

PREFACE

This report for the year ended 31 March 2008 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/value added tax (VAT)/entry 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 2007-08 as well as those noticed in earlier years but could not be included in the previous years' reports.

OVERVIEW

I General

This report contains 44 paragraphs including two reviews pointing out non-levy or short levy of tax, interest, penalty, revenue foregone, etc., involving Rs. 484.80 crore. Some of the major findings are mentioned below:

The Government's total revenue receipts for the year 2007-08 amounted* to Rs. 21,967 crore against Rs. 18,033 crore in the previous year. Of this, 43.29 *per cent* was raised by the State through tax revenue (Rs. 6,856 crore) and non-tax revenue (Rs. 2,654 crore). The balance 56.71 *per cent* was received from the Government of India in the form of State's share of divisible Union taxes (Rs. 7,846 crore) and grants-in-aid (Rs. 4,611 crore).

(Paragraph 1.1)

Test check of the records of sales tax/value added tax (VAT)/entry tax, motor vehicles tax, land revenue, state excise, forest receipts, mining receipts and other departmental offices conducted during the year 2007-08 revealed underassessment/short levy/loss of revenue, etc., amounting to Rs. 1,241.86 crore in 2,71,010 cases. During the year 2007-08, the concerned departments accepted underassessment and other deficiencies of Rs. 232.50 crore involved in 1,56,075 cases which were pointed out in 2007-08 and earlier years. Of these, the departments recovered Rs. 20.54 crore in 20,148 cases.

(Paragraph 1.8)

As on 30 June 2008, 3,316 inspection reports issued up to December 2007 containing 9,429 audit observations involving Rs. 3,144.73 crore were outstanding for want of comments/final action by the concerned departments.

(Paragraph 1.9)

II Sales Tax and Entry Tax

Review on "Concessions and exemptions on interstate sales and branch transfers" revealed the following:

- Acceptance of defective/duplicate/manipulated declarations by the assessing officers led to underassessment of tax of Rs. 6.11 crore.

(Paragraph 2.2.6)

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

- Irregular allowance of exemption/concession without supporting declarations, application of lower rate of tax after disallowing declarations, exemption on inadmissible items, etc., resulted in short levy of tax of Rs. 8.23 crore in 26 cases.

(Paragraph 2.2.9)

- Due to irregular allowance of exemption on the basis of invalid/duplicate declaration forms, transfer of goods to places not included in the registration certificate of the dealer, there was underassessment of tax of Rs. 18.40 crore.

(Paragraph 2.2.10)

Exemption of sales tax of Rs. 7.06 crore was allowed to three industrial units under the sales tax incentive scheme on inadmissible items and in excess of the admissible limit.

(Paragraph 2.3)

A manufacturer of polyester staple fibre and yarn did not disclose purchase of diesel worth Rs. 12.67 crore leading to underassessment of tax of Rs. 2.04 crore.

(Paragraph 2.4.1)

Penalty of Rs. 1.12 crore was not levied for excess claim of deduction, non-payment of tax on purchases and inadmissible purchases at a concessional rate of tax.

(Paragraph 2.5)

A dealer engaged in generation of electricity was irregularly allowed concessional rate of tax on purchase of diesel worth Rs. 4.53 crore resulting in short levy of tax of Rs. 79.81 lakh.

(Paragraph 2.7)

Payment of tax by the assesseees at lower rates was irregularly accepted by the assessing authorities in assessment resulting in short levy of entry tax of Rs. 2.29 crore including penalty.

(Paragraph 2.14)

Failure of the assessing authorities to detect concealment of turnover by the assesseees led to non-levy of tax of Rs. 1.36 crore including penalty.

(Paragraph 2.16)

III Motor Vehicles Tax

Motor vehicles tax and additional tax including penalty of Rs. 55.34 crore was not realised in respect of 27,427 vehicles.

(Paragraph 3.2.1)

Motor vehicles tax and additional tax including penalty of Rs. 2.52 crore was not realised from 150 motor vehicles owners for violation of off road declarations.

(Paragraph 3.3)

Process fee in respect of 1.17 lakh cases amounting to Rs. 1.17 crore was not realised from the vehicle owners.

(Paragraph 3.4)

IV Land Revenue, Stamp Duty and Registration Fees

Non-finalisation of alienation cases resulted in non-realisation of Rs. 120.67 crore towards premium, ground rent, cess, capitalised value and interest.

(Paragraph 4.2)

Non-raising of demand towards capitalised value of cess from three organisations resulted in short demand of Rs. 4.47 crore including interest.

(Paragraph 4.3)

Non-levy of premium on lease of land from a Central Government organisation resulted in non-realisation of Rs. 3.10 crore including interest.

(Paragraph 4.4)

Demand for incidental charges towards establishment cost, contingencies, etc., was not raised against a public sector undertaking causing short demand of Rs. 1 crore.

(Paragraph 4.5)

There was short realisation of stamp duty and registration fees of Rs. 1.39 crore in 203 documents due to non-consideration of highest sale value of similar class of land.

(Paragraph 4.7)

There was short realisation of additional stamp duty of Rs. 1.30 crore due to application of lower rate of stamp duty payable under the Orissa Town Planning and Improvement Trust Act.

(Paragraph 4.8)

V State Excise

Excise revenue on methanol was neither paid by an industrial unit nor demanded by the department resulting in evasion of excise revenue of Rs. 3.10 crore.

(Paragraph 5.2)

Non-affixture of excise adhesive labels on the cases/cartons containing beer imported by the Orissa State Beverage Corporation Ltd. led to non-realisation of excise revenue of Rs. 27.22 lakh.

(Paragraph 5.4)

VI Forest Receipts

Non-disposal of timber and poles resulted in blockage of Government revenue of Rs. 65.13 lakh.

(Paragraph 6.2)

The department did not levy interest of Rs. 30.32 lakh on belated payment of royalty on timber by the Orissa Forest Development Corporation Ltd.

(Paragraph 6.3)

VII Mining Receipts

A review of "Receipts from major minerals" revealed the following:

- Due to the absence of a system of monitoring the settlement process, the directorate and the Government were not aware of the low percentage of settlement of lease applications which was only 4.93 *per cent* and consequent non-realisation of dead rent of Rs. 8.69 crore and stamp duty and registration fee of Rs. 8.94 crore.

(Paragraph 7.2.7)

- Failure of the Government to safeguard the interest of the revenue before prescribing the basis for calculation of annual royalty for levy of stamp duty and registration fees led to loss of revenue of Rs. 4.94 crore.

(Paragraph 7.2.8)

- For illegal mining of 10.22 lakh MT of minerals without a mining lease, Rs. 88.47 crore though realisable towards the cost of mineral was not realised.

(Paragraph 7.2.13)

- Due to inaction of the department for disposal of left over minerals, revenue of Rs. 66.38 crore remained unrealised.

(Paragraph 7.2.14)

- Due to non-adherence to the prescribed assessment procedure, there was non/short levy of royalty of Rs. 15.95 crore.

(Paragraph 7.2.15)

- Due to non-initiation of proposals to resettle the non-working mines, the Government was deprived of revenue of Rs. 25.26 crore.

(Paragraph 7.2.17)

VIII Other Departmental Receipts

Inordinate delay in finalising a case for grant of exemption of electricity duty to an industrial unit led to non-realisation of revenue of Rs. 10.33 crore.

(Paragraph 8.2)

Failure of the department to levy electricity duty on internal consumption of electricity by the generating units beyond the admissible limit led to non-levy of duty Rs. 2.15 crore.

(Paragraph 8.3)

Failure of the department in raising demand against an electricity distribution company towards inspection fee resulted in non-realisation of Rs. 2.08 crore.

(Paragraph 8.4)

Inaction of the department in leasing out a major water reservoir for fishing led to loss of revenue of Rs. 1.66 crore.

(Paragraph 8.5)

CHAPTER-I: GENERAL

1.1 Trend of revenue

1.1.1 The tax and non-tax revenue raised by the Government of Orissa during the year 2007-08, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(Rupees in crore)

		2003-04	2004-05	2005-06	2006-07	2007-08
I	Revenue raised by the State Government					
	• Tax revenue	3,301.73	4,176.60	5,002.28	6,065.07	6,856.09
	• Non-tax revenue	1,094.55	1,345.52	1,531.90	2,588.12	2,653.58
	Total	4,396.28	5,522.12	6,534.18	8,653.19	9,509.67
II	Receipts from the Government of India					
	• State's share of divisible Union taxes	3,327.68	3,977.66	4,876.75	6,220.42	7,846.50 ¹
	• Grants-in-aid	1,716.28	2,350.41	2,673.78	3,159.02	4,611.02
	Total	5,043.96	6,328.07	7,550.53	9,379.44	12,457.52
III	Total receipts of the State Government (I+II)	9,440.24	11,850.19	14,084.71	18,032.63	21,967.19
IV	Percentage of I to III	46.57	46.60	46.39	47.98	43.29

The above table indicates that during the year 2007-08, the revenue raised by the State Government was 43.29 *per cent* of the total revenue receipts (Rs. 21,967.19 crore) against 47.98 *per cent* in the preceding year. The balance 56.71 *per cent* of receipts during 2007-08 was from the Government of India.

¹ For details, please see Statement No. 11- Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Orissa for the year 2007-08. Figures under the minor head 901-Share of net proceeds assigned to the 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 following table presents the details of tax revenue raised during the period from 2003-04 to 2007-08:

(Rupees in crore)

Sl. No.	Heads of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Percentage of increase (+) or decrease (-) in 2007-08 over 2006-07
1.	Sales tax	1,546.47	2,061.23	2,524.18	3,042.34	3,567.16	(+) 17.25
	Central sales tax	317.50	410.16	487.55	722.48	551.27	(-) 23.70
2.	Taxes and duties on electricity	200.43	261.89	353.13	282.58	327.46	(+) 15.88
3.	Land revenue	103.27	131.59	69.62	226.38	276.16	(+) 21.99
4.	Taxes on vehicles	280.03	338.11	405.86	426.54	459.42	(+) 7.71
5.	Taxes on goods and passengers	377.19	384.93	463.34	574.00	626.90	(+) 9.22
6.	State excise	256.37	306.61	389.33	430.07	524.93	(+) 22.06
7.	Stamp duty and registration fees	153.07	197.87	236.06	260.49	404.76	(+) 55.38
8.	Other taxes and duties on commodities and services	14.77	25.14	6.75	26.59	31.59	(+) 18.80
9.	Other taxes on income and expenditure-tax on professions, trades, callings and employments	52.63	59.07	66.46	73.60	86.44	(+) 17.45
Total		3,301.73	4,176.60	5,002.28	6,065.07	6,856.09	

The reasons for variation in receipt for 2007-08 from those of 2006-07 in respect of principal heads of revenue were as follows:

Sales tax: The increase (17.25 per cent) was mainly due to widening of tax base, higher growth in VAT because of better administrative monitoring and self policing nature of VAT. The decrease (23.70 per cent) in central sales tax (CST) was due to reduction of CST rate from four per cent to three per cent with effect from 1 April 2007.

Land revenue: The increase (21.99 per cent) was mainly due to conversion of land, alienation of land to different agencies and collection of premium thereof and collection of more royalty.

State excise: The increase (22.06 per cent) was mainly due to increase in fee and duty structures, better enforcement, controlling evasion and restricting illicit operation.

The other departments did not intimate (November 2008) the reasons for variation in receipts from those of the previous year despite being requested (April 2008) followed by reminders in July 2008.

1.1.3 The following table presents the details of major non-tax revenue realised during the period 2003-04 to 2007-08:

(Rupees in crore)

Sl. No.	Heads of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Percentage of increase (+) or decrease (-) in 2007-08 over 2006-07
1.	Non-ferrous mining and metallurgical industries	552.06	670.52	805.03	936.60	1,126.06	(+) 20.23
2.	Forestry and wild life	48.64	84.72	59.13	130.63	82.66	(-) 36.72
3.	Interest receipts	164.38	249.04	298.02	398.42	570.39	(+) 43.16
4.	Education	12.00	15.76	42.99	41.94	41.95	(+) 0.02
5.	Irrigation & inland water transport	36.25	40.45	44.05	54.41	48.90	(-) 10.13
6.	Public works	15.06	17.05	18.23	24.96	31.61	(+) 26.64
7.	Police	15.55	21.24	23.05	23.39	29.17	(+) 24.71
8.	Medical and public health	7.51	12.98	9.26	13.07	14.28	(+) 9.26
9.	Power	2.90	4.19	2.91	1.23	1.05	(-) 14.63
10.	Miscellaneous general services	5.38	31.70	7.62	777.36	396.95	(-) 48.94
11.	Other non-tax receipts	226.35	160.97	212.51	169.28	290.96	(+) 71.88
12.	Co-operation	2.39	2.72	2.13	2.39	2.29	(-) 4.18
13.	Other administrative services	6.08	34.18	6.97	14.44	17.31	(+) 19.88
Total		1,094.55	1,345.52	1,531.90	2,588.12	2,653.58	

The reasons for variation in receipt for 2007-08 from those of 2006-07 in respect of principal heads of revenue were as follows:

Non-ferrous mining and metallurgical industries: The increase (20.23 per cent) was mainly due to enhancement of royalty on coal, enforcement of Minor Mineral Rules, 2007 and increase in dispatch of major revenue earning minerals like coal, iron ore and dolomite.

Forestry and wildlife: The decrease (36.72 per cent) was mainly due to refund of revenue amounting to Rs. 39.59 crore towards recovery of net present value (NPV) of forest land diverted under the Forest Conservation Act, 1980 previously taken as revenue.

Interest receipts: The increase (43.16 per cent) was mainly due to collection of outstanding dues from Orissa State Co-operative Bank, Central Co-operative Banks, Marketing Federation and collection of more interest on sales tax/electricity duty loans.

Miscellaneous general services: The decrease (48.94 per cent) was mainly due to less receipt of debt relief from the Government of India in comparison with the previous year.

The other departments did not intimate (November 2008) the reasons for variation in receipts from those of the previous year despite being requested (April 2008) followed by reminders in July 2008.

1.2 Variations between the budget estimates and actuals

The variations between the budget estimates and actuals of revenue receipts for the year 2007-08 in respect of principal heads of tax and non-tax revenue are mentioned below:

(Rupees in crore)

Sl. No.	Heads of revenue	Budget estimates	Actual receipts	Variations increase (+) shortfall (-)	Percentage of variation
Tax revenue					
1.	Sales tax	4,054.71	4,118.43	(+) 63.72	(+) 1.57
2.	Taxes on goods and passengers	602.70	626.90	(+) 24.20	(+) 4.02
3.	Taxes and duties on electricity	330.19	327.46	(-) 2.73	(-) 0.83
4.	Land revenue	230.91	276.16	(+) 45.25	(+) 19.60
5.	Taxes on vehicles	552.00	459.42	(-) 92.58	(-) 16.77
6.	State excise	553.70	524.93	(-) 28.77	(-) 5.20
7.	Stamp duty and registration fees	359.84	404.76	(+) 44.92	(+) 12.48
Non-tax revenue					
8.	Mines and minerals	1,060.00	1,126.06	(+) 66.06	(+) 6.23
9.	Forestry and wildlife	62.26	82.66	(+) 20.40	(+) 32.77
10.	Education	43.00	41.95	(-) 1.05	(-) 2.44
11.	Interest receipts	389.53	570.39	(+) 180.86	(+) 46.43
12.	Police	28.27	29.17	(+) 0.90	(+) 3.18

The reasons for variations in the budget estimates and the actuals as furnished by the department concerned were as follows:

Land revenue: The increase (19.60 per cent) was mainly due to conversion of land, alienation of Government land to different agencies and collection of premium thereof and collection of more royalty.

Taxes on vehicles: The decrease (16.77 per cent) was mainly due to less registration of commercial vehicles as compared to the previous year and campaign against carriage of overloading.

Forestry and wildlife: The increase (32.77 per cent) was mainly due to deposit of excess amount of royalty on timber and other produce by the Orissa Forest Development Corporation Ltd.

Interest receipts: The increase (46.43 per cent) was mainly due to collection of outstanding dues from Orissa State Co-operative Bank, Central Co-operative Banks, Marketing Federation and collection of more interest on sales tax/electricity duty loans.

The other departments did not intimate (November 2008) the reasons for variation despite being requested (April 2008) followed by reminders in July 2008.

1.3 Analysis of collection

The break-up 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 2007-08 and the corresponding figures for the preceding two years as furnished by the department is mentioned below:

(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	2005-06	2,909.94	72.90	46.48	22.14	3,007.18	96.80
	2006-07	3,592.01	136.46	84.08	39.73	3,772.82	95.00
	2007-08 ²	4,036.30	31.66	77.69	27.22	4,118.43	98.01
2. Profession tax	2005-06	64.18	--	--	--	64.18	100.00
	2006-07	69.98	0.10	--	--	70.08	99.00
	2007-08 ²	76.85	0.11	0.20	--	77.16	99.60
3. Entry tax	2005-06	432.71	29.01	8.33	0.82	469.23	92.20
	2006-07	537.82	30.49	5.39	0.18	573.52	93.70
	2007-08 ²	612.71	19.84	8.61	0.29	640.87	95.61
4. Luxury tax	2005-06	0.08	--	--	--	0.08	100.00
	2006-07	0.01	--	--	--	0.01	100.00
	2007-08 ²	0.01	--	--	--	0.01	100.00
5. Entertainment tax	2005-06	2.98	--	0.09	--	3.07	97.00
	2006-07	2.46	--	0.08	--	2.54	97.00
	2007-08 ²	2.45	0.01	0.19	--	2.65	92.45

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

Thus, the collection of tax at pre-assessment stage during the last three years ranged between 92.20 and 100 *per cent*. This indicates that voluntary compliance for payment of tax by the dealers was good.

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 2005-06, 2006-07 and 2007-08 along with the relevant all India average percentage of expenditure on collection to gross collection for 2006-07 are mentioned below:

(Rupees in crore)

Heads of revenue	Year	Gross collection	Expenditure on collection ³	Percentage of expenditure to gross collection	All India average percentage for the year 2006-07
Sales tax	2005-06	3,566.71	24.41	0.68	0.82
	2006-07	4,439.01	26.59	0.60	
	2007-08	4,863.36	30.11	0.62 ⁴	
Taxes on vehicles	2005-06	405.86	9.39	2.31	2.47
	2006-07	426.54	12.25	2.87	
	2007-08	459.42	14.71	3.20	
State excise	2005-06	389.33	13.38	3.44	3.30
	2006-07	430.07	15.28	3.55	
	2007-08	524.93	17.54	3.34	
Stamp duty and registration fees	2005-06	236.06	11.56	4.90	2.33
	2006-07	260.49	10.92	4.19	
	2007-08	404.76	11.81	2.92	

The above table indicates that percentage of expenditure on gross collection in respect of sales tax was lower than the all India average percentage while in case of taxes on vehicles, state excise and stamp duty and registration fees, it was higher.

1.5 Analysis of arrears of revenue

As on 31 March 2008, the arrears of revenue under principal heads of revenue as reported by the departments were aggregating Rs. 4,971.69 crore as mentioned in the following table:

³ Figures as furnished by the department are at variance with the Finance Accounts.

⁴ Percentage of expenditure to gross collection for 2007-08 includes entry tax, entertainment tax and profession tax in addition to sales tax.

(Rupees in crore)

Sl. No	Heads of revenue	Amount of arrears as on 31 March 2008	Arrears more than five years old	Remarks		
1.	Sales tax	3,447.17	810.11	The stages of arrears were as under:		
				•	Amount covered by show cause and penalty	1,195.87
				•	Recoveries stayed by	
				➤	Departmental authorities	623.07
				➤	Supreme Court/High Court	1,338.95
				•	Demands covered by certificate proceedings/tax recovery proceedings	283.31
•	Amounts likely to be written off	5.97				
2.	Entry tax	105.45	12.23	The stages of arrears were as under:		
				•	Amount covered by show cause and penalty	30.88
				•	Recoveries stayed by departmental authorities	27.56
				•	Demand stayed by the High Court	36.81
•	Demand covered by certificate/tax recovery proceedings	10.20				
3.	Entertainment tax	7.12	4.04	The stages of arrears were as under:		
				•	Demand covered by certificate/tax recovery proceedings	4.91
				•	Amount covered by show cause and penalty	1.89
				•	Recoveries stayed by	
				➤	Departmental authorities	0.17
➤	High Court	0.15				
4.	Profession tax	0.30	0.01	All the arrears are under show cause and penalty proceedings.		
5.	Land revenue	26.58	NA ⁵	Item-wise break up was as follows:		
				•	Rent	3.16
				•	Cess	4.94
				•	Nistar cess	0.15
				•	Sairat	4.55
•	Misc. revenue	13.78				

5 NA-Not available.

(Rupees in crore)

Sl. No	Heads of revenue	Amount of arrears as on 31 March 2008	Arrears more than five years old	Remarks	
6.	Other departmental receipts (Rent) GA department	8.18	NA	The arrears were due from:	
				• Non-residential buildings	0.74
				• Residential buildings	
				➤ Retired Government servants	3.33
				➤ MLAs and ex MLAs	0.66
				➤ Boards and corporations	0.37
				➤ Private parties	0.68
				➤ Transferred Government servants	1.03
				➤ Certificate cases	0.11
				➤ Central Government employees occupying State Government quarters	0.23
				➤ Usual house rent	0.79
➤ Recovery stayed by the High Court and other judicial authorities	0.24				
7.	Mining receipts	118.66	5.51	The stages of recovery were as under:	
				• Demand covered by certificate proceedings	1.49
				• Demand locked up in litigation in the High Court and other judicial forums	1.72
				• Amount under dispute	3.62
				• Amount covered under write off/waiver proposal	2.34
• Recoverable amount	109.49				
8.	Forest receipts	92.59	NA	The arrears were due from:	
				• Forest lease	6.58
				• OFDC ⁶	81.52
• TDCC ⁷	4.49				
9.	Police	38.15	10.49	The arrear was pending from 1972-73 onwards. Of the arrears Rs. 2.31 crore is proposed to be written off.	

⁶ Orissa Forest Development Corporation

⁷ Orissa Tribal Development Co-operative Corporation.

(Rupees in crore)

Sl. No	Heads of revenue	Amount of arrears as on 31 March 2008	Arrears more than five years old	Remarks		
10.	Water rate	137.23	NA	•	Industrial Water Rate	107.56
				•	Irrigation Water Rate	29.67
11.	Taxes on vehicles	110.28	NA	The stages of arrears were as under:		
				•	Demands covered by certificate proceedings	46.57
				•	Recoveries stayed by:	
				➤	High Court/ Supreme Court/other judicial authorities	4.53
				➤	Departmental authorities	1.65
•	Other stages	57.53				
12.	State excise	20.87	NA	The stages of recovery were as under:		
				•	Demand covered by certificate proceedings	12.10
				•	Recoveries stayed by the High Court/other judicial authorities	3.28
				•	Recoveries stayed by departmental authorities	0.82
				•	Amounts under dispute	1.47
				•	Proposed to be written off	0.23
				•	Other stages of recovery	2.97
13.	Interest	156.12	NA	•	Co-operation Department	83.70
				•	Industries Department	72.42
				The arrears were due from:		
				➤	Industrial Development Corporation	7.43
				➤	Industrial Promotion and Investment Corporation of Orissa Limited	13.51
				➤	Orissa Small Industries Corporation	2.59
				➤	Orissa State Leather Corporation	0.79
				➤	Orissa Instrument Company	0.58
				➤	Orissa State Financial Corporation	
◇	Loan in lieu of share capital	9.18				

(Rupees in crore)

Sl. No	Heads of revenue	Amount of arrears as on 31 March 2008	Arrears more than five years old	Remarks		
				◇	Interest bearing loan	28.32
				◇	State aid rural industries programme loan	1.25
				◇	Sales tax loan	5.46
				◇	Electricity duty loan	2.97
				◇	Panchayat Samiti Industries loan	0.34
14.	Electricity duty	701.62 (Provisional)	NA	Stages at which arrears were pending were not furnished by the departments.		
15.	Stationery & printing	1.21	0.07			
16.	Fisheries	0.16	0.08			
Total		4,971.69				

1.6 Arrears in assessments

The details of the cases pending assessment at the beginning of the year 2007-08, cases becoming due for assessment during the year, cases disposed during the year and the number of cases pending at the end of the year 2007-08 as furnished by the department in respect of sales tax and entry tax were as under:

Heads of revenue	Year	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 6 to 5
Sales tax	2003-04	2,39,616	2,27,589	4,67,205	1,82,820	2,84,385	39.13
	2004-05	2,84,385	2,70,549	5,54,934	2,09,000	3,45,934	37.66
	2005-06	3,45,934	2,49,728	5,95,662	2,21,492	3,74,170	37.18
	2006-07	3,74,170	80,863	4,55,033	2,11,261	2,43,772	46.43
	2007-08	2,70,487 ⁸	23,342	2,93,829	2,62,609	31,220	89.37
Entry tax	2003-04	75,531	51,379	1,26,910	67,994	58,916	53.58
	2004-05	58,916	1,44,741	2,03,657	91,773	1,11,884	45.08
	2005-06	1,11,884	1,19,836	2,31,720	83,078	1,48,642	35.85
	2006-07	1,48,642	57,218	2,05,860	89,382	1,16,478	43.42
	2007-08	1,16,478	31,899	1,48,377	1,01,024	47,353	68.09

The above table indicates that the percentage of assessments completed under both the heads during the years from 2003-04 to 2007-08 ranged between 35.85 and 89.37 per cent. As of March 2008, arrears in assessment under sales tax and entry tax were 31,220 and 47,353 cases. Since value added tax (VAT)

⁸ Includes 26,715 cases relating to central sales tax not furnished by the Department up to 2006-07.

has been introduced in the State from April 2005, the department needs to complete the pending assessments in a time bound manner.

1.7 Evasion of tax

The number of cases of evasion of tax detected and assessments finalised during 2007-08 as reported by the Commercial Tax Department are mentioned below:

Sl. No.	Name of tax/duty	Cases pending as on 31 March 2007	Cases detected during 2007-08	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 2008
					No. of cases	Amount of demand (Rs. in crore)	
1.	Sales tax	3,584	165	3,749	2,868	11.81	881
2.	VAT	222	1,104	1,326	747	16.87	579
3.	CST	37	12	49	18	22.24	31
4.	Entry tax	2	21	23	10	0.04	13
Total		3,845	1,302	5,147	3,643	50.96	1,504

Thus, disposal of detected cases was 70.78 *per cent*. The department did not furnish the revenue involved in the pending cases.

1.8 Results of audit

Test check of the records of sales tax/value added tax (VAT)/entry tax, motor vehicles tax, land revenue, state excise, forest receipts, mining receipts and other departmental offices conducted during the year 2007-08 revealed underassessment/short levy/loss of revenue etc., amounting to Rs. 1,241.86 crore in 2,71,010 cases. During the year 2007-08, the concerned departments accepted underassessment and other deficiencies of Rs. 232.50 crore involved in 1,56,075 which were pointed out in 2007-08 and in earlier years. Of these, the departments recovered Rs. 20.54 crore in 20,148 cases.

This report contains 44 paragraphs including two reviews relating to under assessment/non/short levy etc., involving Rs. 484.80 crore of which Rs. 129.49 crore has been accepted by the department/Government. Recovery made in these cases amounted to Rs. 75.52 lakh upto November 2008. Audit observations with a total revenue effect of Rs. 127.84 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 2008).

1.9 Failure to enforce accountability and protect interest of the 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 revenue and furnish compliance within a period of one month.

The number of IRs and audit observations relating to revenue receipts issued upto 31 December 2007 which had not been settled by the departments as on 30 June 2008 along with the corresponding figures for the preceding two years are mentioned below:

	2006	2007	2008
Number of IRs pending settlement	3,115	3,368	3,316
Number of outstanding audit observations	9,190	9,772	9,429
Amount of revenue involved (Rupees in crore)	2,112.96	2,576.21	3,144.73

Department wise break up of IRs and audit observations outstanding as on 30 June 2008 is mentioned below:

Department	Nature of receipts	Number of outstanding		Amount of receipts involved (Rs. in crore)	Year to which observations relate	No. of IRs to which first reply not received
		IRs	Audit observations			
Finance	Sales tax	633	1,788	365.85	1981-82 to 2007-08	40
	Entertainment tax	60	88	1.46	1977-78 to 2003-04	--
	Luxury tax	8	9	0.46	1998-99 to 2002-03	--
	Entry tax	136	203	57.06	2002-03 to 2007-08	21
Commerce and transport (Transport)	Taxes on vehicles	301	2,769	374.40	1970-71 to 2007-08	7
	Taxes on goods and passenger	70	237	1.09	1973-74 to 1987-88	--
Revenue	Land revenue	675	1,505	575.77	1975-76 to 2007-08	140
	Stamp duty and registration fees	434	686	454.99	1977-78 to 2007-08	144

Department	Nature of receipts	Number of outstanding		Amount of receipts involved (Rs. in crore)	Year to which observations relate	No. of IRs to which first reply not received
		IRs	Audit observations			
Excise	State excise	259	545	152.00	1991-92 to 2007-08	28
Forest and environment	Forest receipts	515	1,209	274.56	1980-81 to 2007-08	52
Steel and mines	Mining receipts	103	173	193.79	1979-80 to 2007-08	16
Co-operation	Departmental receipts	26	41	86.44	1995-96 to 2006-07	--
Food supplies and consumer welfare	-do-	22	27	2.38	1997-98 to 2004-05	--
Energy	-do-	69	144	597.09	1992-93 to 2007-08	2
General administration (Rent)	Departmental receipts	2	2	4.04	2003-04 and 2006-07	--
Works	-do-	3	3	3.35	2003-04 to 2006-07	--
Total		3,316	9,429	3,144.73		450

It indicates that the heads of departments/offices, whose records were inspected by the Accountant General (CW&RA), failed to discharge due responsibility as they did not send 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 (CW&RA). Since the outstanding amount represents unrealised revenue, the Government needs to take speedy and effective action on the issues raised in the IRs.

1.10 Departmental audit committee meetings

In order to expedite settlement of the outstanding audit observations contained in the IRs, departmental audit committees have been constituted by the Government. The representatives of the Finance Department, Administrative Department and office of the Accountant General (CW&RA) attend the meetings of the committee. The committees are expected to meet regularly to expedite clearance of the 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 2007-08 was as furnished in the following table:

Sl. No.	Name of the department	Subject	No. of meetings held	No. of IRs settled	No. of audit observations settled
1.	Finance	Sales tax/VAT/Entry tax	6	56	612
2.	Transport	Motor vehicle tax	15	7	533
3.	Excise	Excise duty	1	20	107
4.	Revenue	Land revenue/ stamp duty and registration fees	19	50	212
Total			41	133	1,464

However, no audit committee meeting was held during 2007-08 in respect of Forest and Environment, Steel and Mines, Food Supplies and Consumer Welfare, Energy and Co-operation departments. As the pendency of IRs and paragraphs are accumulating, the Government may instruct all the departments to conduct more audit committee meetings to expedite clearance.

1.11 Response of the departments to draft audit paragraphs

The Government of Orissa, Finance Department, in their circular memorandum instructed (May 1967) various departments of the Government to submit compliance to draft audit paragraphs (DPs) proposed by the AG for inclusion in the Audit Report of the Comptroller and Auditor General (CAG) of India, 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.

Sixty two DPs including two reviews (clubbed in 44 paragraphs) being considered for inclusion in this Report were demi-officially forwarded to the Secretaries/Principal Secretaries of the concerned departments between January and June 2008 with a request for verification of the factual position and also for 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 paragraphs is mentioned 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)	30	12	18
2.	Transport (Motor vehicle tax)	13	--	13
3.	Excise (Excise duty and fees)	5	1	4

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
4.	Forest and Environment (Forest receipts)	2	--	2
5.	Steel & Mines (Mining receipts)	1	1	--
6.	Revenue (Land revenue, stamp duty and registration fees)	7	1	6
7.	Energy and F & ARD (Departmental receipts)	4	--	4
Total		62	15	47

1.12 Follow-up on Audit Reports - summarised position

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

Review of outstanding explanatory memoranda on paragraphs included in the reports of the CAG (Revenue Receipts) as of September 2008 disclosed that the departments had not submitted remedial explanatory memoranda on 75 paragraphs for the years from 1998-99 to 2006-07 as mentioned below:

Year	No. of paragraphs in the audit report	No. of paragraphs discussed in PAC	No. of paragraphs pending for discussion	No. of paragraphs for which compliance notes have not been received
1991-92	63	62	1	--
1992-93	54	53	1	--
1993-94	44	43	1	--
1994-95	47	44	3	--
1997-98	38	3	35	--
1998-99	40	1	39	2
1999-00	34	--	34	7
2000-01	45	5	40	6
2001-02	45	7	38	1
2002-03	57	7	50	6
2003-04	63	9	54	4
2004-05	62	12	50	1
2005-06	53	33	20	9
2006-07	48	--	48	39
Total	693	279	414	75

Thus, non-compliance to the audit paragraphs stood at 16.78 *per cent* of total paragraphs (447) presented to the Assembly during the related 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 in May 1966, issued instructions to all the departments of the State Government to submit action taken notes (ATN) on the recommendations made by the PAC for further consideration within six months of the presentation of the PAC Report to the Legislature. It was noticed from the PAC reports submitted during 10th, 11th, 12th and 13th Assembly that 48 Reports containing 385 paras/recommendations were presented by the PAC before the Legislature between February 1991 and March 2007 after examination of the Audit Report (Revenue Receipts) of 14 departments for the years 1985-86 to 2004-05. However, ATNs have not been received in respect of 39 recommendations of the PAC from eight⁹ departments as of September 2008.

This indicates that the executive failed to take prompt action on the important issues highlighted in the Audit Reports that involve unrealised revenue.

1.13 Compliance with the earlier audit reports

In the Audit Reports 2002-03 to 2006-07, audit observations relating to under assessments, non/short levy of taxes, loss of revenue, failure to raise demands, etc., involving Rs. 2,053.77 crore were included. Of these, as of November 2008, the departments concerned had accepted under assessments and other deficiencies involving Rs. 742.20 crore and had recovered Rs. 172.41 crore. Audit Report-wise details of amount accepted and revenue recovered are as under:

(Rupees in crore)				
Sl. No.	Year	Money value of audit report	Amount accepted by the department	Amount recovered
1.	2002-03	281.31	10.40	6.92
2.	2003-04	558.63	37.94	10.02
3.	2004-05	560.81	221.43	45.56
4.	2005-06	136.70	46.98	17.39
5.	2006-07	516.32	425.45	92.52
Total		2,053.77	742.20	172.41

⁹ Agriculture, Energy, Excise, Forest and Environment, Home, Law, Revenue and Disaster Management and Water Resources Departments.

CHAPTER-II: SALES TAX AND ENTRY TAX

2.1 Results of audit

Test check of the assessments, refund cases and other records on sales tax, value added tax (VAT) and entry tax of commercial tax offices during the year revealed underassessment of tax, irregular grant of exemption, non/short levy of surcharge/interest/penalty, incorrect computation of taxable turnover, application of incorrect rate of tax etc., amounting to Rs. 272.29 crore in 189 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
Sales tax			
1.	“Concessions and exemptions on interstate sales and branch transfers” – A review	1	32.73
2.	Underassessment of tax due to irregular grant of exemption	39	65.04
3.	Short levy of tax due to incorrect computation of taxable turnover	20	35.93
4.	Underassessment of tax due to application of incorrect rate of tax	59	15.55
5.	Non/short levy of surcharge/interest/penalty	15	1.69
6.	Other irregularities	21	9.22
Total		155	160.16
Entry tax			
1.	Underassessment of tax due to application of incorrect rate of tax	13	3.83
2.	Non/short levy of penalty	5	1.34
3.	Underassessment of tax due to incorrect computation of taxable turnover	9	1.04
4.	Non/short levy of tax	4	0.10
5.	Other irregularities	3	105.82
Total		34	112.13
Grand total		189	272.29

During the year 2007-08, the department accepted underassessment, non/short levy of tax/surcharge/interest/penalty and other deficiencies of Rs. 10.59 crore in 89 cases, which were pointed out in audit in earlier years and recovered Rs. 1.19 crore in 14 cases.

A few illustrative cases highlighting important audit observations involving Rs. 65.04 crore including a review on **“Concessions and exemptions on interstate sales and branch transfers”** involving Rs. 32.73 crore are discussed in the following paragraphs.

Sales Tax

2.2 Concessions and exemptions on interstate sales and branch transfers

Highlights

Acceptance of defective/duplicate/manipulated declarations by the assessing officers led to underassessment of tax of Rs. 6.11 crore.

(Paragraph 2.2.6)

Irregular allowance of exemption/concession without supporting declarations, application of lower rate of tax after disallowing declarations, exemption on inadmissible items, etc., resulted in short levy of tax of Rs. 8.23 crore in 26 cases.

(Paragraph 2.2.9)

Due to irregular allowance of exemption on the basis of invalid/duplicate declaration forms, transfer of goods to places not included in the registration certificate of the dealer, etc., there was underassessment of tax of Rs. 18.40 crore.

(Paragraph 2.2.10)

2.2.1 Introduction

The Central Sales Tax (CST) Act, 1956 and the Rules framed thereunder regulate the assessment, levy and collection of tax on interstate transactions. Under the provisions of the Act and the Rules made thereunder, goods are purchased by a registered dealer from outside the State on payment of tax at a concessional rate of four *per cent* by issuing declaration in form 'C'. Similarly, on sale of goods to a registered dealer of another State, tax is leviable at a concessional rate of four *per cent* subject to furnishing of declaration in form 'C' obtained from the registered purchasing dealer. Thus, in case a dealer fails to obtain and produce such declaration, tax is leviable in respect of declared¹⁰ goods at twice the rate applicable to the sale or purchase of such goods inside the State and in case of other goods, at the rate of 10 *per cent* or at the rate applicable to the sale or purchase of such goods within the State, whichever is higher.

The Act also provides that goods transferred by a dealer outside the State to any place of his business or to his agent or principal are not liable to tax provided such transfer is supported by a declaration in form 'F' obtained from the transferee along with evidence of dispatch of such goods to substantiate the claim of transfer. If the dealer fails to furnish such declaration then the movement of such goods shall be deemed to have been occasioned as a result of sale under the CST Act.

¹⁰ Goods of special importance in interstate trade or commerce as described in Section 14 of the CST Act.

The provisions for levy of interest and penalty as per the State sales tax laws are applicable *mutatis mutandis* in case of failure to pay the tax by the dealer within the due date or due to other contravention of the provisions of the CST Act and the Rules made thereunder.

A review on concessions and exemptions on interstate sales and branch transfers revealed a number of system and compliance deficiencies, which have been mentioned in the succeeding paragraphs.

2.2.2 Organisational set up

The assessment and collection of sales tax is administered by the Commissioner of Commercial Taxes (CCT), Orissa who is assisted by three Additional Commissioners at the zonal levels, nine Assistant Commissioners (ACCT) at range levels, commercial tax officers (CTOs) and additional commercial tax officers (Addl. CTOs) working in various circles. There are 29 circles (reorganised to 44 circles with effect from 1 October 2006) and each circle is headed by a CTO. The assessments are finalised by the CTOs/Addl. CTOs.

2.2.3 Audit objectives

The review was conducted with a view to ascertain whether:

- claims of interstate sales/branch transfers allowed in the assessments were as per the provisions of the Act and the Rules;
- the system prescribed for cross verification and correlation of the declarations with the assessments made was adequate and effective; and
- internal control mechanism existed in the department and was adequate to prevent leakage of revenue.

2.2.4 Scope and methodology of audit

The review was conducted between August 2007 and March 2008 covering the period from 2003-04 to 2006-07. For this, 12¹¹ out of 29 circles were selected by stratified sampling method taking three strata based on population and range of weightage. Besides, information collected from five¹² more circles have also been included to increase the coverage of the review.

2.2.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Finance Department in providing necessary information for audit. The audit observations were forwarded to the Government in June 2008 and discussed in the audit review committee meeting held in August 2008. The replies of the Government have been suitably incorporated in the review.

11 Bhubaneswar II, Bolangir II, Cuttack I (Central), Cuttack I (West), Cuttack III, Dhenkanal, Ganjam I, Keonjhar, Koraput II, Mayurbhanj, Rourkela I and Sambalpur III.

12 Balasore, Bhubaneswar I, Cuttack-I (East), Cuttack II and Rourkela-II.

System deficiencies

2.2.6 Acceptance of declaration forms on interstate sales

Interstate sales

As per the provisions of the CST Act and the Rules made thereunder, interstate sale of goods covered by valid declaration in form 'C' is exigible to tax at a concessional rate of four *per cent*. A dealer who claims concessional rate of tax is required to obtain the declaration in form 'C' marked as 'original' from the purchasing dealer and produce it before the assessing officer (AO) at the time of finalisation of the assessments. Further, penalty not exceeding one and a half times the tax assessed is also leviable for concealment/furnishing incorrect particulars of turnover.

To check the misuse of the form 'C' and various other malpractices associated therewith, the CCT issued instructions in October 1972 and December 1977 to all the AOs to select a certain percentage of the declaration forms for reference to the AOs of the concerned State for cross verification. In case of inordinate delay in getting the required information from the other State, it should be brought to the notice of the ACCT (Intelligence) for further action. Further, every circle and assessment unit is required to maintain two registers in the prescribed proforma, one for declaration form 'C' received from other states and the other for declaration form 'C' sent to other states, for verification.

Test check of records of the circles covered in the review revealed non-maintenance of register for cross verification of declaration forms, acceptance of defective, duplicate, photocopied and manipulated forms while allowing concessional rate of tax by the AOs at the time of finalising the assessments. This led to underassessment, non/short levy of tax mentioned in the succeeding paragraphs.

2.2.6.1 It was noticed that none of the circles except Bolangir II and Cuttack III took up any cross verification of the declaration forms during the period covered in the review. Besides, the prescribed registers, one for declaration form 'C' received from other states and the other for declaration form 'C' sent to other states were also not maintained in any of the circles covered in the review.

2.2.6.2 In Bolangir II circle, it was noticed that only three declaration forms were sent to the issuing authority of the forms at Delhi in October 2006. Although no reply was received till March 2008, the AO did not bring the fact to the notice of ACCT (Intelligence) for further action. The matter was left unattended till date.

2.2.6.3 In case of Cuttack III, it was noticed that 46 declaration forms were sent during 2002-03 to the ACCT (Intelligence) wing for cross verification, the results of which have not been received. The matter was not pursued with that wing to ascertain the latest progress made in the verifications.

2.2.6.4 Further, as there was no system of any report/return to be furnished by the AOs to the higher authorities, the CCT was unaware of the position of cross verification of the declaration forms by the AOs. Thus, the use of defective/duplicate/manipulated declaration forms remained undetected.

Test check of the assessment records in nine circles revealed that in 18 cases, concessional rate of tax was allowed on the turnover of Rs. 35.20 crore on the strength of defective/duplicate/photocopied/manipulated declarations in form 'C' resulting in underassessment of tax of Rs. 2.79 crore. It was noticed that declaration forms furnished by the dealers were being accepted and concessional rate/exemption of tax granted without any further verification/scrutiny by the AOs. Due to the absence of a monitoring mechanism, the CCT remained unaware of these omissions on the part of the AOs which led to underassessment of tax. The details are mentioned below:

(Rupees in crore)

Sl. No.	Name of the circle (Number of cases)	Year assessed (Month of assessment)	Turn-over	Tax under-assessed	Nature of irregularities
Defective forms					
1.	<u>Rourkela I</u> (3)	2002-03 to <u>2004-05</u> (Between December 2004 and January 2007)	24.10	1.69	In one declaration form for Rs. 6.77 lakh relating to 2002-03, there was no mention of the money value on the front side of the form and the money value mentioned on the reverse side was not authenticated. In 32 forms relating to 2003-04 and 2004-05, the seals and signatures of purchasing dealers on the front side were different from those on the reverse side or annexure to the forms. Further, out of these 32 forms, in one form relating to 2003-04, there was a difference of Rs. 4 lakh between the amount indicated on the front side and that recorded in the annexure.
2.	<u>Bhubaneswar I</u> (1)	<u>2002-03</u> (February 2006)	4.33	0.53	Declaration forms were issued by the dealers of states other than the purchasing dealers to whom the goods were sold.
3.	<u>Cuttack II</u> (1)	<u>2002-03</u> (April 2004)	0.24	0.02	

(Rupees in crore)

Sl. No.	Name of the circle (Number of cases)	Year assessed (Month of assessment)	Turn-over	Tax under-assessed	Nature of irregularities
4.	<u>Mayurbhanj</u> (2)	2003-04 and <u>2004-05</u> (November 2006 and August 2007)	2.75	0.26	The declaration forms were not furnished in favour of the selling dealers of Orissa but in favour of dealers of West Bengal, Tamil Nadu and Maharashtra.
5.	<u>Balasore</u> (3)	2003-04 and <u>2004-05</u> (Between March 2005 and February 2006)	0.73	0.05	
6.	<u>Dhenkanal</u> (1)	<u>2003-04</u> (March 2005)	0.13	0.01	Declaration forms furnished by the purchasing dealers did not contain the value of goods on the front side and the details furnished on the reverse side were not authenticated.
Sub total (11 cases)			32.28	2.56	
Duplicate/photocopied forms					
7.	<u>Mayurbhanj</u> (1)	<u>2005-06</u> (August 2007)	0.88	0.05	Three duplicate forms were accepted during assessment.
8.	<u>Cuttack I (Central)</u> (1)	<u>2003-04</u> (June 2005)	0.17	0.02	One duplicate declaration form furnished by the dealer for Rs. 16.77 lakh was accepted during assessment.
9.	<u>Rourkela I</u> (2)	2003-04 and <u>2004-05</u> (February and March 2007)	0.36	0.02	One duplicate declaration form for Rs. 19.12 lakh and photocopies of the counterfoils of two declaration forms for Rs. 16.42 lakh were accepted during assessment.
Sub total (Four cases)			1.41	0.09	
Manipulated forms					
10.	<u>Rourkela I</u> (1)	<u>2004-05</u> (March 2007)	1.03	0.07	The declaration form originally used for Rs. 20 lakh was reused by overwriting the amount as Rs. 1.03 crore on the front side and pasting the bill-wise details thereof on the reverse side.

(Rupees in crore)

Sl. No.	Name of the circle (Number of cases)	Year assessed (Month of assessment)	Turn-over	Tax under-assessed	Nature of irregularities
11.	<u>Keonjhar</u> (1)	<u>2002-03</u> (July 2004)	0.43	0.06	In one form relating to 2002-03, though an amount of Rs. 24.48 lakh was mentioned on the front side, the reverse side depicted a value of Rs. 18.08 lakh. The AO allowed concessional rate of tax by adding both the amounts.
12.	<u>Ganjam I</u> (1)	<u>2003-04</u> (November 2006)	0.05	0.01	In two declaration forms, the value of goods were enhanced by inserting additional entries in the original form without authentication.
Sub total (Three cases)			1.51	0.14	
Grand total (18 cases)			35.20	2.79	

Thus, failure of the AOs to verify/scrutinise the declaration forms furnished by the dealers led to underassessment of tax of Rs. 2.79 crore.

After the cases were pointed out, the Government stated in August 2008 that in respect of five cases of Rourkela-I circle involving Rs. 1.65 crore proceedings had been initiated between February and August 2008 and the remaining cases were under examination. A report on further development has not been received (November 2008).

2.2.6.5 Test check of the assessment records of a dealer registered in Bolangir II circle revealed that the dealer effected interstate sale of rice worth Rs. 19.83 crore during June to December 2004 and claimed exemption by furnishing declarations in five 'C' forms after having paid purchase tax on the corresponding paddy. The AO while completing the assessment in March 2005 allowed the exemption accordingly. Subsequently, based on a report of the ACCT (Enforcement), Orissa, Cuttack stating that two of the five 'C' forms¹³ submitted by the dealer were fake, reassessment was completed in June 2006 raising an additional demand for Rs. 65.10 lakh on the reassessed sale turnover of Rs. 8.14 crore. Though the dealer had submitted fake forms and deliberately tried to evade tax, penalty leviable at one and a half times the tax so assessed was not levied. In absence of a return, non-levy of penalty could not be watched by the CCT. This resulted in non-levy of penalty of Rs. 97.65 lakh.

Scrutiny of the remaining three¹⁴ declaration forms revealed that two forms did not contain essential details like series identification, and in other the

13 Form No. WB/96/563268: Rs. 6,08,03,422.22 and No. WB/96/563269: Rs. 2,05,69,151.60.

14 Form No. 12/P-463266: Rs. 1,51,84,313, No. 702903: Rs. 9,11,46,158 and No. 563268: Rs. 1,05,74,924.

prescribed details were not found, thus the forms were *prima facie* fake. The AOs did not notice the deficiencies in the forms and allowed concessional rate of tax on the sale turnover of Rs. 11.69 crore. Cross verification of these forms with the records of the sales tax authorities of Delhi by audit, however, revealed that these three 'C' forms were not issued to the purchasing dealers of Delhi by the sales tax authorities of that State. Thus, non-detection of the deficiencies in the declaration forms resulted in underassessment of tax of Rs. 2.34 crore including penalty.

After this was pointed out, the AO stated in March 2008 that the matter was referred to the sales tax authorities of the NCT of Delhi in October 2006 but reply had not been received. The reply was silent regarding failure of the AO to take up the matter with the ACCT (Intelligence) as required vide the CCT's circular of December 1977. A report on further development has not been received (November 2008).

The Government may consider installing a mechanism to ensure that cross verification of declaration forms is done by the concerned AOs. A periodic return to monitor the progress made from time to time in cross verification of the declaration forms and maintenance of the prescribed registers at CCTs' level may be prescribed for all the AOs. Besides, norms for carrying out cross verification of the declaration forms may be prescribed for each AO.

2.2.7 Deficiency in the proforma prescribed for utilisation statement of declaration forms

According to the CST (Orissa) Rules, every registered dealer to whom any declaration forms 'C' and 'F' are issued shall maintain in a register in form-V (for declaration form 'C') and form-VC (for declaration form 'F') a true and complete account of utilisation of every such form. The Rules also provide that no second or subsequent supply of declaration form shall be made to any dealer unless he furnishes a true copy of the accounts certified by him under his signature to the notified authority.

The proforma prescribed in the CST (Orissa) Rules for utilisation accounts of the declaration forms does not provide columns for capturing basic information such as registration certificate (RC) number of the dealers to whom these forms are issued on purchase of goods or on receipt of goods by stock transfer. In absence of the above information, the scope for cross verification of the genuineness of the transactions covered in the declarations by referring the details to the assessing authorities of other states appears to be limited.

After the case was pointed out, the Government in August 2008 stated that action was being taken to amend the proforma.

The Government may take early steps for amending the proforma prescribed for utilisation accounts of declaration forms incorporating columns for all the necessary information to facilitate the cross verification.

2.2.8 Internal audit

Internal audit is one of the most vital tools of the internal control mechanism and functions as the 'eyes' and 'ears' of the management and evaluates the

efficiency and effectiveness of the mechanism. It also independently appraises whether the activities of the organisation/department are being conducted efficiently and effectively.

An internal audit wing (IAW) was introduced in the Sales Tax Department in 1975-76 with seven audit parties headed by the CTOs (Inspection). Initially there were 29 circles, 17 assessment units, 23 road check gates and eight railway receipts units under the jurisdiction of the IAW.

A mention was made in paragraph 2.18 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2003, Government of Orissa regarding non-functioning of the above IAW since 1999-2000 except for inspection of 15 units in 2001-02. It was recommended that the IAW may be revamped to check the leakage of revenue.

In course of this review, it was seen that the IAW did not carry out a single inspection during 2003-04 to 2006-07 and was rendered defunct. Thus, due to the failure of the Government to strengthen the IAW, adherence to the provisions of the statutes and instructions for reduction of the risk of committing errors and irregularities to guard against leakage of revenue was not ensured.

After this was pointed out, the Government, while agreeing to the audit observations, stated (August 2008) that over a period of time though the number of dealers had increased manifold, yet proportionately the number of field officials had remained more or less the same. They further stated that after introduction of tax audit under the Value Added Tax (VAT) system, revival of the internal audit would not be required as VAT itself was designed as audit oriented assessment. The reply was not tenable as tax audit system under VAT entails only verification of the records of the dealers whereas internal audit ascertains the adequacy of the internal control mechanism within the department and ensures adherence to the systems, provisions of statutes and instructions by the assessing/departmental officers.

The Government may take immediate steps to strengthen the IAW at the earliest to ensure strict compliance with the provisions of the Act and the rules by various wings of the department and to prevent leakage of revenue.

Compliance deficiencies

2.2.9 Interstate sales

As per the provisions of the CST Act, tax on interstate sale is leviable at the concessional rate of four *per cent* subject to production of declarations in form 'C'. Thus, in case a dealer fails to obtain and produce such declaration, tax is leviable in respect of declared¹⁵ goods at twice the rate applicable to the sale or purchase of such goods inside the State and in case of other goods, at the rate of 10 *per cent* or at the rate applicable to the sale or purchase of such goods within the State, whichever is higher.

¹⁵ Goods of special importance in interstate trade or commerce as described in Section 14 of the CST Act.

2.2.9.1 Test check of the records revealed that in 23 cases of seven circles, the AOs while finalising the assessments between May 2003 and August 2007 for the years between 2002-03 and 2004-05, allowed exemption/concession though the dealers did not produce supporting declarations in form 'C'. This irregular exemption resulted in short levy of tax of Rs. 6.23 crore. The details are mentioned in the following table:

(Rupees in crore)

Sl. No.	Name of the circle (Number of cases)	Year assessed (Month of assessment)	Turnover under-assessed	Amount of tax short levied	Nature of irregularities
1.	<u>Rourkela I</u> (7)	2002-03 and <u>2003-04</u> (March 2004 and December 2006)	49.97	4.00	Interstate sale of iron and steel not supported by declaration in form 'C' was exempted from tax instead of levying tax at the rate of eight <i>per cent</i> .
	<u>-do-</u> (1)	<u>2002-03</u> (March 2006)	0.45	0.04	Sale turnover of explosives not supported by declarations in form 'C' was assessed to tax at the rate of four <i>per cent</i> instead of 13.2 <i>per cent</i> including surcharge.
	<u>-do-</u> (1)	<u>2002-03</u> (January 2004)	0.21	0.01	Sale of rice not supported by declaration in form 'C' was assessed to tax at the rate of four <i>per cent</i> instead of eight <i>per cent</i> .
	<u>-do-</u> (1)	<u>2004-05</u> (October 2006)	0.15	0.01	Sale turnover of iron ore and fines not supported by declaration in form 'C' was assessed to tax at the rate of four <i>per cent</i> instead of 10 <i>per cent</i> .
2.	<u>Keonjhar</u> (1)	<u>2004-05</u> (July 2006)	9.21	0.74	Sale turnover of sponge iron/iron and steel although not covered by the declarations in form 'C' was exempted from tax instead of levying tax at the rate of eight <i>per cent</i> .
3.	<u>Rourkela-II</u> (2)	<u>2002-03</u> (March 2006)	3.56	0.29	
4.	<u>Bhubaneswar II</u> (1)	<u>2003-04</u> (March 2007)	5.29	0.67	Sale turnover of aluminium conductor and wire of an SSI unit not supported by declarations in form 'C' was exempted from tax instead of levying tax at the rate of 13.2 <i>per cent</i> including surcharge.

Sl. No.	Name of the circle (Number of cases)	Year assessed (Month of assessment)	Turnover under-assessed	Amount of tax short levied	Nature of irregularities
5.	<u>Dhenkanal</u> (1)	<u>2002-03</u> (August 2004)	8.65	0.35	Sale turnover of iron and steel not supported by declarations in form 'C' was assessed to tax at the rate of four <i>per cent</i> instead of eight <i>per cent</i> .
6.	<u>Ganjam I</u> (6)	2002-03 and <u>2004-05</u> (May 2003 and August 2006)	1.59	0.06	Sale of rice not supported by the declarations in form 'C' was assessed to tax at the rate of four <i>per cent</i> instead of eight <i>per cent</i> .
7.	<u>Mayurbhanj</u> (2)	2003-04 and <u>2004-05</u> (March and August 2007)	1.75	0.06	Sale turnover of glass not supported by declarations in form 'C' was assessed to tax at the rate of 10 <i>per cent</i> instead of the appropriate rate of 13.2 <i>per cent</i> including surcharge.
Total (23 cases)			80.83	6.23	

After the cases were pointed out, the Government informed in August 2008 that out of 23 cases, demand of Rs. 65 lakh was raised in January and March 2008 in four cases¹⁶ and 14 cases involving Rs. 4.10 crore had been reopened for reassessment. It was further stated that the remaining five cases involving Rs. 1.48 crore were under examination. A report on further development has not been received (November 2008).

2.2.9.2 Test check of the records revealed that in three cases of three circles, the AOs while finalising the assessments between November 2005 and October 2006 for the years 2002-03 and 2004-05, incorrectly allowed exemption from payment of tax, applied incorrect rate of tax after disallowing declarations etc. This resulted in non/short levy of tax of Rs. 2 crore as mentioned in the following table:

(Rupees in crore)

Sl. No.	Name of the circle (Number of cases)	Year assessed (Month of assessment)	Turnover under-assessed	Amount of tax non/short levied	Nature of irregularities
1.	<u>Cuttack III</u> (1)	<u>2002-03</u> (February 2006)	46.19	1.85	The AO after disallowing the declarations in form 'C' levied tax on pig iron at four <i>per cent</i> instead of the appropriate rate of eight <i>per cent</i> .

¹⁶ Rourkela-I (One case): Rs. 1 lakh, Rourkela-II (Two cases): Rs. 29 lakh and Dhenkanal (One case): Rs. 35 lakh.

Sl. No.	Name of the circle (Number of cases)	Year assessed (Month of assessment)	Turnover under-assessed	Amount of tax non/short levied	Nature of irregularities
2.	Bolangir II (1)	2004-05 (November 2005)	1.66	0.13	No tax was levied on sale turnover of rice.
3.	Rourkela I (1)	2004-05 (October 2006)	0.57	0.02	Exemption was allowed on sale turnover of iron ore and fines although the same was not an admissible item for exemption.
Total (Three cases)			48.42	2.00	

After the cases were pointed out, the Government in August 2008 stated that the cases were under examination. A report on further development has not been received (November 2008).

2.2.10 Branch transfers

Under the CST Act read with the provisions of the CST (Orissa) Rules, where any dealer claims that he is not liable to pay tax under the Act in respect of any goods on the ground that the movement of such goods from one state to another was occasioned by reason of transfer of title by him to any other place of his business and not by reason of sale, such claim is admissible subject to the submission of the 'original' portion of the declaration in form 'F' to the AO at any time before the finalisation of the assessment along with the proof of dispatch. If the dealer fails to furnish the declaration, then the movement of such goods shall be deemed to have been occasioned as a result of sale. Further, as laid down in the CST (Registration and Turnover) Rules, 1957, the place of business of a dealer should be mentioned in the RC and any addition/alteration in it should be inserted in the RC by an amendment. The Rules also provide that a single declaration in form 'F' may cover transactions effected during one calendar month only. Besides, penalty equal to one and a half times the tax assessed is also leviable for concealment of turnover.

To guard against the leakage of revenue by way of exemption of tax on transfer of goods to other States against declarations in form 'F', the CCT issued instruction to the AOs in February 1989 to carefully verify the lorry receipt or railway receipt accompanied with the invoice to ascertain the genuineness of the transactions and to obtain essential evidence that the goods were actually dispatched on consignment on transfer basis to another State. Cases of irregular allowance of exemption on the basis of invalid/duplicate declaration forms, transfer of goods to places not included in the registration certificate of the dealer, etc., noticed during the course of the review are mentioned in the succeeding paragraphs.

2.2.10.1 During scrutiny of the records, it was noticed that in nine circles¹⁷, the AOs allowed exemption of tax on goods valued as Rs. 87.05 crore in 52 cases transferred to places outside the State during 2002-03 to 2004-05 against

¹⁷ Balasore, Bhubaneswar I, Bhubaneswar II, Bolangir II, Cuttack I (Central), Cuttack II, Ganjam I, Rourkela I and Sambalpur III.

declarations in form 'F' which were found to be defective as the forms were not supported with prescribed particulars of dispatch such as the mode of transport indicating lorry or railway receipt number and date, registration numbers of the transferee with effective date of registration, invoice numbers, date of delivery, etc. Hence, in absence of the above details, the movement of the goods outside the State on transfer was not established. Thus, despite specific provisions in the CST Act and also instruction of the CCT to this effect, the AOs allowed exemption without supporting proof of dispatch which resulted in non-levy of tax of Rs. 9.99 crore.

After this was pointed out, the Government in August 2008 stated that in respect of 12 cases of two circles (Rourkela-I and Ganjam-I) involving Rs. 1.46 crore, proceedings for reassessment were initiated between February and August 2008 and the remaining 40 cases involving Rs. 8.53 crore were under examination. A report on further development has not been received (November 2008).

2.2.10.2 Test check of the records revealed that seven dealers of six circles furnished declarations in form 'F' which covered transactions, of transfer of goods valued at Rs. 74.75 crore, of two to eleven calendar months for the years between 2002-03 and 2005-06. The AOs while finalising the assessments between September 2004 and February 2007 accepted the transaction in these declarations in contravention of the rules resulting in underassessment of tax of Rs. 7.55 crore. The details are mentioned below:

(Rupees in crore)

Sl. No.	Name of the circle (Number of dealers)	Year assessed (Month of assessment)	Value of goods on which exemption allowed	Value of goods on which exemption not admissible (beyond one month)	Amount of tax short levied
1.	<u>Keonjhar</u> (1)	2003-04 and 2004-05 (February 2006 and February 2007)	549.64	32.88	3.29
2.	<u>Cuttack-III</u> (2)	2002-03, 2003-04 and 2005-06 (Between September 2004 and February 2007)	27.41	26.52	2.41
3.	<u>Balasore</u> (1)	2003-04 (December 2006)	560.42	11.84	1.56
4.	<u>Sambalpur-III</u> (1)	2004-05 (March 2006)	13.84	2.12	0.17
5.	<u>Cuttack-II</u> (1)	2004-05 (June 2005)	1.36	1.12	0.09
6.	<u>Bhubaneswar-I</u> (1)	2002-03 (January 2006)	3.72	0.27	0.03
Total (seven dealers)			1,156.39	74.75	7.55

After this was pointed out, the Government stated in August 2008 that out of seven dealers, reassessment proceeding in respect of one dealer of Cuttack-III circle was finalised (February 2008) raising demand of Rs. 57.46 lakh and in the other case proceeding had been initiated in July 2008. It was further stated that the remaining cases were under examination. A report on further development has not been received (November 2008).

2.2.10.3 Test check of records of Bhubaneswar I circle, revealed that a registered dealer transferred aerated water and soft drinks valued at Rs. 4.36 crore during the year 2003-04 to its branches located in other States. The dealer was allowed exemption in December 2004 on the duplicate portion of the declarations in form 'F'. The exemption granted on the duplicate portion of the declaration form 'F' was irregular and resulted in underassessment of tax of Rs. 57.49 lakh including surcharge.

After the case was pointed out, the AO reopened the case in January 2008 for reassessment. A report on further development has not been received (November 2008).

2.2.10.4 Scrutiny of the CST assessment record for the year 2003-04 of a registered dealer of Cuttack-I (East) circle revealed that the dealer returned 'nil' turnover which was accepted by the AO while completing the assessment in March 2007. However, a verification of the case records of the dealer revealed that the dealer had effected commission sale of 'maida' and 'bran' valued at Rs. 94.87 lakh during the first quarter of 2003-04 outside the State. Since the transactions were not supported by declarations in form 'F', these should have been treated as interstate sales exigible to tax at the rate of 10 *per cent*. Non-detection of the concealed turnover while completing the assessment led to underassessment of tax of Rs. 9.49 lakh. Besides, penalty of Rs. 14.23 lakh was also leviable for concealment of turnover.

After the case was pointed out, the AO reopened the case in July 2007. A report on further development has not been received (November 2008).

2.2.10.5 Test check of records in Bolangir II circle, revealed that a dealer was allowed (between March and May 2005) exemption from payment of tax on consignment sale of *batra gram* valued at Rs. 55.43 lakh effected during the years 2002-03 and 2003-04 to places in West Bengal which were neither specified in his RC nor was any consignment agreement between the dealer and the consignees available in the case record. The grant of exemption on the basis of the declaration forms 'F' furnished by the dealer was irregular and resulted in underassessment of tax of Rs. 4.43 lakh.

2.2.11 Conclusion

The review revealed several deficiencies in observance of the system prescribed as well as non-compliance of the provisions of the CST Act and the Rules made thereunder. Declaration forms furnished by the dealers were not effectively scrutinised by the AOs. Registers prescribed were not maintained for facilitating cross verification of the genuineness of the declaration forms from the records of the AOs of other states. Defective, duplicate, photocopied, manipulated and fake forms were accepted during assessments in spite of existence of executive instructions to scrutinise the forms carefully. Due to

non-compliance of the provisions of the CST Act, rules and executive instructions of the CCT while finalising the assessments, there was underassessment, short levy and non-levy of tax which was detrimental to the interest of revenue of the State. Internal control in the department was weak as is evidenced by the absence of the IAW which is the control of all controls and a management tool for plugging leakages of revenue.

2.2.12 Summary of recommendations

The Government of Orissa may consider the following steps to enhance the effectiveness of the machinery for concessions and exemption on interstate sales and branch transfers.

- installing a mechanism to ensure that cross verification of declaration forms is done by the concerned AOs;
- prescribing a periodic return to monitor the progress made from time to time in cross verification of the declaration forms at CCTs' level and maintenance of the prescribed registers may be made mandatory for all the AOs. Besides, norms for carrying out cross verification of the declaration forms may be prescribed for each AO;
- taking early steps for amending the proforma prescribed for utilisation accounts of declaration forms incorporating columns for all the necessary information to facilitate cross verification; and
- taking immediate steps to strengthen the internal audit wing at the earliest to ensure strict compliance with the provisions of the Act and rules by the assessing/departmental officers.

2.3 Irregular/excess grant of exemption under the sales tax incentive scheme

2.3.1 Under the Orissa Sales Tax (OST) Act, 1947, read with the Industrial Policy Resolution (IPR), 1992, large scale industrial (LSI) units are eligible for exemption of sales tax on the purchase of raw materials, spare parts of machinery and on the sale of finished products for a period of five years from the date of commercial production as certified by the Director of Industries (DI). The Government vide notification of September 1992 extended the exemption to interstate sales also provided that the dealer was entitled to the exemption under the OST Act.

Test check of the records of Jajpur circle in November 2007 revealed that a registered LSI unit engaged in the manufacture and sale of pig iron was allowed in February 2007 exemption of Rs. 3.36 crore on the sale of iron scrap and slag valued at Rs. 65.39 crore for the year 2003-04. As exemption of tax on by-products is not admissible under the IPR, allowance of the exemption was irregular and resulted in short levy of tax of Rs. 3.36 crore including surcharge.

After the case was pointed out, the assessing officer (AO) stated in November 2007 that the case would be re-examined and appropriate action would be taken as per the provisions of law. A report on further development has not been received (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

2.3.2 Under the OST Act and the IPR 1996, a small scale industrial (SSI) unit is eligible for exemption from sales tax both on purchase of raw materials and sale of finished products to the extent of fixed capital investment (FCI) during a period of five years from the date of commercial production as certified by the General Manager, District Industries Centre (DIC). Further, as per the IPR 1996, iron and steel processors including cutting of sheets, bars, angles, coils, MS sheets, decoiling, straightening, corrugating, drop hammer units etc., are not eligible for sales tax exemption. Iron and steel is taxable at the rate of four *per cent* under the OST Act.

Test check of the records of Rourkela I circle in November 2007 revealed that a registered SSI unit processing hot rolled coils into cold rolled coils and strips was allowed (between December 2004 and January 2007) exemption of sales tax to the extent of Rs. 2.87 crore both on purchase of raw materials and sale of finished products for the years 2001-02 to 2004-05. Since iron and steel processing units are not eligible for exemption of sales tax, allowance of exemption was irregular and resulted in short levy of tax of Rs. 2.87 crore.

After the case was pointed out, the AO re-opened the case in December 2007 for reassessment. A report on further development has not been received (November 2008).

The matter was reported to the Government in March 2008; their reply has not been received (November 2008).

2.3.3 Under the OST Act read with the IPR 1996, an SSI unit located in zone B¹⁸ is eligible for the exemption of sales tax on the purchase of raw materials, spare parts of machinery, packing materials and sale of finished products subject to a ceiling of 100 *per cent* of the FCI for a period of six years from the date of commercial production. The Government vide notification of July 1996 extended the exemption to interstate sales also provided that the dealer was entitled to the exemption under the State Act. Sponge iron is taxable at the rate of four *per cent* under the OST Act.

Test check of the records of Keonjhar circle in July 2007 revealed that a registered SSI unit manufacturing sponge iron started commercial production on 6 December 2000 with FCI of Rs. 5.83 crore. During the years 2000-01 to 2003-04, the AOs allowed exemption (between March 2002 and February 2005) from payment of sales tax of Rs. 5.29 crore. The dealer was, thus, eligible to avail tax exemption of Rs. 54.60 lakh during the rest of the eligibility period. However, the AO while assessing the dealer under the OST and CST Acts for the year 2004-05 in July 2006 allowed tax exemption of Rs. 1.37 crore resulting in allowance of excess tax exemption of Rs. 82.76 lakh.

18 The State of Orissa is divided into different zones depending upon their industrial backwardness.

After the case was pointed out, the Government stated in August 2008 that on completion of reassessments in December 2007, demand of Rs. 2.01 crore including penalty was raised. The dealer while depositing Rs. 22.25 lakh in March 2008 had filed an appeal. A report on further development has not been received (November 2008).

2.4 Underassessment of tax due to suppression of purchase

2.4.1 Under the OST Act, goods of the class or classes specified in the certificate of registration of a registered dealer for use in the manufacture or processing of goods for sale can be purchased at the concessional rate of tax of four *per cent* subject to the production of declaration in form IV. In case the goods so purchased are utilised for any other purpose, the dealer shall be liable to pay the difference of the tax payable had he not furnished the declaration form. Under the Act, diesel is taxable at the rate of 18 *per cent* upto March 2001.

Test check of the records of Angul circle in November 2006 revealed that a registered dealer manufacturing polyester staple fibre and yarn disclosed purchase of machinery spares valued at Rs. 24.83 lakh against declaration in form IV during the year 2000-01 which was accepted by the AO at the time of finalising the assessment in March 2004. Cross verification of the records of a registered oil company of Cuttack I (East) circle revealed that the former dealer purchased diesel valued at Rs. 12.67 crore at the concessional rate of tax against declaration in form IV. Since diesel is neither a raw material nor a fuel for manufacture or processing of polyester staple fibre and yarn, it is not integrally connected with the ultimate production of goods and thus, the dealer was liable to pay the differential tax. This resulted in underassessment of tax of Rs. 2.04 crore including surcharge.

After the case was pointed out, the AO stated in November 2006 that the case would be sent to the Assistant Commissioner of Sales Tax for *suo motu* revision. A report on further development has not been received (November 2008).

The matter was reported to the Government in March 2008; their reply has not been received (November 2008).

2.4.2 As per the provisions of the OST Act, every registered dealer is required to keep true account of the goods bought and sold by him.

Test check of the records of Bhubaneswar I circle in December 2007 and subsequent collection of information in March 2008 revealed that a dealer in two wheelers and tractors disclosed purchase of two-wheelers and tractors worth Rs. 8.49 crore from outside the State during 2003-04 by using 127 way bills which included two-wheelers worth Rs. 7.74 crore. While finalising the assessment under the OST Act in February 2007, the AO considered the purchases covered under way bills and corresponding sale turnover of two-wheelers of Rs. 7.37 crore was assessed to tax. Scrutiny of the 'C' form account submitted by the dealer revealed that two-wheelers worth Rs. 2.30 crore purchased in 24 invoices were not included in the purchases taken into consideration in the assessment completed in February 2007. This led to suppression of purchases of Rs. 2.30 crore and consequential under assessment

of tax of Rs. 31.04 lakh calculated on the corresponding sale value by adding the profit margin disclosed by the dealer. Besides, penalty of Rs. 42.33 lakh was also leviable.

After the case was pointed out, the AO stated in May 2008 that the case has been re-opened and the points raised by the audit would be taken into consideration at the time of the reassessment. A report on further development has not been received (November 2008).

The matter was reported to the Government in June 2008; the Government in August 2008 stated that the case was under examination.

2.5 Non-levy of penalty

2.5.1 Under the Orissa Value Added Tax (OVAT) Act, 2004, penalty equal to twice the amount of tax assessed on account of suppression of sales or purchases, erroneous claims of deductions, evasion of tax or contravention of any provision of the Act is leviable without prejudice to any penalty or interest that may have been levied under any provision of the Act.

Test check of the records of Bargarh circle in March 2008 revealed that a registered dealer manufacturing sugar had evaded payment of tax on the purchases made; claimed excess deductions etc., for the period from April 2005 to May 2006. The AO while finalising the assessments in January 2007 detected this and levied tax of Rs. 48.46 lakh, but omitted to levy penalty of Rs. 96.92 lakh.

After the case was pointed out, the AO reopened the case in March 2008. A report on further development has not been received (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

2.5.2 Under the provisions of the CST Act, if any person purchases goods not specified in his certificate of registration by furnishing declaration in form 'C', the authority which granted him or is competent to grant a certificate of registration under the Act may impose upon him, by way of penalty, a sum not exceeding one and a half times the tax which would have been levied had he not furnished the declaration.

Test check of records of Jharsuguda circle in February 2007, revealed that a registered dealer engaged in execution of works contract purchased goods valued at Rs. 1 crore on the strength of declaration in form 'C' during 2004-05. The goods purchased were not specified in the certificate of registration of the dealer. The dealer was liable to pay a penalty of Rs. 15.04 lakh. The AO, however, did not levy the same while finalising the assessment in March 2006.

After the case was pointed out, the Government stated in March 2008 that penalty for misutilisation of declaration form was levied in February 2008. A report on recovery has not been received (November 2008).

2.6 Evasion of tax

Under the OST Act, taxable turnover is that part of a dealer's gross turnover during any period which remains after deducting therefrom, among other elements, the turnover during that period in respect of goods where tax is levied at the first point of sale. If for any reason, the dealer furnishes incorrect particulars of turnover, he is liable to pay penalty equal to one and a half times the tax so assessed.

Test check of records of Bhubaneswar II circle, in January 2008 revealed that the AO while finalising the assessment of a dealer in February 2007 allowed a deduction of Rs. 10.64 crore on account of tax paid goods purchased by the dealer from another dealer during the year 2003-04. Cross verification of the records of the dealer with the records of the selling dealer revealed that the dealer had purchased tax paid goods valued at Rs. 2.24 crore from the other dealer during April and May 2003, the corresponding sale turnover of which works out to Rs. 2.46 crore. Thus, the deduction of Rs. 8.18 crore claimed by the dealer and allowed by the AO was incorrect. This resulted in underassessment of tax of Rs. 35.97 lakh including surcharge. Besides, penalty of Rs. 49.06 lakh was also leviable for furnishing incorrect particulars of turnover.

After the case was pointed out, the AO reopened the assessment in January 2008. A report on further development has not been received (November 2008).

The matter was reported to the Government in March 2008; their reply has not been received (November 2008).

2.7 Non-levy of tax for contravention of declaration

Under the OST Act, a registered dealer can purchase goods mentioned in his certificate of registration for use within the State of Orissa in the manufacture or processing of goods for sale or in mining or in generation or distribution of electricity or any other form of power at concessional rate of tax after furnishing a declaration in form IV. If the dealer after purchasing the goods utilises the same for any other purpose, he shall be liable to pay the difference of the tax payable had he not furnished the declaration. Light diesel oil and high speed diesel are taxable at the rate of 20 *per cent* under the Act.

Test check of the records of Angul circle in October 2006, revealed that a registered dealer engaged in generation of electricity purchased high speed diesel valued at Rs. 4.83 crore during 2003-04. Of this, diesel valued at Rs. 4.53 crore was utilised in the transportation of coal from the purchase point to the point of generation of electricity. Since diesel was not consumed in the generation of electricity, it was liable to be taxed at the rate of 20 *per cent*. However, the dealer furnished a declaration in form IV and incorrectly paid tax at the rate of four *per cent*. The AO while finalising the assessment in November 2005 did not detect the mistake. This resulted in non-levy of differential tax of Rs. 79.81 lakh including surcharge.

After the case was pointed out, the Government intimated in February 2008 that reassessment has been completed in December 2007 and an additional demand of Rs. 2.09 crore had been raised which included other points

considered during the reassessment. A report on recovery has not been received (November 2008).

2.8 Underassessment of tax due to non-inclusion of entry tax in the taxable turnover

Under the Orissa Entry Tax (OET) Rules, 1999, when a dealer of motor vehicles becomes liable to pay tax under the OST Act by virtue of sale of such motor vehicles, his sales tax liability is reduced by the amount of tax paid under the OET Act. As clarified by the Finance Department, entry tax paid and allowed set off shall form part of the sale price of the motor vehicles. Motor vehicles are taxable at the rate of 12 *per cent* under the OST Act.

Test check of the records of Rourkela II circle in September 2006, revealed that a registered dealer of motor vehicles did not include entry tax of Rs. 4.21 crore paid on motor vehicles in his taxable turnover for the years 2003-04 and 2004-05. The AO while determining the taxable turnover in December 2005 did not detect the mistake, though the particulars relating to payment of entry tax were available in the case record. This resulted in underassessment of tax of Rs. 55.59 lakh including surcharge.

After the case was pointed out, the Government stated in August 2008 that demand of Rs. 18.02 lakh was raised on completion of reassessments. A report on realisation and reasons for variation in demand has not been received (November 2008).

2.9 Short levy due to application of lower rate of tax

Under the OST Act, different rates of tax are applicable in respect of different commodities as notified from time to time. As per the Government of Orissa notification of March 2001, the portion of the turnover of the works contract equaling the purchase value of the goods purchased by the dealer for use in works contract free of tax or at concessional rate of tax against declaration forms prescribed under the OST Act or the CST Act are taxable at the rate applicable for sale of such goods under the OST Act. Cement and chemicals are taxable at the rate of 12 *per cent* under the OST Act.

2.9.1 Test check of the records of Ganjam II circle in January 2008 revealed that a works contract dealer had purchased cement and chemicals valued at Rs. 6.82 crore on the strength of declarations in form 'C' during 2003-04 and 2004-05 and utilised these in works contract. The AO while finalising the assessment of the dealer for both the years in September 2006 levied tax at the rate of eight *per cent* instead of 12 *per cent*. This resulted in underassessment of tax of Rs. 30.01 lakh including surcharge.

After the case was pointed out, the Government stated in July 2008 that reassessment had been completed raising additional demand of Rs. 30.01 lakh. A report on recovery has not been received (November 2008).

2.9.2 Test check of the assessment records in two circles between June 2004 and May 2006 revealed that in two cases the dealers misclassified the goods valued at Rs. 1.86 crore sold during the years between 2001-02 and 2003-04 and paid tax at a lower rate. The AOs also accepted the returns and completed the assessments between October 2002 and December 2005 accordingly.

Thus, application of incorrect rates of tax resulted in short levy of tax of Rs. 22.81 lakh including surcharge and penalty. The details are mentioned below:

(Rupees in lakh)

Sl. No.	Name of the circle Number of cases	Year assessed Month of assessment	Turnover involved	Short levy of tax/ surcharge/ penalty	Remarks
1.	Cuttack I (East) 1	2003-04 (December 2005)	153.24	15.93	Sale of vaseline was incorrectly taxed at the rate of eight <i>per cent</i> treating it as medicine instead of the appropriate rate of 12 <i>per cent</i> .
2.	Bhubaneswar II 1	2001-02 and 2002-03 (October 2002 and September 2003)	33.04	6.88	Non-stick cookware was assessed to tax at the rate of four <i>per cent</i> treating it as aluminium utensil instead of the appropriate rate of 12 <i>per cent</i> .
Total (Two cases)			186.28	22.81	

After the cases were pointed out, the Government stated in February and March 2008 that demand of Rs. 40.55 lakh was raised in both the cases. A report on realisation has not been received (November 2008).

2.10 Evasion of purchase tax

Under the OST Act, prawn is subject to purchase tax at the rate of eight *per cent*. In case of concealment of turnover, a dealer is liable to pay penalty equal to one and a half times of the tax assessed.

Test check of the records of Balasore circle in May 2006 revealed that a registered dealer did not file any return of turnover for the year 2002-03. The AO while assessing the dealer *ex-parte* in March 2006 determined the turnover of the dealer as 'nil'. Cross verification of the assessment records of the dealer with the records of another dealer registered in the same circle revealed that the assessee dealer had purchased prawn valued at Rs. 1.53 crore during the year 2002-03. Thus, the dealer evaded payment of purchase tax of Rs. 13.46 lakh including surcharge which was not detected by the AO. In addition, the dealer was also liable to pay penalty of Rs. 18.35 lakh.

After the case was pointed out, the Government stated in March 2008 that the reassessment was completed in December 2007 raising an additional demand of Rs. 12.23 lakh. The reassessment order was, however, not found correct as surcharge of Rs. 1.23 lakh leviable was also not levied by the AO. Besides, penalty for concealment of turnover though leviable was not levied. Further reply on these and a report on realisation of the tax levied has not been received (November 2008).

2.11 Underassessment due to incorrect application of concessional rate of tax

Under the OST Act, concessional rate of tax on sale of packing materials against declaration in form IV was withdrawn with effect from 1 April 2001. Wooden pallets and crates being packing materials are taxable at the rate of 12 *per cent* under the Act as an unspecified item.

Test check of the records of Rourkela II circle in December 2006, revealed that the AO while finalising the assessments in March 2006 of a registered dealer for the years 2003-04 and 2004-05 levied tax on the sale turnover of wooden pallets and crates valued at Rs. 2.34 crore made against declarations in form IV at the concessional rate of four *per cent* instead of 12 *per cent* though the provision was withdrawn from 1 April 2001. This resulted in underassessment of tax of Rs. 20.57 lakh including surcharge.

After the case was pointed out, the Government intimated in February 2008 that on completion of reassessment in November 2007 additional demand of Rs. 20.57 lakh had been raised and the dealer had filed a writ petition in the High Court for stay of the entire demand. A report on further development has not been received (November 2008).

Entry Tax

2.12 Underassessment of entry tax

Under the Orissa Entry Tax (OET) Act, 1999 and the Rules made thereunder, goods specified in part I and II of the schedule are exigible to tax at a concessional rate of 50 *per cent* of the appropriate rate when such goods are brought inside the local area for use as raw material. Under the Act, coal and coke are exigible to tax at the rate of one *per cent*. As per the amended provisions of the Act effective from May 2005, penalty equal to twice the amount of tax assessed due to suppression of sales or purchases, erroneous claims of deductions, evasion of tax or contravention of any provision of the Act is also leviable. Further, the manufacturer of scheduled goods is required to collect the entry tax on sale of finished products from the buying dealers and deposit it into the Government account.

2.12.1 Test check of the records of Jajpur and Rourkela I circles in December 2007 and February 2008 revealed that the assessing authorities (AAs) while finalising the assessments for the years 2002-03 and 2003-04 between December 2005 and March 2007 of two dealers engaged in manufacture and sale of chrome product and alloys and iron and steel levied entry tax on the imported/purchase value of coal and coke worth Rs. 650.87 crore at a concessional rate of 0.5 *per cent* instead of the appropriate rate. Coal and coke being fuel, application of concessional rate treating the same as raw material was irregular. This resulted in underassessment of entry tax of Rs. 3.25 crore.

After the cases were pointed out, the AA Jajpur circle stated in December 2007 that the case would be reopened, the AA of Rourkela I circle stated that the cases were barred by limitation of time and could not be reopened. The reply is not tenable as the cases can be reassessed within five years under the

Act or the short levy can be made good through *suo motu* revision of the assessment. Further replies have not been received (November 2008).

2.12.2 Test check of the records of Sambalpur Range in March 2008, revealed that a dealer engaged in manufacture and sale of aluminium ingot and alumina, consumed coal valued at Rs. 111.69 crore during the period from April 2005 to June 2006 and paid tax at the concessional rate of 0.5 *per cent*. The AA while finalising the assessment in February 2007 accepted the return and levied tax of Rs. 55.85 lakh. Coal, being a fuel, does not come under the purview of raw material and application of concessional rate of tax was thus irregular. This resulted in underassessment of entry tax of Rs. 55.85 lakh. Besides, the dealer was liable to pay penalty of Rs. 1.12 crore.

Further, the dealer effected sale of finished goods worth Rs. 8.99 crore inside the state on which he did not pay entry tax. The AA also failed to detect the suppression and levy the tax resulting in underassessment of tax of Rs. 8.99 lakh. In addition, the dealer was also liable to pay penalty of Rs. 17.99 lakh.

After the case was pointed out, the AA stated (March 2008) that the case would be re-examined. Further reply has not been received (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

2.13 Loss/non-realisation of entry tax

Under the OET Rules read with the schedule of rates appended to the OET Act, motor vehicles are taxable at the rate of two *per cent* on their purchase value with effect from 1 June 2004. The Transport Commissioner (TC), Orissa in his circular letter of January 2003 (reiterated in June 2005) instructed that at the time of registration of vehicles purchased from outside the State the owners should be asked to furnish proof of payment of entry tax. The Finance Department in June 2005 advised the TC, Orissa about the need for sustained co-operation between the Transport and the Commercial Tax departments and requested that necessary guidelines be issued to the regional transport officers (RTOs) for ensuring recovery of entry tax at the time of registration of the vehicles.

Test check of the records of 17 RTOs¹⁹ between May 2007 and February 2008 revealed that 1,287 motor vehicles purchased from outside the State were registered between December 2004 and March 2007 on which entry tax was not realised. Of these, the owners of 22 motor vehicles were issued no objection certificates (NOC) to other states without payment of entry tax. The RTOs neither insisted upon furnishing the proof of payment of entry tax before registration/granting NOC to the vehicles nor referred the cases to the concerned commercial tax officers (CTOs) for recovery of the dues. In the remaining cases, entry tax was not recovered. This resulted in non-realisation of revenue of Rs. 2.72 crore.

After the cases were pointed out, all the RTOs except Bargarh, Dhenkanal and Ganjam stated between June 2007 and February 2008 that the list of vehicles

¹⁹ Bargarh, Bhadrak, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Jagatsinghpur, Jharsuguda, Keonjhar, Koraput, Nabarangpur, Nayagarh, Nuapada, Rourkela, Sambalpur and Sundargarh.

as pointed out by audit would be sent to the CTOs. The RTOs of Bargarh, Dhenkanal and Ganjam stated between June 2007 and December 2007 that demand notices would be issued for realisation of the dues. Further developments have not been reported (November 2008).

The matter was reported to the Government/TC, Orissa in April 2008; their replies have not been received (November 2008).

2.14 Short levy of entry tax due to application of lower rate

As per the provisions of the OET Act, goods specified in part III of the schedule are exigible to tax at the same rate as applicable to such goods under the OST Act subject to the maximum of 12 *per cent*. Under the OET Act, motor vehicles are included in part III of the schedule. Excavator, dumper, loader and crane come under the definition of motor vehicles as per the Motor Vehicles Act, 1988. Under the OST Act, electrical goods/machineries, tipper/loader/excavator and crane are exigible to tax at the rate of two, eight and 12 *per cent* respectively. Besides, penalty not exceeding one and a half times the amount of tax due on turnover that was not disclosed by the dealer in his return is also leviable.

2.14.1 Test check of the assessment records of six circles²⁰ between November 2007 and March 2008 revealed that 17 registered dealers had procured excavators, dumpers, loaders and cranes of Rs. 11.80 crore from outside the State during the years between 2002-03 and 2004-05 and paid entry tax at the rate of one/two *per cent*. While completing the assessments of the above periods between March 2005 and March 2007, the AAs also levied tax at the rate of one/two *per cent* on the above goods instead of the appropriate rates which resulted in short levy of tax of Rs. 90.16 lakh. Besides, penalty of Rs. 1.35 crore was also leviable.

After the cases were pointed out, the AA of Sambalpur I circle reopened the case in January 2008. The AAs of Jharsuguda and Jajpur circles stated (November 2007 and January 2008) that the cases will be re-examined. The AA of Rourkela I in February and March 2008 stated that five cases will be re-examined and disagreed to reopen one case on the ground that the case was barred by limitation of time. The contention of AA Rourkela I is not tenable since the case can be reassessed within five years under the amended provision of the Act or by *suo motu* revision. The AA of Rourkela II circle initiated action in April 2008 in all the four cases for *suo motu* revision of the assessments. Reports on results of re-examination and further replies in the remaining cases have not been received (November 2008).

2.14.2 Test check of the records of four circles²¹ between November 2007 and March 2008 revealed that in six cases the dealers purchased machinery and electrical goods worth Rs. 1.72 crore during the years 2002-03 to 2004-05 and paid tax at a lower rate of one *per cent* instead of the appropriate rate of two *per cent*. The AAs also completed the assessments between March 2004 and January 2006 accepting the returns. This resulted in short levy of tax of Rs. 4.30 lakh including maximum penalty of Rs. 2.58 lakh.

20 Cuttack II, Jajpur, Jharsuguda, Sambalpur I, Rourkela I and Rourkela II.

21 Bhubaneswar I, Cuttack II, Jharsuguda and Rourkela I.

After the cases were pointed out, the AAs of Jharsuguda and Rourkela I circles stated between November 2007 and February 2008 that the cases will be re-examined. The AAs of Bhubaneswar I and Cuttack II circles stated (February and March 2008) that action would be taken. Report on further development has not been received (November 2008).

The matter was reported to the Government in March and May 2008. In respect of the case under Sambalpur I circle the Government stated in April 2008 that demand of Rs. 64.01 lakh has been raised in February 2008. A report on realisation and reply in the other cases have not been received (November 2008).

2.15 Non-levy of penalty

Under the OET Act and the Rules made thereunder, every registered dealer shall submit to the concerned AA a statement containing the particulars of scheduled goods brought into the local area during the month or quarter as the case may be within the prescribed time limit accompanied by a receipt towards the full payment of the admitted tax. Further, at the close of the year he shall also submit a return in the prescribed form within one calendar month of the expiry of the year along with the proof of payment of the balance amount of tax payable, if any, on the basis of the return. If, at the end of the year, it is found that the amount of tax paid in advance by any dealer for any tax period was less than the tax payable as finally assessed, by more than 15 *per cent*, the AA may direct such dealer to pay, in addition to the tax, by way of penalty, a sum not exceeding one and a half times the differential amount between the tax payable and the tax paid for the year.

Test check of the assessment records of 57 dealers in seven circles²² between November 2007 and March 2008 revealed that against tax of Rs. 8.19 crore assessed in 68 cases for the years 2002-03 to 2004-05, the dealers paid only Rs. 4.50 crore and the balance unpaid amount of tax was more than 15 *per cent* of the tax payable in each case aggregating Rs. 3.69 crore. While assessing the dealers between August 2002 and March 2007, neither any penalty was levied by the concerned AAs nor was any mention made in the assessment order justifying the reasons for non-levy of penalty. This resulted in non-levy of penalty of Rs. 5.53 crore.

After the cases were pointed out, the AAs of Angul, Jharsuguda and Jajpur circles stated between November 2007 and March 2008 that the cases will be re-examined. The AAs of Rourkela circle I in February 2008 stated that six cases will be re-examined. However, in nine cases he stated that the cases were barred by limitation of time. The reply is not tenable as the cases could be reassessed within five years under the provision of the Act. The AA of Rourkela II circle stated (March 2008) that 12 cases will be re-examined. A report on further development and the reply in the remaining cases has not been received (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

²² Angul, Bhubaneswar I, Cuttack II, Jajpur, Jharsuguda, Rourkela I and Rourkela II.

2.16 Non-levy of entry tax due to escapement of taxable turnover

Under the OET Act, entry tax at the prescribed rate is leviable on entry of scheduled goods into a local area for consumption, use or sale therein on the purchase value of the scheduled goods. Further, the manufacturer of scheduled goods is required to collect and deposit the tax on sale of finished products. Where, for any reason, all or any of the scheduled goods brought by a dealer escaped assessment of tax due to wilful non-disclosure of the entry of such goods, the AA may assess the dealer to the best of his judgment and direct him to pay in addition to tax, penalty not exceeding one and a half times of the tax so assessed up to 18 May 2005 and equal to twice the amount of tax thereafter.

Test check of the entry tax assessment records between August 2006 and March 2008 with reference to way bill account, sales tax assessment records, utilisation account of declaration forms etc., of seven circles²³ for the years between 2002-03 and 2005-06 finalised between August 2003 and March 2007 revealed that in 23 cases, scheduled goods worth Rs. 40.50 crore brought into the respective local areas and sale turnover of Rs. 12.54 crore escaped assessment due to non-disclosure by the assesseees. This led to non-levy of tax of Rs. 54.10 lakh. Besides, penalty of Rs. 81.47 lakh was also leviable.

After the cases were pointed out, the AAs of Angul, Bhubaneswar I, Jharsuguda and Sambalpur II circles stated between November 2007 and March 2008 that the cases will be re-examined. The AA of Cuttack II circle accepted (February 2008) to initiate proceedings in nine cases. The AA of Rourkela I accepted (March 2008) to re-examine one case and stated that three cases were barred by limitation of time. The contention was not tenable as the cases could be reassessed under the amended provision or by *suo motu* revision. The AA of Rourkela II circle initiated action (May 2008) for *suo motu* revision in four cases and stated (June 2008) that the remaining cases will be re-examined. Reports on further development have not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

2.17 Short levy of entry tax due to incorrect determination of taxable turnover

The OET Act and the Rules made thereunder provide for levy and collection of tax on entry of scheduled goods into a local area for consumption, use or sale therein at the prescribed rates on the purchase value inclusive of incidental charges, excise duties, countervailing charges, sales tax, transport charges, etc. Where purchase value of any scheduled goods is not ascertainable or if the scheduled goods are acquired or obtained otherwise than by way of purchase, then the purchase value shall be the value or the price at which the scheduled goods of like kind or quality is sold or is capable of being sold in the open market. In case of submission of incomplete or incorrect returns, penalty not exceeding one and a half times the tax due on the turnover that was not disclosed by the dealer is also leviable.

²³ Angul, Bhubaneswar I, Cuttack II, Jharsuguda, Rourkela I, Rourkela II and Sambalpur II.

Test check of the assessment records between June 2007 and March 2008 of six circles²⁴ for the years between 2002-03 and 2004-05 finalised between November 2003 and February 2006 revealed that in six cases the purchase value of the scheduled goods received on stock transfer were determined by the AAs without taking the sale price as purchase price and in seven cases sales tax, surcharge, customs duty and transportation charges were not added to the purchase value resulting in short determination of taxable turnover by Rs. 37.84 crore. This resulted in short levy of entry tax of Rs. 40.27 lakh. Besides, penalty to the extent of Rs. 60.41 lakh was also leviable.

After the cases were pointed out, while the AA of Cuttack I (Central) circle reopened the cases in June 2007, the AA of Angul circle stated (November 2007) that the case will be re-examined. The AAs of Rourkela I and Rourkela II circles stated (between February and June 2008) that the cases were barred by limitation for reassessment. The contention of the AAs of Rourkela I and II circle is not tenable as reassessment of the cases could be done under the amended provision of the Act. A report on further development and reply in the remaining cases has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

²⁴ Angul, Bhubaneswar I, Cuttack I (Central), Cuttack II, Rourkela I and Rourkela II.

CHAPTER - III: TAXES ON MOTOR VEHICLES

3.1 Results of audit

Test check of the records relating to assessment and collection of motor vehicles tax in the office of the State Transport Authority, Orissa and the regional transport offices conducted during the year revealed non/short realisation/levy of tax and loss of revenue etc., amounting to Rs. 64.70 crore in 1,62,866 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Non-levy/realisation of motor vehicles tax/additional tax and penalty	24,917	58.61
2.	Loss of revenue due to non-realisation of entry tax	1,362	2.86
3.	Non/short realisation of compounding fee, permit fee and process fee	1,32,927	1.33
4.	Non/short realisation of composite tax and penalty	2,001	0.45
5.	Short levy/realisation of motor vehicles tax/additional tax and penalty	298	0.34
6.	Non/short realisation of trade certificate tax and fee	108	0.04
7.	Other irregularities	1,253	1.07
Total		1,62,866	64.70

During the year 2007-08, the department accepted non/short realisation/levy of tax and other deficiencies of tax and penalty of Rs. 145.42 crore in 79,831 cases, which were pointed out in audit in 2007-08 and earlier years. Of these, the department recovered Rs. 7.04 crore in 7,597 cases.

A few illustrative cases highlighting important audit observations involving Rs. 60.37 crore are discussed in the following paragraphs.

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

Under the Orissa Motor Vehicles Taxation (OMVT) Act, 1975 (as amended from time to time), 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 declaration. Penalty is to be charged at double the motor vehicle tax/additional tax due, if tax/additional tax is not paid within two months of the expiry of the grace period of 15 days. Regional transport officers (RTOs) are required to issue demand notices within 30 days from the expiry of the grace period for payment of tax/additional tax.

3.2.1 Scrutiny of the records of 26 transport regions²⁵ between May 2007 and March 2008 revealed that motor vehicles tax/additional tax of Rs. 18.45 crore in 27,427 cases was not realised for the period from April 2006 to March 2007 even though the vehicles had not been declared off road. This resulted in non-realisation of revenue of Rs. 55.34 crore including penalty of Rs. 36.89 crore as detailed below:

(Rupees in crore)

Sl. No.	No. of regions Nature of irregularities	Period between	No. of vehicles	Non-realisation of tax/additional tax	Penalty leviable	Total
1.	<u>26</u> Non-realisation of motor vehicles tax/additional tax from goods vehicles	April 2006 and March 2007	13,484	12.97	25.95	38.92
2.	<u>26</u> Non-realisation of motor vehicles tax/additional tax in respect of contract carriages	April 2006 and March 2007	4,925	2.83	5.65	8.48
3.	<u>26</u> Non-realisation of motor vehicles tax from tractor trailer combination	April 2006 and March 2007	8,743	2.37	4.74	7.11
4.	<u>24</u> ²⁶ Non-realisation of motor vehicles tax/additional tax in respect of stage carriages	April 2006 and March 2007	275	0.28	0.55	0.83
Total			27,427	18.45	36.89	55.34

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

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

After the cases were pointed out, all the RTOs stated between May 2007 and March 2008 that action for realisation of the dues would be taken. A report on further development has not been received (November 2008).

The matter was brought to the notice of the Government/Transport Commissioner in April 2008; their replies have not been received (November 2008).

3.2.2 Test check of the records of 18 transport regions²⁷ between May 2007 and March 2008 revealed that motor vehicles tax/additional tax of Rs. 2.37 lakh in 60 cases for the period from April 2006 to March 2007 was realised short. Besides, penalty of Rs. 4.74 lakh was also leviable.

After the cases were pointed out, all the RTOs stated between May 2007 and March 2008 that action for realisation of the dues would be taken. A report on further development has not been received (November 2008).

The matter was brought to the notice of the Government/Transport Commissioner in April 2008; their replies have not been received (November 2008).

3.3 Non-realisation of motor vehicles tax/additional tax for violation of off road declaration

Under the OMVT Act, motor vehicles tax/additional tax is to be levied on every motor vehicle used or kept for use in the State of Orissa unless prior intimation of non-use of the vehicle is given to the taxing officer (TO). If, at any time, during the period covered by off road declaration, the vehicle 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 double the tax due for the entire period for which it was declared off road.

Test check of the records of 14 transport regions²⁸ between May 2007 and January 2008 revealed that 150 motor vehicles under off road declarations for the period between June 2005 and March 2007 were either detected plying or not found at the declared places by the enforcement staff during the said period. No action was taken by the TOs to realise the motor vehicles tax/additional tax and levy penalty for violation of off road declaration. This resulted in non-realisation of motor vehicles tax and additional tax of Rs. 2.52 crore including penalty of Rs. 1.68 crore.

After the cases were pointed out, the RTO, Bhadrak in July 2008 intimated that demand notice in one case for an amount of Rs. 3 lakh has been issued. A report on further development in this case and replies in the remaining cases have not been received (November 2008).

²⁷ Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Phulbani, Puri, Rourkela, Sambalpur and Sundargarh.

²⁸ Balasore, Bargarh, Bhadrak, Bhubaneswar, Cuttack, Ganjam, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Puri, Rourkela and Sambalpur.

The matter was brought to the notice of the Government/Transport Commissioner in April 2008; their replies have not been received (November 2008).

3.4 Non-realisation of process fee

As per the Motor Vehicles (MV) Act, 1988 read with the Government of Orissa, Commerce and Transport (Transport) Department notification dated 24 January 2003, process fee of Rs. 100 on every application was introduced with effect from 28 January 2003. The department by an order of March 2003, however, postponed the collection of fees at the rates prescribed in the notification.

Test check of the permit registers and other connected records in the State Transport Authority (STA), Orissa and 20 transport regions²⁹ including 12 check gates between June 2007 and March 2008 revealed that the process fee for the period from April 2006 to March 2007 was not realised in 1.17 lakh cases. This resulted in non-realisation of fees amounting to Rs. 1.17 crore.

After the cases were pointed out, the STA, Orissa and all the RTOs stated that the collection of the fee was postponed as per the Government of Orissa order of March 2003. The replies are not tenable as the rates published in the gazette had already come into force and charging of old rates by an executive order was irregular since executive orders cannot overrule the statutory provisions.

The matter was brought to the notice of the Government/Transport Commissioner in April 2008; their replies have not been received (November 2008).

3.5 Non-realisation of composite tax for goods vehicles under reciprocal agreement

As per the decision (February 2001) of the Government of Orissa, goods vehicles belonging to Andhra Pradesh (AP) and authorised to ply in Orissa under the reciprocal agreement were required to pay annually composite tax of Rs. 3,000 per vehicle instead of the additional tax for each entry. The tax was payable in advance on or before the 15th 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 leviable in addition to the composite tax.

Test check of the records of STA between April and July 2007 revealed that out of 1,926 goods vehicles of AP authorised to ply in Orissa on the strength of valid permits under reciprocal agreement during 2006-07, composite tax for 1,000 goods vehicles amounting to Rs. 30 lakh was not realised. Besides, penalty of Rs. 12 lakh was also leviable. The department did not initiate any action to realise the dues.

After the case was pointed out, the STA stated in July 2007 that STA, AP would be moved for realisation of the composite tax. A report on further development has not been received (November 2008).

²⁹ Angul, Bargarh, Bhubaneswar, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Nuapada, Phulbani, Puri, Rayagada, Rourkela and Sambalpur.

The matter was brought to the notice of the Government/Transport Commissioner in January 2008; their replies have not been received (November 2008).

3.6 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 does not pay tax and additional tax within the specified period.

Test check of the records of 25 transport regions³⁰ between May 2007 and March 2008 revealed that though taxes in respect of 324 vehicles for the period between April 2002 and March 2007 were paid belatedly after a delay ranging between two days and 59 months, yet in 157 cases, penalty of Rs. 14.46 lakh was not levied by the RTOs while in the remaining 167 cases, penalty of Rs. 16.50 lakh was levied short. This resulted in non/short levy of penalty amounting to Rs. 30.96 lakh.

After the cases were pointed out, the RTOs of Angul, Cuttack, Dhenkanal, Ganjam and Mayurbhanj intimated between June and August 2008 that Rs. 42,000 had been realised in 10 cases. Besides, in 26 cases demand notices for an amount of Rs. 2.78 lakh had been issued. A report on recovery and replies in other cases has not been received (November 2008).

The matter was brought to the notice of the Government/Transport Commissioner in April 2008; their replies have not been received (November 2008).

3.7 Non/short realisation of tax from stage carriages plying without route permits

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

Test check of the records of 17 transport regions³¹ between June 2007 and March 2008 revealed that though 69 stage carriages were detected to be plying without permit by the Enforcement Wing during different periods between

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

31 Bhubaneswar, Bolangir, Cuttack, Ganjam, Jagatsinghpur, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nabarangpur, Nayagarh, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

June 2005 and March 2007, motor vehicles tax/additional tax were either not realised or realised at lower rates resulting in non/short realisation of motor vehicles tax and additional tax amounting to Rs. 8.02 lakh. Besides, penalty of Rs. 16.41 lakh though leviable was not levied.

After the cases were pointed out, all the RTOs stated between June 2007 and March 2008 that the dues would be realised. A report on further development has not been received (November 2008).

The matter was brought to the notice of the Government/Transport Commissioner in April 2008; their replies have not been received (November 2008).

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

Under the OMVT Act, when a vehicle in respect of which motor vehicle tax/additional tax for any period has been paid as per the registration certificate, is proposed to be used in a manner for which higher rate of motor vehicle tax/additional tax is payable, the owner of the vehicle is liable to pay the differential tax. In case of failure in payment of the tax/additional tax within two months after the grace period of 15 days, penalty amounting to double the differential tax/additional tax is leviable.

Test check of the records of 16 transport regions³² between May 2007 and March 2008 revealed that 126 stage carriages were permitted to ply temporarily as contract carriages during the period between March 2006 and March 2007 on which higher rate of tax was applicable. Though the differential tax was not paid in advance, the RTOs did not take any action to issue demand notices for realisation of the dues. This resulted in non-realisation of differential motor vehicle tax/additional tax of Rs. 4.51 lakh. Besides, penalty of Rs. 9.02 lakh was also leviable.

After the cases were pointed out, all the RTOs concerned stated between May 2007 and March 2008 that demand notices to realise the dues would be issued. A report on further development has not been received (November 2008).

The matter was brought to the notice of the Government/Transport Commissioner in April 2008; their replies have not been received (November 2008).

3.9 Non/short realisation of motor vehicles tax/additional tax from stage carriages

In pursuance of an agreement between the Government of Orissa and any other State, if a stage carriage plies on a route partly within the State of Orissa, it is 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 the Rules made thereunder. In case the tax/additional tax is paid beyond two months after the grace period of 15 days, penalty is to be charged at double the tax/additional tax due.

³² Balasore, Bargarh, Bhubaneswar, Chandikhol, Cuttack, Dhenkanal, Jharsuguda, Keonjhar, Nayagarh, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

Test check of the records of the STA and four transport regions³³ between June and December 2007 revealed that in case of nine out of 15 stage carriages authorised to ply on interstate routes under the reciprocal agreement, motor vehicles tax/additional tax of Rs. 3.85 lakh was not levied while in the remaining six cases, motor vehicles tax/additional tax of Rs. 23,854 was levied short. Thus, there was non/short realisation of motor vehicles tax/additional tax of Rs. 4.09 lakh. Besides, penalty of Rs. 8.18 lakh was also leviable for non-payment of dues.

After the cases were pointed out, the Transport Commissioner and all the RTOs stated between June and December 2007 that the dues would be realised. A report on recovery has not been received (November 2008).

The matter was brought to the notice of the Government/Transport Commissioner in April 2008; their replies have not been received (November 2008).

3.10 Non-realisation of trade certificate tax/fees

Under the OMVT Act read with the Central Motor Vehicles Rules, 1989 (as amended), dealers in motor vehicles are required to obtain a trade certificate from the registering authorities by paying the requisite tax/fees annually in advance. Under the MV Act, a dealer includes a person who is engaged in building bodies on the chassis or in the business of hypothecation³⁴, leasing or hire purchase of motor vehicles.

Test check of the records of five transport regions³⁵ between May and December 2007 revealed that in respect of 122 dealers, trade certificate tax and fees for the period between April 2004 and March 2007 were not realised. This resulted in non-realisation of tax and fees of Rs. 3.62 lakh.

After the cases were pointed out, all the RTOs stated between May and December 2007 that the dues would be realised. A report on recovery has not been received (November 2008).

The matter was brought to the notice of the Government/Transport Commissioner in April 2008; their replies have not been received (November 2008).

33 Bargarh, Keonjhar, Mayurbhanj and Sambalpur.

34 Financing through mortgage.

35 Balasore, Bhubaneswar, Bolangir, Ganjam and Rourkela.

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

4.1 Results of audit

Test check of the records relating to assessment and collection of land revenue and stamp duty and registration fees conducted during the year revealed non-collection, non/short assessment and blocking of revenue etc., amounting to Rs. 440.08 crore in 38,974 cases, which fall under the following categories.

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
LAND REVENUE			
1.	Non-collection of premium etc. on land occupied by local bodies/private bodies etc.	201	311.10
2.	Non/short realisation of revenue on lease of Government land	1	77.75
3.	Non/short assessment of water rate	6	4.45
4.	Blockage of revenue due to non-finalisation of OLR cases	1,143	1.71
5.	Non-lease/irregular lease of <i>sairat</i> sources	220	1.01
6.	Non-realisation of revenue due to delay in finalisation of OEA (<i>Bebandobasta</i>) cases	36	0.01
7.	Miscellaneous/other irregularities	57	1.12
Total		1,664	397.15
STAMP DUTY AND REGISTRATION FEES			
1.	Blockage of revenue due to non-disposal of cases	28,567	31.73
2.	Loss of revenue due to non-consideration of highest sale value at the time of registration (undervaluation cases)	7,768	10.13
3.	Non-assessment of town planning charges	973	0.88
4.	Short realisation of duty payable under the Orissa Development Authorities Act	1	0.17
5.	Misclassification of gift deeds as release deeds	1	0.02
Total		37,310	42.93
Grand total		38,974	440.08

During the year 2007-08, the department accepted non-collection, non/short assessment of revenue and other deficiencies of Rs. 17.89 crore in 25,624 cases, which were pointed out by audit in 2007-08 and earlier years, of which, an amount of Rs. 8.69 crore has been recovered in 11,555 cases.

A few illustrative cases highlighting important audit observations involving Rs. 132.78 crore are discussed in the following paragraphs.

Land Revenue

4.2 Non-finalisation of alienation cases

According to the 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 a premium fixed on the basis of the market value of the land plus annual ground rent at one *per cent* of the market value and cess at 50 *per cent* of the ground rent upto 1993-94 and 75 *per cent* thereafter. In case of Government land leased out to Central Government departments, premium and capitalised value of land revenue which is 25 times of the annual ground rent and cess is leviable. Besides, interest at the rate of six *per cent* upto 27 November 1992 and 12 *per cent* thereafter is realisable for the period from the date of occupation of the land till the date of payment of the dues.

Test check of the records of four *tahasil* offices between February 2007 and February 2008 revealed that in four cases occupation of Government land measuring 844.041 acres was not regularised though the occupants were in possession of the land for periods ranging between 18 months and 36 years. Due to non-finalisation of the alienation³⁶ cases, there was non-realisation of revenue of Rs. 120.67 crore towards premium, ground rent, cess, capitalised value and interest as mentioned below:

(Rupees in crore)

Sl. No.	Name of the <i>tahasil</i> Name of the occupants	Year of occupation	Area (in acre)	Revenue remained unrealised				Total
				Premium	Ground rent	Cess	Interest	
1.	<u>Pottangi</u> CCBF ³⁷ , Semiliguda	July 1972	812.920	19.33	4.83	3.62	81.84	109.62
The department did not take any action for 23 years. The occupant applied for alienation of the land in October 1995. Despite lapse of 12 years, the case has not been finalised.								
2.	<u>Cuttack</u> CDA ³⁸ , Cuttack	September 2006	7.355	7.36	0.07	Not applicable	0.44	7.87
The occupant applied for alienation of the land in February 2003. Though the possession was handed over in September 2006, the case has not been finalised.								
3.	<u>Lephripara</u> M/s. Hindustan Zinc Ltd.	1979	21.370	0.54	0.15	0.09	1.49	2.27
The occupant was in possession of the land since 1979. The department failed to take any action for about 23 years. Though the alienation case was started <i>suo motu</i> in July 2002, despite lapse of more than five years, the case has not been finalised.								

³⁶ Transfer of land.

³⁷ Central Cattle Breeding Farm.

³⁸ Cuttack Development Authority.

Sl. No.	Name of the <i>tahasil</i> Name of the occupants	Year of occupation	Area (in acre)	Revenue remained unrealised				Total
				Premium	Ground rent	Cess	Interest	
4.	Mohana GRIDCO ³⁹	1985	2.396	0.24	0.05	0.04	0.58	0.91
The land was in unauthorised occupation since 1985 and the occupant applied in February 2004 for alienation of the land in its favour. The department failed to take any action for about 19 years and despite lapse of three years from the date of application for lease the case has not been finalised.								
Total			844.041	27.47	5.10	3.75	84.35	120.67

After the cases were pointed out, the *Tahasildars*, Pottangi, Cuttack and Lephripara stated between January and February 2008 that the cases would be submitted to the higher authorities after observation of due formalities. The *Tahasildar*, Mohana stated in February 2007 that the matter would be pursued for realisation of the dues. A report on further development has not been received (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

4.3 Short demand of capitalised value

As per the Government of Orissa, Revenue Department letters of 22 March 1978 and 22 January 2005, Government land can be leased out to the Central Government departments on payment of premium fixed on the basis of the market value of the land plus capitalised value of land revenue which is 25 times of the annual ground rent and cess. While annual ground rent is calculated at the rate of one *per cent* of the premium, cess is calculated at the rate of 75 *per cent* of the ground rent. Besides, the occupier of the land is liable to pay interest at the rate of 12 *per cent* from 28 November 1992 for the period from the date of occupation of the land till the date of payment of the dues.

Test check of the records of eight *tahasil* offices between May and December 2007 revealed that Government land measuring 467.927 acres was alienated to three Central Government organisations. While calculating the dues payable to the Government, the *tahasildars* levied the capitalised value on the ground rent only instead of levying it on both the ground rent and cess. Thus, there was short demand of Rs. 4.47 crore including interest calculated upto March 2007 as mentioned in the following table:

³⁹ Grid Corporation of Orissa.

(Rupees in crore)

Sl. No.	Name of the <i>tahasil</i>	Name of the occupant	Year of occupation	Area (in acres)	Cess not levied	Interest payable	Total
1.	Nimapara	DRDO ⁴⁰ , Chandipur	March 2004	200.000	1.50	0.54	2.04
2.	Chatrapur	NHAI ⁴¹	Not available	25.165	0.60	-	0.60
3.	Jatni	-do-	Not available	51.576	0.46	-	0.46
4.	Dharmasala	East Coast Railways	Not handed over	59.500	0.60	-	0.60
5.	Khurda	-do-	Between July 2004 and November 2004	52.186	0.21	0.06	0.27
6.	Begunia	-do-	July 2004	35.400	0.14	0.04	0.18
7.	Pipili	-do-	March 2004	22.300	0.13	0.05	0.18
8.	Nayagarh	-do-	Not available	21.800	0.14	-	0.14
Total				467.927	3.78	0.69	4.47

After the cases were pointed out, all the *tahasildars* except *Tahasildar*, Chatrapur stated (between May and December 2007) that the demand would be raised. The *Tahasildar*, Chatrapur stated in December 2007 that action would be taken after scrutiny of the matter. Further reply has not been received (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

4.4 Non-levy of premium on lease of land

As per the Government of Orissa, Revenue Department letters of October 1961, May 1963 and February 1966, Government land can be leased out to public sector undertakings, local bodies, commercial organisations, etc., on payment of premium fixed on the basis of the market value plus annual ground rent at the rate of one *per cent* of premium and cess at 75 *per cent* of the ground rent. In respect of Government land alienated in favour of the Central Government departments, the latter shall pay, besides premium, capitalised value of land revenue which is 25 times of the annual ground rent and cess. Besides, interest at the rate of 12 *per cent* per annum is leviable for the period from the date of occupation of the land till the date of payment of the dues.

Test check of the records of three *tahasil* offices between June and December 2007 revealed that Government land measuring 109.386 acres was leased out to the East Coast Railways during July to November 2004. The *tahasildars* did not raise demand for the market value of the land (premium) though the capitalised value of land revenue had been demanded and realised. This resulted in non-levy of premium of Rs. 2.54 crore as mentioned in the following table. Besides, interest of Rs. 56 lakh calculated upto March 2007 is also leviable.

40 Defence Research and Development Organisation.

41 National Highway Authority of India.

(Rupees in crore)

Name of the <i>tahasil</i>	Area (in acre)	Date of possession	Premium not levied	Interest leviable	Total
Khurda	52.186	Between July 2004 and November 2004	1.10	0.33	1.43
Begunia	35.400	July 2004	0.72	0.23	0.95
Nayagarh	21.800	Not available	0.72	-	0.72
Total	109.386		2.54	0.56	3.10

After the cases were pointed out, the *tahasildars*, Khurda and Begunia stated between November and December 2007 that the demand would be raised. The *Tahasildar*, Nayagarh stated (June 2007) that the lease of Government land to the Railways should be considered on payment of capitalised value only as per direction of the Government. The contention is not tenable in view of the clarification of the Government of January 2005 which stated that payment of premium by the Central Government in any particular case can be exempted if so decided by the Government. However, in the instant case, no exemption has been granted in favour of the Railways.

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

4.5 Non-raising of demand of incidental charges

As per the provisions of the Orissa Government Land Settlement (OGLS) Rules, 1983, 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 and in favour of any company, corporation or other organisation for industrial, mining or commercial purpose shall be leviable at the rate of 10 *per cent* of the market value of the land.

Test check of the lease/alienation case records of the *Tahasildar*, Jatni in December 2007 revealed that lease of Government land measuring 500 acres was sanctioned in favour of the Orissa Industrial Infrastructure Development Corporation (IDCO) for industrial purposes. The *Tahasildar*, while raising the demand of Rs. 10 crore towards premium in May and November 2007, did not include the incidental charges. Thus, there was short demand of Rs. 1 crore.

After the case was pointed out, the *Tahasildar* stated (December 2007) that the incidental charges would be realised. A report on recovery has not been received (November 2008).

The matter was reported to the Government in March 2008; their reply has not been received (November 2008).

4.6 Non/short levy of interest

As per the Government of Orissa, Revenue Department order of February 1966 read with its letter of 7 August 1996, the occupier of Government land is liable to pay interest at the rate of six *per cent* upto 27 November 1992 and 12 *per cent* thereafter, on the amount due to the Government for the period from the date of occupation of the land till the date of payment of the said amount.

4.6.1 Test check of the records of Attabira *tahasil* in November 2007 revealed that in two cases of belated payment of dues for occupation of Government land, the *Tahasildar* did not levy interest amounting to Rs. 37.81 lakh. The details are mentioned below.

(Rupees in lakh)

Name of the lessee	Area in occupation (in acre)	Date of occupation	Dues demanded and realised	Date of payment	Interest not levied
Orissa State Warehousing Corporation	5.00	March 2002	43.50	Between March 2002 and March 2007	16.61
Regulated Market Committee, Attabira	4.50	1992-93	16.81	Between March 2002 and March 2006	21.20
Total					37.81

4.6.2 Test check of the records of Chatrapur *tahasil* in April 2007 revealed that the *Tahasildar* while raising demand in December 2006 for the arrear dues of a lessee (Indian Rare Earth Limited) for the period from 1976-77 to 2003-04 incorrectly levied interest of Rs. 5.76 lakh against Rs. 53.05 lakh leviable. This resulted in short levy of interest of Rs. 47.29 lakh.

After the case was pointed out, the Government stated in August 2008 that demand for short assessed amount on Indian Rare Earth Limited has been raised in May 2008. A report on recovery and reply in the other case has not been received (November 2008).

Stamp duty and registration fees

4.7 Short realisation of stamp duty and registration fees

As per the provision under Section 47-A of the Indian Stamp (IS) Act, 1899, the highest sale value of similar classification of land in the same village should be the sale value of the 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 the records in three district sub-registrar⁴² (DSR) and five sub-registrar⁴³ (SR) offices between March 2007 and February 2008 revealed that 203 documents were registered between January 2005 and November 2007 realising Rs. 25.21 lakh towards stamp duty and registration fee on the consideration set forth in those instruments without verifying the highest sale value of three consecutive years upto the end of the month preceding the month in which the documents were presented. Scrutiny revealed that the stamp duty and registration fee leviable on the basis of the highest sale value of preceding three consecutive years was Rs. 1.64 crore. This resulted in short realisation of stamp duty and registration fee of Rs. 1.39 crore.

⁴² Khurda, Koraput and Sambalpur.

⁴³ Chhendipada, Khandagiri, Koraput, Nandapur and Titlagarh.

After the cases were pointed out, the DSR, Khurda stated in February 2008 that action would be taken on due verification of records. The remaining seven registering officers stated between March 2007 and February 2008 that action would be taken to book the cases under Section 47-A of the IS Act. Further development has not been reported (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

4.8 Short realisation of stamp duty due to application of lower rate

According to the provisions of the Orissa Town Planning and Improvement Trust Act, 1956, additional stamp duty at the rate of two *per cent* over and above the normal stamp duty of eight *per cent* of the consideration value is chargeable in case of registration of instruments pertaining to the land situated in the areas where the above Act is applicable. The Government of Orissa through a gazette notification of 25 May 2005 enhanced the additional stamp duty from two to three *per cent* with immediate effect.

Scrutiny of the records of five DSRs⁴⁴ and 10 SRs⁴⁵ between May 2007 and March 2008 revealed that the enhanced additional stamp duty of three *per cent* was implemented from January 2007 instead of 25 May 2005 which resulted in short realisation of stamp duty amounting to Rs. 1.30 crore.

After the cases were pointed out, all the DSRs and SRs stated that the Board of Revenue circulated the gazette notification in December 2006 and on receipt the enhanced rate was implemented. The contention is not tenable as the enhanced rate was applicable from the date of notification and non-application of the revised rate resulted in loss of revenue.

The matter was brought to the notice of the Government in April 2008; their reply has not been received (November 2008).

44 Balasore, Bhadrak, Bolangir, Jajpur and Koraput.

45 Banki, Banpur, Barbil, Bargarh, Bhanjanagar, Digapahandi, Jaleswar, Nandapur, Padampur and Titlagarh.

CHAPTER-V: STATE EXCISE

5.1 Results of audit

Test check of the records in the offices of the Excise Commissioner, Deputy Commissioner of Excise and Superintendents of Excise conducted during the year revealed non/short realisation, loss of revenue etc., amounting to Rs. 9.66 crore in 531 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non/short realisation of excise duty/ transport fee	370	7.31
2.	Loss of revenue due to non-settlement/delay in settlement/renewal/non-renewal of excise shops	78	2.10
3.	Other irregularities	83	0.25
Total		531	9.66

During the year 2007-08, the department accepted non/short realisation, loss of revenue etc., of duty/fee amounting to Rs. 3.42 crore in 232 cases pointed out in 2007-08 and recovered Rs. 27 lakh in 174 cases pointed out in 2007-08 and earlier years.

A few illustrative cases highlighting important audit observations involving Rs. 3.85 crore are discussed in the following paragraphs.

5.2 Evasion of excise revenue on methanol

As per the Excise Policy of 2006-07 read with the Government of Orissa, Excise Department letter of March 2006, licence fee and duty prescribed for the denatured spirit {(DS) III (industrial use)} at the rate of Rs. 10,000 per annum and Rs. 2 per bulk litre (BL) respectively shall be applicable for methyl alcohol (methanol) also. Besides, import and transport fee of Rs. 3 per BL is also leviable.

Scrutiny of the records of the Superintendent of Excise (SE), Nabarangpur in December 2007 revealed that an industrial unit imported 62.04 lakh BL of methanol during February 2006 to March 2007 without obtaining any licence. Excise revenue in the form of licence fee, import and transport fee and excise duty (ED) payable on the above excisable goods had neither been paid by the industry nor demanded by the SE. This resulted in evasion of excise revenue of Rs. 3.10 crore.

After the case was pointed out, the SE stated in January 2008 that the demand would be raised. A report on recovery has not been received (November 2008).

The matter was reported to the Government/Excise Commissioner (EC) in March 2008; their reply has not been received (November 2008).

5.3 Short levy of additional dues towards operation of distillery beyond the prescribed time limit

The Government of Orissa, Excise Department instructed (June 2005) that permission may be accorded for running a second shift of eight hours to the distilleries/ breweries/bottling units subject to the condition that such units will pay Rs. 1,000 per hour of operation beyond the prescribed time limit of a single shift. Subsequently, in October 2006, the Government issued a notification amending the corresponding provisions of the Board's Excise Rules, 1965.

Scrutiny of the records of the SE, Ganjam in May 2007 revealed that two distillery units were permitted to operate for 4,286 extra hours during 2005-06 and 2006-07 for which they were liable to pay an additional amount of Rs. 42.86 lakh. The department, however, considered the period from the date of Government notification i.e. October 2006 and issued a demand of Rs. 12.80 lakh only. This resulted in short realisation of dues of Rs. 30.06 lakh.

After the case was pointed out, the Government stated in February 2008 that without statutory rule/notification, no dues or fees can be imposed or collected and the industries were liable to make payment from the date of issue of notification in October 2006 amending the Board's Excise Rules. The contention is not tenable as the distilleries were granted permission for operation of extra hours before October 2006 for which Rs. 1,000 per hour of extra operation as mentioned in the Government instruction of June 2005 was realisable.

5.4 Short realisation of revenue due to non-affixture of excise adhesive labels

As per the Excise Policy for the year 2006-07, excise adhesive label (EAL) will be affixed on the top of the case/carton containing beer with a fee at the rate of Rs. 3 per case/carton. Besides, penalty upto Rs. 10,000 per case/carton is leviable for non-affixing EAL.

Scrutiny of the records of the SE, Cuttack in June 2007 revealed that Orissa State Beverages Corporation Ltd. (OSBC) imported 9.07 lakh cases of beer during the year 2006-07 without affixing the EAL. The department also did not levy and realise the required fees. Non-affixture of the EALs led to short realisation of revenue of Rs. 27.22 lakh. Besides, penalty upto Rs. 907.45 crore was also leviable.

The matter was brought to the notice of the EC/Government in March 2008; their reply has not been received (November 2008).

5.5 Non-realisation of excise duty due to non-fixation of minimum guaranteed quantity for molasses

As per the Orissa Excise (Exclusive Privilege) Rules, 1970 and Excise Policy for the years 2005-06 and 2006-07, the minimum guaranteed quantity (MGQ) for lifting and utilisation of molasses by the distilleries shall be fixed by the Collector of the district on the basis of the highest quantity of molasses lifted and utilised in the last three years.

Scrutiny of the records of the SE, Koraput in January 2008 revealed that the MGQ for lifting of molasses by a distillery for the years 2005-06 and 2006-07 was to be fixed as 7,034.554 MT and 5,950.237 MT respectively on the basis of the highest quantity lifted and utilised during the preceding three years. It was, however, seen that no MGQ was fixed by the department. While there was no utilisation of molasses by the distillery during 2005-06, only 4,739.245 MT of molasses was utilised during 2006-07. Thus, there was short utilisation of 8,245.546 MT of molasses during the above years. For such short utilisation, excise revenue in the form of utilisation fee and import fee amounting to Rs. 13.19 lakh was payable. Due to non-fixation of MGQ, the said dues could not be demanded and realised.

After the case was pointed out, the SE stated in January 2008 that the proposal for fixation of MGQ of molasses was sent to the EC but no confirmation was received. However, the fact remains that the proposal should have been sent to the Collector, who is the authority responsible for fixing of the MGQ of molasses and not to the EC.

The matter was reported to the Government/EC in February 2008; their reply has not been received (November 2008).

5.6 Short realisation of excise duty on medicinal and toilet preparations

Under the Medicinal and Toilet Preparation (Excise Duties) Act, 1955 as amended in March 2003 and letter dated 10 March 2004 of the EC, Orissa, ED on products of medicinal and toilet preparation units is to be charged at the rate of 16 *per cent* of the retail sale price.

Test check of the records of a medicinal and toilet preparation unit under the SE, Cuttack in June 2007 revealed that the ED for the year 2006-07 was calculated at the rate of 16 *per cent* of the billing price instead of the retail sale price resulting in short realisation of ED amounting to Rs. 4.36 lakh.

After the case was pointed out, the SE issued an additional demand notice in June 2007. A report on realisation has not been received (November 2008).

The matter was reported to the EC and the Government in January 2008; their reply has not been received (November 2008).

CHAPTER-VI: FOREST RECEIPTS

6.1 Results of audit

Test check of the records maintained in various forest divisions as well as in the office of the Principal Chief Conservator of Forests, Orissa conducted during the year revealed non/short levy of interest, loss of revenue etc., of Rs. 3.07 crore in 1,895 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Loss of revenue due to short delivery/ shortage of forest produce	22	0.50
2.	Non-realisation of royalty	17	0.39
3.	Non/short levy of interest on belated payment of royalty.	142	0.34
4.	Other irregularities	1,714	1.84
Total		1,895	3.07

During the year 2007-08, the department accepted non/short levy of royalty, interest and other deficiencies of Rs. 1.05 crore in 1,377 cases pointed out in 2007-08 and recovered Rs. 2.07 crore in two cases pertaining to earlier years.

A few illustrative cases highlighting important audit observations involving Rs. 30.32 lakh are discussed in the following paragraphs.

6.2 Non-disposal of timber and poles

The Government of Orissa, Forest and Environment Department in their order of July 1989 and August 2005 issued instructions for early disposal of timber and poles seized in undetected forest offence cases either by prompt delivery to the Orissa Forest Development Corporation (OFDC) Limited within two months from the date of seizure or 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 the records of 35 forest divisions⁴⁶ conducted between May 2007 and February 2008 revealed that 25,396.334 cft of timber and 1,644 poles valued at Rs. 65.13 lakh seized in 1,380 undetected forest offence cases, registered between 2005-06 and 2006-07, were lying undisposed. Inaction of the department in disposing the timber and poles either by delivery to the OFDC or by public auction resulted in non-realisation of revenue of Rs. 65.13 lakh.

After the cases were pointed out, the divisional forest officers (DFOs) stated between May 2007 and February 2008 that action would be taken to dispose the forest produce.

The matter was reported to the Principal Chief Conservator of Forests (PCCF)/Government in March 2008; their reply has not been received (November 2008).

6.3 Non-levy of interest on belated payment of royalty on timber

Under the 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 amount of default. As per the provisions contained in the Government of Orissa order of February 1977, the OFDC is also liable to pay interest for default in the payment of royalty.

Test check of the records of 10 forest divisions⁴⁷ conducted between May and December 2007 revealed that the OFDC had paid royalty of Rs. 3.50 crore for the period from 2000-01 to 2006-07 between August 2005 and March 2007 with delays ranging between three and 53 months. Interest of Rs. 30.32 lakh leviable on the belated payment of dues was not levied by the DFOs. The details are mentioned in the following table:

46 Angul, Athagarh, Athamalik, Balliguda, Baragarh, Baripada, Berhampur, Bolangir (E), Bolangir (W), Boudh, Cuttack, Deogarh, Dhenkanal, Ghumsur (N), Jeypore, Kalahandi (S), Karanjia, Keonjhar, Khariar, Khurda, Koraput, Malkangiri, Nabarangpur, Nayagarh, Paralakhemundi, Phulbani, Rairakhol, Rairangpur, Rayagada, Rourkela (Timber), Sambalpur (N), Sambalpur (S), Satkoshia (WL), Sunabeda (WL), and Sundargarh.

47 Balliguda, Bonai, Boudh, City Division Bhubaneswar, Ghumsur (N), Kalahandi (N), Malkangiri, Nabarangpur, Nayagarh and Satkoshia (WL).

(Rupees in lakh)

Period of delay	No. of lots	Amount of royalty	Interest payable
Up to 12 months	295	275.52	12.80
13 to 24 months	5	4.04	0.45
25 to 53 months	72	70.38	17.07
Total	372	349.94	30.32

After the cases were pointed out, the DFOs, Boudh and Malkangiri raised between November and December 2007 demand of Rs. 1.69 lakh and Rs. 1.36 lakh respectively. The remaining DFOs stated between May and November 2007 that action was being taken to raise demand for interest on belated payment of royalty. Particulars of recovery in the former cases and further developments in the latter have not been intimated (November 2008).

The matter was reported to the PCCF/Government in March 2008; their reply has not been received (November 2008).

CHAPTER-VII : MINING RECEIPTS

7.1 Results of audit

Test check of the records maintained in the office of the Deputy Directors of Mines and Mining Officers conducted during the year revealed non/short levy of royalty/dead rent/surface rent, non/short recovery of interest and non-levy of interest and other irregularities of Rs. 225.85 crore in 104 cases which fall under the following categories.

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Receipts from major minerals (A review)	1	206.20
2.	Non/short levy of royalty/dead rent/surface rent	52	7.31
3.	Non/short recovery of interest and non-levy of interest	11	0.05
4.	Other irregularities	40	12.29
Total		104	225.85

During the year 2007-08, the department accepted non/short levy of royalty/dead rent/surface rent, non/short recovery of interest and other deficiencies of Rs. 67 lakh in 47 cases pointed out in 2007-08. The department also recovered Rs. 23 lakh in 34 cases pointed out in earlier years.

After issue of draft paragraphs, the department recovered Rs. 3.74 lakh pertaining to a single observation pointed out by audit during 2007-08.

The findings of a review of **Receipts from major minerals** involving Rs. 206.20 crore are discussed in the following paragraphs.

7.2 Receipts from major minerals

Highlights

Due to the absence of a system of monitoring the settlement process, the directorate and the Government were not aware of the low percentage of settlement of lease applications which was only 4.93 per cent and consequent non-realisation of dead rent of Rs. 8.69 crore and stamp duty and registration fee of Rs. 8.94 crore.

(Paragraph 7.2.7)

Failure of the Government to safeguard the interest of the revenue before prescribing the basis for calculation of annual royalty for levy of stamp duty and registration fees led to loss of revenue of Rs. 4.94 crore.

(Paragraph 7.2.8)

For illegal mining of 10.22 lakh MT of minerals without a mining lease, Rs. 88.47 crore though realisable towards the cost of mineral was not realised.

(Paragraph 7.2.13)

Due to inaction of the department for disposal of left over minerals, revenue of Rs. 66.38 crore remained unrealised.

(Paragraph 7.2.14)

Due to non-adherence to the prescribed assessment procedure, there was non/short levy of royalty of Rs. 15.95 crore.

(Paragraph 7.2.15)

Due to non-initiation of proposals to resettle the non-working mines, the Government was deprived of revenue of Rs. 25.26 crore.

(Paragraph 7.2.17)

7.2.1 Introduction

Orissa holds a pre-eminent place amongst the states of India in mineral resources with large deposits of major and minor minerals and the receipts from mines and minerals constitute the largest source of non-tax revenue of the state. Minerals are broadly divided into two categories viz. major minerals such as bauxite, chromite, iron ore, coal, manganese, graphite, dolomite etc., and minor minerals such as stone, gravel, ordinary clay, decorative stone, ordinary sand etc. Prospecting and mining of major minerals, assessment, levy and collection of royalty and other mining revenue are governed by the Mines and Minerals (Development and Regulation) Act (MMDR Act), 1957 enacted by the Parliament and the Mineral Concession (MC) Rules, 1960 framed thereunder. The receipts from mines and minerals comprise of application fees

for lease/permit/prospecting licence, royalty, dead rent, surface rent, fines/penalties and interest for belated payment of dues. As on 31 March 2007, there were 600 lease cases spread over 1.16 lakh hectares.

A review on “Assessment, collection and recovery of mining dues from major minerals” covering the period 1998-99 to 2002-03 was incorporated in the report of the Comptroller and Auditor General of India for the year ended 31 March 2004. The current review on “Receipts from major minerals” covering the period 2003-04 to 2006-07 revealed a number of system and compliance deficiencies which have been discussed in the succeeding paragraphs.

7.2.2 Organisational set up

The regulation and development of mines and minerals are administered by the Steel and Mines Department headed by the Commissioner-cum-Secretary and the Director of Mines as the head of the department. The Director of Mines is assisted by the Joint Director of Mines at the headquarters. The State is divided into 14 circles, each under the charge of one Deputy Director of Mines (DDM)/Mining Officer (MO).

7.2.3 Audit objectives

The review was conducted with a view to ascertain whether:

- lease applications were settled within the stipulated time after observance of all codal formalities;
- the provisions of the Act/Rules and executive instruction governing realisation of royalty, dead rent, surface rent, application fees for lease permit/prospecting licence, fines, penalties and interest for delayed payment were adhered to; and
- an effective internal control mechanism exists for monitoring the functioning of various wings of the department and to prevent leakage of revenue.

7.2.4 Scope of audit

For the purpose of the review records for the years from 2003-04 to 2006-07 were test checked between March and May 2008 in the Steel and Mines Department, Directorate of Mines and eight⁴⁸ out of 14 circles. The circles were selected on the basis of stratified sampling method. In the course of the review, information obtained from the regional transport offices (RTOs), sub-registrars and Indian Bureau of Mines (IBM) were also cross verified with the records of the Steel and Mines Department.

7.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Steel and Mines Department in providing necessary information and records for the review. The audit findings included in this review were forwarded to the Government in June 2008 and discussed in the audit review committee

48 Baripada, Jajpur Road, Joda, Keonjhar, Koraput, Rourkela, Sambalpur and Talcher.

meeting held in August 2008. The replies of the Government have been suitably incorporated in the review.

Audit findings

7.2.6 Trend of revenue

The Orissa Budget Manual stipulates that the estimates of revenue receipts should be based upon the actual demand including any arrears of the past years and the probability of their realisation during the year. The controlling officers of the administrative departments are required to submit departmental estimates of revenue to the Finance Department for preparation of the budget estimate. The budget estimates and the actual revenue receipts from mines and minerals during 2003-04 to 2006-07 were as mentioned below.

(Rupees in crore)

Year	Budget estimates	Actual realisation	Variation	
			Amount	Percentage
2003-04	466.51	552.06	85.55	18
2004-05	640.87	670.52	29.65	5
2005-06	736.00	805.03	69.03	9
2006-07	900.00	936.60	36.60	4

The department did not furnish the detailed analysis on the basis of which the budget estimates were fixed.

System deficiencies

7.2.7 Disposal of lease applications

As per the provisions of the MC Rules, the Government is required to dispose of the application for grant of a mining lease within 12 months from the date of its receipt. The MMDR Act provides that dead rent at the prescribed rate is payable to the Government every year by the holder of a mining lease for the entire leasehold area if operation is not carried out. Further, if an application for renewal of mining lease is made at least one year before the date on which the existing lease is due to expire, the period of lease shall be deemed to have been extended by a further period till the State Government passes orders thereon. Application for renewal of mining lease is to be treated as application for fresh lease. Further, as per the Indian Registration Act, 1908, for a mining lease exceeding one year, a deed is required to be executed and registered on payment of the prescribed stamp duty and registration fee on the estimated annual royalty as consideration of the lease deed.

Audit scrutiny revealed that though the MC Rules provide for settlement of mining lease/renewal of lease cases within 12 months from the date of its application, there was no system of monitoring the timely settlement of the lease applications at any level. No report/return has been prescribed to be furnished by the circle officers to the directorate/Government to keep track of the receipt, settlement and pendency at various levels of the lease/renewal of lease applications.

7.2.7.1 Loss of dead rent due to non-finalisation of lease applications

Scrutiny of the records revealed that in eight selected circles, out of 1,624 applications received for the mining of major minerals during the years 2003-04 to 2006-07, only nine applicants were granted lease, 78 applications were rejected and 1,676 applications including 139 applications pertaining to the earlier years were pending as of 31 March 2007. The disposal of applications during the above period was therefore only 4.93 *per cent*. Test check of 808 cases out of the outstanding 1,676 cases revealed that these applications involving land of 3.51 lakh hectares could not be settled for periods ranging between one and 37 years. Consequently dead rent of Rs. 8.69 crore could not be realised of which Rs. 6.78 crore pertained to the last four years. Thus, due to the absence of a system of monitoring of the settlement process, the directorate and the Government were not aware of the low percentage of settlement of lease applications causing loss of Government revenue.

After this was pointed out, the Government stated that delay in disposal of mining lease applications was unavoidable as applications received were deficient and clearances from Forest and Revenue departments, technical reports and report on availability of the area are required before finalisation. The contention is not tenable as the applications were pending for periods ranging between one to 37 years which was in violation of the MC Rules. Moreover, there was no monitoring on the part of the department/Government on timely settlement of the lease applications and due to this, the lease applications remained unattended at various levels of the department.

7.2.7.2 Non-renewal of mining leases

Scrutiny of records revealed that though 29 applications for renewal of mining lease which expired between January 1996 and September 2006 were received in six⁴⁹ circles between January 1995 and September 2005, these cases were pending as of March 2007. Due to the absence of a system of monitoring the applications for renewal of leases, non-renewal of the mining leases for such a long period escaped notice of the department and the Government. This resulted in non-execution of lease deeds and consequent non-realisation of stamp duty and registration fee of Rs. 8.94 crore.

After this was pointed out, the Government stated that as in the case of sanction of lease, sanction of renewal of mining lease (renewal) also takes a lot of time. Further, stamp duty and registration fee were one time dues and would be realised on sanction of the renewal cases. It was also stated that the Public Accounts Committee (PAC) settled a similar para which appeared in the Audit Report - 2003-04. The fact remains that the PAC had settled the earlier para with a directive to dispose of all the pending applications within the stipulated time fixed by the Government of India. Thus, even the direction given by the PAC in additions to the existing provisions in the relevant rules, did not result in the desired action by the department.

The Government may consider strengthening the monitoring mechanism on receipt and disposal of lease application and renewal of lease cases and

⁴⁹ Baripada, Jajpur Road, Joda, Keonjhar, Sambalpur and Talcher.

devising a system for timely disposal of the cases. They may also consider prescribing reports/returns to be furnished by the circle officers to the directorate/Government so as to ensure monitoring of the unsettled cases.

7.2.8 Loss of revenue due to injudicious adoption of anticipated production

With a view to avoid loss of revenue, the State Government issued guidelines in February 1979 which prescribed that a realistic assessment of the quantity of expected production for computation of annual royalty, be made for levy of stamp duty and registration fee while registering the lease deed. As per the guidelines, the technical enquiry report of the DDM/MO should form the basis for the calculation of royalty since the figures shown in the applications for leases tend to be on the lower side. Audit scrutiny revealed that while issuing the guidelines, the Government failed to safeguard the interest of revenue by prescribing that stamp duty and registration fee would be levied on the basis of annual royalty calculated by the applicant or the technical enquiry report of the DDM/MO whichever is higher. Also, no system was prescribed to review the figures of the technical enquiry report of the DDM/MO, in case these are found to be lower than those indicated by the applicants.

Scrutiny revealed that in cases of six lease deeds in three⁵⁰ circles registered between January 2002 and June 2006, the anticipated production as per the technical enquiry report of the DDM/MO was adopted for computation of annual royalty though the figures were less than that shown by the lessees. This led to short determination of annual royalty by Rs. 24.17 crore. Thus, failure of the Government to analyse all the pros and cons before prescribing the basis for calculation of annual royalty led to loss of revenue of Rs. 4.94 crore towards stamp duty and registration fee.

The Government may consider modifying the guidelines issued in February 1979 for adopting the anticipated production as per the technical enquiry report or those shown by the lessee, whichever is higher, for the purpose of assessment of royalty for registration of lease deed.

7.2.9 Operation of mines without forest clearance

As per the Forest Conservation (FC) Act, 1980, non-forest activities such as mining operation in forest area cannot be undertaken without prior approval of the Central Government, even in case of renewal of mining lease. Audit scrutiny revealed that despite the blanket ban on non-forest activities in the forest areas without obtaining forest clearance from the Central Government, the Steel and Mines Department was allowing extraction of minerals from the mining areas where forest clearance was pending. Also, there was no system of monitoring the cases sent for forest clearance at any level of the department. Resultantly, the department/Government was not aware of the number of applications pending with the Forest and Environment Department/Central Government for forest clearance.

Test check of the records revealed that the DDM, Koira allowed two lessees to extract 1.91 lakh MT of manganese/iron ore valued at Rs. 7.89 crore between

50 Baripada, Joda and Sambalpur.

April 2005 and March 2007 though the divisional forest officer objected on the mining operation in the forest areas without forest clearance. Thus, due to the failure of the Steel and Mines Department to devise a mechanism for monitoring the cases requiring forest clearance and to take up these with the Forest and Environment Department for prior approval, such irregular allowance for extraction of minerals without forest clearance by the DDM remained unnoticed by the departmental authorities and the Government.

After this was pointed out, the Government stated that case wise study was being done. A report on further development has not been received (November 2008).

The Government may consider prescribing periodic reports/returns to be furnished by the DDMs/MOs indicating the cases requiring forest clearance and also the details of the cases which has already been sent for clearance of the Forest and Environment Department. Co-ordination between the Forest and the Steel and Mines Department may also be increased to facilitate quick disposal of the forest clearance cases in the interest of revenue of the State. The DDMs/MOs may also be made accountable for failure to stop extraction of minerals in cases where forest clearance has not been obtained.

7.2.10 Evasion of royalty due to lack of cross verification

As per the provisions of the Mineral Conservation and Development (MCD) Rules, 1988, the lessee is required to submit returns to the Indian Bureau of Mines (IBM) and the State Government showing minerals raised and despatched. Audit scrutiny revealed that there was no system of cross verification of the particulars of minerals raised and despatched as shown by the lessees in the returns with those furnished to the IBM or other departmental authorities to pre-empt any scope of evasion of royalty.

Scrutiny of the records revealed that five lessees of four⁵¹ circles, in their returns for the period between 2003-04 and 2006-07, disclosed production/despatch of 4.26 lakh MT of chromite and manganese ore and paid royalty accordingly. Cross verification of the returns furnished by the lessees to the IBM revealed that the dealer had produced/despatched 5.11 lakh MT of chromite and manganese ore during the aforesaid period. Thus, due to absence of a mechanism for cross verification of the figures returned by the lessees with those reported to the IBM, the difference of 85,151 MT remained unnoticed by the department resulting in evasion of royalty of Rs. 1.97 crore.

After the case was pointed out, the Government accepted the audit observation and stated that appropriate action would be taken. A report on further development has not been received (November 2008).

The Government may consider prescribing a system for cross checking of the returns furnished by the lessees with those furnished to the IBM and other departments in the interest of revenue of the State.

51 Jajpur Road, Joda, Keonjhar and Talcher.

7.2.11 Publication of rate of minerals by the IBM

Under the MC Rules, the State-wise average value for different minerals as published by the Indian Bureau of Mines, Nagpur in the “Monthly Statistics of Mineral Production” is the benchmark value for computation of royalty by the concerned State Government in respect of any mineral produced in any mine in that State. As per the MCD Rules, cost of production, in case of captive mines, is considered to represent the pit’s mouth value (PMV) in full whereas in other cases, the PMV is derived after deduction of the expenses on account of transportation, handling, duties etc., from the dispatched price disclosed by the lessees in their returns.

Audit scrutiny revealed that the grade-wise and month-wise sale price of chromite published by the IBM during 2003-04 to 2006-07 as per the guidelines envisaged in the MC and MCD Rules did not represent the actual market price because while 99 *per cent* of chromite is produced in the State of Orissa, most of the mines in Orissa are captive mines and the captive mine owners tend to consume the higher grade minerals and sell the lower grade minerals. Therefore, the PMV for lower grade mineral was fixed on the basis of the dispatched price whereas the PMV of higher grade mineral was based on the cost of production which was quite low and ultimately resulted in the price of the higher grade mineral published by the IBM being equal to or less than the lower grade mineral.

Although, this trend affected the revenue of the State adversely, the State Government had not initiated any step to take up the matter with the authorities at the appropriate level for fixation of sale price without considering the cost of production declared by the lessees in the best interest of revenue.

After this was pointed out, the Government stated that necessary proposal would be submitted to the IBM for fixing the average sale price of the minerals on the basis of the sale price instead of the cost of production declared by the lessees for captive consumption. A report on further development has not been received (November 2008).

The Government may approach the Central Government either to amend the relevant provisions of the MCD Rules or to issue necessary instruction for fixing the average sale price of minerals on the basis of actual sale price without considering the cost of production declared by the lessees for captive consumption so that the IBM can fix the average PMV on a realistic basis and consequent loss of revenue to the State can be avoided.

7.2.12 Internal audit system

Internal audit, also known as the control of all controls, is one of the tools of the internal control mechanism and functions as the ‘eyes’ and ‘ears’ of the management in evaluating the efficiency and effectiveness of the mechanism. It also independently appraises whether the activities of the organisation/department are being conducted efficiently and cost effectively.

A review of the functioning of the internal audit wing (IAW) revealed that during 2004-05 to 2006-07 against 45 units due for internal audit the IAW could inspect 22 units (49 *per cent*) leaving a balance of 23 units. The

information for 2003-04 was not available. It was seen that no training was proposed/imparted to the personnel involved in internal audit and the number of paragraphs issued by internal audit parties, number of paragraphs settled and number of paragraphs outstanding along with money value for the last four years ending on 31 March 2007 was not available with the directorate. Thus, due to lack of monitoring of the working of the IAW and follow up action on the observations raised by it, the IAW has been rendered ineffective.

After this was pointed out, the Government stated that all the mining circle offices have been audited upto 2006-07 in the meantime and the audit observations have been communicated to the respective circles for compliance. The reply was silent about the lack of monitoring on the functioning of the IAW.

The Government may consider strengthening the IAW and ensure compliance to the paragraphs raised by it to ensure that all the wings of the department function efficiently for optimum collection of revenue. Besides, monitoring of the working of the IAW may also be ensured.

Compliance deficiencies

7.2.13 Operation of mines without execution of lease deeds

Under the MMDR Act, no person shall undertake any mining operation in any area except under and in accordance with the terms and conditions of a mining lease. Whenever any person raises without any lawful authority any mineral from any land, the Government may recover from such person the minerals so raised or where such mineral has already been disposed of, the price thereof and royalty on such minerals. By an amendment of the MC Rules, mining operation on agency basis was ceased from 4 January 1999. The MMDR Act and the Rules made thereunder do not provide for grant of any working permission by the State Government in the absence of a lease.

Scrutiny of the records revealed that the State Government handed over one iron and manganese mine covering an area of 1,011.500 hectares including 793.350 hectares of forest land under DDM, Joda to a mining corporation in June 1982 to carry out mining operation on agency basis. It was noticed that though the MC Rules was amended in January 1999 withdrawing the provisions for mining operation on agency basis, mining operation was continued on agency basis till the Government directed (15 November 2000) it to stop mining operations. However, the Government again allowed the corporation to carry on the mining work for a period of one year from 23 November 2000 with the condition to obtain forest clearance from the Central Government. The corporation, however, continued mining activities up to 23 November 2006 without executing any lease deed and obtaining forest clearance. During the above period, 2.98 lakh MT of manganese ore and 7.24 lakh MT of iron ore of different grades valued at Rs. 88.47 crore were extracted. Since mining operation in any area cannot be carried out without a mining lease granted under the MMDR Act and the Rules made thereunder, extraction of 10.22 lakh MT of minerals by the corporation was illegal and hence the value of the minerals amounting to Rs. 88.47 crore was recoverable from them.

After this was pointed out, the Government stated that the mining operation was allowed to be carried out to avoid retrenchment of the labour force leading to labour unrest, possible law and order problem and clandestine mining operation. The contention was not tenable as the mining operation was allowed by the Government subject to forest clearance which was not obtained by the corporation. Moreover, the State Government is not empowered to allow mining operation without a mining lease overriding the provisions of the MMDR Act which is a Central legislation.

7.2.14 Non-disposal of left over minerals

As per the conditions of the lease agreement, the lessee on expiry of the lease term, shall remove the ores or minerals excavated and other properties within six calendar months from the date of expiry and thereafter if the minerals are not removed within one month after notice in writing is issued requiring their removal, those shall be deemed to be the property of the Government.

Scrutiny of the records revealed that a lessee under DDM, Rourkela applied for renewal of its limestone mine spread over 230.525 hectares in December 1998. The renewal application was rejected by the Government in October 2006. Despite lapse of more than 17 months (upto March 2008) the department neither issued the required one month notice nor initiated any action to take possession of the left over quantity of 5.51 lakh MT limestone and 11.69 lakh cum of rejected limestone lying in stock from October and February 2003 respectively and dispose of the same. Further, the department was also not aware (August 2008) of the physical existence of the minerals as the physical verification of the limestone was conducted more than four years ago in March 2004. Moreover, annual inspection of the mine was also not conducted after cessation of the mining operation. Thus, due to inaction of the department, revenue of Rs. 66.38 crore towards the cost of the left over material remained unrealised.

After the case was pointed out, the Government while admitting the facts stated (August 2008) that instruction/guidelines would be issued to the circle office to initiate immediate action in this regard.

7.2.15 Non/short levy of royalty due to non-adherence to the prescribed assessment procedure

Under the provisions of the MMDR Act, the holder of a mining lease is liable to pay royalty in respect of any mineral removed from the leasehold area or consumed therein. The lessee is required to furnish monthly returns disclosing the details of opening balance, production, consumption/removal and closing balance along with the particulars of payment of royalty. The returns are to be scrutinised by the officer in-charge of the circle who shall assess the amount of dead rent, surface rent, royalty etc., payable by the lessee. The assessing officers (AO) may also check the accounts of minerals maintained by the lessee and carry out field survey or spot inspection to satisfy themselves regarding the minerals raised by the lessee.

7.2.15.1 Short levy of royalty on limestone

As per the notification issued by the Government of India (GOI) in September 1961, limestone was to be treated as a minor mineral only when used in kilns for manufacture of lime used as building material and in all other cases would be deemed to be a major mineral.

Scrutiny of the records revealed that in DDM, Rourkela, two lessees removed 28.62 lakh MT of limestone during 2003-04 to 2006-07 as minor minerals with the nomenclature “rejected limestone boulders” on payment of royalty applicable to ordinary boulders under the Orissa Minor Mineral Concession Rules. As the lease was granted for extraction of limestone as major mineral and the rejected limestone boulders were removed for the purpose other than for use in kilns for manufacture of lime, royalty of Rs. 12.39 crore was leviable treating these as major minerals against which royalty of Rs. 5.27 crore only was levied. This resulted in short levy of royalty of Rs. 7.12 crore.

After the case was pointed out, the Government stated that royalty was levied considering the chemical composition of the limestone and there was no short levy. The contention is not tenable as the lease was granted for extraction of limestone as major mineral after necessary testing and the minerals were extracted for the purpose other than use in kilns.

7.2.15.2 Short levy of royalty on iron ore

According to the provisions of the MC Rules, in case of processing of run-of-mine (ROM)⁵² minerals within the leasehold area, royalty shall be charged on the output after processing the minerals. However, in case of processing of mineral other than ROM, royalty is chargeable on unprocessed mineral i.e. mineral extracted from the seam.

Scrutiny of the assessment records and monthly returns of seven iron ore mines under the DDM, Joda revealed that during the year 2006-07, the lessees fed 53.82 lakh MT of unprocessed minerals in their processing plants and paid royalty of Rs. 10.61 crore classifying the minerals as ROM minerals. The AO without carrying out any field inspection accepted the returns of the lessees and levied royalty accordingly. It was noticed that the output was equal to the input minerals i.e. 53.82 lakh MT which indicates that the minerals fed were not ROM minerals and thus royalty of Rs. 13.89 crore should have been levied on the unprocessed minerals. This resulted in short levy of royalty of Rs. 3.28 crore.

After the cases were pointed out, the Government stated that demand of Rs. 2.39 crore was raised after verification of process of screening, crushing and the grade of the ore fed and obtained. It was also stated that Rs. 6.42 lakh had been realised in one case. A report on recovery of the balance amount has not been received (November 2008).

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

7.2.15.3 Non-levy of royalty on shortage of coal

Scrutiny of the records revealed that in Sambalpur and Talcher circles, two mines of Mahanadi Coal Fields Ltd. disclosed closing stock of 68.09 lakh MT coal in their returns for the months between March 2004 and March 2007.

Cross verification of the returns with the closing stock of the coal as on these months measured by the Coal India Limited (CIL) disclosed stock of 63.78 lakh MT. Thus, there was a shortage of 4.31 lakh MT. The AOs, however, accepted the returns without conducting field survey or spot inspection to verify the actual stock position from the audited accounts. This resulted in non-levy of royalty of Rs. 2.82 crore.

After this was pointed out, the Government stated that demand for royalty on the shortage quantity of coal has been raised. A report on realisation has not been received (November 2008).

7.2.15.4 Non-levy of royalty on short accounting of coal

- Scrutiny of the records revealed that in Rourkela and Sambalpur circles, two collieries disclosed balance of 3.47 lakh MT of coal in their returns for the month ending March 2007. Cross verification of the returns with the stock measurement report of the CIL revealed that there was a balance of 6.94 lakh MT of coal in the leasehold area on that date. Thus, there was excess stock of 3.47 lakh MT coal which was not accounted for in the returns. The AOs, however, accepted the returns without scrutiny and conducting any spot inspection to verify the actual stock position. Consequently demand for royalty on the differential stock could not be raised resulting in non-realisation of royalty of Rs. 2.42 crore.

After the case was pointed out, the Government stated that compliance would be furnished after reconciliation of the discrepancies in respect of Sambalpur circle. No reply has, however, been furnished in respect of Rourkela circle.

- Scrutiny of the records revealed that in two cases of Joda and Baripada circles, the opening balance of minerals (iron ore and quartzite) reported in the monthly returns was 23,278.450 MT and 614.569 MT as on 1 April and 1 June 2006 respectively against the corresponding closing stock of 30,478.450 MT and 1,614.569 MT at the end of the previous months. Thus, there was short accounting of minerals of 8,200 MT. This resulted in non-levy of royalty of Rs. 2.14 lakh.

After the case was pointed out, the Government stated that Rs. 1.94 lakh has been realised in respect of Joda circle. Compliance in respect of Baripada circle has not been received (November 2008).

7.2.15.5 Short levy of royalty on bauxite

As per the MC Rules, in deciding the amount of royalty payable on bauxite, the foreign exchange rate for conversion of rupee which is the selling rate on the last date of the period of computation as published in the newspaper "The Economic Times", is one of the factors. The exchange rate of rupee as published in "the Economic Times" contains two types of rates, one for telegraphic transfer (TT), and the other for payment against sale bills.

Test check of the records of the DDM, Koraput revealed that a lessee paid royalty on monthly basis in respect of a bauxite mine through bank drafts. For the purpose of calculation of royalty, the rate of conversion of rupee at TT rate was taken into account instead of the rate for sale bills. This resulted in short levy of royalty of Rs. 28.77 lakh for the period from 2003-04 to 2006-07.

7.2.16 Short levy of surface rent

Under the MC Rules read with the instruction of October 1984 of the Director of Mines, Orissa, the lessee of a mine is liable to pay annual surface rent in respect of the area used for the purpose of mining operations at such rate not exceeding the land revenue assessable on the land. As per the Government of Orissa notification of May 1963, rent at the rate of one *per cent* of the premium *i.e.* market value of the land is leviable in respect of land used for commercial purpose. Besides, cess at the rate of 75 *per cent* of rent is also leviable. Mining operation being a commercial activity, surface rent is leviable at the rate of one *per cent* of the market value.

Scrutiny of the records revealed that in four⁵³ circles, 942.271 hectares out of the total area of 1,610.05 hectares land leased out between January 2002 and September 2003 to six lessees for the purpose of mining operation was assessable to land revenue. The AOs, however, levied annual surface rent at the rate of Rs. 10 per hectare, *i.e.* the rate applicable for land not assessable to land revenue for the entire area of land instead of the appropriate rate. As a result, there was annual loss of revenue of Rs. 74.79 lakh calculated on the area assessable to land revenue. The loss of revenue during the period 2003-04 to 2006-07, thus, works out to Rs. 2.99 crore.

After the case was pointed out, the Government stated that the matter was under scrutiny for enhancement of the rate of surface rent. A report on further development has not been received (November 2008).

7.2.17 Loss of revenue due to non-working of mines

The MMDR Act provides that the lessee of a mining lease is liable to pay royalty on the minerals extracted or the dead rent of that area whichever is greater. As per the MC Rules, where mining operation is not commenced within a period of two years from the date of execution of lease deed or is discontinued for a continuous period of two years after commencement of such operation, the State Government shall by an order declare the mining lease as lapsed and communicate the declaration to the lessee. In such case, the left over property including ore shall be deemed to become the property of the Government if the minerals are not removed by the lessee within six months after determination of the lease and thereafter within one calendar month after notice in writing requiring their removal.

7.2.17.1 Scrutiny of the records revealed that in seven circles⁵⁴, mining operations in 34 mines were discontinued between 1991 and 2004. Though the mines remained as non-working mines for period ranging between three and 16 years, the proposals for termination of leases were not finalised and

53 Baripada, Jajpur Road, Joda and Sambalpur.

54 Baripada, Jajpur Road, Joda, Keonjhar, Rourkela, Sambalpur and Talcher.

consequently the left over materials could not be taken over by the Government. In 20 cases, the proposals were not initiated by the circles and in 14 cases the proposals were pending with the higher authorities. This resulted in non-realisation of Rs. 14.72 crore towards the cost of the leftover minerals.

After the case was pointed out, the Government stated that appropriate action was being taken to declare the non-working leases as lapsed and dispose of the minerals. A report on further development has not been received (November 2008).

7.2.17.2 A bauxite mine under Koraput circle over an area of 1,388.74 hectares was leased out for a period of 30 years from December 1998 in favour of M/s OMC Ltd. The lease was transferred in favour of another lessee in June 2000. The lease deed was executed in November 2000 and surface right for 1,387.230 hectares was granted between May 2004 and October 2004. Despite lapse of seven years, the lessee could not commence mining operations nor had it intimated the reasons for delay in commencement of mining operation. The DDM also did not initiate proposal for termination of lease to throw up the mines for fresh lease. Thus, the Government was deprived of royalty amounting to Rs. 6.99 crore calculated on the anticipated royalty for the period from November 2002 to March 2007.

After this was pointed out, the Government stated that the mining operation could not be carried out due to non-functioning of the plant in which the minerals were to be processed. The contention is not tenable because the Act and rules provide for declaring the mining lease as lapsed in the event of its non-operation for a continuous period exceeding two years. Further, the lessee also did not keep the department informed of the reason for non-operation of the mine.

7.2.17.3 In Talcher circle, a coal mine of over 671.276 hectares leased out for 30 years from 1979 remained inoperative since January 1998. Neither was any application explaining the reason for non-operation furnished by the lessee nor a proposal for declaring the lease as lapsed initiated by the mining authority. Due to non-declaring the lease as lapsed, the Government was deprived of royalty of Rs. 3.55 crore for the period from January 1998 to March 2007 of which Rs. 1.92 crore pertained to the last five years.

After the case was pointed out, the Government stated that mining operation was discontinued due to non-recovery of coal and want of clearance from the Government of India for closure of the mine. The reply was, however, silent about the reasons for non-initiation of lapse proposal by the circle office after expiry of two years of non-operation of the mine.

7.2.18 Non-realisation of revenue due to non-disposal of seized minerals

The Government of Orissa in September 1977 framed rules for auction sale of surplus and unserviceable minerals, stores *etc.* Further, as per the Government instruction of March 1998, all kinds of ores and minerals seized in the field should be disposed of within three months of their seizure.

Scrutiny of the records revealed that in four⁵⁵ circles, 13,788.953 MT minerals (chromite, iron ore, quartz and manganese) seized between 1993-94 and 2006-07 were lying undisposed of as of March 2008 resulting in blockage of mining revenue of Rs. 3.30 crore calculated on the value of minerals published by the Government in the activity report 2007-08.

After the case was pointed out, the Government stated that action was being taken to dispose of the seized minerals promptly. A report on further development has not been received (November 2008).

7.2.19 Illegal transportation of minerals

Under the MMDR Act, no person shall transport or store or cause to be transported or stored any mineral otherwise than in accordance with the provisions of the Act. In case of violation, the vehicle used for transportation along with the minerals shall be liable to be seized and confiscated so that on disposal, the cost price of the minerals can be realised. Further, as per the Transit Pass Regulations, 1973, the mine owner can remove the minerals only after obtaining due permission for removal supported by the transit pass challan supplied by the concerned mining authority.

Scrutiny of the records revealed that in Sambalpur circle, a lessee transported 8,185.824 MT coal from its own leasehold mines prior to obtaining transit permit and using transit pass. The DDM called for the reason for such illegal transportation in October 2006. Though the irregularity was admitted by the lessee the DDM did not initiate any action. Thus, failure of the DDM to seize the vehicle along with the minerals resulted in loss of Rs. 81.85 lakh towards the cost of the minerals.

After this was pointed out, the Government stated that show cause notice was issued for realisation of the cost of the mineral and as per decision of the Collector Rs. 5.32 lakh had been realised.

7.2.20 Non-initiation of certificate proceedings

Under the MMDR Act, royalty, dead rent and other mining dues are required to be paid within the prescribed period. In case of default, the recovery is to be made as arrear of land revenue under the Orissa Public Demand Recovery Act, 1962.

Scrutiny of the demand, collection and balance position furnished by the Director of Mines revealed that out of the total arrears of Rs. 86.11 crore as of 31 March 2007, arrears of Rs. 10.98 crore was more than one year old. Of this, Rs. 1.65 crore was covered under court cases and Rs. 3.33 crore was under dispute. Though arrears of Rs. 6 crore could have been covered under certificate cases, yet certificate proceedings for Rs. 1.64 crore only was initiated leaving a balance of Rs. 4.36 crore.

The position of institution and disposal of certificate cases during 2003-04 to 2006-07 in respect of five⁵⁶ circles covered in the review is as mentioned in the following table.

55 Baripada, Joda, Keonjhar and Talcher.

56 Joda, Keonjhar, Koraput, Rourkela and Talcher.

(Rupees in lakh)

Year	Opening balance		Cases instituted	Total		Cases disposed		Closing balance	
	No. of cases	Amount		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2003-04	54	43.96	Nil	54	43.96	Nil	Nil	54	43.96
2004-05	54	42.89 ⁵⁷	Nil	54	42.89	5	1.07	49	41.82
2005-06	49	35.93 ⁵⁸	Nil	49	35.93	2	2.41	47	33.51
2006-07	47	33.51	Nil	47	33.51	1	0.09	46	33.42
Total						8	3.57		

Note : Of the remaining three circles covered in the review, Baripada and Sambalpur circles did not furnish the requisite data while no certificate case is pending in the Jajpur Road circle.

Thus, against 54 cases involving Government revenue of Rs. 43.96 lakh due for disposal during the period 2003-04 to 2006-07, only eight cases involving Rs. 3.57 lakh could be settled during the past four years where the realisation of revenue is a meagre 8.12 *per cent*. Despite the poor position of the disposal of certificate cases, no action was taken by the DDMs to pursue the cases with the recovery officers to ensure prompt disposal of the pending cases.

After this was pointed, the Government stated that the arrears were being collected through administrative action as the certificate proceedings were delayed.

7.2.21 Enforcement and control mechanism

7.2.21.1 Inadequacy of check gates and weighbridges

Under the MMDR Act, State Governments are delegated with powers to make rules for preventing illegal mining, transportation and storage of minerals. Such rules may provide for establishment of check posts for checking of minerals under transit, establishment of weighbridges to measure the quantity of minerals being transported and maintenance of registers and forms for the purpose of these rules.

Scrutiny of records of the eight circles covered in the review revealed that there were no Government check-gates in six⁵⁹ circles and no Government weighbridges in four⁶⁰ circles. Due to lack of check-posts/weighbridges, the minerals were transported without any check of the quality and quantity. In the absence of Government weighbridges, weighments were done at the private weighbridges leaving scope for leakage of revenue. On verification of the information obtained from the concerned regional transport offices, the following deficiencies were noticed.

- cross verification of the transit passes available in the Baripada circle with the information of the concerned regional transport office revealed that in

57 The difference in closing balance and opening balance is due to short exhibition of opening balances by Rs. 1.07 lakh by Rourkela circle.

58 The difference in closing balance and opening balance is due to short exhibition of opening balances by Rs. 6.96 lakh by Rourkela circle.

59 Baripada, Jajpur Road, Joda, Keonjhar, Koraput and Talcher.

60 Jajpur Raod, Joda, Sambalpur and Talcher.

60 cases the vehicle numbers mentioned in the transit passes in which minerals were claimed to have been carried related to motor cycles;

- cross verification of the records of two⁶¹ circles with the concerned regional transport offices revealed that in 71 transit passes, the unladen weight of the vehicles were shown in excess ranging between three and 19 quintals resulting in transportation of excess quantity of minerals from the leasehold areas.

After this was pointed out, the Government stated that steps were being taken to install more number of weighbridges and check gates.

7.2.21.2 Inspection of mines

As per the instructions of July 1987 issued by the Director of Mines, Orissa, the DDMs/MOs are required to inspect all the working mines at least once in six months, non-working mines once in a year and large mines at least once in each quarter. The inspection reports are required to be sent to the Directorate by 15th of the following month. A quarterly review was to be conducted by the Director and a copy thereof was to be forwarded to the Government.

Scrutiny of the records of the eight circles revealed that inspections were not conducted as per the above norms. Out of 1,798 inspections required to be conducted in respect of working mines, 262 inspections were conducted during 2003-04 to 2006-07. Similarly, in respect of non-working mines, out of 505 inspections due, inspection in only two cases was conducted. Quarterly review required to be conducted by the Director was never done.

After this was pointed out, the Government stated that inspection of mines was not mandatory and annual programme was being prepared by each circle. The reply is not tenable as inspection of the mines is to be conducted as per the executive instructions of the Director of Mines and moreover inspections are meant for greater control of the department on the extraction and transportation of minerals and realisation of revenue thereagainst which was in the interest of the revenue of the State.

7.2.21.3 Transit pass

As per the Transit Pass (TP) Regulations, the book number and serial number of the transit pass should be machine numbered. The original copy of the transit pass is to be retained by the mine owner and duplicate and triplicate copies prepared through carbon process are to be given to the carrier, of which the duplicate copy shall be surrendered at the check gate for submission to the circle office. The DDM/MO shall call for the used books from the lessee and get it checked with the duplicate copy received at the check gate. The person in charge of the check gate may verify the quantity and quality of ore so carried and shall retain the duplicate copy of the chalan.

A test check of TP challans received at check posts/weighbridges in four⁶² out of eight circles revealed the following deficiencies:

61 Koraput and Sambalpur.

62 Baripada, Keonjhar, Sambalpur and Talcher.

- book numbers/serial numbers of the TP books were not machine numbered leaving scope for use of the same serial numbers in different book numbers and same book number against different serial numbers;
- signature of the check gate official was not recorded on the face of the transit pass surrendered at the check gates. This indicates that no checks were exercised at the check gates/weighbridges; and
- the date of checking recorded on the TP was different from the date of actual transportation indicating lack of checking of the minerals transported.

After this was pointed out, the Government stated that transit pass books were printed by the lessees due to non-availability of the same from the Government press. The reply was, however, silent regarding acceptance of the TPs by the DDMs/check gate authorities without machine numbering which was a pre-requisite as per the TP Regulation.

7.2.21.4 En-route checking

Director of Mines, DDM, MO and Senior Inspector of Mines are authorised to check and verify the vehicles carrying ores from the mines.

Scrutiny revealed that in four⁶³ circles, no en-route checking was done during 2003-04 by any of the officers. During the period from 2004-05 to 2006-07, no checking was done in Baripada circle and in the other three circles the number of checks conducted ranged between nine and 107. In no case was sample drawn during en-route checking for submission to the Government laboratory for analysis. As the department had no check gate in three⁶⁴ out of the four circles test checked, lack of en-route checking of vehicles by the departmental officers allowed the transporters of minerals a free run without verification of minerals actually carried vis-à-vis that authorised to be carried, which was fraught with the risk of evasion of royalty.

After this was pointed out, the Government stated that en-route checking was being done though not effectively due to want of adequate field staff. It was further stated that action was being taken for effective checking.

7.2.21.5 Measurement of mines

Scrutiny of the records revealed that in three circles⁶⁵, the measurement of the mines was not kept on record before commencement as well as after completion of the lease periods. As no records for this purpose were maintained, the department was not in a position to cross verify the correctness of the figure of the total quantity of minerals extracted by the lessees from their respective mines during the lease periods and the royalty paid thereon.

After this was pointed out, the Government stated that the measurement was now being checked from the map appended to the mining plan and plans maintained at the mine site.

63 Baripada, Jajpur Road, Joda and Sambalpur.

64 Baripada, Jajpur Road and Joda.

65 Jajpur Road, Joda and Sambalpur.

7.2.22 Conclusion

Audit noticed a number of deficiencies in enforcement of the provision of the MMDR Act, MC Rules and executive instructions which affected the collection of revenue adversely. The prescribed procedures for grant/renewal of lease, levy and collection of mining dues were not observed. The time frame prescribed for disposal of mining lease applications was not adhered to by the Government which led to pendency of cases with consequential adverse impact on revenue. Cases of illegal mining remained undetected. Inspection of mines was not conducted regularly to have proper control over mining operation.

7.2.23 Summary of recommendations

The Government of Orissa may consider the following steps to enhance the effectiveness of the machinery for assessment, levy and collection of revenue on major minerals:-

- strengthening the monitoring mechanism on receipt and disposal of lease application and renewal of lease cases and devising a system for timely disposal of cases. They may also consider prescribing reports/returns to be furnished by the circle officers to the directorate/Government so as to ensure monitoring of the unsettled cases;
- modifying the guidelines issued in February 1979 for adopting the anticipated production as per the technical enquiry report or that shown by the lessee, whichever is higher, for the purpose of assessing the royalty for registration of lease deed;
- prescribing periodic reports/returns to be furnished by the DDMs/MOs indicating the cases requiring forest clearance and also the details of the cases which has already been sent for clearance of the Forest and Environment Department. Co-ordination between the Forest and the Steel and Mines Department may also be increased to facilitate quick disposal of the forest clearance cases in the interest of revenue of the State.
- prescribing a system for cross checking of the returns furnished by the lessees with those furnished to the IBM and other departments;
- approaching the Central Government to amend the MCD Rules, for fixation of the average sale price of minerals determined on the basis of sale price of the sellers without considering the cost of production declared by the lessees for captive consumption; and
- strengthening the IAW and ensure compliance to the paragraphs raised by it to ensure that all the wings of the department function efficiently for optimum collection of revenue.

CHAPTER-VIII : OTHER DEPARTMENTAL RECEIPTS

8.1 Results of audit

Test check of the assessment records and other connected documents pertaining to the departmental receipts in the departments of Co-operation, Energy, Food Supplies and Consumer Welfare, General Administration (Rent) and Health and Family Welfare during 2007-08 revealed non-realisation of revenue, non/short levy of duties, fees, etc., of Rs. 226.21 crore in 66,451 cases which fall under the following categories.

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Non/short realisation of duties/fees	312	56.93
2.	Non-realisation of revenue	19,869	43.00
3.	Other irregularities	46,270	126.28
Total		66,451	226.21

During the year 2007-08, the concerned departments accepted non/short levy, loss of revenue, etc., of Rs. 53.46 crore in 48,875 cases pointed out in 2007-08 and recovered Rs. 1.05 crore in 772 cases.

A few illustrative cases highlighting important audit observations involving Rs. 16.22 crore are discussed in the following paragraphs.

Energy Department

8.2 Non-realisation of electricity duty

Under the provisions of the Orissa Electricity (Duty) Act, 1961 (OED Act), electricity duty (ED) is payable to the State Government by those who generate electricity for their own consumption. In the event of delay in payment of ED beyond 30 days, interest at the rate of 18 *per cent* per annum is leviable for the period of such delay. Further, under the Industrial Policy Resolutions (IPR) promulgated from time to time by the Government of Orissa, industrial units are granted exemption from the payment of ED on fulfilment of certain terms and conditions.

Scrutiny of the records of the Superintending Engineer (Projects)-cum-Electrical Inspector (Generation), Circle I, Keonjhar in December 2007 revealed that one industrial unit installed a captive power generation unit and started production in July 2001. The firm applied in February 2002 for exemption from payment of ED under the IPR 1996. The Director of Industries (DI), Orissa, after a lapse of about three years, recommended (January 2005) for sanction of the exemption. The Chief Engineer (Projects)-cum-Chief Electrical Inspector (Generation) sought clarification in August 2005 from the Government regarding the eligibility of the unit for exemption from payment of the ED under the IPR 1996. The Government dismissed the claim of the unit in November 2007.

It was further seen that though the department raised several demands between February and September 2003 and filed a certificate of requisition in January 2004 it could not collect any amount. A consolidated demand of Rs. 8.13 crore upto March 2006 including interest was raised in July 2006.

Thus, due to inordinate delay of more than five years at various levels and failure of the department to pursue the case effectively for early settlement and recovery of the Government dues, revenue of Rs. 10.33 crore upto March 2007 including interest remained unrealised.

After the case was pointed out, the Chief Engineer (Projects)-cum-Chief Electrical Inspector (Generation), Orissa stated in June 2008 that an amount of Rs. 40.75 lakh has been realised during March and April 2008 and certificate proceeding was initiated in January 2008 for recovery of the balance dues.

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

8.3 Non-levy of electricity duty on internal consumption

Under the provisions of the OED Act, ED is leviable on self consumption of the electricity generated including internal consumption, whereas ED is not leviable on transformation loss. As per the Government of India (GOI) notification of March 1992 and order of the Central Electricity Regulatory Commission of October 2000 circulated by the Chief Electrical Inspector, Orissa in March 2003, the maximum transformation loss is limited to 0.5 *per cent* of the gross generation for hydro electricity projects.

Scrutiny of the records of the Chief Engineer (Projects)-cum-Chief Electrical Inspector (Generation), Orissa in February 2008 and information collected (May 2008) from the Orissa Hydro Power Corporation Limited revealed that during 2006-07, five⁶⁶ generating units of the corporation generated 7,196.252 mega unit (MU) of electricity. Of this, 7,032.448 MU was sold to the GRIDCO⁶⁷ and 20.499 MU was shown as auxiliary consumption on which ED was paid by the units. After deducting 35.981 MU towards the maximum admissible transformation loss, the generating units were required to pay ED of Rs. 2.15 crore on the balance energy of 107.324 MU. The department, however, did not raise any demand for the above amount which resulted in non-levy of ED of Rs. 2.15 crore.

After the case was pointed out, the Chief Engineer (Projects)-cum-Chief Electrical Inspector (Generation) stated (February 2008) that ED is not leviable on the transformation loss. The fact remains that though ED is not leviable on entire transformation loss but the maximum permissible transformation loss is only 0.5 *per cent* and loss beyond that attracts ED.

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

8.4 Non-raising of demand for inspection fee

As per the Government of Orissa notification of December 2001, a fee for inspection of service connections is leviable annually on all connections at the prescribed rates. The fees are to be collected and deposited in the Government account by the distribution companies.

Scrutiny of the records of the Electrical Inspector (Transmission and Distribution), Balasore in October 2007 revealed that neither were the fees for 2005-06 and 2006-07 deposited by a distribution company {North Eastern Electricity Supply Company of Orissa Limited (NESCO)} nor was any demand raised on that account by the department. This resulted in non-realisation of revenue of Rs. 2.08 crore as mentioned below.

Year	Domestic		Commercial		Total fee realisable
	No. of consumers	Fee realisable	No. of consumers	Fee realisable	
2005-06	4,10,797	82.16	37,882	18.94	101.10
2006-07	4,36,549	87.31	39,390	19.69	107.00
Total		169.47		38.63	208.10
Note : Calculated on the basis of information on the number of consumers collected from the Orissa Electricity Regulatory Commission.					

After the case was pointed out, the Electrical Inspector stated in October 2007 that demand would be raised after obtaining information from the NESCO. Further reply has not been received (November 2008).

66 Balimela Hydro Electric Project, Hirakud Power System, Rengali Hydro Electric Project, Upper Kolab Hydro Electric Project and Upper Indravati Hydro Electric Project.

67 Grid Corporation of Orissa Limited (GRIDCO).

The matter was reported to the Chief Electrical Inspector/Government in May 2008; their reply has not been received (November 2008).

Fisheries and Animal Resources Development Department

8.5 Loss of revenue due to non-leasing of reservoir

As per the State Reservoir Fishery Policy, Orissa, 2003, the fishing rights of reservoirs above 40 hectares were transferred to the Fisheries and Animal Resources Development Department which leases out the right to the Primary Fishermen Co-operative Society/Societies (PFCS) formed under the Orissa Co-operative Societies Act, 1962 or society/societies registered under the Orissa Self-Help Co-operative Act, 2001.

In case of a major reservoir, the lease value will be Rs. 200 per hectare per year, of which Rs. 40 per hectare per year will be deposited in the Government treasury. The remaining amount of Rs. 160 will be deposited with the concerned Fish Farmers Development Agency (FFDA) and the amount will be used for purchase of fish seed from the Government fish farm/Orissa Pisciculture Development Corporation (OPDC) Ltd. for rearing in captive nursery and stocking in the reservoir every year. Besides, royalty shall be collected along with the lease value at the rate of Rs. 10 per hectare per annum for major reservoirs. Where no PFCS can be formed or the existing PFCS do not show interest in taking the reservoir on lease, the said reservoir will be leased out to private individuals/entrepreneurs/public undertakings/registered companies through open auction/sealed tenders and in that case the entire lease value would be deposited in the Government account.

Scrutiny of the records of the Assistant Director of Fisheries (ADF), Sambalpur in March 2005 and April 2008 revealed that the Hirakud reservoir, Sambalpur (Sector I, II and III) had 52,577 hectares of maximum water spread area at full reservoir level, of which 17,612 hectares in sector III was considered as a security zone. The issue relating to lease of the Hirakud reservoir was reviewed by the Government in July 2004 and out of the lease value, Rs. 160 was decided to be exempted as the Hirakud reservoir is an autobreeding reservoir and as such there was no need for purchase of fish seeds. It was also decided to reassess the Mean Water Spread Area⁶⁸ (MWSA) by the Director of Fisheries. Accordingly, a technical committee was appointed in July 2004 which determined in August 2004 the MWSA of Sector I, II and III as 4,331, 7,868 and 25,175 hectares respectively. The department, therefore, had to lease out 19,762 hectares of Sector I, II and III excluding the security zone of the reservoir i.e. 17,612 hectares. However, the department neither leased out the reservoir to any of the PFCS nor initiated any action during the period from 2004-05 to 2007-08 to lease out the reservoir through auction to private individuals/entrepreneurs/public undertakings even though the Director of Fisheries in his letter of August 2004 instructed that the reservoir should be leased out through open auction or sealed tenders. Thus, inaction on the part of the department led to non-leasing of the reservoir resulting in loss of revenue of Rs. 1.66 crore.

⁶⁸ The average of maximum and minimum water spread area.

After the case was pointed out, the ADF stated in April 2008 that Rs. 1 lakh was realised from one PFCS during 2004-05 and steps were being taken for leasing out the reservoir during 2008-09.

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

**Bhubaneswar
The**

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