



सत्यमेव जयते

**Report of the  
Comptroller and Auditor General of India  
on  
Revenue Sector  
For the year ended 31 March 2014**



**Government of West Bengal**

**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 West Bengal 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 West Bengal under the Economic and Revenue Services, including Finance Department, Excise Department, Land and Land Reforms Department and Transport Department. However, Departments relating to Economic Sector as well as General and Social Sector are excluded and covered in separate reports.

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; instances relating to the period subsequent to 2013-14 have also been included, wherever necessary.

Audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.



# OVERVIEW



## OVERVIEW

### I. General

This Report contains 37 paragraphs including two Performance Audits relating to under-assessment/ non-realisation/ loss of revenue etc. involving ₹ 632.75 crore. Some of the major findings are mentioned in the following paragraphs:

- The total receipts of the Government for the year 2013-14 increased to ₹ 72,881.79 crore from ₹ 68,295.75 crore in the previous year. 52 per cent of the total revenue collected in 2013-14 was raised by the Government through tax revenue (₹ 35,830.56 crore) and non-tax revenue (₹ 2,022.72 crore). The balance 48 per cent was received from the Government of India as the State's share of net proceeds of divisible Union taxes (₹ 23,175.02 crore) and Grants-in-aid (₹ 11,853.49 crore).

(Paragraph 1.1.1)

- As on 30 June 2014, 882 inspection reports issued upto December 2013 containing 3,997 audit observations involving ₹ 1,472.12 crore were outstanding for want of response or final action by the concerned departments.

(Paragraph 1.6)

- Test check of records of sales tax/value added tax, land revenue, transport, state excise, stamp duty and registration fees, profession tax, electricity duty, amusement tax, other tax and non-tax receipts conducted during the year 2013-14 indicated under-assessment/ short levy/ loss of revenue amounting to ₹ 735.95 crore in 1,797 audit observations. During the course of the year, the departments accepted under-assessment of ₹ 177.72 crore in 895 audit observations and recovered ₹ 3.65 crore at the instance of audit.

(Paragraph 1.10)

### II. Value Added Tax

- A Performance Audit on “Assessment, Levy and Collection of Value Added Tax from Works Contractors” revealed the following:

- Failure on the part of Directorate of Commercial Tax (DCT) to monitor deduction of tax at applicable rates from payments made to 30 works contractors with cancelled certificates of registration resulted in short deduction of tax of ₹ 0.78 crore.

(Paragraph 2.4.7.1)

- In the absence of a system for cross verification of data available with the STDS Cell with the returns/assessment status filed by 111 works contractors, the AAs failed to detect non/short disclosure of Contractual Transfer Price (CTP) in returns with consequent evasion of tax of ₹ 5.82 crore.

(Paragraphs 2.4.7.2, 2.4.7.3 and 2.4.7.4)

- Absence of a system to detect non-deduction of tax from payments made to dealers for execution of works contracts resulted in non-deduction of tax at source of ₹ 0.65 crore.

**(Paragraph 2.4.8)**

- In the absence of a provision for levy of interest on delayed deposit of Tax Deducted at Source (TDS) into Government Treasury, 36 persons in 112 cases made delays ranging between 20 days to two years and six months in depositing tax deducted at source.

**(Paragraph 2.4.9.1)**

- In the absence of a provision to impose late fee on delayed submission of TDS certificates in Form 18 and scrolls in Form 19, compliance of the provisions of the Act for filing such returns within the prescribed time limit could not be enforced in 72 cases against 17 contractees.

**(Paragraph 2.4.9.2)**

- In assessing 45 cases of 40 works contractors for the assessment periods between 2006-07 and 2010-11, CTP was determined short of payments as per TDS allowed in assessment/returns/books of accounts resulting in short determination of CTP of ₹ 592.01 crore with consequent short levy of tax of ₹ 33.02 crore.

**(Paragraphs 2.4.11.1 and 2.4.11.2)**

- In assessing 17 cases of 12 dealers, deductions towards labour, service and other like charges and payments to sub-contractors were incorrectly allowed for ₹ 1,969.71 crore against deductions allowable for ₹ 606.66 crore resulting in short determination of taxable CTP of ₹ 1,361.18 crore with consequent short levy of tax of ₹ 131.62 crore.

**(Paragraph 2.4.15.3)**

- Due to short determination of turnover of sales, there was short levy of tax of ₹ 10.01 crore in 35 cases.

**(Paragraph 2.5)**

- Application of incorrect rate of tax resulted in short levy of tax of ₹ 2.66 crore in 18 cases.

**(Paragraph 2.6)**

- In 19 cases Assessing Authorities (AAs) allowed ITC to the dealers without thorough scrutiny of the accounts and without cross-checking the status/accounts of the selling dealers which resulted in irregular allowance of ITC of ₹ 1.59 crore.

**(Paragraph 2.7)**

- Non/short levy of interest on non/short payment of tax by prescribed/specified dates and on disallowed claim of ITC resulted in non/short levy of interest of ₹ 10.75 crore in 55 cases.

**(Paragraph 2.9)**

- Failure of the Department to realise the disallowed remission resulted in non-realisation of tax of ₹ 52.44 crore in one case.

**(Paragraph 2.10)**

- Computation mistakes/omissions on the part of AAs resulted in short levy of tax of ₹ 2.45 crore in 12 cases.

**(Paragraph 2.14)**

### III. Land Revenue

- Non-initiation of any action to realise the dues from defaulting *raiyyats* and application of rates lower than the prescribed rates resulted in non/short realisation of rent, cess and surcharge of ₹ 9.26 crore in 1,259 cases.

**(Paragraph 3.4)**

- Failure of the Department to settle the land through lease with six unauthorised occupants within the prescribed time-limit resulted in non-realisation of rent and *salami* of ₹ 4.55 crore.

**(Paragraph 3.6)**

### IV. Motor Vehicles Tax

- VAHAN software was not customised to make the field “audio fee” mandatory for realisation of the due audio fees at the time of payment of road tax which resulted in non-realisation of audio fee of ₹ 1.83 crore from the owners of 52,150 audio fitted vehicles.

**(Paragraph 4.4)**

- Non-mapping of provisions in the VAHAN software regarding realisation of fee for Certificate of Fitness at the rate of 150 *per cent*, resulted in short realisation of fitness fee of ₹ 1.04 crore in cases of 68,089 vehicles.

**(Paragraph 4.5)**

- Although provided in VAHAN for generation of list of defaulters, concerned RAs did not monitor defaults and did not issue demand notices to the owners for realisation of dues which resulted in non-realisation of tax, additional tax, penalty and special fee of ₹ 125.68 crore from 2,16,217 defaulter vehicles.

**(Paragraph 4.10)**

- Owners of 69,390 air-conditioned vehicles did not pay special tax and penalty of ₹ 20.77 crore.

**(Paragraph 4.11)**

### V. Stamp Duty and Registration Fees

- Incorrect mapping of business rules in the CORD software resulted in short levy of stamp duty of ₹ 1.42 crore in 452 cases.

**(Paragraph 5.4)**

- Undervaluation of properties by furnishing incorrect property details led to evasion of stamp duty and registration fees of ₹ 94.37 lakh in 307 cases.

**(Paragraph 5.6)**

## **VI. Other Tax Receipts**

A Performance Audit on “**Administration of Taxes under various Acts by Directorate of Agricultural Income Tax in West Bengal**”, revealed the following:

- Weakness in tax administration in respect of Agricultural Income Tax resulted in non-inclusion of 1,274 tea gardens having an area of 61,632 acres of land into the tax net.

**(Paragraph 6.3.8)**

- Absence of a system of cross verification of information with other sources resulted in non-inclusion of 1,849 omnibuses, 364 AC restaurants, 58 AC hotels and 54 AC banquet halls into the tax net and consequent non-realisation of ₹ 85.29 lakh.

**(Paragraph 6.3.14)**

- Absence of a system to monitor the compliance of the Appellate orders resulted in non-realisation of revenue of ₹ 39.63 lakh.

**(Paragraph 6.3.15)**

- Due to limited application of provision for taxation on complimentary tickets, the Government had to forgo ₹ 9.43 crore in sports/amusement events.

**(Paragraph 6.3.17)**

- Absence of a time limit for assessment resulted in non assessment of 1,083 cases of 255 Cable operators/Multi System Operators/Cinema halls and consequent non-realisation of ₹ 100.78 crore.

**(Paragraph 6.3.18)**

- Undue delay in initiation of recovery proceedings resulted in non-realisation of revenue of ₹ 11.16 crore in 438 cases of 229 cinema halls/parks, hotels and restaurants, tea gardens and cable operators.

**(Paragraph 6.3.19)**

- Absence of a time limit for disposal of appeal cases resulted in non-disposal of 3,519 appeal cases in which amount of ₹ 18.91 crore was blocked in 1,571 cases. Out of 3,519 appeal cases, 3,299 cases were pending for more than five years.

**(Paragraph 6.3.21)**

- Deficiencies in the Internal Control Mechanism like absence of an effective Internal Audit Wing, Manual on office procedures,

mechanism to monitor compliance of instructions/orders, adequate infrastructure and proper record keeping were noticed.

**(Paragraph 6.3.23)**

## VII. Mines and Minerals

- Two DL&LROs did not levy penalty for short extraction of 170.34 lakh cu ft of sand in 34 cases resulting in non-realisation of revenue of ₹ 2.15 crore.

**(Paragraph 7.5)**

- There was non/short realisation of price of brick earth of ₹ 3.38 crore on unauthorised extraction of brick earth of 6.30 crore cu ft in 338 cases.

**(Paragraph 7.7)**



# **CHAPTER-I**



## CHAPTER-I

### GENERAL

#### 1.1 Trend of revenue receipts

**1.1.1** The tax and non-tax revenue raised by the Government of West Bengal 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 the Government of India during the year and the corresponding figures for the preceding four years are mentioned in **Table – 1.1.1**.

**Table – 1.1.1**

#### Trend of revenue receipts

(₹ in crore)

Sl. No.	Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
1.	<b>Revenue raised by the State Government</b>					
	• Tax revenue	16,899.98	21,128.74	24,938.16	32,808.49	35,830.56
	• Non-tax revenue	2,438.11	2,380.49	1,340.25	1,918.15	2,022.72
	<b>Total</b>	<b>19,338.09</b>	<b>23,509.23</b>	<b>26,278.41</b>	<b>34,726.64</b>	<b>37,853.28</b>
2.	<b>Receipts from the Government of India</b>					
	• Share of net proceeds of divisible Union taxes and duties	11,648.16	15,954.95	18,587.81	21,226.27	23,175.02
	• Grants-in-aid	5,935.40	7,800.02	13,888.82	12,342.84	11,853.49
	<b>Total</b>	<b>17,583.56</b>	<b>23,754.97</b>	<b>32,476.63</b>	<b>33,569.11</b>	<b>35,028.51</b>
3.	<b>Total revenue receipts of the State Government (1 and 2)</b>	<b>36,921.65</b>	<b>47,264.20</b>	<b>58,755.04</b>	<b>68,295.75</b>	<b>72,881.79<sup>1</sup></b>
4.	<b>Percentage of 1 to 3</b>	52	50	45	51	52

The above table indicates that during the year 2013-14, the revenue raised by the State Government (₹ 37,853.28 crore) was 52 per cent of the total revenue receipts. The balance 48 per cent of the receipts during 2013-14 was from the Government of India.

**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**.

<sup>1</sup> For details, please see Statement No. 11 – Detailed statement of revenue by minor heads in the Finance Accounts of Government of West Bengal for the year 2013-14. Figures under the heads 0020-Corporation tax, 0021 - Taxes on income other than Corporation tax, 0032- Taxes on wealth, 0037 – Customs duty, 0038 - Union Excise duties and 0044 - Service tax mentioned in the Statement under caption “A - Tax revenue” have been excluded from the revenue raised by the State and included in the State's share of divisible Union taxes.

**Table 1.1.2**  
**Details of Tax revenue raised**

(₹ in crore)

Sl. No.	Head of Revenue	2009-10		2010-11		2011-12		2012-13		2013-14		Percentage of increase (+)/ decrease (-) in 2013-14 over 2012-13
		BE	Actual									
1.	Taxes on sales, trade etc.	12,046.85	10,509.64	12,257.73	13,275.77	17,024.44	15,888.41	20,167.37	18,554.76	22,783.98	21,931.09	(+)18.20
2.	Stamp duty and registration fees	1,998.26	1,814.22	2,358.57	2,265.21	3,002.92	2,731.68	2,940.74	4,357.23	4,500.00	4,053.07	(-)6.98
3.	State excise	1,338.50	1,443.81	1,759.78	1,783.34	2,418.83	2,117.04	2,786.47	2,621.43	3,202.02	3,017.66	(+)15.12
4.	Land revenue	1,711.87	928.92	1,190.93	1,253.66	1,694.37	1,872.23	1,805.27	2,023.72	3,942.82	2,253.54	(+)11.36
5.	Taxes on vehicles	774.08	774.34	890.13	936.01	1,358.97	1,007.23	1,595.13	1,221.55	1,389.97	1,350.66	(+)10.57
6.	Taxes and duties on electricity	800.51	664.57	710.90	769.09	1,040.95	408.19	884.46	1,837.15	1,380.00	1,213.30	(-)33.96
7.	Others	805.71	764.48	839.68	845.66	1,149.51	913.38	1,042.80	2,192.65	2,584.83	2,011.24	(-)8.27
	<b>Total</b>	<b>19,475.78</b>	<b>16,899.98</b>	<b>20,007.72</b>	<b>21,128.74</b>	<b>27,689.99</b>	<b>24,938.16</b>	<b>31,222.24</b>	<b>32,808.49</b>	<b>39,783.62</b>	<b>35,830.56</b>	<b>(+)9.21</b>

Source : Finance Accounts and Budget Publications of the Government of West Bengal.

The Department reported the following reasons for large variation:

**Taxes and duties on electricity:** The large decrease in respect of taxes and duties on electricity was due to adjustment against energy bills of CMC / HMC / CTC to CESC, receipts in cash payable by CESC, waiving of State Government Electricity duty under West Bengal Incentive Scheme 1993, receipts of electricity duty payable by WBSEDCL, collection for the Electrical Inspection of cinemas and other receipts on taxes and duties on electricity.

**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**

(₹ in crore)

Sl. No.	Head of Revenue	2009-10		2010-11		2011-12		2012-13		2013-14		Percentage of increase (+)/ decrease (-)/ in 2013-14 over 2012-13
		BE	Actual									
1.	Interest receipts	1,292.20	362.83	987.07	716.84	602.91	291.54	1,008.14	934.10	478.41	986.29	(+)-5.59
2.	Miscellaneous general services	110.15	86.61	392.24	71.36	158.61	273.10	88.71	187.96	330.46	231.78	(+)-23.31
3.	Police	151.12	68.67	112.73	103.62	130.91	152.79	127.67	133.76	184.87	139.17	(+)-4.04
4.	Forestry and wild life	66.14	64.17	59.96	75.49	84.86	92.47	93.00	113.61	111.89	123.76	(+)-8.93
5.	Other Non-tax receipts	1,109.46	1,855.83	1,965.54	1,413.18	2,217.17	530.35	1,945.34	548.72	650.57	541.72	(-)-1.28
<b>Total</b>		<b>2,729.07</b>	<b>2,438.11</b>	<b>3,517.54</b>	<b>2,380.49</b>	<b>3,194.46</b>	<b>1,340.25</b>	<b>3,262.86</b>	<b>1,918.15</b>	<b>1,756.20</b>	<b>2,022.72</b>	<b>(+)-5.45</b>

Source : Finance Accounts and Budget Publications of the Government of West Bengal.

The respective Departments reported the following reasons for variation:

**Miscellaneous general services:** The large increase in respect of miscellaneous general services was due to unclaimed deposits, receipts from the state lotteries, Receipt and Guarantee Fees.

## 1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2014 as furnished by the Directorate of Excise amounted to ₹ 45.85 crore. The Directorate further stated that the amount was outstanding for more than five years. The Directorate attributed accrual of revenue to non-disposal of cases before different Courts of Law. As per procedure described by the Directorate of Excise (November 2014), excise duties are collected at the time of issue of any portable liquor and license fees are collected before any service rendered to any licensee. The details regarding any arrear of revenue to be collected are maintained in the relevant file of the licensee and at the end of every financial year the district authorities send report on this to the directorate for compilation of figures.

The arrears of revenue as on 31 March 2014 as furnished by the Directorate of Electricity Duty amounted to ₹ 0.09 crore. The Directorate of electricity duty stated that they compiled the data furnished by the various District Collectors regarding estimation of electricity duty (November 2014).

On being asked about arrears, the Directorate of Registration and Stamp Revenue replied that arrears were not applicable for the Directorate (November 2014).

Despite being requested (October 2014), the other principal revenue generating Departments/ Directorates namely Directorate of Commercial

Taxes, Land and Land Reforms Department and Transport Department did not furnish the figures of arrears of revenue (November 2014).

### **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 Directorate of Electricity Duty and Commissioner of Agricultural Income Tax in respect of electricity duty and agricultural income tax are given in **Table 1.3**.

**Table 1.3**  
**Arrears in assessments**

<b>Head of revenue</b>	<b>Opening balance</b>	<b>New cases due for assesment during 2013-14</b>	<b>Total assessments due</b>	<b>Cases disposed of during 2013-14</b>	<b>Balance at the end of the year</b>	<b>Percentage of disposal (col. 5 to 4)</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
Taxes and duties on electricity	Nil	149	149	149	Nil	100
Taxes administered by Directorate of Agricultural Income Tax	34,543	9,468	44,011	5,949	38,062	13.52

The Directorate of Agricultural Income Tax stated that details regarding number of assessment were obtained from demand and collection register etc.

The Directorate may expedite the assessment procedure so that due cases could be assessed on time.

### **1.4 Evasion of tax detected by the department**

The Excise Department, the Directorate of Registration and Stamp Revenue and the Directorate of Electricity Duty stated that cases of evasion pending as on 31 March 2013 and cases detected during 2013-14 were nil.

Despite being requested (October 2014), the other principal revenue generating Departments/ Directorates namely Directorate of Commercial Taxes, Land and Land Reforms Department and Transport Department did not furnish details of evasion of tax (November 2014).

### **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 Departments are given in **Table 1.5**.

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

(₹ in crore)

Sl. No.	Particulars	Stamp duty and registration fees		State excise		Taxes and duties on electricity	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	Nil	Nil	Nil	Nil	89	Not furnished
2.	Claims received during the year	Nil	Nil	Nil	Nil	73	Not furnished
3.	Refunds made during the year	Nil	Nil	Nil	Nil	82	20.24
4.	Balance outstanding at the end of year	Nil	Nil	Nil	Nil	80	Not furnished

The Directorate of Electricity Duty stated that the consumer applied to the Joint Secretary, Finance (Revenue) claiming refund. The same was forwarded to the Directorate for verification. Files with recommendations were sent back to the Finance (Revenue) for further process and issuing further order (November 2014).

Other principal revenue generating Departments/ Directorates namely Directorate of Commercial Taxes, Land and Land Reforms Department and Transport Department did not furnish details of refund cases (November 2014), though requested (October 2014).

### **1.6 Response of the Government/departments towards audit**

The Accountant General (Economic and Revenue Sector Audit), West Bengal 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. These 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 AG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Departments and the Government.

Inspection reports issued upto December 2013 disclosed that 3,997 paragraphs involving ₹ 1,472.12 crore relating to 882 IRs remained outstanding at the end of June 2014 as mentioned alongwith the corresponding figures for the preceding two years in **Table 1.6**.

**Table 1.6**  
**Details of pending Inspection Reports**

	June 2012	June 2013	June 2014
Number of IRs pending for settlement	673	757	882
Number of outstanding audit observations	2,780	3,595	3,997
Amount of revenue involved (₹ in crore)	832.52	1,313.57	1,472.12

**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**  
**Departmentwise details of IRs**

(₹ in crore)

Sl. No.	Name of the Department	Nature of receipts	Numbers of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Finance	Sales Taxes/ VAT	195	1,308	718.90
		Electricity duty	34	64	69.06
		Amusement Tax	22	54	2.94
		Profession Tax	67	199	8.61
		Stamp duty and registration fees	241	654	78.68
		Non-judicial Stamp duty	14	33	8.47
2.	Excise	State excise	37	132	34.35
3.	Land and Land Reforms	Land Revenue	92	756	245.37
		Receipts from mines and minerals	102	426	145.56
4.	Transport	Taxes on motor vehicles	78	371	160.18
<b>Total</b>			<b>882</b>	<b>3,997</b>	<b>1,472.12</b>

Audit did not receive even the first replies from the heads of offices within one month from the date of issue of 234 IRs issued during 2013-14. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs. The Government may consider instituting an effective system for prompt and appropriate response to audit observations.

### **1.6.2 Departmental audit committee meetings**

The Government set up audit committees to monitor and expedite the progress of the settlement of the IRs and paragraphs in the IRs. 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.	Name of the Department	Nature of receipts	Number of meetings held	Number of paras settled	Amount
1.	Finance	Stamp duty and registration fees	1	3	0.16
2.	Excise	State excise	1	19	36.33
3.	Land and Land Reforms	Land Revenue	1	2	0.10
		Receipts from mines and minerals	1	2	0.01
<b>Total</b>			<b>4</b>	<b>26</b>	<b>36.60</b>

The progress of settlement of paragraphs pertaining to the Finance Department (Stamp Duty and Registration Fees), Excise Department and Land and Land Reforms Department was negligible as compared to the huge pendency of the IRs and paragraphs despite holding Departmental audit committee meetings.

### 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 163 assessment files, returns, refunds, registers and other relevant records were not made available to audit involving tax effect of ₹ 7.10 crore in 52 cases and tax amount could not be ascertained in the remaining cases. Break up of these cases is given in Table 1.6.3.

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

(₹ in crore)

Name of the Office/Department	Year in which it was to be audited	Number of cases not audited	Tax amount
Sales Taxes/ VAT	2013-14	52	7.10
		87	Could not be ascertained.
Electricity Duty	2013-14	16	-do-
Land Revenue	2013-14	1	-do-
Motor Vehicles Tax	2013-14	7	-do-
<b>Total</b>		<b>163</b>	<b>7.10</b>

#### **1.6.4 Response of the Departments to the 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/AG to the Principal Secretaries/Secretaries of the concerned Department, drawing their attention to audit findings and requesting them to send their response within six weeks. The fact of non-receipt of the replies, if any, from the Department/Government is invariably indicated at the end of such paragraphs included in the Audit Report.

37 draft paragraphs including two Performance audits were sent to the Principal Secretaries/Secretaries of the respective Departments by name between June 2014 and August 2014. The Principal Secretaries/Secretaries of the Departments did not send replies to 28 draft paragraphs despite issue of reminders (November 2014) and these have been included in this Report without the response of the Departments.

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

The internal working system of the Public Accounts Committee, notified in December 2002, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. 204 paragraphs (including Performance audits) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of West Bengal for the years ended 31 March 2009, 2010, 2011, 2012 and 2013 were placed before the State Legislature Assembly between 30 July 2010 and 10 July 2014. The action taken explanatory notes from the concerned Departments on 61 paragraphs were received late with average delay of 16 months in respect of Audit Reports for the years ended 31 March 2009, 2010 and 2011. Of these, action taken explanatory notes in respect of four paragraphs (reviews/ Performance audits) were received partly. Action taken explanatory notes in respect of remaining 143 paragraphs from five departments (Finance, Commerce & Industries, Transport, Home and Land & Land Reforms) had not been received for the Audit Reports for the years ended 31 March 2009, 2010, 2011, 2012 and 2013 so far (November 2014).

The PAC discussed six selected paragraphs/sub-paragraphs pertaining to the Audit Reports for the years from 2008-09 to 2010-11 and its recommendations on two sub-paragraphs were incorporated in their 7<sup>th</sup> Report of 2013-14.

However, ATNs have not been received in respect of three recommendations of the PAC from the Department concerned as mentioned in the **Table 1.6.5**.

Table 1.6.5

Year of AR	Name of the Department-Forest Department					Total
	No. of Para/PA	No. of Para/sub-paragraphs discussed	PAC Report	Date of Presentation in the assembly	No. of ATNs	
2009-10	26+1(PA)	02	7 <sup>th</sup> Report of 2013-14	13 February 2014	03	03

### 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 and 1.7.2 discuss the performance of the Land and Land Reforms Department under revenue head Land Revenue 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 2004-05 to 2013-14.

#### 1.7.1 Position of Inspection Reports

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

Table 1.7.1

#### Position of Inspection Reports

(₹ in crore)

Sl. No.	Year	Opening Balance			Addition during the year			Clearance during the year			Closing balance during the year		
		IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
1.	2004-05	166	1,246	511.91	5	108	20.86	9	247	204.67	162	1,107	328.10
2.	2005-06	162	1,107	328.10	7	63	10.50	1	27	0.89	168	1,143	337.71
3.	2006-07	168	1,143	337.71	8	117	13.73	2	15	0.47	174	1,245	350.97
4.	2007-08	174	1,245	350.97	7	43	3.79	1	5	0.82	180	1,283	353.94
5.	2008-09	180	1,283	353.94	8	72	13.53	3	22	1.97	185	1,333	365.50
6.	2009-10	185	1,333	365.50	10	207	21.45	89	822	204.30	106	718	182.65
7.	2010-11	106	718	182.65	5	54	17.63	42	273	42.09	69	499	158.19
8.	2011-12	69	499	158.19	10	165	37.90	0	34	4.53	79	630	191.56
9.	2012-13	79	630	191.56	9	163	49.81	2	77	19.91	86	716	221.46
10.	2013-14	86	716	221.46	11	298	49.47	1	45	5.34	96	969	265.59

The Government arranges ad-hoc Committee meetings between the Department and AG's office to settle the old paragraphs. As would be evident from the table, against 166 outstanding IRs with 1,246 paragraphs as at beginning of 2004-05, the number of outstanding IRs declined to 96 with 969 paragraphs at the end of 2013-14. This is indicative of improvements in this regard.

### **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 31.03.2014
2003-04	4	1.84	--	--	--	0.29
2004-05	6	0.88	2	0.28	--	--
2005-06	4	13.22	1	0.02	--	0.01
2006-07	6	962.50	6	273.93	--	--
2007-08	5	0.70	4	0.40	--	--
2008-09	5	37.34	5 <sup>2</sup>	37.03	--	14.22
2009-10	4	1.73	4 <sup>3</sup>	1.10	--	0.18
2010-11	5	1.27	4 <sup>4</sup>	1.25	--	0.21
2011-12	1	89.24	1 <sup>5</sup>	82.47	--	0.43
2012-13	3	6.39	3 <sup>6</sup>	5.83	--	0.13

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 except for the Audit Report 2008-09. 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.

The Department may take immediate action to pursue and monitor prompt recovery of the dues involved in accepted cases.

2 Four paragraphs partly accepted.  
 3 Partly accepted.  
 4 One paragraph partly accepted.  
 5 Partly accepted.  
 6 One paragraph partly accepted.

## 1.8 Action taken on the recommendations accepted by the Departments/ Government

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

The status of action taken on recommendations as furnished by Departments till November 2014 is given in **Table 1.8.1**:

**Table 1.8.1**

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
2008-09	Assessment, levy and collection of Stamp Duty & Registration fees	3	<p>Maintenance of a centralised database of remissions/ concessions for effective monitoring of the schemes;</p> <p>Prescribe a time limit for ascertaining the market value and registration of document either by issuing executive orders or amending the rules; and</p> <p>Take appropriate measures for conducting internal audit of the directorate at regular intervals.</p>	<p>As per memo no. 3794-A/4R-154/07 dated 19.11.2014, the reply of the IGR &amp; CSR, WB is as follows: Remissions/concessions are sanctioned by the Finance Department. Hence, the audit suggestion is noted for onward submission to the Finance (Revenue) Deptt.</p> <p>e-CORD (or e-NATHIKARAN) to be introduced w.e.f. 05/01/15 shall have features against this audit suggestion.</p> <p>Valued Audit suggestion is noted. Commissioner, Internal Audit, Finance Department shall be moved through proper channel.</p>
2008-09	Information Technology-Computerisation of Registration of Documents (CORD)	6	<p>Incorporate necessary controls into the software to ensure collection of correct amount of stamp duty;</p> <p>Strengthen physical access and logical access controls;</p> <p>Map all business process/rules etc; into CORD system and update regularly to avoid leakage of revenue;</p> <p>Build the validation controls into</p>	<p>As per memo no. 3794-A/4R-154/07 dated 19.11.2014, the reply of the IGR &amp; CSR, WB is as follows: Existing CORD calculates correct amount of stamp duty. e-CORD will have some improved features also.</p> <p>Detailed discussion with the Sr. Scientist, NIC, WB on the issue was held to address specific areas of problems and their effective solution.</p> <p>Being done on a regular basis as and when required.</p> <p>Noted for next generation e-CORD</p>



				<p>Commissioner/ WB has the power for composition of the contravention of the conditions of any Excise Licence, including Molasses Licence, to impose a fine/penalty, not exceeding ₹ one lakh, in lieu of cancellation or suspension of the licence under consideration.</p> <p>Introduction of minimum penalty will transgress into the discretionary power of the Trying Authority and would be ultra vires to the spirit of law.</p>
			<p>Introducing computerised system of chemical examination of samples to avoid delay and improving the infrastructure in the chemical examination laboratory; and</p>	<p>Introduction of computerised system for keeping a vigil on the samples under analysis and the report thereof, in the Chemical Examination Laboratory, has been prepared and is now under testing.</p> <p>It has been admitted by the Government that the process of analysis of samples of various alcoholic products suffered in the Chemical Examination Laboratory due shortage of men-in-position and inadequate infrastructure which were hitherto unavailable. However, attention is drawn to the reply furnished by the Government to the Audit Para(s) 4.7.26 and 4.7.27 of the CAG Report – 2011.</p> <p>In the mentioned reply, it was submitted that: (i) Stress has been given for utilisation of modern equipments and instruments, which were hitherto unavailable.(ii) Emphasis has been given to fill up the vacant posts.</p> <p>It may be mentioned that a number of technical posts have been filled up through Public Service Commission, West Bengal.</p>
			<p>Strengthening the internal control for effective implementation of Rules and Regulation and control over the functioning of the Department.</p>	<p>To improve the Internal Control of the Excise Department for effective implementation of Rules and Regulations, a re-organisation of the Excise Administration has been effected on and from November- 2012, in terms of Government Notification No: 1074-EX; dated 01.11.2012.</p> <p>In terms of this direction, Excise Districts have been divided in suitable numbers of Ranges and Ranges have been divided in suitable numbers of Circles, to provide round-the-clock vigil over</p>

				<p>the area under their control. Eight Excise Divisions have also been re-organised, headed by Additional Excise Commissioners, to control the 24 Excise Districts in this State.</p> <p>Further, vacant posts under different categories of Excise Establishment, are also being filled up through Public Service Commission/Staff Selection Commission.</p> <p>As stated by the Sr. JCCT, Information Systems Division on 16.10.2014, they have already been given effect.</p>
2011-12	e-Services in the Directorate of Commercial Taxes	5	<p>Put in place proper controls in the system for capturing correct, complete, valid and reliable data in the system and to update it promptly to provide the latest information.</p> <p>Incorporate business rules specifically in the system wherever required to avoid irregular transactions through the system.</p> <p>Integrate modules wherever required to make the IT application more efficient and effective.</p> <p>Introduce the system of user authentication for generation of e-TD for ensuring data reliability.</p> <p>Put in place effective business continuity and disaster recovery plan for providing smooth services.</p>	<p>The disaster recovery plan is under process of being finalised.</p>
2012-13	Evasion of Stamp Duty & Registration Fees	7	<p>Consider framing provisions for compulsory sharing of information by the Public Officers with the Registering Authorities relating to instruments executed in their offices in relation to the construction, development, sale, lease or transfer of any immovable property;</p> <p>Implement the system of regular inspection of the Public Offices to ensure collection of proper stamp duty and registration fees;</p> <p>Consider devising a system to check splitting of property with an</p>	<p>As per memo no. 3794-A/4R-154/07 dated 19.11.2014, the reply of the IGR &amp; CSR, WB is as follows:</p> <p>It is a very good suggestion. However, as it amounts to policy decision, Government in Finance (Revenue) Department is being moved soliciting necessary instruction/ directions in this matter.</p> <p>It is a very good suggestion. However, as it involves policy decision, Government in Finance (Revenue) Department is being moved soliciting necessary instructions /directions in this matter.</p> <p>Circular from IGR has duly been issued as per audit suggestions. It</p>

			intent of avoidance of payment of additional stamp duty;	is however, considered to be a grave constraint to influence an agreement till the subject matter of the agreement remains legal and valid. The matter was also thoroughly discussed before the Public Accounts Committee in the year 2012.
			Incorporate all business rules properly in the CORD software for correct levy of stamp duty;	Being done on a regular basis as and when required.
			Direct the RAs to check the deeds scrupulously with respect to the market value assessment slips generated through the CORD software to detect the mismatch of particulars of properties to avoid evasion of stamp duty;	RAs duly verify Assessment Slip with that of the contents of the schedule of property given in the instrument. Under the new e-CORD system being introduced w.e.f. 05/01/15, the Assessment Slip shall also form part of the document as the conclusive details of the property.
			Consider stipulating a timeframe for disposal of pending cases and recovery of due taxes; and	Suggestion is noted. However, since the party concerned does not turn up, disposal of pending cases of yesteryears remain hindered. Recovery of tax dues as arrears of rent by applying coercive measures was also discussed at length before the Hon'ble PAC in 2012 which finally was not recommended by it.
			Establish an effective internal audit wing of its own to ensure that various provisions of the Acts and Rules are properly administered for effective tax administration.	The Directorate does not have internal audit wing of its own for internal audit purpose. However, the directorate has internal control mechanism at the district level through the DIGRs so far as the determination of proper market value of the property under the registration is concerned and the overall supervision and administrative control of the registering offices lie with the District Registrars. Within the registering offices there exists internal checking system under which a transaction is allowed to pass through several hands with a view to preventing mistakes, frauds, misrepresentations and internal collusion, if any.

Despite being requested (October 2014) to furnish status of recommendations of reviews/ Performance Audits featured in the last five years' Reports, the following Departments did not furnish the same as mentioned in **Table 1.8.2**.

**Table 1.8.2**

Name of the department	Year of Audit Report	Name of the Performance Audit
Finance	2008-09	Transition from Sales Tax to Value Added Tax
	2010-11	Utilisation of declaration forms in inter- state trade and commerce
	2012-13	Efficiency of the administration of Value Added Tax in West Bengal
Forest	2009-10	Management of Forest Receipts
Transport	2009-10	Collection of Motor Vehicle Taxes, Fees and Fines in the Transport Department
	2010-11	Computerisation in Motor Vehicles Department
Home	2010-11	Assessment and collection of Police Receipts
Land and Land Reforms	2011-12	Management of Government Land
		Receipts from Major Minerals

## 1.9 Audit Planning

The 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 573 auditable units, of which 173 units were planned and 184 units had been audited, which is 32.11 *per cent* of the total auditable units. The details are shown in the **Appendix – I**.

Besides, the compliance audit mentioned above, two performance audits were also taken up to examine the efficacy of the tax administration of these receipts.

## 1.10 Results of audit

### Position of local audit conducted during the year

Test check of the records of 184 units of Sales Tax/Value Added Tax, State Excise, Motor Vehicles, Land and Land Reforms, Stamp Duty and Registration Fees and other Departmental offices conducted during the year 2013-14 showed under assessment/short levy/loss of revenue aggregating ₹ 735.95 crore in 1,797 cases. During the course of the year, the Departments concerned accepted under assessment and other deficiencies of ₹ 177.72 crore involved in 895 cases which were pointed out in audit during 2013-14. The

Departments collected ₹ 3.65 crore in 197 cases during 2013-14, pertaining to the audit findings of previous year.

### **1.11 Coverage of this Report**

This Report contains 37 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 “Assessment, levy and collection of Value Added Tax from Works contractors” and “Administration of taxes under various Acts by Directorate of Agricultural Income Tax in West Bengal”, involving financial effect of ₹ 632.75 crore.

The Departments/Government have accepted audit observations involving ₹ 443.04 crore out of which ₹ 69.79 lakh had been recovered. The replies in the remaining cases have not been received (November 2014). These are discussed in succeeding Chapters II to VII.



# **CHAPTER-II**



## CHAPTER II

### VALUE ADDED TAX

#### 2.1 Tax administration

Value Added Tax (VAT) laws and rules framed thereunder are administered at the Government level by the Principal Secretary, Finance (Revenue) who is assisted by the Commissioner of Commercial Taxes (CCT), Special Commissioners, Additional Commissioners, Senior Joint Commissioners, Joint Commissioners, Deputy Commissioners and Commercial Tax Officers for administering the relevant Tax laws and rules.

#### 2.2 Internal Audit

The Department has an Internal Audit Wing (IAW) under the charge of the CCT. This Wing was to conduct scrutiny and detect irregularities in the assessments of VAT cases as well as to check different records and registers to ascertain whether internal control system as envisaged in the Acts and Rules made thereunder were properly followed. In conducting the activities of IAW during 2013-14 CCT was assisted by one Additional Commissioner of Commercial Taxes (Addl. CCT), one Sr. Joint Commissioner (Sr.JCCT), one Joint Commissioner (JCCT) and one Commercial Tax Officer (CTO). The wing does not have any internal audit manual. The wing planned to audit six charge offices but audited only two out of total 78 auditable units (i.e. 67 charge offices, one Corporate Division and 10 Ranges) during the year 2013-14. Thus, coverage of internal audit wing during 2013-14 was only 2.56 per cent of the total auditable units which needs to be widened.

#### 2.3 Results of audit

In 2013-14, test check of the records of 50 units relating to VAT assessments and other records showed underassessment of tax and other irregularities involving ₹ 371.33 crore in 704 cases, which fall under the following categories as given in Table – 2.1.

Table – 2.1

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Incorrect determination of Contractual Transfer Price /turnover of sales	105	60.16
2.	Irregular allowance of transfer of goods /Input Tax Credit /remission	79	61.59
3.	Irregular allowance of compounded /concessional rate of tax	17	0.37
4.	Application of incorrect rate of tax/mistake in computation	90	22.64
5.	Non/short levy of additional sales tax /purchase tax/penalty/interest	271	121.77
6.	Others	142	104.80
<b>Total</b>		<b>704</b>	<b>371.33</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 113.91 crore in 279 cases, of which in 247 cases involving ₹ 113.56 crore were pointed out in audit during the year 2013-14 and the rest in the earlier years. An amount of ₹ 28.47 lakh was realised in 32 cases during the year 2013-14.

A Performance Audit on “**Assessment, levy and collection of Value Added Tax from works contractors**” having money value of ₹ 237.95 crore and few illustrative cases involving ₹ 80.92 crore are discussed in the following paragraphs.

## **2.4 Performance Audit on “Assessment, Levy and Collection of Value Added Tax from Works Contractors”**

### **2.4.1 Introduction**

Works Contract, as per provisions of the West Bengal Value Added Tax Act, (WB VAT) 2003, means any agreement for carrying out construction, fitting out, improvement or repair of any building, road, bridge or other immovable property, or repair of any movable property. Any transfer of property in goods involved in the execution of works contract in West Bengal shall be deemed to be sale of those goods by the person making the transfer and a purchase of those goods by the person to whom such transfer is made. A contractual transfer price (CTP) towards execution of works contract in relation to any period, means the aggregate of the amount received or receivable for transfer of property in goods, used in the execution of works contract within West Bengal.

Performance Audit on “**Assessment, Levy and Collection of Value Added Tax from Works Contractors**” for the period 2008-09 to 2012-13 was taken up from April to July 2014.

### **Highlights**

- Failure on the part of DCT to monitor deduction of tax at applicable rates from payments made to 30 works contractors with cancelled certificates of registration resulted in short deduction of tax of ₹ 0.78 crore.  
**(Paragraph 2.4.7.1)**
- In the absence of a system for cross verification of data available with the STDS Cell with the returns/assessment status filed by 111 works contractors, the AAs failed to detect non/short disclosure of CTP with consequent evasion of tax of ₹ 5.82 crore.  
**(Paragraphs 2.4.7.2, 2.4.7.3 and 2.4.7.4)**
- Absence of a system to detect non-deduction of tax from payments made to dealers for execution of works contracts resulted in non-deduction of tax at source of ₹ 0.65 crore.  
**(Paragraph 2.4.8)**
- In the absence of a provision for levy of interest on delayed deposit of TDS into Government Treasury, 36 persons in 112 cases made delays

ranging between 20 days to two years and six months in deposit of tax deducted at source.

**(Paragraph 2.4.9.1)**

- In the absence of a provision to impose late fee on delayed submission of TDS certificates in Form 18 and scrolls in Form 19, compliance of the provisions of the Act for filing such returns within the prescribed time limit could not be enforced in 72 cases against 17 contractees.

**(Paragraph 2.4.9.2)**

- In assessing 45 cases of 40 works contractors for the assessment periods between 2006-07 and 2010-11, CTP was determined short of payments as per TDS allowed in assessment/returns/books of accounts resulting in short determination of CTP of ₹ 592.01 crore with consequent short levy of tax of ₹ 33.02 crore.

**(Paragraphs 2.4.11.1 and 2.4.11.2)**

- In assessing 17 cases of 12 dealers, deductions towards labour, service and other like charges and payments to sub-contractors were incorrectly allowed for ₹ 1,969.71 crore against deductions allowable for ₹ 606.66 crore resulting in short determination of taxable CTP of ₹ 1,361.18 crore with consequent short levy of tax of ₹ 131.62 crore.

**(Paragraph 2.4.15.3)**

## **2.4.2 Organisational Set up**

The WB VAT Act, 2003 and the Central Sales Tax (CST) Act, 1956 are administered by the Directorate of Commercial Taxes (DCT) which is under the administrative control of the Principal Secretary, Finance (Revenue) Department. The overall control and superintendence of the Directorate is vested with the Commissioner of Commercial Taxes (CCT), West Bengal who is assisted by two special commissioners, 46 Additional Commissioners (Addl. CCTs), 129 Senior Joint Commissioners (Sr. JCCTs), 186 Joint Commissioners (JCCTs), 178 Deputy Commissioners (DCCTs), 515 Commercial Tax Officers (CTOs) and 1,220 Assistant Commercial Tax Officers (ACTOs). The Sales Tax Deducted at Source (STDS) cell in the office of the CCT is entrusted with the task of monitoring collection of Tax Deducted at Source (TDS) from the payments made to the works contractors by different Government and Non-Government Organisations (contractees). The STDS cell is headed by an Additional CCT and assisted by one Sr. JCCT and other sub-ordinate officers.

## **2.4.3 Audit objectives**

The Performance Audit was conducted to seek assurance that:

- a proper mechanism existed for the identification of assesseees for the purpose of levy of tax on CTP;
- tax administration was efficient and effective in ensuring compliance with the applicable legislations and rules;
- effective internal controls were in place.

#### **2.4.4 Scope, methodology and criteria of audit**

Audit selected six<sup>7</sup> out of 17 circles under the DCT and 18<sup>8</sup> charge offices under them by adopting simple random sampling for the purpose of Performance Audit. Six<sup>9</sup> other charge offices under an additional circle namely Kolkata (South) Circle were also selected considering the audit findings in local inspection reports. Two<sup>10</sup> other charge offices were selected for appropriate geographical representation. Thus seven circles and 26 charge offices formed part of the Performance Audit. In addition, STDS Cell, Bureau of Investigation (BOI), Tax Recovery Officers (TRO) / Certificate Officers (CO) and Internal Audit Wing (IAW) were also selected. Audit collected information from contract awarding Government Departments, Corporations, Undertakings and Local Bodies etc. and cross verified them with the data available with the DCT. Audit findings in respect of similar issues during transaction audit also stand included in the report.

Provisions of the WBVAT Act, 2003 and West Bengal Value Added Tax Rules, 2005 (WBVAT Rules, 2005) were used as source of audit criteria for the Performance Audit. The performance audit was conducted during April 2014 to July 2014 covering the period from 2008-09 to 2012-13. Cases assessed in June 2013 in respect of assessment period 2010-11 have also been covered in the Performance Audit.

#### **2.4.5 Acknowledgment**

Audit acknowledges the co-operation of DCT in providing necessary records and information. Prior to commencement of the audit, objectives, scope, criteria and methodology etc. were discussed at an Entry Conference with the CCT and other representatives of the Directorate on 20 March 2014. Findings of the performance Audit were forwarded to the Directorate in August, 2014. The Exit Conference was held on 3 December 2014 and views of the Directorate have suitably been incorporated in the relevant paragraphs.

#### **Audit findings**

#### **Effectiveness of the mechanism to identify and bring in potential assesseees into tax net for levy of tax on CTP**

#### **2.4.6 Absence of a system of cross verification of data with other Departments awarding contracts to identify and bring in potential assesseees into tax net.**

Section 14 of the WBVAT Act, 2003 prescribes that if CTP of a dealer calculated from the commencement of any accounting year exceeds ₹ five lakh at any time within such year, he becomes liable to pay tax on all transfer of property in goods involved in the execution of works contract on and from

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<sup>7</sup> 24 Paraganas, Asansol, Behala, Corporate Division, Medinipur, and Siliguri.

<sup>8</sup> Alipore, Asansol, Barasat, Barrackpore, Baruipur, Behala, Belgachhia, Budge Budge, Cossipore, Corporate Division, Darjeeling, Diamond Harbour, Midnapore, Purulia, Salt Lake, Siliguri, Tamluk and Uladanga.

<sup>9</sup> Ballygunge, Beliaghata, Bhowanipore, New Market, Park Street and Taltala.

<sup>10</sup> Durgapur and Krishnanagar.

the day immediately following the day on which such CTP first exceeds ₹ five lakh. The Act provides for registration of the dealer within 30 days of the date of accrual of such liability and a penalty for failure to apply for registration.

During the course of Performance Audit, information in respect of payments made to works contractors was collected from five<sup>11</sup> divisions under the Public Works Department (PWD), two<sup>12</sup> divisions under the Public Works (Roads) Department (PWRD) and one<sup>13</sup> Project Implementation Unit (PIU) under the West Bengal State Rural Development Agency (WBSRDA). Audit observed that 48 dealers in 63 cases<sup>14</sup> during the period between 2008-09 and 2012-13 received payments exceeding ₹ five lakh in each financial year from the divisions / unit offices for execution of works contract. None of these works contractors were, however, found registered with the DCT. CTP of ₹ 21.53 crore remained out of tax net and as a result, there was evasion of tax of ₹ 0.71 crore.

Audit observed that the DCT did not put in place any system of cross verification of the database of the works contractor registered in other departments and undertakings of the Union and State Governments with the database of the dealers registered in the DCT. This resulted in non-detection of works contractors who had acquired eligibility for registration.

On being pointed out (July 2014), the STDS cell stated (October 2014) that the list of unregistered works contractors had been sent to respective charges and circles for necessary action.

Further, note below Section 23 of the Act provides a penalty of minimum ₹ 500 that 'can be imposed' for each month of default, the maximum penalty not exceeding ₹ 1,000. Imposition of any penalty that may act as a deterrent against non-registration by the dealers is not mandatory in that event.

The CCT in the Exit Conference (December 2014) stated that the Directorate has introduced annexure in the returns filed by the deductor and the deductee on the lines of Income Tax Department.

#### **2.4.7 Absence of system for utilisation of data available in STDS cell in respect of Tax Deducted at Source.**

Section 40 of the Act prescribes deduction of tax at source at the rate of two and four *per cent* from the registered and unregistered dealers respectively. The contractees making deduction from payments made to works contractors send copies of TDS certificates in Form 18 issued to works contractors along with scrolls in Form 19 showing therein the names and address of the works contractors with tax deducted from payments made and challans evidencing deposit of tax so deducted during the month to the STDS Cell of DCT.

In course of audit, information regarding payments made to works contractors and tax deducted at source by different contractees was collected and cross verified with the records relating to registration, returns and assessment of the

<sup>11</sup> Alipore Division, Bidhannagar Divisions-I & II, Darjeeling Division and South Sub-urban Division.

<sup>12</sup> 24 Paraganas Highway Division and Diamond Harbour Highway Division.

<sup>13</sup> South 24 Paraganas.

<sup>14</sup> One case = assessment for one year.

dealers in DCT. On cross verification of the data so collected, cases of evasion of tax were noticed which could have been prevented by utilising the TDS data available with the STDS cell as discussed in the following four sub paragraphs:

#### **2.4.7.1 Non-detection of execution of works contracts by dealers with cancelled certificates of registration**

Section 29 of the WBVAT Act, 2003 prescribes the conditions under which the certificates of registration of works contractors shall be cancelled.

Audit cross verified TDS details of the dealers to whom payments were made by three<sup>15</sup> civil construction divisions under PWD, two<sup>16</sup> divisions under PWRD, four<sup>17</sup> divisions under Sunderban Development Board (SDB) and other three<sup>18</sup> agencies with the dealer's registration data of DCT. Audit found that payments of ₹ 39.27 crore were made to 30 works contractors during the periods between 2009-10 and 2012-13 for execution of works contracts whose registration certificates were cancelled between June 2006 and February 2011. The divisions however made deduction of tax at the rate of two *per cent* instead of four *per cent* from payments so made to the dealers resulting in short deduction of tax of ₹ 0.78 crore. Due to non-detection of cancellation of registration certificates and subsequent non-assessment, evasion of tax by such dealers on payments so received stood at ₹ 2.03 crore.

Audit observed that though contractees in the TDS certificates sent to the STDS cell relevant information in respect of tax deducted from payments made to the works contractors, the same was not utilised by the DCT to detect execution of works contracts by dealers whose registrations had been cancelled to check evasion of tax. Misuse of cancelled certificates of registration, therefore, cannot be ruled out.

In the absence of any mechanism in the extant rules and procedures for cross verification of relevant data from all concerned departments, DCT failed to detect the cases and initiate necessary proceedings against them to prevent short deduction and evasion of tax.

On being pointed out (between February 2014 and July 2014), in seven<sup>19</sup> charge offices where these dealers were previously registered, two<sup>20</sup> charge offices in nine cases accepted the audit observation (between April 2014 and October 2014), while five other charge offices did not furnish any reply/specific reply.

The CCT in the Exit Conference (December 2014) stated that effectiveness of the present system would be rechecked in such cases and corrective measures would be taken to prevent such short deduction of tax in respect of dealers with cancelled certificates of registration.

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<sup>15</sup> Alipur Division, Asansol Division and Barasat Division.

<sup>16</sup> Barasat Highway Division-I and II.

<sup>17</sup> Civil Engineering Divisions-I, II, III & IV.

<sup>18</sup> West Midnapur Division under Irrigation and Waterways Department; WBSRDA (PIU), North 24 Parganas District and Airport Authority of India, Netaji Subhash Chandra Bose International Airport Project Division.

<sup>19</sup> Asansol, Barasat, Budge Budge, Baruipur, Diamond Harbour, Midnapur and Salt Lake.

<sup>20</sup> Asansol and Diamond Harbour.

### 2.4.7.2 Evasion by registered works contractors

Rule 30(2) of the WBVAT Rules, 2005 framed under Section 114 of the WBVAT Act, 2003, read with Section 18 of the latter prescribes the manner by which tax is to be calculated in respect of works contracts on the basis of CTP.

As per information made available to audit by four<sup>21</sup> civil engineering divisions under SDB, two<sup>22</sup> divisions under PWD, two<sup>23</sup> under PWRD and West Midnapur Division under Irrigation & Waterways Department (I&WD), 29 works contractors registered under five<sup>24</sup> charges received payments of ₹ 12.82 crore during the period between 2008-09 and 2012-13 for execution of works contracts. The contractees deducted tax at source and also stated that they had sent the TDS certificates to the DCT. In course of audit it was found that the dealers did not furnish their returns to the respective charges. Audit calculated the amount of tax payable in these cases and the evasion of tax by the dealers was estimated at ₹ 0.58 crore (net of TDS of ₹ 0.26 crore). The assessing authorities failed to detect the evasion in the absence of a system to utilise the data available with the STDS cell by cross verification with the assessment status of the dealers.

On being pointed out (between February 2014 and July 2014), Diamond Harbour charge office accepted the audit observation (April 2014) in nine cases while other four charge offices did not furnish any reply.

Further, under the provision of Section 32 of the WBVAT Act, 2003 every registered dealer, liable to pay tax under the Act shall furnish returns within the next month from the date of expiry of each quarter, but there is no minimum penalty prescribed under the Act to enforce this provision.

The CCT in the Exit Conference (December 2014) stated that the existing system had since been corrected and with the help of a new system operational with effect from 25 August 2014, the assessing authorities at the time of assessment of cases by June 2015 in respect of assessment year 2012-13, would be able to ascertain the CTP of a works contractor from STDS details of contractors as furnished online by the contractees.

### 2.4.7.3 Evasion by registered works contractors making non disclosure of CTP in returns

As per information regarding payments made to contractors for execution of works contracts made available to audit by four<sup>25</sup> divisions under Public Works Department (PWD), five<sup>26</sup> divisions under Public Works (Roads) Department, four<sup>27</sup> Civil Engineering Divisions under the Sunderban Development Board (SDB), West Midnapur Division under the Irrigation and Waterways (I&W) Department, Sunderban Infrastructure Development

<sup>21</sup> Civil Engineering Divisions-I, II, III & IV.

<sup>22</sup> Alipur Division and Barasat Division.

<sup>23</sup> 24 Parganas Highway Division and Barasat Highway Division-I.

<sup>24</sup> Barasat, Baruipur, Behala, Diamond Harbour and Midnapur.

<sup>25</sup> Alipore Division, Asansol Division, Barasat Division and Bidhannagar Division-I.

<sup>26</sup> Barasat Highway Divisions-I & II, 24 Parganas Highway Division, Midnapore Highway Division-II and Tamluk Highway Division.

<sup>27</sup> Civil Engineering Divisions-I, II, III and IV.

Corporation, WBSRDA and the STDS Cell in respect of payments made by four<sup>28</sup> contractees, 73 works contractors registered under 16<sup>29</sup> charges received payments of ₹ 91.17 crore during the period between 2006-07 and 2012-13 for execution of works contracts and tax was deducted at source. Audit found that the dealers in their returns furnished to the respective charges, did not disclose CTP received from these contractees and filed returns as nil. The contractual transfer price as disclosed by the dealers in their returns was either accepted as correct or best judgment assessments were made that were less than the actual CTP. Evasion of tax by the dealers in these cases stood at ₹ 4.14 crore (net of TDS of ₹ 1.82 crore). The assessing authorities failed to detect the evasion in the absence of a system for cross verification of the data available with the STDS cell with the returns filed by these dealers.

On being pointed out (between February 2014 and July 2014), seven<sup>30</sup> charge offices accepted (between April 2014 and October 2014) the audit observation in 12 cases, Salt Lake charge accepted in two cases out of three while other charge offices did not furnish any reply/specific reply.

The CCT in the Exit Conference (December 2014) stated that the existing system had since been corrected and with the help of a new system operational with effect from 25 August 2014, the assessing authorities at the time of assessment of cases by June 2015 in respect of assessment year 2012-13, would be able to ascertain the CTP of a works contractor from STDS details of contractors as furnished online by the contractees.

#### **2.4.7.4 Evasion by works contractors making short disclosure of CTP in returns**

As per information of payments made to works contractors and tax deduction at source made available to audit by two<sup>31</sup> civil construction divisions under PWD, two<sup>32</sup> divisions under PWRD, WBSRDA-North 24 Paraganas District and Civil Engineering Division-II under SDB, nine works contractors registered under six<sup>33</sup> charges received payments of ₹ 29.33 crore during the period between 2008-09 and 2012-13 for execution of works contracts. Audit found that the dealers in their returns furnished to the respective charges, disclosed payments received from these divisions as ₹ 6.27 crore only. This resulted in short disclosure of CTP of ₹ 23.06 crore with consequent evasion of tax of ₹ 1.10 crore (net of TDS of ₹ 0.46 crore). Cross verification of the payment details sent by the contractees to STDS cell with those reflected in the returns filed by these dealers would have prevented evasion of tax.

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<sup>28</sup> South Eastern Railway, Steel Authority of India Limited-Durgapur Steel Plant, Kolkata Port Trust and Kolkata Metropolitan Development Authority.

<sup>29</sup> Asansol, Barasat, Ballygunge, Barrackpore, Baruipur, Behala, Beliaghata, Bhabanipur, Diamond Harbour, Krishnanagar, Midnapur, Purulia, Salt Lake, Serampur, Taltala and Tamluk.

<sup>30</sup> Asansol, Ballygunge, Behala, Beliaghata, Bhawanipur, Krishnanagar and Purulia.

<sup>31</sup> Alipore Division and Barasat Division.

<sup>32</sup> 24 Paraganas Highway Division and Barasat Highway Division-II.

<sup>33</sup> Barrackpore, Behala, Beliaghata, Diamond Harbour, Purulia and Salt Lake.

On being pointed out (between February 2014 and October 2014), three<sup>34</sup> charge offices in five cases accepted (between July 2014 and October 2014) the audit observation while other three charge offices did not furnish any reply.

The CCT in the Exit Conference (December 2014) stated that the existing system had since been corrected and with the help of a new system operational with effect from 25 August 2014, the assessing authorities at the time of assessment of cases by June 2015 in respect of assessment year 2012-13, would be able to ascertain the CTP of a works contractor from STDS details of contractors as furnished online by the contractees.

#### **2.4.8 Absence of a system to detect non-deduction of tax from payments made to works contractors**

In terms of Section 40 of WBVAT Act, 2003, any person responsible for making payments to any dealer for execution of a works contract, shall at the time of payment, deduct tax at prescribed rates, on intra-State CTP arising from transfer of property in taxable goods in the execution of such works contract by him. If the person fails to deduct tax from payments made to a contractor, he shall be personally liable for such contravention and the CCT may, after giving him an opportunity of being heard, impose upon such person a penalty, not exceeding twice the amount required to be deducted and deposited by him into Government Treasury.

Audit found from the contractors' ledgers maintained in the Divisions that two<sup>35</sup> Civil Engineering Divisions under SDB made payments of ₹ 9.04 crore to two dealers on different dates between February 2008 and June 2010 for execution of works contract without making deduction of tax at source. This resulted in non-deduction of tax of ₹ 0.18 crore.

On being pointed out, the divisions involved in non-deduction of tax accepted (August 2014) the observation.

Further, in course of scrutiny of assessment case records in Bhawanipur Charge, it was noticed that a private contractee made payments of ₹ 23.48 crore to a contractor during the period 2011-12 for execution of works contract, but did not deduct tax at source. The amount of tax not deducted from payment so made to the dealer stood at ₹ 0.47 crore.

In the absence of any enabling or enforcing provision in the WBVAT Act or WBVAT Rules, DCT does not have any system in place to detect non-deduction of tax from payments made to the dealers for execution of works contracts. Hence no action could be taken under Section 40 of the WBVAT Act, 2003 against the persons who failed to deduct tax.

On being pointed out (August 2014), the DCT did not furnish any reply.

The CCT accepted the audit observation in the Exit Conference (December 2014) and stated that the Directorate has launched sustained campaign including various workshops and writing letters to the Government Departments.

<sup>34</sup> Beliaghata, Purulia and Salt Lake.

<sup>35</sup> Civil Engineering Division-I and Civil Engineering Division-II.

## 2.4.9 Deficiencies in administration of TDS

Section 40 of the Act and rules made thereunder provide that a person making deduction of tax at source from payments made to a works contractor, shall within 10 days from the expiry of each calendar month, deposit into Government Treasury the total amount so deducted from one or more dealers during the immediately preceding month. Such person shall, within 45 days from the date immediately after the date of expiry of the calendar month of deduction, send to the Commissioner— a scroll in Form No. 19 in respect of a month specifying therein, *inter alia*, the amount deducted and transferred or deposited from each dealer during such month, the particulars of each dealer from whose payment such amount had been deducted, number of the certificate of registration under the Act, if any, of such dealer, a copy of certificate of deduction in Form 18 and a copy of the challan evidencing deposit of tax into Government Treasury. Audit observed that there was no system in place to monitor deduction of tax at source and its timely payment by the enrolled contractees. Deficiencies in this regard arising from the Act not providing for deterrents are discussed in following two sub-paragraphs:

### 2.4.9.1 Levy of interest on delayed deposit of TDS

In course of Audit in the STDS Cell of the DCT, Audit noticed that 36 persons<sup>36</sup> in 112 cases deposited the tax deducted at source from the contractors during the period 2008-09 to 2011-12 with delays. In most number of cases it was observed that the delay ranged between 20 days to six months. An analysis of the delay is shown in the following table:-

Range of Delay (in months)	Number of cases
20 days to six months	94
Six months to 12 months	8
12 months to 18 months	2
18 months to 24 months	4
24 months to 30 months	4

Audit observed that unlike the provisions of levy of interest for delayed payment of tax, there is no provision in the Act for levy of interest for such delayed deposit of tax deducted at source by a person making such deductions. Such provision for levy of interest would have served as a deterrent to keeping Government money out of the treasury and in these 112 test checked cases, augmented revenue collection by ₹ 1.49 crore towards interest calculated at the rate of 12 *per cent* per annum as applicable in respect of delayed payment of tax. On being pointed out (between December 2013 and June 2014), the DCT did not furnish any reply.

The CCT in the Exit Conference (December 2014), stated that the issue comes under the jurisdiction of the legislature and therefore the matter might be brought to the notice of the Government.

<sup>36</sup> As per section 40 of the WB VAT Act, 2003 “Person” means any person responsible for paying any sum to any dealer for execution of a works contract within West Bengal.

### 2.4.9.2 Levy of late fee on delayed submission of TDS certificates and scrolls

Audit observed from the Daily Collection Registers of TDS certificates (Form 18) and TDS deposit scrolls (Form 19) maintained in the STDS cell that tax at source was deducted by 17 contractees in 72 cases during the period between August 2009 and October 2011. The delay in submission of scrolls in Form 19, TDS certificates and corresponding challans to the CCT in most number of cases ranged between three months to six months. An analysis of delay in submission is shown in the following table:-

Range of Delay	Number of cases
Up to three months	23
Three months to six months	33
Six months to nine months	9
Nine months to 12 months	7

Unlike the provision for levy of late fee on delayed submission of returns, there is no provision in the Act for levy of late fee on delayed submission of scrolls in Form 19 and copies of TDS certificates in Form 18.

On being pointed out (June 2014), the DCT did not furnish any reply.

The CCT in the Exit Conference (December 2014), stated that the issue comes under the jurisdiction of the legislature and therefore the matter might be brought to the notice of the Government.

### Efficiency and effectiveness of tax administration in ensuring compliance with the applicable legislations and rules

#### 2.4.10 Incorporation of interest in demand arising in garnishee proceedings under Section 60

Section 34 (1) of the WBVAT Act, 2003 provides for levy of interest on amount of tax due from a dealer where the dealer fails to make payment of any tax due after provisional or any other assessments by the date specified in the notice of demand for payment thereof. The dealer shall pay a simple interest at the rate of 12 *per cent* per annum for the period of default, calculated from the day next following the date specified in the such notice up to the day of full payment of such tax or up to the day preceding the day of commencement of proceedings under Section 55, whichever is earlier upon so much of amount of tax due from him according to such notice as remains unpaid. Further, Section 60 of the Act provides for special mode of recovery of tax, penalty and interest known as garnishee proceedings from a defaulting dealer by way of issuing a notice to any person who holds or may subsequently hold money on account of the defaulting dealer. The person is required to deposit such amount into treasury, not exceeding the amount due

from the dealer. Recovery proceedings by way of TROs<sup>37</sup> and garnishee proceedings may continue simultaneously.

Audit in Ballygunge Charge found that in two cases of a works contractor garnishee proceedings for recovery of assessed dues of ₹ 11.47 crore for the period 2008-09 and 2009-10 were initiated. Audit observed that though provisions for levy of interest for the period from due dates of payment to the day preceding the day of commencement of proceedings existed in the mode of recovery under Section 55 through TROs, there is no provision to levy such interest in the proceedings under Section 60. Had there been a provision, the Department could have raised a higher demand of ₹ 1.38 crore in form of interest in these two cases, calculated at the rate of 12 *per cent* per annum as applicable in respect of interest leviable in mode of recovery through the TROs.

On being pointed out (June 2014), the charge office replied (June 2014) that there was no provision in the Act to levy interest for the intervening period in garnishee proceedings.

#### **2.4.11 Incorrect determination of CTP**

In terms of Section 2(10) of the Act, CTP in relation to any period, is the amount received or receivable by a dealer in respect of transfer of property in goods in the execution of any works contract.

Sections 14 and 18 of the WBVAT Act prescribe that any transfer of property in goods involved in the execution of works contract shall be deemed to be a sale by the person making such transfer and tax at prescribed rates shall be levied on his CTP after allowing deductions towards labour charges, service charges and payments to sub-contractors etc. Further, where the taxable CTP for application of proper rate of tax is not ascertainable from the books of accounts maintained by the dealer or where a dealer does not maintain books of accounts worthy of credence, tax on CTP should be assessed according to the table given under Rule 30(2) of the WBVAT Rules, 2005.

#### **.4.11.1 CTP determined short of payments as per TDS allowed in assessment.**

Scrutiny of assessment case records in 11<sup>38</sup> charge offices for the assessment periods between 2008-09 and 2010-11 revealed that the AAs in 30 cases of 25 dealers allowed tax credit of ₹ 22.29 crore on the basis of TDS certificates produced by the dealers. As the tax was deducted at the rate of two *per cent* from payments made to the dealers, the CTP calculated from this would amount to ₹ 1,114.61 crore. In assessing the cases between June 2011 and June 2013, the AAs, however, determined CTP for the purpose of assessment at ₹ 952.54 crore only. This resulted in short determination of CTP of ₹ 162.07 crore with consequent short levy of tax by ₹ 12.58 crore.

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<sup>37</sup> Tax Recovery Officer appointed by the State Government for recovery of net tax or any other tax, late fee, interest or penalty.

<sup>38</sup> Alipore, Asansol, Ballygunge, Bhawanipore, Corporate Division, Krishnanagar, Midinapore, Purulia, Salt Lake, Siliguri and Ultadanga.

On being pointed out, nine<sup>39</sup> charge offices in 17 cases accepted (between April 2014 and October 2014) the audit observation, of which in nine cases the AAs stated that proposal for revision had been sent to the higher authorities. In the remaining 13 cases, five charge offices did not furnish reply/specific reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

#### **2.4.11.2 CTP determined short of payments disclosed in returns/books of accounts**

Audit found in nine<sup>40</sup> charge offices that CTP of 15 dealers in 15 cases as per books of accounts/returns and other statements submitted by the dealers for the assessment periods between 2006-07 and 2010-11 stood at ₹ 739.79 crore. In assessing the cases between June 2009 and June 2013, the AAs however determined CTP at ₹ 309.88 crore. This resulted in short determination of CTP of ₹ 429.91 crore with consequent short levy of tax of ₹ 20.44 crore.

On being pointed out, seven<sup>41</sup> charges in eight cases accepted (May 2014 and October 2014) the audit observation, of which in six cases the AAs stated that proposal for revision had been sent to the higher authorities. In the remaining seven cases, four charge offices did not furnish any reply/specific reply.

#### **2.4.12 Non assessment of tax on CTP**

In terms of Section 2(57) read with Section 2(10) of the WBVAT Act, receipts from transfer of property in goods involved in repairs of machinery affixed to an immovable property and job works shall be treated as CTP of a dealer in execution of works contract. Further, under Section 48 of the Act, a dealer who has been liable to pay tax under the Act in respect of any period but has failed to get himself registered or has not been registered, the CCT shall determine to the best of his judgment the amount of tax payable by the dealer in respect of such period.

Scrutiny of assessment case records, profit and loss accounts and TDS certificates in Corporate Division revealed that three trading dealers in three cases received payments of ₹ 4.05 crore in 2007-08 for works that fall under the above categories. While assessing the cases between May 2010 and June 2010, the AAs in two cases failed to detect CTP of ₹ 2.94 crore and in another case the AA determined CTP at ₹ 1.10 crore but did not levy tax thereupon. Further, in assessing a case of a dealer in Belgachhia Charge for the assessment period 2010-11, tax on CTP of ₹ 0.97 crore for the pre-registration period was not assessed. This resulted in non- assessment of tax of ₹ 0.37 crore.

<sup>39</sup> Alipore, Asansol, Ballygunge, Bhawanipore, Krishnanagar, Purulia, Salt Lake, Siliguri and Ultadanga.

<sup>40</sup> Asansol, Ballygunge, Cossipore, Corporate Division, Darjeeling, Durgapur, Midnapore, Salt Lake and Siliguri.

<sup>41</sup> Asansol, Ballygunge, Cossipore, Darjeeling, Durgapur, Salt Lake and Siliguri.

On being pointed out, Belgachhia Charge accepted (August 2014) the audit observation and stated that notice for initiation of assessment proceedings under Section 48 had been issued to the dealer, while Corporate Division did not furnish any reply.

#### **2.4.13 Incorrect determination of taxable CTP due to incorrect categorisation of works contracts**

Under Section 18(3) of the Act, where taxable CTP for application of proper rates of tax are not ascertainable from the books of accounts and records maintained by the dealer or where a dealer does not maintain books of accounts and records worthy of credence as found by the assessing authority or the auditing authority, the taxable CTP and the application of proper rates of tax thereon, shall be determined under Rule 30(2). The Section provides different weights to be given to components of works contracts in respect of different categories of work for the purpose of determination of tax, altering the effective rate of tax according to such categorisation.

Audit found in seven<sup>42</sup> charge offices that in 19 cases assessed between June 2011 and June 2013 for the assessment periods between 2008-09 and 2010-11, the AAs wrongly categorised the types of works contracts which resulted in short levy of tax by ₹ 6.51 crore.

On this being pointed (between October 2013 and July 2014), the four<sup>43</sup> charge offices in six cases accepted (between December 2013 and September 2014) the audit observation, of which in two cases the AAs stated that proposal for revision had been sent to the higher authorities. In the remaining 13 cases, seven<sup>44</sup> charge offices did not furnish reply/ specific reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

#### **2.4.14 Incorrect determination of tax under composition scheme<sup>45</sup>**

Under Section 18(4) and rules made thereunder, a registered dealer engaged in the business of works contract, may, at his option, pay tax at compounded rate of two *per cent* of the aggregate amount of the CTP in lieu of tax payable by him on the taxable CTP at the prescribed rates. A dealer opting to pay tax at compounded rate shall be eligible to exercise his option for a maximum period of one year only at a time. The dealer shall communicate such option in Form 16 to the appropriate authority as prescribed under the Act within 90 days from the date of commencement of the year. The dealer opting to pay tax at compounded rate however shall not be eligible for making sale under CST Act, 1956. The dealer is also not eligible for reselling goods in West Bengal.

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<sup>42</sup> Asansol, Ballygunge, Darjeeling, Durgapur, Park Street, Salt Lake and Tamluk.

<sup>43</sup> Ballygunge, Durgapur, Park Street and Salt Lake.

<sup>44</sup> Asansol, Ballygunge, Darjeeling, Durgapur, Park Street, Salt Lake and Tamluk.

<sup>45</sup> A dealer under composition scheme opt to pay tax at the rate of two *per cent* of the aggregate contractual transfer price subject to conditions and restrictions as prescribed under the Act instead of paying tax applicable for goods used in execution of works contract.

#### **2.4.14.1 Payment of tax at compounded rate by dealers engaged in resale**

Audit found in two<sup>46</sup> charges that in assessing two cases between June 2012 and July 2012 for the assessment period 2009-10, the AAs assessed tax of ₹ 0.04 crore at compounded rate instead of ₹ 0.16 crore at the rates specified under Section 18(1) of the Act on CTP of ₹ 2.09 crore though the dealers were not eligible for such benefit as they were engaged in reselling of goods. This resulted in short levy and consequent short payment of tax of ₹ 0.12 crore.

After audit pointed out the cases (April 2014 and July 2014), Beliaghata Charge accepted the audit observation and stated that proposal for revision had been sent (September 2014) to the higher authority, while Midnapore charge did not furnish any reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

#### **2.4.14.2 Non/delayed-exercise of option for payment of tax at compounded rate**

Scrutiny of assessment case records in seven<sup>47</sup> charge offices revealed that in assessing 29 cases of 26 dealers between June 2011 and June 2013 for the assessment periods between 2008-09 and 2010-11, the AAs levied tax of ₹ 1.00 crore at compounded rate instead of ₹ 3.72 crore at the rates specified under Section 18(1), on CTP of ₹ 50.47 crore, though 21 dealers in 24 cases did not exercise their option in Form-16 while five dealers in five cases did not furnish Form 16 within the prescribed time limit for payment of tax under composition scheme. This resulted in short levy of tax of ₹ 2.72 crore.

On being pointed out (between April 2014 and June 2014), four<sup>48</sup> charge offices in five cases accepted (between April 2014 and August 2014) the audit observation and informed that action were being taken to reopen the cases. In the remaining 24 cases, the five charge offices did not furnish reply/specific reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

#### **2.4.15 Incorrect determination of taxable CTP due to incorrect allowance of deduction**

Section 18 of the Act provides for determination of the CTP chargeable to tax after the allowed deductions. Deductions are allowed in respect of contractual transfer of goods, charges towards labour, service and other like charges, payments to sub-contractors engaged by the dealer for execution of works contract etc.

<sup>46</sup> Beliaghata and Midnapore.

<sup>47</sup> Asansol, Ballygunge, Belgachhia, Darjeeling, Diamond Harbour, Durgapur and Midnapore.

<sup>48</sup> Asansol, Ballygunge, Belgachia and Diamond Harbour.

A dealer claiming deduction towards payment to sub-contractors from CTP, is required to furnish evidence to prove that the sub-contractors engaged by him for execution of works contract are registered dealers, that the amounts claimed for deduction were included in the returns of the sub-contractors and that tax under Section 18(1) was paid by them. Under Section 40, the dealer is also required to deduct, at the time of payment to sub-contractors, an amount towards payment of tax leviable on intra-State CTP, arising from transfer of property in taxable goods in execution of such works contract by him. The amount so deducted from one or more sub-contractors during the month shall be deposited within 10 days from the expiry of the month in which tax was deducted. The person who deducts and deposits the amount towards payment of tax in respect of works contract shall, within 15 days from the date of deposit, issue a certificate of deduction in Form 18 in respect of such dealer.

Further, where a dealer does not maintain proper books of accounts, or the accounts maintained by him are not worthy of credence, and the amount actually incurred towards deductible charges are not ascertainable, the taxable CTP shall be determined in accordance with Rule 30(2).

#### **2.4.15.1 Incorrect allowance of deduction towards labour, service and other like charges.**

In 15<sup>49</sup> charge offices, 29 dealers in 34 cases in their returns/statements filed for the periods of assessment between 2007-08 and 2010-11 claimed deduction towards labour, service and other like charges of ₹ 273.01 crore from CTP of ₹ 548.91 crore. In assessing the cases between June 2011 and June 2013 the AAs allowed deduction for ₹ 256.50 crore. On scrutiny of assessment case records of the dealers, Audit found that the dealers did not furnish evidences/books of accounts in 12 cases, whereas in remaining 22 cases AAs did not consider the supporting documents. Audit observed that dealers were eligible for deduction of only ₹ 112.39 crore as per the provisions of the Act. Thus, due to incorrect allowance of deduction taxable CTP was determined short by ₹ 144.11 crore with consequent short levy of tax of ₹ 15.04 crore.

On being pointed out, nine<sup>50</sup> charge offices in 15 cases accepted (between May 2014 and October 2014) the audit observation, of which in 11 cases the AAs stated that proposal for revision had been sent to the higher authorities. In the remaining 19 cases, eight charge offices did not furnish reply/specific reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

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<sup>49</sup> Asansol, Ballygunge, Baruipur, Belgachhia, Budge Budge, Corporate Division, Cossipore, Darjeeling, Durgapur, Krishnanagar, Midnapore, Park Street, Salt Lake, Siliguri and Ultadanga.

<sup>50</sup> Asansol, Ballygunge, Cossipore, Darjeeling, Krishnanagar, Park Street, Salt Lake, Siliguri and Ultadanga.

### 2.4.15.2 Incorrect allowance of deduction towards payment to sub-contractors

Scrutiny of assessment case records in eight<sup>51</sup> charges, 17 dealers in 20 cases for the periods of assessments between 2007-08 and 2010-11 claimed deduction towards payment to sub-contractors of ₹ 389.13 crore which was allowed for deduction by AAs from the CTP of ₹ 915.80 crore. Audit found that the dealers in support of their claims for deduction of ₹ 235.92 crore did not furnish the necessary evidence in respect of payments made to sub-contractors and also disclosure of the CTP by sub-contractors in their respective returns. The incorrect allowance of deduction of ₹ 235.92 crore resulted in short levy of tax of ₹ 14.48 crore.

On being pointed out, five<sup>52</sup> charge offices in 12 cases accepted (between May 2014 and October 2014) the audit observation, of which in eight cases the AAs stated that proposal for revision had been sent to the higher authorities. In the remaining eight cases, four<sup>53</sup> charge offices did not furnish any reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

### 2.4.15.3 Incorrect allowance of deduction towards labour, service and other like charges and payment to sub-contractors

In six<sup>54</sup> charge offices, 12 dealers in 17 cases in their returns/statements for the assessment periods between 2006-07 and 2010-11, disclosed their CTP at ₹ 2,663.42 crore, of which claims for deduction towards labour, service and other like charges and payment to sub-contractors stood at ₹ 1,392.08 crore and ₹ 527.90 crore respectively. In assessing the cases between June 2009 and June 2013, the AAs determined CTP at ₹ 2,663.42 crore of which labour, service and other like charges and payment to sub-contractors for deduction from CTP was determined at ₹ 1,969.71 crore. After allowing the deductions, taxable CTP was determined at ₹ 669.04 crore.

Scrutiny of records however revealed that the dealers in support of their claims for deduction towards labour, service and other like charges did not furnish books of account/statement of labour charges /Annexure etc. As to claim for deduction towards payment to sub-contractors, the dealers did not furnish any evidence to prove that the sub-contractors filed their returns to their respective charge offices, disclosed the payments as claimed for deduction in the returns and paid tax on payments so received by them. These deductions hence were not allowable.

In the absence of evidence, dealers were eligible for deduction of ₹ 606.66 crore only as against deduction of ₹ 1,969.71 crore allowed by the AAs. The incorrect deduction of labour, service, and other like charges and payment to

<sup>51</sup> Ballygunge, Baruipur, Belgachhia, Corporate Division, Durgapur, Park Street, Siliguri and Ultadanga.

<sup>52</sup> Ballygunge, Durgapur, Park Street, Siliguri and Ultadanga.

<sup>53</sup> Ballygunge, Barrackpore, Baruipur and Corporate Division .

<sup>54</sup> Baruipur, Belgachhia, Corporate Division, Durgapur, Siliguri and Ultadanga.

sub-contractors resulted in short determination of taxable CTP of ₹ 1,361.18 crore, with consequent short levy of tax of ₹ 131.62 crore.

On these 17 cases being pointed out, four<sup>55</sup> charge offices in five cases accepted (between August 2014 and October 2014) the audit observation, of which in two cases the AA stated that proposal for revision had been sent to the higher authority.

In the remaining 12 cases, two charge offices did not furnish reply/specific reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

#### **2.4.16 Incorrect allowance of tax credit against tax deducted at source**

In terms of Section 40 of the Act and rules made thereunder, a person making deduction of tax from payments made to a dealer for execution of works contract shall deposit the amount so deducted into Government Treasury within 10 days from the expiry of the month in which tax was deducted. The person, who deducts and deposits tax, shall within 15 days from the date of deposit issue a certificate of deduction in Form 18 in respect of such dealer. In terms of Section 32(4), where a deduction of an amount is made from payment of any sum to a dealer for execution of works contract, and such amount is deposited into Government Treasury, the deduction shall be deemed to be payment of tax by such dealer on the date of such deduction. The dealer shall furnish along with his return a copy of the certificate of deduction as a proof of such payment of tax. The dealer shall be eligible to claim the amount deducted as payment of tax in the tax period during which the certificate of deduction has been issued.

##### **2.4.16.1 Tax credit allowed against invalid DS certificates**

Scrutiny of assessment case records in four<sup>56</sup> charge offices revealed that in 11 cases assessed between June 2011 and June 2013 for the assessment periods from 2008-09 to 2010-11, the AAs allowed tax credit of ₹ 1.55 crore instead of ₹ 0.73 crore though dealers were not eligible for tax credit of ₹ 0.82 crore as shown below:

- In two charge offices, three dealers in six cases were allowed excess tax credit of ₹ 0.69 crore based on incomplete TDS certificates where the amount of tax deposited in Government Treasury, Challan number, date of deposit and name of the treasury were not specified;
- In two charge offices, three dealers in three cases were allowed excess tax credit of ₹ 0.08 crore against TDS certificates not covered by the periods of assessments;
- In one case, a dealer was allowed excess tax credit of ₹ 0.04 crore against TDS certificates issued to other dealers;

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<sup>55</sup> Belgachhia, Durgapur, Siliguri and Ultadanga.

<sup>56</sup> Asansol, Behala, Salt Lake and Siliguri.

- In one case, a dealer was allowed excess tax credit of ₹ 0.01 crore against TDS certificate of other State.

On being pointed out, three charge offices in six cases accepted the audit observation (July 2014 and October 2014) and stated that proposals for revision of the cases were being sent to the higher authorities. In the remaining five cases, two charge offices did not furnish any reply/specific reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

#### **.4.16.2 Incorrect allowance of tax credit against claim without TDS certificates**

Audit found in seven<sup>57</sup> charge offices that in 10 cases assessed between June 2011 and June 2013 for the assessment periods from 2008-09 to 2010-11, the AAs allowed tax credit of ₹ 18.49 crore instead of ₹ 0.37 crore though the dealers did not furnish TDS certificates against claim of tax credit of ₹ 18.12 crore. Non-submission of TDS certificates in two cases were recorded by the AAs at the time of scrutiny of returns filed by two dealers to whom credit of TDS of ₹ 14.31 crore was allowed. This resulted in excess allowance of tax credit of ₹ 18.12 crore.

On being pointed out, four charge offices in four cases accepted (between May 2014 and September 2014) and stated that the cases were being reopened. In the remaining six cases, five charge offices did not furnish any reply/specific reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

#### **2.4.17 Incorrect allowance of Input Tax Credit**

In terms of Section 22, a registered dealer who intends to claim ITC shall for the purpose of determining the ITC, maintain accounts and all other relevant records in respect of purchases made by him in West Bengal. A registered dealer can enjoy the benefit of ITC to the extent of tax paid or payable by him on purchase of taxable goods from registered dealers in West Bengal. Any amount of ITC that remains in excess at the end of a year shall be carried over to the next year. In terms of Rule 34(5) of WB VAT Rules, 2005, every registered dealer while filing return in Form-14 shall furnish in Part-I of Annexure-B to the return, details of purchases of goods, for direct use in business, effected by the dealer in excess of ₹ 50,000 from registered or unregistered dealers within West Bengal during the return period. Further, in terms of Section 41 of the Act, every return furnished by a dealer is to be scrutinised by the AAs to ascertain that the return so furnished is complete and self-consistent and is supported by necessary documents to be furnished therewith and correctness of the calculation of ITC, reverse credit, net tax and

<sup>57</sup> Baruipur, Budge Budge, Corporate Division, Durgapur, Salt Lake, Siliguri and Ultadanga.

late fee payable, if any, including proper rate of tax applicable and interest payable according to such return.

#### **2.4.17.1 ITC allowed without verifying purchase documents**

Audit in three<sup>58</sup> charge offices found that three dealers in three cases assessed between June 2011 and June 2013 claimed ITC of ₹ 1.86 crore for the assessment periods between 2008-09 and 2010-11 neither furnished any evidence in respect of purchases made by them in West Bengal nor furnished Part-I of Annexure-B with the returns filed. In assessing the cases between June 2011 and June 2013, the AAs allowed the claims despite the fact that the returns were incomplete and inconsistent and were not accompanied by the necessary evidences of purchase from dealers in West Bengal. No evidence was available on record to indicate that the returns were scrutinised by the AAs. This resulted in incorrect allowance of ITC amounting to ₹ 1.86 crore.

On being pointed out, Durgapur and Ultadanga Charge accepted (between May 2014 and August 2014) the audit observation, while Baruipur Charge did not furnish any reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

#### **2.4.17.2 Allowance of inadmissible claim of excess ITC brought over from previous year**

Audit found in four<sup>59</sup> charge offices that four dealers, in their returns filed for the assessment periods between 2008-09 and 2010-11 claimed excess unadjusted ITC of ₹ 2.03 crore brought forward from the previous assessment periods. In assessing these cases between June 2011 and June 2013, the AAs allowed such claims of excess ITC brought forward without verifying the assessment orders of the previous periods. Scrutiny of the assessment case records of previous years of the concerned dealers revealed that no excess ITC was available as the entire ITC allowed by the AAs had already been adjusted with the output tax payable by the dealers in the previous years. This resulted in irregular allowance of ITC of ₹ 2.03 crore.

On being pointed out, two<sup>60</sup> charge offices in two cases accepted (between July 2014 and October 2014) the audit observation while two<sup>61</sup> charge offices in two cases did not furnish any reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

#### **2.4.18 Non-levy of interest for non-reversal of ITC**

In terms of Rule 23 of WB VAT Rules, 2005 read with Section 31(A) of Act, where ITC has been availed by a registered dealer on purchases of such goods or such other purchases or purchases for which ITC is not permissible under Section 22 of the Act, the ITC for such goods shall be deducted from the ITC

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<sup>58</sup> Baruipur, Durgapur and Ultadanga.

<sup>59</sup> Corporate Division, Purulia, Taltala and Siliguri.

<sup>60</sup> Purulia and Siliguri.

<sup>61</sup> Taltala and Corporate Division.

of the tax period in which the relevant transactions took place. Further, in terms of Section 33(3) of the Act, if the dealer fails to do so, he shall pay a simple interest at the rate of 12 *per cent* per annum for the period commencing on the date immediately following the prescribed date of payment of net tax for such period and up to the date prior to the date of payment of net tax or, up to the date of assessment, whichever is earlier.

In two<sup>62</sup> charge offices three dealers in three cases in their returns filed for the period of assessment 2009-10 to 2010-11 claimed ITC of ₹ 1.31 crore in excess of the amount admissible to them under the provisions of the Act. The dealers however neither made reversal of the ITC so claimed in their returns nor paid any interest for non reversal of the ITC. While assessing the cases between April 2012 and June 2013 also, interest was not levied. This resulted in non-levy of interest of ₹ 0.39 crore.

On this was pointed out, Belgachia Charge accepted (August 2014) the audit observation while Baruipur Charge did not furnish any reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

### **Other Points of Interest**

#### **2.4.19 Mistake in computation**

Under the WBVAT Act, 2003, tax is to be computed at the rates applicable from time to time along with interest and penalty, if any, on the goods sold or property transferred.

Scrutiny of assessment case records in two<sup>63</sup> charge offices revealed that in assessing four cases of four dealers between June 2011 and June 2012, for the assessment periods between 2008-09 and 2009-10, the AAs determined tax at ₹ 1.58 crore instead of ₹ 1.77 crore due to incorrect computation of taxable CTP. This resulted in short determination of net tax of ₹ 0.19 crore. In another case the AA computed tax credit claimed against TDS certificates and ITC at ₹ 1.61 crore instead of ₹ 1.27 crore. This resulted in excess allowance of tax credit of ₹ 0.34 crore.

On being pointed out Baruipur charge in three cases accepted (September 2014) the audit observation and informed that the cases were being reopened. Ballygunge charge in two cases did not furnish reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

#### **2.4.20 ITC allowed on purchases made prior to period of assessment**

Audit found in Baruipur Charge that a dealer in his returns filed for the period of assessment 2009-10 claimed ITC of ₹ 0.24 core on purchases made prior to the period of assessment. In assessing the case in June 2012, the AA allowed

<sup>62</sup> Baruipur and Belgachhia.

<sup>63</sup> Ballygunge and Baruipur.

the claim without making verification of the purchase documents. This resulted in irregular allowance of ITC amounting to ₹ 0.24 crore.

On being pointed out, the charge office did not furnish any reply.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

#### **2.4.21 Application of incorrect rate of tax**

Under Notification No. 869-F.T., dated 13 June 2011, the tax leviable at the rate of 12.5 *per cent* was enhanced to 13.5 *per cent* with effect from 15 November 2010.

In assessing two cases of two dealers under Salt Lake charge for the assessment year 2010-11, the AAs applied tax at the rate of 12.5 *per cent* instead of the revised rate of tax of 13.5 *per cent*. This resulted in under assessment of tax of ₹ 0.29 crore.

On this being pointed out, the charge office accepted (July 2014 and September 2014) the audit observation and stated that cases were being reopened.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

#### **2.4.22 Excess allowance of tax credit**

Scrutiny of assessment case records in Park Street charge revealed that in an appellate order passed in respect of a case of a dealer for the period of assessment year 2009-10, the appellate authority allowed tax credit of ₹ 0.19 crore. While modifying the assessment order of the case in consequence of that appellate order, the AA allowed tax credit of ₹ 0.70 crore instead of ₹ 0.19 crore. This resulted in excess allowance of tax credit of ₹ 0.51 crore.

After audit pointed this out, the charge office accepted (December 2013) the observation and stated that modified notice of demand had been issued.

The CCT in the Exit Conference (December 2014) stated that concerned charge officers would be impressed upon to furnish specific replies to audit observations.

### **Effectiveness of Internal Control Mechanism**

#### **2.4.23 Internal Control Mechanism**

Internal Control is an integral component of an organisation's management processes established in order to provide reasonable assurance that the organisation's operations are carried out effectively, economically and efficiently. Evaluation of Internal Control Mechanism in the administration of VAT from works contractors revealed deficiencies in the administrative, operational and monitoring controls. Internal Audit arrangements were found to be deficient and did not provide complete assurance against irregularities. Deficiencies in the internal control mechanism are discussed in the following three sub-paragraphs:

#### **2.4.23.1 Effectiveness of Internal Audit Wing**

Internal Audit wing (IAW) of the DCT is a permanent in-house mechanism for scrutinising and detecting irregularities in the assessment of VAT cases as well as checking of different records and registers in the DCT to ascertain the effectiveness of the internal control system. The IAW of the Directorate started functioning since May 1991. The IAW of the Directorate is headed by an Additional CCT who is assisted by two Sr. JCCTs and one JCCT.

Audit observed that no manual was formulated on the working procedure of the IAW. Further, there was no structured plan or any periodical target set for conducting internal audit of works contractors registered in different charge offices during the last five years. It was also noticed that there was no separate report on irregularities regarding works contractors sent to the CCT. Number of cases audited by the IAW in respect of works contractors during the last five years was not intimated to audit though called for. The IAW could not provide specific information regarding the nature of irregularities detected in assessment of tax on CTP.

The CCT in the Exit Conference (December 2014) stated that the Administrative Sr. JCCTs and Additional CCTs of the circles have been impressed upon to inspect the work of their subordinates.

#### **2.4.23.2 Absence of a database of collection of tax from works contractors**

An exclusive database of revenue realised from works contractors is essential so that the department remains vigilant about the charge offices where the works contracts are executed in large numbers and also about the nature of such contracts. No such database is maintained in the DCT, in absence of which the department cannot quantify the amount of revenue collected from works contractors.

The CCT in the Exit Conference (December 2014) did not furnish any specific reply.

#### **2.4.23.3 Failure of internal control to check utilisation of the data available with the DCT to bring unregistered works contractors into tax net.**

In terms of Section 40 of the WBVAT Act, 2003 a contractee making deduction of tax from payments made to the works contractors for execution of works contracts, shall send copies of certificates of deduction and scrolls specifying therein the names of those works contractors from whose payments deductions of tax was made in a month, to the STDS Cell of the DCT. The information can be put to use to identify unregistered works contractors who are liable for registration. In course of audit it was observed that there was no system in place in DCT to utilise this data received from various contractees to monitor CTP of unregistered works contractors and identify those who are liable for registration. No registers or records were found to have been maintained by STDS Cell of the DCT to monitor transmission of such TDS certificates to the respective charge offices on receipt of those certificates from the contractees.

The CCT in the Exit Conference (December 2014) stated that the data will be utilised for registration of potential tax assesseees with the help of a new electronic register.

#### **2.4.24 Conclusion**

The Performance Audit noticed certain system deficiencies, deficiencies in the compliance to the provisions of the Act/Rules/orders etc. The Department has no effective system to utilise data available with it to bring unregistered works contractors into the tax net. There is no correlation between the STDS cell and charge offices for cross verification of data in respect of payments disclosed in TDS certificates by contractees with CTP disclosed by dealers in their returns to prevent tax evasion, suppression of revenue and excess claims of deductions. Lack of sufficient deterrents by way of mandatory/minimum penalty, non-deduction of tax from payments made to dealers, levy of interest for delayed deposit of TDS, imposition of late fee, levy of interest for recovery proceedings under Section 60 etc. were noticed. In determining CTP of the works contractors, payments as per TDS were not taken into account. Deductions towards labour, service and other like charges and payment to sub-contractors were allowed without verifying the correctness of the claims of works contractors. Tax credit was allowed against claims without TDS/invalid TDS certificates. There were weaknesses in the internal control mechanism. There was no working manual formulated for the IAW. The internal control mechanism with regard to revenue of works contractors was not effective as there was no exclusive database of registered works contractors available with the DCT.

#### **2.4.25 Summary of recommendations**

The Government may consider following steps to detect potential assesseees and prevent tax evasions to enhance revenue from works contracts.

- Establishing system of utilising intra-departmental data to bring all eligible works contractors into the tax net;
- Developing coordination between the STDS cell and Charge offices for cross verification of data in respect of payments disclosed in TDS certificates by contractees with CTP disclosed by dealers in their returns to prevent evasion of tax;
- Make provisions like prescribing interest/late fee or imposing penalty to check delayed remittance of TDS and delayed furnishing of TDS certificates and scrolls by contractees.

#### **Other audit observations**

#### **2.5 Short determination of turnover of sale**

Sections 2(55) and 16 of the West Bengal Value Added Tax (WBVAT) Act, 2003 prescribe that turnover of sales (TOS) in relation to any period means the aggregate of the sale prices or parts of sale prices receivable by a dealer, or if a dealer so elects, actually received by the dealer during such period. A dealer is liable to pay tax at prescribed rates on the amount of such turnover after allowing permissible deductions.

Audit found in 19<sup>64</sup> charge offices that in 35 cases assessed/reassessed between May 2009 and June 2013 for the assessment periods between

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<sup>64</sup> Bally, Ballygunge, Behala, Beliaghata, Bhowanipore, Burtola, Chandni Chawk, Coochbehar, Corporate Division, Durgapur, Esplanade, Howrah, Lyons Range, Maniktala, Midnapore, Park Street, Postabazar, Raiganj and Salt Lake.

2005-06 and 2010-11, the Assessing Authorities (AAs) incorrectly determined TOS at ₹ 1,100.14 crore instead of at ₹ 1,274.35 crore. This resulted in short determination of TOS by ₹ 174.21 crore and consequent short levy of tax of ₹ 10.01 crore as detailed in the following table:

Table 2.2 - Short determination of turnover of sales

(₹ in lakh)

Sl. No.	Nature of irregularity	No. of cases	TOS to be determined	TOS determined by AAs	Short determination of TOS	Short levy of tax
1.	Determination of TOS less than the TOS disclosed by dealers in their returns/books of accounts	25	76,269.28	59,811.15	16,458.13	901.11
2.	Short disclosure of opening stock compared to closing stock of previous year	2	24,102.63	23,449.22	653.41	81.67
3.	Non-inclusion of disallowed inter-state sale/high sea sale in TOS	2	350.32	290.00	60.32	4.25
4.	Non-inclusion of excise duty in TOS	1	6,521.37	6,390.18	131.19	5.25
5.	Short inclusion of sale suppressed by dealer	1	10,280.35	10,270.35	10.00	1.25
6.	Double deduction from TOS of goods returned	1	898.71	883.36	15.35	0.61
7.	Other cases	3	9,012.30	8,919.56	92.74	6.64
	<b>Total</b>	<b>35</b>	<b>1,27,434.96</b>	<b>1,10,013.82</b>	<b>17,421.14</b>	<b>1,000.78</b>

Department admitted (between September 2011 and December 2013) the audit observations in 22 cases involving ₹ 7.44 crore, but did not furnish any report on levy and realisation of tax. In the remaining 13 cases involving ₹ 2.57 crore, the Department did not furnish any reply/ specific reply (November 2014).

The cases were reported to the Government between October 2011 and January 2014 followed by reminders issued upto February 2014; no reply has been received (November 2014).

## 2.6 Application of incorrect rate of tax

Section 16(2) of the WBVAT Act, 2003 prescribes the rate of tax on the goods sold depending upon classification of the goods. Section 8 of the Central Sales Tax (CST) Act, 1956 provides rates of tax on sales in the course of inter-state trade or commerce.

Audit found in nine<sup>65</sup> charge offices that in 18 cases assessed between June 2011 and June 2013 for the assessment periods from 2008-09 to 2010-11, the AAs in 12 cases levied tax on sales of ₹ 30.61 crore at the rate of four *per cent* instead of at 12.5 *per cent* under the WBVAT Act. Out of the remaining six cases under the CST Act, in three cases the AAs levied tax on TOS of ₹ 5.25 crore at the rate of two *per cent* instead of three *per cent* for inter-state

<sup>65</sup> Behala, Cossipore, Durgapur, Esplanade, Howrah, Park Street, Postabazar, Salt Lake and Taltala.

sales during April and May 2008<sup>66</sup>. In the remaining three cases the AAs levied tax on inter-state sales to unregistered dealers at the rate of two *per cent* and four *per cent* instead of four *per cent* and 12.5 *per cent* respectively on inter-state sales of ₹ 12.92 crore. Thus, application of incorrect rate of tax resulted in short levy of tax of ₹ 2.66 crore on TOS of ₹ 48.78 crore.

The Department admitted (between June 2012 and June 2013) the audit observations in 10 cases involving ₹ 66.87 lakh; but did not furnish report on levy and realisation of tax. In the remaining eight cases involving ₹ 1.99 crore, the Department did not furnish any reply/specific reply (November 2014).

The cases were reported to the Government between June 2012 and September 2013 followed by reminders issued upto February 2014; their reply has not been received (November 2014).

## 2.7 Irregular allowance of input tax credit

Section 22 of the WBVAT Act, 2003 prescribes that a registered dealer can avail the benefits of input tax credit (ITC) to the extent of tax paid or payable by him in respect of purchases of taxable goods from the registered dealers of West Bengal. Further ITC shall be allowed to the extent of the amount of tax paid or payable by the purchasing dealer on his purchase of taxable goods, other than such taxable goods as specified in the negative list<sup>67</sup>.

Audit found in nine<sup>68</sup> charge offices that in 19 cases assessed between June 2009 and September 2012 for the assessment periods between 2006-07 and 2009-10, the AAs allowed ITC of ₹ 5.43 crore instead of ₹ 3.84 crore by incorrectly bringing forward the balance of ITC, irregular allowance of ITC for purchases made from unregistered dealers etc. This resulted in irregular allowance of ITC of ₹ 1.59 crore as detailed in the following table:

**Table 2.3 – Irregular allowance of input tax credit**

(₹ in lakh)

Sl. No.	Nature of irregularity	No. of cases	ITC allowed	ITC allowable	Irregular allowance of ITC
1.	ITC was brought forward though no balance ITC was available in the previous year	1	69.29	0	69.29
2.	ITC allowed on purchases made from dealers whose registrations were cancelled	6	254.68	216.43	38.25
3.	ITC allowed on purchases from non-existent dealers	1	20.79	0	20.79
4.	ITC allowed on unregistered/inter-state purchases	2	10.82	3.90	6.92
5.	ITC allowed on items not covered by the WBVAT Act/goods in the negative list etc.	4	4.15	0	4.15
6.	Other cases of excess/irregular allowance of ITC	5	183.17	163.80	19.37
<b>Total</b>		<b>19</b>	<b>542.90</b>	<b>384.13</b>	<b>158.77</b>

<sup>66</sup> The rate of tax on inter-state sales of goods to a registered dealer from April 2007 to May 2008 was three *per cent*. It was reduced to two *per cent* from June 2008.

<sup>67</sup> Negative list (appended to Section 22 of the WBVAT Act) is the list of goods not eligible for ITC.

<sup>68</sup> Armenian Street, Bhowanipore, Corporate Division, Ezra Street, Krishnanagar, Maniktala, Siliguri, Taltala and Ultadanga.

It is seen from the table above that the AAs allowed ITC to the dealers without thorough scrutiny of the accounts and without cross-checking the status/ accounts of the selling dealers.

The Department admitted (between May and September 2013) the audit observations in 10 cases involving ₹ 1.11 crore; but did not furnish any report on levy and realisation of tax. In the remaining nine cases involving ₹ 0.48 crore, the Department did not furnish any reply/specific reply (November 2014).

The cases were reported to Government between May and December 2013 followed by reminders issued upto May 2014; their reply has not been received (November 2014).

## **2.8 Non-imposition of penalty**

Sections 22(1) and 22(4) of the WBVAT Act, 2003 provide that ITC is allowable to a registered purchasing dealer to the extent of tax paid or payable by him on purchase of taxable goods against a valid tax invoice obtained against bonafide transactions from the registered selling dealers of West Bengal. Further, Section 96(1)(c) of the Act provides that if any registered dealer has claimed excess amount of ITC but has not reversed the same to the extent of his disentitlement with the intent to reduce the amount of the net tax payable by him, the AA may impose penalty not exceeding twice the amount of tax which would have been avoided if such excess claim was not detected.

Audit found in two<sup>69</sup> charge offices that in three cases assessed in June 2011 and June 2012 for assessment periods 2008-09 and 2009-10, the dealers had claimed excess amount of ITC of ₹ 18.93 lakh. In one case, the AA detected that a dealer had claimed ITC by furnishing invalid Registration Certificate (RC) number of the selling dealer. The AA, subsequently, disallowed ITC claim of the dealer, but did not initiate the penal proceedings. In the remaining two cases, audit cross verified the details of the dealers from which the purchases were made, with the dealers' registration data of the Department and observed that incorrect claims of ITC were allowed on purchases made from the dealers whose RCs were cancelled. However, the AAs while assessing the cases could not detect such excess claims and consequently, could not initiate penal proceedings. Had penal proceedings been initiated, appropriate penalty could have been levied. At the maximum it would have amounted to ₹ 37.86 lakh.

The Department admitted (June 2013) the audit observations and stated that show cause notice was issued or that penal proceedings would be initiated, but did not furnish any report on further action taken for levy and realisation (November 2014).

The cases were reported to the Government in July 2013 followed by reminders issued upto February 2014; their reply has not been received (November 2014).

## **2.9 Non/short levy of interest**

Sections 33 and 34 of the WBVAT Act, 2003 prescribe that if a dealer, who fails to deduct inadmissible ITC from the amount of ITC for a period by

<sup>69</sup> Colootola and Maniktala.

prescribed date or fails to make payment of the tax demanded after assessment by the date specified in the demand notice, shall be liable to pay interest at the rate of one *per cent* per month.

Audit found in 18<sup>70</sup> charge offices that in 55 cases assessed between June 2009 and February 2013 for assessment periods between 2005-06 and 2009-10, AAs short levied interest of ₹ 0.27 crore in three cases and did not levy interest of ₹ 10.48 crore in 52 cases where the dealers did not pay tax by prescribed/specified dates or did not deduct the inadmissible ITC while filing their returns. Although such inadmissible ITC claimed by the dealers were disallowed by the AAs during assessment, no interest for the period from the dates of filing of returns to the dates of assessment was levied. This resulted in non/short levy of interest of ₹ 10.75 crore.

After Audit pointed out the cases, the Department admitted (between February and November 2013) audit observations in 24 cases involving ₹ 1.36 crore but did not furnish any report on realisation. In the remaining 31 cases involving ₹ 9.39 crore, the Department did not furnish any reply/specific reply (November 2014).

The cases were reported to the Government between December 2012 and September 2013 followed by reminders issued upto May 2014; they did not furnish any reply (November 2014).

## **2.10 Non-realisation of disallowed remission**

Section 118 of the WB VAT Act, 2003 prescribes that a manufacturer dealer who holds an Eligibility Certificate<sup>71</sup> (EC) issued by the Commercial Tax Directorate may avail the benefit of remission of tax for a specified period subject to prescribed conditions and restrictions. Further, under Rule 180 of the WB VAT Rules, 2005, if the application for renewal of EC made by a dealer is rejected, the dealer shall, within 30 days from the date of the order rejecting such application, make payment of the output tax which has been remitted, pending disposal of such application.

Audit found in Corporate Division that in one case of deemed assessment in October 2010 for the assessment period 2007-08, the dealer availed the benefit of remission of tax of ₹ 52.44 crore pending disposal of the application for renewal of EC by the dealer. In April 2011, the application for renewal was rejected for non-production of books of accounts required for remission and other contraventions of the provisions of the Act and Rules. However, no action, including revision of the assessment under Section 85 of the WB VAT Act, was taken by the Department to realise the disallowed remission till the date of audit (June 2013). Thus, failure of the Department to act resulted in non-realisation of tax of ₹ 52.44 crore.

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<sup>70</sup> Armenian Street, Bally, Behala, Beliaghata, Bhowanipore, Bowbazar, Burtola, Colootola, Corporate Division, Esplanade, Fairlie Place, Maniktala, Midnapore, Postabazar, Salt Lake, Shibpur, Strand Road and Taltala.

<sup>71</sup> Eligibility Certificate used to be issued under Section 41 of the West Bengal Sales Tax Act 1994 defining the term and eligibility of the medium and large scale industrial units for availing the facility of remission of tax as incentive. Such certificates are annually extended under Rule 185 (1) of WB VAT Rules 2005 till the term of its validity.

The Department admitted (February 2014) the audit observation and stated that the case would be re-opened; but did not furnish report on levy and realisation of tax (November 2014).

The case was reported to the Government in December 2013 followed by a reminder issued in February 2014; their reply has not been received (November 2014).

### 2.11 Irregular allowance of compounded rate of tax

Rules 38(4) and 39(4) of the WBVAT Rules, 2005 prescribe that a registered dealer who intends to avail the benefit of paying tax at compounded rate<sup>72</sup> in lieu of normal rate shall have to exercise such option in Form 16 before the appropriate authority within 90 days from the date of commencement of the assessment year. Rule 38(6) further provides that the appropriate authority after making enquiry is of the opinion that the dealer is not entitled to pay tax at compounded rate of tax, may after giving such dealer an opportunity of being heard, pass an order and inform the dealer within 15 days.

Audit found in four<sup>73</sup> charge offices that in one case for assessment period 2008-09 and in three deemed assessment cases for assessment periods between 2007-08 and 2009-10, the dealers paid tax of ₹ 0.74 lakh at compounded rate instead of ₹ 14.09 lakh at normal rate on TOS of ₹ 1.23 crore though the dealers were not eligible for such benefit as they had exercised the option in Form 16 after the permissible time and neither did the appropriate authorities take any decision. This resulted in short levy of tax of ₹ 13.35 lakh.

The Department admitted (between December 2012 and August 2013) the audit observations in all four cases; but did not furnish any report on realisation of tax (November 2014).

The cases were reported to Government between January and June 2013 followed by reminders issued upto February 2014; their reply has not been received (November 2014).

### 2.12 Short raising of demand

Rule 59 of the WBVAT Rules, 2005 prescribes that after an order of assessment is passed by an AA, such authority shall serve a demand notice in Form 27 on the dealer directing to make payment of the amount of tax, interest and penalty due, if any, by the date as may be specified in such notice.

Audit found in three<sup>74</sup> charge offices that in three cases assessed between May 2010 and May 2012 for assessment periods between 2007-08 and 2009-10, the AAs assessed tax and interest etc. of ₹ 35.13 lakh. AAs, however, served demand notices for ₹ 26.92 lakh only. This resulted in short raising of demand of ₹ 8.21 lakh. This was due to non/short incorporation of assessed tax/interest in the demand notices.

The Department admitted (December 2012) the audit observation in one case involving ₹ 3.03 lakh and stated that revised demand notice had been issued; but did not furnish any report on realisation. In the remaining two cases

<sup>72</sup> Two *per cent* in case of registered dealers making transfer of property in goods involved in the execution of works contract and 0.25 *per cent* in case of other registered dealers.

<sup>73</sup> Asansol, Cossipore, Jalpaiguri and Krishnanagar.

<sup>74</sup> Baruipur, Park Street and Raiganj.

involving ₹ 5.18 lakh, the Department did not furnish any specific reply (November 2014).

The cases were reported to the Government between January 2013 and December 2013 followed by reminders issued upto February 2014; their reply has not been received (November 2014).

### **2.13 Non-levy of tax on stock transfer**

Section 6A of the CST Act, 1956 prescribes that a dealer seeking exemption for transfer of goods from one state to another to his agents/branches has to furnish declaration in form 'F'. Otherwise, such transfer of goods is liable to be treated as inter-state sale and taxed accordingly. Production of form 'F' in support of transfer of goods has been made mandatory from June 2002.

Audit found in three<sup>75</sup> charge offices that in five cases assessed between May 2011 and June 2012 for assessment periods 2008-09 and 2009-10, the AAs did not levy tax on stock transfer not supported by form 'F' or on stock transfer disallowed by AAs themselves. This resulted in non-levy of tax of ₹ 42.78 lakh.

The Department admitted (between November 2012 and August 2013) the audit observations in all five cases but did not furnish report on levy and realisation of tax (November 2014).

The cases were reported to the Government between January and September 2013 followed by reminders issued upto February 2014; their reply has not been received (November 2014).

### **2.14 Short levy of tax due to mistake in computation**

Under the WBVAT Act, 2003 tax is to be computed at rates applicable from time to time along with interest and penalty, if any, on the goods sold.

Audit found in seven<sup>76</sup> charge offices that in 12 cases assessed between February 2010 and August 2012 for assessment periods between 2005-06 and 2009-10, the AAs assessed tax of ₹ 4.58 crore instead of ₹ 7.03 crore due to reasons like levy of tax on TOS less than the TOS actually determined by them, or calculation of tax at the rates lower than the rates actually determined by them, and other arithmetical mistakes/omissions, etc. Such mistakes in computation resulted in short levy of tax of ₹ 2.45 crore.

The Department admitted (between December 2012 and May 2013) the audit observations in eight cases involving ₹ 1.92 crore; but did not furnish any report on realisation of tax. In the remaining four cases involving ₹ 52.88 lakh, the Department did not furnish any reply/specific reply (November 2014).

The cases were reported to the Government between January and July 2013 followed by reminders issued upto February 2014; their reply has not been received (November 2014).

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<sup>75</sup> Bowbazar, Esplanade and Park Street.

<sup>76</sup> Baruipur, Corporate Division, Jalpaiguri, Park Street, Salt Lake, Serampore and Taltala

# **CHAPTER-III**



## CHAPTER III

### LAND REVENUE

#### 3.1 Tax administration

Land Revenue consists of receipts from land rent, rates and cess, management of *Ex-Zamindari* Estates, survey and settlement operations etc. Assessment and collection of land revenue are governed by the West Bengal Land Reforms Act, 1955; West Bengal Land Reforms Rules, 1965; West Bengal Land Acquisition Manual, 1991; West Bengal Land and Land Reforms Manual, 1991 and Land Transfer Rules contained in the Bengal Land Acquisition Act, 1917. Land Revenue is administered by the Land and Land Reforms (L&LR) Department headed by the Land and Land Reforms Commissioner (LRC) and Additional Chief Secretary, assisted by the Director of Land Records and Surveys (DLR&S) and Joint LRC, Additional District Magistrate (ADM) and District Land and Land Reforms Officers (DL&LROs), Sub-divisional Land and Land Reforms Officers (SDL&LROs), Block Land and Land Reforms Officers (BL&LROs) and Revenue Inspectors.

#### 3.2 Internal audit

The Internal Audit Wing of the L&LR Department was re-introduced in the year 2007-08 with the objective of fulfilling accountability, obligations, complying with applicable rules and regulations, executing orderly and effective operations and safeguarding resources against loss. The Wing is headed by the Audit Officer cum ex-officio Joint Secretary who is assisted by Internal Audit Officers and Assistant Auditors.

Despite being requested (June 2014), the Department did not furnish details regarding Internal Audit Wing (IAW). Therefore, the performance of internal audit conducted by the Department could not be analysed.

#### 3.3 Results of audit

In 2013-14, test check of the records of 10 units relating to receipts from Land Revenue showed irregularities involving ₹ 49.17 crore in 282 cases, which fall under the following categories as given in **Table 3.1**.

Table 3.1

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non-realisation of rent at commercial rate	45	5.04
2.	Non-levy and non-realisation of rent and <i>salami</i>	104	32.62
3.	Non-realisation of rent, cess and surcharge	34	8.88
4.	Non-realisation of land revenue/cess from big <i>raiyats</i>	17	0.46
5.	Blockage/loss of revenue due to non-leasing of <i>sairati</i> interest	25	1.10
6.	Other cases	57	1.07
<b>Total</b>		<b>282</b>	<b>49.17</b>

During the course of the year, the Department accepted non-realisation/blocking of revenue and other deficiencies of ₹ 33.82 crore in 248 cases, of which 224 cases involving ₹ 33.19 crore were pointed out during the year 2013-14 and the rest in earlier years. An amount of ₹ 44.14 lakh was realised in 29 cases at the instance of audit.

A few illustrative cases involving ₹ 14.27 crore are discussed in the following paragraphs.

### 3.4 Non-realisation of revenue on land used for commercial purpose

Sections 22 and 23 of the West Bengal Land Reforms (WBLR) Act, 1955 provide that *raiyats*<sup>77</sup> using land for commercial purposes are liable to pay land revenue at the prescribed rate. Different kinds of cess are also realisable on the land revenue payable by the *raiyats*. The *Bhumi Sahayaks* posted in the Revenue Inspectors' offices under the BL&LROs are responsible for collection of land revenue.

During test check of *Bhumi Sahayaks*' Collection Registers (Register-III) and Rent Receipt Books in nine<sup>78</sup> DL&LROs, Audit found that in 1,259 cases<sup>79</sup> 607 *raiyats* did not pay revenue and cess<sup>80</sup> of ₹ 9.26 crore on 4,101.71 acres of land used by them for commercial purposes for various periods between 2009-10 and 2012-13. The DL&LROs, however, did not initiate any action to realise the dues from them. This resulted in non-realisation of rent, cess and surcharge of ₹ 9.26 crore.

<sup>77</sup> *Raiyat* means a person or an institution holding land for any purpose.

<sup>78</sup> Burdwan (East), Darjeeling, Hooghly, Howrah, Jalpaiguri, Murshidabad, North 24 Parganas, Purba Medinipur and South 24 Parganas.

<sup>79</sup> One instance of non-payment of rent in any year constitutes one case.

<sup>80</sup> Road cess six paise, Public Works cess 25 paise, Primary Education cess 10 paise, Rural Employment cess 30 paise and surcharge 15 paise on each rupee of land rent payable.

After it was pointed out, six<sup>81</sup> DL&LROs admitted (between June 2011 and June 2013) the audit observations in 712 cases involving ₹ 6.02 crore; but did not furnish any report on realisation. In the remaining 547 cases involving ₹ 3.24 crore, five<sup>82</sup> DL&LROs did not furnish any specific reply (November 2014).

The cases were reported to the Government between June 2012 and July 2013 followed by reminders issued upto March 2014; their reply has not been received (November 2014).

### 3.5 Non-realisation of lease rent and interest

Rule 235 of the West Bengal Land and Land Reforms (WBL&LR) Manual, 1991 provides that the rent shall be payable yearly by the lessees/tenants according to the Bengali year and shall fall due on the last day of the Bengali year in respect of which it is paid. Rule 303 prescribes interest at the rate of 6.25 *per cent* per annum on delayed payment of revenue. Further, in case of default, arrear rent and interest are realisable as public demand by certificate proceedings<sup>83</sup> under the Bengal Public Demands Recovery (BPDR) Act, 1913.

During test check of lease registers and case records of lessees in six<sup>84</sup> DL&LROs, audit found that annual lease rent of ₹ 42.39 lakh was not realised for various periods between 2009-10 and 2012-13 in 19 cases from 13 lessees in possession of 104.30 acres of land. Also, certificate proceedings under the BPDR Act to realise the arrears were not initiated. This resulted in non-realisation of rent and interest of ₹ 45.70 lakh (lease rent ₹ 42.39 lakh and interest ₹ 3.31 lakh).

After it was pointed out, four<sup>85</sup> DL&LROs admitted (between May 2012 and June 2013) the audit observations in 13 cases involving ₹ 27.35 lakh; but did not furnish any report on realisation. In the remaining six cases, three<sup>86</sup> DL&LROs did not furnish any specific reply (November 2014).

The cases were reported to the Government between June 2012 and July 2013 followed by the reminders issued upto March 2014; their reply has not been received (November 2014).

### 3.6 Non-realisation of revenue due to non-settlement of long term lease

Rule 238 of the WBL & LR Manual, 1991 provides that Government land, remaining in possession of a person(s) without any lease, may be offered to such person(s) on long term settlement for non-agricultural purpose on

<sup>81</sup> Burdwan (East), Darjeeling, Hooghly, Murshidabad, North 24 Parganas and South 24 Parganas.

<sup>82</sup> Burdwan (East), Howrah, Jalpaiguri, Purba Medinipur and South 24 Parganas.

<sup>83</sup> If the Certificate Officer (a Collector, a Sub-divisional Officer or any other appointed officer) is satisfied that any public demand payable to the Collector is due may sign a certificate and order execution of certificate by attachment and sale or by sale of property or by detaining the defaulter.

<sup>84</sup> Darjeeling, Howrah, Jalpaiguri, North 24 Parganas, Purba Medinipur and Uttar Dinajpur.

<sup>85</sup> Darjeeling, Howrah, Jalpaiguri and North 24 Parganas.

<sup>86</sup> Darjeeling, Purba Medinipur and Uttar Dinajpur.

realisation of rent and *salami*<sup>87</sup> at the prescribed rates. Further, Rule 225 of the Manual prescribes that the procedure of long term settlement is to be completed by the Department within five months from the date of its initiation.

Audit scrutinised files relating to Long Term Settlement cases maintained in BL&LROs and DL&LROs during April 2012 and June 2013. It observed that in six cases under four<sup>88</sup> DL&LROs, 16.82 acres of land were under unauthorised occupation of one brick manufacturer, two private firms, one private educational institution and two individuals. The occupants had applied between August 1999 and March 2012 for long term settlement of the land for the same purposes for which they were using the land. However, these long term settlement were not finalised till date; in two of these cases, the proposals for long term lease settlement were not forwarded by the concerned DL&LROs to the approving authority (L&LR Department), while in the remaining four cases, proposals were pending with the L&LR Department. Thus, failure of the Department to settle the land through lease with the unauthorised occupants within the prescribed time-limit resulted in non-realisation of revenue of ₹ 4.55 crore (Rent: ₹ 0.57 crore and *Salami*: ₹ 3.98 crore).

The Department admitted (between May 2012 and June 2013) the audit observations in four cases involving ₹ 4.42 crore; but did not furnish report on finalisation of the lease settlement. In the remaining two cases involving ₹ 0.13 crore, the Department did not furnish any specific reply (November 2014).

The cases were reported to the Government between June 2012 and July 2013 followed by reminders issued upto March 2014; their reply has not been received (November 2014).

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<sup>87</sup> *Salami* means the lumpsum amount payable by the lessee in the case of settlement of Government land.

<sup>88</sup> Darjeeling, Hooghly, Howrah and North 24 Parganas.

# **CHAPTER-IV**



## CHAPTER IV

### MOTOR VEHICLES TAX

#### 4.1 Tax administration

The receipts from the Transport Department are regulated under the provisions of the Central and the State Motor Vehicle Acts and rules made thereunder and are under the administrative control of the Transport Department. The Transport Department collects motor vehicle taxes, fees and fines through the State Transport Authority (STA), Public Vehicles Department (PVD), Kolkata and Registering Authorities (RAs) comprising of Regional Transport Officers (RTOs) at the district level and Additional Regional Transport Officers (ARTOs) at the Sub-Divisional level.

#### 4.2 Internal audit

Despite being requested (June 2014), the Department did not furnish details regarding Internal Audit Wing (IAW). Therefore, the performance of internal audit conducted by the Department could not be analysed.

#### 4.3 Results of audit

In 2013-14, test check of the records of 14 units relating to road tax, additional tax, special tax, audio fee, special fee, video fee, dealer's tax, permit fee and penalties showed underassessment of tax and other irregularities involving ₹ 253.43 crore in 215 cases, which fall under the following categories in the Table 4.1.

Table 4.1

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	<b>Non-realisation of</b>		
	• Permit fees and fine	13	32.54
	• Special tax	13	4.91
	• Audio fee	12	1.96
	• Special fee	13	0.95
	• Video fee	10	0.05
	• Re-registration fee	11	0.11
	• Showroom inspection fee	5	0.25
	• Penalty	7	0.11
2.	<b>Non/short realisation of</b>		
	• Tax, additional tax and penalty	88	203.16
	• Dealer's tax	14	6.76
3.	<b>Short realisation of</b>		
	• Fines for delayed production of vehicles for Certificate of Fitness	14	1.16
4.	<b>Other irregularities</b>		
	• Vehicles Tax	15	1.47
	<b>Total</b>	<b>215</b>	<b>253.43</b>

During the course of the year, the Department accepted non-realisation/ blocking of revenue and other deficiencies of ₹ 11.34 crore in 84 cases, of which 27 cases involving ₹ 2.88 crore were pointed out in audit during the year 2013-14 and the rest in earlier years. An amount of ₹ 77.24 lakh was realised in 57 cases at the instance of audit.

A few illustrative cases involving ₹ 151.02 crore are discussed in the following paragraphs.

#### 4.4 Non-realisation of audio fee

Rule 218(7) of the West Bengal Motor Vehicles (WBMV) Rules, 1989 provides for realisation of annual audio fees at rates prescribed in schedule 'F' for installation of radio set, gramophone, tape recorder, cassette recorder or any kind of apparatus producing sound effect or voice in a motor vehicle.

Analysis of data of 11 RAs revealed that against audio sets installed in 1,71,724 vehicles, owners of 52,150 vehicles did not pay the audio fee of ₹ 1.83 crore for different periods during 2009-10 to 2011-12 as detailed in the following table:

Table 4.2 - Non-realisation of audio fee

(₹ in lakh)

Sl. No.	Name of the RA	Period	Total no. of audio sets fitted vehicles	No. of defaulter vehicles	Amount of non-realised audio fee
1.	Asansol	2011-12	4,275	2,744	8.29
2.	Balurghat	2010-12	722	126	0.38
3.	Barasat	2011-12	20,020	6,634	19.93
4.	Barrackpore	2011-12	26,117	14,170	42.81
5.	Birbhum	2010-12	1,029	203	0.96
6.	Coochbehar	2010-12	1,549	530	1.95
7.	Howrah	2011-12	12,808	6,485	19.49
8.	Malda	2009-12	4,479	609	2.76
9.	Murshidabad	2010-12	6,003	2,281	11.63
10.	Paschim Medinipur	2009-12	11,944	6,912	40.49
11.	Public Vehicles Department (PVD), Kolkata	2011-12	82,778	11,456	34.43
<b>Total</b>			<b>1,71,724</b>	<b>52,150</b>	<b>183.12</b>

VAHAN<sup>89</sup> software was not customised to make the field "audio fee" mandatory for realisation of the due audio fees at the time of payment of road tax. This deficiency was first pointed out in the Audit Report for the year 2009-10.

<sup>89</sup> VAHAN - software used by the Transport Department for registration of vehicles and collection of taxes and fees thereof.

After Audit pointed out the cases, RAs, Barasat and Coochbehar admitted (in January and February 2014 respectively) the audit observations in 7,164 cases involving ₹ 21.88 lakh. RA, Barasat also intimated realisation of ₹ 0.43 lakh in 141 cases. In the remaining 44,986 cases involving ₹ 1.61 crore, the RAs did not furnish any specific reply (November 2014).

The cases were reported to the Government between December 2012 and April 2013 followed by reminders issued upto May 2014; their reply has not been received (November 2014).

#### 4.5 Short realisation of fitness fee

Rules 62 and 81 of the Central Motor Vehicles (CMV) Rules, 1989 prescribe that the owner of a transport vehicle shall make application and produce the vehicle for inspection for conducting test of fitness annually for the renewal of certificate of fitness (CF) after completion of two years of registration and pay fees at the prescribed rates. Further, Rule 57(6) of the WBMV Rules, 1989 provides that if the owner fails to produce the vehicle within the stipulated time, he shall be liable to pay 150 *per cent* of prescribed fee for conducting test of fitness together with the amount as prescribed in schedule E14.

During analysis of data of 14 RAs pertaining to period 2009-10 to 2011-12, Audit found that in case of 68,089 vehicles, the owners produced their vehicles belatedly for inspection for renewal of CF. RAs realised the amount as per schedule E14 and the fee for CF at normal rates instead of at 150 *per cent* of the fitness fee. This was due to non-mapping of provision in the VAHAN software regarding realisation of fee for CF at the rate of 150 *per cent* in case of delayed production of vehicles, which resulted in short realisation of fitness fee of ₹ 1.04 crore as detailed in the following table:

**Table 4.3 - Short realisation of fitness fee**

(₹ in lakh)

Sl. No.	Name of the RA	No. of Vehicles produced belatedly for inspection of fitness	Fee realisable (inclusive of application fee @ ₹ 100 per vehicle)	Fee realised (inclusive of application fee @ ₹ 100 per vehicle)	Short-realisation
1.	Asansol	4,751	28.24	20.41	7.83
2.	Balurghat	1,237	6.88	4.18	2.70
3.	Barasat	8,636	45.24	33.04	12.20
4.	Barrackpore	8,124	50.22	36.19	14.03
5.	Birbhum	3,472	20.60	14.89	5.71
6.	Coochbehar	1,138	6.37	3.87	2.50
7.	Howrah	3,775	19.99	14.59	5.40
8.	Jalpaiguri	2,873	18.03	11.05	6.98
9.	Malda	3,762	22.03	13.43	8.60
10.	Murshidabad	4,402	23.84	17.36	6.48
11.	Paschim Medinipur	7,947	42.63	31.07	11.56
12.	Purulia	993	5.03	3.68	1.35
13.	PVD, Kolkata	16,100	66.05	49.40	16.65
14.	Raiganj	879	5.06	3.37	1.69
	<b>Total</b>	<b>68,089</b>	<b>360.21</b>	<b>256.53</b>	<b>103.68</b>

This deficiency in VAHAN was first pointed out in the Audit Report for the year 2009-10.

RAs, Asansol and Purulia admitted (December 2012) the audit observations in 5,744 cases involving ₹ 9.18 lakh; but did not furnish any report on realisation. In the remaining 62,345 cases involving ₹ 94.50 lakh, RAs did not furnish any specific reply (November 2014).

The cases were reported to the Government between December 2012 and April 2013 followed by reminders issued upto May 2014; their reply has not been received (November 2014).

#### 4.6 Non-realisation of showroom inspection fee

Under Rule 60A of the WBMV Rules, 1989, a vehicle shall be inspected at the time of first registration in the showroom/premises of the dealer or sub-dealer and a fee (ranging between ₹ 50 and ₹ 400) as prescribed in Schedule A of the Rules shall be realised from the dealer or the sub-dealer.

During analysis of data of four RAs, Audit found that 1,41,034 new vehicles were registered during the period from 2009-10 to 2011-12, however, showroom inspection fees of ₹ 42.16 lakh were not realised in 65,250 cases. It was also noticed that the VAHAN software was not customised to make the field “showroom inspection fee” mandatory for realisation of fee at the time of first registration.

This resulted in non-realisation of showroom inspection fee of ₹ 42.16 lakh as detailed in the following table:

**Table 4.4 - Non-realisation of showroom inspection fee**

(₹ in lakh)

Sl. No.	Name of the RA	No. of new vehicles registered	No. of cases of non-realisation	Amount of non-realisation
1.	Balurghat	993	159	0.35
2.	Birbhum	39,724	37,807	21.87
3.	Malda	49,979	280	0.79
4.	PVD, Kolkata	50,338	27,004	19.15
<b>Total</b>		<b>1,41,034</b>	<b>65,250</b>	<b>42.16</b>

This deficiency in VAHAN was first pointed out in the Audit Report for the year 2009-10.

After the cases were pointed out, RA, Birbhum admitted (November 2012) the audit observations involving ₹ 5.40 lakh in 9,766 cases and stated that ₹ 0.18 lakh had been realised in 94 cases. In the remaining 55,484 cases involving ₹ 36.76 lakh, the RAs did not furnish any specific reply (November 2014).

The cases were reported to the Government between May 2011 and March 2013 followed by reminders issued upto May 2014; their reply has not been received (November 2014).

#### 4.7 Non-realisation of dealer's tax and penalty for delayed payments

Section 3(2) of the West Bengal Motor Vehicles Tax (WBMVT) Act, 1979 prescribes that every dealer or manufacturer who keeps in his possession or control any motor vehicle shall pay dealer's tax on such motor vehicle at the time of its first registration at the prescribed rates. Further, Section 11(b)(iii) of the Act provides that in case of delay in payment of tax exceeding 60 days after the expiry of grace period of 15 days, penalty equal to the amount of tax payable is also realisable from a defaulting dealer.

During analysis of data of 11 RAs between November 2012 and March 2013, Audit found that in case of 1,094 vehicles newly registered during 2009-2012, dealer's tax of ₹ 22.59 lakh was not realised from the dealers. Further, in case of 1,353 vehicles, penalty of ₹ 4.02 lakh was not levied for delayed payment.

It was noticed that the VAHAN software was not customised to make the field "Dealer's tax" mandatory for realisation of the dealer's tax at the time of first registration. Also, imposition of penalty for delayed payment of dealer's tax was not customised in the software. This resulted in non-realisation of dealer's tax and penalty of ₹ 26.61 lakh as detailed in the following table:

**Table 4.5 – Non-realisation of dealer's tax and penalty for delayed payments**  
(₹ in lakh)

Sl. No.	Name of the RA	Non-realisation of dealer's tax and penalty leviable thereon		Non-realisation of penalty for delayed payment of dealer's tax		Total amount of non-realisation of dealer's tax and penalty
		No. of vehicles	Amount	No. of vehicles	Amount	
1.	Asansol	124	1.86	131	0.49	2.35
2.	Balurghat	131	2.89	45	0.09	2.98
3.	Barasat	93	2.17	316	1.02	3.19
4.	Barrackpore	22	0.21	24	0.05	0.26
5.	Birbhum	58	0.32	-	-	0.32
6.	Howrah	203	1.50	21	0.04	1.54
7.	Jalpaiguri	-	-	62	0.06	0.06
8.	Malda	286	10.91	50	0.54	11.45
9.	Murshidabad	24	0.19	65	0.17	0.36
10.	Paschim Medinipur	96	1.70	269	1.00	2.70
11.	PVD, Kolkata	57	0.84	370	0.56	1.40
	<b>Total</b>	<b>1,094</b>	<b>22.59</b>	<b>1,353</b>	<b>4.02</b>	<b>26.61</b>

The deficiency in VAHAN was first pointed out in the Audit Report for the year 2009-10.

After Audit pointed out the cases, RAs, Asansol and Barasat (in December 2012 and February 2014 respectively) admitted the audit observations in 447 cases involving ₹ 1.51 lakh in respect of non-realisation of penalty; but did not furnish any report on realisation. In the remaining cases, RAs did not furnish any specific reply (November 2014).

The cases were reported to the Government between December 2012 and April 2013 followed by reminders issued upto February 2014; their reply has not been received (November 2014).

#### 4.8 Short levy of additional tax

Schedule-I appended to Section 3 of the West Bengal Additional Tax & One-time Tax on Motor Vehicles (WBAT & OTMV) Act, 1989 prescribes levy of additional tax on the goods vehicles registered in other states at the rate of 80 per cent of the annual tax payable under the WBMVT Act, 1979.

During analysis of data of six RAs, Audit found that in 3,187 cases of goods vehicles of other states, additional tax of ₹ 29.23 lakh were assessed and realised between April 2009 and March 2012. On further analysis, Audit found that the additional tax was assessed by VAHAN at the rates below the prescribed rate of 80 per cent of tax payable under the WBMVT Act, 1979. This resulted in levy and realisation of additional tax of ₹ 29.23 lakh instead of leviable amount of ₹ 46.69 lakh. Thus, improper mapping of Section 3 of the WBAT & OTMV Act, 1989 in VAHAN resulted in short levy and subsequent short realisation of additional tax of ₹ 17.46 lakh as detailed in the following table:

**Table 4.6 – Short levy of additional tax**

(₹ in lakh)

Sl. No.	Name of the RA	No. of vehicles	Amount of additional tax leviable	Amount of additional tax levied	Short levy of additional tax
1.	Asansol	1,417	21.92	13.70	8.22
2.	Birbhum	474	7.53	4.71	2.82
3.	Malda	141	2.66	1.64	1.02
4.	Murshidabad	19	0.32	0.20	0.12
5.	Purulia	990	11.21	7.06	4.15
6.	Tamluk	146	3.05	1.92	1.13
	<b>Total</b>	<b>3,187</b>	<b>46.69</b>	<b>29.23</b>	<b>17.46</b>

The deficiency in VAHAN had previously been pointed out in the Audit Report of the year 2012-13. No rectificatory action had been taken resulting in continued short levy and realisation of additional tax.

After Audit pointed out the cases, RAs, Asansol and Purulia admitted (December 2012) the audit observations in 2,099 cases involving ₹ 11.09 lakh and stated that action would be taken for realisation of the dues or demand notices would be issued to realise the amount, but did not furnish any report

on realisation. In the remaining cases, the RAs did not furnish any specific reply (November 2014).

The cases were reported to the Government between May 2011 and March 2013 followed by reminders issued upto May 2014; their reply has not been received (November 2014).

#### 4.9 Non-realisation of video fee

Schedule F to Rule 218(7) of the WBMV Rules, 1989 provides for realisation of annual video fees at prescribed rates for installation of video set, television set, or any other apparatus, to display any object on the screen with or without amplification of any sound or voice.

During analysis of data between January 2012 and March 2013 of six RAs, Audit found that out of 2,713 vehicles fitted with video sets, owners of 734 vehicles did not pay the video fee for different periods between 2009-10 and 2011-12. It was also noticed that the VAHAN software was not customised to make the field "video fee" mandatory for realisation of the due video fee at the time of payment of road tax. This resulted in non-realisation of video fee of ₹ 5.93 lakh as detailed in the following table:

Table 4.7 - Non-realisation of video fee

(₹ in lakh)

Sl. No.	Name of the RA	Total no. of vehicles fitted with video sets	No. of defaulter vehicles	Amount of non-realisation
1.	Asansol	105	80	1.30
2.	Barasat	716	213	1.35
3.	Barrackpore	403	229	1.25
4.	Howrah	716	126	1.23
5.	Nadia	204	26	0.47
6.	PVD, Kolkata	569	60	0.33
	<b>Total</b>	<b>2,713</b>	<b>734</b>	<b>5.93</b>

After Audit pointed out the cases, RAs, Barasat, Barrackpore and Howrah admitted (between January 2013 and February 2014) the audit observations in 289 cases involving ₹ 2.18 lakh and RAs, Barasat and Barrackpore also intimated realisation of ₹ 0.23 lakh in 36 cases. However, they did not furnish further report on realisation of the balance amount. In the remaining 445 cases involving ₹ 3.75 lakh, the RAs did not furnish any specific reply (November 2014).

The cases were reported to the Government between March 2012 and April 2013 followed by reminders issued upto February 2014; their reply has not been received (November 2014).

#### 4.10 Non-realisation of tax, additional tax, penalty and special fee

Section 3 of the WBMVT Act, 1979 and Sections 3 and 4 of the WBAT & OTMV Act, 1989 respectively prescribe the rates of tax and additional tax on vehicles. Further, section 11 of the WBMVT Act and

Section 10 of the WBAT & OTMV Act provide for imposition of penalty in case of non-payment of taxes. In addition, Rule 121 of the WBMV Rules, 1989 prohibits plying of heavy goods vehicles having gross vehicle weight (GVW) above 22,542 kg within the State. However, the Government relaxed this restriction and permitted plying of such vehicles on payment of a special fee at varying rates<sup>90</sup> depending on the GVW.

During analysis of data of 13 RAs between November 2012 and March 2013, Audit found that owners of 2,14,327 vehicles did not pay tax, additional tax and penalty of ₹ 125.12 crore during 2009-2012. Audit also found that owners of 1,890 vehicles having GVW more than 22,542 kg did not pay special fee of ₹ 55.85 lakh. Although provided in VAHAN for generation of list of defaulters, concerned RAs did not monitor such defaults and did not issue demand notices to the owners for realisation of dues. This resulted in non-realisation of tax, additional tax, penalty and special fee of ₹ 125.68 crore as detailed in the following table:

**Table 4.8 - Non-realisation of tax, additional tax, penalty and special fee**  
(₹ in lakh)

Sl. No.	Name of the RA	Tax, additional tax and penalty		Special fee		Total amount of non-realisation
		No. of defaulter vehicles	Amount of non-realisation	No. of defaulter vehicles	Amount of non-realisation	
1.	Asansol	5,662	358.35	261	6.63	364.98
2.	Balurghat	1,743	171.79	182	4.22	176.01
3.	Barasat	19,730	917.79	349	7.17	924.96
4.	Barrackpore	10,584	590.87	201	4.52	595.39
5.	Birbhum	3,938	635.18	285	12.75	647.93
6.	Coochbehar	748	43.94	-	-	43.94
7.	Howrah	8,555	690.97	62	1.13	692.10
8.	Jalpaiguri	1,030	96.37	40	1.14	97.51
9.	Malda	4,210	348.60	64	1.87	350.47
10.	Murshidabad	4,736	459.63	232	8.14	467.77
11.	Paschim Medinipur	7,040	846.06	173	7.64	853.70
12.	Purulia	1,734	112.41	-	-	112.41
13.	PVD, Kolkata	1,44,617	7,240.01	41	0.64	7,240.65
<b>Total</b>		<b>2,14,327</b>	<b>12,511.97</b>	<b>1,890</b>	<b>55.85</b>	<b>12,567.82</b>

RA, Barasat admitted (February 2014) audit observations in 20,079 cases involving ₹ 9.25 crore and intimated realisation of ₹ 68.34 lakh in 1,781 cases. In the remaining cases, the RAs did not furnish any specific reply (November 2014).

<sup>90</sup> Ranging between ₹ 3,000 and ₹ 13,000 per annum as per GVW vide Government Order No. 2160-WT/3M-121/85, dated 22 February 1991.

The cases were reported to the Government between December 2012 and April 2013, followed by reminders issued upto February 2014; their reply has not been received (November 2014).

#### 4.11 Non-realisation of special tax from air-conditioned vehicles

Section 3(3) of the WBMVT Act, 1979 and Sections 9B and 10 of the WBAT & OTMV Act, 1989 provide for realisation of special tax from air-conditioned vehicles at the prescribed rates based on their use, seating capacity, engine capacity and category of the vehicle. Further, Section 11 of the WBMVT Act and Section 10 of the WBAT & OTMV Act provide for imposition of penalty in case of non-payment of taxes.

During analysis of data of 13 RAs between November 2012 and March 2013, Audit found that out of 3,43,628 air-conditioned vehicles, owners of 69,390 vehicles did not pay the special tax for different periods between 2009-10 and 2011-12. However, the concerned RAs did not monitor such non-payments and did not issue demand notices to the defaulters for realisation of dues. This led to non-realisation of special tax and penalty of ₹ 20.77 crore as detailed in the following table:

**Table 4.9 - Non-realisation of special tax**

(₹ in lakh)

Sl. No.	Name of the RA	Total no. of air-conditioned vehicles	No. of defaulter vehicles	Amount of non-realisation
1.	Asansol	18,058	943	27.23
2.	Balurghat	504	19	0.72
3.	Barasat	25,909	3,752	119.12
4.	Barrackpore	25,013	5,198	154.38
5.	Birbhum	1,247	112	6.56
6.	Coochbehar	1,574	8	0.27
7.	Howrah	11,327	919	27.74
8.	Jalpaiguri	798	24	1.15
9.	Malda	3,723	26	1.70
10.	Murshidabad	4,659	358	21.58
11.	Paschim Medinipur	8,007	798	55.59
12.	PVD, Kolkata	2,42,465	57,224	1,661.11
13.	Purulia	344	9	0.33
	<b>Total</b>	<b>3,43,628</b>	<b>69,390</b>	<b>2,077.48</b>

RAs did not furnish any reply/specific reply (November 2014).

The cases were reported to the Government between December 2012 and April 2013 followed by reminders issued upto February 2014; their reply has not been received (November 2014).

#### 4.12 Non/short realisation of permit fee

Section 66 of the Motor Vehicles (MV) Act, 1988 provides that the owner of a transport vehicle can use his vehicle in a public place only after obtaining a permit from the prescribed authority. Further, Rules 126 and 127 of the WBMV Rules, 1989 prescribe that fees for application and grant/renewal of permit in respect of different kinds of vehicles are realisable as per rates specified in Schedule-‘A’ of the Rules.

From scrutiny of permit registers of 12 RAs, Audit found between October 2012 and March 2013 that 922 public transport vehicles plied with expired permits during 2009-12. Audit also noticed that owners of those vehicles were paying fitness fee and road taxes which is indicative of those vehicles being on road and not lying idle. However, RAs did not realise permit fees from them while collecting other taxes. This resulted in non-realisation of permit fee of ₹ 71.63 lakh.

It was also observed in three<sup>91</sup> RAs that permit fee of ₹ 10.75 lakh was realised in lieu of ₹ 16.80 lakh in case of 303 public transport vehicles due to application of pre-revised rate<sup>92</sup> of permit fee. This resulted in short realisation of permit fee of ₹ 6.05 lakh.

Thus, there was an overall non/short realisation of permit fee in case of 1,225 public transport vehicles of ₹ 77.68 lakh as detailed in the following table:

**Table 4.10 – Non/short realisation of permit fee**

(₹ in lakh)

Sl. No. (1)	Name of the RA (2)	Permit fee non-realised (no. of vehicles) (3)	Permit fee short realised			Total (3+6)
			Permit fee realisable (4)	Permit fee realised (5)	Short realisation of Permit fee (no. of vehicles) (6)	
1.	Balurghat	3.60(49)	-	-	-	3.60(49)
2.	Barasat	2.93(27)	-	-	-	2.93(27)
3.	Birbhum	7.43(92)	3.05	1.95	1.10(28)	8.53(120)
4.	Coochbehar	0.86(13)	5.64	4.83	0.81(162)	1.67(175)
5.	Howrah	8.03(88)	-	-	-	8.03(88)
6.	Jalpaiguri	5.68(68)	-	-	-	5.68(68)
7.	Malda	11.80(173)	-	-	-	11.80(173)
8.	Murshidabad	10.81(133)	-	-	-	10.81(133)
9.	Paschim Medinipur	5.79(71)	-	-	-	5.79(71)
10.	PVD, Kolkata	10.17(166)	-	-	-	10.17(166)
11.	Purulia	1.96(23)	8.11	3.97	4.14(113)	6.10(136)
12.	State Transport Authority (STA), WB	2.57(19)	-	-	-	2.57(19)
	<b>Total</b>	<b>71.63(922)</b>	<b>16.80</b>	<b>10.75</b>	<b>6.05(303)</b>	<b>77.68(1,225)</b>

<sup>91</sup> Birbhum, Coochbehar and Purulia.

<sup>92</sup> Rates of the permit fees and security deposits were revised in October 2005 vide Notification No. 4026-WT/6M-13/2005 dated 5 October 2005.

All RAs, except RA, Barasat admitted (between November 2012 and May 2014) the audit observations in 1,198 cases involving ₹ 74.75 lakh, but did not furnish any report on realisation. In the remaining 27 cases involving ₹ 2.93 lakh, RA, Barasat did not furnish any specific reply (November 2014).

The cases were reported to the Government between December 2012 and April 2013 followed by reminders issued upto February 2014; their reply has not been received (November 2014).



# **CHAPTER-V**



## CHAPTER V

### STAMP DUTY AND REGISTRATION FEES

#### 5.1 Tax administration

Receipts from stamp duty and registration fees are regulated under the Indian Stamp Act, 1899 (IS Act); Indian Registration Act, 1908 (IR Act) and the rules framed thereunder as applicable in West Bengal and are administered at the Government level by the Principal Secretary, Finance (Revenue) Department. The Inspector General of Registration (IGR) is the head of the Directorate of Registration and Stamp Revenue under the Finance (Revenue) Department who is empowered with the task of superintendence and administration of registration work. He is assisted by 11 Deputy Inspectors General of Registration (DIGR), three Additional Registrars of Assurances (ARA), 20 District Registrars (DR), 25 District Sub-Registrars (DSR) and 190 Additional District Sub-Registrars (ADSR).

#### 5.2 Internal audit

Despite being requested (June 2014), the Department did not furnish details regarding Internal Audit Wing (IAW). Therefore, the performance of internal audit conducted by the Department could not be analysed.

#### 5.3 Results of audit

In 2013-14, test check of the records of 56 units of the Directorate of Registration and Stamp Revenue under the Finance (Revenue) Department, showed non/short levy of stamp duty and registration fee etc. and other irregularities amounting to ₹ 20.54 crore in 222 cases, which fall under the categories given in Table 5.1.

Table 5.1

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Splitting of property during registration	43	1.81
2.	Non-issue of demand notice	15	0.82
3.	Non-referring the cases to the Collector/DIGR	17	1.18
4.	Short collection of revenue in sale/gift deeds	26	2.74
5.	Non-realisation of stamp duty and registration fees/under-valuation of property	16	2.36
6.	Misclassification of documents	3	3.81
7.	Others	102	7.82
	<b>Total</b>	<b>222</b>	<b>20.54</b>

During the course of the year, the Department accepted non-realisation/blocking of revenue and other deficiencies of ₹ 14.21 crore in 167 cases, of which 163 cases involving ₹ 13.83 crore were pointed out during the year 2013-14 and the rest in earlier years. An amount of ₹ 17.42 lakh was realised in six cases at the instance of audit.

A few illustrative cases involving ₹ 4.16 crore are discussed in the following paragraphs.

## 5.4 Short levy of stamp duty due to incorrect mapping of business rules in the CORD software

Under Article 23 of Schedule-IA to the IS Act, 1899 as applicable in West Bengal, the rate of stamp duty on deed of conveyance is as under:

Property situated in	Market value of the property (in ₹)	Rate of stamp duty
(a) areas to which the Kolkata Improvement Act, 1911 or Howrah Improvement Act, 1956 extends	>25,00,000	7 per cent
	≤25,00,000	6 per cent
(b) areas under any Municipal Corporation/ Municipality/ Notified Area other than those included in (a) above	>25,00,000	7 per cent
	≤25,00,000	6 per cent
(c) areas other than those included in (a) or (b)	>25,00,000	6 per cent
	≤25,00,000	5 per cent

As per Article 5(d) same rates are applicable for agreements of sale also. All assessments are made through a software called CORD (Computerisation of Registration of Documents) used in all Registration Offices (ROs).

From analysis of data of sale deeds/agreements for the period upto March 2013 obtained from the ARA-I in October 2013, the following audit observations were noticed indicating incorrect mapping of business rules in the CORD software:

**5.4.1** In 246 cases, documents were executed and registered between April 2012 and March 2013 involving market value of ₹ 77.60 crore in respect of properties situated in 'panchayat areas' of Howrah district. The Directorate of Registration and Stamps assessed stamp duty through CORD software at the rate of five *per cent* or six *per cent* for these properties. As the Howrah Improvement Act, 1956 extends to the whole of Howrah district, stamp duty was leviable at the rate of six *per cent* or seven *per cent* under the category (a) of the Article 23 of Schedule-IA to the IS Act.

**5.4.2** In 206 cases, documents were executed and registered between September 2012 and March 2013 involving market value of ₹ 64.27 crore in respect of properties situated in Joka-I and Joka-II Gram Panchayats. The Directorate of Registration and Stamps assessed stamp duty through CORD software at the rate of five *per cent* or six *per cent* for these properties. As these two Gram Panchayats were incorporated under the jurisdiction of Kolkata Municipal Corporation (KMC) with effect from 1 September 2012<sup>93</sup>, stamp duty was leviable at the rate of six *per cent* or seven *per cent* under the category (b) of the Article 23 of Schedule-IA to the IS Act.

Thus, CORD software assessed stamp duty at one *per cent* lower rate in each case due to incorrect mapping of business rules in the software. This resulted in short levy of stamp duty of ₹ 1.42 crore.

<sup>93</sup> Government of West Bengal Notification No. 203/MA/O/C-5/CC/IL-1/2011 dt 28 May 2012.

After Audit pointed out the case, the Government in 206 cases involving ₹ 64.27 lakh stated (November 2014) that business rules have been subsequently mapped in the CORD software for inclusion of Joka-I and Joka -II Gram Panchayats under the jurisdiction of KMC but did not furnish any report regarding levy and realisation of stamp duty and registration fees. In the remaining 246 cases involving ₹ 77.60 lakh, no specific reply was furnished (November 2014).

### **5.5 Undervaluation of properties due to non-mapping of minimum road width in CORD software**

As per Rule 3B(10) of the West Bengal Stamp (Prevention of Undervaluation of Instruments) [WBS (PUI)] Rules, 2001 read with the business process of CORD software, if the land or flat or any structure is not located on the road by which it is addressed but on the lane/by-lane emanating from the said road, and if the width of the said approach road is less than eight feet, the market value of the property shall be depreciated by 20 *per cent* and 15 *per cent* for Kolkata/Howrah and other municipality areas respectively. However, Rule 45(2) of the West Bengal Municipal Building (WBMB) Rules, 2007 provides that the approach road in respect of a new building having height more than seven metres shall not be less than 2.40 metres (7.87 feet).

Audit found (October and November 2013) from analysis of CORD data of two<sup>94</sup> ROs that in 40 cases the purchasers of new flats/buildings having height more than seven metres had declared width of approach road between four and seven feet. The sale deeds of those flats were executed and registered with Registering Authorities (RAs) during 2012-13. Further scrutiny, however, revealed that due to non-mapping of minimum required road width of eight feet for such new buildings, the CORD system allowed depreciation while determining the market value of the properties. This resulted in undervaluation of properties by ₹ 1.40 crore and consequent short levy of stamp duty and registration fees of ₹ 10.59 lakh.

ROs did not furnish any specific reply (November 2014).

After Audit pointed out the case, the Government stated (November 2014) that necessary steps are being taken to ensure that the business rule in CORD software, regarding minimum width of approach road of not less than 2.4 meters in respect of new buildings having height more than seven meters as per WBMB Rules, 2007, is incorporated to check undervaluation, of property but did not furnish any report regarding levy and realisation of stamp duty and registration fees (November 2014).

### **5.6 Undervaluation of flats by non-declaration of amenities**

As per Rule 3(2) of the WBS (PUI) Rules, 2001, prior to registration of any instrument, the registrants are required to furnish particulars of the properties in prescribed format before the RAs for determination of market value of the property using CORD software. Further, Rule 3B(17) read with the business process of CORD software provides that the market value of the flat or any

<sup>94</sup> ARA-I and II, Kolkata.

structure having amenities such as roof garden/gymnasium/swimming pool/club facility would be enhanced by ₹ 400 per square foot (sq ft).

Audit found (October and November 2013) from analysis of CORD data of two<sup>95</sup> ROs that in 307 cases purchasers of flats having super built up area of 3.09 lakh sq ft did not declare amenities of roof garden/gymnasium/swimming pool/club facility at the time of determination of market value. The sale deeds of those flats were executed and registered with ROs during 2012-13. Further scrutiny, however, revealed that other flat-purchasers of the same housing complexes registered their properties with the same ROs declaring availability of at least one of the said amenities. Audit also found from the recitals of the deeds that the amenities were offered in common for all the purchasers in those housing complexes. Thus, non-declaration of amenities by the purchasers led to undervaluation of the flats by the CORD software. This indicates that ROs did not take into consideration the particulars furnished by other registrants of the same locality while registering the documents as required under Rule 3(1) of WBS (PUI) Rules, 2001. This resulted in undervaluation of flats by ₹ 12.35 crore and consequent evasion of stamp duty and registration fees of ₹ 94.37 lakh.

ROs did not furnish any specific reply to audit observations (November 2014).

The Government did not furnish any specific reply to the audit observations (November 2014).

### **5.7 Short levy of stamp duty due to misclassification of gift deeds**

Article 33(i) of Schedule-IA to the IS Act, as applicable in West Bengal provides that any instrument of gift in favour of family members is chargeable with stamp duty at the rate of 0.5 *per cent* of the market value of the property. However, Article 33(ii) of the Act provides that if the gift of any property is made to any other person, stamp duty is chargeable as in the case of sale.

During scrutiny of deeds in two<sup>96</sup> ROs, Audit found that in three cases either the family relation between the donor and the donee was not established or the relation did not fall under explanation of family members<sup>97</sup>. However, the instruments were misclassified as gift deeds in favour of family members. Due to such misclassification of instruments by the ROs, there was short levy and consequent short realisation of stamp duty of ₹ 29.08 lakh.

After Audit pointed out the cases, the ARA-I, Kolkata admitted (October 2013) the audit observation in one case involving ₹ 18.10 lakh and stated that parties concerned had been asked to make immediate payment of deficit stamp duty. In the remaining two cases involving ₹ 10.98 lakh, one RO<sup>98</sup> did not furnish any specific reply (November 2014).

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<sup>95</sup> ARA-I and II, Kolkata.

<sup>96</sup> ARA-I and II, Kolkata.

<sup>97</sup> Family member means parent, spouse, son, daughter, son's wife, grandson, granddaughter, brother or sister. (*Explanation below Article 33 of Schedule-IA of IS Act as applicable in West Bengal*)

<sup>98</sup> ARA-II, Kolkata.

The Government accepted (November 2014) the audit observations and stated that demand notices have been issued but did not furnish any report on realisation (November 2014).

### 5.8 Evasion of additional stamp duty by splitting of properties

The IS Act (as applicable in West Bengal) amended by the West Bengal Finance Act, 2007 provides for levy of additional stamp duty at the rate of one *per cent* if the market value of the property exceeds ₹ 25 lakh.

During scrutiny of deeds of conveyance in 52<sup>99</sup> ROs, Audit found between December 2012 and January 2014 that in 281 cases, the sellers and buyers split the properties having market value more than ₹ 25 lakh into two or more parts to keep the market value of each piece of land below ₹ 25 lakh. In each case, the transacting parties were the same and the deeds of conveyance were also executed on the same day which indicated that splitting was done. Consequently this led to evasion of additional stamp duty of ₹ 1.40 crore.

After Audit pointed out the cases, five<sup>100</sup> ROs admitted (between October and December 2013) the audit observations in 24 cases involving ₹ 10.39 lakh. In 217 cases involving ₹ 1.13 crore, 35<sup>101</sup> ROs contested (between December 2012 and January 2014) that there was no provision in the Act and Rules to prevent such splitting of properties. The remaining 12 ROs did not furnish any specific reply (November 2014).

Although the Directorate of Registration and Stamp Revenue issued a circular in October 2012 which directs the RAs to keep strict vigil so that the properties are not split with the intention to avoid additional one *per cent* stamp duty, there is no provision for specific action to be taken against such activity in the absence of any enabling provision in the IS Act to that effect.

On being pointed out, Government referred (November 2014) to Directorate's circular of October 2012.

<sup>99</sup> ADSRs- Amdanga, Arambag, Balichak, Basirhat, Berhampore, Bhagabanpur, Bishnupur, Burdwan, Chandrakona, Contai-I, Dhaniakhali, Diamond Harbour, Domjur, Galsi, Gangarampur, Garbeta, Hanschara, Helencha, Howrah, Indus, Jalpaiguri, Jamalpore, Jhargram, Joynagar, Kadambagachi, Kakdwip, Kaliachak, Kalyani, Katwa, Khargram, Mahishadal, Malda, Nabadwip, Nabagram, Naihati, Nimtita, Panskura, Paschim Medinipur, Purbasthali, Ramnagar, Saltora, Siliguri, Sonarpur, Sutahata, Tufanganj and Uluberia; DSRs Darjeeling, Jalpaiguri, Malda; DSR-I Burdwan, DSR-I Paschim Medinipur and Registrar of Assurances, Kolkata.

<sup>100</sup> ADSRs- Balichak, Jhargram, Indus, Paschim Medinipur and Tufanganj.  
<sup>101</sup> ADSRs- Amdanga, Arambag, Basirhat, Berhampore, Bhagabanpur, Bishnupur, Burdwan, Chandrakona, Contai-I, Dhaniakhali, Domjur, Hanschara, Howrah, Jalpaiguri, Joynagar, Kadambagachi, Kakdwip, Kaliachak, Katwa, Khargram, Mahishadal, Nabagram, Naihati, Nimtita, Panskura, Purbasthali, Ramnagar, Siliguri, Sonarpur, Sutahata and Uluberia; DSRs Darjeeling, Jalpaiguri, DSR-I Paschim Medinipur and Registrar of Assurances, Kolkata.



# **CHAPTER-VI**



## CHAPTER VI

### OTHER TAX RECEIPTS

#### 6.1 Tax administration

This chapter consists of receipts from Excise Duty and Fees, Profession Tax, Amusement Tax and Electricity Duty. The tax administration is governed by Acts and Rules framed separately for each Department. These taxes are administered by the Excise Department and the Finance (Revenue) Department headed by the Principal Secretary who is assisted by the concerned Directorates.

#### 6.2 Results of audit

In 2013-14, test check of the records of 37 units relating to Excise Duty and other Fees, Profession Tax, Amusement Tax and Electricity Duty showed underassessment of tax and other irregularities amounting to ₹ 27.91 crore in 220 cases, which fall under the following categories as indicated in Table 6.1.

Table 6.1

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
<b>A. STATE EXCISE</b>			
1.	Non/short levy of excise duty/wastage fee on chargeable wastage of Rectified Spirit/India Made Foreign Liquor	25	1.83
2.	Non/short realisation of privilege fee/additional fee/licence fee/renewal fee/initial grant fee/pass fee etc.	34	1.96
3.	Non-levy and non-realisation of excise duty due to non-destruction of unregistered unsold stock of foreign liquor	8	3.27
4.	Loss/blockage of revenue	7	15.68
5.	Non-realisation of fee due to delayed removal of foreign liquor from bonded warehouse	4	1.32
6.	Other cases	23	0.42
<b>Total</b>		<b>101</b>	<b>24.48</b>
<b>B. PROFESSION TAX</b>			
1.	Non-realisation of demand of Profession tax against enrolled certificate holders	15	0.24
2.	Non-realisation of profession tax due to non-enrolment	45	1.17
3.	Non-realisation of profession tax due to non-assessment	7	0.16
4.	Other cases	8	0.49
<b>Total</b>		<b>75</b>	<b>2.06</b>

<b>C. AMUSEMENT TAX</b>			
1.	Non/short realisation of Entertainment/ Luxury/ Amusement tax etc.	20	0.75
2.	Other cases	10	0.03
<b>Total</b>		<b>30</b>	<b>0.78</b>
<b>D. ELECTRICITY DUTY</b>			
1.	Non/short assessment and non/short realisation of Electricity duty	14	0.59
<b>Total</b>		<b>14</b>	<b>0.59</b>
<b>Grand Total</b>		<b>220</b>	<b>27.91</b>

During the course of the year, the Departments accepted underassessment and other deficiencies of ₹ 37.19 crore in 158 cases, of which 108 cases involving ₹ 2.89 crore were pointed out in the year 2013-14 and the rest in the earlier years. An amount of ₹ 1.83 crore was realised in 51 cases during the year 2013-14.

A Performance Audit on “Administration of taxes under various Acts by Directorate of Agricultural Income Tax in West Bengal” having money value of ₹ 136.05 crore and few illustrative cases involving ₹ 2.32 crore are discussed in the following paragraphs.

### **6.3 Performance Audit on “Administration of Taxes under various Acts by Directorate of Agricultural Income Tax in West Bengal”**

#### **Highlights**

- Weakness in tax administration in respect of Agricultural Income Tax resulted in non-inclusion of 1,274 tea gardens having an area of 61,632 acres of land into the tax net.  
**(Paragraph 6.3.8)**
- Absence of a system of cross verification of information with other sources resulted in non-inclusion of 1,849 omnibuses, 364 AC restaurants, 58 AC hotels and 54 AC banquet halls into the tax net and consequent non-realisation of ₹ 85.29 lakh.  
**(Paragraph 6.3.14)**
- Absence of a system to monitor the compliance of the Appellate orders resulted in non-realisation of revenue of ₹ 39.63 lakh.  
**(Paragraph 6.3.15)**
- Due to limited application of provision for taxation on complimentary tickets, the Government had to forgo ₹ 9.43 crore in sports/amusement events.  
**(Paragraph 6.3.17)**

- Absence of a time limit for assessment resulted in non assessment of 1,083 cases of 255 Cable operators/Multi System Operators/Cinema halls and consequent non-realisation of ₹ 100.78 crore.

**(Paragraph 6.3.18)**

- Undue delay in initiation of recovery proceedings resulted in non-realisation of revenue of ₹ 11.16 crore in 438 cases of 229 cinema halls/parks, hotels and restaurants, tea gardens and cable operators.

**(Paragraph 6.3.19)**

- Absence of a time limit for disposal of appeal cases resulted in non-disposal of 3,519 appeal cases in which amount of ₹ 18.91 crore was blocked in 1,571 cases. Out of 3,519 appeal cases, 3,299 cases were pending for more than five years.

**(Paragraph 6.3.21)**

- Deficiencies in the Internal Control Mechanism like absence of an effective Internal Audit Wing, Manual on office procedures, mechanism to monitor compliance of instructions/orders, adequate infrastructure and proper record keeping were noticed.

**(Paragraph 6.3.23)**

### **6.3.1 Introduction**

The Directorate of Agricultural Income Tax under the Finance (Revenue) Department, Government of West Bengal administers assessment, levy and collection of Agricultural Income Tax<sup>102</sup>, Primary Education Cess<sup>103</sup>, Rural Employment Cess<sup>104</sup>, Amusement-Cum-Entertainment Tax<sup>105</sup>, Luxury Tax<sup>106</sup>, and Charges for Draw of Lotteries.<sup>107</sup> The implementation of different Acts and Rules related to these taxes/cess/charges are also monitored by the Directorate. The Directorate contributed ₹ 922.02 crore to the State exchequer during the period from 2008-09 to 2012-13.

102 It is administered under the provisions of the Bengal Agricultural Income Tax Act, 1944 and Rules made thereunder. Agricultural income tax on non-tea agricultural products was abolished from 1993-94 and 1994-95 in respect of individuals and company/firm respectively.

103 It is administered under the provisions of the West Bengal Primary Education Act, 1973 and it is related to assessment, levy and collection of Primary Education Cess from the tea estates only.

104 It is administered under the provisions of the West Bengal Rural Employment and Production Act, 1976 and it is related to assessment, levy and collection of Rural Employment Cess from the tea estates only.

105 It is administered under the provisions of the Bengal Amusement Tax Act, 1922 (for Cinema, cabaret, musical & magic shows, sports & games, betting tax and totalisator tax on horse racing), the West Bengal Entertainment-cum-Amusement Tax Act, 1982 (for cable operators and film exhibition through video) & the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972 (for entertainments provided in Hotels & Restaurants) and Rules made thereunder.

106 It is administered under the provisions of the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972 and Rules made thereunder.

107 It is administered under the provisions of the West Bengal Lotteries (Regulation of Payment of charge for Draw) Rules, 2011.

The Performance Audit on “**Administration of Taxes under various Acts by Directorate of Agricultural Income Tax in West Bengal**”, conducted during March 2014 and July 2014, revealed many system lapses, compliance deficiencies and failure of the internal control mechanism of the Directorate which are incorporated in the following paragraphs:

### **6.3.2 Organisational set up**

The Directorate of Agricultural Income Tax (DAIT) is under the administrative control of the Principal Secretary, Finance (Revenue) Department. The overall control and superintendence of the Directorate is vested with the Commissioner of Agricultural Income Tax (CAIT), West Bengal who is assisted by three Additional Commissioners (Addl. CAITs), five Deputy Commissioners (DCAITs), six Assistant Commissioners (ACAITs), 42 Agricultural Income Tax Officers (AITOs) and 58 Inspectors. As on 31.03.2014, one post of Addl. CAIT, two posts of DCAIT, two posts of ACAIT, 12 posts of AITO and 11 posts of Inspectors were vacant.

### **6.3.3 Audit objectives**

The Performance Audit was conducted with the objectives to ascertain whether:

1. tax administration was efficient and effective in ensuring compliance with the applicable legislations and rules;
2. a proper mechanism existed for the identification of assessees for the purpose levy of tax; and
3. effective internal controls were in place.

### **6.3.4 Audit criteria**

The following Acts and Rules made thereunder along with notifications and circulars issued from time to time constitute the audit criteria for the Performance Audit:

1. The Bengal Amusement Tax Act, 1922 and Rules, 2010;
2. The Bengal Agricultural Income Tax Act, 1944 and Rules, 1944;
3. The West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972 and Rules, 1972;
4. The West Bengal Primary Education Act, 1973 and Rules, 1984;
5. The West Bengal Rural Employment and Production Act, 1976 and Rules, 1976;
6. The West Bengal Entertainment-cum-Amusement Tax Act, 1982 and Rules, 1983; and
7. The West Bengal Lotteries (Regulation of Payment of charge for Draw) Rules, 2011.

### 6.3.5 Scope and methodology of audit

Performance Audit covered the period from 2008-09 to 2012-13. Selection of units was done through stratified sampling method. 20 Agricultural Income Tax (AIT) offices were stratified under three strata<sup>108</sup> based on their average revenue collections during last five years. Total of 14 AIT offices i.e. eight AIT offices from the first strata, four AIT offices from second strata and two AIT offices from third strata were selected based on risk analysis for the purpose of Performance Audit.

In addition, records of the Directorate, Appellate Authorities<sup>109</sup> and Certificate Officers were also checked.

During Performance Audit, the records of the Directorate and AIT offices were scrutinised. Further, the data obtained from other departments/local bodies/websites etc. were also cross verified with the data available with the Directorate to detect tax evasion.

The cases of non/short realisation of revenue detected during transaction audit were also incorporated in the Performance Audit report.

### 6.3.6 Trend of revenue

Receipts of the Directorate of Agricultural Income Tax during the period of Performance Audit along with the total tax receipts are as detailed below:-

**Table 6.2**

(₹ in crore)

Year	Budget Estimates	Actual Receipts	Variation Excess(+) / Shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts of the DAIT vis-à-vis total tax receipts
2008-09	183.56	107.63	(-) 75.93	(-) 41.37	14,419.15	0.75
2009-10	209.73	118.90	(-) 90.83	(-) 43.31	16,899.98	0.70
2010-11	154.83	144.86	(-) 9.97	(-) 6.44	21,128.74	0.69
2011-12	190.04	249.44	(+) 59.40	(+) 31.26	24,938.16	1.00
2012-13	186.55	301.20	(+) 114.65	(+) 61.46	32,808.49	0.92

Source:- Budget Publication No. 4 of respective years.

The budget estimates and the actual receipts varied between (-) 43.31 per cent to (+) 61.46 per cent during the period showing unrealistic nature of the estimates. Audit observed that increase in actual receipt from the year 2011-12 was attributable to the implementation of the West Bengal Lotteries

108 First strata: AIT offices having average revenue collection more than or equal to one crore.

Second strata: AIT offices having average revenue collection more than and equal to 40 lakh and less than one crore.

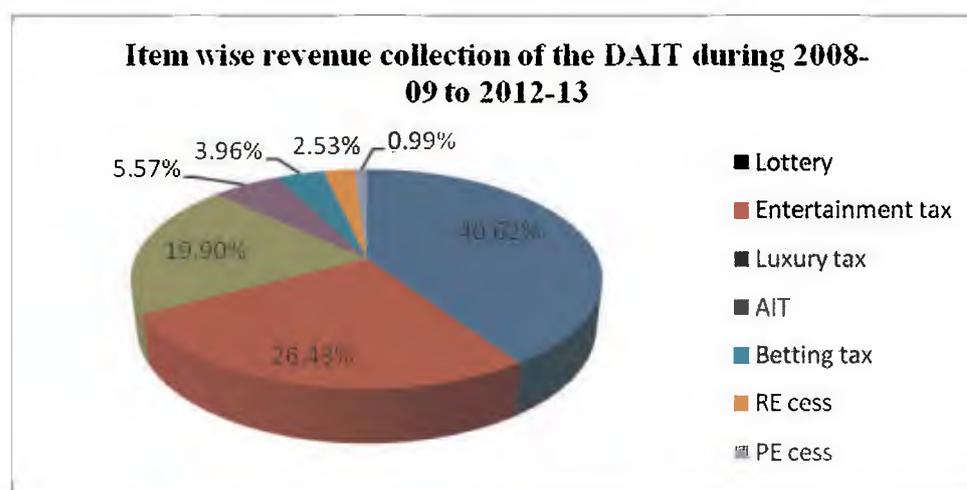
Third strata: AIT offices having average revenue collection less than 40 lakh.

109 ACAIT being the first Appellate Authority and CAIT being the second Appellate Authority.

(Regulation of Payment of Charge for Draw) Rules, 2011 and the revenue realised thereunder.

The item-wise revenue collection of the Directorate<sup>110</sup> during 2008-13 is displayed through the following Pie chart:

**Chart 6.1**



Detailed figures of tax/cess collected by the Directorate are as follows:

**Table 6.3**

(₹ in lakh)

Period	Lotteries	Entertainment Tax	Luxury Tax	Agricultural Income Tax	Betting Tax	PE Cess	RE Cess	Total
2008-09	3,061.40	3,819.00	2,423.94	351.17	585.92	157.66	363.71	10,762.80
2009-10	3,180.02	4,159.99	2,124.28	886.27	961.66	133.44	444.22	11,889.88
2010-11	3,239.04	3,770.77	3,756.55	1,585.35	1,051.05	288.83	794.30	14,485.89
2011-12	12,078.24	5,905.34	4,685.04	1,088.00	500.33	227.94	458.71	24,943.60
2012-13	15,895.24	6,714.11	5,362.29	1,220.35	550.70	108.91	268.21	30,119.81
<b>Total</b>	<b>37,453.94</b>	<b>24,369.21</b>	<b>18,352.10</b>	<b>5,131.14</b>	<b>3,649.66</b>	<b>916.78</b>	<b>2,329.15</b>	<b>92,201.98</b>
	<b>40.62%</b>	<b>26.43%</b>	<b>19.90%</b>	<b>5.57%</b>	<b>3.96%</b>	<b>0.99%</b>	<b>2.53%</b>	<b>100%</b>

Analysis of the figures in the table revealed that there was a sharp increase in revenue from Lotteries from 2011-12 due to implementation of West Bengal Lotteries (Regulation of Payment of Charges for Draw) Rules, 2011. Entertainment Tax and Luxury Tax had shown continuous increase in revenue realisation except in 2010-11 and 2009-10 respectively. The Agricultural Income Tax, Betting Tax and RE Cess increased during 2008-09 to 2010-11 but decreased in 2011-12. The trend of revenue in respect of PE Cess was inconsistent during 2008-09 to 2012-13.

The CAIT in the Exit Conference (December 2014) stated that the wide variation between budget estimate and actual receipt during the period of performance audit was attributed to discontinuation of online lotteries and implementation of West Bengal Lotteries (Regulation of Payment of Charges for Draw) Rules, 2011.

<sup>110</sup> Source : Budget Publication No. 4 of West Bengal

### 6.3.7 Acknowledgement

Audit acknowledges the co-operation of the DAIT in providing necessary records and information for the Performance Audit. Before taking it up, an Entry Conference was held on 31 March 2014 between the Accountant General and the Addl. CAIT of the Directorate where the objectives, criteria, scope and methodology and main focus areas of the Performance Audit were discussed. Findings of the Performance Audit were forwarded to the Directorate and Department in August 2014. An Exit Conference was held on 12 December 2014 with CAIT of the Directorate. The views of the Directorate have suitably been incorporated in relevant paragraphs.

### Audit findings

#### Deficiencies in tax administration due to non-compliance of the provisions of the Acts and Rules

Efficient and effective tax administration is the result of proper compliance of the Acts and Rules by the tax administrator. Audit observed a number of deficiencies in assessment, levy and collection of taxes by the DAIT due to deficient compliance of the provisions of Acts and Rules as mentioned in the following paragraphs:

#### 6.3.8 Weaknesses in Tax Administration in respect of Agricultural Income Tax

Agricultural Income Tax in West Bengal is leviable only in respect of tea. Audit observed a number of deficiencies in the tax administration in the absence of any database of individual/ corporate producers of tea, non-availability of income data in respect of tea producers, etc. as discussed below.

According to Section 24 of the West Bengal Agricultural Income Tax Act, 1944, every person whose total agricultural income during the previous year exceeded the maximum amount<sup>111</sup> which is not chargeable to Agricultural Income Tax, shall furnish a return in the prescribed form setting forth his total agricultural income and such other particulars as may be prescribed, before the expiry of three months from the end of the previous year or before 30 June of next following the previous year, whichever is later. Under Section 2(2A) and Section 3(2A) of the West Bengal Taxation Laws Act, 1989, the education cess and Rural employment cess shall be levied annually at the rate of four paise and 12 paise for each kilogram of green tea leaves respectively.

Information regarding tea gardens obtained from three<sup>112</sup> District Land & Land Reforms Officers (DL&LROs) revealed that there were 19,337 tea gardens in the three districts covering total area of 1.49 lakh acres of land. For the purpose of analysis, Audit selected 2,190 tea gardens each with area equal

111 ₹ 10,000 per annum for individuals and Hindu undivided families. No exemption allowed on agricultural income of companies/firms.

112 DL&LROs- Darjeeling, Jalpaiguri and Uttar Dinajpur.

to or more than 5 acres<sup>113</sup>. Cross verification of data pertaining to the land records of these 2,190 tea gardens with the General Index Register (GIR) of tea gardens maintained by the Agricultural Income Tax Officer (AITO) in three<sup>114</sup> AIT Offices in these three districts revealed that out of these, as many as 1,274 tea gardens having area of 61,632 acres were not paying any Agricultural Income Tax and hence their names did not feature in the GIR. 280 more tea gardens were not paying any Agricultural Income Tax, though they paid Primary Education Cess and Rural Employment & Production Cess which were collected on production of tea.

Audit observed that there was no database to identify the companies / firms neither was any income data available with the AITOs to help them identify the individual producers liable to pay tax. The Act itself did not provide for registration on the part of the producers/ tax payers. The exemption limit of ₹ 10,000 in respect of individual producers in the Act has not been revised since 1983.

On being pointed out, the two AITOs (December 2014) stated that 47 tea gardens had been/being brought under the tax net. In the remaining cases, the AITOs did not give any specific reply.

The CAIT in the Exit Conference (December 2014) stated that liaison with the Land and Land Reforms Department was under the active consideration of the Directorate. Instructions were being issued to the AITOs in this regard.

### **6.3.9 Under assessment of tax**

According to the provision under Section 3 of the Bengal Amusement Tax Act, 1922 there shall be charged, levied and paid to the State Government, a tax at the rate specified on all payments for admission to any entertainments including sports and games held in an amusement park, theme park or water games park.

Scrutiny of the assessment case records of an amusement park for the period from 2010-11 to 2012-13 as maintained under the AITO, Darjeeling Range revealed that the gross total collection of the assessee was assessed as ₹ 1.67 crore. However, scrutiny of profit and loss account of the assessee revealed that the income from sale of tickets during the period was ₹ 2.76 crore. Short determination of gross collection from tickets amounting ₹ 1.10 crore resulted in short levy of entertainment tax amounting to ₹ 21.95 lakh.

On this being pointed out, the AITO, Darjeeling Range did not furnish any specific reply.

The CAIT in the Exit Conference (December 2014) admitted the audit observation and stated that instruction had been sent to review the matter.

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113 Since Agricultural income upto ₹ 10,000 is exempted, the tea gardens having an area equal to or more than five acres have been commented upon.

114 AITOs- Darjeeling Range, Jalpaiguri Range and Uttar Dinajpur Range.

### 6.3.10 Non-realisation of dues from sub-cable operators<sup>115</sup>

Under provisions of Section 4A (4c) of the West Bengal Entertainment-cum-Amusement Tax Act, 1982, read with the Notification No. 616 F.T. dated 4 March 1999, every sub-cable operator who is a holder of a video cassette recorder set or video cassette player set and transmits from such set for exhibition of any performance, film or programme, shall be liable to pay a tax at the rate of ₹ 1,500 and ₹ 1,000 per year as per their location within the Calcutta Metropolitan area and the other areas respectively.

Scrutiny of General Index Register and other related records of 143 sub-cable operators under four<sup>116</sup> AIT Offices revealed that the sub-cable operators had not paid tax of ₹ 7.60 lakh for the period from 2001 to 2012. The AITOs also did not raise any demand for realisation of the said amount from the sub-cable operators. This resulted in non-realisation of tax of ₹ 7.60 lakh.

On this being pointed out, the AITOs stated (December 2014) that process had been/being initiated to realise tax from the defaulting sub-cable operators.

The CAIT in Exit Conference (December 2014) stated that action had been/being initiated for realisation of Government dues.

### 6.3.11 Non-initiation of certificate proceedings within the prescribed time limit

Under provisions of Section 45 and 45A of the Bengal Agricultural Income Tax Act, 1944, when an assessee is in default in making payment of Agricultural Income Tax, the AITO may forward to the Collector a certificate under his signature specifying the amount of arrears including interest due from the assessee or may initiate other mode of recovery for realisation. Section 45(4) of the Act prescribes that no proceeding for recovery of any tax payable under this Act shall be commenced after the expiry of six years from the last date on which the tax is payable.

Scrutiny of the outstanding dues register and other related case records maintained under the three<sup>117</sup> AIT Offices revealed that in 103 cases of 52 tax payers an amount of ₹ 2.31 crore of assessed dues for the period of assessment from 1960-61 to 2003-04 were not realised. No evidence to the effect that the cases were under any appeal or under any litigation found on records. The period of six years from the last date on which the tax was payable had already expired. Thus, in absence of initiation of certificate proceedings within the prescribed time limit, Government revenue amounting to ₹ 2.31 crore remained unrealised.

On this being pointed out, the CAIT in the Exit Conference (December 2014) stated that in certain cases certificate could not be forwarded within due time. Necessary steps were being initiated. However, no action for initiating

115 A person who on the basis of an agreement, contract or any other arrangement with a cable operator receives signal and distribute cable service to the customers.

116 AITOs- Burdwan Range, Dakshin Dinajpur Range, Kolkata Range II and Nadia Range.

117 AITOs- Darjeeling Range, Kolkata Range I and Uttar Dinajpur Range.

recovery proceedings under Sections 45 or 45A can be taken as the cases have become time barred.

### **3.12 Non-levy of interest in certificate cases**

Under provisions of Section 5BA(2) of the West Bengal Entertainment-cum-Amusement Tax Act, 1982 as inserted by the West Bengal Finance Act, 2006, where a cable operator registered under this Act fails to make payment of tax payable within the date fixed by the prescribed authority after the assessment, he shall pay a simple interest at the rate of one *per cent* for each month of default.

Scrutiny of assessment case records of three<sup>118</sup> AIT Offices revealed that, in 17 cases of eight cable operators, for the period of assessments from 2002-03 to 2009-10; the demand notices involving ₹ 2.62 crore were issued specifying the dates of payments between September 2006 and January 2011. The cable operators did not pay the assessed dues and the cases were referred to the Certificate Officers between November 2006 and May 2013 for recovery. As per provisions of the Act, interest was to be levied and included in the certificate demands. AITOs neither levied the interest nor included it in the demand communicated to the Certificate Officers. This resulted in non-levy of interest amounting to ₹ 11.33 lakh.

On this being pointed out, two<sup>119</sup> AITOs admitted (between April and December 2014) the audit observation in 11 cases of ₹ 8.86 lakh and stated that necessary steps would be initiated for recovery of interest. In the remaining cases, the AITO did not furnish any specific reply.

The CAIT in Exit Conference (December 2014) stated that action had been/being initiated for levy of interest and realisation thereof.

### **6.3.13 Non-pursuance of certificate case**

Scrutiny of the Certificate Case Register and other case records of nine<sup>120</sup> AIT Offices revealed that in 465 cases assessed dues of ₹ 10.55 crore was forwarded to the Certificate Officers for recovery. These cases were selective and not exhaustive. The cases were related to the period of assessment from 1955-56 to 2007-08 and were forwarded to the Certificate Officer between 1996-97 and 2011-12. After sending the cases to the Certificate Officer for recovery, no pursuance had been made by the AITOs. The Certificate Officers also did not intimate the status of realisation in the cases to the AITOs. In absence of the persuasion with the Certificate Officers, Government revenue of ₹ 10.55 crore remained blocked.

On this being pointed out, the CAIT in Exit Conference (December 2014) stated that the matter had been/was being taken up with the Certificate Officers for recovery.

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118 AITOs- ATS, Burdwan Range and North 24 Parganas Range.

119 AITOs: ATS and North 24 Parganas.

120 AITOs- Birbhum Range, Burdwan Range, Darjeeling Range, Jalpaiguri Range, Kolkata Range I, Malda Range, Nadia Range, Purba Midnapore Range and Uttar Dinajpur Range.

### 6.3.14 Deficiencies in the mechanism to identify and to bring the potential assesseees into the tax net through a system to cross-verify information from other sources

Audit observed a number of deficiencies in the mechanism to identify and bring the potential tax payers into the tax net. The Directorate had no effective system for cross-verification of information of other departments/local bodies/websites with the departmental records for this purpose. Such deficiencies as observed in the course of Performance Audit are discussed in the following paragraphs:

#### 6.3.14.1 Non-realisation of revenue from Omnibus owners

Under provisions of Section 4A(2) of the West Bengal Entertainment-cum-Amusement Tax Act, 1982, where the performance or exhibition of films is made in an Omnibus<sup>121</sup>, registered under the Motor Vehicles Act, 1939, the tax for each year shall be at such rate, not exceeding ₹ 3,000 per year per set. Rate of tax had been notified<sup>122</sup> as ₹ 1,000 per year per set. However, the rate had not been revised since 1985.

Cross verification of the motor vehicles registration data in respect of the Omnibuses registered during the audit period and equipped with video devices obtained from 13<sup>123</sup> Transport Offices, West Bengal Motor Vehicle Department with the records of nine<sup>124</sup> AIT Offices, revealed that 1,849 omnibus owners were not paying entertainment-cum-amusement Tax. This resulted in non-realisation of Government revenue of ₹ 64.34 lakh during the period from 2008-2012.

On this being pointed out, the AITOs admitted the audit observations and stated (December 2014) that actions were being taken to initiate proceeding to realise Government revenue.

The CAIT in Exit Conference (December 2014) stated that liaison with the Transport Department was under the active consideration of the Directorate. Instructions were being issued to the AITOs in this regard.

#### 6.3.14.2 Non-realisation of revenue from unregistered restaurants

Section 4 of the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972 provides that proprietor of every hotel and restaurant in which there is provision for luxury<sup>125</sup> shall pay luxury tax and

121 As per Motor Vehicle Act, Omnibus means any motor vehicle constructed or adapted to carry more than six persons excluding the driver.

122 No. 1586-F.T. dated 1<sup>st</sup> April, 1985.

123 Public Vehicles Department, RTOs-Alipore, Barasat, Burdwan, Darjeeling, Howrah, Paschim Midnapore and Purba Midnapore, and ARTOs-Asansol, Alipurduar, Barrackpore, Durgapur and Siliguri.

124 AITOs- Amusement Tax Section, Burdwan Range, Darjeeling Range, Howrah Range, Jalpaiguri Range, Kolkata Range II, North 24 Parganas Range, Paschim Midnapore Range and Purba Midnapore Range.

125 Luxury means provision for air conditioning or air cooling.

Section 4(a) prescribes the rate of tax for a restaurant within the State as per locality.

Section 4(AA)<sup>126</sup> of the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972 prescribes that every proprietor of a hotel or restaurant who is liable to pay the luxury tax shall get himself registered with the prescribed authority. Rule 9B of the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Rules, 1972 prescribes that the proprietor shall furnish, within 10 days from the date of deposit of the luxury tax, to the Assessing Authority a return in Form AA showing the total area which is air conditioned, the quarter in question and the amount of luxury tax payable for the quarter along with copy of the treasury challan showing the payment of luxury tax.

Cross-verification of information obtained from five<sup>127</sup> local bodies with the records maintained under four<sup>128</sup> AIT Offices revealed that 364 air conditioned restaurants obtained registration (trade license) from the local bodies during the period from April 1999 to February 2013 and also renewed their licenses from time to time; but these restaurants were not registered with the AITOs and they neither deposited their quarterly tax nor submitted the returns. In the absence of a system of cross verification of information with other local bodies, these restaurants could not be brought under the tax net by the AITOs. This resulted in non-realisation of luxury tax amounting to ₹ 20.95 lakh calculated at the minimum rate of tax.

On this being pointed out, the AITOs stated (December 2014) that inspection process to bring the AC restaurants under the tax net was going on.

The CAIT in Exit Conference (December 2014) stated that liaison with the local bodies (Corporations and Municipalities) was under the active consideration of the Directorate. Instructions were being issued to the AITOs in this regard.

### **6.3.14.3 Non-realisation of revenue from unregistered hotels**

Under provisions of Section 4 of the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, there shall be charged, levied and paid to the State Government a luxury tax by proprietors of every hotel in which there is provision for luxury.

Section 4(AA) of the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972 prescribes that every proprietor of a hotel or restaurant who is liable to pay the luxury tax shall get himself registered with the prescribed authority.

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126 Inserted vide West Bengal Finance Act, 2011.

127 Asansol Municipal Corporation, Siliguri Municipal Corporation, South Dum Dum Municipality, Kolkata Municipal Corporation (KMC) and Paschim Midnapore Municipality.

128 AITOs- Amusement Tax Section, Burdwan Range, Darjeeling Range and Paschim Midnapore Range.

Section 6(1) of the Act prescribes that if any proprietor fails to get himself registered under this Act, he shall be liable to a fine at prescribed rate on conviction before a magistrate.

Cross verification of the information obtained from websites<sup>129</sup> about air conditioned hotels available under the jurisdiction of AIT Offices selected for audit and two local bodies<sup>130</sup> regarding licensed air conditioned hotels with the General Index Register of five<sup>131</sup> AIT Offices revealed that out of 143 cases, 58 hotels neither got themselves registered nor submitted returns with the AIT Offices though there was provision for luxury (AC rooms) in these hotels. In the absence of a system of cross verification of information with other sources, these hotels could not be brought under the tax net. The tax is paid in respect of income earned from the occupancy of those rooms, data for which were not available with the AITOs.

On this being pointed out, the AITOs stated (June 2014 and December 2014) that inspection process to bring the AC hotels under the tax net was going on.

The CAIT in Exit Conference (December 2014) stated that necessary steps to bring the eligible hotels under the tax net were being initiated.

#### **6.3.14.4 Non-realisation of revenue from the banquet halls**

Under provisions of Section 2(ca) of the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972 hotel means a building or part of a building or any place where any activity or business is carried on in providing lodging or boarding or any kind of accommodation, with or without supply of food, drinks or refreshments, to the members of the public on payment or for any consideration with the object of making profit. Further, according to provisions of Section 2(i) of the Act, 'room' includes banquet hall, conference room or any other room used for similar purpose. Luxury tax is payable in respect of income earned from the occupancy of those rooms.

Cross verification of information in respect of air conditioned (AC) banquet halls, marriage halls and ceremonial houses not attached to any hotel obtained from the website and four local bodies<sup>132</sup> with the records maintained under four<sup>133</sup> AIT Offices revealed that 54 standalone AC banquet halls, marriage halls, ceremonial houses, etc. were not under the tax net, though these halls and houses had been covered under the definition of hotel under Section 2 (ca) of the Act. Due to non-registration of these banquet halls, marriage halls, ceremonial houses, etc. under the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, loss of substantial amounts of revenue could not be ruled out. In absence of a system of cross verification of

129 Official website of West Bengal Tourism Department and two private marketing websites.

130 Asansol Municipal Corporation and Siliguri Municipal Corporation.

131 AITOs- Burdwan Range, Darjeeling Range, Jalpaiguri Range, Kolkata Range II and Nadia Range.

132 Asansol Municipal Corporation, Howrah Municipal Corporation, Rajarhat-Gopalpur Municipality and South Dumdum Municipality.

133 AITOs- Amusement Tax Section, Burdwan Range, Howrah Range and North 24 Parganas Range.

information with other departments/local bodies/Institutions, these standalone banquet halls could not be brought under the tax net by the AITOs.

On this being pointed out, the AITOs stated (December 2014) that as per existing provision of the Act, the standalone banquet halls and the like did not fall in the category of hotels or restaurants. The reply is not tenable as standalone banquet halls are in any case covered under section 2(ca) of the Act.

The CAIT in Exit Conference (December 2014) stated that the matter was under active consideration of the Directorate. Necessary amendments in the Act would be proposed to the Government, if required.

### **6.3.15 Absence of a system to monitor the compliance of Appellate orders**

During Performance Audit, it was observed that the Directorate did not evolve a system to monitor the compliance of Appellate orders through reports and returns. In the absence of such a system, orders of the Appellate Authority could not be carried out, resulting in blockage of Government revenue as detailed in following paragraphs:

**6.3.15.1** Cross verification of appellate orders issued by CAIT during 2008-09 to 2012-13 on appeal cases related to the periods of assessment from 2000-01 to 2006-07 with the records of ACAIT Kolkata revealed that in seven cases involving taxes amounting to ₹ 13.47 lakh of two appellants, the CAIT had set aside the decision of first Appellate Authority in April and May 2011 and instructed the ACAIT to dispose of the appeal cases afresh after giving the appellants reasonable opportunity of being heard. Though, more than 29 months had passed after the date of orders of the CAIT, the ACAIT did not comply with the orders and initiate any action to dispose the cases. This resulted in blockage of Government revenue of ₹ 13.47 lakh.

On this being pointed out, the ACAIT, Kolkata did not furnish any specific reply.

**6.3.15.2** Scrutiny of the appeal cases and other related records maintained under the six<sup>134</sup> AIT Offices revealed that in 24 appeal cases the Appellate Authorities/Tribunal had given their judgment between February 2001 and June 2012 by confirming/modifying/setting aside the previous orders of the AITOs. The Appellate Authorities also instructed the AITOs to do the needful regarding realisation of the Government dues or to modify the assessment in the confirmed or modified appeal cases respectively. Copies of the Appellate orders were also forwarded to the AITOs for compliance. But even after expiry of 18 to 144 months from the dates of Appellate orders, the necessary action was not taken by the AITOs for compliance of these orders and realisation of Government revenue amounting to ₹ 26.16 lakh.

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134 AITOs- ATS, Birbhum Range, Darjeeling Range, Howrah Range, Kolkata Range I and Kolkata Range II.

On this being pointed out, the AITOs admitted the audit observation and stated (December 2014) that necessary actions were being taken shortly for immediate compliance of the appellate orders.

The CAIT in Exit Conference (December 2014) stated that the concerned authorities would be instructed to monitor the compliance of appellate orders effectively.

### 6.3.16 Need for inclusive definition of 'Luxury' under the Act

The West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act was enacted in the year 1972. At that time, scope of luxury was limited to hotels and restaurants. But during last 40 years scope of luxury has been widened. Many other commercial businesses like spa, slimming centre, gymnasium, massage parlours, shopping malls and air conditioned shopping complexes, etc. are in operation which could be considered luxurious in nature. Some States<sup>135</sup> had brought the spa, beauty parlours, malls, etc. under the ambit of luxury tax through amendments in their Acts.

Section 2 (d) of the West Bengal Entertainments And Luxuries (Hotels and Restaurants) Tax Act, 1972, prescribes that 'luxury' means provision for air conditioning through air conditioner or central air conditioning or any other mechanical means, or air cooling through air coolers provided in any of the rooms, or any part of a building, constituting a hotel or restaurant.

Section 4 of the Act prescribes that there shall be charged, levied and paid to the State Government a luxury tax by the proprietor of every hotel and restaurant in which there is provision for luxury at such rates as may be prescribed.

The scope of luxury and luxury tax had been updated by the other States<sup>136</sup> of the country. At present 'accommodation in hotels' has been defined as 'luxury' in those States. But no attempt had been made by the DAIT to update the scope of luxury and luxury tax in West Bengal since inception of the Act.

**6.3.16.1** Information obtained from websites<sup>137</sup> and enquiry reports of eight<sup>138</sup> AIT Offices revealed that 42 air conditioned shopping complexes/malls and 353 spas were in business under the jurisdictional area of the nine and six<sup>139</sup> AITOs respectively. The total air conditioned area of

135 Goa and Delhi. In addition, under Karnataka Tax on Luxuries Act "the luxury tax shall be levied and collected for luxuries provided in a hotel for residents and others such as health club, beauty parlour, swimming pool, etc." and under Kerala Tax on Luxuries Act, 1976, hospitals with luxuries under the tax net and hospital includes rejuvenation centres, Ayurvedic cure and care centre, personal care centre, etc. Under the Haryana Tax on Luxuries Act, 2007, the charges for use of amenities of health club, beauty parlour, etc. are taken into account while computing the luxury tax of a hotel.

136 Delhi, Goa and Tamil Nadu.

137 [http://en.wikipedia.org/wiki/List\\_of\\_shopping\\_malls\\_in\\_West\\_Bengal](http://en.wikipedia.org/wiki/List_of_shopping_malls_in_West_Bengal) and Justdial.com.

138 AITOs- Burdwan Range, Darjeeling Range, Howrah Range, Jalpaiguri Range, Kolkata Range II, Malda Range, North 24 Parganas Range and Paschim Midnapore Range.

139 AITOs- Amusement Tax Section, Burdwan Range, Darjeeling Range, Jalpaiguri Range, Kolkata Range II and North 24 Parganas.

shopping complexes/malls was 6.77 lakh square meters. In absence of a contemporary definition of scope of luxury under the Act, these complexes/malls and spas could not be brought under the tax net.

On this being pointed out, the AITOs admitted (December 2014) the absence of provision in the Act and Rules and stated that to include those malls, spas and the like in the tax network an amendment was required in the provision of the Act.

**6.3.16.2** Information obtained from the website about the luxurious hotels which were operative in the tourist places like Darjeeling, Kalimpong, Kurseong, Mirik, etc. within the jurisdictional area of AITO, Darjeeling Range revealed that there were at least 120 luxury hotels running their business in the hilly and cold areas of the State. These hotels do not require ACs; however, they have all modern facilities like well furnished accommodation, room service, colour TV, internet, room heating systems, running cold and hot waters, swimming pools, spa, gymnasium, etc. and charging room tariffs between ₹ 1,000 to ₹ 9,000 per night. Due to limited scope of luxury which covers only hotels with AC rooms, these hotels could not be brought under the tax ambit.

On this being pointed out, the AITO, Darjeeling Range admitted the absence of provision of luxury tax in respect of non-AC hotels under the Act and stated (December 2014) that to address the problem the definition of luxury had to be made in terms of tariff instead of rooms having air conditioning facility.

The CAIT in Exit Conference (December 2014) admitted the audit observation and stated that the matter was under the active consideration. The proposal would be initiated in due course.

### **6.3.17 Limited application of provision related to taxation on complimentary tickets**

Under provision of Section 3(3b) of the Bengal Amusement Tax Act, 1922, entertainment tax shall be charged, levied and paid on all complimentary tickets issued by the proprietor of a cinema hall in respect of admission without payment. But no such provision has been made in respect of complimentary tickets issued by the organiser/proprietor of magic shows, musical nights, parks and commercialised sports events in the State. Audit observed that the organisers of IPL matches declared in the statement of tickets account submitted for payment of entertainment tax that 86,402 complimentary tickets were issued by them during the period from 2011-12 to 2013-14 for 20 matches held in Kolkata.

Had the provisions of Section 3(3b) been applicable on the commercialised sports events, Government could have generated revenue of ₹ 9.43 crore towards entertainment tax on these tickets. By way of analogy, in Maharashtra under Section 3A of Bombay Entertainment Duty Act, 1923, every complimentary ticket issued by the proprietor is taxable at the prescribed rate.

On this being pointed out, the AITO, Amusement Tax Section (ATS) admitted (December 2014) the absence of provision for charging and levying entertainment tax on complimentary tickets of sports and stated the matter would be conveyed to the appropriate authority.

The CAIT in Exit Conference (December 2014) stated that proposal for widening the provision of taxation on complimentary tickets to cover all the relevant events under the Act was being initiated.

### **6.3.18 Absence of a time limit for assessment of entertainment and amusement tax**

Timely assessment of tax is one essential feature of any efficient tax administration. In the absence of time limit for assessment, tax administration tends to become lax, assessments orders become prone to litigation and Government revenue remains blocked for indefinite periods.

Under provisions of Section 5 (4) of the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, assessment of luxury tax shall be made before expiry of two years from the end of the period in respect of which the assessment is made. Some other Acts monitored by different Directorates of the State also prescribe time limit for assessment. But no time limit for assessment of entertainments and amusement tax has been prescribed under the West Bengal Entertainment-cum-Amusement Tax Act, 1982 and the Bengal Amusement Tax Act, 1922 for cable operators and cinema halls respectively.

**6.3.18.1** Scrutiny of the case records in nine<sup>140</sup> AIT Offices revealed that assessments in 529 cases of 126 cable operators were not made even after expiry of period ranging from two years three months to 11 years three months from their respective period of assessments till the date of audit.

On this being pointed out, the AITOs stated (July 2014 and December 2014) that assessment proceedings had been/were being initiated.

**6.3.18.2** During the course of audit of four AITOs<sup>141</sup> it was observed that 12 Multi System Operators (MSOs), operating their business in digital assessable cable TV system (DAS) area paid entertainment tax under West Bengal Entertainment-cum-Amusement Tax Act, 1982 amounting to ₹ 9.93 crore for the assessment period 2010-11 to 2012-13, without submitting any return or tax assessment. Audit obtained the information regarding number of cable connections of these 12 MSOs from the Telecom Regulatory Authority of India (TRAI), New Delhi and calculated the entertainment tax due. The tax liability of these MSOs came to ₹ 110.70 crore against which the MSOs had paid only ₹ 9.93 crore. The department failed to assess the correct tax liability

<sup>140</sup> AITOs- Birbhum Range, Burdwan Range, Dakshin Dinajpur Range, Darjeeling Range, Jalpaiguri Range, Malda Range, Nadia Range, North 24 Parganas Range and Uttar Dinajpur Range.

<sup>141</sup> AITOs- ATS, Hooghly Range, Howrah Range and North 24 Parganas Range.

of these MSOs which resulted in short collection of entertainment tax to the tune of ₹ 100.78 crore.

On this being pointed out, the Addl. Commissioner stated (September 2014) that the concerned AITOs were being instructed to take immediate action and assured that necessary steps would be taken to realise the dues and to complete assessment within the financial year.

**6.3.18.3** Scrutiny of the case records in 11<sup>142</sup> AIT Offices revealed that assessments in 518 cases of 117 cinema halls were not made even after expiry of periods ranging from two years 11 months to 13 years from their respective periods of assessments (2000-01 to 2010-11) till the date of audit. No action for assessment of entertainment tax was initiated by the Directorate.

On this being pointed out, the AITOs stated (December 2014) that assessment proceedings had been/were being initiated.

The CAIT in Exit Conference (December 2014) stated that the Directorate was in the final stage of computerisation. Attempts would be made to incorporate time limit for assessment in the assessment module. Necessary amendments in the Acts in this regard would also be initiated. Necessary instructions to initiate assessment had been issued to the concerned AITOs.

### **6.3.19 Undue delay in initiation of recovery proceedings**

Under Sections 10, 10A and 21 of the Bengal Amusements Tax Act, 1922, Section 7 and 7A of the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, Section 4 and 4AA of the West Bengal Rural Employment and Production Act, 1976, Section 78B and 78BB of the West Bengal Primary Education Act, 1973 and Section 9 and 9A of the West Bengal Entertainment-cum-Amusement Tax Act, 1982, all arrears of tax, penalty and cess due from the person liable to pay assessed dues under these Acts and Rules shall, be recoverable as arrears of land revenue or by initiating special mode of recovery.

Scrutiny of Outstanding Register and other related records maintained under the 12<sup>143</sup> AIT Offices revealed that in 438 cases of 229 cinema halls/parks, hotels and restaurants, tea gardens and cable operators assessed dues of ₹ 11.16 crore were outstanding. The assessed dues were related to periods of assessment from 1982-83 to 2012-13. The cases were assessed by the Assessing Authorities between March 1990 and June 2013 and demands were raised with the assesseees for realisation of these dues. Even after expiry of periods ranging between seven months to 285 months till the date of audit

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142 AITOs- ATS, Birbhum Range, Burdwan Range, Darjeeling Range, Howrah Range, Jalpaiguri Range, Kolkata Range II, Malda Range, Nadia Range, Paschim Midnapore Range and Uttar Dinajpur Range.

143 AITOs- ATS, Birbhum Range, Burdwan Range, Dakshin Dinajpur Range, Darjeeling Range, Howrah Range, Jalpaiguri Range, Kolkata Range II, Malda Range North 24 Parganas Range, Paschim Midnapore Range and Uttar Dinajpur Range.

from their respective dates of assessment, there was no evidence that payments were made by the assesseees or recovery proceedings were initiated by the Assessing Authorities. As per appeal registers available in AITOs, the cases were nowhere involved in appeal or any other type of litigation. Recovery proceedings were not initiated by the Assessing Authorities and Government revenue of ₹ 11.16 crore remained unrealised as detailed below:

Table 6.4

Sl. No.	Items of amusements/ entertainments/ Cess/ luxuries.	No. of AIT offices	No. of assesseees	No. of cases	Periods of assessment	Date of assessment	Periods of defaults (in months)	Amount not realised (₹ in crore)
1.	Cinema /Parks	6	53	135	1984-85 to 2012-13	3/90 to 6/13	11 to 285	5.21
2.	Hotels & restaurants	9	92	148	1985-86 to 2012-13	4/94 to 6/13	7 to 267	1.14
3.	Tea gardens	2	57	93	1982-83 to 2003-04	1/99 to 2/12	28 to 185	4.70
4.	Cable operators	6	27	62	1997-98 to 2011-12	5/99 to 2/13	14 to 179	0.11
<b>Total</b>			<b>229</b>	<b>438</b>				<b>11.16</b>

Similar issues were pointed out under sub-paragraphs 6.02.11 to 6.02.15 of the report of the C&AG for the year 1997-98 which were also discussed by the Public Accounts Committee. In its Sixteenth Report of the year 2002-03, the Committee had recommended that full efforts must be made by the Government to realise amusement tax and luxury tax from the defaulters.

On this being pointed out, the eleven<sup>144</sup> AITOs in 430 cases involving ₹ 11.15 crore stated (between March 2014 and December 2014) that recovery processes had been/were being initiated. In the remaining cases, the AITO, Birbhum Range did not furnish any specific reply. Directorate should have complied with directions of PAC. Absence of a time limit prescribed in the Act and Rules for initiation of recovery proceedings contributed to substantial Government dues remaining unrealised.

The CAIT in Exit Conference (December 2014) stated that incorporation of time limit for recovery proceeding in the Acts was under active consideration of the Directorate. It would also be incorporated in computerised system of the Directorate for better monitoring.

### 6.3.20 Absence of a provision for levy of interest

Section 4B (1) and (2) of the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, prescribe that where a proprietor fails to make payment of any tax payable before/after assessment by the dates specified, he shall pay a simple interest at the rate of one *per cent* for each

144 AITOs: ATS, Burdwan Range, Dakshin Dinajpur Range, Darjeeling Range, Howrah Range, Jalpaiguri Range, Kolkata Range II, Malda Range, North 24 Parganas Range, Paschim Midnapore Range and Uttar Dinajpur Range.

month of default. Similar provisions for levy of interest at same rate have been made in other Acts administered by the Directorate; however, no such provision of interest has been prescribed under the Bengal Amusement Tax Act, 1922.

**6.3.20.1** Scrutiny of assessment case records revealed that four cases of one assessee for the period of assessments between 2009-10 and 2012-13 were assessed between January 2011 and June 2013. During assessment, the assessing authority detected non-payment of admitted entertainment tax of ₹ 67.81 lakh but could not levy any interest for the period of non-payment due to absence of provision for interest in the Act.

On this being pointed out, the AITO, ATS stated (December 2014) that presently there were no provisions to charge interest under the Act.

**6.3.20.2** Scrutiny of certificate case records of six<sup>145</sup> AIT Offices revealed that 44 cases of 21 cinema halls for the period of assessments between 1990-91 and 2009-10 were assessed and the demand notices were issued specifying the dates of payments between December 1998 and January 2013. The cinema hall owners did not pay the assessed dues and defaulted in payment. Lastly, the cases were referred to the Certificate Officer or the dues were fully realised through bank attachment between March 1999 and November 2013. But due to absence of provision for interest, the AITOs could not incorporate upto date interest in the certificate demands.

On this being pointed out, AITOs admitted (December 2014) that there were no provisions to charge interest under the Act.

The CAIT in Exit Conference (December 2014) admitted the audit observation and stated that incorporation of provision for levy of interest in the Act was under consideration.

### **6.3.21 Absence of a time limit for disposal of appeal cases**

Under provisions of Sections 34 and 35 of the Bengal Agricultural Income Tax Act, 1944, Section 11E of the Bengal Amusement Tax Act, 1922, Section 5A of the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972 and Section 10 of the West Bengal Entertainment-cum-Amusement Tax Act, 1982, any assessee may prefer an appeal against any order of assessment within a prescribed time limit from the receipt of demand notice or order in respect thereof. The Appellate Authority may dispose of the appeal cases in the manner prescribed.

These Acts provide for further appeal to the Commissioner for revision etc. However, no time limit has been prescribed in any of the Acts administered by the Directorate for disposal of such revision/appeal cases as provided under Section 84 of the West Bengal Value Added Tax Act, 2003.

On scrutiny of the Administrative Reports of the Directorate, it was observed that total 2,132 appeal cases (1,622 with first Appellate Authority<sup>146</sup> and 510 with CAIT) were pending for disposal till March 2013 and out of these 1,912

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145 AITOs- ATS, Birbhum Range, Burdwan Range, Kolkata Range II, North 24 Parganas Range and Uttar Dinajpur Range.

146 ACAIT (Kolkata) and ACAIT (Jalpaiguri).

were more than five years old. Neither the first Appellate Authority nor CAIT could furnish records/registers/files to substantiate the total number of pending cases and the amount involved therein. However, scrutiny of appeal cases made available to audit by the first Appellate Authorities revealed that in 80 appeal cases, Government revenue of ₹ 2.71 crore was blocked for a period ranging from 30 to 300 months. Out of 510 appeal cases pending with CAIT, details of only 104 cases were made available in which Government revenue of ₹ 12.97 crore was blocked.

Scrutiny of appeal case records maintained in the ACAIT, Kolkata revealed that though the agricultural income tax on non-tea agricultural products was abolished from 1993-94 and 1994-95 in respect of individuals and company/firm respectively, total 1,387 appeal cases involving disputed amount of ₹ 3.23 crore related to non-tea agricultural products pertaining to nine AITO offices were pending for disposal for more than 18 years.

On being pointed out, the CAIT and the ACAITs stated (December 2014) that necessary action would be taken to dispose the cases.

The CAIT in Exit Conference (December 2014) stated that the Directorate was in the final stage of computerisation. Attempts would be made to incorporate time limit for disposal of appeal in the appeal module. Necessary amendments in the Acts in this regard would also be initiated.

### **6.3.22 Failure of the Directorate to achieve the objectives of computerisation**

On scrutiny of records related to initiation of computerisation and its subsequent development in the DAIT, West Bengal, it was noticed that the proposal for computerisation of the Directorate was first sent to the Finance (Revenue) Department in March 2009. The assent of the Government was communicated to the Directorate in February 2010. A Committee<sup>147</sup> was formed for monitoring the development of the IT system. The proposal for necessary approval of the Government, financial sanction and placement of funds was sent to the Finance Department vide letter No. 1106 C dated 19.11.2010. Administrative approval to the estimated cost not exceeding ₹ 54.10 lakh was accorded by the Finance in March 2011. However, financial sanction of ₹ 32.91 lakh only was allotted to the Directorate till March 2013.

Short and delayed allocation of fund affected the pace of development of the IT system and even after expiry of more than three years of its initiation; the status of computerisation had reached only at the design and development level. During January 2011 to November 2013, no meeting of the Steering Committee was held. Thus, the development of IT system was not efficiently monitored by the Steering Committee. Two servers supplied by the WTL could not be activated till date as the key numbers required for the purpose were misplaced by the Directorate.

147 Including the Commissioner of Agricultural Income Tax, the Advisor (Computerisation) from Finance Department, the Project Manager of Webel Technology Limited (WTL), the Principal System Analyst from National Informatics Centre (NIC) and one Additional Commissioner of Agricultural Income Tax.

As a result, none of the objectives of the project (computerisation of the Directorate) has been achieved so far.

On this being pointed out, the CAIT in Exit Conference (December 2014) stated that to speed up the process of computerisation, a new IT cell had been formed. It was expected that the project would take a shape at the end of current financial year.

### **6.3.23 Internal control mechanism**

Internal Control is an integral component of an organisation's management processes in order to provide reasonable assurance that the organisation's operations are carried out effectively, economically and efficiently. Evaluation of internal control mechanism in the administration of different taxes under the Directorate revealed deficiencies in the administrative, operational and monitoring controls. Deficiencies in the internal control mechanism are discussed in the following sub-paragraphs:

#### **6.3.23.1 Absence of an effective Internal Audit Wing**

The Internal Audit Wing (IAW) of the Directorate had commenced its functioning from June 2006<sup>148</sup> with the objectives to scrutinise and detect the irregularities and shortcomings in the assessment cases of DAIT. It was enunciated that IAW will be headed by the Addl. CAIT who will be assisted by the ACAIT, AITO and Inspectors, but the Directorate did not depute separate set of officers and staff for the job related to internal audit to ensure impartial evaluation of the working system and performance of different wings of the Directorate. A manual on the working procedure of the IAW had not since been formulated till the date of audit. Neither the Directorate nor the IAW itself fixed any audit plan/targets for conducting internal audit of various units of the Directorate. During the period from 2008-09 to 2012-13, only three Range offices were audited by the IAW. The Directorate did not initiate any efforts to streamline and strengthen the functions of IAW till date.

The CAIT in Exit Conference (December 2014) stated that steps were being taken to streamline the functioning of the IAW.

#### **6.3.23.2 Absence of an Office Procedure Manual**

No manual on the working of the Directorate, where assignment of duties, power, role and responsibility of various wings/sections/officers were to be documented, was formulated by the Directorate. In absence of the manual, the registers and records otherwise required to be maintained by the Directorate and field offices and duties and responsibilities of the officers and staff of various levels had not been maintained.

The CAIT in Exit Conference (December 2014) stated that steps would be taken to prepare an office procedure manual.

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<sup>148</sup> Vide circular no.-2 dated 30-06-2006.

### **6.3.23.3 Absence of a mechanism to monitor compliance of instructions, orders etc.**

Commissioner of Agricultural Income Tax issued instruction<sup>149</sup> that copies of assessment orders may be served to the assesseees alongwith the demand notices.

Scrutiny of records in five<sup>150</sup> AIT Offices revealed that 2,684<sup>151</sup> assessments were made after March 2012 and the demand notices were issued accordingly. Scrutiny of 315<sup>152</sup> assessment case records revealed that no copies of the assessment orders were served alongwith the demand notices as no evidence was found on record to this effect. The Directorate also did not evolve any mechanism to monitor the compliance of instructions, issued from time to time, through periodical reports or returns.

The CAIT in Exit Conference (December 2014) stated that necessary steps to monitor compliance of instructions/orders, etc were being initiated.

### **6.3.23.4 Inadequate infrastructure to support tax administration**

Audit attempted to collect information regarding available infrastructure in the Range offices and the Directorate. Out of 14 Range offices, information had been made available by nine Range offices. Of them, eight Range offices mentioned about insufficient manpower. The vacancies created due to retirements and promotions of the officers and staff were not filled. All nine AIT Offices intimated about inadequate official equipments like PCs, printers, fax, xerox machine etc. Supply of inadequate consumables, insufficient allotment of contingency fund (under office expenses), non/short availability of vehicles for inspection and other official works, absence of communication facilities like phone, intercom, STD, internet etc. were also brought to the notice of audit by the AITOs. The facilities of record rooms was not available in any of the Range offices, and neither were there record keepers for preservation of old records, even though there was no system for periodical weeding and indexing of records for disposal and preservation. Updation of books related to various Acts and Rules was not done since 2009. Thus, updated versions of the provisions under various Acts were not available to the officers and staff in the Directorate. These inadequacies in the infrastructure of the Directorate are likely to affect the tax administration.

The CAIT in Exit Conference (December 2014) admitted that there was inadequate infrastructure in the Directorate. The matter would be taken up with the Finance Department/Government.

<sup>149</sup> Vide Memo No. 261(20)-C dated 20-03-2012.

<sup>150</sup> AITOs- Birbhum Range, Burdwan Range, Darjeeling Range, Kolkata Range II and Howrah Range.

<sup>151</sup> Hotels:- 313, Restaurants:- 262, Cinema:- 154, Cables:- 54, Park/Games & sports:- 8, AIT: 517 and Cess:-1376.

<sup>152</sup> Hotels:- 68, Restaurants:- 91, Cinema:- 86, Cables:- 19, Park/Games & sports:- 8, AIT: 23 and Cess:-20.

### **6.3.23.5 Improper maintenance of records**

Proper maintenance of records and registers is an important tool for administration to ensure smooth functioning of the system. Effectiveness of the audit process also depends on records maintenance to a large extent.

Audit observed that in the Directorate, no appeal register was maintained to ensure the status of the appeal cases. None of the files and folders were found page numbered. Thus, completeness of these files and folders was not ensured due to which misplacement of any important document from the case record was unverifiable. Various registers<sup>153</sup> maintained under the AITOs were not periodically verified by the competent authorities as no signature of the authorities with seal was found periodically as a mark of authentication. In the absence of periodical checking of these registers, the updated status of assessment, revenue realisation and initiation of recovery proceedings could not be ascertained. There was no system for periodical weeding and indexing of records for the purpose of disposal and preservation.

The CAIT in Exit Conference (December 2014) stated that necessary instructions had been/were being issued to the concerned authorities for proper maintenance of records.

### **6.3.24 Conclusion**

Performance Audit has brought out a number of compliance as well as system deficiencies in the administration of taxes under various Acts monitored by the DAIT. Absence of a system of cross verification of information that can be obtained from other departments/local bodies and sources was noticed. Audit scrutiny also revealed that several contemporary areas were left out of the purview of taxation on account of the related Acts not covering them. In addition, absence of provisions for time limits/levy of interest reduced the deterrent effect on tax evaders. Failure of the Directorate to monitor the compliance of Appellate orders affected revenue realisation. Absence of an effective internal audit wing, non-observance of the CAIT orders and poor record keeping were found to be weaknesses of the internal control mechanism of the Directorate.

### **6.3.25 Summary of recommendations**

The Government may consider taking the following steps to enhance the efficiency and effectiveness in the tax administration of the Directorate:

- establishing a system to mandatorily coordinate with different departments, local bodies and other sources and exchange relevant information so as to bring eligible tax payers into the tax net;
- timely initiation of recovery proceedings and evolving a mechanism to monitor compliance of Appellate orders for efficient tax administration;

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<sup>153</sup> General Index Register, Appeal Register, Certificate Register, Outstanding Register etc.

- making the definition of luxury more inclusive in the tax;
- widening the scope of taxation under the Bengal Amusement Tax Act 1922, on complimentary tickets of commercialised entertainment/sports events;
- ensuring timely assessment of taxes under the West Bengal Entertainment-cum-Amusement Tax Act, 1982 and the Bengal Amusement Tax Act, 1922;
- contemplating provisions in the Bengal Amusement Tax Act, 1922 for levy of interest; and
- establishing an effective internal audit wing and formulating the office procedure manual to ensure that various provisions of the Acts and Rules are efficiently administered for effective tax administration.

### Other audit observations

#### State Excise

##### 6.4 Non-realisation of fee on unsold stock of foreign liquor

Rules 241(1) and 241(2) of the West Bengal Excise (Foreign Liquor) [WBE (FL)] Rules, 1998 provide that the licensee shall forthwith intimate the Collector for destruction/removal of Foreign Liquor (FL) lying unsold in any licensed premises after the period indicated as “best for use” on the label of the bottle of beer or after expiry of one year from the date of manufacture of FL (other than beer). In case of failure, the licensee shall pay a fee at the rate of ₹ 2 and ₹ 3 per Bulk Litres (BL) *per diem* under Section 241(1) and 241(2) respectively.

In the office of the Commissioner of Excise, Kolkata (North) from the annual stock taking reports, inspection reports and correspondence between the licensees and the excise authority, Audit found in September 2013 that in three cases, 3,177.57 BL of FL were lying unsold in three licensed premises after the prescribed period. In two cases involving 2,404.38 BL, the licensees did not intimate the Collector even after lapse of 21 to 31 months from the prescribed date. In the remaining case involving 773.19 BL, the licensee intimated the Collector after lapse of 98 days from the prescribed date. Even after being informed, the Department too did not take any action against the licensees for levy of fees resulting in non-realisation of fee of ₹ 35.46 lakh.

After Audit pointed out the cases, the Department and the Government informed (April 2014 and October 2014 respectively) that in two cases involving fee of ₹ 4.26 lakh chargeable on 1,151.49 BL, demand notices were issued subsequent to audit, but did not furnish further details regarding realisation. In the remaining one case involving fee of ₹ 31.20 lakh

chargeable on 2,026.08 BL, the Department did not furnish any specific reply (November 2014).

### **6.5 Non-realisation of excise duty on issue of over strength foreign liquor**

Rule 41 of the WBE (FL) Rules, 1998 provides that all potable FL shall be manufactured at the strength prescribed under the rules subject to an allowable limit of variation of 0.2° proof on either side. The samples of FL are sent to the Chemical Examiner (CE) for determination of strength of the FL. If the report of the CE shows any deviation from the prescribed strength beyond the allowable limit, the manufacturer shall pay on demand the excise duty on the excess quantity of spirit used in manufacture.

Audit found in September 2013 from the Bottling Registers (Register-A) and reports of the CE in the office of the Superintendent of Excise, Hooghly that two licensees produced 26,43,779.39 BL of FL during 2007-08 to 2011-12 which had variations of strength beyond the allowable limit. Owing to the variation of strength, 11,272 LPL<sup>154</sup> of spirit were issued in excess and the licensees were liable to pay excise duty on that quantity of spirit at the applicable rates. However, the Department did not raise any demand, resulting in non-realisation of excise duty of ₹ 20.97 lakh.

After Audit pointed out the cases, the Department stated (March 2014) that demand notices were issued subsequently, but did not furnish any report on realisation (November 2014).

The Government accepted (October 2014) the audit observation and stated that demand notices have been served upon the concerned licensees but did not furnish any report on further action taken (November 2014).

### **Profession tax**

#### **6.6 Non-realisation of profession tax due to non-enrolment**

Sections 3(2) and 5(2) of the West Bengal State Tax on Professions, Trades, Callings and Employments (WBSTPTCE) Act, 1979 provide that every person who falls under the purview of the Act shall obtain a certificate of enrolment from the prescribed authority and pay tax at the prescribed rates. As per Section 17 of the said act, authorities are empowered to inspect and search any place of work where the records relating to employment, trade, salaries etc. are believed to be kept.

Scrutiny of records from 19 licence issuing offices<sup>155</sup> and

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<sup>154</sup> London Proof Litre (LPL). London Proof means the strength or proof as ascertained by means of Sykes Hydrometer and denotes that spirit which at the temperature of 51 degree Fahrenheit weighs exactly 12/13th part of an equal measure of distilled water.

<sup>155</sup> 19 units of different authorities responsible for issuing licences/permissions to carry out different trades/professions as follows:-Assistant Chief Medical Officer of Health (ACMOH), Asansol; Additional Superintendent of Excise (ASE), Murshidabad; Agricultural Income Tax Officer (AITO), Medinipur; AITO, Jalpaiguri; Asst. Registrar of Cooperative Societies, Bankura range office; Bankura Municipality; Burdwan Municipality; CMOH, Bankura; CMOH, Birbhum; CMOH, Hooghly; CMOH, Jalpaiguri; CMOH, Murshidabad; CMOH, Nadia; CMOH, Paschim Medinipur; District Magistrate Office, Birbhum; Municipal Corporation (MC), Asansol; MC, Siliguri; Post Master, Siliguri Head Post Office and SE, Paschim Medinipur.

10<sup>156</sup> unit offices of profession tax revealed that 3,026 professionals<sup>157</sup> had not enrolled themselves with the prescribed authority and continued their professions without payment of any profession tax between 2009-10 and 2012-13. The Department also failed to bring these persons under the tax net and recover tax from them at the prescribed rates, leading to non-realisation of profession tax of ₹ 1.59 crore.

Four<sup>158</sup> Profession Tax Officers (PTOs) admitted the audit observations (between October 2012 and May 2013) in 417 cases involving ₹ 0.22 crore. In the remaining 2,609 cases involving ₹ 1.37 crore, six<sup>159</sup> PTOs did not furnish any reply/specific reply (November 2014).

The cases were reported to the Government between November 2011 and October 2013 followed by reminders issued upto March 2014; their reply has not been received (November 2014).

### 6.7 Non-raising of demand of profession tax

Section 8 of the WBSTPTCE Act, 1979 provides that any person who stands enrolled before the commencement of the year is liable to pay profession tax at the prescribed rates (ranging from ₹ 216 *per annum* to ₹ 2,500 *per annum*) before 31st July of that year. Further, Rule 15 (2) of the WBSTPTCE Rules, 1979 provides that in case of non-payment, the PTO shall serve a notice of demand directing the defaulter to pay the dues within 15 days from the date of receipt of notice. Section 10 of the Act also provides for levy of penalty upto 50 *per cent* of the unpaid tax. Section 17 (C) provides that demand for the tax and penalty so determined cannot be raised after the expiry of three years.

During scrutiny of records of enrolment and tax receipts in seven<sup>160</sup> unit offices between March and September 2013, it was found that 367 enrolled persons did not pay profession tax for various periods between 2009-10 and 2012-13. However, the PTOs did not serve demand notice to the defaulters resulting in non-realisation of profession tax of ₹ 17.19 lakh and leviable penalty upto ₹ 8.59 lakh.

Three<sup>161</sup> PTOs admitted (between April and September 2013) the audit observations in 152 cases involving ₹ 6.75 lakh, but did not furnish any report

<sup>156</sup> DCPT/WBCU-III, Behrampur; DCPT/WBNU-I, Siliguri; DCPT/WBNU-II, Jalpaiguri; DCPT/WBSU-II, Serampur; DCPT/WBSU-III, Medinipur; DCPT/WBWU-II, Burdwan; DCPT/WBWU-III, Asansol; DCPT/WBWU-VI, Birbhum; PTO/WBCU-II, Krishnanagar and PTO/WBWU-IV, Bankura.

<sup>157</sup> Under Section 3(2) of the WBSTPTCE Act, 1979, a professional has been defined as a person engaged in any profession, trade, calling or employment and falling under one or the other of the classes mentioned in the second column of the Schedule appended to the Act.

<sup>158</sup> DCPT/WBNU-I, Siliguri; DCPT/WBSU-II, Serampur; DCPT/WBWU-II, Burdwan and PTO/WBCU-II, Krishnanagar.

<sup>159</sup> DCPT/WBCU-III, Behrampur; DCPT/WBNU-II, Jalpaiguri; DCPT/WBSU-III, Medinipur; DCPT/WBWU-III, Asansol; DCPT/WBWU-VI, Birbhum and PTO/WBWU-IV, Bankura.

<sup>160</sup> DCPT/WBCU-III, Behrampur; DCPT/WBCU-VIII, Barrackpore; DCPT/WBNU-I, Siliguri; DCPT/WBNU-II, Jalpaiguri; DCPT/WBWU-II, Burdwan; DCPT/WBWU-VI, Birbhum; and PTO/WBWU-IV, Bankura.

<sup>161</sup> DCPT/WBNU-I, Siliguri; DCPT/WBWU-II, Burdwan; and PTO/WBWU-IV, Bankura.

on levy and realisation of tax. In the remaining 215 cases involving ₹ 10.44 lakh, four<sup>162</sup> PTOs did not furnish any reply/specific reply (June 2014). In respect of the year 2009-10, the demands have already become time barred leading to irrevocable loss in revenue to the extent of ₹ 1.13 lakh.

The cases were reported to the Government between April and October 2013 followed by reminders issued upto March 2014; their reply has not been received (November 2014).

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<sup>162</sup> DCPT/WBCU-III, Behrampur; DCPT/WBCU-VIII, Barrackpore; DCPT/WBNU-II, Jalpaiguri; and DCPT/WBWU-VI, Birbhum.

# **CHAPTER-VII**



## CHAPTER VII

### MINES & MINERALS

#### 7.1 Tax administration

Assessment and collection of mining receipts are governed by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the West Bengal Minor Minerals (WBMM) Rules, 2002; the Bengal Public Demands Recovery (BPDR) Act, 1913; the Cess Act, 1880; the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976.

Four Departments viz. Commerce and Industries (C&I) Department, Finance Department, Land and Land Reforms (L&LR) Department and the General Administration Department are associated with the assessment, levy and collection of mining receipts. All Departments are headed either by an Additional Chief Secretary or Principal Secretary/Secretary level officer and assisted by Director and district level officers.

#### 7.2 Internal audit

There was no separate Internal Audit Wing (IAW) for the units related to mining receipts. As the mining activities are regulated by Land and Land Reforms (L&LR) Department, the IAW of the L&LR Department is liable to conduct audit of the units involved in regulation of mining activities. The IAW of the L&LR Department was re-introduced in the year 2007-08 with the objective of fulfilling accountability, obligations, complying with applicable rules and regulations, executing orderly and effective operations and safeguarding resources against loss. Performance of the IAW of L&LR Department has already been discussed in **Para 3.2** of this report.

#### 7.3 Results of audit

In 2013-14, test check of the records of 13 units relating to mining receipts showed underassessment of tax and other irregularities amounting to ₹ 13.54 crore in 145 cases, which fall under the categories given in **Table 7.1**.

**Table 7.1**

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non/short assessment/realisation of price of minor/major minerals extracted unauthorisedly	80	8.18
2.	Non/short assessment/levy/realisation of royalty and cess	28	0.86
3.	Penalty for underperformance	18	4.00
4.	Short realisation of royalty due to collection made on pre-revised rate instead of new revised rate	9	0.49
5.	Other cases	10	0.01
<b>Total</b>		<b>145</b>	<b>13.54</b>

During the course of the year, the Department accepted underassessment and other deficiencies in 141 cases of ₹ 11.87 crore, of which 121 cases involving ₹ 11.37 crore were pointed out during the year 2013-14 and the rest in earlier years. An amount of ₹ 14.59 lakh was realised in 23 cases during the year.

A few illustrative cases involving ₹ 6.06 crore are discussed in the following paragraphs.

### **Audit findings**

#### **7.4 Non/short realisation of royalty and cess on brick earth/sand**

Rule 27(1) of the West Bengal Minor Minerals (WBMM) Rules, 2002 provides that the district authority or any other officer authorised in this behalf by the State Government may grant quarry permit to any person to extract minor mineral on pre-payment of royalty at prescribed rates. Further, under the provisions of the Cess Act, 1880 (as amended in 1984), the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976, the holders of quarry permits are liable to pay different types of cesses at prescribed rates on extraction of minor minerals.

During test check of records relating to brick fields, Demand and Collection Registers and Minutes of the meetings of District Land & Land Reforms Officers (DL&LROs) with the Brick Field Owners' Associations (BFOAs), conducted during May 2012 and February 2013, Audit found in five<sup>163</sup> DL&LROs that brick field owners extracted brick earth/sand during 2009-10 to 2011-12 without any pre-payment of royalty and cess as prescribed. Also, prior permits were not taken by them as required for extraction of brick earth/sand. Further, in 72 cases, it was seen that although the brick field owners had extracted 79.22 lakh cubic feet (cu ft) of brick earth/sand, neither did the owners pay the royalty and cess amounting to ₹ 32.38 lakh, in advance, nor was payment made till audit. It was also observed from the minutes of the meeting between DL&LROs and BFOAs, in contravention of the extant provisions that DL&LROs allowed the brick field owners to make payment of royalty and cess after extraction of brick earth. In other 52 cases, the brick field owners extracted 87.71 lakh cu ft of brick earth and paid royalty and cess of ₹ 18.54 lakh against ₹ 28.54 lakh, but DL&LROs did not initiate any action to realise the differential amount. Thus, there was an overall non/short realisation of royalty and cess of ₹ 42.38 lakh in these 124 cases.

After it was pointed out, DL&LRO, South 24 Parganas admitted (December 2012) the audit observation in 36 cases involving ₹ 6.40 lakh and stated that ₹ 0.61 lakh has been realised in one case; but did not furnish any report on realisation in respect of the remaining cases. Two DL&LROs, Burdwan (East) and North 24 Parganas admitted (between September 2012 and February 2013) the audit observations in 44 cases involving ₹ 25.93 lakh; but did not furnish report on realisation. In the remaining 44 cases involving

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<sup>163</sup> Burdwan (East), Howrah, North 24 Parganas, Purba Medinipur and South 24 Parganas.

₹ 10.05 lakh, two DL&LROs<sup>164</sup> did not furnish any specific reply (November 2014).

The cases were forwarded to the Government between June 2012 and March 2013 followed by the reminders issued upto March 2014; their reply has not been received (November 2014).

### **7.5 Non-imposition of penalty on extraction of sand less than the prescribed minimum quantity**

Under Rule 21(1)(e) of the WBMM Rules, 2002 the holder of a mining lease shall extract and dispatch the minimum quantity of minerals from the leasehold area annually as prescribed in the lease deed. In case there is any shortfall in the extraction and dispatch of the prescribed minimum quantity without any satisfactory reason<sup>165</sup>, penalty to the extent of twice the amount of royalty that should have accrued on such shortfall shall have to be paid by the lessee.

During scrutiny of lease deeds and case records pertaining to extraction of sand available at DL&LROs, Burdwan (East) and Paschim Medinipur between September and December 2011, it was found that in 34 cases 21 lessees extracted 93.07 lakh cu ft of sand against the minimum prescribed quantity of 263.41 lakh cu ft as per the lease deeds. No reasons were found on record for short extraction of sand. However, the DL&LROs did not levy nor demand penalty of ₹ 2.15 crore for short extraction of 170.34 lakh cu ft of sand. This resulted in non-levy of penalty and consequent non-realisation of revenue of ₹ 2.15 crore.

DL&LRO, Paschim Medinipur admitted (December 2013) the audit observations in eight cases and intimated that demand notices for ₹ 1.36 crore were issued subsequently. In the remaining 26 cases involving ₹ 0.79 crore, the DL&LRO, Burdwan (East) also admitted (September 2011) the audit observation and stated that demand notices would be issued to realise the dues. Their report on realisation is awaited (November 2014).

The cases were forwarded to the Government between October 2011 and January 2012 followed by reminders issued upto April 2014; their reply has not been received (November 2014).

### **7.6 Short realisation of royalty on minor minerals (sand, stone and boulder etc.) due to application of pre-revised rates**

Under the WBMM Rules, 2002, royalty is payable for extraction of minor minerals at the rates prescribed by the Government from time to time. The rates of royalty on minor minerals were enhanced with effect from 5 December 2011 vide Notification no. 809/CI/O/MM/84/11 dated 1 December 2011.

<sup>164</sup> Howrah and Purba Medinipur.

<sup>165</sup> Rule 16(4) explains reasons for non-commencement of mining operations within a period of one year from the date of execution of mining lease.

Scrutiny of records of quarry permits and collection of royalty in four DL&LROs between September 2012 and June 2013 revealed that the District authorities realised royalty of ₹ 45.42 lakh at the pre-revised rates instead of ₹ 56.07 lakh in respect of 276 quarry permits issued for extraction of 78.97 lakh cu ft of sand, stone and boulder etc between 5 December 2011 and 2 July 2012. This resulted in short realisation of royalty of ₹ 10.65 lakh.

After it was pointed out, three<sup>166</sup> DL&LROs admitted (between September 2012 and June 2013) the audit observations in 61 cases involving ₹ 2.78 lakh, but did not furnish any report regarding realisation. In the remaining 215 cases involving ₹ 7.87 lakh, DL&LRO, Jalpaiguri did not furnish any specific reply (November 2014).

The cases were forwarded to the Government between October 2012 and July 2013 followed by the reminders issued upto March 2014; their reply has not been received (November 2014).

### **7.7 Non/short realisation of price of brick earth extracted unauthorisedly**

Under Section 21(5) of the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, where such mineral has already been disposed of, the price thereof. By an order issued in September 1984, the Board of Revenue, West Bengal fixed the price of brick earth as ₹ 30 per 100 cu ft for the year 1981 with an increase of ₹ 1.50 per 100 cu ft each year.

In seven<sup>167</sup> DL&LROs, audit found that in 338 cases, the brick field owners had irregularly extracted 6.30 crore cu ft of brick earth between 2010-11 and 2012-13. Of these, in 134 cases the brick earth was extracted unauthorisedly and the price of brick earth of ₹ 2.15 crore was not realised. In the remaining 204 cases there was excess extraction for which price of brick earth was to be levied instead of royalty and cess which were collected, resulting in short realisation of ₹ 1.23 crore. Thus, there was total non/short realisation of ₹ 3.38 crore.

After it was pointed out, four<sup>168</sup> DL&LROs admitted (between June 2012 and June 2013) the audit observations in 125 cases involving ₹ 1.88 crore but did not furnish any report regarding realisation. In the remaining 213 cases involving ₹ 1.50 crore, DL&LROs did not furnish any reply/specific reply (November 2014).

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<sup>166</sup> Burdwan (East), Darjeeling and Uttar Dinajpur.

<sup>167</sup> Burdwan (East), Coochbehar, Hooghly, Murshidabad, North 24 Parganas, Purba Medinipur and South 24 Parganas.

<sup>168</sup> Coochbehar, Hooghly, North 24 Parganas and South 24 Parganas.

The cases were forwarded to the Government between July 2012 and July 2013 followed by reminders issued upto April 2014; their reply has not been received (November 2014).

Kolkata 27.02.2015

  
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Countersigned

New Delhi 05.03.2015

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



# APPENDICES



**Appendix-I**  
**(Ref: Para-1.9)**

**Units planned and audited in 2013-14**

<b>Category/Nature of Audit</b>	<b>Total number of units</b>	<b>Audit planned</b>	<b>No. of units audited</b>
<b>Value Added Tax</b>			
Sales Tax/VAT units consisting of Corporate Division; DCT; Charge offices; Cess on Petrol, diesel etc. and Check Posts	109	43	50
<b>Other receipts</b>			
State Excise (Receipt cum expenditure)	37	11	11
Stamp Duty and Registration Fees including Non-Judicial Stamp (Receipt cum expenditure)	271	57	59
Motor Vehicles Tax	27	14	14
Amusement Tax	22	9	9
Profession Tax	35	13	13
Land Revenue	22	9	10
Minor Minerals and Mining Receipts	28	12	13
Electricity Duty	21	5	5
Departmental Receipts	1	0	0
<b>Total</b>	<b>573</b>	<b>173</b>	<b>184</b>



# **GLOSSARY**



## Glossary of Abbreviations

Abbreviation	Full form
AA	Assessing Authority
AC	Air Conditioned
ACAIT	Assistant Commissioner of Agricultural Income Tax
ACMOH	Assistant Chief Medical Officer of Health
ACTO	Assistant Commercial Tax Officer
Addl. CAIT	Additional Commissioner of Agricultural Income Tax
Addl. CCT	Additional Commissioner of Commercial Taxes
ADM	Additional District Magistrate
ADSR	Additional District Sub-Registrar
AIT	Agricultural Income Tax
AITO	Agricultural Income Tax Officer
ARA	Additional Registrar of Assurances
ASE	Additional Superintendent of Excise
ATS	Amusement Tax Section
BE	Budget Estimates
BFOA	Brick Field Owners' Association
BL	Bulk Litre
BL&LRO	Block Land and Land Reforms Officer
BOI	Bureau of Investigation
BPDR Act	Bengal Public Demands Recovery Act
C&I Department	Commerce and Industries Department
CAIT	Commissioner of Agricultural Income Tax
CCT	Commissioner of Commercial Taxes
CE	Chemical Examiner
CESC	Calcutta Electric Supply Corporation
CF	Certificate of Fitness
CMC	Calcutta Municipal Corporation (now KMC)
CMOH	Chief Medical Officer of Health
CMV Rules	Central Motor Vehicles Rules
CO	Certificate Officer
CORD	Computerisation of Registration of Documents
CST Act	Central Sales Tax Act
CTC	Calcutta Transport Corporation
CTO	Commercial Tax Officer

CTP	Contractual Transfer Price
DAIT	Directorate of Agricultural Income Tax
DAS	Digital Assessable cable TV System
DCAIT	Deputy Commissioner of Agricultural Income Tax
DCCT	Deputy Commissioner of Commercial Taxes
DCPT	Deputy Commissioner of Profession Tax
DCT	Directorate of Commercial Taxes
DIGR	Deputy Inspector General of Registration
DL&LRO	District Land and Land Reforms Officer
DLR&S	Director of Land Records and Surveys
DSR	District Sub-Registrar
EC	Eligibility Certificate
FL	Foreign Liquor
GIR	General Index Register
GVW	Gross Vehicle Weight
HMC	Howrah Municipal Corporation
I&WD	Irrigation & Waterways Department
IAW	Internal Audit Wing
IGR	Inspector General of Registration
IR Act	Indian Registration Act
IS Act	Indian Stamp Act
IT	Information Technology
ITC	Input Tax Credit
JCCT	Joint Commissioner of Commercial Taxes
KMC	Kolkata Municipal Corporation
L&LR Department	Land and Land Reforms Department
LPL	London Proof Litre
LRC	Land and Land Reforms Commissioner
MC	Municipal Corporation
MMDR Act	Mines and Minerals (Development and Regulation) Act
MSO	Multi System Operator
MV	Motor Vehicles
NSSF	National Small Savings Fund
PIU	Project Implementation Unit
PTO	Profession Tax Officer
PVD	Public Vehicles Department
PWD	Public Works Department

PWRD	Public Works (Roads) Department
RA	Registering Authority
RC	Registration Certificate
RO	Registration Office
SDB	Sunderban Development Board
SDL&LRO	Sub-divisional Land and Land Reforms Officer
SE	Superintendent of Excise
STA	State Transport Authority
STD	Subscriber Trunk Dialling
STDS	Sales Tax Deducted at Source
TDS	Tax Deducted at Source
TOS	Turnover of Sales
TRO	Tax Recovery Officer
VAT	Value Added Tax
WBAT & OTMV Act	West Bengal Additional Tax & One-time Tax on Motor Vehicles Act
WBCU	West Bengal Central Unit
WBE (FL) Rules	West Bengal Excise (Foreign Liquor) Rules
WBL&LR Manual	West Bengal Land and Land Reforms Manual
WBLR Act	West Bengal Land Reforms Act
WBMB Rules	West Bengal Municipal Building Rules
WBMM Rules	West Bengal Minor Minerals Rules
WBMV Rules	West Bengal Motor Vehicles Rules
WBMVT Act	West Bengal Motor Vehicles Tax Act
WBNU	West Bengal North Unit
WBSSEDCL	West Bengal State Electricity Distribution Company Limited
WBS (PUI) Rules	West Bengal Stamp (Prevention of Undervaluation of Instruments) Rules
WBSRDA	West Bengal State Rural Development Agency
WBSTPTCE Act	West Bengal State Tax on Professions, Trades, Callings and Employments Act
WBSU	West Bengal South Unit
WBVAT Act	West Bengal Value Added Tax Act
WBWU	West Bengal West Unit



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