount of duty chargeable on the conveyance. As per Article 5 (C) of the Act *ibid*, SD&RF was chargeable at the rate of ₹ 10 per instrument and two *per cent* of the consideration respectively for agreement deed. SD&RF applicable to conveyance deed were five and two *per cent* respectively.

Audit checked records of 57 out of 183 Registration Offices. During test check of records in one Registration Office<sup>2</sup>, it was observed that five ‘Agreement to sale’ documents were registered during 2016. As per the recital of the documents, the owners had transferred their land measuring 58.160 acres valued at ₹ 930.56 lakh<sup>3</sup> to a Land Developer. An advance money of ₹ 50 lakh was received by the owners. The conditions mentioned in the documents were explicit and gave ample opportunities to the developer to carry on developmental works over the land including preparing the layout of plots. Further, the Developer could also sell it to the third parties at his own will. Therefore, the documents should have been classified as a Conveyance deed and accordingly levied SD and RF of ₹ 65.14 lakh. The term possession, however, was deliberately avoided in the recital to stay away from the ambit of deed of Conveyance. The Registering Officer ignored the deemed possession over the land while registering the documents and realised SD and RF worth

<sup>1</sup> Benchmark Valuation: Under Benchmark Valuation principle, R&DM Department of Government of Odisha approves the rates of land from time to time in all districts of the State which ought to be taken into consideration while determining the prevailing market rate/ value of the land

<sup>2</sup> DSR, Sambalpur

<sup>3</sup> SD @ 5% of ₹ 930.56 lakh = ₹ 46.53 lakh, RF @ 2% = ₹ 18.61 lakh, Total = ₹ 65.14 lakh

one lakh rupees only treating them as agreement deed under Article 5 (C). This resulted in short levy of SD and RF amounting to ₹ 64.14 lakh (₹ 65.14 lakh - ₹ 1.00 lakh<sup>4</sup>).

In reply, the Government stated (December 2018) that the parties concerned did not deposit the deficit amount and hence the documents have been impounded in all the cases.

#### **4.5.2 Short levy of Stamp Duty and Registration Fee on Certificate of Sale**

**While registering Certificate of Sale documents, the Registering Officers did not realise Stamp Duty and Registration Fee as applicable to Conveyance deeds. This resulted in short realisation of Stamp Duty and Registration Fee of ₹ 34.01 lakh.**

As per Article 18 (b) of Schedule I-A of Indian Stamp (Odisha Amendment) Act 2001, as amended in 2003, SD on Certificate of Sale, granted to a purchaser of any property sold by public auction shall be treated as a Conveyance and SD shall be chargeable at the prescribed rate on the consideration equal to the amount of purchase money. Stamp Duty and Registration Fee chargeable to Conveyance deed were five and two *per cent* of the consideration respectively.

Under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 and in exercise of the powers conferred under Section 13 read with Rule 9(6) of the Security Interest (Enforcement) Rules, 2002, the immovable property secured from borrowers in favour of secured creditor/ institution towards financial facility is put to auction to recover the secured debt for which a Certificate of Sale document is registered.

Audit test checked e-registration database in 57 out of 183 Registration Offices during July to November 2017. It was observed that 18 Certificate of Sale documents were registered during 2013-17 in five Registration Offices<sup>5</sup>. Different banks had auctioned immovable properties totalling 11.94 Acres. The auction holders presented Certificate of Sale documents along with Conveyance deeds for transfer of right title and interest relating to those auctioned properties. The Documents had recorded the purchase value as ₹ 545.01 lakh. During registration, the Registering Officers realised SD of ₹ 1.68 lakh and RF of ₹ 2.46 lakh. The reasons for levying less SD and RF were not on record. SD and RF, however, worked out to ₹ 27.25 lakh and ₹ 10.90 lakh at the rate of five and two *per cent* of the consideration respectively as applicable to Conveyance deeds. This resulted in short realisation of SD of ₹ 25.57 lakh and RF of ₹ 8.44 lakh totalling to ₹ 34.01 lakh (₹ 25.57 lakh + ₹ 8.44 lakh). Thus, SD and RF on Certificate of Sale documents were not levied as applicable to Conveyance deeds which resulted in short realisation of SD and RF.

In reply, Government stated (December 2018) that ₹ 1.83 lakh in two cases out of ₹ 34.01 lakh have been realised and in remaining cases, documents have been sent to the respective Certificate Officers<sup>6</sup> for institution of certificate cases<sup>7</sup> and realisation of deficit revenue.

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<sup>4</sup> SD realised @ ₹ 10 = ₹ 50; RF @ 2% of ₹ 50,00,000 = ₹ 1,00,000

<sup>5</sup> Bonai, Dolipur, Jagatpur, Kujanga and Sambalpur

<sup>6</sup> An Officer defined under Odisha Public Demands Recovery Act, 1962

<sup>7</sup> A written requisition in a prescribed form sent to the Certificate Officer for recovery of Public demand

### 4.5.3 Short realisation of Stamp Duty and Registration Fee due to under valuation of land and building

**Registering Officers while registering documents of sale of landed properties with buildings did not realise Stamp Duty and Registration Fee on verifying the prescribed rate of buildings and Bench Mark Valuation of land. This resulted in undervaluation of the documents and consequently short levy of Stamp Duty and Registration Fee.**

As per Section 27 of the Indian Stamp (IS) Act 1899, (Odisha Amendment, 1987) read with Section 3 of the Act *ibid*, the consideration if any, the market value of the property and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth in the document. SD and RF was to be charged on the Bench Mark Value prescribed by the R&DM Department which was revised from time to time. Similarly, guidelines were issued by the R&DM Department, Government of Odisha in December 2003, March 2011 and December 2013 for valuation of buildings and superstructures for the purpose of levy of SD and RF. As per Section 47-A of the Act, in case of under valuation of a property/ document during registration, the case shall be referred to the Collector who would determine the value and the deficit amount shall be paid by the person liable to pay the duty. SD and RF applicable to conveyance deed were five and two *per cent* respectively.

Audit test checked (July 2017 to February 2018) documents registered in 57 out of 183 Registration Offices. It was observed that landed properties with buildings were sold by registering 21 Conveyance deeds during 2013 to 2016 in 10 Registering Offices<sup>8</sup>. The consideration money of those documents was ₹ 1237.31 lakh. The Registering Officers realised SD of ₹ 61.87 lakh and RF of ₹ 24.75 lakh.

It was noticed that the Registering Officers while evaluating the value of the properties registered did not verify the prescribed rate of buildings (floor-wise), number of years for which depreciation was to be worked out, value of land as per BMV, etc., as per the guidelines prescribed. This resulted in undervaluation of the properties registered and consequently short levy of SD and RF.

The value of these properties worked out to ₹ 1488.07 lakh taking into account the BMV and value of building/ superstructure as per the guidelines prescribed by the Government. Accordingly, SD & RF payable worked out to ₹ 74.40 lakh and ₹ 29.76 lakh respectively. This resulted in short realisation of SD of ₹ 12.53 lakh and RF of ₹ 5.01 lakh, totaling to ₹ 17.54 lakh. This indicated lack of due diligence on the part of the Registering Officers in evaluating the value of properties for the purpose of levy of SD and RF.

In reply, the Government stated (December 2018) that the documents have been sent to respective Certificate Officers for institution of certificate cases for realisation of deficit revenue in all the cases.

<sup>8</sup> SRs Attabira, Bahalda, Berhampur-1, Binika, Dharmasala, Lakhanpur, Pattamundai and Rajgangpur DSRs Sambalpur and Sundargarh



# **Chapter V**

## **Motor Vehicle Tax**



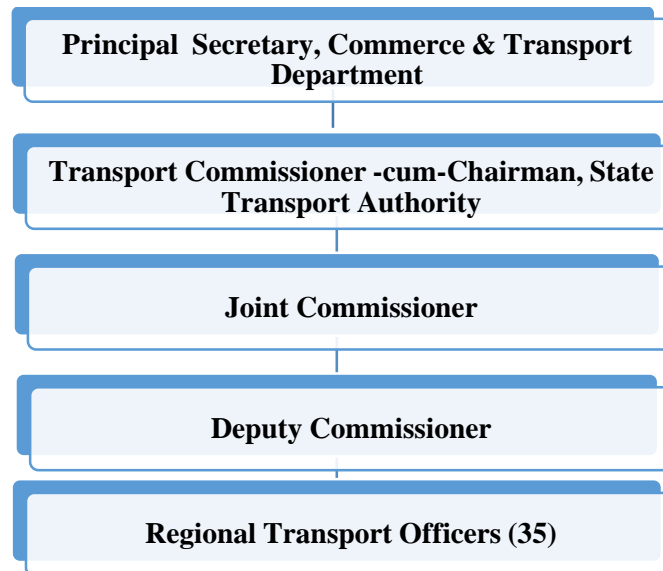


## CHAPTER V

### MOTOR VEHICLE TAX

#### 5.1 Tax Administration

The receipts from Motor Vehicle (MV) Tax are regulated under the provisions of the Central and the State Motor Vehicle Acts and Rules made thereunder. The organisational setup for administration of motor vehicle tax is as under:



#### 5.2 Internal Audit

During 2017-18, Internal Audit Wing of the Department, which is responsible for evaluating the Internal Control measures in the department and its field offices, had audited 11 out of 19 units planned for audit. The shortfall was attributed to shortage of manpower by the Department. It was observed that 613 paragraphs of Internal Audit Reports having money value of ₹ 681.88 crore were pending for disposal as on 31 March 2018.

#### 5.3 Audit Methodology and Results of Audit

The Transport Department of Odisha uses the IT application *VAHAN* for providing online services to public. It is a centralised web based application for RTOs owned by Ministry of Road Transport & Highways (MoRTH), Government of India and managed/maintained by NIC, New Delhi. It contains a comprehensive database of the vehicles. The core function of the Department i.e. Registration of vehicles and allied activities have been computerised in the *VAHAN*. Online services for Tax payment, Permits, Fitness, No Objection Certificate, Renewal of registration etc. are offered to the citizens in the *VAHAN* application.

The dump data has been made available to audit by Transport Commissioner through NIC, Odisha State unit, in charge of Transport Project. Further, user login id has been provided to audit to access the *VAHAN* website so as to get real-time information of vehicle tax payment and other related information. The data was used for planning and performing audit. Audit analysed the *VAHAN* data using data analytic tool (IDEA) in each selected audit unit. The tax payment table of the database was linked with the category of vehicles database with various parameters like seating capacity, unladen weight, laden weight, cost of vehicles etc. to generate exception reports and detect anomalies.

During 2017-18, audit was conducted in 38 out of 52 units (73.08 *per cent*) of the Commerce & Transport Department in which 64,76,055 vehicles were registered. Revenue collected in the test checked 38 units was ₹ 1144.02 crore which constituted 94.07 *per cent* of the total revenue of ₹ 1216.08 crore. Out of these, 11,20,093 vehicles (approximate 17 *per cent*) were selected for test check. Audit noticed underassessment of tax and other irregularities involving ₹ 123.97 crore in 57,767 cases (approximate 5 *per cent* of sampled cases). This related to non/ short realisation of MV tax/ additional tax, non/ short realisation of penalty on belated payment of tax, non/ short realisation of fees on Trade Certificate/ Fitness test and other irregularities which are categorised as given in **Table 5.1**.

**Table 5.1**  
**Category of Audit observations on revenue receipts**

(₹ in crore)			
Sl. No.	Category	Number of cases	Amount
1	Non/ short realisation of MV tax/ additional tax	48,889	117.06
2	Non/ short realisation of penalty on belated payment of tax	265	0.80
3	Short realisation of MV tax/ additional tax due to irregular issue of Permits	292	1.40
4	Non/ short realisation of fees on Trade Certificate/Fitness test	8,062	4.66
5	Other irregularities	259	0.05
<b>Total</b>		<b>57,767</b>	<b>123.97</b>

During 2017-18, the Department accepted underassessment and other deficiencies worth ₹ 82.19 crore in 40,885 cases pointed out in Audit. An amount of ₹ 5.69 crore pertaining to 44 cases realised during the year was pointed out in earlier years. In two cases, pointed out in 2017-18, ₹ 0.002 crore was realised.

There are four broad categories of audit observations which are detailed below. There may be similar irregularities, errors/ omissions in other Units of the Department but not covered in the test audit.

Department may, therefore, like to internally examine all the other units with a view to ensure that the taxes are levied as per provisions of the Act and rules.

#### **5.4 Audit Observations**

Audit scrutinised records relating to assessment and collection of MV tax in offices of the Transport Commissioner (TC)-cum-Chairman, State Transport Authority (STA) and the Regional Transport Officers (RTOs) and found several cases of non-observance of the provisions of Acts/ Rules and other cases as mentioned in the succeeding paragraphs of this chapter.

#### **5.5 Non-compliance of the provisions of the Act/ Rule**

*The provisions of the Motor Vehicles (MV) Act 1988, Odisha Motor Vehicles Taxation (OMVT) Act, 1975 and Rules made thereunder require levy and collection of:*

- (i) *motor vehicle tax/ additional tax from the vehicle owner at the prescribed rate in advance and within the grace period provided;*
- (ii) *penalty up to double the tax for late payment of tax, if the tax is not paid in time within two months after the expiry of the grace period of 15 days;*

*Non-compliance of the provisions of the Acts/ Rules in some cases are mentioned in succeeding paragraphs.*

## 5.5.1 Non realisation of Motor Vehicle tax/ additional tax

### 5.5.1.1 Goods Carriages and Contract Carriages

**Motor Vehicle tax and additional tax of ₹ 26.74 crore and penalty of ₹ 53.48 crore not realised from registered owners of 27,413 vehicles.**

As per Section 3(1) and 3A of Odisha Motor Vehicles Taxation (OMVT) Act, 1975, Motor Vehicle (MV) tax and additional tax shall be levied on every motor vehicle used or kept for use. Under Section 4 of the said Act, such tax shall be paid in advance at the rates prescribed for different classes of vehicles in Taxation Schedule I of the Act, unless exemption from payment of such tax is allowed for the period covered by ‘off-road undertaking’<sup>1</sup> under Section 10 (1) of the Act. Further, as per Section 13(1) of the Act read with Rule 9(2) of the OMVT Rules, 1976, if such tax is not paid within two months after expiry of the grace period of 15 days from the due date of payment, the registered owner of the vehicle or the person having possession or control thereof shall, in addition to payment of tax due, be liable to pay penalty which shall be twice the tax due.

Audit analysed (between April 2017 and February 2018) VAHAN database with taxation records in 32 out of 35 Regional Transport Offices (RTOs). It was observed that registered owners of 27,413 out of 4,13,822 vehicles of two classes did not pay MV tax and additional tax during April 2015 to March 2017. The details are given in the table below.

Sl. No.	Number of RTOs	Vehicle classes	Number of vehicles	Amount of tax not realised	Penalty leviable	Total
				₹ in crore		
1	30 <sup>2</sup>	Goods Carriages	19,329	22.48	44.96	67.44
2	32 <sup>3</sup>	Contract Carriages	8,084	4.26	8.52	12.79
	<b>Total</b>		<b>27,413</b>	<b>26.74</b>	<b>53.48</b>	<b>80.23</b>

Source: VAHAN database

On verification of off-road Register maintained in the RTOs, it was noticed that these vehicles were not exempted under off-road undertakings under Section 10(1) of the Act. The period of delay involved in all these cases were more than two months and therefore, penalty as twice the tax due was also leviable. The VAHAN software contained a provision to generate a list of tax defaulters by the Regional Transport Officers (RTOs) at any point of time. The RTOs, however, neither issued demand notices nor took any action against the vehicle owners for realisation of tax and imposition of penalty thereon. This resulted in non-realisation of Motor Vehicles tax and additional tax of ₹ 26.74 crore. Besides, penalty of ₹ 53.48 crore was also leviable.

<sup>1</sup> An undertaking given by the owner of the vehicle to the RTO and prior permission obtained from him for not plying the vehicle for a temporary period and exempted from tax for the said period

<sup>2</sup> Angul, Balangir, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bhubaneswar-II, Boudh, Chandikhol, Cuttack, Deogarh, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Malkangiri, Mayurbhanj, Nabarangpur, Nayagarh, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh

<sup>3</sup> Angul, Balangir, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bhubaneswar-II, Boudh, Chandikhol, Cuttack, Deogarh, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Kendrapara, Koraput, Malkangiri, Mayurbhanj, Nabarangpur, Nayagarh, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur, Subarnapur and Sundargarh

Thus, RTOs had failed to use the VAHAN database to detect the defaulters of MV tax and issue demand notice, which resulted in non-realisation of tax. Such inaction also defeated the intended objectives of digitisation of records of the Department.

In reply, Government stated that an amount of ₹ 17.52 lakh had been realised in 69 cases, demand notices had been issued against 7,234 vehicles and tax recovery proceedings had been initiated against 4,476 vehicles pertaining to 19 RTOs. The reply, however, did not cover the status with regard to the remaining 15,282 cases under 13 RTOs.

### **5.5.1.2 Tractor Trailer Combinations, Private Service Vehicles and Educational Institution Buses**

**Motor Vehicle tax of ₹ 4.06 crore and penalty of ₹ 8.12 crore not realised from registered owners of 13,520 vehicles.**

Audit test checked (between May 2017 and February 2018) VAHAN database with taxation records in 32 out of 35 Regional Transport Offices for the period from 2015-16 to 2016-17. It was observed that owners of 13,520 out of 2,65,047 vehicles of three classes did not pay MV tax for different periods from April 2012 to March 2017. Additional tax was not payable for these categories of vehicles.

Sl. No.	No. of RTOs	Vehicle classes	No. of vehicles	Amount of tax not realized	Penalty leviable	Total
				₹ in crore		
1	32 <sup>4</sup>	Tractor Trailer Combinations	13,328	3.90	7.80	11.70
2	13 <sup>5</sup>	Private Service Vehicles <sup>6</sup>	90	0.12	0.24	0.36
3	11 <sup>7</sup>	Educational Institution Buses	102	0.04	0.08	0.12
	<b>Total</b>		<b>13,520</b>	<b>4.06</b>	<b>8.12</b>	<b>12.18</b>

Source: VAHAN database

These vehicles were not covered by 'off-road undertakings' under Section 10(1) of the Act. The period of delay involved in these cases were more than two months and therefore, penalty as twice the tax due was also leviable. The VAHAN software contained a provision to generate tax defaulter list by the RTOs at any point of time. The RTOs, however, neither issued demand notices nor took any action against the vehicle owners for realisation of tax and imposition of penalty thereon. This resulted in non-realisation of MV tax of ₹ 4.06 crore. Besides, penalty of ₹ 8.12 crore at twice the tax due was also leviable.

Thus, RTOs failure in detecting the defaulting vehicles through VAHAN database and issuing demand notice resulted in non-realisation of tax. Such inaction also defeated the intended objective of computerisation of the Department.

<sup>4</sup> Angul, Balangir Balasore, Bargarh, Bhadrak, Bhubaneswar, Bhubaneswar-II, Boudh, Chandikhole, Cuttack, Deogarh, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Kendrapara, Koraput, Malkangiri, Mayurbhanj, Nabarangpur, Nayagarh, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur, Subarnapur and Sundargarh

<sup>5</sup> Angul, Bhadrak, Bhubaneswar, Bhubaneswar-II, Chandikhol, Cuttack, Jagatsinghpur, Keonjhar, Koraput, Phulbani, Rayagada, Rourkela and Sambalpur

<sup>6</sup> Private Service Vehicle (PSV): A motor vehicle constructed or adapted to carry more than six persons excluding the driver and ordinarily used by or on behalf of the owner of such vehicle for the purpose of carrying persons for, or in connection with, his trade or business otherwise than for hire or reward but does not include a motor vehicle used for public purpose

<sup>7</sup> Balangir, Bargarh, Bhubaneswar, Bhubaneswar-II, Chandikhol, Keonjhar, Koraput, Nabarangpur, Nuapada, Rayagada and Sambalpur

In reply, Government stated that an amount of ₹ 4.82 lakh had been realised in 48 cases, demand notices had been issued against 2,166 vehicles and tax recovery proceedings had been initiated against 901 vehicles pertaining to 19 RTOs. Action taken in the remaining 9,275 cases was not forthcoming.

### 5.5.2 Permit databases of STA and RTA not interlinked

**The permit databases of STA were not interlinked with RTOs which resulted in short realisation of tax.**

Inter Region permits were issued by the STA and entered in the *DISHA* database for which the tax was assessed and realised by the concerned RTOs. MV tax and additional tax were realised at the rates prescribed under Taxation Schedule-I of the OMVT Act 1975. Also, penalty twice the tax due was leviable under Rule 9(2) of the OMVT Rules 1976, if the tax was not paid within two months after expiry of the grace period of 15 days.

Audit analysed the permit particulars issued by the STA, Odisha in *DISHA* database and taxation records in *VAHAN* database maintained in RTOs. It was noticed that Inter Region permits were issued to 1,269 Stage Carriages by the STA during 2015-18. Out of this, 39 Stage Carriages under seven RTOs<sup>8</sup> did not pay the MV tax and additional tax as per the permit particulars such as distance, permit type and seating capacity. In the absence of linkage between permit database of STA with RTOs, the RTOs could not verify the permit particulars online. RTOs also did not insist for copy of permit from the vehicle owner for assessment of actual tax payable. The RTOs had accepted the tax as per the previous tax payment particulars and self-assessment of vehicle owners. This resulted in short realisation of tax worth ₹ 5.54 lakh. Besides, penalty of ₹ 11.08 lakh was also leviable.

In reply, Government stated (April 2019) that inter region Stage Carriage permits were issued through Odisha Permit Management System (*OPMS*) which was linked with *VAHAN-4* and interstate stage carriage permits were being issued through Permit Issue Management System (*PIMS*). Steps were being taken to link *PIMS* and *Central Processing System (CPS)* with *VAHAN-4* so as to streamline collection of tax at appropriate rate under the OMVT Act.

### 5.5.3 Short realisation of revenue due to irregular issue of permit

**Permits were issued to 49 stage carriages as Ordinary service instead of Express in intra state routes although the average distance between the stoppages was more than 25 km. Similarly, permits were issued to 14 stage carriages as Ordinary service instead of Express despite the length of the inter-state routes being more than 250 km.**

#### (A) Intra-state routes

Under Rule 2 (1) of OMV Rules 1993, a Stage Carriage with permit to stop, pick up and set down passengers once in an average distance of five kilometres by its route with the exception of district, sub-division, tahasil, block headquarters *en-route* and the place of its starting and terminus is termed as Ordinary service carriage and where the average distance is more than 25 km, is termed as Express Stage carriage. The motor vehicles tax and

<sup>8</sup> Balasore, Bhubaneswar-I, Cuttack, Jagatsinghpur, Keonjhar, Koraput and Rourkela

additional tax payable on Stage Carriages is based on different distance slabs prescribed under Taxation Schedule-I of the OMVT Act, 1975. The motor vehicles tax and additional tax payable on Express Stage Carriages are higher than the rate of Ordinary Service Carriages.

Audit analysed the *DISHA*, *VAHAN* and *CPS* databases along with permit files maintained at STA and nine selected RTOs. During verification of permit particulars and route maps, it was noticed that 49 out of 1,294 stage carriages were issued permits as Ordinary service during 2015-18 although the average distance between the stoppages was more than 25 kilometres. The motor vehicles tax and additional tax, accordingly, were realised as Ordinary service instead of Express. This resulted in short realisation of motor vehicles tax and additional tax worth ₹ 17.37 lakh.

In reply, Government stated (April 2019) that as pointed out by audit, STA/ RTO will determine nature of service of stage carriage permit *i.e.* Express/ Ordinary basing upon the stoppages mentioned in the permit and type of Stage carriages.

#### **(B) Inter-state routes**

As per Section 88 (5) of the MV Act 1988, reciprocal transport agreements were made (2007 and 2008) between Odisha-Jharkhand and Odisha-Chhattisgarh for encouraging the movement of transport vehicles on the inter-State routes. As per provisions contained in the agreements, if the total length of the route is more than 250 km, the nature of service shall be express. Those carriages are liable for payment of MV tax and additional tax applicable to express service prescribed under Taxation Schedule-I of the OMVT Act, 1975.

Audit test checked the permit and taxation files of stage carriages plying on inter-State routes during 2015-18 in STA, Odisha. It was noticed that permits were issued to 212 stage carriages during the period covered under audit to ply under the reciprocal transport agreements. Out of this, 14 stage carriages of Odisha, Jharkhand and Chhattisgarh were issued with Ordinary instead of Express permits despite the length of the inter-State routes were more than 250 km. This resulted in short-realisation of motor vehicles tax and additional tax amounting to ₹ 6.10 lakh.

Reply (April 2019) furnished by the Government was not relevant to the irregularity pointed out.

#### **5.5.4 Delayed notification of tax structure for Air-Conditioned Stage Carriages**

**Delay in making provision of tax structures for Air-Conditioned Stage Carriages resulted in loss of potential revenue of ₹ 99.73 lakh.**

OMV Rules, 1993 prescribes to issue ordinary, express, super express, super-fast express and deluxe nature of permit to a stage carriage. The Department made provision for Air-Conditioned Deluxe Stage Carriage, Air-Conditioned Deluxe Sleeper Stage Carriage and fully built Air-Conditioned Sleeper Stage Carriage nature of permits in November 2015. OMVT Act, 1975, however, was belatedly amended in November 2017 for the revised tax structure for those class of stage carriages.

During analysis of the permit particulars in *DISHA* database maintained in STA, Odisha, it was noticed that Deluxe and AC permits were issued to 190 stage carriages, out of 2,816 permits issued during November 2015 to October 2017. The revenue realised was at the

tax rates applicable to Deluxe stage carriages. Thus, delay in making provision of tax structures for AC Stage Carriages resulted in loss of potential revenue of ₹ 99.73 lakh during the above period in respect of 190 AC Stage Carriages.

In reply, Government stated (April 2019) after amendment of OMVT Act with effect from 21 November 2017, appropriate tax from AC Deluxe, AC Deluxe Sleeper, fully built Sleeper Stage Carriages were being collected. Reason for the delay in making provision of tax structure for AC Stage Carriages was, however, not answered.





# **Chapter VI**

## **Mining Receipts**



## CHAPTER VI

### MINING RECEIPTS

#### 6.1 Non-tax revenue Administration

Assessment and collection of mining receipts are regulated by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the Mineral Concession (MC) Rules, 1960, Mineral Conservation and Development (MCD) Rules, 1988 and Odisha Minerals (Prevention of Theft, Smuggling and Illegal Mining and Regulation of Possession, Storage, Trading and Transportation) Rules, 2007 framed thereunder. The organisational setup for administration of mining receipts is as under:



#### 6.2 Internal Audit

During the year 2017-18, Internal Audit Wing of the Department had audited all the 12 units that were planned for audit. Further, 250 paragraphs of Internal Audit Reports having money value of ₹ 713.87 crore were pending for disposal as on 31 March 2018.

#### 6.3 Results of Audit

During 2017-18 audit was conducted in 19 out of 32 Auditable units (59.38 per cent) in Steel and Mines Department. Revenue collected in the test checked 19 units were ₹ 4,925.66 crore. Test check of assessment and other records showed non/ short receipts of royalty, Dead Rent (DR), Surface Rent (SR), interest and other irregularities involving ₹ 266.59 crore in 609 cases as indicated in the **Table 6.1**.

**Table 6.1**  
**Category of Audit observations on revenue receipt**

(₹ in crore)			
Sl. No.	Categories	Number of cases	Amount
1	Non/ short receipts of Royalty, DR, SR, interest etc.	212	167.70
2	Other irregularities	397	98.89
<b>Total</b>		<b>609</b>	<b>266.59</b>

During the year 2017-18, the Department accepted under-assessment and other deficiencies worth ₹ 144.28 crore in 396 cases pointed out by Audit. An amount of ₹ 0.40 crore pertaining to eight cases was also realised during the year which was pointed out in earlier years.

There are three broad categories of audit observations which are detailed below. There may be similar irregularities, errors/ omissions in other Units of the department but not covered in the test audit.

Department may, therefore, like to internally examine all other units with a view to ensure that Mining receipts are realised as per provisions of the Act and Rules.

#### **6.4 Audit observations**

Audit scrutinised the records maintained in the offices of the Director of Mines, Odisha, Deputy Directors of Mines and Mining Officers and noticed short-levy of royalty as discussed in the succeeding paragraphs.

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

*Mines and Minerals (Development and Regulation) Act, 1957, Mining Concession Rules, 1960, Mineral Conservation and Development Rules, 1988 read with the notifications and instructions of the State/ Central Government issued from time to time provide for assessment, levy and realisation of royalty at the prescribed rate.*

*Cases of short levy of royalty & other charges and non-levy of DR & SR are discussed in the following paragraphs.*

##### **6.5.1 Short-levy of royalty on sized coal**

**Non-inclusion of sizing charges in the Run-of-Mine price of coal during assessment resulted in short levy of royalty of ₹ 112.26 crore.**

Section 9 of MMDR, Act 1957, provides that the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him from a lease area at the rate specified in the Second Schedule. In terms of Notification dated 10 May 2012 of Ministry of Coal, royalty on coal is leviable at the flat rate of 14 *per cent ad-valorem* on the price of coal as reflected in the invoice excluding taxes, levies and other charges. As per Notification of Coal India Limited of December 2013 on price of coal, if the top size of coal is limited to 100 millimetres through manual facilities or mechanical means,<sup>1</sup> sizing charge at the rate of ₹ 79 per tonne shall be added to the price applicable for Run-of-Mine<sup>2</sup> (ROM) coal. Further, under Rule 64(B) (1) of MCR, 1960, in case processing of ROM minerals is carried out within the leased area, then, royalty shall be chargeable on the processed mineral removed from the leased area.

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<sup>1</sup> Run-of-Mine coal is crushed to desired size through manual (by crushing & sieving) or mechanical means by using Surface Miner equipment

<sup>2</sup> Run-of-Mine coal is processed through manual or mechanical means to obtain desired size of coal

Mention was made in earlier Audit Reports<sup>3</sup> regarding short-levy of royalty on sized coal in different Mining Circles. Scrutiny of relevant records (May 2017 to October 2017) revealed that similar irregularity persisted in three Mining Circles<sup>4</sup> in the year 2017-18 also. It was observed that one lessee<sup>5</sup> despatched 10.15 crore MT of sized coal of less than 100 mm size relating to 15 coal mines during April 2016 to February 2017. The lessee paid royalty at the rate applicable to price of ROM coal and not on the price of coal including sizing charges. The Deputy Director of Mines (DDMs) concerned during assessment did not calculate the royalty on the price of coal including sizing charges. The sizing charges notified by the Coal India Limited was ₹ 79 per tonne and the royalty on sizing charges worked out to ₹ 11.06 (14 per cent of ₹ 79) per tonne. This resulted in short-levy of royalty worth ₹ 112.26 crore (10.15 crore × ₹ 11.06).

Thus, by not adhering to the prescribed guidelines and notifications during assessment of royalty on coal, the DDMs deprived the state exchequer of royalty worth ₹ 112.26 crore.

In reply, Government stated (November 2018) that demands had been raised in all the 15 cases involving ₹ 112.26 crore. Out of this, in seven cases involving ₹ 61.23 crore, revision application was filed by the lessee before the Revisionary Authority *i.e.*, Under Secretary, Ministry of Coal, Government of India for stay of execution of demand notice. Stay orders were issued in three out of seven cases. In respect of remaining eight cases, the Director of Mines, Odisha has been instructed (November 2018) to take steps for realisation of the demanded amount.

### 6.5.2 Dead Rent and Surface Rent not levied

**Dead Rent of ₹ 155.95 lakh by 65 lessees and Surface Rent of ₹ 16.67 lakh by 14 lessees were neither paid nor were they demanded by Deputy Directors of Mines.**

Section 9A of MMDR Act, 1957 provides that the holder of a mining lease shall pay to the State Government, every year, Dead Rent<sup>6</sup> (DR) at such rate, as may be specified in the third schedule appended to the Act for all the areas included in the instrument of lease. As per notification dated 01 September 2014 of Ministry of Mines, Government of India, DR payable was ₹ 2,000 per hectare per annum for low value minerals. DR for medium value, high value precious metals and stone minerals were two times, three times and four times of the said rates respectively. DR shall be paid in two half yearly instalments from January to June on or before 15 January and from July to December on or before 15 July of each year as per notification of the State Government dated 11 May 1978. Under Odisha Minor Mineral Concession Rules, 2004 as amended in 2016, the DR payable was at the rate from ₹ 5,000 to ₹ 53,500 per hectare per annum on leases granted to different category of minor minerals.

Similarly, under Rule 27 of MCR, 1960, the lessee shall also pay Surface Rent<sup>7</sup> (SR) for the surface area used by him for the purposes of mining operations as may be specified by the State Government. As per notification dated 07 November 2013 of Steel and Mines

<sup>3</sup> Audit Reports for the year ending March 2014, March 2015 and March 2017

<sup>4</sup> Rourkela, Sambalpur and Talcher

<sup>5</sup> Mahanadi Coal Fields Ltd.

<sup>6</sup> Dead Rent is the minimum royalty payable by the lessee, both for working and non-working mines

<sup>7</sup> Surface Rent is the compensation paid by the lessee for occupying the surface of the land

Department, SR is payable at the rate equivalent to one *per cent* of the market value of land per annum subject to a minimum of ₹ 3,000 to a maximum of ₹ 10,000 per annum per hectare for leases granted to different category of minerals in respect of land not assessable to land revenue.

Audit test checked (May 2017 to December 2017) the assessment records with details of payment of DR and SR in Mining offices. It was noticed that lessees under 11 Mining offices<sup>8</sup> did not pay DR worth ₹ 155.95 lakh. This was in respect of 65 mines and for different periods between January 2015 and January 2017. Similarly, lessees under four Mining offices<sup>9</sup> did not pay SR worth ₹ 16.67 lakh relating to the surface area used by them within the stipulated dates. This was related to mining operations in respect of 14 mines for different periods between January 2014 and January 2017.

The concerned DDMs/ MOs did not assess the cases and raise the demand for realisation of DR and SR, which resulted in non-realisation of Government Revenue to that extent.

In reply, Government stated (November 2018) that ₹ 82.13 lakh towards DR and ₹ 11.32 lakh towards SR have been realised from seven lessees, demand have been made for ₹ 62.30 lakh towards DR and ₹ 2.31 lakh towards SR against nine lessees and step was being taken for realisation of balance amount of ₹ 14.56 lakh in respect of five lessees towards DR and SR.

### **6.5.3 Salary component of Government staff posted in private weighbridges not realised**

**The salary component of ₹ 51.26 lakh in respect of Government staff posted in private weighbridges was not realised by the Deputy Director of Mines and deposited in Government account.**

Rule 11 (1) of the Odisha Minerals (Prevention of Theft, Smuggling and Illegal Mining and Regulation of Possession, Storage, Trading and Transportation) Rules, 2007 provides that Government may set up check-posts with or without barriers and weighbridges at any place within the State with a view to check the transport and storage of minerals raised without lawful authority and to check the quality and quantity of minerals transported from the lease-hold areas to depot. Under Rule 11(8) (ii) of the Rules *ibid*, the lessee, licensee or permit holder shall pay to the Government the weighment charges for weighment of mineral in a Government weighbridge at the rate prescribed by the Government. Steel and Mines Department approved (March 2010) the weighment charges as ₹ 35 per vehicle for weighment of minerals carried at the private weighbridges. Out of this, ₹ 25 was charged towards cost of weighbridge maintenance and ₹ 10 towards salary components of the Government staff. The amount collected towards salary component shall be deposited in Government account by the concerned Deputy Director of Mines (DDM).

Audit test checked records (October 2017) such as permit and pass details of vehicles carrying minerals from different mines under DDM, Rourkela. It was observed that lessees of four mines transported minerals through their own weighbridges from

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<sup>8</sup> DDM Joda, Koira, Koraput, Rourkela, Sambalpur, Talcher and MO Baripada, Berhampur, Bhawanipatna, Balangir and Keonjhar

<sup>9</sup> DDM Koira, Talcher and MO Baripada, Bhawanipatna

April 2015 to March 2017 using 5,12,614 transit passes. The salary component of the Government staff posted in those private weighbridges amounting to ₹ 51.26 lakh was, however, neither realised by the DDM nor deposited in Government account. This indicated failure on the part of the departmental authorities in realising Government revenue.

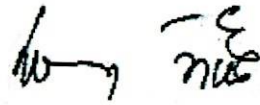
In reply, Government stated (July 2018) that demand notices had been issued to the defaulting lessees for realisation of the entire amount pointed out by audit.



(BIBHUDUTTA BASANTIA)  
Accountant General (E & RSA)  
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The: 25 JUN 2020

Countersigned



(RAJIV MEHRISHI)  
Comptroller and Auditor General of India

New Delhi  
The: 02 JUL 2020





# Appendices



## Appendix-I

## Statement showing licences purchased MF below minimum sale price during 2015-16 to 2017-18

Sl. No.	Name of the District	Name of OS Shop	Year	Quantity of MF purchased (in Qntls)	Purchase rate of MF by licencees (in ₹ per quintal)	Minimum supporting price (MSP) per quintal	Difference between MSP and purchase rate (col.7-6)	Price paid to primary gatherers (col. 5 x 6)	Undue benefit to the licencees (col. 5 x 8)
1	2	3	4	5	6	7	8	9	10
1	Bargarh	Barpalli	2015-16	8,755	1,200	2,000	800	1,05,06,000	70,04,000
			2016-17	9,205	1,400	2,000	600	1,28,87,000	55,23,000
			2017-18	10,170	1,600	2,000	400	1,62,72,000	40,68,000
2		Kadoguchha	2015-16	3,037	1,200	2,000	800	36,44,400	24,29,600
			2016-17	3,969	1,400	2,000	600	55,56,600	23,81,400
			2017-18	3,861	1,600	2,000	400	61,77,600	15,44,400
3		Padampur	2015-16	8,208	1,200	2,000	800	98,49,600	65,66,400
			2016-17	11,541	1,300	2,000	700	1,50,03,300	80,78,700
			2017-18	9,530	1,500	2,000	500	1,42,95,000	47,65,000
4		Biripali	2015-16	1,330	1,200	2,000	800	15,96,000	10,64,000
	2016-17		1,559	1,300	2,000	700	20,26,700	10,91,300	
	2017-18		1,804	1,400	2,000	600	25,25,600	10,82,400	
5	Gaisilat	2015-16	1,744	1,200	2,000	800	20,92,800	13,95,200	
		2016-17	795	1,300	2,000	700	10,33,500	5,56,500	
6	Bijepur	2015-16	6,216	1,600	2,000	400	99,45,600	24,86,400	
		2016-17	6,472	1,800	2,000	200	1,16,49,600	12,94,400	
7	Petupali	2015-16	3,740	1,700	2,000	300	63,58,000	11,22,000	
		2016-17	4,650	1,800	2,000	200	83,70,000	9,30,000	
8	Sohela	2015-16	9,795	1,700	2,000	300	1,66,51,500	29,38,500	
		2016-17	8,764	1,800	2,000	200	1,57,75,200	17,52,800	
9	Paikamal	2015-16	2,763	1,400	2,000	600	38,68,200	16,57,800	
10	Bhagatpur	2015-16	2,607	1,400	2,000	600	36,49,800	15,64,200	
11	Sundergarh	Gopalpur	2015-16	4,627	1,700	2,000	300	78,65,900	13,88,100
			2017-18	6,126	1,800	2,000	200	1,10,26,800	12,25,200
12		Sargipalli	2015-16	3,635	1,800	2,000	200	65,43,000	7,27,000
13	Ganjam	Karapada	2015-16	4,131	1,800	2,000	200	74,35,800	8,26,200
14		Raghunathpur	2015-16	3,270	1,800	2,000	200	58,86,000	6,54,000
15		Badakharida	2017-18	470	1,600	2,000	400	7,52,000	1,88,000
		<b>TOTAL</b>		<b>1,42,774</b>				<b>21,92,43,500</b>	<b>6,63,04,500</b>

**Appendix-II**

**Statement showing the Mohua Flower utilised and Outturn of OS Liquor during 2015-16 to 2017-18 (para.3.4.8.1)**

Sl. No	Name of the DEO	2015-16			2016-17			2017-18		
		MF utilised (in Kg)	Production of OS liquor (in LPL)	Outturn (in LPL)	MF utilised (in Kg)	Production of OS liquor (in LPL)	Outturn (in LPL)	MF utilised (in Kg)	Production of OS liquor (in LPL)	Outturn (in LPL)
1	Mayurbhnaj	63,12,000	26,51,040	0.42	70,52,700	29,62,134	0.42	72,03,400	30,25,407	0.42
2	Bargarh	1,70,88,600	71,77,212	0.42	1,97,16,000	82,80,720	0.42	2,12,83,100	89,38,902	0.42
3	Keonjhar	21,92,000	9,20,640	0.42	14,90,200	6,25,884	0.42	6,28,200	2,63,844	0.42
4	Sambalpur	1,01,46,500	42,61,530	0.42	1,21,59,900	51,07,158	0.42	1,29,77,000	54,50,352	0.42
5	Sundergarh	72,94,000	30,63,480	0.42	84,23,700	35,37,954	0.42	73,65,600	30,93,573	0.42
6	Ganjam	1,55,33,100	65,23,902	0.42	1,65,07,200	69,33,024	0.42	1,64,84,100	69,23,322	0.42
7	Kalahandi	1,20,18,900	50,47,938	0.42	1,49,94,500	62,97,690	0.42	1,67,86,700	70,50,414	0.42
8	Nuapada	30,51,700	12,81,714	0.42	39,13,400	16,43,628	0.42	45,30,000	19,02,600	0.42

# **Glossary**



## Glossary of Abbreviations

### A

AA	Assessing Authority
AEP	Annual Excise Policy
AMV	Additional Market Value
AVR	Audit Visit Report

### B

BMV	Benchmark value
BOR	Board of Revenue

### C

C & T	Commerce and Transport
CAAA	Certified Annual Audited Accounts
CC	Cubic Capacity
CGST	Central Goods & Services Tax
CMV	Central Motor Vehicle
CPS	Central Processing System
CS	Country Spirit
CST	Central Sales Tax
CT	Commercial Taxes

### D

DAC	Departmental Audit Committee
DDM	Deputy Director of Mines
DEO	District Excise Office
DL	Driving Licence
DR	Dead Rent

### E

EC	Excise Commissioner
ED	Excise Duty
EPH	Exclusive Privilege Holder
ET	Entry Tax

### G

GoO	Government of Odisha
GST	Goods & Services Tax
GSTC	Goods & Services Tax Council
GSTIN	Goods & Services Tax Identification Number
GSTN	Goods & Services Tax Network
GTO	Gross Turnover



**I**

IAW	Internal Audit Wing
IGR	Inspector General of Registration
IGST	Integrated Goods & Services Tax
IMFL	Indian Made Foreign Liquor
IR	Inspection Report
IS	Indian Stamp
ITC	Input Tax Credit

**J**

JCCT	Joint Commissioner of Commercial Taxes
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**L**

LL	Learners' Licence
LPL	London Proof Litre

**M**

MCR	Mineral Concession Rules
MCD	Mineral Conservation and Development
MF	Mohua Flower
MGQ	Minimum Guaranteed Quantity
MMDR	Mines and Minerals Development and Regulation
MoRTH	Ministry of Road Transport & Highways
MO	Mining Officer
MRP	Maximum Retail Price
MV	Motor Vehicle
MVI	Motor Vehicle Inspector

**O**

OMVT	Odisha Motor Vehicles Taxation
OPMS	Odisha Permit Management System
OSWAN	Odisha State Wide Area Network
OS	Out Still
OSBC	Odisha State Beverage Corporation
OST	Odisha Sales Tax
OVAT	Odisha Value Added Tax

**P**

PAC	Public Accounts Committee
PAG	Principal Accountant General
PIMS	Permit Issue Management System
PP	Permanent Permit
PSV	Private Service Vehicle

**R**

RA	Registering Authority
RF	Registration Fee
ROM	Run-of-Mine
RTA	Regional Transport Authority
RTO	Regional Transport Officer

**S**

SARFAESI	Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest
SD	Stamp Duty
SE	Superintendent of Excise
SDRF	Stamp Duty and Registration Fee
SGST	State Goods & Services Tax
SIR	Serious Irregularity Report
SLAO	Special Land Acquisition Officer
SR	Surface Rent
STA	State Transport Authority

**T**

TC	Transport Commissioner
TDS	Tax Deducted at Source
TI	Traffic Inspector
TP	Temporary Permit
TRO	Tax Recovery Officer
TTO	Taxable Turnover

**U**

UTGST	Union Territories Goods & Services Tax
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**V**

VATIS	VAT Information System
VCR	Vehicle Check Report
VPN	Virtual Private Network

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