

**Report of the
Comptroller and Auditor General of India
on
Revenue Sector**

for the year ended March 2013

Government of Bihar
Report No. 5 of the Year 2013

TABLE OF CONTENTS

	Paragraph	Page
Preface		v
Overview		vii
Chapter –I: General		
Trend of revenue receipts	1.1	3
Variation between the budget estimates and actuals	1.2	6
Cost of collection	1.3	7
Analysis of arrears of revenue	1.4	7
Evasion of tax	1.5	9
Refunds	1.6	9
Response of the departments/Government towards audit	1.7	10
Analysis of the mechanism for dealing with the issues raised by Audit	1.8	13
Impact of audit	1.9	16
Chapter – II: Commercial Taxes		
Tax administration	2.1	20
Trend of receipts	2.2	20
Analysis of arrears of revenue	2.3	22
Cost of collection	2.4	22
Assessee profile	2.5	23
Analysis of collection	2.6	23
Working of internal audit wing	2.7	24
Impact of audit	2.8	24
Non-compliance of the provisions of the Acts/Rules	2.9	26
Suppression of turnover	2.10	27
Short levy of tax due to application of incorrect rate of tax	2.11	29
Excess allowance of Input Tax Credit	2.12	30
Incorrect adjustment of entry tax towards payment of VAT	2.13	32
Incorrect allowance of deductions	2.14	33
Incorrect allowance of deduction on account of Bonus sales	2.15	34
Incorrect claim of deduction on export sales	2.16	35
Incorrect allowance of concessional rate of tax	2.17	37
Non-levy of interest	2.18	38
Excess collection of tax	2.19	38
Non/short calculation of reverse credit	2.20	39
Short payment of admitted tax and non-levy of interest for delayed payment	2.21	40
Short levy of tax due to submission of irregular evidence of payment of tax	2.22	41
Incorrect allowance of deduction on account of sales return	2.23	41
Excess availing of rebate	2.24	42
Short levy of entry tax due to suppression of import value	2.25	43
Application of incorrect rate of entry tax	2.26	44

Non-levy of entry tax and penalty due to non-registration	2.27	45
Non/short realisation of entry tax	2.28	46
Short levy of Luxury Tax	2.29	47
Irregular allowance of exemption of electricity duty	2.30	48
Chapter- III : State Excise		
Tax administration	3.1	52
Budget formulation	3.2	52
Trend of receipts	3.3	52
Cost of collection	3.4	53
Working of internal audit wing	3.5	53
Impact of audit	3.6	54
Non-compliance of the provisions of the Acts/Rules	3.7	55
Defalcation of excise revenue	3.8	56
Short realisation of licence fee of excise shops after cancellation	3.9	58
Undue favour to licensees	3.10	59
Non-levy of penalty for delayed deposit of licence fee	3.11	61
Chapter – IV : Taxes on Vehicles		
Tax administration	4.1	64
Trend of receipts	4.2	64
Cost of collection	4.3	64
Analysis of arrears of revenue	4.4	65
Working of internal audit wing	4.5	66
Impact of audit	4.6	66
Non-compliance of the provisions of the Acts/Rules	4.7	68
Non-realisation of motor vehicle taxes	4.8	69
Short realisation of one time tax from trailers	4.9	70
Short realisation of one time tax from three wheelers	4.10	71
Short realisation of one time tax from personalised vehicles	4.11	72
Non-realisation of one time tax and penalty from goods carriage vehicles	4.12	73
Non-realisation of one time tax and penalty from tractors	4.13	74
Non/short realisation of trade tax from the dealers of motor vehicles	4.14	75
Irregular grant of permit to Stage Carriages	4.15	76
Loss of revenue due to delivery of vehicles without temporary registration	4.16	77
Chapter – V : Other Tax Receipts		
A: LAND REVENUE		
Tax administration	5.1	80
Trend of receipts	5.2	80
Analysis of arrears of revenue	5.3	81
Working of internal audit wing	5.4	81
Impact of audit	5.5	81

B: STAMPS AND REGISTRATION FEES		
Tax administration	5.6	83
Trend of receipts	5.7	83
Cost of collection	5.8	83
Impact of audit	5.9	84
Status of compliance to Inspection Reports 2012-13	5.10	85
Non-compliance of the provisions of the Acts/Rules	5.11	86
Non-realisation of revenue due to non-renewal/settlement of <i>Khas Mahal</i> land	5.12	87
Short realisation of bid amount of <i>Sairat</i>	5.13	88
Non-realisation of Stamp duty and Registration fees on executed deeds of <i>Sairat</i>	5.14	89
Short realisation of Stamp duty and Registration fees on Development Agreements	5.15	90
Blocking of Government revenue due to non-disposal of referred cases	5.16	91
Misclassification of category of land	5.17	92
Chapter – VI : Non-Tax Receipts		
Non-ferrous Mining and Metallurgical Industries		
Tax administration	6.1	94
Trend of receipts	6.2	94
Impact of audit	6.3	94
‘Receipts from Mines and Minerals’- A review	6.4	97
<i>Appendices</i>		123

PREFACE

This Report of the Comptroller and Auditor General of India has been prepared for submission to the Governor under Article 151 of the Constitution for being laid before the State Legislature.

The report for the year ended 31 March 2013, contains significant results of the audit of the Commercial Taxes, Registration, Excise and Prohibition, Transport, Land Revenue and Mines and Geology departments of the Government of Bihar.

The cases mentioned in this Report are among those which came to notice in the course of test audit during 2012-13 of accounts for the period 2011-12 as well as those which had come to notice in earlier years but could not be reported in previous Audit Reports; matters relating to the period subsequent to 2011-12 have also been included wherever necessary.

Audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India, based on the auditing standards of the International Organisation of Supreme Audit Institutions.

OVERVIEW

This Report contains 41 paragraphs including one review relating to non/short levy of tax, interest etc involving ₹ 269.74 crore. Some of the major findings are mentioned below:

I. General

Total receipts of the Government of Bihar for the year 2012-13 were ₹ 59,566.66 crore. The revenue raised by the State Government amounted to ₹ 17,388.35 crore comprising tax revenue of ₹ 16,253.08 crore and non-tax revenue of ₹ 1,135.27 crore. The receipts from the Government of India were ₹ 42,178.31 crore (States' share of divisible Union taxes: ₹ 31,900.39 crore and grants in aid: ₹ 10,277.92 crore). Thus, the State Government's own contribution to tax revenue was only 29 *per cent* of total revenue.

(Paragraph 1.1.1)

The number of inspection reports (IRs) and paragraphs issued up to December 2012 but not settled by June 2013 stood at 4,165 and 23,327 respectively involving ₹ 10,847.46 crore. We are yet to receive even first replies for 1,598 IRs though these were required to be furnished within four weeks of their receipt.

(Paragraph 1.7.1)

We conducted test-check of the records of commercial taxes, State excise, taxes on vehicles, land revenue, non-ferrous mining and metallurgical industries and other departmental offices during the year 2012-13 and observed underassessment/short levy of revenue of ₹ 1,066.92 crore in 2,673 cases. During the year 2012-13, the concerned departments accepted underassessment and other deficiencies of ₹ 50.20 crore involved in 288 cases.

(Paragraph 1.9.3)

II. Commercial Taxes

In six commercial taxes circles, suppression of sales/purchase turnover of ₹ 42.53 crore by nine dealers resulted in underassessment of tax of ₹ 18.07 crore including leviable penalty and interest.

(Paragraph 2.10)

Non-detection of application of incorrect rates of tax in 17 commercial taxes circles resulted in short levy of tax of ₹ 56.81 crore including interest and leviable penalty.

(Paragraph 2.11)

Irregular claim of Input Tax Credit (ITC) by the 17 dealers in nine commercial taxes circles resulted in excess allowance of ITC of ₹ 31.06 crore including leviable penalty and interest.

(Paragraph 2.12)

Suppression of import value of goods of ₹ 219.81 crore by 12 dealers in nine commercial taxes circles resulted in short levy of entry tax of ₹ 86.88 crore including leviable penalty and interest.

(Paragraph 2.25)

III. State Excise

Non-verification of the amount deposited by licensee from the records of treasury and non-observance of condition of sale notification by the Excise officers resulted in defalcation of Government Revenue in two Excise offices.

(Paragraph 3.8)

IV. Taxes on vehicles

In 19 District Transport Offices, tax dues of ₹ 1.19 crore pertaining to 671 transport vehicles for the period between February 2008 and April 2013 were neither paid by the vehicle owners nor action was taken towards realisation of dues of ₹ 3.48 crore (including penalty) by the concerned District Transport Officers.

(Paragraph 4.8)

V. Other Tax Receipts

Due to failure of the Department to evict the encroachers and resettle the land resulted in non-realisation of *Salami* and rent to the tune of ₹ 1.55 crore.

(Paragraph 5.12)

Short realisation of ₹ 4.44 crore due to short-levy of Stamp duty and Registration fees on conveyance treating them as development agreements.

(Paragraph 5.15)

VI. Non-Tax Receipts

A review on 'Receipts from Mines and Minerals' indicated the following deficiencies :

The State of Bihar has not framed a State Mineral Policy along the lines of the Model State Mineral Policy, 2010 circulated by the Central Government.

(Paragraph 6.4.2)

Internal control mechanism was weak due to absence of internal audit, non-maintenance of vital basic registers and inadequate inspection by the departmental officers.

(Paragraph 6.4.9)

Penalty of ₹ 12.26 crore for illegal procurement of minerals against the works contractors in four districts, though leviable, was not levied.

(Paragraph 6.4.12)

Penalty of ₹ 16.45 crore for mineral excavation without approval of Mining Plan was not levied.

(Paragraph 6.4.13)

Royalty of ₹ 64.86 lakh was short realised for excess dispatch of stone in three districts.

(Paragraph 6.4.18.3)

CHAPTER - I

GENERAL

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present the trend of Revenue Receipts of the Government of Bihar, variation between budget estimates and actual receipts, cost of collection, analysis of arrears of revenue, response of the departments/ Government towards audit and impact of audit.
Trend of Revenue Receipts of the State Government	<p>The revenue receipts of the Government of Bihar comprises of tax and non-tax revenue raised by the Government, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grants-in-aid received from the Government of India.</p> <p>During the year 2012-13, the revenue raised by the State Government was ₹ 17,388.35 crore which was 29 <i>per cent</i> of the total revenue receipts. The balance 71 <i>per cent</i> of receipts during 2012-13 was from the Government of India.</p>
Non-compliance of observations included in the Inspection Reports	<p>Inspection Reports (IRs) issued upto December 2012 disclosed that 23,327 paragraphs involving ₹ 10,847.46 crore relating to 4,165 IRs remained outstanding at the end of June 2013 for want of compliance.</p> <p>Even the first replies required to be received from the heads of offices within four weeks from the date of issue of the IRs were not received for 1,598 IRs issued upto December 2012. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and heads of the departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.</p>
Very low recovery of the amount pointed out by audit in earlier Audit Reports	In respect of Audit Reports pertaining to the years 2007-08 to 2011-12, the departments/Government accepted audit observations involving ₹ 1,443.43 crore, of which an amount of ₹ 9.54 crore only was recovered as on 31 March 2013.

Impact of audit	<p>We conducted test-check of the records of 281 units of commercial taxes, State excise, taxes on vehicles, land revenue, non-ferrous mining and metallurgical industries and other departmental offices during the year 2012-13 and observed underassessment/short levy of revenue of ₹ 1,066.92 crore in 2,673 cases. During the course of the year, the departments concerned accepted underassessment and other deficiencies of ₹ 50.20 crore, of which cases involving ₹ 10.96 crore were pointed out in audit during 2012-13 and the rest in the earlier years. The Department collected ₹ 70.47 lakh in 29 cases during 2012-13.</p> <p>This report contains 41 paragraphs including one review on ‘Receipts from Mines and Minerals’ relating to short/non-levy of tax, duty and interest, penalty <i>etc.</i> involving financial effect of ₹ 269.74 crore. The departments/Government have accepted audit observations involving ₹ 42.76 crore out of which ₹ 1.80 crore has been recovered.</p>
Our conclusion	<p>The Department needs to take appropriate steps to recover the amount involved, at least in accepted cases. It also needs to improve the internal control system so that weaknesses in the system are addressed and omissions detected by us are avoided in future.</p> <p>The Government may take suitable steps to install an effective procedure for prompt and appropriate response to audit paragraphs. It may also consider initiating action against officials/officers who do not send replies to the IRs/paragraphs as per the prescribed time schedules or who fail to take action to recover loss/outstanding demand in a time-bound manner.</p>

CHAPTER-I: GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Bihar during the year 2012-13, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

Table- 1.1

(₹ in crore)						
Sl. No.	Particulars	2008-09	2009-10	2010-11	2011-12	2012-13
1.	Revenue raised by the State Government					
	• Tax revenue	6,172.74	8,089.67	9,869.85	12,612.10	16,253.08
	• Non-tax revenue	1,153.32	1,670.42	985.53	889.86	1,135.27
	Total	7,326.06	9,760.09	10,855.38	13,501.96	17,388.35
2.	Receipts from the Government of India					
	• Share of net proceeds of divisible Union taxes and duties	17,692.51	18,202.58	23,978.38	27,935.23	31,900.39 ¹
	• Grants-in-aid	7,962.12	7,564.16	9,698.56	9,882.98	10,277.92
	Total	25,654.63	25,766.74	33,676.94	37,818.21	42,178.31
3.	Total revenue receipts of the State Government (1 and 2)	32,980.69	35,526.83	44,532.32	51,320.17	59,566.66
4.	Percentage of 1 to 3	22	27	24	26	29

(Source: Finance Accounts, Government of Bihar)

The above table indicates that during the year 2012-13, the revenue raised by the State Government (₹ 17,388.35 crore) was 29 *per cent* of the total revenue receipts against 26 *per cent* in the preceding year. The balance 71 *per cent* of receipts during 2012-13 was from the Government of India. The overall increase of 28.78 *per cent* in revenue raised by the State Government (₹ 17,388.35 crore) during 2012-13 as compared to ₹ 13,501.96 crore during

¹ For details, please see Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of Government for the year 2012-13. Figures under Minor Head – 901 - Share of net proceeds assigned to the State under the Major Heads 0020 - Corporation Tax (₹ 11,458.90 crore), 0021 - Taxes on income other than Corporation Tax (₹ 6,860.25 crore), 0032 - Taxes on Wealth (₹ 19.32 crore), 0037 - Customs (₹ 5,301.09 crore), 0038 - Union Excise Duties (₹ 3,602.64 crore) and 0044 - Service Tax (₹ 4,658.19 crore) booked in the Finance Accounts under A - Tax Revenue have been excluded from the revenue raised by the State and included in State's share of divisible union taxes in this statement.

2011-12 was mainly due to 28.87 *per cent* increase in tax revenue and 27.58 *per cent* increase in non-tax revenue as detailed in paragraphs 1.1.2 and 1.1.3.

1.1.2 The following table presents the details of tax revenue raised during the period 2008-09 to 2012-13.

Table- 1.2

(₹ in crore)

Sl. No.	Head of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase (+)/decrease (-) in 2012-13 over 2011-12
1.	Taxes on Sales, Trade <i>etc.</i>	3,016.47	3,839.29	4,557.18	7,476.36	8,670.79	(+) 15.98
2.	State Excise	679.14	1,081.68	1,523.35	1,980.98	2,429.82	(+) 22.66
3.	Stamps and Registration Fees	716.19	997.90	1,098.68	1,480.07	2,173.02	(+) 46.82
4.	Taxes and Duties on Electricity	67.62	66.63	65.22	54.69	102.55	(+) 87.51
5.	Taxes on Vehicles	297.74	345.13	455.43	569.13	673.39	(+) 18.32
6.	Taxes on Goods and Passengers	1,279.41	1,613.16	2,006.32	828.30	1,932.12	(+) 133.26
7.	Other Taxes on Income and Expenditure- Taxes on Professions, Trades, Callings and Employment	Nil	Nil	Nil	29.56	36.95	(+) 25.00
8.	Land Revenue	101.74	123.96	139.02	167.49	205.45	(+) 22.66
9.	Other Taxes and Duties on Commodities and Services	14.43	21.92	24.65	25.52	28.99	(+) 13.60
Total		6,172.74	8,089.67	9,869.85	12,612.10	16,253.08	(+) 28.87

(Source: Finance Accounts, Government of Bihar)

The departments concerned reported the following reasons for variation in collection of tax revenue in 2012-13 as compared to the year 2011-12:

Taxes on Sales, Trade *etc.*- The increase (15.98 *per cent*) was due to enhancement of rate of tax from 13.5 *per cent* to 20 *per cent* for Tobacco and Tobacco products with effect from 26 June 2012 and also increase in rate of tax deducted at source (TDS) from four *per cent* to five *per cent* for works contract with effect from 22 June 2012.

Stamps and Registration fees: The increase (46.82 *per cent*) was due to revision of Minimum Value Register (MVR) of urban areas throughout the State with effect from 31 March 2012.

Taxes on vehicles: The increase (18.32 *per cent*) was due to enhancement of rate of tax on personalised vehicles with effect from 31 March 2012.

Land Revenue: The increase (22.66 *per cent*) was due to collection of establishment charges for acquisition of land from other departments/Authorities and also collection of capitalised value of annual rent for 25 years from commercial organisations for transfer of Government land.

The other departments did not inform (November 2013) the reasons for variations, despite being requested between May and August 2013.

1.1.3 The following table presents the details of non-tax revenue raised during the period 2008-09 to 2012-13.

Table- 1.3

(₹ in crore)

Sl. No.	Head of Revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase (+) / decrease (-) in 2012-13 over 2011-12
1.	Interest Receipts	304.57	353.27	237.96	573.70	167.12	(-) 70.87
2.	Forestry and Wild Life	6.15	6.78	7.64	11.04	16.60	(+) 50.36
3.	Non-ferrous Mining and Metallurgical Industries	245.00	319.93	405.59	443.10	511.08	(+) 15.34
4.	Miscellaneous General Services	385.82	770.28	0.34	(-)383.78	22.03	(+) 105.74
5.	Medium Irrigation	10.64	14.80	15.45	17.59	13.99	(-) 20.47
6.	Medical and Public Health	17.25	14.08	15.33	23.91	41.02	(+) 71.56
7.	Fisheries	6.87	7.87	7.28	10.16	11.79	(+) 16.04
8.	Roads and Bridges	26.40	30.02	39.60	60.35	32.56	(-) 46.05
9.	Police	9.44	11.89	11.85	9.26	25.01	(+) 170.09
10.	Other Administrative Services	8.09	9.42	19.98	11.49	10.01	(-) 12.88
11.	Other non-tax receipts	133.09	132.08	224.51	113.04	284.06	(+) 151.29
Total		1,153.32	1,670.42	985.53	889.86	1,135.27	(+) 27.58

(Source: Finance Accounts, Government of Bihar)

As reported by the Mines and Geology Department the increase (15.34 *per cent*) was due to more settlement of Sand Ghats.

As per Finance Accounts, Government of Bihar for the year 2012-13, the reasons for variation in collection of non-tax revenue are as under:

Interest Receipts: The decrease (70.87 *per cent*) was mainly due to less receipts mainly under interest from Departmental Commercial undertakings and interest realised on investment of cash balances.

Police: The increase (170.09 *per cent*) was mainly due to more receipts under Fees, Fines and Forfeitures.

Medical and Public Health: The increase (71.56 per cent) was mainly due to more receipts from Employees State Insurance Scheme and receipts/contribution from patients and others under Rural Health Services.

The other departments did not inform (November 2013) the reasons for variations, despite being requested between May and August 2013.

1.2 Variation between the budget estimates and actuals

The variation between the budget estimates of revenue receipts and the actual receipts under the principal heads of tax and non-tax revenue for the year 2012-13 is mentioned below:

Table- 1.4

(₹ in crore)

Sl. no.	Revenue head	Budget estimates	Actual receipts	Variations increase (+) shortfall (-)	Percentage
• Tax revenue					
1.	Taxes on Sales, Trade etc.	8,071.00	8,670.79	(+) 599.79	(+) 7.43
2.	State Excise	2,715.00	2,429.82	(-) 285.18	(-) 10.50
3.	Stamps and Registration Fees	1,906.00	2,173.02	(+) 267.02	(+) 14.01
4.	Taxes on Vehicles	644.40	673.39	(+) 28.99	(+) 4.50
5.	Taxes and Duties on Electricity	60.70	102.55	(+) 41.85	(+) 68.95
6.	Land Revenue	185.00	205.45	(+) 20.45	(+) 11.05
7.	Other Taxes and Duties on Commodities and Services	41.99	28.99	(-) 13.00	(-) 30.96
8.	Taxes on Goods and Passengers	2,800.00	1,932.12	(-) 867.88	(-) 31.00
9.	Other Taxes on Income and Expenditure- Taxes on Professions, Trades, callings and Employment	31.00	36.95	(+) 5.95	(+) 19.19
• Non-tax revenue					
1.	Non-Ferrous Mining and Metallurgical Industries	470.00	511.08	(+) 41.08	(+) 8.74
2.	Forestry and Wild Life	7.05	16.60	(+) 9.55	(+) 135.46
3.	Interest Receipts	263.74	167.12	(-) 96.62	(-) 36.63
4.	Medium Irrigation	4.00	13.99	(+) 9.99	(+) 249.75

(Source: Revenue and Capital Receipt, (Detail): Finance Accounts, Government of Bihar)

Land Revenue: The increase (11.05 per cent) was due to collection of establishment charges for acquisition of land from other departments/Authorities and also collection of capitalised value of annual rent for 25 years from commercial organisations for transfer of Government land.

Non-Ferrous Mining and Metallurgical Industries: The increase (8.74 per cent) was due to more settlement of Sand Ghats.

The other departments did not inform the reasons for variation, despite being requested (between May and August 2013).

1.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during 2012-13 along with the all-India average percentage of expenditure on collection in 2011-12 were as under:

Table- 1.5

(₹ in crore)

Sl. No.	Head of revenue	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 2011-12
1.	Commercial Taxes ²	10,771.40	78.86	0.73	0.83
2.	State Excise	2,429.82	42.67	1.76	2.98
3.	Stamps and Registration Fees	2,173.02	45.50	2.09	1.89
4.	Taxes on Vehicles	673.39	25.28	3.75	2.96

(Source: Finance Accounts, Government of Bihar)

The above table indicates that the percentage of expenditure on collection during the year 2012-13 in respect of Stamps and Registration Fees and Taxes on Vehicles were more than the all-India average percentage for the year 2011-12.

The Government needs to take appropriate measures to bring down the cost of collection.

1.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013 in respect of the principal heads of revenue as reported by the departments was ₹ 1,631.74 crore of which ₹ 666.65 crore³ were outstanding for more than five years as mentioned below:

² Gross collection by the Commercial Tax Department includes taxes on Sales, Trade etc., Taxes on Goods and Passengers, Taxes and Duties on Electricity, Other Taxes on Income and Expenditure- Taxes on Professions, Trades, Callings and Employment and Other Taxes and Duties on Commodities and Services.

³ Excluding Land Revenue for which particulars have not been furnished by the Department.

Table- 1.6

(₹ in crore)

Sl. No.	Heads of revenue	Amount outstanding as on 31 March 2013	Amount outstanding for more than five years	Remarks
1.	Taxes on Sales, Trade etc.	916.32	437.78	Out of ₹ 916.32 crore, demands for ₹ 334.30 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 79.58 crore and ₹ 13.11 crore were stayed by the courts and the Government respectively and recovery of ₹ 13.78 crore was held up due to rectification/review of appeal. An amount ₹ 475.55 crore was pending at other stages.
2.	Taxes and Duties on Electricity	2.40	2.34	Out of ₹ 2.40 crore, demands for ₹ 1.49 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 69.08 lakh was stayed by the courts and ₹ 21.45 lakh was pending at other stages.
3.	Taxes on Goods and Passengers (Entry tax)	142.31	3.17	Out of ₹ 142.31 crore, demand for ₹ 10.29 crore was certified for recovery as arrears of land revenue. Recovery of ₹ 5.01 crore was stayed by the courts and ₹ 127.01 crore was pending at other stages.
4.	Other Taxes and Duties on Commodities and Services (Entertainment tax)	10.73	4.05	Out of ₹ 10.73 crore, demands for ₹ 9.47 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 4.52 lakh was stayed by the courts and ₹ 1.22 crore was pending at other stages.
5.	State Excise	66.61	9.00	Out of ₹ 66.61 crore, demands for ₹ 8.95 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 1.83 crore and ₹ 9.30 lakh were stayed by the courts and the Government respectively. Recovery of ₹ 25.12 lakh and ₹ 5.33 lakh were held up due to rectification/review of applications and dealer/party becoming insolvent. An amount of ₹ 35.74 lakh was likely to be written off and ₹ 55.07 crore was pending at other stages.
6.	Taxes on vehicles	185.47	113.06	The entire amount of ₹ 185.47 crore were certified for recovery as arrears of land revenue.
7.	Land Revenue	107.21	NA	Stages at which the arrears were pending for collection have not been intimated, despite being requested (between May and August 2013).

8.	Mines and Minerals	200.69	97.25	Out of ₹ 200.69 crore, demands for ₹ 184.59 crore were certified for recovery as arrears of land revenue. The Department did not furnish the stages of action for remaining arrears.
Total		1,631.74	666.65	

(Source: Information furnished by the Departments)

1.5 Evasion of tax

The details of cases of evasion of tax detected by the Commercial Taxes Department, cases finalised and demands raised as reported by the Department is mentioned below:

Table- 1.7

Head of the department	Cases pending as on 31 March 2012	Cases detected during 2012-13	Total	Number of cases in which assessments/investigation completed and additional demand including penalty etc., raised during the year 2012-13		Number of pending cases as on 31 March 2013
				No. of cases	Amount (₹ in lakh)	
Commercial Taxes	189	426	615	321	209.33	294

(Source: Information furnished by the Department)

It may be seen from the above table that Commercial Taxes Department finalised only 52 *per cent* of the total cases outstanding as on 31 March 2013.

1.6 Refunds

The number of refund cases pending at the beginning of the year 2012-13, claims received during the year, refunds allowed during the year and cases pending at the close of the year (March 2013), as reported by the Commercial Taxes Department is mentioned below:

Table- 1.8

(₹ in lakh)

Sl. No.	Particulars	Taxes on Sales, Trade etc.		Entry tax		Entertainment tax		State Excise	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	1,383	8,226.09	103	96.74	6	2.00	379	923.90
2.	Claims received during the year	457	12,825.26	12	435.17	Nil	Nil	502	1,234.61
3.	Refunds made during the year	132	12,984.42	15	423.08	Nil	Nil	443	1,151.98

4.	Balance outstanding at the end of the year	1,708	8,066.93	100	108.83	6	2.00	438	1,006.53
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(Source: Information furnished by the Department)

It may be seen that a large number of refund cases were pending in respect of taxes from sales, trade etc. and State excise.

Government may take effective steps to dispose of pending refund cases.

1.7 Response of the departments/Government towards audit

1.7.1 Compliance to audit observations

The Accountant General (AG), Audit, Bihar conducts periodical inspection of the Government departments to test-check the transactions and verify the maintenance of the important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the Inspection Reports incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to report compliance through initial reply to the AG within four weeks of its receipt. As per Paragraph 199 of the Regulations on Audit and Accounts, the audit office may send copies of important audit observations to the head of the department and it shall be the duty of the head of the department to follow up all such cases for appropriate remedial and corrective action and report compliance to the audit office.

A review of IRs issued upto December 2012 disclosed that 23,327 paragraphs involving ₹ 10,847.46 crore relating to 4,165 IRs remained outstanding at the end of June 2013 as mentioned below along with the corresponding figures for the preceding two years:

Table- 1.9

	June 2011	June 2012	June 2013
Number of outstanding IRs	4,259	3,858	4,165
Number of outstanding paragraphs	22,364	20,979	23,327
Amount involved (₹ in crore)	10,404.30	8,754.19	10,847.46

The Department-wise details of the IRs and paragraphs outstanding as on 30 June 2013 and the amounts involved are mentioned in the following table:

Table- 1.10

(₹ in crore)

Sl. No.	Name of the departments	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Commercial Taxes	Taxes on Sales, Trade <i>etc</i> ,	652	7,620	5,136.46
		Entry tax	143	322	74.06
		Electricity duty	21	25	16.74
		Entertainments tax, luxury tax, <i>etc</i> .	13	21	0.61
2.	Registration, Excise and Prohibition (Excise)	State Excise	470	2,388	1,574.59
3.	Revenue and Land Reforms	Land Revenue	1,471	6,102	1,132.72
4.	Transport	Taxes on Vehicles	517	3,337	1,261.82
5.	Registration, Excise and Prohibition (Registration)	Stamps and Registration Fees	487	1,333	229.72
6.	Mines and Geology	Non-ferrous Mining and Metallurgical Industries	391	2,179	1,420.74
Total			4,165	23,327	10,847.46

Even the first replies required to be received from the heads of offices within four weeks from the date of issue of the IRs were not received for 1,598 IRs issued upto December 2012. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and heads of the departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

We recommend that the Government may take suitable steps to install an effective procedure for prompt and appropriate response to audit paragraphs. It may also consider initiating action against officials/officers who do not send replies to the IRs/paragraphs as per the prescribed time schedules or who fail to take action to recover loss/outstanding demand in a time-bound manner to enhance accountability mechanism.

1.7.2 Departmental audit committee meetings

The Government set up audit committees (during various periods) to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. One audit committee meeting with the Commercial Taxes Department was

held during the year 2012-13 wherein 32 paragraphs of 14 Inspection Reports were settled. Holding of only one meeting during the entire year (2012-13) had deprived the Government of the opportunity of settlement of more number of outstanding audit observations as mentioned in preceding paragraph.

The Government may take suitable steps to hold departmental audit committee meetings at regular intervals for the settlement of outstanding IRs/paragraphs.

1.7.3 Response of the departments to the draft audit paragraphs of current year's Report

The Chief Secretary, Government of Bihar had issued directions (August 1967) to all the departments to send their response to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. As per Paragraph 207(1) of the Regulations on Audit and Accounts, the Accountant General (Audit) forwards the draft paragraphs to the Secretaries of the concerned departments through demi-official letters drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non-receipt of the replies from the departments is invariably indicated at the end of each paragraph included in the Audit Report.

Forty one draft paragraphs including one review included in this Report for the year ended 31 March 2013 were forwarded to the Secretaries of the concerned departments between June and September 2013 through demi-official letters.

The Principal Secretary of the Transport Department and the Commissioner-cum-Secretary of the Registration, Excise and Prohibition (Excise) had sent partial replies to 10 and four draft paragraphs respectively. The Government also sent the replies on the review on Receipts from Mines and Minerals. The Commercial Tax Department also sent partial replies to 10 draft paragraphs.

1.7.4 Follow-up on Audit Reports

The Manual of Instructions (1998) of the Finance Department, Government of Bihar envisaged that the Secretaries to Government of the concerned departments submit explanatory notes to the Assembly Secretariat on audit paragraphs and performance audits included in Audit Reports (AR) after vetting in audit within two months from the date of presentation of the ARs to the State Legislature without waiting for any notice or call from the Public Account Committee (PAC).

We reviewed the position and found that as of July 2013, 10 departments had not furnished the explanatory notes in respect of 57 paragraphs included in the Audit Reports for the years between 1990-91 and 2010-11 for vetting. The delay ranged from 8 month to over 19 years as mentioned in the following table:

Table- 1.11

Sl. No.	Department	Year of Audit Report	Month in which the Audit Report presented in the Legislature	Month in which Departmental notes were due	Number of paragraphs for which Departmental notes were due	Delay in months
1.	Finance	2004-05	March 2006	June 2006	1	85
2.	Finance (Commercial Taxes)	2005-06 to 2010-11	July 2007 to August 2012	October 2007 to November 2012	30	8 to 69
3.	State Excise	1990-91	March 1994	June 1994	1	229
4.	Revenue & Land Reforms	2005-06, 2008-09	July 2007, July 2010	October 2007, October 2010	2	33 to 70
5.	Registration	2003-04	December 2005	March 2006	1	88
6.	Transport	2010-11	August 2012	November 2012	6	8
7.	Forest & Environment	2005-06 to 2007-08	July 2007 to July 2009	October 2007 to October 2009	6	45 to 69
8.	Water Resources	1995-96, 1997-98, 2005-06 to 2010-11	March 1997, August 1999, July 2007 to August 2012	June 1997, November 1999, October 2007 to November 2012	8	8 to 193
9.	Urban Development	1997-98	August 1999	November 1999	1	164
10.	Road Construction	2010-11	August 2012	November 2012	1	8
Total					57	

The delay in submission of explanatory notes was indicative of the fact that the heads of the offices/departments did not take prompt action on the important issues highlighted in the Audit Reports that involved large sums of unrealised revenue, the recovery of some of which could be barred by limitation now.

1.8 Analysis of the mechanism for dealing with the issues raised by Audit

In order to analyse the system of addressing the issues highlighted in the Inspection Reports/Audit Reports by the departments/Government, the action taken on the paragraphs and reviews included in the Inspection Reports/Audit Reports in respect of **Commercial Taxes Department** was evaluated. The succeeding paragraphs 1.8.1 and 1.8.2 discuss the performance of the Department to deal with the cases detected in the course of local audit conducted during the last 10 years and also the cases included in the Audit Reports for the years 2002-03 to 2011-12.

1.8.1 Position of Inspection Reports

The summarised position of inspection reports relating to Commercial Taxes issued during the last 10 years, paragraphs included in these reports and their status as on August 2013 are mentioned in the following table:

Table- 1.12

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IRs	Para graphs	Money value	IRs	Para graphs	Money value	IRs	Para graphs	Money value	IRs	Para graphs	Money value
2002-03	281	2,575	1,350.56	39	287	11.20	Nil	Nil	Nil	320	2,862	1,361.76
2003-04	320	2,862	1,361.76	29	230	13.59	Nil	Nil	Nil	349	3,092	1,375.35
2004-05	349	3,092	1,375.35	67	537	188.64	Nil	Nil	Nil	416	3,629	1,563.99
2005-06	416	3,629	1,563.99	79	399	158.76	Nil	Nil	Nil	495	4,028	1,722.76
2006-07	495	4,028	1,722.76	62	292	59.60	Nil	Nil	Nil	557	4,320	1,782.35
2007-08	557	4,320	1,782.35	52	288	186.37	Nil	Nil	Nil	609	4,608	1,968.72
2008-09	609	4,608	1,968.72	45	292	55.97	Nil	Nil	Nil	654	4,900	2,024.69
2009-10	654	4,900	2,024.69	58	598	673.76	Nil	Nil	Nil	712	5,498	2,698.45
2010-11	712	5,498	2,698.45	19	357	1,293.97	Nil	Nil	Nil	731	5,855	3,992.43
2011-12	731	5,855	3,992.43	39	778	387.84	1	97	22.18	769	6,536	4,358.08

In view of heavy accumulation of pending IRs/paragraphs, the responsibility of disposal of pending IRs and paragraphs upto the year 1995-96 was left to the Department (August 2006) except in cases of outstanding paragraphs (Audit Reports), performance audits, cases pending in Hon'ble courts and cases of defalcation in which the final decision rests with the PAC/Hon'ble courts.

1.8.2 Assurance given by the Department/Government on the issues highlighted in the Audit Report

1.8.2.1 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years and those accepted by the Department are mentioned below:

Table- 1.13

Year of AR	Number of paragraphs included in AR	Money value of the paragraphs (₹ in crore)	Number of paragraphs accepted	Money value of accepted paragraphs (₹ in crore)	Position of recovery in accepted cases as reported by the Department (₹ in lakh)
2002-03	9	28.40	1 (Partial)	0.06	39.58
2003-04	8	301.71	1 (Partial)	9.04	500.90
2004-05	9	34.36	9 (3 Partial)	19.76	56.31
2005-06	18	21.38	7 (Partial)	10.95	56.55

2006-07	12	46.08	2 (Partial)	8.44	18.52
2007-08	12	153.70	5 (Partial)	115.63	5.64
2008-09	15	619.33	11 (4 Partial)	293.17	76.39
2009-10	13	841.96	11 (7 Partial)	716.28	38.35
2010-11	22	863.17	15 (13 Partial)	828.25	113.29
2011-12	16	261.78	11 (8 Partial)	58.84	Nil
Total	134	3,171.87	73 (51 Partial)	2,060.42	905.53

The preceding table shows that out of ₹ 3,171.87 crore involved in 134 paragraphs included in the Audit Reports for the years 2002-03 to 2011-12, the Government/Department accepted ₹ 2,060.42 crore involved in 73 paragraphs against which recovery of ₹ 9.06 crore (0.44 *per cent*) could only be effected.

The Government/Department may take effective steps for recovery of Government revenue in accepted cases.

1.8.2.2 Action taken on the recommendations accepted by the departments / Government

The draft reports on review conducted by the AG are forwarded to the concerned departments/Government for their information with a request to furnish their replies. These reports on review are also discussed in an exit conference and the departments/Government's views are included while finalising the reports on review for the Audit Reports.

Six review audits containing 31 recommendations were featured in the Audit Reports for the years 2002-03 and 2011-12 on receipts of Commercial Taxes Department. The Department had accepted the recommendations made in the Audit Reports for the years 2002-03 and 2003-04. We are yet to receive any information regarding acceptance of the recommendations and action taken thereon in remaining reviews (November 2013) as detailed below:

Table- 1.14

Year of AR	Name of the review	Number of recommendations
2002-03	Accountal and Utilisation of declaration forms/certificates	2
2003-04	Arrears of Revenue in Sales Tax	5
2007-08	Assessment, Levy and collection of Sales tax/ Value Added tax on works/supplies contracts	4
2008-09	Implementation of Value Added Tax in Bihar	8
2010-11	Utilisation of declaration forms in inter-State trade and commerce	6
2011-12	Internal Control Mechanism in Commercial Taxes Department	6

1.9 Impact of audit

1.9.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

During the years between 2007-08 and 2011-12, the departments/Government accepted audit observations involving ₹ 1,443.43 crore of which an amount of ₹ 9.54 crore only was recovered as on 31 March 2013 as mentioned below:

Table- 1.15

(₹ in crore)

Year of Audit Report	Amount involved in the Audit Report	Amount accepted	Amount recovered
2007-08	523.80	417.47	5.50
2008-09	838.92	709.78	0.78
2009-10	977.82	96.16	0.45
2010-11	893.61	155.08	2.34
2011-12	568.99	64.94	0.47
Total	3,803.14	1,443.43	9.54

The above table indicates that the recovery in respect of the accepted cases was meagre (0.66 *per cent*) as compared to the accepted money value.

1.9.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

We made 8,041 audit observations involving ₹ 7,198.51 crore through our Inspection Reports during the years 2007-08 to 2011-12, of which the departments/Government accepted ₹ 2,820.94 crore and an amount of ₹ 6.75 crore only was recovered as on 31 March 2013 as mentioned below:

Table- 1.16

(₹ in crore)

Year	No. of cases in which observations made	Amount involved in the Inspection Report	Amount accepted during the year	Amount recovered
2007-08	1,253	843.09	221.72	1.05
2008-09	1,220	965.35	684.49	1.17
2009-10	1,951	2,146.31	1,696.54	0.93
2010-11	1,802	1,942.93	80.26	0.89
2011-12	1,815	1,300.83	137.93	2.71
Total	8,041	7,198.51	2,820.94	6.75

The negligible recovery even against the accepted cases indicates lack of promptness in recovery of the Government money.

The Government needs to take necessary steps for prompt recovery of the amounts involved, at least in the accepted cases.

1.9.3 Status of compliance to Inspection Reports 2012-13

We conducted test-check of the records of 281 units of commercial taxes, State excise, taxes on vehicles, land revenue, non-ferrous mining and metallurgical industries and other departmental offices during the year 2012-13 and observed underassessment/short levy of revenue of ₹ 1,066.92 crore in 2,673 cases. During the course of the year, the departments concerned accepted underassessment and other deficiencies of ₹ 50.20 crore involved in 288 cases of which 103 cases involving ₹ 10.96 crore were pointed out in audit during 2012-13 and the rest in the earlier years. The departments collected ₹ 70.47 lakh in 29 cases during 2012-13.

1.9.4 This Report

This report contains 41 paragraphs (selected from the audit detections made during the local audit referred to above and during earlier years which could not be included in the earlier reports) including one review on **‘Receipts from Mines and Minerals’** relating to short/non-levy of tax, duty and interest, penalty *etc.* involving financial effect of ₹ 269.74 crore. The departments/Government have accepted audit observations involving ₹ 42.76 crore out of which ₹ 1.80 crore has been recovered. These paragraphs/review are discussed in the succeeding chapters II to VI.

CHAPTER - II

COMMERCIAL TAXES

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	<p>In this Chapter we present few illustrative cases of ₹ 224.67 crore including leviable penalty and interest selected from observations noticed during our test-check of records in 2012-13 relating to non/short levy, non/short realisation, underassessment etc., in the offices of the Commercial Taxes Department, where we found that the provisions of the Acts/Rules were not observed.</p> <p>It is a matter of concern that similar omissions had been pointed out by us repeatedly in the Audit Reports in the past years, but the Department did not take corrective action till we pointed out the same mistakes.</p> <p>We are also concerned that though these omissions were apparent from the records which were made available to us, the Assessing Authorities were unable to detect these mistakes in due course.</p>
Trend of receipts	<p>In 2012-13 the percentage of contribution of receipts from Taxes on Sales, Trade etc. decreased marginally in the total tax receipts of the State in comparison to the 2011-12 which requires to be looked into by the Department.</p>
Internal audit not conducted	<p>During the year 2012-13, the Commercial Taxes Department did not select any unit for internal audit. This shows weakness in the internal control mechanism leading to omissions on the part of AAs, which could not be detected till our audit and consequently there was substantial leakage of revenue.</p>
Impact of audit conducted by us during 2012-13	<p>In the course of audit of the records of 43 units relating to commercial taxes during the year 2012-13, we found underassessment of taxes and other irregularities involving ₹ 688.93 crore in 1,346 cases. The Department accepted underassessment and other deficiencies of ₹ 31.22 crore in 116 cases, of which 16 cases involving ₹ 4.07 crore were pointed out during 2012-13 and the rest in earlier years. An amount of ₹ 19.13 lakh was realised in 17 cases during the period.</p>
Our conclusion	<p>The Department needs to improve the internal control system so that weaknesses in the system are addressed and omissions detected by us are avoided in future.</p> <p>It also needs to take appropriate steps to recover the amount involved, at least in accepted cases.</p>

CHAPTER-II: COMMERCIAL TAXES

2.1 Tax administration

The levy and collection of commercial taxes¹ in the State is governed by the provisions of the following Acts and Rules made thereunder :

- Central Sales Tax (CST) Act, 1956;
- Bihar Value Added Tax (BVAT) Act, 2005;
- Bihar Tax on entry of goods into local areas (BTEG) Act, 1993;
- Bihar Entertainment Tax Act, 1948;
- Bihar Taxation on Luxuries in Hotels Act, 1988;
- Bihar Electricity Duties Act, 1948;
- Bihar Tax on Professions, Trade, Callings and Employments Act, 2011 and
- Bihar Tax on Advertisement Act, 2007.

It is administered by the Commercial Taxes Department which is headed by the Commissioner of Commercial Taxes (CCT). In the exercise of his functions, the CCT is assisted by five Additional Commissioners, three Joint Commissioners of Commercial Taxes (JCCT), 10 Deputy Commissioners of Commercial Taxes (DCCT)/Assistant Commissioners of Commercial Taxes (ACCT) and five Commercial Taxes Officers (CTOs) at the headquarters level including the Bureau of Investigation wing. At the field level the State is divided into nine² administrative divisions, seven³ appeals divisions and four⁴ audit divisions, each headed by a JCCT. The nine administrative divisions are further sub-divided into 49 circles each headed by a DCCT/ACCT assisted by CTOs. The circle is the basic activity centre of the Department.

2.2 Trend of receipts

2.2.1 Taxes on Sales, Trade etc.

The variation between budget estimates (BEs) and actual receipts from Taxes on Sales, Trade etc. during the period 2008-09 to 2012-13 along with the total tax receipts during the same period is mentioned in the following table:

¹ Commercial taxes include Taxes on Sales, Trade etc., Taxes on Goods and Passengers; Taxes and Duties on Electricity; Other Taxes on Income and Expenditure-Taxes on Professions, Trades, Callings and Employment and Other Taxes and Duties on Commodities and Services.

² Bhagalpur, Central, Darbhanga, Magadh, Patna East, Patna West, Purnea, Saran and Tirhut.

³ Bhagalpur, Central, Darbhanga, Magadh, Patna, Purnea and Tirhut.

⁴ Bhagalpur, Magadh, Patna and Tirhut.

Table- 2.1

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts from Taxes on Sales, Trade etc. (col.-3) vis-à-vis total tax receipts (col.-6)
1	2	3	4	5	6	7
2008-09	2,937.72	3,016.47	(+)78.75	(+)2.68	6,172.74	48.87
2009-10	3,948.03	3,839.29	(-) 108.74	(-) 2.75	8,089.67	47.46
2010-11	5,627.69	4,557.18	(-)1,070.51	(-)19.02	9,869.85	46.17
2011-12	6,508.00	7,476.36	(+) 968.36	(+)14.88	12,612.10	59.28
2012-13	8,071.00	8,670.79	(+) 599.79	(+) 7.43	16,253.08	53.35

(Source: Revenue and Capital Receipt (Detail): Finance Accounts, Government of Bihar)

The above table indicates that the percentage of contribution of receipts from Taxes on Sales, Trade etc. decreased marginally in the total tax receipts of the State in 2012-13 in comparison to 2011-12 which requires to be looked into by the Department.

The reasons for variation in BEs and actual receipts during 2012-13 was attributed by the Department to enhancement of rate of tax from 13.5 *per cent* to 20 *per cent* for tobacco and tobacco products and also increase in the rate of tax deducted at source from four to five *per cent*.

2.2.2 Entry tax

The variation between BEs and actual receipts from entry tax during the period 2008-09 to 2012-13 along with the total tax receipts during the same period is mentioned in the following table:

Table- 2.2

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual entry tax receipts (col.-3) vis-à-vis total tax receipts (col.-6)
1	2	3	4	5	6	7
2008-09	825.00	1,279.41	(+)454.41	(+)55.08	6,172.74	20.73
2009-10	1,270.00	1,613.16	(+)343.16	(+)27.02	8,089.67	19.94
2010-11	1,623.76	2,006.32	(+)382.56	(+)23.56	9,869.85	20.33
2011-12	1,940.00	828.30	(-)1,111.70	(-) 57.30	12,612.10	6.57
2012-13	2,800.00	1,932.12	(-) 867.88	(-) 31.00	16,253.08	11.89

(Source: Revenue and Capital Receipt (Detail): Finance Accounts, Government of Bihar)

The above table indicates that there was a large gap in the actual receipts vis-à-vis BEs during 2012-13, which requires to be looked into by the

Department. It may be seen that the percentage of variation ranged between (-) 57.30 *per cent* and (+) 55.08 *per cent* during the period 2008-09 to 2012-13. The percentage of entry tax to total tax revenue which remained around 20 *per cent* during the period 2008-09 to 2010-11 had come down to 6.57 *per cent* during 2011-12 and 11.89 *per cent* during 2012-13.

2.3 Analysis of arrears of revenue

The arrears of revenue in respect of commercial taxes⁵ as on 31 March 2013 amounted to ₹ 1,071.77 crore, of which ₹ 447.34 crore was outstanding for more than five years. The following table depicts the position of arrears of revenue during the period 2008-09 to 2012-13.

Table- 2.3

(₹ in crore)

Year	Opening balance of arrears	Addition during the year	Amount collected during the year	Closing balance of arrears
2008-09	963.83	212.08	168.66	1,007.25
2009-10	1,007.25	463.68	112.15	1,358.78
2010-11	1,358.78	129.07	546.24	941.61
2011-12	941.61	532.99	258.18	1,216.42
2012-13	1,216.42	800.19	944.84	1,071.77

(Source: Information furnished by the Department)

The above table shows that there was substantial increase (265.96 *per cent*) in the collection of arrears of revenue in respect of commercial taxes during 2012-13 as compared to 2011-12. The Department needs to maintain its efforts in realising the arrears of revenue in subsequent years.

2.4 Cost of collection

The gross collection of commercial taxes⁶, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2008-09 to 2012-13 along with the relevant all-India average percentage of expenditure on collection to gross collections for the relevant previous years are mentioned below:

⁵ Arrears of the Commercial taxes Department include arrears pertaining to Taxes on Sales, Trade etc., Taxes on Goods and Passengers; Taxes and Duties on Electricity and Other Taxes and Duties on Commodities and Services.

⁶ Gross collection by the Commercial taxes Department include Taxes on Sales, Trade etc., Taxes on Goods and Passengers; Taxes and Duties on Electricity; Other Taxes on Income and Expenditure-Taxes on Professions, Trades, Callings and Employment and Other Taxes and Duties on Commodities and Services.

Table- 2.4

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the previous year
2008-09	4,377.92	46.67	1.07	0.83
2009-10	5,541.00	48.84	0.88	0.88
2010-11	6,653.37	57.23	0.86	0.96
2011-12	8,414.43	66.17	0.79	0.75
2012-13	10,771.40	78.86	0.73	0.83

(Source: Finance Accounts, Government of Bihar)

The above table indicates that the percentage of expenditure to gross collection in respect of commercial taxes revenue during 2009-10 to 2012-13 were at par/below the all-India average percentage for the previous years, except in 2011-12. The Government/Department should ensure to keep the cost of collection below the all-India average in the subsequent years also.

2.5 Assessee profile

As reported by the Department the total number of registered dealers in the State as on 31 March 2013 was 2,32,897 of which 60,037 dealers were taxpayers. Out of 2,32,897 dealers, 86,113 dealers were not filing returns, against whom action under Section 24(8) of BVAT Act, 2005 has been taken.

2.6 Analysis of collection

The break-up of the total collection at the pre-assessment stage/scrutiny and after regular assessment/scrutiny of Taxes on Sales, Trade *etc.* during the year 2012-13 and the corresponding figures for the preceding four years as furnished by the Commercial Taxes Department is mentioned in the following table:

Table- 2.5

(₹ in crore)

Year	Amount collected at pre-assessment stage/scrutiny	Amount collected after regular assessment/scrutiny	Penalty for delay in payment of taxes and duties	Amount refunded	Net collection as per Finance Accounts	Percentage of column 2 to 6
1	2	3	4	5	6	7
2008-09	3,049.18	54.22	1.04	38.92	3,016.47	101.08
2009-10	3,793.15	50.25	1.40	19.86	3,839.29	98.80
2010-11	4,564.98	25.81	2.24	10.80	4,557.18	100.17
2011-12	5,556.18	186.65	2.08	36.99	7,476.36	74.32
2012-13	7,181.73	282.90	9.30	129.84	8,670.79	82.83

(Source: Finance Accounts, Government of Bihar and information furnished by the Department)

The percentage of tax collected before assessment/scrutiny during 2008-09 to 2012-13 reflects voluntary compliance with the provisions of the Acts/Rules by the dealers.

2.7 Working of internal audit wing

The internal audit wing called Finance (Audit), works under the Finance Department. The internal audit of the different offices of the Government is conducted on the basis of requisitions received from the administrative departments. The Chief Controller of Accounts can also select units for internal audit on availability of audit team. The Finance Department did not conduct internal audit of the Commercial Taxes Department during 2012-13. In Commercial Taxes Department, there were four audit divisions responsible for ascertaining the correctness of accounts maintained by the dealers selected by the CCT. In 2012-13, the Department did not select any unit for internal audit.

2.8 Impact of audit

2.8.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

In the Audit Reports for the years 2007-08 to 2011-12, we have pointed out audit observations involving ₹ 2,740.60 crore in respect of receipts from Commercial taxes. The Department/Government accepted cases involving ₹ 976.05 crore, of which an amount of ₹ 3.61 crore only was recovered till 31 March 2013 as mentioned in the following table:

Table- 2.6

(₹ in crore)

Year of Audit Report	Amount involved in the Audit Report	Amount accepted	Amount recovered
2007-08	153.70	105.74	0.07
2008-09	619.83	614.97	0.78
2009-10	841.96	62.48	0.42
2010-11	863.33	134.02	2.34
2011-12	261.78	58.84	Nil
Total	2,740.60	976.05	3.61

The negligible recovery of ₹ 3.61 crore (0.37 *per cent*) against accepted cases involving ₹ 976.05 crore indicates lack of promptness on the part of the Government/Department in recovering the Government dues.

2.8.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period from 2007-08 to 2011-12, we have pointed out non/short levy, non/short realisation, underassessment of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation *etc.*, through our inspection reports, with revenue implication of ₹ 4,123.31 crore⁷ in 3,997 cases in respect of Commercial Taxes. Of these, the Department/Government had accepted audit observations in 1,231 cases involving ₹ 1,426.52 crore which also include the cases pointed

⁷ Figures include the data relating to Taxes on sales, trade etc. Entry tax and Entertainment tax.

out by us during earlier years. The recovery, however, was just ₹ 3.98 crore as shown in the following table:

Table- 2.7

(₹ in crore)

Year	No. of units audited	Pointed out		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2007-08	36	540	245.58	70	2.64	8	0.14
2008-09	41	445	433.50	41	377.94	19	0.10
2009-10	36	882	1,263.56	806	920.97	113	0.64
2010-11	48	1,106	1,622.53	136	57.98	121	0.86
2011-12	40	1,024	558.14	178	66.99	45	2.24
Total	201	3,997	4,123.31	1,231	1,426.52	306	3.98

This negligible recovery of ₹ 3.98 crore (0.28 *per cent*) against accepted cases involving ₹ 1,426.52 crore indicates lack of promptness on the part of the Government/Department in recovering the Government dues.

We recommend that the Government may take appropriate steps to recover the amounts involved, at least in the accepted cases.

2.8.3 Status of compliance to Inspection Reports 2012-13

In the course of audit of the records of 43 units relating to commercial taxes during the year 2012-13, we found underassessment of taxes and other irregularities involving ₹ 688.93 crore in 1,346 cases which fall under the following categories:

Table- 2.8

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
A : Taxes on Sales, Trade etc.			
1.	Suppression of turnover taxes	159	107.36
2.	Excess allowance of Input Tax Credit (ITC)	72	16.01
3.	Irregular allowance of exemption from tax	235	78.40
4.	Application of incorrect rates of tax	104	56.21
5.	Non-levy/short levy of tax	16	1.26
6.	Underassessment of Central Sales Tax (CST)	18	1.17
7.	Irregular allowance of concessional rate of tax	6	0.48
8.	Short levy of tax due to incorrect determination of turnover	8	0.38
9.	Non-levy of penalty for excess collection of tax/mistake in computation	9	0.96
10.	Non-levy of purchase tax	6	0.34
11.	Other cases	497	79.01
Total		1,130	341.58

B : Entry Tax			
1.	Non/short levy of entry tax due to suppression of import value	44	55.23
2.	Application of incorrect rate of entry tax	18	55.50
3.	Other cases	126	82.75
Total		188	193.48
C : Entertainment tax/Luxury tax			
1.	Non/short levy of entertainment tax	12	1.30
2.	Non/short levy of luxury tax	3	1.03
3.	Other cases	8	0.32
Total		23	2.65
D : Electricity Duty			
1.	Irregular allowance of exemption of Electricity Duty	1	149.36
2.	Non/short levy of Electricity Duty	1	0.81
3.	Other cases	3	1.05
Total		5	151.22
Grand total		1,346	688.93

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 31.22 crore in 116 cases, of which 16 cases involving ₹ 4.07 crore were pointed out during 2012-13 and the rest in earlier years and an amount of ₹ 19.13 lakh was realised in 17 cases which were pointed out between 2008-09 and 2011-12.

A few illustrative cases involving tax effect of ₹ 224.67 crore are mentioned in the following paragraphs.

2.9 Non-compliance of the provisions of the Acts/Rules

The provisions of the Bihar Value Added Tax (BVAT) Act, 2005, Central Sales Tax (CST) Act, 1956, Bihar Tax on Entry of Goods into local areas (BTEG) Act, 1993, Bihar Taxation on Luxuries in Hotels Act, 1988, Bihar Electricity Duty Act, 1948 and Rules made thereunder require levy and payment of:

- *taxes on sales, trade etc., entry tax and surcharge, luxury tax, electricity duty etc. by the dealers at the appropriate rates;*
- *penalty at the rate of three times of the tax assessed on escaped turnover in case of concealment of sales/purchases; and*
- *interest at the rate of one and a half per cent for each calendar month or part thereof for delay in payment of tax.*

Non-compliance of the provisions of the Acts/Rules/instructions in some cases as mentioned in paragraphs 2.10 to 2.30 resulted in non/short levy, underassessment of tax, incorrect exemption/deductions etc. of ₹ 224.67 crore which is indicative of absence of adequate controls in the Department.

A : Taxes on Sales, trade etc.

2.10 Suppression of turnover

Under Section 31 (2) of the Bihar Value Added Tax (BVAT) Act, 2005, if the Assessing Authority (AA) is satisfied that any turnover liable to tax under the Act has been underassessed/escaped assessment, he shall assess or reassess the tax payable within four years and shall impose, besides tax and interest, penalty equivalent to three times the tax payable on escaped turnover.

Further, under the provision of Section 25 (1) of the BVAT Act, the prescribed authority shall, within the time and the manner prescribed, scrutinise every return filed under sub-sections (1) and (3) of Section 24 for the purpose of ascertaining that (a) calculations arithmetically accurate; (b) the output tax, input tax, tax payable and interest payable, if any have been computed correctly and properly, (c) the rates of tax have been applied correctly, (d) evidence, as prescribed, has been furnished with regard to payment of tax and interest payable, if any; and (e) the deductions claimed therein are substantiated in the manner and form prescribed under the Act or under any other law for the time being in force.

Under the provisions of Section 35 (1) (e) of the BVAT Act, 2005, a dealer is liable for deduction of the value of goods sold but returned to the dealer within a period of six months from the date of the original sales and in respect of which the selling dealer has issued to the purchasing dealer a credit note as specified in Section 53 of the Act *ibid*.

We observed that the scrutiny provision did not provide specifically for verification of the turnover as disclosed in the returns with other records of the dealer like utilisation statements of road permits, declaration forms as well as Tax Audit Report (TAR) or information of sales and purchases obtained from the records of other dealers while scrutinising the returns.

We observed between February 2012 and March 2013 in six Commercial Taxes circles⁸ that nine dealers (assessed: 1, scrutinised: 2 and self assessed: 6), out of 3,454 dealers whose records were test checked, purchased/sold goods of ₹ 262.73 crore during the period between 2009-10 and 2010-11 as shown in their utilisation statements of road permits (D-IX⁹), statements of declaration form 'C'¹⁰, Tax Audit Report¹¹ (TAR) and annual return furnished under Entry Tax Act. They, however, accounted for ₹ 220.20 crore only in

their annual returns thereby suppressing sale/purchase of goods worth ₹ 42.53

⁸ Nawada, Patna Central, Patna City West, Patna Special, Patna West and Saran.

⁹ D-IX- Road permit declaration used to import/purchase the goods for value of ₹ 10,000 or more from outside the State. This accompanies with the goods carrier.

¹⁰ Form C- Used to purchase goods at concessional rate in the course of inter-State trade and commerce.

¹¹ TAR- Every dealer having gross turnover of ₹ One crore and above is required to submit TAR certified by a Chartered Accountant before the stipulated date.

crore. As the Department had not issued any instruction for cross checking the information, the Assessing Authorities (AAs) could not detect the suppression of turnover. This indicates absence of adequate control mechanism in the Department which resulted in underassessment of tax of ₹ 18.07 crore including penalty of ₹ 12.51 crore and leviable interest of ₹ 1.39 crore as detailed in **Annexure –I**. A few illustrative cases are given below:

Table- 2.9

(₹ in lakh)

Sl. No.	Name of circle No. of dealers	Period	Actual purchase Accounted for	Actual sale Accounted for	Amount suppressed	Tax Penalty	Interest	Total
1.	Patna City West 1	2009-10	<u>5,551.18</u> 4,037.40	—	1,513.78	<u>189.22</u> 567.67	59.60	816.49
2.	Patna Special 3	2010-11	<u>4,747.03</u> 3,466.51	<u>6,722.28</u> 6,602.70	1,400.11	<u>164.08</u> 492.24	56.61	712.93
3.	Nawada 2	2010-11	—	<u>2,329.60</u> 1,655.37	674.24	<u>28.71</u> 86.13	7.34	122.19

After we pointed this out, the AA of Patna Special circle stated (July 2013) in one case, that the dealer had claimed and availed deduction on account of sales return of ₹ 28.08 lakh (within six months) and not ₹ 119.58 lakh (beyond six months: ₹ 91.50 lakh and within six months: ₹ 28.08 lakh) as claimed in audit. The reply is not in consonance with the fact that the dealer had actually admitted his gross turnover after deducting the value of sales return within/beyond six months amounting to ₹ 119.58 lakh and further claimed and availed deduction of ₹ 28.08 lakh and then admitted the tax accordingly. Thus the dealer had suppressed a sum of ₹ 119.58 lakh for which he was liable to pay tax. This fact was also not detected by the AA while doing the re-assessment in July 2013. Reply in remaining cases has not been received (November 2013).

In reply to similar issue pointed out in paragraph 2.4 of the Audit Report (Revenue Sector) for the year ended March 2012, the Department had stated that in some cases demand has been raised. The nature of lapses/irregularities are still persisting which shows ineffectiveness of the Internal Control System of the Department to prevent recurring leakage of revenue.

The matter was reported to the Government between March and July 2013; we are yet to receive their reply (November 2013).

2.11 Short levy of tax due to application of incorrect rate of tax

Under the provision of Section 25 (1) of the BVAT Act, the prescribed authority shall, within the time and the manner prescribed, scrutinise every return filed under sub-sections (1) and (3) of Section 24 for the purpose of ascertaining that the rates of tax have been applied correctly.

Further, under the provision of Section 31 (2) and 39 (4) of the BVAT Act, penalty equivalent to three times of the tax payable and interest at the rate of one and a half *per cent* per month are leviable if the dealer fails to disclose full and correct particulars of sale so as to reduce the amount of tax payable.

We observed in 17 Commercial Taxes circles¹² between February 2012 and April 2013 that 24 dealers (scrutinised: 2 and self-assessed: 22) assessed their tax at the lower rate of zero to four *per cent* on the sale of various goods valued at ₹ 270.24 crore instead of the correct rate of four to 12.5 *per cent* during 2008-09 to 2010-11. Due to non/deficient scrutiny, the application of incorrect rate of tax remained undetected by the AAs resulting in short levy of tax of ₹ 56.81 crore including interest of ₹ 4.38 crore and leviable penalty of ₹ 39.32 crore as detailed in **Annexure –II**. A

few illustrative cases are given below:

Table- 2.10

(₹ in lakh)

Sl. No.	Name of circle No. of dealer	Period	Sale value	Commodity	Rate leviable/ levied (in <i>per cent</i>)	Short levy Penalty	Interest	Total
1.	Patliputra 2	2009-10, 2010-11	19,697.85	Diesel Road Roller, Rice and Wheat.	12.5/4 1+3(AT)/0	846.70 2,540.10	279.41	3,666.21
2.	Patna Special 6	2008-09, 2009-10, 2010-11	3,038.75	Medikar shampoo, Olive oil & Sauce, Road marking paints, Jaljeera Medicines, Liv-52	12.5/ MRP 12.5/4 4/0	152.56 457.68	59.81	670.05
3.	Gandhi Maidan 1	2010-11	1,709.00	Ply boards	12.5/4	145.27 435.80	37.04	618.11
4.	Forbesganj 1	2009-10, 2010-11	826.12	Bed Misiles	12.5/4	70.22 210.66	22.76	303.64

After we pointed this out, the AA/Joint Commissioner (Administration) accepted the audit observation between September 2012 and October 2013 in respect of nine dealers of six circles¹³ and raised demand for ₹ 19.33 crore. However, in one case of above mentioned Patna Special circle, the AA partially raised the demand by disallowing the claim of the dealer on only five out of 19 products treating them as “Drug and Medicine” and allowed the

¹² Begusarai, Bettiah, Bhagalpur, Danapur, Forbesganj, Gandhi Maidan, Kadamkuan, Muzaffarpur West, Patliputra, Patna Central, Patna City East, Patna City West, Patna South, Patna Special, Patna West, Purnea and Sasaram .

¹³ Begusarai, Forbesganj, Patliputra, Patna Special, Purnea and Sasaram.

claim of exemptions on remaining products. But analysis of the assessment order passed by the AA under Section 33 of the BVAT Act proves that the remaining 14 products sold by the dealer also either contained vitamins or mineral and their intended use is either preventive or curative and thus they are medicines as per Section 3(b) of the “Drugs and Cosmetics Act, 1940” and therefore taxable at the rate of four *per cent* as per entry no. 45 of the Schedule III of the BVAT Act, 2005. We await recovery in the accepted cases and replies in the remaining cases (November 2013).

In reply to similar issue pointed out in paragraph 2.6 of Audit Report (Revenue Sector) for the year ended March 2012, the Department had stated that in some cases demand has been raised. The nature of lapses/irregularities are still persisting which shows ineffectiveness of the Internal Control System of the Department to prevent recurring leakage of revenue.

The matter was reported to the Government between March and July 2013; we are yet to receive their reply (November 2013).

2.12 Excess allowance of Input Tax Credit

Section 16 of the BVAT Act provides that when a registered dealer purchases any input within the State of Bihar from another registered dealer after paying him the tax under Section 14 or Section 4 of the Act, he is eligible to claim credit of input tax in the manner prescribed, if the goods are either sold within the State or in the course of inter-State trade and commerce or consumed in the manufacture of goods (other than Schedule-IV goods) for sale within the State or in the course of inter-State trade and commerce. Further, Section 31 of the Act *ibid* provides for imposition of penalty equivalent to three times of the tax payable for excess/incorrect claim of Input Tax Credit (ITC), besides the amount of interest.

We observed from the returns of 17 dealers (scrutinised: 3 and self-assessed: 14) in nine Commercial Taxes circles¹⁴ between February 2012 and March 2013 that they availed ITC of ₹ 41.32 crore on the purchase of goods valued at ₹ 936.60 crore in their annual returns during the period 2008-09 to 2010-11. However, as per the provision of the Act *ibid*, the dealers were entitled for ITC of ₹ 34.26 crore only on these purchases. Thus, the dealers availed excess ITC of ₹ 7.06 crore. The penalty for the excess claim amounted to ₹ 21.19 crore and interest thereof worked out to ₹ 2.81 crore. The AAs did not detect the excess availing of ITC, even

in the three scrutinised cases which is indicative of non-adherence of the provisions of scrutiny under Section 25 (1) of the BVAT Act. The total revenue impact was ₹ 31.06 crore as detailed in **Annexure –III**. A few illustrative cases are given in the following table:

¹⁴ Kishanganj, Muzaffarpur West, Nawada, Patna City West, Patliputra, Patna North, Patna Special, Saran and Teghra.

Table- 2.11**(₹ in lakh)**

Sl. No.	Name of circle No. of dealers	Period of assessment	Actual entitlement ITC availed	Excess ITC availed	Penalty	Interest	Total
1.	Patna Special 6	2009-10, 2010-11	<u>77.75</u> 381.46	303.71	911.14	148.40	1,363.25
2.	Patliputra 1	2010-11	<u>162.38</u> 521.84	359.46	1,078.37	118.62	1,556.45
3.	Patna City West 4	2008-09, 2009-10, 2010-11	<u>2,837.21</u> 2,852.50	15.29	45.87	5.95	67.11

After we pointed this out, the AA/Joint Commissioner (Administration) accepted the audit observation between September 2012 and October 2013 in respect of four dealers of four circles¹⁵ and raised demand for ₹ 56.41 lakh. We await recovery in the accepted cases and replies in the remaining cases.

In reply to similar issue pointed out in paragraph 2.5 of Audit Report (Revenue Sector) for the year ended March 2012, the Department had stated that in some cases demand has been raised. The nature of lapses/irregularities are still persisting which shows ineffectiveness of the Internal Control System of the Department to prevent recurring leakage of revenue.

The matter was reported to the Government between June and July 2013; we are yet to receive their reply (November 2013).

¹⁵

Nawada, Patna city West, Saran and Teghra.

2.13 Incorrect adjustment of entry tax towards payment of VAT

Under Section 4 (A) of the Bihar Tax on Entry of Goods (BTEG) Act, 1993, if any dealer liable to pay tax under the BVAT Act, by virtue of sale of imported scheduled goods or sale of goods manufactured out of such imported scheduled goods incurs any liability to pay tax at the rate specified under Section 14 of the BVAT Act, his tax liability under the said Act shall stand reduced to the extent of tax paid under the BTEG Act.

Further, in case of a manufacturer the reduction in tax liability shall be allowed to the Small scale, Medium scale and Sick industrial units. Further, in case only a part of the goods manufactured out of the imported scheduled goods is sold within the State of Bihar or in the course of inter-State trade and commerce or in the course of export out of the territory of India, the claim for the reduction in tax liability shall stand proportionately reduced.

The Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 notified by the Government of India laid down the classification of industries on the basis of the investment in plant and machinery.

As per the Bihar Industrial policy, 2006, a small scale industrial unit is an industrial unit in which capital investment has been made up to the limit specified by the Government of India from time to time.

We observed in 12 Commercial Taxes circles¹⁶ between February 2012 and April 2013 that 23 dealers (assessed: 1; scrutinised: 3 and self-assessed: 19) claimed/were allowed entry tax adjustment of ₹ 33.75 crore toward their VAT liability during the period between 2008-09 and 2010-11. Our scrutiny, however, revealed that the dealers were eligible for adjustment of entry tax of ₹ 24.18 crore only because they were not fulfilling the criteria¹⁷ prescribed for availing of the adjustment of entry tax. Thus, the dealers were allowed incorrect adjustment of entry tax of ₹ 9.57 crore. The AAs, however, could not detect the availing of inadmissible adjustments even in the assessed/scrutinised cases. This resulted in excess adjustment of entry tax against VAT payable to the tune of ₹ 12.34 crore including leviable interest of ₹ 2.77 crore as detailed

in **Annexure –IV**.

After we pointed this out, the AA/Joint Commissioner (Administration) accepted the audit observation between September 2012 and October 2013 in respect of six dealers of six circles¹⁸ and raised demand for ₹ 1.16 crore. We await recovery in the accepted cases and replies in the remaining cases.

¹⁶ Bhagalpur, Forbesganj, Muzaffarpur West, Patliputra, Patna City East, Patna City West, Patna North, Patna South, Patna Special, Patna West, Saran (Chapra) and Sasaram.

¹⁷ (i) The goods imported were not re-sold. (ii) The dealers did not belong to small, medium and sick industries, (iii) The rates of VAT was less than the rate of ET and (iv) ET adjusted in full instead of proportionately.

¹⁸ Forbesganj, Muzaffarpur West, Patliputra, Patna South, Patna Special, and Sasaram.

In reply to similar issue pointed out in paragraph 2.7 of Audit Report (Revenue Sector) for the year ended March 2012, the Department had stated that in some cases demand has been raised. The nature of lapses/irregularities are still persisting which shows ineffectiveness of the Internal Control System of the Department to prevent recurring leakage of revenue.

The matter was reported to the Government in May and July 2013; we are yet to receive their reply (November 2013).

2.14 Incorrect allowance of deductions

Under Section 35 of the BVAT Act and Rule 18 of the BVAT Rules, a works contractor is liable for deduction on the items of labour and any other charges such as amount paid to a sub-contractor on account of labour and services, charges for planning, designing and architect fees, charges for obtaining machinery and tools used on hire, cost of consumables, cost of establishment to the extent it is relatable to supply of labour and services, other similar expenses relatable to supply of labour and services, profit earned by the contractor to the extent it is relatable to supply of labour and services and goods or transactions exempted under Section 6 or Section 7 of the BVAT Act.

We observed in 17 Commercial Taxes circles¹⁹ between February 2012 and March 2013 from the returns, assessment order, profit and loss account and statement furnished by 21 works contractors (assessed: 2 scrutinised: 1 and self-assessed: 18) that they availed deductions of ₹ 701.35 crore during the period between 2008-09 and 2010-11, though they were eligible for deduction of ₹ 490.33 crore only. The AAs, however, could not detect the claims of inadmissible deductions even in the assessed/scrutinised cases which is indicative of absence of adequate control mechanism in the Department. This resulted

in short levy of tax of ₹ 13.01 crore calculated on the material component value of ₹ 211.02 crore arrived at by apportioning the above claimed deductions of ₹ 701.35 crore between material and labour and services as detailed in **Annexure –V**.

After we pointed this out, the concerned AA/Joint Commissioner (Administration), accepted the audit observation between September 2012 and October 2013 in respect of eleven dealers of 10 circles²⁰ and raised demand for ₹ 10.46 crore. We await recovery in the accepted cases and replies in the remaining cases.

In reply to similar issue pointed out in paragraph 2.9 of Audit Report (Revenue Sector) for the year ended March 2012, the Department had stated that in some cases demand has been raised. The nature of lapses/irregularities

¹⁹ Bhabhua, Bhagalpur, Forbesganj, Gaya, Hajipur, Jehanabad, Kadamkuan, Motihari, Muzaffarpur East, Patliputra, Patna Central, Patna City East, Patna South, Patna Special, Patna West, Saran and Sasaram.

²⁰ Forbesganj, Hajipur, Kadamkuan, Motihari, Muzaffarpur East, Patliputra, Patna South, Patna Special, Patna West and Sasaram.

are still persisting which shows ineffectiveness of the Internal Control System of the Department to prevent recurring leakage of revenue.

The matter was reported to the Government in July 2013; we are yet to receive their reply (November 2013).

2.15 Incorrect allowance of deduction on account of Bonus sales

As per Section 15(5) of the BVAT Act, notwithstanding anything to the contrary contained in the Act, the State Government may, by notification and subject to such conditions and restrictions and in respect of such goods as may be specified in the notification, permit if any class of registered dealers, being an importer or a manufacturer, to pay, in lieu of the tax payable by him, tax at the rate specified in Section 14 of the BVAT Act on the maximum retail price (MRP) of such goods in the manner prescribed.

The State Government issued notification in May 2006 and allowed the dealers dealing in drugs and medicines to pay tax on MRP of the goods.

We found that the Department did not devise any mechanism to ensure the correctness of tax paid in cases where the dealer had opted to pay tax on the MRP of goods. We further observed that the dealers resorted to issue of medicines free of cost as bonus sale to avoid tax on supply of medicines. An illustrative case is mentioned below.

We observed in March 2013 in Patna Special Commercial Taxes circle that a dealer who had opted to pay tax on the MRP value of goods (Medicine, taxable at the rate of four *per cent on* MRP) sold/supplied medicines of ₹ 96.19 crore, of which medicines of ₹ 30.16 crore

were claimed as tax free bonus sale during the year 2010-11. The AA while scrutinising the case in July 2012 also allowed the claim of the dealer. However, there was no mention (on the available tax invoices placed on the record) to the effect that these medicines shall not be sold out to the consumers. In the absence of such kind of restrictions or any other mechanism there was possibility of further sale of these medicines without levy of tax causing loss to the exchequer.

After we pointed this out, the AA stated (October 2013) that it has judicially been held²¹ by the Hon'ble Patna High Court that quantitative discount which is a trade discount can not be part of the taxable turnover. It may be seen that in the paragraph we had pointed out the possibilities of leakage of revenue in the shape of bonus sale which is different from the trade practice of allowing trade discount. However, in a case of another dealer registered in the same circle, the AA had levied tax on the bonus sale.

The matter was reported to the Government in July 2013; we are yet to receive their reply (November 2013).

²¹ CWJC No. 1900 of 2003, M/s Mapra Laboratories Pvt. Ltd. Vrs State of Bihar and others.

We recommend that the Government may consider devising a mechanism to check leakage of revenue on medicines supplied in shape of bonus sale under MRP scheme.

2.16 Incorrect claim of deduction on export sales

Under the provision of sub-section (1) of Section 5 of the Central Sales Tax (CST) Act, 1956, a sale or purchase of goods shall be deemed to take place in the course of the export of the goods out of the territory of India only if the sale or purchase either occasions such export or is effected by a transfer of documents of title to the goods after the goods have crossed the customs frontier of India. Further, sub-section (5) provides that notwithstanding anything contained in sub-section (1), if any designated Indian carrier purchases Aviation Turbine Fuel (ATF) for the purposes of its international flight, such purchase shall be deemed to take place in the course of the export of goods out of the territory of India. As per the explanation given below sub-section (5), “designated Indian carrier” means any carrier which the Central Government may, by notification in the official Gazette, specify in this behalf.

2.16.1 We observed between January and March 2013 in Patna Special Commercial Taxes circle that two dealers of petroleum products (self assessed) had availed deduction of ₹ 2,930.08 crore in their returns on account of export sales during the year 2010-11. During scrutiny of the returns and the statement of export sales submitted by the dealers, we further noticed that out of the total export sales of ₹ 2,930.08 crore, the dealers had actually sold ATF (taxable at the rate of 29 *per cent*) to various foreign Aircraft/ Airlines valued at ₹ 2.74 crore and availed of deduction on account of export sales. The sales made to any foreign Aircraft/Airlines does not qualify as export sales under

the Act *ibid*. Thus the dealers had incorrectly availed of deduction of ₹ 2.74 crore which remained undetected by the AAs. This resulted in short levy of tax of ₹ 1.05 crore including leviable interest of ₹ 25.66 lakh.

After we pointed this out, the AA/Joint Commissioner (Administration), accepted the audit observation in one case and raised demand for ₹ 46.14 lakh. We await recovery in the accepted case and reply in the remaining case.

The matter was reported to the Government in July 2013; their reply has not been received (November 2013).

2.16.2 Irregular exemption of export sale

Under the provisions of Section 6 of the BVAT Act read with Section 5 of the CST Act, no tax shall be payable on the sale of goods in the course of export of the goods outside the territory of India. As per the circular issued by the Commissioner, Commercial Taxes (CCT), Bihar in 1986 and reiterated in 1991, the claim of exemption is required to be supported by proper documentary evidence viz bills of export.

We observed in Patna Special Commercial Taxes circle in March 2013 that a self-assessed dealer was allowed exemption from levy of tax on the sale of goods valued at ₹ 74.83 lakh in course of export outside the territory of India during the period 2010-11. However, examination of bill of export/custom clearance certificate submitted in support of claim revealed that these were issued in favour of other

dealer. Thus, due to non-scrutiny of the returns, the AA could not detect the deduction availed by the dealer on the ground of bill of export, which was actually issued in favour of the other dealer. This resulted in non-levy of tax of ₹ 4.03 lakh²² including leviable interest of ₹ 1.03 lakh.

After we pointed this out, the AA accepted the audit observation and raised the demand for ₹ 2.99 lakh. We await further development in the case.

The matter was reported to the Government in July 2013; their reply has not been received (November 2013).

²²

Tax at the rate of 4 per cent on ₹ 74,82,722	= ₹ 2,99,308
Interest at the rate of 1.5 per cent on ₹ 2,99,308 (for 23 months)	= ₹ 1,03,261
Total	= ₹ 4,02,570

2.17 Incorrect allowance of concessional rate of tax

Under Section 8 (5) of the CST Act, the Government of Bihar issued a notification in October 2006 prescribing the rate of tax on the inter-State sale of goods manufactured by small and medium industries at one *per cent*. The Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 notified by the Government of India laid down the classification of industries on the basis of the investment in plant and machinery. As per the Bihar Industrial policy, 2006, a small scale industrial unit is an industrial unit in which capital investment has been made up to the limit specified by the Government of India time to time.

The dealer availing this benefit had to produce the declaration in form 'C' to substantiate his claim.

We observed in three Commercial Taxes circles²³ in May 2012 and February 2013 that three dealers (self assessed) were not falling under the category of small or medium industries as per the prescribed parameters²⁴ of investment in plant and machinery between 2009-10 and 2010-11 but they availed the benefit of concessional rate of tax at the rate of one *per cent* on the inter-State sales of ₹ 7.31 crore. Due to non/deficient scrutiny, the AAs could not detect the incorrect availing of concessional rate of tax which resulted in short levy of tax of ₹ 29.99 lakh

including leviable interest of ₹ 7.64 lakh.

After we pointed this out the Joint Commissioner (Administration), Tirhut and Saran Division, Muzaffarpur accepted the fact in May 2013 in one case of Hajipur circle and raised demand for ₹ 17.25 lakh. We await recovery in the accepted case and replies in the remaining cases.

The matter was reported to the Government between May and July 2013; we are yet to receive their reply (November 2013).

²³ Hajipur, Patna city East and Patna North.

²⁴ Micro enterprises : investment in plant and machinery- not exceeding ₹ 25 lakh.
Small enterprises : investment in plant and machinery- more than ₹ 25 lakh but not more than ₹ five crore.
Medium enterprises : investment in plant and machinery- more than ₹ five crore but not more than ₹ 10 crore.

2.18 Non-levy of interest

Under the provisions of sub section (ii) of section 39 (4) of the BVAT Act, 2005 if the prescribed authority finds that any dealer has wrongly declared his turnover or any particulars thereof and thereby has reduced the amount of tax payable under this Act, the dealer shall pay, in addition to the amount of tax assessed under any proceeding, simple interest at the rate of one and a half *per cent* for each calendar month or part thereof on the difference of the amount previously admitted and tax finally assessed from the date the tax would have been payable.

We observed in two Commercial Taxes circles (Patliputra and Patna City East) between March 2012 and February 2013 that three dealers (scrutinised) had admitted their tax at ₹ 18.39 crore during the period between 2009-10 and 2010-11. While finalising the assessment/scrutiny between November 2011 and January 2013, the AAs had levied tax of ₹ 20.57 crore after disallowing the claims of deductions/ payment availed by the

dealers, but did not levy any interest on the differential amount of assessed tax of ₹ 2.18 crore as provided in the Act. Thus, the AAs did not adhere to the provision of the Act *ibid* which resulted in non-levy of interest of ₹ 69.23 lakh.

After we pointed this out the Joint Commissioner (Administration), Central division, Patna accepted the fact in October 2013 in one case of Patliputra circle and since recovered the amount of ₹ 4.26 lakh. We await reply in remaining cases.

The matter was reported to the Government in July 2013; we are yet to receive their reply (November 2013).

2.19 Excess collection of tax

Under the provision of Section 43(2) of the BVAT Act, no registered dealer shall collect from any person any such amount exceeding the amount of tax payable under the Act. Further, Section 43 (3) of the Act *ibid* provides that in case of violation, a sum equal to twice the amount collected in contravention of the provision, is leviable as penalty.

We observed between February 2012 and March 2013 in three Commercial Taxes circles²⁵ that three dealers (self-assessed) had collected and deposited tax of ₹ 9.18 crore during the period between 2008-09 and 2010-11, though their tax liability was ₹ 9.03 crore only during the period. Thus, the dealers had collected excess tax of ₹ 14.81 lakh in

contravention of the provision of the Act *ibid*. Due to not scrutinising the cases the AAs could not detect the excess collection of tax which resulted in non-levy of penalty of ₹ 29.61 lakh.

²⁵

Bhagalpur, Dharbhanga and Patna City West.

After we pointed this out the AA, Patna City East circle accepted the fact in October 2013 and raised demand for ₹ 8.10 lakh in one case. We await recovery in the accepted case and replies in the remaining cases.

The matter was reported to the Government in July 2013; we are yet to receive their reply (November 2013).

2.20 Non/short calculation of reverse credit

Under Rule 15 and 16 of the BVAT Rules, 2005, a manufacturing dealer shall incur reverse credit when he makes inter-State stock transfer of the goods or manufactures Schedule-I goods from inputs other than those specified in Schedule-I. The amount of ITC for which a dealer is entitled will be arrived at after deduction of the reverse credit from the amount of input tax paid on the purchases.

We observed in four Commercial Taxes circles²⁶ between April 2012 and February 2013 from the returns of four manufacturing dealers (assessed: 2 and self assessed: 2) that they either manufactured Schedule-I goods or made interstate stock transfer of taxable manufactured goods during the period between 2009-10 and 2010-11. The inputs for these goods were also purchased from within the State

after paying tax thereon in the State, for which Input Tax Credit of ₹ 2.56 crore was availed of by the dealer. Though the dealers were required to calculate the reverse credit and deduct the same from the total amount of ITC, the reverse credit of ₹ 13.88 lakh was either not calculated or calculated short by the dealers. Even in the assessed cases, the AA could not detect the omission and the two cases remained un-scrutinised which indicates inadequate internal controls in the Department. This resulted in excess allowance of ITC of ₹ 45.13 lakh including leviable penalty of ₹ 28.31 lakh and interest of ₹ 2.94 lakh.

After we pointed this out, the AA, Hajipur accepted the audit observation and raised the demand for ₹ 1.43 lakh and AA, Sasaram has since recovered the amount of ₹ 5.66 lakh while AA, Begusarai stated that the audit had applied the formula mentioned under Rule 16 (2) (b) of BVAT Rules, which is not for the manufacturing unit, it should be calculated on the basis of Rule 15 (2) of the said Rules. The reply is not in consonance with the provisions mentioned under Rule 16 (2) (a) (b) (c) of the said Rules, which clearly mention that notwithstanding anything contained in Rule 14 and Rule 15, every dealer to whom provisions of Rule 15 apply shall, at or before the time of filing of annual return, make a revised computation of the total amount of reverse credit, if any, incurred by him during the year. The revised reverse credit shall be computed in the manner prescribed under Rule 16 (2) (b) and (c). Further Rule 16 (2) (d) prescribes that if the revised reverse credit computed in terms of the provisions of clause (c) of this sub-rule is different from the aggregate of the reverse credit for the entire year computed under sub-rule (1), the dealer shall deposit the amount of difference, in case the revised reverse credit computed in terms of the provisions of clause (c) of this sub-rule exceeds the

²⁶

Begusarai, Hajipur, Patna city East and Sasaram.

aggregate of the reverse credit for the entire year computed under sub-rule (1) and enclose the proof of payment with the annual return.

The matter was reported to the Government in June 2013; their reply has not been received (November 2013).

2.21 Short payment of admitted tax and non-levy of interest for delayed payment

Under the provisions of section 24 of the BVAT Act, 2005, every dealer shall deposit the tax payable in respect of every month on or before the 15th day of the following month, failing which the dealer shall be liable to pay interest at the rate of one and a half *per cent* per month on the amount due from the date the tax was payable and became due to the date of its payment.

Under the provision of Section 25 (1) of the Act *ibid* the prescribed authority shall, within the time (by 31st March of next financial year to which the return relates) and the manner prescribed, scrutinise every return filed under sub-sections (1) and (3) of Section 24 for the purpose of ascertaining that evidence, as prescribed, has been furnished with regard to payment of tax and interest payable.

- We observed in three Commercial Taxes circles²⁷ between February and May 2012 that four dealers (self-assessed) had paid the admitted tax short by ₹ 17.21 lakh during 2008-09 and 2009-10. Though the AAs were required to scrutinise the returns and see the evidence of payment of tax and accordingly issue notice to the dealer, but no scrutiny was found to have been done till the date of audit, which indicates control weakness in the Department. This resulted in non-detection of short payment of the admitted tax of ₹ 33.59 lakh including leviable interest of ₹ 16.38 lakh.

- We observed in two Commercial Taxes circles (Hajipur and Muzaffarpur West) between May 2012 and April 2013 that two dealers (self-assessed) had paid their admitted tax with a delay ranging between three and 798 days during the period 2009-10 and 2010-11. The cases were not scrutinised by the AAs and therefore no interest could be levied by them which resulted in non-levy of interest amounting to ₹ 15.17 lakh.

After we pointed this out the AA/Joint Commissioner (Administration) accepted (between May and October 2013) the audit observations and raised the demand for ₹ 15.17 lakh. We await recovery in both the accepted cases.

In reply to similar issue pointed out in paragraph 2.13 of Audit Report (Revenue Sector) for the year ended March 2012, the Department had stated that in some cases demand has been raised. The nature of lapses/irregularities are still persisting which shows ineffectiveness of the Internal Control System of the Department to prevent recurring leakage of revenue.

²⁷

Danapur, Motihari and Patna City West.

The matter was reported to the Government in May and July 2013; we are yet to receive their reply (November 2013).

2.22 Short levy of tax due to submission of irregular evidence of payment of tax

Under the provision of Section 25(1) of the BVAT Act, the prescribed authority shall, within the time and manner prescribed, scrutinise every return for the purpose of ascertaining among other things, that evidence, as prescribed, has been furnished with regard to payment of tax and interest payable, if any. Rule 29(4) of BVAT Rules, provides that the works contractor from whose bills the deductions have been made shall furnish the portion of the C-II marked "Original" to the assessing authority as evidence of payment of tax by deduction at source along with the return filed under Section 24 of the Act *ibid*.

We observed in Patna Special Commercial Taxes circle in March 2013 that in case of a dealer, the AA had assessed tax of ₹ 5.58 lakh for the year 2010-11 in July 2012. The dealer had produced 'C-II' as evidence of payment of tax deducted by various tax deducting authorities. On scrutiny of the 'C-II', we noticed that two numbers of 'C-II' issued by the East Central Railway, Patna for tax amounting to ₹ 27.73 lakh was actually issued in favour of other dealer. Thus,

the dealer had irregularly claimed adjustment of tax liability of ₹ 27.73 lakh on the basis of those two 'C-II' issued in favour of other dealer which remained undetected by the AA while finalising the assessment. This resulted in short levy of tax of ₹ 27.73 lakh.

In reply to similar issue pointed out in paragraph 2.10 of Audit Report (Revenue Sector) for the year ended March 2012, the Department had stated that demand has been raised. The nature of lapses/irregularities are still persisting which shows ineffectiveness of the Internal Control System of the Department to prevent recurring leakage of revenue.

The matter was reported to the Government in July 2013; we are yet to receive their reply (November 2013).

2.23 Incorrect allowance of deduction on account of sales return

Under the provisions of Section 35 (1) (e) of the BVAT Act, 2005, a dealer is liable for deduction of the value of goods sold but returned to the dealer within a period of six months from the date of the original sales and in respect of which the selling dealer has issued to the purchasing dealer a credit note as specified in Section 53 of the Act *ibid*.

In Hajipur Commercial Taxes circle we observed in May 2012 that a self-assessed dealer had availed deduction of ₹ 80.39 lakh towards sales return during 2009-10. But examination of credit notes submitted by the dealer, it was noticed that the dealer had actually submitted the

credit notes amounting to ₹ 7.32 lakh only in support of his claim. Thus the

dealer was liable to pay tax on the value of goods of ₹ 73.07 lakh. The tax liability on such disallowable claim works out to ₹ 12.42 lakh²⁸ including leviable interest.

After we pointed this out, AA accepted (January 2013) the fact and raised demand for ₹ 12.42 lakh. We await recovery in the case.

The matter was reported to the Government in February and July 2013; their reply has not been received (November 2013).

2.24 Excess availing of rebate

Under the provisions of Section 24 (12) of the BVAT Act, a rebate at the rate of half *per cent* of the amount of tax admitted to be due in the return furnished under sub-section (1), subject to a maximum of ₹ 50,000 in a year, shall be allowed to a registered dealer who has furnished the return within the due dates specified under this Section and has paid such amount in full on or before the date specified for payment of tax under this Section.

In Patna Special circle, we observed in March 2013 that a self-assessed dealer had availed a rebate of ₹ 8.97 lakh in his annual return during 2009-10. The maximum limit prescribed for rebate under Section 24(12) of the BVAT Act was ₹ 50,000. Thus the dealer had claimed excess rebate of ₹ 8.47 lakh which remained undetected by the AA due to not scrutinising the case and therefore the dealer was liable to pay ₹ 12.91 lakh including interest of ₹ 4.44 lakh.

The matter was reported to the Government in July 2013; their reply has not been received (November 2013).

²⁸

Tax at the rate of 12.5 <i>per cent</i> on ₹ 73,06,738	= ₹ 9,13,334
Interest at the rate of 1.5 <i>per cent</i> on ₹ 9,13,334	= ₹ 3,28,799
(for 24 months)	Total = ₹ 12,42,133

B: Entry Tax

2.25 Short levy of entry tax due to suppression of import value

Under the provision of Section 8 of the BTEG Act, read with Section 31(2) of the BVAT Act, if the prescribed authority is satisfied that in respect of any assessment, any sale or purchase of goods liable to tax under the Act, has been under-assessed or has escaped assessment, the prescribed authority shall assess or reassess the tax payable by such dealer within four years. In case of wilful omission by the dealer to disclose full and correct particulars of such sale or purchase or input tax credit, the prescribed authority shall impose, besides the amount of interest payable, penalty equal to three times the amount of tax which escaped assessment. The penalty imposed shall be in addition to the amount of tax on the escaped turnover.

We observed that the scrutiny provision did not provide specifically for verification of the turnover as disclosed in the returns with other records of the dealer like utilisation statements of road permits, declaration forms as well as Tax Audit Report (TAR) or information of sales and purchases obtained from the records of other dealers while scrutinising the returns.

During 2012-13 we conducted test-check in

40 Commercial Taxes circles in which 3,454 cases were test-checked and we observed in nine Commercial Taxes circles²⁹ from the cross-checking of the utilisation of road permits, declaration forms *etc.* with the returns filed by the 12 dealers (scrutinised: one and self-assessed: 11) and observed that the dealers had disclosed import value of scheduled goods³⁰ of ₹ 3,424.56 crore in their returns instead of the actual amount of ₹ 3,644.37 crore as shown in the declaration forms 'C'³¹, 'ET-V'³² etc. and thus suppressed import/purchase of scheduled goods of ₹ 219.81 crore between the period 2008-09 and 2010-11. Absence of a mechanism for such cross-verification coupled with non-scrutiny of the returns (11 out of 12) by the AAs resulted in short levy of entry tax of ₹ 86.88 crore including leviable penalty of ₹ 59.37 crore and interest of ₹ 7.72 crore as detailed in **Annexure-VI**. It also indicates control weaknesses in the Department towards compliance of the provision of the Act/Rules.

After we pointed this out, the AA/Joint Commissioner (Administration), accepted the audit observation between September 2012 and October 2013 in respect of four dealers of four circles³³ and raised demand for ₹ 1.28 crore.

²⁹ Bhabhua, Bhagalpur, Forbesganj, Hajipur, Muzaffarpur East, Nawada, Patna Special, Saran and Shahabad.

³⁰ Scheduled goods means goods specified in the schedule to the BTEG Act, 1993.

³¹ Form C- Used by registered dealers to purchase goods at concessional rate of tax in the course of interstate trade and commerce.

³² ET-V- Annual return prescribed under BTEG Act 1993 to be furnished by the dealer for import of scheduled goods during the year.

³³ Bhabhua, Forbesganj, Hajipur, and Muzaffarpur East.

Information regarding recovery in the accepted cases is still awaited and replies in the remaining cases are yet to be furnished.

Similar issue was pointed out in paragraph 2.14 of the Audit Report (Revenue Sector) for the year ended March 2012. The nature of lapses/irregularities are still persisting which shows ineffectiveness of the Internal Control System of the Department to prevent recurring leakage of revenue.

The matter was reported to the Government in July 2013; we are yet to receive their reply (November 2013).

2.26 Application of incorrect rate of entry tax

Under the provision of Section 3 of the BTEG Act, there shall be levied and collected a tax on entry of scheduled goods into a local area at such rate not exceeding 20 *per cent* of the import value of such goods as may be specified by the State Government in a notification published in the Official Gazette subject to such conditions as may be prescribed, provided different rates for different scheduled goods and different local areas may be specified by the State Government. Further, under the provision of Section 8 of the BTEG Act, read with Section 31(2) of the BVAT Act, penalty equivalent to three times of the amount of tax on escaped assessment and interest at the rate of 1.5 *per cent* per month is also leviable on the amount under-assessed.

During 2012-13 we conducted test-check in 40 Commercial Taxes circle in which 3,454 cases were test-checked and we observed in four Commercial Taxes circles³⁴ that six dealers (self-assessed) imported scheduled goods of ₹ 21.06 crore during the period between 2008-09 and 2010-11 and assessed themselves by admitting the entry tax at rates lower than the prescribed rates in their returns. Though the AAs were required to scrutinise these returns within the prescribed time and verify the correctness of the application of rates, the

same was not done in any of these cases which indicates control weakness in the Department towards compliance of the provision of the Act/Rules. This resulted in underassessment of entry tax of ₹ 3.63 crore including leviable penalty of ₹ 2.51 crore and interest of ₹ 28.44 lakh as detailed in **Annexure -VII.**

After we pointed this out between March 2012 and March 2013 the JCCT (Administration) concerned accepted (between January and August 2013) the facts and stated that demand for ₹ 72.16 lakh had been raised in case of two dealers of Patliputra circle and also reported recovery of ₹ 42.62 lakh in case of two dealers, one each from Patliputra and Muzaffarpur East circle. We await recovery in the accepted cases and replies in the remaining cases.

In reply to similar issue pointed out in paragraph 2.15 of the Audit Report (Revenue Sector) for the year ended March 2012, the Department had stated that demand has been raised. The nature of lapses/irregularities are still

³⁴

Forbesganj, Muzaffarpur East, Patliputra and Samastipur.

persisting which shows ineffectiveness of the Internal Control System of the Department to prevent recurring leakage of revenue.

The matter was reported to the Government in June 2013; we are yet to receive their reply (November 2013).

2.27 Non-levy of entry tax and penalty due to non-registration

Under the provision of Rule 3 of the Bihar Tax on Entry of Goods (BTEG) Rules, read with Section 5 of the BTEG Act, every dealer who is liable to pay tax under the BTEG Act, by virtue of import of scheduled goods, shall make an application for registration to the officer in-charge of the circle within seven days of becoming liable to pay tax under the Act. Further, under the provision of Section 28 of the Bihar Value Added Tax (BVAT) Act, read with Section 8 of BTEG Act, if the prescribed authority is satisfied that any dealer was liable to pay tax and wilfully failed to apply for registration, he shall assess to the best of his judgement, the amount of tax due, if any, and he may direct that the dealer shall pay by way of penalty, in addition to the amount of tax assessed, a sum of rupees one hundred for every day of default or an amount equal to the amount of tax assessed, whichever is higher.

During 2012-13 we conducted test-check in 40 Commercial Taxes circle in which 3,454 cases were test-checked and we observed from the examination of TAR, utilisation statements of declaration forms etc. in nine Commercial Taxes circles³⁵ that 16 dealers (scrutinised: two; self-assessed: 14) registered under the BVAT Act had imported various scheduled goods of ₹ 153.64 crore during 2008-09 to 2010-11. However, they did not get themselves registered under the BTEG Act, though they were liable to do so. The AAs could not detect the fact of non-registration even in the scrutinised cases, though the

information relating to their liability for registration was available with the AAs in the VAT records which indicates slackness of the AAs towards compliance of the provision of the Act/Rules. This resulted in non-levy of entry tax of ₹ 6.61 crore. Besides penalty of ₹ 6.61 crore was also leviable (Annexure -VIII).

After we pointed this out, the AA, Gaya accepted the audit observation and raised the demand of ₹ 3.42 lakh. We await recovery in the accepted case and reply in remaining cases.

The matter was reported to the Government between March and July 2013; we are yet to receive their reply (November 2013).

³⁵

Bhagalpur, Danapur, Gandhi Maidan, Gaya, Madhepura, Nawada, Patna South, Patna West and Purnea.

2.28 Non/short realisation of entry tax

2.28.1 Short realisation of entry tax

Under the provisions of Section 24 of the BVAT Act, read with Section 8 of the BTEG Act every dealer shall deposit the tax payable in respect of every month on or before the 15th day of the following month, failing which the dealer shall be liable to pay interest at the rate of one and a half *per cent* per month on the amount due from the date the tax was payable and became due to the date of its payment.

Under the provision of Section 25 (1) of the BVAT Act read with Section 8 of the BTEG Act the prescribed authority shall, within the time and the manner prescribed, scrutinise every return filed for the purpose of ascertaining that evidence, as prescribed, has been furnished with regard to payment of tax and interest payable.

During 2012-13 we conducted test-check in 40 Commercial Taxes circle in which 3,454 cases were test-checked and we observed in three Commercial Taxes circles³⁶ that three dealers (self-assessed) had admitted their entry tax liability worth ₹ 1.20 crore during 2008-09 and 2010-11 in their annual return, but they actually paid the entry tax of ₹ 48.14 lakh only. The AA did not detect the short payment of admitted tax due to non-scrutiny of the returns within the prescribed time which indicates control weakness in the Department towards compliance of the

provision of the Act/Rules. This resulted in non-realisation of admitted entry tax of ₹ 1.03 crore including leviable interest of ₹ 31.34 lakh.

The matter was reported to the Government in July 2013; we are yet to receive their reply (November 2013).

2.28.2 Non-realisation of entry tax

We observed in Bhabhua Commercial Taxes circle in June 2012 that a dealer (self-assessed) had not admitted his entry tax liability in the return nor paid the entry tax. But examination of utilisation statement of declaration forms revealed that the dealer had actually imported scheduled goods worth ₹ 3.81 crore during 2008-09. The AA did not detect the non-payment of entry tax due to non-scrutiny of the returns within the prescribed time resulted in non-realisation of entry tax of ₹ 47.91 lakh including leviable interest of ₹ 17.39 lakh.

The matter was reported to the Government in July 2013; we are yet to receive their reply (November 2013).

³⁶

Patna City West, Patna Special and Saran.

C : Luxury Tax

2.29 Short levy of Luxury Tax

As per Section 2 (m) of the Bihar Taxation on Luxuries in Hotels Act, 1988, 'Rent' means aggregate of all charges, by whatever called, realised from the occupier of a room in a hotel and includes lodging, boarding or service charges or any sum charged. Section 3 (2) of the Act *ibid* stipulates that the tax on luxuries shall be levied and paid by the proprietor at the rate of 10 *per cent* of the rent of such room or suit of rooms provided with luxuries as carry a rent of rupees one thousand or more per day. Further, Section 10 of the Act *ibid* provides that in case any proprietor fails to pay the tax within the due or extended date, he shall be liable to pay, by way of penalty a sum calculated at the rate of rupees fifty for every day of default or an interest at the rate of two and a half *per cent* of the amount of tax due for every month or part thereof, whichever is higher.

We observed in March 2012 in Patna West Commercial Taxes circle that a dealer had admitted the gross rent received of ₹ 7.46 crore and ₹ 8.11 crore during the period 2008-09 and 2009-10 respectively. On cross-verification of the assessment order/returns with the profit and loss account of the dealer we observed that the dealer had actually received ₹ 8.09 crore and ₹ 8.51 crore respectively during these periods as room rent. Thus the dealer had suppressed ₹ 1.03 crore received as gross rent. The Assessing Authority, while doing the assessment in May 2009 and June 2010, could not detect the suppression of turnover although sufficient evidence was available on the record of the dealer. This resulted in

short levy of Luxury Tax of ₹ 18.05 lakh³⁷ including leviable interest.

The matter was reported to the Government in August 2012; we are yet to receive their reply (November 2013).

³⁷

Calculation of Luxury tax:

(Amount in ₹)

Year	Actual Room rent received as shown in profit and loss account	Amount of Room rent shown in the return	Difference (Suppressed value)	Short levy of Luxury tax at the rate of 10 <i>per cent</i>	Interest leviable	Total
2008-09	8,09,09,675	7,46,15,783	62,93,892	6,29,389	5,50,715	11,80,104
2009-10	8,51,11,895	8,11,45,805	39,66,090	3,96,609	2,28,050	6,24,659
Total	16,60,21,570	15,57,61,588	1,02,59,982	10,25,998	7,78,765	18,04,763

D : Electricity duty

2.30 Irregular allowance of exemption of electricity duty

Section 3(1) of the Bihar Electricity Duty Act, 1948, provides that, subject to the provision of sub-section (2), there shall be levied and paid to the State Government, either on the units or on the value of energy consumed or sold, excluding losses of energy in transmission and transformation, a duty at the rate or rates to be specified by the State Government in a notification. Sub-section (2) provides that no duty shall be leviable on units of energy – (a) consumed by the Government of India, or sold to the Government of India, for consumption by that Government; (b) consumed in the construction, maintenance, or operation of any railway company operating that railway, or sold to that Government or any such railway company for consumption in the construction, maintenance or operation of any railway; (c) consumed by the licensee in the construction, maintenance and operation of his electrical undertaking; (d) consumed by or sold by any class of persons exempted from payment of duty under section 9; (e) consumed by the Damodar Valley Corporation for the Generation, transmission or distribution of electricity by that Corporation; (f) consumed for any purpose which the State Government may, by notification, in this behalf declare to be a public purpose and such exemptions may be subject to such conditions and exemptions if any, as may be mentioned in the said notification.

In Patna Special circle, we observed in March 2013 that a licensee was allowed exemption of ₹ 2,489.29 crore (5617.1847 million units) from payment of electricity duty (ED) during the period from 2006-07 to 2011-12 by the AA while doing the assessments in January 2013. During examination of assessment order as well as the copy of annual accounts and other relevant returns filed by the licensee, we observed that the dealer had availed exemption from the ED in his return on different category of consumers at fixed percentage rather than on the actual energy sold to the aforesaid category of consumers for whom the exemption were provided in the Act *ibid*. The exemptions were allowed by the AA without having any such provision under the Electricity Duty Act or Rules made thereunder for exemptions on the basis of fixed percentage.

Thus, allowance of exemption at fixed percentage, without

obtaining the details of actual sales made to the consumers of category as required in the return's format, by the AA was irregular and hence inadmissible.

The amount of electricity duty involved on such exemptions worked out to ₹ 148.34 crore³⁸.

The matter was reported to the Government in July 2013; we are yet to receive their reply (November 2013).

³⁸

ED leviable at the rate of 6 *per cent* on ₹ 24,23,19,39,850 (4879.0707 mkwh)-
₹ 1,45,39,16,391 (On the value of energy used for other than irrigation)
ED leviable at the rate of 4 paise per unit on ₹ 66,10,05,600(738.114 mkwh)-
₹ 2,95,24,560 (Used for irrigation purpose)
Total – (₹ 1,45,39,16,391 + ₹ 2,95,24,560) = ₹ 1,48,34,40,951

CHAPTER - III

STATE EXCISE

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present few illustrative cases of ₹ 1.21 crore selected from observations noticed during our test-check of records during the year 2012-13 relating to non/short levy, non/short realisation etc., where we found that the provisions of the Acts/Rules/Government notifications were not observed.
Trend of receipts	The percentage of receipts from State Excise increased consistently in comparison to the total tax receipts of the State from 11 <i>per cent</i> to 15.71 <i>per cent</i> during the period from 2008-09 to 2011-12, but decreased during 2012-13 to 14.95 <i>per cent</i> from 15.71 <i>per cent</i> .
Impact of audit conducted by us during 2012-13	<p>In the course of audit of records of 41 units relating to State Excise revenue conducted during 2012-13, we found non/short realisation and other irregularities involving ₹ 46.74 crore in 233 cases.</p> <p>The Department accepted underassessment and other deficiencies of ₹ 10 crore in 88 cases, of which 40 cases involving ₹ 1.91 crore were pointed out during 2012-13 and the rest in earlier years. A sum of ₹ 42.97 lakh in four cases has been recovered which were pointed out during 2012-13.</p>
Our conclusion	<p>The Department needs to improve the internal control system so that weaknesses in the system are addressed and omissions detected by us are avoided in future.</p> <p>It also needs to take appropriate steps to recover the amount involved, at least in the accepted cases.</p>

CHAPTER-III: STATE EXCISE

3.1 Tax administration

The assessment, levy and collection of excise revenue in the State is governed by the provisions of the Bihar Excise (BE) Act, 1915 and Bihar Excise (Settlement of licences for Retail Sale of country/spiced country liquor, Foreign liquor, Beer and Composite liquor Shop) Rules, 2007. It is administered by the Secretary, Department of Registration, Excise and Prohibition (Excise) at the Government level and by the Commissioner of Excise (CE) at the apex level of the Department of Excise and Prohibition. The CE is also the ex-officio Controller of Molasses for the administration and execution of the Bihar Molasses Control Act and Rules. The CE is assisted by one Joint Commissioner of Excise (JCE), one Deputy Commissioner of Excise (DCE) and one Assistant Commissioner of Excise (ACE) at the headquarters level. Further, there is one DCE at each of the four¹ divisional headquarters. At the district level, the Collector of the district is in-charge of the excise administration, assisted by an ACE or by a Superintendent of Excise (SE).

For supply of all types of liquor to retailers of excise shops in the State, the Bihar State Beverage Corporation Limited (BSBCL) headed by a Managing Director was formed in October 2006, to function as an exclusive wholesale depot.

3.2 Budget formulation

According to the Bihar Budget Procedures, the estimates of revenue and receipts should indicate the amount expected to be realised within the year. The arrears and current demands should be shown separately and reasons given, if full realisation cannot be expected and should be based on estimates furnished by the Department. In course of scrutiny of budget files in the office of the Commissioner of Excise, Bihar for the year 2012-13, we observed that the arrear of excise revenue was not taken into consideration while preparing the budget estimates. In reply the Department stated (July 2013) that efforts would be taken for taking arrear of excise revenue in budget estimates from financial year 2014-15.

3.3 Trend of receipts

The variation between budget estimates and actual receipts from State Excise during the period 2008-09 to 2012-13 along with the total tax receipts during the same period is mentioned in the following table:

¹ Bhagalpur-cum-Munger, Darbhanga-cum-Kosi-cum-Purnea, Patna-cum-Magadh and Tirhut-cum-Saran.

Table- 3.1

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts (col.-3) vis-à-vis total tax receipts (col.-6)
1	2	3	4	5	6	7
2008-09	537.69	679.14	(+)141.45	(+)26.31	6,172.74	11.00
2009-10	850.00	1,081.68	(+)231.68	(+)27.26	8,089.67	13.37
2010-11	1,400.00	1,523.35	(+)123.35	(+)8.81	9,869.85	15.43
2011-12	1,790.00	1,980.98	(+)190.98	(+)10.67	12,612.10	15.71
2012-13	2,715.00	2,429.82	(-) 285.18	(-) 10.50	16,253.08	14.95

(Source: Revenue and Capital Receipt, (Detail): Finance Accounts, Government of Bihar)

The above table indicates that the percentage of receipts from State Excise when compared with the total tax receipts of the State increased consistently from 11 per cent to 15.71 per cent during the period from 2008-09 to 2011-12, but decreased during 2012-13 to 14.95 per cent.

3.4 Cost of collection

The gross collection of receipts from State Excise, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2008-09 to 2012-13 along with the all-India average percentage of expenditure on collection to gross collections for the relevant previous years are mentioned in the following table:

Table- 3.2

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All-India average percentage for the previous year
2008-09	679.14	24.15	3.56	3.27
2009-10	1,081.68	44.02	4.07	3.66
2010-11	1,523.35	37.65	2.47	3.64
2011-12	1,980.98	41.24	2.08	3.05
2012-13	2,429.82	42.67	1.76	2.98

(Source: Finance Accounts, Government of Bihar)

The above table indicates that the percentage of expenditure to gross collection in respect of State Excise revenue during 2010-11 to 2012-13 were below the all-India average percentage for the previous year. The Department should ensure that this trend is maintained in the subsequent years also.

3.5 Working of internal audit wing

There is an internal audit wing called Finance (Audit), which works under the Finance Department and internal audit of the different offices of the Government is conducted on the basis of requisitions received from the Administrative Department. The Chief Controller of Accounts can also select units for internal audit on availability of audit team. The Finance Department

did not conduct internal audit of the Registration, Excise and Prohibition (Excise) Department during 2012-13. The Department stated that requisition for conducting internal audit was being made.

3.6 Impact of audit

3.6.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

During the years between 2007-08 and 2011-12, we have pointed out audit observations involving ₹ 291.30 crore in respect of receipts from State Excise through our Audit Reports. The Department/Government accepted cases involving ₹ 11.28 crore, of which an amount of ₹ 0.41 crore only was recovered till 31 March 2013 as mentioned below:

Table- 3.3

(₹ in crore)

Year of Audit Report	Amount involved in the Audit Report	Amount accepted	Amount recovered
2007-08	53.85	Nil	Nil
2008-09	123.57	Nil	Nil
2009-10	105.68	10.72	Nil
2010-11	4.35	Nil	Nil
2011-12	3.85	0.56	0.41
Total	291.30	11.28	0.41

The above table indicates that the recovery was very low (3.63 per cent) as compared to the accepted cases involving ₹ 11.28 crore.

3.6.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period from 2007-08 to 2011-12, we have pointed out through our inspection reports, non/short levy, non/short realisation, loss of revenue etc., with revenue implication of ₹ 1,189.66 crore in 665 cases in respect of receipts from State Excise. Of these, the Department/Government had accepted audit observations in 203 cases involving ₹ 338.34 crore which also include the cases pointed out by us during earlier years and had since recovered ₹ 0.58 crore. The details are shown in the following table:

Table- 3.4

(₹ in crore)

Year	No. of units audited	Pointed out		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2007-08	32	149	149.60	4	0.47	Nil	Nil
2008-09	32	113	223.58	43	31.99	12	0.08
2009-10	39	174	345.92	152	305.42	2	0.04
2010-11	38	95	131.62	Nil	Nil	Nil	Nil
2011-12	24	134	338.94	4	0.46	4	0.46
Total	165	665	1,189.66	203	338.34	18	0.58

This negligible recovery of ₹ 0.58 crore (0.17 *per cent*) against the accepted cases involving ₹ 338.34 crore indicates lack of promptness on the part of the Government/Department in realising the Government dues.

We recommend that the Government may take appropriate steps to recover the amounts involved, at least in the accepted cases.

3.6.3 Status of compliance to Inspection Reports 2012-13

In course of audit of records of 41 units out of 65 auditable units relating to State Excise revenue during the year 2012-13, we found non/short realisation, loss of revenue and other irregularities involving ₹ 46.74 crore in 233 cases which fall under the following categories:

Table- 3.5

Sl. No.	Categories	No. of cases	(₹ in crore) Amount
1.	Non realisation of license fee	8	1.32
2.	Loss due to non/short lifting of MGQ	27	2.31
3.	Loss/wastage of molasses in storage, transit and working	2	13.90
4.	Non/delayed settlement of excise shops	31	17.54
5.	Other cases	165	11.67
Total		233	46.74

During the year 2012-13, the Department accepted underassessment and other deficiencies *etc.* involving ₹ 10.00 crore in 88 cases, of which 40 cases involving ₹ 1.91 crore were pointed out during the course of the year and the rest in earlier years. Further, the Department reported recovery of ₹ 42.97 lakh in four cases which were pointed out during 2012-13.

A few illustrative cases involving tax effect of ₹ 1.21 crore are mentioned in the following paragraphs.

3.7 Non-compliance of the provisions of the Act/Rules

The provisions of the Bihar Excise Act, 1915 and Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor/Foreign liquor/beer and composite liquor shop) Rules, 2007 require:

- *settlement of excise shops through lottery;*
- *payment of licence fee at the prescribed rates as determined by the Government for respective excise shop ;*
- *payment of licence fee within the prescribed period and*
- *cancellation of licence or levy of penalty/fine for breach of any condition of the sale notification of excise shops.*

Non-compliance of the provisions of the Acts/Rules in some cases as mentioned in paragraphs 3.8 to 3.11 resulted in non/short levy, non/short realisation of licence fee etc. of ₹ 1.21 crore. There is need for the Government to improve the internal control system so that such omission can be prevented.

3.8 Defalcation of excise revenue

The condition 14(b) of sale notification (2010-11 and 2011-12) of excise shops provides that the monthly instalment of licence fee specified in the licence and determined by the Government shall be deposited by the licensee in the Government treasury of the district by the 1st day of the month which in any event must be deposited by the 20th day of the month, failing which the licence shall be cancelled and all deposited security amount shall be forfeited and the shop shall be settled to the next applicant.

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

Under provisions of sub para 22 of para 485 of chapter XIV (Appendix-I) of Excise Laws of Bihar Vol.-II, every excise office will maintain a Challan Register in Form-106 and every challan for excise payments presented should be entered in the register after being satisfied of the correctness of the entries therein. The register will be sent to treasury at the end of each day for the signature of the Treasurer. The entries of payments made in other registers should be on production of challan of payments, be also duly compared with the entries made in the challan register, and discrepancies reconciled.

As per Rule 104 of the Bihar Treasury Code, 1937 (Vol.-1), in case of Excise Department, one copy of challan should be sent to District Excise Officer by the treasury concerned.

We scrutinised the Demands, Collections and Balances Register of 32 District Excise Offices and found cases of defalcation in two District Excise Offices as discussed below:

- During test-check of the Demands, Collections and Balances Register for the year 2010-11 and 2011-12 of the District Excise Office, Sitamarhi between November and December 2012, we observed that licence fee of ₹ 4.62 lakh was shown in the demands, collections and balances register as deposited by licensees of three groups of excise shops² during the period between July 2010 and July 2011, but was not found in the treasury schedule under head '0039 – State Excise'. The concerned branch of State Bank of India also confirmed (5 December 2012) that the aforesaid sums

were not found deposited in the bank. Thus the permits were issued against fake and fictitious payments. Further, signature of the Treasury accountant (column no. 35) and signature of the Superintendent of Excise (column no. 36) was not found in the challan register as proof of having checked, which indicated that the District Excise Officer did not verify the genuineness of the challans submitted by the licensees with the treasury records.

²

Group No. 72 (2010-11), Group No.80 (2010-11) and Group No. 56 (2011-12).

After we pointed (5 December 2012) this out, the SE Sitamarhi intimated in April 2013 that at the instance of audit the notices of demands were issued against the defaulter licensees and ₹ 4.62 lakh had since been recovered and deposited (8 December 2012) in the Treasury and the detailed report on action taken against the erring officials had been sent to the Department. Further, the Government stated (August 2013) that the concerned SE was under suspension and departmental action had been initiated against him.

- In course of verification of the Demands, Collections, and Balances Register for the year 2009-10 of the District Excise Office, Madhubani in February 2013, we observed that licence fee of ₹ 15.12 lakh deposited by licensees of three groups of excise shops³ during the period April 2009 to December 2009 was not found deposited in the treasury schedule under head '0039 – State Excise' and two licensees⁴ had paid licence fee short by ₹ 7,970 during October 2009 and March 2010. Thus the permits were issued without ensuring payment of licence fee.

After we pointed (27 February 2013) this out, the Government stated (August 2013) that **at the instance of audit** the SE Madhubani issued the notices of demands against the erring officials/defaulters licensees and entire money had since been recovered and deposited⁵ (between 4 March 2013 and 9 March 2013) in the Treasury. Timely action could not be taken due to delayed receipt of challans from treasury. However, instruction had been issued (August 2013) to all the field offices to take measures for prevention of such occurrence in future in response to the audit observation.

In reply to similar issue pointed out in para no. 3.2.3 of Audit Report (Revenue Sector) 2011-12, the Government had stated that the amount was recovered in Muzaffarpur and FIR was lodged against the defaulting licensees in Patna. The nature of lapses are still persisting which shows ineffectiveness of the internal control system of the Department to prevent recurring leakage of revenue.

Non-verification of the amount deposited by licensees from the records of treasury as well as non-observance of condition of sale notification by the Excise officers resulted in defalcation of Government revenue of ₹ 19.82 lakh. The Department failed to check areas of malfunctioning in the system and could not take appropriate remedial measures which showed non-adherence to the monitoring mechanism.

³ Group No. 107 (2009-10) and Group No.88 and 89 (2009-10).

⁴ Group No. 10 (2009-10) and Group No.7 (2009-10).

⁵ ₹ 79,600: Challan No. 51 Dated 7 March 2013; ₹ 4,77,600: Challan No. 170 Dated 7 March 2013; ₹ 4,77,600: Challan No. 8 Dated 8 March 2013; ₹ 4,77,600: Challan No. 72 Dated 9 March 2013; ₹ 6,000: Challan No. 215 Dated 4 March 2013 and ₹ 1,970: Challan No. 185 Dated 4 March 2013.

3.9 Short realisation of licence fee of excise shops after cancellation

Rule 15 of the Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor/Foreign liquor/beer and composite liquor shop) Rules, 2007 framed under the Bihar Excise Act, 1915 stipulates that after the acceptance of settlement through lottery by the licensing Authority, one twelfth portion of the annual licence fee shall be paid by the settlee as security money and an equal amount shall be deposited by the settlee as advance licence fee which will be adjusted in the last month of the excise year.

Further as per Rule 17 (2) of the Rules *ibid* read with clause 14(b) of condition of sale notification of excise shops, one twelfth part of annual licence fee of each shop shall be deposited by the licensees in the treasury of the district by the first day of the month, which in any event must be deposited by the 20th of the concerned month, failing which the licence shall be cancelled and all deposited security money shall be forfeited.

As per schedule I under Section 3(6) of the Public Demands Recovery (PDR) Act, 1914, the amount due to the Government is required to be paid within the prescribed period. In case of default, the recovery is to be made as arrear of demand and accordingly the dues remaining unpaid and declared as arrear must be recovered by filing certificate case by the Requiring Officer to the Certificate Officer in terms of Section 4 of the PDR Act.

We scrutinised the Settlement files/Register, Demands, Collections and Balances Register and Security Deposit Register of 32 District Excise Offices and observed (between September and December 2012) that in two⁶ districts excise offices, the licences of 12 groups of excise shops were cancelled during the period between January and March 2012 due to non-payment of monthly licence fee. Further, we observed that the shops were cancelled after a delay of two to five months, though it was required to be cancelled latest by the 20th day of the same month of default. Thus, due to delay in cancellation of shops a sum of ₹ 56.60 lakh remained unrealised till date of audit (September and December 2012). No action was found on the

record to be initiated by the excise authorities for realisation of the Government dues, which resulted in short realisation of ₹ 56.60 lakh as detailed in **Annexure –IX**.

After we pointed this out, the Government stated (August 2013) that revenue recovery certificate cases had been instituted against the defaulting licensees in district excise office, Siwan and in district excise office, Gaya forfeited security money of the licensees would be deposited in treasury. The reply of the Department in case of Gaya was not in consonance with the fact that action should have been taken for raising demands against defaulting licensees and initiating revenue recovery certificate cases under the PDR Act, 1914 for realisation of outstanding revenue.

⁶ Gaya and Siwan.

3.10 Undue favour to licensees

3.10.1 Short realisation of revenue due to incorrect adjustment of security money

Rule 15 of the Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor/Foreign liquor/beer and composite liquor shop) Rules, 2007 framed under the Bihar Excise Act, 1915 stipulates that after the acceptance of settlement through lottery by the licensing Authority, one twelfth portion of the annual licence fee shall be paid by the settlee as security money and an equal amount shall be deposited by the settlee as advance licence fee which will be adjusted in the last month of the excise year.

Further, Rule 17 (2) of the Rules *ibid* read with condition 14 (b) of the sale notification of excise shops prescribes that the monthly installment of licence fee shall be deposited by the licensee in the Government treasury by the first day of the month, which in any event must be deposited by the 20th day of the month, failing which the licence shall be cancelled and all deposited security money, shall be forfeited.

During scrutiny of settlement files and Demands, Collections and Balances Register of the office of the Assistant Commissioner of Excise (ACE), Patna for the year 2011-12, we observed (October 2012) that licences of 10 groups of excise shops were cancelled due to non-payment of monthly licence fee during the period between October 2011 and March 2012. Further, we observed that the outstanding dues were adjusted from their deposited advance licence fee as well as from security money. The adjustment of security money of ₹ 44.98 lakh against outstanding dues was in contravention to the provisions of the Rules *ibid*, which stipulates forfeiture of security money in case of cancellation of

excise shops. This resulted in not only short realisation of revenue of ₹ 44.98 lakh but also undue favour to the licensees.

After we pointed this out, the Government stated (August 2013) that the shops were cancelled due to non-payment of monthly licence fees and the shops were settled with the next applicant. However, the Government did not explain the reason for adjustment of outstanding licence fees against security money and non-compliance of condition 14 (b) of the sale notification which prescribes forfeiture of security money.

3.10.2 Irregular issuance of licences

Rule 16 of the Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor/Foreign liquor/beer and composite liquor shop) Rules, 2007 framed under the Bihar Excise Act, 1915 provides that in case of failure to deposit the amount of advance security and the advance licence fee within the prescribed time, the settlement shall stand cancelled and all the deposited security money shall be forfeited.

Further, as per instruction issued (April 2009) by the Commissioner of Excise, the settlee of the excise shop would be treated as holder of licence and advance licence fee is recoverable from the settlee.

We observed between December 2011 and June 2013 from the Settlement files/Register, Demands, Collections and Balances Register and Security Deposit Register for the period 2011-12 in the office of the Assistant Commissioner of Excise (ACE), Gaya that two groups of excise shops (Gr. No. 86 and 113) were settled by accepting partial payment in shape of advance licence fee and security money and licence for one group (Gr. No. 66) was granted

without realising advance licence fee. Further, we observed that licences/settlement for all three groups of excise shops were cancelled in May 2011 and March 2012 due to non-payment of monthly licence fee. Thus settlement of shops/grant of licence without realising the required amount of advance licence fee or without obtaining security money was irregular and not only in contravention to the provisions of the Rules but also undue favour to the licensees. The Department could not realise the revenue of ₹ 3.39 lakh from the licensees as one of them did not pay advance licence fee and remaining two licensees had deposited partial advance licence fee/security money.

After we pointed this out, the Government stated (August 2013) that licence was not issued to settlees of Gr. No. 86 and 113 and settlement was cancelled for not depositing advance licence fee and security money. The reply is not in consonance with the fact that the provisions of the Rules clearly provide that in any case the excise shop should not be settled without realising advance licence fee and security money.

In reply to similar issues pointed out in para no 3.6 of Audit Report (Revenue Receipts), 2003-04, para no 3.4 of Audit Report (Revenue Receipts), 2005-06 and para no 3.6.11.1 of Audit Report (Revenue Receipts), 2009-10, the Government had stated that in most of the cases certificate cases were instituted for recovery of dues. The Government further stated that disciplinary proceedings were initiated against the then Assistant Commissioner of Excise in case of para no. 3.4 of Audit Report (Revenue Receipts), 2006-07. The nature of lapses are still persisting which shows ineffectiveness of the internal control system of the Department to prevent recurring leakage of revenue.

3.11 Non-levy of penalty for delayed deposit of licence fee

The condition 14 (b) of sale notification of excise shops provides that the monthly installment of licence fee shall be deposited by the licensee in the Government treasury of the district by the first day of the month, which in any event must be deposited by 20th of the month, failing which the licence shall be cancelled and the shop shall be settled to the next bidder.

Section 42(b) of Bihar Excise Act, 1915 provides that if any duty or fee payable by the holder thereof is not duly paid, the licensing Authority may cancel the licence, suspend it or impose penalty.

Further, Section 68 of the Act *ibid* stipulates that excise officer may accept from any person whose licence, permit or pass is liable to be cancelled, suspended or imposed penalty on economic offence under clause (a), (b), (d), (e), (f), (g) and (h) of Section 42, payment of a sum of money minimum of ₹ one thousand and maximum ₹ one lakh in lieu of such cancellation, suspension or by way of composition for such offence, as the case may be.

During test-check of Demands, Collection and Balances registers in the three districts excise offices⁷, we observed between August 2012 and April 2013 that out of 384 excise shops, 17 licensees of Composite liquor shops had deposited their monthly license fees of ₹ 1.38 crore for the period between January 2011 and December 2012 with delay ranging between two to 46 days. However, they were required to deposit their monthly licence fee latest by the 20th of each month as per the condition of sale notification. But the licensing authorities neither cancelled/suspended the licence nor imposed penalty on defaulting licensees. Instead they accepted the amount of licence fee

without realising the sums in shape of penalty. Moreover, encouragement to other licensees to make default in payment of revenue cannot be ruled out and thus penalty should have at least been imposed as a deterrent measure.

After we pointed this out, the Government stated (August 2013) that penalty was imposed in cases of district excise offices (Darbhanga and West Champaran) and licences of defaulting licensees in district excise office, Kaimur were not cancelled in the interest of revenue. However, instruction had been issued (August 2013) to all the field offices to take measures for prevention of such occurrence in future in response to the audit observation. But we observed that penalty was imposed in only a few cases in Darbhanga and the Government did not furnish the details of defaulting licensees against whom penalty was imposed in West Champaran. Also, the Department did not take any penal action against defaulting licensees of Kaimur.

⁷

Darbhanga, Kaimur (Bhabhua) and West Champaran (Bettiah).

CHAPTER - IV

TAXES ON VEHICLES

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	<p>In this Chapter we present a few illustrative cases of ₹ 11.36 crore selected from observations noticed during our test-check of records during the year 2012-13 relating to non/short levy, non/short realisation etc. in the district transport offices, where we found that the provisions of the Acts/Rules/Government notifications were not observed.</p> <p>It is a matter of concern that similar omissions had been pointed out by us repeatedly in the Audit Reports in the past, but the Department did not take corrective action till we pointed these out in audit.</p> <p>We are also concerned that though these omissions were apparent from the records which were made available to us, the District Transport Officers were unable to detect these mistakes in due course.</p>
Trend of receipts	<p>In 2012-13, though the collection of taxes on vehicles increased by 4.50 <i>per cent</i> as compared to the budget estimates, the percentage of receipt from taxes on vehicles in the total tax receipt of the State decreased over the previous year.</p>
Impact of audit conducted by us during 2012-13	<p>In the course of audit of records of 39 units relating to taxes on vehicles during the year 2012-13, we found non/short levy, non/short realisation of revenue and other irregularities involving ₹ 15.53 crore in 158 cases.</p> <p>The Department accepted non/short levy, non/short realisation and other deficiencies of ₹ 2.10 crore in 32 cases, of which 27 cases involving ₹ 1.68 crore were pointed out during 2012-13 and the rest in earlier years.</p>
Our conclusion	<p>The Department needs to improve the internal control system so that weaknesses in the system are addressed and omissions detected by us are avoided in future.</p> <p>It also needs to take appropriate steps to recover the amount involved at least in accepted cases.</p>

CHAPTER-IV: TAXES ON VEHICLES

4.1 Tax administration

The levy and collection of taxes on vehicles in the State is governed by the provisions of Motor Vehicles (MV) Act, 1988; Central Motor Vehicles (CMV) Rules, 1989 and the Bihar Motor Vehicle Taxation (BMVT) Act and Rules, 1994. It is administered by the Principal Secretary, Transport Department at the Government level and by the State Transport Commissioner (STC) at the apex level of the Department. In performance of his duties, the STC is assisted by two Joint State Transport Commissioners at the headquarters. The State is divided into nine¹ regions and 38 districts which are controlled by the Secretaries of the Regional Transport Authorities and the District Transport Officers (DTOs) respectively. They are assisted by Motor Vehicle Inspectors (MVIs) in discharging their duties.

4.2 Trend of receipts

The variation between the budget estimates (BEs) and the actual receipts from taxes on vehicles during the period 2008-09 to 2012-13 along with the total tax receipts during the same period is mentioned below:

Table- 4.1

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts (col.-3) vis-à-vis total tax receipts (col.-6)
1	2	3	4	5	6	7
2008-09	256.60	297.74	(+) 41.14	(+) 16.03	6,172.74	4.82
2009-10	355.00	345.13	(-) 9.87	(-) 2.78	8,089.67	4.27
2010-11	550.00	455.43	(-) 94.57	(-) 17.19	9,869.85	4.61
2011-12	537.00	569.13	(+) 32.13	(+) 5.98	12,612.10	4.51
2012-13	644.40	673.39	(+) 28.99	(+) 4.50	16,253.08	4.14

(Source: Revenue and Capital Receipt (Detail): Finance Accounts, Government of Bihar)

The above table indicates that in 2012-13, though the collection of taxes on vehicles increased by 4.50 *per cent* as compared to the budget estimates, the percentage of receipt from taxes on vehicles in the total tax receipt of the State decreased over the previous year except 2010-11.

4.3 Cost of collection

The gross collection of receipts from taxes on vehicles, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2008-09 to 2012-13 along with the all-India average percentage of

¹ Bhagalpur, Darbhanga, Gaya, Katihar, Madhubani, Muzaffarpur, Patna, Purnea and Vaishali.

expenditure on collection to gross collections for the relevant previous years are mentioned below:

Table- 4.2

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the previous year
2008-09	297.74	6.95	2.33	2.58
2009-10	345.13	10.41	3.02	2.93
2010-11	455.43	16.92	3.72	3.07
2011-12	569.13	22.31	3.92	3.71
2012-13	673.39	25.28	3.75	2.96

(Source: Finance Accounts, Government of Bihar)

The above table indicates that during the years 2009-10 to 2012-13, the percentage of expenditure on collection was more than the all-India average percentage for the previous year.

The Government needs to take appropriate measures to keep the percentage of expenditure on collection below the all India average in the coming years.

4.4 Analysis of arrears of revenue

The arrears of revenue in respect of taxes on vehicles as on 31 March 2013 amounted to ₹ 185.47 crore, of which ₹ 113.06 crore was outstanding for more than five years. As reported by the Department (August 2013) the aforesaid sum of ₹ 185.47 crore was under Revenue Recovery Certificate. The following table depicts the position of arrears of revenue during the period 2008-09 to 2012-13.

Table- 4.3

(₹ in crore)

Year	Opening balance of arrears	Addition during the year	Amount collected during the year	Closing balance of arrears
2008-09	113.06	7.68	2.24	118.50
2009-10	118.50	17.84	2.00	134.34
2010-11	134.34	36.05	2.48	167.91
2011-12	167.91	18.55	1.39	185.07
2012-13	185.07	3.17	2.77	185.47

(Source: Information furnished by the Department)

The above table shows that the balance of arrears increased gradually from ₹ 118.50 crore in 2008-09 to ₹ 185.47 crore in 2012-13, which indicates lack of promptness on the part of the departmental officers in realising the Government dues.

The Department needs to take effective steps in realising the arrears of revenue.

4.5 Working of internal audit wing

There is an internal audit wing called Finance (Audit) which works under the Finance Department and internal audit of the different offices of the Government is conducted on the basis of requisitions received from the Administrative Department. The Chief Controller of Accounts can also select units for internal audit on availability of audit team. The Finance Department did not conduct internal audit of the Transport Department during 2012-13. Further the Department stated (July 2013) that efforts would be made to constitute internal audit wing in the Department.

4.6 Impact of audit

4.6.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

During the years between 2007-08 and 2011-12, we have pointed out audit observations involving ₹ 288.21 crore in respect of receipts from Taxes on vehicles through our Audit Reports. The Department/Government accepted cases involving ₹ 129.96 crore, of which an amount of ₹ 5.46 crore only was recovered till 31 March 2013 as mentioned below:

Table- 4.4

(₹ in crore)

Year of Audit Report	Amount involved in the Audit Report	Amount accepted	Amount recovered
2007-08	36.18	33.72	5.43
2008-09	57.68	57.68	Nil
2009-10	20.96	20.39	0.03
2010-11	17.81	17.81	Nil
2011-12	155.58	0.36	Nil
Total	288.21	129.96	5.46

The Government may take appropriate steps to recover the amounts involved, at least in accepted cases.

4.6.2 Status of compliance to Inspection Reports (2007-08 to 2011-12)

During the period from 2007-08 to 2011-12, we had pointed out in our inspection reports, cases of non/short levy, non/short realisation of revenue etc., with revenue implication of ₹ 682.13 crore in 1,146 cases. Of these, the Department/ Government had accepted audit observations in 842 cases involving ₹ 488.25 crore which also include the cases pointed out by us during earlier years and had since recovered ₹ 1.35 crore. The details are shown in the following table:

Table- 4.5

(₹ in crore)

Year	No. of units audited	Pointed out		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2007-08	47	201	141.29	215	142.94	5	0.37
2008-09	46	217	98.30	210	96.04	5	0.98
2009-10	38	310	253.13	295	201.23	Nil	Nil
2010-11	48	198	19.04	64	19.43	Nil	Nil
2011-12	34	220	170.37	58	28.61	2	0.0024
Total	213	1,146	682.13	842	488.25	12	1.35

The low recovery of ₹ 1.35 crore (0.28 *per cent*) against the accepted cases involving ₹ 488.25 crore indicates lack of promptness on the part of the Government/Department in realising the Government dues.

We recommend that the Government may take appropriate steps to recover the amounts involved, at least in accepted cases.

4.6.3 Status of compliance to Inspection Reports 2012-13

In the course of audit of records of 39 units relating to taxes on vehicles during the year 2012-13, we found non/short levy, non/short realisation of revenue and other irregularities involving ₹ 15.53 crore in 158 cases which fall under the following categories:

Table- 4.6

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1	Non-realisation of motor vehicle taxes	22	4.12
2	Non-levy of one time tax on three wheelers at the time of registration	17	1.27
3	Short/Non-realisation of trade tax	18	1.18
4	Short realisation of one time tax from personalised vehicles	9	0.69
5	Non-levy of one time tax on trailers at the time of registration	18	0.76
6	Non-levy of one time tax on Goods carriage at the time of registration	5	0.58
7	Grant of permit to Stage carriages without tax clearance certificate	4	0.79
8	Delivery of vehicles without temporary registration resulted in loss of revenue	4	2.91
9	Other cases	61	3.23
Total		158	15.53

During the period 2012-13, the Department accepted non/short levy, non/short realisation and other deficiencies of ₹ 2.10 crore in 32 cases, of which 27

cases involving ₹ 1.68 crore were pointed out during the course of the year and the rest in earlier years. The Department also reported recovery of ₹ 1.03 lakh in four cases which were pointed out between 2008-09 and 2012-13.

At the instance of audit, the Department recovered an amount of ₹ 56,584 in one case during 2012-13.

A few illustrative cases involving tax effect of ₹ 11.36 crore are mentioned in the following paragraphs.

4.7 Non-compliance of the provisions of the Acts/Rules

The provisions of the Central Motor Vehicles (CMV) Rules, 1989, Bihar Motor Vehicles Taxation (BMVT) Act, 1994, Motor Vehicles (MV) Act, 1988 and Rules made thereunder require levy and payment of:

- *taxes on motor vehicles/additional tax by the vehicle owners at the appropriate rates;*
- *tax/additional tax in advance and within the prescribed period and*
- *penalty up to double the tax, if the tax is not paid within 90 days.*

Non-compliance of the provisions of the Acts/Rules in some cases as mentioned in paragraphs 4.8 to 4.16 resulted in non/short levy, non/short realisation of tax etc. of ₹ 11.36 crore.

VAHAN - An introduction

The Government of India, in order to have a National Register of registered motor vehicles and driving licences and to provide valuable data for the Centre and State security agencies, issued directives to all State Governments to adopt 'VAHAN'² and 'SARATHI'³ softwares. The softwares were developed by the National Informatics Centre (NIC), New Delhi. Apart from the National Register, these softwares were also intended to help develop the State Register of motor vehicles and licences. This computerisation effort was taken up by the State Government under a Central Sector Scheme and was to be implemented through the NIC on behalf of the Ministry of Road Transport and Highways (MoRTH), New Delhi in coordination with State Transport Department.

² An application developed for registration of vehicles and road tax clearance.

³ An application developed for issue of various licences.

4.8 Non-realisation of motor vehicle taxes

Under Section 5 and 9 of the Bihar Motor Vehicles Taxation (BMVT) Act, 1994, motor vehicles tax is to be paid to the taxing officer in whose jurisdiction the vehicle is registered. The vehicle owner can pay the tax to the new taxing officer in case of change of residence/business, subject to the production of No Objection Certificate (NOC) from the previous taxing officer. Further, the taxing officer may exempt the vehicle owner from payment of tax, if he is satisfied that the prescribed conditions have been fulfilled by the vehicle owner. The District Transport Officers (DTOs) are required to issue demand notice to ensure timely realisation of tax.

Further under Rule 4 (2) of the BMVT Rules, 1994, non-payment of tax beyond 90 days attracts penalty at the rate of 200 *per cent* of the tax due. Under Section 22 of the BMVT Act, if the tax or penalty or both has not been paid in accordance with the provisions of the Act, an officer not below the rank of Inspector of Motor Vehicles or any other officer specially authorised by the State Transport Commissioner, may seize the motor vehicles and detain it till the payment of tax.

We observed that the Government / Department did not install a mechanism for periodic review of the taxation registers by the DTOs and also did not prescribe a time frame within which a notice of demands is to be issued to the defaulting vehicle owners.

We scrutinised the taxation registers and the VAHAN database of 29 District Transport offices for the period 2011-12 and found (between July 2012 and March 2013) in 19 District Transport offices⁴ that out of 7,347 transport vehicles test-checked (total number of registered vehicles: 1,34,449), the owners of 671 vehicles did not pay tax of ₹ 1.19 crore pertaining to the period between February

2008 and April 2013 within the due dates and the concerned DTOs neither seized the defaulting vehicles nor initiated action towards realisation of the dues from the defaulting vehicle owners. In none of the cases, change of addresses of the owners or surrender of documents for securing exemption from payment of tax was found on record. This resulted in non-realisation of tax of ₹ 3.48 crore including penalty of ₹ 2.30 crore as detailed in **Annexure-X**. This shows the slackness of the DTOs towards the implementation of VAHAN database as well as weak monitoring mechanism of higher authorities, though we have pointed out repeatedly in the previous years.

After we pointed this out, the Government accepted the audit observations (July 2013) and stated that in 11 DTOs⁵ a sum of ₹ 41.04 lakh had been recovered from 96 vehicle owners, Revenue Recovery Certificates cases

⁴ Arwal, Begusarai, Bettiah (West Champaran), Bhagalpur, Bhojpur, Gaya, Gopalganj, Jehanabad, Madhepura, Madhubani, Motihari (East Champaran), Munger, Muzaffarpur, Nalanda, Patna, Purnea, Sitamarhi, Siwan and Vaishali.

⁵ Arwal, Begusarai, Bettiah, Bhagalpur, Gaya, Gopalganj, Jehanabad, Nalanda, Patna, Sitamarhi and Vaishali.

against 162 vehicle owners were initiated for ₹ 71.04 lakh in eight DTOs⁶ and notice of demands had been issued against 304 vehicle owners for ₹ 1.74 crore in seven DTOs⁷. We await further report in the cases and reply in remaining cases (November 2013).

Mention was made in Audit Report (Revenue Receipts) for the year ending 31 March 2008 in paragraph 4.2 titled 'Non-realisation of motor vehicle taxes'. The Department/Government stated that ₹ 4.95 crore has been recovered. The PAC had recommended (August 2013) that recovery procedures made by the Department and results thereof may be intimated. Despite PAC recommendation, no corrective measures have been taken to prevent recurrence of such cases.

4.9 Short realisation of one time tax from trailers

Under Section 5 and 7 of BMVT Act, 1994 as amended by Bihar Finance Act, 8 of 2010 (effective from 09 April 2010), a one time tax (OTT) of ₹ 4,000 shall be payable by all trailers upto 3,000 Kgs registered laden weight and ₹ 6,000 shall be payable by all trailers more than 3,000 Kgs registered laden weight used or kept for use for other than agricultural purpose. The OTT payable by trailers already registered shall be calculated after deducting the tax amount already paid. Previously the tax on trailers having laden weight of 5000 kgs was ₹ 600 per quarter (Road Tax: ₹ 240 and Additional Tax ₹ 360) upto 8 April 2010. Further, under Rule 4(2) of the BMVT Rules, 1994 non-payment of tax within due date attracts penalty ranging between 25 and 200 *per cent* of the tax due.

We scrutinised the taxation register/Tax Clearance Table of the VAHAN database of 29 District Transport offices, for the period 2011-12 and found (between July 2012 and February 2013) in 15 District Transport offices⁸ that out of 5,271 test-checked trailers (total number of registered vehicles: 5,646), the owners of 519 trailers, which were registered between March 2009 and February 2012, did not pay differential tax as per the amended

provisions of the Bihar Finance Act, 8 of 2010. The Department did not update the rate in the VAHAN database as per the amended provisions and DTOs also not verified the payment detail maintained in registers with the VAHAN database. This resulted in short realisation of the OTT of ₹ 63.34 lakh including the leviable penalty of ₹ 44.42 lakh as detailed in **Annexure-XI**.

After we pointed this out, the Government stated (July 2013) that a sum of ₹ 6.04 lakh had been recovered from 47 vehicle owners in eight District Transport offices⁹, Revenue Recovery Certificate proceedings were initiated

⁶ Arwal, Bettiah, Bhagalpur, Gaya, Jehanabad, Nalanda, Sitamarhi and Vaishali.

⁷ Arwal, Begusarai, Gopalganj, Muzaffarpur, Patna, Purnea and Vaishali.

⁸ Arwal, Begusarai, Bettiah, Bhagalpur, Bhojpur (Ara), Jehanabad, Madhepura, Madhubani, Munger, Muzaffarpur, Nalanda, Patna, Purnea, Sitamarhi and Vaishali.

⁹ Arwal, Bettiah, Bhagalpur, Jehanabad, Nalanda, Patna, Sitamarhi and Vaishali.

against 106 vehicle owners for ₹ 14.57 lakh in six District Transport offices¹⁰ and notice of demands had been issued against 233 vehicle owners for ₹ 25.90 lakh in four District Transport offices¹¹. We await further report in the cases and reply in remaining cases (November 2013).

In reply to similar issue pointed out in paragraph 4.4 of the Audit Report (Revenue Sector) 2011-12, the Department had stated that demand had been raised. The nature of lapses/irregularities are still persisting which shows ineffectiveness of the internal control system of the Department to prevent recurring leakage of revenue.

4.10 Short realisation of one time tax from three wheelers

Under Section 5 and 7 of BMVT Act, 1994 as amended by Bihar Finance Act, 8 of 2010 (effective from 9 April 2010), a one time tax (OTT) of ₹ 7,500 and ₹ 5,000 for seven and four seated three wheelers vehicles (excluding driver) respectively shall be levied on all three wheelers up to one year of age at the time of registration for a period of ten years from the date of first registration in the State. The OTT payable by three wheelers already registered shall be calculated after deducting the tax amount already paid and no OTT shall be payable if the vehicle has already paid tax more than ₹ 7,500 and ₹ 5,000, as the case may be. Previously the tax on three wheelers was ₹ 248 per quarter (Road Tax: ₹ 88 and Additional Tax: ₹ 160) upto 8 April 2010.

Further, under Rule 4(2) of the BMVT Rules, 1994 non-payment of tax beyond 90 days attracts penalty at the rate of 200 *per cent* of the tax due.

We scrutinised the taxation registers/Tax Clearance Table of the VAHAN database of 29 District Transport offices for the period 2011-12 and found (between July 2012 and February 2013) in 15 District Transport offices¹², that out of 4,753 test-checked three-wheelers (total number of registered vehicles: 4,811), the owners of 675 vehicles, which were registered between July 2009 and March 2012, did not pay the differential tax as per the amended provisions of the Bihar Finance Act, 8 of 2010. The DTOs did not adhere to the amended provisions of

the Act *ibid* and also not verified the payment detail maintained in registers with the VAHAN database, which resulted in short realisation of the OTT of ₹ 91.43 lakh including the leviable penalty of ₹ 65.33 lakh as detailed in **Annexure-XII**.

After we pointed this out, the Government stated (July 2013) that in six District Transport offices¹³, a sum of ₹ 5.89 lakh had been recovered from 42 vehicle owners, Revenue Recovery Certificate proceedings were initiated

¹⁰ Arwal, Bettiah, Bhagalpur, Jehanabad, Nalanda and Sitamarhi.

¹¹ Begusarai, Muzaffarpur, Patna and Vaishali.

¹² Arwal, Begusarai, Bhagalpur, Bhojpur (Ara), Gopalganj, Jehanabad, Madhepura, Motihari (East Champaran), Munger, Muzaffarpur, Nalanda, Patna, Purnea, Sitamarhi and Vaishali.

¹³ Begusarai, Bhagalpur, Jehanabad, Nalanda, Sitamarhi and Vaishali.

against 155 vehicle owners for ₹ 23.18 lakh in five District Transport offices¹⁴ and notice of demands had been issued against 230 vehicle owners for ₹ 20.64 lakh in four District Transport offices¹⁵. We await further report in the cases and reply in remaining cases (November 2013).

In reply to similar issue pointed out in paragraph 4.5 of Audit Report 2011-12, the Department had stated that demand had been raised. The nature of lapses/irregularities are still persisting which shows ineffectiveness of the internal control system of the department to prevent recurring leakage of revenue.

4.11 Short realisation of one time tax from personalised vehicles

Under Section 7 of BMVT Act, 1994 as amended by Bihar Finance Act, 2011 (effective from 1 April 2011), on personalised vehicles, one time tax (OTT) for the whole life of the vehicle at the rate of five *per cent* of the cost of vehicle (excluding sales tax) shall be levied at the time of registration.

We scrutinised the Registration Register/Tax Clearance Table of the VAHAN database of 29 District Transport offices for the period 2011-12 and found (between August and December 2012) in five District Transport offices¹⁶, that owners of 597

personalised vehicles, which were registered between April 2011 and March 2012, did not pay the differential tax as per the amended provisions of the Bihar Finance Act, 2011. Thus, the DTOs could not adhere to the provisions of the Act *ibid* and accepted the tax prior to date of registration which resulted in short realisation of OTT of ₹ 14.06 lakh.

After we pointed this out, the Government stated (July 2013) that the VAHAN database was programmed to collect registration fees simultaneously with the OTT at the rate applicable on the date of payment and these vehicles were registered on or after 1 April 2011 due to delay in process. The reply was contrary to provisions of Section 7(1) of the BMVT Act 1994 which stipulates that OTT shall be levied at the time of registration at the rate specified.

Similar issue was pointed out in paragraph 4.6 of Audit Report (Revenue Sector) 2011-12. The nature of lapses/irregularities are still persisting which shows ineffectiveness of the internal control system of the department to prevent recurring leakage of revenue.

¹⁴ Arwal, Bhagalpur, Jehanabad, Nalanda and Sitmarhi.

¹⁵ Begusarai, Muzaffarpur, Purnea and Vaishali.

¹⁶ Begusarai, Bettiah, Gopalganj, Muzaffarpur and Siwan.

4.12 Non-realisation of one time tax and penalty from goods carriage vehicles

Under the provision of serial no. 2 of Part-C of Schedule-I of the BMVT Act, 1994 as amended by Finance Act, 2011 (effective from 1 April 2011), One time tax (OTT) of ₹ 7700 for goods carriage vehicles excluding trailers up to 1000 kgs registered laden weight capacity and ₹ 5500 per ton or part thereof exceeding 1000 kgs but not exceeding 3000 kgs of registered laden weight capacity shall be levied at the time of registration for a period of ten years from the date of first registration of such vehicles and in cases of vehicles already registered, the differential tax payable shall be calculated after deducting the tax amount already paid.

Further, in case of delay of payment exceeding 15 days, penalty ranging between 25 per cent to 200 per cent of the tax due is leviable under Section 23 of the Act *ibid* read with Rule 4(2) of BMVT Rules, 1994.

We scrutinised the taxation registers/Tax Clearance Table of the VAHAN database of 29 District Transport offices for the period 2011-12 and found (February and March 2013) in the District Transport offices, Bhojpur (Ara) and Gaya that out of 261 goods carriage vehicles, the owners of 131 vehicles, which were registered between April 2010 and March 2011, did not pay the differential tax as per the amended provisions of the Bihar Finance Act, 2011. The DTOs did not adhere to the amended provisions of the Act *ibid*, 2011 and also not realised the OTT of ₹ 43.29 lakh including penalty of ₹ 28.86 lakh. The Department did not amend the rate in the VAHAN database as per the Bihar Finance Act, 2011.

After we pointed this out, the Government stated (July 2013) that a sum of ₹ 98,619 had been recovered from three vehicle owners and Revenue Recovery Certificate cases were instituted against 94 vehicle owners for ₹ 29.83 lakh in District Transport office, Gaya. We await further report in the cases and reply in remaining cases (November 2013).

4.13 Non-realisation of one time tax and penalty from tractors

Under Section 7 (8) of BMVT Act, 1994 as amended by Bihar Finance Act, 2010 (effective from 9 April 2010) one-time tax (OTT) for the life time of the vehicle shall be levied on tractors used or kept for use for other than agricultural purpose at the rate of one percent of the cost of the vehicle excluding Value Added Tax, provided one-time tax payable by tractors already registered shall be calculated after deducting the tax amount already paid. Previously the tax on tractor was ₹ 100 per annum.

Further, under Rule 4(2) of the BMVT Rules, 1994, non-payment of tax within due date attracts penalty ranging between 25 and 200 *per cent* of the tax due.

We scrutinised the Tax Clearance Table of the VAHAN database of 29 District Transport offices, for the period 2011-12 and found (February 2013) in District Transport Office, Bhojpur (Ara) that out of 500 test-checked tractors, the owners of 60 tractors, which were registered between March 2010 and December 2010, did not pay the differential tax as per the amended provisions of the Bihar Finance Act, 2010. The Department did not update the rate in the VAHAN database as per the amended provisions of the Act *ibid*, and also the DTO did not raise demands

for the tax due against the defaulter vehicle owners, which resulted into non-realisation of OTT of ₹ 7.74 lakh including leviable penalty of ₹ 5.16 lakh.

After we pointed this out, the Principal Secretary stated (July 2013) during discussion that the amnesty policy for tractor and trailer is under active consideration of Department and matter would be taken up with Finance Department. Further, the Government instructed the DTO to take action to recover the dues. We await further development in the case (November 2013).

4.14 Non/short realisation of trade tax from the dealers of motor vehicles

Under Section 6 of the BMVT Act, 1994 and the Rules framed thereunder, tax at an annual rate as prescribed shall be paid by a manufacturer or a dealer in respect of motor vehicles which are in his possession in course of his business as a manufacturer/ dealer.

Non-payment of tax within the due date attracts penalty ranging between 25 and 200 *per cent* of the tax due as provided under Rule 4(2) of the BMVT Rules. Further, the STC in September 2007 instructed all DTOs to initiate legal action for realisation of tax and renewal of trade certificate.

We scrutinised the returns furnished by the manufacturers/dealers and the registration registers of 29 District Transport offices for the period 2011-12 and found (between September and December 2012) in seven¹⁷ District Transport offices, that in case of 12 dealers out of 277 dealers of motor vehicles, trade tax at the prescribed rate was either not deposited or deposited short in respect of 17,544 vehicles (15,961 two wheelers and 1,583 three/four wheelers) possessed by them between the period from April

2009 and March 2012. The DTOs did not examine the correctness of payment of trade tax as per the returns submitted by the dealers. This resulted in non/short realisation of trade tax of ₹ 11.20 lakh including leviable penalty.

After we pointed this out, the Government instructed (July 2013) DTOs to take appropriate action against the dealer or manufacturer to realise the tax. Further, the Government stated (July 2013) that a sum of ₹ 90,900 had been recovered from three dealers in two DTOs (Bettiah and Muzaffarpur), Revenue Recovery Certificate cases were instituted against three dealers for ₹ 3.18 lakh in two District Transport offices (Bettiah and Muzaffarpur) and notice of demands were issued against three dealers for ₹ 4.55 lakh in two DTOs (Purnea and Vaishali). We await further report in the cases and reply in remaining cases (November 2013).

Similar issue was pointed out in paragraph 4.9 of Audit Report (Revenue Sector) 2011-12. The nature of lapses/irregularities are still persisting which shows ineffectiveness of the internal control system of the department to prevent recurring leakage of revenue.

¹⁷ Bettiah (West Champaran), Bhagalpur, Madhepura, Motihari (East Champaran), Muzaffarpur, Purnea and Vaishali.

4.15 Irregular grant of permit to Stage Carriages

Under Section 66 (1) of Motor Vehicles (MV) Act, 1988, no owner of a motor vehicle shall use or permit the use of vehicle as transport vehicle in any public place unless he obtains a permit from Regional or State Transport Authority. Further, the Department had also issued instruction in September 1991 to ensure payment of tax before the issue/renewal of the permits.

We scrutinised (between November 2012 and January 2013) Stage Carriage Registers and files of the office of Regional Transport Authority (RTA), Muzaffarpur and found that permits were granted to 469 stage carriages without ensuring the payment of tax. We further cross-verified the payment of tax of these vehicles with the VAHAN database in five District Transport offices¹⁸ and observed that the

owners of 66 stage carriages had stopped paying tax since the period between July 2001 and September 2011, though the permits were granted to these stage carriages between 2006 and 2012. This shows that RTA could not adhere to the prescribed procedure before granting permit to stage carriages. This resulted in non-realisation of tax of ₹ 5.20 crore including penalty of ₹ 3.45 crore.

After we pointed this out, the Government accepted the audit observation and stated (July 2013) that in District Transport office, Begusarai, Revenue Recovery Certificate case was instituted against one vehicle owner involving ₹ 4.82 lakh and notice of demands against one vehicle owner involving ₹ 94,017 was issued. Further, during discussion (July 2013), the Principal Secretary instructed the RTA, Muzaffarpur to take the matter seriously and submit the reply at the earliest. We await further report in the cases and reply in remaining cases (November 2013).

¹⁸ Begusarai, Motihari (East Champaran), Muzaffarpur, Patna and Vaishali.

4.16 Loss of revenue due to delivery of vehicles without temporary registration

As per Rule 42 of Central Motor Vehicles (CMV) Rules, 1989, no holder of a trade certificate shall deliver a motor vehicle to a purchaser without registration, whether temporary or permanent. Further, Section 43 of the MV Act, 1988 provides that notwithstanding anything contained in Section 40, the owner of a motor vehicle may apply to any registering authority or other prescribed authority to have the vehicle temporary registered in the prescribed manner and for the issue in the prescribed manner of a temporary certificate of registration and a temporary registration mark. The Department vide office order no. 3415 dated 28 July 2009 also made it clear that in accordance with the provision of Section 43 of the MV Act, 1988 the registering authorities shall provide the blocks of the temporary registration numbers to the dealer agencies on their requisition.

We scrutinised owner table of VAHAN database and Registration Registers of 29 District Transport offices for the period 2011-12 and found (between August and October 2012) in three District Transport offices¹⁹ that the holder of trade certificates, delivered 39,476 vehicles (Light Motor Vehicles: 884 and two wheelers: 38,592) to purchaser without allocating temporary registration mark during the period between January 2010 and September 2012. The registering authorities (DTOs) permanently registered the vehicles which were delivered to the purchaser without temporary registration in contravention of the

aforesaid provision of the Act/Rules and departmental order. This resulted in loss of ₹ 35.97 lakh.

After we pointed this out, the Government stated (July 2013) that matter would be discussed and action taken as per rule would be communicated. Further, DTOs Gopalganj and Siwan reported (August and September 2013) that temporary registration has not yet been started. We await further development in the cases (November 2013).

¹⁹ Gopalganj, Siwan and Vaishali (Hajipur).

CHAPTER - V

OTHER TAX RECEIPTS

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	<p>In this Chapter we present few illustrative cases of ₹ 8.64 crore selected from observations noticed during our test-check of records relating to non/short levy, non/short realisation etc., where we found that the provisions of the Acts/Rules/Government notifications were not observed.</p> <p>It is a matter of concern that similar omissions had been pointed out by us repeatedly in the Audit Reports in the past years, but the departments did not take corrective action till we pointed out in audit.</p>
Trend of receipts	<p>Though there was increasing trend in the collection of tax revenue over the previous years, the percentage of contribution of receipts from land revenue in the total tax receipts of the State was gradually decreasing from 1.65 <i>per cent</i> to 1.26 <i>per cent</i> during 2008-09 to 2012-13. Further, the receipts from Stamps and Registration Fees increased from ₹ 716.19 crore in 2008-09 to ₹ 2,173.02 crore in 2012-13 and also the percentage of actual receipts from Stamps and Registration Fees to the total tax receipts is showing an increasing trend from the year 2011-12.</p>
Impact of audit conducted by us during 2012-13	<p>In the course of audit of the records of 83 units relating to Land Revenue during the year 2012-13, we found non/short levy, non/short realisation of revenue and other irregularities involving ₹ 219.50 crore in 629 cases, whereas in case of 39 audited entities relating to Stamps and Registration Fees, we found non/short realisation of revenue and other irregularities involving ₹ 10.76 crore in 108 cases.</p>
Our conclusion	<p>The concerned departments need to improve the internal control system so that weaknesses in the system are addressed and omissions detected by us are avoided in future.</p> <p>It also needs to take appropriate steps to recover the amount involved, at least in the accepted cases.</p>

CHAPTER-V: OTHER TAX RECEIPTS

A: LAND REVENUE

5.1 Tax administration

The levy and collection of Land Revenue is governed under the Acts and Rules¹ and administered by the Revenue and Land Reforms Department in the State. At the apex level the Principal Secretary-cum-Commissioner is the administrative head and assisted by Divisional Commissioners, Collectors, Additional Collectors, Deputy Collectors and Circle Officers in the field. The circle offices are the primary units which are responsible for levy and collection of land revenue.

5.2 Trend of receipts

The variation between budget estimates and actual receipts from Land Revenue during the period 2008-09 to 2012-13 along with the total tax receipts during the same period is mentioned below:

Table- 5.1

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts (col.-3) vis-à-vis total tax receipts (col.-6)
1	2	3	4	5	6	7
2008-09	74.72	101.74	(+) 27.02	(+) 36.16	6,172.74	1.65
2009-10	76.22	123.96	(+) 47.74	(+) 62.63	8,089.67	1.53
2010-11	112.17	139.02	(+) 26.85	(+) 23.94	9,869.85	1.41
2011-12	125.20	167.49	(+) 42.29	(+) 33.78	12,612.10	1.33
2012-13	185.00	205.45	(+) 20.45	(+) 11.05	16,253.08	1.26

(Source: Revenue and Capital Receipt, (Detail): Finance Accounts, Government of Bihar)

The above table indicates that though the collection of land revenue had gradually increased from 2008-09 to 2012-13, the contribution of receipts from Land Revenue in the total tax receipts of the State was gradually decreasing from 1.65 per cent to 1.26 per cent during 2008-09 to 2012-13. The budget estimates had also been continuously less than the actual collection in last five financial years.

The Government/Department needs to take appropriate measures to enhance the contribution of receipts from land revenue in the total tax receipts of the State.

¹ The Bihar Tenancy Act, 1908; Bihar Public Land Encroachment Act, 1956; Bihar Government Estate (*Khas Mahal*) Manual, 1953.

5.3 Analysis of arrears of revenue

The arrears of revenue in respect of receipts from Land Revenue as on 31 March 2013 amounted to ₹ 107.21 crore. The following table depicts the position of arrears of revenue during the period 2008-09 to 2012-13.

Table- 5.2

(₹ in crore)

Year	Opening balance of arrears	Addition during the year	Total arrear	Amount collected during the year	Closing balance of arrears
2008-09	51.69	34.31	86.00	27.21	58.79
2009-10	58.79	40.72	99.51	20.33	79.18
2010-11	79.18	21.12	100.30	22.31	77.99
2011-12	77.99	45.64	123.63	43.76	79.87
2012-13	79.87	89.04	168.91	61.70	107.21

(Source: Information furnished by the Department)

The above table shows that there was lack of promptness in realising the arrears of revenue and it mounted upto more than twice at the end of 2012-13 as compared to the opening balance of arrears of 2008-09.

The Department needs to take effective steps in realising the arrears of revenue.

5.4 Working of internal audit wing

There is an internal audit wing called Finance (Audit), which works under the Finance Department and internal audit of the different offices of the Government is conducted on the basis of requisitions received from the Administrative Department. As informed by the Finance Department (July 2013), 16 requisitions for internal audit were received from the Revenue and Land Reforms Department during 2012-13 and the internal audit was conducted in all cases. The Finance Department further stated that 16 Inspection Reports containing 108 paragraphs involving ₹ 4.80 crore were issued against which only one paragraph had since been settled. However, letters/reminders were issued for settlement of outstanding Inspection Reports/paragraphs and also meeting was being organised.

5.5 Impact of audit

5.5.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

During the years between 2007-08 and 2011-12, we have pointed out non/short levy, non/short realisation of revenue etc., involving ₹ 366.66 crore in respect of receipts from Land Revenue through our Audit Reports. The Department/Government accepted cases involving ₹ 228.86 crore, of which no recovery was effected till 31 March 2013 as mentioned below:

Table- 5.3

(₹ in crore)

Year of Audit Report	Amount involved in the Audit Report	Amount accepted	Amount recovered
2007-08	204.72	204.72	Nil
2008-09	23.88	23.88	Nil
2009-10	Nil	Nil	Nil
2010-11	Nil	Nil	Nil
2011-12	138.06	0.26	Nil
Total	366.66	228.86	Nil

The above table indicates that no recovery in respect of the accepted cases were made, which shows the lack of promptness on the part of the Department in realising the Government dues even in the accepted cases.

5.5.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period from 2007-08 to 2011-12, we have pointed out through our inspection reports, non/short levy, non/short realisation of revenue etc., with revenue implication of ₹ 579.30 crore in 1,004 cases in respect of receipts from Land Revenue. The Department/Government had accepted audit observations in 735 cases involving ₹ 158.37 crore which also include the cases pointed out by us during earlier years and had since recovered ₹ 0.18 crore in 11 cases. The details are shown in the following table:

Table- 5.4

(₹ in crore)

Year	No. of units audited	Pointed out		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2007-08	27	275	254.97	264	49.69	3	0.04
2008-09	59	145	83.08	140	57.37	Nil	Nil
2009-10	61	319	47.85	285	45.50	7	0.14
2010-11	46	125	49.26	1	0.0032	Nil	Nil
2011-12	29	140	144.14	45	5.81	1	0.0005
Total	222	1,004	579.30	735	158.37	11	0.18

The negligible recovery of ₹ 0.18 crore (0.11 *per cent*) even against the accepted cases indicates lack of promptness in recovery of the Government money.

The Government needs to take necessary steps for prompt recovery of the amounts involved, at least in the accepted cases.

B: STAMPS AND REGISTRATION FEES

5.6 Tax administration

The levy and collection of Stamps and Registration Fees in the State is governed by the provisions of the Indian Stamp Act, 1899; the Registration Act, 1908; the Bihar Stamp Rules, 1991 and the Bihar Stamp (Prevention of Under-valuation of Instruments) Rules, 1995. It is administered by the Registration, Excise and Prohibition (Registration) Department headed by the Inspector General, Registration (IGR). The Department functions under the administrative control of the Secretary of the Registration Department who is the chief revenue controlling authority. The IGR is assisted by an Additional Secretary, two Deputy Inspectors General (DIGs) and four Assistant Inspectors General (AIGs) at the Headquarters level. Further, there are nine Assistant Inspectors General at the divisional level. Thirty eight District Registrars (DRs), 38 District Sub Registrars (DSRs) and 83 Sub Registrars (SRs) and 26 Joint Sub Registrars (JSRs) at the districts/primary units are responsible for levy and collection of stamp duty and registration fees.

5.7 Trend of receipts

The variation between budget estimates and actual receipts from Stamps and Registration Fees during the period 2008-09 to 2012-13 along with the total tax receipts during the same period is mentioned below:

Table- 5.5

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts (col.-3) vis-à-vis total tax receipts (col.-6)
1	2	3	4	5	6	7
2008-09	581.02	716.19	(+) 135.17	(+) 23.26	6,172.74	11.60
2009-10	750.00	997.90	(+) 247.90	(+) 33.05	8,089.67	12.34
2010-11	1,215.00	1,098.68	(-) 116.32	(-) 9.57	9,869.85	11.13
2011-12	1,600.00	1,480.07	(-) 119.93	(-) 7.50	12,612.10	11.74
2012-13	1,906.00	2,173.02	(+) 267.02	(+) 14.01	16,253.08	13.37

(Source: Revenue and Capital Receipt, (Detail): Finance Accounts, Government of Bihar)

The above table indicates that the receipts from Stamps and Registration Fees increased from ₹ 716.19 crore in 2008-09 to ₹ 2,173.02 crore in 2012-13 and also the percentage of actual receipts from Stamps and Registration Fees to the total tax receipts is showing an increasing trend from the year 2011-12.

5.8 Cost of collection

The gross collection under Stamps and Registration Fees, expenditure incurred on its collection and the percentage of such expenditure to gross collection during the years 2008-09 to 2012-13 along with the all-India average

percentage of cost of collection for previous years are mentioned in the following table:

Table- 5.6

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the previous year
2008-09	716.19	37.68	5.26	2.09
2009-10	997.90	45.90	4.60	2.77
2010-11	1,098.68	46.58	4.24	2.47
2011-12	1,480.07	43.10	2.91	1.60
2012-13	2,173.02	45.50	2.09	1.89

The above table indicates that during the year 2008-09 to 2012-13, the percentage of expenditure on collection in respect of Stamps and Registration Fees was higher than the all-India average percentage for the previous year.

The Government needs to take appropriate measures to keep the percentage of expenditure on collection below the all-India average percentage in the coming years.

5.9 Impact of audit

5.9.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

During the years between 2007-08 and 2011-12, we have pointed out non/short-levy, non/short-realisation of revenue etc., involving ₹ 3.25 crore in respect of receipts from Stamps and Registration Fees through our Audit Reports. The Department/Government accepted cases involving ₹ 1.43 crore, of which no recovery was effected till 31 March 2013 as mentioned below:

Table- 5.7

(₹ in crore)

Year of Audit Report	Amount involved in the Audit Report	Amount accepted	Amount recovered
2007-08	Nil	Nil	Nil
2008-09	1.09	1.09	Nil
2009-10	1.48	0.34	Nil
2010-11	Nil	Nil	Nil
2011-12	0.68	Nil	Nil
Total	3.25	1.43	Nil

The above table indicates that no recovery in respect of the accepted cases were made, which shows the lack of promptness on the part of the Department in realising the Government dues even in the accepted cases.

5.9.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period from 2007-08 to 2011-12, we have pointed out, through our inspection reports, non/short levy, non/short realisation of revenue etc., with revenue implication of ₹ 50.86 crore in 340 cases in respect of receipts from Stamps and Registration Fees. The Department/Government had accepted audit observations in 266 cases involving ₹ 51.72 crore which also include the cases pointed out by us during earlier years and had since recovered ₹ 0.10 crore in six cases. The details are shown in the following table:

Table- 5.8

(₹ in crore)

Year	No. of units audited	Pointed out		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2007-08	20	11	0.17	4	0.01	1	0.02
2008-09	39	80	33.42	95	31.69	Nil	Nil
2009-10	31	91	5.40	86	5.33	4	0.08
2010-11	30	38	3.02	14	0.79	1	0.0033
2011-12	33	120	8.85	67	13.90 ²	Nil	Nil
Total	153	340	50.86	266	51.72	6	0.10

The negligible recovery of ₹ 0.10 crore (0.19 *per cent*) even against the accepted cases indicates lack of promptness in recovery of the Government money.

The Government needs to take necessary steps for prompt recovery of the amounts involved, at least in the accepted cases.

5.10 Status of compliance to Inspection Reports 2012-13

During the year 2012-13, audit of records of 83 units of Land Revenue and 39 units of Stamps and Registration Fees revealed non/short realisation of revenue and other irregularities involving ₹ 230.26 crore in 737 cases which fall under the following categories:

Table- 5.9

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
A: Land Revenue			
1.	Non-settlement of <i>Sairat</i>	25	2.13
2.	Non-settlement of <i>Khas Mahal</i> Land	4	19.05
3.	Loss of revenue due to non-distribution of GM <i>Khas Mahal</i> Land	21	2.92
4.	Non-eviction/settlement of encroached public land	29	7.95
5.	Non-realisation of <i>Salami</i> and rent due to non-execution of fresh lease	6	134.55
6.	Others	544	52.90
TOTAL		629	219.50

² Out of ₹ 13.90 crore, a sum of ₹ 12.75 crore pertains to earlier years.

B: Stamps and Registration Fees			
1.	Short realisation of Stamp duty and Registration Fees on Development Agreements	1	4.44
2.	Blocking of Government revenue due to non-disposal of referred cases	23	2.96
3.	Blocking of Government revenue due to non-disposal/non-realisation of impounded cases	11	0.32
4.	Blocking of Government revenue due to non-realisation of Stamp fees from finalised referred cases	13	0.43
5.	Other cases	60	2.61
Total		108	10.76
Grand total		737	230.26

(A) During the year 2012-13, the Revenue and Land Reforms Department accepted underassessment and other deficiencies *etc.* involving ₹ 9.53 lakh in four cases, out of which two cases involving ₹ 5.40 lakh were pointed out during the course of the year and the rest during the earlier years.

(B) During the year 2012-13, the Registration, Excise and Prohibition (Registration) Department accepted underassessment and other deficiencies *etc.* involving ₹ 2.35 crore in 25 cases, out of which 12 cases involving ₹ 1.31 crore were pointed out during the course of the year and the rest during the earlier years. An amount of ₹ 7.34 lakh was recovered in four cases which were audited between 2009-10 and 2012-13.

A few illustrative cases involving tax effect of ₹ 8.64 crore are mentioned in the following paragraphs.

5.11 Non-compliance of the provisions of the Acts/Rules

Our scrutiny of the records of the offices of the Assistant/Deputy collectors, Land Revenue and District Registrars/Sub Registrars revealed several cases of non-compliance of the provisions of the Act/Rules and departmental orders as mentioned in the following paragraphs. These cases are illustrative and are based on test-checks carried out by us. Such omissions on the part of the departmental officers are pointed out by us each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system and internal audit.

A: LAND REVENUE

5.12 Non-realisation of revenue due to non-renewal/settlement of *Khas Mahal* land

With the enactment of New *Khas Mahal* Policy, 2011 in Bihar, if a lessee of *Khas Mahal* land fails to renew the lease and discontinue the payment of annual rent for the lease under clause 2(a) of the said policy or violates the terms and conditions of the lease or deviates the purpose of the lease under clause 5(a), he shall be presumed as trespasser and the Government shall give him an offer to make a fresh lease within a stipulated period of 90 days on new terms and conditions with an evidence of notice served to him, failing which the trespasser shall be evicted and the Government shall resume the land and resettle through auction. Further, the period of fresh lease shall be of 30 years and the lessee shall be liable to pay the *salami* equivalent to the current market value of land in addition to annual rent of 2 and 5 per cent of *salami* for residential and commercial use of the land respectively. In case of discontinuance/non-payment of annual rent of lease, the lessee shall be liable to pay double of old annual rent along with interest thereon at the rate of 10 per cent per annum for the period of default.

During test-check of the physical survey report conducted in May-June 2012 and relevant case records of leases relating to *Khas Mahal* land in the office of the Additional Collector (AC), Motihari, we observed in October 2012 that out of 77 leases of Gandhi Nagar area, nine leases expired in 1992 and in one case of Belbanwa (Petrol Pump) lease expired in 1957. Further we found that the lessees of Gandhi Nagar area had either sold the land or transferred the rights without obtaining prior permission from the competent authority thereby violating the terms and conditions of lease. Similarly, the lessee of Petrol pump had

applied for renewal of the lease in December 2010. Despite the clear instructions of the Government, neither the leases were renewed nor the defaulting occupiers could be evicted from the *Khas Mahal* land and also the land was not settled with the present occupiers. Thus, the failure of the Department to renew the leases or to evict the trespassers followed by notices for execution of fresh lease resulted in non-realisation of *salami*³ and rent to the tune of ₹ 1.55 crore. Besides, penal rent and interest was also leviable. Further, the Department had not maintained the complete database of the current and expired leases which could have been the important tool for not only to watch over the illegal possession of *Khas Mahal* land but also in safeguarding the Government revenue. This indicates towards the weak internal control mechanism in the Department.

After we pointed this out, the AC Motihari stated (June 2013) that notices were issued to lessees of Gandhi Nagar area in August 2012 and again in June 2013 for fresh lease and in case of petrol pump the notice was issued in June

³

Salami denotes current market value of the land.

2013 to resettle the land. Further AC Motihari reported (October 2013) that no leases are renewed/fresh lease made by the lessees and further action would be taken after renewal/fresh lease by the lessees. The reply is not in consonance with the provisions of the clause 2(a) and 5(a) of new Khas *Mahal* policy, 2011, where it is clearly mentioned that land should have been immediately freed after lapse of stipulated period of 90 days and action for a fresh lease/renewal was to be initiated instead of issuing another notice in June 2013, which led to undue benefit to the lessees.

Similar issue was pointed out in Para 5.6 of the Audit Report (Revenue Sector) for the year ended March 2012 but no corrective action was taken by the Department/Government.

The matter was reported to the Government/Department in July 2013; their reply has not been received (November 2013).

5.13 Short realisation of bid amount of *Sairat*

As per the departmental circular dated 27 September 1967 under the Bihar Estate (*Khas Mahal*) Manual, 1953, 50 *per cent* of bid amount of *Sairat* shall be realised at the time of settlement and another 50 *per cent* shall be realised in two installments prior to two months before the end of the *Sairat* period. If the settlee fails to do so, the action for resettlement of *Sairat* shall be taken through fresh bid.

During scrutiny of *Sairat*⁴ Register and related files relating to *Sairat* for *hat/bazaars* and *ghats* maintained in the office of the AC, Gopalganj for the year 2002-03 to 2011-12, we found in January 2013 that settlees of all 41 *Sairats* which were settled during the years 2009-10 to 2011-12 had paid a sum of ₹ 59.14 lakh only against the bid amount of ₹ 1.16 crore. Neither any efforts were taken for resettlement of *Sairat* nor the balance amount of ₹ 57.07 lakh were realised from the

settlee. Thus due to slackness of the concerned authority towards the implementation of departmental circular resulted in short realisation of ₹ 57.07 lakh. Non-realisation of the balance amount within the stipulated period indicates that the department lacks the monitoring mechanism towards the realisation of Government dues.

After we pointed this out, the Collector, Gopalganj accepted the facts and stated (January 2013) that necessary action for realisation of dues would be taken after updating the records of settled *Sairats*. Further the AC, Gopalganj reported (October 2013) that a sum of ₹ 32.96 lakh was recovered fully/partially from 28 cases. We await recovery in the remaining cases.

The matter was reported to the Government/Department in June 2013; their reply has not been received (November 2013).

⁴ *Sairat* means the income derived by leasing out Fisheries, Hats, Melas, Toddy Mahals, Ferry rights etc.

5.14 Non-realisation of Stamp duty and Registration fees on executed deeds of *Sairat*

As per the Notices inviting for settlement of *Sairat* of Rajgir *Malmas Mela* and sanction order issued by the Revenue and Land Reforms Department, Bihar, the executed deeds shall be registered and Stamp duty at the rate of three *per cent* and Registration fee at the rate of four *per cent* on the value of settlement of *Sairat* shall be levied and collected accordingly from the settlees. Further as per the condition of the Notices inviting for settlement, the agreement should be registered before issue of *Parvana* to the highest bidder at his own cost.

During scrutiny of *Sairat* Register and related files of different *Sairat* of the office of the Circle Officer, Rajgir (Nalanda) for the year 2004-05 to 2011-12, we found in March 2013 that the *Sairat* of Rajgir *Malmas Mela*⁵ were settled for the years 2007-08 and 2010-11 at ₹ 59.25 lakh and ₹ 1.26 crore respectively. But the executed deed of *Sairats* were neither registered nor the Stamp duty and Registration fees leviable on the value of *Sairats* could be realised from the settlee. Thus, failure of the concerned authority to get the executed deeds registered before issue of *parvana* to the bidder as provided in the notices inviting for settlement

resulted in non-realisation of Government revenue of ₹ 12.93 lakh⁶ in shape of Stamp duty and Registration fees.

After we pointed this out, the Circle Officer, Rajgir (Nalanda) accepted the facts and stated in October 2013 that appropriate action would be taken to realise the Stamp duty and Registration fees.

The matter was reported to the Government/Department in July 2013; their reply has not been received (November 2013).

⁵ This is organised in every third year.

⁶ Calculation:

(Amount in ₹)				
Year	Bid Amount	Stamp duty leviable at the rate of 3 <i>per cent</i>	Registration fees leviable at the rate of 4 <i>per cent</i>	Amount not realised
2007-08	59,25,000	1,77,750	2,37,000	4,14,750
2010-11	1,25,51,000	3,76,530	5,02,040	8,78,570
Total	1,84,76,000	5,54,280	7,39,040	12,93,320

B: STAMPS AND REGISTRATION FEES

5.15 Short realisation of Stamp duty and Registration fees on Development Agreements

Article 5(b) of Schedule 1A of the Indian Stamp (IS) Act, 1899 provides for levy of Stamp duty at the rate of two rupees for every one hundred rupees (two *per cent*) or part thereof on the market value of the land/land with building as the case may be, provided that the duty paid at the time of such agreement or Memorandum of an Agreement may be set off against the duty to be paid at the time of the sale of such immovable property to the said party, if it is related to the construction of a house or building including a multi-unit house or building or unit of apartment/flat/portion of a multi-storied building or for development/sale of any other immovable property.

Further, according to the rates prescribed for 'Sale of Property' by Registration, Excise and Prohibition Department, Government of Bihar, six *per cent* of the value of property as Stamp duty is to be levied and an additional stamp duty at the rate of two *per cent* is also leviable in municipal area. Besides, Registration fee at the rate of two *per cent* is also leviable.

As per information furnished by the Registration, Excise and Prohibition Department, a total of 3,163 development agreements⁷ for construction activities were registered during the period from 2007-08 to 2011-12 in the cities of the State. Out of which 1,757 development agreements were executed between the land owners and developers in Patna.

During the period between May and July 2013, we test-checked 540 development agreements executed during the period 2007-08 to 2011-12 between the land owners and developers in Patna district and observed that in 77 cases the owners of the land had transferred the ownership of the land to the developers for a

consideration in the form of cash and a portion of the developed property and only Stamp duty at the rate of two *per cent* of total valuation of the property were being levied by the District Sub Registrars (DSRs). Though, on transfer of ownership of land from the land owners to the developers for a pre-determined consideration, the developers became the rightful owner of the property and the transaction was a "Sale of property". Thus, such transactions require Stamp duty at the rate of eight *per cent* and six *per cent* of the value of portion of land to be shared by the developer in urban and rural areas respectively as prescribed for sale of property. Besides, Registration fee at the rate of two *per cent* was also leviable. This resulted in short realisation of ₹ 4.44 crore in shape of Stamp duty and Registration fee in development agreements.

After we pointed this out between May and July 2013, the Government stated (September 2013) that the developer/promoter got the right to transfer his

⁷ Figure provided by Registration, Excise and Prohibition Department, Government of Bihar.

share of units in a multi-storied building/apartment under the provision of section 5(1) of the Bihar Apartment Ownership Act, 2006 and for levy of the duty of conveyance on development agreements would be considered after examining all the relevant facts. Further the Department accepted the facts (November 2013) and stated that enhancing of Stamp duty on development agreement was under process.

We recommend that Government may consider providing instructions to all DSRs that Stamp duty has to be charged on the basis of the recitals given in the documents and not on the basis of its title.

5.16 Blocking of Government revenue due to non-disposal of referred cases

Under Section 47(A) of Indian Stamp (IS) Act, 1899, where the registering authority has reason to believe that the market value of the property has not been rightly set forth in the instrument, he may refer the same to the Collector for determining its market value. Further, the Commissioner-cum-Secretary and Inspector General of Registration Department, Government of Bihar instructed on 20 May 2006 all Collectors to transfer the cases referred under Section 47(A) to the Inspector of Registration Offices (IRO), now renamed as Assistant Inspector General of Registration (AIG), concerned for speedy disposal within 90 days.

During scrutiny of the register of referred cases and information made available by three⁸ registering authorities (District Sub Registrar) between March 2012 and January 2013, we observed that 814 cases were referred to the IRO, Patna for determination of market value of property under Section 47(A) during the period between the calendar years 2009 and 2012. Further, we found that out of these referred cases, 539 cases involving ₹ 1.42 crore⁹ were still pending for disposal.

After we pointed this out between March 2012 and January 2013, the Government/Department stated (September 2013) that 180 cases had been disposed off in all three districts and an amount of ₹ 19.39 lakh was realised. We await report on realisation in the remaining cases.

Similar issues were raised in Paragraph 4.6 of the Report of the Comptroller and Auditor General of India (Revenue Receipts), Government of Bihar for the year ended March 2011 and also in Paragraph 5.9 of the Report of the Comptroller and Auditor General of India (Revenue Sector), Government of

⁸ Begusarai, Buxar and Patna.

⁹ Calculation:

Sl. No.	District	No. of cases referred	No. of cases disposed	No. of cases pending	Amount involved in pending cases (Amount in ₹)
1	Begusarai	466	92	374	45,78,589
2	Buxar	163	87	76	47,04,893
3	Patna	185	96	89	49,49,799
Total		814	275	539	1,42,33,281

Bihar for the year ended March 2012. In spite of this no corrective action was taken by the Department, which indicates slackness on the part of IRO/AIG in implementing the instruction of the Commissioner-cum-Secretary.

5.17 Misclassification of category of land

Under Section 47(A) (1) of the IS Act, 1899, where the registering authority has reason to believe that the market value of the property has not been rightly set-forth in the instrument, he may refer the same to the Collector for determining its market value and the collector shall after holding an enquiry determine the market value of the property as provided under Section 47(A) (2) of the Act *ibid*.

Further Rule 13 of the Bihar Stamp (Under-valuation) Rules, 1995 provides for appeal against the order of the Collector in referred case and Rule 16 of Rules *ibid* stipulates that after considering all the evidences adduced and representation made on behalf of the appellant and the Collector and examining the records of the case, the appellate authority shall decide whether or not the market value of the properties as determined in the order of the collector under sub-section (2) is correct.

Under Section 56(1) of Indian Stamp Act 1899, the power exercisable by a Collector under Chapter IV and Chapter V and under clause (a) of the first proviso to Section 26 shall in all cases be subject to the control of the Chief Controlling Revenue Authority.

During scrutiny of the register of referred cases and information made available by the registering authority (District Sub Registrar, Bhojpur, Ara) between January and October 2012, we observed that in 24 cases of undervaluation of land in the Ara town municipal area, which were referred to IRO Patna between February 2009 and May 2010 for determining the market value of the land, the IRO disposed these cases between January 2010 and January 2011 as 'Irrigated' land either by conducting the site verification of land or on the basis of report of the Circle Officer. Though as per Guideline register (MVR), there was only two categories of land i.e. 'Residential' and 'Commercial' in the Municipal area of Ara, the lands in the municipal area in the aforesaid cases were misclassified as 'Irrigated land'. Moreover, no report

regarding site verification by the IRO or report of the Circle Officer was found on record. This fact of non-availability of site verification report was also confirmed (July 2013) by the DSR at the behest of the Collector. Once the cases were disposed against the Government revenue, the DSR should have gone to appeal but the DSR failed to make appeal against the order of IRO and thus inaction on the part of the DSR resulted into under-valuation of land by ₹ 5.37 crore and consequent short realisation of revenue of ₹ 53.74 lakh in shape of Stamp duty and Registration fees as detailed in **Annexure - XIII**.

After we pointed this out, the Government accepted the audit observation and stated in September 2013 that appeal before the Chief Revenue Controlling Authority under Section 56 (1) of the Indian Stamp Act, 1899 had been filed in all the 24 cases in December 2012 and June 2013.

CHAPTER - VI

NON-TAX RECEIPTS

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present results of audit of ‘Receipts from Mines and Minerals-A review’ which highlights the audit findings involving financial effect of ₹ 23.85 crore.
Trend of receipts	The collection of receipts from Non-ferrous Mining and Metallurgical Industries consistently increased over the budget estimates during the period from 2008-09 to 2012-13 and also the percentage of contribution in the total non-tax receipts increased substantially during the period 2010-11 and 2011-12 over the previous years but marginally decreased in 2012-13 over the year 2011-12, which needs to be looked into.
Impact of audit conducted by us during 2012-13	<p>In the course of audit of records of 36 units relating to receipts from Non-ferrous Mining and Metallurgical Industries during the year 2012-13, we found non/short levy, non/short realisation of revenue and other irregularities involving ₹ 85.46 crore in 199 cases.</p> <p>The Department accepted non/short levy, non/short realisation of revenue and other deficiencies of ₹ 4.44 crore in 23 cases, out of which six cases involving ₹ 1.94 crore were pointed out during 2012-13 and the rest in earlier years.</p>
Our conclusion	<p>The Department needs to improve the internal control system so that weaknesses in the system are addressed and omissions detected by us are avoided in future.</p> <p>It also needs to take appropriate steps to recover the amount involved, at least in the accepted cases.</p>

CHAPTER-VI: NON- TAX RECEIPTS**Non- Ferrous Mining and Metallurgical Industries****6.1 Tax administration**

Bihar State has minor minerals like sand, stone and earth and a few major minerals like Limestone, Mica and Silica etc. Receipts from mines and minerals in Bihar comprise royalty, dead rent, surface rent, application fee for lease/permit/prospecting licence, pre-survey licence, penalty, fine and interest for delayed/belated payment of dues etc.

6.2 Trend of receipts

The variation between budget estimates and actual receipts from Non-ferrous Mining and Metallurgical Industries during the period 2008-09 to 2012-13 along with the total non-tax receipts during the same period is mentioned below:

Table- 6.1

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual receipts (col.-3) vis-à-vis total non-tax receipts(col.-6)
1	2	3	4	5	6	7
2008-09	140.00	245.00	(+)105.00	(+)75.00	1,153.32	21.24
2009-10	180.00	319.93	(+)139.93	(+)77.74	1,670.42	19.15
2010-11	294.00	405.59	(+)111.59	(+)37.96	985.53	41.15
2011-12	280.00	443.10	(+)163.10	(+)58.25	889.86	49.79
2012-13	470.00	511.08	(+) 41.08	(+) 8.74	1,135.27	45.02

(Source: Revenue and Capital Receipt (Detail): Finance Accounts, Government of Bihar)

The above table indicates that the collection from Non-ferrous Mining and Metallurgical Industries was consistently more than the budget estimates during the period 2008-09 to 2012-13. The percentage of contribution of receipts from Non-ferrous Mining and Metallurgical Industries in the total non-tax receipts increased substantially during the period 2010-11 and 2011-12 over the previous years but marginally decreased in 2012-13, which needs to be looked into by the Mines and Geology Department.

6.3 Impact of audit**6.3.1 Status of compliance to Audit Reports (2007-08 to 2011-12)**

During the years between 2007-08 and 2011-12, we have pointed out audit observation involving ₹ 23.41 crore in respect of receipts from mines and minerals through our Audit Reports. The Department/Government accepted audit observations involving ₹ 13.77 crore of which an amount of ₹ 5.75 lakh only was recovered as on 31 March 2013 as mentioned below:

Table- 6.2

(₹ in crore)

Year of Audit Report	Amount involved in the Audit Report	Amount accepted	Amount recovered
2007-08	2.38	0.46	Nil
2008-09	2.00	1.31	Nil
2009-10	4.46	4.46	Nil
2010-11	5.53	2.62	Nil
2011-12	9.04	4.92	0.06
Total	23.41	13.77	0.06

The above table indicates that the recovery in respect of the accepted cases was meagre (0.44 *per cent*) as compared to the accepted money value.

The Government may make efforts to recover the amount involved in accepted cases at the earliest.

6.3.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period from 2007-08 to 2011-12, we have pointed out, through our inspection reports, non/short levy, non/short realisation of revenue etc., with revenue implication of ₹ 573.97 crore in 889 cases in respect of receipts from mines and minerals. The Department/Government had accepted audit observations in 453 cases involving ₹ 357.74 crore. However, the Department reported recovery of only ₹ 53.51 lakh against the accepted cases. The details are shown in the following table:

Table- 6.3

(₹ in crore)

Year	No. of units audited	Pointed out		Accepted		Recovery	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2007-08	26	77	51.48	42	25.97	3	0.49
2008-09	44	220	93.47	202	89.46	Nil	Nil
2009-10	33	175	230.45	145	218.09	1	0.03
2010-11	48	240	118.18	18	2.06	1	0.02
2011-12	25	177	80.39	46	22.16	Nil	Nil
Total	176	889	573.97	453	357.74	5	0.54

The negligible recovery of ₹ 53.51 lakh (0.15 *per cent*) against the accepted cases indicates lack of promptness in recovery of the Government revenue.

The Government needs to take necessary steps for prompt recovery of the amounts involved at least in the accepted cases.

6.3.3 Status of compliance to Inspection Reports (2012-13)

In course of audit of records of 36 units relating to receipts from Non-ferrous Mining and Metallurgical Industries during the year 2012-13, we found non/short levy, non/short realisation of revenue and other irregularities involving ₹ 85.46 crore in 199 cases which fall under the following categories:

Table- 6.4

Sl. No.	Categories	(₹ in crore)	
		No. of cases	Amount
1.	‘Receipts from Mines and Minerals- A review’	1	23.85
2.	Non-realisation of royalty	45	23.59
3.	Non-levy of penalty for illegal removal of brick earth	17	3.72
4.	Loss due to non-levy of fine for continued contravention	9	1.34
5.	Non-levy of penalty against works contractor for illegal procurement of minerals	27	3.25
6.	Non/short levy of dead rent/surface rent	3	1.45
7.	Others	97	28.26
TOTAL		199	85.46

During 2012-13, the Department accepted non/short levy, non/short realisation of revenue and other irregularities *etc.* involving ₹ 4.44 crore in 23 cases, out of which six cases involving ₹ 1.94 crore were pointed out during 2012-13 and the rest during the earlier years.

Audit findings of the Review on **‘Receipts from Mines and Minerals’** with financial impact of ₹ 23.85 crore are mentioned in the succeeding paragraphs:

6.4 “Receipts from Mines and Minerals - A review”

Highlights:

The State of Bihar has not framed a State Mineral Policy along the lines of the Model State Mineral Policy, 2010 circulated by the Central Government.

(Paragraph 6.4.2)

Internal control mechanism was weak due to absence of internal audit, non-maintenance of vital basic registers and inadequate inspection by the departmental officers.

(Paragraph 6.4.9)

Penalty of ₹ 12.26 crore for illegal procurement of minerals against the works contractors in four districts, though leviable, was not levied.

(Paragraph 6.4.12)

Penalty of ₹ 16.45 crore for mineral excavation without approval of Mining Plan was not levied.

(Paragraph 6.4.13)

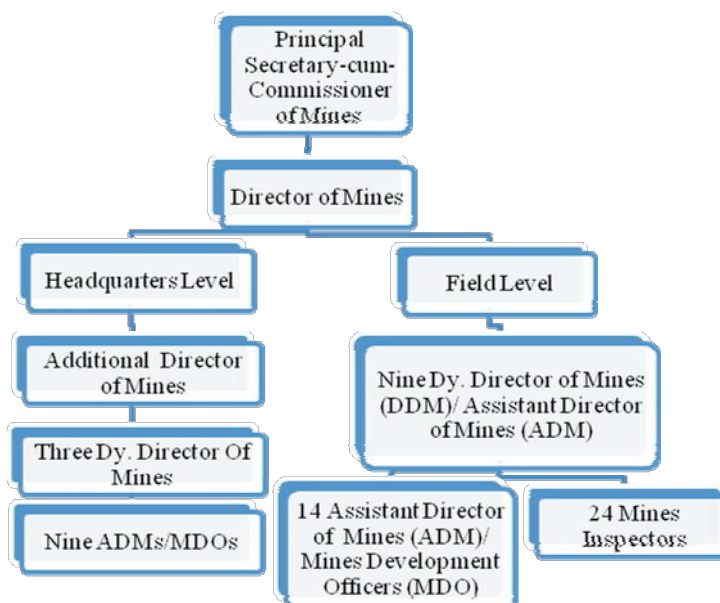
Royalty of ₹ 64.86 lakh was short realised for excess dispatch of stone in three districts.

(Paragraph 6.4.18.3)

6.4.1 Introduction

Minerals are divided into two categories i.e. major and minor minerals. Minor minerals include building stone, gravel, ordinary clay, ordinary sand other than sand used for prescribed purposes and any other mineral which the Central Government may by notification declare to be minor mineral. In addition, earth and brick earth are also included in minor minerals. All other minerals such as limestone, mica, silica etc. as available in Bihar are termed as major minerals.

The Principal Secretary-cum-Commissioner is the administrative head of the Mines and Geology Department. He is assisted by the Director of Mines. The organisational chart of the Department is given below:



(Source: Administrative Report of the Department)

As evident from the chart above, at the field level, there are 14 ADMs/MDOs who hold independent charge of the districts, whereas 24 Mines Inspectors (MIs) are under the control of the Collector in the districts. All these officers along with the Collector, who is the chief officer in-charge of revenue administration of a district, are responsible for assessment, levy and collection of royalty and other mining dues in the 33 mining districts¹. The DDM of a circle is the appellate authority and is vested with the powers of certificate officer for recovery of the mining dues.

6.4.2 State Mineral Policy

A model State Mineral Policy was circulated (December 2009) to all the State governments requiring them to develop their mineral policies considering local requirements within the ambit of the National Mineral Policy. Further, the Hon'ble Supreme Court in its judgement (February 2012) had also directed

¹ Aurangabad, Banka, Begusarai, Bettiah, Bhagalpur, Bhabhua, Bhojpur, Buxar, Darbhanga, Gaya, Gopalganj, Jamui, Jehanabad (includes Arwal), Katihar, Khagaria, Lakhisarai, Madhubani, Madhepura, Motihari, Munger, Muzaffarpur, Nalanda, Nawada, Patna, Purnea (includes Araria and Kishanganj), Rohtas, Samastipur, Saharsa (includes Supaul), Saran, Sheikhpura, Sitamarhi, Siwan and Vaishali.

the State Government that mining of minor minerals be carried out only under approved framework of mining plan, which should provide for reclamation and rehabilitation of the mined out areas. The Union Ministry of Mines along with Indian Bureau of Mines and respective State governments should therefore make necessary provisions in this regard and adopt model guideline within a period of six months. However, the Government of Bihar has not developed any mineral policy on the lines of State Mineral Policy even after lapse of four years.

After we pointed this out, the Government stated (October 2013) that in pursuance of the Hon'ble Supreme Court's judgement (February 2012), new sand policy had already been made. Further, amendment in Bihar Minor Mineral Concession (BMMC) Rules is under process and thus there was no need to formulate separate mineral policy. The facts remain that the State Government had not yet framed comprehensive mineral policy emphasising scientific method of mining conservation and mineral development with protection of environment, rehabilitation of displaced and affected person in conformity to the National Mineral Policy, as circulated by the Central Government in the year 2009, even after lapse of about four years.

We recommend that the Government may frame a comprehensive Mineral Policy for both minor and major minerals in order to exploit minerals scientifically for the long-term economic development of the State.

6.4.3 Audit Objectives

The Review was conducted to ascertain whether:

- the internal control mechanism of the Department was effective and sufficient to safeguard the Government revenue;
- the Acts/laws/provisions relating to mining operation and realisation of revenue were properly adhered to and the Government revenue was correctly assessed, levied, realised and credited into Government Account and
- the environmental and ecological aspects had been taken care of.

6.4.4 Audit Criteria

The Audit criteria for the Review have been derived from the following sources:

- Mines and Minerals (Development and Regulation) (MMDR) Act, 1957.
- Mineral Concession (MC) Rules, 1960.
- Mineral Conservation and Development (MCD) Rules, 1988.
- Bihar Minor Mineral Concession (BMMC) Rules, 1972.
- Bihar Financial Rules, Volume-I.
- Bihar Budget Procedures (BBP).
- Indian Registration Act, 1908.
- Bihar Minerals (Prevention of Illegal Mining, Transportation and Storage) (BMPIMTS) Rules, 2003.
- The Bihar & Orissa Public Demands Recovery (PDR) Act, 1914.
- Environment (Protection) Rules, 1986.
- Air (Prevention & Control of Pollution) Act, 1981.

6.4.5 Scope and Methodology

Ten² out of 33 mining districts of Bihar were selected for this review on the basis of availability of minerals in the districts, covering the period from 2008-09 to 2012-13. Out of nine Deputy Director of Mines (DDM) offices, three DDMs³ were selected on the basis of revenue generated by districts under their jurisdiction. Besides, office of the Director of Mines, being the controlling office at the headquarter level was also selected. The review also contains cases which came to notice during compliance audit. The review was conducted between May and July 2013.

Audit methodology includes preparing guidelines, conducting field visits for examination of records, collection of data from the Department, issue of audit memos, questionnaires and obtaining replies from audited entities to arrive at the audit conclusions.

An entry conference was held with the Principal Secretary, Mines and Geology Department on 26 April 2013 wherein we explained objectives, scope and methodology of audit. The exit conference was held on 9 October 2013 in which the findings of the review were discussed. The Joint Secretary represented the Government whereas the Department was represented by the Additional Director. The views of the Government have been suitably incorporated in the respective paragraphs.

6.4.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Mines and Geology Department in providing the necessary information and records to Audit.

6.4.7 Trend of revenue

6.4.7.1 Budget formulation

As per Rule 54 of the Bihar Budget Procedure (BBP) the estimates of revenue and receipts should show the amounts expected to be realised within the year. In estimating fixed revenue for the ensuing year, the calculation should be based upon the actual demand, including any arrears due for past years and the probabilities of their realisation during the year. The arrears and current demands should be shown separately and reasons given if full realisation cannot be expected. In the case of fluctuating revenue, the estimate should be based upon a comparison of the last three years receipts.

We observed in May 2013 from the actual receipts from mines and minerals appearing in the Finance Accounts, Government of Bihar that there was wide variation between Budget estimates and actual receipts during the period 2008-13 as given in the table below:

² Begusarai, Bhagalpur, Bhojpur, Gaya, Lakhisarai, Motihari, Munger, Patna, Rohtas and Vaishali.

³ Gaya, Munger and Patna.

Table- 6.5

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation	Percentage of variation
2008-09	140.00	245.00	(+)105.00	75.00
2009-10	180.00	319.93	(+)139.93	77.74
2010-11	294.00	405.59	(+)111.59	37.96
2011-12	280.00	443.10	(+)163.10	58.25
2012-13	470.00	511.08	(+) 41.08	8.74

(Source: Revenue and Capital Receipt (Detail), Finance Account, Government of Bihar)

The above table indicates that the actual receipt from mines and minerals were higher by 37.96 *per cent* to 77.74 *per cent* than the Budget estimates (BEs) during 2008-12, while in 2012-13, the BE was substantially increased by 68 *per cent* over the BE of previous year.

6.4.7.2 Reconciliation of revenue figures

Rule 37 of the Bihar Financial Rules stipulates that it is the responsibility of the departmental officers to see that all sums due to the Government are regularly and promptly assessed, realised and duly credited in the public account and compare them with the records of the Accountant General (A&E) to see the amounts as realised have been duly credited in Public Account.

We observed in May 2013 from the revenue collection statement furnished by the Department and those appearing in the Finance Accounts, Government of Bihar that there were differences in the figures of receipts shown in the Finance Accounts and the receipts reported by the Department as given in the table below:

Table- 6.6

(₹ in crore)

Year	Target	Receipts (as per Finance Account)	Receipts (as per Department)	Variation (4-3)	Amount reconciled (Percentage in bracket)
1	2	3	4	5	6
2008-09	164.09	245.00	180.92	64.08	Nil
2009-10	209.35	319.93	263.48	56.45	12.29 (3.84)
2010-11	295.82	405.59	314.18	91.41	69.05 (17.02)
2011-12	375.01	443.10	377.28	65.82	112.47 (25.38)
2012-13	510.47	511.08	465.51	45.57	50.16 (9.81)

As indicated in the table, the variation of the actual receipts shown in the Finance Accounts and those reported by the Mines and Geology Department ranged between ₹ 45.57 crore and ₹ 91.41 crore during 2008-13. It was further observed that only 3.84 *per cent* to 25.38 *per cent* of receipts (as per Finance

Account) were reconciled with the records of the Accountant General (A&E) during 2009-13.

After we pointed this out, the Government accepted the audit observation and stated (October 2013) that direction had been issued at regular interval for reconciliation of revenue figures.

In response to similar issue pointed out in Paragraph 6.2.18 of the Audit Report (Revenue Receipts) for the year ending 31 March 2007, the Department issued instructions to all the DMOs/AMOs for reconciliation. Despite this, irregularity is still persisting which shows ineffectiveness of the internal control system of the Department.

We recommend that the Department should take effective steps to ensure reconciliation of the revenue collection figures with the accounts of the Accountant General (A&E) including the amount remitted by book transfer.

Audit Findings

The audit findings noticed in course of review of 'Receipts from mines and minerals' are discussed in the succeeding paragraphs:

6.4.8 Arrears of revenue

6.4.8.1 Arrears pending collection

As per details furnished by the Mines and Geology Department, the year-wise break-up of the arrear of revenue is as mentioned below:

Table- 6.7

(₹ in crore)

Year (upto)	Opening balance	Addition	Total Arrears
2008-09	97.25	32.13	129.38
2009-10	129.38	16.19	145.57
2010-11	145.57	8.18	153.75
2011-12	153.75	21.77	175.52
2012-13	175.52	25.17	200.69

The arrears of revenue in respect of receipts from mines and minerals as on 31 March 2013 was ₹ 200.69 crore, of which ₹ 97.25 crore was outstanding for more than five years. Further, out of the total arrears of ₹ 200.69 crore, a sum of ₹ 184.59 crore was covered under Revenue Recovery Certificate proceedings. The Department did not inform the stages at which the remaining arrears were pending and at the same time the age-wise analysis could not be done as information in this regards was not provided by the Department despite request.

6.4.8.2 Position of certificate cases

Under Rule 7 of the Bihar Financial Rules (BFR), it is the duty of the controlling officer concerned to see that the dues of the Government are correctly and properly assessed, collected and paid into the treasury.

As per Rule 37 of Bihar Minor Mineral Concession Rules, the amount of rent, royalty, penalty shall be recoverable as a public demand under the Bihar & Orissa Public Demands Recovery (PDR) Act. Under paragraph 6 of Certificate Manual, the requiring officer (RO) and the certificate officer (CO) are jointly responsible for the speedy disposal of certificate cases.

We observed in May 2013 from the report on status of the certificate cases in the office of the Director of Mines, Patna that a sum of ₹ 132.50 crore involved in 22,094 certificate cases was pending as on 31 March 2013 in all three selected DDM offices and three district mining offices as detailed below:

Table- 6.8

(₹ in crore)

Sl. No.	Name of the office	No. of pending cases	Amount involved
1.	DDM Gaya	4,861	34.86
2.	DDM Munger	2,751	29.97
3.	DDM Patna	10,289	52.25
4.	MO Vaishali	1,311	3.68
5.	MO Bhagalpur	603	2.79
6.	MO Motihari	2,279	8.95
Total		22,094	132.50

There were 22,094 certificate cases involving ₹ 132.50 crore pending as on March 2013 under aforesaid DDMs and three MOs. However the DDM, Patna had issued Distress Warrants⁴ in 397 cases and sent to Police Department. The responsibility for execution of Distress Warrants lies mainly with the Police Department. There was nothing on records (*kurki/warrant* files) to show whether the Distress Warrants were executed or not. Report on similar action taken if any in other offices has not been received. The age-wise data was not provided by the Department despite request.

We recommend that the Government may frame a time bound programme and monitoring for disposal of certificate cases and recovery of the Government dues.

⁴ A distress warrant authorises a court officer to distrain or seize property.

6.4.9 Internal control mechanism

The internal control mechanism is intended to provide reasonable assurance of proper enforcement of Acts, Rules and Departmental instructions. It also helps in providing adequate safeguard against evasion of Government revenue.

6.4.9.1 Internal audit

The internal audit is a vital arm of internal control mechanism and is generally defined as the control of all controls. It helps the organisation to assure that the prescribed systems are functioning reasonably well.

The Department had no separate Internal Audit Wing and the Finance Department had not audited any field offices as well as headquarter office for the period 2008-13. The Department stated that no requisition was sent to the Finance (Audit wing) and there was no system for internal audit in the Department.

After we pointed this out, the Government stated (October 2013) that there was no provision for internal audit in this Department. Thus, the Department remained unaware of its weaknesses and strength.

6.4.9.2 Non-maintenance of registers

Section 12 and 23C of MMRD Act provides for maintenance of vital registers like register of application of prospecting licence/mining lease/reconnaissance permit, register of illegal mining. Further, as per instructions issued by the Department in June 1988 and June 1998, the Mining Officers (MOs) were required to maintain a register of illegal mining. The MOs and Mines Inspectors (MIs) are required to inspect minimum two times and six times respectively of every mine in their jurisdiction in a financial year and the position should be noted in the above mentioned register.

We observed between May and July 2013 that out of 10 test-checked district mining offices, register for cases of illegal mining was not maintained in six mining offices⁵. In other three mining offices⁶, it was stated that the register for cases of illegal mining was being maintained, however the same were not produced to audit despite request. The MO Patna did not reply in this matter. As a result, number of inspections carried out in a financial year and the status in respect of cases of illegal mining could not be ascertained.

Further, we observed that registers like application for new mining leases, renewal of major mining leases, demand, collection and balance register in case of petroleum and gas prospecting licence, monthly, quarterly and annual report/return to be submitted at headquarter were not maintained in the office of the Director of mines. In the absence of the above noted vital registers and report/returns, the departmental officers were unable to review the disposal of application for new mining leases/renewal of mining leases and to ascertain

⁵ Begusarai, Bhojpur, Gaya, Lakhisarai, Munger and Vaishali.

⁶ Bhagalpur, Motihari and Rohtas.

rent, royalty and licence fee payable. Non-maintenance of above noted vital registers is indicative of poor monitoring mechanism in the Department.

After we pointed this out, the Government stated (October 2013) that direction would be issued to district level offices. We await further report in this regard (November 2013).

6.4.9.3 Inadequate inspection by departmental officers

As per notification issued by the Mines and Geology Department, Government of Bihar in June 1970, the Deputy Director of Mines were required to inspect the Mining Offices once in a year.

Inspection of the subordinate offices by the higher authorities is an important tool to ensure proper functioning of the offices. We observed between May and June 2013 that concerned DDMs had inspected only four out of 10 test-checked

mining offices during 2008-13, however, they were required to inspect all test-checked mining offices once in a year. These limited inspections did not point out important issues such as non-maintenance of crucial register. The details of these Inspection Reports are given below:

Table- 6.9

Year	Name of district	Date of inspection	Inspecting authority	Outcome
2008-09	Lakhisarai	2.8.2008	DDM, Munger	Inspection report was not found in the office.
2010-11	Gaya	24.3.2011 to 25.3.2011	DDM, Gaya	Raising and Despatch register was maintained but not updated.
	Patna	21.10.2010 to 22.10.2010	DDM, Patna	Register of illegal mining was not maintained.
	Rohtas	9.3.2011 to 11.3.2011	DDM, Patna	Raising and Despatch (RD) Register for limestone and crusher was not made available. RD register for sand and stone was not being maintained properly.

The information/registers regarding raising and despatch register of limestone, crusher, sand and stone were not furnished to audit despite request. Hence no comments on their effectiveness could be made.

We recommend that the Government may

- **take effective steps for internal audit of all field offices including Directorate by the Finance Department at regular interval so that deficiency, if any, may be addressed in time.**
- **ensure maintenance of basic records like register of illegal mining, lease application register, lease renewal register etc. and their review at regular interval by the higher departmental officers.**
- **ensure inspection of field offices at regular interval and timely compliance of deficiencies noticed during inspection.**

6.4.10 Information Technology aspects

The value of good Information Technology (IT) systems is that they can be an efficient and effective programme delivery mechanism. The Department had decided (December 2006) to use computers in its works from headquarter level to district level vide its resolution. Further, as per para 5.3.3 of Information and Communication Technology Policy (ICT) 2011, of Government of Bihar, the Department was required to prepare five years IT plan with yearly deliverables containing details of investments envisaged in the IT infrastructure, training of personnel, etc. and providing high volume of citizen centric services. The Nodal IT Officer has to co-ordinate with the IT Department for conceptualisation and implementation of State IT Projects.

The Department had not prepared five year IT plans as per ICT Policy, 2011 and also not designated any officer as Nodal IT Officer to co-ordinate with the IT Department for conceptualisation and implementation of the State IT Projects. We observed that the computerisation had not been done at the regional offices.

After we pointed this out, the Government accepted the audit observation and stated (October 2013) that

computerisation of field offices was being done and work would be entrusted to Bihar Electronics Development Corporation Limited (BELTRON).

6.4.11 Manpower management

The cadre-wise sanctioned strength and men-in-position of the Department (as on May 2013) is given below:

Table- 6.10

Sl. No.	Name of the post	Sanctioned strength	Men-in-position	Vacancy
1.	Deputy Director	8	1	7
2.	Assistant Director/District Mining Officer	11	7	4
3.	Assistant Mining Officer/Assistant Mineral Development Officer	25	15	10
4.	Mines Inspector	38	16	22

(Source: Information furnished by the Department)

It may be seen from above table that large number of vacancies is in the cadre of Mines Inspector, who are mainly responsible for operational functions of the Department. It was also observed that nine MIs were holding the charge of more than one district even at far off places. This may adversely affect the collection of the revenue and checking of illegal mining in the State.

After we pointed this out, the Government accepted the audit observation and stated (October 2013) that the Department was considering taking services of newly appointed Deputy Collectors in future.

We recommend that the Government may fill-up the vacancies in the mining offices for better development of mineral resources and effective control over illegal mining.

6.4.12 Non-adherence of provisions of Rules regarding levy of penalty for illegal procurement of minerals by works contractors

Rule 40 (10) of BMMC Rules, 1972 provides that works contractor shall purchase the minerals from lessee/permit holder and authorised dealers only and no Works Department shall receive the bill which the works contractors submit to recover cost etc. of mineral used by them in completion of the works unless the same is accompanied with prescribed forms 'M' and 'N' describing the names and addresses of the dealers from whom the minerals were purchased.

Further Section 21 (5) of the MMDR Act, 1957 read with Rule 40(8) of the BMMC Rules, 1972 provide that whenever any person raises without any lawful authority, any mineral from any land, the State Government may recover from such person the minerals so raised or where such minerals has already been disposed off the price thereof.

We observed between December 2012 and July 2013 from the revenue collection report of eight district mining offices⁷ out of test-checked 11 district mining offices⁸ that a sum of ₹ 141.19 crore were deposited by the Works departments in shape of royalty under the head "0853 Non-ferrous Mining and Metallurgical Industries" during the period 2008-09 to 2012-13 which was deducted from the bills of the works contractors. Out of which we cross verified the cases of royalty deduction of ₹ 12.26 crore with treasury records and works departments of four districts⁹ and observed that the Works departments deducted and deposited the royalty from the bills of contractors against

use of minerals without ensuring form 'M' and 'N'. The works departments however received the bills of contractors which were not accompanied with the form 'M' and 'N' after deducting the amount of royalty deposited under "0853-Non ferrous Mining and Metallurgy Industries" in contrary to above provisions. The non-submission of form 'M' and 'N' by the works contractors showed that the mineral were not procured from authorised dealers/permit holders. Further, MOs on receipt of the deduction of royalty from the Works departments did not raise the demand for minimum penalty at least equivalent to royalty of ₹ 12.26 crore from the works contractors through Works departments.

After we pointed this out, the Government stated (October 2013) that it was not pertinent to impose penalty against the works contractor in the interest of mining revenue in view of the development of infrastructure. The facts remain

⁷ Begusarai, Bhagalpur, Gaya, Motihari, Nawada, Patna, Rohtas and Vaishali.

⁸ Begusarai, Bhagalpur, Bhojpur, Gaya, Lakhisarai, Motihari, Munger, Nawada, Patna, Rohtas and Vaishali.

⁹ Begusarai, Motihari, Patna and Vaishali.

that deduction of royalty by the works departments from the bills of works contractors against use of minerals and its remittance into treasury indicates that minerals were not purchased from the permit holder/authorised dealers and penalty should be levied in terms of the provisions of BMMC Rules.

We recommend that the Department may install a mechanism for better co-ordination among all revenue departments especially with Works departments for prevention of illegal mining and leakage of revenue.

6.4.13 Mineral excavation without approval of Mining Plan

As per Rule 22 A of the Mineral Concession Rules, 1960, mining operations shall be undertaken in accordance with the duly approved Mining Plan and modification of approved mining plan during the operation of a mining lease also requires prior approval. Rule 12 of the Mineral Conservation and Development (MCD) Rules, 1988 provides that lessee shall review the Mining Plan and submit Mining Scheme to the Indian Bureau of Mines (IBM) for the next five years at least 120 days before expiry of the current plan and IBM shall communicate its approval or rejection within 90 days. Further under Rule 23B of the MCD Rules in case of a fresh grant or renewal of mining lease, the lessee shall submit a Progressive Mine Closure Plan as a component of Mining Plan. Section 21(5) of MMDR Act provides that whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, where the mineral has already been disposed of, the price thereof, along with royalty.

We observed in June 2013 from scrutiny of mining lease files of Silica/Quartz/ Quartzite/ Limestone in three mining offices¹⁰ that three lessees had not submitted any Mining Plan and Progressive Mine Closure Plan and continued to engage in production and dispatch of minerals from their mines. In absence of approved Mining Plan/scheme, the MOs were unable to monitor the extraction of minerals. The transit passes were also issued for dispatch of minerals without ensuring the approval of Mining Plan and Progressive Mine Closure Plan of the leases and collected royalty on the basis of monthly returns. Despite the facts that lessees did not submit the mining plan, the

concerned MOs issued transit passes which facilitated the lessees to despatch their minerals. This undue favour to the lessees resulted in forgoing of Government revenue of ₹ 16.45 crore¹¹ in shape of penalty as detailed in **Annexure-XIV**.

After we pointed this out, the Government stated (October 2013) that the concerned MOs would be directed to examine the cases of excavation of minerals without Mining Plan. We await further report in this regard (November 2013).

¹⁰ Lakhisarai, Munger and Rohtas.

¹¹ Calculated as per Mineral Year Book of IBM for the year 2008-09 to 2010-11/as per rate of royalty based on monthly return.

6.4.14 Submission of monthly return

As per Rules 45(1) and 52 of MCD Rules, 1988, owner, agent, mining engineer or manager of every mine shall submit monthly and annual return of the mining activities undertaken by them to the IBM and the State Government or to the competent authority prescribed in this regard. Rule 58 provides that whoever contravenes any of these provisions shall be punishable with imprisonment for a term which may extend up to two years or with a fine up to ₹ 50000. In cases of continuing contravention, additional fine which may extended upto ₹ 5000 for every day during which the contravention continues shall also be levied.

We observed in December 2012 from the lease files in district mining office, Nawada that out of three lessees for Mica mineral, two lessees (Bihar State Mineral Development Corporation at Sapahi Mauza for 3300 acre and another lessee at Mauza-Sawaiyatand, Belwa/Delha for 2465.54 acre) had not submitted monthly returns as per above provisions since January 2004 to December 2012 and January 2003 to December 2010 respectively. The

leaseholders were required to submit returns even in cases of non-production of mineral. However, the MO as well as the Director of mines did not take any action for compliance or levy of fine for non-submission of monthly returns. Thus, maximum leviable fine for non-compliance worked out to ₹ 1.02 crore¹². In absence of such returns, production of minerals was also not monitored.

After we pointed this out, the Government accepted the audit observation and stated (October 2013) that action would be taken in this regard. We await further report in this regard (November 2013).

6.4.15 Non-disposal of application for renewal of mining leases

As per Rule 24 (A) of MC Rules, 1960 an application of renewal of a mining lease shall be made to the State Government at least 12 months before the date on which the lease is due to expire. The application for renewal of mining lease is to be disposed of within six months.

We observed in May 2013 from mining leases of major mineral files in the office of the Director of Mines, Patna that lessees of four mining leases of limestone of Rohtas district had applied for renewal of leases for the period of 20 years within time but these

applications were pending since 1985 and could not be disposed off even after lapse of 28 years due to non-payment of royalty, other dues and clearance from the Forest and Environment Department. The Government constituted a committee in September 2012 to look into the matter and submit their

¹²

BSMDC -108 months at the rate of ₹ 50000= ₹ 5400000

Another lessee at mauza Sawaiyatand, Belwa/Delha - 96 months at the rate of ₹ 50000= ₹ 4800000.

recommendations. The committee recommended (October 2012) for rejection of renewal of lease application in all cases as the leased areas was falling under forest zone and the leaseholders could not get clearance from the Ministry of Forest and Environment. However, the Government had not taken any decision on the recommendation of the committee even after lapse of more than one year.

After we pointed this out, the Government accepted the audit observation and stated (October 2013) that the action would be taken in this regard. We await further report in this regard (November 2013).

We recommend that

- **mining operation may not be carried out without approval of Mining Plan and Progressive Mine Closure Plan for protection of fragile environment and proper mineral development.**
- **monthly, quarterly and annual returns shall be procured from the leaseholders for proper assessment of dead rent/royalty etc. In cases of failure to furnish the return penalty may be imposed as per codal provisions.**

6.4.16 Illegal operation of the brick kilns

As per Rule 4 of the BMMC Rules 1972, “No person shall undertake any mining operation in any area without valid permit. Further Rule 28 (1) of the BMMC Rules 1972, an application for quarrying permit shall be submitted to the competent authority in Form-I*. Further whoever is found to be extracting or removing minor minerals shall be presumed to the illegal removal of the minor mineral and shall be punished as per Rule 40 of the BMMC Rules.

* Form – I is prescribed for application for quarrying permit.

We observed between May and July 2013 from the permit register and files of brick kiln owners in 10 district mining offices¹³ that out of 8,193 brick kilns operated during 2008-13, 6,789 (i.e. 83 *per cent*) brick kilns¹⁴ were operated without obtaining quarrying permit for want of NOC from Bihar State Pollution Control Board (BSPCB), agreement deed from the land owners etc.

and non-payment of consolidated royalty for excavation of earth. The brick kilns register and permit register were not reconciled by the concerned MOs and were also not reviewed by the higher departmental officer so they remained unaware of the facts of operation of brick kilns without issuance of permit. Despite the fact that the mining activities were being carried out without permit, the Department did not take any action to stop the business as per the BMMC Rules.

¹³ Begusarai, Bhagalpur, Bhojpur, Gaya, Lakhisarai, Motihari, Munger, Rohtas, Patna and Vaishali.

¹⁴ No. of brick kilns operated without permit- 2008-09 (1111), 2009-10 (1263), 2010-11 (1344), 2011-12 (1324), 2012-13 (1747)= 6789.

The matter was reported to the Government in September 2013; their specific reply has not been received (November 2013).

We recommend that the Mining Officers should be made responsible for verification of all necessary documents and have co-ordination with other local administration to prevent leakage of revenue and to protect fragile environment.

6.4.17 Receipts from settlement of sand *ghats*

6.4.17.1 Delay in issuance of notification for settlement of sand *ghats*

As per clause (5) of the instruction no. 6198 dated 3 October 1988 of the Mines and Geology Department, Government of Bihar, if the sand *ghats* were to be settled from 1st January of any calendar year, the settlement procedure should be started from the 1st day of November of the preceding year so that the possession of sand *ghats* to the lessee might be handed over on 1st day of January. Further, under clause 7 of notification of December 2006, the sand *ghats* shall be settled for three calendar years

During scrutiny of settlement file of sand *ghats* in the office of the Director of Mines, Patna in May 2013, we observed that a Notification for settlement of sand *ghats* for calendar years 2010-12 was issued on 31 December 2009 in the State of Bihar from 1st February 2010 and the Department allowed (December 2009) the previous settlee to operate the sand *ghats* for January 2010 by depositing the proportionate

amount for one month by enhancing 10 *per cent* of the settlement amount for calendar year 2009. On settlement of sand *ghats* for the year 2010, the Department collected a sum of ₹ 124.48 crore. The proportionate amount for the one month was ₹ 10.57 crore against which the Department collected only ₹ 5.60 crore from the previous settlee for the month of January 2010 as per above instruction. Thus, due to delay in issue of notification for settlement of sand *ghats*, the Government had forgone revenue of ₹ 4.97 crore.

After we pointed this out, the Government stated (October 2013) that the notification for settlement of sand *ghats* was issued on 31 December 2009 due to delay in submission of report for formation of sand *ghats* as one unit comprising Saran, Patna and Bhojpur districts and one unit comprising Aurangabad and Rohtas districts for auction of sand *ghats*. Further it was stated that sand *ghat* was not remained unsettled during this period. The reply of the Government is not in conformity with the facts as settlement procedure should have been started in such a way that it should be completed before 31st December as per above instructions.

6.4.17.2 Non-execution of deed for settlement of sand ghats

Rule 11B (2) read with 11A of BMMC Rules, 1972 provides that where the settlement is made by public auction, a deed shall be executed in form[#] “O” within 30 days of the order of the settlement and if no such deed is executed due to the failure on the part of the settlee, the settlement order shall be deemed to have been revoked and security deposit and other amount may be forfeited.

[#] Form “O” is a model draft for agreement made between the Government of Bihar and settlee of sand ghats.

We observed between June and July 2013 from scrutiny of settlement files of sand ghats for calendar year 2007-12 of three district mining offices¹⁵, that the deed of settlement were not executed for the calendar year 2007-09 despite clear provisions in the BMMC Rules. However the concerned MOs did not initiate any action either to revoke the settlement or forfeit the security deposit and other amount. Thus, non-execution of deed resulted in forgoing of Government revenue in the shape of registration fee.

After we pointed this out, the Government stated (October 2013) that the concerned Collectors were being directed to comply with the codal provisions on execution of deeds. Further report has not been received (November 2013).

6.4.17.3 Non-registration of deed of settlement of sand ghats

As per clause 9 of notification no. 2972 M dated 2 December 2006 for settlement of sand ghats, the settlee is required to register the deed of agreement within a week of settlement. Further, as per Section 17(1) (d) of the Indian Registration Act, 1908 lease documents of immovable property from year to year or for any term exceeding one year shall be registered.

notification (December 2006). The settlees had paid the stamp duty of deed on the settlement amount ₹ 92.69 crore but the deed were not registered during the settlement period 2007-09. This resulted in non-realisation of registration fee (at the rate of four *per cent* on consideration amount of ₹ 92.69 crore) of ₹ 3.71 crore.

After we pointed this out, the Government stated (October 2013) that as per Indian Registration (IR) Act, the deed for registration of one year was optional. It was further stated that sand ghats were settled on yearly basis. The reply of the Government is not in consonance with the facts that the settlement of sand ghats was for three years. Thus, non-invoking of provision of IR Act for registration of the deeds for settlement of sand ghats, the Government was deprived of revenue of ₹ 3.71 crore in shape of registration fees.

We observed between June and July 2013 from the settlement files of sand ghats in four district mining offices¹⁶ that eight sand ghats were settled on an auctioned amount of ₹ 28 crore in the year 2007 with enhancement of 10 *per cent* each year of the settlement amount for next two consecutive years as per

¹⁵ Bhojpur, Lakhisarai and Munger.

¹⁶ Bhojpur, Munger, Patna and Rohtas.

6.4.18 Receipts from lease of stone quarry

Under Rule 53 of BMMC Rules, 1972 no mining lease for stone shall be granted and existing leases would be allowed to subsist for the remaining period for which they have already been granted but they shall not be renewed except in public interest if the State Government satisfied that quarrying of stone may not adversely affect ecology and environment.

6.4.18.1 Short realisation of royalty and interest from lessee of stone quarry

Rule 9 A of the BMMC Rules, 1972 provides that any mineral may be leased out or settled by public auction/tender in the manner prescribed under Rule 52. As per Rule 52(1), (4) and (5) of the Rules *ibid*, the bid amount shall be deposited on yearly basis in equal installment and each installment shall be deposited before 31st January. If any installment has not been deposited before prescribed period, 24 *per cent* simple interest shall be charged upto two months and after that action for cancellation shall be taken.

We observed between December 2012 and May 2013 from scrutiny of 48 files out of 267 files of leases of stone/murram quarry in four district mining offices¹⁷ that 19 stone/murram quarries were auctioned between December 2006 and November 2008 at ₹ 17.27 crore for the period of five years. The lease-holders had to pay the bid amount in installments on a yearly

basis which accumulated to ₹ 15.97 crore upto January 2013, against which the leaseholders had paid ₹ 10.07 crore only between December 2006 and February 2013. This resulted in short realisation of royalty of ₹ 5.90 crore. Besides, interest of ₹ 46.44 lakh for two months for short payment of installments of royalty was also leviable. Despite short payment of yearly installment of royalty, neither action for cancellation of lease was initiated by the concerned MOs against 18 leaseholders nor was action for realising the dues taken as per schedule-I under Section 3(6) of the Bihar and Orissa Public Demand Recovery (PDR) Act. This resulted in short realisation of revenue of ₹ 6.36 crore including interest (**Annexure-XV**).

After we pointed this out, the Government stated (October 2013) that the action would be taken after verification. We await further report in this regard (November 2013).

¹⁷

Aurangabad, Gaya, Nawada and Sheikhpura.

6.4.18.2 Incorrect fixation of settlement amount

As per Rule 22 (1) and 52 of BMMC Rules, 1972, an application for renewal of quarrying lease under Rule 52 shall be made to the competent officer at least ninety days before the expiry of the lease accompanied by a fee of ₹ 5000. The Government vide orders between March and August 2010 approved the renewal of leases of stone quarry in three cases of Nawada districts subject to the condition that settlement amount for renewal of lease per acre per year shall be fixed on the basis of average auctioned amount of previous three years in each case.

During scrutiny of files of lease of stone quarry for the year 2011-12 of district mining office, Nawada in December 2012, we observed that three leases of stone quarry were renewed for 10 years between December 2009 and July 2010 for 14.80 acre at the rate of ₹ 3.68 lakh per acre per year instead of ₹ 3.92 lakh on the basis of average auctioned

amount of last three years. We further noticed that the difference occurred due to exclusion of an area of 5.50 acre and amount (₹ 79.51 lakh) of three leases for the year 2008-09 and considering the installment amount in three cases of 2008-09 instead of auction amount. This incorrect fixation of settlement amount resulted in short realisation of royalty of ₹ 35.52 lakh as detailed below:

Table- 6.11

(₹ in lakh)

Sl. No.	Mauza/Plot No.	Area (in acre)	Rate per acre per year paid	Rate per acre per year payable	Difference	Amount for 10 years
1.	Ratanpur/731(p), 735(p), 738(p)	4.75	3.68	3.92	0.24	11.40
2.	Pandana/40(p)	5.70	3.68	3.92	0.24	13.68
3.	Ratanpur/731(P), 730(P) and 738(P)	4.35	3.68	3.92	0.24	10.44
Total		14.80				35.52

After we pointed this out, the Government stated (October 2013) that the action would be taken after verification. We await further report in this regard (November 2013).

6.4.18.3 Short realisation of royalty for excess despatch of stone

Rule 9 A of the BMMC Rules provides that any mineral may be leased out or settled by public auction/tender in the manner prescribed in Rule 52. Rule 52 (1) and (4) of the Rules *ibid* provides that the period of quarrying lease shall not be less than five years and the bid amount shall be deposited on yearly basis in equal installment and each installment shall be deposited before 31st January of each year. Further, it provides that the settlee shall pay extra royalty for quantity of stone extracted and despatched in excess of the quantity equivalent to the bid amount. Further, Rule 26 (6) of the Rules *ibid* provides that the competent officer after verification of the monthly return furnished by the lessee shall assess the amount of rent/royalty payable by the lessee.

We observed between December 2012 and March 2013 in three district mining offices¹⁸ from scrutiny of 25 out of 140 files of lease of stone quarry and monthly returns submitted by the leaseholders that four stone quarries were auctioned between December 2006 and November 2008 at ₹ 95.99 lakh. The leaseholders had extracted 103.71 lakh cubic feet stone valued at ₹ 164.24 lakh between the period December 2006 and December 2012, against which they

paid only ₹ 99.38 lakh. Inaction on part of MOs to verify the monthly return submitted by the leaseholders resulted in short realisation of royalty of ₹ 64.86 lakh.

After we pointed this out, the Government stated (October 2013) that the action would be taken after verification. We await further report in this regard (November 2013).

¹⁸

Aurangabad, Gaya and Nawada.

6.4.19 Receipt from leases of ordinary earth

6.4.19.1 Non-realisation of royalty/dead rent and interest

As per Rule 9 (1) of the BMMC Rules, a mining lease shall be granted by the collector and every application for a mining lease in respect of any land shall be made in form-A accompanied by a fee of ₹ 2000. As per clause 1 & 2 of Part-V of agreement for leases of ordinary soil, the lessee shall pay the dead rent or the sum of the royalty whichever is greater for the quarterly period. Clause 3 of Part VI of said agreement provides that the account for each month in respect of raising, sale, dispatch, royalty, rent due and paid shall be submitted within the 15th day of the following month. Clause 4 of Part VI of agreement provides that the lessee shall be liable to pay the interest at the rate of 24 *per cent* per annum on any amount remaining payable to the Government. Further, Rule 26(6) of the Rules *ibid* provides that the competent officer after verification of the monthly return furnished by the lessee shall assess the amount of rent/royalty payable by the lessee.

We observed in January 2013 during scrutiny of files relating to lease of ordinary soil in district mining office, Patna that out of three test-checked cases, one lease for ordinary soil was granted to a lessee for a period of two years from June 2010 for 152.50 acre of land. During the subsistence of lease, the lessee had paid ₹ 2.87 crore as royalty/dead rent on quarterly basis against the due amount of royalty of ₹ 3.67 crore. After the completion of lease the demand for residual royalty of ₹ 79.74 lakh was not raised till the date of audit (January 2013). Besides, interest

of ₹ 17.96 lakh on short payment/belated payment of royalty/dead rent was also leviable as per provisions of agreement. Inaction on the part of MO to verify the monthly return submitted by the leaseholders resulted in short realisation of revenue of ₹ 97.70 lakh including interest of ₹ 17.96 lakh.

After we pointed this out, the Government stated (October 2013) that the action would be taken after verification. We await further report in this regard (November 2013).

6.4.19.2 Non-levy of penalty for illegal use of ordinary earth

Ordinary earth used for filling or leveling purpose in construction of embankments, roads, railways and buildings is a minor mineral. In this regard the Government of Bihar vide Gazette Notification (April 2006) fixed the rate of royalty of ordinary earth as ₹ 15 per cubic metre which was revised (January 2012) to ₹ 22 per cubic metre. Under Rule 27 and 28 of the BMMC Rules, any quarrying activities require sanction of the competent authority on payment of requisite fee.

Rule 40 (8) of the BMMC Rules prescribes the penalty for illegal mining which includes recovery of the price of the mineral, rent, royalty or taxes as the case may be. Further, Rule 40(1) of the Rules *ibid* prescribes initiation of criminal proceedings attracting punishment of simple imprisonment that may extend to six months or with fine which may extend to rupees five thousand or both.

We observed between February and July 2013 from lease files/Bank Draft Register in three district mining offices¹⁹ that ₹ 1.21 crore was deducted/deposited by four companies as royalty during the period from July 2011 to March 2013 for use of mineral in earth work. We further observed that these companies had removed the minor mineral without obtaining quarrying permit for the same. Thus, they removed the earth illegally for which they were liable to pay minimum penalty of

₹ 1.21 crore in terms of the Rules *ibid*. However, the concerned MOs had neither levied penalty nor initiated any action for criminal proceedings in accordance with the provision of the BMMC Rules. This resulted in non-levy of penalty of ₹ 1.21 crore.

The matter was reported to the Government in September 2013; their specific reply has not been received (November 2013).

6.4.20 Receipt from Major Minerals

In Bihar, 25 mining leases for major minerals for Limestone, Mica, Soap stone and Silica were issued in four districts²⁰ and two prospecting licences for petroleum product were also issued in Purnea and Bettiah districts to the Oil and Natural Gas Corporation and Tata Petrodyne for exploration of oil and natural gas. The irregularities noticed in course of scrutiny are mentioned in the succeeding paragraphs:

¹⁹ Motihari, Patna and Vaishali.

²⁰ Lakhisarai- one lease for Quartz/Quartzite, Munger- three leases for Silica Sand, Nawada- three leases for Mica, Rohtas -17 leases for Lime stone and one lease for Silica sand.

6.4.20.1 Non-cancellation of lease of inoperative mines

Under Rule 28 of MC Rules, 1960, if any lease holder does not start mining operation within one year[§] from the date of execution of the lease deed or discontinues the mining operation for a continuous period of one year after the commencement of such operation, the State Government shall by an order declare the mining lease as lapsed and communicate the declaration to the lessee.

[§] It was revised to two years with effect from July 2012.

During scrutiny of the mining lease case files of two mining office (Nawada and Rohtas) between December 2012 and July 2013, we observed that one lease of Bihar State Mineral Development Corporation (BSMDC) for Mica and eight mining leases²¹ of

another lessee in Nawada and Rohtas district respectively were executed during the period May 1966 to May 1986 but the mining operations were remained inoperative (2000 and 2008-09 respectively) for the period ranging between five and 13 years. The Department did not cancel the inoperative mines for discontinuance of the mining operation for a continuous period of two years and resettle with the other willing persons for the better mineral development.

After we pointed this out, the Government stated (October 2013) that the action would be taken after verification. We await further report in this regard (November 2013).

6.4.20.2 Delay in disposal of lease applications

Section 5(2)(a) of the MMDR Act, 1957 provides that no mining lease shall be granted by the State unless it is satisfied that there is evidence to show that the area for which the lease is applied for has been prospected earlier and existence of mineral content therein has been established. As per the provisions of the MC Rules, the Government is required to dispose of the application for grant of mining lease within 12 months from the date of its receipt.

The Department despite being requested in May 2013 did not furnish the information regarding the number of application received for grant of lease for major minerals, lease granted, number of applications rejected and number of applications pending for disposal. However, from

the information collected from district mining office, Nawada we noticed that five applications for new mining leases of Mica/Quartz were forwarded to the Director of Mines for approval. These applications were pending for the period ranging between two years four months and 10 years nine months, though these were required to be disposed of within 12 months from the date of receipt of application. As the applications could not be disposed off within due time, the Government was deprived of revenue as dead rent besides blocking of mineral development. Since the Department did not maintain the lease application register and as such in absence of this basic record the higher

²¹ Another lessee at Mauza- Sohdag TiwraKhurd, Sanrakhi, Khukhuma, Kasiawan Bazitpur, Bharuhi, Banjari, Lebura and Kalyanpur.

authorities remained unaware of the disposal of lease application which shows weak monitoring mechanism.

After we pointed this out, the Government stated (October 2013) that in order to grant lease it takes reasonable time for scrutiny of the lease application. The reply was not in consonance with the codal provisions mentioned above which stipulates that applications should have been disposed of within 12 months from the date of its receipt.

6.4.20.3 Non-levy of Dead Rent and Surface Rent

Under Section 9A (1) of the MMDR Act 1957, the holder of mining lease is liable to pay royalty for any mineral removed or consumed by him or sold or dispatched from the leased area or the dead rent in respect of the leased area whichever is higher. Besides, the lessee is also liable to pay surface rent of the leased area. Further, if the royalty or rent was not paid in time simple interest at the rate of 24 *per cent* per annum is also chargeable on the dues remaining payable to the Government.

We observed in December 2012 during scrutiny of the mica lease file of the Bihar State Mineral Development Corporation (BSMDC) in the district mining office, Nawada that a mica lease had been given for 3300 acre at Mauza- Sapahi, Nawada to BSMDC. The demand for dead rent and surface rent was raised and paid upto May 2006.

Thereafter neither demand for dead rent and surface rent was raised by the MO nor any rent for the said period was paid by the Corporation. The period of lease of BSMDC for mica has expired in 2011. The production of mica was stopped since 2000 and the monthly returns were also not submitted since January 2004. The concerned MO did not review the file relating to lease of Mica settled to the BSMDC which resulted in non-levy of dead rent and surface rent and also could not ensure submission of monthly returns.

Thus, demand for dead rent and surface rent amounting to ₹ 2.04 crore was not realised and at the same time lease was not cancelled for discontinuance of production since 2000 as below:

Table- 6.12

(Amount in ₹)

	Period	Area	No. of months	Rate per Ha. per annum	Amount of dead rent
Dead Rent	June 2006 to August 2009	3300 Acre (1335.48 Ha.)	39	1200	5208372
	September 2009 to December 2012	3300 Acre (1335.48 Ha.)	40	3000	13354800
Total					18563172
Surface Rent	June 2006 to December 2012	3300 Acre (1335.48 Ha.)	79	17	1793549
Grand Total					20356721

After we pointed this out, the Government stated (October 2013) that the action would be taken after verification. We await further report in this regard (November 2013).

We recommend that all applications for renewal/new mining leases may be monitored properly and disposed off in time for better mineral development which may enhance State as well as national revenue.

6.4.21 Irregularities in transit pass

Rule 4(ii) of the Bihar Minerals (prevention of illegal Mining, Transportation and Storage) Rules, 2003 stipulates that all despatches of minerals except those by rails or aerial ropeway shall be accompanied with a challan or transit pass. Further, as per the provision laid down in Rule 26 (6) of the BMMC Rules, the Competent Officers after verification, as he may deem necessary, of the monthly returns furnished by the lessee shall assess the amount of rent/royalty payable by the lessee.

We observed in June 2013 from the monthly returns/transit pass relating to mining lease of Quartz/Quartzite in district mining office, Lakhisarai that the lessee had submitted the monthly return along with copies of transit passes. Scrutiny of transit passes for the months of October 2011 and December 2011, we

found that the value of despatch of quartz mineral shown as 586 MT in the return against 562 MT as per counterfoil of transit passes used for despatch of the materials attached with return. Thus, it indicates that total quantity of 24 MT of Quartz mineral was transported without transit pass which was violation of the above Rules.

After we pointed this out, the Government stated (October 2013) that the action would be taken after verification. We await further report in this regard (November 2013).

6.4.22 Consent for operation

Under the Section 25 of the Water (Prevention & Control of Pollution) Act 1974 read with Section 21 of the Air (prevention & Control of Pollution) Act 1981, any industry, operation or process has to obtain the Consent for Operation (CFO) from the State Pollution Control Board each year.

The mining activity is closely linked with forestry and environmental issues as most of the mines are situated either in forest or its nearby, therefore, it is a direct intervention in the environment and has potential to disturb the

ecological balance. Further, minerals are non-renewable; therefore, their conservation in economic manner and efficient use is utmost necessity which includes scientific method of mining, beneficiation and zero waste mining. We observed between May and July 2013 that 3,795 brick kilns were operated during 2011-13, out of which only 1,482 brick kilns owners had obtained consent for operation from the BSPCB. The Board had not provided information for earlier years, despite being requested. Thus, out of 3,795 brick kilns, 2,313 (61 *per cent*) were being operated without obtaining CFO from the BSPCB. Also, the respective DMOs did not enforce the provisions of the Acts. This indicated an indifferent attitude towards meeting environmental norms.

After we pointed this out, the Government accepted the audit observation and stated (October 2013) that the observation was of directive nature and the provision would be added in BMMC Rules.

The Department may co-ordinate with the BSPCB for protection of environment and better development of minerals with a provision to recover the cost of reclamation for damages caused to environment.

6.4.23 Conclusions

The review revealed a number of deficiencies in the levy and collection of mining receipts and persistent non-compliance of rules and regulations leading to leakage of revenue. The State Government does not have a mineral policy in place in line with the Model State Mineral Policy 2010, circulated by the Government of India. There was lack of monitoring and supervision in implementation of provisions of Acts/Rules regarding permit, lease/settlement of Minor and Major minerals and levy and collection of royalty. The internal control framework was deficient in terms of inadequate internal audit, non-maintenance of important registers, non-submission/assessment of returns and inadequate inspections by departmental officers. There were vacancies in the key post of Mines Inspector.

6.4.24 Summary of Recommendations

The Government may consider

- **for early finalisation and implementation of the Model State Mineral Policy for minor minerals.**
- **to ensure maintenance of basic records like register of illegal mining, lease application register, lease renewal register etc. and their review at regular interval by the higher departmental officers.**
- **to ensure that no mining operation be carried out without approval of Mining Plan and Progressive Mine Closure Plan for protection of fragile environment and proper mineral development.**

**Patna
The**

**(P.K. SINGH)
Accountant General (Audit), Bihar**

COUNTERSIGNED

**New Delhi
The**

**(SHASHI KANT SHARMA)
Comptroller and Auditor General of India**

ANNEXURE

ANNEXURE-I
(Refer: Paragraph 2.10)

Table -I
Suppression of sale turnover

Sl No.	Name of the Circle	Name of the dealer/ TIN	Period	Commodity/ Rate (in per cent)	Actual sale	Sale accounted for	Value suppressed	Tax	Interest @ 1.5 percent per month Penalty	Total	Difference found in
1.	Nawada	M/s BSC-C & CJV/ 10231713074	2010-11	Stone chips/4	207500061	142279650	65220411	2608816	<u>665248</u> 7826448	11100512	Cross-verification of RT-III/TAR and purchase statement of other dealer
		M/s T.K Enterprises/ 10231966028	2010-11	Tea/4 soap & detergent/ 12.5	25460258	23257054	2203204	262291	<u>68851</u> 786873	1118015	RT-III/TAR and sale statement of the dealer
2.	Patna Central	M/s Kamla Construction Company/ 10152986024	2009-10	Cement/12.5 Iron & Steel/4	599869493	539443637	60425856	2725206	<u>1389855</u> 8175618	12290679	Details of turnover & RT-III
3.	Patna Special	M/s Mankind Pharma Ltd./ 10010466058	2010-11	Medicine/4	6722228119	660270182	11957937	672036 ¹	<u>231852</u> 2016108	2919996	RT-III, TAR-IV and assessment order
4.	Patna West	M/s Sujata Hotel/ 10140249051	2009-10	Food and beverage/ 12.5	78441000	75911336	2529664	316208	<u>109092</u> 948624	1373924	RT-III, TAR and P/L A/c
		TOTAL			1583498931	1441161859	142337072	6584557	2464898 19753671	28803126	

¹ Tax is calculated on MRP (at the rate of 5.62 per cent) basis on the suppressed value.

Table -II
Suppression of purchase turnover

Sl. No.	Circle	Name of the dealer/ TIN	Period	Commodity/ Rate (in per cent)	Actual Purchase	Purchase accounted for	Value suppressed	Tax	Interest Penalty	Total	(Amount in ₹)
1.	Patna City West	M/s Samarat Automobiles Pvt. Ltd./ 10082041097	2009-10	Motor vehicle/ 12.5	555118094	403740435	151377659	18922207	5960495 56766621	81649323	Cross-verification of RT-III and sale statement of other dealer
2.	Patna Special	M/s Karuna Management Services (P) Ltd./ 10010875050	2010-11	Mobile phone/4	349835217	346650691	3184526	127381	43946 382143	553470	RT-III and requirement statement of Form 'C'
		M/s Ultra Tech cement/ 10010167007	2010-11	Cement/12.5	124868076	0	124868076	15608510	5384936 46825530	67818976	Goods transferred from other dealer not accounted for
3.	Saran	M/s Sonali Auto Pvt. Ltd./ 10335157021	2010-11	Motor vehicle/ 12.5	13988968	10463524	3525444	440680	92543 1322040	1855263	RT-III and statement of D-IX
TOTAL					1043810355	760854650	282955705	35098778	11481920 105296334	151877032	

ABSTRACT

Table	Caption	Actual sale/purchase	Sale/purchase accounted for	Value suppressed	(Amount in ₹)		
					Tax	Short levy Interest Penalty	Total
I	Sale turnover	1583498931	1441161859	142337072	6584557	2464898 19753671	28803126
II	Purchase turnover	1043810355	760854650	282955705	35098778	11481920 105296334	151877032
Total		2627309286	2202016509	425292777	41683335	13946818 125050005	180680158

ANNEXURE-II

(Refer: Paragraph 2.11)

Short levy of tax due to application of incorrect rate of tax

Sl. No.	Name of the Circle	Name of the Dealer / TIN	Year	Commodity	Rate of tax leviable / levied (in per cent)	Amount on which difference rate is to be levied	Tax	Interest Penalty	Total
1.	Begusarai	M/s Ganga Dairy Ltd./ 10360314018	2008-09	Ghee	12.5/4	1884040	160143	87679 480429	728251
2.	Bettiah	M/s Karma Construction/ 10260645063	2008-09	Morum	12.5/4	1015000	86275	47883 258825	392983
			2009-10	-do-	12.5/4	940600	79951	29982 239853	349786
3.	Bhagalpur	M/s Triveni Sales/ 1052 1597082	2009-10	Leather Products	-do-	2342679	199128	68699 597384	865211
		M/s Manikant Mishra/ 10523485090	2010-11	Morum	-do-	1691397	143769	49600 431307	624676
4.	Danapur	M/s Aqua Softech (P) Ltd./ 10041343098	2009-10	Mineral Water	12.5/4	3896384	331193	124197 993579	1448969
5.	Forbesganj	M/s Simanchal Construction/ 10440605089	2009-10	Bed misile	12.5/4	31695891	2694151	1171956 8082453	11948560
			2010-11	-do-	12.5/4	50915731	4327837	1103598 12983511	18414946
6.	Gandhi Maidan	M/s Century Plyboards/ 10110508075	2010-11	Ply boards	12.5/4	170900326	14526528	3704265 43579584	61810377
7.	Kadamkuan	M/s Sareeven Infocom Ltd./ 10132357098	2010-11	Smart Card Ribbon etc.	12.5/4	18611960	1582017	522065 4746051	6850133

8.	Muzaffarpur West	M/s Samwad/ 10305772082	2009-10	Fixed Wireless Phone	4/0	44764307	1790572	940050 5371716	8102338
			2010-11	-do-	-do-	42354512	1694180	584492 5082540	7361212
9.	Patliputra	M/s Speed Craft Ltd./ 10050003064	2009-10	Diesel Road Roller	12.5/4	68703212	5839773	1927125 17519319	25286217
			2010-11	-do-	12.5/4	61930465	5264090	1737149 15792270	22793509
		M/s NAFED/ 10050127030	2010-11	Rice, Wheat	1+3/0	1839151182	73566047	24276795 220698141	318540983
10.	Patna Central	M/s Okaya Power Ltd./ 10153548089	2010-11	Mobile Accessories	12.5/4	4051761	344400	108486 1033200	1486086
11.	Patna City East	M/s Shristi Developers(P) Ltd./ 10060321051	2009-10	Morum & Cement	12.5/4	25923278	810746 ²	413480 2432238	3656464
12.	Patna City West	M/s Rasna Pvt. Ltd./ 10080628098	2008-09	Fruit Powder based drink	12.5/4	4942686	420128	207964 1260384	1888476
13.	Patna South	M/s Dayanand Prasad Singh & co./10129324057	2010-11	Dust	-do-	3196317	271687	85581 815061	1172329
14.	Patna Special	M/s Marico Ltd/ 10010186019	2009-10	Medikar Shampoo	12.5/ MRP	28535075	2425481	836791 ³ 7276443	10538715
			2010-11	-do-	12.5/MRP	11703727	841885	296764 2525655	3664304
		M/s Virbac Animal health India Ltd/ 10010509029	2008-09	Medicine	4/0	103900555	4156022	2181912 12468066	18806000
			2009-10	-do-	-do-	126432435	5057297	1744768 15171891	21973956
		M/s Hindustan Uniliver 1001005603	2010-11	Olive Oil, Sauce	12.5/4	27026892	2297286	758104 6891858	9947248

² The dealer had admitted tax of ₹ 2429664 (at the rate of 12.5 per cent on ₹ 19437313).

³ Tax is calculated on the MRP value of differential amount.

		M/s Asian Paints/ 10010012053	2010-11	Road Marking Paints	12.5/4	4223500	358997	<u>121162</u> 1076991	1557150
		M/s Dharamapal Satyapal Ltd./ 10010184079	2010-11	Jaljeera	12.5/4	824584	70090	<u>23655</u> 210270	304015
		M/s Himalaya Drug/ 10010187088	2010-11	Liv 52, Protec liquid	4/0	1228314	49133	<u>16951</u> 147399	213483
15.	Patna West	The New Patna Club/ 10140463033	2008-09	Cigarette	12.5/0	203731	25466	<u>12606</u> 76398	114470
			2009-10	-do-	-do-	171454	21432	<u>6751</u> 64296	92479
16.	Purnea	M/s Baba Construction/ 10492453044	2010-11	Bed misile	12.5/4	18793862	1597478	<u>623017</u> 4792434	7012929
17.	Sasaram	M/s Mohni Electronics/ 10240562086	2009-10	Inverter	12.5/4	431058	36640	<u>13740</u> 109920	160300
Total							131069822	<u>43827267</u> 393209466	568106555

ANNEXURE- III

(Refer: Paragraph 2.12)

Excess allowance of Input tax Credit (ITC)

Sl. No.	Name of the Circle	Name of the dealer/TIN	Period	Purchase value	ITC availed	Actual entitlement	Excess availing of ITC	Penalty Interest	Total	Nature of irregularities	(Amount in ₹)
1.	Kishanganj	M/s Instalaciones Inabensa/ 10471721002	2010-11	39332932	3642283	2871579	770704	2312112 173408	3256224	The dealer incorrectly claimed ITC brought forward of ₹ 770704 during the year 2010-11 though it was not shown carried forward in the annual return of 2009-10.	
2.	Muzaffarpur West	M/s Parle Biscuits Pvt. Ltd./ 10305416092	2009-10	202604287	1173387	830667	342720	1028160 118238	1489118	Excess ITC was claimed by the transferee dealer on the amount of stock received from within the state than the amount of reverse credit done by the transferor dealer on account of the same stock transfer made within the state.	
3.	Nawada	M/s Shree Balajee Sales/ 10230205008	2009-10	53623706	6702961	6491742	211219	633657 88712	933588	The ITC was availed on the Gross purchase shown in Annual return but actually the ITC should be availed on the net purchase i.e. on the amount of purchase shown, after deducting the amount of discount received, in the trading account.	
4.	Patna City West	M/s Vinayak Enterprises/ 10080617040	2008-09	3019873843	120794952	120527376	267576	802728 136464	1206768	The ITC was availed on the Gross purchase shown in Annual return but actually the ITC should be availed on the net purchase i.e. on the amount of purchase shown, after deducting the amount of price drop value, in the Profit and loss account.	
			2009-10	1838972993	73558919	72981520	577399	1732197 190542	2500138		
			2008-09	413218347	49918555	49650572	267983	803949 120592	1192524	The ITC availed in the annual return was not in conformity with the purchases shown in the annual return/TAR and wrong calculation was made.	

		M/s Usha Agro products Ltd./ 10080523047	2009-10	17259286	740192	666926	73266	<u>219798</u> 36267	329331	The ITC was availed in the annual return on lubricants as consumables which was not used as direct input in the manufacturing process.
			2010-11	27226714	1146755	1061922	84833	<u>254499</u> 26722	366054	
			2010-11	975459686	39090220	38832381	257839	<u>773517</u> 85087	1116443	The ITC was availed in the annual return on lubricants, electrical fittings and machine repair (as given in TAR) which were not direct inputs in the manufacturing process.
5.	Patliputra	M/s Food Corporation of India/ 10050225097	2010-11	1623830187	52184025	16238302	35945723	<u>107837169</u> 11862088	155644980	The ITC was availed on the amount of additional tax paid under Section-3AA of BVAT Act, 2005, in the annual return, though tax paid under Section 14 and Section 4 was only admissible for availing of ITC.
6.	Patna North	M/s Gangotri Iron and Steel Co./ 10100734064	2010-11	605862207	25715615	24637252	1078363	<u>3235089</u> 274983	4588435	The ITC claimed/availed in the annual return were not in conformity with the ITC shown in TAR.
7.	Patna Special	M/s IOC Ltd./ 10010116082	2010-11	59559522	2382381	0	2382381	<u>7147143</u> 821921	10351445	The ITC was claimed on Ethanol which was not re-sold in same form, rather it was blended with petrol/Diesel (Schedule-IV commodities) hence ITC was not allowable.
		M/s Kalyanpur Cement Ltd./ 10010066030	2010-11	43667124	2269176	0	2269176	<u>6807528</u> 782866	9859570	The ITC availed on spare parts was not allowable as it was not a direct input material in the manufacturing.
		M/s Larson and Toubro Ltd./ 10010213082	2009-10	395860741	28693204	4535930	24157274	<u>72471822</u> 12682569	109311665	The ITC claimed/availed in the annual return were not in conformity with the ITC shown in the TAR.
		M/s Deepak Veg pro Pvt. Ltd./ 10010526004	2010-11	797091	89155	0	89155	<u>267465</u> 30758	387378	The ITC was availed in the annual return on cement and consumables (as given in the TAR) which were not direct inputs of the dealer.

	M/s Bata India Ltd./ 10010021022	2010-11	43056151	4438786	3125508	1313278	3939834 453081	5706193	The ITC was availed in the annual return on purchase of High Speed Diesel (HSD), and Light Diesel Oil (LDO) which was not allowable as it was a schedule-IV commodity.
	M/s Raj Rasoi/ 10010496031	2009-10	1326993	123559	52444	71115	213345 37335	321795	The ITC was availed in the annual return on the purchase of LPG which was not a direct input consumed in the manufacturing process.
		2010-11	1305934	149395	60467	88928	266784 30680	386392	
8.	Saran	2010-11	1881703	235213	0	235213	705639 49395	990247	The ITC was availed in the annual return on the goods which were not re-sold as per the commodity-wise sale/purchase shown in the TAR.
9.	Teghra	2010-11	1321472	148792	0	148792	446376 37942	633110	The ITC was availed in the annual return on the purchase of consumables and stores (as given in TAR) which were not a direct input consumed in the manufacturing process.
Total			9366040919	413197525	342564588	70632937	211898811 28039650	310571398	

ANNEXURE-IV

(Refer: Paragraph 2.13)

Incorrect adjustment of Entry Tax towards payment of VAT

Sl. No.	Name of Circle	Name of Dealer / TIN	Year	ET paid	ET adjusted	Actual amount of ET to be adjusted	Difference (Excess adjustment)	Interest	Total	Remarks	Records seen
1.	Bhagalpur	M/s Sagar Agency/ 10520844071	2010-11	2006830	2006830	1618672	388158	133914	522072	The rate of VAT was less than the rate of ET.	Annual return (RT-III) of VAT and annual return (ET-V) of entry tax.
			2009-10	2113593	2113593	1661121	452472	237548	690020	The rate of VAT was less than the rate of ET.	Annual return (RT-III) of VAT and annual return (ET-V) of entry tax.
			2010-11	6510405	6510405	5086254	1424151	491332	1915483		
2.	Forbesganj	M/s Nishan Gas Service/ 10440380049	2009-10	567128	567128	141782	425346	178645	603991	The rate of VAT was less than the rate of ET.	Annual return (RT-III) of VAT, annual return (ET-V) of entry tax as well as road permit (D-IX.)
			2010-11	145653	142912	60814	82098	27092	109190		
3.	Muzaffarpur West	M/s Yogendra Pd. Chaurasia & sons 10300345029	2009-10	379477	438716	296466	142250	74682	216932	The rate of VAT was less than the rate of ET.	Annual return (RT-III) of VAT and annual return (ET-V) of entry tax.
			2010-11	263399	412867	205780	207087	71445	278532		
4.	Patliputra	M/s Bharti Teletech Ltd./ 10050365068	2008-09	4214079	4214079	4110487	103592	52831	156423	Claimed adjustment of breakage/ damaged goods.	Annual return (RT-III) of VAT and TAR-IV.
			2009-10	12801714	11621153	10770578	850575	293448	1144023	Goods imported were not resold but supplied as a warranty replacement.	Annual return (RT-III) of VAT, annual return (ET-V) of entry tax and TAR-IV.

Audit Report (Revenue Sector) for the year ended March 2013

		M/s Millennium Beer industries Ltd./ 10050094050	2009-10	72246972	72246972	71735939	511033	176306	687339	Claimed adjustment of breakage/ damaged goods.	Annual return (RT-III) of VAT, annual return (ET-V) of entry tax and TAR-IV.
		M/s IRTC Ltd./ 10050163017	2010-11	3979786	3979786	622811	3356975	1107802	4464777	Claimed adjustment on Inter-State stock transfer.	Annual return (RT-III) of VAT and TAR-IV.
5.	Patna City East	M/s Magadh Industries Pvt. Ltd./ 10061073092	2010-11	6731949	5181277	0	5181277	1632102	6813379	The dealer did not belong to small, medium or sick industry.	Annual return (RT-III) of VAT, annual return (ET-V) of entry tax and Balance sheet.
		M/s Parle Biscuit Pvt. Ltd./ 10060425035	2009-10	6792774	4981885	4781432	200453	66149	266602	Claimed adjustment on Inter-State stock transfer	Annual return (RT-III) of VAT, annual return (ET-V) of entry tax and TAR.
6.	Patna City West	M/s Sharp business system India Ltd./ 10082205027	2009-10	566915	568444	435612	132832	41842	174674	Claimed adjustment on Inter-State stock transfer.	Annual return (RT-III) of VAT, annual return (ET-V) of entry tax and TAR.
		M/s India Yamha Motor Pvt. Ltd./ 10082332097	2009-10	14130817	15148787	14130817	1017970	320660	1338630	The dealer had taken ET set off more than the ET paid	Annual return (RT-III) of VAT and annual return (ET-V) of entry tax.
7.	Patna North	M/s Gangotri Iron and Steel Co. Ltd./ 10100734064	2010-11	50158654	50158654	0	50158654	12038076	62196730	The dealer did not belong to small, medium or sick industry.	Annual return (RT-III) of VAT, annual return (ET-V) of entry tax and Balance sheet.
8.	Patna South	M/s Hans Marketing Pvt. Ltd./ 10125746096	2010-11	18011299	15843741	14071327	1772414	558310	2330724	The rate of VAT was less than the rate of ET.	Annual return (RT-III) of VAT and annual return (ET-V).

Audit Report (Revenue Sector) for the year ended March 2013

11.	Saran (Chapra)	M/s Satyam Enterprises/ 10330761028	2009-10	281291	281291	235413	45878	17893	63771	Claimed adjustment of breakage/ damaged goods.	Annual return (RT-III) of VAT, annual return (ET-V) of entry tax and scrutiny order.
			2010-11	332456	332456	287091	45365	9527	54892		
12.	Sasaram	M/s Nashimudin & sons/ 10242253087	2009-10	4123020	4123013	3228432	894581	335468	1230049	The rate of VAT was less than the rate of ET.	Annual return (RT-III) of VAT and annual return (ET-V) of entry tax.
			2010-11	3832164	3832165	3008944	823221	160528	983749		
TOTAL				343131180	337509897	241828016	95681881	27720068	123401949		

Note: In the cases where the dealer had claimed adjustment of Entry tax on Inter-State stock transfer, we arrived at the incorrect allowance by taking proportionate portion of entry tax to the extent of Inter State Stock transfer.

ANNEXURE- V**(Refer: Paragraph 2.14)****Incorrect allowance of deductions**

Sl. No.	Circle	Name of the dealer/TIN	Year	Items of inadmissible deduction	Rate (in per cent)	Amount of such deduction	Allowable deduction	Excess deduction allowed on which tax is leviable	Tax on excess deduction claimed/ allowed	Records seen	(Amount in ₹)
1.	Bhabhua	M/s Dayanand Prasad Sinha & Co/. 10181534094	2010-11	Estt. & other expenses and Profit on material	12.5 and 4	186019198	139925359	46093839	2235551	Annual Return (RT-III) of VAT and sale/purchase statement	
		M/s Darshita Builders & Developers/ 10181282088	2009-10	Estt. & other expenses and Profit on material	12.5 and 4	14541102	9856070	4685032	219260	Annual Return (RT-III) of VAT and Profit & loss account.	
		M/s Parmar Construction 10182354035	2009-10	Estt. & other expenses and Profit on material	12.5 and 4	8929327	5868322	3061005	143255	Annual Return (RT-III) of VAT and Profit & loss account.	
2.	Bhagalpur	M/s Manikant Mishra/ 10523485090	2010-11	Estt. & other expenses & Profit on material	12.5 and 4	9451357	6759473	2691884	222081	Annual Return (RT-III) of VAT and Profit & loss account.	
3.	Forbesganj	M/s Jai Mata di Construction/ 10441747059	2009-10	Estt. & other expenses and Profit on material	12.5 and 4	103525450	75241142	28284308	1491997	Annual Return (RT-III) of VAT and Profit & loss account.	
			2010-11	Estt. & other expenses and Profit on material	12.5 and 4	140651866	110962903	29688963	1540857	Annual Return (RT-III) of VAT and Profit & loss account.	

4.	Gaya	M/s Multi Engineering and Scientific Corporation/ 10201653058	2008-09	Estt. & other expenses and Profit on material	4	37195599	33161080	4034519	161381	Annual Return (RT-III) of VAT and Profit & loss account.
			2009-10	Estt. & other expenses and Profit on material	4	21392100	16869454	4522646	180906	Annual Return (RT-III) of VAT and Profit & loss account.
5.	Hajipur	M/s Macro Ranjan Construction (Pvt) Ltd./10290474018	2009-10	Profit on material and other overheads	12.5 and 4	33892589	30315852	3576737	250055	Annual Return (RT-III) of VAT and Profit & loss account.
6.	Jehanabad	M/s Chitragupta construction Pvt. Ltd./10220374058	2009-10	Estt. & other expenses and Profit on material	12.5 and 4	27920239	20048818	7871421	448671	Annual Return (RT-III) of VAT and Profit & loss account.
		M/s Baijnath Nirman (India) Pvt. Ltd./ 10221070033	2010-11	Estt. & other expenses and Profit on material	12.5 and 4	53367265	35423016	17944249	1998989	Annual Return (RT-III) of VAT and Profit & loss account.
7.	Kadam Kuan	M/s Lily Construction Pvt. Ltd./10131552031	2009-10	Security deposit, Royalty etc.	12.5 and 4	34514796	24158719	10356077	474805	Annual Return (RT-III) of VAT and assessment order.
			2010-11	Carriage	12.5 and 4	23171273	19632860	3538413	163853	Annual Return (RT-III) of VAT and payment details.

8.	Motihari	M/s Maa Construction/ 10274189076	2010-11	Estt. & other expenses and Profit on material	12.5 and 4	11017653	7776830	3240823	325217	Annual Return (RT-III) of VAT and Profit & loss account.
		M/s Jagdamba Enterprises/ 10274083055	2010-11	Estt. & other expenses and Profit on material	12.5 and 4	12697276	8085225	4612051	360893	Annual Return (RT-III) of VAT and Profit & loss account.
9.	Muzaffarpur East	M/s BSC C& C JV/ 10310938011	2010-11	Profit on material	12.5 and 4	3500960455	3425110111	75850344	3890857	Annual Return (RT-III) of VAT and Profit & loss account, TAR-IV and statement of labour & services.
10.	Patliputra	M/s Sai Engicon and Construction Pvt. Ltd./10050450040	2009-10	Establishment expenses and Profit on material	12.5 and 4	281969360	197991531	83977829	3644637	Annual Return (RT-III) of VAT and sale/purchase statement.
11.	Patna Central	M/s Saj Enterprises/ 10154018087	2010-11	Estt. Cost, Spare part & profit on material	12.5 and 4	102259437	83604143	18655294	841354	Annual Return (RT-III) of VAT and sale/purchase statement.
12.	Patna City East	M/s Shristi Developers Pvt. Ltd./ 10060321051	2009-10	Estt. & other expenses and Profit on material	12.5 and 4	125870800	103200924	22669876	1186009	Annual Return (RT-III) of VAT and Profit & loss account.
13.	Patna South	M/s Dayanand Prasad Singh & Co./ 10129324057	2010-11	Establishment & other expenses and Profit on material	12.5 and 4	111402251	71500509	39901742	2159423	Annual Return (RT-III) of VAT and sale/purchase statement.

14.	Patna Special	M/s Subhash Projects & Marketing Ltd./ 10010474012	2008-09	Estt. & other expenses and Profit on material	12.5 and 4	1017050942	81148633	935902309	53943069	Annual Return (RT-III) of VAT, TAR and expenses statement.
			2009-10	Estt. & other expenses and Profit on material	12.5 and 4	549753958	59039835	490714123	34852971	Annual Return (RT-III) of VAT, TAR and expenses statement.
15.	Patna West	M/s Prasavanath Developers Ltd./ 10145032079	2009-10	Estt. & other expenses and Profit on material	12.5 and 4	127250631	113705417	13545214	929120	Annual Return (RT-III) of VAT, TAR-IV and assessment order.
			2010-11	Estt. & other expenses and Profit on material	12.5 and 4	403766036	185319556	218446480	16350719	Annual Return (RT-III) of VAT, TAR and sale/purchase statement.
16.	Saran	M/s Satydeo Prasad Yadav/ 10333535034	2009-10	Estt. & other expenses and Profit on material	12.5 and 4	14704308	8807607	5896701	338067	Annual Return (RT-III) of VAT and Contract account.
17.	Sasaram	M/s A.K. Builders & Transports/ 10240936021	2009-10	Estt. & other expenses and Profit on material	12.5 and 4	60197974	29801532	30396442	1784271	Annual Return (RT-III), statement of contract receipts & expenses.
Total						7013473242	4903314921	2110158321	130138268	

ANNEXURE-VI

(Refer : Paragraph 2.25)

Short levy of entry tax due to suppression of import value

Sl. No.	Name of Circle	Name of Dealer/ TIN	Year	Commodity/ rate	Actual purchase Purchase accounted for	Suppression	Entry tax	Penalty Interest (at the rate of 1.5 per cent per month)	Total
1.	Bhabhua	ECO Cement/ 10183420037	2010-11	Motor vehicle/8	4731936 Nil	4731936	378555	1135665 79496	1593716
2.	Bhagalpur	M/s N.T.P.C Ltd./ 10521193271	2010-11	Cement/12 and Electrical goods/8	25679671391 25540836877	138834514	11317849	33953547 3565122	48836518
3.	Forbesganj	BSC- C&CJV/ 10442081235	2008-09	Motor vehicles, Electrical goods, Lubricant and Furnace oil/,	107333737 Nil	107333737	4830242	14490726 2970599	22291567
			2009-10	Software,Iron & steel/4,A.C/5 and Cement/12	306882720 Nil	306882720	23942979	71828937 10415196	106187112
			2010-11		12699799 Nil	12699799	1002955	3008865 255754	4267574
4.	Hajipur	M/s Lumbini Beverage/ 10290083205	2009-10	Plastic goods/4 and Furnace oil/8	58346315 17371711	40974604	1658630	4975890 597107	7231627
5.	Muzaffarpur East	BSC- C&CJV/ 10310938011	2010-11	Cement/12 Paint, Lubricants, Furnace oil Genset/8 Steel, Bitumin, Stone Chips/4	65364018 Nil	65364018	5229121	15687363 1333426	22249910
6.	Nawada	M/s Twinderjit Mining and Construction/ 10231616274	2009-10	DGset, Motor vehicles/8	10055785 1796787	8258998	635546	1906638 114398	2656582
			2010-11	and Iron&Steel/4	57606817 10172417	47434400	3511078	10533234 895324	14939636

		M/s C&C Construction/ 10231619247	2010-11	Furnace oil and Lubricant/8	<u>248178685</u> 234126620	14052065	1124165	<u>3372495</u> 286662	4783322
7.	Patna Special	M/s Larson & Toubro Ltd./ 10010213276	2009-10	Electrical goods, Building materials/8 and A.C./5	<u>758442227</u> 303079246	455362981	36356977	<u>109070931</u> 19087413	164515321
		M/s Deepak Vegpro Ltd./ 10010526295	2010-11	Electrical goods, Lubricants/8 iron & steel/4	<u>16275527</u> 232313	16043214	656141	<u>1968423</u> 226369	2850933
		M/s Bharat Petroleum Corporation Ltd./ 10010121223	2010-11	Petrol, Diesel/16 and SKO/4	<u>8959395255</u> 8131487493	827907762	95062908	<u>285188724</u> 32796706	413048338
8.	Saran (Chapra)	B.S.S Projects Pvt. Ltd./ 10334657059	2009-10	Motor vehicles/8	<u>6845097</u> Nil	6845097	547608	<u>1642824</u> 213567	2403999
9.	Shahabad	M/s JKM Infra Project (P) Ltd./ 10163045217	2008-09	Motor vehicles/8	<u>55312570</u> Nil	55312570	4425006	<u>13275018</u> 2256753	19956777
			2009-10		<u>79205764</u> 6113230	73092534	5847403	<u>17542209</u> 1929643	25319255
			2010-11		<u>17396771</u> 402048	16994723	1359578	<u>4078734</u> 203936	5642248
Total					<u>36443744414</u> 34245618742	2198125672	197886741	<u>593660223</u> 77227471	868774435

ANNEXURE-VII**(Refer: Paragraph 2.26)****Application of Incorrect rate of Entry Tax**

Sl. No.	Name of the circle	Name of the dealer/ TIN	Period	Commodity	Rate leviable (entry no. of the schedule)/ Rate levied ⁴	Import Value	Difference in tax amount	Penalty Interest	Total
1.	Forbesganj	M/s Padam Gas Distributor/ 10440351240	2009-10	LPG	4 (26) / 1	7747568	232427	<u>697281</u> 101106	1030814
2.	Muzaffarpur East	M/s EE, BSNL Elect. Division/ 10312398055	2010-11	D.G. Set	8(17) / 4	4732903	189316	<u>567948</u> 48276	805540
3.	Patliputra	M/s Bharti Airtel Ltd./ 10050212293	2009-10	Battery and D.G Set	8(17) / 4	9721988	388879	<u>1166637</u> 134163	1689679
		M/s BSNL/ 10050190274	2009-10	Electrical goods	8(17) / 4	110866218	4434649	<u>13303947</u> 1529954	19268550
		M/s Vodafone Essar Spacetal Ltd./ 10050339266	2009-10	D.G. Set, PIU and Transformer	8(17) / 4	77276519	3091061	<u>9273183</u> 1020050	13384294
4.	Samastipur	M/s Chandan Bhandar/ 10420911276	2008-09	Zarda	16(2) / 5	288216	31704	<u>95112</u> 10938	137754
Total						210633412	8368036	<u>25104108</u> 2844487	36316631

⁴ The dealer admitted the tax at the incorrect rate i.e. not supported by the schedule; hence entry no. of the schedule applied by the assessee cannot be incorporated.

ANNEXURE-VIII

(Refer: Paragraph 2.27)

Non-levy of entry tax and penalty due to non-registration

Sl. No.	Name of Circle	Name of Dealer / TIN	Year	Commodity	Amount (value of goods)	Rate of ET (in per cent)	Entry tax ⁵	Penalty	Total
1.	Bhagalpur	M/s K.C. Indane Seva/ 10520247036	2008-09	LPG	5962635	4	238505	238505	477010
		M/s Hi-Tech Cell Phone Pvt. Ltd./ 10525535014	2010-11	Cell Phone	34061848	4	1362474	1362474	2724948
2.	Danapur	M/s Vision labs institute/ 10041050061	2008-09	Computer Software	27748833	4	1109953	1109953	2219906
3.	Gandhi Maidan Patna	M/s Eltrix Engineering Pvt. Ltd./10111201026	2010-11	Electrical goods	10813937	8	865114	865114	1730228
		M/s NCS Computech Pvt. Ltd./ 10111355095	2010-11	Computer goods	20268280	4	810731	810731	1621462
		M/s Knodia Distributors/ 10110762021	2009-10	Lubricant	9674448	8	773956	773956	1547912
			2010-11	Lubricant	9769829	8	781586	781586	1563172
		M/s Fastrack Communications Pvt. Ltd./ 10111212024	2010-11	Telephone/ Mobile	129417557	4	5176702	5176702	10353404

⁵

Except in case of two dealers i.e. M/s K.C.Indane Seva (Bhagalpur circle) and M/s Abhinay enterprises (Gaya circle), the Entry Tax payable is totally adjustable against VAT (Out of the total amount of payable Entry Tax of Rs. 6.61 crore, an amount of Rs. 6.58 crore is totally adjustable against liability of VAT).

4.	Gaya	M/s Abhinay Enterprises/ 10200021033	2009-10	LPG	4891080	4	195643	195643	391286	
5.	Madhepura	M/s Friends & Company/ 10204015008	2008-09	Lubricant	4566151	8	365292	365292	730584	
			2009-10		7779471		622357	622357	1244714	
			2010-11		5860844		468868	468868	937736	
			2008-09		1237234		8	98979	98979	197958
6.	Nawada	M/s Pashupati Nath Distributors Pvt Ltd./ 10481019072	2009-10	Do	1339828	8	107186	107186	214372	
			2009-10		2189137		87565	87565	175130	
			2010-11		4882113		4	195285	195285	390570
			2010-11		2566592		8	205327	205327	410654
7.	Patna South	M/s Micromax informatics Ltd./ 10125905079	2009-10	Mobile, its parts & accessories, sim card and Telephonic equipments	1048432848	4	41937314	41937314	83874628	
8.	Patna West	M/s Tata Pigments Ltd./ 10140707085	2009-10	Cement, Primer etc.	28199562	8	2255965	2255965	4511930	
			2010-11		33769695		8	2701576	2701576	5403152
9.	Purnea	M/s Hi-Tech Cell Phone Pvt. Ltd./ 10493778016	2009-10	Mobile	59223869	4	2368955	2368955	4737910	
			2010-11	Mobile	82781466	4	3311259	3311259	6622518	
			2009-10	Lubricant	950704	8	78000	78000	156000	
Total					1536387961		66118592	66118592	132237184	

ANNEXURE-IX

(Refer Paragraph : 3.9)

Short realisation of licence fee of excise shops after cancellation

(Amount in ₹)

Excise district	Group No.	Name of Shops	Monthly licence fee	Date of cancellation	Months for which licence fee outstanding	Months for which licence fee outstanding (after adjusting advance licence fee for one month)	Short realisation of revenue
Siwan	10	CS-10	2,94,000	04.02.2012	10/11 to 02/12	04	11,76,000
		CS-Tarwara-01	1,27,050	04.02.2012	12/11 to 02/12	02	2,54,100
	12	CS-12	2,94,000	04.02.2012	11/11 to 02/12	03	8,82,000
		CS-Andar-1	1,22,500	04.02.2012	01/12 to 02/12	01	1,22,500
	29	CS-Maharajganj-2	1,61,000	04.02.2012	01/12 to 02/12	01	1,61,000
		IMFL-Maharajganj-2	1,42,500	04.02.2012	01/12 to 02/12	01	1,42,500
	78	CS-Bagaura	1,66,250	04.02.2012	12/11 to 02/12	02	3,32,500
	70	Composite-Mathiya (Gyaspur)	1,15,000	04.02.2012	10/11 to 02/12	04	4,60,000
		Composite – Siswan	1,20,000	04.02.2012	11/11 to 02/12	03	3,60,000
	107	Composite-Dindyalpur	1,15,000	04.02.2012	11/11 to 02/12	03	3,45,000
	104	Composite-Sahar Koala	1,30,000	04.02.2012	12/11 to 02/12	02	2,60,000
	75	Composite-Pasiwar Bazar	1,15,000	04.02.2012	11/11 to 02/12	03	3,45,000
		Composite-Sakara Bazar	1,15,000	04.02.2012	12/11 to 02/12	02	2,30,000
	57	Composite-Narendrapura	1,15,000	04.02.2012	11/11 to 02/12	03	3,45,000
Gaya	78	Composite - Naili,Khukhudi, Maniyara,Saren	81,500	31.03.2012	02/12 to 03/12	01	81,500
	79	Composite - Mai,Bathani, Telari,Sindhaur,	81,500	30.01.2012	12/11 to 01/12	01	81,500
	100	Composite-Ghoraghat,Angara,Panchratan, Kushabija	81,500	30.01.2012	12/11 to 01/12	01	81,500
Total							56,60,100

ANNEXURE-X**(Refer: Paragraph 4.8)****Non-realisation of motor vehicle taxes**

Sl. No.	Name of the DTOs	No. of registered transport vehicles	No. of vehicles test checked	No. of defaulter vehicles	Period of tax calculated	TAX				Penalty	Tax not realisation
						Road Tax	Additional Tax	Green Tax	Total		
1.	Arwal	173	82	15	March 2010 to March 2012	88732	189133	1267	279132	558264	837396
2.	Begusarai	5899	309	43	June 2011 to August 2012	241628	90776	0	332404	664808	997212
3.	Bettiah (West Champaran)	1092	225	21	October 2009 to March 2012	62706	68564	3927	135197	270394	405591
4.	Bhagalpur	6232	940	24	March 2009 to May 2012	254817	77168	6323	338308	676616	1014924
5.	Bhojpur	4393	100	06	October 2010 to April 2013	14093	27820	0	41913	76512	118425
6.	Gaya	17281	600	75	June 2010 to April 2013	345281	257318	0	602599	1087091	1689690
7.	Gopalganj	1794	300	39	March 2008 to March 2012	884189	403053	26423	1313665	2627330	3940995
8.	Jehanabad	1040	586	37	June 2008 to March 2012	477216	234977	3420	715613	1431226	2146839
9.	Madhepura	724	200	21	February 2008 to June 2012	61287	120234	0	181521	363042	544563
10.	Madhubani	607	95	19	May 2009 to June 2012	219639	249991	29722	499352	998704	1498056
11.	Motihari (East Champaran)	3720	225	11	July 2010 to August 2012	83012	9400	626	93038	186076	279114

12.	Munger	4445	750	17	July 2009 to March 2012	176487	79825	22372	278684	557368	836052
13.	Muzaffarpur	26052	200	34	August 2008 to July 2012	197476	760731	32361	990568	1981136	2971704
14.	Nalanda	4575	750	17	March 2008 to March 2012	350808	414809	6821	772438	1544876	2317314
15.	Patna	45462	600	132	May 2010 to April 2013	1976570	471176	168633	2616379	4577475	7193854
16.	Purnea	6797	600	37	February 2008 to March 2012	336337	295171	21067	652575	1305150	1957725
17.	Sitamarhi	441	85	15	May 2009 to May 2012	132049	141879	10743	284671	569342	854013
18.	Siwan	1776	300	27	April 2008 to March 2012	344553	432920	40180	817653	1635306	2452959
19.	Vaishali	1946	400	81	April 2008 to June 2012	356995	556886	8197	922078	1844156	2766234
TOTAL		134449	7347	671		6603875	4881831	382082	11867788	22954872	34822660

ANNEXURE-XI
(Refer: Paragraph 4.9)
Short realisation of one time tax from trailers

Sl. No.	Name of the DTOs	No. of registered vehicles (trailers)	No. of vehicles test checked	No. of defaulter vehicles	Period of registration	Tax (OTT) due	Tax paid	Difference tax payable	Penalty	Total
1.	Arwal	70	70	16	April 2010 to November 2010	96000	11100	84900	169800	254700
2.	Begusarai	712	712	38	October 2009 to February 2012	228000	148885	79115	275742	354857
3.	Bettiah	600	225	66	April 2010 to June 2010	396000	111140	284860	580520	865380
4.	Bhagalpur	257	257	27	April 2010 to February 2011	162000	155407	6593	252986	259579
5.	Bhojpur (Ara)	1280	1280	10	December 2010 to February 2012	60000	43797	16203	48906	65109
6.	Jehanabad	85	85	26	April 2010 to September 2010	156000	45900	110100	238800	348900
7.	Madhepura	150	150	32	March 2010 to June 2010	192000	73200	118800	237600	356400
8.	Madhubani	357	357	37	March 2010 to June 2010	222000	85200	136800	273600	410400
9.	Munger	55	55	2	March 2010	12000	1200	10800	21600	32400
10.	Muzaffarpur	112	112	39	December 2009 to April 2011	234000	164699	69301	280924	350225
11.	Nalanda	227	227	28	April 2010 to August 2010	168000	65289	102711	287022	389733
12.	Patna	612	612	110	March 2009 to April 2010	660000	141459	518541	1037082	1555623
13.	Purnea	200	200	46	January 2010 to June 2010	276000	98200	177800	383200	561000
14.	Sitamarhi	157	157	13	September 2009 to March 2010	78000	28800	49200	98400	147600
15.	Vaishali	772	772	29	December 2009 to August 2010	174000	47230	126770	255525	382295
Total		5646	5271	519		3114000	1221506	1892494	4441707	6334201

ANNEXURE-XII

(Refer: Paragraph 4.10)

Short realisation of one time tax from three-wheelers

(Amount in ₹)

Sl. No.	Name of the DTOs	No. of registered vehicle (3-wheelers)	No. of vehicles test checked	No. of defaulter vehicles	Period of registration	Tax (OTT) due	Tax paid	Difference tax payable	Penalty	Total
1.	Arwal	30	30	6	September 2010 to November 2010	35000	2785	32215	64430	96645
2.	Begusarai	373	373	28	October 2009 to March 2012	167500	64497	103003	229552	332555
3.	Bhagalpur	214	214	47	April 2010 to October 2010	245000	175291	69709	417478	487187
4.	Bhojpur (Ara)	338	338	68	February 2010 to January 2011	370000	142739	227261	652366	879627
5.	Gopalganj	40	40	18	October 2009 to June 2010	90000	7046	82954	165908	248862
6.	Jehanabad	493	435	39	April 2010 to September 2010	210000	78316	131684	296105	427789
7.	Madhepura	300	300	60	March 2010 to August 2011	407500	51148	356352	712704	1069056
8.	Motihari (East Champaran)	599	599	6	March 2012	42500	42500	0	28125	28125
9.	Munger	98	98	16	July 2009 to February 2010	85000	105603	- 20603	113348	92745
10.	Muzaffarpur	250	250	55	January 2010 to February 2010	355000	202064	152936	537661	690597
11.	Nalanda	441	441	85	April 2010 to October 2010	545000	215122	329878	999756	1329634
12.	Patna	363	363	28	November 2009 to March 2010	140000	12152	127848	255696	383544
13.	Purnea	400	400	83	April 2010 to June 2010	417500	75658	341842	710584	1052426
14.	Sitamarhi	275	275	57	April 2010 to December 2010	312500	19062	293438	586876	880314
15.	Vaishali	597	597	79	November 2009 to March 2010	417500	36216	381284	762568	1143852
Total		4811	4753	675		3840000	1230199	2609801	6533157	9142958

ANNEXURE-XIII

(Refer: Paragraph 5.17)

Misclassification of category of land

(Amount in ₹)

Sl. No.	Case No.	Municipal area Ward No.	Area (in Decimal)	Valuation as per guideline register	Valuation determined by the IRO	Difference	Loss of revenue at the rate of 10 per cent
1.	5/2009	01	187.5	3795000	780000	3015000	301500
2.	3/2010-11	01	37.5	1665000	231000	1434000	143400
3.	17/2010-11	01	10.9375	960750	116500	844250	84425
4.	01/2010-11	01	22.86	1014540	100000	914540	91454
5.	20/2010-11	01	100.00	5328000	516000	4812000	481200
6.	26/2010-11	01	85.5	4555440	551500	4003940	400394
7.	27/2010-11	01	71.875	3830000	201000	3629000	362900
8.	22/2010-11	34	12.5	659813	160000	499813	49981
9.	25/2010-11	01	85.5	4555440	551500	4003940	400394
10.	15/2010-11	01	85.82	4572490	535000	4037490	403749
11.	24/2010-11	34	25.00	1319625	390000	929625	92963
12.	4/2010-11	01	60.00	2670172	289000	2381172	238117
13.	8/2010	01	23.00	1554000	100000	1454000	145400
14.	12/2010-11	02	21.87	1921500	232000	1689500	168950
15.	Nil	01	67.1875	2590000	263000	2390000	239000
16.	Nil/7/2009	01	137.5	6105000	705000	5400000	540000
17.	Nil/6/2009	01	68.75	3052500	300000	2752500	275250
18.	11/2010	34	40.62	2144391	610000	1534391	153439
19.	Nil/19.02.2009	14(old)	19	1292000	300000	992000	99200
20.	2/14.01.2010	32/35	62.5	2443750	100000	2343750	234375
21.	5/2010	01	27.72	1439004	134000	1305004	130500
22.	6/2010	01	32.41	1439004	156000	1283004	128300
23.	7/2010	01	26.56	1179375	115000	1064375	106438
24.	9/2010	14	15.62	1275000	250000	1025000	102500
Total				61361794	7686500	53738294	5373829

ANNEXURE-XIV

(Refer: Paragraph- 6.4.13)

Mineral excavation without approval of mining plan

(Amount in ₹)

Sl. No.	Name of district	Name of leaseholder	Name of Minerals	Area	Period of extraction	Extraction (MT)	Rate	Penalty (cost of mineral)
				(Acre)				
1.	Lakhisarai	M/s IDIO construction and Industries (India) Ltd.	Quartz/Quartzite	48.92	2006-07	14918		NA*
					2007-08	42196		
					2011-12	2870		
					2012-13	49340		
2.	Munger	Smt. Shanti Devi	Silica Stone	17	2008-09	12030	270	3248100
					2009-10	19100	350	6685000
					2010-11	16220	328	5320160
3.	Rohtas	M/s Kalyanpur Cement Pvt. Ltd.	Limestone	131.9	2009-10	566674.21	45	25500339
					2010-11	871684.39	63	54916117
					2011-12	506786.26	63	31927534
					2012-13	586213.28	63	36931437
Total								164528687

* Sale value of the Quartz mineral for the State of Bihar is not available. In absence of sale value of the lime stone (Bihar) the rate of royalty has been taken as it is one of the components of the cost of mineral.

ANNEXURE- XV

(Refer: Paragraph- 6.4.18.1)

Short realisation of royalty and interest from lessee of stone quarry

Sl. No.	Name of unit	No. of quarries	Date of auction	Auctioned amount	Amount of installment due	Amount paid	Short payment	Interest leviable at the rate of 2 per cent per month up to two months	Total amount to be realised
1.	Aurangabad	2	November 2008	79.50	69.00	63.97	5.03	1.42	6.45
2.	Gaya	8		885.21	826.61	562.24	264.37	23.74	288.11
3.	Nawada	3	Between December 2006 and August 2008	336.86	276.41	147.22	129.19	7.91	137.10
4.	Sheikhpura	6	Between January 2007 and August 2007	425.42	425.42	233.89	191.53	13.37	204.90
Total		19		1726.99	1597.44	1007.32	590.12	46.44	636.56