REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED 31 MARCH 2006

REVENUE RECEIPTS

GOVERNMENT OF ORISSA

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OF INDIA

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(REVENUE RECEIPTS)

GOVERNMENT OF ORISSA

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PREFACE

This report for the year ended 31 March 2006 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

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

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

OVERVIEW

I General

This report contains 53 paragraphs including two reviews pointing out non levy or short levy of tax, interest, penalty, revenue foregone, etc., involving Rs.136.70 crore. Some of the major findings are mentioned below:

Government's total revenue receipts for the year 2005-06 amounted* to Rs.14,085 crore against Rs.11,850 crore in the previous year. Of this 46.39 *per cent* was raised by the State – Rs.5,002 crore through tax revenue and Rs.1,531 crore through non tax revenue and 53.61 *per cent* was received from Government of India, Rs.4,877 crore in the form of State's share of divisible Union taxes and Rs.2,674 crore as grants in aid.

{Para 1.1}

Test check of records of sales tax, motor vehicles tax, land revenue, State excise, forest, mines and minerals and other departmental offices conducted during the year 2005-06 revealed underassessment/short levy/loss of revenue etc. amounting to Rs.628.23 crore in 2,56,619 cases. During the year 2005-06, the concerned departments accepted underassessment etc. of Rs.241.86 crore involved in 78,621 cases which were pointed out in 2005-06 and earlier years. Of these, the departments recovered Rs.40.12 crore in 21,546 cases.

{Para 1.9}

As on 30 June 2006, 3,115 inspection reports issued upto December 2005 containing 9,190 audit observations involving Rs.2,112.96 crore were outstanding for want of comments/final action by the concerned departments.

{Para 1.10}

II Sales Tax

An industrial unit covered under package scheme of incentives under the industrial policy was allowed to defer collected tax of Rs.1.77 crore beyond its eligibility period.

{Para 2.2.1}

A unit did not disclose its purchases against declarations and was allowed excess benefit to an extent of Rs.41.78 lakh under the industrial policy. The unit, also, was liable to pay penalty for Rs.62.67 lakh.

{Para 2.2.2}

*** Chapter-I figures in overview have been rounded off to nearest crore.**

A dealer dealing in electrical goods and executing works contract was incorrectly allowed tax exemption for Rs.5.26 crore towards irregular transit sale.

{Para 2.7}

Sale on high sea was not taxed though the importer of goods failed to show documentary evidence of sale in course of import resulting in non levy of tax for Rs.2.01 crore.

{Para 2.8}

An exporter of iron ore was allowed an exemption of Rs.3.40 crore though the export sales could not be authenticated.

{Para 2.9}

Purchase tax for Rs.96.64 lakh was not levied on an exporter of prawns whose purchases were not effected in course of export.

{Para 2.11}

III Motor Vehicles Tax

Review on **"Receipts from Motor Vehicles Department"** revealed the following:

- Arrears amounting to Rs.131.50 crore were pending collection, out of which, demand for Rs.112.97 crore was not raised at all; while in respect of remaining arrears of Rs.18.53 crore, raising of demand could not be confirmed.

{Para 3.2.6.1}

- Inadequate pursuance/non institution of tax recovery proceedings led to non realisation of Rs.9.55 crore.

{Para 3.2.6.5, 3.2.6.6 and 3.2.6.7}

- In STA, Orissa and nine RTOs, 3,973 VCRs involving Rs.2.42 crore were not disposed of resulting in blockade of revenue to that extent.

{Para 3.2.7.1}

- Non issue of permits resulted in non realisation of Rs.38.81 lakh in seven regions.

{Para 3.2.8}

IV Land Revenue, Stamp Duty and Registration Fees

Non raising of demand towards interest and incidental charges against NTPC on sanction of lease resulted in non realisation of Rs.1.87 crore.

{Para 4.4}

In a tahasil Government revenue for Rs.21.60 lakh was misappropriated due to supervisory lapse.

{Para 4.7}

Stamp duty and registration fee for Rs.45.15 crore in respect of deeds registered prior to December 2003 and booked under 47A of Indian stamp Act could not be realised.

{Para 4.12}

V State Excise

Renewal of IMFL off shops/country spirit shops at a lesser rate of increase caused revenue loss for Rs.4.31 crore.

{Para 5.2}

The department could not realise Rs.19.73 lakh towards transport fee of mohua flower.

{Para 5.4}

VI Forest Receipts

Interest of Rs.82 lakh was not levied on belated payment of royalty on timber.

{Para 6.2}

Timber and poles could not be disposed by the department resulting in possible loss of revenue for Rs.48.31 lakh.

{Para 6.3}

VII Mining Receipts

Interest was not levied on delayed payment of mining dues for Rs.1.99 crore.

{Para 7.2}

VIII Departmental Receipts

Review on **"Recoveries under Orissa Public Demands Recovery Act"** revealed the following:

- Government revenue amounting to Rs.99.77 crore was pending collection for more than one year in four departments.

{Para 8.2.6.1}

- Certificate cases for Rs.22.46 crore were instituted by certificate officers in 13 districts. But no further action was taken for realisation of the amount.

{Para 8.2.9.1}

- Five certificate cases involving Rs.11.92 crore were pending disposal in departmental certificate courts for more than one year.

{Para 8.2.10}

The department did not levy electricity duty and interest for Rs.3.32 crore on two industrial consumers resulting in non realisation of Government revenue to that extent.

{Para 8.3}

CHAPTER-I : GENERAL

1.1 Trend of revenue

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

(Rupees in crore)

		2001-02	2002-03	2003-04	2004-05	2005-06
I	**Revenue raised by State Government**					
	• Tax Revenue	2,466.88	2,871.84	3,301.73	4,176.60	5,002.28
	• Non Tax Revenue	691.75	961.18	1,094.55	1,345.52	1,531.90
	Total	**3,158.63**	**3,833.02**	**4,396.28**	**5,522.12**	**6,534.18**
II	**Receipts from Government of India**					
	• State's share of divisible Union taxes	2,648.72	2,805.58	3,327.68	3,977.66	4,876.75[1]
	• Grants in aid	1,240.64	1,800.17	1,716.28	2,350.41	2,673.78
	Total	**3,889.36**	**4,605.75**	**5,043.96**	**6,328.07**	**7,550.53**
III	**Total Receipts of the State Government (I+II)**	**7,047.99**	**8,438.77**	**9,440.24**	**11,850.19**	**14,084.71**
IV	**Percentage of I to III**	**44.82**	**45.42**	**46.57**	**46.60**	**46.39**

1 **For details, please see Statement No.11-Detailed Accounts of Revenue by minor heads in the Finance Accounts of the Government of Orissa for the year 2005-06. Figures under the minor head 901-Share of net proceeds assigned to States under the major heads 0020-Corporation tax; 0021-Taxes on income other than corporation tax; 0028-Other taxes on income and expenditure; 0032-Taxes on wealth; 0037-Customs; 0038-Union excise duties; 0044-Service tax and 0045-Other taxes and duties on commodities and services 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.**

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

(Rupees in crore)

Sl. No.	Heads of Revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Per centage of increase (+) or decrease (-) in 2005-06 over 2004-05
1.	Sales tax	1,350.51	1,532.69	1,546.47	2,061.23	2,524.18	(+) 22
	Central sales tax	51.82	72.53	317.50	410.16	487.55	(+) 19
2.	Taxes and duties on electricity	136.96	172.17	200.43	261.89	353.13	(+) 35
3.	Land revenue	84.48	82.16	103.27	131.59	69.62	(-) 47
4.	Taxes on vehicles	216.37	257.35	280.03	338.11	405.86	(+) 20
5.	Taxes on goods and passengers	252.04	313.07	377.19	384.93	463.34	(+) 20
6.	State excise	197.46	246.06	256.37	306.61	389.33	(+) 27
7.	Stamp duty and registration fees	109.76	135.86	153.07	197.87	236.06	(+) 19
8.	Other taxes and duties on commodities and services	27.62	13.34	14.77	25.14	6.75	(+) 73
9.	Other taxes on income and expenditure-tax on professions, trades, callings and employments	39.86	46.61	52.63	59.07	66.46	(+) 13
Total		**2,466.88**	**2,871.84**	**3,301.73**	**4,176.60**	**5,002.28**	

The reasons for variations in respect of the following items as furnished by the concerned departments were as under:

Taxes on Vehicles: The increase (20 *per cent*) was stated to be due to increase of vehicles population, better enforcement activities and effective supervision etc.

State Excise: The increase (27 *per cent*) was stated to be due to strict implementation of enforcement activities, proactive policies, monitoring the settlement/renewal of excise shops etc.

Stamp duty and registration fees: The increase (19 *per cent*) was stated to be due to strict vigilance on leakage of revenue by way of undervaluation and disposal of cases under Section 47A of Indian Stamp Act.

Reasons for variation in respect of sales tax, taxes and duties on electricity, taxes on goods and passengers and other taxes and duties on commodities and services, though called for, have not been received from the concerned departments (November 2006).

1.1.3 Details of major non tax revenue realised during the year 2005-06 alongwith the figures for the preceding four years are given below:

(Rupees in crore)

Sl. No.	Heads of Revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage of increase (+) or decrease (-) in 2005-06 over 2004-05
1	Non ferrous mining and metallurgical industries	378.56	443.58	552.06	670.52	805.03	(+) 20
2	Forestry and wild life	87.95	97.04	48.64	84.72	59.13	(-) 30
3	Interest receipts	25.27	76.09	164.38	249.04	298.02	(+) 20
4	Education	24.98	24.31	12.00	15.76	42.99	(+) 173
5	Irrigation & inland water transport	18.40	24.70	36.25	40.45	44.05	(+) 9
6	Public works	13.99	13.69	15.06	17.05	18.23	(+) 7
7	Police	19.23	13.37	15.55	21.24	23.05	(+) 9
8	Medical and public health	10.15	11.24	7.51	12.98	9.26	(-) 29
9	Power	3.18	2.94	2.90	4.19	2.91	(-) 31
10	Miscellaneous general services	13.92	10.41	5.38	31.70	7.62	(-) 76
11	Other non tax receipts	82.653	227.96	226.35	160.97	212.51	(+) 32
12	Cooperation	1.94	2.09	2.39	2.72	2.13	(-) 22
13	Other administrative services	11.52	13.71	6.08	34.18	6.97	(-) 80
14	Dairy development	0.007	0.05	Nil	Nil	Nil	
Total		**691.75**	**961.18**	**1,094.55**	**1,345.52**	**1,531.90**	

The reasons for variations for the following items as furnished by the concerned departments were as under:

Non ferrous mining and metallurgical industries: The increase (20 *per cent*) was stated to be due to increase in despatch of major revenue earning ores/minerals and upward revision of the rate of royalty on non coal minerals/ores during 2005-06.

Forestry and Wildlife: The decrease (30 *per cent*) was stated to be due to non inclusion of the receipts under compensatory afforestation during 2005-06.

Reasons for variations relating to interest, education, medical and public health, power, miscellaneous general services, cooperation and other administrative services, though called for, have not been received (November 2006).

1.2 Variations between budget estimates and actuals

The variations between the budget estimates and actuals of revenue receipts for the year 2005-06 in respect of principal heads of tax and non tax revenue are given below:

(Rupees in crore)

Sl. No.	Heads of revenue	Budget estimates	Actual receipts	Variations increase (+) shortfall (-)	Percentage of variation
Tax revenue					
1	Sales tax	2,140.00	3011.73	(+) 871.73	(+) 40.73
2	Taxes on goods and passengers	280.00	463.34	(+) 183.34	(+) 65.48
3	Taxes and duties on electricity	280.00	353.13	(+) 73.13	(+) 26.12
4	Land revenue	132.00	69.62	(-) 62.38	(-) 47.26
5	Taxes on vehicles	380.00	405.86	(+) 25.86	(+) 6.80
6	State excise	500.00	389.33	(-) 110.67	(-) 22.13
7	Stamp duty and registration fees	230.00	236.06	(+) 6.06	(+) 2.63
Non tax revenue					
8	Mines and minerals	736.00	805.03	(+) 69.03	(+) 9.38
9	Forest	95.00	59.13	(-) 35.87	(-) 37.76
10	Education	12.00	42.99	(+) 30.99	(+) 258.25
11	Interest	10.00	298.02	(-) 288.02	(-) 2880.20
12	Police	12.03	23.05	(+) 11.02	(+) 91.60

Sales Tax: The increase (40.73 *per cent*) was stated to be due to tax on value addition on account of introduction of value added tax (VAT).

State Excise: The short fall (22.13 *per cent*) was stated to be due to ban on opening of new shops and liquor tragedy in Ganjam district.

Forest: The shortfall (37.76 *per cent*) was stated to be due to failure on part of Orissa Forest Development Corporation (OFDC) Ltd. to deposit royalty amount into Government treasury by end of the financial year.

Police: The increase (91.60 *per cent*) was stated to be due to payment of claims by Aviation Research Centre, Charbatia and other parties.

Reasons for variation for taxes on goods and passengers, taxes and duties on electricity, education and interest etc. though called for have not been received from the concerned departments (November 2006).

1.3 Analysis of collection

Breakup of total collection at pre assessment stage and after regular assessment of sales tax, profession tax, entry tax, luxury tax and entertainment tax for the year 2005-06 and the corresponding figures for the preceding two years as furnished by the department is as follows:

(Rupees in crore)

Head of revenue	Year	Amount collected at pre assessment stage	Amount collected after regular assessment (additional demand)	Amount of arrear demand collected	Amount refunded	Net collection	Per - centage of column 3 to 7
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1. Sales tax	2003-04	1,820.65	37.80	36.61	17.01	1,877.75	97
	2004-05	2,420.87	35.34	34.68	23.54	2,467.35	98.1
	2005-06*	2,909.94	72.90	46.48	22.14	3,007.18	96.8
2. Profession tax	2003-04	50.62	--	--	--	50.62	100
	2004-05	56.16	--	--	--	56.16	100
	2005-06*	64.18	--	--	--	64.18	100
3. Entry tax	2003-04	350.67	17.44	3.45	0.04	371.52	94.4
	2004-05	361.65	19.87	4.81	0.74	385.59	93.8
	2005-06*	432.71	29.01	8.33	0.82	469.23	92.2
4. Luxury tax	2003-04	11.26	--	--	--	11.26	100
	2004-05	10.15	0.01	--	--	10.16	99.9
	2005-06*	0.08	--	--	--	0.08	100
5. Entertainment tax	2003-04	3.33	0.01	0.06	--	3.40	98
	2004-05	3.06	0.06	0.21	--	3.33	92
	2005-06*	2.98	--	0.09	--	3.07	97

The above table shows that percentage of collection of revenue at the pre assessment stage ranged between 92 to 98.1 *per cent* under sales tax, entertainment tax and entry tax during the years 2003-04 to 2005-06.

1.4 Cost of collection

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

(Rupees in crore)

Heads of revenue	Year	Gross collection	Expenditure on collection[2]	Percentage of expenditure to gross collection	All India average percentage for the year 2004-05
Sales tax	2003-04	2,331.60	21.30	0.91	0.95
	2004-05	2,946.87	23.47	0.80	
	2005-06	3,566.71	24.41	0.68[3]	
Taxes on vehicles	2003-04	280.14	7.81	2.79	2.74
	2004-05	338.11	8.82	2.61	
	2005-06	405.86	9.39	2.31	
State excise	2003-04	256.68	13.05	5.08	3.34
	2004-05	306.70	13.19	4.30	
	2005-06	389.33	13.38	3.44	
Stamp duty and registration fees	2003-04	154.36	12.82	8.30	3.44
	2004-05	197.95	11.70	5.91	
	2005-06	236.06	11.56	4.89	

It would be seen from above that cost of collection under State excise and stamp duty and registration fees was higher than all India average.

***** **Figures as furnished by the department are at variance with the Finance Accounts.**

2 **Figures as furnished by the department are at variance with the Finance Accounts.**

3 **Percentage of expenditure to gross collection for 2005-06 includes entry tax, entertainment tax and professional tax in addition to sales tax.**

1.5 Collection of sales tax per assessee

According to information furnished by the department, the sales tax collection per assessee during the years from 2001-02 to 2005-06 was as under:

(Rupees in crore)

Year	No. of assesses	Sales tax revenue≠	Revenue/assessee
2001-02	62,142	1,434.72	0.023
2002-03	69,743	1,646.66	0.024
2003-04	74,494	1,894.76	0.025
2004-05	78,991	2,490.89	0.032
2005-06	90,762	3,029.32	0.033

The above table reveals that revenue collection per assessee increased from Rs.0.023 crore in the year 2001-02 to Rs.0.033 crore in 2005-06.

1.6 Analysis of arrears of revenue

As on 31 March 2006, the arrears of revenue under principal heads of revenue as reported by the departments aggregating Rs.2,433.94 crore were as detailed below:-

(Rupees in crore)

Sl. No	Heads of Revenue	Amount of arrears as on 31 March 2006	Arrears more than five years old	Remarks
1.	Sales tax	1,745.78	473.34	The stages of arrears were as under: • Amount covered by show cause and penalty 10.20 • Recoveries stayed 13.46 ➢ Departmental authorities 212.94 ➢ Supreme Court/High Court 657.20 • Demands covered by certificate proceedings/tax recovery proceedings 290.10 • Amounts likely to be written off 3.40 • other recoveries 558.48
2.	Entry tax	88.52	--	The stages of arrears were as under: • Amount covered by show cause and penalty 20.12 • Recoveries stayed by departmental authorities 15.72 • Demand stayed by High Court 42.84 • Demand covered by certificate/tax recovery proceedings 9.84
3.	Entertainment tax	5.84	--	The stages of arrears were as under • Demand covered by certificate/tax recovery proceedings 3.61 • Amount covered by show cause and penalty 1.64 • Recoveries stayed by ➢ Departmental authorities 0.19 ➢ High Court/Supreme Court 0.40

≠ **Figures as furnished by department are at variance with the finance accounts.**

(Rupees in crore)

Sl. No	Heads of Revenue	Amount of arrears as on 31 March 2006	Arrears more than five years old	Remarks
4.	Land revenue	22.23	--	Item wise break up was as follows • Rent 2.93 • Cess 4.92 • Nistar cess 0.13 • Sairat 3.70 • Misc. revenue 10.55
5.	Other departmental receipts (Rent) GA departmental	9.12	--	The arrears were due from **Non residential buildings** 0.72 **Residential buildings** • Retired government servants 3.71 • MLAs and ex MLAs 0.61 • Boards and corporations 0.35 • Private parties 0.66 • Transferred Government servants 1.21 • Certificate cases 0.02 • Central Government employees occupying State Government quarters and water tax 0.42 • Usual house rent 1.17 • Recovery stayed by High Court and other Judicial authorities 0.25
6.	Mines and minerals	82.17	3.19	The stages of recovery were as under: • Demand covered by certificate proceedings 2.63 • Demand locked up in litigation in High Court and other Judicial authorities 1.11 • Amount under dispute 3.33 • Amount covered under write off/waiver proposal 1.78 • Recoverable amount 73.32
7.	Forest	85.40	--	The arrears were due from: • Forest lease 6.61 • OFDC 74.32 • TDCC[4] 4.47
8.	Police	42.09	13.45	Details not furnished.
9.	Irrigation (WR)	97.42	52.52	Industrial Water Rate 97.42
10.	Taxes on vehicles	88.85	--	The stages of arrears were as under: • Demands covered by certificate proceedings 46.60 • Recoveries stayed by ➢ High court/Supreme Court/other judicial authorities 0.47 ➢ Departmental authorities of Government 7.53 • Other stages 34.25

4 Orissa Tribal Development Cooperative Corporation.

(Rupees in crore)

Sl. No	Heads of Revenue	Amount of arrears as on 31 March 2006	Arrears more than five years old	Remarks
11.	State Excise	29.00	9.73	The stages of recovery were as under: • Demand covered by certificate proceedings 8.42 • Recoveries stayed by High Court/ other Judicial authorities 14.50 • Recoveries stayed by Departmental authorities 0.16 • Amounts under dispute 0.04 • Proposed to be written off 0.05 • Other stages of recovery 5.83
12.	Interest	136.82	59.94	• **Cooperation department** 76.88 • **Industries department** 59.94 The arrears were due from: • Orissa state financial corporation ➢ Loan in lieu of state capital 8.71 ➢ Interest bearing loan 21.23 ➢ State aid rural industries programme loan 1.20 ➢ Sales tax loan 5.81 ➢ Electricity duty loan 2.94 ➢ Panchayat samiti industries loan 0.34 • Industrial development corporation 7.13 • IPICOL 8.99 • Orissa small industries corporation 2.39 • Orissa state leather corporation 0.67 • Orissa instrument company 0.48 • Orissa film development corporation 0.05
13.	Stationery & Printing	0.58	0.07	--
14.	Fisheries	0.12	0.08	--
Total		**2,433.94**	**612.32**	

1.7 Arrears in assessments

The details of cases pending assessment at the beginning of the year 2005-06, cases becoming due for assessment during the year, cases disposed of during the year and the number of cases pending finalisation at the end of the year 2005-06 as furnished by the department in respect of sales tax and entry tax are as follows:

Heads of revenue	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of column 5 to 4
1	2	3	4	5	6	7
Sales tax	3,45,934	2,49,728	5,95,662	2,21,492	2,74,170	37.18
Entry tax	1,11,884	1,19,836	2,31,720	83,078	1,48,642	35.85

It can be seen from the above table that the percentage of disposal under sales tax and entry tax were 37.18 *per cent* and 35.85 *per cent* respectively.

1.8 Evasion of tax

The number of cases of evasion of tax detected and assessments finalised during 2005-06 as reported by the department are given below:

Sl No.	Name of tax/duty	Cases pending as on 31 March 2005	Cases detected during 2005-06	Total	No. of cases in which assessment/ investigations completed and additional demand including penalty etc. raised		No. of cases pending finalisation as on 31 March 2006
					No. of cases	Amount of demand (Rs.in crore)	
1	Sales tax	8,479	1,825	10,304	3,757	115.63	6,547

The revenue involved in the pending cases was not furnished by the department. It would be seen from the above that disposal of detected cases was only 36.46 *per cent* in respect of sales tax cases.

1.9 Results of audit

Test check of records of sales tax, motor vehicles tax, land revenue, State excise, forest, mines and minerals and other departmental offices conducted during the year 2005-06 revealed underassessment/short levy/loss of revenue etc. amounting to Rs.628.23 crore in 2,56,619 cases. During the year 2005-06, the concerned departments accepted underassessment etc. of Rs.241.86 crore involved in 78,621 cases which were pointed out in 2005-06 and in earlier years. Of these, the departments recovered Rs.40.12 crore in 21,546 cases.

This report contains 53 paragraphs including two reviews relating to under assessment/short levy/non levy etc. involving Rs.136.70 crore of which Rs.46.98 crore has been accepted by Government/department. Recovery made in these cases amounted to Rs.8.37 crore up to August 2006. Audit observations with a total revenue effect of Rs.3.96 crore have not been accepted by the department/Government but their contentions have been appropriately commented upon in the relevant paragraphs. Replies in the remaining cases have not been received (November 2006).

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

Audit observations on incorrect assessments, short levy of taxes, duties, fees etc. as also defects in the maintenance of initial records noticed during audit and not settled on the spot are communicated to the heads of departments/offices and other departmental authorities through inspection reports (IRs). The heads of departments/offices are required to take corrective action in the interest of Government revenue and furnish compliance within a period of one month.

The number of IRs and audit observations relating to revenue receipts issued up to 31 December 2005 which were pending settlement by the departments as on 30 June 2006 along with corresponding figures for the preceding two years are given below:

	2004	2005	2006
Number of IRs pending settlement	3,768	3,653	3,115
Number of outstanding audit observations	11,023	11,067	9,190
Amount of revenue involved (in crore of Rupees)	1,472.32	1,788.59	2,112.96

Department wise break up of IRs and audit observations outstanding as on 30 June 2006 is given below:

Department	Nature of receipts	Number of outstanding		Amount of receipts involved (Rs. in crore)	Year to which observations relate	Number of IRs to which even first replies have not been received
		IRs	Audit observations			
Finance	Sales tax	606	2,105	272.88	1976-77 to 2005-06	39
	Entertainment tax	76	112	1.53	1976-77 to 2003-04	--
	Luxury tax	10	11	0.57	1977-78 to 2002-03	--
	Entry tax	93	135	13.07	2001-02 to 2005-06	09
Commerce and transport (Transport)	Taxes on vehicles	262	2,700	257.21	1970-71 to 2005-06	27
	Taxes on goods and passenger	70	237	1.09	1973-74 to 1987-88	--
Revenue	Land revenue	809	1,459	433.19	1975-76 to 2005-06	114
	Stamp duty and registration fees	325	554	82.68	1980-81 to 2005-06	27
Excise	State excise	260	560	137.85	1991-92 to 2005-06	20
Forest and environment	Forest receipts	388	916	254.22	1980-81 to 2005-06	47
Steel and mines	Mining receipts	106	189	93.28	1979-80 to 2005-06	07
Cooperation	Departmental receipts	22	48	119.89	1995-96 to 2004-05	--
Food supplies and consumer welfare	-do-	32	42	3.62	1992-93 to 2004-05	02
Energy	-do-	51	116	439.03	1992-93 to 2005-06	07
General administration (Rent)	-do-	02	02	0.13	1992-93 to 2004-05	--
Works	-do-	03	04	2.72	1992-93 to 2004-05	--
Total		**3,115**	**9,190**	**2,112.96**		**299**

It indicates that the heads of departments/offices, whose records were inspected by Accountant General, failed to discharge due responsibility as they did not send any reply to a large number of IRs/paragraphs and also did not take any remedial measures for the defects, omissions and irregularities pointed out by the Accountant General.

1.11 Departmental audit committee meetings

In order to expedite settlement of outstanding audit observations contained in the IRs, departmental audit committees have been constituted by Government. The representatives of Finance Department, Administrative Department and office of the Accountant General (AG) (CW&RA) attend the meetings of the committee. The committees meet regularly to expedite clearance of outstanding audit observations and ensure that final action is taken on all audit observations outstanding for more than a year. Department wise position of audit committee meetings held during the year 2005-06 was as under:

Sl. No	Name of the department	Subject	No. of meeting held	No. of IRs settled	No. of audit observations settled
1.	Finance	Sales tax	09	12	425
2.	Forest & environment	Forest receipts	07	13	68
3.	Steel & mines	Mining receipts	14	20	68
4.	Transport	Motor vehicle tax	15	24	412
5.	Excise	Excise duty	04	05	29
6.	Food supplies & consumer welfare	Departmental receipts	01	17	22
7.	Revenue	Land revenue	20	249	334
Total			**70**	**340**	**1,358**

1.12 Response of the Departments to Draft Audit Paragraphs

Government of Orissa, Finance Department, in their circular memorandum instructed (May 1967) various departments of Government to submit compliance to draft audit paragraphs (DPs) floated by the AG for inclusion in the Audit Report of the Comptroller and Auditor General (CAG) within six weeks from the date of receipt of such DPs. The above instructions were reiterated (December 1993) while accepting the recommendation of the High Power Committee on response of the State Governments to the Audit Reports of the CAG. The DPs are normally forwarded by the AG to the Principal Secretary/Secretary of the administrative department concerned through demi-official letters seeking confirmation of the factual position and comments thereon within the stipulated period of six weeks.

Eighty two DPs (clubbed in 53 paragraphs) being considered for inclusion in this Report were demi officially forwarded to the Secretaries/Principal Secretaries of the concerned departments between January 2006 and May 2006 with a request to verify the factual position and offer comments thereon. Demi official reminders were also issued after the expiry of six weeks time in each case. The position of response to the draft paras is detailed below:

Sl. No.	Name of the department/Nature of receipts	No. of draft paras forwarded including review	No. of draft paras in respect of which replies were received	No. of draft paras in which replies were not received
1	Finance (Sales tax & entry tax)	28	27	01
2	Transport (Motor vehicle tax)	14	10	04
3	Excise (Excise duty and fees)	08	07	01
4	Forest and environment (Forest receipts)	05	04	01
5	Steel & mines (Mining receipts)	06	05	01

Sl. No.	Name of the department/Nature of receipts	No. of draft paras forwarded including review	No. of draft paras in respect of which replies were received	No. of draft paras in which replies were not received
6	Revenue (Land revenue, stamp duty and registration fees)	14	10	04
7	Energy and revenue (Departmental receipts)	07	05	02
Total		**82**	**68**	**14**

The Excise Department and Steels Mines Department recovered Rs.2.72 crore at the instance of audit in four audit observations in the year 2005-06.

1.13 Follow up on audit reports summarised position

According to instructions issued by the Finance Department in December 1993, all departments are required to furnish explanatory memoranda duly vetted by audit to the Orissa Legislative Assembly in respect of paragraphs included in the Audit Reports within three months of being laid on the table of the House.

Review of outstanding explanatory memoranda on paragraphs included in the reports of CAG of India (Revenue Receipts) as on 31 March 2006 disclosed that the departments had not submitted remedial explanatory memoranda on 213 paragraphs for the years from 1994-95 to 2004-05 as detailed below.

Year	No. of paras in the audit report	No. of paras discussed in PAC	No. of paras pending for discussion	No. of paras for which compliance notes awaited from the departments
1991-92	63	51	12	--
1992-93	54	40	14	--
1993-94	44	32	12	--
1994-95	47	21	26	2
1995-96	40	13	27	--
1996-97	36	5	31	1
1997-98	38	3	35	1
1998-99	40	1	39	4
1999-00	34	--	34	7
2000-01	45	5	40	7
2001-02	45	3	42	11
2002-03	57	--	57	55
2003-04	63	--	63	63
2004-05	62	--	62	62
Total	**668**	**174**	**494**	**213**

From the above, it would be seen that the non compliance to audit paragraphs stood at 31.89 *per cent* of total paras presented to the Assembly during the above period.

With a view to ensuring accountability of the executive in respect of all the issues dealt with in the Audit Reports, the Public Accounts Committee (PAC), as early as May 1966 issued instructions to all the departments of State Government to submit action taken notes (ATN) on the recommendations made by PAC for further consideration **within six months** of the presentation

of PAC Report to the Legislature. It was noticed from the PAC reports submitted during 10th, 11th 12th and 13th Assembly that 45 Reports containing 341 paras/recommendations were presented by the PAC before the Legislature between February 1991 and March 2006 after examination of the Audit Report (Revenue Receipts) of 14 departments for the years 1985-86 to 2000-01. However, ATNs had not been received in respect of 117 recommendations of the PAC from the concerned departments as of March 2006.

1.14 Compliance to audit reports

In the Audit Reports 2000-01 to 2004-05, audit observations relating to underassessments, non/short levy of taxes, loss of revenue, failure to raise demands, etc., involving Rs.1,933.79 crore were included. Of these, as of September 2006, departments concerned accepted underassessments etc., involving Rs.454.02 crore and recovered 6.60 crore. Audit Report wise details of cases accepted and recovered are as under:

(Rupees in crore)

Sl. No.	Year	Money value of audit report	Amount accepted by the department	Amount recovered
1	2000-01	272.86	178.11	0.36
2	2001-02	260.18	6.88	0.06
3	2002-03	281.31	9.66	0.74
4	2003-04	558.63	37.94	2.77
5	2004-05	560.81	221.43	2.67
Total		**1,933.79**	**454.02**	**6.60**

CHAPTER-II: SALES TAX AND ENTRY TAX

2.1 Results of audit

Test check of assessments, refund cases and connected documents on sales tax and entry tax of commercial tax offices during the year 2005-06 revealed under assessment of tax, incorrect grant of exemption, non/short levy of tax etc. amounting to Rs.63.95 crore in 250 cases which may broadly be categorised as under: -

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
Sales tax			
1.	Short levy of tax due to incorrect computation of taxable turnover	45	14.82
2.	Underassessment of tax due to application of incorrect/concessional rate of tax	36	3.41
3.	Underassessment of tax due to irregular grant of exemption	13	8.20
4.	Non/short levy of surcharge/interest	9	0.30
5.	Other irregularities	93	31.73
	Total	**196**	**58.46**
Entry tax			
1.	Under assessment due to incorrect computation of taxable turnover	13	0.69
2.	Under assessment of tax due to application of incorrect rate of tax	3	0.08
3.	Short levy due to irregular deduction	4	0.33
4.	Non/short levy of tax	14	2.09
5.	Non/short levy of penalty	18	2.03
6.	Other irregularities	2	0.27
	Total	**54**	**5.49**
	Grand Total	**250**	**63.95**

During the year 2005-06, the department accepted under assessment etc. of Rs.76.45 crore in 298 cases which were pointed out in audit in earlier years and Rs.4.71 crore in six cases pointed out in 2005-06. Out of these, the department recovered Rs.10.83 crore in 64 cases.

A few illustrative cases highlighting important audit observations involving Rs.24.90 crore are discussed in the following paragraphs.

2.2 Incorrect grant of exemption/deferment under sales tax incentive scheme

2.2.1 Under the Sales Tax Deferment Scheme 1992, new medium and large scale industrial units duly certified by the Director of Industries under Industrial Policy Resolution (IPR) 1992 shall be allowed to defer payment of sales tax collected and payable on sale of finished products for a period of five years from the date of commercial production.

During audit of Dhenkanal circle it was noticed in August 2005 that a large scale industrial unit engaged in manufacture of high carbon ferrochrome started commercial production from 1 October 1997 and was not eligible to defer payment of collected tax beyond 30 September 2002 under the provision of IPR 1992. The assessing officer (AO) while finalising the assessment for the years 2002-03 and 2003-04 in December 2004 and January 2005 allowed deferment of tax for Rs.2.43 crore collected up to March 2004. Out of this, an amount of Rs.0.66 crore related to collection made upto the eligibility period i.e. 30 September 2002. This resulted in irregular deferment of collected tax of Rs.1.77 crore.

The matter was reported to Government in December 2005. Government stated in April 2006 that the reassessments had been finalised in February 2006 and demand for entire amount had been raised. Report on recovery was awaited (November 2006).

2.2.2 Under the Orissa Sales Tax Act (OST Act) , 1947, a new small scale industrial (SSI) unit under Industrial Policy, 1996 (IP-96) is exempt from levy of tax on purchase of raw materials provided that the dealer furnished a declaration in form I-D(96). The exemption availed is adjusted against the ceiling limit as certified by District Industries Centre (DIC). The Act also provides for levy of penalty equal to one and half times of the tax assessed for concealment of any turnover. Sale of coal is taxable at the rate of four *per cent*.

During audit of Cuttack-II circle it was noticed in June 2005 that a small scale industrial unit under IP-96, engaged in manufacture of low ash metallurgical coke, was eligible for tax exemption upto a ceiling limit of Rs.2.65 crore for a period of five years from 5 December 1999. The dealer unit purchased coal as raw material valued at Rs.10.44 crore, free of tax by furnishing statutory declarations in Form-I-D (96) during the period from 2000-01 to 2002-03 but did not disclose such purchases. The AO while completing assessments during January 2002 to February 2004 also failed to detect this concealment and allowed exemption accordingly. This resulted in short adjustment of Rs.41.78 lakh. Besides the dealer was also liable to pay a penalty of Rs.62.67 lakh.

After this was pointed out in June 2005, the department reopened the case, adjusted an amount of Rs.41.78 lakh against the ceiling limit and raised a demand for Rs.62.67 lakh towards penalty in reassessment completed in March 2006.

The matter was reported to Government in December 2005. Government in June 2006 confirmed the fact of raising demand. Report on realisation was awaited (November 2006).

2.2.3 Under IP-96, a small industrial unit is eligible for sales tax incentives both on purchase of raw material and sale of finished products to the extent of fixed capital investment during a period of five years from the date of commercial production as certified by the DIC. Iron and steel processors including cutting of sheets, bars, angles, coils, MS sheets, decoiling, straining corrugation, drop hammer units etc. are ineligible units for sales tax incentives under IP-96.

During the course of audit of Rourkela-I circle in September 2005 it was noticed that a registered SSI unit claimed adjustment of Rs.59.68 lakh towards its ceiling limit of tax exemption during the year 2003-04. The AO while finalising the assessment in August 2004 incorrectly allowed the adjustment though the unit being a processing unit of iron and steel was not eligible to receive such incentive. This resulted in irregular grant of incentive for Rs.59.68 lakh under IP 96.

The matter was reported to Government in February 2006. Government in June 2006 stated that the case has been reopened. Further reply had not been received (November 2006).

2.3 Evasion of tax due to undervalued sales to favoured buyer

Under the OST Act, if the Commissioner is satisfied that any dealer has avoided payment of tax, by selling goods to its favoured buyers at prices, which are unreasonably low compared to the prevailing market price of such goods, he may at the time of assessment or reassessment, estimate the price of such goods on the basis of market price and reassess the dealer to the best of his judgement. Sale of water filter/water purifier along with their accessories and tea was taxable at the general rate of 12 *per cent*. Moulded luggage was taxable at the rate of eight *per cent* upto February 2002 and thereafter at 12 *per cent*. Besides, surcharge and additional tax are payable at prescribed rates. These goods were taxable at first point of sale.

During the course of audit of four circles between May and December 2005, it was noticed that in four cases the dealers sold goods valued at Rs.11.30 crore to other four dealers and paid tax thereon as first sellers. The purchasing dealers in turn sold those goods in the same locality at Rs.19.14 crore which was 30 to 107 *per cent* higher than the purchase price. Thus, the sale turnover disclosed by the first selling dealers was unreasonably low and undervalued. This resulted in evasion of tax of Rs.83.60 lakh as detailed below:

(Rupees in lakh)

Name of the circle	Year assessed/ month of assessment	Name of the goods	Sale turnover of 1st dealer	Sale turnover of 2nd dealer	Differential turnover	Total tax evaded including surcharge
Bhubaneswar-II	2003-04 October 04	Water filter/ purifier	363.31	746.14	383.01	50..53
Cuttack-I-(West)	2001-02 June 03	Moulded luggage	405.24	573.67	168.43	15.44
Cuttack-I (Central)	2002-03 October 04	-do-	122.24	159.11	36.86	4.87
	2003-04 February 05	-do-	146.76	191.84	45.08	5.95
Bhadrak	2001-02 March -03	Tea	59.68	84.33	24.65	3.25
	2002-03 March 04	-do-	32.62	59.59	26.97	3.56
Total			**1,129.85**	**1,814.68**	**685.00**	**83.60**

The matter was reported to Government between December 2005 and March 2006. Government in June 2006 stated that the cases had been opened for reassessment. Further reply had not been received (November 2006).

2.4 Under assessment/short levy of tax due to application of incorrect rate

Under the OST Act, specific rates of tax are applicable to different classes of commodities as stipulated in the rate chart. Goods not specified in the rate chart are taxable at the general rate of 12 *per cent*.

During audit of four circles between May 2005 and March 2006, it was noticed that in 12 cases the AOs applied incorrect rate of tax which resulted in under assessment/short levy of *tax* of Rs.95.58 lakh including surcharge. A few instances are as under:

(Rupees in lakh)

Sl. No	Name of the circle	Year assessed/ month of assessment	Commodities	Taxable turnover	Rate of tax Leviable / Levied	Short levy of tax including surcharge
1.	Bhubaneswar-II	2001-02, 2002-03 and 2003-04 August 2002 and November 2004	Gypsum Board	114.53	12/4	10.08
		2001-02, 2002-03 and 2003-04 March 2005	Flooring materials, vacuum cleaner etc.	104.17	12/8	4.58
2.	Rourkela-I	2001-02/ August 2003	Timber	308.73	12/4	27.17
		2002-03/ October 2003	-do-	262.50	12/4	23.10
		2003-04/ September 2004	-do-	75.33	12/4	6.63

The cases were reported to Government in February and April 2006. Government in June and July 2006 stated that the cases had been opened for reassessment. Further reply had not been received (November 2006).

2.5 Short determination of tax in works contract

2.5.1 Under the OST Act, the taxable turnover of works contract shall be deemed to be the gross value received or receivable by a dealer for carrying out such contract, less the amount of labour and service charges. The Act also provides that a contractee shall deduct and deposit in Government account an amount of tax at a specified rate from the bills of the contractors, which is to be adjusted against his assessed tax liability. Works contract is taxable at the rate of eight *per cent* under the Act.

During audit of Dhenkanal circle, it was noticed in August 2005, that a works contractor received Rs.17.81 crore in respect of work relating to its three subsidiaries[5] during 2001-02. The AO while completing the assessment in March 2004 adjusted TDS against the dues of the dealer contractor. However, he determined the taxable turnover at Rs.4.57 crore and did not include payment relating to the subcontractors which was irregular. This resulted in short determination of taxable turnover of Rs.17.81 crore and underassessment of tax of Rs.1.57 crore including surcharge.

The matter was reported to Government in December 2005. Government stated in June 2006 that the case had been reopened; further reply had not been received (November 2006).

2.5.2 Under the OST Act, transfer of property in goods involved in works contract is exigible to tax. Further as held[6] by the Supreme Court, the value of goods at the time of incorporation in the works, constitutes the measure for levy of tax. Works contract is taxable at eight *per cent* under the Act.

During the audit of Koraput-I circle it was noticed in January 2006 that a registered works contractor disclosed consumption of materials valued at Rs.171.78 crore in his profit and loss account for the year 2003-04. The relatable profit thereon worked out to Rs.21.78 crore as per his books of accounts. Thus his taxable turnover in execution of works contract amounted to Rs.193.56 crore. The AO while finalising the assessments for the year 2003-04 in November 2004 levied tax on a turnover of Rs.147.59 crore. This resulted in short determination of turnover by Rs.45.97 crore and under assessment of tax for Rs.4.05 crore including surcharge.

The matter was reported to Government in March 2006. Government stated in June 2006 that the case had been reopened; further reply had not been received (November 2006).

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5 **M/s L&T Ltd, Kansbahal: gross amount Rs.529.22 lakh, TDS-Rs.21.17 lakh; L&T Ltd, Kolkata: gross amount Rs.1,088.54 lakh, TDS- Rs.43.66 lakh and L&T, Chennai: gross amount Rs.163.19 lakh, TDS- Rs.8.17 lakh.**

6 **M/s. Ganon Dunkerly & Co Vs. State of Rajsthan (88 STC-P/204)**

2.6 Under assessment of tax due to short determination of taxable turnover

Under Orissa Entry Tax (OET) Rules, 1999, a dealer of goods specified in Part-III of the schedule of the OET Act is entitled to adjust the amount of entry tax paid from his tax liability under the OST Act. As clarified by the Finance Department, entry tax paid should be added to the purchase price of scheduled goods for calculation of sale price. Under the OST Act motor vehicles, television sets and xerox machine and copier are taxable at the rate of 12 *per cent*.

During audit of three circles[7] between July 2005 and March 2006, it was noticed that in 11 cases the AOs while finalising the assessments between March 2004 and March 2005 for the years 2000-01 to 2003-04 incorrectly determined sale value of scheduled goods as Rs.92.08 crore instead of Rs.96.10 crore. This resulted in short determination of taxable turnover of Rs.4.02 crore and under assessment of tax of Rs.53.13 lakh including surcharge.

The matter was reported to Government in January and April 2006. Government stated in June 2006 that in one case an extra demand of Rs.21.34 lakh was raised for the year 2000-01 and in other cases reassessment proceedings had been initiated; further reply had not been received (November 2006).

2.7 Under assessment of tax due to allowance of irregular transit sale

Under the Central Sales Tax (CST) Act, 1956, where sale of any goods in the course of inter State trade are effected by transfer of documents of title to such goods, these sales are not subject to levy of tax. In support of such transit sales, declarations in certificates in form E-I or E-II and form C are required to be furnished by the dealers causing the movement and taking the delivery of the goods respectively. Electrical goods are taxable at the rate of 12 *per cent* under the OST Act.

During audit of Bhubaneswar-I circle it was noticed in August 2005 that the AO while finalising assessment in January and December 2004 for the years 2000-01 and 2001-02 of a registered dealer allowed sale turnover of Rs.38.56 crore exempt from levy of CST treating the same as transit sale. Scrutiny of assessment records revealed that the entire sale turnover did not qualify as transit sales. In 40 cases, goods valued at Rs.16.61 crore were claimed as sold while in transit, sales were effected either one to 10 months prior to or after the date of purchase. In 47 cases goods purchased for Rs.3.32 crore were sold at much higher or lower value yielding a sale price of Rs.17.17 crore while remaining sales were not supported by declarations in form “C” or “E”. All

7 Bhubaneswar-II, Koraput-I and Sambalpur-I.

these transactions indicated that subsequent sale had no link with the first sale. Therefore, allowance of exemption towards transit sale of goods valued at Rs.38.56 crore was irregular and resulted in under assessment of tax of Rs.5.26 crore including surcharge.

After this was pointed out in August and November 2005, AO accepted the audit observations and stated that case would be reopened.

The matter was reported to Government in January 2006. Government in June 2006 stated that the reassessment proceedings had been initiated; further reply had not been received (November 2006).

2.8 Irregular allowance of exemption from tax

Under the provisions of the CST Act, sale of goods in course of import or high sea sales and effected through transfer of documents of title to the goods are not subject to levy of tax if the transfer of documents takes place before the goods cross the customs frontier of India. It is judicially settled[8] that there should be clear evidence as to when the transfer of documents between the importer and the actual user takes place to avail the benefit of sale in the course of import. Endorsement of bill of lading has been held as an accepted proof of such transfer[9]. Coal is taxable at the rate of four *per cent* under OST Act and eight *per cent* under CST Act without declaration in form-C.

During audit of Jagatsinghpur circle, it was noticed in February 2006 that a dealer imported coal and claimed deduction of Rs.32.14 crore on account of high sea sales during 2003-04. However, the sales claimed to be in course of import were not supported by any documentary evidence such as prior agreement and endorsement on bill of lading etc. The AO while finalising the assessment in November 2004 incorrectly exempted sales of Rs.13.99 crore and Rs.18.15 crore from levy of OST and CST respectively. This resulted in irregular exemption of tax of Rs.2.01 crore.

The matter was reported to Government in March 2006. Government in March 2006 stated that the case had been opened for reassessment; further reply had not been received (November 2006).

2.9 Exemption on irregular export sale

Under the provisions of the CST Act, both sale and penultimate sale of goods in course of export are exempt from levy of sales tax. Bill of lading and declarations in form-H are accepted supporting documents in support of direct export sale and penultimate sale respectively. Besides this only sales against pre existing supply orders are exempted under CST Act. Inter state sale of iron

8 **M/s Gopinath Nair Vs. State of Kerala (105 STC P/580).**

9 **M/s. MMTC Vs. Sales Tax Officer & others.**

ore without supporting declarations in form C are taxed at 10 *per cent* under the Act.

During audit of Rourkela-I circle it was noticed in December 2005 that a registered dealer engaged in manufacture and sale of iron ore effected sale of goods valued at Rs.34.06 crore in course of export during the year 2003-04. Scrutiny of the documents furnished in support of export sales revealed that neither the supply order nor the bill of lading contained any money value; the bill of ladings did not bear the seal of the port authorities and custom's clearance certificate; against a purchase order of 10 lakh metric tonnes (MT) the bill of ladings exhibited a quantity of 1.28 lakh MTs and 'H' forms for only Rs.2.68 lakh were available. The AO, while completing the assessment in February 2005 treated the sale value of Rs. 34.03 crore as sale in course of export though such sales were not established for want of documents and did not levy any tax. This resulted in grant of irregular exemption for Rs.3.40 crore.

The matter was reported to Government in February 2006. Government in June 2006 stated that the case had been reopened; further reply had not been received (November 2006).

2.10 Under assessment of central sales tax

Under the CST Act, last sale or purchase of goods in course of export are exempt from levy of tax. For this purpose a dealer in support of his claim is required to furnish to the prescribed authority a certificate in form-H duly filled and signed by the exporter along with other supporting documents. Kendu leaf was taxable at 20 *per cent* with effect from 1 April 2001 under the OST Act which was also applicable under the CST Act if not covered with declarations in form-C.

During audit of Bolangir-I circle, it was noticed in October 2005 from the assessment of a registered dealer for the year 2003-04 that while finalising assessment (September 2004) the AO allowed exemption from tax towards export sale of kendu leaf valued at Rs.38.20 lakh on the strength of H forms and bill of ladings furnished by the dealer. Scrutiny revealed that transactions covered under form-H and bill of lading were actually related to the previous years of 2000-01 and 2002-03. Thus, the dealer could not furnish any H Form or other supporting document in respect of inter State sale turnover of Rs.38.20 lakh made during 2003-04. Hence exemption granted by the AO without relevant documentary evidence was irregular. This led to under assessment of tax of Rs.8.40 lakh including surcharge.

The matter was reported to Government in April 2006. Government stated in June 2006 that an extra demand of Rs.8.40 lakh was raised in the reassessment finalised in May 2006. Report on recovery had not been received (November 2006).

2.11 Non levy of purchase tax

Under the CST Act, last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of the territory of India shall be deemed to be in the course of such export, if such last sale or purchase took place after and was for the purpose of complying with the agreement or order for or in relation to such export. Prawn is subject to purchase tax at the rate of eight *per cent* under the OST Act.

During audit of Bhubaneswar II circle in March 2006, it was noticed that a registered dealer exporting prawn had a closing stock of 3.43 lakh kg processed prawn for the year 2000-01. Out of this the dealer exported 3.36 lakh kg of prawn against the orders of 2001-02. As such no exemption was admissible since the exported prawn was not purchased for the purpose of complying with orders relating to export. The AO while finalising the assessment for the year 2001-02 in March 2005 exempted the corresponding purchase price of raw prawn valued at Rs.10.50 crore[10] from levy of purchase tax. This resulted in non levy of purchase tax for Rs.96.64 lakh.

The matter was reported to Government in March 2006. Government in June 2006 stated that the case had been opened for reassessment; further reply had not been received (November 2006).

2.12 Under assessment of CST due to application of incorrect rate

Under the delegated provision of the CST Act, inter state sale of goods manufactured by small scale industries (SSI) are taxed at concessional rate of one *per cent* against declaration in form-C. Status of a unit is decided by Government of India from time to time depending on investment in fixed capital. As per Government of India notification of December 1999, a unit having investment up to Rs.1 crore in fixed capital comes under the purview of SSI unit with effect from December 1999. Goods manufactured by medium scale industries (MSI) are taxable at four *per cent* in case of inter State sales.

During audit of two circles[11] in June and October 2005, it was noticed that two registered dealers engaged in manufacture of sponge iron and iron and steel with investments of more than Rs.2 crore in fixed capital, sold their finished products valued Rs.12.47 crore during the years 2001-02 and 2003-04 in course of inter State transaction. The AOs while finalising the assessments in January and March 2005 levied CST at the concessional rate of one *per cent* instead of four *per cent* which was incorrect since the units were MSIs. This resulted in under assessment of tax of Rs.37.40 lakh.

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10 **Quantity of unprocessed prawn is (quantity of processed prawn i.e. 3.36 lakh kg multiply 100) divided by (100 minus 36.23 *per cent* i.e. the processing loss declared by the dealer)= 5.27 lakh kg. Value of Prawn calculated at the purchase price of Rs.199.29 per kg multiply quantity of unprocessed prawn as adopted in assessment.**

11 **Cuttack-II and Keonjhar.**

The matter was reported to Government in January and March 2006. Government in June 2006 stated that the cases had been reopened; further reply had not been received (November 2006).

2.13 Irregular allowance of exempted sales

In exercise of the power conferred by the CST Act, Government of Orissa exempted inter State sale of iron and steel from levy of tax with effect from April 1991. Further, for this purpose the selling dealer was not required to submit the statutory declarations in form C. With effect from 1 April 2002 by an amendment in CST Act submission of form 'C' was made mandatory. Inter State sale of iron and steel not supported with declarations are taxable at eight *per cent*.

During audit of Rourkela-I circle it was noticed in September 2005 that a registered dealer effected inter state sale of iron and steel valued at Rs.5.20 crore in the year 2002-03. Out of this, sales for Rs.4.84 crore were not supported with declarations in form C. The AO, while completing the assessment for the year in June 2004 did not levy any tax on the sales. This irregular allowance of exempted sales resulted in underassessment of CST for Rs.38.69 lakh.

The matter was reported to Government in March 2006. Government in June 2006 stated that an extra demand of Rs.38.69 lakh was raised against the dealer in March 2006. Report on recovery had not been received (November 2006).

2.14 Grant of concession against invalid declarations

Under the CST Act, inter state sale of goods to registered dealers, other than declared goods, not covered by declaration in form-C is taxable at the rate of 10 *per cent* or at the rate applicable to the sale or purchase of such goods inside the appropriate state, whichever is higher. Sale of ferro alloys and HDPE[12] woven sacks not covered by declarations are taxable at the rate of 12 *per cent* upto 31 March 2001 and 28 February 2002 respectively and thereafter at the rate of 10 *per cent* under the Act.

During the audit of Balasore and Bhadrak circles in June 2005 and January 2006, it was noticed from CST assessments of two registered dealers for the year 2000-01 and 2001-02 that AOs while finalising assessments between March 2004 and March 2005 accepted three declarations in form-'C' covering sale turnover of Rs.1.69 crore in respect of sales effected prior to the valid date of their registration certificate under the CST Act and assessed to tax at concessional rates. The grant of concessional rate of tax was irregular and resulted in short levy of tax for Rs.18.20 lakh including surcharge.

12 High Density polyethylene.

After this was pointed out in June 2005 and January 2006, the AOs reopened the cases in June 2005 and January 2006 for reassessment.

The matter was reported to Government in April 2006. Government in June 2006 confirmed the fact of reopening of the cases; further reply had not been received (November 2006).

Entry Tax

2.15 Irregular set off of entry tax

Under the Orissa Entry Tax Act, 1999 (OET Act) and Rules made thereunder, entry tax paid by the manufacturer on purchase of raw materials which directly go into the composition of finished products shall be allowed as set off against the entry tax payable on the sale of finished products. Furnace oil and coal are taxable at the rate of one *per cent* under the Act.

During audit of Ganjam-III circle it was noticed in June 2005 that while completing assessment for the years 1999-2000 to 2003-04, between March 2004 and March 2005, of a registered dealer engaged in manufacture and sale of minerals, AO allowed set off of Rs.22.58 lakh towards entry tax paid on purchase of furnace oil and coal, which are consumables and did not go into composition of finished products as raw material. This resulted in grant of irregular set off of entry tax for Rs.22.58 lakh.

The matter was reported to Government in January 2006. Government stated in April 2006 that demand for the entire amount was raised against the dealer and the dealer had deposited Rs.4 lakh. The balance amount was covered under stay order (November 2006).

2.16 Irregular adjustment of entry tax

Under the OET Act, when an importer or manufacturer of goods specified in Part-III of the schedule[13] becomes liable to pay tax under the OST Act by virtue of sale of such goods then his liability under the OST Act shall be reduced to the extent of entry tax paid. Such set off shall not be allowed unless the entry tax paid and tax payable under the OST are shown separately in the sale memo bill or invoice.

During audit of Bhubaneswar-I Circle it was noticed that a registered dealer dealing in Part III scheduled goods on wholesale basis, was assessed to entry tax in January 2005 for the year 2001-02 amounting to Rs.291.34 lakh, of which, the dealer paid Rs.264.68 lakh. Thus dealer was liable to pay the

13 Part III scheduled goods like television, fridge, air conditioners, vacuum cleaners, washing machines and computer etc.

balance amount of entry tax of Rs.26.66 lakh. However, the AO adjusted this amount towards unclaimed set off of previous years which was irregular since reduction from tax liability was not based on the amount exhibited separately in the sale memo or invoice. This resulted in less demand of entry tax for Rs.26.66 lakh.

The matter was reported to the Government in January 2006. Government in June 2006 stated that suo moto proceedings had been initiated under the provisions of the Act; further reply had not been received (November 2006).

2.17 Non levy of entry tax on sale of finished products

Under Section 26 of the OET Act, every manufacturer of scheduled goods shall collect entry tax on sale of its finished products effected by it to a buying dealer inside the state. However the manufacturer is entitled to avail set off of entry tax paid on the raw material used in the manufacture. Iron and steel as scheduled goods are taxable at the rate of one *per cent* under the OET Act.

During audit of Dhenkanal circle in March 2006, it was noticed that a registered dealer engaged in manufacture of MS rod and angles (iron & steel products) sold its finished products valued Rs.32.51 crore for the year 2001-02 inside the state. The AO while finalising the assessment in March 2005, levied entry tax of Rs.4.02 lakh on the purchase of raw materials worth Rs.8.04 crore but did not levy entry tax on sale of its finished products valued at Rs.32.51 crore. This resulted in under assessment of entry tax of Rs.28.49 lakh taking into consideration set off of entry tax paid on purchase of raw materials.

The matter was reported to Government in April 2006. Government stated in June 2006 that the AO had not reopened the case based on a decision of departmental appellate authority that no entry tax was leviable at the sale point since the dealer had paid entry tax on purchase. The reply was not tenable since the views of the appellate authority are not in accordance with the statutory provisions of the OET Act (November 2006).

2.18 Under assessment of entry tax due to purchase suppression

Under the OET Act, where for any reason scheduled goods[14] purchased by a registered dealer escaped assessment to tax, the assessing authority may assess the dealer to the best of his judgement within a period of three years from the expiry of that year and direct the dealer to pay in addition to the tax assessed, a penalty not exceeding one and a half times of the tax. Scheduled goods used as raw material by a manufacturer on its first entry into a local area are exigible to entry tax at 50 *per cent* of the rate of tax of such scheduled goods.

14 Scheduled goods: Goods listed in the schedule of the OET Act, 1999.

During audit of Mayurbhanj circle in June 2005, it was noticed that the AO while finalising (December 2004) the assessment for the year 2002-03 of a registered manufacturer determined purchase taxable turnover of Rs.14.11 crore. Cross verification with the records of Central Excise Department revealed that the dealer had purchased goods of Rs.18.47 crore as raw material for the year 2002-03. Thus there was a short disclosure of purchases for Rs.4.36 crore which resulted in under assessment of entry tax of Rs.4.13 lakh. Besides, he is liable to pay penalty of Rs.6.20 lakh for suppression of purchased scheduled goods.

This was pointed out to the department in June 2005; specific reply has not been received (November 2006).

The matter was reported to Government in March 2006; reply had not been received (November 2006).

CHAPTER-III: TAXES ON MOTOR VEHICLES

3.1 Results of audit

Test check of records relating to assessment, collection and refund of motor vehicles tax in the office of the State Transport Authority (STA), Orissa and the regional transport offices conducted during 2005-06 revealed under assessment of tax and loss/blocking of revenue amounting to Rs.50.89 crore in 2,02,391 cases which may broadly be categorised as under:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1	Review on **Receipts from Motor Vehicles Department**	1	0.81
2	Non levy/non realisation of motor vehicles tax/additional tax and penalty	22,235	44.34
3	Non/short realisation of compounding fee/permit fee/process fee etc.	1,75,900	2.11
4	Blockage of revenue due to non disposal of vehicle check reports	1,658	0.94
5	Short realisation/short levy of motor vehicles tax/additional tax	607	0.54
6	Non/short realisation of composite tax and penalty	1,117	0.45
7	Non/short realisation of trade certificate tax/fees	164	0.04
8	Non/short accountal of revenue receipts	7	0.01
9	Other irregularities	702	1.65
Total		**2,02,391**	**50.89**

During the year 2005-06, the department accepted under assessment etc. of tax and penalty of Rs. 63.23 crore in 59,387 cases which were pointed out in earlier years. Of these, the department had recovered Rs. 3.96 crore in 8,330 cases. The department also recovered Rs. 0.54 lakh in seven cases pointed out in audit during the year 2005-06.

A few illustrative cases highlighting important audit observations involving Rs.41.99 crore including finding of a review **"Receipts from Motor Vehicles Department"** involving Rs.81.19 lakh are discussed in the following paragraphs.

3.2 Review on "Receipts from Motor Vehicles Department"

Highlights:

- **Arrears amounting to Rs.131.50 crore were pending collection, out of which, demand for Rs.112.97 crore was not raised at all; while in respect of remaining arrears of Rs.18.53 crore, raising of demand could not be confirmed.**

{Para 3.2.6.1}

- **Inadequate pursuance/non institution of tax recovery proceedings led to non realisation of Rs.9.55 crore.**

{Para 3.2.6.5, 3.2.6.6 and 3.2.6.7}

- **In STA, Orissa and nine RTOs, 3,973 VCRs involving Rs.2.42 crore were not disposed of resulting in blockade of revenue to that extent.**

{Para 3.2.7.1}

- **Non issue of permits resulted in non realisation of Rs.38.81 lakh in seven regions.**

{Para 3.2.8}

Introduction

3.2.1 Motor Vehicle Department is one of the largest revenue collecting departments of the State. Motor vehicles taxes are levied and collected under the provisions of Orissa Motor Vehicles Taxation Act (OMVT Act), 1975 and rules made thereunder. Besides, fees for licence, registration, fitness certificate, permit, appeal and amounts for compounding of offences are levied and collected under the provisions of the Motor Vehicles Act (MV Act), 1988 and the Rules made thereunder by the Central Government and the State Government.

Motor vehicles tax in respect of non transport vehicles are realised in lump sum as lifetime tax, whereas tax and additional tax from transport vehicles are realised quarterly/monthly at the rates specified in the Act.

Organisational set up

3.2.2 The Transport Commissioner-cum-Chairman, State Transport Authority (STA), Orissa is the head of the department and the apex controlling and monitoring authority. He is assisted by two addl. Commissioners (one for administration and other for enforcement), one secretary, three deputy

commissioners functioning at zonal levels and 26 regional transport officers (RTOs) functioning at regional levels. Each RTO has its own enforcement wing.

Scope of audit

3.2.3 There are 26 RTOs in the State. Out of these, eight RTOs earning maximum revenue for the state were test checked between September 2005 and May 2006. In addition, records of office of TC alongwith 13 other RTOs were scrutinised. The review covered the period from 2000-01 to 2004-05.

Audit objective

3.2.4 A review on internal controls of the department was conducted with a view to ascertain:

- whether adequate system and procedure existed in the department for timely assessment and collection of Government revenue and its credit to Government account;
- whether adequate internal controls existed for proper accounting and realisation of arrears and arresting pilferage/leakage of revenue;
- effectiveness and execution of enforcement activities and monitoring of financial management and functioning of internal audit wing.

Trend of revenue

3.2.5 As per the provisions of Orissa Budget Manual, estimates of revenue receipts should show the amount expected to be realised for the year and calculation should be based upon the actual demand including any arrear for past years and probability of their realisation during the year. The manual stipulates that head of the department is required to submit the departmental estimate of revenue to the Finance Department.

Audit observed that STA prepared the budget estimates (BE) without obtaining the inputs from the RTOs. No target was fixed for realisation in the budget estimates.

A comparison of BEs and actuals collection for the period from the year 2000-01 to 2004-05 revealed the following:

(Rupees in crore)

Year	Original budget estimates	Actual collection as per Finance Account	(-) short fall (+) excess	Percentage of variation (-) shortfall (+) excess
2000-01	216.00	178.17	(-) 37.83	(-) 17.51
2001-02	250.00	216.37	(-) 33.63	(-) 13.45
2002-03	250.00	257.35	(+) 7.35	(+) 2.94
2003-04	275.00	280.03	(+) 5.03	(+) 1.82
2004-05	304.39	338.11	(+) 33.72	(+) 11.07

It would be seen from the above that percentage of variation between BEs and actual collection ranged from (-) 17.51 to (-) 13.45 *per cent* during the period between 2000-01 and 2001-02 while for 2004-05 it was 11.07 *per cent.*

After this was pointed out the department stated that BEs were being prepared on the potentiality of the vehicles and growth rate of their registration in previous years. However the variations reveal that BEs were not realistic.

3.2.6 Collection of arrears

As per OMVT Act any tax due and not paid is termed as arrear. The position of arrear and its collection as reported by STA, Orissa was as under:

(Rupees in crore)

Year	Arrear at the beginning of the year	Collection	Percentage of collection as compared with total arrear
2000-01	17.10	5.18	30.29
2001-02	13.26	5.07	38.23
2002-03	34.59	4.79	13.85
2003-04	28.52	4.52	15.85
2004-05	27.78	6.65	23.94

The percentage of collection as compared with the total arrears ranged between 13.85 and 38.23 *per cent* during the period 2000-01 to 2004-05. No target for collection of arrears was set during the period of review.

3.2.6.1 Unaccounted for arrears

Under OMVT Act and Rules, tax due on motor vehicles should be paid in advance within the prescribed period unless such period is covered by off road declarations. According to instructions issued by the TC, Orissa in February 1966 demand notices for realisation of arrears are to be issued within 30 days from the date of expiry of the grace period of 15 days.

The department was not maintaining any register for depiction of arrears upto 31 March 2005. TC, Orissa in his letter of July 2005 directed all RTOs to prepare the demand, collection and balance (DCB) register for computation of actual arrears.

Scrutiny of records in six regions revealed that arrear as of March 2005 reported to STA, Orissa was Rs.18.53 crore. However as per DCB register of these RTOs arrears of Rs.131.50 crore were pending collection as detailed below.

(Rupees in crore)

Sl.No.	Region	Arrears as on 31 March 2005		Amount of arrear unaccounted for
		As reported to STA	As per DCB	
1.	Bhubaneswar	5.88	15.91	10.03
2.	Chandikhol	0.55	9.25	8.70
3.	Ganjam	3.88	45.75	41.87
4.	Keonjhar	0.64	3.89	3.25
5.	Rourkela	1.99	4.98	2.99
6.	Cuttack	5.59	51.72	46.13
Total		**18.53**	**131.50**	**112.97**

It was seen that though arrears of Rs.131.50 crore were included in DCB registers, demand for Rs.112.97 crore was not raised while, in respect of remaining arrears for Rs.18.53 crore, no records were produced to ascertain whether any demand was raised against the defaulters.

Discrepancy noticed in DCB register

3.2.6.2 In four regions arrear of Rs.12.41 crore in respect of 1,573 vehicles relating to the period between April 2000 and March 2005 was not included in the DCB register of the respective RTOs as detailed below.

(Rupees in crore)

Sl. No.	Region	Arrear as per DCB prepared and sent to by the region	Arrear not included in the DCB prepared and sent to STA by the regions			
			No. of cases	Tax	Penalty	Total
1.	Angul	0.22	331	1.04	2.09	3.13
2.	Bhubaneswar	15.91	503	1.46	2.93	4.39
3	Keonjhar	3.89	225	0.47	0.94	1.41
4	Rourkela	4.98	514	1.16	2.32	3.48
Total		**25.00**	**1,573**	**4.13**	**8.28**	**12.41**

3.2.6.3 In Bhubaneswar region an amount of Rs.6.94 crore was worked out as arrear by the department itself in respect of three series[15] of vehicles, as on 31 March 2005, but Rs.1.06 crore was taken into DCB register leaving a balance of Rs.5.88 crore. Demand of Rs.5.88 crore was also not raised.

The RTOs stated between March and May 2006 arrears would be included in DCB register and demand would be raised accordingly.

Tax recovery proceedings

3.2.6.4 Non disposal of tax recovery cases

The departmental officers were entrusted with the power of institution and disposal of the tax recovery (TR) proceedings with effect from June 1993 under Schedule II of OMVT Act.

Test check of the records of seven regions[16] revealed that in 4,003 cases tax and penalty amounting to Rs.11.12 crore remained unrealised as on 31 March 2005 due to non disposal of recovery proceedings as detailed below.

15 **OR-02, OR-02 E and OR-02 P.**

16 **Angul, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Keonjhar and Rourkela.**

(Rupees in crore)

Year	Pending at the beginning of the year	Addition	Total	Disposal	Pending at the end of the year	Percentage of disposal
	Case Amount	Case Amount	Case Amount	Case Amount	Case Amount	Case Amount
2000-01	816 4.12	1,371 2.01	2,187 6.13	16 0.02	2,171 6.11	0.73 0.33
2001-02	2,171 6.11	843 2.07	3,014 8.18	267 0.28	2,767 7.90	8.86 3.42
2002-03	2,747 7.90	941 1.86	3,688 9.76	60 0.11	3,628 9.65	1.63 1.13
2003-04	3,628 9.65	361 0.55	3,989 10.20	30 0.07	3,959 10.13	0.75 0.69
2004-05	3,959 10.13	64 1.07	4,023 11.20	20 0.08	4,003 11.12	0.49 0.71

The year wise break up of cases/amount was not available in respect of three regions[17] while in four regions[18] it was noticed that out of 1,691 cases involving revenue of Rs.4.33 crore, the pendency in 1,398 cases involving Rs.2.72 crore ranged between three years and 10 years whereas 126 cases involving Rs.37.65 lakh were more than 10 years old.

(Rupees in lakh)

Period of pendency of cases	No of cases	Amount
More than 10 years	126	37.65
More than 5 years to 10 years	164	90.44
More than 3 years to 5 years	1,234	184.27
Three years and below	167	120.70

The department did not set any target for disposal of TR cases or collection of arrear through TR proceedings.

The percentage of disposal ranged between 0.49 and 8.86 *per cent* which reflects poor disposal of cases.

3.2.6.5 Unaccounted for tax recovery cases

Cross verification of records revealed that Tax Recovery Officer (TRO), Dhenkanal region transferred 267 TR cases relating to the year 2001 involving an amount of Rs.44.01 lakh to Angul region during 2002-03 but none of these cases were accounted for in the books of Angul region. Consequently, realisation of arrears could not be ascertained.

3.2.6.6 Non institution of tax recovery cases

No time limit has been fixed in instituting tax recovery cases. Though arrears were pending for more than one year, it was noticed in three regions that tax recovery cases for an amount of Rs.8.44 crore were not instituted for realisation of arrears as indicated below:

(Rupees in crore)

Name of the region	Arrear as on 1 April 2004	Arrear realised during 2004-05	Arrear held under OPDR Act	Balance	TR case instituted	TR case not instituted
Bhubaneswar	6.37	1.41	0.07	4.89	1.38	3.51
Cuttack	6.02	0.70	0.65	4.67	0.94	3.73
Ganjam	3.55	0.26	0.02	3.27	2.07	1.20
Total	**15.94**	**2.37**	**0.74**	**12.83**	**4.39**	**8.44**

17 **Bhubaneswar, Ganjam and Keonjhar.**

18 **Angul, Chandikhol, Cuttack and Rourkela.**

After this was pointed out RTOs did not furnish any reason for non institution of TR cases; however the concerned RTOs stated between December 2005 and March 2006 that TR cases would be instituted against defaulters.

3.2.6.7 Unreconciled tax recovery cases

The tax recovery case register of Ganjam region depicted pendency of 1,138 cases involving Rs.3.58 crore as on 31 March 2005 whereas the region reported pendency of 736 cases involving Rs.2.91 crore as on the above date. This resulted in discrepancy of 402 cases involving Rs.0.67 crore.

RTOs agreed in February 2006 that discrepancy would be reconciled; further progress made was aswaited.

3.2.7 Enforcement measures

3.2.7.1 Non disposal of vehicle check reports

MV Act read with notification of September 1995 stipulates realisation of compounding fee from the vehicle owners committing offences under different sections of the Act ibid, on issue of VCRs. Further TC, Orissa issued guidelines during 1988, 1990 and 1994 for expeditious disposal of VCRs. These included serving of notices, seizure of vehicles, suspension of certificate of registration, and transfer of VCRs to proper quarter for expeditious and qualitative disposal and maintenance of pocket diary for checking second and subsequent offences.

Audit observed in STA, Orissa and nine RTOs[19] that 3,973 VCRs involving Rs.2.42 crore relating to the period between April 2001 and March 2005 were not disposed of. Consequently, revenue remained unrealised. Out of these RTOs, details of outstanding VCRs furnished by six regions were as under:

(Rupees in lakh)

Name of the region	Period of pendency	VCRs relating to:-			
		Home region	Other region	Other States	Total
		Cases Amount	Cases Amount	Cases Amount	cases Amount
STA, Orissa	2000-01 to 2004-05	-- --	1,036 60.15	83 4.80	1,119 64.95
RTO, Angul	2002-03 to 2004-05	118 7.50	67 3.98	4 0.18	189 11.66
RTO, Bhubaneswar	2000-01 to 2004-05	339 21.46	333 20.59	102 5.40	774 47.45
RTO, Chandikhol	2000-01 to 2004-05	124 7.84	88 5.51	25 1.47	237 14.82
RTO, Cuttack	2000-01 to 2004-05	84 5.30	39 2.47	12 0.78	135 8.55
RTO, Ganjam	2000-01 to 2004-05	231 14.69	62 3.83	34 2.00	327 20.52
RTO, Rourkela	2000-01 to 2001-02	111 6.83	83 5.23	45 2.69	239 14.75
Total		**1,007 63.62**	**1,708 101.76**	**305 17.32**	**3.020 182.70**

Audit scrutiny further revealed in above regions that VCRs relating to other regions and other states were not transferred to the concerned quarter, as a

19 Angul, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Koraput, Nayagarh, Nuapada and Rourkela.

result of which the concerned regional authorities remained unaware of the offences committed by the defaulting vehicles. Besides, no action was taken for disposal of such reports pertaining to home region. There was no mechanism to watch the disposal of the reports. The returns regarding disposal and pendency of check reports were not furnished by the regions.

It would be seen from the above that the department was not following its own instructions.

After this was pointed out between December 2005 and March 2006, the department raised demand of Rs.3.13 lakh in 53 cases.

3.2.7.2 Non realisation of differential tax from stage carriages plying without permits

Under the OMVT Act, as amended, motor vehicles tax and additional tax in respect of a stage carriage is leviable on the basis of the number of passengers and distance to be covered in a day as per the permits. If such a vehicle is detected plying without a permit, tax/additional tax payable is to be determined on the basis of the maximum number of passengers (including standees) which the vehicles would have carried reckoning the total distance covered each day as exceeding 320 km i.e. at the highest rate of tax as per taxation schedule. In case of default, penalty upto double the tax due is leviable.

Test check of records of 14 RTOs[20] revealed that 50 stage carriages were detected plying without permit between November 2003 and March 2005 as per VCRs issued by enforcement wing of the department and accident records. Motor vehicles tax/additional tax payable by the vehicles worked out to Rs.11.31 lakh against which tax of Rs.4.88 lakh was realised from the defaulting carriages. This resulted in short realisation of differential tax of Rs.6.43 lakh. Besides, penalty of Rs.12.86 lakh was also to be levied and collected.

After this was pointed out between July 2005 and March 2006 all the taxing officers agreed between July 2005 and March 2006 to realise the dues.

The matter was brought to the notice of the TC/Government in April 2006. Government stated in May 2006 that Rs.0.07 lakh had been realised in two cases; final reply in other cases had not been received (November 2006).

20 Bargarh, Cuttack, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Koraput, Nawarangapur, Nayagarh, Nuapada, Phulabani, Rayagada, Rourkela and Sambalpur.

3.2.7.3 Non maintenance of pocket diary

Audit observed in STA and seven regions[21] that no pocket diary was maintained by any of the enforcement staff. This was not monitored at apex level also.

3.2.8 Non realisation of revenue due to non issue of permanent permits

As per section 66 (1) of MV Act and instructions issued by the TC (December 2002) tractor trailer combinations need to be issued permanent permit under the MV Act at the time of initial registration. Rate of application fee is Rs.500 and permit fee is Rs.5,000 per vehicle.

Test check of seven regions, revealed that 1,341 tractor trailer combinations were registered between December 2002 and March 2005. Out of these 337 vehicles were issued temporary permits occasionally and intermittently and 414 vehicles were neither issued permanent permits nor temporary permits. This resulted in non realisation of revenue of Rs.38.81 lakh towards application fee and permit fee as mentioned below.

(Rupees in lakh)

Sl. No	Region	No. of vehicles registered	Period of Registration	No. of vehicles in respect of which PP not issued	No. of vehicles in respect of which TP issued	Non realisation of revenue
1.	Angul	88	Dec 2002-Aug. 2003	51	5	3.05
2.	Bhubaneswar	300	Dec. 2002-March 2005	65	128	9.81
3.	Chandikhol	279	Dec. 2002-Jan. 2005	112	60	9.01
4.	Ganjam	331	Dec.2002-March 2005	44	98	7.20
5.	Jharsuguda	98	Jan.2003-March 2005	21	5	1.38
6.	Keonjhar	195	Dec.2002-Dec.2004	94	39	6.79
7.	Rourkela	50	Feb.2003-Mar.2005	27	2	1.57
Total		**1341**		**414**	**337**	**38.81**

After this was pointed out, the RTOs stated between December 2005 and April 2006 that notices to the vehicle owners for obtaining permanent permits would be issued.

3.2.9 Non raising of demand

According to instructions of February 1966 issued by TC, Orissa demand notices for realisation of arrears are to be issued within 30 days from the date of expiry of the grace period of 15 days.

It was noticed in six regions that demand notices for realisation of unpaid taxes relating to the period from April 2000 to March 2005 were not issued in respect of 317 vehicles as detailed below.

(Rupees in crore)

Sl. No.	Region	No. of vehicles	Tax	Penalty	Total
1.	Angul	41	0.12	0.25	0.37
2.	Bhubaneswar	28	0.08	0.16	0.24
3.	Chandikhol	54	0.25	0.50	0.75
4.	Ganjam	30	0.06	0.11	0.17
5.	Keonjhar	104	0.28	0.57	0.85
6.	Rourkela	60	0.21	0.42	0.63
Total		**317**	**1.00**	**2.01**	**3.01**

21 **Angul, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Keonjhar and Rourkela**.

Delay for non issue of demand notices ranged from 10 months to more than five years with tax implication of Rs.3.01 crore including penalty.

3.2.10 Under MV Act, a motor vehicle registered in other State and plying in Orissa for a period exceeding 12 months shall be assigned with Orissa registration mark on payment of requisite fees.

Test check of records of seven regions[22] revealed that 652 vehicles registered in other States and plying in Orissa for more than 12 months were not assigned Orissa registration mark. The authorities did not take any effective steps to allot vehicles state registration mark. This resulted in non realisation of revenue for Rs.3.46 lakh.

After the above facts were pointed out, the RTOs accepted the audit observation and stated between December 2005 and April 2006 that notices would be issued to get the vehicles registered under the OMVT Act and demand notices would be issued to vehicle owners. Further reply had not been received (November 2006).

3.2.11 National Permit Scheme

The national permit scheme authorises a goods vehicle registered in one State to ply in other States. The Central Motor Vehicle (CMV) Rules and national permit rules stipulate that the registering State in such cases shall furnish full details of vehicles through quarterly returns along with the period of authorisation for plying, to the State in which the vehicles are to operate. For such outside operation a composite tax paid by operator is to be remitted to the transport authorities of the plying State through a crossed demand draft.

Audit scrutiny revealed that details of vehicles including their period of authorisation under national permit scheme were not available with the department. Receipt of quarterly returns from authorities of other States were neither watched through nor made available for verification. Even the receipts of composite tax in shape of bank drafts were not monitored properly and bank drafts were accepted beyond their period of validity.

As per information collected from STA, Orissa 449 bank drafts valued at Rs.21.87 lakh drawn during the period between 2000-01 and 2004-05 were received after expiry of their validity period. These drafts were returned for revalidation during the period between September 2003 and August 2005, and were still to be received back after revalidation.

Further in STA, bank draft of Rs.13.58 lakh lapsed in March 2005. In addition, Rs.14.32 lakh were kept in civil deposit, as on 31 March 2005; out of which Rs.3.32 lakh pertained to March 1998.

22 **Angul, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Keonjhar and Rourkela.**

3.2.12 Acceptance of tax without tax clearance certificate

OMVT Rules prescribe that a registered owner of a transport vehicle desirous to pay tax in the region other than where the tax was last paid shall produce the tax clearance certificate (TCC) in form-D from the taxing officer where the tax last paid.

Audit observed in seven regions[23] that tax was accepted from 222 vehicles that had changed their place of business during the period between April 2000 and March 2005 without insisting on TCC. Cross verification of records of previous regions in which these were registered with the regions to which they shifted their place of business revealed that in case of 41 vehicles in five regions, tax was accepted even though arrears amounting to Rs.15.21 lakh were pending against them. Out of this Rs.7.20 lakh pertained to the period from 2000-01 to 2004-05 as given below.

(*Rupees in lakh*)

Sl.No.	Name of the region where tax paid without TCC	Name of the registering Region No. of cases	Month from which tax paid in other region without TCC	Period of arrear due	Tax	Penalty	Total	Amount of arrears between 2000-01 to 2004-05
1.	Chandikhol Angul	Cuttack 2	1/04	4/03 to 12/03	0.12	0.24	0.36	
2.	Keonjhar Bhubaneswar Rourkela	Chandikhol 4	Between 1/01 and 10/02	7/96 to 9/02	0.71	1.43	2.14	1.16
3.	Chandikhol Rourkela	Bhubaneswar 3	Between 4/02 and 1/04	4/95 to 12/03	0.81	1.61	2.42	1.81
4.	Rourkela	Sundergarh 18	Between4/00 and 7/03	1/94 to 6/03	1.75	3.51	5.26	0.73
5.	Chandikhol Bhubaneswar Angul Rourkela	Keonjhar 14	Between 4/02 and 3/2005	7/94 to 12/04	1.68	3.35	5.03	3.50
Total		**41**			**5.07**	**10.14**	**15.21**	**7.20**

3.2.13.1 Short fall in verification of off road vehicles

In accordance with instructions dated 27 July 1990 and 10 June 1991 issued by TC, area wise list indicating vehicles covered by off road declarations was required to be prepared by departmental authorities. This list was required to be calculated to the officers responsible for checking these vehicles.

Test check of off road register in seven regions[24] revealed that 18,090 vehicles were covered under off road declaration during the period between April 2000 and March 2005. Out of these, only 2,549 vehicles were verified at their places of declarations occasionally and intermittently, leaving 15,541 vehicles unverified. Non verified vehicles constituted 85.91 *per cent* of the total vehicles declared off road. The area wise distribution of off road declaration was not made.

23 **Angul, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Keonjhar and Rourkela.**

24 **Angul, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Keonjhar and Rourkela.**

3.2.13.2 Non realisation of motor vehicles tax/additional tax from motor vehicles violating off road declaration

Under the OMVT Act, if any vehicle at any time, during the period covered by off road declaration, is found to be plying on the road or not found at the declared place it shall be deemed to have been used throughout the said period. In such a case, the owner of the vehicle is liable to pay tax/additional tax and penalty at the prescribed rate for the entire period for which it was declared off road.

Test check of records of six RTOs [25] revealed that 32 motor vehicles under off road declarations for the period between September 2003 and March 2005 were either detected plying or not found at the declared places by the enforcement staff during the period covered by such off road declarations. Thus, they were to pay motor vehicle tax/additional tax and penalty of Rs.23.09 lakh. No action was taken by the department to recover the same, which resulted in non realisation of Rs.23.09 lakh.

After this was pointed out between June 2005 and January 2006, the department raised demand of Rs.3.05 lakh in one case.

The matter was brought to the notice of the TC/Government in April 2006; reply had not been received (November 2006).

3.2.14 Unauthorised diversion of revenue

Orissa Treasury Code prohibits incurring departmental expenditure from the revenue collected. According to executive instructions of TC Orissa of 1987, cash collected from offending vehicles by the enforcement staff should be deposited in the respective offices by the next day.

Test check conducted in STA and six regions[26] revealed that an expenditure of Rs.56.46 lakh was incurred on repair and maintenance of vehicles, procurement of office contingencies, payment of wages and advance payment made to Government and non Government officials out of revenue which was in contravention to the rules.

Further, test check of STA and Seven regions[27] revealed in 1,161 cases Rs.26.38 lakh collected by enforcement staff between April 2000 and March 2005 was deposited by concerned offices after a delay ranging from 2 to 810 days. This resulted in unauthorised retention of Government dues outside Government account for a prolonged period.

25 **Ganjam, Gajapati, Kalahandi, Mayurbhanj, Sambalpur and Sundergarh.**

26 **Angul, Bhubaneswar, Chandikhol, Cuttack, Ganjam and Rourkela.**

27 **Angul, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Keonjhar and Rourkela.**

3.2.15 Non distribution of second copy of money receipt for endorsement of tax details in General Register

The TC, Orissa instructed (September 2000) to hand over the second copy of money receipt towards payment of tax by the cashier to the head clerk who will distribute the same to the concerned clerk. The concerned clerk will return the same after endorsing the tax payment particulars in the respective GRs.

Audit observed in seven regions[28] that the second copy of money receipts were not distributed to the concerned revenue clerk to enable him to make tax endorsement; instead endorsement was made on the basis of the owner's copy as and when produced by the owner. In one region (Ganjam) 66 tax endorsements for Rs.2.56 lakh in respect of 12 vehicles were made incorrectly in registration register for the period between November 2003 and November 2004.

3.2.16 Non maintenance of basic records

Orissa Record Manual prescribes certain basic records for effective functioning and monitoring the activities of the department. It was revealed in review that the following mandatory records were not maintained properly.

♦ Receipt of applications for issue of permits, fitness, off road permission and driving licence etc., were not recorded in registers of letters received. A separate register to record application for issue of permits, though maintained by the STA, did not indicate the date of disposal.

♦ Log books indicating receipts and disposal of letters at the assistant level were not maintained properly. The ministerial level officers had not exercised periodical checks to watch over receipts and disposals by their subordinates.

♦ At no level, file index registers were maintained. Thus the total number of files in operation could not be ascertained.

♦ Though the STA and RTOs were controlling operation of passenger busses, in different routes of Orissa by issuing permits, the department had not prepared the chart of route distance as required under OMVT Act/Rules. No route survey was conducted since 1982. Different RTOs adopted different processes to arrive at the operating distance.

♦ Entries in the cash book by the drawing and disbursing officer (DDO), check of totaling by a person other than the writer of cash book, surprise verification of cash balance by the DDO, reconciliation of remittances with records from the treasury and realisation of security deposit from the person responsible for handling cash as stipulated in Orissa Treasury Code (OTC) and the Orissa General Financial Rules (OGFR) was not done.

28 Angul, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Keonjhar and Rourkela.

♦ In STA and eight regions,[29] number of vehicles checked by the enforcement staff and number of VCRs issued out of such checks were not available. In absence of this, performance of the enforcement staff could not be ascertained.

♦ The department had not prepared any manual. The executive instructions issued from time to time were not serialised or centralised. Further, all the executive instructions and circulars were not available in the department.

♦ STA had not maintained any register to watch the receipt of statutory returns like return of revenue collection, arrear collection, issue and disposal of VCRs, issue of permits, fitness, registration etc. The regions had also not maintained such register to watch timely submission of above returns to STA.

3.2.17 Non maintenance of vehicle wise record of fitness certificate

As per CMV Rules, a register with separate page for each vehicle containing the registration number of the vehicle, name and address of the owner, engine number, chassis number, validity of certificate of fitness is required to be maintained by the fitness granting authority. TC, Orissa in circular No. 27 instructed that the inspector of motor vehicle (IMV) should draw up a list of vehicles every month whose fitness certificate has expired and circulate the same among all RTOs to check plying of vehicles without fitness certificate.

Audit of records in seven regions[30] revealed between December 2005 and May 2006 that 1,80,470 fitness certificates were granted/renewed during different periods between April 2000 and March 2005. It was however, noticed that vehicle wise fitness records were not maintained. In absence of this, the IMVs were not in a position to ascertain and list out details of vehicles, whose validity of fitness expired, for circulation among all RTOs. Consequently vehicles plying without fitness certificates could not be ascertained.

3.2.18 Internal audit

There is an internal audit wing functioning under the control of TC, Orissa. The sanctioned strength of internal audit wing from 2000-01 to 2004-05 was 10 while the staff in position was reduced from nine to six during the said period.

Audit observed that neither planning and programming for internal audit was drawn up nor annual target in terms of number of units to be audited was set for the audit staff. The progress of internal audit during the last five years is as follows.

29 **Angul, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Jharsuguda, Keonjhar and Rourkela.**

30 **Angul, Bhubaneswar, Chandikhol, Ganjam, Jharsuguda, Keonjhar and Rourkela.**

Year	Number of auditable units to be covered	Number of units programmed for audit	Number of units audited	Number of units pending
2000-01	103	--	--	103
2001-02	121	--	--	121
2002-03	139	--	--	139
2003-04	157	--	--	157
2004-05	182	43	43	139

The figures given above indicate that 139 auditable units remained unaudited by the end of 2004-05, 43 units audited in 2004-05 related prior to 1991-92 and thereby had lost its significance. Even though audit of the units was taken up belatedly resulting in creation of huge pendency, the department had not prepared any guidelines to watch the issue of inspection reports and compliances thereof.

After this was pointed in September 2005, it was stated that the pendency was due to shortage of hands and engagement of auditors in other miscellaneous work and the details of inspection reports were not available due to non maintenance of watch register.

This indicates that there has been no emphasis on internal audit and it has been taken in casual manner.

3.2.19 Acknowledgement

Audit Review Committee (ARC) meeting was held in July 2006. All the points were discussed in the ARC meeting. The views of Government were taken into consideration while drafting the review.

3.2.20 Recommendations

- Steps should be taken to ensure maintenance of basic records such as demand, collection and balance register so as to facilitate accountability towards timely issue of demand notices and track realisation of arrears.
- Monitoring of arrear collection needs to be systematised so as to reflect realistic position and to enable identification of areas of concern as well as to ensure remedial action.
- Department may take steps for ensuring prompt institution of tax recovery proceedings and may consider fixing time limit or targets for disposal of tax recovery proceedings.
- Functioning of internal audit needs to be strengthened.

3.2.21 Conclusion

The department did not have any operational manual and several internal controls were found to be ineffective particularly in areas like maintenance of basic records, monitoring the system of raising demand and realisation of revenue, strengthening of enforcement activities, reporting and computation of arrears and institution and disposal of tax recovery proceedings. Internal audit was virtually non functional.

3.3 Non/short realisation of motor vehicles tax and additional tax

Under the OMVT Act, tax/additional tax due on motor vehicles should be paid in advance within the prescribed period at the rates prescribed in the Act unless exemption from payment of such tax/additional tax is allowed for the period covered by off road declarations. Penalty is to be charged at double the tax/additional tax due, if tax/additional tax is not paid within two months of the expiry of the grace period i.e. 15 days.

Test check of records of 24 RTOs[31] revealed between May 2005 and March 2006 that motor vehicles tax/additional tax of Rs.12.60 crore in 19,267 cases was either not realised or realised short for the period between December 2002 and March 2005. This resulted in non/short realisation of Government revenue of Rs.37.80 crore including penalty of Rs.25.20 crore as detailed below:

(Rupees in crore)

Sl. No.	No. of regions Nature of irregularities	Period	No. of vehicles	Non realisation of tax/addl. tax	Short realisation of tax/addl. tax	Total	Penalty leviable
1.	20 Non realisation of motor vehicles tax/additional tax from goods vehicles	April 2004 and March 2005	10,474	9.12	-	9.12	18.24
Remarks- The department raised demand of Rs.69.48 lakh in 226 cases and recovered Rs.8.89 lakh in 105 cases.							
2.	19 Non realisation of motor vehicles tax/additional tax in respect of contract carriages	April 2004 and March 2005	2,716	1.60	-	1.60	3.20
Remarks- The department raised demand of Rs.0.67 lakh in six cases and recovered Rs.0.44 lakh in 13 cases.							
3.	21 Non realisation of motor vehicles tax from tractor trailer combination	October 2003 and March 2005	5,682	1.50	--	1.50	3.00
Remarks- The department raised demand of Rs.3.36 lakh in 51 cases and recovered Rs.0.95 lakh in 37 cases.							
4.	22 Non/short realisation of motor vehicles tax/additional tax in respect of stage carriages	December 2002 and March 2005	395	0.32	0.06	0.38	0.76
Remarks- The department raised demand of Rs.2.49 lakh in six cases and recovered Rs.0.07l lakh in two cases.							
TOTAL			**19,267**	**12.54**	**0.06**	**12.60**	**25.20**

After this was pointed out between May 2005 and March 2006, the department raised demand of Rs.76 lakh in 289 cases while reply in other cases has not been received..

The matter was brought to the notice of the TC/Government in April 2006. Government stated in May 2006 that Rs.10.35 lakh had been realised in 157 cases; final reply in other cases had not been received (November 2006).

31 **Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.**

3.4 Non realisation of fees at revised rates

As per MV Act read with Government of Orissa, Commerce and Transport (Transport) Department notification dated 24 January 2003, rate of various fees such as countersignature of permits, transfer of permits and process fees was revised with effect from 28 January 2003.

It was noticed that Government by an order of March 2003 postponed the collection of various fees at the rates prescribed in the above notification stating that the enhancement of fees would be decided after receipt of report of a technical committee that was going to give its report within a month. However the Act/notification has not been amended/declared void till date. Since an executive communication cannot overrule a statutory notification its implementation was incorrect. Test check of permit registers and other connected records in STA, Orissa, Cuttack and 26 RTOs[32] revealed that non realisation of fee at the rates prescribed in the notification resulted in short collection of revenue of Rs.1.77 crore in 1,56,018 cases for the period from April 2004 to March 2005.

The matter was brought to the notice of TC/Government in April 2006. Government stated in May 2006 that audit contention was not sustainable in view of order of March 2003. The reply was not tenable as executive communication cannot overrule statutory notification. Besides 36 months had elapsed as of March 2006 and the notification has not been amended till date (November 2006).

3.5 Non/short levy of penalty on belated payment of motor vehicles tax and additional tax

Under the OMVT Act and the Rules made thereunder, penalty ranging from 25 to 200 *per cent* of the tax/additional tax due depending on the extent of delay in payment shall be leviable if a vehicle owner has not paid tax and additional tax for his vehicle within the specified period.

Test check of records of 25 RTOs[33] conducted between May 2005 and March 2006 revealed that in 168 cases no penalty was levied by the taxing authorities though taxes were paid belatedly and delay ranged between 25 days to two years three months. Further, in 89 cases, penalty was short levied. This resulted in non/short levy of penalty amounting to Rs.23.19 lakh for the period between April 2000 and March 2005 which was due to failure on the

32 **Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Nawarangapur, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.**

33 **Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.**

part of the taxing officers to impose and collect penalty at the time of realisation of tax.

After this was pointed out between May 2005 and March 2006, the department raised demand of Rs.0.79 lakh in eight cases.

The matter was brought to the notice of the TC/Government in April 2006. Government stated in May 2006 that Rs.0.42 lakh had been realised in four cases; final reply in other cases had not been received (November 2006).

3.6 Short realisation of composite tax under National Permit Scheme

As per Government of Orissa notification of February 1999, composite tax for goods carriages belonging to other States/Union Territories plying in Orissa under the national permit scheme will be payable at the rate of Rs.5,000 per annum per vehicle in advance in one instalment. In case of delay in payment, penalty of Rs.100 for each calendar month or part thereof is also leviable.

Test check of records of STA, Orissa revealed in May 2005 that composite tax in respect of 290 goods carriages belonging to other States authorised to ply in Orissa during 2004-05 under national permit scheme was realised short by Rs.6.86 lakh. As the vehicle operators did not pay the tax in advance in one instalment and part payment was accepted, penalty of Rs.3.40 lakh up to March 2005 was leviable for default in full payment of tax. This resulted in short realisation of composite tax of Rs.10.26 lakh.

The matter was brought to the notice of Government in January 2006. Government stated in May 2006 that transport authorities of other States were requested for realisation of balance composite tax. Report on realisation was awaited (November 2006).

3.7 Non realisation of composite tax for goods vehicles under reciprocal agreement

Under the provisions of the OMVT Act, when a goods vehicle enters the State under the terms of agreement with any other State, it is liable to pay additional tax for each entry into the State at the prescribed rate. Government of Orissa decided in February 2001 that goods vehicles belonging to Andhra Pradesh and authorised to ply in Orissa under the reciprocal agreement were required to pay composite tax of Rs. 3,000 per vehicle per annum. The tax was payable in advance on or before 15 April every year to the STA, Orissa. In case of delay in payment, penalty of Rs. 100 for each calendar month or part thereof was also leviable in addition to composite tax.

Test check of records of STA, Orissa revealed in June 2005 that out of 1,722 goods vehicles of Andhra Pradesh authorised to ply in the State on the strength

of valid permit under reciprocal agreement during 2004-05, composite tax for 827 goods vehicles amounting to Rs.24.81 lakh was not realised. Besides, penalty of Rs.9.92 lakh was also leviable.

After this was pointed out in June 2005, STA Orissa stated in July 2005 that steps would be taken to issue demand notice for realisation of dues.

The matter was referred to Government in January 2006. Government stated in May 2006 that Rs.1.5 lakh had been realised in 50 cases and other State transport authorities were moved in respect of remaining cases (November 2006).

3.8 Non realisation of differential tax from stage carriages used as contract carriages

Under the OMVT Act, as amended, when a vehicle in respect of which motor vehicles tax/additional tax for any period has been paid as per registration, is proposed to be used in a manner as to cause it to become a vehicle in respect of which higher rate of motor vehicles tax/additional tax is payable, the owner of the vehicle is liable to pay differential tax. In case of default in payment on due date, penalty of double the differential tax is also leviable for the period of delay beyond two months.

Test check of records of 11 RTOs[34] between June 2005 and March 2006 revealed that 63 stage carriages were permitted to ply temporarily as contract carriages between April 2004 and March 2005 on which higher rate of tax was applicable. Though differential tax was not paid in advance, RTO did not take any action to issue demand notices for the same. This resulted in non realisation of differential motor vehicle/additional tax of Rs.2.27 lakh. Besides, penalty of Rs.4.54 lakh was also leviable.

After this was pointed out between June 2005 and March 2006, all the taxing officers concerned agreed between June 2005 and March 2006 to realise the dues after issue of demand notices.

The matter was brought to the notice of the TC/Government in April 2006; reply had not been received (November 2006).

3.9 Non/short realisation of motor vehicles/additional tax from stage carriages plying under reciprocal agreement

In pursuance of reciprocal agreements between Government of Orissa and Government of any other State, if a stage carriage plies on a route partly within the State of Orissa and partly within other State, such stage carriage is

34 **Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Keonjhar, Mayurbhanj, Puri, Rayagada, Rourkela and Sambalpur.**

liable to pay tax/additional tax calculated on the total distance covered by it, on the approved route in the State of Orissa, at the rates and in the manner specified under the OMVT Act and Rules made thereunder. In case tax is paid beyond two months after the grace period, penalty is to be charged at double the tax due.

Test check of records of STA, Orissa, Cuttack and two RTOs[35] between May and November 2005 revealed that motor vehicles tax/additional tax in respect of 10 stage carriages authorised to ply on inter State routes between April 2004 and March 2005 under reciprocal agreement either was not realised or realised in part. It was further revealed that six out of 10 stage carriages did not pay tax for last 12 months between April 2004 and March 2005. Thus, there was non/short realisation of motor vehicles tax/additional tax of Rs.2.06 lakh. Besides, penalty of Rs.4.12 lakh was also leviable for non payment of dues.

After this was pointed out between May and November 2005, the department raised demand of Rs.5.15 lakh in four cases.

The matter was brought to the notice of the TC/Government in April 2006. Government stated in May 2006 that Rs.0.07 lakh had been realised in one case and demand notices were issued in rest of the cases (November 2006).

3.10 Non realisation of trade certificate tax/fees

Under the OMVT Act, read with CMV Rules, 1989, dealers in motor vehicles are required to obtain trade certificate from the registering authorities by paying the requisite tax/fees annually in advance. Under the MV Act, dealer includes a person who is engaged in building bodies on the chassis or in the business of hypothecation, leasing or hire purchase of motor vehicles.

Test check of records of five RTOs [36] between November 2005 and March 2006 revealed that in respect of 146 dealers, trade certificate tax and fees for the period from January 2003 to December 2005 were not realised. This resulted in non realisation of tax and fees of Rs.3.32 lakh.

After this was pointed out between November 2005 and March 2006, the department raised demand of Rs.0.13 lakh in 11 cases.

The matter was brought to the notice of the TC/Government in April 2006. Government stated in May 2006 that Rs.0.05 lakh had been realised in three cases. In respect of others, dealers/firms could not be located since they had closed their business (November 2006).

35 **Bargarh and Sundergarh.**

36 **Bargarh, Chandikhol, Dhenknal, Koraput and Rourkela.**

3.11 Short realisation of reservation fees on allotment of reserve registered numbers

Under the OMV Rules, 1993, read with TC, Orissa notification (April 2002), a two wheeler or any other motor vehicle opting for a number of the current series coming within 1,000 from the last number allotted to be registered shall pay a fee Rs.2,000 and Rs.4,000 respectively. The registering authority may, on an application in writing for special choice, reserve the registration number. Any number beyond 1,000 but within 10,000 from the last number registered in serial order can also be reserved on payment of Rs.5,000 for two wheelers and Rs.10,000 for motor vehicles other than two wheelers as per TC, Orissa circular letter dated 2 August 2002.

Test check of records of three RTOs[37] between August 2005 and March 2006 revealed that reserved numbers beyond 1,000 from the last number registered were allotted on application between April 2003 and March 2005 to six two wheelers and 159 motor vehicles but reservation fees were not realised at the rate applicable for reserved number beyond 1000. This resulted in short realisation of reservation fees amounting to Rs.9.66 lakh.

After this was pointed out between August 2005 and March 2006, all the taxing officers agreed between August 2005 and March 2006 to realise the differential fees. However, they did not offer any reason for non collection of fees at the appropriate rate.

The matter was brought to the notice of the TC/Government in April 2006; reply had not been received (November 2006).

3.12 Non realisation of entry tax

Under the Orissa Entry Tax Rules read with schedule of rates appended to the Orissa Entry Tax Act, motor vehicles are taxable at the rate of two *per cent* on their purchase value with effect from 1 June 2004. TC, Orissa in his circular letter dated 24 January 2003 communicated instructions of the Commissioner of Commercial Taxes, Orissa that at the time of registration of vehicles purchased from outside the State, the owners should be asked to furnish proof of entry tax paid at the time of entry in the State.

Test check of records of four RTOs[38] revealed between November 2005 and February 2006 that 308 motor vehicles purchased outside the State were registered between June 2004 and March 2005 without payment of entry tax. The owners of 24 motor vehicles admitted the fact of non payment of entry tax while RTOs did not insist upon furnishing the proof of payment of entry tax before registration of vehicles in other 284 cases. Thus, non observance of check for realisation of entry tax by the Transport Department and lack of

37 **Kalahandi, Rourkela and Sundergarh.**

38 **Angul, Bargarh, Dhenknal and Rourkela.**

coordination between Transport Department and Commercial Department, led to non realisation of Government revenue of Rs.66.42 lakh.

After this was pointed out between November 2005 and February 2006, all RTOs agreed between November 2005 and February 2006 to send the list of vehicles as pointed out by audit to the Commercial Tax Department.

The matter was brought to the notice of the TC/Government in April 2006; reply had not been received (November 2006).

CHAPTER-IV: LAND REVENUE, STAMP DUTY AND REGISTRATION FEES

4.1 Results of audit

Test check of records relating to assessment and collection of land revenue and stamp duty and registration fees conducted during the year 2005-06 revealed non collection, non/short assessment and blocking of revenue amounting to Rs.257.20 crore in 43,733 cases, which may broadly be categorised as under:

(Rupees in crore)

Sl. No.	Categories	No of cases	Amount
LAND REVENUE			
1.	Non collection of premium etc. from land occupied by local bodies/private parties	65	174.81
2.	Non lease/irregular lease of *sairat* sources, non /short realisation of royalty on minor minerals	124	1.02
3.	Non realisation of revenue due to delay in finalisation of OLR cases	608	0.08
4.	Blockade of Government revenue due to non finalisation of OLR cases	1,481	1.65
5.	Miscellaneous/other irregularities	438	2.03
6.	Non assessment/short assessment and short collection of water rates	67	0.08
Total		**2,783**	**179.67**
STAMP DUTY AND REGISTRATION FEES			
1.	Blockage of Government revenue due to non clearance of S 47-A cases	39,823	50.26
2.	Short levy of stamp duty and registration fees due to under valuation/change of *kisam* of documents	698	0.79
3.	Under valuation due to non consideration of highest sale instances	10	0.02
4.	Short realisation due to irregular/misclassification of deeds	419	26.46
Total		**40,950**	**77.53**
Grand total		**43,733**	**257.20**

During the year 2005-06, the department accepted under assessment etc. of Rs.30.61 crore in 13,486 cases, which was pointed out by audit in earlier years out of which Rs.15.19 crore had been recovered in 12,873 cases.

A few illustrative cases highlighting important audit observations involving Rs.7.20 crore are discussed in the following paragraphs.

4.2 Non realisation of land revenue from M/s OPGC

According to Government orders of October 1961, May 1963 and February 1966, Government land can be leased out to local bodies, public sector undertakings, educational and charitable institutions, State and Central Government departments etc. on payment of premium fixed on the basis of market value of the land plus annual ground rent at one *per cent* of the market value. Board of Revenue (BOR) in their letter dated 7 August 1996 circulated that the occupier of the land is liable to pay interest at the rate of 12 *per cent* w.e.f. 28 November 1992 for the period from the date of occupation of land till the date of payment.

Test check of records of Laxmanpur tahasil in August 2005 revealed that Government sanctioned possession of 226.46 acre of forest land at a premium of Rs.5.51 crore to M/s Orissa Power Generation Corporation Ltd. (OPGC) on 2 April 1998 excluding the ground rent and cess for Rs.0.68 crore. In April 2001 OPGC made an appeal to Government for reduction of premium, which was rejected in November 2004. OPGC paid Rs.3.39 crore[39] towards premium by March 2002 in a phased manner. Thus the lessee was to pay an amount of Rs.2.11 crore towards premium and 0.68 crore towards ground rent and cess. Besides, interest of Rs.2.95 crore was also payable up to March 2005 for belated payment. The entire amount of Rs.5.74 crore remained uncollected.

After this was pointed out in August 2005, the tahasildar stated in August and November 2005 that action would be taken to raise the demand in DCB.

The matter was reported to Government in March 2006; reply had not been received (November 2006).

4.3 Delay in finalisation of alienation cases

According to Government orders of October 1961, May 1963 and February 1966, Government land can be leased out to local bodies, public sector undertakings, educational and charitable institutions, State and Central Government departments etc. on payment of premium fixed on the basis of market value of land plus annual ground rent at one *per cent* of the market value. Similarly, cess at 50 *per cent* of the ground rent up to 1993-94 and 75 *per cent* thereafter was leviable. In case of Government land leased out to improvement trust, urban local bodies and Orissa State Housing Board, premium shall be fixed at two third of actual prevailing rate, if utilised for economically weaker sections/slum dwellers. The market value of land was to be realised including capitalised value at 25 times the annual rental in case of transfer of State Government land to Union Government.

Test check of records of three tahasil offices between October and December 2005 revealed that in three cases occupation of Government land

39 Rs.1.5 crore in March 1999, Rs. 1 crore in March 2000 and Rs. 0.89 crore in March 2002.

measuring 13.434 acre was not regularised and interest was not levied from the date of occupation. Delay in regularisation of alienation cases resulted in blocking of Government revenue of Rs.6.49 crore towards premium, ground rent, cess and interest as detailed below.

(Rupees in lakh)

Sl. No	Name of Tahasil	Name of occupants	Year of occupation	Area (in acre)	Present position	Govt. dues remained unrealised					Total
						Premium	Ground rent	Cess	Paid	Interest not assessed	
1.	Dhenkanal	Project Coordinator, Regional Science Centre	July 1992	3.444	Not finalised	109.86	27.47	--	--	210.11	347.44
The lease proposal was initiated in 2001 after nine years of advance possession. The case was not finalised as lessee had not complied with some of the objections raised by RDC.											
2.	Pottangi	Orissa State Housing Board	1987-88	7.00	Lease not finalised	38.18	8.82	5.76	--	80.02	132.77
The lease proposal was initiated in 2003 after 16 years of possession. Tahasildar stated that Government orders were not available in the office resulting delay in calculation of actual demand as a result of which lease had not been finalised.											
3.	Koraput	Bharat Sanchar Nigam Limited	1985-86	2.99	Not sanctioned	48.87	9.77	6.23	--	104.25	169.12
Lease proposal initiated in December 2003 after 18 years of advance possession. The lease case had not been finalised by the Collector, Koraput.											
Total											**649.34**

The matter was referred to Government in April 2006. Government stated in May 2006 that Rs.0.04 crore was realised in respect of Koraput tahasil. Further report on realisation was awaited (November 2006).

4.4 Non raising of demand

As per Government of Orissa, Revenue Department order of 2 February 1966 read with letter dated 7 August 1996, the occupier of the land either with permission or without permission should be liable to pay interest at the rate of six *per cent* up to 27 November 1992 and 12 *per cent* thereafter on the amount due to Government for the period from the date of occupation of the land till the date of payment of the said amount. Under the provisions of Orissa Government Land Settlement (Amendment) Rule, 2002, fees for incidental charges like establishment cost, contingencies etc. in case of lease/alienation of Government land covering 500 acres and above in favour of any department of Government for commercial purpose or any company, corporation etc. is chargeable at the rate of 10 *per cent* of the market value of the land.

Test check of records of Tahasildar, Talcher revealed in October 2005 that Government of Orissa, Revenue Department sanctioned lease of land measuring Ac. 21.91 in village Rasol in favour of M/s National Thermal Power Corporation (NTPC), Talcher in March 2004. Advance possession of the land was given to NTPC on 7 October 1988. The tahasildar demanded and NTPC deposited Rs.3.37 crore in March 2004 towards premium, ground rent

and cess due to Government. However, demand for Rs.4.62 crore towards interest on premium, ground rent and cess for the period from 1988-89 to 2003-04 was not raised including interest of Rs.1.61 crore for the period 1998-99 to 2003-04. This resulted in non realisation of interest to that extent. Further the lessee was required to pay incidental charges for Rs.26.29 lakh, being 10 *per cent* of market value of land i.e. Rs. 262.9 lakh since the land leased in favour of NTPC for the same project exceeded 500 acres. It was however observed that the above was neither demanded nor realised. This led to non raising of demand for incidental charges for Rs.26.29 lakh.

After this was pointed out in October 2005, Government stated in May 2006 that demand was raised towards interest and incidental charges against NTPC. Report on realisation was awaited (November 2006).

4.5 Non levy of interest on Government dues

As per the Orissa Agricultural Year (Amendment) Act, 1992 and Cess (Amendment) Act, 1992 interest is leviable for non payment of arrear land revenue at the rate of 12 *per cent.* Amount remaining uncollected towards premium, rent etc. for occupation of Government land with or without permission of Government are in the nature of land revenue.

Test check of records of Tahasildar, Talcher revealed in October 2005 that Mahanadi Coal Fields Ltd (MCL) made payment of premium of Rs.3.77 crore for the settlement of Government land measuring Ac 360.96 during November 2000 to March 2002. Since the land was acquired in February 1998, interest amounting to Rs.1.62 crore from February 1998 to March 2002 was also payable by the lessee but the tahasildar did not raise any demand for the interest amount.

The matter was brought to the notice of Government in March 2006. Government stated in May 2006 that demand was raised towards interest against MCL (November 2006).

4.6 Short demand of Government dues

According to Government orders of October 1961, May 1963 and February 1966 Government land can be leased out to local bodies, public sector undertakings, educational and charitable institutions, State and Central Government departments etc. on payment of premium on the basis of market value plus annual ground rent at one *per cent* of the premium and cess at the rate of 75 *per cent* of the ground rent per annum. Besides interest at the rate of 12 *per cent* per annum is also payable from the date of occupation till the payment of dues.

4.6.1 Test check of records for the period 2004-05 of Tahasildar, Chatrapur in May 2005 revealed that an alienation case for grant of lease to Director of Airport, Biju Pattnaik Air Port, Bhubaneswar for 0.949 acre of land was sanctioned by Additional District Magistrate, Ganjam, Chatrapur on 22 January 2005. Advance possession of land was given to the lessee on 2 August 2000. Tahasildar raised a demand of Rs.30.63 lakh in March 2005 towards premium including ground rent and cess for one year. However actual Government dues on account of premium, ground rent, cess up to March 2005 worked out to Rs.32.74 lakh taking into account a period of five years from the date of advance possession. Thus there was short demand of Rs.2.11 lakh towards ground rent and cess. Besides interest due on premium, ground rent and cess for Rs.15.09 lakh was not demanded.

The matter was brought to the notice of Government in March 2006; final reply had not been received (November 2006).

4.6.2 Test check of records for the period from April 2004 to March 2005 of Tahasildar, Kendrapara (April 2005) revealed that the Collector, Kendrapara sanctioned in February 2004 the lease of Government land measuring Ac.0.79 in favour of Executive Engineer, Central Electricity Supply Company, Kendrapara Electrical Division-I, Kendrapara for construction of office building on payment of Government dues. Tahsildar, Kendrapara raised demand for payment of premium, ground rent and cess including interest thereon on their non payment for one year (2004-05) amounting to Rs.9.90 lakh. The tahasildar did not raise demand for ground rent, cess and interest on land occupied since 1 April 1999 till 2003-04 which resulted in short demand of Rs.6.34 lakh against the lessee.

After this was pointed out in April 2004 the tahasildar stated in April 2005 that correspondence had been made with CESCO authority in this regard.

The matter was brought to the notice of Government in March 2006. Government stated in May 2006 that the matter had been referred to Energy Department for decision on exemption of dues (November 2006).

4.7 Misappropriation of Government revenue

As per Orissa Nizarat Manual, when any amount is remitted into Government account either through a bank or treasury, the office superintendent or head ministerial officer should compare the receipted challan of the bank with the entry of the cash book before attestation to satisfy himself about the remittance. As a check against deposit through fake challans as soon as possible at the end of each month, a consolidated receipt of all remittances made during the month should be obtained and compared with the entries in the subsidiary registers and cash book.

Test check of records of Tahasildar, Padmapur revealed in September and October 2005 that an amount of Rs.21.60 lakh shown in the cash book as remittance towards cess, royalty and sairat etc into the

sub treasury, Padmapur was not deposited into Government account. These remittances made between February 2004 and September 2005 were found to be against fake deposit challans resulting misappropriation of Government revenue. Misappropriation occurred due to non reconciliation of consolidated receipt of remittances made during the month with the entries in the cash book.

After this was pointed out in September and October 2005 the tahasildar confirmed in September and October 2005 fact of non remittance of the amount into the Government account. The tahasildar also admitted that reconciliation of accounts of the tahasil with that of the treasury was not being done regularly.

The matter was referred to Government in April 2006. Government stated in May 2006 that departmental actions were initiated for realisation of the said amount from the concerned officials; final action of Government was awaited (November 2006).

4.8 Short realisation of ground rent and cess

Under the provisions of Government orders of October 1961, May 1963 and February 1966, Government land can be leased out to commercial departments, local bodies, public sector undertakings and private entrepreneurs etc. on payment of premium fixed on the basis of market value plus annual ground rent at one *per cent* of the market value. Cess is payable at 50 *per cent* of the ground rent upto 1993-94 and 75 *per cent* of the ground rent thereafter.

Test check of records of tahasildar, Talcher revealed in October 2005 that lease of Government land measuring Ac. 75.61 in five revenue villages was sanctioned by Revenue Department on 28 March 2005 on payment of premium, annual ground rent, cess and back rent and cess. Although the land was in occupation of NTPC since 1988-89, tahasildar raised demand and realised Rs.9.97 crore, including Rs.15.61 lakh towards rent and cess for only 2004-05 without including rent and cess amounting to Rs.2.32 crore for the period 1988-89 to 2003-04.

The matter was brought to the notice of Government in April 2006. Government stated in May 2006 that the demand was raised against NTPC; report on realisation was awaited (November 2006).

4.9 Conversion of agricultural land for non agricultural purpose

Under Orissa Land Reforms Act (OLR Act) 1960, a *rayat* is liable to eviction if he has used agricultural land for non agricultural purpose. Such land can however, on an application made by him in the prescribed form, be resettled on lease basis on payment of premium at the prescribed rate.

Test check of records of three[40] tahasils revealed in December 2005 and February 2006 that 168 cases involving conversion of 55.504 acres of agricultural land for non agricultural purpose were instituted during 2004-05 on receipt of applications from *rayats*. The cases involving Rs.68.88 lakh were pending in tahasil offices for disposal as of February 2006. Non disposal of conversion cases resulted in delay in realisation of Rs.68.88 lakh towards premium.

After these cases were pointed out between December 2005 and February 2006 tahasildar stated that steps were being taken for speedy disposal of pending cases.

The matter was referred to Government in April 2006; reply had not been received (November 2006).

4.10 Short demand of capitalised value

As per Government of Orissa, Revenue Department Order of 29 June 2002, no premium shall be charged on land utilised for national highways purpose but the Union Government would be required to pay capitalised value of land revenue computed at the rate of 25 times of annual rental. As per Revenue Department letter dated 22 January 2005, it was clarified that capitalised value of land revenue is 25 times of annual ground rent and cess etc.

Test check of records of Bhubaneswar tahasil revealed in February 2006 that the National Highway Authority of India (NHAI) acquired 27.686 acres of land for the purpose of national highways in January 2004. The tahasildar while assessing the capitalised value of the land revenue accounted only for the ground rent and raised a demand for Rs.46.93 lakh without including the cess for Rs.35.20 lakh. The lessee paid the demanded amount. The cess amount of Rs.35.20 lakh remained unrealised in absence of any demand.

The matter was brought to the notice of Government in April 2006. Government stated in May 2006 that demand was raised for the above amount. Report on realisation was awaited (November 2006).

40 Bhubaneswar, Cuttack and Sambalpur

Stamp duty & Registration Fees

4.11 Short realisation of stamp duty and registration fees

As per the provision under Section 47(A) of Indian Stamps Act, highest sale value of similar classification of land in the same village should be the sale value of land for the purpose of registration. The highest value of three consecutive years upto the end of the month preceding the month in which the document is presented for registration should be considered for valuation.

Test check of records in 23[41] district sub registrar and sub registrar offices revealed that 523 documents were registered between 2003 and 2004 at Rs.28.15 lakh on consideration set forth in those instruments without verifying the true market value which was higher, on which stamp duty (SD) and registration fee (RF) of Rs. 86.56 lakh was leviable. This resulted in short levy of SD & RF of Rs.58.41 lakh.

After this was pointed out between March and December 2005, nine registering officers[42] admitted between March and December 2005 the fact of under valuation and agreed to realise the deficit SD & RF. Final reply from remaining registering authorities had not been received (November 2006).

The matter was referred to Government in April 2006. Government stated in August 2006 that Rs.0.99 lakh had been realised in disposal of 10 cases and 135 cases had been booked. Final reply in other cases had not been received (November 2006).

4.12 Non realisation of stamp duty and registration fees

Under the provision of Indian Stamp Act, 1899 while registering any instrument, if the registering authority believes that the market value put forth has not been rightly set forth in the instrument, he may, after registering such instrument refer the matter to the stamp collector for determination of market value of such property. The stamp collector after giving opportunity to the parties determines the market value and realises the deficit amount of stamp duty and registration fee, if any. The stamp collector may also determine the value within two years from the date of registration.

Test check of records of registration offices of 10 districts[43] revealed between November and December 2005 that in respect of 37,110 deeds registered prior

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41 **Banai, Banki, Bhadrak, Bhedan, Borigumma, Brahamgiri, Buguda, Dharamgarh, Dhusuri, Kantabanjhi, Kashipur, Keonjhar, Khaira, Khariar, Khurda, Koraput, Nandpur, Nayagarh, Nimapara, Nuapada, Odagaon, Puri and Udayagiri.**

42 **Banai, Bhadrak, Bhedan, Borriguma, Dhusuri, Khariar, Koraput, Nimapara and Nuapara.**

43 **Bhadrak, Cuttack, Dhenknal, Jajpur, Jharsuguda, Keonjhar, Khurda, Nayagarh, Puri and Sambalpur.**

to December 2003 and booked under 47A of Indian Stamp Act due to under valuation of documents, deficit stamp duty and registration fees of Rs.54.75 crore were lying unrealised as on 31 March 2005. Out of these 9,742 deeds involving stamp duty and registration fees of Rs.9.60 crore were covered under certificate case while no certificate case has been filed in respect of remaining deeds involving stamp duty and registration fees of Rs.45.15 crore as on March 2006.

After this was pointed out in audit in November and December 2005 it was stated in November and December 2005 that delay in institution of certificate proceeding was due to delay in forwarding the 47A cases by the registration officers and certificate cases would be instituted after fulfilment of all the prerequisite formalities prescribed under the Act. The reply was not tenable as the cases were registered prior to December 2003 and could not be finalised within the stipulated period of two years (November 2006).

CHAPTER-V: STATE EXCISE

5.1 Results of audit

Test check of records in the office of the Excise Commissioner, Deputy Commissioner of Excise and Superintendent of Excise conducted during the year 2005-06 revealed non/short realisation and loss of revenue amounting to Rs. 9.84 crore in 1,603 cases which may broadly be categorised as under: -

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Loss of revenue due to settlement/renewal of excise shops	790	5.21
2	Non/short realisation of excise duty/license fee/transport fee etc.	769	4.50
3	Other irregularities	44	0.13
Total		**1,603**	**9.84**

During the year 2005-06, the department accepted non levy/short realisation of duty etc. amounting to Rs. 4.29 crore in 712 cases pointed out in audit. In 171 cases the department recovered Rs. 0.21 crore during the period.

After issue of draft paragraphs, the department recovered Rs.2.13 crore pertaining to three observations pointed out during 2005-06.

A few illustrative cases highlighting important audit observations involving Rs. 1.69 crore are discussed in the following paragraphs.

5.2 Loss of revenue on renewal of IMFL off shops/country spirit shops

The Bihar and Orissa Excise Act (BOE Act), 1915 and rules made thereunder provides for grant of licences to shops dealing in India made foreign liquor (IMFL) and country liquor for a period of one year from 1 April to 31 March. According to provisions of statutory rules and orders (SRO) of January 1992 the exclusive privilege shall continue for consecutive three years with a 10 *per cent* hike on monthly consideration money of the previous year. The next settlement of the shops was due from April 2004. But Government decided to renew the IMFL off shops with five *per cent* increase in consideration money of the previous year from April 2004 to November 2004 and thereafter another five *per cent* increase upto March 2005. The country spirit shops were to be renewed without any increase in consideration money upto September 2004 and thereafter 10 *per cent* increase upto March 2005.

Test check of records of 30[44] district excise offices (DEOs) between April 2005 and February 2006 revealed that 563 IMFL off shops and 173 country spirit shops were renewed in phased manner as per the decision of Government violating provisions of SRO. This resulted in loss of revenue of Rs.3.78 crore. Further, three IMFL off shops and four country spirit shops did not renew their licences beyond September/November 2004 causing loss of revenue of Rs.52.57 lakh. Thus, periodical renewal of excise shops instead of annual renewal resulted in loss of revenue of Rs.4.31 crore on account of consideration money and duty on minimum guaranteed quantity (MGQ).

After this was pointed out between April 2005 and February 2006 the Superintendents of Excise (SE) replied that they had renewed the shops as per the instructions of Government.

The matter was brought to the notice of Government in April 2006; reply had not been received (November 2006).

5.3 Non realisation of differential duty

As per Excise Policy for the year 2004-05, the rate of excise duty on IMFL (whisky, brandy, rum, vodka made from imported element and bottled in India) was raised to Rs.200 per London proof litre (LPL) effective from 1 April 2004. Again the rate of duty was reduced ranging between Rs.125 and Rs.175 per LPL from 25 September 2004. Accordingly the Orissa State Beverages Corporation Limited (OSBC) levied and realised excise duty from retailers.

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44 **Angul, Balasore, Bargarh, Bhadrak, Bhawanipatna, Bolangir, Boudh, Cuttack, Deogarh, Dhenknal, Gajapati, Ganjam, Jagatsinghpur, Jajpur, Jharsuguda, Kendrapara, Keonjhar, Khurda, Korapur, Malkangiri, Mayurbhanja, Nawarangapur, Nayagarh, Nuapada, Phulabani, Puri, Rayagada, Sambalpur, Subarnapur and Sundergarh.**

Test check of records of SE, Khurda in May 2005 along with transactions of IMFL made by OSBC during 2004-05 revealed that 19 brands of IMFL were sold to retailers from the closing stock of 31 March 2004. But the differential excise duty amounting to Rs.1.49 crore on 4,26,263.1557 LPL of IMFL collected at the enhanced rate was not deposited into Government account by OSBC.

After this was pointed out in May 2005 Government stated in July 2006 that Rs.1.27 crore was realised. Report on realisation of balance amount was awaited (November 2006).

5.4 Non realisation of transport fee on mahua flower

As per Rule-11 of Board's Excise (Fixation of fees on mahua flower) Rules, 1976 as amended in June 2000, rate of fee in respect of transit pass for transporting mahua flower within the State shall be Rs.10 per quintal.

Test check of records of nine[45] DEOs between May 2005 and February 2006 revealed that 297 outstill liquor licensees procured 2,09,787.98 quintals of mahua flower during 2004-05. Against the transport fee of Rs.20.98 lakh, only Rs.1.25 lakh was realised leaving a balance of Rs.19.73 lakh unrealised. No demand for the balance amount was raised which resulted in short realisation of transport fee of Rs.19.73 lakh.

After this was pointed out between May 2005 and February 2006, Government stated in August 2006 that Rs.8.89 lakh was realised from four DEOs in respect of 130 licensees. Report on realisation of balance amount was awaited (November 2006).

45 **Angul, Bargarh, Bolangir, Boudh, Gajapati, Jharsuguda, Kalahandi, Nuapada and Sambalpur.**

CHAPTER-VI: FOREST RECEIPTS

6.1 Results of audit

Test check of records maintained in various forest divisions as well as Principal Chief Conservator of Forests, Orissa conducted during the year 2005-06 revealed non/short levy of interest, loss of revenue etc. of Rs. 22.52 crore in 2,806 cases which may broadly be categorised as under: -

(Rupees in crore)

Sl. No.	Category	No of cases	Amount
1	Loss of revenue due to short delivery/shortage of forest produce	86	8.40
2	Non/short levy of interest on belated payment of royalty.	1,235	1.05
3	Non realisation of royalty	38	2.21
4	Other irregularities	1,447	10.86
Total		**2,806**	**22.52**

During the year 2005-06, the department accepted under assessment etc. of Rs.22.47 crore in 2,563 cases pointed out in 2005-06 and earlier years and recovered Rs. 6.21 crore in 10 cases of earlier years.

A few illustrative cases highlighting important audit observations involving Rs. 10.07 crore are discussed in the following paragraphs.

6.2 Non levy of interest on belated payment of royalty on timber

Under Orissa Forest Contract Rules, 1966, if a contractor fails to pay any instalment of royalty for sale of forest produce by the due date, he is liable to pay interest at the rate of 6.25 *per cent* per annum on the instalment of default. As per provisions contained in Government of Orissa letter of February 1977,[46] the Orissa Forest Development Corporation Ltd. (OFDC) is also liable to pay interest for default in payment.

Test check of records of 21[47] forest divisions between April 2005 and March 2006 revealed that divisional forest officers (DFOs) did not levy interest of Rs.82 lakh on belated payment of royalty of Rs.5.97 crore during the period from 2000-01 to 2004-05 by OFDC Ltd. The delay ranged between six and 60 months as follows.

(Rupees in lakh)

Period	No. of lots	Royalty involved	Amount
Up to 12 months	151	69.94	2.77
Above 1 year to 2 years	345	157.36	13.31
Above 2 years to 5 years	706	369.86	65.92
Total	**1,202**	**597.16**	**82.00**

After this was pointed out between April 2005 and March 2006, Government stated in June 2006 that all the DFOs have raised demand on belated payment of interest; report on realisation was awaited (November 2006).

6.3 Non disposal of timber and poles

Government of Orissa, Forest and Environment Department in their order of July 1989 issued instructions for early disposal of timber and poles seized in undetected (UD) forest offence cases by prompt delivery to the OFDC Ltd. In case, corporation does not respond to the offer within 30 days, the DFO may proceed to dispose of the material by public auction in order to avoid loss of revenue due to deterioration in quality and value on account of prolonged storage.

Test check of records of 26 forest divisions[48] conducted between May 2005 and February 2006 revealed that 21,637.89 cft. of timber and 568 poles valued at Rs.48.31 lakh seized in 1,034 UD forest offence cases registered between 2003-04 and 2004-05 were lying undisposed. Inaction of DFOs for early

46 **No.18/77-4437/FF&AH**

47 **Anugul, Athamallik, Athagarh, Baliguda, Baripada, Bonai, Bolangir (West), Chilika Wild Life, Deogarh, Ghumsur (North), Jeypore, Kalahandi (North), Kalahandi (South), Karanjia, Keonjhar, Khariar, Khurda, Nayagarh, Rairakhol, Satkosia (WL) and Sundargarh**

48 **Angul, Athamallik, Athgarh, Baliguda, Baragarh, Baripada, Berhampur, Bolangir (West), Bonai, Cuttack, Dhenknal, Deogarh, Ghumsur (South), Ghumsur (North), Kalahandi (South) Kalahandi (North), Karanjia, Keonjhar, Khariar, Koraput, Nayagarh, Phulbani, Rairakhol, Satkosia (WL) Sambalpur and Sundergarh.**

disposal of timber and poles either by delivery to OFDC or by public auction resulted in non disposal of timber involving Government revenue of Rs.48.31 lakh.

The matter was brought to the notice of Government/PCCF in April 2006. PCCF stated in August 2006 that 13,801.3 cft of timber and 91 poles valued at Rs.30.75 lakh were disposed of in 643 cases. Final reply in other cases had not been received (November 2006).

6.4 Loss of revenue due to non achievement of target

Government of Orissa, Forest and Environment Department in their order of May 2005 appointed OFDC Ltd. and Tribal Development Co-operative Corporation (TDCC) as agents for collection of sal seeds for the crop year 2005 in 26 and 12 forest divisions respectively with a total target fixed for each forest division. The agents shall be responsible to procure sal seeds as per the target fixed by Government and pay royalty at the rate of Rs.250 per MT.

Test check of records in the office of the PCCF in January 2006 revealed that out of 38 forest divisions, in 33 divisions[49] the agents failed to collect sal seeds as per the target. The agents collected 9,944.489 MT of sal seeds (32.33 *per cent* of target) only against the target of 30,760 MT resulting in overall shortfall of 20,815.511 MT, despite the fact that there was bumper production of sal seeds during the year. Thus, non achievement of target resulted in loss of revenue of Rs.52.04 lakh. Further no demand was raised for the royalty on 9,944.489 MT amounting to Rs.24.86 lakh.

After this was pointed out, the PCCF confirmed the facts in January 2006.

The matter was referred to Government in April 2006. Government stated in May 2006 that the two corporations (agents) tried their best for collection of sal seeds in spite of constraints like maoist activities, unsecured rain, poor seed year, poor performance of primary collectors and overstated projection.

6.5 Non realisation of net present value

Under the provisions of Forest (Conservation) Act, 1980 read with orders of Hon'ble Supreme Court issued in November 2002, forest land may be diverted for non forest activities with the approval of Government of India (GOI) on

49 **Angul, Athgarh, Athmallik, Bamra W.L., Cuttack, Dhenkanal, Boudh, Ghumsur (North), Khurda, Nayagarh, Bolangir (East), Bolangir (West), Khariar, Baripada, Balasore, Karanjia, Rairangpur, Deogah, Keonjhar, Keonjhar (W.L.), Baragarh, Rairakhol, Sambalpur (South), Jeypore, Malkangiri, Koraput, Nawarangpur, Kalahandi (North), Ghursur (South), Parlakhemundi, Bonai, Rourkela and Sundergarh.**

payment of net present value (NPV)[50] of forest land and other allied charges. As per guidelines (revised) issued by GOI in December 2004, temporary working permission (TWP) may be accorded for already broken up area with the stipulation of payment of NPV by the user agency within six months of TWP.

Test check of records of DFO, Bonai revealed in August 2005 that GOI accorded TWP in favour of two mines over already broken up forest land of 137.855 ha with the stipulation of payment of NPV for the period between 16 February and 13 September 2005. Neither the DFO had taken any steps for realisation of NPV nor the user agencies paid the amount of Rs.8 crore calculated at the minimum rate of Rs.5.80 lakh per hectare as detailed below:

Name of the Mine	Sanction No. of TWP by GOI	Broken up area (in hectare)	NPV due to be realised with minimum crop density/period	Due date for deposit for NPV
Mahulsukha Manganese Mines M/s.AMTC (Pvt) Ltd.	No.8-93/04 FC dtd. 16.2.2005	78.119	Rs.453.09 lakh 16.2.2005 to 15.8.2005	15.8.2005
Narayanposhi Iron and Manganese Ore Mines M/s. AMTC (Pvt.) Ltd	No.8-34/2000 FC dtd. 14.3.2005	59.736	Rs.346.47 lakh 14.3.2005 to 13.9.2005	13.9.2005
		137.855 ha	**Rs.799.56 lakh**	

After this was pointed out in August 2005, the DFO, Bonai stated that due to non receipt of revised guidelines NPV was not realised.

The matter was referred to Government in April 2006; their reply had not been received (November 2006).

50 NPV- Net Present Value is payable at the rate of Rs.5.80 lakh to Rs.9.20 lakh per hectare of forest land depending on quantity and density of land in question converted for non forest land.

CHAPTER-VII: MINING RECEIPTS

7.1 Results of audit

Test check of records maintained in the office of the Deputy Director of Mines and mining officers during the year 2005-06 revealed non/short levy of royalty, dead rent/surface rent, non/short recovery of interest, non levy of interest and other irregularities of Rs.116.84 crore in 87 cases which may broadly be categorised as under: -

(Rupees in crore)

Sl. No.	Subject	No. of cases	Amount
1	Irregularities of miscellaneous nature	42	110.42
2	Non/short recovery of interest and non levy of interest	25	5.69
3	Non/short levy of royalty/dead rent/surface rent	20	0.73
Total		**87**	**116.84**

During the year 2005-06, the department accepted under assessment etc. of Rs.3.58 crore involving 60 cases. The department recovered Rs.3.04 crore in 97 cases of earlier years.

After issue of draft paragraph, the department recovered Rs.58.59 lakh pertaining to a single observation pointed out during 2005-06.

A few illustrative cases highlighting important audit observations involving Rs. 3.13 crore are discussed in the following paragraphs.

7.2 Non levy of interest on delayed payment of mining dues

Under Rule-64 A of Mineral Concession Rules (MC Rules), 1960, as amended from time to time, in case of belated payment of dead rent, royalty or other mining dues, simple interest at the prescribed rate[51] for the amount in default is chargeable from sixtieth day of the expiry of the due date for the period of default.

Test check of records of six[52] mining circles revealed between June and January 2006 that interest amounting to Rs.1.99 crore on belated payment of royalty during the period between 2000-01 and 2004-05 in 17 cases was not levied.

After this was pointed out between June 2005 and January 2006, Director of Mines stated in July 2006 that Rs.15.21 lakh was realised from Jajpur Road circle.

The matter was reported to the Government in March/April 2006. Government stated in July 2006 that Rs.0.58 lakh was realised in respect of Koira circle. Final reply had not been received (November 2006).

7.3 Short realisation of royalty on high grade iron ore

As per the MC Rules, in case of processing of other than run-of-mine[53] mineral, royalty shall be chargeable on unprocessed mineral i.e. mineral extracted from the seam.

Test check of records of Joda and Koira mining circles revealed in December 2005 that 14 mines of 13 lessees were not run-of-mines. The assessing officers incorrectly levied during April 2003 to March 2005 royalty of Rs.9.97 crore on 49,09,429.513 MT of processed mineral instead of Rs.11.11 crore on 49,10,301.953 MT of unprocessed mineral fed to the processing plant. This resulted in short levy of royalty of Rs.1.14 crore.

After this was pointed out in December 2005, DDM, Joda and Koira stated during 2003-04 and 2004-05 that royalty was charged on the processed mineral as per MC Rules. The replies were not tenable since as per MC Rules, in case of other than run-of-mine mineral, royalty was payable on unprocessed mineral instead of processed mineral.

The matter was brought to the notice of the department in April 2006; reply had not been received (November 2006).

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51 **24 *per cent* with effect from 1 April 1991.**

52 **Baripada, Jajpur Road, Keonjhar, Koira, Koraput and Talcher.**

53 **The blasted materials containing ore with other foreign materials brought to the crushing plant ore.**

CHAPTER-VIII: OTHER DEPARTMENTAL RECEIPTS

8.1 Results of audit

Test check of assessment and other connected documents pertaining to departmental receipts in the departments of Co operation, Energy, General Administration, Health & Family Welfare, Revenue and Steel & Mines during 2005-06 revealed non realisation of revenue, non/short levy of revenue etc of Rs.106.99 crore in 5,749 cases which may broadly be categorised as under:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Review on **Recoveries under Orissa Public Demands Recovery Act.**	1	40.62
2.	Non realisation of revenue	2,300	20.15
3.	Non/short levy of revenue	16	8.49
4.	Other irregularities	3,432	37.73
Total		**5,749**	**106.99**

During the year 2005-06, the departments accepted non/short levy of revenue, non realisation of revenue etc. of Rs.41.23 crore in 2,109 cases pointed out in 2005-06 and Rs.0.32 crore was realised in one case pointed out in 2004-05.

A few illustrative cases highlighting important audit observations involving Rs.45 crore including a review **"Recoveries under Orissa Public Demands Recovery Act"** involving Rs.40.62 crore are discussed in the following paragraphs.

8.2 Review on "Recoveries under Orissa Public Demands Recovery Act"

Highlights

- **Government revenue amounting to Rs.99.77 crore was pending collection for more than one year in four departments.**

{Para 8.2.6.1}

- **Certificate case for Rs.22.46 crore were instituted by certificate officers in 13 districts, but no further action was taken for realisation of the amount.**

{Para 8.2.9.1}

- **Five certificate cases involving Rs.11.92 crore were pending disposal in departmental certificate courts for more than one year.**

{Para 8.2.10}

Introduction

8.2.1 The Orissa Public Demands Recovery Act, 1962 (OPDR Act) was enacted to consolidate and amend the laws relating to the recovery of public demands in the State. It was supported by the rules made thereunder and executive instructions (EI) issued by the Board of Revenue. Public demand means any arrear or money specified in Schedule-I of the Act. In respect of demand payable to the Collector no requisition is necessary. In respect of demand payable to a person other than the Collector, the requiring officer is required to submit a requisition in the prescribed form to the respective certificate officer. Certificate officer shall scrutinise the requisition received and initiate certificate case by serving a demand notice on the certificate debtor after satisfaction that the demand payable is due and recoverable. The recovery can be made by adopting any of the following methods.

- by attachment and sale, if necessary of any property or in the case of immovable property by sale without previous attachment, or
- by arresting the certificate debtor and detaining him in the civil prison, or
- by both methods mentioned as above,

Government in July and August 1999 prescribed the financial limit for filing certificate cases in various Courts as under:

Below the rank of sub collector	Up to Rs.10 lakh
Sub collector	Rs.10 lakh to Rs.25 lakh
Collector	Above Rs. 25 lakh
District level officers of industries department	Cases relating to Prime Minister's Rozgar Yojana (PMRY) from March 2003

Organisational set up

8.2.2 Member Board of Revenue is the administrative head of the department. As per delegation under the OPDR Act, he is assisted by three Revenue Divisional Commissioners (RDC) in initiation and disposal of OPDR cases. At the district level, collector is responsible to monitor recoveries under OPDR Act. He is assisted by Sub collectors and any other certificate officers appointed by him with the sanction of RDC to perform the function of certificate officer in addition to their normal duties.

Order of appeal passed by Additional District Magistrate (ADM), Collector and RDC can be revised by Collector, RDC and Board of Revenue respectively.

Scope of audit

8.2.3 The review of relevant records covering the period from 2000-01 to 2004-05 was conducted between June 2005 and April 2006 in Board of Revenue, three RDC Offices and 10[54] out of 30 Collectorates. Out of 422 certificate officers functioning in the State as ascertained from the Review Report of Board of Revenue, 141 Courts[55] falling under the jurisdiction of the 10 collectors were test checked and documents relating to institution and disposal of certificate cases under the OPDR Act were examined.

Audit objective

8.2.4 The review was conducted with a view to:

- assess and evaluate efficiency and effectiveness of revenue recovery by the certificate officers under the Act during the last five years i.e 2000-01 to 2004-05;
- examine the extent of delay in institution of certificate cases;
- assess the effectiveness of internal control mechanism to expedite the realisation process.

54 **Bhadrak, Cuttack, Dhenknal, Jajpur, Jharsuguda, Keonjhar, Khurda, Nayagarh, Puri and Sambalpur.**

55 **Collectors-10, sub collectors-19 and other Courts 112 (i,e Nizarat officers, revenue officers, special certificate officers, certificate officers, tahasildars, additional tahasildars, executive magistrates and officers in charge of criminal courts)**.

Position of certificate cases

8.2.5 A quarterly review report (QRR) on institution and disposal of certificate cases is sent by Board of Revenue to the Secretary, Government of Orissa, Revenue Department, Chief Secretary, Minister of Revenue and Private Secretary to Chief Minister.

As per the report, Rs.147.10 crore in 1.22 lakh cases was outstanding as on 31 March 2005 as detailed below.

Year	Opening Balance		Cases instituted		Total		Cases disposed off		Balance		Percentage of disposal to total cases	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
2000-01	1,47,149	102.97	54,679	42.03	2,01,828	145.01	54,766	22.03	1,47,032	122.67	27	15
2001-02	1,45,919	135.93	87,341	40.92	2,33,260	176.85	88,321	23.09	1,44,939	153.76	38	13
2002-03	1,40,591	154.03	90,379	32.68	2,30,970	186.71	1,04,621	49.62	1,26,349	137.09	45	27
2003-04	1,26,349	137.09	74,969	39.48	2,01,318	176.57	80,956	29.31	1,20,362	147.26	40	17
2004-05	1,20,362	147.26	91,258	42.49	2,11,620	189.75	89,307	42.65	1,22,313	147.10	42	22
TOTAL			**3,98,626**	**197.60**			**4,17,971**	**166.70**				

8.2.5.1 At the end of the year 2000-01 as the report indicated, 1,47,032 cases involving Rs.122.67 crore were outstanding for disposal. But 1,45,919 cases involving Rs.135.93 crore was taken as opening balance for the year 2001-02, resulting in a discrepancy of 1,113 cases (less) and Rs.13.26 crore (more). Similarly 1,44,939 cases involving Rs.153.76 crore were outstanding for disposal at the end of the year 2001-02, whereas 1,40,591 cases involving Rs.154.03 crore was taken as opening balance for 2002-03 resulting in discrepancy of 4,348 (less) cases and Rs.0.27 crore (more). There is a discrepancy of 30 cases and Rs.0.31 crore in computing year wise figure for the year 2000-01. The discrepancies were not reconciled (November 2006).

8.2.5.2 The number of cases disposed during the period constituted 27 to 45 *per cent* of the cases pending for disposal, whereas the amount of cases disposed of ranged between 13.06 *per cent* and 26.58 *per cent*.

8.2.5.3 Year wise break up of outstanding certificate cases was neither available with Board of Revenue nor with Collectorates.

8.2.5.4 As per the QRR, the entire amount of Rs.166.70 crore involved in 4,17,971 cases disposed of during the years 2000-01 to 2004-05 was shown as collected while statements enclosed with QRR did not have any column on amount realised. The amount shown as collected is actually amount involved in cases disposed of as detailed below.

Out of 57 certificate courts test checked, 13 courts have no information about the amount recovered against disposal of 7,483 cases involving Rs.40.55 crore. Out of 7,931 cases involving Rs.93.46 crore disposed of by 44 revenue courts, 4,471 cases were disposed of with recovery of Rs.33.58 crore and 3,460 cases were disposed of without realisation of Rs.59.88 crore.

Thus the management information system (MIS) was not adequate enough to monitor the actual amount realised vis a vis the amount shown as disposed.

Non requisition/delay in requisition for certificate cases by requiring officers

8.2.6 Public demands are watched through demand, collection and balance (DCB) register by the requiring officers who are responsible for collection of the arrears. As per the OPDR Act, all arrears due but not collected are to be covered under certificate case. No time limit has been fixed in the Act for initiation of certificate case.

8.2.6.1 As per information collected from four departments, Rs.147.28 crore was outstanding, of which, Rs.99.77 crore was outstanding for more than one year. However, no action either to realise or to institute certificate cases were initiated against the defaulters. This resulted in non realisation of Rs.28.62 crore as detailed below:

(Rupees in crore)

Name of the Department	Under certificate case	Under court case	Under dispute	Under waival proposal	Realisable dues	Total
Water Resources	--	62.81	--	--	10.00	72.81
Mines	2.11	1.04	2.33	1.82	5.41	12.71
G.A. Deptt.	0.03	--	--	--	7.63	7.66
Forest	1.01	--	--	--	5.58	6.59
Total	**3.15**	**63.85**	**2.33**	**1.82**	**28.62**	**99.77**

After this was pointed out Mining and GA (Rent) departments recovered Rs.3.96 crore[56] and initiated certificate cases for Rs.0.06 crore. However, they were silent about initiation of certificate case for the residual arrear of Rs.24.60 crore. Report on action taken by Water Resources and Forest departments had not been received (November 2006).

8.2.6.2 The revenue inspector on the basis of tenant ledger maintained by him prepares a statement showing amount outstanding against the defaulters under his jurisdiction and forwards his report to the tahasildar. The tahasildar prepares DCB statement for the entire tahasil for onward submission to the collector. No requisition is required by Land Revenue Department to be submitted for initiation of certificate cases against the defaulters for realisation of these dues.

A scrutiny of DCB statement in respect of 63 out of 78 tahasils test checked between November and December 2005 revealed that arrear of revenue as on 1 April 2004 stood at Rs.20.55 crore. An amount of Rs.5.31 crore was realised during 2004-05. Though outstanding arrear of Rs.15.24 crore was liable to be covered under certificates, only Rs.6.46 crore was covered under certificate cases. Thus there was uncovered arrear of Rs.8.78 crore.

56 Mining – Rs.1.95 crore, Certificate Case recovery Rs.0.01 crore and GA (Rent) –Rs.2.00 crore Certificate case done Rs.0.06 crore.

After this was pointed out, the department stated that the concerned staff were instructed to realise the dues on personal contact and in event of their non realisation certificate cases would be lodged.

Doubtful realisation of certificate dues due to delay in filing requisition

8.2.7 When any public demand is payable to any person[57] other than the collector such person may send to the certificate officer a written requisition in the prescribed form. On receipt of requisition the certificate officer, if he is satisfied that the demand is recoverable and recovery by suit is not barred by law, may sign a certificate in the proper form and cause the certificate to be filed in his office.

Government sanctioned loans amounting to Rs.22.84 lakh between December 1985 and April 1993 to seven industrial units. These loans were disbursed between July 1987 and May 1994. Repayment of the loans was to start between July 1992 and May 1999 i.e after five years from the date of disbursement. In case of default, the units were liable to pay interest at rate of 11 *per cent* per annum as required under Industrial Policy Resolution (IPR) 1980.

During the course of audit it was noticed that none of the units paid any instalment of loan due between July 1992 and May 1999. No action was taken by the department to initiate certificate case till February 2003.

The General Manager, District Industries Centre (DIC), Bhubaneswar filed the requisition between February and October 2003. Certificate officer without ensuring existence of the units and assessing the possibility of recovery of the dues issued the certificates in November 2004 i.e after a lapse of one year. While serving notice the certificate officer (Sub collector, Bhubaneswar) noticed that four units were sold out, one unit was declared locked up, one unit was found to be non existent and one unit was seized by Orissa State Financial Corporation (OSFC). The matter was not taken up with the OSFC for settlement of the dues. The certificate officer did not take any coercive action against these industrial units. Thus due to delay in filing requisition and lack of proper watch over the activities of the loanees, the loanees closed down/disposed of the units and absconded without repaying the loans. This resulted in loss of Rs.54.93 lakh including interest of Rs.32.09 lakh. Since the cases were instituted against the Managing Director or General Manager of the concern by designation the cases would not have yielded any result after the closure of the unit.

After this was pointed out, the certificate officer replied that he was not at fault because the requisitions were filed late and by the time of serving notice the units were closed down/disposed of.

57 Other departments of Government except revenue department, public sector undertakings, municipality, NAC and banks.

Handling of certificate cases by improper Court

8.2.8 According to Government circular of July and August 1999 certificate cases exceeding Rs.25 lakh were to be filed and heard in the court of the collector and cases within Rs.10 lakh and Rs.25 lakh were to be filed and heard in the court of the sub collector.

Test check of records revealed that 22 cases involving Rs.16.36 crore were filed between 1993 and 2005 and dealt in 13 lower courts. Of these, 10 cases were already pending with six courts on the date of issue of the circular.

It was noticed that 14 cases of Rs.15.13 crore each involving more than Rs.25 lakh were required to be filed and heard in the court of respective eight collectors. However, these cases were filed and were pending with the court of revenue officer, tahasildar and sub collectors though these certificate cases should have been forwarded to their respective courts for final decision. In one case the sub collector dropped the certificate case involving Rs.58.95 lakh (including interest of Rs.29.47 lakh) stating that the amount was irrecoverable. Another certificate case involving Rs.48.16 lakh was dropped at the request of the requiring officer. The remaining 12 cases were pending with the lower courts.

Similarly eight cases of Rs.1.23 crore each involving Rs.10 lakh to Rs.25 lakh were required to be filed and heard in the court of respective sub collectors. However, these cases were filed and kept pending with the tahasildar and revenue officer without being transferred to the courts of respective sub collectors for final decision.

After this was pointed out in August 2005 two certificate officers transferred five cases involving Rs.3.77 crore to the designated courts, seven cases involving Rs.2.35 crore are yet to be transferred and no information was received for 10 cases involving Rs.10.24 crore (November 2006).

Non execution of certificates

8.2.9 According to Section-13 of the OPDR Act, the certificate officer may execute the certificate in the event of non payment of the dues by the certificate debtor after a lapse of 30 days of serving notice under section 6. In the event of denial of liability by the certificate debtor, the case is required to be heard by the certificate officer after taking evidence and the demand is to be determined. The certificate debtor has to pay the determined demand within 30 days of court order failing which the certificate would be executed.

Further as per Section 11 of the Act, a certificate may be executed by the certificate officer in whose court the case is originally filed or the certificate officer to whom the case is sent for execution.

8.2.9.1 Scrutiny of records of 13 districts[58] relating to the period 2000-01 to 2004-05 revealed that in 1,847 out of 3,898 cases test checked, certificate cases were initiated between April 2000 and March 2005.

(Rupees in crore)

Sl No.	No. of offices	Period	No. of cases	Amount	Nature of irregularity
1	51	March 1992 to February 2005	1,125	12.74	Notices were issued between April 2000 and March 2005 followed by reminders.
2.	34	August 1992 to October 2005	225	1.61	Though attachment notices were issued between November 1983 and January 2006, no action was taken to attach the property, sale and recover the certificate amount due from the certificate debtor even after a lapse of three to 257 months.
3.	35	February 1986 to November 2004	494	2.92	Arrest warrants were issued between August 1994 and March 2005, but not executed at all.
4.	01	February 2003 to May 2003	03	5.19	Demand confirmed and retained for realisation.
Total				**22.46**	

Even though the stipulated period of 30 days had expired, no further action was taken to execute the certificate cases. After this was pointed out, the executive officers stated that necessary action to execute the cases would be initiated.

8.2.9.2 Test check of 45 cases involving Rs.22.35 crore in three certificate courts revealed that in 26 cases demand for Rs.12 crore was determined and the cases were forwarded between September 1998 and November 2004 to other courts for execution. But the certificate dues were not realised nor the certificates were executed though four to 81 months have elapsed after confirmation of the dues. This resulted in non realisation of Government dues for Rs.12 crore.

Delay in realisation due to locking up cases in appeal

8.2.10 As per provisions of the OPDR Act, every collector, certificate officer, assistant collector, deputy collector, sub deputy collector acting under this Act shall have the powers of a civil court for the purpose of receiving evidence, administering oaths, enforcing the attendance of witnesses and compelling production of documents. Further judicial courts including the Hon'ble High Court of the State also decide the appeal cases.

Test check of records revealed that five certificate cases involving arrear of Rs.11.92 crore could not be realised due to non disposal of appeal cases by departmental certificate courts which were pending for one to three years.

(Rupees in lakh)

Certificate case No.	Certificate court	Certificate amount	Court in which lying	Date from which lying
55/85	Revenue Officer, Banki	0.70	ADM, Cuttack	7/1986
02/01	Collector, Jharsuguda	858.84	RDC (ND), Sambalpur	9/2002
01/01	Collector, Sundergarh	297.74	-do-	1/2003
02/02	Sub collector, Jeypore	0.92	ADM, Koraput	12/2004
02/04	Collector, Sundergarh	33.99	RDC (ND), Sambalpur	10/2004
Total		**1,192.19**		

58 Angul, Bhadrak, Cuttack, Dhenkanal, Jajpur, Jharsuguda, Keonjhar, Khurda, Koraput, Nayagarh, Puri, Sambalpur and Sundergarh.

The cases pending in the departmental courts need to be pursued in the interest of revenue.

Delay in remittance of collected certificate dues

8.2.11 As per executive instruction 34(2) issued by the Board of Revenue, after the amount is recovered by the certificate officer it will be credited to the department on whose behalf the certificates were issued.

It was revealed in seven out of 19 sub collectorates test checked that an amount of Rs.28.64 lakh was not credited to respective departments on whose behalf the certificate dues were collected.

(Rupees in lakh)

Sl. No	Name of the Sub collectorate	Period	Amount	Cash at Bank	Cash at chest
1.	Sambalpur	Accumulated amount up to July 2006.	42.71	42.30	0.41
2.	Athagarh	Accumulated amount up to February 2006.	4.41	--	4.41
3.	Anandpur	Accumulated amount up to March 2005.	2.84	--	2.84
4.	Dhenknal	Accumulated up to March 2005.	2.54	--	2.54
5.	Kamakshyanagar	up to March 2000. 2001-02 204-05 2005-06 (upto 2/06)	0.17 0.01 0.17 0.04	--	0.39
6.	Khurda	Accumulated amount up to July 2006	1.13	--	1.13
7.	Bhubaneswar	Accumulated amount up to July 2006	16.92	--	16.92
Total					**28.64**

The position in respect of others could not be made available to audit.

After this was pointed out, the concerned sub collectors agreed to credit the amount to the respective departments at an early date (November 2006).

Internal control and monitoring

8.2.12 The OPDR Act, rules made thereunder and executive instructions (EI) issued by the Board of Revenue from time to time stipulated several measures for exercising effective internal control and monitoring of certificate cases. Audit revealed the following deficiencies in implementation of the control system.

- As per EI 25 and 80, registers of requisitions maintained by the requiring officer and the register of certificate for monitoring cases at the level of certificate officers are required to be compared at the end of each month. Audit scrutiny revealed that 50 certificate officers out of 141 test checkd did not do so. As a result it could not be ascertained whether or not the certificate cases were being instituted timely.
- As per EI 22, the certificate officer is required to scrutinise the requisitions. Due to non maintenance of a register to record receipt of requisitions, conversion of the requisition into certificate could not be monitored. The information about pending requisitions was not available with any of the offices test checked.

- EI 87 and 88 provide for conducting weekly and half yearly inspection of certificate courts by the concerned certificate officer and annual inspection of certificate courts by the Collector/Additional District Magistrates. Such inspections were not carried out in any of the certificate offices test checked.
- The format of consolidated report did not provide for mentioning the actual amount realised on disposal. As a result the amount actually realised was not known to the Board of Revenue.

Conclusion

8.2.13 As on March 2005, total 1,22,313 cases were outstanding but age wise analysis of the outstanding cases was not available with the Board of Revenue and Collectors. This weakened monitoring of pending cases with likely risk of old cases becoming unrealisable. The requiring officers were not timely sending requisitions for certificates, thereby delaying process of realisation. The certificates were not being executed expeditiously on expiry of the notice period, thereby leading to uncertainty in realisation of dues. Despite downward trend in the overall position of pending certificate cases in the recent past which was mainly due to creation of more departmental courts to deal with arrears, the system still needs a lot of improvement in the area of monitoring disposal of certificate cases.

Recommendations

8.2.14 Management information system needs to be strengthened so as to reflect the actual collection of dues. Besides, periodical and age wise analysis of outstanding cases should be made and effective steps taken to dispose of old cases.

- Statutory inspection should be carried out regularly ensuring effective compliance by certificate courts.
- Steps should be taken to ensure expeditious execution of certificates wherever required.
- Suitable instructions may be issued to the requiring officers for prompt identification of arrear cases and issue of requisition for initiation of certificate cases.

Acknowledgement

8.2.15 Audit Review Committee (ARC) meeting was held in July 2006. All the points were discussed in the ARC meeting. The views of Government were taken into account while drafting the review.

8.3 Non levy of electricity duty and interest

Under the Orissa Electricity Duty (OED) Act, 1961 as amended from time to time and rules made thereunder, electricity duty (ED) shall be collected by the licensee from the consumer and paid to Government on the energy supplied to the category of consumer specified therein. The Act further envisages that if ED collected from the consumer is not paid to Government within the prescribed period, the licensee shall be liable to pay interest at the rate of 18 *per cent* on the amount of duty remaining unpaid until the payment thereof.

Audit of CEI, Orissa, Bhubaneswar in October 2005, revealed that M/s GRID Corporation (GRIDCO) supplied emergency energy[59] of 8.69 crore units to four captive power plants of two[60] industrial consumers during the period from April 2000 to March 2004 but did not levy ED of Rs.2.17 crore for the said period. Besides, interest of Rs.1.15 crore was payable upto March 2005 due to non payment of ED.

After this was pointed out in October 2005, the CEI (T&D), Orissa stated in February 2006 that GRIDCO was asked to make payment of ED dues with interest. Accordingly GRIDCO had deposited ED of Rs.2.03 crore in January 2006 towards the emergency and backup power.

The matter was reported to Government in January 2006. Government in May 2006 confirmed the payment of Rs.2.03 crore by GRIDCO (November 2006).

8.4 Non realisation of electricity duty and interest

Under the OED Act as amended from time to time and Rules made thereunder, ED shall be collected from the consumer and paid to Government. The Act further provides that where the amount of ED collected by a licensee from the consumer is not paid to Government within the prescribed period (30 days of expiry of the month in which the duty is collected), the licensee shall be liable to pay interest at the rate of 18 *per cent* per annum on the unpaid duty till the date of payment.

Test check of records of Electrical Inspector (EI), Berhampur in October 2005, revealed that during the period October 2001 to January 2003, the licensee, Nawarangpur Electrical Division of Southern Electricity Supply Company of Orissa Ltd. collected ED of Rs.48.84 lakh from the consumers but did not remit the same to Government account. Interest of Rs.23.86 lakh accrued thereon as of March 2005 due to non payment of the collected duty. Thus,

59 **Energy supplied to industries having captive power plant during non operation of captive power plant.**

60 **M/s. Indian Metal and Ferro Alloys and National Aluminum Company.**

Government revenue of Rs.72.70 lakh towards ED and interest was irregularly kept out of Government account and remained unrealised.

After this was pointed out in October 2005, Government stated in May 2006 that the CEI (T&D) requested General Manager (GM) (Finance), SOUTHCO, Berhampur for early payment of entire amount. Report on recovery had not been received (November 2006).

8.5 Short levy of inspection fees

Under the Indian Electricity Rules, 1956 and Government of Orissa, Department of Energy notification of 28 December 2001, extra high voltage lines are required to be inspected and tested by the inspector annually and inspection fees thereof are to be levied against GRID Corporation.

Test check of records of CEI (T&D), Orissa, Bhubaneswar in October 2005, revealed that the GRID Corporation was to pay an amount of Rs.3.96 lakh towards inspection fees for existing and new extra high tension lines for the year 2004-05. The CEI while raising the demand in January 2005 did not take into account the existing installations and raised demand for Rs.0.12 lakh only. This resulted in short levy of inspection fees for Rs.3.84 lakh.

After this was pointed out in October 2005, Government stated in June 2006 that demand of Rs.3.84 lakh had been raised. Further reply had not been received (November 2006).

8.6 Short realisation of inspection fees

According to Government of Orissa, Department of Energy notification of December 2001, inspection fee of Rs.25 per TV connection is leviable on cable TV network effective from 29 March 2002 and the EI is required to levy such inspection fees.

During the audit of EI, Bhubaneswar, cross verification of records of the Superintendent (Service Tax) Bhubaneswar in March 2006 revealed that M/s. ORTEL Communication Ltd deposited service tax of Rs.1.26 crore collected from the viewers for the year 2004-05. The monthly fees for cable connection and service tax (eight *per cent*) thereon being Rs.215 per month, the rate of service tax per consumer is calculated at Rs.17.20. Thus number of average viewers are 61,294 and inspection fees payable for 2003-04 and 2004-05 amount to Rs.30.65 lakh at the rate of Rs.25 per connection. But during the period EI collected inspection fees of Rs.1.13 lakh on 2,250 customers only. This resulted in short realisation of inspection fee of Rs.29.52 lakh.

The matter was reported to Government in April 2006. Government stated in May 2006 that demand for Rs.31.40 lakh for the period 2003-04 and 2004-05 was raised against the consumer towards inspection fee and other charges taking into account the number of viewers as 56,160 and the assessee had paid an amount of Rs.4.28 lakh.

Bhubaneswar **(Atreyee Das)**
The **Accountant General (CW & RA)**
Orissa

Countersigned

New Delhi **(Vijayendra N. Kaul)**
The **Comptroller and Auditor General of India**

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