

CHAPTER VII

MISCELLANEOUS

7.1 Audit of “Delivery of services under Odisha Right to Public Services Act”

7.1.1 Introduction

The Odisha Right to Public Services (ORTPS) Act, 2012 and the Rules framed thereunder was a landmark initiative undertaken by the Government of Odisha. It was legislated with the objective of ushering in good governance and transparency in provision of all public services to the citizens within a stipulated time. This law enabled the citizens to demand delivery of public services as a right. It also included provisions for approaching Appellate Authorities (AAs) and Revisional Authorities (RAs) to redress the grievances of applicants arising in the process of delivery of services. It contained provision for imposition of penalty in case of default by the Subordinate Staff, Designated Officers (DOs) and Appellate Authorities (AAs).

State Government initially, in January 2013 notified 34 services under seven Departments to come within the ambit of this Act. This included 13 services under Commerce and Transport (Transport) {C&T (T)} Department, three services under Commercial Tax (CT) Wing of Finance Department, four services under Registration Wing of Revenue & Disaster Management (R&DM) Department. Subsequently, 33 Departments covering 324 services were brought under the purview of the Act in which 19 more services under of C&T (T), five services under CT, one service under Registration and two services under Excise Department were added in June 2015. General Administration (Administrative Reform) {GA (AR)} Department was the nodal Department for monitoring the implementation.

Audit was conducted to ascertain whether the system contributed to good governance and transparency and brought efficiency in delivering services to the public. It also checked whether the public were made aware of the existence of the facility for optimum utilisation in a transparent manner.

ORTPS Act, 2012, ORTPS Rules, 2012 and executive instructions issued from time to time by the Government were used as Audit criteria.

Audit was conducted in four departments¹ between April 2017 to June 2017 covering the period from April 2013 to March 2017. Audit test checked nine² out of 35 Regional Transport Officers (RTO) Offices, 11³ out of 45 Circles of CT, eight⁴ out of 30 District Sub Registrar (DSR) Offices, three⁵ out of 151 Sub Registrar (SR) Offices and eight⁶ out of 30 Superintendent of Excise (SE) offices. The selection was done through stratified random sampling. The samples were based on numbers of vehicles registered, dealers

¹ Commerce and Transport (Transport), Commercial Tax Wing of Finance, Registration Wing of Revenue & Disaster Management and Excise Department.

² Bhubaneswar, Chandikhole, Cuttack, Ganjam, Jharsuguda, Koraput, Mayurbhanj, Nayagarh and Phulbani.

³ Balasore, Bhanjanagar, Bhubaneswar-I, Bhubaneswar-II, Balangir, Deogarh, Jajpur, Jatni, Rayagada, Sambalpur-I and Sambalpur-II.

⁴ Balangir, Cuttack, Ganjam, Khurda, Nayagarh, Phulbani, Puri and Sambalpur.

⁵ Berhampur-II, Jatni and Khandagiri.

⁶ Balangir, Deogarh, Ganjam, Jagatsighpur, Jajpur, Khurda, Mayurbhanj and Puri.

registered, documents registered and liquor shop licenses granted respectively. Further, Commissioner of Excise, Odisha under Excise Department was also selected for test check.

7.1.2 Organisational set up

The Departmental authorities entrusted with the responsibility of implementation of ORTPS Act are shown below:

Department	Service Providing Authority		
	Designated Officer	Appellate Authority	Revisional Authority
Commerce & Transport (Transport)	RTO/ Addl. RTO/ Inspector of Motor Vehicles	Regional Transport Officers/ Sub-Collector	Collector-cum-Chairman, RTA ⁷
Commercial Tax	Dy. Commissioner of Commercial Taxes/ Assistant Commissioner of Commercial Taxes	Joint Commissioner of Commercial Taxes	Addl. Commissioner of Commercial Taxes
Revenue & Disaster Management (Registration)	District Sub Registrars/ Sub Registrars	Addl. District Magistrate cum District Registrar	Inspector General of Registration
State Excise	Superintendent of Excise/ Collector of the District	Excise Commissioner	Principal Secretary/Secretary

Audit Findings

Audit test checked the records on delivery of services under Odisha Right to Public Services Act. Audit observed the deficiencies in implementation of provisions of ORTPS Act and Rules which are discussed in the succeeding paragraphs:

7.1.3 Lack of information to General public regarding their rights under the Act

Departments could not provide required information about Public services.

Under ORTPS Rules, 2012, Designated Officer (DO) shall, for the convenience of common public, cause to display all relevant information related to services on the notice board in Odia language giving information about the right to services, notified services, and time limits for services delivery, designated officials and appellate authorities in the offices delivering services notified under the ORTPS Act. Similarly, Secretary of the Department shall display information on Public Services and the given time limit in the official website in Odia language for the public. Further, on receipt of an application acknowledgement shall be given to the applicant in the prescribed form mentioning the given time limit within which the service will be provided if the application is complete in all respects. In case of requirement of any further documents, the same shall be clearly mentioned on

⁷ Regional Transport Authority.

the acknowledgement. In the event of a service being denied or delayed, the DOs shall communicate the reasons for such denial/delay, period within which an appeal against such denial/delay could be preferred and the particulars of available contact information of the relevant AAs to the person eligible/applied for the services.

Audit verified records of test checked units of the four departments and observed that:

- Out of the four test checked departments information in Odia language on Public Services was not displayed in the official website of Excise, CT and C&T (T) Department. The given time limit was also not displayed. The R&DM Department had displayed four services notified during 2013. However, one service added subsequently in 2015 was displayed in August 2017 at the instance of audit.
- Information on right to services was not displayed on the notice board in Odia by the any DOs of Excise Department and C&T (T) Department. Out of 32 notified services, only 13 services were displayed by one DO under C&T (T), namely, RTO, Cuttack.
- The acknowledgements were not issued to the applicants in any of the test checked units.
- The deficiency in documentation in the service application was not intimated to all the applicants.

This deprived the general public of utilising the provisions of the Act and Rules to their advantage. The applicants remained unaware of the time limits for delivery of services as no acknowledgements were issued.

In reply, Government in Commerce and Transport (Transport) Department stated that all the RTOs have been instructed to take steps for display of the required information to general public regarding their Rights under the Act and issue acknowledgements.

Government in R&DM Department stated that information in Odia language on all registration services had been uploaded in the website of Department, all Collectors and IGR, Odisha had been instructed to ensure issue of acknowledgement by all DOs.

Other Departments assured to initiate necessary action.

7.1.4 Delay in delivery of services

Time limit for getting a public service under ORTPS Act was not made public and delay in delivery of services.

As per Section 3 of ORTPS Act, 2012, time limits for delivery of different services by Departments have been notified in January 2013 and June 2015 by GA Department. The time limit prescribed ranged from three to 60 days for different services. Further, Rule 5 of ORTPS Rules, 2012 provides that in the event a service is denied or delayed, the DO shall communicate to the person eligible and/or applying for the service. Revisional Authority (RA) may impose penalty against DO not exceeding ₹ 5,000 in case DO has failed to provide services without sufficient and reasonable cause. Also, penalty not exceeding ₹ 250 may be imposed for each day of delay in case DO has caused delay in providing the service. Similarly RA may impose penalty against the

AA not exceeding ₹ 5,000 in case AA has failed to decide the appeal within the given time limit without any sufficient and reasonable cause. Further, the penalty imposed under the Act shall be charged from the DO, Appellate Authority and subordinate staff concerned, as the case may be, in the proportion to be decided by the RA.

Audit scrutiny of the records of the sampled units revealed that:

- The services were not provided within the prescribed time limit, as mentioned in Para Nos 7.1.4.1, 7.1.4.2, 7.1.4.3 & 7.1.4.4.
- The reasons for delay in providing the services, the period within which an appeal can be preferred against such delay were not communicated to applicants.
- The particulars of contact information of the relevant AAs under the provisions of the Act were not communicated.
- No complaints were lodged with the AAs and RAs by the public as the time lines were not put up on the notice board by the Excise and Transport department.
- The general public were also not made aware of their rights through advertisements/campaigns by any of the departments.
- Penalty as provided under the rules, for delay in providing services could not be imposed on the SSs/DOs/AAs.

Thus, delay in delivery of services violated the objective of ensuring delivery of public services in a timely manner. Even small delays or shortfalls against intended levels of performance can have a deep impact on citizens.

Delay in provision of notified services (Department-wise) and the delay in disposal of applications (Department-wise and Service-wise) for services are tabulated as follows:

7.1.4.1 Excise Department

Notified service	Application disposed off	Application disposed off with delay	Percentage of delay in disposal	Range of delay in days				
				1-6	7-15	16-30	31-60	Above 60
District level process for grant of license of liquor (on shop)	33	25	76	1	3	4	8	9
Recommendation of Commissioner for grant of license (at Commissioner Level)	85	30	35	6	4	6	8	6
Total	118	55		7	7	10	16	15

Source: Records from the Excise Department

In this regard, Audit observed that:

- Out of eight sampled units⁸, delay in delivery of services was observed in five units⁹.
- The percentage of delay in disposal of grant of license of liquor at district level was staggering at 76 per cent.

⁸ Balangir, Deogarh, Ganjam, Jagatsinghpur, Jajpur, Khurda, Mayurbhanj and Puri.

⁹ Balangir, Ganjam, Jajpur, Khurda and Puri.

- The delay of more than 68 *per cent* occurred in the time range of ‘Above 30 days’ category.

Excise Department assured to initiate necessary action.

7.1.4.2 Registration Wing of R&DM Department

Notified service	Application disposed off	Application disposed off with delay	Percentage of delay in disposal	Range of delay in days				
				1-6	7-15	16-30	31-60	Above 60
Registration of documents	2,35,837	2,11,663	90	1,08,530	58,405	26,270	9,614	8,844
Encumbrance Certificate	2,63,116	5,078	2	2,631	1,069	524	395	459
Certified Copy	64,076	2,528	4	480	499	377	721	451
Total	5,63,029	2,19,269		1,11,641	59,973	27,171	10,730	9,754

Source: Records from the R&DM Department

Audit observed from above table that:

- Maximum cases of delay occurred in ‘Registration of Documents’ category which accounts for 90 *per cent* of the total documents registered.
- Most of the delay was in the range of 1 to 6 days which could have been avoided.

Government in R&DM Department stated that they are taking all possible steps through automation and computerisation of Government offices for timely delivery of the notified services. Further, guidelines had also been issued to ensure timeliness in providing all the public services.

7.1.4.3 CT Wing of Finance Department

Notified service	Application disposed off	Application disposed off with delay	Percentage of delay in disposal	Range of delay in days				
				1-6	7-15	16-30	31-60	Above 60
No Demand Certificate	3,308	725	22	256	185	109	85	90
Registration (VAT/CST)	39,436	7,311	19	2,196	1,819	1,448	930	918
Tax Clearance Certificate	17,593	3,764	21	1,672	1,063	489	281	259
Registration (ET)	10,054	1,441	14	456	365	314	169	137
Amendment of Registration Certificate	1,08,486	4,664	4	291	329	589	729	2,726
Total	1,78,877	17,905		4,871	3,761	2,949	2,194	4,130

Source: Records from CT Wing of Finance Department

Audit observed from the above table that:

- The percentage of delay in service ranged from 4 and 22 *per cent* showing a regular pattern of delay in delivery of services.
- The number of cases found in the ‘Above 60 days range’ were 4,130. This indicates that there was poor monitoring by the DOs and Higher Authorities.

Commercial Tax wing of Finance Department stated that all services are made available through online only. The reply is not tenable as there had been regular pattern of delay in delivery of services by the Department.

7.1.4.4 C&T (Transport) Department

Notified service	Application disposed off	Application disposed off with delay	Percentage of delay in disposal	Range of delay in days				
				1-6	7-15	16-30	31-60	Above 60
Registration of Vehicles	8,81,132	3,98,338	45	2,42,949	1,08,760	29,741	10,890	5,998
Issue of LL for DL	7,11,962	56,754	8	50,069	4,313	1,214	724	434
Issue of DL	3,74,915	28,853	8	24,913	1,911	1,021	674	334
Additions to DL	26,881	2,211	8	1,415	411	200	126	59
Total	19,94,890	4,86,156		3,19,346	1,15,395	32,176	12,414	6,825

Source: Records from the C&T (Transport) Department

Audit analysed four services from other departmental databases like *VAHAN* and *SARATHI*. Audit observed that the maximum delay was in the service 'Registration of vehicles' which was 45 per cent. The delay in providing this service was not controlled by the DOs and was also not reviewed by the higher authorities.

In reply, Government in Commerce and Transport (Transport) Department, stated that all the RTOs have been instructed to issue acknowledgements and to display timelines for different services on the notice board for general public, so that the public have opportunity for pressing an appeal before an appellate authority.

7.1.5 Record of services and Appeal Case Register not maintained

Records on Public Service provided was not available.

Rule 17 of ORTPS Rules, 2012 provides that every DO shall maintain records of all services applied for in the prescribed Form. Similarly, every AA shall maintain record of all the appeal cases received and disposed off in the prescribed format.

Audit scrutinised the File Index Register of four departments and observed that:

- The prescribed records of receipt and disposal of applications were not maintained by any of the departments.
- Register for receipt and disposal of Appeal cases was also not maintained by the AAs of C&T (T) and Excise Department.
- The said register was maintained by the AAs of CT Department and Registration wing of R&DM Department with 'NIL' information as no cases under ORTPS was filed.
- The number and status of appeal cases could not be ascertained as applications were neither received through CMS nor appeal registers were maintained.

Thus, the status of applications as accepted or rejected could not be verified since the records were not maintained. The date and details of the orders passed by AAs and RAs also were not verifiable.

In reply, Government in Commerce and Transport (Transport) Department stated that all the RTOs have been instructed to maintain records of all services as prescribed in form-3 and appeal case register in form-4.

Government in R&DM Department stated that necessary instructions had been issued to all to maintain the prescribed registers and report compliance.

Other Departments assured to issue instructions for maintaining the registers.

7.1.6 Central Monitoring System not utilised

CMS web portal was not utilised by Departments.

The Central Monitoring System (CMS) was introduced (December 2013) by the GA (AR) Department for facilitating implementation and monitoring of services under the ORTPS Act. This was essentially a database of applications for services received and disposed of. It provided:

- Management Information System (MIS) reports,
- Tracking of the status of applications received,
- Sending of Short Message Service (SMS) alerts, etc.

Each of the DOs were issued an user ID and password to log into the application. On receipt of an application from the applicant, this system generated a Unique Acknowledgement Number. The acknowledgement would contain the details of the deficient documents, essentially to be enclosed with the application, if any, and the date by which the service would be provided. The CMS database acted as a computerised Register for Designated Officers, Appellate Authorities and Revisional Authorities as per the formats prescribed under Odisha Right to Public Services Rules 2012. The GA (AR) Department had requested to take adequate steps to ensure integration of applications with CMS.

Audit test checked files relating to report and returns under ORTPS Act and Rules. Audit noticed that:

- The web portal was not used for receiving applications.
- It was also not used for entering data and issuing acknowledgements.
- DSR, Sambalpur and DSR, Cuttack utilised the web portal from January 2016 and May 2017 respectively.
- The applications received in C&T (T) Department were entered into the CMS after completion of the service which was not on real time basis. This defeated the very purpose of CMS.
- Acknowledgements were also not issued to the applicants to know the status of their applications.
- Department was not aware whether the services were being provided to applicants within the stipulated time line in the absence of information.
- No review report on implementation of CMS was issued by the higher authorities to any of the DOs. The Monthly Progress Reports (MPRs) were submitted in manual format which is time consuming and does not serve as an effective monitoring tool.
- The applications developed and used by the concerned departments were also not integrated with the CMS. This would have saved manpower and infrastructure cost and ensured better data integrity.

Thus, objective of having the CMS in place was completely defeated which affected the implementation of ORTPS Act, 2012 adversely.

In reply, Government in Commerce and Transport (Transport) Department stated that all the RTOs have been instructed to take necessary action to establish common service centre.

Government in R&DM Department stated that the GA (AR) Department through CMGI had developed “Odisha Common Application Portal (OCAP)” in which the application can be filed online and acknowledgment can be generated automatically. Steps were being taken to integrate the online services of R&DM Department with OCAP.

Commercial Tax wing of Finance Department stated that everything is made online through VATIS system.

Excise Department stated that it was not possible to utilise the CMS with the existing manpower.

7.1.7 Conclusion

Departments could not provide required information on public services in Odia language to common public. The services were not provided within the prescribed time limit. The reasons for delay in providing the services, the period within which an appeal can be preferred were also not communicated to the applicants. The Central Monitoring System was not utilised even after four years of notification of the Act and Rules. The existing applications/databases of three Departments viz., *VAHAN*, *SARATHI*, *VATIS* and *OeSL* were not integrated with the CMS. Thus, the objective of ushering good governance and transparency in providing public services within a stipulated time was defeated. Even small delays or shortfalls against intended levels of performance in delivering public services can have a deep impact on citizens.

7.2 Audit on “Recovery of Arrear revenue in Steel & Mines, Excise and Commerce and Transport (Transport) Departments”

7.2.1 Introduction

Taxes, duties and other levies from Mining, Excise and Transport Departments were the major source of revenue of the State. These departments contributed 30 *per cent*, on an average, to the total revenue during the period 2013-16. The arrears of revenue were realised by the provisions under their respective Acts and Rules applicable to the departments read with provisions of Odisha Public Demands Recovery (OPDR) Act 1962. Under these Acts¹⁰, assesseees were required to pay duties and other levies assessed in a manner and within the time period as specified thereon. The unpaid amount were recovered as if it was an arrear of land revenue in case the assesseees failed to pay the amount within the date stipulated in the demand notice served. Any defaulter not satisfied with the demand could prefer an appeal with the Appellate Authority or in a Court of law. Total tax¹¹ and non-tax¹² revenue relating to these departments pending for recovery as on 31 March 2016 was ₹ 2,096.53 crore¹³.

Audit was conducted between April 2017 to May 2017 covering the period 2013-14 to 2015-16. Audit covered the offices of the Steel & Mines Department, Excise Department and Commerce & Transport (Transport) Department. Audit also covered Directorate of Mines, Commissioner of Excise and State Transport Authority. Audit scrutinised records of four units out of 12 in Steel and Mines Department, seven out of 30 units in Excise Department and eight out of 35 units in Transport Department selected through stratified random sampling.

In this regard, Audit examined the following issues:

- Extent of accumulated arrears of revenue and reasons thereof;
- Timely action taken by the department according to the rules and procedures prescribed in the Act and Rules;
- Efficiency and effectiveness of the system to collect the arrears of tax; and adequacy of internal control and monitoring mechanism for prompt realisation of arrears.

7.2.2 Organisational set up

At the Government level, the Principal Secretaries/Commissioner-cum-Secretaries were the Heads of their respective Departments. They were responsible for administration of the concerned tax laws in the State. At the departmental level, the overall control and supervision of collection of these

¹⁰ Mines & Mineral Development & Regulation Act, 1957, Bihar & Orissa Excise Act 1915, Odisha Motor Vehicle Taxation Act, 1915.

¹¹ Revenue from Excise and Transport Departments.

¹² Revenue from Mining Department.

¹³ Mining - ₹ 1,894.42 crore, Excise - ₹ 58.84 crore and Transport - ₹ 143.27 crore.

tax duties & levies was with the Director of Mines, the Commissioner of Excise and Commissioner of Transport.

- In Steel & Mining Department, the Director of Mines is assisted by Deputy Director of Mines/Mining Officers (DDM/MO) at the field.
- Commissioner of Excise is assisted by Excise Deputy Commissioners (EDCs) and Superintendents of Excise (SEs) in each district of the State.
- Transport Commissioner-cum-Chairman State Transport Authority (STA) of Transport is assisted by one Joint Commissioner (Taxation), Regional Transport Officers and Assistant Regional Transport Officers at field level.

7.2.3 Audit Findings

Audit test checked the records on recovery of arrear revenue pertaining to Mining, Excise and Transport revenue. Audit observed the following deficiencies which are discussed in the succeeding paragraphs:

7.2.4 Arrear on Mining revenue

Mining revenue included rent, royalty, tax, fee or other sum due to the Government on account of mining lease, prospecting licence and reconnaissance permit under the MMDR Act, 1957.

Under OPDR Act, 1962, when any public demand payable to any person other than the Collector is due, such person may send to the Certificate Officer¹⁴ a written requisition in the prescribed form to institute a certificate case.

The details of arrears on mining revenue as on 31 March 2016 were as follows.

Year	Opening balance	Addition during the year	Total	Collected during the year	Closing balance	Percentage of collection	Analysis of closing balance as on 31.3.2016
							Nature/Amount
2013-14	1,818.32	442.34	2,260.66	415.45	1,845.21	18.38	Courts of law: 1,850.79
2014-15	1,845.21	468.82	2,314.03	429.22	1,884.81	18.55	Recoverable cases: 39.74
2015-16	1,884.81	95.58	1,980.39	85.97	1,894.42	4.34	Write off proposal: 2.35 Certificate cases: 1.54

Source: Information furnished by the Department

Audit observed that:

- Out of total arrears of ₹ 1,894.42 crore, ₹ 1,818.32 crore constituting 95.99 per cent was pending for more than three years.
- The percentage of realisation of arrears ranged between 4.34 and 18.55 during the period 2013-14 to 2015-16.
- The arrears locked up in Courts of law cases of ₹ 1,850.79 crore constituted 97.69 per cent of the total arrear.

Reasons for delay in collection of arrears have been discussed in the succeeding paragraphs.

¹⁴ Collector/Sub-collector.

7.2.4.1 Certificate cases not instituted

Non institution of certificate cases for realisation of arrear revenue of ₹ 7.16 crore.

As per Section 25 of Mines & Mineral Development & Regulation (MMDR) Act, 1957 “Any rent, royalty, tax, fee or other sum due to the Government under this Act or the Rules made thereunder may, on a certificate of such officer, as may be specified by the State Government in this behalf, be recovered in the same manner as an arrear of land revenue”. As per Section 4(1), Orissa Public Demands Recovery (OPDR) Act, 1962, when any public demand payable to any person other than the Collector is due, such person may send to the Certificate Officer a written requisition in the prescribed form to institute a certificate case. As per Section 15 of OPDR Act 1962, subject to such conditions and limitations as may be prescribed, a Certificate Officer may order execution of a certificate by attach and sale, if necessary, of any property or in the case of immovable property by sale without previous attachment; or arrest the certificate-debtor and detaining him in the civil prison; or both of the methods mentioned above.

Audit scrutinised records in the selected four units¹⁵. Audit observed that recoverable arrear of ₹ 7.16 crore¹⁶ in 32 defaulting cases remained un-realised since 2009-10 to 2015-16. The cases related to non-payment of dead rent, surface rent and royalty. However, certificate cases for realisation of revenue were yet to be instituted against the defaulting lessees. Audit also noticed that no action was taken by the department to initiate the process of recovery.

In reply, Government stated (November 2017) that Mining Circle Officers concerned have been instructed to take expeditious steps for institution of certificate case. M.O Kalahandi had realised ₹ 2.69 lakh in one case.

7.2.4.2 Lack of monitoring of cases pending with Revisionary Authority

Delay in submission of required information relating to RA cases resulted in locking of arrear demand of ₹ 112.02 crore under DDM, Koraput and ₹ 5,103.43 crore under DDM, Joda.

Guidelines of the Ministry of Mines (16 December 2009), Government of India stipulated that comments by the department should be furnished within three months of communication received from the Revisionary Authority (RA)¹⁷. This instruction has been again reiterated by Government of India in April 2014.

Audit scrutinised records of DDM, Koraput. Audit noticed that demand of ₹ 94.77 crore in four cases relating to one lessee was made during the period 2013-14 to 2015-16 for realisation of differential royalty. Similar demand of ₹ 17.25 crore was also raised in two cases relating to another lessee during the year 2015. Revision applications were filed by the lessees against the impugned demands in the court of Economic Adviser and Revisionary Authority (RA), Ministry of Mines, Government of India during 2014 to 2015. However, the Department could not file para-wise comments till the date of first hearing made on 10 February 2015. The RA granted a stay and directed that no coercive action should be taken in pursuance of the impugned demand. This order was passed due to non-submission of representation and comments by the Department.

¹⁵ DDM, Joda, Koraput, Sambalpur and MO, Kalahandi.

¹⁶ Joda – ₹ 692.90 lakh, Kalahandi – ₹ 3.79 lakh, Koraput – ₹ 7.72 lakh and Sambalpur – ₹ 11.44 lakh.

¹⁷ Designated as such by Ministry of Mines for adjudication of appeals made against orders of the State Government.

On the next common date of hearing on 09 December 2015, Government Advocate sought adjournment due to lack of information and instruction from the Government. The final hearing was made on 10 February 2016. The cases were remanded back to the State Government with a direction to review the provisions of the Orissa Minerals (Prevention of theft, smuggling and illegal mining and regulation of possession, storage, trading and transportation) Rules 2007. They were also directed to carry out survey for ascertaining the quality of bauxite in the State. The cases are yet to be finally disposed off. The orders to carry out survey for ascertaining the quality of bauxite were issued more than a year ago, but were still not complied with. This resulted in ₹ 112.02 crore of arrear demand held up.

Similarly, under Joda Mining Circle, demand of ₹ 5,103.43 crore was raised in five cases during September 2012 to May 2014. The demand was related to the payment of differential royalty pertaining to the period 2001-10. Revision applications were filed by the mine owners in 2013 to 2014. However, comments of the department were furnished to RA after delay of one to three years (April 2015 to March 2017). The comments were to be furnished within three months of communication. The cases were yet to be adjudicated and were pending at RA level till date.

Thus the pending RA cases remained undisposed off due to want of timely response by the Department.

In reply, Government stated that State Government have decided to file writ against the common order of February 2016, in six RA cases. As regards five RA cases, under Joda mining circle involving demanded amount for ₹ 5,103.43 crore, RA cases have been disposed off (August 2017) in three cases and revised demand has been made. In other two cases, PWC has been filed / being filed.

7.2.4.3 Understating of Arrear: Demanded amount not included in Demand Register/Report

Demand of ₹ 65,426.03 crore was not taken to DCB which resulted in understating of arrear in comparison to actual arrear.

As prescribed under Mining and Geology Department Notification of 1974, one Demand, Collection and Balance (DCB) Register in Form 26-Mines was to be maintained. The amount demanded was required to be entered in the DCB register after issue of demand notice. An annual DCB report was also prepared by the Field Offices and sent to the Directorate for compilation of the total revenue of the state.

On test check of the records in the Office of the Director of Mines, Audit observed that demand of ₹ 65,426.03 crore was raised between October 2012 to August 2016. The demand was made against 211 lessees relating to 12 Mining Circles for the period 2000-01 to 2009-10 on unlawful mining. The offence was in the nature of excess production exceeding the statutory clearances. Audit further scrutinised records in selected four units. Audit observed that a demand of ₹ 44,324.76 crore was made between November 2012 to February 2014 for unlawful mining. It was made against 86 lessees for excess production exceeding the statutory clearances during the period 2000-01 to 2009-10. However, the demanded amount was not taken to the DCB and also not reported in the DCB statement furnished to the Directorate.

Thus, the figures reported in DCB were understated by ₹ 65,426.03 crore in comparison to the actual arrear. This resulted in non-accountal of such dues in addition to lack of information for taking appropriate recovery action in future. This indicated lack of internal control mechanism to monitor recovery of dues.

In reply, Government stated that demand of ₹ 65,426.03 crore relates to the excess production carried out by different lease holders. The matter was challenged by the lease holders before the Revisional Authority. Since the matter was subjudice, the above demands were not included in the DCB Register. However, judgment dated 02.08.2017 of Hon'ble Supreme Court in the above cases, the legal implication of the matter has been settled and accordingly demands have been raised by DDMs/MOs. However, the fact remained that the amount demanded was not taken to DCB after the demand was made. Also, the amount remained outside the Government account for more than three to five years.

7.2.5 Arrear on Excise revenue

State Excise revenue consisted of:

- Revenue derived or derivable from any duty, fee or other payments (other than a fine imposed by a criminal court).
- Confiscation ordered under this Act or any other law for the time being in force relating to liquor or other intoxicants.
- Payment of any sum of fees in consideration of any privilege granted or minimum guaranteed quantity determined under the Bihar and Orissa Excise (B&OE) Act, 1915.

The excise revenue was classified as arrear by the Department if the amount was not paid despite a demand by the departmental authority.

The details of arrears of excise revenue as on 31 March 2016 were as follows:

Year	Opening balance as on 31 st March	Addition during the year	Total	Amount collected during the year	Closing balance	Percentage of collection	(₹ in crore)
							Analysis of closing balance as on 31.3.2016 Nature/Amount
2013-14	45.51	7.21	52.71	1.36	51.35	2.58	Certificate cases: 14.46 Court cases: 37.53 Other stages: 6.85
2014-15	51.35	7.29	58.64	0.89	57.75	1.51	
2015-16	57.75	2.28	60.03	1.19	58.84	1.98	

Source : Data furnished by the Excise Department

Audit observed that:

- Arrear of revenue increased from ₹ 45.51 crore at the beginning of the year 2013-14 to ₹ 58.84 crore in 2015-16.
- Out of this ₹ 45.51 crore was outstanding for more than three years.
- The percentage of realisation of arrears during the above years ranged between 1.51 to 2.58 per cent.

The reasons for such low collections of excise revenue have been discussed in the succeeding paragraphs.

7.2.5.1 Demand, Collection and Balance Register not maintained and demand in arrear not included in Register

DCB register was not maintained resulting in defective reporting of arrear.

As per Odisha Excise Manual, each District Excise Office was required to maintain a register in Form GL17, memorandum of demands, collections and balances. This was prescribed to watch the progress of collection of revenue.

During the test check of records in selected eight units, audit observed that:

- The Demand, Collection and Balance (DCB) register was not maintained by any of the unit.
- Five¹⁸ Units did not include the demand of ₹ 5.06 crore in 30 cases pertaining to the year 2009-10 to 2015-16 in the DCB report submitted to EC. It was not incorporated in the DCB register also. The amount was kept outside the projected arrear balance.
- No recovery action such as distress warrant, initiation of certificate cases was taken to realise the amount except issuance of demand notices.
- Further, demand of ₹ 5.18 crore in seven cases pertaining to the period 2009-10 to 2012-13 was demanded in 2016-17 after a gap of four to seven years and also not recovered. Delay in such cases makes recovery of arrear revenue all the more difficult and some cases may become time barred.

Exclusion of amount ₹ 10.24 crore from the arrear position indicated defective reporting to the Controlling Officers. It also resulted in loss of control over the amount of arrear to be recovered.

Audit reported the matter to Government (August 2017). Their replies are awaited.

7.2.5.2 Lack of follow up action in realisation of recoverable dues

Department did not effectively pursue the cases for recovery of revenue by institution of certificate cases.

As per Section 93 of B&OE Act, 1915, all excise revenue, all amounts due to the State Government by any person on account of any contract relating to the Excise revenue, may be recovered from the person primarily responsible to pay the same or from the surety, if any, by distress and sale of his moveable property, or by the process prescribed for recovery of arrears of land revenue. Further, property particulars of the defaulters and the permanent/present address of the defaulters should be furnished to the Certificate Officer while requesting to register the case.

Audit scrutiny of the records on recoverable dues in the selected Units revealed the followings;

Demand notices were issued between 1991-92 to 2010-11 for realisation of ₹ 3.27 crore in 26 cases in five¹⁹ Units. It related to excise duty towards short lifting of prescribed Minimum Guaranteed Quantity and license fee.

The licensees did not deposit the amount. Of those, in 13 cases, involving ₹ 2.49 crore, the Collector/SEs requested (May 1999 to August 2010) the respective COs to institute certificate cases against the defaulters. Certificate cases were yet to be instituted. In the remaining 13 cases, involving ₹ 0.78

¹⁸ Bhadrak, Jajpur, Keonjhar, Khurda and Nayagarh.

¹⁹ Kandhmal, Keonjhar, Khurda, Nabarangpur and Nayagarh.

crore, the notices could not be served to the defaulter licensees by the COs as well as by the SEs for want of proper address. Out of this, in four cases, the property of the defaulters could not be traced out as they were from outside Odisha. The fact was informed by the COs to the respective SEs during 2002-03 to 2012-13. However, no effective action was taken by the SEs to get the proper address and property details and communicate to COs for further course of action.

In another case, under DEO, Nabarangpur a demand of ₹ 8.69 crore was raised during 2008-09 to 2013-14 towards unrealised license fee, import fee and duty. Out of the total demand of ₹ 8.69 crore, ₹ 3.10 crore was stayed by the High Court on the basis of Writ Petition filed by the Company in the High Court in 2008. However, required measures were not taken to recover the remaining amount of ₹ 5.59 crore, that was not stayed by the Court.

Audit reported the matter to Government (August 2017). Their replies are awaited.

7.2.5.3 Lack of follow up action to vacate stay orders/disposal of certificate cases

Non pursuance of cases for vacation of stay of Courts resulted in non - recovery of arrear revenue of ₹ 9.39 crore. Certificate cases involving ₹ 1.11 crore, instituted during 1997-98 to 2003-04 were yet to be disposed for want of follow up action.

As per established procedure, timely action and monitoring at highest level was essential for the cases pending in Courts of law.

Audit scrutinised records of demands under court cases in selected units. Audit observed that:

- Demand was issued in 37 cases in three²⁰ units against different licensees towards excise duty, penalty and license fee of ₹ 4.02 crore. These demands related to the period from 1997-98 to 2014-15. In six cases, demands of ₹ 0.74 crore were stayed by Courts of Law. However, no action was initiated to file counter affidavit/comments. In the 31 cases, counter affidavit/comments were filed with a delay extending upto ten years. Further action was not taken to expedite adjudication of these cases.
- Under DEO, Nabarangpur, a demand of ₹ 5.37 crore was raised (March 2006) towards unrealised license fee, import fee and duty against a Company. The Company filed a Writ Petition in the High Court (2007) and obtained a stay in the matter. However, required steps were not taken for vacating the stay order.
- Similarly, in 25 cases relating to six²¹ units involving ₹ 1.11 crore, certificate cases have been instituted during 1997-98 to 2003-04. However, those cases were yet to be disposed off for want of follow up action.

Hence, it can be observed that the department did not pursue the cases vigorously to obtain vacation of stay order and disposal of certificate cases for recovery of Government revenue.

Audit reported the matter to Government (August 2017). Their replies are awaited.

²⁰ Jajpur, Kandhmal and Keonjhar.

²¹ Bhadrak, Jajpur, Kandhmal, Keonjhar, Khurda, and Nayagarh.

7.2.6 Arrear on Motor Vehicle revenue

As per Section 14 of Odisha Motor Vehicle Taxation (OMVT) Act, 1975, any Tax due and not paid as provided for by or under this Act and any sum directed to be recovered by way of penalty may be recovered as arrears of public demand or in accordance with the provision contained in Schedule-II of the Act.

The details of arrear revenues were as follows:

Year	Arrear at the beginning of the year	Arrear added during the year	Total arrear	Arrear collected during the year	Arrear balance at the end of the year	Percentage of collection	(₹ in crore)
							Analysis of closing balance as on 31.3.2016
							Nature/Amount
2013-14	137.75	35.11	172.86	32.53	140.33	18.82	Certificate cases: 114.81 Stayed by departmental authorities: 5.90 Other stages: 22.56
2014-15	140.33	67.29	207.62	54.39	153.23	26.20	
2015-16	153.23	68.43	221.66	78.39	143.27	35.36	

Source : Data furnished by the C&T (Transport) Department

Audit observed that:

- The arrear revenue as on 31 March 2016 was ₹ 143.27 crore out of which ₹ 137.75 crore was outstanding for more than three years.
- During the years 2013-16, the balance in arrear revenue remained more or less constant.
- The percentage of realisation of arrears during the last three years ranged from 18.82 and 35.36.

The fact that the opening balance of arrears remained more or less constant indicates that no serious effort was made to collect the defaulted arrears.

The lapses in management and monitoring of collection of arrear revenue were discussed in the succeeding paragraphs.

7.2.6.1 Target for collection of arrear revenue not achieved

The target for collection of arrear revenue was fixed by the STA for the year 2015-16. No such target was set during 2013-14 and 2014-15. The target and achievement were as given in the table as follows:

Sl. No.	Name of the RTO	(₹ in lakh)		
		2015-16 Target	2015-16 Achievement	2015-16 Shortfall
1	Cuttack	324.48	119.14	208.34
2	Sambalpur	1,239.42	132.69	1,106.73
3	Jharsuguda	643.08	285.07	358.01
4	Angul	1,173.72	299.40	874.32
5	Ganjam	3,090.00	1,235.01	1,854.99
6	Rayagada	129.89	57.98	71.91
7	Gajapati	28.46	27.15	1.31
8	Balasore	1,393.69	548.08	845.61
	Total	8,025.74	2,704.51	5,321.23

Source : Data furnished by STA

Target of collection was not achieved due to lack of sincere effort in realisation of revenue.

Audit observed that:

- The shortfall on the achievement of target during 2015-16 ranged from ₹ 1.31 lakh to ₹ 1,854.99 lakh in eight RTOs.
- The basis of fixation of targets in terms of collection of arrear revenue were also not available on record.
- Wide variation in target and actual achievement showed that either the target fixed was not realistic or due efforts were not made for realisation of revenue.

In reply, Government stated that cent *per cent* target fixed for collection of arrear MV Revenue could not be achieved due to want of manpower and logistic supports in all the RTO offices.

7.2.6.2 Arrear figure not verifiable

Discrepancy in arrear figures reported by STA with the figure worked out from the VAHAN database.

Data on arrear MV revenue was sourced by the RTOs from the departmental computerised data base VAHAN. The arrear MV revenue was compiled by STA from the Monthly Progress Reports furnished by the individual RTOs.

Audit analysed the information furnished by the STA on year-end figures of eight sampled units. Audit cross checked arrear of two classes of vehicles²² from the VAHAN data base. Audit observed that the arrear figure since last revision from 1 January 2002 to 31 March 2016 worked out to ₹ 588.10 crore. However arrear revenue reported by the STA for the entire State for all class of vehicle was ₹ 143.27 crore as on 31 March 2016. Thus, the reported arrear revenue was not verifiable and reliable and posed obstacle in planning for collection of the same.

In reply, Government stated that initiatives have been taken for developing an Arrear Information Management System (AIMS) through crowd sourcing method of collecting information on arrear MV Revenue for the tax defaulters. An effective MIS module will be integrated with AIMS based on the inputs given by the tax defaulters. Such discrepancy will not prevail when VAHAN-4 will be introduced in all RTO offices, very shortly.

7.2.6.3 Demand, Collection and Balance Register not maintained

DCB register was not maintained resulting in defective reporting of arrear.

The State Transport Authority (STA) in March 1989 had instructed all the taxing officers to maintain a Demand, Collection and Balance (DCB) register. The register shall contain a column to show the arrears of tax.

Audit observed that none of the test checked units were maintaining such register manually. The VAHAN database which contains digitised data of registered vehicles also did not include the DCB register module. There was no order for discontinuance of maintenance of the DCB register. As such, no record was available to verify the arrear tax to be collected.

In reply, Government stated that persuasion has been made for maintenance of DCB Register. STA has been directed under intimation to National Informatics Centre for inclusion of a provision of DCB register report in VAHAN application.

²² Contract Carriages and Goods Carriages.

7.2.6.4 Module of VAHAN MIS on Arrear not effective

Deficiency in VAHAN database system failed to keep a check on management of arrear revenue.

VAHAN MIS draws its information from the source database VAHAN. It was designed to provide information on tax defaulting vehicles and expected tax arrears. The process of entering back-log data in the database, prior to 2006-07 had not been completed.

Audit observed that:

- The database was unable to compute and report the exact defaulted tax.
- The integrity of the data in the data base is not reliable in the absence of authenticated data prior to 2006-07.
- This system is relied upon to arrive at the list of defaulters only. Notices were being generated from the VAHAN MIS by RTOs. However, the arrear tax was worked out manually and indicated on the notice by six RTOs.
- In two²³ RTOs, notices were being generated from the VAHAN MIS in a standard format and were issued without specifying the amount of tax due.
- As such, a defaulter, who is issued a machine generated notice, does not get any scope to know the exact tax to be paid. There was no record in place to keep a watch of the notices issued, issued but returned, details of tax defaulters and amount of tax demanded.
- It was also found in five cases in RTO, Ganjam that fitness certificates were issued to vehicles without realising the total arrear taxes pending against them.

Thus, the system failed to keep an effective check on management of arrear revenue due to deficiencies in the software application.

In reply, Government stated that problem was being caused due to non availability of separate module in the data for computation of exact arrears as the RTOs are using different version of VAHAN application. This problem would be solved with implementation of new VAHAN-IV application.

7.2.6.5 Filing of Tax Recovery Cases

Authenticity and accuracy of data in VAHAN database was not ensured due to non-updation of address of vehicle owners.

Under Section 8 of the OMVT Act, the TRO shall proceed to realise the amount by filing of Tax Recovery Cases (TRC) by way of attachment and sale of the defaulter's movable/immovable property or by arrest of the defaulter and his detention in prison if the amount specified in the notice was not paid within the time specified therein or within such further time as the TRO may grant. As per the provisions of Criminal Procedure Code, 1973 applicable for recovery, such notices were to be served to the defaulters through a process server or peon. Under OPDR Act, the TRO was to issue a notice to the defaulter in Form 2 along with a copy of the certificate signed, directing him to pay the amount within a period not exceeding thirty days from the date of service of the notice.

²³ Balasore and Sambalpur.

Audit observed that:

- In six RTOs, 14,217 TR cases were filed repeatedly against the same vehicles without disposing off the TRC filed earlier. Required records were not produced by RTO Jharsuguda and Rayagada.
- TR cases were filed against vehicles during 2015-16 against which NOCs were issued during 1988-89 to 2015-16 for movement to other States/Regions in 483 instances in two RTOs²⁴.
- As per MPR, 17,843 notices were sent by post. Audit noticed that some were returned unserved due to incorrect or incomplete address. The details of such unserved notices were not on record.

This indicated that the department did not take action to obtain updated addresses of vehicle owners in its database to ensure authenticity and accuracy of data.

In reply, Government stated that all RTOs had been instructed for institution of Tax Recovery cases. Keeping the aspect as important one, measures have been taken in VAHAN-IV to ensure the authenticity and accuracy of the data based on TR proceedings instituted.

7.2.6.6 Issue of warrants

Warrants against defaulter were not issued adhering to prescribed procedure.

Clause 8 of schedule II of the MVT Act provided that if the amount mentioned in the notice is not paid within the limit specified therein or within such further limit as the Tax Recovery Officers (TRO) may grant, the TRO shall proceed to realise the amount by way of attachment and sale of movable and immovable property or in the last resort by detention of the defaulter. The recovery process commences with the issue of warrants (Form 3) to the defaulters. Such notices were to be served to the defaulters through a process server or peon as per the provisions of Cr. PC applicable for recovery.

Audit examined the action taken by the department in execution of TR cases.

Audit observed that:

- Warrants were issued by five²⁵ RTOs in 9,550 cases that involved ₹ 26.54 crore during 2013-16.
- Warrants through special messengers were not issued by seven RTOs, except RTO, Ganjam who had served 1,046 warrants. In this regard, acknowledgements of receipt of service of the warrants by the defaulters could not be furnished by RTO, Ganjam for verification.

Thus, warrants were not issued adhering to prescribed procedure which was one of the factors for non realisation of arrear revenue.

In reply, Government stated that all RTOs have been instructed to execute the warrants through Enforcement official/concerned Inspector In Charge (IIC) in respect of attachment of movable/immovable property.

²⁴ Balasore and Ganjam.

²⁵ In four units 4,755 cases and in one unit in 4,795 cases.

7.2.6.7 Non-recovery due to inappropriate action by Department

Recovery of arrear revenue in TR Cases could not be made for want of appropriate action.

Section 14 of OMVT Act, 1975 provides that arrear tax and penalty due against any vehicle shall be deemed to be a first charge on the vehicle to which it relates. Whenever the vehicle against which arrear tax and penalty outstanding cannot be attached for any reason whatsoever, steps should be taken to attach other vehicles, if any, registered in the name of defaulter. In order to prevent speedy and natural decay of seized property, the TRO shall take steps for immediate sale of the said property. Further, Clause 8 of schedule II of the Act provides that if the defaulter does not turn up to clear the dues, there is no other way except to recover the dues by way of attachment and sale of movable and immovable property or in the last resort by detention of the defaulter.

Audit scrutinised records in selected RTOs. Audit observed that:

- No action was taken to attach any immovable property in seven test checked RTOs except RTO Ganjam. RTO Ganjam referred 1,295 cases to the concerned Tahsildars to identify the immovable property of the defaulters. Out of this, only 25 defaulters were identified and informed by the Tahsildars. No further action was taken for recovery in any of the cases as on the date of audit.
- RTOs instituted 25,678 TR cases that involved ₹ 162.10 crore. In respect of 8,713 TR cases involving ₹ 55.52 crore, further action for execution of these cases as provided under the Act was not initiated by four²⁶ RTOs.
- On verification of auction sale records in four²⁷ RTOs, 218 vehicles were seized and out of this 91 vehicles were disposed off for ₹ 1.04 crore.

This indicated that necessary and effective action was not taken regarding realisation of tax and penalty.

In reply, Government stated that the immovable property could not be attached for recovery of arrear dues due to lack of manpower, non-existence of vehicle owners. They further stated that address of the defaulters were not specified in the register, the module of TR cases are not available in VAHAN. The reply is not tenable as the reasons cited were well within the control of the Department.

7.2.6.8 Interest and other charges not charged

Short realisation of interest and other charges due to non-levy of interest at prescribed rate.

As per Orissa Public Demands Recovery Act, 1962 interest at the rate of 12.5 *per cent* per annum shall be charged upon the public demand to which the certificate relates, from the date of signing of the certificate upto the date of realisation.

Audit scrutinised records on realisation of arrear through certificate cases. Audit observed that the interest payable at the prescribed rate was not worked out and charged in any of the cases. All selected RTOs had collected one lump sum amount from the defaulters. The interest and other charges payable on collection of ₹ 33.82 crore during 2013-16 worked out to ₹ 3.93 crore²⁸, out of

²⁶ Balasore, Gajapati, Jharsuguda and Rayagada.

²⁷ Angul, Cuttack, Ganjam and Sambalpur.

²⁸ Interest amount has been calculated conservatively for one year period only.

which only ₹ 0.29 crore was collected (2013-16). This resulted in short-collection of ₹ 3.64 crore. Thus, non-adherence of applicable provisions resulted in loss of revenue.

In reply, Government stated that Commerce & Transport (Transport) Department have been requested (April 2016) for fixation of rate of interest to be charged from the MV Tax defaulter by the Tax Recovery Officer for adjudication of TR case.

7.2.7 Conclusion

In most of the cases, prescribed procedure was not followed for realisation of arrear revenue. Out of total arrear of ₹ 2,096.53 crore, ₹ 2,001.58 crore which constituted 95 *per cent*, remained outstanding for more than three years. The extent of collection of arrear was not significant during 2013-14 to 2015-16. Certificate proceedings were not initiated though the arrear had been shown to be recoverable. In some instances, certificate proceedings were initiated belatedly and the whereabouts of some defaulters could not be traced, making it difficult to realise the arrear. There was lack of follow up action in cases referred to Certificate Officer for certificate proceeding. Revenue demanded were not incorporated in DCB register which resulted in understating the actual arrear revenue. The cases pending under Courts of Law or with Revisionary Authorities were not promptly attended to resulting in stay on recovery of revenue.

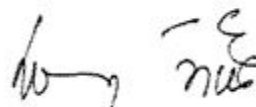
Bhubaneswar
The 9 February 2018



(YASHODHARA RAY CHAUDHURI)
Principal Accountant General (E & RSA)
Odisha

Countersigned

New Delhi
The 13 February 2018



(RAJIV MEHRISHI)
Comptroller and Auditor General of India