



**Report of the  
Comptroller and Auditor General of India  
on  
Revenue Sector  
for the year ended March 2014**



**Government of Odisha  
Report No. 1 of the year 2015**

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## PREFACE

This Report for the year ended March 2014 has been prepared for submission to the Governor of Odisha under Article 151 of the Constitution of India.

The Report contains significant results of the Performance Audit and compliance audit of the Departments of the Government of Odisha under the Revenue Sector including Commercial Tax Wing of Finance Department, Excise Department, Revenue and Disaster Management Department, Commerce and Transport (Transport) Department and Steel and Mines Department. However, Departments relating to Economic sector are excluded and covered in the Report on Economic (Non-PSUs) Sector.

The instances mentioned in this Report are those, which came to notice in the course of test audit for the period 2013-14 as well as those which came to notice in earlier years, but could not be reported in the previous Audit Reports. The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

## OVERVIEW

This Report contains 58 paragraphs and two Performance Audits (PAs) relating to non/short levy of tax, interest, penalty, revenue foregone, etc., involving ₹ 737.71 crore. Some of the major findings are mentioned below:

### I General

The total revenue receipts of the Government for the year 2013-14 amounted to ₹ 48,946.85 crore against ₹ 43,936.91 crore in the previous year. Of this, 51.63 *per cent* was raised by the State through tax revenue (₹ 16,891.59 crore) and non-tax revenue (₹ 8,378.60 crore). The balance 48.37 *per cent* was received from the Government of India in the form of State's share of divisible Union taxes (₹ 15,247.24 crore) and Grants-in-aid (₹ 8,429.42 crore).

(Paragraph 1.1.1)

Test check of the records of assessment/ collection of Value Added Tax including Sales Tax, Entry Tax, Profession Tax etc., Motor Vehicles Tax, Stamp Duty and Registration Fees, State Excise Duty, Mining Receipts during the year 2013-14 revealed under assessment/short-levy/loss of revenue and other observations amounting to ₹ 4,713.63 crore in 5,10,147 cases.

(Paragraph 1.9)

### II Value Added Tax, Central Sales Tax, and Entry Tax etc.

Audit on "Scrutiny of returns under VAT regime by Commercial Tax Department" revealed the following:

- Input Tax Credit of ₹ 2,247.38 crore availed by 26,511 dealers under the Odisha Value Added Tax Act, 2004 remained unverified due to non-scrutiny or ineffective scrutiny of returns.

(Paragraph 2.4.3.1)

- Less payment of tax of ₹ 18.89 crore by a dealer under Odisha Value Added Tax Act, 2004 remained undetected due to non-scrutiny or ineffective scrutiny of returns.

(Paragraph 2.4.4.2)

- Claim of concession/ exemption of Central Sales Tax of ₹ 1,684.26 crore availed by 4,973 dealers remained unverified.

(Paragraph 2.4.7.1)

- Genuineness of concession/ exemption of tax of ₹ 191.45 crore availed by 954 dealers without submitting declarations/ certificates remained unverified by the AAs was fraught with risk of possible loss of Government revenue as assessment of the tax periods became time-barred.

(Paragraph 2.4.7.2)

Action for levy of penalty under Odisha Value Added Tax Act, 2004 was not initiated against 6,111 dealers for non-submission of statements of closing stock in trade.

**(Paragraph 2.6.5)**

Action for levy of penalty under Odisha Value Added Tax Act, 2004 was not initiated against 7,262 dealers for non-submission of certified reports on annual audited accounts.

**(Paragraph 2.6.6)**

Central Sales Tax and penalty of ₹ 0.39 crore was short levied against six dealers due to incorrect application of tax rate.

**(Paragraph 2.7.1)**

Mandatory penalty of ₹ 11.76 crore was not levied against 39 dealers on audit assessments finalised under Central Sales Tax Act, 1956.

**(Paragraph 2.7.2)**

Penalty of ₹ 1.94 crore was not imposed against a dealer for misuse of declaration forms under Central Sales Tax Act, 1956.

**(Paragraph 2.7.4)**

Tax and penalty of ₹ 25.41 lakh was short levied against a dealer due to irregular acceptance of declarations in form 'C' which were not genuine.

**(Paragraph 2.7.6)**

Penalty of ₹ 44.76 lakh was not levied against two dealers on audit assessments under Odisha Entry Tax Act, 1999.

**(Paragraph 2.8.3)**

Tax and penalty of ₹ 6.21 lakh was short levied against a dealer due to excess allowance of entry tax set-off under Odisha Entry Tax Act, 1999.

**(Paragraph 2.8.4)**

Action was not initiated against four dealers to levy interest and penalty for delayed payment of Entry Tax as per the provisions.

**(Paragraph 2.8.5)**

### **III State Excise Duty and Fees**

Differential State Excise Duty of ₹ 4.04 crore on annual closing stock of 2012-13 was not realised from Odisha State Beverage Corporation (OSBC).

**(Paragraph 3.5.1)**

Demand for State Excise Duty of ₹ 41.74 lakh was not raised against 56 Country Spirit licensees for short lifting of minimum guaranteed quantity of spirit.

**(Paragraph 3.5.2)**

Depot Licence Fee of ₹ 40 lakh was not realised from OSBC in respect of three Country Spirit depots and one Beer depot.

**(Paragraph 3.5.3)**

Label Registration Fee of ₹ 20.15 lakh on liquor stored/sold at a depot of OSBC was not realised.

**(Paragraph 3.5.5)**

Licence Fee of ₹ 38 lakh was short-realised from two bottling units.

**(Paragraph 3.5.7)**

Trading Licence Fee, application fee and penalty of ₹ 14.8 lakh was not realised from four sugar factories.

**(Paragraph 3.5.8)**

#### **IV Stamp Duty and Registration Fee**

Performance Audit on “e-Registration system in Revenue and Disaster Management Department” and test check revealed the following:

- Selection of concessionaire was made without competitive bidding process and without considering existing NIC software “ORIS” for the project.

**(Paragraph 4.4.9.1)**

- Non-adherence to service level agreement led to delay in delivery of e-Governance services to the citizens. Penalty of ₹ 49.57 lakh for delay in rendering services as per the service level metrics was not imposed on the concessionaire.

**(Paragraph 4.4.10.9)**

- Irregular fixation of user charges for additional pages of deeds beyond six pages resulted in undue burden of ₹ 1.26 crore over the citizens.

**(Paragraph 4.4.11.3)**

- Non-mapping of business process Rules in case of Leases, Sale Certificates instruments resulted in short realisation of Stamp Duty and Registration Fees of ₹ 47.98 lakh.

**(Paragraph 4.4.12)**

- In absence of system for generating alerts/ warnings, there was risk of fraudulent multiple sale of same property by seller to different buyers.

**(Paragraph 4.4.14.1)**

- Partial capture of data for important fields like ID proof and number, Boundary details led to generation of incomplete information affecting quality of data. Besides, there was lack of validation control for important fields like PAN Number, Market value etc.

**(Paragraphs 4.4.14.2, 4.4.14.4 and 4.4.14.5)**

Stamp Duty and Registration Fee of ₹ 4.69 crore was short realised due to registration of documents under Agreement for sale instead of conveyance.

(Paragraph 4.6.1)

There was short realisation of Stamp Duty and Registration fee amounting to ₹ 3.10 crore due to registration of documents on less consideration money.

(Paragraph 4.6.2)

Stamp Duty and Registration Fee of ₹ 34.52 lakh was short realised on lease of private land to industries by IDCO.

(Paragraph 4.6.3)

Stamp Duty and Registration Fee of ₹ 22.52 lakh was short realised due to under valuation of property.

(Paragraph 4.6.4)

## V Motor Vehicles Tax

Performance Audit on “**Classification, Assessment and Collection of tax and Road Safety measures in Transport Department**” and test check revealed the following:

- The distance slabs prescribed in the Taxation Schedule of OMVT Act, 1975 require revision taking into consideration the long route coverage of stage carriages.

(Paragraph 5.4.8.1)

- Motor Vehicle tax and additional tax of ₹ 3.34 crore remained unrealised from 956 goods carriages of other States/ Regions. Besides, penalty of ₹ 6.68 crore was also leviable.

(Paragraph 5.4.9.1)

- Irregular fixation of seating capacities less than that prescribed in the Schedule under Odisha Motor Vehicle Rules, 1993 for stage carriages/ contract carriages/deluxe stage carriages according to wheel-base, led to loss of ₹ 17.76 lakh.

(Paragraph 5.4.9.2)

- Non-renewal of Certificates of Registration of 1,77,651 non-transport vehicles led to non-realisation of fitness and renewal fees of ₹ 6.63 crore.

(Paragraph 5.4.9.4)

- Non-issue of Permanent Permits to tractor trailer combinations at the time of registration led to non-realisation of application fee and permit fee of ₹ 3.40 crore.

(Paragraph 5.4.9.5)

- Due to non-renewal of certificates of fitness of 164 School buses, 10,541 Auto-Rickshaws and 2,843 omnibuses, the road safety of the students and passengers could not be ensured and also resulted in non-realisation of fees and penalty of ₹ 43.75 lakh.

(Paragraph 5.4.9.6)

- Certificates of fitness to 1,20,939 vehicles were issued without ensuring Pollution under Control Certificates.

**(Paragraph 5.4.9.8)**

- Enforcement of the provisions of Acts and Rules regarding mandatory third party insurance of 9,96,543 motor vehicles including of 12,320 transport vehicles in the State was not ensured by the Department.

**(Paragraph 5.4.9.10)**

- There was shortfall in achievement of targets which affected road safety activities.

**(Paragraph 5.4.10.7)**

Motor Vehicles tax and additional tax of ₹ 101.79 crore including penalty was not /short realised in respect of vehicles under different categories.

**(Paragraphs 5.6.1.1 and 5.6.1.2)**

Vehicle Check reports in respect of 427 vehicles carrying load beyond permissible limit were not disposed off resulting in non-realisation of compounding fee of ₹ 0.26 crore.

**(Paragraph 5.6.3)**

Penalty of ₹ 0.37 crore was non/short realised in 148 cases for belated payment of tax and additional tax.

**(Paragraph 5.6.4)**

Process Fee of ₹ 1.05 crore in respect of 1.05 lakh cases was not realised from the vehicle owners.

**(Paragraph 5.7.1)**

## **VI Mining Receipts**

An amount of ₹ 33.02 crore was not realised from Mahanadi Coal Fields Limited towards cost of coal extracted beyond the approved plan.

**(Paragraph 6.5.1)**

Royalty of ₹ 7.01 crore was short assessed on 38.79 lakh tonne of bauxite.

**(Paragraph 6.5.2)**

Royalty of ₹ 8.07 crore was not levied on 3.34 lakh tonne chrome ore.

**(Paragraph 6.5.4)**

Royalty of ₹ 4.99 crore was short levied by the Department while computing royalty on steam coal.

**(Paragraph 6.5.6)**

## CHAPTER-I: GENERAL

### 1.1 Trend of revenue receipts

**1.1.1** Tax and non-tax revenue raised by Government of Odisha during the year 2013-14, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grants-in-Aid received from Government of India (GoI) during the year and the corresponding figures for preceding four years are mentioned in **Table-1.1.1**.

**Table-1.1.1**  
**Trend of revenue receipts**

Sl. No.	Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
(₹ in crore)						
<b>1.</b>	<b>Revenue raised by State Government</b>					
	• Tax Revenue	8,982.34	11,192.67	13,442.74	15,034.13	16,891.59
	• Non-Tax Revenue	3,212.20	4,780.37	6,442.96	8,078.04	8,378.60
	<b>Total</b>	<b>12,194.54</b>	<b>15,973.04</b>	<b>19,885.70</b>	<b>23,112.17</b>	<b>25,270.19</b>
<b>2.</b>	<b>Receipts from Government of India</b>					
	• State's net proceeds of divisible Union taxes and duties	8,518.65	10,496.86	12,229.12	13,965.01	15,247.24 <sup>1</sup>
	• Grants-in-Aid	5,717.02	6,806.25	8,152.20	6,859.73	8,429.42
	<b>Total</b>	<b>14,235.67</b>	<b>17,303.11</b>	<b>20,381.32</b>	<b>20,824.74</b>	<b>23,676.66</b>
<b>3.</b>	Total revenue receipts of the State Government (1 and 2)	26,430.21	33,276.15	40,267.02	43,936.91	48,946.85
<b>4.</b>	<b>Percentage of 1 to 3</b>	<b>46.14</b>	<b>48.00</b>	<b>49.38</b>	<b>52.60</b>	<b>51.63</b>

*Source : Finance Accounts for the year 2013-14 of Government of Odisha.*

The above table indicates that during the year 2013-14, the revenue raised by the State Government (₹ 25,270.19 crore) was 51.63 per cent of total revenue receipts. The balance (₹ 23,676.66 crore) 48.37 per cent of the receipts during 2013-14 was from the GoI.

<sup>1</sup> For details, please see Statement No. 11- Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Odisha for the year 2013-14. Figures under the minor head 901-Share of net proceeds assigned to the States under the major heads 0020 - Corporation Tax; 0021 - Taxes on income other than Corporation Tax; 0028 - Other taxes on Income and Expenditure; 0032 - Taxes on Wealth; 0037 - Customs; 0038 - Union Excise Duties; 0044 - Service Tax and 0045 - Other Taxes and Duties on Commodities and Services booked in the Finance Accounts under A-Tax revenue have been excluded from the revenue raised by the State and exhibited as State's share of divisible Union taxes.

**1.1.2** The details of the tax revenue raised during the period 2009-10 to 2013-14 are given in **Table-1.1.2**.

**Table-1.1.2  
Details of Tax Revenue raised**

Sl. No.	Head of revenue	2009-10		2010-11		2011-12		2012-13		2013-14		Percentage of increase (+) or decrease (-) in 2013-14 over 2012-13
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	
1.	OVAT including Odisha Sales Tax (OST)	4661.72	4914.99	5909.51	6221.28	7556.35	7463.39	9016.20	8929.61	10195.00	9882.03	(+) 10.66
	Central Sales Tax (CST)	720.66	493.77	590.49	585.52	725.04	733.45	783.80	755.07	900.00	846.52	(+) 12.11
2.	Taxes and Duties on Electricity	419.79	459.96	460.00	458.06	500.00	551.65	580.00	590.48	640.00	670.11	(+) 13.48
3.	Land Revenue	348.79	292.18	405.32	390.66	465.00	521.47	480.00	420.21	400.00	431.26	(+) 2.62
4.	Taxes on Vehicles	603.09	611.23	715.00	727.58	843.00	787.99	850.00	746.19	900.00	859.67	(+) 15.20
5.	Taxes on Goods and Passengers	689.38	815.25	875.00	1111.37	1235.00	1312.36	1350.00	1342.54	1500.00	1613.46	(+) 20.17
6.	State Excise	792.08	849.05	1000.00	1094.26	1350.00	1379.00	1500.00	1498.64	1725.00	1780.13	(+) 18.78
7.	Stamp Duty and Registration Fee	495.66	359.96	450.00	415.82	510.00	498.14	550.00	544.88	620.00	605.48	(+) 11.12
8.	Other Taxes and Duties on Commodities and Services	53.83	50.40	58.15	54.84	55.00	68.39	60.28	70.52	65.00	53.23	(-) 32.50
9.	Other Taxes on Income and Expenditure-Tax on Professions, Trades, Callings and Employments	134.72	135.55	145.00	133.28	160.00	126.90	140.00	135.99	160.00	149.70	(+) 10.08
	<b>Total:</b>	<b>8919.72</b>	<b>8982.34</b>	<b>10608.47</b>	<b>11192.67</b>	<b>13399.39</b>	<b>13442.74</b>	<b>15310.28</b>	<b>15034.13</b>	<b>17105.00</b>	<b>16891.59</b>	

Source : Finance Accounts for the year 2013-14 of Government of Odisha.

The respective Departments reported the following reasons for variation:

**Odisha VAT (OVAT) including OST/CST:** Increase (OVAT 10.66 *per cent* and CST 12.11 *per cent*) was due to increase in business activities of industry sector and vigorous collection drive by the Department.

**Taxes on Vehicles:** Increase (15.20 *per cent*) was due to increase in registration of vehicles, stringent enforcement activities and arrear collection.

**State Excise:** Increase (18.78 *per cent*) was due to enhancement of excise duty and various fees in the Annual Excise Policy 2013-14 compared to the previous year.

The other Departments despite being requested (July 2014) did not furnish the reasons for variations in receipts from that of the previous year (2012-13).

**1.1.3** The details of the non-tax revenue raised during the period 2009-10 to 2013-14 are indicated in **Table-1.1.3**.

**Table-1.1.3**  
**Details of Non-Tax Revenue raised**

Sl. No.	Head of revenue	2009-10		2010-11		2011-12		2012-13		2013-14		Percentage of increase (+) or decrease (-) of actual in 2013-14 over 2012-13
		BE	Actual									
1.	Non-Ferrous Mining and Metallurgical Industries	1550.00	2020.76	2556.48	3329.25	3804.63	4571.57	5000.00	5695.70	5515.00	5518.80	(-) 3.11
2.	Interest Receipts	299.97	379.23	100.00	260.84	340.00	576.38	200.00	588.25	300.00	1241.18	(+) 110.99
3.	Forestry and Wild life	120.00	109.03	90.00	157.68	91.87	192.39	117.46	188.92	30.22	95.11	(-) 98.63
4.	Irrigation & Inland Water transport	99.84	70.13	100.80	143.09	178.30	333.11	295.28	396.76	380.30	451.70	(+) 13.84
5.	Other administrative services	24.31	56.48	24.79	11.06	11.00	16.07	10.24	12.76	13.30	24.44	(+) 91.53
6.	Public Works	46.31	41.99	47.24	48.79	40.25	47.16	40.04	49.77	47.00	69.72	(+) 40.08
7.	Police Receipts	46.52	36.69	47.45	38.45	39.19	36.18	33.97	52.62	37.15	44.70	(-) 17.71
8.	Education	11.00	14.88	11.22	25.98	15.37	21.18	10.17	89.10	16.63	75.86	(-) 17.45
9.	Medical and Public Health	35.00	12.96	35.70	19.55	18.00	37.12	9.90	10.55	28.84	28.71	(+) 172.13
10.	Miscellaneous general services	413.08	11.60	32.00	412.29	7.95	86.86	7.11	225.60	11.00	126.50	(-) 78.33
11.	Power	1.64	2.66	1.67	2.07	2.13	3.37	2.17	2.14	2.30	4.70	(+) 119.62
12.	Co-operation	3.50	1.99	3.57	2.18	2.05	1.92	2.20	2.97	2.30	3.34	(+) 12.45
13.	Other Non-Tax Receipts	295.30	453.80	314.56	329.14	258.48	519.65	308.24	762.90	441.10	693.84	(-) 9.95
	<b>Total:</b>	<b>2946.47</b>	<b>3212.20</b>	<b>3365.48</b>	<b>4780.37</b>	<b>4809.22</b>	<b>6442.96</b>	<b>6036.78</b>	<b>8078.04</b>	<b>6825.14</b>	<b>8378.60</b>	

Source: Finance Accounts for the year 2013-14 of Government of Odisha.

The respective Departments reported the following reasons for variation:

**Non-Ferrous Mining and Metallurgical Industries:** Decrease (3.11 per cent) was due to non-working of mines on the ground of non-availability of statutory clearance.

Other Departments despite being requested (July 2014) did not intimate the reasons for variation in receipts from that of the previous year (2012-13).

## 1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2014 on some principal heads of revenue amounted to ₹ 10,865.71 crore of which ₹ 2,356.34 crore was outstanding for more than five years as detailed in the **Table-1.2**.

**Table-1.2**  
**Arrears of revenue**

(₹ in crore)

Sl. No.	Head of revenue	Total amount outstanding as on 31 March 2014	Amount outstanding for more than five years as on 31 March 2014	Replies of Departments
<b>A-Tax Revenue</b>				
<b>0040-Taxes on Sales, Trade etc.</b>				
1.	VAT (including OST and CST)	6,843.29	1,849.98	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Amount covered by show cause notice 3,623.47</li> <li>• Amount stayed by Departmental authorities 532.01</li> <li>• Amount stayed by Supreme/ High Court 2,003.32</li> <li>• Demands covered by Tax Recovery proceedings 682.53</li> <li>• Amount likely to be written off 1.96</li> </ul>
<b>0042-Taxes on Goods and Passengers</b>				
2.	Entry Tax	2,001.22	408.81	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Amount covered by show cause notice 1,098.25</li> <li>• Recoveries stayed by                             <ul style="list-style-type: none"> <li>➤ Departmental authorities 416.64</li> <li>➤ Supreme Court/ High Court 462.88</li> </ul> </li> <li>• Demands covered by certificate proceedings 23.42</li> <li>• Amount likely to be written off 0.03</li> </ul>
<b>0041-Taxes on Vehicles</b>				
3.	Taxes on Vehicle	140.33	88.18	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Recoveries stayed by                             <ul style="list-style-type: none"> <li>➤ Departmental authorities 3.61</li> <li>➤ Supreme Court/ High Court 24.69</li> </ul> </li> <li>• Other stages 56.02</li> <li>• Demands covered by certificate proceedings/ tax recovery proceedings 56.00</li> </ul>
<b>0039-State Excise</b>				
4.	State Excise	35.67	0	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Recoveries stayed by                             <ul style="list-style-type: none"> <li>➤ Supreme Court/ High Court 4.78</li> </ul> </li> <li>• Demands covered by certificate proceedings/ tax recovery proceedings 22.04</li> <li>• Amount likely to be written off 0.49</li> <li>• Other stages 8.36</li> </ul>
<b>B- Non-Tax Revenue</b>				
5.	Mining receipts	1,845.20	9.37	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Certificate cases 1.46                             <ul style="list-style-type: none"> <li>➤ Amount under dispute 1,334.58</li> <li>➤ Amount likely to be written off 2.46</li> <li>➤ Court of law 1.62</li> <li>➤ Recoverable dues 505.08</li> </ul> </li> </ul>
<b>Total:</b>		<b>10,865.71</b>	<b>2,356.34</b>	

Source : Replies of concerned Departments.

It would be seen from the above table that arrears of ₹ 2,356.34 crore were pending for recovery for more than five years. Arrears of ₹ 952.26 crore were pending with the departmental authorities and sufficient efforts were not made to dispose of the same. Certificate cases/ tax recovery proceedings initiated for recovery of ₹ 785.45 crore have not been finalised. Cases referred for write off (₹ 4.94 crore) were also not being pursued.

### 1.3 Arrears in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and number of cases pending for finalisation at the end of the year as furnished by the Commercial Tax Wing of Finance Department in respect of Odisha Sales Tax, Value Added Tax, Central Sales Tax, Odisha Entry Tax, Profession Tax and Entertainment Tax were as below in **Table-1.3**.

**Table-1.3**  
Arrears in assessments

Head of revenue	Opening balance	New cases due for assessment during 2013-14	Total assessment due	Cases disposed off during 2013-14	Balance at the end of the year	Percentage of disposal (Col. 5 to 4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Odisha Sales Tax	5551	0	5551	729	4822	13.13
CST	656	193	849	230	619	27.09
VAT	2867	2867	5734	3948	1786	68.85
Entry Tax	782	2208	2990	2242	748	74.98
Profession Tax	42782	28783	71565	36532	35033	51.04
Entertainment tax	130	55	185	89	96	48.10

Source: Commercial Tax Wing of Finance Department.

It would be seen from the above that 4,822 assessments under the erstwhile Odisha Sales Tax Act were pending for assessment as of 31 March 2014 although the Act had been repealed since 1 April 2005.

### 1.4 Evasion of tax detected by the Department

The details of cases of evasion of tax detected by the Commercial Tax Wing of Finance Department, cases finalised and the demands for additional tax raised as reported by the Department are given in **Table-1.4**.

**Table-1.4**  
Evasion of Tax

Sl. No.	Head of revenue	Cases pending as on 31 March 2013	Cases detected during 2013-14	Total	Number of cases in which assessment/ investigation completed and additional demand with penalty etc. raised		Number of cases pending for finalisation as on 31 March 2014
					Number of cases	Amount of demand	
1.	Odisha Sales Tax	26	0	26	0	0	26
2.	Entry Tax	92	42	134	64	3.39	70

(₹ in crore)

Sl. No.	Head of revenue	Cases pending as on 31 March 2013	Cases detected during 2013-14	Total	Number of cases in which assessment/ investigation completed and additional demand with penalty etc. raised		Number of cases pending for finalisation as on 31 March 2014
					Number of cases	Amount of demand	
3.	Value Added Tax	794	972	1766	1041	307.19	725
4.	Central Sales Tax	11	0	11	5	0.92	6
<b>Total:</b>		<b>923</b>	<b>1014</b>	<b>1937</b>	<b>1110</b>	<b>311.50</b>	<b>827</b>

Source: Commercial Tax Wing of Finance Department.

Number of cases pending at the end of the year had reduced (10.40 per cent) compared to those at the beginning of the year.

### 1.5 Pendency of refund cases

The number of refund cases pending at the beginning of the year 2013-14, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2013-14 as reported by the Commercial Tax Wing of Finance Department is given in **Table-1.5**.

**Table-1.5**  
**Details of pendency of refund cases**

(₹ in crore)

Sl. No.	Particulars	Sales Tax/VAT		Entry Tax	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	1408	119.19	93	1.17
2.	Claims received during the year	389	123.29	82	8.81
3.	Refunds made during the year	405	49.66	34	1.89
4.	Balance outstanding at the end of year	1392	192.82	141	8.09

Source: Commercial Tax Wing of Finance Department.

Evidently, progress of disposal of refund cases of Sales Tax/ VAT and Entry Tax during 2013-14 as compared to total refund cases was slow at 22.54 and 19.43 per cent respectively.

Odisha VAT Act provides for payment of interest at the rate of eight per cent per month if the refund is not made to the dealer within 60 days from the date of receipt of order till the refund is made. Due to such slow pace of disposal of refund cases, Government may incur liability for payment of interest.

### 1.6 Response of Departments/Government towards Audit

The Principal Accountant General (E&RSA) Odisha (PAG) conducts periodical inspection of the Government Departments to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. The inspections are followed up with the Inspection Reports (IRs) 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 promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the PAG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

Inspection Reports issued up to December 2013 disclosed that 6,656 paragraphs involving ₹ 11,060.31 crore relating to 2,939 IRs remained outstanding at the end of June 2014 along with the corresponding figures for the preceding two years as mentioned in **Table-1.6** below.

**Table-1.6**  
**Department-wise details of IRs**

	June 2012	June 2013	June 2014
Number of IRs pending for settlement	3,597	2,376	2,939
Number of outstanding audit observations	10,270	7,884	6,656
Amount of revenue involved (₹ in crore)	7,454.18	5,442.03	11,060.31

Source: Records of the Principal Accountant General (E&RSA).

**1.6.1** The Department-wise details of the IRs and audit observations outstanding as on 30 June 2014 and the amounts involved are mentioned in the **Table-1.6.1**.

**Table-1.6.1**  
**Department-wise details of IRs (Revenue Receipts)**

Sl. No.	Name of the Department	Nature of receipts	Numbers of outstanding IRs	Numbers of outstanding audit observations	Money value involved (₹ in crore)
1.	Finance	OVAT including OST/CST	760	1771	850.15
		Entry Tax	254	454	188.80
		Profession Tax	8	11	16.95
		Entertainment Tax	1	1	2.30
2.	Excise	State Excise	274	771	539.67
3.	Revenue & Disaster Management	Stamp Duty and Registration fee	500	862	446.27
4.	Steel and Mines	Mining receipts	177	523	8820.54
5.	Transport	Taxes on vehicles and taxes on goods and passengers	347	1104	156.57
<b>Total :</b>			<b>2321</b>	<b>5497</b>	<b>11021.25</b>

Source: Records of the Principal Accountant General (E&RSA).

**Department-wise details of IRs (Expenditure)**

Sl. No.	Name of the Department	Numbers of outstanding IRs	Numbers of outstanding audit observations	Money value involved (₹ in crore)
1.	Finance	87	135	0
2.	Excise	103	159	0
3.	Revenue & Disaster Management	120	140	0
4.	Steel and Mines	29	66	5.80
5.	Transport	279	659	33.26
<b>Total :</b>		<b>618</b>	<b>1159</b>	<b>39.06</b>

Source: Records of the Principal Accountant General (E&RSA).

Audit did not receive even the first replies in respect of 72 IRs issued during 2013-14 from the heads of offices within one month from the date of issue of

the IRs. This large pendency of IRs due to non-receipt of the replies is indicative of failure to initiate action to rectify the defects, omissions and irregularities pointed out by the PAG in the IRs.

### 1.6.2 Departmental Audit Committee (DAC) meetings

The Government set up audit committees to monitor and expedite the progress of settlement of the IRs and paragraphs therein. The details of the audit committee meetings held during the year 2013-14 and the paragraphs settled are mentioned in **Table-1.6.2**.

**Table-1.6.2**  
**Details of Departmental audit committee meetings**

(₹ in crore)

Sl. No.	Head of revenue	Number of meetings held	Number of paras settled	Amount
1.	Finance Department	10	207	122.50
2.	Steel and Mines Department	3	57	3.87
	<b>Total:</b>	<b>13</b>	<b>264</b>	<b>126.37</b>

Source: As per data maintained in office of the Principal Accountant General (E&RSA).

The Commerce and Transport (Transport) Department, Revenue and Disaster Management Department and Excise Department did not hold any DAC meeting during 2013-14.

### 1.6.3 Non-production of records to Audit for scrutiny

The programme of local audit of Tax Revenue/Non-Tax Revenue offices is drawn up sufficiently in advance and intimations are issued usually one month before the commencement of audit to the departments to enable them to keep the relevant records ready for audit scrutiny.

During the year 2013-14, as many as 1,336 assessment files, returns, refunds registers and other relevant records involving tax effect of ₹ 1,318.92 crore were not made available to audit. Break up of these cases are given in **Table-1.6.3**. There was no case of non-production of records in other four departments<sup>2</sup>.

**Table-1.6.3**  
**Details of non-production of records**

Name of the Department	Type of Tax/Non-tax revenue	Year in which it was to be audited	Number of cases not audited	Tax amount (₹ in crore)
Finance	Taxes/ VAT on Sales Trade etc.	Up to 2012-13	1,014	764.95
		2013-14	322	553.97
<b>Total:</b>			<b>1,336</b>	<b>1,318.92</b>

Source: Records of the Principal Accountant General (E&RSA).

### 1.6.4 Response of Departments to draft Audit Paragraphs

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the PAG to the Principal Secretaries/Secretaries of the concerned Departments drawing their attention to audit findings and requesting them to send their response within

<sup>2</sup> Excise, Revenue and Disaster Management, Steel & Mines and Transport Department.

six weeks. The fact of non-receipt of the replies from the Departments/ Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Audit forwarded 70 draft paragraphs including two Performance Audits (PAs) to the Principal Secretaries/ Secretaries of the respective Departments by name between May 2014 and September 2014. The Principal Secretaries/ Secretaries of the Departments did not send replies to 50 draft paragraphs despite issue of reminders (October 2014) and the same have been included in this Report without the response of the Departments.

### 1.6.5 Follow up on the Audit Reports-summarised position

Based on the recommendations of the High Powered Committee on response of the State Governments to the Audit Reports of the Comptroller and Auditor General of India, Finance Department issued instructions (December 1993) to Secretaries to Government of all Departments to submit explanatory notes on paragraphs included in the Audit Report within three months from the date of placing of Report in Odisha Legislative Assembly, indicating the action taken or proposed to be taken. In spite of these instructions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Odisha containing 683 paragraphs (including Performance Audit) for the years ended 31 March 1994, 1995 and 1998 to 2012 were placed before the State Legislative Assembly between June 1995 and March 2013. The action taken explanatory notes in respect of 45 paragraphs from four Departments (Finance, Commerce and Transport, Excise and Revenue and Disaster Management) had not been received for the Audit Report for the year ended March 2012 so far (November 2014).

The Public Accounts Committee (PAC) discussed 184 selected paragraphs pertaining to the Audit Reports for the years from 1985-86 to 2006-07 and its recommendations on 428 paragraphs were incorporated in their 28 Reports. However, Action Taken Notes (ATNs) in respect of 16 recommendations of the PAC laid in the Odisha Legislative Assembly between February 1991 and December 2008 had not been received from the Departments concerned although those are required to be received within three months from the date of laying in the legislature. The details are mentioned in the **Table-1.6.5**.

**Table-1.6.5**

Year	Name of the Department					Total
	Finance	Commerce and Transport	Excise	Revenue and Disaster Management	Steel and Mines	
10 <sup>th</sup> Assembly	-	-	2	-	-	2
11 <sup>th</sup> Assembly	-	1	-	-	-	1
13 <sup>th</sup> Assembly	-	-	12	-	1	13
<b>Total</b>	-	<b>1</b>	<b>14</b>	-	<b>1</b>	<b>16</b>

## 1.7 Analysis of the mechanism for dealing with the issues raised by Audit

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 Performance Audits included in the Audit Reports of the last 10 years for one Department is evaluated and included in this Audit Report.

The succeeding paragraphs 1.7.1 to 1.7.2 discuss the performance of the **Revenue and Disaster Management Department** under revenue head **0030-Stamps and Registration Fees** and cases detected in the course of local audit during the last 10 years and also the cases included in the Audit Reports for the years 2003-04 to 2012-13.

### 1.7.1 Position of Inspection Reports

The summarised position of the IRs issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2014 are tabulated below in **Table-1.7.1**.

**Table-1.7.1**  
**Position of Inspection Reports**

(₹ in lakh)

Sl. No.	Year	Opening balance			Addition during the year			Clearance during the year			Closing balance		
		IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
1.	2004-05	364	670	531.03	67	174	289.35	151	372	36.82	280	472	783.50
2.	2005-06	280	472	783.50	122	238	365.57	39	121	17.33	363	589	1131.74
3.	2006-07	363	589	1131.74	85	138	2640.00	97	193	318.99	348	534	3452.75
4.	2007-08	348	534	3452.75	90	135	28242.90	27	54	0.46	411	611	31695.18
5.	2008-09	411	611	31695.18	107	148	473.39	58	78	18.43	458	681	32150.14
6.	2009-10	458	681	32150.14	57	110	594.39	20	33	16.13	455	758	32728.40
7.	2010-11	495	758	32728.40	27	60	236.20	8	30	44.85	514	790	32919.75
8.	2011-12	514	790	32919.75	48	95	339.78	65	138	147.00	497	747	33112.53
9.	2012-13	497	747	33112.53	65	139	341.75	68	176	19.83	494	710	33434.45
10.	2013-14	494	710	33434.45	48	142	8282.01	19	51	87.67	523	801	41628.79

Source: Records of the Principal Accountant General (E&RSA).

The Government arranges ad-hoc Committee meetings between the Department and PAG's office to settle the old paragraphs. As would be evident from the above table, against 364 outstanding IRs with 670 paragraphs at the beginning of 2004-05, the number of outstanding IRs increased to 523 with 801 paragraphs at the end of 2013-14. Thus, there was no substantial improvement in clearance of IRs and paragraphs by the Department during the years 2004-05 to 2013-14.

## 1.7.2 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are mentioned in **Table-1.7.2**.

**Table-1.7.2**

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases as of 31.03.2012
2003-04	4	72.82	4	72.82	0	0
2004-05	1	0.26	1	0.26	0	0
2005-06	2	45.73	2	45.73	0	0
2006-07	2	281.04	2	281.04	88.81	88.81
2007-08	2	2.69	1	1.39	0	88.81
2008-09	2	49.57	0	0	0	88.81
2009-10	2	0.24	1	0.05	0	88.81
2010-11	1	0.46	1	0.46	0	88.81
2011-12	5	1.71	5	1.71	0.02	88.83
2012-13	5	135.75	3	1.95	0	88.83
<b>Total</b>	<b>26</b>	<b>590.27</b>	<b>20</b>	<b>405.41</b>	<b>88.83</b>	

Source: Records of the Principal Accountant General (E&RSA).

It is evident from the above table that the progress of recovery even in accepted cases was very slow throughout during the last 10 years. The recovery of accepted cases was to be pursued as arrears recoverable from the concerned parties. No mechanism for pursuance of the accepted cases had been put in place by the Department/Government. Further, the arrear cases including accepted audit observations were not available with the office of the Commissioner, Revenue and Disaster Management Department. In absence of a suitable mechanism, the Department could not monitor the recovery of accepted cases.

## 1.8 Audit planning

Unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of the audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which *inter alia* include critical issues in Government revenues and tax administration i.e. Budget Speech, White paper on State Finances, Reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, factors of the tax administration, audit coverage and its impact during past five years etc.

During the year 2013-14, there were 512 auditable units of which 225 units were planned and 225 units had been audited which is 43.95 *per cent* of the total auditable units.

Besides the compliance audit mentioned above, one Performance Audit was also taken up to examine the efficacy of classification, assessment and

collection of Motor Vehicles Tax and Road Safety Measures in the Commerce and Transport (Transport) Department.

## **1.9 Results of audit**

### **Position of local audit conducted during the year**

Test check of the records of 174 units relating to Odisha Sales Tax/ Value Added Tax, Goods and Passengers Tax, State Excise Duty, Stamp Duty and Registration Fee, Motor Vehicles Tax, and other Non-Tax receipts conducted during the year 2013-14 showed under assessment/ short levy/ loss of revenue aggregating ₹ 4,713.63 crore in 5,10,147 cases. During the course of the year, Departments concerned accepted under assessment and other deficiencies of ₹ 2,379.41 crore involved in 3,98,229 cases which were pointed out in audit during 2013-14 and collected ₹ 4.73 crore in 268 cases pertaining to audit findings of 2013-14 and previous years.

Similarly, test check of the records of 170 units under Commercial Tax, Excise, Revenue and Disaster Management, Transport and Steel and Mines Departments conducted during the year 2013-14 showed irregular expenditure/ payment amounting to ₹ 20.15 crore in 806 cases. During the course of the year, the Departments concerned accepted irregularities of ₹ 16.51 crore involved in 748 cases which were pointed out in audit during 2013-14 and collected ₹ 18.70 lakh in 96 cases pertaining to previous years.

## **1.10 Coverage of this Report**

This Report contains 60 paragraphs (selected from the audit detections made during the local audit referred to above and during earlier years which could not be included in earlier reports) including two Performance Audits on “**Classification, Assessment and Collection of tax and Road Safety measures in Transport Department**” and “**e-Registration system**” involving financial effect of ₹ 737.71 crore.

The Departments/Government have accepted audit observations involving ₹ 389.84 crore out of which ₹ 0.12 crore had been recovered. The replies in the remaining cases have not been received (November 2014). These are discussed in succeeding Chapters II to VI.

**CHAPTER-II**  
**VALUE ADDED TAX, CENTRAL SALES TAX AND ENTRY TAX ETC.**

**2.1 Tax Administration**

Value Added Tax, Entry Tax, Central Sales Tax, Profession Tax, Entertainment Tax, Luxury Tax laws and rules framed thereunder are administered at the Government level by the Additional Chief Secretary, Finance Department. The Commissioner of Commercial Taxes (CCT) is the head of the Commercial Tax wing of Finance Department who is assisted by Additional CCTs in three Zones, 12 Joint CCTs (JCCTs) in 12 Ranges/ 45 Deputy CCTs (DCCTs)/Assistant CCTs (ACCTs) in 45 Circles, 14 Commercial Tax Officer (CTOs) in 14 Assessment Units. They are assisted by CTOs, Assistant CTOs (ACTOs) and other allied staff for administering the relevant Tax laws and rules under Odisha Value Added Tax (OVAT) Act, 2004, Odisha Entry Tax (OET) Act, 1999, Central Sales Tax (CST) Act, 1956, Odisha State Tax on Profession, Trades, Callings and Employment commonly known as Profession Tax Act, 2000. Besides, there are six Enforcement Ranges headed by Special Commissioners of Commercial Taxes (Enforcement) and 15 Investigation Units for checking tax evasion and interstate verification.

**2.2 Internal Audit**

The Internal Audit Wing (IAW) of the Department is defunct since 2002-03. The Department has not taken any steps to revive IAW despite this being pointed out in Audit Reports (Revenue Receipts) for the years ended 31 March 2009 and 31 March 2012. The Department stated (August 2014) that steps would be taken to revive IAW.

**2.3 Results of audit**

In 2013-14, test check of records of 56 units relating to Odisha Value Added Tax (OVAT), Central Sales Tax (CST), Odisha Entry Tax (OET), Odisha Entertainment Tax and Profession Tax assessments and other records showed underassessment of tax and other irregularities involving ₹ 843.69 crore in 365 cases which fall under the following categories as given in **Table - 2.1**.

**Table - 2.1**

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
<b>Sales Tax/VAT(including CST)</b>			
1	Audit on “Scrutiny of returns under VAT regime by the Commercial Tax Department”	1	463.19
2	Under-assessment of tax	74	25.74
3	Acceptance of defective statutory forms	18	7.31
4	Evasion of tax due to suppression of sales/purchase	15	12.18
5	Irregular/incorrect/excess allowance of ITC	31	23.28
6	Other Irregularities	144	130.48
<b>Total</b>		<b>283</b>	<b>662.18</b>

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
<b>Entry Tax</b>			
1	Under-assessment of tax	54	96.94
2	Evasion of tax due to suppression of sales/purchase	2	0.48
3	Irregular/incorrect/excess allowance of ITC	1	0.01
4	Other Irregularities	25	84.08
<b>Total</b>		<b>82</b>	<b>181.51</b>
<b>Grand Total</b>		<b>365</b>	<b>843.69</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 34.69 crore in 137 cases which were pointed out in audit during 2013-14 and earlier years. An amount of ₹ 0.49 crore was realised in 36 cases during the year 2013-14. A few illustrative cases involving ₹ 501.46 crore are discussed in the following paragraphs from 2.4 to 2.9.1.

Audit also test checked records relating to expenditure accounts of the above units and found irregularities involving ₹ 1.41 crore in 39 cases which fall under the following categories as given in **Table - 2.2**:

**Table - 2.2**

(₹ in lakh)

Sl. No	Categories	Cases	Amount
1	Irregularity in management of cash	1	0.23
2	Irregular payment of House Rent	9	25.38
3	Excess payment of pay and allowance	7	0.12
4	Irregular double payment for application software	1	82.01
5	Other Irregularities	21	32.21
<b>Total</b>		<b>39</b>	<b>140.67</b>

During the course of the year, Department accepted irregularities and other deficiencies of ₹ 0.82 lakh in eight cases which were pointed out in Audit during 2013-14 and earlier years and realised the same.

## **2.4 Audit of “Scrutiny of returns under VAT regime by the Commercial Tax Department”**

### **2.4.1 Introduction**

After introduction of the Odisha Value Added Tax Act (OVAT Act), 2004 with effect from 1 April 2005, dealers are required to file returns for every tax period in the prescribed form within twenty-one days from the date of expiry of such tax period to the Circle/ Assessment Unit, as the case may be, where the place of business or the principal place of business is located. The Act provides that each such return shall be scrutinised by the Assessing Authorities to verify the correctness of calculation, application of correct rate of tax and interest, claim of input tax credit made therein and full payment of tax and interest payable by the dealer for such tax period. If the returns filed by the dealer are found to be in order, it shall be accepted as self-assessed. If any mistake is detected as a result of scrutiny, the assessing authority shall serve a notice in the prescribed form on the dealer to make payment of the extra amount of tax along with interest as per the provisions by such date as may be specified in that notice. Under the provisions of the Act, assessments of only dealers selected on certain parameters are made on the basis of recommendations of tax audit team during tax audit conducted in the business premises of the dealer.

Rule 7AA of the Central Sale Tax (Odisha) Rules, provides for scrutiny of each and every return furnished by a registered dealer by the assessing authority under these rules. Similarly, Section 7(10) of the Odisha Entry Tax Act, 1999 provides that each and every return in relation to any tax period furnished by a dealer shall be subject to scrutiny by the assessing authority.

The Commissioner of Commercial Taxes (CCT), Odisha, Cuttack had issued directions in October 2006 that the Commercial Tax Officers shall examine the returns thoroughly within one week after filing date of returns under the OVAT Act and report to the respective Assistant Commissioners at the end of every week. The Assistant Commissioners shall ensure proper and full scrutiny of returns and report to the head office at the end of the week.

Scrutiny of returns, being a vital issue affecting the revenue of the State was taken up through audit of 15<sup>1</sup> out of total 45 Circles covering the tax periods from 2010-11 to 2012-13, the extent of compliance to the provisions under the Acts and the Rules as well as the executive instructions issued from time to time regarding scrutiny of returns by the Sales Tax Authorities (STAs).

### **2.4.2 Provisions for scrutiny of returns under VAT regime**

Under Section-33 (1) of the OVAT Act read with Rule 34 (1)(a) of the OVAT Rules, every dealer registered under the Act and assigned with Taxpayers' Identification Number (TIN) shall furnish return for each tax period in Form VAT-201 within twenty-one days from the date of expiry of such tax period to the Circle/Assessment Unit, as the case may be, where, the place of business

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<sup>1</sup> Angul, Balasore, Barbil, Bhubaneswar-I, Bhubaneswar-II, Bhubaneswar-III, Bhubaneswar-IV, Cuttack-II, Ganjam-II, Jajpur, Kalahandi, Mayurbhanj, Phulbani, Rayagada and Rourkela-II.

or the principal place of business is located. Similar provisions are also made under Section-7 of the OET Act and Rule-7 of the CST (Odisha) Rules for filing of returns by the dealers in Form-E3 and Form-I respectively.

Section 38 of the OVAT Act, Section 7(10) of the OET Act and Rule 7AA of the CST (O) Rules provide that each and every return in relation to any tax period furnished by a registered dealer shall be subject to system-based or manual scrutiny by the Assessing Authorities (AAs) to verify the correctness of calculation, application of correct rate of tax and interest, claim of input tax credit (ITC) made therein and full payment of tax and interest payable by the dealer for such period. If as a result of such scrutiny, the dealer is found to have made payment of tax less than what is payable by him for the tax period as per the return furnished, the AA shall issue a notice in prescribed form<sup>2</sup> to the dealer directing him to pay the balance tax and interest thereon by such date as may be specified in that notice.

As per the provision of Section 39 of the OVAT Act and Section 9 (2) of the OET Act, if the returns filed by a registered dealer in respect of any tax period within the prescribed time are found to be in order, it shall be accepted as self-assessed subject to adjustment of any arithmetical error apparent on the face of the said return by issuing intimation for rectification to that dealer in the prescribed form<sup>3</sup> for necessary rectifications within period prescribed in such intimation.

Further, under Rule-7A of CST (Odisha) Rules, every registered dealer, while filing return for the month/ quarter shall furnish to the Assessing Authority, the declarations and/ or certificates received from the purchasing dealers/ transferees for the transactions made in the quarter preceding to the quarter for which the return is filed showing the particulars of transactions in the prescribed statements. Under Rule-7AA, each such statement and declaration forms and certificates shall be subject to scrutiny by the AA to ensure that the exemptions/ deductions/ concessions claimed in the return under the CST Act are duly supported by the declaration forms or certificates duly filled in and in order; the information furnished in the statements are in conformity with the declaration forms or certificates. Further, under Rule-12 of the Rules *ibid*, if the declaration forms with reference to return so filed are found to be in order, the return shall be accepted as self-assessed. In cases where any or more of the conditions as mentioned above is not fulfilled, the AA shall proceed to assess the tax due provisionally, giving due opportunity to the dealer. Scrutiny of returns with reference to related forms of declarations/ certificates shall be undertaken within one month from the due date for submission of forms.

As per the CCT's Circular dated 28 April 2008, every Circle has to monitor the scrutiny of returns through a register maintained in the prescribed form. Further, as per instructions of the CCT in Circular dated 20 May 2009, the Assistant Commercial Tax Officer (ACTO) of the Circle has to scrutinise the hardcopy of the return and validate the same as "Scrutinised" with his/ her signature with date. In case of non-filing of returns under the OVAT Act, the AAs are required to issue notices for provisional assessment.

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<sup>2</sup> Form VAT-209 under the OVAT Act, Form E-24 under the OET Act and Form-II under the CST (O) Rules.

<sup>3</sup> Form VAT-305 under the OVAT Act, Form E-28 under the OET Act and Form-II under the CST (O) Rules.

## AUDIT FINDINGS

### Scrutiny of returns under OVAT Act

#### 2.4.3 Irregular availment of Input Tax Credit

Under Section 20 (3) of the OVAT Act, input tax credit (ITC) shall be allowed to dealers on purchases made within the State from registered dealers holding a valid certificate of registration (RC), for goods intended for the purpose of sale or resale or manufacturing goods for sale. Column-57 of VAT return prescribed under Rule-34 of the OVAT Rules provides, among other things, for filling up of the details of selling dealers of the State from whom the goods are purchased.

**2.4.3.1** Audit, during scrutiny of returns for the tax periods during 2010-11 to 2012-13, noticed that in 15 selected Circles, 26,511 dealers who had availed/ claimed ITC of ₹ 2,247.38 crore in the returns for 88,265 tax periods, did not fill up the returns showing details of selling dealers of the State from whom goods were purchased and value of such goods in column-57 of the VAT return. In absence of such details, genuineness of claims of dealers towards ITC was not verifiable with the sales details of the respective selling dealers. Audit noticed that AAs neither served any notice to dealers for furnishing such details nor reversed such ITC claimed without supporting details. This indicated that either the said returns were not scrutinised or the scrutiny was ineffective.

After Audit pointed out these cases, Government stated (December 2014) that the detailed information on purchase and sale of tax invoices were sought to be furnished to enable the Commercial Tax wings for system based cross checking of ITC claims but the system was not ready by that time. Government further stated that the information on purchase and sales to be filled in by the dealers in case of some big dealers runs into hundreds of pages and in absence of the system, it was humanly impossible to cross verify manually the sales and purchases tax invoice wise. The fact however remained that genuineness of the claim of ITC remained unverified in absence of details of tax invoices.

**2.4.3.2** During verification of VAT returns in Value Added Tax Information System (VATIS) filed by the dealers for the tax periods during 2012-13, Audit noticed that 376 dealers of six Circles<sup>4</sup> availed ITC of ₹ 1.90 crore in respect of 1,326 tax periods exhibiting the details of dealers from whom the purchases were made. It was noticed that the TINs of selling dealers in respect of 1,120 tax periods were not assigned to any dealer and in respect of 206 tax periods, the RCs of selling dealers were cancelled prior to purchase of goods. However, AAs of Circles, could not detect such irregularities. Thus, genuineness of ITC of ₹ 1.90 crore availed by the dealers remained unverified.

After Audit pointed out these cases, Government stated (December 2014) that the dealers who had purchased from sellers whose RCs had been cancelled were not entitled to avail input tax credit and the field officers were required to examine those cases and take appropriate legal action. Government further

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<sup>4</sup> Balasore, Bhubaneswar-I, Bhubaneswar-II, Jajpur, Mayurbhanj and Rourkela-II.

stated that the detailed compliances would be furnished after receipt of action taken reports from the Circles.

#### **2.4.4 Less payment of tax**

##### **2.4.4.1 Less payment of tax due to application of lower rate of tax**

As per Government of Odisha, Finance Department Notification dated 26 March 2011, the rate of tax in respect of goods under Part-III of Schedule-B to the OVAT Act was enhanced from 12.5 per cent to 13.5 per cent.

During verification of returns under the OVAT Act for the tax periods from April 2011 to March 2012 in VATIS, Audit noticed that in 14 Circles<sup>5</sup>, 94 dealers paid tax, in respect of 111 tax periods, at the rate of 12.5 per cent on goods valued at ₹ 9.68 crore instead of 13.5 per cent. Thus, there was less payment of tax of ₹ 9.68 lakh at the differential rate of one per cent. However, AAs could not detect payment of tax at such lower rate.

After Audit pointed out the above cases, Government stated (December 2014) that detailed compliances would be furnished after receipt of action taken reports from the Circles.

##### **2.4.4.2 Less payment of tax due to irregular availing of inadmissible ITC**

ITC is not admissible on purchase of goods for mining since mining does not come under the definition of 'manufacturing'. The return under the OVAT Act (Form VAT-201) provides a column 21(v) for deducting non-creditable VAT paid on goods used in mining from the total ITC due.

In Angul Circle, Audit noticed that while filing returns under the OVAT Act for the tax periods during 2010-11 and 2011-12, a dealer engaged in mining, irregularly availed non-creditable ITC of ₹ 18.89 crore towards tax paid on purchase of goods such as spare parts of machinery, automobiles, explosives, lubricating oil which are used in mining and did not deduct the same from the total ITC. The AA did not disallow such inadmissible ITC indicating that the returns were either not scrutinised or scrutiny was ineffective. Thus, less payment of tax of ₹ 18.89 crore remained undetected.

After Audit pointed out the case, Government stated (December 2014) that detailed compliances would be furnished after receipt of action taken reports from the Circles.

##### **2.4.4.3 Less payment of tax due to disclosure of less sales turnover**

Under Section-26 of the OET Act, every registered manufacturer of scheduled goods shall, in respect of sale of its finished products, collect by way of tax, an amount equal to the tax payable on the value of such finished product under Section-3 of the Act. Chemicals such as Lye, Hydrogen Chloride (HCl), Chlorine (Cl<sub>2</sub>) and Sodium Hypo being unspecified goods and coming under Part-III of Schedule-B to the OVAT Act are taxable at the rate of 12.5 per cent upto 31 March 2011 and at the rate of 13.5 per cent thereafter.

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<sup>5</sup> Balasore, Barbil, Bhubaneswar-I, Bhubaneswar-II, Bhubaneswar-III, Bhubaneswar-IV, Cuttack-II, Ganjam-II, Jajpur, Kalahandi, Mayurbhanj, Phulbani, Rayagada and Rourkela-II.

During verification of returns under the OET Act with that under the OVAT Act in Ganjam-II Circle, Audit noticed that a dealer sold chemicals such as Lye, Hcl, Chlorine and Sodium Hypo valued at ₹ 237.83 crore during 2010-11 to 2012-13 to manufacturers and dealers of Odisha and collected entry tax thereon as per the provisions of the Act. However, on cross check of VAT returns for the same period, Audit noticed that the dealer disclosed sales turnover inside Odisha amounting to ₹ 204.70 crore thereby exhibiting less sales turnover by ₹ 33.13 crore on which VAT of ₹ 4.43 crore was payable. The AA did not verify the sales figures of VAT returns with reference to the sales figures exhibited under the OET Act. Thus, due to non/ ineffective scrutiny of returns, less payment of tax of ₹ 4.43 crore by the dealer remained undetected.

After Audit pointed out the case, Government stated (December 2014) that detailed compliances would be furnished after receipt of action taken reports from the Circles.

#### **2.4.5 Irregular reduction of sales turnover in the revised return**

Under Section 33(4)(a) and (b) of the OVAT Act, if any dealer, having furnished returns, discovers any omission or error in any return so furnished, or where there is requirement for adjustment of the sale price or tax or both in relation to sale of any goods, makes such adjustment by way of issue of credit note or debit note, he may file a revised return within three months following the tax period to which the original return relates. Section 23(3) of the Act provides that in case of goods returned or rejected by the purchaser, a credit note shall be issued by the selling dealer to the purchasing dealer and a debit note shall be issued by the purchaser to the selling dealer containing the requisite particulars as may be prescribed.

In Angul Circle, Audit noticed that two dealers had filed original returns under OVAT Act for the tax period November 2011 disclosing sales turnover of ₹ 1,009.84 crore and output tax of ₹ 40.39 crore. But subsequently both the dealers filed (December 2011 and January 2012) revised returns for the same tax period disclosing sales turnover of ₹ 304.82 crore and output tax of ₹ 12.19 crore. Audit noticed that reduction of sales turnover by ₹ 705.02 crore and corresponding output tax by ₹ 28.20 crore was not supported by reasons for such reduction of sales turnover. The AAs had also not initiated any action to ascertain the reasons for reducing the turnover and output tax.

After Audit pointed out these cases, Government stated (December 2014) that detailed compliances would be furnished after receipt of action taken reports from the Circles.

#### **2.4.6 Non-levy of interest and penalty for delayed payment of tax**

Under Section 34(1) of the OVAT Act, where a dealer required to file return under the Act, fails without sufficient cause to pay the amount of tax due as per the return, such dealer shall be liable to pay interest in respect of the tax which he fails to pay according to the return at a rate of one *per cent* per month from the due date of filing return to the date of its payment or to the date of order of assessment, whichever is earlier. Further, under Section 34(2),

if the dealer fails to pay the amount of tax due and interest payable, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, direct him to pay penalty at the rate of two *per cent* per month on the tax and interest so payable.

Audit, during verification of returns under the OVAT Act with tax payment details in VATIS for the tax periods during 2010-11 to 2012-13, noticed that in four Circles<sup>6</sup>, 65 dealers paid tax of ₹ 130.60 crore admitted in returns relating to 130 tax periods with delays ranging from one to 467 days. Despite delay in payment of taxes, the AAs did not issue any notice to the dealer imposing interest amounting to ₹ 35.23 lakh and did not initiate any action for levy of penalty as prescribed in the Act.

After Audit pointed out these cases, Government stated (December 2014) that detailed compliances would be furnished after receipt of action taken reports from the Circles.

### **Scrutiny of returns under CST Act**

#### **2.4.7 Ineffective scrutiny of returns leading to evasion/ loss of central sales tax due to non-submission of statutory declarations/ certificates**

Under Rule-12(7) of the CST (Registration & Turnover) Rules, 1957 read with Rule-7A (1) of the CST (O) Rules, every registered dealer, while filing return under the CST Act for a month/ quarter shall furnish to the Assessing Authority (AA), the declarations in Form- 'C' and 'F' or certificates in 'E-I'/'E-II', as the case may be, obtained from the purchasing dealers/ transferees for the transactions made in the quarter preceding to the quarter for which the return is filed, showing the particulars of transactions in a statement prescribed. As per Rule-7AA(2) of the CST (O) Rules, each such declaration form and certificate shall be subject to scrutiny by the AA to ensure that the exemptions/ deductions/ concessions claimed in the returns filed are duly supported by the said declaration forms or certificates. Further, under Rule 12(1)(a) of the CST (O) Rules, scrutiny of returns with reference to the related declaration forms /certificates shall be undertaken within one month from the due date for submission of Forms. Under Rule 12(1)(b) and (c), in case the declaration forms and/or certificates are not furnished on/before the due date, the AA shall proceed to assess the tax dues provisionally on the basis of past returns or past records and issue notice demanding tax.

##### **2.4.7.1 Non-submission of statutory forms**

During verification of returns for the tax periods during 2010-11 to 2012-13 in respect of inter-State sales and branch transfers in VATIS, Audit noticed that in the 15 selected Circles, although 4,973 dealers claimed/ availed concession/ exemption of tax aggregating to ₹ 1,684.26 crore while filing the returns for 21,823 tax periods, statutory declaration forms/ certificates in support of the claim of concession/ exemption of tax required to be submitted by the end of the next quarter of the relevant tax periods were not submitted by them till the

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<sup>6</sup> Bhubaneswar-IV, Jajpur, Kalahandi and Mayurbhanj.

date of audit. The AAs did not take any action for assessing the tax dues provisionally.

#### **2.4.7.2 Non-submission of statutory forms for the time-barred period**

Rule 12(4)(e) of CST(O) Rules provides that no order of assessment of the escaped turnover under Section 12(4) shall be made after expiry of five years from the end of the period in respect of which the tax is assessable.

During verification of returns under CST Act in VATIS in respect of inter-State sales and branch transfers for the tax periods from October 2006 to May 2009, Audit noticed that in 14 Circles<sup>7</sup>, 954 dealers did not submit statutory declarations/ certificates in respect of 5,253 tax periods although these were required to be submitted by the end of next quarter of the relevant tax period i.e. between March 2007 and September 2009. Concerned AAs did not take any action for assessing the tax dues of dealers provisionally. Since assessment under the CST Act for the above period has become time-barred under the extant provisions, concession/ exemption of tax of ₹ 191.45 crore (calculated at a minimum rate of tax) availed by dealers without submitting declarations/ certificates was fraught with risk of possible loss of Government revenue.

After Audit pointed out these cases, Government stated (December 2014) that the modality as provided in Rule 7A of CST (O) Rules was not found to be convenient in the manner contemplated since there was no system of acknowledging receipts of declarations/certificates. In such cases, the dealer did not consider it safe to submit the declaration/certificate without a formal acknowledgement. Government further stated that after introduction of e-filing system the system provided in Rule 7(a) asking for submission of declaration forms/certificates of the preceding quarter at the time of return filing could not be implemented because of the electronic system.

#### **2.4.8 Non-levy of interest and penalty for delayed payment of tax**

Under Rule 8 (1) of the CST (O) Rules, if a registered dealer, without sufficient cause, fails to pay the amount of tax due as per the return, such dealer shall be liable to pay interest in respect of the tax, which he fails to pay according to the return, at the rate of one *per cent* per month from the date the return for the period was due to the date of its payment or to the date of order of assessment, whichever is earlier. Further under Rule 8A (1), if the dealer fails to pay the amount of tax due and the interest payable, the AA, after considering the explanation of the dealer to a show cause notice issued to him, may direct him to pay a penalty at the rate of two *per cent* per month on the tax and interest so payable.

During verification of returns under the CST Act with tax payment details in VATIS for the tax periods during 2010-11 to 2012-13, Audit noticed that in eight Circles<sup>8</sup>, 67 dealers paid tax of ₹ 16.16 crore admitted in returns relating to 131 tax periods with delays ranging from one to 676 days. The AAs did not

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<sup>7</sup> Angul, Balasore, Barbil, Bhubaneswar-I, Bhubaneswar-II, Bhubaneswar-III, Bhubaneswar-IV, Ganjam-II, Jajpur, Kalahandi, Mayurbhanj, Phulbani, Rayagada and Rourkela-II.

<sup>8</sup> Angul, Balasore, Barbil, Bhubaneswar-II, Cuttack-II, Ganjam-II, Kalahandi and Rayagada.

impose interest amounting to ₹ 17.06 lakh for such delays and also failed to initiate action as prescribed in the Act.

After Audit pointed out these cases, Government stated (December 2014) that action is being taken at Circle level to verify each case on the basis of actual date of payment of tax and action as deemed proper as per provision of law would be taken and detailed compliance would be furnished after receipt of action taken reports from the Circles.

### **Scrutiny of returns under OET Act**

#### **2.4.9 Ineffective scrutiny led to irregular deduction under OET Act**

Under Rule 3(5) read with Rule 17(2) of OET Rules, no tax shall be levied in respect of such goods purchased by a dealer, for which the details are furnished in Form E-1 along with the return to prove that entry tax has already been paid under the Act for such goods. Under Section 7(11) of the OET Act, if any mistake is detected as a result of scrutiny of returns, the AA shall serve a notice to the dealer to make payment of the extra amount of tax.

During verification of returns, Audit noticed that in 15 Circles<sup>9</sup>, although 7,091 dealers claimed deduction of ₹ 38,496.11 crore from purchase value of scheduled goods while filing returns for 26,651 tax periods under OET Act during 2010-11 to 2012-13, they did not submit E-1 forms in support of their claims. AAs could not detect such irregular claims of deduction and did not serve any notice to the dealers for payment of extra amount of tax. Thus, genuineness of claim of deduction of ₹ 38,496.11 crore from purchase turnover not supported with E-1 forms remained undetected and was fraught with risk of escapement of entry tax of ₹ 192.48 crore calculated at a minimum rate of 0.5 *per cent*.

After Audit pointed out these cases, Government stated (December 2014) that the purchase list submitted with VAT return can be taken into account for the purpose of allowing deduction towards ET paid goods and non-submission of E-1 forms on the above ground should not be taken as less payment of entry tax amounting to ₹ 192.48 crore as observed by the audit. Fact however remains that the dealers had also not submitted the purchase lists along with returns filed under the OVAT Act.

#### **2.4.10 Non-levy of interest and penalty for delayed payment of tax**

Under Section 7 (5) of the OET Act, where a dealer fails without sufficient cause, to pay the amount of tax due as per the return for any tax period, such dealer shall be liable to pay interest in respect of the tax, which he fails to pay according to the return, at the rate of two *per cent* per month (one *per cent* per month with effect from 1 July 2012) from the due date of filing of return to the date of its payment or the date of order of assessment whichever is earlier. Further, sub-Section-6 of the said Section provides that if any dealer, fails to pay the amount of tax due and interest payable, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, direct him to pay

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<sup>9</sup> Angul, Balasore, Barbil, Bhubaneswar-I, Bhubaneswar-II, Bhubaneswar-III, Bhubaneswar-IV, Cuttack-II, Ganjam-II, Jajpur, Kalahandi, Mayurbhanj, Phulbani, Rayagada and Rourkela-II.

penalty at the rate of two *per cent* per month on the tax and interest so payable.

During verification of returns under the OET Act with tax payment details in VATIS for the tax periods during 2010-11 to 2012-13, Audit noticed that in 12 Circles<sup>10</sup>, 434 dealers paid tax of ₹ 34.80 crore admitted in the returns relating to 804 tax periods with delays ranging from one to 1,098 days. The AAs did not impose interest of ₹ 1.01 crore for such delays and failed to initiate any action as prescribed in the Act till the date of Audit.

After Audit pointed out these cases, Government stated (December 2014) that action would be taken at Circle level to verify each case on the basis of actual date of payment of tax and action as deemed proper as per provision of law would be taken and detailed compliance would be furnished after receipt of action taken reports from the Circles.

#### **2.4.11 Other points of interest**

##### ***2.4.11.1 Non-payment of tax on goods brought through waybills by ineligible dealers remained undetected***

Under Section-31 (7) and (8) of the OVAT Act, every dealer whose registration has been cancelled based on his application or otherwise, shall surrender the certificate of registration (RC) along with the unused way bills, account of utilisation of way bills and statutory forms for which no account has been rendered on the date of cancellation, within seven days from the date of receipt of the order of cancellation. Under Section 40(1) of the Act, where a registered dealer fails to furnish the return in respect of any tax period within the prescribed time, the AA, may proceed to assess the dealer provisionally for that period. Further, under Section 44(1) of the Act, if the AA, on the basis of any information, is satisfied that any dealer liable to pay tax under the Act, has failed to get himself registered, he shall proceed to assess, to the best of his judgment, the amount of tax due from the dealer in respect of such period and all subsequent periods.

Verification of returns for the tax periods during 2010-11 to 2012-13 revealed that-

- in nine Circles<sup>11</sup>, 19 dealers whose RCs had been cancelled between June 2007 and January 2013, used waybills in 93 cases for purchase of goods valued at ₹ 4.76 crore between May 2009 and January 2013 i.e. after cancellation of RCs. The AAs, in these cases, failed to ensure surrender of unused waybills.
- in 14 Circles<sup>12</sup>, 199 dealers used waybills in 795 cases for purchase of goods valued at ₹ 31.12 crore during these years but did not file returns. AAs could not detect such purchase of goods through waybills and did not assess the dealers under Section 40(1) and 44(1) respectively till the date of audit.

<sup>10</sup> Angul, Barbil, Bhubaneswar-I, Bhubaneswar-II, Bhubaneswar-III, Bhubaneswar-IV, Cuttack-II, Ganjam-II, Jajpur, Kalahandi, Mayurbhanj and Rayagada.

<sup>11</sup> Balasore, Barbil, Kalahandi, Bhubaneswar-I, Bhubaneswar-II, Bhubaneswar-III, Bhubaneswar-IV, Cuttack-II and Jajpur.

<sup>12</sup> Angul, Balasore, Bhubaneswar-I, Bhubaneswar-II, Bhubaneswar-III, Bhubaneswar-IV, Cuttack-II, Ganjam-II, Jajpur, Kalahandi, Mayurbhanj, Phulbani, Rayagada and Rourkela-II.

Thus, non-payment of VAT and ET of ₹ 4.15 crore on goods brought through waybills remained undetected.

After Audit pointed out these cases, Government stated (December 2014) that detailed compliances would be furnished after receipt of action taken reports from the Circles.

**2.4.11.2 *Scrutiny of returns without cross verification with the returns of purchasing dealer***

In Bhubaneswar-IV Circle, Audit noticed from the returns that for the tax periods during 2012-13, a dealer availed exemption of VAT of ₹ 16.65 crore and ET of ₹ 2.47 crore on purchase of machinery valued at ₹ 123.35 crore sold in course of import (known as High Sea Sale) to another dealer under Section-5(2) of the CST Act. Audit however noticed from VATIS that the purchasing dealer had not filed any return for the tax periods during 2012-13 from which the genuineness of such sales in course of import could be ascertainable. Thus, scrutiny of returns without cross check with returns of purchasing dealer was fraught with the risk of the claim of exemption of tax by the instant dealer being fraudulent and consequential less payment of tax of ₹ 19.12 crore.

After Audit pointed out the case, Government stated (December 2014) that detailed compliances would be furnished after receipt of action taken reports from the Circles.

**2.4.11.3 *Less payment of Entry Tax***

Under Rule 3(2) of the OET Rules, goods specified in Part II of the Schedule to the Act are exigible to tax at the rate of two *per cent* of the purchase value. Machinery, equipment and spare parts and components used in manufacture, mining, generation of electricity or for execution of works contract are exigible to tax at the rate of two *per cent* as per entry-9 of Part-II of Schedule to the OET Act.

In Cuttack-II Circle, Audit noticed that during 2012-13, a dealer disclosed purchase of goods valued at ₹ 17.21 crore from outside the State in its VAT return. However, on verification of ET returns in VATIS, Audit noticed that the dealer paid ET at the rate of two *per cent* on purchase of spare parts valued at ₹ 5.32 crore but did not pay ET on the remaining capital goods valued ₹ 11.89 crore purchased from outside the State on which ET of ₹ 23.79 lakh was payable. The AA could not detect the same. Thus, less payment of tax of ₹ 23.79 lakh under the OET Act by the dealer remained undetected.

After Audit pointed out the case, Government stated (December 2014) that detailed compliances would be furnished after receipt of action taken reports from the Circles.

**2.4.11.4 *Less payment of entry tax showing branch transfer***

Under Rule 17(3) of OET Rules, the purchase value of scheduled goods brought into a local area but sent outside Odisha otherwise than by way of sale shall be deducted while determining the purchase value liable to tax under the rules.

During verification of returns under the OET Act in VATIS, Audit noticed that in Bhubaneswar-IV Circle, a dealer claimed deduction of ₹ 27.30 crore

towards value of scheduled goods brought into the local area but sent as such outside Odisha otherwise than by way of sale in the Annual ET return for the year 2012-13. But from the VAT return, Audit noticed that the dealer did not disclose any value of goods despatched to outside the State otherwise than by way of sale i.e. branch transfer or consignment (column-31). Further, no such disclosure was also made by the dealer in the return filed under CST Act. Thus, escapement of ET of ₹ 27.30 lakh (calculated at minimum of one *per cent*) remained undetected.

After Audit pointed out the case, Government stated (December 2014) that detailed compliances would be furnished after receipt of action taken reports from the Circles.

#### **2.4.11.5 Disclosure of less purchase value of scheduled goods leading to escapement of entry tax**

In Ganjam-II Circle, Audit noticed that during 2010-11 to 2012-13, a dealer had disclosed purchase of goods valued at ₹ 120.58 crore from outside the State in returns filed under the OET Act. But during verification of details of waybill utilisation statements of the dealer in VATIS, Audit noticed that the dealer had purchased scheduled goods worth ₹ 163.59 crore during the period. This implied that the dealer had suppressed purchase of goods valued ₹ 43.01 crore on which entry tax of ₹ 43.01 lakh at the rate of one *per cent* was payable. But this could not be detected by the AA.

After Audit pointed out the case, Government stated (December 2014) that detailed compliances would be furnished after receipt of action taken reports from the Circles.

#### **2.4.11.6 Non filing of returns**

Section 33 of OVAT Act, Section 7 of OET Act and Rule 7 of CST (Odisha) Rules provide for filing of returns by every registered dealer, unless exempted. Non filing of returns attracts levy of penalty and other action such as suspension and cancellation.

During analysis of VATIS database, Audit noticed the following cases of non submission of returns. Audit noticed that -

- in 15 Circles, 7,640 dealers did not file their monthly/ quarterly returns under OVAT/CST/OET Acts for the tax period between January 2010 and March 2013. The AAs did not initiate action as per the provisions of the Acts/Rules.
- in six<sup>13</sup> Circles, 724 registered dealers had not filed their monthly/quarterly returns during the period covered under audit and also prior to this period.
- in 10 Circles<sup>14</sup>, 94 to 95 *per cent* dealers registered under OVAT/OET/CST Act did not file annual return during the period 2010-13 as detailed in the

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<sup>13</sup> Balasore, Bhubaneswar-I, Bhubaneswar-II, Jajpur, Mayurbhanj, and Rourkela-II.

<sup>14</sup> Angul, Balasore, Bhubaneswar-I, Bhubaneswar-II, Bhubaneswar-III, Bhubaneswar-IV, Ganjam-II, Jajpur, Mayurbhanj and Rourkela-II.

table below:

Year	Total number of dealers	Number of dealers did not file annual return	Percentage
2010-11	48,632	46,400	95.41
2011-12	63,562	60,050	94.47
2012-13	70,060	66,084	94.32

Due to non-submission of annual returns, the details of transactions disclosed in Annual Audited Accounts of the dealers could not be cross verified.

Since these dealers did not file returns they remained outside the purview of scrutiny. Existence of such a large number of non filing dealers in case of monthly/quarterly tax periods could have adverse impact on the tax administration and encourage other misdemeanour.

After audit pointed out the cases of non filing of monthly/quarterly returns, Government stated (December 2014) that detailed compliances would be furnished after receipt of action taken reports from the Circles.

#### **2.4.12 Internal Control Mechanism**

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. These also help in the prevention and detection of frauds and other irregularities. The internal controls also help in creation of reliable financial as well as management information systems for prompt and efficient services and for adequate safeguards against evasion of taxes and duties.

Audit noticed non-adherence to the provisions of the Acts and Rules as well as executive instructions by Circles. No reports or returns were required to be submitted by Circles in respect of scrutiny of returns. No guidelines were also prescribed for scrutiny of returns. Internal Audit, a vital part of an organisation, is not functioning in the Department.

#### **2.4.13 Conclusion**

Deficiencies in scrutiny of returns by the Departmental Authorities led to failure in detection of escapement of tax of ₹ 463.19 crore on account of VAT, CST and ET. Provisions of the Odisha Value Added Tax Act, the Odisha Entry Tax Act and the Central Sales Tax Act and the executive instructions regarding scrutiny of returns were not followed scrupulously by the assessing authorities of the selected Circles. While non-submission of declaration forms and certificates by dealers in support of claim of concession/ exemption of tax could not be detected, use of waybills for procurement of goods by the dealers whose certificates of registration were cancelled or who did not file returns also went unnoticed. Purchase and sales turnovers disclosed by dealers under one Act were not cross verified with the turnover disclosed under other Acts which led to less payment of tax going undetected. Interest and penalty for delayed payment of admitted tax were not imposed as per the provisions of the Act. The internal control mechanism needed improvement.

## **2.5 Other Audit observations**

Audit test checked the assessment records relating to the OVAT, CST and OET Acts in Commercial Tax Range/ Circle offices of the State and noticed several cases of non-observance of the provisions of the aforesaid Acts and Rules made thereunder which led to non/short levy of tax, interest and penalty as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by Audit. Such omissions on the part of the Assessing Authorities (AAs) are pointed out by Audit every year, but not only do many of the irregularities persist; these remain undetected till audit is conducted.

## **Odisha Value Added Tax**

### **2.6 Non-observance/compliance of the provisions of the Act and Rules read with Government notifications**

*The Odisha Value Added Tax (OVAT) Act, 2004 and the Rules made there under provide for:*

- *completion of audit assessments by the Assessing Authorities (AAs) on the basis of Audit Visit Reports (AVRs) and levy of tax on the correctly assessed Taxable Turnover (TTO) of outputs after giving due credit/adjustment of admissible Input Tax Credit (ITC);*
- *imposition of penalty at prescribed rates in addition to the tax assessed at the audit assessment stage by the AAs;*
- *demand and collection of tax/interest/penalty as per the prescribed procedures; and*
- *levy of penalty for non submission of certified reports on annual audited accounts as well as statements of closing stock in trade within the prescribed date.*

*The AAs, while finalising the audit assessments of the dealers for certain tax periods, did not observe some of the aforesaid provisions read with the Government notifications issued from time to time, as mentioned in the following paragraphs:*

#### **2.6.1 Non initiation of timely action led to non realisation of Government dues**

Under Section 38 of the OVAT Act read with Rule-40 of the OVAT Rules, each and every return furnished by the dealers shall be scrutinised by the AA and in case of any discrepancy such as incorrect calculation, application of incorrect rate of tax and interest, excess claim of input tax credit, less payment of tax etc., the AA is required to issue notices to the dealers with a direction to pay the differential tax dues and interest thereon by such date as specified in the notice.

Under Section-41 of the OVAT Act read with Rule-41 of the OVAT Rules, the Commissioner may select certain number of registered dealers or class of dealers ordinarily before the close of the year, for tax audit on random basis or

on the basis of risk analysis or on the basis of any other objective criteria, at such intervals or in such audit cycle, as may be prescribed. The Commissioner, where considered necessary to safeguard the interest of revenue or where any enquiry is required to be conducted on any specific issue or issues relating to any dealer or class of dealers on being referred by an officer of the Range or Circles, may direct audit to be taken up.

Section 30 of the OVAT Act empowers the Registering Authority (RA) to suspend and/ or cancel the Certificate of Registration (RC) of the dealer in case of non-furnishing of returns and misrepresentation of facts about its business activities.

As per the provisions of Rule-22 of the Central Sales Tax (Odisha) Rules, 1957 and Rule-34 of the OET Rules, the above provisions are also *mutatis mutandis* applicable in respect of all procedural and other matters incidental to the carrying out of the purpose of the CST Act as well as the OET Act for which no provision is made in the said Acts/Rules.

During scrutiny of audit assessments under the OVAT Act, the CST Act and the OET Act finalised during 2012-13 in two Circles<sup>15</sup>, Audit noticed (November and December 2013) that nine dealers did not file returns consecutively for the period ranging between one and 36 months and had not been paying the tax dues. However, the RAs failed to detect these cases and did not take timely action for issuing show cause notices for suspension/cancellation of their RCs. Though subsequently RCs were suspended/cancelled and notices issued for conducting tax audit after delay of 282 to 1,390 days, by the time this was done the dealers had already closed their business. As a result, notices demanding ₹ 18.37 crore assessed towards tax (₹ 7.63 crore), interest (₹ 1.24 crore) and penalty (₹ 9.50 crore) during the audit assessments finalised during 2012-13 could not be served to three dealers as the addresses of business declared by the dealers were wrong and in six cases, the notices were served by way of affixture. Thus, failure of the RAs to initiate timely action led to non realisation of ₹ 18.37 crore.

After Audit pointed out these cases, DCCT, Rourkela-I Circle, while admitting the audit observations, assured (December 2013) that such type of lapses would not occur in future. He further stated that tax recovery (TR) proceedings would be initiated against the above dealers immediately. The DCCT, Rourkela-II Circle stated (December 2013) that tax recovery proceedings in accordance with Schedule-E had been initiated by issuing Form-2 to the dealers by way of affixture. He further stated that the Tahasildar, Rajgangpur had also been requested to furnish the immovable property particulars of the dealers.

Audit reported the matter to the CCT, Odisha in April 2014 and the Government in May 2014. Their replies are awaited (November 2014).

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<sup>15</sup> DCCT, Rourkela-I and Rourkela-II.

### 2.6.2 Short levy of tax on receipts from Annual Maintenance Contracts

Under Section 9 of the OVAT Act, value added tax shall be levied on sale or purchase by a dealer as per the provisions of the Act. The word 'Sale' as defined under Section-2(45) of the Act includes, among other things, transfer of property in goods involved in the execution of works contract. Taxable turnover (TTO) of dealer as defined under Section-2(56) of the Act *ibid* means the turnover on which a dealer is liable to pay tax as determined after making such deduction from his gross turnover (GTO) as may be prescribed. In case of works contract, Rule-6(e) of the OVAT Rules, 2005 provides that expenditure incurred towards labour and service charges shall be deducted from the gross receipts for determining the TTO. Where a contractor fails to produce evidence in support of expenses towards labour and service charges or such expenses are not ascertainable from the terms and conditions of the contract or the books of accounts maintained for the purpose, expenses on account of labour and service charges shall be determined at the rate specified in the Appendix to the Rules *ibid*. As per Sl. No. 8 of the said Appendix, in case of service and maintenance of instruments, equipment, appliances, plants and machinery, 90 *per cent* of the gross receipts shall be deducted towards labour and service charges. Section 42(5) of the Act provides for imposition of penalty equal to twice the amount of tax assessed in the audit assessment. Electrical appliances, being unspecified items under Part-III of Schedule-B of the OVAT Act, are taxable at the rate of 12.5 *per cent* upto 31 March 2011 and at the rate of 13.5 *per cent* thereafter.

Audit scrutiny (June 2013) of assessment records of Bhubaneswar-I Circle revealed that a dealer engaged in sale and maintenance of water purifiers, vacuum cleaners had disclosed his total turnover of Annual Maintenance Contract (AMC) as ₹ 13.55 crore at the rate of 68 *per cent* of the total AMC turnover of ₹ 20.27 crore for the period from April 2007 to January 2011 and ₹ 0.96 crore at the rate of 10 *per cent* of the total AMC turnover of ₹ 9.64 crore for the period from February 2011 to March 2012 and deposited tax amounting to ₹ 1.82 crore. The AA while finalising the assessment for the tax period from April 2007 to March 2012, assessed the taxable turnover of the dealer at ₹ 2.99 crore at the rate of 10 *per cent* of the entire turnover of ₹ 29.91 crore and levied tax of ₹ 0.38 crore. Since the dealer exhibited his TTO for the period April 2007 to January 2011 after deducting the labour/service charges as admissible, reduction of the same by the AA to 10 *per cent* led to short determination of taxable turnover by ₹ 11.53 crore and consequential short levy of tax of ₹ 1.44 crore.

AA stated (August 2013) that as per the AMC, the dealer did servicing and maintenance only and as such Sl. No.8 of the Appendix to the OVAT Act is applicable for allowance of labour and service charges. The reply was not tenable as the dealer had disclosed taxable turnover at 68 *per cent* upto January 2011 and as per Rule-6(e) of the Act, deduction towards labour and services as provided in the Appendix is not applicable in this case. Further, the taxable turnover disclosed by the dealer in its returns cannot be reduced during assessment.

Audit reported the matter to the CCT, Odisha in February 2014 and Government in June 2014. Their replies are awaited (November 2014).

### **2.6.3 Short levy of tax and penalty due to application of lower rate of tax**

Under Part III of Schedule-B of the OVAT Act, unspecified goods are exigible to tax at the rate of 12.5 *per cent* up to 31 March 2011 and at the rate of 13.5 *per cent* thereafter. Under Section 42(5) of the Act, penalty equal to twice the amount of tax assessed in audit assessment shall be imposed against the dealer. Mild Steel (MS) grills, gates, shutters, windows etc. are exigible to tax as unspecified goods under Part-III of Schedule-B of the OVAT Act at the rate of 12.5 *per cent* upto 31 March 2011 and 13.5 *per cent* thereafter.

During scrutiny of audit assessment records in Ganjam-I Circle, Audit noticed (February 2014) that a registered dealer engaged in fabrication and sale of MS grills, gates, shutters and windows, etc. was assessed on 27 December 2012 for the tax period from 01 April 2010 to 30 September 2012. However, Audit noticed that the AA determined the total taxable turnover at ₹ 29.74 lakh and levied tax at the rate of four *per cent* instead of the correct rate of 12.5 *per cent* on ₹ 10.97 lakh relating to the period upto 31 March 2011 and 13.5 *per cent* on ₹ 18.77 lakh for the period thereafter. This resulted in short levy of tax of ₹ 2.64 lakh. Besides, penalty of ₹ 5.28 lakh was also leviable.

After Audit reported this matter, Government stated (May 2014) that the case had been re-opened for re-assessment. The final reply is awaited (November 2014).

### **2.6.4 Non-levy of penalty on audit assessments**

Under Section 42 (1) read with Section 42 (5) of the OVAT Act, where the tax audit results in detection of suppression of purchases or sales or both, erroneous claims of deduction including claim of ITC, evasion of tax or contravention of any provision of the Act affecting the tax liability of the dealer, the AA is required to make audit assessment of the dealer, wherein penalty equal to twice the amount of tax additionally assessed shall be imposed against the dealer.

During scrutiny of assessment records in five Circles<sup>16</sup>, Audit noticed (between July 2013 and March 2014) that while finalising the audit assessment of five dealers for the tax periods between April 2007 and December 2012, the AAs assessed (between January 2012 and December 2012), additional tax liability of ₹ 3.27 lakh for contraventions of various provisions of the Act. However, they did not levy penalty while finalising the audit assessments. This resulted in non-levy of penalty of ₹ 6.54 lakh at twice the amount of tax additionally assessed.

After Audit pointed out these cases, Government stated (December 2014) that reassessment of the dealer under Rourkela-I Circle was completed in August 2014 raising extra demand of ₹ 0.99 lakh and tax of ₹ 0.11 lakh demanded against a dealer under Gajapati Circle has been deposited in November 2014.

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<sup>16</sup> Gajapati, Mayurbhanj, Rourkela-I, Rourkela-II and Sambalpur Circle.

In respect of the dealer of Sambalpur Circle, Government stated that the carried forward ITC of the dealer was more than the tax levied on sale suppression and the resultant tax would be zero. The reply is, however, not tenable as penalty under Section 42(5) of the Act is leviable on additional tax so levied on suppression of sales. Reply of Government in respect of other two Circles is awaited (November 2014).

#### **2.6.5 Non initiation of action despite failure to submit statements of closing stock in trade**

As per the provisions of Section 65(1-a) of OVAT Act made effective from 1 June 2008, a dealer who is liable to pay tax but not liable to get his accounts audited under Section 65(1), shall furnish a statement of closing stock in trade held at the end of the year in the prescribed manner to the Commissioner within a period of three months from the date of expiry of that year. The Act further provides that in case the dealer fails to furnish the statement of closing stocks in trade in the prescribed manner within the stipulated period, the Commissioner shall, after giving the dealer a reasonable opportunity of being heard, impose on him a penalty of rupees one hundred per each day of default.

In 12 Circles<sup>17</sup>, Audit noticed (between December 2013 and March 2014) that despite the provisions of the Act, the Circles did not maintain any records to monitor the receipt of the statements of closing stock in trade from the dealers who are not liable to get their accounts audited under Section 65(1). From the information collected from the Value Added Tax Information System (VATIS). Audit noticed that 6,111 out of 6,150 dealers did not furnish the statements of closing stock in trade for the year 2011-12 by 30 June 2012 to the concerned AAs till the respective dates of audit. The period of delay from the due date of submission till the dates of audit, ranged between 549 and 630 days. However, AAs had not initiated any action against the dealers for non-submission of statements of closing stock in trade as per the provisions of the Act/Rules.

After Audit pointed out these cases, AAs of all the Circles agreed (between December 2013 and March 2014) to take appropriate action for levy of penalty and furnish compliances accordingly.

Audit reported the matter to the CCT, Odisha in May 2014 and the Government in July 2014. Their replies are awaited (November 2014).

#### **2.6.6 Non initiation of action despite failure to submit certified report on annual audited accounts**

Under Section 65 of the OVAT Act, 2004 read with Rule 73 of the OVAT Rules, 2005 a dealer having Gross Turnover (GTO) exceeding ₹ 40 lakh during a financial year shall furnish a true copy of the Annual Audited Accounts for that year duly certified by a Chartered/ Cost Accountant by 31 October of the next financial year to the concerned AA for his record in the register prescribed by the CCT, Odisha in September 2009 to monitor timely submission of such accounts at the Circle level and also to act as a reference at

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<sup>17</sup> Angul, Bargarh, Bhanjanagar, Bolangir, Dhenkanal, Ganjam-I, Ganjam-II, Kalahandi, Nuapara, Rayagada, Sambalpur-I and Sambalpur-II.

the time of tax audit and assessment. The Act further provides that in case the dealer fails to furnish or furnishes the same belatedly, the AA shall, after giving the dealer a reasonable opportunity of being heard, impose on him a penalty of rupees one hundred for each day of default in submission.

During test check of data extracted from VATIS and records maintained by 37 Circles<sup>18</sup>, from October 2012 onwards, Audit noticed (between June 2013 and March 2014) that 7,262 dealers whose GTO exceeded ₹ 40 lakh during the previous financial year i.e. 2011-12, did not submit the copies of Certified Annual Audited Accounts (CAAA) within the prescribed time. Delay in submission of CAAA ranged from 239 to 507 days. However, AAs had not initiated any action against the dealers for non-submission of certified reports on audited accounts as per the provisions of the Act/ Rules.

After Audit pointed out the above cases, AAs of all the circles agreed (between June 2013 and March 2014) to take appropriate action for levy of penalty and furnish the compliances later.

Audit reported the matter to the CCT, Odisha in May 2014 and the Government in July 2014. Their replies are awaited (November 2014).

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<sup>18</sup> Barbil, Bargarh, Bhadrak, Bhanjanagar, Bhubaneswar-I, Bhubaneswar-II, Bhubaneswar-III, Bhubaneswar-IV, Bolangir, Boudh, Cuttack-I-Central, Cuttack-I-City, Cuttack-I-East, Cuttack-II, Cuttack-West, Deogarh, Dhenkanal, Ganjam-I, Ganjam-II, Jagatsinghpur, Jajpur, Jatni, Jharsuguda, Kalahandi, Kendrapara, Keonjhar, Malkangiri, Mayurbhanj, Nabarangpur, Nuapara, Phulbani, Puri, Rayagada, Rourkela-I, Rourkela-II, Sambalpur-I and Subarnapur.

## Central Sales Tax

### 2.7 Non-observance/ compliance of the provisions of the Central Sales Tax Act/ Rules read with Government notifications/ executive orders

*The Central Sales Tax (CST) Act, 1956 and Rules made thereunder read with Government notifications and executive orders issued from time to time provide for:*

- (i) *completion of audit assessment based on Audit Visit Report (AVR) and levy of tax at the assessment stage at the prescribed normal/ concessional rates, subject to certain conditions on the Net Taxable Turnover (NTO) of goods correctly determined at such stage and adjustment of admissible Input Tax Credit (ITC); and*
- (ii) *levy of penalty at the prescribed rates, for contravention of provisions of the Act and Rules, on the tax liability determined by the AA in audit assessment including penalty for misutilisation of declaration in prescribed forms.*

*Audit noticed that while finalising the assessments, the AAs did not observe some of the above provisions read with Government notifications/ orders as mentioned in the following paragraphs:*

#### 2.7.1 Short-levy of tax under Central Sales Tax Act due to incorrect application of tax rate

Under Section 8(2) of the CST Act, inter-State transactions of goods other than declared goods not supported by statutory declarations were exigible to tax, upto 31 March 2007, at the rate of 10 *per cent* or at the rate of tax applicable to sale or purchase of such goods inside the State whichever was higher. However, with effect from 1 April 2007, the same became taxable at the rate applicable to sale or purchase of such goods inside the State under the State Act. 'Cashew kernel and cashew nut' were exigible to tax at the rate of 12.5 *per cent* upto 29 February 2008 under Part-III of Schedule-B of OVAT Act and thereafter these became taxable at the rate of four *per cent* being specified against entry-25A of Part-II of the said Schedule. Further, under Rule 12 (3) (g) of CST (O) Rules, penalty equal to twice the amount of tax assessed during the audit assessment is leviable.

During scrutiny of assessment records under the CST Act in Koraput Circle, Audit noticed (February 2014) that six dealers effected inter-State sale/ export of 'Cashew kernel and cashew nuts' valued at ₹ 2.52 crore during the tax periods from 1 July 2006 to 29 February 2008. Since the dealers had not submitted the declarations in Form 'C' or 'H' in support of the said inter-State sale/ export, the AA while finalising the assessment, treated such sales as intra-State sales and levied tax at the rate of four *per cent* and 10 *per cent* instead of 12.5 *per cent* on such sales turnover. This resulted in short levy of tax of ₹ 13.11 lakh at the differential rate of 8.5 *per cent* or 2.5 *per cent*. Besides, penalty of ₹ 26.23 lakh was also leviable on the above dealers.

After Audit pointed this out, Government stated (May 2014) that corrigendum orders had been issued in February 2014 to the dealers raising extra demand of ₹ 39.34 lakh towards tax (₹ 13.11 lakh) and penalty (₹ 26.23 lakh).

### **2.7.2 Non-levy of mandatory penalty on audit assessments under Central Sales Tax Act**

Under Rule 10(3) read with Rule 12(3) (a), (e) and (f) of the CST (O) Rules, 1957 as amended on 6 July 2006, where the tax audit results in detection of suppression of purchases or sales or both, erroneous claims of deduction, evasion of tax or contravention of any provision of the Act affecting the tax liability of the dealer, the Assessing Authority (AA) is required to make audit assessment of the dealer and impose penalty equal to twice the amount of tax assessed in such assessment as per Rule 12(3)(g) of the said Rules.

During scrutiny of assessment records in one Range<sup>19</sup> and five Circles<sup>20</sup>, Audit noticed, (between July 2013 and March 2014) that AAs, while finalising audit assessments of 39 registered dealers in 44 cases for different tax periods between 1 April 2005 and 30 June 2012, assessed tax of ₹ 5.88 crore due to availment of concessional rate of tax without supporting declarations in form 'C' and non production of books of accounts during the assessment stage. However, the AAs did not impose penalty of ₹ 11.76 crore as per the above provisions.

After Audit pointed out these cases, AAs of the Circles stated (between July 2013 and March 2014) that the cases would be examined and compliance would be furnished later. The AA of Sundargarh Range stated (November 2013) that after due investigation, the cases would be re-opened under the provision of the Act and Rules for realisation of penalty.

Audit reported the matter to the CCT, Odisha in May 2014 and the Government in July 2014. Their replies are awaited (November 2014).

### **2.7.3 Short-levy of tax due to irregular allowance of concessional rate of tax**

Under Section 3 of the CST Act, 1956, as amended from time to time, a sale or purchase of goods shall be deemed to take place in the course of inter-State trade or commerce if the sale or purchase occasions the movement of goods from one State to another or is effected by a transfer of documents of title to the goods during their movement from one State to another. Section 8(4) of the CST Act read with Rule 12(1) of the CST (Registration and Turnover) (R&T) Rules, 1957 provides that the dealer selling the goods at concessional rate of tax would furnish to the prescribed authority at the prescribed manner a declaration in Form 'C' duly filled in and signed by the registered dealer to whom the goods are sold. As per the provision of Section 8(2) of the CST Act, 1956, inter-State sale of non-declared goods not supported by declarations in Form 'C' was exigible to tax at the rate of 10 *per cent* up to 31 March 2007 and with effect from 1 April 2007 the same became taxable at the rate of tax applicable to sale or purchase of such goods inside the State.

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<sup>19</sup> Sundargarh Range.

<sup>20</sup> Bargarh, Gajapati, Ganjam-II, Rourkela-I and Rourkela-II.

‘Corrugated boxes and laminated wrappers’ coming under entry No. 83- ‘Packing materials of any kind’ of Part-II of Schedule-B of the OVAT Act are taxable at the rate of four *per cent*. Further, as per the provisions of Rule 12 (3) (g) of CST (O) Rules, an amount equal to twice the amount of tax assessed, shall be imposed on the dealer by way of penalty.

During scrutiny of assessment records in Rayagada Circle for the period from 7 July 2006 to 31 March 2011, Audit noticed (March 2014) that a registered dealer engaged in manufacturing of corrugated boxes and laminated wrappers, effected inter-State sales of goods valued ₹ 5.75 crore and being an Small Scale Industries (SSI) unit claimed concessional rate of tax of two *per cent* against declarations in Form ‘C’. On verification of the declaration forms, Audit noticed that the dealer had claimed concessional rate of tax on sales turnover of ₹ 3.50 crore effected between 7 July 2006 and 31 March 2009 against eight declarations in Form ‘C’ which were issued by a purchasing dealer who is a registered dealer of Odisha. However, while finalising the assessment, the AA irregularly accepted the declaration forms and allowed concessional rate of tax on the above sales turnover of ₹ 3.50 crore at the rate of two *per cent* instead of four *per cent*. This resulted in short-levy of tax of ₹ 16.63 lakh<sup>21</sup>. Besides, penalty of ₹ 33.25 lakh was also leviable.

After Audit pointed this out, the AA replied (March 2014) that the case would be examined and results would be intimated to Audit.

Audit reported the matter to CCT, Odisha in April 2014 and the Government in June 2014. Their replies are awaited (November 2014).

#### **2.7.4 Non levy of penalty under Central Sales Tax Act for misuse of declaration forms**

Under Section 8 of the CST Act, a registered dealer is eligible to purchase goods from outside the State at concessional rate of tax against declaration in form ‘C’ provided that such goods are specified in his RC and the goods so purchased are intended for re-sale or for use by him in the manufacture or processing of goods for sale or in the telecommunications network or in mining or in the generation or distribution of electricity or any other form of power. Section 10 of the Act provides that if any person being a registered dealer falsely represents when purchasing any goods which is not covered by his RC, he is liable to prosecution. However, under Section 10A of CST Act, in lieu of prosecution, the AA may, after giving the dealer a reasonable opportunity of being heard, impose upon him by way of penalty, a sum not exceeding one and a half times of the tax which would have been levied on such goods in absence of declaration in Form ‘C’. ‘TMT bar’ and ‘Coal Tar pitch (liquid)’ are exigible to tax at the rate of four *per cent* under the OVAT Act.

During scrutiny of assessment records of a dealer for the tax periods from 6 July 2006 to 31 March 2010 in Kalahandi Circle, Audit noticed (March 2014) that the dealer engaged in manufacturing of Alumina started commercial production from August 2007. During cross check of utilisation

<sup>21</sup> Tax of ₹ 12,82,094.01 at the differential rate of 8 *per cent* (10-2) on ₹ 1,60,26,175.20 for the year 2006-07+tax of ₹ 3,80,417.65 at the differential tax rate of 2 *per cent* (4-2) on ₹ 1,90,20,882.80 for the year 2007-08 and 2008-09 = ₹ 16,62,512.

accounts of declarations in form 'C', Audit noticed that the dealer purchased 'TMT Bars' and 'Coal Tar pitch (liquid)' valued at ₹ 32.33 crore<sup>22</sup> from outside the State at concessional rate of tax against declarations in Form 'C' during April 2008 to December 2008 i.e. much after the commencement of commercial production. 'TMT Bars' and 'Coal Tar pitch (liquid)' are required for foundation work for erection of plant and machinery during the initial stage and the same purchased after commencement of commercial production cannot be said to be used 'in manufacture' under Rule 13 of CST (R&T) Rules. Moreover, 'TMT Bars' and 'Coal Tar pitch (liquid)' were, not included in the RC of the dealer during the above period and the dealer had applied for inclusion of the said goods in the RC as late as in April 2009 and September 2012 respectively. Thus, the dealer was not eligible to purchase those goods at concessional rate of tax against declarations in Form 'C' and for such misuse of the declaration forms, was liable to prosecution under Section 10 or to pay a penalty of ₹ 1.94 crore under Section 10A of the Act at one and half times of the tax of ₹ 1.29 crore which would have been payable at four *per cent* of ₹ 32.33 crore. However, the AA neither took any action for prosecution of the dealer nor did impose such penalty.

After Audit pointed this out, the AA stated (March 2014) that the case would be transmitted to the JCCT, Bolangir Range for further action.

Audit reported the matter to the CCT, Odisha in May 2014 and the Government in July 2014. Their replies are awaited (November 2014).

#### **2.7.5 Short levy of tax due to irregular allowance of concessional rate of tax against duplicate declarations in Form 'C'**

Under Section 8 of the CST Act, 1956 inter-State sale of goods made to registered dealers and supported by valid declarations in Form 'C' is taxable at the concessional rate of two *per cent* from 1 June 2008 onwards or at such lower rate as applicable to the sale or purchase of such goods within the State. Under Rule 6(a)(ii) of CST (Odisha) Rules, 1957, the selling dealer shall furnish the portion marked 'Original' of the declaration in Form 'C' to the AA. Inter-State sales of all goods not supported by declarations in Form 'C' are taxable at the same rate as applicable to sale or purchase of such goods inside the State with effect from 1 April 2007. Rule 12 (3) (g) of the CST (Odisha) Rules, 1957 provides for imposition of a penalty equal to twice the amount of tax assessed in audit assessment.

During scrutiny of assessment records in Bolangir Range, Audit noticed (February 2014) that the AA, while finalising the assessment (30 November 2011) of a dealer for the tax periods from 6 July 2006 to 31 July 2010, allowed concessional rate of tax on inter-State sale of goods valued at ₹ 2,786.22 crore against declarations in Form 'C'. Audit further noticed that out of total sale turnover of ₹ 2,786.22 crore, the dealer had furnished declarations in Form 'C' marked 'Duplicate' for ₹ 25.93 crore in contravention of the provisions of rules. The said declarations should have been rejected and the sale turnover

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<sup>22</sup> TMT bars worth ₹ 24.33 crore purchased during April 2008 to August 2008 and Coal Tar pitch (liquid) worth ₹ 8.00 crore purchased during July 2008 to December 2008.

taxed at the rate of four *per cent* instead of two *per cent*. But the AA accepted the said declarations and allowed concession of tax. Thus, there was short levy of tax of ₹ 51.86 lakh at the differential rate of two *per cent*. Besides, penalty of ₹ 1.04 crore was also leviable.

After Audit pointed this out, AA stated (February 2014) that the case would be re-examined.

Audit reported the matter to the CCT, Odisha in March 2014 and the Government in July 2014. Their replies are awaited (November 2014).

### **2.7.6 Concession of tax on fake forms 'C'**

As per Section 8(4) of the CST Act read with Rule 12(1) of CST (R&T) Rules, 1957 and Rule 6(a)(ii) of CST (Odisha) Rule, 1957, a dealer who claims concessional rate of tax on inter State sale of goods is required to obtain valid declarations in Form 'C' marked 'Original' from the purchasing dealer covering the sales turnover relating to a quarter and furnish the same to the AA within the next quarter. Further, tax on such transactions is leviable at the concessional rate of three *per cent* from 1 April 2007 to 31 May 2008 and two *per cent* from 1 June 2008 onwards or at lower rate as applicable to the sale or purchase of these goods within the State. Under Section 8(2) of the Act effective from 1 April 2007, inter-State sale of goods not supported by declarations in Form 'C' are taxable at the rate applicable to sale or purchase of such goods within the State. Rule 12(3)(g) of the Central Sales Tax (Odisha) Rules provides for imposition of penalty equal to twice the amount of tax assessed during audit assessment. Sale turnover of iron and steel within the State is exigible to tax at the rate of four *per cent*.

During scrutiny of audit assessment records in Rourkela-I Circle, Audit noticed (November 2013) that a registered dealer engaged in manufacturing of sponge iron, was allowed concessional rate of tax on inter-State sales turnover of ₹ 79.80 crore against declarations in Form 'C' for the tax periods from 1 April 2007 to 31 March 2012. However, on scrutiny of the declarations in Form 'C' furnished by the dealer and accepted by the AA, Audit noticed that 21 'C' Forms for a sales turnover of ₹ 9.91 crore appeared to be not genuine due to various reasons<sup>23</sup>. AA accepted these forms without cross-verifying their genuineness. Audit forwarded the details of these forms to the Commercial Tax authorities of concerned States for verifying the genuineness. Verification reports received (August and October 2014) from them in respect of nine Forms covering sales turnover of goods valued at ₹ 4.72 crore involving differential tax of ₹ 8.47 lakh confirmed that the forms were not genuine. Thus, acceptance of declaration forms without ascertaining their genuineness resulted in short levy of tax of ₹ 8.47 lakh. Besides, penalty of ₹ 16.94 lakh was also leviable.

Audit reported the matter to the CCT, Odisha in May 2014 and the Government in August 2014. Their replies are awaited (November 2014).

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<sup>23</sup> Date of issue by Commercial Tax Department not mentioned; the word 'generation' has been printed as 'gmeration'; the word 'statements' has been printed as 'staements'; the word 'Cash memo' has been printed as 'Cash meno'.

## Entry Tax

### 2.8 Non-observance/compliance of the provisions of Odisha Entry Tax Act/ Rules read with Government notifications

*The Odisha Entry Tax (OET) Act, 1999 and Rules made there under read with Government notifications issued from time to time provide for:*

- *levy of tax on the entry of scheduled goods into a local area for consumption, use or sale therein at the prescribed normal/ concessional rates and levy of penalty at prescribed rates for the tax levied in audit assessment; and*
- *allowance of proportionate set off towards tax paid on purchase of scheduled goods by the manufacturers and utilised as raw materials on the Entry Tax (ET) payable on the sale value of taxable finished goods.*

*Audit noticed that while finalising the assessments, the AAs did not observe the above provisions in some cases as mentioned in the following paragraphs:*

#### 2.8.1 Non levy of Entry Tax on scheduled goods

Under Section 3(1) of the OET Act, scheduled goods entered into a local area for consumption, use or sale therein are taxable at prescribed rates of the Schedule appended to the Act. As per Section 3(a) of Mines and Minerals (Development and Regulation) Act “minerals” include all minerals except mineral oils. As per Odisha Minor Minerals Concession (OMMC) Rules, 2004, Ordinary Clay, Sand, Morrums and Chips etc. are minor minerals. Minerals are exigible to tax at the rate of one *per cent* as per entry No. 59 of Part-I of the Schedule of OET Act. As per entry No. 21 of Part-I of Schedule, ‘Pepper and other spices’ are taxable at the rate of one *per cent*. Turmeric and dry chilly, being spices under the list of Spices Board, are therefore taxable at the rate of one *per cent*. Further, Section 9C (5) of the Act provides for imposition of penalty equal to twice the amount of tax assessed in audit assessment.

**2.8.1.1** During scrutiny of assessment records in two Circles<sup>24</sup>, Audit noticed (between May and September 2013) that two registered dealers purchased (April 2008 to March 2011) stone products, sand, morrum, chips etc. valued at ₹ 12.88 crore from unregistered dealers of Odisha for utilisation in various works contracts. Audit noticed that though the concerned AAs finalised the assessments on 31 December 2012 and 28 December 2013 under the OVAT Act, they failed to assess such purchases under the OET Act treating the said goods as non-scheduled goods. This resulted in non-levy of entry tax of ₹ 12.88 lakh at the rate of one *per cent*. Besides penalty of ₹ 25.76 lakh was also leviable.

After Audit pointed this out, AAs stated that the cases would be re-examined and compliance would be intimated to audit.

Audit reported the matter to the CCT, Odisha in July 2014 and the Government in August 2014. Their replies are awaited (November 2014).

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<sup>24</sup> Balasore and Puri.

**2.8.1.2** During scrutiny of assessment records, Audit noticed (between November 2013 and February 2014) that two dealers in Ganjam-I Circle purchased dry chilli valued at ₹ 2.43 crore during the tax periods from 1 April 2007 to 30 June 2012 from unregistered dealers but did not pay entry tax thereon. Similarly, in Rourkela-I Circle, one dealer purchased turmeric valued at ₹ 1.17 crore during the tax periods from 1 April 2005 to 31 March 2010 from outside the State but it did not pay ET thereon treating the same as non-scheduled goods. The concerned AAs, while finalising the assessments of these three dealers under the OET Act during July and August 2012, also did not levy entry tax on such purchase turnover of ₹ 3.60 crore treating the said goods as non-scheduled goods. This led to non-levy of entry tax of ₹ 3.60 lakh. Besides, penalty of ₹ 7.20 lakh was also leviable.

After Audit pointed out (December 2013 and February 2014) these cases, the AA, Rourkela-I stated (December 2013) that the case would be examined and the result thereof would be intimated later. The AA, Ganjam-I Circle stated (February 2014) that action would be taken after verification of facts and figures.

Audit reported the matter to the CCT, Odisha in March and May 2014 and the Government in August 2014. Their replies are awaited (November 2014).

### **2.8.2 Less payment of Entry Tax due to application of lower rate of tax**

According to the provisions of Section 3(i) of the OET Act, 1999, there shall be levied and collected a tax on entry of scheduled goods into a local area for consumption, use or sale therein at prescribed rate. Further, under Section 7(10) of the Act read with Rule 10(6) of the OET Rules, each and every return filed by a dealer in relation to any tax period shall be subject to scrutiny to verify, among other things, the correctness of calculation, application of correct rate of tax etc. and if any mistake is detected as a result of such scrutiny, the AA shall serve a notice in form E-24 to the dealer directing him to pay the extra tax due along with interest. The Act provides for levy of interest at the rate of two *per cent* per month upto 30 June 2012 and at the rate of one *per cent* thereafter for default in payment of tax due as per return. Spare parts and components of machinery and equipment are taxable at the rate of two *per cent* as per entry 9 of Part-II of Schedule to OET Act.

During test check of returns furnished by a registered dealer of Cuttack-I City Circle, Audit noticed (November 2013) that the dealer purchased scheduled goods such as belts, V-belts, couplings, pulleys, bearings and machinery valued at ₹ 5.83 crore during the tax periods from 2009-10 to 2012-13 but paid ET at the rate of one *per cent* instead of the applicable rate of two *per cent* under Part-II of OET Act. The AAs also failed to detect this while scrutinising the returns this resulted in short levy of ET of ₹ 5.83 lakh. Besides, interest amounting to ₹ 2.90 lakh was also leviable.

After Audit pointed (November 2013) this out, AA stated (November 2013) that the case would be examined.

Audit reported the matter to the CCT, Odisha in February 2014 and the Government in May 2014. Their replies are awaited (November 2014).

### 2.8.3 Non levy of penalty on audit assessments

Under Section 9C(1) of the OET Act, 1999, where tax audit conducted under Section 9B of the Act results in detection of any discrepancy such as suppression of purchases or sales, or both, erroneous claims of deductions, evasion of tax or contravention of any provisions of the Act affecting the tax liability of the dealer, the AA is required to make audit assessment of the dealer. Further, Section 9C(5) of the Act provides for imposition of penalty equal to twice the amount of tax additionally assessed during the audit assessment.

During scrutiny of assessment records in two circles<sup>25</sup>, Audit noticed (between June and December 2013) that the AAs while finalising the audit assessments of two dealers, levied tax of ₹ 22.38 lakh additionally but did not levy penalty of ₹ 44.76 lakh on such assessed tax.

After Audit pointed this out, AAs stated (between June and December 2013) that the cases would be re-examined and compliances would be intimidated.

Audit reported the matter to the CCT, Odisha in May 2014 and the Government in June 2014. Their replies are awaited (November 2014).

### 2.8.4 Excess allowance of Entry Tax set-off

As per Rule 19 (5) of the OET Rules, 1999, the entry tax (ET) paid by a manufacturer of scheduled goods on the purchase value of raw materials which directly go into the composition of finished products shall be set off against the ET payable by the dealer on the value of finished products. The explanation below the said rule provides that where no entry tax is payable on a part of the sales effected, the set off admissible shall be reduced proportionately. Further, Section 9C(5) of the OET Act, 1999 provides for levy of penalty equal to twice the amount of tax assessed in respect of any assessment completed under the Act.

During scrutiny of assessment records of Rayagada Circle, Audit noticed (March 2014) that a registered dealer, engaged in manufacture of corrugated boxes and laminated wrappers, purchased raw materials valued at ₹ 23.35 crore and paid ET of ₹ 11.68 lakh at the rate of 0.5 per cent during the tax periods from 1 April 2006 to 31 March 2011. During this period, the dealer sold finished products valued at ₹ 33.86 crore which included goods valued at ₹ 21.01 crore sold inside the State on which ET was payable. Accordingly, the dealer was eligible to avail ET set off of ₹ 7.25 lakh<sup>26</sup> proportionately in respect of the purchase value of goods which was used in manufacture of finished products valued ₹ 21.01 crore sold inside the State. However, the AA, while finalising the audit assessment on 4 April 2012, incorrectly allowed ET

<sup>25</sup> Rourkela-I and Bhubaneswar-I Circle.

<sup>26</sup> ET set off admissible:

$$\begin{aligned} &= \frac{\text{VAT sale of corrugated boxes} \times \text{ET paid on raw materials}}{\text{Total sale of finished products}} \\ &= \frac{₹ 21,00,77,258 \times ₹ 11,67,603}{₹ 33,85,58,686} = ₹ 7,24,503 \end{aligned}$$

set off of ₹ 9.32 lakh instead of ₹ 7.25 lakh which resulted in short levy of ET of ₹ 2.07 lakh. Besides, the dealer was liable to pay a penalty of ₹ 4.14 lakh.

After Audit pointed this out, the AA stated (March 2014) that the case would be examined in detail and fact would be intimated.

Audit reported the matter to the CCT, Odisha in April 2014 and the Government in May 2014. Their replies are awaited (November 2014).

#### **2.8.5 Non initiation of action by the Assessing Authorities for levy of interest and penalty for delayed payment of Entry Tax**

Under Section 7(5) of OET Act, 1999 prevalent upto 30 June 2012, where a dealer required to file return under the Section fails without sufficient cause, to pay the amount of tax due as per the return for any tax period or fails to furnish return, such dealer shall be liable to pay interest in respect of the tax which he fails to pay according to the return or the tax payable for the period for which he has failed to furnish return, at a rate of two *per cent* per month from the date the return for the period was due to the date of its payment or to the date of order of assessment, whichever is earlier. If the dealer fails to pay the amount of tax due and interest payable thereon along with return in accordance with the above provision, the Commissioner may after giving the dealer a reasonable opportunity of being heard, direct him to pay in addition to the tax and the interest payable by him, a penalty at the rate of two *per cent* per month on the tax and interest so payable, from the date it had become due to the date of its payment or the order assessment, whichever is earlier.

Scrutiny of the assessment records and tax payment details in one Range<sup>27</sup> and two Circles<sup>28</sup> for the tax periods ranging from 1 April 2005 to 30 June 2011, Audit noticed (between December 2013 and March 2014) that four dealers paid the tax dues of ₹ 18.85 lakh with delays ranging from six to 485 days. Despite delay in payment of taxes, the AAs had not initiated any action as prescribed in the Act.

After Audit pointed this out, AAs replied (between December 2013 and March 2014) that the cases would be re-examined.

Audit reported the matter to the CCT, Odisha in June 2014 and the Government in August 2014. Their replies are awaited (November 2014).

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<sup>27</sup> Angul.

<sup>28</sup> Cuttack-I West and Kalahandi.

## **EXPENDITURE SECTION**

### **2.9.1 Excess payment for application software**

For modernisation of Luhurachati check gate, the CCT, Odisha on behalf of Finance Department, the Transport Commissioner, Odisha on behalf of Transport Department and M/s Electronic Corporation of India Limited (ECIL), a Central Public Sector Enterprise entered into a tripartite agreement on 26 November 2010 at a contract price of ₹ 4.72 crore comprising of ₹ 3.48 crore towards material cost and ₹ 1.24 crore towards project implementation and capacity building. The material cost of ₹ 3.48 crore included ₹ 82.01 lakh towards the cost of application software.

During scrutiny of the records of the CCT relating to the expenditure incurred for the Luhurachati check gate, Audit noticed (February 2014) that as against the contract price of ₹ 4.72 crore, an amount of ₹ 4.79 crore had already been paid to ECIL during the period between 31 December 2010 and 1 March 2013 including the cost of application software. However, ECIL further submitted a bill in March 2013 claiming ₹ 90.46 lakh towards cost of application software including service tax of ₹ 8.45 lakh and the CCT, without verifying the details of such claims with reference to the payments made earlier, paid ₹ 82.01 lakh to the firm. This resulted in excess payment of ₹ 82.01 lakh which is recoverable from ECIL.

After Audit pointing out, Special Commissioner of Commercial Taxes (Enforcement), Odisha while admitting the fact of double payment, stated (February 2014) that since the final payment has not been made to ECIL, the excess payment so made would be adjusted from the remaining dues.

Audit reported the matter to the CCT, Odisha in July 2014 and the Government in August 2014. Their replies are awaited (November 2014).

## CHAPTER-III

### STATE EXCISE

#### 3.1 Tax administration

The Principal Secretary, Excise Department is the administrative head at Government level. The Department is headed by the Excise Commissioner (EC). The Department has been divided in three Divisions<sup>1</sup> namely North, Central and South which are headed by Excise Deputy Commissioners. Besides, 69 Inspectors of Excise, 211 of Sub-Inspectors and 137 Assistant Sub-Inspectors of Excise under the control of 31 Superintendent of Excise in respective districts are deputed to oversee and regulate levy/collection of excise duties and allied levies.

#### 3.2 Internal Audit

Internal Audit System in Excise Department is functioning since June 2010 consequent upon introduction of Internal Audit Wing (IAW) in accordance with the decision of Government for regular internal audit check of field offices as well as entire organisation, to ensure correct assessment, prompt collection of excise revenue and timely deposit of revenue to Government Account. During 2013-14, out of 15 units planned for audit, the IAW covered 10 units. The shortfall was attributed by the Department to shortage of manpower. Audit noticed that 364 paragraphs of Internal Audit Reports having money value of ₹ 64.28 crore issued during 2011-12 to 2013-14 were pending for disposal as on 31 March 2014.

#### 3.3 Results of audit

In 2013-14, test check of the records of 20 units relating to excise duty, licence fee receipts etc., showed non/short realisation of excise duty / licence fee / interest/ penalty and other irregularities involving ₹ 238.31 crore in 1,498 cases, which fall under the categories as given in the **Table 3.1** below.

**Table 3.1**

#### A. REVENUE RECEIPTS

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non/short realisation of excise duty and Non/short recovery of licence fee/ interest/ penalty	1,076	15.81
2.	Other irregularities	422	222.50
<b>Total</b>		<b>1,498</b>	<b>238.31</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 21.43 crore in 897 cases which were pointed out in

<sup>1</sup> North Division (Angul, Bargarh, Bolangir, Deogarh, Dhenkanal, Jharsuguda, Keonjhar, Sambalpur, Subarnapur and Sundargarh), Central Division (Balasore, Bhadrak, Cuttack, Jagatsinghpur, Jajpur, Kendrapara, Khurda, Mayurbhanj, Nayagarh and Puri) and South Division (Berhampur, Boudh, Gajapati, Ganjam, Kalahandi, Kandhamal, Koraput, Malkangiri, Nabarangpur, Nuapada and Rayagada).

earlier years. An amount of ₹ 7.5 lakh was recovered in 78 cases during the year 2013-14. A few illustrative cases involving ₹ 6.57 crore are discussed in paragraphs 3.5.1 to 3.5.12.

## **B. EXPENDITURE**

During the year, test check of records showed irregular expenditure involving ₹ 30.60 lakh in 35 cases, which fall under categories as given in the **Table 3.2** below.

**Table 3.2**

(₹ in lakh)			
Sl. No.	Category	No. of Cases	Amount
1	Cash book and management of cash	20	Nil
2	Other Misc. expenditure	15	30.60
<b>Total</b>		<b>35</b>	<b>30.60</b>

The Department accepted objections amounting to ₹ 30.60 lakh in 35 cases which were pointed out during 2013-14.

### **3.4 Audit observations**

Audit scrutinised the assessment records of excise duty and fees in the District Excise Offices (DEOs) and found several cases of non-observance of the provisions of the Act/ Rules/ Annual Excise Policies (AEPs) leading to non/short-levy and realisation of excise duty, fees and fine etc. and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by Audit. Such omissions on the part of the Superintendent of Excise (SE) are pointed out by Audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Department to improve the internal control system including strengthening of internal audit so as to avoid recurrence of such irregularities.

### **3.5 Non-observance of provisions of the Acts/Rules/Annual Excise Policies and instructions of Government**

*The Bihar and Odisha Excise (B&OE) Act, 1915 and Rules made thereunder by the Government as well as by the Board of Revenue (BOR) read with the Excise Manual, AEPs and notifications of Government provide for levy and collection of State Excise Duty (SED), fees like Utilisation Fee (UF), Import Fee (IF), Bottling Fee (BF), Transportation Fee (TF) and charges like Establishment cost and Extra hour operation charges etc. at the prescribed rates.*

*The SEs, while finalising the assessments did not observe above provisions in some cases as mentioned in subsequent paragraphs which resulted in non/short-levy and non-realisation of SED/ fees, fine etc.*

### 3.5.1 Non-realisation of differential State Excise Duty on annual closing stock of IMFL/Beer

As per Government notification of February 2001, Odisha State Beverage Corporation Ltd. (OSBC) has the exclusive right and privilege of importing, exporting and carrying on the wholesale trade of foreign liquor in the State and sale of liquor to the retailer at the issue price inclusive of SED. In the AEP 2012-13, SED was increased by ₹ 2 to ₹ 30 per Bulk Litre (BL) of Beer/ London Proof Litre (LPL) of India Made Foreign Liquor (IMFL) based on the brands.

During test check of pass issue (FL 16) records and stock taking reports in office of the Superintendent of Excise (SE), Khurda, Audit noticed (October and November 2013) that from 1 April 2012, OSBC issued IMFL/ Beer to retailers at the revised rates as per AEP of 2012-13 and collected enhanced SED on the closing stock<sup>2</sup> of 2011-12. But, OSBC did not deposit the differential SED of ₹ 4.04 crore so collected during 2012-13 on closing stock of 2011-12 of IMFL/ Beer. The SE, Khurda also did not raise demand for realisation of the amount. This resulted in non-realisation of SED of ₹ 4.04 crore.

After Audit pointed this out, SE, Khurda, accepted the audit observation and raised demand in November 2013.

Audit reported the matter to Excise Commissioner (EC), Odisha in March 2014 and Government in July 2014. Their replies are awaited (November 2014).

### 3.5.2 Non-realisation of State Excise Duty on short lifting of minimum guaranteed quantity of Country Spirit

As per Rules 6 and 6-A of Odisha Excise Exclusive Privilege (OEEP) Rules, 1970, every successful bidder for Country Spirit (CS) shop shall, before obtaining licences, guarantee the sale of Minimum Guaranteed Quantity (MGQ) of CS as fixed by the Collector of the district concerned. The Collector may permit the licensee to lift the short drawn MGQ of a previous month in the subsequent month except for the month of February; whereas the EC can do so for any month up to the month of January by the end of February. The licensee shall remit the SED on CS in two equal instalments into Government treasury. The Collector may insist on Bank Guarantee (BG) from any bidder upto the extent of Consideration money and SED against the MGQ for the entire year. As per Clause 20(b) of the AEPs for 2011-12 and 2012-13, SED at the rate of ₹ 20 per LPL is payable on CS. Deficit in payment of SED is to be adjusted from the BG.

During test check of MGQ registers and MGQ returns of five SEs<sup>3</sup>, Audit noticed (between September 2013 and March 2014) that 56 CS licensees short-lifted 2,08,720 LPL<sup>4</sup> of CS against the monthly MGQ fixed for different

<sup>2</sup> IMFL (21,36,288.85 LPL) and Beer (17,63,013.97 BL).

<sup>3</sup> Balasore, Bhadrak, Jagatsinghpur, Jajpur and Kendrapara.

<sup>4</sup> **2011-12:** Balasore: 74,928.875 LPL, Jagatsinghpur: 51,312.22 LPL, Jajpur: 13,290.52 LPL, Kendrapara: 45,330.780 LPL and Bhadrak: 6,160 LPL. **2012-13:** Jajpur: 11,989.900 LPL and Kendrapara: 5,707.280 LPL.

months during 2011-12 and 2012-13 for which SED of ₹ 41.74 lakh was realisable. Despite short lifting of MGQ, the SEs did not take any action for realisation of SED of ₹ 41.74 lakh.

After Audit pointed this out, SEs of Balasore, Bhadrak, Jagatsinghpur and Jajpur stated (between September 2013 and March 2014) that compliance would be furnished after verification of records and the SE, Kendrapara stated (February 2014) that demand notices were being issued.

Audit reported the matter to the EC, Odisha, Cuttack in April 2014 and Government in July 2014. Their replies are awaited (November 2014).

### **3.5.3 Non-realisation of Depot License fee from Odisha State Beverage Corporation**

As per Paragraph 89 of the Odisha Excise Manual Vol-III, licences for different kinds of intoxicants should be settled with different licensees and the premises for sale of different intoxicants should be kept separate as far as possible. Further, as per clause 154 of Board's Instructions, licences for sale of foreign liquor do not cover sale of country liquor. The premises licensed for sale of foreign liquor must be separated from those licensed for sale of country liquor. As per clause-13 of AEP, all the depots established by the OSBC will pay an amount of ₹ 10 lakh for each depot per annum towards Depot Licence Fees.

During test check of records relating to Licence Fee (LF) and challan register of SE, Khurda, Audit noticed (November 2013) that licences were issued to OSBC for 11 depots for which Depot Licence fee of ₹ 1.10 crore was payable. However, OSBC deposited ₹ 70 lakh in March 2013 towards annual Depot Licence fee for seven<sup>5</sup> IMFL depots for the year 2013-14 and did not deposit LF for the remaining three<sup>6</sup> CS depots and one<sup>7</sup> Beer depot. The SE did not raise demand for payment of depot licence fee for the CS and Beer depots. This resulted in non-realisation of depot LF of ₹ 40 lakh.

After Audit pointed this out, SE, Khurda issued (November 2013) demand notice to OSBC. Collection particulars are awaited (November 2014).

Audit reported to the matter to the EC, Odisha in May 2014 and Government in June 2014. Their replies are awaited (November 2014).

### **3.5.4 Non-realisation of establishment cost and overtime fees**

As per Rule 34 of BER, 1965, the EC shall appoint Excise Officers (EOs) for proper supervision of the operations carried out in each warehouse or storeroom and the licensee shall pay to the State Government, at the end of each calendar month, such fees which shall not exceed the whole of the cost of the excise staff employed for the purpose. Further, as per the provisions of the Rule *ibid*, the production units of distilleries, bottling units, breweries may function for the second shift with prior permission of the EC and additional staff shall be posted as determined by the EC. The unit shall pay overtime fees

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<sup>5</sup> Angul, Balasore, Berhampur, Cuttack, Khurda, Rayagada and Sambalpur.

<sup>6</sup> Balasore, Cuttack and Khurda.

<sup>7</sup> Sambalpur.

at the rate of one seventh of a day's pay of the Officer-In-Charge (OIC) per extra hour of operation.

During test check of records of three District Excise Offices<sup>8</sup> (DEOs), Audit noticed (between December 2013 and February 2014) that Excise Department staff were posted during different periods of 2012-13 at three liquor manufacturing units as well as liquor warehouses engaged in manufacturing of potable liquors. Thus, the units were liable to deposit the gross salary of Excise Department staff towards cost of establishment at the end of each calendar month. But the DEOs did not demand the establishment cost. This resulted in non-realisation of establishment cost amounting to ₹ 14.40 lakh. Similarly, during test check of records in two DEOs<sup>9</sup>, Audit noticed (November 2013 and February 2014) that the DEOs did not realise overtime fees amounting to ₹ 3.37 lakh from two units.

After Audit pointed this out, SE, Bolangir agreed (December 2013) to raise demand for realisation of establishment cost and SE, Dhenkanal stated that demand would be raised against the unit after receipt of clarification from EC, Odisha. SE, Sundargarh stated (February 2014) that demand would be raised after verification of records. For realisation of overtime fee, SEs, Khurda raised (November 2013) demand and SE, Puri stated that the concerned employee did not claim the over time. The reply of the SE, Puri was not tenable as extra hour operation charges are realisable as per laws.

Audit reported (April and May 2014) the matter to EC, Odisha and Government (July 2014). Their replies are awaited (November 2014).

### **3.5.5 Non-realisation of Label Registration Fee on liquor stored/sold at OSBC godown**

As per Rule 41A of BER, 1965, Foreign Liquor (FL) manufactured in or imported into the State shall not be stored in a warehouse or issued for sale unless the brand names and labels are approved and permits are issued by EC, Odisha on payment of the prescribed fees. The permit once issued shall remain valid until 31 March next. As per Section 4 of Bihar and Odisha Excise (B&OE) Act 1915, Beer is also treated as foreign liquor. As per item-12 (A) of the AEP for 2012-13, the minimum slab rate of Label Registration Fee (LRF) and Application Fee (AF) was fixed at ₹ 50,000 and ₹ 15,000 respectively per label in respect of IMFL supplied to OSBC.

During test check of records of the EC, Odisha and annual stock report of the OSBC Depot at Nirgundi, Audit noticed (November 2013) that in violation of the above provisions, 31 brands of IMFL had been sold/stored during 2012-13 at the above depot without registration of labels of the said brands. The Department failed to detect such non-registered brands. This resulted in non-realisation of LRF of ₹ 15.50 lakh and AF of ₹ 4.65 lakh.

After Audit pointed this out, EC stated (November 2013) that information regarding unregistered labels in OSBC godown was not available in his office.

<sup>8</sup> Bolangir, Dhenkanal and Sundargarh.

<sup>9</sup> District Excise Offices: Khurda and Puri.

Audit reported the matter to EC, Odisha in May 2014 and Government in July 2014. Their replies are awaited (November 2014).

### **3.5.6 Irregular permission for reprocessing of time-expired beer**

As per Rule 39A (7) of BER, 1965, if any stock of IMFL/Beer stored becomes unfit for human consumption, the licensee shall be liable to pay fine equal to five times of the SED payable to the Government on the stock so spoiled. Further, as per Liquor Sourcing Policy (LSP) of OSBC, Beer more than six months old from the date of manufacture shall be destroyed under the orders of the Collector /EC depending on the quantity. As per item No. 10 of AEP 2012-13, SED on Beer was ₹ 24 per BL.

During test check of records relating to reprocessing of Beer in DEO, Khurda Audit noticed (November 2013) that during 2012-13, 7,064 cases (55,099.20 BL)<sup>10</sup> of Beer of different brands manufactured between 5 April and 7 May 2012 were lying in warehouse of a brewery beyond six months from the date of manufacture. However, instead of issuing orders for destruction of time-expired Beer and levying fine thereon as per the rules, the EC, Odisha irregularly issued (October 2012) permission for reprocessing of the Beer. This led to non-levy of fine of ₹ 66.12 lakh.

After Audit pointed this out, Government stated (August 2014) that reprocessing of beer was done with approval of EC and the reprocessed beer was chemically tested by State Drugs Testing and Research Laboratory and certified as fit for human consumption. Government further stated that revenue to the tune of ₹ 4.98 lakh had been realised. The reply is not tenable as Beer more than six months old was required to be destroyed as per the LSP and there is no provision in the rules or executive instructions for reprocessing of the same. Further, ₹ 4.98 lakh so realised pertained to fees and other dues for reprocessing and not fines required to be realised on spoilt Beer.

### **3.5.7 Short-realisation of Licence Fee from distillery and bottling units**

As per item (3) of AEP of the State Government, the licensee of a distillery and bottling unit is required to pay Licence Fee (LF) on the basis of annual production capacity of the distillery or bottling unit at the rates prescribed for each year. The LF as per the AEP 2011-12 was ₹ 60.00 lakh for units having annual production capacity of 1,00,00,001 LPL and above. For the distilleries/bottling units having annual production capacity of 30,00,000 to 60,00,000 LPL, the LF was ₹ 42.00 lakh and ₹ 45.00 lakh for the years 2012-13 and 2013-14 respectively as per the AEP.

During test check of records relating to issue/ renewal of licence with reference to the production capacity in the DEO, Berhampur, Audit noticed (January 2014) that licences for the years 2011-14 in respect of two bottling units were renewed for a production capacity of 10 lakh LPL to 30 lakh LPL per annum on realisation of licence fee amounting to ₹ 1.09 crore. But during 2011-12, the production capacity of one unit was enhanced to one crore LPL

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<sup>10</sup> 7,064 cases =  $9,360 \times 7,064 / 1,200$  BL = 55,099.20 BL.

and above, whereas during 2012-14, production capacity of another unit was enhanced to the higher slab of 30 lakh to 60 lakh LPL. As such, the above two units were required to pay LF at the rate prescribed for higher slabs during the corresponding years. But, neither did the units pay LF at the applicable rate nor did the SE demand the differential LF. This resulted in short realisation of ₹ 38 lakh.

After Audit pointed this out, SE, Berhampur stated that demand would be raised against the distillery/bottling unit for realisation of differential LF.

Audit reported the matter to the EC, Odisha in May 2014 and Government in July 2014. Their replies are awaited (November 2014).

### **3.5.8 Non-realisation of revenue on trading of Molasses without licence for trading**

Molasses is an intoxicant as per Section 2(12-a) of B&OE Act, 1915. As per Section 20 of the Act *ibid*, no intoxicant shall be sold except under the authority and subject to the terms and conditions of a licence granted by the Collector of the District. As per the AEP 2010-11, licence fee for trading of molasses was fixed at ₹ 1 lakh. In the AEPs for the years 2011-12 and 2012-13, licence fee and application fee were fixed at ₹ 3 lakh and ₹ 20,000 respectively. As per the guidelines issued in January 2000, Excise Deputy Commissioner (EDC) shall inspect the sugar factories at least once in a year. Under Section 47(g)(i) of the Act, in case of unlawful import, export, transport, manufacture and sale of intoxicant<sup>11</sup>, penalty of ₹ 20,000 to ₹ 50,000 per case is leviable against the offenders.

During test check of records of four SEs<sup>12</sup>, Audit noticed (November and December 2013) that four sugar factories sold molasses during the years 2010-11 to 2012-13 without obtaining licences for trading from the SEs of concerned districts. The SEs failed to detect such irregular sale of molasses without licences. This resulted in non-realisation of licence fee of ₹ 13 lakh and application fee of ₹ 80,000. Besides, minimum penalty of ₹ 1 lakh was also leviable.

After Audit pointed this out, SEs, Ganjam and Nayagarh replied (November and December 2013) that demand would be raised against the licensees while SE, Bargarh replied (December 2013) that demand would be raised after verification of the case. SE, Bolangir replied (December 2013) that action would be taken after getting clarification from the EC, Odisha. Further, compliance is yet to be received.

Audit reported the matter to EC, Odisha in April 2014 and Government in July 2014. Their replies are awaited (November 2014).

### **3.5.9 Non-realisation of State Excise Duty for short lifting of MGQ of IMFL and Beer by 'ON' shops**

As per Rule 6A (1) of Odisha Excise Exclusive Privilege (Foreign Liquor) (FL), Rules, 1989, the licensee of FL 'ON' shop shall guarantee for lifting of

<sup>11</sup> 'Molasses' is an intoxicant as per Section 2(12-a) of the B&OE Act, 1915.

<sup>12</sup> Bargarh, Bolangir, Ganjam (Chatrapur) and Nayagarh.

monthly MGQ of foreign liquor. Further, as per Rule 6(3), no licensee shall lift less than the specified MGQ in any month as approved in the distribution statement. In case of failure on the part of the licensee to lift the monthly MGQ, action may be taken to make good the loss of excise duty which shall be collected with the licence fee of the succeeding months. In case of further deficit, the amount will be collected at the end of the year with fine of 10 per cent on the deficit SED. As per AEP, the minimum excise duty (ED) on IMFL and Beer was fixed at the rate of ₹ 150 per LPL and ₹ 20 per BL respectively for 2011-12 and ₹ 165 per LPL on IMFL and ₹ 22 per BL on Beer for the year 2012-13.

During test check of LF registers and MGQ registers of two SEs<sup>13</sup>, Audit noticed (between September 2013 and February 2014) that nine 'ON' Shop licensees short-lifted 1,962 LPL of IMFL and 2,702 BL of beer during 2010-11 to 2012-13. The SEs did not realise SED and fine for short-lifting of IMFL and Beer as per the provisions. This resulted in non-realisation of SED of ₹ 3.51 lakh and fine of ₹ 0.35 lakh thereon.

After Audit pointed this out, SE, Keonjhar stated that demand would be raised after verification of records. He further added that six licensees had lifted the shortfall MGQ in the succeeding months after obtaining permission from EC/Collector; but no such permission obtained from EC/Collector could be furnished to Audit. SE, Jajpur stated that steps were being taken to instruct the licensees to lift the short lifted MGQ in future.

Audit reported the matter to the EC, Odisha in May 2014 and Government in July 2014. Their replies are awaited (November 2014).

### **3.5.10 Non-realisation of Composite Label Registration Fee, Application fee and User Charges**

As per the provisions of AEPs, retail licensees have to register the labels of different brands of IMFL/Beer at the District level on payment of Composite Label Registration Fee (LRF) at the rate of ₹ 10,000 for each shop per annum. The licensees of IMFL shops were also required to pay a non-refundable User Charges (UC) of ₹ 5,000 per annum per shop. Further, persons interested to renew IMFL 'Off' shop have to deposit ₹ 20,000 towards non-refundable Application Fee (AF).

During test check of Licence Fee (LF) Register, Challan Register and Licence Renewal files of five SEs<sup>14</sup>, Audit noticed (between December 2013 and March 2014) that 13 retail licensees did not pay the composite label registration fee, application fee and user charges for the years 2011-13 although these fees/ charges are required to be paid at the time of issue/renewal of licences. However, the SEs did not notice such non payment while issuing/renewing licences resulting in non-realisation of revenue amounting to ₹ 5.45 lakh<sup>15</sup>.

After Audit pointed this out, while the SEs of Balasore, Bolangir and Keonjhar stated (between January and March 2014) that demand notices would be

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<sup>13</sup> Jajpur and Keonjhar.

<sup>14</sup> Balasore, Berhampur, Bolangir, Keonjhar and Sundargarh.

<sup>15</sup> Application Fee: ₹ 2.60 lakh, Composite Label Registration Fee: ₹ 1.90 lakh and User Charges: ₹ 0.95 lakh.

issued for realisation of the dues, the SEs of Berhampur and Sundargarh stated (January and February 2014) that demand would be raised after verification of records.

Audit reported the matter to EC, Odisha in April 2014 and Government in July 2014. Their replies are awaited (November 2014).

### **3.5.11 Non-realisation of Consideration Money on IMFL shops**

As per AEP of 2012-13, the licensees are required to pay advance Consideration Money (C Money) for four months by 31 March 2012 while applying for renewal of licence and deposit the monthly C Money by 1<sup>st</sup> of each succeeding month subsequently.

During test check of LF and Challan Registers of SE, Khurda, Audit noticed (November 2013) that two Off Shops did not deposit the C Money for one month each during 2012-13. This resulted in non-realisation of C Money of ₹ 2.74 lakh. The SE also did not raise demand for the unpaid amount.

After Audit pointed this out, the SE stated (November 2013) that challan towards C Money of the above two shops were not reflected in the treasury schedule and the treasury officer had been requested to reconcile the deposit made in the treasury. Audit further sought for (October 2014) the details of reconciliation of the deposits made against C Money from SE, Khurda. The details are awaited (November 2014).

Audit reported the matter to the EC, Odisha in May 2014 and Government in July 2014. Their replies are awaited (November 2014).

### **3.5.12 Short-realisation of State Excise Duty on excess wastage of spirit**

As per Rule 16 of BER, 1965, the SE shall take an account of the distiller's stock of spirit at least once in every quarter and wastage upto two *per cent* of all spirits in the process of re-distillation shall be allowed. In case of wastage in excess of the above allowable quantity, the distiller shall pay to the Government, duty on such excess wastage at the rate prescribed. Extra Neutral Alcohol (ENA) is a purified spirit obtained by re-distillation of rectified spirit through ENA columns and categorised as foreign liquor under Section-2 of Bihar and Odisha Excise Act. The minimum SED was ₹ 165 per LPL on IMFL and ₹ 20 per LPL on country spirits as per AEP 2012-13.

During test check of stock position of a distillery in the DEO, Sundargarh, Audit noticed (February 2014) that during the months from May 2012 to October 2012, the distillery re-distilled 2,09,286.2 LPL of Rectified Spirit (RS) and 52,008.5 LPL of ENA. However, it exhibited processing loss of 6,677.5 LPL against the wastage allowance of 5,225.894 LPL (two *per cent* of quantity re-distilled), thus exhibiting excess wastage of 1,451.606 LPL of spirit. SE accepted the same. This resulted in non-realisation of SED amounting to ₹ 2.18 lakh.

After Audit pointed this out, SE, Sundargarh replied (February 2014) that demand would be raised after verification of records.

Audit reported the matter to the EC, Odisha in May 2014 and Government in July 2014. Their replies are awaited (November 2014).

## CHAPTER-IV

### STAMP DUTY AND REGISTRATION FEE

#### 4.1 Tax administration

Receipts from Stamp Duty (SD) and Registration Fee (RF) are regulated under the Indian Stamp Act, 1899 (IS Act), the Registration Act, 1908 and the rules framed there-under as applicable in Odisha and are administered at the Government level by the Principal Secretary, Revenue & Disaster Management (R&DM) Department. The Inspector General of Registration (IGR) is the head of the Revenue Department who is empowered with the task of superintendence and administration of registration work. He is assisted by one Joint Inspector General (JIG), three Deputy Inspector General (DIGs), 30 District Registrars (DRs) and 30 District Sub Registrars (DSRs) at the district level and 151 Sub Registrars (SRs) at the unit level.

#### 4.2 Internal Audit

The Internal Audit Wing (IAW) of R&DM Department was created in the year 1969. During 2013-14, out of 68 units planned for audit, the IAW of the Department covered only 53 units thereby resulting in shortfall of 15 units. The reason for shortfall has been attributed by the Department to shortage of staff.

#### 4.3 Results of audit

In 2013-14, test check of the records of 50 units of the R&DM Department, showed non/short levy of stamp duty and registration fee etc. and other irregularities amounting to ₹ 20.52 crore in 5,056 cases, which fall under the categories given in **Table 4.1** below:

**Table 4.1**

#### A. REVENUE RECEIPT

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Performance Audit of “e-Registration system”	4,257	7.17
2	Incorrect determination of market value of property	261	0.94
3	Non/short levy of stamp duty and registration fee	303	11.07
4	Other irregularities	235	1.34
<b>Total</b>		<b>5,056</b>	<b>20.52</b>

During the course of the year, the Department had accepted under assessments and other deficiencies of ₹ 17.04 crore in 363 cases which were pointed out in earlier years. An amount of ₹ 1.11 crore was realised in 18 cases during the year 2013-14. A few illustrative cases involving ₹ 17.30 crore are discussed in paragraphs 4.4 to 4.6.9.

Similarly, test check of records relating to Expenditure Accounts showed irregularities in Management of cash involving ₹ 35.70 lakh in 61 cases.

**B. EXPENDITURE**

(₹ in lakh)

Sl. No	Category	No. of cases	Amount
1	Irregular Management of cash	61	35.70
<b>Total</b>		<b>61</b>	<b>35.70</b>

The Department accepted all 61 cases involving ₹ 35.70 lakh and recovered ₹ 3,690 in one case.

## 4.4 Performance Audit of “e-Registration System”

### Highlights:

Selection of concessionaire was made without competitive bidding process and without considering existing NIC software-“ORIS” for the project.

(Paragraph 4.4.9.1)

Non-adherence to service level agreement led to delay in delivery of e-Governance services to the citizens. Penalty of ₹ 49.57 lakh for delay in rendering services as per the service level matrices was not imposed on the concessionaire.

(Paragraph 4.4.10.9)

Irregular fixation of user charges for additional pages of deeds beyond six pages resulted in undue burden of ₹ 1.26 crore over the citizens.

(Paragraph 4.4.11.3)

Non-mapping of Business Process Rules in case of Leases and Sale Certificates instruments resulted in short realisation of Stamp Duty and Registration Fees of ₹ 47.98 lakh.

(Paragraph 4.4.12)

In absence of system for generating alerts/ warnings, there was risk of fraudulent multiple sale of same property by seller to different buyers.

(Paragraph 4.4.14.1)

Partial capture of data for important fields like ID proof and number, Boundary details led to generation of incomplete information affecting quality of data. Besides, there was lack of validation control for important fields like PAN Number, Market value etc.

(Paragraphs 4.4.14.2, 4.4.14.4 and 4.4.14.5)

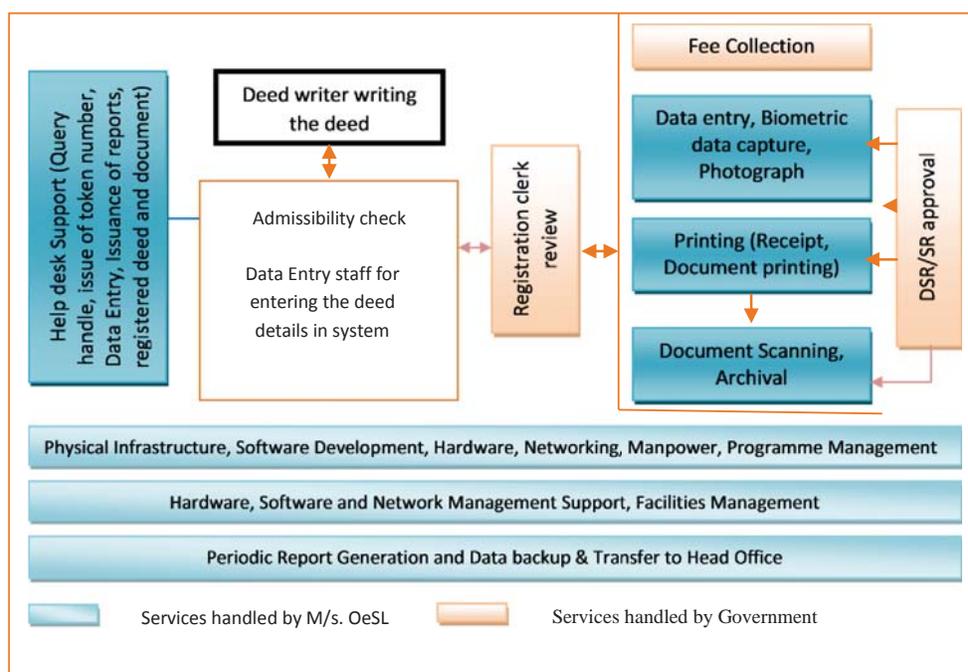
### 4.4.1 Introduction

Receipts from stamp duty and registration fee in the State are regulated under Indian Stamp Act, 1899, the Registration Act, 1908, Odisha Registration Rules, 1988, Odisha Stamp Rules, 1952 and Market Value guidelines prescribed under Odisha Stamp (Amendment) Rules 2001. Computerisation of registration offices (DSRs/ SRs) was a State Mission Mode Project (MMP) under National e-Governance Plan (NeGP) of Government of India (GoI). As per the decision of a high powered committee (HPC) chaired by the Chief Secretary in November 2007, it was decided to set up a Special Purposes Vehicle<sup>1</sup> (SPV) comprising of Infrastructure Leasing and Financial Services<sup>2</sup> (IL&FS) and

<sup>1</sup> Special purpose vehicle (SPV) is a company or entity or business association of entities formed under the Companies Act, 1956.

<sup>2</sup> Infrastructure Leasing and Financial Services is a company promoted by some Indian banks and others.

Odisha Computer Application Centre<sup>3</sup> (OCAC) for enabling delivery of e-Governance services to the citizens in implementing State MMPs. Accordingly, the project “e-Registration System” in the State was awarded to SPV named M/s. Odisha e-Governance Services Limited (OeSL)<sup>4</sup>, Bhubaneswar on Build Own Operate and Transfer (BOOT) basis for implementing the project on a Public Private Partnership (PPP) mode. A Concession Agreement (CA) was signed on 26 December 2009 among Revenue & Disaster Management (R&DM) Department, OCAC and OeSL to implement the project for a period of five years from the date of scheduled commercial operation. The project started on 4 January 2010 and manual registration process was withdrawn from 15 May 2010. The objective of e-Registration system in Odisha was to replace existing manual system of registration of deeds, valuation of properties, capturing and preserving copies of documents, conducting searches and maintaining back office records, enhancing the quality and speed of service delivery to the citizens and maintaining transparency in valuation. The workflow and process flow of the project are as follows:



#### 4.4.2 Organisational set up

Inspector General of Registration (IGR), Odisha, Cuttack being the head of the registration wing of R&DM Department of Government of Odisha (GoO) exercises overall supervision and control over the working of registration offices comprising of 30 District Sub-Registrars (DSRs) and 147 Sub Registrars (SRs). He is assisted by one Joint IGR, three Deputy IGRs at the State level and

<sup>3</sup> Odisha Computer Application Centre (OCAC) is a Government agency and a society registered under Societies Registration Act 1860 and is designated as Technical Directorate w.e.f August 2003 and the nodal agency under IT Department of Government of Odisha (GoO).

<sup>4</sup> OeSL is a SPV formed by OCAC and IL&FS through a memorandum of association (MoA) on 23 October 2008 to design, develop, implement, operate and maintain e-Governance projects in the State of Odisha.

District Registrars generally in the rank of Additional District Magistrates (ADMs) at the district level who supervise the registration works in districts. DSRs and SRs at field level are responsible for collection of stamp duty (SD) and registration fee (RF).

#### 4.4.3 Funding pattern

Funding pattern of the e-Registration Project implemented on a PPP mode is as follows:

Capital Expenditure (GoO + IL&FS)	Operational/Revenue expenditure (from revenue generated/user fees)	Legacy data digitisation by GoO from NLRMP and State plan
₹ 28 crore (₹ 19 crore + ₹ 9 crore)	₹ 35 crore (₹ 7 crore X 5 years)	₹ 8.27 crore

Initial capital expenditure came to the SPV in shape of term loan of ₹ 12.50 crore from IL&FS during the year 2009-10 as against capex share of ₹ 9 crore. Operational expenditure and staff salaries were met out of revenue collected towards service charges. Government component of ₹ 19 crore towards capital grant<sup>5</sup> and ₹ 8.27 crore<sup>6</sup> for legacy data digitisation was to be met from grants under State Plan as well as National Land Record Modernisation Programme<sup>7</sup> (NLRMP). Actual release of Government funds and expenditure incurred till date was ₹ 26.12 crore as against total commitment of ₹ 27.27 crore (₹ 19 crore + ₹ 8.27 crore).

#### 4.4.4 Features of application software and system overview

The “e-Registration system” through ‘*e-DhaRani*’ application software was developed by IL&FS using ‘Asp.Net’ as front-end tool and Oracle 10g as backend database. The database is a centralised architecture with MPLS VPN<sup>8</sup> and VPN on Broad Band connectivity across all DSRs/SRs for real-time synchronisation of data. The system has biometric based login, capture of biometrics, signatures and storage of scanned documents. Modules of the software are Registration, Marriage, Wills, Certified Copy, Encumbrance Certificate, Money lending license, Miscellaneous receipts and Management Information System (MIS) reports.

<sup>5</sup> Article 4.4 of the concession agreement regarding release of capital grant of ₹ 19 crore in a phased manner.

<sup>6</sup> Decision of HPC chaired by the Chief Secretary on February 2008 and Department of Information Technology in their letter No. 1603/IT dated 07 April 2008 for legacy data digitisation estimated at ₹ 8.27 crore.

<sup>7</sup> National Land Record Modernisation programme (NLRMP) Centrally Sponsored Plan is being implemented for the period from 2008-09 to 2015-16 in which computerisation of registration offices, scanning and digitisation of legacy data are the components besides land records modernisation. Under the scheme, three to five districts of the State are covered in each year for computerisation of registration offices and digitisation of legacy data. In NLRMP, the GoO contributes 75 per cent and GoI 25 per cent.

<sup>8</sup> MPLS VPN is multi-protocol label switching virtual private network provided by BSNL, Maxtel etc.

#### **4.4.5 Trend of registration of documents and revenue receipts for last five years**

The trends of revenue receipts towards SD and RF, documents registered and service charges collected during last five years is given below:

Year	Revenue receipts towards SD and RF	Number of documents registered	Gross collection of user fees
	(₹ in crore)		(₹ in crore)
2008-09	495.66	3.56 lakh	-
2009-10	359.96	3.88 lakh	2.24
2010-11	415.82	4.23 lakh	9.49
2011-12	498.14	4.38 lakh	10.46
2012-13	544.88	4.52 lakh	11.43

Source: Audit Report (Revenue Sector) for the year 2012-13 and data collected from OeSL.

#### **4.4.6 Audit objectives**

Performance Audit (PA) of “e-Registrations system” under R&DM Department was conducted to ascertain whether-

- Department has sound IT Governance to enable meeting of business goals;
- functionalities of the system are operational and application level controls are in place, input and validation controls are adequate and appropriate business rule mapping is in place;
- appropriate security controls and business continuity plan are in place to ensure continuity of business in the event of loss or damage to resources; and
- performance of the concessionaire was in accordance with the agreement signed with the Government and confidentiality agreements are in place to ensure data security.

#### **4.4.7 Audit Criteria**

Provisions of following Acts and Rules were used as audit criteria.

- Indian Stamp Act, 1899
- The Registration Act, 1908
- Odisha Registration Rules, 1988
- Odisha Stamp Rules, 1952 and amendments thereon
- Executive instructions issued by IGR and Government
- Concession Agreement between the Government of Odisha and M/s. OeSL
- Good industry practices followed in implementation of IT systems.

#### **4.4.7.1 Scope of Audit and Audit methodology**

The Performance Audit was conducted between May and July 2014 in 10 out of total 30 DSRs selected through stratified random sampling technique taking three strata based on risk perception i.e. number of documents registered

through e-Registration process from inception i.e. January 2010 to March 2013. The percentage of sample selected from each stratum is given below:

Stratum	Range of stratum (Number of documents registered)	No. of DSRs under the stratum	Percentage of sample selected	No. of DSRs selected from the stratum
I	Above 75,000	5	80	4
II	10,000 to 75,000	20	25	5
III	Below 10,000	5	10	1
<b>Total</b>		<b>30</b>		<b>10</b>

Besides, 11 out of 152 SRs<sup>9</sup> under these 10 DSRs were selected for test check on the basis of higher number of documents registered.

The e-Registration system in the State had been in operation for more than three years. In view of criticality of the system and complete dependency of the registration process on the System, Audit felt it appropriate to conduct Performance Audit on e-Registration system. The entire data was collected from the central database at State Data Centre with the help of DBA<sup>10</sup> and analysis was done using computer assisted audit techniques through IDEA tools. Audit also checked the physical records relating to computerisation and Concession Agreement in the R&DM Department, OCAC and IGR office. Besides, records pertaining to assessment and collection of SD, RF and user fees in respect of registration of documents in DSR/SR offices were also checked for corroboration of audit findings. Entry conference was held on 8 May 2014 where objectives, criteria and methodology were discussed and the audit findings were discussed in the Exit Conference held on 25 November 2014. Replies of the Government (November 2014) have been duly incorporated in the report.

#### 4.4.8 Acknowledgement

Audit acknowledges the co-operation of the Department in providing necessary information and records to audit and for furnishing compliance to the audit observations.

#### Audit observations

#### 4.4.9 Implementation of e-Registration project

##### 4.4.9.1 Vendor Selection

As per the decision of the HPC chaired by the Chief Secretary in November 2007, it was decided to set up an SPV comprising of IL&FS and OCAC, for enabling delivery of e-Governance services to citizens. A presentation was made by IL&FS before the HPC followed by submission of detailed project report (DPR) on computerisation of registration offices. The letter of intent (LOI) was issued to the SPV in May 2008. Accordingly the project

<sup>9</sup> The number of DSRs/SRs has increased from 177 during the year 2010 to 182 during the year 2013 and accordingly the number of SRs increased from 147 to 152 during the year 2013.

<sup>10</sup> Database Administrator.

“e-Registration system” was awarded to the SPV through a CA signed in December 2009 for implementing it on Build Own Operate and Transfer (BOOT) basis.

A property registration automation software named “ORIS” developed by National Informatics Centre (NIC) was operational in Odisha since 2003. This application was in operation in 14 major DSR offices from 2003 to 2009 for property registration and no service charges were being collected from the citizen. The software application was not considered for the e-Registration project despite NIC’s proposal in October 2009 for continuance of “ORIS” with some additional features. CA was signed on 26 December 2009 among R&DM Department, OCAC and OeSL to implement the project for a period of five years.

It was noticed in audit that

- appropriate procedures were not followed for vendor selection for the project where the Government committed to bear 68 *per cent*<sup>11</sup> of the capital cost of the project in addition to total cost for digitisation of legacy data.
- No competitive bids were insisted for selection of vendor and discovery of service charges.
- Moreover, the selected vendor (IL&FS) had no prior experience in developing automation software for property registration in any other State.
- There was no significant advantage of e-Registration system through “*e-DhaRani*” application software developed by IL&FS as compared to the ORIS software developed by NIC except the former being web based centralised.
- ORIS would have trouble free integration with the land record software “*Bhulekh*” in view of NIC support. Major States<sup>12</sup> in India had opted for NIC for software support and service provider (BOT operator) for delivering e-services to citizens.
- Since legacy data was available in 14 DSRs in which ORIS was operational from 2003 to 2009, expenditure incurred on re-digitisation of legacy data for those offices could have been avoided had ORIS been continued with the modifications proposed by NIC.

Thus, non-consideration of ORIS software in which legacy data of 14 major DSRs for the period from 2003 to 2009 was available, selection of OeSL for development of new software application and consequent expenditure incurred on software development (₹ 2.47 crore), re-digitisation of legacy data in 14 major DSR offices was injudicious.

Government stated (November 2014) that since this was a new innovative/unique project in which OCAC, a public sector organisation of the

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<sup>11</sup> ₹ 19 crore out of total capital cost of the project of ₹ 28 crore.

<sup>12</sup> Bihar:- Score, Andhra Pradesh:- Card, Karnataka:- Kaveri, Maharashtra:- Sarita etc.

State Government was involved, the selection was done without bidding. This reply of Government amounts to acknowledgement of deviation from NLRMP guidelines which required competitive bidding in PPP projects.

#### 4.4.9.2 Deficiencies in Concession Agreement

Concession Agreement (CA) was signed for implementation of the e-Registration project for a period of five years.

As per agreement service charges collected from citizens at the rate upto ₹ 200 from 4 January 2010 onwards in lieu of services rendered for registration of documents was directly credited to the account of OeSL. OeSL shall accordingly transfer 90 *per cent* of the service charges so collected to IETS<sup>13</sup> (100 *per cent* subsidiary of IL&FS), through a standing instruction to the designated bank as per the conditions<sup>14</sup> of CA. The remaining 10 *per cent* of the service charges was credited to Government. The operational expenditure of the SPV was incurred out of their revenue share of 90 *per cent*.

It was noticed that:

- The agreement did not include confidentiality clause with the concessionaire to ensure security of sensitive data. The project was directly vested with OeSL instead of OCAC though the original plan was to have 50:50 participation. Thus, the private partner of the SPV (IL&FS/OeSL) was given unrestrictive access to the sensitive documents, signatures and biometrics and become the major custodian/owner of the system and database for a period of five years.
- There was improper apportionment of user charges between Government and Concessionaire at the ratio of 10:90 respectively despite capital investment<sup>15</sup> in the project being at the ratio of 68:32 respectively between Government and the Concessionaire and the ratio of total project cost including legacy data digitisation<sup>16</sup> being at 77:23 respectively. Compared to above, the models adopted in some other states have a better apportionment of user charges between Government and Concessionaire at 60:40.
- There was no provision in the CA regarding performance guarantee. As a result, performance security/guarantee was not obtained from the concessionaire towards ensuring compliance to various performance clauses of the CA.
- As per Schedule IV of the CA, service charges would be revised to ensure a minimum return of 25 *per cent* on the capital expenditure incurred on the project. The clause “ensuring a minimum return” would have adverse legal implication on Government while being advantageous to the concessionaire ultimately.

<sup>13</sup> IL&FS Educational & Technology Services Ltd (IETS) is an affiliate and 100 *per cent* subsidiary of IL&FS having domain expertise in information and digital inclusion services. IETS is the technical, functional & implementing partner of e-Registration project. IETS is having sub-contract/agreement with IL&FS under the assignment clause of the CA.

<sup>14</sup> As per service charge collection procedure under Schedule-IV clause of the Concession Agreement.

<sup>15</sup> Total capital cost of the project is ₹ 28 crore out of which Government contributes ₹ 19 crore.

<sup>16</sup> Total cost of legacy data digitisation for ₹ 11.76 crore was released by Government as against estimates of ₹ 8.27crore.

- Although the HPC had clarified that the source code and intellectual property rights (IPR) would need to be vested with the Government, the same did not find place in the CA.
- During the presentation made before the HPC, IL&FS had projected to deliver single page registered deed within one hour of presentation and on the basis of the said projection, it was selected for the e-Registration project. However, the said projection did not find place as a performance standard parameter in the CA.

Government stated (November 2014) that punishment is provided in the IT Act, 2008 for attempt to commit any offence. On the issue of apportionment, Government stated that it was a prudent decision of the Government. Government further stated that registered deeds have not yet been standardised to make it one page and the matter is being looked into.

#### **4.4.9.3 Inadequate IT Governance**

The CA was signed to implement the e-Registration project for a period of five years. As such, the IGR and R&DM Department is required to monitor the e-Registration project through different levels of committees with reporting hierarchy and defined responsibilities. Further, the HPC has no role in monitoring the project except awarding it to the SPV.

Audit noticed that proper monitoring of the e-Registration project by the IGR or R&DM Department was not done. Besides, a project management unit was required to monitor every deliverable from the concessionaire in the e-Registration project such as:

- Accuracy of Service Level Agreement (SLA) compliance
- Deposit of 10 *per cent* Government share
- Monthly comparison of data at warehouse
- Clauses of the concession agreement
- Maintenance of hardware, user access and change management etc.

The project management unit was neither existent in the IGR nor in the Department. As a result, the e-Registration system could not be monitored effectively.

Government stated (November 2014) that steps would be taken to bridge the gaps in monitoring level.

#### **4.4.10.1 Short deposit of Government's share and non-reconciliation of service charges by the concessionaire**

As per Schedule-IV of the CA, the Concessionaire shall be entitled to levy, demand and collect different service charges from the users for rendering specified services. The service charges collected every day shall be deposited by the Sub-Registrar or his authorised representative in a designated account of OeSL in the SBI Branch. OeSL shall transfer 90 *per cent* of the service charges so collected to IETS, through a standing instruction to the designated bank. The

remaining 10 per cent of the service charges shall be credited to an account duly designated by the R&DM Department. Further, at the end of office hours, reconciliation of the collection of service charges shall be done based on computerised report generated from the e-Registration software and signed by DSR and his representative as well as OeSL representative. At the end of the month, OeSL shall reconcile such computerised report with the bank statement and submit the reconciled report to R&DM Department.

Scrutiny of records in R&DM Department and IGR revealed that out of ₹ 3.36 crore collected during the period from inception to March 2013 towards 10 per cent Government's share of service charges, an amount of ₹ 1.26 crore had not been deposited by the concessionaire. The year-wise details are given below:

(Amount in ₹)

Year	Gross user fees collected	10 per cent Government share	Amount not deposited
2009-10	2,24,26,980	22,42,698	22,42,698
2010-11	9,48,69,799	94,86,980	94,86,980
2011-12	10,46,16,576	1,04,61,658	4,61,658
2012-13	11,42,62,399	1,14,26,240	4,25,240
<b>Total</b>		<b>3,36,17,576</b>	<b>1,26,16,576</b>

Audit noticed that there was no regular deposit/credit of 10 per cent share to Government Account on monthly basis after due reconciliation as a result of which 100 per cent service charges relating to 2009-10 and 2010-11 were retained by the private partner of the SPV for more than two years.

Government stated (November 2014) that IGR is being instructed to take corrective measures to ensure non-occurrence of such irregularity in future.

Further analysis of database in the 'e-Registration system' as well as scrutiny of records such as Fee Book/Bank Statement/Cash Book relating to 10 DSRs and 11 SR offices for the period from 4 January 2010 to 31 March 2013, Audit noticed several discrepancies in deposit of user fees to the tune of ₹ 22.60 lakh due to non-reconciliation of user charges on monthly basis.

Government stated (November 2014) that appropriate action would be taken to ensure no discrepancy in collection of user fees as per the database figure and amount remitted to appropriate account on day to day basis.

#### **4.4.10.2 Non-completion of works as per the scope of the project**

As per the agreement there were major deliverables by the vendor with finite milestones such as:

1. Certification of legacy data for ensuring accuracy and migration to the system
2. Software interface with banks for deposit of registration fees
3. Training to the end users etc.

It was noticed that while the vendor did not deliver the component No. 2, component No. 1 was delayed beyond milestones and component No. 3 was not

adequate. The concessionaire was liable to pay damage charges of ₹ 78,200 at the rate of ₹ 100 per day<sup>17</sup> for non-completion of different milestones in accordance with the project completion schedule.

While admitting the facts, Government stated (November 2014) that IGR has been instructed to take appropriate corrective steps.

#### **4.4.10.3 Implementation of functional modules**

The ‘e-DhaRani’ application software automates the management of information related to document registration, MIS reports and facility management services. The system also manages information related to Encumbrance Certificates (EC), Certified Copies (CC), Wills, Marriages, request logger user management and report etc. Audit noticed that the following modules of “e-DhaRani” were not in operation as on date:

- Marriage module.
- Society registration module.
- Payment gateway and payment module.

Thus, due to non-operation of the above modules, the citizens were deprived to get the benefits of the e-Registration system.

Government stated (November 2014) that IGR and the service provider are being instructed to take necessary steps to fully utilise the modules.

#### **4.4.10.4 Display of performance standard and service charges in DSR offices**

As per the terms of the CA, the concessionaire or service provider has to display (i) the rates of service charges for the specified services<sup>18</sup>, (ii) performance standard at all times<sup>19</sup>, (iii) business hours<sup>20</sup> prominently at least at two places in each DSR/SR office. Besides, the concessionaire had to maintain public relation unit and helpdesk for redressal of public grievances under Article-12.2.7 and to maintain Complaint Register for lodging complaints.

During test check in DSR/SR offices, Audit noticed that rates of service charges and performance standards, etc. as required under the CA were not displayed. Further, the helpdesk provision was also not available to the citizens in the DSR/SR offices. Thus transparency in activities and citizen empowerment could not be ensured.

Government stated (November 2014) that IGR is being instructed to ensure display of performance standard, the rates of service charges for transparency.

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<sup>17</sup> From 9 February 2011 to 31 March 2013 (782 days), being 45 days after one year from the appointed date i.e. 26 December 2009.

<sup>18</sup> Article- 6.1.6 of the agreement.

<sup>19</sup> Article -7.1.1 of the agreement.

<sup>20</sup> Article -12.2.3 of the agreement.

#### **4.4.10.5 Absence of certification of commercial operation date of the project**

Under Article-12.1.5 of the CA, the date of commercial operation of the project shall be the date on which OCAC certifies that the facilities of the project can be put to satisfactory use in accordance with the scope of the project, specifications and other terms and conditions of the CA.

Scrutiny of records revealed that except for the event of inauguration of the project on 4 January 2010, no other documentation such as certifying commercial operation of the project by OCAC, phase-wise completion of different components and milestones prescribed in the DPR was available.

Government admitted (November 2014) the fact that the commercial operation of the project has not been notified by Government.

#### **4.4.10.6 Non-engagement of Government appointed hardware and software supervisors**

As per Article- 12.2.11 of the CA, the concessionaire shall engage hardware and software supervisors appointed by Government in each field unit i.e. SR/ DSR/ IGR offices and the supervisors shall be available throughout the working hours.

During scrutiny of records in R&DM Department, IGR and DSR/SR offices, Audit noticed that the concessionaire had not engaged any hardware and software supervisor appointed by Government in any such field units to manage system/network in case of hardware malfunctioning, application and network errors. Thus, the conditions of the clause of the CA were violated ultimately affecting system uptime caused by network/hardware/application errors in DSR/SR offices.

Government stated (November 2014) that OCAC has been requested for deployment of adequate numbers of hardware and software supervisors.

#### **4.4.10.7 Exit management plan of the e-Registration project**

As per Article 3.3.17 of the CA, the exit management plan of the e-Registration project should be submitted to Government by the concessionaire within 90 days from the appointed date<sup>21</sup> in consultation with OCAC. Audit noticed that no step had been taken in this regard as per scheduled timeline. In deviation to the agreement, adequate training and capacity building of Government officials were not in place to enable eventual takeover of the system. Further, frequency of training in the functionalities of the application system was not adequate and not monitored. The software application was developed at a cost of ₹ 2.47 crore by IETS. However, the documentation related to system development and project's IPR was not transferred to Government as of July 2014.

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<sup>21</sup> Appointed date is 26 December 2009.

Government stated (November 2014) that OeSL has already submitted the exit management plan and Government had decided to take over the project. Further it was stated by IGR in the exit conference that the project's IPR is transferred from OeSL in which NIC is working on development of new application software.

#### **4.4.10.8 Non-appointment of external auditor**

As per Article 14.3.1 of the CA, GoO/ OCAC may at all times appoint external auditors to audit and inspect various functions comprising but not limited to accounts, security, technical and data management systems and the concessionaire shall submit its compliance report within seven days of receipt of the inspection report. But no steps had been taken for appointing such auditor till date. The concessionaire had received the revenue and expenditure statement from ITL<sup>22</sup> for the years 2010-11 and 2011-12 as certified by their auditors but on verification of the expenditure statement, Audit noticed that such expenditures included various expenses which were not related to the project and hence inadmissible.

The CA ensures a minimum return of 25 *per cent* on investment as certified by an independent auditor acceptable to both GoO and concessionaire. Audit noticed that despite such a provision in the CA, no parameter had been fixed for classification of operating or capital expenditures and no monitoring mechanism was also put in place. Consequently, there is a risk of incurring a contingent liability for ensuring a return of 25 *per cent* to the PPP partner in future.

Government admitted (November 2014) that neither Government nor OCAC has appointed external auditor to audit and inspect various functions of the project.

#### **4.4.10.9 Non-levy of penalty for non-adherence to Service Level Agreement**

As per agreement following service level matrices were defined:

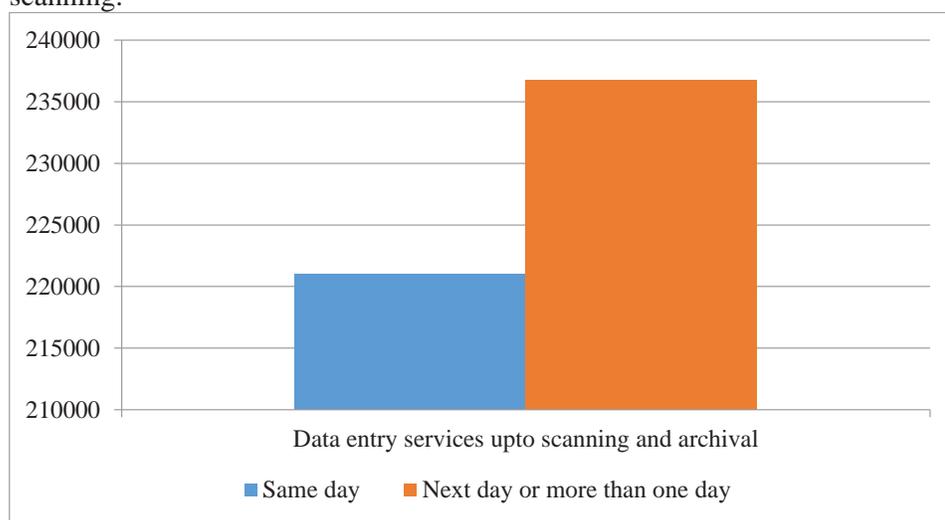
<b>Services</b>	<b>Performance</b>	<b>To be achieved</b>
Data entry, photograph, Biometrics, finger print capture and scanning.	System operational time of 45 minutes to capture deed details, photograph, biometric, electronic signature and archiving scanned deed.	90 <i>per cent</i> on monthly basis (Billing Cycle).

The CA further provides that in the event of non-achievement of the above service level matrices within the system operational time of 45 minutes in 90 *per cent* cases in a billing cycle (monthly), the concessionaire is required to pay penalty ranging from one *per cent* to five *per cent* of monthly invoices for the concerned billing cycle as below:

<sup>22</sup> IL&FS Technologies Ltd (ITL) is a part of IL&FS group to which the e-Registration project relates. Though, the entity has no contractual relation with the OeSL SPV, the revenue collected towards service charges was directly transferred to ITL as per the minutes of 15th board meeting held on 30 July 2011 assigning the responsibility of implementation/maintenance of the e-Registration project.

SI No	Achievement of Uptime	Penalty
1.	85 to 90 per cent	One per cent of monthly invoice
2.	80 to 85 per cent	Two per cent of monthly invoice
3.	75 to 80 per cent	Three per cent of monthly invoice
4.	70 to 75 per cent	Four per cent of monthly invoice
5.	Below 70 per cent	Five per cent of monthly invoice

Audit analysed the actual transaction data for 4.57 lakh records in 10 DSR and 11 SR offices. It was noticed that in 12 per cent cases, data entry services to capture deed details and biometrics only excluding scanning extended to next day or by more than one day while in 52 per cent cases, data entry services upto scanning and archival of deeds as envisaged in the CA extended to next day or by more than one day. Thus, in more than 50 per cent cases, provisions of SLA were violated during the entire period in respect of data entry services including scanning.



It was however found that the concessionaire, in its weekly/ monthly/ periodic SLA compliance reports furnished to Government, had shown all the documents having been delivered within 45 minutes in all the DSR/SR offices. On verification of the said compliance reports, Audit noticed that the concessionaire had exhibited date and time for each step of e-registration process separately showing the step having been completed within 45 minutes instead of showing the total time taken for the entire process including scanning.

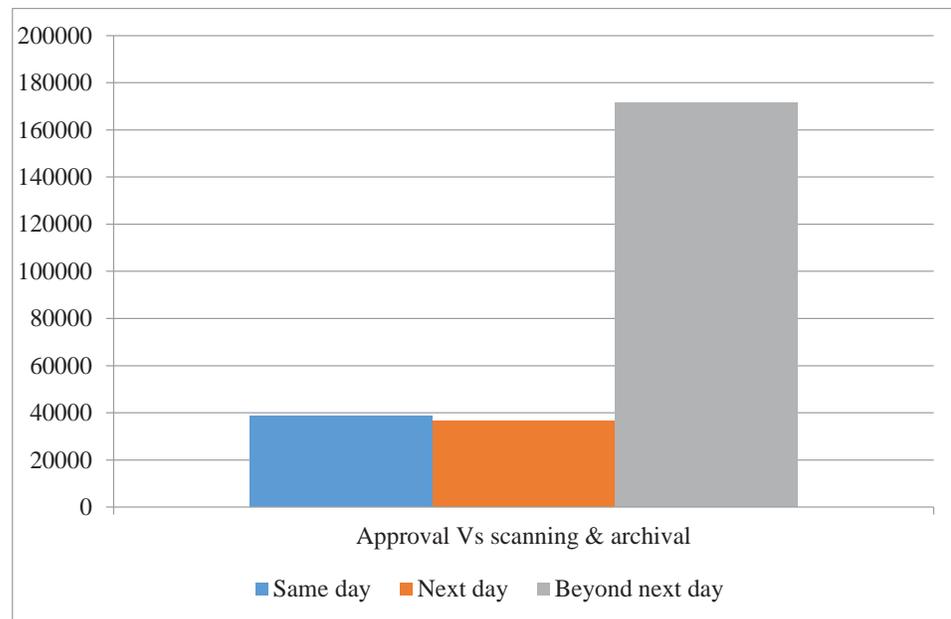
Besides, the reports did not show scanning time as required under the CA. This indicated that the SLA compliance reports submitted by the concessionaire were not verified by the Department or any project management unit to ensure correctness of information. Taking into consideration the delay in rendering services as per service level matrices, the concessionaire was liable to pay a penalty of ₹ 49.57 lakh at the rate of five per cent of the invoice value. However, it was noticed that no penalty was imposed on the concessionaire for such delays as per the conditions of SLA.

Government stated (November 2014) that non-adherence to SLA might have occurred due to factors beyond the control of OeSL and DSR/SR. However IGR is being instructed to issue show cause notice for the lapses on their part in proper delivery of services in accordance with the SLA. Further in the exit

conference Government agreed to develop proper monitoring mechanism for citizen service delivery through SLA reports.

**4.4.10.10 Delay in scanning/archival of documents after approval by DSR/SR**

During analysis of database and test check of records in 10 DSR and 11 SR offices, Audit noticed that there were delays in scanning and archival of documents after approval by DSR/ SR. Audit noticed that only in 16 per cent of cases, the documents were scanned/ archived within the same day after approval of DSR/ SR, in 15 per cent of cases, the documents were scanned/ archived on next day while in the remaining 69 per cent cases, the documents were scanned/ archived beyond the next day after approval by DSR/SR thereby defeating the very objective of the project for enabling prompt delivery of e-Governance services to the citizens.

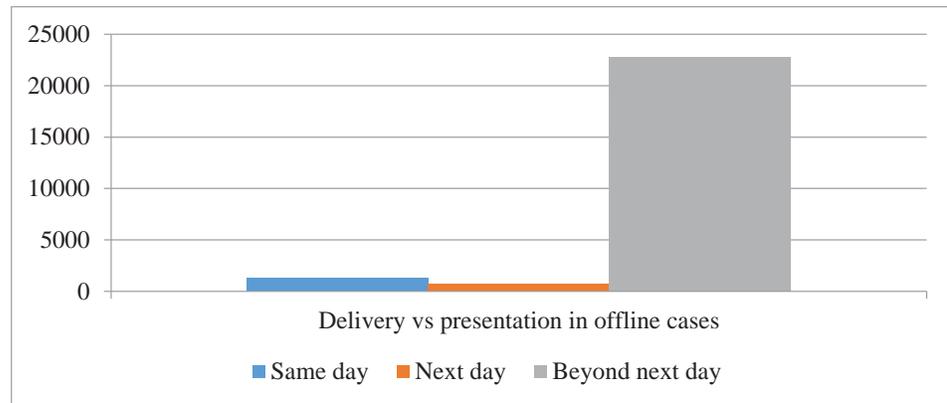


Government stated (November 2014) that the lapses might have occurred where the Sub-registrar approved on a date in the system and gave his signature in the document on another day. However, appropriate steps would be taken to ensure non recurrence of such lapses in future.

**4.4.10.11 Delay in delivery of documents in off-line transactions**

Analysis of database and test check of records in 10 DSR and 11 SR offices revealed that there were delays in delivery of services in respect of off-line transactions due to non-generation of fee receipts by the system. There was no redundant/ alternate network in case of failure of primary network. There was no timeline for switching over to State Wide Area Network (SWAN) even after four years of operation. Audit noticed that only in four per cent cases, the documents were delivered within the same day, in three per cent of cases, the documents were delivered on next day while in the remaining 93 per cent cases, delivery was made beyond the next day in respect of off-line transactions. Thus,

delay in delivery of documents at DSR/SR offices from the date of presentation of documents due to absence of redundant/ alternative network in case of failure of primary network defeated the objectives of the project.



Government stated (November 2014) that soon after availability of OSWAN network which is being done on war footing basis, the facility would be integrated with the e-Registration system to overcome such deficiencies in services.

#### 4.4.11 Miscellaneous issues

##### 4.4.11.1 Irregular transaction with ITL on user charges

The SPV i.e. OeSL was setup comprising of IL&FS and OCAC to implement and operate the project. As per the CA, the user charges collected every day shall be deposited in the designated account of OeSL. OeSL shall transfer 90 *per cent* of the user charges to IETS and the remaining 10 *per cent* to Government account.

Audit noticed that with effect from July 2011, IL&FS roped in another entity<sup>23</sup> named as ITL with whom neither the OCAC nor the R&DM Department had any contractual relation. The revenue collected towards service charges was irregularly credited to the account of ITL and shared between ITL and Government in 90:10 ratio without having an agreement.

Government stated (November 2014) that the irregularity was not brought to the notice of Government earlier. However the service provider is being asked to submit necessary clarification in the matter.

<sup>23</sup> The entity i.e. "ITL" has no contractual relation with the OeSL SPV. However, the revenue collected towards service charges was directly transferred to ITL as per the minutes of 15<sup>th</sup> board meeting held on 30 July 2011 assigning the responsibility of implementation/maintenance of the e-Registration project.

#### **4.4.11.2 Delay in remittance of user charges/service charges by DSRs/SRs**

As per the Schedule-IV of the CA, user charges collected every day shall be deposited by the DSR/ SR or his authorised representative in designated account of OeSL in the SBI branch. OeSL shall accordingly transfer 90 *per cent* of the user charges so collected to IETS, through a standing instruction to the designated bank.

Test check of records in 10 DSR and 11 SR offices revealed that though the user fees were required to be deposited by DSR every day, it was deposited in the designated account with delays ranging from seven to more than 90 days.

Government stated (November 2014) that appropriate disciplinary action would be taken against the defaulting registering officers.

#### **4.4.11.3 Irregular fixation of user charges for additional pages of deeds beyond six pages**

As per Schedule-IV of the CA signed on 26 December 2009, user fees of ₹ 200 per deed for registration of deed of 10 pages and ₹ 10 per additional page beyond 10 pages had been fixed.

During scrutiny of records, Audit noticed that subsequently R&DM Department on 2 January 2010, prescribed the revised rate at ₹ 200 per deed for registration of deed of six pages and ₹ 10 per page for additional pages beyond six pages in contravention of the provisions of the CA. Thus, revision of the rate of user charges by replacing the existing clause in the CA benefitted the concessionaire and resulted in undue burden of ₹ 1.26 crore over the citizens.

Government stated (November 2014) that it was a conscious decision of the Government considering the cost factor and operational cost at the time of issuance of revised order. In the exit conference it was committed to furnish necessary documentary proof to justify revision, if available, within seven days, which was still awaited.

#### **4.4.11.4 Submission of incorrect utilisation certificates for NLRMP fund**

NLRMP included a component on connectivity of Registration Offices with Revenue Offices. Funds were linked to each component and no diversion of fund shall be permissible. The State Government shall submit item wise expenditure, physical progress and utilisation certificate in respect of funds released under the scheme including State share on a quarterly basis.

During scrutiny of records relating to sanction of funds and submission of utilisation certificates (UCs) in R&DM department and IGR office, Audit noticed that NLRMP funds to the tune of ₹ 6.97 crore was released during 2008-09 to 2012-13 which included ₹ 97.03 lakh for providing connectivity of

SROs with revenue offices. The entire amount of ₹ 97.03 lakh<sup>24</sup> was utilised for computerisation of SROs and utilisation certificates were submitted to the GoI. No activity was taken up to establish connectivity of SROs with Revenue Offices for which the amount was earmarked. Thus, the very purpose of funds released under NLRMP for the sub-component relating to connectivity of SROs with revenue offices was defeated. Audit further noticed that although funds under NLRMP were released for specific districts for three to five districts in a year, the funds were irregularly spent for all districts of Odisha for computerisation of Registration Offices and scanning and digitisation of legacy data.

In the exit conference (November 2014) it was stated that Government had decided to take up the task of connectivity of SROs with Revenue (Tahsil) offices under a separate scheme named as Odisha State Wide Area Network. Hence the fund allotted under the sub-component were utilised in other sub-component of “Computerisation of Registration Offices”. Further it was stated that the funds allocated to the sub-component had actually been utilised for execution of other sub-components which should not be treated as diversion as instructions of GoI permit inter-component diversion of fund. Incorrectness of UC submitted before seeking approval for connectivity sub-component under “Computerisation of Registration Offices” inter-component diversion of fund from GoI was however not explained.

## Adequacy of Application Controls

### 4.4.12 Non mapping of Business Rules

#### 4.4.12.1 Leases

As per Section 35(c) read with Article 35 (a) (vi) of the Schedule of the Indian Stamp Act, 1899 (Odisha Amendment), when a lease is granted for a fine or premium or for money advanced along with rent reserved, Stamp Duty (SD) and Registration Fee (RF) would be leviable on total of premium and four times of ground rent and cess by treating it as conveyance. As per Industry Department order dated 2 March 2007 in IPR-2007, the ground rent should be fixed at the rate of one *per cent* on the market value of the land.

During analysis of database and test check of deeds in DSR/SR offices, Audit noticed that lease parameters for calculation of SD and RF in case of lease deeds granted by Odisha Industrial Infrastructure Development Corporation (IDCO) to other parties under Section 35(a) or (b) or (c) of the Act was not appropriately mapped in the system. Besides, land rate or premium prescribed by IDCO for the industrial estates as per its notification effective from 24 February 2010 and IPR 2007 were also not mapped properly in the system. Further scrutiny revealed that the system mapped lease transactions as a category under Section 35(b)<sup>25</sup> instead of 35(c) due to improper customisation. In absence of proper mapping of the clause, there was a risk of revenue loss for the Department. For

<sup>24</sup> 2008-09: ₹ 35.875 lakh, 2009-10: ₹ 21 lakh and 2010-11: ₹ 40.15 lakh.

<sup>25</sup> Where the lease is granted for a premium and where no rent is reserved.

instance, Audit found in two test checked cases of registration, there was short realisation of SD and RF of ₹ 41.26 lakh during registration at DSR, Balasore and SR, Khandagiri.

Government stated (November 2014) that the concerned DSR/SR shall be taken to task. The IGR is being instructed to put in place the required mechanism to incorporate lease parameters.

#### **4.4.12.2 Sales Certificates**

Article 18 (b) of Schedule I-A of Indian Stamp (Odisha Amendment) Act, 2001, as amended in 2003, certificate of sale of any property, sold by public auction shall be treated as conveyance and SD shall be chargeable at the rate of five *per cent* of the consideration equals to the amount of purchase money. Under the SARFAESI<sup>26</sup> Act, 2002 and in exercise of the powers conferred under Section 13 read with Rule 12 of the Security Interest (Enforcement) Rules, 2002, the immovable property secured from borrowers in favour of secured creditor/institution/Bank towards financial facility are put to auction to recover the secured debt. The secured creditor/institution/Bank acknowledges the receipt of the sale price in full and hands over the delivery and possession of the scheduled property to the purchaser on the basis of registration of a Sale Certificate under Rule 9 (6) Appendix-V of the Act, 2002 and the sale of the scheduled property are made free from all encumbrances. Thus, the sale certificate is registered on receipt of consideration of the property the possession of which is handed over to the purchaser and right of the property is recorded in the sale certificate and endorsed under Section 60 by the DSR as “duly registered” was recorded.

During analysis of database and test check of deeds in DSR/SR offices, Audit noticed that SD and RF for Sale Certificates were not customised and mapped properly in the system at the rate of conveyance equal to the amount of purchase money. Due to non-mapping of the provisions pertaining to Sales Certificates, there was short-realisation of SD and RF of ₹ 6.72 lakh in DSR, Cuttack in one case.

Government stated (November 2014) that the registering officer has to file the sale certificate under Section 89(2) of the Registration Act, 1908.

However, the sale certificate issued by bank in exercise of its power under Section 13 of the SARFAESI Act was to be registered compulsory and hence stamp duty was leviable at appropriate rate. In the exit conference Government agreed to examine the issue and to instruct OeSL to map the provision.

#### **4.4.13 Deficiencies in system design for ensuring better e-Governance**

For delivering better e-Governance services, certain basic facilities are required in a computerised environment. During analysis of master tables and transaction tables, Audit noticed that there were certain deficiencies in the system such as:

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<sup>26</sup> SARFAESI: Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

- A field in the land table in respect of extent of area sold/conveyed out of total area of a plot was not included. This may result in non-restricting multiple sales of properties by the sellers in the system in case of division of plots.
- A field in the land table for entering Shop Number in case of sale of shops in shopping complex/Malls/Apartments was not included. This may result in non-restricting sale of different shops by the sellers in the system in a shopping complex.
- Non-capture of the details of fields such as Stamp Vendor Id, Sl. No., Licence No. and Validity of Licence etc. by the system due to non-validation of the said fields in the system as mandatory. Since e-Stamping had not been introduced in Odisha and use of franking is not encouraging, these fields should be mandatorily captured in the system for ensuring transparency in stamp paper transactions and accountability of stamp vendor.
- Mobile number field was not made mandatory for capturing the mobile numbers for sending SMS alerts to buyer and seller and tracking of application status.
- Attachment of copies of map or plan for proper identification of property was not made mandatory by creating a field for the purpose.
- **Master data quality**- Further scrutiny revealed that several redundant codes were allotted to various plot categories or *Kissam* field in the Master Database as given below:

<i>Code</i>	<i>Kissam</i>	<i>Date of insertion</i>	<i>'Y'-Active, 'N'-Inactive</i>
1510	JALASAYA I	21/12/2012	Y
1481	JALASAY I	21/12/2012	Y
1478	BAJEFASAL-1	21/12/2012	Y
1477	BAJEFASAL I	21/12/2012	Y
1484	BAJAFASAL II	21/12/2012	Y
1514	BAJA PHASAL-II	21/12/2012	Y
1512	BAGAYAT III	21/12/2012	Y
1471	BAGAYAT III	21/12/2012	Y
315	TAILA-I	16/09/2009	Y
1438	TAILA I	20/12/2012	Y

Besides, in case of legacy data, the system of assigning unique number (doc-id) as in case of new documents did not exist for tracking and downloading through the system or web services. As a result, downloading and tracking of legacy documents through web services was made through old document No., village name, plot No. etc. which was not user-friendly. In view of this, the replacement unique doc-id for legacy documents needs to be provided for accessing, tracking and downloading of old legacy documents by citizen through the online services in public domain as in case of new documents.

Government stated (November 2014) that appropriate action would be taken for the recommendations.

#### **4.4.14 Absence of Input/validation controls**

##### **4.4.14.1 Multiple sales of same land due to absence of validation control**

Data analysis in audit revealed that in 711 cases, the same land schedule/properties (*Khata, Mauza*, plot and area) were sold by a single seller to multiple buyers in several records. This indicated that required input validation checks for showing alerts to the registering authority were not built in the system. Besides, due to absence of validation, the ‘sub-plot’ field was not entered in case of division of plot. Similarly, the field specifying ‘area sold’ out of the total plot area was absent in the database/system design. The multiplicity of sale of a single plot by seller ranged from two or more times.

In absence of validation in the system for generating alert/ warning, such multiple sale of same plot could lead to a risk of forged sale of same property by a seller to different buyers prohibited under Section 82 of Registration Act, 1908. Thus the objective of e-Governance to enable transparency in the registration services was defeated.

While appreciating the observation in the exit conference, Government agreed to take appropriate steps as suggested by audit to prohibit such multiple sale of property by the seller to different buyers. Government further stated (November 2014) that OeSL would be asked to provide alert mechanism in the system to prohibit such multiple sale of land.

##### **4.4.14.2 Data Quality**

As per the good practices followed in e-Governance under National e-Governance Plan (NeGP) and executive instructions issued from time to time, registration of documents/deeds should contain detailed information/description about the property.

During analysis, Audit noticed that data capture was partial even in some of the crucial fields of the database. Some of these are given below:

1. The system accepted transactions without entries of ID No., ID proofs (Voter Identity Card/PAN/DL card etc.) of sellers in 83,325 cases and buyers in 1,46,859 cases although these details were made mandatory by the IGR through executive instructions.
2. In 55,330 cases, the system accepted transactions without entries of ID No., ID proofs (Voter Identity card/PAN/DL card etc.) of the identifiers.
3. In 8,552 cases, the system accepted data entry of sale of land without boundary details.

Thus, analysis and generation of reports based on incomplete and non-validated database was fraught with the risk of generating incomplete and unreliable information.

Government stated (November 2014) that steps would be taken on the observation of audit.

#### **4.4.14.3 Inaccuracy of legacy data**

The SD and RF on instruments/documents relating to immovable property is levied on the basis of certain parameters such as consideration money or benchmark value (BMV), land area, address (*Mauza* or village), Plot No., *Khata* No. and category of land (*Kissam*) in case of sale transaction. Besides, boundaries of each plot are required for identification of the property and determining the fees for search in case of EC. Accuracy of legacy data is a pre-requisite for ensuring reliability of the database.

Audit test checked legacy data entry of 2,005 sale deeds documents prior to e-Registration pertaining to the period from 1995 to 2009. In 21 DSR/SR offices Audit found discrepancies in data entry in crucial fields as given below:

1. In 13 documents, details of *Khata*/Plot number/*Mauza* were not entered correctly.
2. In 10 documents, details of total area such as Plot No. and extent of area/sub-plot in the current transaction pertaining to the particular document were not entered correctly.
3. In 32 documents, the details of *Kissam* of the land were not entered correctly.
4. In eight documents, names of sellers/buyers/identifiers were not entered correctly.
5. In three documents, data was not entered in respect of its boundaries.
6. In 12 documents, building details were not entered correctly.
7. In 19 documents, data regarding details of property were not entered in the system.

Government stated (November 2014) that the matter was taken seriously by Government. IGR and OeSL were instructed to ensure that the entry made in legacy data is free from errors.

#### **4.4.14.4 Lack of data validation and control mechanism**

The computerised system should have certain inbuilt parameters and range of figure/ data for automatic validation of correct data by following a set of pre-determined Rules during document registration.

Audit noticed that data validation was not proper even in some crucial fields of the database. Some of these are given below:

1. In 26,120 cases, the system accepted property transactions by buyers and sellers above ₹ 5 lakh without capturing PAN Numbers although the said

details are required under Section 139A of the Income Tax Act, 1961.

2. In 2,976 cases, the system accepted property transactions by buyers and sellers above ₹ 30 lakh without capturing PAN numbers as required in Annual Information Return (AIR).
3. In 18,326 cases, the system did not restrict biometrics capture in respect of deeds entered in the system beyond office hours.
4. In 11,644 cases, the system did not restrict registration fee collection beyond office hours.
5. In 236 cases, the system did not restrict creation of ID for document registration beyond office hours.

Government stated (November 2014) that restrictive measures have been developed for non-generation of money receipts and biometrics beyond office hours. Steps would be taken on other issues.

#### **4.4.14.5 Continued dependence on manual intervention in defining market value**

The features of e-Registration system envisage that the system should generate updated benchmark value (BMV) as a result of which the SD, RF and other fees would be calculated or generated automatically by the system on the consideration money or BMV whichever is higher. This would ensure transparency in valuation and collection of SD and RF without any manual intervention in calculation. Further, under Rule 40 (1) of the Odisha Stamp (OS) Rules, 1952, the BMV shall be revised biennially from the 1<sup>st</sup> April. In case the Valuation Committee fails to revise the BMV, the Collector as Chairman of the Valuation Committee, would enhance the value by 10 *per cent* of the value so fixed under Rule 40 (2) of the OS Rules.

During analysis of database and test check of records in 10 DSR and 11 SR offices, Audit noticed that there was manual intervention in defining value of land in the system due to absence of in-built mechanism for system generated benchmark value of land belonging to specific areas and categories. The registering authorities had to rely on hard copies of approved market value (BMV) instead of system generated valuation.

Further, the following data inconsistencies were noticed due to absence of proper validation control in the system.

- The system neither automatically updated the market values instantly by 10 *per cent* after a lapse of two years under Rule 40(2) nor generated any warning for such updation/ revision of BMV becoming due as per provisions.
- Audit noticed that in 2,335 cases, the system accepted zero value and irrelevant figures (below 10,000) in market value field. However, SD/RF were realised correctly by intervening manually in defining market value field.
- The system also did not have validation range of maximum BMV figure to show alerts to the registering authority regarding wrong/unrealistic

value of land having been entered in the value field. This may result in risk of short realisation of SD/RF.

- Audit noticed in 10 cases that the land value field in the system accepted BMV as high as ₹ 55 crore per acre although the actual BMV was ₹ 5.5 crore per acre.

Thus, due to manual intervention despite e-Registration system, maintaining transparency in valuation of land could not be ensured. Besides, the manual intervention coupled with absence of input/ validation control, was also fraught with the risk of undervaluation/ over valuation of properties and consequential short/ excess realisation of SD and RF.

Government stated (November 2014) that OeSL and the registering officers have been instructed to ensure timely entry and validation so as to obviate manual reference of hardcopy of BMV.

#### 4.4.14.6 Lack of continuity of registered numbers and document id

The unique numbering pattern adopted for allotting document-id/application id and registered deed number (Regd-No.) in the application system is as follows:

Registration number/Deed Number	Application/Document id (Doc-id)
i.e. 1 39 11 15792 (say) where '1' is Book Number, '39' is Registration Office, '11' is Year and '15792' is Registration Number	i.e. 39 11 35269 (say) where '39' is Registration Office, '11' is Year and '35269' is Application Number

Analysis of database in Registration table and in Document table revealed that 12 numbers were found missing in Doc-id/application number and one number was found missing in Deed number/Registration number. Thus, lack of continuity of document number/registration number was fraught with the risk of possible backend manipulation.

Government stated (November 2014) that due to some reasons if a person did not appear or did not deposit fees, the registration number is not generated. However, the continuity of registration number has no relevance to appearance or deposit of fees which is generated after completion of all processes. The gap may be due to backend correction. In the exit conference Government stated that OeSL would be asked to explain the reasons for gap in registration number/document id.

#### 4.4.14.7 Generation of MIS reports from e-Registration system

The application software for e-Registration system (*e-DhaRani*) has the facility of generating several instant MIS reports like Fee Book (Form-13), DSR/ SR Report on revenue generation, Valuation Register etc.

Scrutiny of records in DSR/ SR offices revealed that several MIS reports required under the Odisha Registration Rules, 1988 and Income Tax Act, 1961 were not customised as of date of audit for effective utilisation and monitoring of revenue collection at SR/DSR and IGR level. These are:

1. Annual Information Return (AIR) required to be submitted to IT Department for transaction exceeding ₹ 30 lakh;

2. Register Books No. 1 to 5; and
3. Register of Applications for Searches and Copies.

Due to absence of these reports, the information required for smooth monitoring of the e-Registration system was not made available to the Department.

Government stated (November 2014) that IGR is being instructed to take necessary steps to customise and utilise the MIS reports.

#### **4.4.14.8 Registration of documents without proper scanning and archival**

The objective of the project was to enable delivery of e-Governance services to the citizen in a transparent, faster and efficient manner. Analysis of database and test check of deeds at 21 DSR/SR offices revealed the following deficiencies:

- In 3,364 cases, registrations were completed without scanning and archival of approved deeds/documents. This would result in non-retrieval of registered deed from the system at the time of issuance of CC/EC to the citizen.
- In absence of a check/control mechanism, there existed the risk of uploading of scanned documents different than the document required to be uploaded.
- The work flow did not have a mechanism to certify the quality of scanning and archival of deeds. Monitoring of maintenance and replacement of scanners did not exist at IGR. Scanned deeds were not readable due to improper scanning.

Government stated (November 2014) that suitable instruction is being issued to IGR to ensure proper scanning and to put into place a control mechanism to show alert about non-scanning and to ensure certification and quality check of scanned deeds.

#### **4.4.15 Deficiencies in online citizen centric services**

Computerisation of registration offices through e-Registration project aimed to replace the existing manual system of registration of deeds, enhancing the quality and speed of service delivery to the citizen and maintaining transparency through online services. Audit observed several deficiencies in providing online citizen centric services as discussed below:

- The basic facilities required for providing online citizen centric e-services such as downloading of formats of deeds and basic instructions, applying for issue of EC/CC, viewing status of documents, facility of registering documents anywhere in the State were not available to the citizens in the public domain. Further, facility of Odia interface and formats of deeds in Odia language was not available in the website of IGR thereby rendering it incomplete and less user-friendly.

- The system of automatic flow of data entry while preparing deeds at deed writer's level to the data entry operator's interface in e-Registration system was absent. This would restrict data entry errors.
- There was no web service link with Electoral authorities /Income tax authorities/Transport authorities for verification of identity i.e. voter id No./ PAN No. /Driving License No. produced by the buyers/ sellers/ identifiers during registration to check possible fraud and impersonation.
- Under Section 22-A of the Registration Act, 1908, the registering officer shall refuse to register any instrument relating to the transfer of immovable properties by way of sale, gift, mortgage, exchange or lease, belonging to the State Government, or the local authority or any religious institution. Audit observed that master database of such restricted properties and properties as opposed to public policy was not created or consolidated by R&DM Department or IGR. In absence of such master database in the application system, the alerts for such properties could not be generated from the system.

Government stated (November 2014) that necessary steps shall be taken to incorporate such facilities in consonance with the statutory provisions.

#### **4.4.16 Backup Policy**

The backup policy and business continuity plan envisages off-site storage of data and testing of data for its retrieval and documentation thereof. Audit noticed that the documentation of testing of backup at off-site location was not conducted and there was no strategic plan to operate from Disaster Recovery (DR) site using DR infrastructure when the city hosting the primary site was not available/accessible in case of a disaster. Further, absence of off-site storage replication of data of State Data Centre, Bhubaneswar at the DR site, necessitated off-site storage and testing of back up data at IGR's own site in view of criticality of data and complete dependence on the system.

Government stated (November 2014) that the suggestion of audit shall be taken care of.

#### **4.4.17 Conclusion**

The Performance Audit of "e-Registration System" brought out several deficiencies. The objective of e-Registration System in enhancing the quality and speed of service delivery to the citizens and maintaining transparency in valuation and providing e-Governance citizen centric services was not fully achieved due to failure to implement Concession Agreement in full. Despite computerisation, continued dependence on manual intervention in arriving at valuation of properties continued. There was improper mapping/ non-mapping of Business Process Rules for several categories of documents leading to short realisation of Stamp Duty and Registration Fees. Capture of incomplete data in crucial fields along with lack of validation control in the system and inaccuracy of legacy data digitisation rendered the database unreliable. Several citizen

centric services like availability of format and online services were not available. Besides, web linking with other Departments like Electoral authority, Income tax Department was not available in the system to check identity of parties to avoid the risk of fraud and impersonation.

#### **4.4.18 Recommendations**

The Government may consider:

- ensuring delivery of deeds to the citizens within the time prescribed under Service Level Agreement by monitoring and making the concessionaire accountable for failure in delivery of deeds in time.
- integrating Benchmark Valuation with the e-Registration system and prompt updation/ validation of the same from time to time to do away with the continued dependence on manual practice of defining market value of property during e-registration.
- making capture of data for all important fields like PAN No., Voter ID, Sub plot, Boundary details etc. mandatory to maintain transparency in registration.
- linking with the web-services of Chief Electoral Officer, Odisha/ Income Tax Department/ Commerce and Transport (Transport) Department of the State for verification of Voter Id card/PAN card/Driving license of parties to avoid the risk of fraud and impersonation.
- proper mapping of business process rules for “Leases” and “Sales Certificates” in accordance with the provisions of Stamp Act and Rules made thereunder.

Government stated (November 2014) that appropriate steps would be taken to implement all the recommendations.

#### **4.5 Other Audit observations**

Audit scrutinised records relating to assessment and collection of stamp duty and registration fees which revealed short realisation of revenue due to under valuation of land, omission of ground rent and cess from the consideration money and wrong calculation of cost of buildings as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by audit. There is need for the Government to improve the internal control system including strengthening of internal audit so that these omissions can be avoided, detected and corrected.

#### **4.6 Non-observance of the provisions of the Acts/Rules and Government instructions**

*The Indian Stamp (IS) Act, 1899 and the Registration Act, 1908 prescribe that deeds of agreements for sale, lease and conveyance etc. are to be registered on realisation of SD and RF at the prescribed rates on the consideration truthfully and correctly mentioned therein keeping in view the Market Value Guidelines (MVG) or the rates prescribed in the Industrial Policy Resolutions (IPRs) of the Government. The documents registered with under valuation of properties are to be impounded for correct valuation and realisation of deficit SD and RF.*

*Non-observance of the provisions of the above Acts by the Assessing Authorities (AAs) in the cases as mentioned in the following paragraphs resulted in under valuation of documents and short realisation of SD and RF.*

#### **4.6.1 Short levy/realisation of Stamp Duty and Registration Fees due to registration of documents under Agreement for Sale**

As per Article 48(f) of Schedule I-A (Odisha Amendment) of Indian Stamp Act, 1899 (IS Act) read with explanation below Article 23 of the Act *ibid*, an agreement to sell any immovable property or a Power of Attorney shall, in case of transfer of possession of such property before or at the time of or after execution of such Agreement for sale/Power of Attorney, be deemed to be a conveyance and SD thereon shall be chargeable accordingly.

During test check of documents relating to Agreement to sell and General Power of Attorney (GPA) in three<sup>27</sup> DSRs and two<sup>28</sup> SRs, Audit noticed (between February and July 2013) in 13 Documents that the owners of land executed agreements to sell with prospective purchasers/ Attorney holders (second party) transferring them the possession of land measuring 99.922 acres valued at ₹ 67.21 crore. Audit noticed that despite the possession over land being transferred to the prospective purchasers, the Registering Authorities (RAs) while registering the documents, treated them as Agreements for Sale and realised SD and RF of ₹ 0.01 lakh thereon instead of treating them as deemed conveyance and realising SD and RF of ₹ 4.70 crore. This resulted in short realisation of SD and RF amounting to ₹ 4.69 crore.

After the cases were pointed out, the DSRs and SRs stated that Section 47A of the Act was not applicable in case of Power of Attorney and Agreement for Sale on value of the land. However, the RAs did not invoke Section 33 of the Act though these deeds were stamped as conveyance.

The matter was reported to the IGR, Odisha in March 2014 and to the Government in May 2014. Their replies are awaited (November 2014).

#### **4.6.2 Short realisation of Stamp Duty and Registration Fees adopting incorrect consideration**

Section 27 of the IS Act, 1899 (Odisha Amendment) provides that the consideration (if any), the market value of the property and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein. As per Article 35 (a) (vi) and Article 35 (c) of Schedule I-A of the IS Act (OA) read with Article 23 (b) of Schedule I-A (OA of 5 December 2005), where a lease is granted for a period exceeding 30 years but not exceeding 100 years for a fine or premium or for the money advanced in addition to rent reserved, SD is to be levied as a conveyance at the rate of five *per cent* on the amount of premium or consideration set forth in the deed or the market value of the property whichever is higher along with four times of annual ground rent and cess. If at the time of registration, the RA finds that the consideration was not correctly recorded in the document, he may book the case under Section 47A (undervaluation) or impound the case under Section 33 of the Act.

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<sup>27</sup> Khurda at Bhubaneswar, Koraput and Puri.

<sup>28</sup> Balipatna and Khandagiri.

During test check of lease deeds in DSR, Khurda and SR, Khandagiri, Audit noticed (January and February 2013) that four parcels of land measuring 34.24 acres of both commercial and residential area in mouza Gothapatna and Chandrasekharapur were leased out during the period between January 2012 and December 2012 by two lessors to four lessees for a period ranging from 59 to 90 years. The market value of the above land as per Bench Mark Value<sup>29</sup> (BMV) was ₹ 134.78 crore on which SD of ₹ 1.55 crore and RF of ₹ 2.70 crore was leviable. Audit noticed that while registering the lease deeds<sup>30</sup>, the RA accepted the consideration money of ₹ 18.86 crore recorded in the deeds without verifying the BMV of the land and accordingly levied SD of ₹ 0.78 crore and RF of ₹ 0.37 crore. This led to short realisation of SD of ₹ 0.77 crore and RF of ₹ 2.33 crore.

After Audit pointed this out, SR, Khandagiri stated (March 2013) that the fact would be intimated to Industrial Infrastructure Development Corporation of Odisha Ltd. (IDCO), Government of Odisha (GoO) and the lessees for necessary action, whereas DSR, Khurda stated that SD and RF was realised as per recital in the deed as the lease deeds did not come under purview of Section 47A of the IS Act. He further stated that the matter would be intimated to lessor and lessee. However, the Registration Act and Rules do not debar the RA to invoke Section 33 in the event of incorrect disclosure of the value of the property in the document presented for registration.

The matter was reported to the IGR, Odisha, Cuttack in January 2014 and to the Government in May 2014. Their replies are awaited (November 2014).

#### **4.6.3 Short levy/realisation of Stamp Duty and Registration Fee on lease of private land to industries by IDCO**

As per Section 27 of IS Act, 1899 (Odisha Amendment), the consideration, if any, and the market value of property and all other facts and circumstances affecting chargeability of any instrument with duty or the amount of the duty with which it is chargeable shall be fully and truly set forth therein. Besides, as per Article 35(c) read with Article 35 (a)(vi) of Schedule I-A of the Act, where the lease is granted for a term exceeding 30 years but not exceeding 100 years for a premium, in addition to rent reserved, SD and RF are charged at the prescribed rates for a consideration equal to the amount of such premium along with four times the amount of average annual rent and cess of the property. GoO in R&DM Department clarified (February 2006) the components which constitute the consideration amount for charging SD and RF, in case of transferring the private land acquired by IDCO to Industrial houses.

During test check of lease deeds in DSR, Dhenkanal, Audit noticed (September 2013) that the RA registered a 90 years lease deed in respect of land measuring 184.392 acres in village Kharagaprasad, District- Dhenkanal, for a

<sup>29</sup> Benchmark Value (BMV): Under Bench Mark Valuation principle, Revenue & Disaster Management Department of Government of Odisha approves rates of land from time to time in all districts of the State which ought to be taken into consideration while determining the prevailing market rate/price of the land.

<sup>30</sup> Lease deed Document No. 11131203870 dt. 17.4.2012, Document No. 11131210870 dt. 11.12.2012, Document No. 11131205168 dt. 22.05.2012, Document No. 11131209257 dt. 16.08.2012, Document No. 11131203620 dt. 04.04.2012, Document No. 11081205754 dt. 06.03.2012, Document No. 11081201075 dt. 11.01.2012.

consideration of ₹ 9.23 crore as per recital in the document and realised ₹ 67.74 lakh towards SD and RF. Further scrutiny of document revealed that the value of land as per BMV record was ₹ 14.61 crore on which SD and RF of ₹ 102.26 lakh was realisable. Thus, registration of document without verifying the BMV, resulted in short realisation of SD ₹ 24.66 lakh and RF ₹ 9.86 lakh.

After audit pointed this out, Government held (June 2014) objection raised by Audit to be correct and IDCO has been instructed to issue instruction to the concerned Industrial Unit for depositing the deficit dues taking into consideration the BMV of the land.

#### **4.6.4 Short realisation of SD and RF due to under valuation of buildings**

As per Section 27 of IS Act, 1899, (Odisha Amendment) read with Section 3 of the Act, *ibid*, the consideration (if any), the market value of the property and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth in the document. Further, GoO issued guidelines in March 2011 for valuation of building/ superstructure with instruction to registering officers to follow the guidelines while checking the valuation of building/ Superstructure set forth in the instrument presented for registration.

During test check of conveyance deeds in two DSRs<sup>31</sup> and five SRs<sup>32</sup>, Audit noticed (between May 2013 and September 2013) that 20 parcels of land measuring 13.52307 acres with building were sold by the vendors to the vendees for consideration of ₹ 6.13 crore. As per the Government's guidelines of March 2011, the value of the said property was ₹ 9.36 crore. However, the RAs while registering the documents between January and October 2012, did not adhere to the above guidelines. This resulted in undervaluation of property by ₹ 3.23 crore and consequential short realisation of SD and RF amounting to ₹ 22.52 lakh.

After Audit pointed this out, Government stated (June 2014) that deficit Government dues has already been realised by DSR, Keonjhar in two out of three cases. In respect of SR, Berhampur, Government stated (July 2014) that all the nine cases of conveyance deeds have been booked under Section 47 A (2a) of IS Act and the parties concerned have been issued with notices for deposit of deficit SD and RF. Further, in respect of DSR, Mayurbhanj, Government Stated (July 2014) that in one out of two cases, the deficit amount has been realised and in the another case, notice has been issued to the party. In respect of the remaining six cases relating to four SRs<sup>33</sup>, reply from Government is awaited (November 2014).

#### **4.6.5 Short realisation of Registration Fee**

Under Section 27 of IS Act (Odisha Amendment), the consideration (if any), the market value of property and all other facts affecting levy of SD shall be

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<sup>31</sup> DSR, Keonjhar (three conveyance deeds) and DSR, Mayurbhanj (two conveyance deeds).

<sup>32</sup> SR, Atabira (one conveyance deed), SR, Berhampur (nine conveyance deed), SR, Biramitrapur (one conveyance deed), SR, Bonai (three conveyance deed) and SR, G Udayagiri (one conveyance deed).

<sup>33</sup> SR, Atabira (one case), SR, Biramitrapur (one case), SR, Bonai (three cases) and SR, G. Udayagiri (one case).

fully and truly set forth in the document. As per Article 35 (a)(vi) and (c) of the Schedule I-A of the IS Act, in case of lease of any immovable property granted for a premium for a term exceeding 30 years but not exceeding 100 years executed against a premium, SD and RF shall be charged at the prescribed rates on the premium along with four times the average annual rent reserved for such property as applicable to conveyance. Further, as per Board of Revenue, Odisha letter dated 2 August 2010, ground rent at the rate of one *per cent* on the market value of land and cess at 75 *per cent* on the ground rent shall be levied irrespective of the land being allotted at concessional rate as per the Industrial Policy Resolution (IPR), 2007.

During test check of lease agreements in DSR, Cuttack, Audit noticed (March 2012) that Government allotted 52.690 acres of 'Patita'<sup>34</sup> land to IDCO for 99 years at the concessional rate of ₹ 2.00 lakh per acre for setting up of industries. Taking into account the BMV of land at ₹ 12.81 crore and four times of annual ground rent and cess thereon, total value of the above leased out land was ₹ 13.72 crore. As the SD was exempted under IPR, 2007, RF of ₹ 27.43 lakh was leviable at the rate of two *per cent* on the total consideration of ₹ 13.72 crore. However, the DSR calculated the value of land at ₹ 1.05 crore taking into account the concessional rate of ₹ 2.00 lakh per acre and adding ground rent and cess thereon levied RF of ₹ 2.27 lakh only. This resulted in short levy of RF of ₹ 25.16 lakh.

After Audit pointed this out, the DSR stated (March 2012) that RF was levied as per recital of the document and that the RA did not calculate the premium and rent which was decided at the level of the District Collector. However, as per the rules, SD and RF is leviable on the market value irrespective of the fact that the land has been allotted at a concessional rate.

The matter was reported to the IGR, Odisha, Cuttack and the Government in May 2014. Their replies are awaited (November 2014).

#### **4.6.6 Short levy/realisation of Stamp Duty and Registration Fee**

Under the provision of Section 27 of IS Act, 1899 (OA), the consideration (if any), the market value of the property and all other facts affecting levy of SD shall be fully and truly set forth in the document. As per Article 35 (a)(vi) and (c) of Schedule I-A of the Act and table of fees under the Registration Act as published in Revenue and Excise Department, Gazette Notification dated 30 January 2001, in case of lease deed of any immovable property for a term exceeding 30 years but not exceeding 100 years executed against a premium, SD and RF are charged as conveyance as per Article 23 along with four times of the average annual rent reserved for such property. Article 23 provides that in respect of immovable property, SD shall be levied at five *per cent* of the amount or value of the consideration for such conveyance as set forth therein or the market value of the property whichever is higher.

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<sup>34</sup> Uncultivable land.

During test check of lease deeds in DSR, Balasore, Audit noticed (January 2014) that a lease deed<sup>35</sup> was executed (March 2012) between IDCO (lessor) and a private company (lessee) for lease of land measuring 101.73 acres of acquired private land in three villages for 90 years against a consideration of ₹ 2.78 crore. However, as per the BMV as well as the revised rates issued by IDCO<sup>36</sup> in March 2010 in respect of various industrial estates/ industrial areas etc., market value of the land was ₹ 3.51 crore and after adding ground rent, cess, additional land value and capitalised value aggregating to ₹ 0.97 crore, the total consideration money worked out to ₹ 4.48 crore on which ₹ 31.33 lakh was leviable towards SD and RF. Registering Authority, while registering the lease agreement on 15 March 2012, determined total consideration at ₹ 2.77 crore and realised SD and RF of ₹ 19.42 lakh. This led to short levy of ₹ 11.90 lakh towards SD (₹ 8.50 lakh) and RF (₹ 3.40 lakh).

After Audit pointed out the matter, Government stated (June 2014) that Audit has calculated the BMV rate of ₹ 30 lakh for village Balgopalpur while the BMV of ₹ 20 lakh for the said village was approved by the District Land Valuation Committee on 12 April 2012 effective from 4 June 2012 i.e. after the lease deed was registered on 15 March 2012. The above reply is not tenable as in respect of the said village falling under industrial area, the revised rate of ₹ 30 lakh per acre fixed by IDCO in its order dated 15 March 2010 and effective from 24 February 2010 was applicable. In respect of other two villages, reply from the Government is yet to be received (November 2014).

#### **4.6.7 Short levy/realisation of Stamp Duty and Registration Fee**

In terms of Article 35(c) read with Article 35(a)(vi) of Schedule I-A of IS Act, 1899, where the lease is granted for a fine or premium or for money advanced in addition to rent reserved and if the lease period exceeds 30 years but does not exceed 100 years, SD is leviable as a conveyance on the consideration money consisting of the amount of premium and four times of annual ground rent and cess. As per Industries Department Resolution of March 2007, annual ground rent at the rate of one *per cent* of premium will be realised from industrial entrepreneurs for the land allotted by IDCO. Again as per clause 17.2 of the above Resolution, for transfer of land by IDCO and Private industrial estate developers to new as well as existing large sector industrial units taking up expansion, modernisation and diversification, SD shall be exempted by 25 *per cent* of the applicable SD. Further in addition to SD, the State Government in 2001 prescribed for levy of RF at the rate of two *per cent* on the consideration money of the document registered.

During test check of lease deeds in DSR, Keonjhar, Audit noticed (August 2013) that in seven lease deeds executed during 2010 and 2011 between IDCO (lessor) and other private Industrial Units (lessees) for land measuring 281.248 acres, the RA while determining the consideration for levy of SD and RF, did not consider four times of annual ground rent and cess as required under Article-35 (a)(vi) of Schedule-I-A of the IS Act and arrived at the consideration of

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<sup>35</sup> Document No. 10061202127 dated 15 March 2012.

<sup>36</sup> As per the rates of land issued by IDCO for various industrial Estates/ areas, the value of land per acre in village Balgopalpur was ₹ 30 lakh per acre.

₹ 19.95 crore in place of ₹ 21.03 crore. As a result as against SD of ₹ 82.68 lakh and RF of ₹ 42.06 lakh leviable, the RA levied SD of ₹ 78.43 lakh and RF of ₹ 39.91 lakh. Thus, there was short levy/realisation of SD and RF amounting to ₹ 6.40 lakh.

After Audit pointed out this, Government stated (June 2014) that the parties concerned have been issued with notices to deposit the deficit dues and the ADM-cum-District Registrar, Keonjhar has been instructed to make repeated persuasion for early realisation of dues or to take action as deemed proper. Further, Government stated (July 2014) that IDCO, Bhubaneswar had also moved concerned four private Industrial Units for early payment of deficit Government dues as pointed out by Audit and progress made in this regard would be intimated to Audit.

#### **4.6.8 Short realisation of Stamp Duty and Registration Fee on Development Agreement**

As per Section 27 of IS Act, 1899 (Odisha Amendment), the consideration (if any), the market value of the property and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of the duty with which it is chargeable shall be fully and truly set forth therein. As per explanation below Article 23 of Schedule I-A of the Act *ibid*, an agreement to sell any immovable property or a Power of Attorney shall, in case of transfer of the possession of such property before or at the time of or after execution of such agreement, be deemed to be a conveyance and the stamp duty thereon shall be charged accordingly.

During test check of records in two SRs<sup>37</sup> and one DSR<sup>38</sup>, Audit noticed (between February 2013 and August 2013) that 16 documents involving 12.43367 acres of land with market value of ₹ 19.30 crore were registered between February and December 2012 as Agreement for Development of land. Audit noticed that as per recitals in the documents, the owners of land handed over or agreed to deliver peaceful and vacant physical possession of the said lands to developers/ builders upon execution of such agreements and by executing registered irrevocable GPA, authorised the developers to sell their shares of super built up area along with impartible undivided shares of land to intending buyers. The developers also agreed to hand over the land owners' share as consideration on completion of construction of buildings. Thus, the transaction evidenced transfer of property and based on the nature of transactions, the documents were required to be treated as Conveyance instead of Agreement for Development and SD and RF were to be levied at the rate of five *per cent* and two *per cent* respectively on the consideration set forth therein or market value (BMV) of the land whichever was higher. However, Audit noticed that although BMV of the property amounted to ₹ 19.30 crore on the date of registration, SRs and the DSR levied SD and RF on the nominal amount of ₹ 76.60 lakh set forth in the documents as advances given to land owners. This resulted in short realisation of SD amounting to ₹ 95.90 lakh and RF amounting to ₹ 37.72 lakh.

<sup>37</sup> SR, Dolipur and SR, Khandagiri at Bhubaneswar.

<sup>38</sup> DSR, Khurda at Bhubaneswar.

After Audit pointed this out, concerned DSR and SRs stated that the matter would be intimated to the Government for necessary orders as the agreements did not attract provisions under 47A of the IS Act 1899 to deal such undervaluation cases. However, the fact remains that the development agreements were to be registered as conveyance and SD and RF as applicable to conveyance was to be levied.

Audit reported the matter to IGR, Odisha, Cuttack in March 2014 and the Government in June 2014. Their replies are awaited (November 2014).

## CHAPTER-V

### MOTOR VEHICLES TAX

#### 5.1 Tax administration

The receipts from Motor Vehicles Tax are regulated under the provisions of the Central and the State Motor Vehicle Acts and rules made thereunder. The Transport Commissioner (TC)-cum-Chairman, State Transport Authority (STA), Odisha under the overall supervision of the Principal Secretary, Commerce and Transport (Transport) Department administers the above Acts and Rules made thereunder. The TC is assisted by Regional Transport Officers (RTOs) at unit level. RTOs are the Assessing Authorities (AAs) as well as the Tax Recovery Officers (TROs).

#### 5.2 Internal Audit

Internal Audit of units under Transport Department has not been conducted since 2007-08. The Department attributed the reasons to shortage of staff in Internal Audit Wing.

#### 5.3 Results of audit

In 2013-14, test check of the records of 37 units relating to Motor Vehicle Tax, additional tax, registration fee, permit fee, driving license fee, conductor license fee, penalties and composite fee under the National Permit Scheme showed under assessment of tax and other irregularities involving ₹ 128.25 crore in 5,02,980 cases, which fall under the following categories in the **Table 5.1**.

**Table 5.1**

#### A. REVENUE RECEIPTS

(₹ in crore)

Sl. No	Categories	Number of cases	Amount
1.	Performance Audit (PA) on “ <b>Classification, Assessment and collection of tax and Road Safety measures in Transport Department</b> ”	3,42,996	22.78
2.	Non/short realisation of motor vehicles tax/additional tax and penalty	45,322	102.58
3.	Non/short realisation of compounding fee, permit fees, process fee and fitness fee etc.	1,13,051	1.81
4.	Non/short realisation of composite tax and penalty	584	0.40
5.	Non/short realisation of penalty on belated payment of tax	148	0.38
6.	Other irregularities	879	0.30
<b>Total</b>		<b>5,02,980</b>	<b>128.25</b>

During the course of the year, the Department accepted under assessment and other deficiencies of ₹ 127.15 crore in 3,97,532 cases, which were pointed out

in earlier years. An amount of ₹ 0.51 lakh was realised in three cases during the year 2013-14. A few illustrative cases involving ₹ 127.95 crore are discussed in paragraphs 5.4 to 5.7.1.

### **B. Expenditure Account of Transport Department**

In 2013-14, test check of records of 33 units showed irregularities in expenditure/cash management involving ₹ 1.67 crore in 25 cases, which fall under the following categories.

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1.	Irregularities in cash management	20	1.66
2	Irregular expenditure on purchase of stationaries/Computer accessories	5	0.01
<b>Total</b>		<b>25</b>	<b>1.67</b>

### **C. Expenditure Account of Odisha State Road Transport Corporation (OSRTC)**

During 2013-14, Audit test checked records of four units of OSRTC and found irregularities involving ₹ 15.59 crore in 609 cases, which fall under the following categories.

(₹ in crore)

Sl. No	Category	No. of cases	Amount
1.	Loss/non realisation of outstanding dues and loss of revenue due to suspension of routes/opening of new routes/purchase of new buses	53	7.54
2.	Non/short realisation/recovery of Government dues	106	3.27
3.	Excess consumption of High Speed Diesel, non/short recovery of outstanding advances/imprest etc.	211	3.03
4.	Non adjustment of motor vehicles tax etc.	2	0.05
5.	Other irregularities	237	1.70
<b>Total</b>		<b>609</b>	<b>15.59</b>

During the year the Department accepted deficiencies of ₹ 15.59 crore in respect of all reported cases.

## 5.4 Performance Audit on “Classification, Assessment and Collection of tax and Road Safety measures in Transport Department”

### Highlights:

The distance slabs prescribed in the Taxation Schedule of OMVT Act, 1975 require revision taking into consideration of long route coverage of stage carriages.

(Paragraph 5.4.8.1)

Motor Vehicle Tax and additional tax of ₹ 3.34 crore remained unrealised from 956 goods carriages of other States/ Regions. Besides, penalty of ₹ 6.68 crore was also leviable.

(Paragraph 5.4.9.1)

Irregular fixation of seating capacities less than that prescribed in the Schedule under Odisha Motor Vehicle Rules, 1993 for stage carriages/ contract carriages/deluxe stage carriages according to wheel-base, led to loss of ₹ 17.76 lakh.

(Paragraph 5.4.9.2)

Non-renewal of Certificates of Registration of 1,77,651 non-transport vehicles led to non-realisation of fitness and renewal fees of ₹ 6.63 crore.

(Paragraph 5.4.9.4)

Non-issue of Permanent Permits to tractor trailer combinations at the time of registration led to non-realisation of application fee and permit fee of ₹ 3.40 crore.

(Paragraph 5.4.9.5)

Due to non-renewal of certificates of fitness of 164 School buses, 10,541 Auto-Rickshaws and 2,843 Omnibuses, the road safety of the students and passengers could not be ensured and also resulted in non-realisation of fees and penalty of ₹ 43.75 lakh.

(Paragraph 5.4.9.6)

Certificates of fitness to 1,20,939 vehicles were issued without ensuring Pollution under Control Certificates.

(Paragraph 5.4.9.8)

Enforcement of the provisions of Acts and Rules regarding mandatory third party insurance of 9,96,543 motor vehicles including 12,320 transport vehicles in the State was not ensured by the Department.

(Paragraph 5.4.9.10)

There was shortfall in achievement of targets which affected road safety activities.

(Paragraph 5.4.10.7)

### 5.4.1 Introduction

Transport Department is the fourth largest revenue earning Department of the State. It contributes about five to seven *per cent* of the total tax revenue of the State. The levy and collection of taxes on motor vehicles is regulated under Motor Vehicles (MV) Act 1988, Odisha Motor Vehicles Taxation Act, 1975 and rules made thereunder. The Department is mainly responsible for enforcing various provisions of these Act and Rules. Besides, fees for licence, registration, fitness certificate, permit, appeal and compounding of offences are levied and collected under the provisions of Central Motor Vehicles Act 1988 (CMV Act), Central Motor Vehicles Rules, 1989 (CMV Rules) and Odisha Motor Vehicles Rules, 1993 (OMV Rules) framed thereunder. Motor Vehicles tax in respect of non-transport vehicles and some specific<sup>1</sup> transport vehicles is realised in lump sum as one time tax (OTT), whereas tax and additional tax from other transport vehicles are realised monthly/ quarterly/ annually at the rates specified under OMVT Act. With the number of vehicles on road increasing day by day, road safety has assumed greater significance. Transport Department being the nodal Department, is also responsible for formulating plans and programmes for ensuring road safety and monitoring their implementation.

### 5.4.2 Organisational Set up

Transport Commissioner (TC)-cum-Chairman, State Transport Authority (STA), Odisha under overall supervision of the Commissioner-cum-Secretary, Commerce and Transport (Transport) Department is the head of the Department. The TC is assisted by four Additional Commissioners (Administration, Technical, Enforcement and Secretariat), one Joint Commissioner (Tax) at the Headquarters level, three Deputy Commissioners at zonal level and 31 Regional Transport Officers (RTOs) at regional level.

### 5.4.3 Trend of Receipts

The details of budget estimates (BEs), actual receipts from taxes on motor vehicles during the years 2009-10 to 2013-14 along with total tax receipts of the State during the same period are given in Table under paragraph 1.1.2 of Chapter-I of this Report.

As may be seen from the table, the Department had not followed uniform pattern while preparing the BEs. While the BEs for the year 2009-10 to 2011-12 and 2013-14 were between 15 and 20 *per cent* of the actual receipts of the previous year, the same were eight *per cent* for 2012-13. Though the Department achieved more than the BE fixed for 2009-10 and 2010-11, it failed to achieve the BE and the shortfall was between five and 12 *per cent* during 2011-12 to 2013-14.

The Department attributed (June 2014) non-uniformity in budgeting pattern to BE based on previous year's actual realisation, actual demand during the year, and arrears of past year and probability of their realisation during the year. Besides, considering the trend of revenue, certain percentage of previous

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<sup>1</sup> Goods carriages of which gross vehicle weight does not exceed 3,000 kgs and Omnibus.

year's collection is also taken into consideration. Regarding variation in actual receipts, the Department attributed the same to declining trend of registration of transport vehicles, inflow of vehicles at border check gates and vehicles taking No Objection Certificates (NOC) to ply in other States etc.

#### 5.4.4 Scope of Audit and methodology

The Performance Audit (PA) was conducted between April and August 2014 covering the periods from 2008-09 to 2012-13. During PA, Audit test checked records in the Transport Department, State Transport Authority (STA), State Transport Appellate Tribunal (STAT), eight<sup>2</sup> out of total 31 RTOs and five Unified Check Gates<sup>3</sup> (UCGs) under the jurisdiction of the selected RTOs. The RTOs were selected through stratified random sampling method based on revenue collection. On the basis of suggestion of TC, records of one fully computerised UCG<sup>4</sup> were also test checked. Further, Audit also test checked the records relating to road safety measures undertaken in the State and analysed the evidence collected in this regard from respective District Police Headquarters. Before commencement of the PA, Entry Conference was held with Transport Commissioner (TC)-cum-State Transport Authority (STA), Odisha on 15 May 2014 seeking co-operation of the Department and for finalising the objectives, criteria and methodology of the PA. The audit findings were discussed in the Exit Conference held on 25 November 2014. Replies of Government have been duly incorporated in the report.

#### 5.4.5 Audit objectives

The objectives of the PA was to assess whether:

1. adequate system and procedure existed in the Department for classification, timely assessment and collection of Government revenues;
2. the road safety measures undertaken were effective; and
3. adequate internal controls and monitoring mechanism existed for proper accounting and realisation of arrears and arresting pilferage/ leakage of revenue.

#### 5.4.6 Audit Criteria

Audit criteria were sourced from the provisions of following Acts and Rules made thereunder as well as the executive instructions:

- Motor Vehicles (MV) Act, 1988
- Central Motor Vehicles (CMV) Rules, 1989
- Odisha Motor Vehicles Taxation (OMVT) Act, 1975
- Odisha Motor Vehicles Taxation (OMVT) Rules, 1976
- Odisha Motor Vehicles (OMV) Rules, 1993
- Transport Policy, 2007 of the State Government
- Executive instructions issued from time to time by the Department.

<sup>2</sup> Angul, Bhubaneswar, Cuttack, Ganjam, Kalahandi, Keonjhar, Mayurbhanj and Sambalpur.

<sup>3</sup> UCGs: Chakasuliapada, Champua, Girisola, Jamsola and Bada Dalima.

<sup>4</sup> Luhurachati UCG.

### 5.4.7 Acknowledgement

Audit acknowledges the co-operation of STA and the Department for providing records and necessary information to Audit and for furnishing compliance to audit observations.

### Audit findings

### 5.4.8 System Issues

#### 5.4.8.1 Need for rationalisation of distance slabs in the Taxation Schedule of OMVT Act

The MV tax and additional tax in respect of stage carriages are levied and realised at the rates specified in item-4A of the taxation schedule of OMVT Act, 1975, on the basis of permit particulars/parameters such as distance covered by the vehicle in a day, nature of permit (deluxe/express/ordinary) and seating capacity of the vehicles. Section 23(2) of the Act *ibid* also provides that the State Government may make rules for all or certain other matters specified therein. MV tax and additional tax are presently being realised from stage carriages under four distance slabs i.e. 1-160 kms, 161-240 kms, 241-320 kms and more than 320 kms. These slabs came into effect with the introduction of OMVT Act in 1975.

Audit noticed that since the enactment of the OMVT Act, 1975 the State Government has not made any amendment on different distance slab. As a result the distance slab prescribed in 1975 has been continuing till today even after a lapse of 39 years. Further scrutiny of *Disha*<sup>5</sup> database revealed that 19 stage carriages covering more than 640 kms were plying within the State as on 1 April 2013. In absence of provisions of different slabs for distance beyond 320 kms MV tax and additional tax on these vehicles are being levied and collected at the same rate under the highest distance slab. In view of the changed scenario with developed road infrastructure and other facilities Government may consider to make provision for more number of distance slabs where vehicles are permitted to ply beyond 320 kms that will help in augmentation of more revenue to the State.

Government agreed (November 2014) with the audit observation and stated that a draft Amendment Act and draft Cabinet Memorandum compiled by TC, Odisha are being processed for obtaining concurrence of Law Department, after which the same will be placed before the Cabinet.

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<sup>5</sup> *Disha* is an application software wherein issue of Permits and disposal of VCRs are monitored by the State Transport Authority.

## 5.4.9 Compliance deficiencies

### 5.4.9.1 Non realisation of Motor Vehicles Tax and additional tax from other State/ Region goods carriages

Under Section 3 and 3-A of OMVT Act 1975, MV tax and additional tax shall be levied on every motor vehicle used or kept for use within the State unless exemption from payment of such tax is allowed against an undertaking submitted by the owner of the vehicle for temporary discontinuance of use of the vehicle under Section 10(1) of the Act *ibid*. Under Section 4 of the Act, MV tax and additional tax shall be paid in advance by the vehicle owner to the taxing officer within the specified period and in the manner as prescribed. Further, as per instructions of TC, Odisha, demand notices for realisation of unpaid taxes should be issued within 30 days from the date of expiry of grace period of 15 days from the due date of payment. MV tax and additional tax in respect of goods carriages are realisable at the rates specified in Item-3 of Taxation Schedule of the Act on the basis of their Registered Laden Weight (RLW). Under Section 13(1) of the Act read with Rule 9(2) of OMVT Rules 1976, if tax is not paid within two month from expiry of grace period of 15 days, the vehicle owners shall be liable to pay penalty at 200 *per cent* of the tax due.

Analysis of *Vahan* database and General Registration Registers (GRRs) of eight RTOs revealed that owners of 956 goods carriages of other States/ Regions who migrated to the State/ Regions had not paid MV tax and additional tax amounting to ₹ 3.34 crore for different periods during 2008-13 till the date of audit (August 2014) although the same was required to be paid in advance for every quarter with grace period of 15 days. These vehicles were also neither covered under off-road undertakings as revealed from audit scrutiny of Off-Road Registers (ORRs) nor issued with No Objection Certificates (NOCs) to ply in other States as revealed from the GRRs. The RTOs had not issued demand notices for payment of tax due. This resulted in non realisation of MV tax and additional tax of ₹ 3.34 crore. Besides, penalty of ₹ 6.68 crore at twice the tax due was also leviable on the unpaid amount of tax.

After Audit pointed this out, Government accepted (November 2014) the audit observation and stated that RTOs have been instructed to issue demand notice to such defaulting vehicle owners for realisation of outstanding tax and additional tax and enforcement squad has been mobilised to check such vehicles and seize under Section 17(2) of OMVT Act, 1975 till realisation of outstanding tax and penalty.

### 5.4.9.2 Loss of motor vehicle tax due to fixation of seating capacity lower than that prescribed under Rules

Seating capacity of stage carriages are required to be fixed based on their Wheel base according to Seventh Schedule under of Rule-2(1)(c)(c-i) of OMV Rules and Government notification dated 14 November 2007 and subsequent corrigendum issued dated 13 February 2008. MV tax and additional tax are

levied according to the seating capacity of the stage carriages as per Item-4 of taxation schedule-I under Section 3 and 3-A of OMVT Act, 1975.

During analysis of *Vahan* database and cross check of GRRs of eight RTOs, Audit noticed that while registering 251 stage carriages/ contract carriages/ deluxe stage carriages, the Registering Authority fixed the seating capacity of vehicles registered between 2008-09 and 2012-13 were lower than that prescribed in the schedule and the seating capacity was less by one to 15. This led to short realisation of MV tax and additional tax of ₹ 17.76 lakh calculated at the minimum monthly rates of tax applicable for ordinary stage carriages.

After Audit pointed this out, Government accepted (November 2014) the audit observation and stated that RTOs were instructed to adhere to the provisions under Seventh Schedule of OMV Rules, 1993 while fixing seating capacity of stage carriages and contract carriages. However, the reply is silent about realisation of the taxes pointed out above.

#### **5.4.9.3 Non-realisation of tax from motor vehicles kept for personal use**

As per Section 4-A of OMVT Act, 1975, one-time tax (OTT) at the rate equal to standard rate as prescribed in Schedule-III or five *per cent* of the cost of the vehicle whichever is higher is payable at the time of registration of motor cars, jeeps, omnibuses used personally or kept for personal use, the unladen weight (ULW) of which did not exceed 2,286 kgs. TC, Odisha in his letter dated 21 April 2005, clarified that owner of these vehicles may pay annual tax, if they so like under Schedule-I. In case of any vehicle registered in private category paying annual tax and opting for payment of balance OTT, collection of balance OTT in respect of that vehicle shall be made at the rate specified in Schedule-III of the Act irrespective of the cost of vehicle. Under Section 13(1) of the Act read with Rule 9(2) of OMVT Rules 1976, if tax is not paid within two months from expiry of grace period of 15 days, the vehicle owners shall be liable to pay penalty at 200 *per cent* of the tax due.

Analysis of *Vahan* database and test check of taxation records of two RTOs<sup>6</sup> for the years 2008-09 to 2012-13 revealed that owners of 100 vehicles registered prior to 25 February 2010 neither opted for payment of balance OTT nor paid annual tax till date of audit. Despite this, the RTOs did not issue demand notices and this resulted in non-realisation of annual tax of ₹ 3.60 lakh. Besides, penalty of ₹ 7.20 lakh was also leviable.

After Audit pointed this out, Government accepted (November 2014) the audit observation and stated that the RTOs have been instructed to issue demand notices to owner of such vehicles used personally or kept for personal use.

#### **5.4.9.4 Non-renewal of Certificates of Registration of non-transport vehicles**

Under Section 41(7) of MV Act, 1988 read with Rule 52 (2) and (3) of the CMV Rules, 1989, in respect of a motor vehicle other than transport vehicle, the RC shall be valid for a period of 15 years from the date of issue and shall be renewable. Under Section 55(1) of the Act, if a motor vehicle has been

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<sup>6</sup> Bhubaneswar and Cuttack.

destroyed or has been rendered permanently incapable of use, the owner shall, within 14 days or as soon as may be, report the fact to the registering authority within whose jurisdiction the vehicle is normally kept. Under Rule 81 of the above CMV Rules, fees for renewal of RC, test of fitness etc. at the rates specified therein shall be realised and RC shall be renewed for a further period of five years under sub-Section (10) of Section 41 of the act *ibid*. Further, under Rule-22(7) of OMV Rules, in case the owner fails to make an application of such renewal, a sum not exceeding ₹ 100 may also be realised from the owner of vehicle towards penalty. Besides, fine under Section 192 of MV Act, 1988 ranging from ₹ 2,000 to ₹ 5,000 shall be imposed for using vehicles without registration.

During analysis of *Vahan* database and check of registration records of test checked RTOs, Audit noticed that RCs of 1,77,651 non-transport vehicles registered prior to March 1998 had expired by 31 March 2013. It was however seen that neither did the owners of these vehicle renew their RCs nor did the RTOs initiate action against the vehicle owners for renewal of RCs and collection of fees and fines. This resulted in non-realisation of fitness fee and renewal fee of ₹ 4.85 crore and fine of ₹ 1.78 crore.

Government accepted (November 2014) the audit observation and stated that RTOs have been instructed to issue notices to owners of non-transport vehicles which have completed 15 years of age from the date of initial registration to get the RC renewed. Government further stated that enforcement checking would be conducted to curb plying of such vehicles without renewal of RCs. Besides, step is being taken to request National Informatics Centre (NIC) to develop *Vahan* database so that SMS<sup>7</sup> alert will be sent to the vehicle owner for re-registration of vehicle. Further, an advertisement has been published in this regard to create awareness among vehicle owners about provisions of Law.

#### **5.4.9.5 Non-issue of Permanent Permit**

Under Section 66(1) of MV Act, 1988, no owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place whether or not such vehicle is actually carrying any passenger or goods save in accordance with the conditions of a permit granted or countersigned by a RTO or STA or any prescribed authority authorising him the use of the vehicle in that place. Further, as per instructions issued (December 2002) by TC, Odisha, tractor-trailer combinations shall be issued with Permanent Permit (PP) at the time of registration. Under Rule 48 of OMV Rules, Application Fee of ₹ 500 and Permit Fee of ₹ 5,000 for five years are realisable in case of issue of PP at the time of registration.

During analysis of *Vahan* database and test check of Permit Fee Registers of eight RTOs, Audit noticed that 6,173 out of 16,050 (38.46 per cent) tractor-trailer combinations were registered during 2008-13. At the time of registration, the RTOs realised only quarterly tax but did not issue Permanent Permit and realise Permanent Permit fee. This led to non-realisation of Application fee of ₹ 0.31 crore and Permanent Permit fee of ₹ 3.09 crore.

<sup>7</sup> SMS: Short Messaging Service.

Government accepted (November 2014) the audit observation and stated that provision has been made in *Vahan* software facilitating deposit of PP fees and now fees are collected at the time of registration of Tractor-Trailer.

#### **5.4.9.6 Non-renewal of Certificate of Fitness of transport vehicles**

Under Section-56 of MV Act, 1988 read with Rule-62 of CMV Rules, 1989, a transport vehicle shall not be deemed to be validly registered unless it carries a certificate of fitness (FC) issued by prescribed authority in the prescribed form. FCs in respect of a new transport vehicle shall be valid for two years; otherwise it shall be renewed every year against payment of prescribed fees for inspection and testing of vehicles for renewal of FC under Rule 81 of the Rules *ibid*. Rule 22 (7) of OMV Rules, 1993 prescribes a penalty of ₹ 100 for non-filing of application for renewal of FC within prescribed date. Under Section 41(4) of MV Act 1988, Central Government notified Omnibus<sup>8</sup> in November 2004 under the category of transport vehicle to bring it under fitness regime for its exhaustive use on road. Government of India, Ministry of Road Transport and Highways (MoRTH) instructed (June 2011) on the matters of safety of school buses to TCs of all States to undergo mandatory fitness test every year without which the permit could not be renewed in respect of educational institution bus. Government of Odisha, Commerce and Transport Department instructed (July 2012) all RTOs to take enforcement activities and proper inspection regarding fitness of school/college buses.

During analysis of *Vahan* database and cross check with taxation records and fitness records, Audit noticed in five RTOs<sup>9</sup> that fitness certificates in respect of 10,541 auto-rickshaws registered under transport category had lapsed between April 2008 and March 2013. Similarly, in seven RTOs<sup>10</sup>, fitness of 164 buses of educational institutions had expired between June 1976 and March 2013. Though the RTOs collected taxes from these vehicles, they failed to ensure renewal of fitness either by vehicle owners or by the RTOs. This resulted in non-realisation of Renewal Fee of ₹ 10.94 lakh, Fitness Fee of ₹ 10.74 lakh and Penalty of ₹ 10.70 lakh.

Further, Audit noticed in test checked eight RTOs that fitness certificates of 2,843 omnibuses registered between April 2008 and March 2011 were not renewed although those were expired. Audit noticed that these vehicles were registered under private/non-transport category instead of transport category as per the Act *ibid*. Thus, provisions of the Act were not enforced and fitness and renewal fees of ₹ 8.53 lakh and penalty of ₹ 2.84 lakh could not be realised from these vehicles.

After Audit pointed this out, Government accepted the audit observation and stated that Motor Vehicle Inspectors (MVIs) have been instructed to go through the MIS reports of *Vahan* database and seize the transport vehicle which found plying without having valid Fitness Certificate. In respect of School buses Government stated that due to lack of adequate knowledge FCs were not renewed in some cases and the RTOs and MVIs are instructed to ensure that such buses ply with valid fitness.

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<sup>8</sup> "Omnibus" means any motor vehicle constructed or adapted to carry more than six persons excluding driver.

<sup>9</sup> Angul, Bhubaneswar, Cuttack, Ganjam and Keonjhar.

<sup>10</sup> Angul, Bhubaneswar, Cuttack, Ganjam, Kalahandi, Keonjhar and Sambalpur.

In respect of Omnibuses, Government stated (November 2014) that no Omnibus can be registered under non-transport category after issue of notification dated 5 November 2004 and cannot ply upon public road without having valid Fitness Certificate under Section 56 of MV Act, 1988 for hire or reward. Government further stated that special enforcement drive will be made to check plying of Omnibuses registered under private/non-transport category without having valid Fitness Certificate.

#### **5.4.9.7 Non-assignment of Odisha registration marks to vehicles migrated to the State**

Section 47 of MV Act, 1988 read with Rule 54 of MV Rules, 1989 prescribe that when a motor vehicle registered in one State has been kept in another State for a period exceeding twelve months, the owner of the vehicle shall, within such period and in such form containing such particulars as may be prescribed by the Government, apply for assignment of a new registration mark after paying the requisite fees to the registering authority within whose jurisdiction the vehicle is plying.

During analysis of *Vahan* database and check of Assignment Register and taxation records, Audit noticed in seven RTOs<sup>11</sup> that 4,072 transport and non-transport vehicles had migrated to Odisha from other States with NOC between April 1982 and March 2013. Though the vehicles remained in the State for more than 12 months, the RTOs had not initiated any action for assignment of Odisha registration marks to these vehicles. This resulted in non-realisation of ₹ 9.91 lakh towards re-assignment fees.

After Audit pointed this out, Government accepted (November 2014) the audit observation and stated that the RTOs have been instructed to get in touch with RTOs of other States regarding confirmation of NOC submitted by the vehicle owner for the purpose of assignment of Odisha Registration number.

#### **5.4.9.8 Plying of vehicles without valid Pollution under Control Certificates**

Under Rule-115 (7) of CMV Rules, 1989, every vehicle shall carry a valid "Pollution under Control Certificate (PUCC)" after expiry of a period of one year from the date of its registration. The validity of PUCC shall be for six months and it shall always be carried in the vehicle and produced on demand by the officers authorised to do so. As per proviso to Rule-62 of the CMV Rules, 1989, renewal of FC shall be made only after the Inspecting Officer carried the tests specified in the table under Rule 62 which, among other things, includes checking of PUCC. Rule 129-A (3) of OMV Rules, 1993, the amount of pollution testing fees shall be charged at ₹ 40 for two and three wheelers, ₹ 60 for light motor vehicles (LMVs) and ₹ 100 for Medium and Heavy Motor Vehicles. Under Section 190 (2) of MV Act, 1988, any person who drives or causes or allows to be driven in any public place a motor vehicle, which violates the standards prescribed in relation to road safety, control of noise and air-pollution shall be punishable for the first offence with a fine of ₹ 1,000 and for any second or subsequent offence with a fine of

<sup>11</sup> Angul, Bhubaneswar, Cuttack, Ganjam, Keonjhar, Mayurbhanj and Sambalpur.

₹ 2,000. Further, TC, STA instructed (February 2008) all concerned for strengthening enforcement measures and ensure that every vehicle must carry PUC while on road.

During analysis of *Vahan* database and records relating to grant of fitness to vehicles Audit noticed in six RTOs<sup>12</sup> that PUCs in respect of 1,20,939 vehicles to whom renewal of FCs was granted during 2008-13 were not found in records of these vehicles. In absence of PUCs the renewal of FCs by the RTOs was in contravention of the provision of the Act. No action was also initiated by the RTOs against the vehicle owners as prescribed in the MV Act. Despite this the RTOs renewed the FCs in violation of the provision of the Act. This led to plying of vehicles without confirming to pollution norms.

After Audit pointed this out, TC agreed (November 2014) and stated that *Vahan* software would be suitably modified to include PUC in the system so as to ensure proper check before issue fitness certificate.

#### **5.4.9.9 Non disposal of vehicle check reports**

Various provisions of MV Act, 1988 read with Notification dated 29 September 1995 issued by TC-cum-Chairman, STA, Odisha under Section-200 of the Act, stipulate realisation of compounding fee from the vehicle owners committing offences under different Sections of the Act by issue of Vehicle Check Reports (VCRs). Further, the TC in his letter dated 10 January 2014, instructed all RTOs to drop all VCRs upto 2010 as those were hit by the provisions contained in Section 468 of Code of Criminal Procedure (CrPC) and to dispose off VCRs pertaining to the year 2011 onwards and compound the offence on payment of prescribed fine or to send these cases to Sub-Divisional Judicial Magistrate/ Judicial Magistrate (First Class)/ Transport Magistrate for adjudication.

On scrutiny of records, Audit noticed that despite the instructions of TC, seven RTOs<sup>13</sup> neither disposed off 1,399 VCRs issued between March and July 2011 nor transferred the same to the concerned authorities for adjudication. The STA also failed to dispose off 270 such cases issued during the above period for various offences. Due to failure in timely action by the RTOs, these cases subsequently became time barred as per the provisions of CrPC and compounding fee of ₹ 1.84 crore could not be realised.

Government accepted (November 2014) the audit observation and stated that due to shortage of man power, the cases could not be disposed off and became time-barred. Government further stated that unlike earlier years where VCRs were issued manually now the enforcement officers are provided with Tough Books<sup>14</sup>, wherefrom the cases would be transferred to the computer and it can be monitored in a better way. TC stated that offences would now be recorded in the driver's digital licence as well as linked to vehicles registration. Government also agreed to dispose off serious offence cases with priority.

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<sup>12</sup> Angul, Bhubaneswar, Cuttack, Ganjam, Kalahandi and Sambalpur.

<sup>13</sup> Angul, Bhubaneswar, Cuttack, Ganjam, Kalahandi, Mayurbhanj and Sambalpur.

<sup>14</sup> Tough Book is a gadget having a shock-mounted hard drive, moisture and dust-resistant keyboard and touchpad and a Liquid Crystal Display (LCD) panel designed specifically for visibility during daylight. It is now used by the officers of Enforcement Wing of the Department for issuing VCRs.

#### 5.4.9.10 Non-enforcement of provisions for mandatory insurance of vehicles

Under Section 4(4) of OMVT Act, 1975, at the time of making payment of tax for any period, a valid certificate of registration and a valid certificate of insurance in respect of a motor vehicle complying with the provisions of the MV Act, shall be produced before the Taxing Officer. Under Section 130(3) of MV Act 1988, every owner or driver of a motor vehicle shall produce certificate of insurance in respect of the vehicle to the authorised officer of the MV Department on demand. Further, MoRTH (GoI) and Secretary of the Department had instructed (June and November 2012) TC, Odisha to issue orders to all the registering and renewing authorities to ensure that there should be no vehicle without valid third party insurance. Section 196 of MV Act, 1988 prescribes punishment of imprisonment up to three months or fine of ₹ 1,000 or both for driving an uninsured vehicle in a public place.

During analysis of *Vahan* database of the test checked RTOs for the period from 2008-09 to 2012-13, Audit noticed that insurance particulars of 9,96,543 motor vehicles of both transport and non-transport category were not available in the database indicating that either such vehicles were plying on road without insurance or the corresponding field in the database was not updated. These included 12,320 transport vehicles in respect of which Audit noticed that though insurances of these vehicles were lapsed between February 1988 and March 2013, the RTOs, while collecting MV tax from such vehicles, neither insisted at for third party insurance certificate nor did initiate action as prescribed in the Act.

After Audit pointed this out, Government accepted the audit observation and stated that NIC has been requested to provide facility for blocking the tax payment, if the details of valid Insurance Certificate (IC) is not uploaded. It was also stated that steps would be taken to update IC data of motor vehicles by integrating with insurance database of the Insurance Companies by holding a discussion with Insurance Regulatory and Development Authority (IRDA). Besides this, RTOs have since been instructed (November 2014) to issue notice/ SMS alert to vehicle owners not having valid Insurance Certificates on the basis of MIS report of *Vahan* database.

#### 5.4.9.11 Delay in issue of Smart card based Certificates of Registration and Driving Licences

In pursuance of Odisha Right to Public Services Act, 2012 making various Departments of Government accountable in providing timely services to public, Government in General Administration Department in their gazette notification dated 1 January 2013, prescribed time schedules for different public services. According to the said notification, the RTOs are required to issue Registration Certificates to vehicle owners within seven days from date of registration and driving licences to applicants within five days from successful passing of driving test.

During analysis of databases of *Vahan* and *Sarathi* in eight selected RTOs, Audit noticed that although 3,343 vehicles were registered during the period from 1 January 2013 to 31 March 2013, the RTOs issued smart card based

Registration Certificates with delays ranging between one and 555 days beyond the prescribed period. Similarly, even though 1,856 applicants passed the driving test during the above period, the RTOs issued smart card based driving licence with delays ranging between one and 313 days. This defeated the objective of the Act to ensure providing of timely services to public by the Department.

After Audit pointed this out, TC-cum-Chairman, STA, Odisha stated that the RTOs would be asked to furnish reasons for delay and would be instructed for timely delivery of services as per the Right to Public Services Act, 2012.

## **Other Points**

### **5.4.9.12 Non/Short-realisation of fees for reserved/ special choice numbers**

Under Rule 14 of OMV Rules, 1993, a registering authority may, on an application in writing made to him by any person, reserve any registration number notified by the TC on payment of ₹ 5,000 in case of Motor cycles and ₹ 10,000 in case of Motor Vehicles other than Motor Cycles, in advance in addition to the fees prescribed under the MV Act. Further, a special choice number within thousand from the last number assigned in serial order from the date of application except the numbers reserved and notified by the TC, may also be allotted to the applicant on payment of a fee of ₹ 2,000 for Motor Cycles and ₹ 4,000 for other than the Motor Cycles in addition to the prescribed fees. The number so allotted and fees paid in respect of a vehicle will lapse, if the vehicle is not produced by the applicant near the registering authority within 45 days from the date of application. The said number will be allotted to any other person on realisation of fees required for reserved/ special choice.

During analysis of *Vahan* database and scrutiny of registration records, Audit noticed that in six RTOs<sup>15</sup>, 90 vehicles were registered with reserved/ special choice numbers after 45 days from the date of application without realising the required fees from the applicants. Further, 18 vehicles were registered with reserved/ special choice numbers by realising fees less than that prescribed. This resulted in non-realisation of fees of ₹ 5.75 lakh and short realisation of fees of ₹ 0.76 lakh.

After Audit pointed this out, Government accepted the audit observation and stated that the RTOs have been instructed to issue demand notices to the vehicle owners for realisation of reservation fees due under Rule 14 of OMV Rules, 1993.

### **5.4.9.13 Irregular grant of Tourist Permits**

Sub-Rule 2(a) and (b) of Rule 82 of CMV Rules, 1989 prescribe that a Tourist Permit shall be deemed to be invalid from the date on which the motor vehicle covered by the permit completes nine years in case of motor cab and eight years in case of others from the date of initial registration, unless the vehicle is

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<sup>15</sup> Angul, Bhubaneswar, Cuttack, Ganjam, Kalahandi and Sambalpur.

replaced. Where a vehicle covered by a tourist permit is proposed to be replaced by another, the later vehicle shall not be more than two years old from the date of initial registration, on the date of such replacement.

During scrutiny of Tourist Permit Registers and other related records in STA, Audit noticed that five vehicles had completed eight years and nine years from the date of initial registration. However, despite completion of time limit of eight or nine years, all India Tourist Permits were issued to these vehicles between 2008-09 and 2013-14 in violation of the provisions of the Act.

After Audit pointed this out, Government accepted the audit observation and stated that notices would be issued to such permit holders for cancellation of permits.

#### **5.4.9.14 Non realisation of annual tax from dealers of vehicles**

Under Rule 35 of CMV Rules, 1989, on receipt of an application for grant or renewal of Trade Certificate, the registering authority may, if he is satisfied that the applicant is a *bona fide* dealer and requires the certificates specified in the application, issue to the applicant one or more certificates as the case may be. The validity of trade certificate granted or renewed shall be for a period of twelve months from the date of issue or renewal. Section-5 of OMVT Act, 1975 prescribes annual tax for vehicles other than motor cycles having unladen weight (ULW) not more than 3,048 kilograms at ₹ 5,000 for ten vehicles and additional ₹ 500 for each vehicle and for vehicles having ULW more than 3,048 kilograms at ₹ 10,000 for ten vehicles and additional ₹ 1,000 for each vehicle exceeding ten. As per the provisions of the Act, tax shall be paid in advance by the manufacture or dealer.

During analysis of *Vahan* databases and test check of Trade Certificate Registers, Registration records of two RTOs<sup>16</sup>, Audit noticed (between May and August 2014) that vehicles having ULW of more than 3,048 kilograms purchased by customers from five dealers were registered during 2010 to 2013. However, it was revealed from the trade certificate register that the above dealers were not issued with any certificates for trading of vehicles having ULW of more than 3,048 kilograms. The RTOs also failed to detect such cases. This resulted in non-realisation of tax as well as penalty.

Government accepted (November 2014) the audit observation and stated that RTOs have been instructed to issue notices to dealers and realise arrear dues as pointed out by audit.

#### **5.4.10 Road Safety measures in the State**

Transport Department being the nodal department is responsible for formulating plans and programmes for ensuring road safety and monitoring their implementation. With the number of vehicles on road increasing by 78 *per cent* from 23,70,432 in 2008-09 to 42,15,540 in 2012-13, road safety has assumed greater significance and has posed a bigger challenge to the State

<sup>16</sup> Bhubaneswar and Sambalpur.

Government. Audit analysed the existence and efficacy of systems in place and found several deficiencies as discussed in succeeding paragraphs.

#### **5.4.10.1 Allocation of inadequate funds for road safety**

Transport Department planned in 2008-09 for interventions in areas called 4Es such as (i) Education or Public awareness, (ii) Engineering or Road designing, (iii) Enforcement activities and (iv) Emergency Services system. Audit noticed that during 2008-13, an amount of ₹ 5.75 crore was allocated under State Plan (Road Safety and Enforcement) and an expenditure of ₹ 5.68 crore was incurred towards purchase of road safety equipment, provision for infrastructure and carrying out other activities and an amount of ₹ 6.76 lakh was surrendered without utilisation of the same for the purpose for which allotted.

After Audit pointed this out, Government stated that a proposal for allocation of ₹ 6.00 crore in the Plan Budget 2015-16 towards road safety was under consideration.

#### **5.4.10.2 Trend of road accidents in the State vis-à-vis causes**

Increase of vehicle population and inadequate enforcement of road safety measures has posed a bigger threat for the State. The number of road accidents occurred in the State and resultant casualties during 2008 to 2012 vis-à-vis the all India statistics on road accidents are given below:

(in numbers)

Year	State statistics				National statistics			
	No. of road accidents	No. of fatal accidents	Loss of lives	People injured	No. of road accidents	Fatal accidents	Loss of lives	People injured
2008	8181	2838	3079	10378	484704	106591	119860	523193
2009	8887	3043	3527	11296	486384	110993	125660	515458
2010	9413	3388	3837	11399	499628	119558	134513	527512
2011	9398	3220	3802	11248	497686	121618	142485	511394
2012	9285	3285	3701	10715	490383	123093	138258	509667
<b>Total</b>	<b>45164</b>	<b>15774</b>	<b>17946</b>	<b>55036</b>	<b>2458785</b>	<b>581853</b>	<b>660776</b>	<b>2587224</b>

Source: Ministry of Road Transport and Highways, GoI.

It may be seen from the above that out of total 45,164 road accidents occurred in the State, 15,774 (35 per cent) road accidents were fatal and were higher than the National average which showed fatal accidents at 27 per cent of total accidents. Further, such accidents claimed 17,946 lives in the State at an average of one death in 2.5 accidents as against the National average of one death in 3.72 accidents. The details of causes of road accidents are given in the table below:

(in numbers)

Year	Fault of driver	Fault of cyclist	Fault of pedestrian	Defects in condition of motor vehicle	Defects in road condition	Weather condition	All other causes
2008	4755	60	122	589	740	323	1592
2009	4904	116	140	669	897	378	1783
2010	8800	170	188	105	32	0	118
2011	8899	141	107	81	7	0	163

Year	Fault of driver	Fault of cyclist	Fault of pedestrian	Defects in condition of motor vehicle	Defects in road condition	Weather condition	All other causes
2012	8781	143	90	33	19	10	209
<b>Total</b>	<b>36139</b>	<b>630</b>	<b>647</b>	<b>1477</b>	<b>1695</b>	<b>711</b>	<b>3865</b>

Source: Ministry of Road Transport and Highways and Crime Investigation Department, Crime Branch, Odisha.

It would be seen from the above that 36,139 (80 per cent) out of total 45,164 cases, the road accidents were caused due to fault of drivers. But it was noticed in eight test checked RTOs that no driving license had been cancelled. Accidents occurred due to plying of unfit motor vehicles in 1,477 (3.27 per cent) cases. This indicated that enforcement measures taken up in the State were not adequate.

After Audit pointed this out, Government stated that the enforcement activities were weak due to large scale vacancies of enforcement staff and filling up of the vacancies is underway. In connection with accident cases, Government stated that the cases are first registered by Police Department; whenever Police Department writes to Transport Department, Transport Department initiates action against the drivers at fault.

#### **5.4.10.3 Non-functioning of State Road Safety Council and District Road Safety Committees**

As per Section 215(2) and (3) of the MV Act, 1988 a State Government may by notification in Official Gazette, constitute a Road Safety Council for the State and District Road Safety Committee for each district to advise on all matters pertaining to planning and co-ordination of policies, practices, standards of safety in road transport sector, formulate and recommend road safety programmes, suggest areas for research and development to improve road safety and oversee and monitor road safety measures undertaken in the State/ districts. Accordingly, Government in Transport Department in their Gazette Notifications (Extraordinary) of 18 June 2001 and 17 April 2002, constituted a State Road Safety Council (SRSC) for the State and District Road Safety Committees (DRSC) for each district respectively.

Audit noticed that though the SRSC and DRSCs were constituted during 2001 and 2002, those were not formed till February 2010. On the basis of decision taken in Transport Development Council meeting held on 5 February 2010 emphasising the above provisions of MV Act, TC, Odisha instructed (April 2010) all the Collectors to form DRSCs in respective districts within two months. It was noticed that though DRSCs were formed in 2010 in all districts, their activities were however confined to observing 'Road Safety Weeks' only. SRSC was not formed till the date of audit.

Government stated that the Transport Department had formulated State Road Safety Council. The District Road Safety Committees have been formed at the district level except Malkangiri. All RTOs have been requested to follow the instructions issued by the Government in this regard. Besides, Government have formulated action plan for implementation of a scheme on road safety clubs in which the District Road Safety Committees are required to play an important role.

**5.4.10.4 Non-provision of funds by the Department for creating public awareness through observance of Road Safety Week**

Road Safety Weeks (RSW) are observed throughout the country during the first week of January every year. In Odisha, various activities such as movement of Prajnapana Rath (Advertisement Chariot) on road safety; street plays and cycle rallies etc. and quiz competitions; debate competitions etc. among the school and college students were organised by RTOs. Audit noticed that during the period 2008-13, though programmes of the RSWs were prepared by the STA and concerned DRSCs, yet no funds for the purpose were allocated by Government. The expenditures incurred for RSW were met by Odisha Road Safety Society (ORSS), a Non-Government Body. Despite RSW being a National programme for educating people on road safety, absence of provision of funds for the same in the annual budget of State Government indicated that road safety measures were not given priority by the Department. Further, RSWs were being observed neither fixing any target for educating drivers and other road users on road safety nor evaluation of the impact of such RSWs had been made.

A comparison of number of road accidents occurred in the State in the month before and during the month of observance of such RSWs, showed that road accidents increased during the month in which RSWs were observed (except January 2012 in which 23<sup>rd</sup> RSW was held) as compared to previous months indicating that the observance of RSWs had no significant impact in creating awareness among the people on road safety. The details are given below:

Name of Road Safety Week	Period during which observed	Number of road accidents occurred before observance		Number of road accidents occurred during the month of observance	
20 <sup>th</sup> RSW	1 <sup>st</sup> week of January 2009	December 2008	710	January 2009	766
21 <sup>st</sup> RSW	1 <sup>st</sup> week of January 2010	December 2009	800	January 2010	841
22 <sup>nd</sup> RSW	1 <sup>st</sup> week of January 2011	December 2010	759	January 2011	824
23 <sup>rd</sup> RSW	1 <sup>st</sup> week of January 2012	December 2011	811	January 2012	809

After audit pointed this out Government stated that road safety clubs are now being formed in the Schools and Colleges situated along National Highways (NH)/State Highways (SH) and at vulnerable areas, where awareness programmes are conducted for helping road accident victims. Government further stated that they would also seek the help of Local administration and NGOs for their involvement in creating road safety awareness.

**5.4.10.5 Identification of Accident Prone Areas and remedial measures taken**

Transport Commissioner, Odisha instructed (May 2012) all the RTOs to submit reports on accident prone stretches on National Highways (NH)/ State Highways (SH) under their jurisdiction mentioning length of NH/SH, deployment of cranes and ambulances, reasons of occurrence of accident along with suggestions for remedial measures to be taken.

During test check of records and analysis of information furnished by the Department, Audit noticed that out of eight RTOs test checked, six RTOs had submitted their reports between June 2012 and October 2013 identifying 59 stretches<sup>17</sup> of accident prone areas and suggested some remedial measures such as erection of traffic sign boards, speed limit signals, blocking of cuts in medians, erection of iron guards etc. The remaining two RTOs<sup>18</sup> had not identified any accident prone stretches. However, Audit noticed that the suggested remedial measures were not implemented till the date of audit (August 2014).

After Audit pointed this out, Government stated that for identification of accident prone stretches, RTOs were requested to submit information. Action is being taken to intimate related departments to take remedial measures. RTOs have been provided with funds to display awareness message boards on accident prone areas.

#### **5.4.10.6 Non-establishment of Modernised Vehicles Fitness Inspection and Certification Centre**

For ensuring proper mechanical and structural conditions of transport vehicle and compliance to emission norms from road safety and air pollution point of view, GoO decided (May 2008) to set up Modernised Vehicle Fitness Inspection and Certification Centres throughout the State. GoO decided in principle, to set up a pilot project at Bhubaneswar which was to be replicated in other regions of the State subsequently. The project was to be taken up on a Public Private Partner basis at an estimated cost of ₹ 8.00 crore. The Automotive Research Association of India (ARAI), Pune submitted (October 2008) its technical proposal for consultancy services for the project. TC, Odisha requested (May 2009) the Department for allotment of ₹ 8.00 crore under State Plan as one time capital investment for setting up the project.

From the information collected (May 2014), Audit noticed that Modernised Vehicle Fitness Inspection and Certification Centre was not been established till date as the land allotted for the project was in process of alienation and also funds were not allotted. Thus, the process of establishment of Fitness Inspection and Certification Centre at Bhubaneswar, a pilot project started in 2008 is still to be completed even after lapse of six years.

After Audit pointed this out, Government stated that the proposal submitted by ARAI during 2008 regarding establishment of Modernised Vehicle Fitness Inspection and Certification Centre could not materialise as funds allocated under modernisation head were not sufficient and land was not acquired/selected. Now that proposal to MoRTH, GoI has already been submitted for funding under their scheme for setting up the centre by ARAI and land has been selected and alienated. As soon as this is approved, the centre will come up within one year. In current year 2014-15, funds have been provided in the State plan budget for development of land and construction of compound wall on five acres of land selected for the purpose.

<sup>17</sup> Angul: 28, Bhubaneswar: 7, Cuttack: 5, Ganjam: 6, Kalahandi: 5 and Mayurbhanj: 8.

<sup>18</sup> Keonjhar and Sambalpur.

#### **5.4.10.7 Shortfall in enforcement activities affecting road safety**

The main duties of the officers of the Enforcement Wing are to ensure proper enforcement of the provisions of the MV Act, OMVT Act and Rules made thereunder, by check of vehicles on road. Monthly targets were set for RTOs for detection of cases of over speeding and drunken driving.

Under Section 112 of MV Act, 1988, no person shall drive a motor vehicle or allow a motor vehicle to be driven at any place at a speed exceeding the maximum speed or below the minimum speed fixed for the vehicle. The State Government or any other authority authorised in this behalf by State Government may, if satisfied that it is necessary to restrict the speed of motor vehicles in the interest of public safety or convenience or because of the nature of any road or bridge, by notification in official gazette or by causing appropriate traffic signs to be placed or erected at suitable places fix such maximum/ minimum speed limits as it thinks fit for the motor vehicles or specified class of motor vehicles.

During scrutiny of records, Audit noticed that for detection of over speeding of vehicles and drunken driving cases, interceptors with other equipment were provided (between May 2009 and April 2010) to six<sup>19</sup> out of eight selected RTOs and monthly targets were fixed for them. However, achievements in respect of detection of over speeding and drunken driving cases by the said RTOs were only five to 25 *per cent*.

Audit further noticed the following deficiencies/ shortfalls in enforcing road safety measures:

- Keeping in view the traffic density and local requirement of the twin cities of Bhubaneswar and Cuttack, a Technical Committee under the chairmanship of TC recommended (November 2012) fixing of speed governors in auto-rickshaws with a speed limit of 50 kms per hour. But, no notification by Government has been issued in this regard till date.
- Portable weighbridges were supplied to test checked RTOs except Kalahandi between April and May 2009 for detection of over loading cases. It was noticed that while RTO, Angul achieved only one *per cent* of the target for detection of such cases, other RTOs did not conduct any test.
- Pollution Testing Equipments were supplied to RTOs between November 2009 and August 2010. Audit noticed that while RTO, Mayurbhanj achieved the target and RTO, Keonjhar achieved 32 *per cent* of the target, remaining RTOs did not conduct any test.
- In respect of fixation of Retro Reflective tapes, while achievement of RTOs, Angul, Ganjam, Keonjhar and Sambalpur ranged between four and 32 *per cent*, no initiatives were taken by the remaining test checked RTOs.

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<sup>19</sup> Angul, Bhubaneswar, Ganjam, Keonjhar, Mayurbhanj and Sambalpur.

Achievement of the STA's own enforcement wing in checking of vehicles and issuing VCRs was far below the targets set during the years 2008-13 as the shortfall was ranging between 65 and 85 *per cent*.

Audit noticed that the vehicle population in the State increased by 78 *per cent* in 2012-13 from 2008-09, the number of enforcement staff (men in position) decreased by 32 *per cent* from 122 to 84 during the same period. No steps were taken by the Department to strengthen enforcement activities for road safety.

Government expressed its helplessness due to shortage of enforcement staff and stated that as the filling up of the vacancies is underway, enforcement measures would be stringent in near future.

#### **5.4.10.8 Deployment of Highway Interceptor**

Government of India, MoRTH provided (August 2007) one highway interceptor vehicle fitted with high-tech gadgets for use in road safety activities of the State Government under a pilot scheme. The vehicle was to be used by the Department for various road safety measures such as over speeding, drunken driving, lane jumping, dangerous driving etc. As per the provisions of the scheme, 50 *per cent* of the fines collected from the deployment of interceptor shall be utilised for promotion of road safety activity in the State and cost of operation and maintenance shall be borne by the State Government.

On scrutiny of records relating to deployment of the interceptor, Audit observed that instead of operating the Interceptor it was handed over to Odisha Road Safety Society (ORSS) for use as per the direction of TC-cum-Chairman, STA, Odisha. The TC passed orders that ORSS shall meet the operating cost of the interceptor and in lieu of this, 50 *per cent* of the fees collected would be placed with ORSS to carry out road safety activities. However, Audit noticed that in violation of the GoI guidelines, fines collected from deployment of the interceptor were remitted to the Government Account without allocating 50 *per cent* of the collection for road safety measures thereby defeating the objective of the scheme.

After Audit pointed this out, Government stated that 20 *per cent* of the compounding fees are given as grants-in-aid to ORSS for road safety activities. Government further stated that separate pass book would be opened for specific purpose and earmarked amounts would be utilised accordingly.

#### **5.4.10.9 Non utilisation of Hand held Terminals**

Hand Held Terminals (HHTs) are used by Enforcement Wing of the Department to check the genuineness of the Smart cards, validity of permits, fitness and offences committed earlier etc. by reading the Machine Readable Zone (MRZ) of the smart cards through the Verification Authority (VA) Cards. It also supported writing of challans/ VCR information through Endorsement Authority (EA) Cards.

As mentioned in paragraphs 5.4.11 and 5.4.8.24 of Reports of C&AG for the years ended March 2009 and March 2011 respectively, HHTs supplied for checking of RCs, DLs, tax payment, validity of fitness etc. by the concessioner and certified by the NIC during 2009 were not utilised. Further, test check of records of eight RTOs, Audit noticed (May-August 2014) that HHTs were also found unused as password for operation of VA cards was not provided or the VA cards were not working. Thus, the objective of creation of a computerised environment for assessment and collection of MV tax etc. could not be achieved.

After Audit pointed this out, Government stated that hand held terminals supplied by Concessionaire were meant for reading vehicle data on chip affixed in the smart card and there was no provision to write in chip by the OMVD officers about offence committed. The compatible software for writing is to be developed by NIC and discussions have already been held with NIC authorities in this regard.

#### **5.4.10.10 Discrepancies in stock of ambulances and cranes**

Government of India, MoRTH supplied 19 cranes and 26 ambulances to STA, Odisha between 2000-01 and 2011-12 to extend immediate help to road accident victims and clearing road blockade on the NHs. MoRTH, GoI directed the Secretary, Transport Department, Odisha for deployment of ambulances and cranes at about 50 kms intervals on National Highways (NHs).

During scrutiny of records of STA, Odisha, Audit noticed (May 2014) that as against the receipt of 19 cranes and 26 ambulances, STA distributed 15 cranes and 20 ambulances to various organisations such as Truck/ Bus Owners' Associations, Police and NGOs between 2001-02 and 2011-12. However, no records of the remaining four cranes and six ambulances were made available to audit. The discrepancies need reconciliation.

After audit pointed this out Government stated that the matter would be reconciled with Government of India.

#### **5.4.10.11 Ineffective ambulance service under 'Accident Helplines'**

Government of Odisha as a part of road safety measure for providing first aid services to road accident victims and shifting them to nearest hospital for medical treatment, started operation of 365 × 24 hours accident helpline with ambulance services during 2011-12. The Department procured 10 air conditioned (AC) ambulances in 2011-12 at a cost of ₹ 66.75 lakh and placed the same at the disposal of State Fire Services in September 2012. As per an agreement made between TC and the Additional Director General of Police, Fire Services, Odisha, the ambulances were to be operated from the premises of road-side Fire Stations. The Operator was required to deploy one staff having adequate knowledge of First-aid in each ambulance in addition to one driver and maintain a log book, a copy of which was to be submitted to the TC within first week of the succeeding month.

Audit observed that the operator (fire service wing) did not deploy any medical or paramedical staff in the ambulances. Further, as Log books of vehicles were not submitted to TC, the same could not be made available to audit. Thus Audit could not ascertain, whether the ambulances were actually utilised for the intended purposes.

After Audit pointed this out, Government stated that as per the agreement made between State Fire Service and STA, ambulances were handed over to the selected highway-side Fire Stations. The IG of Police, Fire Service intimated that they do not have paramedical staff. They have requested to engage contractual staff and their payment will be made out of ORSS fund.

#### 5.4.10.12 Modernisation of Luhurachati Unified Check Gate

Government of Odisha in Commerce and Transport (Transport) Department entered into a tripartite agreement with the Electronics Corporation of India Ltd. (ECIL) and the Finance Department on 26 November 2010 for modernisation of Luhurachati Unified Check Gate (LUCG) by constructing separate lanes for different types of traffic, automatic data capture, installation of modern weigh bridges, improvement of processes, improvement for facilities for truckers etc. to enhance revenue, transparency and facilitating smooth flow of traffic there by reducing waiting time for the vehicles. The project was commissioned on 1st December 2012 with a total cost of ₹ 6.66 crore.

During scrutiny of the records of LUCG and joint physical verification (August 2014) of various installations, Audit noticed the following deficiencies:

- Three out of four Weigh in Motion (WIMs) were not in operation since 28 September 2013 due to damage caused by lightning. Vehicles in these lanes were being allowed to pass by verifying the required documents manually as there was no alternative arrangement for weightment of vehicles.
- Physical verification revealed that the signaling systems/ boom barriers at the entry of lanes were completely damaged.
- Installations made by ECIL at the LUCG faced frequent break downs causing congestion of traffic and creating law and order situations. The WIMs also did not exhibit correct readings sometimes.



Non-functional weighbridges with damaged installations



Abandoned mechanical weigh bridge



Damaged boom barrier in the back of defective signalling system

- No provision had been made in the computerised system to record photos and registration marks of vehicles thereby giving scope to staff of vehicles to pass the gate by showing duplicate RCs, DLs, Permits, waybills and tax particulars etc.
- Online interlinking of all check gates through network connectivity for better tracking of out to out vehicles that load/ unload goods within the boundary of Odisha without informing concerned authorities was not made.
- LUCG was not connected online with RTOs and STA, State Register, National Register or any other agency for monitoring/ sharing of data; for which all the documents of the vehicles such as Permits, RCs, Fitness, Insurance, driving licences etc. were being examined manually by the Government official deployed at the UCG. Thus, existence of such manual intervention in a computerised environment due to absence of real time network connectivity with other agencies rendered the computerised system less effective.

After Audit pointed this out, Government stated (November 2014) that after modernisation of Luhurachati check gate, it was functioning normally, but not now. As reported by the project executor, ECIL, the control units have been damaged due to lightening and parts are being imported from UK to make it functional. The Data Centre at STA is functioning and linked through MPLS connectivity to Luhurachati check gate.

However, as per clause 7.11 of Agreement dated 26 November 2010 warranty for maintenance of the infrastructure was three years. Hence the damaged Infrastructure could have been replaced/repared by ECIL since the warranty period has not lapsed.

#### **5.4.11 Internal Control Mechanism**

**5.4.11.1** Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. These also help in creation of reliable financial as well as management information systems for prompt and efficient services and for adequate safeguards against evasion of taxes and duties. It is, therefore, the responsibility of the Department to ensure that a proper internal control structure is instituted, reviewed and updated from time to time to keep it effective.

Audit noticed that non-adherence to the provisions of the Acts and Rules as well as executive instructions remained unnoticed by the field offices due to ineffective control mechanism.

**5.4.11.2** Internal Audit Wing (IAW) in Commerce and Transport (Transport) Department functions under the supervision of Financial Advisor-cum-Additional Secretary to the Department. The IAW scrutinised the accounts of field functionaries and submits its reports to the Department. Planning for audit of field units of the Department is chalked out on annual basis at the headquarters level. Audit noticed that although internal audit system in the department was introduced in 2010, yet no specific guidelines/

standards/ manuals had been prepared by the Department for guidance of Internal Auditors. It was noticed that as against sanctioned posts of one Audit Officer (AO), three Assistant Audit Officers (AAOs) and nine Auditors, there were one AO, two AAOs and two Auditors. The details of number of units planned for audit, number of units audited and units due for audit during the years 2010-13 are given in the table below.

Year	Total number of units	Number of units to be audited annually	Number of units planned for audit	Number of units audited	Units not covered under audit
2010-11	36	36	06	06	30
2011-12	36	36	26	06	30
2012-13	36	36	19	07	29
<b>Total</b>		<b>108</b>	<b>51</b>	<b>19</b>	<b>89</b>

It would be seen from the above that total number of units due for audit could not be planned annually. As against 108 units required to be audited, only 51 units (47 per cent) were planned for audit during 2010-13. Further, only 19 units were audited against 51 units planned for audit. In the last three years (2010-13), 89 units remained unaudited.

Further it was noticed that 113 paras involving an objected amount of ₹ 24.88 lakh for the year 2010-11 to 2012-13 was pending as outstanding till date of audit.

After audit pointed out the shortfalls in audit planning and coverage, Government stated that Internal Audit Wing would cover most of the auditable units in future.

#### 5.4.12 Conclusion

The Performance Audit brought out several deficiencies in classification, assessment and collection of motor vehicle tax as well as road safety measures taken by the Department. There were non/short-realisation of tax due to non-compliance to the provisions of Acts and Rules. The State Road Safety Council constituted as early as in 2001 could not be formed and made functional for effective monitoring of road safety activities. The Department did not have any operational manual and several internal controls in monitoring the system of raising demand and collection of arrear revenue were ineffective.

#### 5.4.13 Recommendations

Government may consider-

- (i) evolving a mechanism to ensure compliance to instructions for scrupulous collection of motor vehicle tax and fees according to the provisions of the Act and Rules made thereunder;
- (ii) making the registering authorities accountable for ensuring compulsory third party insurance of all vehicles by establishing link with database of all registered vehicles on the National Register;

- (iii) enforcing the provisions of the Central Motor Vehicle Rules, 1989 in regard to Pollution under Control Certificates while issuing certificates of fitness in all cases; and
- (iv) taking steps for early formation of State Road Safety Council by an enactment and strict monitoring of fitness of school buses; and evolving a mechanism to ensure that no offenders go unpunished.

### 5.5 Other Audit observations

Audit scrutinised records relating to assessment and collection of Motor Vehicles Tax (MVT) in the offices of the TC-cum-Chairman, STA and the Regional Transport Offices (RTOs) and found several cases of non-observance of provisions of the Acts/Rules and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by Audit. Such omissions are pointed out in audit every year, but not only do the irregularities persist they remain undetected till an audit is conducted. This indicates that the internal control system in the Department is not effective.

### 5.6 Non-compliance of the provisions of the Acts/Rules

*The provisions of the Motor Vehicles (MV) Act 1988, Odisha Motor Vehicles Taxation (OMVT) Act, 1975 and Rules made thereunder provide for levy and collection of:*

- (i) *motor vehicles tax/additional tax by the vehicle owner at the prescribed rate in advance and within the grace period so provided;*
- (ii) *compounding fee from the goods vehicles carrying excess load;*
- (iii) *penalty up to double the tax for belated payment of tax, if the tax is not paid on time within two months after the expiry of the grace period of 15 days;*
- (iv) *One Time Tax (OTT) from goods vehicles of Gross Vehicle Weight (GVW) not exceeding 3000 kgs;*
- (v) *differential tax when a stage carriage is used as a contract carriage;*
- (vi) *additional tax at specified rates from the stage carriages plying on inter State routes;*
- (vii) *tax/additional tax at the highest rate of the slab of the stage carriages if the stage carriage was found plying without permit;*
- (viii) *fitness/ renewal fee and penalty for late application for renewal of goods vehicles;*
- (ix) *composite tax for goods vehicles under reciprocal agreement; and*
- (x) *motor vehicles tax/additional tax for violation of off road declaration.*

*Non-compliance of the provisions of the Act/ Rules in some cases are mentioned in the following paragraphs.*

## 5.6.1 Non/short realisation of motor vehicle tax and additional tax

### 5.6.1.1 Non-realisation of tax in respect of Goods carriages, Contract carriages, Tractor-trailer combinations and Stage carriages

Under Section 3, 3A and 4 (1) of the OMVT Act, 1975, Motor Vehicle tax and additional tax due on a motor vehicle should be paid in advance at the rates prescribed in the Act, unless exemption from payment of such tax is allowed for the period covered by off road undertaking. The rates of tax and additional tax for different class of vehicles are prescribed in the Taxation Schedule-I of the Act. As per Section 13(1) of the Act read with Rule 9(2) of the OMVT Rules, if the tax due in respect of any motor vehicle has not been paid within the grace period of 15 days from the due date of payment, the registered owner or the person having possession or control thereof shall, in addition to payment of tax due, be liable to pay penalty which may extend to twice the tax due in respect of that vehicle. Further, as per the executive instruction (February 1966) of the TC, the RTOs are required to issue demand notices within 30 days from expiry of the grace period for payment of tax.

During analysis of *Vahan* database pertaining to payment of tax and further cross check of records like Permit Registers (PRs) and Off Road Registers (ORRs) of 26 RTOs, Audit noticed (between May 2013 and March 2014) that registered owners of 45,242 vehicles not covered under off-road declarations, did not pay MV tax and additional tax for different periods between April 2012 and March 2013. The RTOs neither issued demand notice nor took any action against the vehicle owners for realisation of tax and imposition of penalty thereon. This resulted in non-realisation of motor vehicle tax and additional tax of ₹ 33.86 crore and penalty of ₹ 67.71 crore. The details are given in the table below:

(₹ in crore)

Sl. No.	Number of RTOs Type of vehicles	Number of vehicles	Amount of tax/additional tax not realised	Penalty leviable	Total
1.	<sup>25</sup> <sub>20</sub> Goods carriages	23,104	24.51	49.02	73.53
2.	<sup>26</sup> <sub>21</sub> Contract carriages	9,234	5.59	11.17	16.76
3.	<sup>26</sup> <sub>22</sub> Tractor-trailer combinations	12,832	3.50 <sup>23</sup>	7.00	10.50
4.	<sup>21</sup> <sub>24</sub> Stage carriages	72	0.26	0.52	0.78
<b>Total</b>		<b>45,242</b>	<b>33.86</b>	<b>67.71</b>	<b>101.57</b>

Source: *Vahan* database.

The RTOs did not monitor this by generating reports from Management Information System (MIS) in *Vahan* database in respect of vehicles which had

<sup>20</sup> Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Boudh, Chandikhol, Cuttack, Dhenkanal, Ganjam, Jharsuguda, Kalahandi, Kendrapara, Keonjhar, Koraput, Malkangiri, Mayurbhanj, Nayagarh, Puri, Rayagada, Rourkela, Sambalpur, Subarnapur and Sundargarh.

<sup>21</sup> List of all RTOs at Sl. No. 1 of the table and RTO, Deogarh.

<sup>22</sup> List of all RTOs at Sl. No. 1 of the table and RTO, Deogarh.

<sup>23</sup> Motor vehicle tax only.

<sup>24</sup> List of all RTOs at Sl. No. 1 of the table except RTOs, Boudh, Kendrapara, Malkangiri and Subarnapur.

defaulted in payment of tax and issuing demand notices to owners of such vehicles for payment of the same.

After Audit pointed out these cases, RTOs concerned assured (between May 2013 and March 2014) they would issue demand notices for realisation of the dues.

Audit brought the matter to the notice of TC-cum-Chairman, STA, Odisha and Government in April and June 2014 respectively. Further replies are awaited (November 2014).

### **5.6.1.2 Short-realisation of tax due to non-adoption of the prescribed rates of tax**

Motor Vehicle (MV) Tax and additional tax in respect of stage carriages are prescribed in item 4 A of the Taxation Schedule-I of the OMVT Act, 1975 and are levied on every motor vehicle at specific rate applicable to the description of motor vehicles and particulars such as distance covered by the vehicle in a day and nature of permit (Express/Ordinary).

During analysis of *Vahan* database pertaining to payment of tax and further test check of PRs, ORRs, permit case records of 19 RTOs<sup>25</sup>, Audit noticed (between May 2013 and March 2014) that though permit parameters like distance covered in a day, nature of permit (express/ ordinary) were changed in respect of 93 stage carriages during the period from April 2012 to March 2013, registered owners of vehicles did not pay MV tax and additional tax at the rates applicable to the changed permit particulars. Audit noticed that the above lapses occurred due to non-integration of taxation particulars of stage carriages with their permit particulars in the computerised system as the permit module of *Vahan* was not made operational and consequently permit details of stage carriages were not captured in *Vahan*. Thus, MV Tax and additional tax of ₹ 7.47 lakh was short realised. Besides, penalty of ₹ 14.94 lakh was also leviable.

After Audit pointed out the cases, all the RTOs concerned assured (between May 2013 and March 2014) issue of demand notices for realisation of the dues.

Audit brought the matter to the notice of TC-cum-Chairman, STA, Odisha in April 2014 and the Government in June 2014. Further replies are awaited (November 2014).

### **5.6.2 Non/Short levy/realisation of motor vehicle tax from Private Service Vehicles**

Under Section 3, 3A and 4 (1) of OMVT Act, 1975, MV tax and additional tax shall be levied on every motor vehicle kept for use and shall be realised at the rates specified in item 5-A of the Taxation Schedule-I of the Act, on the basis of the seating capacity of a Private Service Vehicle (PSV) excluding the driver's seat, unless exemption from payment of such tax is allowed for the period covered by off road undertaking. The tax rate in respect of PSV was

<sup>25</sup> Angul, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

raised by Government from ₹ 270 to ₹ 800 per seat per annum with effect from 14 May 2010. Further, in the event of non-payment of tax within the specified period, the vehicle owner/possessor shall be liable to pay penalty ranging from 25 to 200 *per cent* of the tax due, depending upon the period of delay.

During analysis of *Vahan* database pertaining to payment of tax with cross check of taxation records of 19 RTOs<sup>26</sup>, Audit noticed (between June 2013 and March 2014) that the revised rate of ₹ 800 per seat per annum effective from 14 May 2010 was not adopted by the RTOs for levy and realisation of tax from PSVs. Thus, tax of ₹ 13.51 lakh was not realised from 115 PSVs though these vehicles were not covered by off road undertakings. Audit further noticed that the RTOs collected tax at pre-revised rate of ₹ 270 in respect of 63 PSVs which led to short realisation of tax amounting to ₹ 6.50 lakh. Thus, there was non/short realisation of ₹ 20.01 lakh. Since the period of delay involved in these cases were more than two months, penalty of ₹ 40.02 lakh at the maximum rate was also leviable.

After Audit pointed out, all the RTOs concerned stated (between June 2013 and March 2014) that action would be taken to realise the amount.

Audit brought the matter to the notice of TC-cum-Chairman, STA, Odisha in April 2014 and the Government in June 2014. Their replies are awaited (November 2014).

### **5.6.3 Non disposal of Vehicle Check Reports**

Under Section 194 (1) of MV Act, 1988 read with Government notification of 29 September 1995, whoever drives a motor vehicle or causes or allows a motor vehicle to be driven exceeding the permissible weight shall be punishable with minimum fine of ₹ 2,000 and an additional amount of ₹ 1,000 per tonne of excess load for such offences. The TC, Odisha in July 2005 instructed the RTOs for expeditious disposal of Vehicle Check Reports (VCRs) by issue of notices to the owners or persons having possession or control over the vehicles for compounding the offence, failing which the Certificate of Registration (RC) of the vehicle shall be suspended/ cancelled.

During scrutiny of records such as Miscellaneous Proceeding Registers<sup>27</sup> (MPRs), VCRs and Management Information System (MIS) Reports of *Vahan* of 12 RTOs<sup>28</sup>, Audit noticed (between May 2013 and March 2014) that the Enforcement Wing (EW) of the RTOs issued (between January 1998 and March 2013) VCRs involving fines of ₹ 26.08 lakh in respect of 427 goods carriages for carrying excess loads ranging from 140 kgs to 31,230 kgs beyond the permissible limit. Even after lapse of one to 15 years from the dates of issue of these VCRs, the same were not disposed till the date of audit.

After Audit pointed out these cases, RTOs stated (between June 2013 and March 2014) that steps would be taken to dispose of the pending VCRs.

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<sup>26</sup> Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Rayagada, Rourkela, Sambalpur and Sundargarh.

<sup>27</sup> Miscellaneous Proceedings Register is a register containing details of VCRs issued by the Enforcement Wing (EW) of RTOs and STA and watching its disposal through realisation of fines.

<sup>28</sup> Angul, Balasore, Bhubaneswar, Chandikhol, Cuttack, Jharsuguda, Kalahandi, Keonjhar, Mayurbhanj, Rayagada, Rourkela and Sambalpur.

Audit brought the matter to the notice of TC-cum-Chairman, STA, Odisha in April 2014 and the Government in June 2014. Their replies are awaited (November 2014).

#### **5.6.4 Non/short levy of penalty on belated payment of motor vehicles tax and additional tax**

Under Rule 9 (1) of the OMVT Rules, 1976, due date of payment of tax and additional tax of a vehicle shall be the date of expiry of the period for which tax had been last paid. Under Section 13(1) of OMVT Act, 1975 read with Rule 9(2) of the OMVT Rules, 1976, if the tax is not paid within the grace period of 15 days from the due date, the vehicle owner shall be liable to pay penalty ranging from 25 to 200 *per cent* of the tax due depending upon the period of delay.

During analysis of *Vahan* database pertaining to payment of tax and test check of records of 20 RTOs<sup>29</sup>, Audit noticed, (between May 2013 and March 2014) that tax and additional tax amounting to ₹ 24.94 lakh for different periods between April 1999 and March 2013 was paid between April 2011 and March 2013 in respect of 148 vehicles with delays ranging between one day and 13 years (excluding the grace period of 15 days) from the due date. However, in 110 cases, the RTOs levied penalty of ₹ 10.97 lakh instead of ₹ 36.76 lakh leviable as per applicable rate. This resulted in short levy of penalty of ₹ 25.79 lakh. In the remaining 38 cases, the RTOs did not levy penalty of ₹ 11.35 lakh as per applicable rate.

After Audit pointed out the cases, all the RTOs stated, (between May and December 2013) that demand notices would be issued to realise the dues.

Audit brought the matter to the notice of the TC-cum-Chairman, STA, Odisha in April 2014 and the Government in June 2014. Their replies are awaited (November 2014).

#### **5.6.5 Short realisation of one-time tax on vehicles having gross vehicle weight below 3,000 kgs**

Under Section 4 B of the OMVT Act, 1975, every goods carriage, the Gross Vehicle Weight (GVW) of which does not exceed 3,000 kgs, is liable to pay One Time Tax (OTT) at the time of registration with effect from 14 May 2010, at the rate equal to ten times of the annual tax specified in the Taxation Schedule-I of the Act or five *per cent* of the cost of such vehicle, whichever is higher.

During analysis of *Vahan* database pertaining to payment of tax and test check of taxation records of nine RTOs<sup>30</sup>, Audit noticed (between July 2013 and January 2014) that in respect of 25 vehicles registered after 14 May 2010 and whose GVW did not exceed 3,000 kgs, the RTOs levied and realised tax of ₹ 3.96 lakh only at the annual tax rate instead of OTT of ₹ 6.05 lakh. This resulted in short realisation of tax of ₹ 2.09 lakh.

<sup>29</sup> Angul, Balasore, Bhubaneswar, Bolangir, Boudh, Chandikhol, Cuttack, Dhenkanal, Ganjam, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

<sup>30</sup> Angul, Bhadrak, Bhubaneswar, Bolangir, Kalahandi, Koraput, Malkangiri, Rourkela and Sambalpur.

After Audit pointed out the cases, RTOs concerned stated (between July 2013 and January 2014) that action would be taken to realise the amount.

Audit brought the matter to the notice of TC-cum-Chairman, STA Odisha in April 2014 and the Government in June 2014. Their replies are awaited (November 2014).

#### **5.6.6 Non-realisation of differential tax from stage carriages**

Under Section 6 of OMVT Act, 1975 and Rules made thereunder, when a vehicle, in respect of which tax and additional tax for any period has been paid, is altered during such period or proposed to be used during such period in such manner as to cause the vehicle to become a vehicle in respect of which a higher rate of tax is payable, the registered owner or the person having possession or control of the vehicle shall pay to the Taxing Officer, differential tax of a sum which is equal to the difference between the tax already paid and the tax which is payable in respect of such vehicle for the period for which the higher rate of tax is payable in consequence of the alteration or proposed use, as the case may be. The payment of differential tax shall be made on the date of alteration of use or within a period of 15 days from the due date. Under Section 13(1) of the Act, if such tax is not paid within two months after the expiry of the grace period of 15 days, penalty equal to twice the tax due shall be charged. Stage carriages permitted to ply temporarily as Special Contract carriages are liable to pay tax at the higher rate of ₹ 150 per seat per month.

During analysis of *Vahan* database pertaining to payment of tax and further test check of General Registration Records (GRRs) and Special Permit Registers (SPRs) of 16 RTOs<sup>31</sup>, Audit noticed (between May 2013 and March 2014) that 130 stage carriages were permitted to ply temporarily as Special Contract carriages during different periods (between September 2011 and March 2013) for which higher rate of tax was leviable. Audit further noticed that as against tax of ₹ 10.63 lakh payable in respect of special contract carriage, tax of ₹ 7.43 lakh was paid by the owners of vehicles. The RTOs did not levy the differential tax of ₹ 3.20 lakh on the date of alteration of use of such vehicles by the RTOs. Besides, penalty of ₹ 6.40 lakh was also leviable.

After Audit pointed out the cases, RTOs concerned stated (between May 2013 and March 2014) that demand notices would be issued to realise the Government dues.

Audit brought the matter to the notice of TC-cum-Chairman, STA, Odisha in April 2014 and the Government in June 2014. Their replies are awaited (November 2014).

#### **5.6.7 Non/short realisation of motor vehicle tax and additional tax from Stage carriages plying on inter State routes**

Under item 4 (v) and (vi) of the Taxation Schedule-I of OMVT Act, 1975, where a stage carriage plies on a route partly within the State of Odisha and

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<sup>31</sup> Bhubaneswar, Bolangir, Boudh, Chandikhol, Cuttack, Deogarh, Ganjam, Jharsuguda, Kalahandi, Keonjhar, Mayurbhanj, Nayagarh, Puri, Rourkela, Sambalpur and Sundargarh.

partly within other State in pursuance of any agreement between the Government of Odisha (GoO) and Government of any other State, such stage carriage is liable to pay tax and additional tax calculated on the total distance covered by it on the approved route in the State of Odisha at the rates specified in the above mentioned Schedule. If the payment is not made within two months after the grace period of 15 days, twice the amount of tax and additional tax shall be levied as penalty.

During test check of records of STA, Odisha and RTO, Cuttack, Audit noticed (November 2013) that due to non-adoption of prescribed tax rates, tax and additional tax of ₹ 0.90 lakh was not realised from three stage carriages and ₹ 0.15 lakh was short realised from one stage carriage though these were authorised to ply on inter-state routes with valid permits for different periods between April 2012 and March 2013. Besides, penalty of ₹ 2.10 lakh was also leviable on the above four stage carriages.

After Audit pointed out the cases, TC-cum-Chairman, STA, Odisha issued (November 2013) demand notices in respect of two vehicles and stated (November 2013) that in respect of the other one, action was being taken to issue notices for realisation of the dues. RTO, Cuttack stated (November 2013) that demand notices would be issued for realisation of Government dues.

Audit brought the matter to the notice of TC-cum-Chairman, STA, Odisha (April 2014) and the Government (June 2014). Their replies are awaited (November 2014).

### **5.6.8 Non/short realisation of tax from stage carriages plying without route permits**

As per Section 3 (1) and 3A (1) of OMVT Act, 1975 as amended, MV tax and additional tax in respect of a stage carriage is leviable at the rates prescribed in Schedule-1 of the Act. As per clause-4 of the said schedule and the explanation (ii)(b) thereunder, if a vehicle is detected plying without a route permit granted under the said Act, tax and additional tax payable is to be determined on the basis of the maximum number of passengers which the vehicle is permitted to carry reckoning the total distance covered each day as exceeding 320 kilometres (Express). Further, as per Section 13(1) of the Act read with Rule 9(2) of the OMVT Rules, 1976, if such tax is not paid within two months after expiry of the grace period of 15 days, penalty is to be charged at double the tax due.

During analysis of *Vahan* database relating to issue of permits and payment of tax and further test check of Permit particulars, Enforcement records and ORR of 10 RTOs<sup>32</sup>, Audit noticed (between June 2013 and February 2014) that 37 stage carriages were detected by the enforcement staff of the Department while plying (between April 2012 and March 2013) without route permit. However, Audit noticed that the RTOs did not realise the differential MV tax and additional tax from these vehicles. This resulted in non realisation of MV

<sup>32</sup> Angul, Bargarh, Chandikhol, Ganjam, Cuttack, Dhenkanal, Kalahandi, Keonjhar, Nayagarh and Sambalpur.

tax and additional tax of ₹ 5.40 lakh. Besides, penalty of ₹ 10.80 lakh was also leviable.

After audit pointed this out, RTOs stated (between June 2013 and February 2014) that demand notices would be issued for realisation of the dues.

Audit brought the matter to the notice of the TC-cum-Chairman, STA, Odisha in April 2014 and the Government in June 2014. Their replies are awaited (November 2014).

#### **5.6.9 Plying of Goods vehicles with expired fitness**

Under Section 56 of MV Act, 1988 read with Rule 62 of the Central Motor Vehicles (CMV) Rules, 1989, a transport vehicle shall not be deemed to be validly registered, unless it carries a Certificate of Fitness (FC) issued by the prescribed authority in the prescribed form. The FC in respect of a new transport vehicle shall be valid for two years; otherwise it shall be renewed every year against receipt of prescribed fees for inspection and testing of the vehicles and grant or renewal of FC under Rule 81 of the CMV Rules, 1989. The fee for conducting test of fitness of the vehicles was ranging from ₹ 200 to ₹ 400 per motor vehicle in addition to a fee of ₹ 100 towards grant or renewal of FC. Further, Rule 22(7) of Odisha Motor Vehicles (OMV) Rules, 1993 prescribes a penalty of ₹ 100 for non-filing of application for renewal of FC within the prescribed date.

During analysis of MIS reports in *Vahan* database and further test check of taxation records of 24 RTOs<sup>33</sup>, Audit noticed, (between July 2013 and March 2014) that Certificates of Fitness (FCs) of 7,010 goods vehicles were expired between June 1990 and February 2013. Although the RTOs realised taxes from these vehicles, no steps were taken for renewal of their FCs either by the vehicle owners or any action was initiated by the RTOs. This resulted in loss of Government revenue of ₹ 30.13 lakh towards fitness fee. Besides, penalty of ₹ 7.01 lakh was also leviable.

After Audit pointed out the cases, concerned RTOs stated (between July 2013 and March 2014) that action would be taken to realise the amounts by issuing demand notices.

Audit brought the matter to the notice of TC-cum-Chairman, STA, Odisha in April 2014 and the Government in June 2014. Their replies are awaited (November 2014).

#### **5.6.10 Non-realisation of composite tax for goods vehicles under reciprocal agreement**

As per the notification of GoO issued in November 2008 in pursuance of the reciprocal agreement between GoO and Government of Andhra Pradesh (AP) under Section 88(5) of the MV Act, 1988, goods vehicles belonging to AP and

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<sup>33</sup> Angul, Balasore, Bargarh, Bhubaneswar, Bhadrak, Bolangir, Boudh, Chandikhol, Ganjam, Cuttack, Deogarh, Dhenkanal, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Puri, Rayagada, Rourkela, Sambalpur, Subarnapur and Sundargarh.

authorised to ply in Odisha were required to pay composite tax of ₹ 5,000 per vehicle annually for entry into the State. The tax was payable in advance on or before the 15th April each year to the STA, Odisha through STA, AP.

During test check of PR and Tax Payment Register of STA, Odisha, Audit noticed (November 2013) that composite tax amounting to ₹ 29.20 lakh in respect of 584 goods vehicles of AP authorised to ply in Odisha on the strength of valid permits under the reciprocal agreement during 2012-13, was not realised even though the same was required to be realised by 15 April 2012.

After Audit pointed this out, STA, Odisha stated in November 2013 that the STA, AP would be requested to transmit the Bank Drafts relating to the goods vehicles.

Audit brought the matter to the notice of TC-cum-Chairman, STA, Odisha in February 2014 and the Government in June 2014. Their replies are awaited (November 2014).

#### **5.6.11 Non-realisation of motor vehicles tax and additional tax for violation of off road declaration**

Under Section 3, 3A and 10 of the OMVT Act, 1975, motor vehicles tax and additional tax is to be levied on every motor vehicle used or kept for use in the State of Odisha unless prior intimation of non-use of the vehicle is given to the Taxing Officer (TO). If, at any time, during the period covered by off road declaration, the vehicle is found to be plying on the road or not found at the declared place, it shall be deemed to have been used throughout the said period without payment of tax. In such a case, the owner of the vehicle is liable to pay MV tax and additional tax and penalty as applicable for the entire period for which it was declared off road.

During test check (between June 2012 and February 2014) of records of six RTOs<sup>34</sup>, Audit noticed that the enforcement staff of the Department detected (between January 2012 and March 2013) 16 vehicles which have violated their off-road declarations. While three vehicles were plying on road, 13 vehicles were not found at the declared places during off-road period. However, the RTOs did not take any action for realisation of MV tax and additional tax along with penalty thereon for violation of off road declaration. This resulted in non-realisation of MV tax and additional tax of ₹ 4.22 lakh and penalty of ₹ 8.44 lakh.

After Audit pointed this out, RTOs concerned stated (between June 2013 and February 2014) that demand notices would be issued to realise the dues.

Audit brought the matter to the notice of the TC-cum-Chairman, STA, Odisha in April 2014 and the Government in June 2014. Their replies are awaited (November 2014).

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<sup>34</sup> Bhubaneswar, Dhenkanal, Ganjam, Koraput, Mayurbhanj and Rayagada.

## **5.7 Non-compliance of Government notification/decision**

*Government decisions notified on 24 January 2003 prescribe payment of process fee at the prescribed rate. Non-compliance of the above decisions in the following cases as mentioned in the following paragraph resulted in non-realisation of process fee.*

### **5.7.1 Non-realisation of process fees**

As per Motor Vehicle (MV) Act, 1988 read with clause (xvi) of the amended sub-Rule (2) of Rule 48 of the OMV Rules and Government notification dated 24 January 2003, process fee of ₹ 100 is realisable on every application/objection filed with effect from 28 January 2003. The Department, by an order of March 2003, however, postponed the collection of fees at the rates prescribed in the notification.

During test check of PRs and other connected records of the STA, Odisha and 24 RTOs<sup>35</sup>, Audit noticed (between June 2013 and March 2014) that process fees of ₹ 1.05 crore were not realised in 1,05,448 cases of application/objection processed between April 2012 and March 2013.

After Audit pointed this out, STA, Odisha, and the RTOs stated (between May 2013 and March 2014) that collection of fees was postponed in view of the Government letter dated 7 March 2003. The reply is not tenable as executive orders cannot overrule the statutory provisions. Despite repeated observations in earlier Audit Reports, the Government neither implemented the provisions of the notification of January 2003 for realisation of the fees nor took steps to amend the Orissa Motor Vehicle Rules, 1993 as envisaged in the order of March 2003.

Audit brought the matter to the notice of TC-cum-Chairman, STA, Odisha in April 2014 and the Government in June 2014. Their replies are awaited (November 2014).

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<sup>35</sup> Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Boudh, Chandikhol, Cuttack, Dhenkanal, Deogarh, Ganjam, Jharsuguda, Kalahandi, Kendrapara, Keonjhar, Koraput, Malkangiri, Mayurbhanj, Nayagarh, Puri, Rourkela, Sambalpur and Sundargarh.

## CHAPTER - VI

### MINING RECEIPTS

#### 6.1 Non tax revenue administration

Assessment and collection of mining receipts are regulated by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the Mineral Concession (MC) Rules, 1960, Mineral Conservation and Development (MCD) Rules, 1988 and Odisha Minerals, Prevention of Theft, Smuggling and Illegal Mining and Regulation of possession, Storage, Trading and Transportation (OM) Rules, 2007 framed there under. The above Act/Rules are administered by Director of Mines, Odisha under the overall supervision of Principal Secretary to Government in the Department of Steel & Mines. He is assisted by the Deputy Directors of Mines (DDM) and Mining Officers at the Circle levels who are the assessing authorities (AAs) of mining receipts like royalty, dead rent fees and fines etc. on raising and removal of minerals.

#### 6.2 Internal Audit

Audit noticed that though programme for the year 2013-14 had been chalked out for the Internal Audit Wing of the Director of Mines, Odisha (DMO) for auditing of accounts of circle offices, no audit was conducted. The Department did not furnish the position of outstanding paras of earlier Inspection Reports pending for disposal as on 31 March 2014 although asked for.

#### 6.3 Results of audit

In 2013-14, test check of the records of 11 units relating to the Steel & Mines Department showed non/short receipts of Government Revenue and other irregularities amounting to ₹ 3,482.86 crore in 248 cases which fall under the following categories as indicated in Table below.

##### A. REVENUE RECEIPTS

Sl. No.	Categories	(₹ in crore)	
		Number of cases	Amount
1	Non/short receipts of Government revenue under Government account	64	1,364.66
2	Other irregularities	184	2,118.20
<b>Total</b>		<b>248</b>	<b>3,482.86</b>

During the course of the year 2013-14, the Department accepted under assessment and other deficiencies of ₹ 2,200.22 crore in 162 cases which was pointed out in earlier years. An amount of ₹ 3.03 crore was realised in 133 cases during the year 2013-14. A few illustrative cases involving ₹ 84.43 crore are discussed in paragraphs 6.5.1 to 6.5.6.

##### B. EXPENDITURE

In 2013-14, test check of records showed irregularities in expenditure/cash management involving ₹ 0.82 crore in 37 cases, which fall under the following categories.

(₹ in crore)			
Sl. No.	Subject	No. of cases	Amount
1.	Non/short realisation of arrears house rent/service charges	34	0.08
2.	Non levy of penalty on delayed work	1	0.04
3.	Blockage of funds due to delay in completion of work	2	0.70
<b>Total</b>		<b>37</b>	<b>0.82</b>

During the year, the Department accepted deficiencies of ₹ 0.25 crore in 33 cases pointed out in 2013-14 and realised ₹ 0.11 crore in 17 cases relating to objection raised earlier from the year 2007-08 to 2012-13.

#### **6.4 Audit observations**

Audit scrutinised the records maintained in the office of the DMO, DDMs and Mining Officers (MOs) and noticed cases of non/short levy of royalty, irregular raising of minerals and loss of revenue as mentioned in succeeding paragraphs. These cases are illustrative and are based on a test check carried out by Audit.

#### **6.5 Non-observance of the provision of Acts/Rules**

*MMDR Act, 1957, MC Rules, 1960, MCD Rules, 1988 read with the notifications and instructions of the State/Central Governments issued from time to time provide for assessment, levy and realisation of*

- *the cost of minerals unlawfully raised without any valid lease as well as over and above the production level of 1993-94 and in excess of the permissible limit when it is already disposed of;*
- *the cost of minerals unlawfully extracted, removed, transported etc., by seizure and disposal of same under orders of competent Court of Law;*
- *royalty at prescribed rates against different grades of minerals from the leaseholders of mines; and*
- *royalty on unprocessed mineral in case of processing of mineral other than Run-of-Mine (RoM) minerals.*

*Non-observance of the above provisions are mentioned in the following paragraphs.*

### 6.5.1 Non-realisation of cost of coal extracted beyond the approved plan

Under Section 4 of MMDR Act, 1957, no person shall undertake any mining operation in any area except under and in accordance with the terms and conditions of a mining lease granted under the Act or the rules made there under. Rule 13 of the MCD Rules, 1988 provides that every holder of a mining lease shall carry out mining operations in accordance with the approved mining plan with such conditions as may have been prescribed. Under Section 21(5) of MMDR Act, 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 when such mineral has already been disposed of, the cost price thereof along with royalty.

During test check of records of DDM, Talcher, Audit noticed (December 2013) that as per the mining plan of Bhubaneswari Open Cast Project (BOCP) of M/s. Mahanadi Coalfields Limited (MCL) approved by the GoI, Ministry of Coal (MoC), the approved quantity of production of coal for 2012-13 was 17.50 million tonne. Audit however, noticed that MCL produced 18.10 million tonne of coal from BOCP during 2012-13. As such, six lakh tonne of coal extracted in excess from the mines was to be recovered from MCL. Audit noticed that the DDM neither recovered the excess coal so produced nor realised ₹ 33.02 crore towards the cost price of the coal worked out at the prevailing minimum rate of ₹ 550 per tonne.

After Audit reported (July 2014) the matter, Government stated (October 2014) that during 2012-13, MCL had actually extracted 17.93 million tonne grade V coal out of which Grade IV coal of 0.17 million tonne was generated. Government further stated that the production limit of BOCP for 2012-13 was later revised (February 2014) to 18.00 million tonne by GoI, Ministry of Coal and as such the production was within the approved limit. However, the fact remains that MCL had disclosed production of 18.10 million tonne showing Grade IV coal of 0.17 million tonne and Grade V coal of 17.93 million tonne separately. Further, the revised production schedule approved in February 2014 is applicable from 2013-14 onwards and not for 2012-13 as there is no provision in the Act and rules for revision of production limit retrospectively.

### 6.5.2 Short-levy of royalty on bauxite

Under Second Schedule of the MMDR Act, 1957, royalty on bauxite produced and despatched for use in alumina and aluminium metal extraction is leviable at the rate of 0.50 *per cent* of London Metal Exchange Aluminium metal price chargeable on the contained aluminium metal ( $Al_2O_3$ ) in ore. For Bauxite or Laterite ore despatched for use in alumina and aluminium metal extraction or despatched to alumina or aluminium metal extraction industry within India, Rule 64-D of the MC Rules, 1960 substituted vide Notification dated 10 December 2009 provide for computation of royalty. As per the said Rules, the total contained alumina in the bauxite or laterite on dry basis produced during a period as per statutory monthly return shall be considered for the purpose of computing royalty in the first place and then royalty shall be computed as

percentage of average monthly price for the contained aluminium metal in the said alumina content of the ore published by the Indian Bureau of Mines (IBM) as per the formula prescribed. As per the proviso to Rule 10 (7) of the Odisha Minerals (Prevention of Theft, etc.) Rules (OM Rules), 2007, in case of fully mechanised mines, if the lessee declares to pay highest rate of royalty as prescribed under the Second Schedule of MMDR Act, stacking and sampling as provided under Sub-Rules (6) and (7) of the above Rules shall be dispensed with.

During test check of assessment records and returns of DDM, Koraput, Audit noticed (December 2012 and November 2013) that the DMO, in consideration of full mechanisation of a mine<sup>1</sup>, exempted the lessee from stacking and sampling of bauxite with effect from August 2012 on the condition that the lessee would pay highest rate of royalty as prescribed under the Second Schedule of the MMDR Act, 1957. According to guidelines issued under 64-D(iv) of the MCR, the highest rate of royalty on bauxite is linked with aluminium content ( $Al_2O_3$ ) in bauxite despatched during the period for which royalty is computed. Audit noticed that the lessee despatched 38.79 lakh tonne of bauxite during August 2012 to March 2013 and paid royalty of ₹ 48.43 crore based on the monthly average of aluminium content ( $Al_2O_3$ ) in the ore instead of royalty of ₹ 55.44 crore payable on highest  $Al_2O_3$  content. The DDM also while assessing the royalty, accepted the same. This resulted in short levy of royalty of ₹ 7.01 crore.

Audit further noticed that Transit permit for removal of ore was issued to the lessee for the first time in June 2012 and the said permits did not contain stack number and report of Senior Inspector of Mines certifying the grades of minerals. Since grades of bauxite were not determined by stacking and sampling, the lessee was required to pay royalty at the highest rate prior to August 2012 also. But, the lessee paid royalty of ₹ 84.86 crore on bauxite of 65.43 lakh tonne despatched during the period from April 2011 to July 2012 basing on monthly average aluminium content ( $Al_2O_3$ ) in the ore instead of royalty of ₹ 98.06 crore payable on highest  $Al_2O_3$  content. DDM, while assessing the royalty, accepted the same. This resulted in short-levy of royalty of ₹ 13.20 crore.

After Audit reported (July 2014) the matter, Government stated (October 2014) that DDM, Koraput raised demand of ₹ 46.52 crore on the lessee towards differential dues of royalty.

### **6.5.3 Short-levy of royalty on sized coal**

As per notification dated 1 August 2007 of GoI, MoC effective upto 9 May 2012, royalty on coal was a combination of a specific rate and a variable *ad valorem* rate which was five *per cent* of basic pithead price of Run-of-Mines (ROM) coal as reflected in the invoice excluding taxes, levies and other charges. However, with effect from 10 May 2012, MoC revised the rate of royalty on coal to 14 *per cent ad valorem* on price of coal as reflected in the invoice excluding taxes, levies and other charges. Further, as per the price notification of December 2007 of Coal India Limited (CIL) effective upto 15

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<sup>1</sup> Panchapatmali (C&N) Block Bauxite Mines of M/s NALCO Ltd.

October 2009 and subsequent notification in October 2009 effective from 16 October 2009, if the top size of coal is limited to 100 mm through manual or mechanical means, a charge of ₹ 55 and ₹ 61 per tonne respectively shall be added to the price applicable for ROM coal. Under Rule 64(B)(1) of the MC Rules, in case processing of ROM minerals is carried out within the leased area, royalty shall be chargeable on the processed mineral removed from the lease area.

During test check of assessment files, monthly returns of production and despatch in the office of DDM, Talcher, Audit noticed (between November 2010 and December 2013) that one coal mine<sup>2</sup> of MCL processed and despatched 253.54 lakh tonne of sized coal of less than 100 mm during the period from April 2009 to March 2013 and paid royalty at the rate applicable to ROM coal. However, sizing charges at the rate of ₹ 55 per tonne upto 15 October 2009 and ₹ 61 per tonne thereafter were not included in the price of said ROM coal for computation of royalty. Audit noticed that due to non-inclusion of the sizing charges in the price of sized coal, there was short levy of royalty of ₹ 12.20 crore.

After Audit reported (July 2014) the matter, Government stated (November 2014) that DDM, Talcher raised (between October 2011 and October 2014) demand of ₹ 12.20 crore and steps would be taken for realisation of the demanded amount.

#### 6.5.4 Non-levy of royalty on low grade chromite fines

Under Section 9 of the MMDR Act, the holder of a mining lease granted on or after the commencement of the Act shall pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area at the rate for time being specified in the Second Schedule in respect of that mineral. The royalty prescribed in the Schedule was on *ad valorem* basis on the monthly average sale price published by the IBM. In respect of chromite, IBM publishes average sales price both for lumps and fines having 40 *per cent* Cr<sub>2</sub>O<sub>3</sub> and above. GoI, Ministry of Mines on 10 October 2009, notified the threshold value of minerals according to which chrome ore having mineral content of 10 *per cent* and above (Cr<sub>2</sub>O<sub>3</sub>) is saleable.

During test check of assessment records with monthly returns and permission file of DDM, Jajpur Road, Audit noticed (December 2013) that during 2012-13, a lessee issued 7.39 lakh tonne chrome fines having Cr<sub>2</sub>O<sub>3</sub> below 40 *per cent* to its Chrome Ore Beneficiation Plant for production of chrome concentrate. However, chrome ore upto 25 *per cent* Cr<sub>2</sub>O<sub>3</sub> recovered in course of beneficiation was shown as tailing loss by the lessee treating the same as non-saleable sub-grade ore. During 2012-13, the lessee disclosed such tailing loss of 3.34 lakh tonne of chrome ore valued at ₹ 8.07 crore and excluded the same from its closing stock. The Assessing Officer while assessing royalty on chrome ore for the year 2012-13 also ignored the quantity of chrome ore (upto 25 *per cent* Cr<sub>2</sub>O<sub>3</sub>) shown as tailing loss by the lessee for levy of royalty. Further, the Department did not take any action for chemical analysis of the

<sup>2</sup> Lingaraj Open Cast Project (LOCP).

ore shown as loss for determining actual percentage of chrome content for the purpose of royalty. Thus, non-assessment of royalty on 3.34 lakh tonne of chrome ore shown as loss during 2012-13 resulted in short realisation of royalty of ₹ 8.07 crore.

After Audit pointed this out, the DDM, Jajpur Road stated that the lessee had been requested to deposit the amount of ₹ 8.07 crore towards royalty for 2012-13 and after recovery of the same, final compliance would be submitted.

Audit reported the matter to the DMO and the Government in July 2014. Their replies are awaited (November 2014).

### **6.5.5 Short levy of royalty on iron ore due to incorrect assessment**

According to the proviso under Rule 10(7) of OM Rules, in case of a fully mechanised mine, if the lessee declares to pay highest rate of royalty as prescribed under Second Schedule of the MMDR Act, determination of grade of the minerals through stacking and sampling shall be dispensed with after accordance of permission of the DMO. Further, as per Government of Odisha, Steel and Mines Department's order of 7 September 2010, royalty on iron ore fines was to be charged at the rate of lumps on *ad valorem* basis.

During test check of records relating to lease and assessment files of MO, Keonjhar, Audit noticed (February 2014) that stacking and sampling of minerals in respect of one iron ore mines of Odisha Mining Corporation (OMC) was dispensed with by the DMO from August 2012 with the condition that royalty in respect of minerals despatched should be paid at the highest prescribed rate. Audit noticed that OMC despatched 4,02,439 tonne of iron ore of different grades during the period between October 2012 and March 2013. Although royalty of ₹ 23.76 crore was leviable on the average sale price published by IBM for iron ore lumps of highest grade i.e. 65 per cent Fe and above, the MO levied royalty of ₹ 17.82 crore *ad valorem* on the average sale prices of corresponding grades. This resulted in short levy of royalty of ₹ 5.94 crore.

After Audit pointed this out, MO, Keonjhar stated that reply would be submitted after due verification of records.

Audit reported the matter to the DMO in May 2014 and the Government in July 2014. Their replies are awaited (November 2014).

### **6.5.6 Short-levy of royalty on steam coal**

The GoI, Ministry of Energy, Department of Coal, in their notification dated 16 July 1979, clarified that ROM coal comprises of all sizes of coal as it comes out of the mine without any crushing or screening. The fraction of ROM coal as is retained on a screen, when subject to screening or is picked out by a fork-shovel during loading, is called steam coal. The *ad valorem* variable part of royalty is levied as per the price chart notified by CIL from time to time in addition to the fixed part of royalty.

During test check of monthly returns, wagon loading statements and assessment orders of DDM, Talcher, Audit noticed (December 2013) that MCL despatched 22.15 lakh tonne of 'F' grade coal of +100 mm size from its

coal mine between April 2012 and March 2013 and paid royalty of ₹ 18.25 crore at the rate applicable for ROM coal. Coal of +100 mm size is categorised as steam coal since such size is obtained by segregation through a screening process. Hence royalty of ₹ 23.24 crore at the rate applicable to steam coal was leviable on coal of +100 mm size. However, the Assessing Authority, while assessing royalty, adopted the rate applicable to ROM coal which resulted in short levy of royalty of ₹ 4.99 crore.

After Audit reported (July 2014) the matter, Government stated (October 2014) that the DDM, Talcher raised demand for ₹ 4.99 crore on MCL in March 2014 followed by reminder in August 2014 and that steps are being taken to realise the demanded amount.

**Bhubaneswar**  
**The**

**(S.S. DADHE)**  
**Principal Accountant General (E & RSA)**  
**Odisha**

**Countersigned**

**New Delhi**  
**The**

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

# **GLOSSARY**

## GLOSSARY

Abbreviation	Expansion
AA	Assessing Authority
AAOs	Assistant Audit Officers
AC	Air Conditioned
ACCT	Assistant Commissioner of Commercial Taxes
ACTO	Assistant Commercial Tax Officer
ADMs	Additional District Magistrates
AEPs	Annual Excise Policies
AF	Application Fee
AIR	Annual Information Return
AMC	Annual Maintenance Contract
AO	Audit Officer
AP	Andhra Pradesh
ARAI	Automotive Research Association of India
ATNs	Action Taken Notes
AVR	Audit Visit Report
B&OE	Bihar and Odisha Excise
BE	Budget Estimate
BER	Board's Excise Rules
BF	Bottling Fee
BG	Bank Guarantee
BL	Bulk Litre
BMV	Benchmark Value
BOCP	Bhubaneswari Open Cast Project
BOOT	Build Own Operate and Transfer
BOR	Board of Revenue
CA	Concession Agreement
CC	Certified Copies
CCT	Commissioner of Commercial Taxes
CIL	Coal India Limited
C Money	Consideration Money
CMV	Central Motor Vehicles
CrPC	Code of Criminal Procedure
CS	Country Spirit
CST	Central Sales Tax
CST (R&T)	Central Sales Tax (Registration & Turnover)
CTO	Commercial Tax Officer
DAC	Departmental Audit Committee
DBA	Database Administrator
DCCT	Deputy Commissioner of Commercial Taxes
DDM	Deputy Director of Mines

<b>Abbreviation</b>	<b>Expansion</b>
DEOs	District Excise Offices
DIGs	Deputy Inspector General
DMO	Director of Mines, Odisha
DPR	Detailed Project Report
DR	Disaster Recovery
DRs	District Registrars
DRSC	District Road Safety Committee
DSRs	District Sub Registrars
EA	Endorsement Authority
EC	Excise Commissioner
EC	Encumbrance Certificates
ECIL	Electronics Corporation of India Ltd.
EDC	Excise Deputy Commissioner
ENA	Extra Neutral Alcohol
EOs	Excise Officers
ET	Entry Tax
EW	Enforcement Wing
FC	Certificate of Fitness
FL	Foreign Liquor
GoI	Government of India
GoO	Government of Odisha
GPA	General Power of Attorney
GRRs	General Registration Registers
GTO	Gross Turn Over
GVW	Gross Vehicle Weight
HHTs	Hand Held Terminals
HPC	High Powered Committee
IAW	Internal Audit Wing
IBM	Indian Bureau of Mines
IC	Insurance Certificate
IDCO	Industrial Infrastructure Development Corporation of Odisha Ltd.
IDEA	Interactive Data Extraction and Analysis
IF	Import Fee
IGR	Inspector General of Registration
IL&FS	Infrastructure Leasing and Financial Services
IMFL	India Made Foreign Liquor
IPR	Intellectual Property Rights
IPRs	Industrial Policy Resolutions
IR	Inspection Report
IRDA	Insurance Regulatory and Development Authority
IS Act	Indian Stamp Act

Abbreviation	Expansion
ITC	Input Tax Credit
ITL	IL&FS Technologies Ltd.
JCCT	Joint Commissioner of Commercial Taxes
JIG	Joint Inspector General
LCD	Liquid Crystal Display
LF	Licence Fee
LMVs	Light Motor Vehicles
LOI	Letter of Intent
LPL	London Proof Litre
LRF	Label Registration Fee
LSP	Liquor Sourcing Policy
LUCG	Luhurachati Unified Check Gate
MC	Mineral Concession
MCD	Mineral Conservation and Development
MCL	Mahanadi Coalfields Limited
MGQ	Minimum Guaranteed Quantity
MIS	Management Information System
MMDR Act	Mines and Minerals (Development and Regulation), Act
MMP	Mission Mode Project
MoA	Memorandum Of Association
MoC	Ministry of Coal
MoRTH	Ministry of Road Transport and Highways
MOs	Mining Officers
MPRs	Miscellaneous Proceeding Registers
MRZ	Machine Readable Zone
MS	Mild Steel
MV	Motor Vehicle
MVG	Market Value Guidelines
MVIs	Motor Vehicle Inspectors
MVT	Motor Vehicles Tax
NeGP	National e-Governance Plan
NH	National Highways
NIC	National Informatics Centre
NLRMP	National Land Record Modernisation Programme
NOC	No Objection Certificates
OA	Odisha Amendment
OCAC	Odisha Computer Application Centre
OEEP	Odisha Excise Exclusive Privilege
OeSL	Odisha e-Governance Services Limited
OET	Odisha Entry Tax
OIC	Officer-In-Charge

<b>Abbreviation</b>	<b>Expansion</b>
OM Rules	Odisha Minerals (Prevention of Theft, etc.) Rules
OMC	Odisha Mining Corporation
OMV	Odisha Motor Vehicles
OMVT	Odisha Motor Vehicles Taxation
ORRs	Off Road Registers
ORSS	Odisha Road Safety Society
OSBC Ltd.	Odisha State Beverage Corporation Limited
OSRTC	Odisha State Road Transport Corporation
OS Rules	Odisha Stamp Rules
OST	Odisha Sales Tax
OSWAN	Odisha State Wide Area Network
OTT	One Time Tax
OVAT	Odisha Value Added Tax
PA	Performance Audit
PAC	Public Accounts Committee
PAG	Principal Accountant General
PPP	Public Private Partnership
PR	Permit Register
PSV	Private Service Vehicle
PUCC	Pollution under Control Certificate
R&DM	Revenue & Disaster Management
RA	Registering Authority
RC	Certificate of Registration
RF	Registration Fee
RLW	Registered Laden Weight
ROM	Run-of-Mine
RSW	Road Safety Weeks
RTO	Regional Transport Officers
SARFAESI Act	Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002
SD	Stamp Duty
SE	Superintendent of Excise
SED	State Excise Duty
SH	State Highways
SLA	Service Level Agreement
SMS	Short Messaging Service
SPRs	Special Permit Registers
SPV	Special Purposes Vehicle
SRO	Sub-Registrar Office
SRs	Sub Registrars
SRSC	State Road Safety Council
STA	State Transport Authority

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<b>Abbreviation</b>	<b>Expansion</b>
STAT	State Transport Appellate Tribunal
SWAN	State Wide Area Network
TC	Transport Commissioner
TF	Transportation Fee
TIN	Taxpayers' Identification Number
TO	Taxing Officer
TR	Tax Recovery
TROs	Tax Recovery Officers
TTO	Taxable Turnover
UC	User Charges
UCGs	Unified Check Gates
UCs	Utilisation Certificates
UF	Utilisation Fee
ULW	Unladen Weight
VA	Verification Authority
VATIS	Value Added Tax Information System
VCRs	Vehicle Check Reports
WIM	Weigh in Motion