

## CHAPTER VI: OTHER TAX RECEIPTS

### EXECUTIVE SUMMARY

<b>What we have highlighted in this Chapter</b>	<p>In this chapter we present our findings on a Performance Audit on 'Levy and collection of Electricity Duty' of ₹ 1,186.17 crore.</p> <p>We also present an illustrative case of ₹ 5.51 crore relating to non-levy of penalty by Excise Department despite non-maintenance of minimum stock of country liquor.</p>
<b>Increase in tax collection</b>	<p>Receipts from Taxes and Duties on Electricity fell short of the budget estimates during the period 2007-08 to 2010-11 whereas the same increased by 6.33 <i>per cent</i> over the budget estimate during 2011-12</p> <p>Receipts from State Excise during the period 2007-08 to 2011-12 exceeded the budget estimates. During the year 2011-12, there was an increase of 3.03 <i>per cent</i> over the budget estimate.</p>
<b>Importance not given to internal audit</b>	<p>Internal Audit Wing was not in existence in Energy Department.</p> <p>In the Excise Department, no unit was planned for audit by the Internal Audit Wing of the Department during 2011-12, though it was working at full strength of one Joint Director and one Assistant Audit Officer.</p>
<b>Observations pointed out by us in earlier years</b>	<p>During the audit of Excise Department for the period 2006-07 to 2010-11, through our inspection reports we had pointed out non-recovery of duty, short realisation of licence fees, non-levy of penalty, non/short levy of entertainment duty with revenue implication of ₹ 121.67 crore in 3,928 cases. The Department/ Government had accepted audit observations involving ₹ 33.69 crore in 2,534 cases.</p>
<b>Results of audit conducted by us</b>	<p>We conducted a Performance Audit on "Levy and collection of Electricity Duty" during the period March to June 2012, which revealed a number of deficiencies relating to non levy/short levy, irregular exemption from payment of electricity duty and irregular refund of electricity duty involving financial effect of ₹ 1,186.17 crore. The Energy Department accepted and issued demand notices involving ₹ 1,090.76 crore and out of this recovered ₹ 12.86 crore.</p> <p>We also conducted test check of the records of six</p>

units of the Excise Department during the year 2011-12 and found non-recovery of duty, non-levy of penalty, short realisation of licence fees, non/short levy of entertainment duty etc. amounting to ₹ 13.92 crore in 587 cases. The Department accepted underassessment, non/short levy of duty, licence fee etc. of ₹ 8.28 crore in 82 cases but no recovery was made.

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**Our conclusion**

During audit of the Energy Department we observed that the monitoring of the returns submitted by producers/ distributors of electrical energy was deficient which led to non-detection of cases of non/short payment of duty. Owing to lack of coordination between the CEI and the Industries Department, exemptions were granted without examination of eligibility criteria. The Department failed to monitor the small scale producers (up to 125 KVA) of electricity due to non-maintenance of records and non-submission of returns. Apart from this, failure of the Department to make necessary changes in the Act for avoiding levy of cess at two different points led to additional burden on the consumers. Exemptions were allowed to ineligible industries due to overlapping period/parallel operation of Industrial Policies/ notification.

The Excise Department needs to operationalise the Internal Audit Wing and conduct internal audit regularly, so that shortcomings of the nature detected by us can be avoided in future. It is also recommended that the Department may consider strengthening the system of monitoring audit observations with special emphasis on recovery of accepted cases.

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## A: TAXES AND DUTIES ON ELECTRICITY

### 6.1 Results of audit

We conducted a Performance Audit on “**Levy and collection of Electricity Duty**” during the period March to June 2012. This revealed a number of deficiencies relating to non levy/short levy, irregular exemption from payment of electricity duty and irregular refund of electricity duty involving financial effect of ₹ 1,186.17 crore as mentioned in the succeeding paragraphs.

(₹ in crore)

Sl. No.	Category	Number of cases/Number of units audited	Amount
1	Levy and collection of electricity duty- (A Performance Audit)	1/4	1,186.17

The Department accepted and issued demand notices involving ₹ 1,090.76 crore and out of this recovered ₹ 12.86 crore during the year 2012-13.

The Department also recovered full amount of ₹ 74.44 crore against two cases.

## 6.2 Performance Audit on "Levy and collection of Electricity Duty"

### HIGHLIGHTS

- Inclusion of erroneous provision in the Electricity Duty Act/Chhattisgarh *Upkar Adhiniyam* led to levy of cess at two different points and consequential extra burden of ₹ 252.63 crore on consumers.  
**(Paragraph 6.2.10)**
- Incorrect issue of exemption certificate to industries led to non levy of electricity duty and interest of ₹ 15.77 crore.  
**(Paragraph 6.2.11)**
- Grant of exemption by CEI even after withdrawal of notification led to non levy of electricity duty and interest of ₹ 44.68 crore.  
**(Paragraph 6.2.12.2)**
- Grant of exemption to ineligible turbo generating set led to non levy of electricity duty of ₹ 35.69 crore.  
**(Paragraph 6.2.14)**
- CEI allowed exemption to ineligible industries leading to non levy of electricity duty and interest of ₹ 44.74 crore.  
**(Paragraph 6.2.15)**
- Irregular grant of exemption to standby TG set led to non-realisation of electricity duty and interest of ₹ 16.10 crore.  
**(Paragraph 6.2.16)**
- Grant of exemption to an industry despite sale of power to non-exempted industries led to non-levy of electricity duty and interest of ₹ 20.90 crore.  
**(Paragraph 6.2.17)**
- Non-implementation of the provision of the ED Act led to non-levy of electricity duty and interest of ₹ 47.62 crore from CSPGCL.  
**(Paragraph 6.2.18)**
- Failure of CEI to levy electricity duty even after conversion from non-conventional energy plant to thermal power plant led to non-levy of electricity duty and interest of ₹ 5.40 crore.  
**(Paragraph 6.2.19)**
- Failure of CEI led to non-levy of electricity duty and interest amounting to ₹ 22.36 crore.  
**(Paragraph 6.2.21)**

## 6.2.1 Introduction

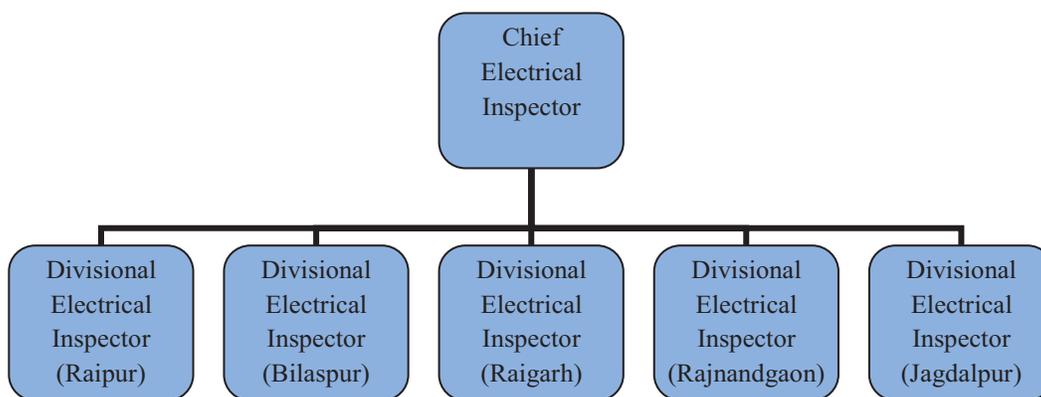
Energy Department is one of the major revenue earning Departments of the State and the contribution of electricity duty and cess to the total tax revenue of the State ranged between 5.58 and 7.03 *per cent* of the total tax receipts during the period 2007-08 to 2011-12.

There are four major components of receipts of the Department viz., Taxes on sale of electricity (ED), Fees under the Chhattisgarh Electricity Duty Act 1949, Fees for the electrical inspection of Cinemas and Other receipts. Every distributor and producer of electrical energy shall pay every month to the State Government, at the prescribed time and in the prescribed manner, electricity duty, calculated at the specified rate, on the units of electrical energy sold or supplied to a consumer or consumed by it for its own purpose during the preceding month. The amount of duty which is due and remaining unpaid shall carry interest. Energy development cess (cess) is also leviable on sale/supply or self consumption of electrical energy under Chhattisgarh *Upkar Adhiniyam 1981*.

Under the Chhattisgarh Electricity Duty Act, 1949 (Act) the distributor of electrical energy i.e. Chhattisgarh State Power Distribution Company Limited (CSPDCL) shall deposit the duty and cess in the Government Account after collecting the same for the energy sold or supplied to the consumers. Captive Power Producers (CPPs) who produce electrical energy from their Turbo Generator (TG) sets for own consumption are also required to pay electricity duty and cess directly into the Government Account for the energy sold/supplied or consumed by themselves.

As per the Act, every distributor and producer of electrical energy shall submit to the Chief Electrical Inspector, a monthly return in form 'G' showing the amount of duty leviable and non-leviable along with the treasury receipt.

## 6.2.2 Organisational set up



The Secretary of the Energy Department is the Head of the Department at the Government level. The organisation is headed by the Chief Electrical Inspector (CEI). The CEI is assisted by five Divisional Electrical Inspectors (DEI, E/S) at the division level and 10 Assistant Electrical Inspectors at the sub division level. The records of all CPPs and high tension consumers of the Distribution Company are maintained in the office of the CEI. The divisions are required to maintain the records of energy sold/supplied to low tension consumers of CSPDCL and CPPs

which produce electrical energy by their own sets having capacity upto 125 Kilo Volt Ampere (KVA).

### 6.2.3 Scope of audit

With a view to evaluate the efficiency and effectiveness of the system and procedure relating to levy and collection of electricity duty, cess and interest thereon, a Performance Audit was conducted between March and June 2012. The office of the CEI, Commissioner, Industries Department and three<sup>1</sup> out of five DEIs were selected for the purpose of the Performance Audit.

### 6.2.4 Audit objectives

The Performance Audit was conducted with a view to:

- assess the efficiency and effectiveness of the system of levy and collection of electricity duty and cess;
- assess whether an adequate internal control mechanism existed to ensure proper realisation of duty and cess; and
- ascertain the adequacy of measure taken against the defaulters for safeguarding revenue.

### 6.2.5 Audit criteria

The provisions of the following Act, Rules and circulars of Energy Department were used as audit criteria:

- Central Electricity Rules, 2005 (CE Rules);
- Chhattisgarh Electricity Duty Act, 1949 (CGED Act);
- Chhattisgarh Electricity Duty Rules, 1949 (CGED Rules);
- Chhattisgarh *Upkar Adhinyam*, 1981 and
- Various notifications and circulars issued from time to time by the Government and the Department.

### 6.2.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Energy Department for providing necessary information and records to audit. The scope and methodology of audit was discussed with the Secretary, Energy Department in an entry conference held on 18 May 2012. The Performance Audit report was forwarded to the Government and the Department on 11 July 2012. The findings of the Performance Audit were discussed with the Secretary and other officials of the Department on 16 November 2012. The replies received during the exit conference and at other points of time have been appropriately included in the relevant paragraphs.

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<sup>1</sup> Bilaspur, Raipur and Rajnandgaon (selected randomly)

### 6.2.7 Trend of receipts from Taxes and Duties on Electricity

The Budget Estimate (BE) of the Department is prepared taking into account the actual receipts during the last year, average growth rate of receipts during the last five years, comparison of the current year growth rate with the receipts of the corresponding previous year and the changes proposed by the Department, if any, in the rate of tax. The BE proposal is sent to the Finance Department (FD) for approval. The FD approves the BEs in consultation with the Department. We found that during the year 2011-12 the FD had approved the budget estimate of ₹ 600 crore as against the estimate of ₹ 601.50 crore proposed by the Department.

The BEs and actual receipts of the Department during the years 2007-08 to 2011-12 are as mentioned below:

(₹ in crore)

Year	Budget Estimate	Actual Receipts	Variation Excess(+) Shortfall(-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts to total tax receipts [(3) over (6)]
2007-08	481.10	394.86	(-) 86.24	(-) 17.93	5,618.10	7.03
2008-09	476.75	415.10	(-) 61.65	(-) 12.93	6,593.72	6.30
2009-10	528.25	416.91	(-) 111.34	(-) 21.08	7,123.25	5.85
2010-11	554.31	502.53	(-) 51.78	(-) 9.34	9,005.14	5.58
2011-12	600.00	637.97	(+) 37.97	(+) 6.33	10,712.25	5.96

Source: - Finance Accounts of the Government of Chhattisgarh

It may be seen from the above table that the actual receipts fell short of the budget estimates during the period 2007-08 to 2010-11 and the percentage of shortfall ranged between 9.34 and 21.08 *per cent*. However, the actual receipts increased by 6.33 *per cent* over the BE during 2011-12. The shortfall in receipts as reported by the Department during the above years was mainly due to short/non-payment of duty and cess made by CSPDCL and CPPs while the increase of receipts during 2011-12 was attributed to additional receipt of compounding fees and arrears from CSPDCL.

### 6.2.8 Arrears of revenue

The year-wise opening and closing balance of arrears from taxes and duties on electricity during the period 2007-08 to 2011-12 is depicted below:

(₹ in crore)

Year	Opening balance of arrears	Closing balance of arrears
2007-08	10.15	20.39
2008-09	20.39	26.49
2009-10	26.49	67.02
2010-11	67.02	97.93
2011-12	97.93	185.68

Source : Figures furnished by the Department.

It may be seen from the above table that the arrears increased to ₹ 185.68 crore as on 31 March 2012 from ₹ 10.15 crore as on 1 April 2008. Despite huge accumulation of arrears of revenue, the Department had not taken any concrete steps for recovery of these arrears.

Age-wise analysis of arrears of revenue is given in the following table.

Years	Arrears of revenue (₹ in crore)
More than 20 years	0.24
Between 10 and 20 years	Nil
Between 5 and 10 years	9.91
Between 3 and 5 years	16.34
Between 1 and 3 years	159.19
<b>Total</b>	<b>185.68</b>

It may be seen from the above table that only 5.5 per cent (₹ 10.15 crore) of the total arrears as on 31 March 2012 were outstanding for more than five years. Thus the bulk of the arrears pertained to recent periods.

Further, out of the total arrears of ₹ 185.68 crore, arrears aggregating to ₹ 24.96 crore were outstanding as on 31 March 2012 against the top 10 defaulters as detailed below:

Sl. No.	Name of the consumer	Outstanding amount (₹ in crore)
1.	M/s Prakash Industries, Janjgir-Champa	13.84
2.	M/s Monnet Ispat Naharpali, Raigarh	2.60
3.	M/s Real Ispat & Power, Raipur	2.25
4.	M/s Anjani Steel Private Limited	2.14
5.	M/s Mahendra Sponge and Power Private Limited, Siltara	1.58
6.	M/s Vasvani Industries Limited, Sondra Raipur	1.39
7.	M/s Aryan Coal Benefication Private Limited, Korba	0.75
8.	M/s Navdurga Fuel Private Limited	0.33
9.	M/s South Asian Agro Industries, Baloda Bazar	0.07
10.	M/s Vandana Global, Raipur	0.01
<b>Total</b>		<b>24.96</b>

Source: Information furnished by the Department.

During the exit conference, the Government stated that the principal amount of ₹ 72.07 crore outstanding against CSPDCL has been fully recovered in June 2012 and the Government has since waived the interest amounting to ₹ 88.46 crore outstanding against the Company. Out of the total arrears of ₹ 185.68 crore, ₹ 9.25 crore relates to cases pending in the Court and Revenue Recovery Certificates have been issued for recovery of ₹ 17.45 crore. Further the Department stated that recovery is pending due to appeals filed by certain producers of electrical energy in the court. As regards the top 10 defaulters, it was stated that Revenue Recovery Certificates (RRC) have already been issued in five cases and steps are being taken

to issue RRCs in the remaining cases. Necessary action will be taken to recover the remaining arrears.

## AUDIT FINDINGS

### SYSTEM DEFICIENCIES

#### 6.2.9 Submission and monitoring of monthly returns

As per rule 7(i) of Chhattisgarh Electricity Duty Rules, every distributor/producer of electrical energy on consumption shall submit to the CEI and DEIs a monthly return in form 'G', along with treasury receipt, showing the amount of duty leviable and non-leviable.

**6.2.9.1** We observed that the CPPs having capacity upto 125 KVA had not submitted any returns to the DEIs during the period 2007-08 to 2011-12. The DEIs were also not maintaining any records of these producers which would enable them to monitor the submission of 'G' forms and also to determine the amount of duty payable. We further observed that though the CEI was

maintaining the initial records of 'G' forms received from the producers of electrical energy, the summary of returns containing details of outstanding returns and duty was not prepared. The above facts indicate that a monitoring mechanism did not exist in the Department to ensure submission of monthly returns in time.

During the exit conference, the Government replied (November 2012) that instructions have been issued to all the offices to ensure maintenance of records and a system will be put in place to monitor the returns.

Every DEI is required to submit a monthly return to CEI containing the details of total energy consumed by the Low Tension (LT) consumers, dutiable units, non dutiable units, duty/cess payable and duty/cess paid by them during the month.

**6.2.9.2** We observed that none of the test checked DEIs submitted the monthly returns to the CEI during the period 2007-08 to 2011-12. Further, no periodical return was also prescribed from the CEI to the Government regarding duty payable, paid and balance to be deposited.

During the exit conference, the Government replied (November 2012) that instructions have since been issued in August 2012 to all DEIs for submitting the returns regularly.

**The Government may consider prescribing a mechanism to ensure that the prescribed returns are submitted regularly and in time in the prescribed format and introducing a periodic return from CEI to the Government containing information regarding duty payable, paid and balance to be deposited to enable effective monitoring.**

### 6.2.10 Inclusion of erroneous provision in the Cess Act led to levy of cess at two different points and consequential extra burden on consumers

According to Chhattisgarh *Upkar Adhiniyam*, every distributor of electrical energy will pay energy development cess to the Government for energy sold/supplied to the consumers or consumed by itself at the rates prescribed from time to time. As per Section 2 of the Chhattisgarh Electricity Duty Act, National Thermal Power Corporation (NTPC) and Chhattisgarh State Electricity Board (CSEB) are distributors of electrical energy.

After subsequent amendment (2004) of the *Adhiniyam*, every producer of electrical energy is also required to pay energy development cess on the electrical energy sold or supplied to a consumer or consumed by it or his employees by his captive power unit or diesel or other generator set of more than 125 KVA capacity during the month. Due to this amendment, under section 3(1) of the *Adhiniyam* 1981, a distributor is charged cess at the rate of five paise per unit and a CPP is charged at the rate of 10 paise per unit.

During test check of 'G' forms in the office of CEI, we found that NTPC supplied 13,062.93 million units (MU) of electrical energy to CSPDCL (formerly known as Chhattisgarh State Electricity Board) during 2007-08 to 2011-12 and paid cess of ₹ 110.35 crore to the Government.

As per amendment (2004) made in the *Adhiniyam*, 1981, the CPPs are also liable to pay cess on the electrical energy sold or supplied to a consumer or consumed by it. This amendment was challenged (October 2005) in the Hon'ble High Court by the CPPs due to the differential rate of cess payable by a distributor and that by a CPP. The Court quashed the

amendment. The Department has challenged the decision of the Hon'ble High Court before the Hon'ble Supreme Court in November 2007. Though the Supreme Court has not yet heard the case it advised the Department to raise the demand so that the claim does not become time barred. The various CPPs had also supplied 14,228.492 MU of electrical energy to CSPDCL during the period 2007-08 to 2011-12. Thus, the CPPs were also liable to pay cess amounting to ₹ 142.28 crore. Further, CSPDCL supplied the energy received from both NTPC and CPPs to its consumers and paid cess amounting to ₹ 252.63 crore to the Government after collecting the same from them. Since NTPC had already paid cess on the energy supplied to CSPDCL and the amount of cess was already included in the selling rate of energy, the levy of cess on the same energy by CSPDCL led to extra burden of ₹ 252.63 crore on the consumers.

After we pointed this out (May 2012), the Government replied (November 2012) that cess has been levied in accordance with the provision of the Act.

The fact remains that though the Government had levied the cess in accordance with the provision of the Act, no initiative was taken by the Department to rectify the anomaly in the *Adhiniyam* to avoid levy of cess at two different points and consequential extra burden on the consumers.

### 6.2.11 Incorrect issue of exemption certificate

Government of Chhattisgarh had declared Industrial Policies for the period 2001-06 and 2004-09. As per these policies and notifications issued thereunder, exemption from electricity duty was to be granted only to new industries. The industries, which had expanded their capacity were not eligible for exemption under the new policy. Further, as per notification issued in 2008, a Company is required to apply to the CEI with an eligibility certificate from the Industries Department to the effect that the exemption sought is for a new industry and not for extension of an existing industry. The CEI will issue the exemption certificate after scrutiny.

**6.2.11.1** During scrutiny of 'G' forms in the office of CEI, we found that M/s Inds Power Limited commenced (December 2006) commercial production from its 10 MW TG set which was subsequently taken (October 2009) on lease by M/s Inds Synergy Limited. The lessee had also included the details of energy produced from the above set in its monthly returns in 'G' forms. The lessor applied for exemption under Industrial Policy 2004-09 in December 2009, but the exemption certificate was not issued till December 2012. As the management and running of

the business was being carried on by the lessee from October 2009 in its own name, the application of the lessor should have been rejected and electricity duty should have been levied. During April 2007 to January 2012, the Company produced and consumed 149.038 MU of electrical energy on which electricity duty amounting to ₹ 5.19 crore was leviable. Despite this, the CEI had not initiated any action for recovery of the same. Besides this, interest amounting to ₹ 3.26 crore was also leviable. Thus inaction on the part of CEI resulted in non-levy of electricity duty and interest amounting to ₹ 8.45 crore.

After we pointed this out, the Government replied (November 2012) that demand notice has since been issued for recovery of ₹ 8.36 crore. Report on action taken on the differential amount of ₹ nine lakh and recovery of the accepted amount has not been received (December 2012).

**6.2.11.2** During scrutiny of the 'G' forms in the office of CEI, we found that M/s Maa Usha Urja Limited (lessor) had commenced (March 2007) commercial production from its 7.5 Mega Watt (MW) TG set. The Company had applied for exemption under Industrial Policy 2004-09. We observed that the Company was taken on lease in January 2007 by another Company, M/s Jayaswal Neco Industries Limited (lessee), before commencement of commercial production and the fact was also mentioned in the monthly return in 'G' form. As this was tantamount to expansion of capacity, the lessor was not eligible for exemption for payment of electricity duty. However, the Industries Department issued (August 2011) eligibility certificate to the lessor. We further observed the CEI instead of referring the matter back to the Industries Department issued exemption certificate to the lessor in December 2011 from the date of commencement of commercial production. The lessee produced 251.93 MU of electrical energy during the lease period from March 2007 to January 2012 on which duty amounting to ₹ 4.58 crore was leviable. Besides this, interest amounting to ₹ 2.74 crore was also leviable.

The incorrect issue of eligibility and exemption certificate therefore resulted in non-levy of electricity duty of ₹ 7.32 crore including interest.

After we pointed this out, the Government replied (November 2012) that demand notice has since been issued for recovery of ₹ 9.68 crore including interest. Report on recovery has not been received.

## 6.2.12 Exemption from electricity duty granted to captive power plants

As per the notification of November 1992, any person or undertaking producing electricity from a generating set with capacity of more than 125 KVA for self consumption is exempted from payment of electricity duty for five years from the date of commencement of commercial production. The Government withdrew the notification of November 1992 through another notification in December 2008. The Government declared an Industrial policy 2001-06 from November 2001 and another Industrial Policy 2004-09 with effect from November 2004. The Government has not withdrawn any policy till date.

**6.2.12.1** Under the Industrial Policies (IP) promulgated from time to time by the Government of Chhattisgarh, industrial units are granted exemption from payment of electricity duty on fulfilment of certain terms and conditions. Such incentives are payable upto a specified period and an unit is eligible for receipt of incentives under a particular IP according to the date of investment of fixed capital. The applications of the CPP owners are recommended by the Industries Department

and on the basis of such recommendations/eligibility certificates, the Energy Department grants the exemption certificate after scrutiny of the application. As per notification 1992, IP 2001 and IP 2004, CPPs whose fixed capital investment commenced within the effective period of the IPs were entitled to exemption of electricity duty payable.

We noticed that the notification of 1992 and the two IPs notified by the Government were running parallel to each other as the period covered by the notification and the IPs was overlapping. Further, there was no mechanism in the Energy Department either to verify from the records of the Industries Department that the eligibility certificate issued by the Industries Department was as per the provisions of the IP or that the incentive granted to an industrial unit was withdrawn on not fulfilling/violating the terms and conditions for their exemption.

During test check of exemption files in the office of CEI, we found that M/s Ultratech Cement Limited (formerly M/s Grasim Cement Limited), Grasim Vihar commenced commercial production (September 2008) from its 25 MW TG sets and applied (October 2008) for exemption in accordance with the notification of 1992. The Company was eligible for exemption for payment of electricity duty under the notification of 1992. As the application of the Company for exemption from payment of electricity duty was received before the withdrawal of the notification of 1992 (December 2008) and both the Industrial Policies were also running parallel to one another simultaneously, the CEI advised (January 2010) the Company to take up the matter with the Industries Department, which the Company did not comply with. However, the CEI subsequently issued (December

2010) the exemption certificate to the Company for five years in accordance with the notification of 1992 which was much after the implementation of Industrial Policy (2004-09) and also after withdrawal of the notification of 1992 in December 2008. Since the different Industrial Policies/ notification were in force at the same time, the Industries Department as well as the Energy Department were not in a position to take a clear stand on applicability of a particular policy/notification.

After we pointed this out, the Government replied (November 2012) that necessary action would be taken in consultation with the Industries Department and the Law Department.

As per the instructions issued by CEI in November 1992, a Company should apply for exemption under the notification of November 1992 within seven days from the date of commencement of commercial production.

**6.2.12.2** During scrutiny of records of CEI, we found that four<sup>2</sup> companies commenced commercial production between March 2006 and December 2008 and applied for exemption from payment of electricity duty for five years under the notification of 1992 between December 2008 and June 2010.

Since the notification of 1992 was already withdrawn (December 2008) prior to the submission of the applications, these companies were not entitled for exemption under the notification of 1992. Despite this the CEI, instead of referring the matter back to the Industries Department, incorrectly granted exemption certificate to the industries between January 2010 and November 2011.

These companies accordingly availed exemption of electricity duty amounting to ₹ 28.31 crore on 813.346 MU of electrical energy produced and consumed upto February 2012. The irregular grant of exemption certificate by the CEI resulted in non levy of electricity duty amounting to ₹ 28.31 crore. Besides this, interest amounting to ₹ 16.37 crore was also leviable.

After we pointed this out, the Government agreed (November 2012) to examine these cases and issue demand notice if required. Demand notice has since been issued for recovery of electricity duty of ₹ 13.48 crore in three cases (November 2012). Report on recovery has not been received (December 2012).

### 6.2.13 Internal Audit

The Internal Audit Wing (IAW) of a Department is a vital component of its internal control mechanism and is generally defined as the control of all controls to enable an organisation to assure itself that the prescribed systems are functioning reasonably well. We however noticed that IAW was not in existence leaving the Department vulnerable to risk of leakage of revenue. In the absence of an IAW, the Department failed to ensure effective controls for recovery of arrears, raising regular demands and issuing exemptions to industries correctly.

During the exit conference, the Government stated that a proposal would be sent to the Finance Department for early sanction of posts for setting up the IAW.

<sup>2</sup> M/s Aryan Coal Benefication, M/s Century Cement, M/s Jai Durga Oil Extraction Limited and M/s Ultratech Limited (Hirami Division)

**The Government may consider setting up the IAW to monitor the correctness of levy and collection of electricity duty.**

**COMPLIANCE DEFICIENCIES**

**6.2.14 Non-levy of duty**

In the 'Industrial Policy 2001-06', the Government declared exemption for 10 years from payment of electricity duty to new industries and also declared exemption for 15 years to 'Mega Industries', (industries which have capital investment of more than ₹ 100 crore). The capital investment was to be determined on the basis of investment made from the date of establishment but up to five years from commencement of commercial production.

During scrutiny of exemption files in the office of the CEI we found that M/s Godavari Power and Ispat Limited was granted exemption from payment of electricity duty for 15 years (August 2010) since the commencement of commercial production (February 2002) on its 53 MW set on the basis of recommendation of the Industries Department. A comparison of the 'G' forms

submitted by the Company and the exemption certificate issued to the Company revealed the following facts:

Sl. No.	TG set No.	Capacity as per G form	Capacity as per exemption certificate	Remarks	Reasons for levy/ non-levy of electricity duty
TG 1	3682	10 MW	9 MW	As per 'G' form and application submitted earlier for granting exemption under notification of 1992, the capacity of this set is 10 MW as mentioned in the application submitted in April 2007. The CEI showed lower capacity in the exemption certificate.	The CEI failed to detect the discrepancies and issued exemption certificate for 9 MW.
TG 2	3806	10 MW	--	The commercial production was started in October 2003 but the set was not included in the application for exemption and therefore exemption was not granted to this set. Though the details of energy produced by this set were not shown in the 'G' forms, auxiliary consumption was shown.	As the set was not included in the exemption certificate, electricity duty was leviable for auxiliary consumption. The CEI however failed to levy the same.
TG 4	30034	30 MW	--	As per the application submitted in April 2007 for granting exemption under the notification of 1992, commercial production was started in December 2006 but the same was not included in the application for exemption and therefore exemption was not granted to this set. Though no exemption was granted, electrical energy was produced regularly from the set.	Since no exemption was granted to this set, electricity duty was leviable which the CEI failed to levy. .
TG 5	C 192/102	25 MW	25 MW	The set was set up in March 2007 i.e. after the completion period of five years from the date of commencement of commercial production (February 2002). Thus, as per the Industrial Policy 2001-06, it was not eligible for exemption. Hence the exemption granted was irregular.	Though the set was not eligible for exemption but the CEI included this set in the exemption certificate. Electricity duty was however leviable for consumption of electrical energy produced by this set.
TG 6	3686	--	9 MW	Though the exemption was granted to the set yet the Company had not shown its present status in its G form.	The CEI had also not taken any steps to ascertain the position.

As per 'G' forms the Company had produced and consumed 847.48 MU of electrical energy during April 2007 to January 2012 on which electricity duty amounting to ₹ 22.53 crore and interest amounting to ₹ 13.16 crore was leviable. As the Company was not showing the consumption of electrical energy separately from each set, therefore, the actual duty payable for electrical energy produced and consumed from ineligible and non exempted TG sets cannot be ascertained.

After we pointed this out, the Government stated (November 2012) that demand notice had since been issued for 30 MW TG set and action would be taken in respect of the remaining TG sets after consultation with the Industries Department.

## 6.2.15 Grant of exemption to ineligible industry

As per notification of November 1992, any person or undertaking producing electricity from a generating set with capacity of more than 125 KVA for self consumption is exempted from payment of electricity duty for five years from the date of commencement of commercial production. The Government had withdrawn the notification of November 1992 through another notification in December 2008 and stated that exemption will have to be continued for those industries which were granted exemption prior to 2008 for the period mentioned in the exemption certificate and such industries will not be eligible for any further exemption under Industrial Policy 2001-06 or any other policy declared by the Government from time to time.

**6.2.15.1** M/s Sarda Energy and Minerals Limited had started commercial production of electrical energy from its 24 MW TG set from July 2001. The CEI issued the exemption certificate for payment of electricity duty for five years from 2001 to 2006 under the notification of 1992. The Company had not paid electricity duty for the electrical energy produced and consumed after expiry of the exempted period. The CEI therefore filed (June 2008) a Revenue Recovery Certificate (RRC) for recovery of electricity duty

amounting to ₹ 6.99 crore against the Company.

The Company instead of paying the electricity duty had applied (April 2008) to the Industries Department for exemption from November 2001 for 15 years on the same TG set under Industrial Policy 2001-06. On the basis of the recommendation of the Industries Department, the CEI granted (December 2009) exemption to the Company for 15 years from November 2001 and the RRC issued earlier against the Company was withdrawn.

Since the company had availed exemption under the notification of 1992, it was not eligible for any further exemption under the IPR 2001-06. However, the company availed exemption of electricity duty amounting to ₹ 14.12 crore on 528.114 MU of electricity energy produced and consumed from March 2008 to December 2011.

Thus, instead of referring the matter back to the Industries Department, the CEI incorrectly granted exemption certificate to the Company. This not only led to extension of undue benefit to the Company but also resulted in non levy of

electricity duty amounting to ₹ 21.11 crore including RRC amount of ₹ 6.99 crore. Besides this, interest amounting to ₹ 6.31 crore was also leviable.

**6.2.15.2** During scrutiny of the exemption cases and 'G' return files in the office of CEI, we found that M/s Sarda Energy and Minerals Limited had commenced (November 2008) commercial production of electrical energy from its 32 MW TG set. The Company had produced and consumed 468.08 MU of electrical energy during November 2008 and December 2011 on which electricity duty amounting to ₹ 12.50 crore was leviable. This set was not eligible for any exemption as commercial production was started during the period when Industrial Policy 2004-09 was in force in which exemption was not admissible on extension/expansion of any Company. The CEI also had not issued exemption certificate for the set. Though the Company had submitted returns regularly and the CEI noticed non payment of electricity duty, however, no demand notice for the same was issued. This resulted in non-levy of electricity duty of ₹ 17.15 crore including interest of ₹ 4.65 crore.

**6.2.15.3** M/s Rajaram Maize Products (Power division) established a 1.5 MW TG set and commenced production from April 2003. The CEI issued (June 2010) the exemption certificate for 10 years from April 2003 for payment of electricity duty on the basis of the recommendation of the Industries Department.

During scrutiny of exemption files in the office of CEI, we found that the CEI had earlier granted exemption (June 2003) to the same TG set for five years under the notification of 1992. Thus as per the notification issued in 2008 the Company was not eligible for further exemption. It may be mentioned that after expiry of the earlier exemption the Company had deposited electricity duty amounting to ₹ 16.97 lakh for the period April 2008 to September 2009 and the CEI refunded the amount to the Company after granting the subsequent exemption. As the Company had availed exemption for five years under the notification of 1992, the grant of subsequent exemption (June 2010) for 10 years to the same TG set was irregular and resulted in extension of undue favour to the Company.

After we pointed this out, the Government stated (November 2012) that necessary action would be taken after consultation with the Industries Department.

### **6.2.16 Irregular exemption on standby set**

In the Industrial Policy 2001-06, the Government declared exemption for 10 years from payment of electricity duty to new industries and also declared exemption for 15 years to 'Mega Industries.' There is no provision in the Act or industrial policies for allowing exemption to standby sets. Further, Industrial Policy 2004-09 allows exemption to only new industries and not to industries on expansion.

M/s Prakash Industries Limited installed (December 2002) two 6 MW and two 19 MW TG sets and commenced commercial production from June 2003. The Company had also installed (February 2009) another 25 MW TG set and commenced commercial production from April 2009. The Company applied (June 2009) for exemption from payment of electricity duty for all sets (having 75 MW capacity) under the Industrial Policy 2001-

06. Though 25 MW TG set was for expansion of the Company and was not eligible for exemption, the Industries Department included the set as a standby set in the recommendation for exemption of 50 MW TG sets. Further, the Company had produced electrical energy continuously from the exempted sets. However, the CEI instead of referring the matter back to the Industries Department granted exemption for the 50 MW sets and also for the 25 MW TG standby set. Though the Company produced and consumed electrical energy from the regular sets as well as the standby set, it did not pay electricity duty on the energy produced from the standby set. Thus, the irregular grant of exemption to the set resulted in non-realisation of electricity duty amounting to ₹ 11.71 crore on 438.04 MU of electrical energy produced and consumed from the standby set from April 2009 to December 2011. Besides this, interest amounting to ₹ 4.39 crore was also leviable.

After we pointed this out, the Government stated (November 2012) that demand notice would be issued for recovery of the outstanding amount. The Department has since issued (November 2012) the demand notice for recovery of ₹ 15.78 crore including interest. Report on action taken on differential amount of ₹ 32 lakh and recovery of accepted amount has not been received (December 2012).

### 6.2.17 Grant of exemption to industry despite sale of electrical energy to non-exempted industries

The Department vide notification of July 2002 exempted M/s Vandana Vidyut Limited from payment of electricity duty on supply of electrical energy to 19 high tension (HT) consumers (as specified in the notification) of energy produced at Sirigitti Industrial Area, Bilaspur.

During scrutiny of the 'G' forms in the office of the CEI, we found that the Company sold (during March 2008 to October 2011) 182.996 MU of electrical energy to 13<sup>3</sup> HT consumers apart from supply of electrical energy to the notified 19<sup>4</sup> high tension consumers. Since the 13 HT consumers were not covered under the specified consumers; electricity duty was leviable on the

energy supplied to these consumers. However, the CEI did not scrutinise the case and failed to initiate action to levy the duty. This resulted in non-levy of electricity duty of ₹ 16.95 crore. Besides this, interest of ₹ 3.95 crore was also leviable.

After we pointed this out, the Government stated (November 2012) that demand notice had since been issued for recovery for ₹ 33.72 crore including interest. Report on recovery has not been received (December 2012).

<sup>3</sup> NMDC, Kirandul; NMDC, Bachel; NMDC DEP No 10 & 11 A Bachel Project; M/s Grasim Cement Ltd.; Simplex Engg & foundry Works Pvt. Ltd.-I; Simplex Engg & foundry Works Pvt. II; NMDC Kirandul Project DEP No 14; NMDC Bachel Project DEP. No 5 ; Simplex Engg.& Foundry works Pvt. Ltd., Unit - III; Bhilai Engg. Corp. Ltd.; BEC Fertilisers ; Uniworth Ltd.; Century Cement Ltd

<sup>4</sup> M/s Sunil Poly Pack; M/s Bajrang Metalics; M/s Vandana Ispat Ltd.; M/s R. R. Ispat Ltd.; M/s Vandana Industries Ltd.; M/s Vandana Udyog Ltd; M/s Vandana Rolling Mills Ltd.; M/s Raipur Rotocast Ltd.; M/s Kamal Solent Extraction ; M/s Pankaj Oxygen Ltd.; M/s R. K. Structure ; M/s Ganapati Industrial Private Ltd.; M/s Saket Industrial Gases Ltd.; M/s Hanuman Agro; M/s Vandana Global Pvt. Ltd.; M/s Raipur Rotocast Ltd., Urla; M/s Hightech Abrasive Ltd; M/s Surya Wires Pvt. Ltd.; M/s Krishna Iron Strips and Tubes Ltd.

## 6.2.18 Non-levy of electricity duty

As per Section 2 of Chhattisgarh Electricity Duty Act, a distributor of electrical energy means a person or a local authority who as a principal or agent, carries on the business of running an electrical undertaking under a licence granted under the Indian Electricity Act, 1910 (IX of 1910), and includes National Thermal Power Corporation or other organisation by whatever name called which have been constituted under any Central or State Act for the time being in force for a like purpose.

As per the amended Chhattisgarh Electricity Duty Act, every producer of electrical energy will pay electricity duty at the rate of 2 paisa per unit to the Government for the electrical energy sold/supplied in bulk to other distributors of electrical energy.

The Government unbundled (December 2008) the Chhattisgarh State Electricity Board into five<sup>5</sup> separate companies under the Companies Act, 1956 and these companies are working separately since 2009.

During scrutiny of the 'G' forms maintained in the office of the CEI we found that CSPGCL produced electrical energy and supplied the same to the CSPDCL. As both the companies were registered and working separately, electricity duty was leviable for the electrical energy supplied by CSPGCL to

CSPDCL in accordance with the Act. However, electricity duty was not paid by the CSPGCL. The CEI also did not initiate any action to recover the same.

Electricity duty amounting to ₹ 32.28 crore was leviable on CSPGCL for 16,142.508 MU of electrical energy supplied to CSPDCL during the period February 2009 to November 2011. Since the Company failed to pay the duty, interest amounting to ₹ 15.34 crore was also leviable. Thus, failure on the part of CEI to raise the demand led to non-levy of electricity duty and interest amounting to ₹ 47.62 crore.

During the exit conference, the Government stated (November 2012) that demand notice for recovery of electricity duty of ₹ 32.28 crore has since been issued. Report on action taken for recovery of interest and recovery of the accepted amount has not been received (December 2012).

<sup>5</sup> Chhattisgarh State Power Generation Company Limited (CSPGCL), Chhattisgarh State Power Holding Company Limited (CSPHCL), Chhattisgarh State Power Transmission Company Limited (CSPTCL), Chhattisgarh State Power Distribution Company Limited (CSPDCL) and Chhattisgarh State Power Trading Company Limited (CSPTCL)

### 6.2.19 Non-levy of electricity duty after conversion of non-conventional energy plant to thermal power plant

As per Section 3 of the Chhattisgarh Electricity Duty Act, every distributor/producer of electrical energy shall pay the electricity duty in respect of each month before the expiry of the following month. As per Rule 5 of the Chhattisgarh Electricity Duty Rules, where the duty is not paid within the period specified in Rule 3, the same shall be paid with interest thereon.

During scrutiny of the 'G' forms in the office of CEI, we noticed that M/s R. R. Energy Limited commenced commercial production of electrical energy from January 2007 from non-conventional sources. Subsequently, the Company changed its production from non-conventional sources to thermal power plant since October 2008. Chhattisgarh State

Electricity Regulatory Commission (CSERC) had also directed (October 2008) Chhattisgarh State Renewable Energy Development Authority (CREDA) to withdraw the exemption granted to non-conventional energy producers from payment of electricity duty and recover the dues in accordance with provisions of the Act. The Company produced and consumed 151.73 MU of electrical energy from October 2008 to January 2012. Thus electricity duty amounting to ₹ 4.09 crore was recoverable from the Company. Despite the directions of CSERC, the CEI did not initiate any action for realisation of electricity duty of ₹ 4.09 crore along with interest of ₹ 1.31 crore.

After we pointed this out, the Government stated that the demand notice had since been issued (July 2012) for recovery of ₹ 1.68 crore. Report on action taken on the differential amount of ₹ 3.72 crore and recovery of the accepted amount has not been received (December 2012).

### 6.2.20 Non-levy of electricity duty on electrical energy sold/supplied to industries situated in the State

As per the notification issued in July 2002, the Government permitted CPPs to supply electrical energy to their sister concerns only. Sale/supply of electrical energy to any third party was not permissible.

As per clause 5 of the Captive Power Policy issued in July 2002 by the Government, where the Captive Power Plant owner intends to supply electricity to its sister concern, eligibility of which (sister concern) shall be decided by State Electricity Board (now CSPDCL), then such permission would be granted.

During scrutiny of the 'G' forms in the office of CEI, we noticed that M/s Lanco Amarkantak Power Private Limited (Company) supplied 7,253.84 MU of electrical energy from May 2009 to December 2011 to various consumers situated in the State such as M/s Jindal Power, Sipat STPS, etc. These units were not the sister concerns of M/s Lanco Amarkantak Power Private Limited as no certificate to these units was found issued by CSPDCL. As such, electricity duty was leviable on M/s Lanco Amarkantak Power Private Limited. However, the Company neither paid electricity

duty amounting to ₹ 196.26 crore nor did the CEI raise any demand to collect the duty. Since the Company did not pay the duty, interest amounting to ₹ 60.98 crore was also leviable. This resulted in non-levy of electricity duty and interest of ₹ 257.24 crore.

After we pointed this out the Government stated (November 2012) that after verification of records, it was observed that, the Company had sold 300.2 MU to Chhattisgarh Power Trading Company (CSPTCL), which is the distributor and demand notice has since been issued for recovery of the same. The remaining energy was sold outside the State by the Company.

The fact remains that the Government issued the demand notice only after it was pointed out by audit. Further, no documents in support of sale of energy outside the State as claimed by the Department were submitted even after the same was specifically requested for in the exit conference.

### 6.2.21 Non-levy of electricity duty and interest

As per Section 3 of the Chhattisgarh Electricity Duty Act, every distributor/ producer of electrical energy shall pay the electricity duty in respect of each month before the expiry of the following month. As per Rule 5 of the Chhattisgarh Electricity Duty Rules 1949, where the duty is not paid within the period specified in Rule 3, the same shall be paid with interest thereon. Further, Industrial Policy 2004-09 allows exemptions to only new industries and not to industries on expansion.

**6.2.21.1** During scrutiny of the 'G' forms in the office of CEI, we noticed that M/s Ultratech Limited, Hirmi had commenced (January 2009) commercial production from its 25 MW TG set. As per 'G' forms the Company had produced and consumed 327.129 MU of electrical energy up to February 2012. Since the Company had availed exemption on three other sets of 6 MW each previously (April 2002), extension of 25 MW TG set was not eligible for any further exemption. Electricity duty amounting to ₹ 12.29 crore and interest amounting to ₹ 4.70 crore was leviable on consumption of electrical

energy. However, the CEI did not raise any demand for realisation of electricity duty. This led to non-levy of electricity duty and interest amounting to ₹ 16.99 crore.

After we pointed this out, the Government stated (November 2012) that the electricity duty amounting to ₹ 12.90 crore has since been recovered (August 2012) and action would be taken to recover the interest. Further report on recovery has not been received (December 2012).

**6.2.21.2** M/s Arasmeta Captive Power Private Limited produced electrical energy from its 43 MW TG set from January 2011 and supplied 127.18 MU of electrical energy to its captive user up to December 2011. The commercial production of this TG set was started from January 2011. Since the Company had already been availing 15 years exemption on another 43 MW TG set since November 2006 and it was the expansion of the Company, the same was not eligible for exemption under Industrial Policy. As such, electricity duty amounting to ₹ 4.64 crore and interest amounting to ₹ 72.56 lakh was leviable on electrical energy supplied by it.

Despite this, the CEI did not raise any demand for realisation of electricity duty resulting in non-levy of electricity duty and interest amounting to ₹ 5.37 crore.

After we pointed this out, the Government replied (November 2012) that a demand notice had since been issued for recovery of ₹ 5.74 crore including interest. Report on recovery has not been received (December 2012).

### 6.2.22 Non-levy of interest despite delay in payment of duty

As per Rule 5 of the Chhattisgarh Electricity Duty Rules 1949, where the duty is not paid within the period specified in Rule 3, the same shall be paid with interest thereon.

During scrutiny of 'G' files in the office of CEI, we noticed that five<sup>6</sup> distributors/producers of electrical energy paid duty amounting to ₹ 5.20 crore after delay of three to 18 months from the prescribed due date. As per Rule, interest<sup>7</sup> was leviable on belated payments. However the CEI failed to levy the interest on such distributors/producers of electrical energy.

This resulted in non-levy of interest of ₹ 3.55 crore.

After we pointed this out, the Government stated (November 2012) that the demand notice had since been issued (August 2012) for recovery of ₹ 3.90 crore and ₹ 56.68 lakh had since been recovered in one case. Further report on recovery has not been received (December 2012).

### 6.2.23 Blocking of revenue due to non-finalisation of exemption case

As per clause 5 of the Captive Power Policy issued in July 2002 by the Government, where the Captive power plant owner intends to supply electricity to its sister concern, eligibility of which (sister concern) shall be decided by State Electricity Board, then such permission would be granted. Further, as per clause 4 of the Policy of 2002, no permission for sale of electricity produced by a CPP to any industry within the state (third party sale) shall be given.

**6.2.23.1** On scrutiny of the 'G' forms in the office of CEI, we noticed that a CPP, (M/s Jindal Steel and Power) supplied/sold electrical energy to new industries situated in "Industrial Park" Punjipathara, Raigarh since 2003. These industries were not the sister concern of the Company as no certificate to these industries was issued by the erstwhile CSEB. Therefore the Department issued demand notice in May 2005 for payment of electricity duty on energy supplied to "Industrial

Park". The Company appealed (May 2008) to the Government to withdraw this demand notice which was not acceded to. The Company then filed a writ petition

<sup>6</sup> BALCO, CSPGCL, M/s Jayaswal Neco Industries Limited, NTPC Sipat and M/s Prakash Industries Limited

<sup>7</sup> The prescribed rates of interest are (i) On payment made within three months at the rate of 12 per cent (ii) On payment made after three months but within six months at the rate of 15 per cent (iii) On payment made after six months but within 12 months at the rate of 20 per cent (iv) On payment made after 12 months at the rate of 24 per cent per annum

in the Hon'ble High Court in September 2008 against the decision of the Government. The Hon'ble High Court quashed the order of the Government (September 2010) and the matter was remanded back to the Secretary to the Government, Energy Department for considering afresh the appeal of the Company. But even after lapse of two years, neither has the Government heard the case nor taken any decision for recovery of electricity duty on energy supplied to "Industrial Park".

During 2007-08 to 2010-11, the Company had supplied 2,017.39 MU of electrical energy to these industries situated at "Industrial Park". Thus inaction on the part of the Government resulted in blocking of electricity duty and interest amounting to ₹ 71.65 crore.

After we pointed this out, the Government stated (November 2012) that the matter would be reviewed as per the direction of the Hon'ble High Court and if required, demand notice would be issued. Further report has not been received (December 2012).

As per Industrial Policy 2004-09, a producer of electrical energy who commenced commercial production after declaration of the Policy, may opt for exemption under the Industrial Policy 2001-06 subject to the following conditions:

1. The unit should have valid possession of land;
2. The unit should have started the construction of shed building as per project report; and
3. Issued purchase order for plant and machinery.

**6.2.23.2** During scrutiny of the exemption files in the Industries Department, we noticed that Bharat Aluminum Company Limited (BALCO), Korba had commenced (June 2005) commercial production of electrical energy through its four 135 MW TG sets and applied (September 2008) for exemption from payment of electricity duty for 15 years under the

Industrial Policy 2001-06. Further scrutiny of records revealed that the Company was not fulfilling the condition for exemption as it did not have valid possession of land at the time of submission of the application. Therefore, the District Trade and Industries Centre, Korba forwarded (September 2008) the application to the Industries Department without any recommendation and the application was not finalised till the date of audit (June 2012).

The Company produced and consumed 24,406.381 MU of electrical energy from the date of commencement of commercial production. Since no exemption certificate was issued to BALCO, it was liable to pay electricity duty. However the CEI did not initiate any action for levy of electricity duty amounting ₹ 559.72 crore though the company was filing the prescribed returns regularly. This resulted in non-levy of electricity duty of ₹ 559.72 crore. Besides this, interest amounting to ₹ 405.33 crore was also recoverable.

After we pointed this out, the Government stated that a demand notice had been issued (September 2012) for recovery of ₹ 875.26 crore. Report on action taken on the differential amount of ₹ 89.79 crore and recovery of the accepted amount has not been received (December 2012).

### 6.2.24 Conclusion

We observed that the monitoring of the returns submitted by producers/distributors of electrical energy was deficient which led to non-detection, non-levy and short levy of duty. The exemptions were granted without examination of the eligibility criteria, leading to grant of exemption to ineligible units and consequent loss of revenue due to non-realisation of electricity duty. The Department failed to monitor the energy produced by small-scale producers up to 125 KVA due to non-maintenance of records and non-submission of returns to the DEI. Failure of the Department to make necessary changes in the Chhattisgarh Electricity Duty Act/*Upkar Adhinyam* for avoiding levy of cess twice at different points led to excess burden on the consumers. Exemptions were allowed to ineligible industries due to various Industrial Policies/notification running in tandem.

### 6.2.25 Recommendations

The Government may consider implementing the following recommendations:

- The Government may consider prescribing a mechanism to ensure that the monthly returns are submitted regularly and in time in the prescribed format and introducing a periodic return from CEI to the Government containing the information regarding duty payable, paid and balance to be deposited,
- make necessary amendment in Chhattisgarh Electricity Duty Act/*Upkar Adhinyam* to avoid levy of cess at two different points and resultant additional burden on the consumers,
- ensure withdrawal of the existing Industrial Policy prior to introduction of a new policy;
- ensure necessary co-ordination with the Industries Department while allowing exemption from payment of electricity duty; and
- establish an Internal Audit Wing in the Department.

## B: STATE EXCISE

### 6.3 Tax administration

The Excise Department is one of the major revenue earning Departments of the State. Receipts from State Excise comprise receipts from duty, fee or confiscation imposed or ordered under the provisions of the Chhattisgarh Excise Act, 1915 and rules and notifications issued thereunder. It also includes revenue from manufacture, possession and sale of liquor, *bhaang* and poppy heads. The Department maintains liquor shops and gives annual licences to private contractors to sell country spirit, foreign liquor, *bhaang* and poppy from their shops. Licences for manufacture of liquor are granted and renewed every year by the Excise Commissioner on payment of prescribed fee subject to prior approval of the State Government. The Department follows the under mentioned Acts and Rules:

- Chhattisgarh Excise Act, 1915;
- Chhattisgarh Distillery Rules, 1995;
- Chhattisgarh Foreign Liquor Rules, 1996; and
- Chhattisgarh Country Spirit Rules, 1995.

Under the provisions of the Chhattisgarh Entertainment Duty and Advertisement Tax Act, 1936 the Excise Department also collects revenue in the form of Entertainment Duty.

The Excise Department is headed by the Secretary cum Excise Commissioner at Government level. He is assisted by Additional Excise Commissioners, Deputy Commissioners, Assistant Commissioners, District Excise Officers and Assistant District Excise Officers. The Collector of the district is in-charge of the excise administration.

### 6.4 Trend of receipts from State Excise

Actual receipts from State Excise during the years 2007-08 to 2011-12 along with the total tax receipts during the period is exhibited in the following table:

(₹ in crore)

Year	Budget estimate	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the state	Percentage of the actual receipts vis-à-vis total receipts
2007-08	840.00	843.10	(+) 3.10	0.37	5,618.08	15.00
2008-09	950.00	964.10	(+) 14.10	1.48	6,593.72	14.62
2009-10	1158.00	1,187.72	(+) 29.72	2.57	7,123.25	16.67
2010-11	1390.00	1,506.44	(+) 116.44	8.38	9,005.14	16.73
2011-12	1550.00	1,596.98	(+) 46.98	3.03	10,712.25	14.91

(Source: Finance Accounts of Government of Chhattisgarh)

We found that during the year 2011-12, the Finance Department (FD) had approved the budget estimate of ₹ 1,550 crore as against the estimate of ₹ 1,216.40

crore proposed by the Department. The FD was quite accurate in estimating the BE as actual receipts was ₹ 1596.98 crore.

## 6.5 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 amounted to ₹ 24.88 crore of which ₹ 22.79 crore were outstanding for more than five years. The following table depicts the position of arrears of revenue during the period 2007-08 to 2011-12:

(₹ in crore)

Year	Opening balance of arrears	Closing balance of arrears
2007-08	22.79	22.82
2008-09	22.82	23.26
2009-10	23.26	25.60
2010-11	25.60	25.30
2011-12	25.30	24.88

(Source: Figures furnished by the Department)

**We recommend that the Government may consider taking appropriate measures under the Act to recover the arrears expeditiously.**

## 6.6 Cost of collection

The gross collection in respect of State Excise receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2009-10, 2010-11 and 2011-12 along with the relevant all India average percentage of expenditure on collection to gross collection of the preceding years are indicated in the following table:

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of expenditure to gross collection of preceding year
2009-10	1,187.72	35.35	2.98	3.66
2010-11	1,506.44	40.68	2.70	3.64
2011-12	1,596.98	52.06	3.26	3.05

(Source: Finance Accounts of Government of Chhattisgarh)

Though the percentage of expenditure on collection was below the all-India average in 2009-10 and 2010-11, it had exceeded the same in 2011-12.

**We recommend that the Government may take appropriate steps to reduce the cost of collection.**

## 6.7 Impact of audit

**6.7.1 Position of Inspection Reports (IRs):** During the period 2006-07 to 2010-11, through our IRs we had pointed out non-recovery of duty, short realisation of licence fees, non-levy of penalty, non/short levy of entertainment duty, etc. with

revenue implication of ₹ 121.67 crore in 3,928 cases. Of these, the Department/Government had accepted audit observations in 2,534 cases involving ₹ 33.69 crore. The details are shown in the following table:

(₹ in crore)

Year of IR	No. of units audited	Amount objected		Amount accepted	
		Cases	Amount	Cases	Amount
2006-07	3	194	3.81	145	0.76
2007-08	12	1,143	18.74	912	0.54
2008-09	10	223	17.79	56	2.85
2009-10	16	1,036	16.71	337	7.52
2010-11	9	1,332	64.62	1,084	22.02
<b>Total</b>		<b>3,928</b>	<b>121.67</b>	<b>2,534</b>	<b>33.69</b>

**6.7.2 Position of Audit Reports (ARs) :** During the period 2007-08 to 2010-11, through our ARs we had pointed out cases of non-recovery of duty, short realisation of licence fees and non/short levy of entertainment duty involving ₹ 19.10 crore. The Department has accepted observations of ₹ 11.62 crore of which ₹ two lakh was recovered till March 2012 as shown in the table below:

(₹ in crore)

Sl. No	Year of the AR	Total money value	Amount accepted	Recovery made upto March 2012
1.	2007-08	14.95	8.68	-
2.	2008-09	1.20	0.07	0.02
3.	2009-10	0.48	0.48	-
4.	2010-11	2.47	2.39	-
<b>Total</b>		<b>19.10</b>	<b>11.62</b>	<b>0.02</b>

It may be seen from the above table that recovery (0.17 per cent) made by the Department against the accepted cases is almost negligible.

**We recommend that the Department should take immediate steps to recover the revenue involved, at least in the cases accepted by them.**

## 6.8 Internal Audit

Internal Audit Wing (IAW) of an organisation is a vital component of the internal control mechanism and is generally defined as the control of all controls. It enables the organisation to assure itself that the prescribed systems are functioning reasonably well.

We observed that during the year 2011-12 no unit was audited by the Department, though the IAW in the Department was working at full strength of one Joint Director and one Assistant Audit Officer. After this was pointed out, the Department stated (August 2012) that the sanctioned posts were those of officers but there was no sanctioned strength for field staff. Thus, internal audit was neither planned nor conducted.

We recommend that the Department may take necessary action for sanctioning and posting the required field staff, so that the internal audit can be carried out regularly.

## 6.9 Results of audit

We conducted test check of the records of six units of the Excise Department during the year 2011-12 and found non-recovery of duty, non-levy of penalty, short realisation of licence fees, non/short-levy of entertainment duty etc. amounting to ₹ 13.92 crore in 587 cases. The observations broadly fall under the following categories:

<i>(₹ in crore)</i>			
Sl. No.	Category	No. of cases	Amount
1.	Non/short levy of excise duty	102	2.83
2.	Non-levy of penalty for failure to maintain minimum stock of spirit in warehouses	26	10.45
3.	Non-levy/recovery of duty on excess wastage	2	0.06
4.	Arrears of entertainment and non-levy of penalty	283	0.09
5.	Other irregularities	174	0.49
<b>Total</b>		<b>587</b>	<b>13.92</b>

During the course of the year, the Department accepted underassessment, non/short levy of duty, licence fee etc. of ₹ 8.28 crore in 82 cases.

An illustrative case involving ₹ 5.51 crore is mentioned in the following paragraph.

## 6.10 Audit observations

*We scrutinised the assessment records of excise duty, fee and other charges in the District Excise Offices (DEOs) and found cases of non-levy of penalty as mentioned in the succeeding paragraph in this chapter. These cases are illustrative and are based on test checks carried out by us. Such omissions on the part of the Assistant Commissioners/District Excise Officers are pointed out by us each year, but not only do the irregularities persist, these remain undetected till audit is conducted. There is need for the Department to improve the internal control system including strengthening internal audit so as to prevent recurrence of such irregularities.*

## 6.11 Non-levy of penalty despite non-maintenance of minimum stock of country liquor

According to Rule 4(4)(A) of the Chhattisgarh Country Spirit Rules, a licensee shall maintain at each storage warehouse, a minimum stock of bottled country liquor equivalent to the average issue of five days of the preceding month. In the event of failure to maintain the minimum stock of spirit in the warehouse, the Collector may impose a penalty not exceeding ₹ two per proof litre (PL) on the licensee, for the quantity found short of the prescribed minimum stock. This penalty shall be payable by the licensee irrespective of whether any loss has actually been caused to the Government or not.

We found during test check of the D-12 register<sup>8</sup> of two<sup>9</sup> Excise Offices (between June and November 2011) that on 1,520 occasions, two licensees maintained stock of bottled country liquor of 1.19 crore PL as against the prescribed minimum quantity of 3.95 crore PL during the period April 2009 to March 2011. The Excise officers had neither issued any show cause notices in these cases nor processed the cases for levy of penalty against the licensees for failure to maintain the minimum stock. Thus, there was shortage of 2.76 crore PL of spirit for

which maximum penalty of ₹ 5.51 crore was to be levied on the licensees as shown in *Appendix-6.1*.

After we pointed this out (May 2012), the Government stated (June 2012) that in respect of Bilaspur district the licensee had deposited penalty amounting to ₹ 79,736 as against maximum penalty of ₹ 1.38 crore pointed out by audit. In respect of Durg district, the case was under consideration of the Collector.

<sup>8</sup>

D-12 is a stock register which is maintained at the warehouse.

<sup>9</sup>

AC Bilaspur and Durg