

CHAPTER-V: OTHER TAX RECEIPTS

5.1 Results of audit

Test check of the records of the following receipts, conducted during the year 2008-09, revealed underassessment of tax, fee, duty and loss of revenue *etc.* of Rs. 122.59 crore in 264 cases which fall under the following categories:

(Rupees in crore)			
Sl. no.	Categories	No. of cases	Amount
A. Stamp duty and registration fees			
1.	Information Technology audit of 'Computerisation in Registration Department' - (A review)	01	Nil
2.	Defalcation of Government revenue	01	0.26
3.	Short realisation of stamp duty and registration fees due to late receipt of revised rates	13	29.33
4.	Blocking of Government revenue due to non-disposal of referred cases	25	2.02
5.	Blocking of Government revenue due to non-disposal of impounded cases	21	1.16
6.	Irregular grant of exemption	03	0.27
7.	Short levy due to misclassification of documents	06	0.22
8.	Other irregularities	11	0.16
Total		81	33.42
B. Entry tax			
1.	Non/short levy of entry tax	19	4.49
2.	Application of incorrect rate of entry tax	10	0.46
3.	Non-imposition of penalty	02	0.07
4.	Other irregularities	07	1.07
Total		38	6.09
C. Land revenue			
1.	Non-realisation of revenue due to non-renewal of leasehold <i>khās mahal</i> land	01	23.81
2.	Non-fixation of <i>salāmi</i> and commercial rent	03	0.68
3.	Non-settlement of vested lands	15	0.13
4.	Non/short levy of cess and/or interest on arrears of cess	01	0.24
5.	Non-levy of rent and cess due to non-fixation of rent on <i>kabil lagan</i> land	01	0.07
6.	Other irregularities	124	58.15
Total		145	83.08
Grand total		264	122.59

During the year 2008-09, the concerned department accepted underassessment and other deficiencies *etc.* involving Rs. 89.05 crore in 235 cases out of which 191 cases involving Rs. 86.13 crore were pointed out during the year 2008-09

and the rest during the earlier years. The departments concerned have also reported recovery of Rs. 2.01 lakh.

A review on ‘**Computerisation in Registration Department**’ and few illustrative audit observations involving tax effect of Rs. 25.37 crore are mentioned in the succeeding paragraphs.

5.2 Computerisation in Registration Department “SCORE”

Highlights

User requirement specification was not properly assessed. As a result manual intervention continued in the process of registration of the documents.

(Paragraph 5.2.6.1)

Agreements made by the district level societies were not according to the best trade practices which facilitated recurring profitable source to vendors.

(Paragraph 5.2.6.2)

Security policy was inadequate and made the computer systems vulnerable to manipulations or unauthorised deletions/modifications.

(Paragraph 5.2.13)

Lack of input controls resulted in incomplete database and due to the deficient system design with regard to categorisation of the documents, identification of executants and prevention of double registration of the same property, the benefits of computerisation could not be achieved.

(Paragraphs 5.2.12, 5.2.14 and 5.2.15)

5.2.1 Introduction

The Government of Bihar had decided (March 2005) to computerise all the registration offices in the State. The objectives of the computerisation was to make registration process simple, transparent and fast and to ensure that stamp duty, registration fees and all other fees are deposited directly into bank by the parties through *challans* and verify the same from the bank account online. Then, the registered deed would be delivered within 20 to 25 minutes.

For implementation of the project, the entire computer system was obtained from the suppliers on rent basis and the work started from May-June 2006 in all the districts. Under Section 69 of the Registration Act, 1908, the Bihar Government had framed the Bihar Registration Rules, 2008. The activities of the computerisation were envisaged through the societies at the State level and one each at the district level. These societies were registered under the Societies Registration Act, 1860. The society at the State level was responsible for providing low cost computerised services ensuring smooth functioning of the computerised system of registration, preservation, maintenance of the software, guidance and supervision to the district level. The software was provided by the department to the societies while the hardware for the system was hired by the district level societies under the overall guidance of the State level society.

Business process was re-engineered (2006) in the computerised system by the department. The stamp duties, fees, valuation of the properties were calculated through the computerised system.

An information technology (IT) audit of the computerisation in Registration Department was conducted which revealed a number of deficiencies as discussed in the succeeding paragraphs.

5.2.2 Organisational setup

At the State level, Secretary, Registration Department was the chairman, Assistant Inspector General (AIG) of Computerisation was the secretary and AIG Stamp, Inspector of Registration department, Patna and district sub registrars of Patna and Muzaffarpur were the members at the headquarters level society (BISCORE). The district registrar *i.e.* district magistrate was the chairperson, Inspector of the registration offices was vice-chairperson, district sub-registrar was the member secretary and all sub-registrars of the districts were the members in the field establishments (SCORE).

5.2.3 Scope of audit

The scope of audit included the evaluation of the general and application controls and the effectiveness of the system in achieving organisational objectives and monitoring the activities of the societies for supply/installation/maintenance of the computer hardware/software for running the computerised system. The data pertaining to May-June 2006 to March 2009 of 10¹⁰⁵ out of 38 district sub-registrar offices were selected based on probability proportionate to size with replacement (PPSWR) sampling method for analysis and checking of data using CAAT¹⁰⁶.

5.2.4 Audit objectives

The audit objectives were to evaluate and assess whether

- the department had a sound IT policy;
- the input controls and validation checks available in the system were adequate so as to ensure that the data captured in the system was complete and correct in all respects;
- the department had incorporated relevant business rules in the application software;
- the internal control framework and the monitoring mechanism were adequate; and
- adequate security controls and business continuity plan were in place.

5.2.5 Audit findings

Audit findings arising from the review of the computerisation in ten district sub-registrar offices are discussed in the succeeding paragraphs.

5.2.6 Planning and organisation

5.2.6.1 User requirement specifications

The Bihar Registration Rules, 2008 provided that the manual registration should not be undertaken after the registry office adopts the computerised process of the registration. The registration of the document was dependent

¹⁰⁵ Begusarai, Bhagalpur, Bhojpur, Darbhanga, Gaya, Katihar, Muzaffarpur, Patna, Rohtas and Samastipur.

¹⁰⁶ Computer assisted audit tool.

on the check with reference to the provisions relating to the ceiling¹⁰⁷ of land and minimum value register¹⁰⁸ (MVR).

Audit of the records/data in the test checked districts disclosed that the information in respect of ceiling of land was not available in the system and the MVR prepared in the system was without *khesra* number¹⁰⁹ which is assigned by the concerned circle offices for identification of the type of land. In absence of the above details, registration without intervention of manual work/check was not possible with the application system adopted by the department.

After the case was pointed out, the department accepted the case and stated (December 2009) that as per the provisions of the Bihar Stamp (Prevention of Undervaluation of Instruments) Rules, 1995, the MVR is to be prepared for each *halka*/wards for different categories of land of that area. In this regard the department had taken its own initiative to obtain the *khesra* wise category of land in order to check the undervaluation by putting the property in lower category from the concerned revenue circles and to incorporate it in the MVR as far as possible.

The department's reply indicated that user requirement specifications were not defined properly by the department while developing the system.

5.2.6.2 Renewal of agreements with vendors by societies

The agreements made between the private vendors and the concerned societies were for a period of one year only and were to be renewed on mutual consent basis. The hire rent fixed in different districts ranged from Rs. 11,500 to Rs. 19,500 per unit at the time of initiation of the computerisation. It was observed that the societies in four districts¹¹⁰ continued to renew the agreements with the same vendors at the same rate though the vendors were utilising the same old systems in the subsequent years. It was also noticed that in six districts¹¹¹, vendors were allowed to continue the work without renewal of the agreements. The societies did not opt for further tendering process or negotiation to reduce the hire rent before renewal or continuation of the agreements.

After the case was pointed out, the department accepted the case and stated (October 2009) that although district level societies were at liberty to negotiate with the vendors at the time of the renewal, these points would be reviewed by the state level society and accordingly the district level societies would be directed. Moreover, the hardware suppliers have been asked from time to time to upgrade the system before further renewal. The department further added (December 2009) that in some districts, upgraded printers/ scanners have been supplied as and when required by the district level societies.

¹⁰⁷ The details of persons barred from selling their land under the Bihar Land Ceiling Act.

¹⁰⁸ Data pertaining to minimum land cost for transactions in accordance with the Bihar Stamp (Prevention of Undervaluation of Instruments) Rules, 1995.

¹⁰⁹ Part of the plot.

¹¹⁰ Gaya, Muzaffarpur, Patna and Rohtas.

¹¹¹ Begusarai, Bhagalpur, Bhojpur, Darbhanga, Katihar and Samastipur.

The Government may consider formulating the terms of agreements with the vendors as per best IT/trade practices.

5.2.6.3 Service tax paid on hiring of computers

It was observed from the statements of expenditure for the period 2006-07 to 2008-09 that payment of Rs. 72.01 lakh made by seven¹¹² societies during 2006-09 on account of hire charges was inclusive of service tax at the rate of 12.36 *per cent*. As service tax was not leviable on providing computers/peripherals for use in the Government offices, payment of Rs. 8 lakh made to the vendors on account of service tax was irregular.

After the case was pointed out, the department stated (December 2009) that the intention was that the vendors should quote a lump sum amount and if the service tax is leviable department will not have to pay it in addition to the rent. However, the reply is not tenable as the quotation was inclusive of service tax which should have been excluded while making the payment.

5.2.7 Training

The department envisaged operation of the computers by the departmental officials. It was observed that the assessment of requirement of IT staff and their appointment was not done by the department. The department had inadequate IT skilled manpower. The training organised for the departmental officials so far was also unfruitful as only 27 out of 82 trained officials were utilised in the test checked districts. In Patna and Rohtas districts, 10 and six staff respectively were trained and utilised for computerised registration process but the number of hired persons was not reduced. Even after three years of computerisation, the department was fully dependent on the hired persons for maintaining the system.

After the case was pointed out, the department stated (December 2009) that the trained officers were fully utilised and staff could not be fully utilised due to their poor learning ability.

5.2.8 Online verification of receipts

One telephone connection was allowed to each district office of registration for availing internet connection in order to verify the amounts received through *challans* with the bank scrolls online. It was observed that only in Samastipur district internet connectivity was in place and the verification was being done online. In other districts, the verification was continued to be done manually either due to the absence or problem of the internet connection. This practice led to the delay in the delivery of the documents to the parties. Thus, the objective of online verification of the deposits from the bank accounts was not achieved.

After the case was pointed out, the department accepted it and stated (December 2009) that regular monitoring was being done for effective computer connectivity between the banks and the registration offices.

¹¹² Begusarai, Darbhanga, Gaya, Katihar, Muzaffarpur, Rohtas and Samastipur.

The Government may consider providing connectivity between the DSRs and the banks in all the districts for online verification of the receipts.

5.2.9 Change over plan

It was noticed that the department switched over to SCORE 2.0 version of the application software in June 2007 in all the test checked districts from the earlier version SCORE 1.0. However, the data maintained in SCORE 1.0 could not be imported into SCORE 2.0. As a result, it was very difficult for the department to make any search from data of SCORE 1.0.

After the case was pointed out, the department accepted it and stated (December 2009) that all issues would be taken care of in the next version of SCORE and the National Informatics Centre (NIC) was being requested for early updating of the SCORE software.

5.2.10 Physical and environmental control

It was observed that the physical and environmental controls were weak as IT centres of Ara and Muzaffarpur were established in dilapidated buildings and the ceiling of the buildings were having seepages. The fire alarms and automatic extinguishers were not installed in the IT centres to safeguard against fire.

After the case was pointed out, the department accepted it and stated (December 2009) that the proposals for constructing new office buildings had already been approved under the State plan and the work would be started very soon. Further, the department would soon act for installing fire alarms and automatic extinguishers to prevent any such emergency.

5.2.11 Backup policy

The backup policy as envisaged under Rule 39 of Bihar Registration Rules, 2008 provided that each DSR office shall be a central office of electronic data for the district. The backup of the data was required to be prepared in three compact discs (CD) and each one was required to be kept in the office of the Registrar, Inspectors of Registering offices and the Inspector General of the registration offices. However, audit noticed that though the backup was taken in the CDs and hard disks, these were not sent to the other locations for storage and were also not tested periodically.

After the case was pointed out, the department accepted it and stated (December 2009) that the provisions of the Rules would be followed and for this purpose necessary infrastructure was under preparation.

5.2.12 System design

5.2.12.1 Categorisation of documents

The registration of a particular document is categorised as ‘original’, ‘counterpart’, ‘rectification as major’, ‘rectification as minor’, ‘cancellation’ or ‘re-registration’. There was no provision in the system to capture these information.

5.2.12.2 Identification of the executants

As per Rule 12 of the Bihar Registration Rules, 2008, the identification of the executants was to be done preferably by one of his co-villagers and whose identity would be verified by either one of the documents *viz.* voters identity card, ration card, PAN card, motor vehicles licence and licensed deed writers. It was found that the application software was not modified/upgraded to include the identification field to capture the data related to these documents which led to the executants being free from identification.

After the case was pointed out, the department accepted it and stated (December 2009) that SCORE 2 was developed in 2007. At that time there was no provision in the Rules for asking the identity proof of the identifiers, hence it was not incorporated in the software. In the next updated version this would be considered.

5.2.13 IT Security

Though the department had implemented the computerised system of registration, it is yet to the draft and adopt an IT Policy.

The Government may consider preparing an IT policy.

5.2.13.1 Authentication process

It was noticed that access to the system was open, not controlled through user log-in and log-out method and no unique user identification and password system was provided to the users to access the application.

In absence of any security, manipulation of the MVR data which is revised every year by any user of the system for evasion of Government revenue can not be ruled out.

After the case was pointed out, the department stated (December 2009) that the matter had been taken seriously and user ID and the password alongwith the role based privilege were to be provided soon and the security policy of the MVR data would be incorporated in the next version of the SCORE. The NIC, Bihar State Centre had been requested for necessary action.

The Government may consider restricting access to the system through proper user authentication process.

5.2.13.2 Gaps in the system generated deed numbers

Deed number is an unique field generated by the system after a deed is registered and identifies the complete registration of a deed. Since it is a machine generated number, there should not be any gap. In analysis of the data of the test checked DSR offices, 184 gaps in deed numbers were found. This indicated that it was either unauthorisedly deleted or manipulated after the execution. Log files were also not maintained for ascertaining such deletion/manipulation.

After the case was pointed out, the department accepted it and stated (December 2009) that the NIC would be requested to make provisions for maintenance of the log files to take care of such deletion.

5.2.14 Incomplete database

The registration of the document depended on the details provided by the executants in the documents. Analysis of the data relating to the sale deeds of land disclosed that certain vital information was not captured since data entry of such information was not made mandatory. Such cases are given below:

Details	Plot number	Boundary	Khata number	Ward number	Father's name	Address
Numbers	1,291	1,532	6,660	2,225	622	39

After the case was pointed out, the department stated (December 2009) that the *khata* number, plot number, boundary and other parameters mentioned above are dependent upon the document type and system captures these parameters according to the nature and type of the documents. Fact remains that the information of the said fields was vital in case of sale documents.

5.2.15 Validation checks

After the registration of a sale of land in any registry office, a notice for transfer of the property alongwith the scanned deeds was required to be sent to the concerned Additional Collectors (Revenue) offices for *dakhil-khariz*¹¹³. There was no validation check or restriction designed in the software to prevent the re-registration of same deeds by the same executants for the second time to another claimant/buyer. In case of double registration, the notices for the transfer of the property sent to the concerned circle offices for *dakhil-khariz* would not serve the intended purpose for facilitating the circle officers.

Further, there was no safeguard/validation check to restrain the sale of *Anwad*¹¹⁴ of Bihar Government.

After the case was pointed out, the department stated (December 2009) that there was no provision in the Registration Act to prevent the registration of the document of the same property to another claimant and the Registration Act would apply to the document presented and not to the transaction. It also stated that disputes of double registration were the subject matter of the competent civil court and the computerised system of registration could not deviate from the provisions of the Registration Act.

The fact, however, remains that as the department had implemented the computerised system, a warning system needs to be developed in case of duplicate registration.

The Government may consider strengthening the input controls and validation checks to make the database complete, accurate and reliable.

5.2.16 Internal controls

The department created the Society (BISCORE) for the purpose of preserving and maintaining the system used in the process of the registration and to provide guidance and supervision to the district level societies. The society officials, however, never visited any of the test checked districts till the date of

¹¹³ Transfer of title in register II/Government record (mutation).

¹¹⁴ Land of the Government.

audit (October 2009) which indicated that the computerisation efforts were not monitored effectively.

After the case was pointed out, the department stated (December 2009) that steps were being taken to strengthen the inspection system.

The Government may strengthen the inspection system by prescribing specific targets.

5.2.17 Conclusion

The computerisation initiative taken by the department to make registration process simple, transparent and fast was yet to achieve its objective. The registration process continued to depend on manual verification and the delivery time of the deeds has remained the same as in the previous manual system. The department has not utilised its trained manpower effectively and continued to depend on the hired persons for operating the system. Poor change control mechanism has resulted in non-porting of the data in earlier version of the application ‘SCORE’ into the database of the new version. Access to the system not being controlled through user authentication process has made the system insecure and non-accountable. Deficient input controls and validation checks have made the data incomplete, incorrect and thus unreliable. With such deficiencies, the department was yet to derive complete benefit of computerisation efforts through the system in place.

5.2.18 Recommendations

The registration department should initiate steps to:

- prepare document and implement necessary Information Technology policy;
- provide connectivity between the DSRs and the banks in all the districts for online verification of receipts;
- formulate the terms of agreement with outsourced agencies (vendors) as per best IT/trade practices;
- restrict access to the system through proper user authentication process;
- strengthen input controls and validation checks to make the database complete, accurate and reliable; and
- strengthen the inspection system to improve the internal control mechanism.

5.3 Other audit observations

Scrutiny of the records of the district registrars/sub-registrar, commercial tax, khas mahal and town anchal offices revealed several cases on non-compliance of the provisions of the Act/Rules and departmental orders as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the departmental officers are pointed out in audit each year, but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that these deficiencies can be detected and prevented in future.

A : STAMP DUTY AND REGISTRATION FEES

5.4 Defalcation of revenue

As per Rule 7 read with Rule 37 of the Bihar Financial Rules, Volume-I, it is the responsibility of the departmental authority to see that all sums due to the Government are regularly and promptly assessed, realised and duly credited in the Government account under proper head without any delay.

Further, Rule 86(V) of Bihar Treasury Code Volume-I, envisages that when Government moneys in the custody of a Government servant are paid into the treasury or the Bank, the head of the office making such payments should compare the treasury officer's or Bank's receipt on the challan with the entry in the cash book before attesting it, and satisfy himself that the amounts have been actually credited into the treasury or the Bank. If any credits are claimed but not found in the accounts, enquiries should be made by the departmental officer concerned.

During test check of the records of the District Sub-Registrar, Banka in September 2008, it was noticed that a sum of Rs. 26.22 lakh shown as deposited into the Banka treasury (under head of account "0030 Stamps and Registration Fees" and "0029 Land Revenue") on different dates between 16 October 2002 and 10 February 2006 as recorded in the remittance register and the cash book of District Sub-Registrar, Banka were not entered in the treasury receipt schedule as well as the Bank scroll for the concerned period. The Treasury Officer, Banka also confirmed (26 September 2008) that the amount of Rs. 26.22 lakh was not deposited in the Government account by the District Sub-Registrar, Banka during the above period. Thus, failure of the District Sub-Registrar, Banka to reconcile the departmental figure with the treasury figure resulted in defalcation of revenue of Rs. 26.22 lakh.

After the case was pointed out, the District Sub-Registrar, Banka/District Registrar (Collector), Banka accepted the fact of defalcation and intimated in December 2008 that a first information report had been lodged (vide No. 411/2008) against three departmental officials and three officials of the State Bank of India as well as departmental proceedings had been initiated against the officials of the department. The Inspector

General, Registration confirmed the above facts in July 2009. Further developments in the case and particulars of recovery of the Government revenue were awaited (January 2010).

The case was reported to the Government in April 2009; their reply has not been received (January 2010).

5.5 Blocking of revenue due to non-disposal of referred cases

Under the provisions of the Indian Stamp (IS) Act, 1899, where the registering officer while registering any instrument of conveyance, exchange, gift, partition or settlement has reasons to believe that the market value of the property which is the subject matter of such instrument has not been rightly set forth in the instrument, he may refer the instrument to the Collector for determination of the market value of such property and the proper duty payable thereon.

As per the Government notification issued in December 1996 read with the Commissioner and Secretary-cum-Inspector General, Registration's instruction issued in May 2006, all Collectors were required to return all the cases already referred to them under section 47 (A) to the Inspector of registration offices for disposal within 90 days.

Scrutiny of the records relating to the referred cases and information available in five offices of the district sub-registrars¹¹⁵ and two sub-registrars¹¹⁶ during April and December 2008 revealed that 261 cases were referred under Section 47(A) to the respective Collectors/Inspector of registration offices for determination of the market value of the property during the period 2004-08. The cases were pending till the date of audit resulting in blocking of revenue amounting to Rs. 63.26 lakh.

After the cases were pointed out, the district sub-registrars/sub-registrars concerned stated between April and December 2008 that the collector/Inspector of registration offices would be requested for early disposal of the pending cases. The fact remains that the cases were to be disposed off within 90 days of their receipt which was not done. Besides, the replies were silent regarding the reasons for non-pursuance of the cases till these were pointed out by audit. Further reply has not been received (January 2010).

The cases were reported to the Government in April 2009; their replies have not been received (January 2010).

5.6 Blocking of revenue due to non-disposal of the impounded cases

Under the IS Act, every public officer (excluding a police officer) before whom any instrument chargeable with duty is produced or comes in the course of performance of his function, shall, if it appears to him that such instrument is not duly stamped, impound the same and send the instrument in original to the Collector. The Act further provides that the stamp duty payable shall be realised by the Collector together with a penalty of Rs. 5 or an amount not

¹¹⁵ Banka, Lakhisarai, Sheikhpura, Sitamarhi and Vaishali (Hajipur).

¹¹⁶ Ganpatganj and Paroo (Muzaffarpur).

exceeding ten times of the amount of the proper duty and return it to the impounding officer.

During scrutiny of the records relating to the impounded cases in the offices of the District Sub-Registrar, Lakhisarai and Vaishali (Hajipur) between July and September 2008, it was noticed that 60 cases were impounded by the concerned district sub-registrars and sent to the respective collectors between 2004-05 and 2007-08 for taking suitable action. However, not a single case had been returned to the impounding officer *i.e.* the district sub-registrar till the date of audit. Non-disposal of the cases resulted in blocking of Government revenue of Rs. 19.62 lakh.

After the cases were pointed out, the concerned district sub-registrars stated between July and September 2008 that correspondence would be made with the collectors for early disposal of the cases. The replies were silent on the reasons for the inaction till this was detected and pointed out by audit. Further reply has not been received (January 2010).

The cases were reported to the Government in April 2009; their replies have not been received (January 2010).

B: ENTRY TAX

5.7 Non-levy of entry tax

Under the Bihar tax on entry of goods into local areas for consumption, use or sale therein (BTEG) Act, 1993 read with the Bihar Finance (BF) Act, 1981 and Rules framed thereunder, every dealer who is liable to pay tax under the BTEG Act, shall furnish a true and complete return in respect of all the scheduled goods and the tax payable thereon. The BF Act provides that if the prescribed authority detects any escaped turnover before the assessment, he shall direct the dealer to pay, in addition to any tax which may be assessed, by way of penalty, a sum not exceeding two times but not less than an amount equal to the amount of the tax. Further, all the provisions relating to returns, assessment, reassessment, escaped turnover, recovery of tax, offences and penalties *etc.*, under the BF Act, are applicable *mutatis mutandis* under the BTEG Act. According to the executive instructions issued by the department in November 1998 and May 2002, the assessing authorities (AA) were required to review the returns and initiate proceedings against the defaulting dealers under the relevant provisions of the BF Act.

During scrutiny of the records in Aurangabad and Gaya commercial taxes circles between July and August 2007, it was noticed that during the period 2004-05, two dealers had disclosed import value of scheduled goods amounting to Rs. 3.94 crore only instead of actual amount of Rs. 8.49 crore as shown in the declaration form 'C' and Tax Audit Report (TAR-II). The AAs, however, could not detect the concealment of the import value of the scheduled goods amounting to Rs. 4.55 crore. This resulted in non-levy of tax of Rs. 39.52 lakh including minimum leviable penalty.

After the cases were pointed out, the AAs concerned stated between July and August 2007 that the cases would be examined. Further replies have not been received (January 2010).

The cases were reported to the Government in May 2008; their replies have not been received (January 2010).

C: LAND REVENUE

5.8 Non-realisation of revenue due to non-renewal of the leasehold *khas mahal* land

Under the Bihar Government Estates (*khas mahal*)¹¹⁷ Manual, 1953 and the Government orders issued thereunder, the State Government is to issue notices to the lessees, six months prior to the expiry of original lease, to apply for the renewal of such lease, whereas a lessee is required to apply for the renewal thereof three months prior to the expiry of his existing lease. A lessee continuing to occupy the leasehold property without the payment of the rent and the renewal of the lease or who changes the purpose of the lease or transfers his property without the approval of the competent authority is to be treated as a trespasser and shall have no claim for the renewal on the past terms and conditions of the lease agreement and the Government may resume such land. However, the present occupier may be asked to notify his intention by a fixed date if he is desirous of taking fresh lease.

On fresh lease, *salami*¹¹⁸ at the current market value of the land besides annual rental (one fiftieth and one twentieth of such *salami* for residential and commercial leases respectively) is leviable. In case of arrears, the lessees are liable to pay double the rent as determined in the fresh lease from the date of non-payment of the rent together with the interest on arrear rent at 10 per cent per annum.

During test check of the records of the *khas mahal* officer, Sitamarhi in July 2009, it was noticed that though the lease on 18.21 acres of *khas mahal* land in Dumra Notified Area, Sitamarhi held by 109 occupiers had expired, yet, these lessees continued to occupy the land unauthorisedly till date. No action was taken by the department to cancel the existing leases and resume the land for fresh settlement with the present occupiers as per the provisions of the Manual. Thus, inaction on the part of the department to resume the land and settle with the present occupiers on fresh terms and conditions resulted in non-realisation of revenue of Rs. 23.81 crore for the period from 2004-05 to 2008-09 including penal rent and interest.

After the case was pointed out, the *khas mahal* officer, Sitamarhi stated (July 2009) that extensive survey was being conducted and after that the process of lease would be initiated. The fact, however, remains that undue delay in resumption of the land and resettlement with the existing occupiers, resulted in non-realisation of revenue. Further reply has not been received (January 2010).

The matter was reported to the Government in September 2009; their reply has not been received (January 2010).

¹¹⁷ *Khas mahal* means a Government estate under the direct management of the Government.

¹¹⁸ *Salami* is the Government share on the market value of land.

5.9 Non-levy of rent and cess due to non-fixation of rent

Under the Bihar Tenancy (BT) Act, 1885, the Government may, in any case if it thinks fit, make an order directing that a survey be made and a *khatian*¹¹⁹ be prepared by a revenue officer in respect of the land in any local area, estate or the tenure or part thereof. The revenue officer may revise the *khatian* at the draft stage after giving a reasonable opportunity to the party concerned at any time before the final publication of records of right.

In case of land which are declared *kabil lagan*¹²⁰ in the finally published *khatian*, the AA is required to prepare the case records for fixation of the rent of *kabil lagan* land under his jurisdiction and forward it to the Deputy Collector, Land Reforms (DCLR) for approval. Under the provisions of the Bihar Urban Land Tax Act, 1965, rent at the rate of 0.2 to 0.5 *per cent* of the value of the land together with the applicable cess at the rate of 145 *per cent*¹²¹ of rent is leviable on every land owner of urban land annually for residential and commercial use respectively.

During test check of the records relating to the fixation of rent of *kabil lagan* land in town *anchal* office, Dumra, Sitamarhi and DCLR office at Sitamarhi Sadar, it was noticed that as per the *khesra*¹²² register, the plots situated in 11wards covering area of 5.46 acres of land were declared *kabil lagan* but rent of not a single plot of *kabil lagan* land was assessed. As a result, no demand was raised against the *rai�ats*¹²³ till date of audit which resulted in non-levy of rent and cess amounting to Rs. 6.96 lakh for the period 2004-05 to 2008-09.

After this was pointed out, the DCLR concerned stated in July 2009 that action for fixation of rent would be taken. The reply was silent regarding non-initiation of action till this was pointed out in audit. Further reply has not been received (January 2010).

The matter was reported to the Government in September 2009; their reply has not been received (January 2010).

¹¹⁹ *Khatian* (records of right) is the main document of the record containing all classes of the proprietors and the tenants and all other information as prescribed in Section 102 of the Bengal Tenancy Act.

¹²⁰ *Kabil lagan* holdings are those, which are legally assessable to rent but on which the rent has not been assessed so far, such as new reclamations, new settlements and encroachments which are recognised.

¹²¹ Education cess: 50 *per cent*; health cess: 50 *per cent*; road cess: 25 *per cent* and agriculture cess: 20 *per cent*.

¹²² *Khesra*: list of fields serially numbered according to map, showing occupants, area and class plot by plot.

¹²³ A person who has acquired a right to hold the land for the purpose of cultivating it by himself, or by members of his family or by hired servants, or with the aid of partners, and includes also the successors-in-interest of the persons who have acquired such a right.