



सत्यमेव जयते

**Report of the
Comptroller and Auditor General of India
on
Revenue Sector
For the year ended 31 March 2015**



Government of West Bengal
Report No. 5 of the year 2015

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PREFACE

This Report for the year ended March 2015 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 2014-15 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 2014-15 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 27 paragraphs including two Performance Audits relating to under-assessment/ non-realisation/ loss of revenue etc. involving ₹ 752.64 crore. Some of the major findings are mentioned in the following paragraphs:

- The total receipts of the Government for the year 2014-15 increased to ₹ 86,514.21 crore from ₹ 72,881.79 crore in the previous year. 47 per cent of the total revenue collected in 2014-15 was raised by the Government through tax revenue (₹ 39,411.98 crore) and non-tax revenue (₹ 1,626.66 crore). The balance 53 per cent was received from the Government of India as the State's share of net proceeds of divisible Union taxes (₹ 24,594.93 crore) and Grants-in-aid (₹ 20,880.64 crore).

(Paragraph 1.1.1)

- As on 30 June 2015, 918 inspection reports issued upto December 2014 containing 4,695 audit observations involving ₹ 2,311.57 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/entertainment tax and other tax and non-tax receipts conducted during the year 2014-15 indicated under-assessment/ short levy/ loss of revenue amounting to ₹ 1,444.73 crore in 1,837 audit observations. During the course of the year, the departments accepted under-assessment etc. of ₹ 341.25 crore in 715 audit observations and recovered ₹ 2.14 crore at the instance of audit.

(Paragraph 1.10)

II. Value Added Tax

- A Performance Audit on 'System of Assessment under Value Added Tax' revealed the following :

- Failure on the part of Directorate of Commercial Taxes (DCT) to utilise information available in the returns of dealers registered under DCT to identify and bring in potential assessee into tax net resulted in non-levy of tax of ₹ 1.35 crore from 113 unregistered dealers.

(Paragraph 2.4.7)

- Absence of a system for pooling of information available with DCT regarding Sales Tax Deducted at Source (STDS), way bills and dealers registration profile during assessment of 63 dealers resulted in non/short levy of tax of ₹ 12.78 crore in 68 assessment cases.

(Paragraph 2.4.8)

- Deficiency at serial number 30 in the format of VAT return in Form-14 resulted in allowance of irregular claims of exempt sales in deemed assessment cases of 28 dealers with consequent short levy of ₹ 4.54 crore.

(Paragraph 2.4.9.1)

- Absence of proper provisions in the IT system of scrutiny of returns, like calculation of interest on delayed payment of tax, cross checking of brought forward Input Tax Credit (ITC) from previous years and cross checking of applicable rates of tax with commodities resulted in non/short levy of interest and tax and irregular carry forward of ITC of ₹ 1.67 crore in assessment cases of 73 dealers.

(Paragraphs 2.4.10.1, 2.4.10.2 and 2.4.10.4)

- In assessing 33 cases of 28 dealers for the assessment periods between 2007-08 and 2011-12, the Assessing Authorities (AAs) incorrectly determined turnover of sales (TOS) at ₹ 12,286.51 crore instead of at ₹ 14,520.79 crore resulting in short determination of TOS by ₹ 2,234.28 crore and consequent short levy of tax of ₹ 90.93 crore.

(Paragraph 2.4.14)

III. Land Revenue

- Non-initiation of any action to realise the dues from defaulting *raiya*s resulted in non/short realisation of rent, cess and surcharge of ₹ 1.19 crore in 2,314 cases.

(Paragraph 3.4)

IV. Motor Vehicles Tax

- Non-maintenance of Tax Demand Registers led to non-realisation of tax, additional tax, penalty and special fee of ₹ 202.22 crore from the owners of 92,136 vehicles.

(Paragraph 4.3)

- 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 ₹ 1.26 crore in cases of 78,383 vehicles.

(Paragraph 4.8)

V. Stamp Duty and Registration Fees

- Incorrect mapping of business rules in the CORD software resulted in short-levy of stamp duty of ₹ 11.73 crore in 7,400 cases.

(Paragraph 5.4)

VI. Mines and Minerals

➤ A Performance Audit on ‘**Assessment and Collection of revenue from Minor Minerals**’ revealed the following:

- Absence of provision in the Rules about inspection and checking of minor minerals at the place of excavation resulted in non-realisation of price of minerals worth ₹ 64.59 crore.

(Paragraph 6.4.9)

- Failure to prescribe a system of intra/inter departmental cross-verification of data resulted in non-detection of extraction of minerals and consequent non-realisation of revenue of ₹ 54.63 crore.

(Paragraph 6.4.10)

- Due to absence of related provision in the Rules, Department could not levy interest of ₹ 37.74 crore for delayed payment of mining dues.

(Paragraph 6.4.11)

- Failure to initiate proceedings by the Department even after a lapse of one to 14 years of assessment resulted in non-realisation of revenue of ₹ 7.31 crore.

(Paragraph 6.4.12)

VII. Other Tax Receipts

➤ Non-initiation of any action against a licensee by the Excise authority led to non-realisation of fee of ₹ 1.79 crore on unsold stock of foreign liquor.

(Paragraph 7.3)

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 2014-15, 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	2010-11	2011-12	2012-13	2013-14	2014-15
1.	Revenue raised by the State Government					
	• Tax revenue	21,128.74	24,938.16	32,808.49	35,830.56	39,411.98
	• Non-tax revenue	2,380.49	1,340.25	1,918.15	2,022.72	1,626.66
	Total	23,509.23	26,278.41	34,726.64	37,853.28	41,038.64
2.	Receipts from the Government of India					
	• Share of net proceeds of divisible Union taxes and duties	15,954.95	18,587.81	21,226.27	23,175.02	24,594.93
	• Grants-in-aid	7,800.02	13,888.82	12,342.84	11,853.49	20,880.64
	Total	23,754.97	32,476.63	33,569.11	35,028.51	45,475.57
3.	Total revenue receipts of the State Government (1 and 2)	47,264.20	58,755.04	68,295.75	72,881.79	86,514.21¹
4.	Percentage of 1 to 3	50	45	51	52	47

During the year 2014-15, the revenue raised by the State Government (₹ 41,038.64 crore) was 47 per cent of the total revenue receipts. The remaining 53 per cent came from the Government of India.

1.1.2 The details of the tax revenue raised during the period 2010-11 to 2014-15 are given in **Table 1.1.2**.

¹ For details, please see Statement No. 14 – Detailed statement of revenue by minor heads in the Finance Accounts of Government of West Bengal for the year 2014-15. 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	2010-11		2011-12		2012-13		2013-14		2014-15		Percentage of increase (+)/ decrease (-) in 2014-15 over 2013-14
		BE	Actual									
1.	Taxes on sales, trade etc.	12,257.73	13,275.77	17,024.44	15,888.41	20,167.37	18,554.76	22,783.98	21,931.09	27,472.66	24,021.91	(+)9.53
2.	Stamp duty and registration fees	2,358.57	2,265.21	3,002.92	2,731.68	2,940.74	4,357.23	4,500.00	4,053.07	5,399.06	4,196.20	(+)3.53
3.	State excise	1,759.78	1,783.34	2,418.83	2,117.04	2,786.47	2,621.43	3,202.02	3,017.66	3,810.41	3,587.02	(+)18.87
4.	Land revenue	1,190.93	1,253.66	1,694.37	1,872.23	1,805.27	2,023.72	3,942.82	2,253.54	2,829.13	2,275.74	(+)0.99
5.	Taxes and duties on electricity	710.90	769.09	1,040.95	408.19	884.46	1,837.15	1,380.00	1,213.30	1,403.74	1,946.83	(+)60.46
6.	Taxes on vehicles	890.13	936.01	1,358.97	1,007.23	1,595.13	1,221.55	1,389.97	1,350.66	1,667.96	1,504.68	(+)11.40
7.	Others	839.68	845.66	1,149.51	913.38	1,042.80	2,192.65	2,584.83	2,011.24	2,830.99	1,879.60	(-)6.55
	Total	20,007.72	21,128.74	27,689.99	24,938.16	31,222.24	32,808.49	39,783.62	35,830.56	45,413.95	39,411.98	(+)10.00

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

The Departments reported the following reasons for large variation in 2014-15 over 2013-14:

Taxes and duties on electricity: The large increase in respect of taxes and duties on electricity was due to receipts on taxes on consumption and sale of electricity and other receipts.

However, the actual reason for variation was that the receipts showed a large decline during 2013-14 due to adjustments and waivers allowed by the government; receipts do not show much variation between 2012-13 and 2014-15.

State excise: The increase in respect of State excise was due to receipts on country spirits; foreign liquors and spirits and malt liquor.

Taxes on Vehicles: The increase was due to receipts under the Indian Motor Vehicles Act and the State Motor Vehicles Taxation Act.

1.1.3 The details of the non-tax revenue raised during the period 2010-11 to 2014-15 are given in **Table 1.1.3**.

Table 1.1.3
Details of Non-Tax revenue raised

(₹ in crore)

Sl. No.	Head of revenue	2010-11		2011-12		2012-13		2013-14		2014-15		Percentage of increase (+)/ decrease (-) in 2014-15 over 2013-14
		BE	Actual									
1.	Interest receipts	987.07	716.84	602.91	291.54	1,008.14	934.10	478.41	986.29	775.45	277.46	(-)71.87
2.	Miscellaneous general services	392.24	71.36	158.61	273.10	88.71	187.96	330.46	231.78	227.73	185.79	(-)19.84
3.	Forestry and wild life	59.96	75.49	84.86	92.47	93.00	113.61	111.89	123.76	137.47	135.73	(+)9.67
4.	Police	112.73	103.62	130.91	152.79	127.67	133.76	184.87	139.17	161.85	126.61	(-)9.02
5.	Other Non-tax receipts	1,965.54	1,413.18	2,217.17	530.35	1,945.34	548.72	650.57	541.72	687.85	901.07	(+)66.34
Total		3,517.54	2,380.49	3,194.46	1,340.25	3,262.86	1,918.15	1,756.20	2,022.72	1,990.35	1,626.66	(-)19.58

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

The Department reported the following reasons for variation in 2014-15 over 2013-14:

Interest receipts: The decrease in respect of interest receipts was due to decrease on receipts on interest realised on investment of cash balances, interest from public sector and other undertakings and other receipts under interest receipts of State/Union Territory Governments.

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2015 as furnished by the Directorate of Excise amounted to ₹ 45.85 crore (in cases exceeding ₹ two lakh). The Directorate further stated that ₹ 2.60 crore (in cases exceeding ₹ two lakh) was outstanding for more than five years due to legal interventions, cases pending at appeal stage before the Government and recoveries held up due to rectification/review of the demands. As per procedure described by the Directorate of Excise (July 2015), the Internal Audit Wing of the Excise Department posted at the Excise Directorate regularly monitors the arrear revenue data in consultation with the Excise Authority posted at the district level. Regular feedback is taken from District Excise Authority regarding cases pending and new cases, if detected. Regular compilation of data and updating take place at the district level as well as at the Excise Directorate.

Directorate of Electricity Duty stated that an amount of ₹ 6.05 lakh remained outstanding in 23 cases as on 31 March 2015.

Despite being requested (August 2015), the other principal revenue generating Departments/Directorates, viz. Directorate of Commercial Taxes, Directorate

of Registration and Stamp Revenue, Land and Land Reforms Department and Transport Department did not furnish the figures of arrears of revenue (October 2015).

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 are given in **Table 1.3**.

Table – 1.3

Arrears in assessments

Head of revenue	Opening balance	New cases due for assesment uring 2014-15	Total assessments due	Cases disposed of during 2014-15	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Taxes and duties on electricity	NIL	153	NIL	153	NIL	100
Taxes administered by Directorate of Agricultural Income Tax	38,065	10,622	48,687	5,856	42,831	12.03

The Directorate of Agricultural Income Tax may expedite the assessment procedure as the disposal rate is rather low.

1.4 Evasion of tax detected by the department

Commerce and Industries Department, Directorate of Electricity Duty, Directorate of Registration and Stamp Revenue and Directorate of Agricultural Income Tax stated that cases of evasion pending as on 31 March 2014 and cases detected during 2014-15 were nil. However, the Excise Department stated that only one case of evasion was pending as on 31 March 2014 and cases detected during 2014-15 were nil.

Despite being requested (August 2015), the other principal revenue generating Departments/Directorates namely Directorate of Commercial Taxes, Land and Land Reforms Department and Transport Department did not furnish any information of evasion of tax (October 2015).

1.5 Pendency of Refund Cases

The number of refund cases pending at the beginning of the year 2014-15, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2014-15 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	Taxes and duties on electricity		Taxes administered by Directorate of Agricultural Income Tax	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	80	Not furnished	14	3.60
2.	Claims received during the year	63		6	0.96
3.	Refunds made during the year	64	29.48	8	0.97
4.	Balance outstanding at the end of the year	79	Not furnished	12	3.59

Directorate of Registration and Stamp Revenue and Excise Department furnished a nil report regarding claims outstanding at the beginning of the year, claims received during the year, refunds made during the year and balance outstanding at the end of the year.

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 (October 2015), though requested (August 2015).

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 transactions and verify 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 Department and the Government.

Inspection reports issued upto December 2014 disclosed that 4,695 paragraphs involving ₹ 2,311.57 crore relating to 918 IRs had remained outstanding at the end of June 2015 as mentioned along with the corresponding figures for the preceding two years in **Table 1.6**.

Table 1.6
Details of pending Inspection Reports

	June 2013	June 2014	June 2015
Number of IRs pending for settlement	757	882	918
Number of outstanding audit observations	3,595	3,997	4,695
Amount of revenue involved (₹ in crore)	1,313.57	1,472.12	2,311.57

1.6.1 The Department-wise details of the IRs and audit observations outstanding as on 30 June 2015 and the amounts involved are mentioned in the **Table 1.6.1**.

Table - 1.6.1
Department-wise 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	222	1,694	1,280.57
		Electricity duty	39	89	78.31
		Amusement Tax	26	70	6.74
		Profession Tax	75	218	9.98
		Stamp duty and registration fees	239	656	86.51
		Non-judicial Stamp duty	14	34	8.44
		Departmental Receipts	2	4	0.16
2.	Excise	State excise	28	121	47.21
3.	Land and Land Reforms	Land Revenue	102	1,020	380.31
		Receipts from mines and minerals	106	497	158.70
4.	Transport	Taxes on motor vehicles	65	292	254.64
Total			918	4,695	2,311.57

Audit did not receive even the first replies from the heads of offices within one month from the date of issue of 236 IRs issued during 2014-15. The large pendency of 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 2014-15 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.	Land and Land Reforms	Land Revenue	1	7	0.07
		Receipts from mines and minerals	1	3	0.02
2.	Excise	State excise	1	Nil	Nil
Total			3	10	0.09

The progress of settlement of paragraphs pertaining to the Land and Land Reforms Department and Excise Department was negligible as compared to the huge pendency of the IRs and paragraphs despite holding Departmental audit committee meetings. The Finance Department and the Transport Department did not hold any audit committee meeting during 2014-15 despite being requested.

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

41 draft paragraphs (DPs) including two Performance Audits (PAs) were sent to the Principal Secretaries/ Secretaries of the respective Departments by name between June and September 2015. The Principal Secretaries/ Secretaries of the Departments did not send replies to 38 draft paragraphs despite reminders and these have been included in this Report without their response.

1.6.4 Follow up on the Audit Reports-summarised position

The internal working system of the Public Accounts Committee (PAC), 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, 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 68 paragraphs were received late with average delay of 18 months in respect of Audit Reports for the years ended 31 March 2009, 2010, 2011, 2012 and 2013. Of these, action taken explanatory notes in respect of five paragraphs (reviews/ Performance Audits) were received partly. Action taken explanatory notes in respect of remaining 136 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 (October 2015).

The PAC discussed (December 2014) one selected sub-paragraph pertaining to the Audit Report for the year 2009-10 during 2014-15.

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 IRs/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 Directorate of Registration and Stamp 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 2005-06 to 2014-15.

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 2015 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	ara-graphs	Money value	IRs	ara-graphs	Money value	IRs	Para-graphs	Money value
1.	2005-06	562	728	66.00	25	54	5.16	20	21	4.76	567	761	66.40
2.	2006-07	567	761	66.40	20	43	6.12	19	17	1.25	568	787	71.27
3.	2007-08	568	787	71.27	10	21	8.51	16	34	1.54	562	774	78.24
4.	2008-09	562	774	78.24	23	40	4.14	5	12	0.09	580	802	82.29
5.	2009-10	580	802	82.29	37	48	4.53	328	416	33.19	289	434	53.63
6.	2010-11	289	434	53.63	37	84	24.09	38	56	4.12	288	462	73.60
7.	2011-12	288	462	73.60	65	205	37.94	30	43	3.98	323	624	107.56
8.	2012-13	323	624	107.56	56	257	10.58	171	294	43.98	208	587	74.16
9.	2013-14	208	587	74.16	66	246	21.25	9	56	2.26	265	777	93.15
10.	2014-15	265	777	93.15	54	237	76.51	64	271	29.21	255	743	140.45

The Government arranges ad-hoc Committee meetings between the Department and AG's office to settle old paragraphs. As would be evident from the above table, against 562 outstanding IRs with 728 paragraphs as at beginning of 2005-06, the number of outstanding IRs were 255 with 743 paragraphs at the end of 2014-15. This indicates that during these years, the paragraphs were cleared with promptness during 2009-10, 2012-13 and 2014-15.

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
Recovery of accepted cases

(₹ 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 of recovery of accepted cases as of 31.03.2015
2004-05	1	2.90	1	2.90	Nil
2005-06	-	-	-	-	-
2006-07	1	2.28	1 ²	1.96	Nil
2007-08	2	1.48	2 ³	0.69	Nil
2008-09	3	52.30	2 ⁴	50.54	Nil
2009-10	1	1.84	1 ⁵	1.54	0.20
2010-11	1	5.23	1	5.23	0.99
2011-12	3	3.33	3	3.33	0.92
2012-13	1	154.10 ⁶	1 ⁷	106.93	Nil
2013-14	5	4.16	3 ⁸	1.04	Nil

It is evident from the above table that the recovery even in accepted cases was meagre during these years. The recovery of accepted cases was to be pursued as arrears recoverable from the concerned parties. No mechanism for pursuance of the accepted cases had been put in place by the Department/Government.

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

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 recommendations⁹ as furnished by Departments till October 2015 is given in **Table 1.8.1**.

² Partly accepted.

³ One paragraph partly accepted.

⁴ Partly accepted.

⁵ Partly accepted.

⁶ High money value is due to inclusion of a Performance Audit that year.

⁷ Partly accepted.

⁸ Two paragraphs partly accepted.

⁹ Follow-up audit on Performance Audit on 'e-Services in the Directorate of Commercial Taxes'(2011-12) has been dealt with separately in this Audit Report.

Table 1.8.1

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
2009-10	Management of Forest Receipt	8	Putting a place a monitoring system by way of periodical returns and creating and maintaining a database for monitoring revenue realisable and realised from various sources;	As per memo No. 5000/A&A/1A-401/15 dated 4.09.2015, the reply of the Principal Chief Conservator of Forests, General, WB is as follows: Monitoring of actual revenue and expenditure, revenue realisable and realised from various sources are maintained in a database by DCF, MIS Section, PCCF (HpFF), WB.
			Making a provision for levy of interest to deter non/belated payment of revenue;	Provision for levy of interest to deter non-payment of revenue.
			Establishing a system to watch the deductions made by the WBFDC from the revenue and also define the percentage component of the service charge;	The reconciliation of revenue, deduction of service charges and FPCs/EDCs shares and total timber supplied etc. are done meticulously between DFO and DM, WBFDC Ltd. to avoid complications.
			Establishing liaison with the customs authorities in respect of imported timber to avoid leakage of revenue;	DFO, Utilisation Division, has constant liaison with customs officials in case of imported timber to avoid leakage of Government revenue.
			Strengthening system of monitoring disposal of timber to avoid deterioration of its quality and consequent revenue loss;	DFO/DM of the concerned Division are monitoring conditions of the respective depot lots to avoid deterioration of quality and loss of Govt. revenue.
			Fixing a time limit for disposal of vehicles confiscated for forest offences;	As per Section 59-A (3) of IFA, 1927, there is no fixed time limit for disposal of confiscated vehicles used in committing forest offence.
			Strengthening Internal Audit Branch to ensure that internal audit of a certain percentage of units of the Forest Department is conducted at regular intervals; and	At present, extra manning for Internal Audit is not possible. However, the Forest Department has Internal Audit at regular intervals.
			Updating the Forest manual so that it serves the purpose for which it was intended.	The up to date amendment of the West Bengal Forest Manual has already been published by DFO, Publicity Division. It is also circulated on Website http://www.westbengalforest.gov.in and hard/soft copies both are available in every forest offices.
2010-11	Assessment, levy and collection of Excise Duty and fees	4	Incorporating suitable provisions in the Acts and Rules regarding charging fees on short production of spirit from molasses, charging Late Fee for delay in application for renewal of licence of foreign	As per memo No. 2A-09/2011-12/112/1 E.G. dated 10.09.2015, the reply of the Excise Commissioner, WB is as follows: In terms of a policy decision taken by the Government, production of

			<p>liquor manufactories and charging interest for non/delayed payment of excise duties;</p>	<p>spirit has shifted from molasses-based to grain-based. Accordingly, production of molasses-based spirit has been discontinued and being discouraged henceforth. Hence, recommendation in this context is not considered at present.</p> <p>Introduction of Penal Measure(s) by charging Late Fee and any other fees, as would deem fit by the Competent Authority, for delay in application for Foreign Liquor Manufactory(s), is under active consideration of the Government.</p> <p>Excise Duty(s) in respect of all Excise Licence(s) in West Bengal, is/are collected in advance, i.e., at the point of production or import. Hence, there is the least chance for non-payment of delayed payment of excise duty(s). Therefore, the consideration of the recommendation in this context does not arise.</p>
			<p>Amending the provision of transit and handling wastages of spirit in respect of foreign liquor manufactories to remove the discrepancies of allowable wastages between CS manufactories and FL manufactories and introduction of minimum penalty for contravention of conditions of license under BE Act/WBMC Act;</p>	<p>In terms of Government Notification No: 300-EX; dated 19.03.2013, allowable limit of Transit Wastages, in respect of FL Manufactories [Rule-32 of the WBE (FL) Rules], has been revised downward; making the allowance at par with the CS Sector.</p> <p>In respect of handling wastage, the manufacturing process of foreign liquor involves number of steps. Primarily OP spirit is reduced in strength, blended with specialised spirit, matured over a period of time ranging from five to 20 days and then colouring and flavouring agents are added to obtain the final product.</p> <p>Manufacture of country spirit involves the simple process of reduction of strength of OP spirit and maximum period of maturation is 48 hours only.</p> <p>As such, the handling and bottling wastages involve in manufacture of foreign liquor will always be slightly higher than that of country spirit. Based on this logic, the rate of allowable handling wastage and bottling wastage should be proportionately higher in a foreign liquor manufactory than that of country spirit bottling plant.</p>

			<p>In terms of existing provision of the Rules under BE Act, the Excise 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 <i>ultra vires</i> 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 Regulations 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, re-organisation of 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</p>

				<p>suitable numbers of Circles, to provide round-the-clock vigil over 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>
2013-14	Administration of taxes under various Acts by Directorate of Agricultural Income Tax in West Bengal	7	<p>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;</p>	<p>All Agricultural Income Tax Officers have been directed to coordinate systematically with different departments, local bodies and other sources and exchange relevant information to bring maximum number of tax payers into the tax net. Accordingly, a good number of Agricultural Income Tax Offices have requested the District Collector to see from the Cinema Hall Owners the Entertainment Tax Clearance Certificate issued by the Agricultural Income Tax Office before renewal of Cinema Hall licence. The same line has been taken in respect of Entertainment programmes.</p>
			<p>Timely initiation of recovery proceedings and evolving a mechanism to monitor compliance of Appellate orders for efficient tax administration;</p>	<p>Deputy Commissioner of Agricultural Income Tax in charge of different Circles have been directed to monitor timely initiation of recovery proceedings and early compliance of the Appellate orders at the level of Assessing Officers.</p>
			<p>Making the definition of luxury more inclusive in the tax;</p>	<p>Scope of imposition of tax on complimentary tickets for the sports/amusement events under the Bengal Amusement Tax Act, 1922 and widening definition of Luxury Tax under the West Bengal Entertainments and Luxuries (Hotels & Restaurants) Tax Act, 1972 will be examined by the Government. If it is found justified considering all aspects, necessary amendment will be made in the said Act.</p>
			<p>Widening the scope of taxation under the Bengal Amusement Tax Act, 1922 on complimentary tickets of commercialised entertainment /sports events;</p>	
<p>Ensuring timely assessment of taxes under the West Bengal Entertainment-cum-Amusement Tax Act, 1982 and the Bengal</p>	<p>In the Directorate, strength of Assessing Officers has not been changed since long. The Directorate is presently having</p>			

			Amusement Tax Act, 1922;	acute shortage of staff also. However, the Agricultural Income Tax Officers have been asked to reduce the number of pending assessments under the West Bengal Entertainment-cum-Amusement Tax Act, 1982 and the Bengal Agricultural Income Tax Act, 1922 substantially through suitable administrative supervision.
			Contemplating provisions in the Bengal Amusement Tax Act, 1922 for levy of interest; and	No reply furnished.
			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.	At present, there is an Internal Audit Wing of the Directorate which is functioning in spite of shortage of staff and other infrastructural facilities. Steps are being taken to remove the aforesaid difficulties so that functioning of the Internal Audit Wing can be streamlined.

Despite being requested (August 2015) 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	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
	2012-13	Evasion of Stamp Duty and Registration Fees
	2013-14	Assessment, levy and collection of Value Added Tax from works contractors
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 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 2014-15, there were 573 auditable units, of which 187 units were planned and 188 units had been audited, which was 32.81 *per cent* of the total auditable units. The details are shown in the **Appendix – I**.

Besides the compliance audits 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 188 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 2014-15 revealed under assessment/ short levy/ loss of revenue aggregating ₹ 1,444.73 crore in 1,837 cases. During the course of the year, the Departments concerned accepted under assessment and other deficiencies of ₹ 341.25 crore involved in 715 cases which were pointed out in audit during 2014-15. The Departments collected ₹ 2.14 crore in 97 cases during 2014-15 pertaining to the audit findings.

1.11 Coverage of this Report

This Report contains 27 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 “System of Assessment under Value Added Tax” and “Assessment and Collection of revenue from Minor Minerals”, involving financial effect of ₹ 752.64 crore.

The Departments/Government have accepted audit observations involving ₹ 315.38 crore out of which ₹ 37.31 lakh had been recovered. The replies/ specific replies in the remaining cases have not been received (October 2015). 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 2014-15, CCT was assisted by one Additional Commissioner of Commercial Taxes (Addl. CCT), one Sr. Joint Commissioner (Sr. JCCT) and one Commercial Tax Officer (CTO).

The wing planned to audit three Charge offices only out of 76 auditable units (i.e. 67 Charge offices and nine ranges) during the year 2014-15. However, it audited none. IAW stated that the plan for audit of three Charge offices could not be executed due to acute shortage of manpower. Therefore, manpower of IAW needs to be strengthened.

2.3 Results of audit

In 2014-15, test check of the records of 42 units relating to VAT assessments and other records showed underassessment of tax and other irregularities involving ₹ 897.97 crore in 696 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.	Non/short levy of purchase tax/ penalty / interest	245	441.93
2.	Incorrect determination of Contractual Transfer Price / turnover of sales	101	34.47
3.	Irregular allowance of transfer of goods/ Input Tax Credit /remission	57	26.05
4.	Application of incorrect rate of tax/ mistake in computation	151	17.95
5.	Irregular allowance of compounded/ concessional rate of tax	5	0.15
6.	Others	137	377.42
Total		696	897.97

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 28.40 crore in 152 cases, of which in 139 cases involving ₹ 27.65 crore were pointed out in audit during the year 2014-15 and the rest in the earlier years. An amount of ₹ 27.68 lakh was realised in 13 cases during the year 2014-15.

A Performance Audit on “**System of Assessment under Value Added Tax**” having money value of ₹ 148.86 crore, a few illustrative cases involving ₹ 118.96 crore and a follow up audit on the Performance Audit on “e-Services in the Directorate of Commercial Taxes” are discussed in the following paragraphs.

2.4 Performance Audit on “System of Assessment under Value Added Tax”

Highlights

- Failure on the part of Directorate of Commercial Taxes (DCT) to utilise information available in the returns of dealers registered under DCT to identify and bring in potential assesseees into tax net resulted in non-levy of tax of ₹ 1.35 crore from 113 unregistered dealers.
(Paragraph 2.4.7)
- Absence of a system for pooling of information available with DCT regarding Sales Tax Deducted at Source (STDS), way bills and dealers registration profile during assessment of 63 dealers resulted in non/short levy of tax of ₹ 12.78 crore in 68 assessment cases.
(Paragraph 2.4.8)
- Deficiency at serial number 30 in the format of VAT return in Form-14 resulted in allowance of irregular claims of exempt sales in deemed assessment cases of 28 dealers with consequent short levy of ₹ 4.54 crore.
(Paragraph 2.4.9.1)
- Absence of proper provisions in the IT system of scrutiny of returns, like calculation of interest on delayed payment of tax, cross checking of brought forward Input Tax Credit (ITC) from previous years and cross checking of applicable rates of tax with commodities resulted in non/short levy of interest and tax and irregular carry forward of ITC of ₹ 1.67 crore in assessment cases of 73 dealers.
(Paragraphs 2.4.10.1, 2.4.10.2 and 2.4.10.4)
- In assessing 33 cases of 28 dealers for the assessment periods between 2007-08 and 2011-12, the Assessing Authorities (AAs) incorrectly determined turnover of sales (TOS) at ₹ 12,286.51 crore instead of at ₹ 14,520.79 crore resulting in short determination of TOS by ₹ 2,234.28 crore and consequent short levy of tax of ₹ 90.93 crore.
(Paragraph 2.4.14)

2.4.1 Introduction

Value Added Tax (VAT) is a multi-stage tax levied at each stage of the value addition chain, with a provision to allow Input Tax Credit (ITC) on tax paid at an earlier stage, which can be appropriated against the VAT liability on subsequent sale. Assessment of VAT is governed under the West Bengal Value Added Tax (WBVAT) Act, 2003 and Rules made thereunder. The West Bengal Sales Tax Act, 1994 administers levy of tax on some specified commodities¹⁰. Besides, Central Sales Tax (CST) Act, 1956 and Rules made thereunder are in operation for interstate sales. Tax, interest and penalty are assessed and recovered under the provisions of the Acts.

Assessment of VAT is done by the Assessing Authorities (AAs) on the basis of returns filed by dealers and on verification of books of accounts etc. under the provisions of VAT Act of the State. In case where the dealer fails to appear with books of accounts, assessment may be completed *ex-parte* to the best of judgment of the AA after giving the dealer a reasonable opportunity of being heard. Typically, the system encourages voluntary compliance and is based on dealers submitting their tax returns, which are largely based on self assessment. Provisions have been made in the VAT Act for making deemed assessments and summary assessments by accepting the returns as correct as filed by the dealers, without calling for the production of books of accounts.

The WBVAT Act, 2003 prescribes for the following types of assessments:

- Audit of accounts and assessments in certain cases (Section 43)
- Provisional assessment (Section 45)
- Assessment after giving notice to the registered dealer (Section 46)
- Assessment as per return (Section 47)
- Special Provision for deemed assessment (Section 47 A)
- Summary assessment of return (Section 47 AA)
- Assessment of tax payable by dealers other than registered dealers (Section 48).

¹⁰ Foreign liquor, country liquor, petrol, diesel and motor spirit.

2.4.2 Trend of revenue

Actual receipts from VAT¹¹ in the State during the years from 2009-10 to 2013-14 along with the total tax receipts during the same period are exhibited in the following table :

Table 2.2: Receipts from Value Added Tax

(₹ in crore)

Year	Actual receipts	Total receipts of the state	Percentage of actual VAT receipts vis-à-vis total tax receipts
2009-10	10,509.64	16,899.98	62.19
2010-11	13,275.77	21,128.74	62.83
2011-12	15,888.41	24,938.16	63.71
2012-13	18,554.76	32,808.49	56.55
2013-14	21,931.09	35,830.56	61.21

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

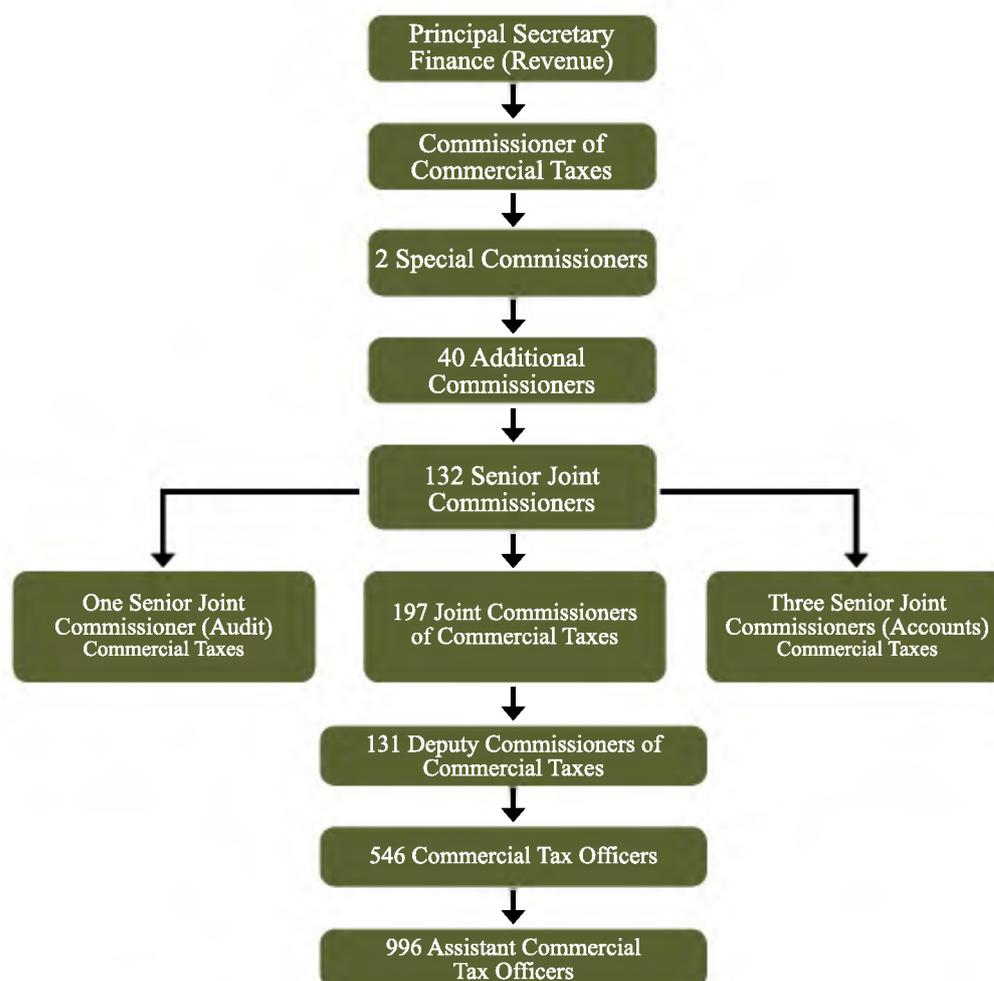
The above table indicates that the receipts under VAT increased consistently during the period from 2009-10 to 2013-14, and their contribution to the total tax receipts of the State remained above 60 *per cent* for all the years except 2012-13, when the total receipts of the State increased because the stamp duty and registration fees had increased by more than 30 *per cent* due to full operationalisation of the CORD software and revaluation of market values of properties by the Government of West Bengal.

2.4.3 Organisational structure

The WBVAT Act, 2003 and the CST Act, 1956 are administered by the Directorate of Commercial Taxes (DCT), West Bengal which is under the administrative control of the Principal Secretary, Finance (Revenue) Department, Government of West Bengal. The overall control and superintendence of the Directorate is vested with the Commissioner of Commercial Taxes (CCT), West Bengal who is assisted¹² by two special commissioners and other officers, as depicted in the following organogram. Information Systems Division (ISD) of the Directorate is headed by one Additional CCT and other sub-ordinate officers.

¹¹ Includes Sales Tax and Central Sales Tax.

¹² Men in position during 2013-14 as per Administrative Report of DCT.



2.4.4 Audit objectives

The Performance Audit aimed to ascertain whether:

- provisions of the WBVAT Act/Rules were adequate to safeguard the interests of revenue of the State;
- existing provisions on scrutiny and assessment procedures under the WBVAT Act/Rules were being followed by the Department; and
- sufficient internal controls existed in the Department for detecting irregularities in the assessments.

2.4.5 Scope, methodology and audit criteria

Audit selected 23¹³ Charge offices out of 68 Charge offices under the DCT. Selection of units was done through stratified sampling method. All

¹³ Alipore, Asansol, Bankura, Barasat, Barrackpore, Behala, Beliaghata, Bhawanipore, Burtola, Corporate Division, Cossipore, Durgapur, Jalpaiguri, Lyons Range, Medinipur, N.D. Sarani, Park Street, Radhabazar, Sealdah, Siliguri, Srirampur, Suri and Tamluk.

68 Commercial Tax Charge offices were stratified under three strata¹⁴ based on their average revenue collections during the last five years. Four Charge offices from the first stratum (100 per cent), six from the second stratum (50 per cent) and 13 from third stratum (25 per cent) were selected by simple random sampling for the purpose of Performance Audit.

In addition, other sub-ordinate offices like Internal Audit Wing, Bureau of Investigation, Central Audit Unit and Information Systems Division were also audited for the purpose of this Performance Audit. During the Performance Audit, records of the Directorate and sub-ordinate offices were scrutinised.

Provisions of the WBVAT Act, 2003 and the WBVAT Rules, 2005 were used as source of audit criteria for the Performance Audit. The Performance Audit was conducted during March 2015 to August 2015 covering the assessments conducted during the period from 2009-10 to 2013-14. However, cases which were noticed during the earlier years and communicated to the Department, but were not included in earlier reports for want of departmental replies have also been covered in this Performance Audit.

2.4.6 Acknowledgement

Audit acknowledges the co-operation of DCT in providing necessary records and information. The objectives of the audit, scope, criteria and methodology etc. were discussed at an Entry Conference with the CCT and other representatives of the Directorate in April 2015. Findings of the Performance Audit were forwarded to the Directorate in August 2015. The Exit Conference was held on 29 September 2015 and views of the Directorate have suitably been incorporated in the relevant paragraphs.

Audit findings

Adequacy of the provisions of the WBVAT Act/Rules to safeguard the revenue of the State

During the course of Performance Audit, a number of inadequacies in the provisions of various Sections of the WBVAT Act, 2003 were observed. This resulted in non/short levy of tax and leakage of revenue as discussed in the following paragraphs:

2.4.7 Absence of a system to utilise information available with DCT to identify and bring in potential assesseees into tax net

Section 10 of the WBVAT Act, 2003 prescribes that if gross turnover of sales (TOS) of a dealer, calculated from the commencement of any accounting year, exceeds the taxable quantum of ₹ five lakh at any time within such year, he becomes liable to pay tax on all his gross TOS from the day immediately following the day on which such sale first exceeds ₹ five lakh. The Act provides for registration of such a dealer within 30 days from the date of accrual of such liability and a penalty for failure to apply for registration.

¹⁴ First stratum: Charge offices having average revenue collection more than or equal to ₹ 300 crore. Second stratum: Charge offices having average revenue collection more than and equal to ₹ 100 crore and less than ₹ 300 crore. Third stratum: Charge offices having average revenue collection less than ₹ 100 crore.

Information in respect of purchases made by 18 registered dealers from 113 sellers in five¹⁵ Charge offices was analysed by audit. Audit observed that these 113 sellers in 116 cases¹⁶ during the period between 2010-11 and 2013-14 made sales exceeding ₹ five lakh in each financial year but none was found registered with the DCT. Once a dealer's turnover exceeds ₹ five lakh, he is to be compulsorily registered as explained *ibid*. Sales of ₹ 33.82 crore, therefore, remained out of tax net with consequent non-levy of tax of ₹ 1.35 crore (calculated at minimum rate of tax of four *per cent*). Returns submitted by the 18 dealers also confirmed that none of these 113 sellers had any registration number, for which there was a column in those returns.

Audit observed that DCT did not put in place any system to utilise the information available in the returns of dealers registered under the DCT. This resulted in non-detection of dealers who had exceeded the threshold for registration. 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, which may not be sufficient to act as a deterrent. Besides, the imposition of penalty is also not mandatory and these provisions may not be effective to act as a deterrent against non-registration by the dealers.

On being pointed out (July and August 2015), three¹⁷ Charge offices accepted (July and August 2015) the audit observations in 96 cases. In the remaining cases, the Charge offices did not furnish any reply.

The CCT in the Exit Conference (September 2015) stated that the VAT system itself ensured registration of new dealers due to ITC advantage. The reply was not tenable as the ITC advantage comes with liabilities towards payment of output tax. However, non-registration of eligible dealers was in violation of the provisions of the Act.

2.4.8 Lack of a system of pooling of information regarding Sales Tax Deducted at Source (STDS), way bills and dealers registration profile during assessments

IMPACT (Information Management for Promotion of Administration in Commercial Taxes) is a web based application software developed for DCT for the purpose of better tax administration. IMPACT is the user interface for hosting information regarding STDS details of works contractors, way bill utilisation by dealers and dealer registration profiles, etc. Information available in IMPACT is accessible to AAs.

In course of audit, deemed, summary and provisional assessment cases were examined. On such examination, cases of leakages of revenue were noticed which could have been prevented by pooling of information available with DCT as discussed in the following sub-paragraphs:

¹⁵ Barrackpore, Cossipore, Jalpaiguri, Siliguri and Tamluk.

¹⁶ One case = assessment for one year.

¹⁷ Barrackpore, Cossipore and Tamluk.

2.4.8.1 Non-utilisation of information of STDS available with the DCT during provisional assessments

Section 45 of WBVAT Act, 2003 prescribes that those dealers who fail to furnish return or fail to pay the net tax, late fee and interest within the stipulated period are to be assessed provisionally. In making a provisional assessment under this Section, the AA shall, where the dealer has failed to furnish return, assess the net tax of the dealer for the relevant return period on the basis of past returns or past records. Where no such returns or records are available, assessment is to be done on the basis of information received (from other sources) by the Commissioner or such other authority, and determine the interest payable by the dealer for the relevant return period.

Audit observed from the assessment details available in electronic records of the DCT that 10 works contractors under three¹⁸ Charge offices did not furnish quarterly returns with the respective charges for the periods between October 2013 and March 2014. Audit found that the DCT assessed these defaulters provisionally under Section 45 of the Act on the basis of best judgement and assessed the Contractual Transfer Price (CTP)¹⁹ of these dealers as only ₹ 23.45 lakh. However, as per the information available in IMPACT, these 10 works contractors received payment of ₹ 2.87 crore during the period between October 2013 and March 2014. While provisionally assessing these dealers, the Data Analysis Wing (DAW) of the DCT did not access and utilise this information and hence short assessed the CTP by ₹ 2.64 crore with consequent short levy of tax of ₹ 30.32 lakh. In the absence of any mechanism in the extant rules and procedures for consideration of relevant information from IMPACT, DCT failed to correctly assess the CTP of the dealers.

On this being pointed out (July and August 2015), Barrackpore Charge office accepted (August 2015) the audit observation in three cases. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) stated that STDS data were not given importance during provisional assessments for the purpose as the demands were anyway inflated. The reply is not tenable as the demands have to be realistic and not inflated, STDS data would have provided useful inputs for this purpose.

2.4.8.2 Deficiency in system to verify the claims of sales of goods exempted from tax in returns

Rule 12(6) of the WBVAT Rules, 2005 prescribes that if any registered dealer changes the class or classes of goods which have been included in his certificate of registration, he shall make an application to amend the certificate of registration issued to him. Section 21 of the Act prescribes that no tax shall be payable on sale of goods specified in column (2) of Schedule-A.

During the course of audit, scrutiny of deemed/ summary assessment case records in nine²⁰ Charge offices for the assessment periods between 2009-10

¹⁸ Barrackpore, Jalpaiguri and Tamluk.

¹⁹ Taxable turnover of works contractor dealers.

²⁰ Barasat, Cossipore, Durgapur, Medinipur, N.D. Sarani, Sealdah, Siliguri, Srirampur and Tamluk.

and 2011-12 revealed that 22 dealers in 27 cases claimed to have made sales of goods exempted from tax under Section 21 for ₹ 121.91 crore in their returns. Scrutiny of registration data of these dealers revealed that these dealers were registered²¹ for business of taxable goods only. Claims of the dealers for exempted sales were allowed during deemed and summary assessments.

Audit observed that the DCT had not checked the commodities as reflected in the dealer's registration profile with the commodities declared in their returns. The electronic system of scrutiny was also unable to detect any discrepancy in this regard or verify the claims of sales of goods exempted from the tax. As a result, dealers who had registration only for sale of taxable goods, claimed deduction of sales of tax-exempted goods on which tax amounting to ₹ 4.88 crore (calculated at the minimum rate of tax) should have been levied and collected.

On being pointed out (between April and July 2015), three²² Charge offices accepted (between April and July 2015) the audit observations in five cases. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) stated that the list of commodities under the VAT Act was huge and cross-checking of applicable rates with commodities was a cumbersome work. This raises doubts about the efficacy and lack of assurance of their own systems of cross-verification or scrutiny, which needs to be properly addressed.

2.4.8.3 Non-existence of a system to cross verify the claims of imports of goods in returns with way bill utilisation information

As per Rules 100, 103, 104 and 110B of the WBVAT Rules, when a dealer or any person imports taxable goods or raw jute from any place outside West Bengal, he is required to take out a way bill in Form-50 or e-way bill in Form-50A, in respect of transport of such goods. Provisions have been made for obtaining way bills in Form-50A electronically by registered dealers who submit their returns in Form-14 or Form-14D. Within 40 days from the date of generation of printout of way bill in Form-50A, the dealer is to record electronically, utilisation of this way bill.

As per information collected from IMPACT regarding way bill utilisation for imports by dealers, Audit noticed that 31 dealers in 31 cases registered under 10²³ Charge offices imported goods worth ₹ 1,147.83 crore during the period between 2009-10 and 2011-12. Audit found that the dealers, in their returns furnished to the respective charges, disclosed imports through way bills at only ₹ 984.89 crore. Their returns were accepted as correct and deemed/summarily assessed. This resulted in short disclosure of imports of

²¹ Electronic application for registration in the Form-1 has been made compulsory and the manner of making e-application has been prescribed in Rule 5A of the WBVAT Rules, 2005. Serial No. 22 of the Form-1 provides for the names of the commodities to be purchased and sold, both taxable and non-taxable.

²² Durgapur, Sealdah and Siliguri.

²³ Asansol, Barasat, Beliaghata, Cossipore, Durgapur, N.D. Sarani, Sealdah, Siliguri, Srirampur and Suri.

₹ 162.94 crore with consequent evasion of tax of ₹ 7.60 crore. Cross verification of the way bill utilisation details by the dealers available in IMPACT with those reflected in the returns filed by these dealers would have prevented the evasion of tax.

Thus, AAs failed to detect the evasion in the absence of a system for cross verification of the way bill utilisation information available in the IMPACT with the returns filed by these dealers.

On being pointed out (between April and July 2015), four²⁴ Charge offices accepted (between April 2015 and July 2015) the audit observations in 15 cases. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) stated that such a validation check was not in the file-format used (JAR files), in which case appropriate formats should have been adopted to improve tax administration.

2.4.9 Deficiencies in format of return

The system of assessment under Section 47 depends on voluntary disclosure of business transactions in the returns submitted by the dealer. It is, therefore, essential to put in place, proper checks for all the fields in the returns to avoid leakage of revenue.

It was observed that VAT return in Form-14 was deficient in some respects, and therefore, scrutiny and consequent deemed/summary assessments could not be carried out effectively, as discussed in the following sub-paragraphs:

2.4.9.1 Irregular claims of exempt sales due to deficiency in serial number 30 in return format

Return format in Form-14 provides for entering different types of turnover of sales separately, viz. sales taxable at various rates, sales exempt from tax under Section 21, inter-state sales and sales on Maximum Retail price (MRP). At serial number 30, the electronic return format allows the dealer to enter the taxable sales and the applicable tax rates for calculation of output tax.

During the course of audit, scrutiny of assessment case records in eight²⁵ Charge offices revealed that 28 dealers in 28 cases while filing their returns for the years 2007-08 to 2011-12, declared sales of taxable goods for ₹ 113.49 crore at serial number 30. However, they did not enter any tax rate and the output tax was calculated at zero. Since the dealers had not declared the sales as exempted under Section 21 or taxable at zero rate, tax was leviable at applicable rates. Deemed/summary assessments of these dealers resulted in short levy of tax of ₹ 4.54 crore (calculated at the minimum rate of tax).

Audit observed that due to the deficiency in the electronic format of returns, the system accepted the blank field and calculated tax at the rate of zero *per cent*. In the absence of any validation checks, irregular claims of zero tax on taxable sales was allowed during deemed and summary assessments.

²⁴ Asansol, Cossipore, N.D. Sarani and Sealdah.

²⁵ Asansol, Barasat, Behala, Beliaghata, Durgapur, Medinipur, Park Street and Srirampur.

On being pointed out (between April and June 2015), Durgapur Charge office accepted (June 2015) the audit observation in one case. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) accepted the audit observation. He, however, opined that filing correct returns was the dealer's responsibility. However, the detection of incorrect information in returns submitted by the dealers is very much the Department's responsibility.

2.4.9.2 Absence of proper fields in annexure for sales returns

Part-I of Chapter VI of the WBVAT Act deals with scrutiny and verification of returns furnished by a dealer. Section 2(55)(b) of the Act prescribes that a dealer is eligible for claiming sales return only when goods were returned or rejected by purchaser within six months from the date of such sale.

During the course of Performance Audit, scrutiny of deemed/summary assessment case records in 11²⁶ Charge offices revealed that 26 dealers in 30 cases between the years 2009-10 and 2011-12, claimed sales returns in the Annexure for Sales Return (ASR) in their returns for ₹ 53.30 crore and adjusted output tax of ₹ 4.64 crore on account of such sales returns.

In the format of returns, there is no provision to indicate that the goods were returned within six months of sale. Further there was neither any provision to indicate any other details like names/registration certificate numbers of dealers, payment details etc., by which it could be verified that the goods have actually been returned. Absence of these details in the ASR resulted in allowance of sales returns and corresponding output tax adjustment without any verification of genuineness of the claims during assessments.

On this being pointed out (between May and July 2015), five²⁷ Charge offices accepted (between May and July 2015) the audit observations in 12 cases. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) stated that there was a separate annexure for capturing sales returns. The reply does not address the deficiencies pointed out by audit.

2.4.9.3 Lack of a provision to verify the genuineness of claim of deduction for MRP purchase of goods

Section 2 (55) (a) of WBVAT Act prescribes that the sale prices in respect of sales of goods purchased by a dealer in West Bengal, upon payment of tax on the maximum retail price (MRP) of such goods or where tax on MRP of such goods were paid in West Bengal on any earlier occasion, is allowed as deduction from his gross total turnover of sales.

During the course of audit, scrutiny of assessment case records in five²⁸ Charge offices revealed that in eight cases of eight dealers, deduction as MRP

²⁶ Asansol, Barasat, Behala, Beliaghata, Cossipore, Durgapur, Medinipur, Park Street, Siliguri, Srirampur and Suri.

²⁷ Asansol, Behala, Durgapur, Medinipur and Siliguri.

²⁸ Barasat, Burtola, Cossipore, Siliguri and Suri.

sales of goods was allowed for ₹ 43.34 crore between the periods 2009-10 and 2011-12 during deemed and summary assessments.

Audit observed that there was no provision in the relevant return in Form-14 to reflect the verifiable information about the dealer from whom goods were purchased, MRP on such goods and tax paid thereon. In absence of any such particulars in the return, deductions were allowed without any verification of the claims.

After this being pointed out, Barasat Charge office stated in two cases that claims of deductions would be verified, Siliguri Charge office stated that the format of returns would be attempted to be revised. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) accepted the inability of the system to check the veracity of claims at the time of filing of returns.

2.4.10 Absence of provisions in the IT system for proper scrutiny of returns

The system of electronic filing of returns by the dealers was introduced from December 2007 and from April 2010, made compulsory for every registered dealer. Every return submitted was to be subjected to electronic scrutiny before it was deemed/summarily assessed.

Deemed and summary assessment cases (assessments under Section 47) form major part of the total number of assessments in the DCT. Any deficiency in the system of assessment under this Section affects Government revenue to a considerable extent.

Deemed and summary assessment cases were examined to detect any deficiency in the system of scrutiny of returns. On such examination, cases of leakages of revenue were noticed which could have been prevented by establishing a proper mechanism for scrutiny of returns as discussed in the following sub-paragraphs:

2.4.10.1 Failure to detect non-payment of interest on delayed payment of admitted tax

Under Section 33(1) of the Act, where a dealer furnishes return in respect of any period by the prescribed date or thereafter but fails to make full payment of net tax payable by the prescribed date, 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, for payment of net tax and up to the date prior to the date of payment of such net tax.

Scrutiny of deemed/summary assessment case records in 13²⁹ Charge offices for the period between 2009-10 and 2011-12 revealed that out of 247 test checked cases, in 94 cases³⁰, 25 dealers paid the admitted tax with delay up to 183 days.

²⁹ Asansol, Barasat, Behala, Beliaghata, Cossipore, Durgapur, Lyons Range, Medinipur, N.D. Sarani, Park Street, Siliguri, Srirampur and Suri.

³⁰ One case = one month of the year in which tax is to be paid.

Audit observed that the dealers, while filing returns, did not make payment of any interest though the total amount of interest payable was ₹ 36.99 lakh. It was observed that the electronic system of scrutiny of returns could not detect non-payment of interest on late payment of admitted tax during scrutiny of returns and the returns of the dealers were accepted as correct and deemed/summarily assessed. This resulted in non-levy of interest of ₹ 36.99 lakh.

On being pointed out (between March and July 2015), six³¹ Charge offices accepted (between April and July 2015) the audit observations in 33 cases and realised ₹ 25,842 in 13 cases. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) stated that putting such validation checks in the system to calculate interest during filing of returns was being considered. It was also intimated that MIS report for interest for the period 2014-15 has been generated in August 2015 to monitor the recovery.

2.4.10.2 Non-detection of excess claim of brought forward Input Tax Credit in returns

As per Section 22(6) of the Act, if the Input Tax Credit (ITC) or Input Tax Rebate (ITR) available to a registered dealer for a year exceeds the output tax for that year, the excess ITC or ITR shall be carried forward to the next year, as prescribed under Rule 19(7) of the WBVAT Rules, 2005.

During the course of audit, analysis of the data relating to quarterly returns and scrutiny of deemed/summary assessment case records in 14³² Charge offices revealed that in 36 cases, ITC amounting to ₹ 48.68 lakh was brought forward from the previous year's returns during the years 2010-11 and 2011-12. However, a cross-check of earlier year's returns revealed that in these cases, only ₹ 10.69 lakh was available to be carried forward. This resulted in excess claim of ITC amounting to ₹ 37.99 lakh without any verification of amounts from the earlier year's returns.

This irregular claim of excess ITC could not be detected during electronic scrutiny by the DCT as no mechanism to verify the amount of ITC eligible to be brought forward from the previous years was in place.

On being pointed out (between April and August 2015), seven³³ Charge offices accepted (between May and August 2015) the audit observations in 12 cases and realised ₹ 25,000 in one case. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) stated that the validation was in place at the server level. The reply was not tenable as Audit came across such cases pertaining to the period 2014-15, which was indicative of failure of any such validation check, if existent.

³¹ Asansol, Cossipore, Durgapur, Lyons Range, N.D. Sarani and Siliguri.

³² Asansol, Bankura, Barasat, Barrackpore, Behala, Beliaghata, Burtola, Durgapur, Medinipur, Park Street, Siliguri, Srirampur, Suri and Tamluk.

³³ Asansol, Bankura, Barrackpore, Burtola, Durgapur, Siliguri and Tamluk.

2.4.10.3 Deficiency in detecting irregular carrying over of excess payment of tax in next accounting year

As per Rule 40(2A) of WBVAT Rules, 2005, where the amount of tax paid is in excess of net tax payable according to any return submitted by a dealer for a return period and if no claim for refund for such excess payment of tax is made in respect of such return period, the amount of excess payment of tax according to such return may be carried over to the next return period for adjustment, subject to a condition that such next return period also falls within the same accounting year.

Scrutiny of the deemed/summary assessment case records in 15³⁴ Charge offices revealed that 43 dealers in 44 cases, carried over ₹ 1.74 crore of tax paid in excess during the accounting years 2008-09 to 2010-11 to their subsequent returns in periods which were falling in the next accounting years and hence violated the Rule provisions. The dealers were thus assessed for their respective assessment periods i.e. from 2009-10 to 2011-12, and amount of ₹ 1.74 crore carried over irregularly was available for adjustment against their output tax liabilities.

There was no provision in the IT system to prevent such carrying over of excess payment of tax to subsequent returns that fall in the next accounting year.

On being pointed out (between March and August 2015), nine³⁵ Charge offices accepted (between April and July 2015) the audit observations in 23 cases and realised ₹ 2,324 in one case. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) informed that such a check was in place in the system since April 2013. However, audit observed that no such checks were introduced in returns Form-14D and the amount irregularly carried forward was also yet to be recovered.

2.4.10.4 Failure to detect application of incorrect rate of tax in returns

For the purpose of levy of tax at proper rates, commodities are classified into various schedules under the Act. In deemed assessment cases, proper levy of tax depends upon cross-checking of rates of tax with the commodities specified in the schedules. Complete mapping of commodities taxable under the schedules ensures the application of correct rate of tax.

Audit observed in four³⁶ Charge offices for the assessment periods 2010-11 and 2011-12, that in 12 deemed assessment cases, dealers claimed sales of taxable goods for ₹ 11.41 crore paying output tax at rates lower than the applicable rates by indicating those lower rates in their returns. These were accepted by the electronic return system without any validation checks being exercised by it. Application of incorrect rate of tax resulted in short levy of output tax of ₹ 91.90 lakh.

³⁴ Asansol, Bankura, Barasat, Barrackpore, Behala, Beliaghata, Cossipore, Durgapur, Lyons Range, Medinipur, N.D. Sarani, Park street, Siliguri, Srirampur and Suri.

³⁵ Bankura, Barasat, Burtola, Durgapur, Jalpaiguri, Lyons Range, Medinipur, N. D. Sarani and Radhabazar.

³⁶ Asansol, Burtola, N.D. Sarani and Suri.

On it being pointed out (between April and July 2015), two³⁷ Charge offices accepted (between April and July 2015) the audit observations in four cases. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) stated that cross checking of applicable rates with commodities was a difficult work due to limitations in the size of JAR files. The reply was not tenable as absence of such essential validation checks had resulted in acceptance of lower rates and subsequent short payment of tax by dealers.

2.4.11 Rush of assessments

Section 49 of the WBVAT Act prescribes that assessment of a registered dealer shall be completed by the 30th day of June next following the expiry of two years from the end of the year, in respect of which or part of which the assessment is made. No assessment under Section 46 or Section 47 shall be made after the 30th day of June next following the expiry of two years from the end of the year in respect of which or part of which the assessment is made.

Status on assessments under Section 46 for the periods of assessments 2007-08 to 2011-12 in Charge offices was as follows:

Table 2.3- Rush of assessments

Period of assessment	Number of Charge offices which furnished specific information	Total number of assessments under Section 46	Total number of assessments carried out in April ³⁸	Total number of assessments carried out in May ³⁹	Total number of assessments carried out in June ⁴⁰	Percentage of assessments made in June ⁴¹
2007-08	08	10,338	548	1,210	7,754	75.00
2008-09	09	19,550	686	1,395	16,598	84.90
2009-10	12	24,627	859	2,120	20,663	83.90
2010-11	13	19,613	722	1,036	17,020	86.78
2011-12	13	7,324	575	912	5,354	73.10

(Source: Information furnished by the Charge offices)

Audit observed that for periods of assessments 2007-08 to 2011-12, 73.10 per cent to 86.78 per cent of total assessments under Section 46 were done in the last month stipulated for assessment. Audit further observed that norms/targets had not been fixed for monthly or phase-wise assessment of cases by the AAs to avoid rush of assessments.

The CCT in the Exit Conference (September 2015) stated that the DCT had consciously tried to complete the assessments early. DCT accepted the audit observation and intimated that administrative steps had been taken to monitor the progress through monthly meetings.

³⁷ Asansol and Burtola.

³⁸ April month of the last year of prescribed time limit.

³⁹ May month of the last year of prescribed time limit.

⁴⁰ June month of the last year of prescribed time limit.

⁴¹ Percentage of assessments done in last month (June) to total assessments.

2.4.12 Effectiveness of system of survey of unregistered dealers

With a view to identify dealers who are liable to pay tax under the Act but have remained unregistered, survey of unregistered dealers is an important tool to bring in potential tax assessees into tax net. Those dealers who are eligible to be registered⁴², but are yet to be registered under the Act, can be brought into the tax net through periodical surveys.

During the course of Performance Audit, information on survey conducted to detect unregistered dealers during 2009-10 to 2013-14 in Charge offices was obtained. The status of such surveys was as follows:

Table 2.4- Survey of unregistered dealers

Year	No. of Charge offices in which survey was conducted	No. of survey conducted	No. of unregistered dealers detected during survey
2009-10	6	164	513
2010-11	6	131	509
2011-12	6	178	569
2012-13	11	352	1,064
2013-14	15	501	1,789
Total		1,326	4,444

(Source: Information furnished by the Charge offices)

The table indicates that 1,326 surveys were conducted in six to 15 Charge offices during 2009-10 to 2013-14, in which 4,444 dealers were found eligible for registration. It was therefore evident that the survey process in the DCT had been fruitful in bringing potential assesses into tax net, even though it was not prescribed in the extant Rules and procedures. Considering the achievements through this effort, formalisation of such provisions in the extant Rules may enable the DCT to monitor and identify unregistered dealers more effectively to increase the tax base. Some states, like Bihar, have incorporated such provisions in their respective VAT Acts.

The CCT in the Exit Conference (September 2015) stated that the VAT system itself ensured registration of new dealers due to ITC advantage. However, the data above proves the utility of surveys as well.

2.4.13 Selection of dealers for audit of accounts and assessment

Sections 43 and 43A of the WBVAT Act prescribe that selection of dealers respectively for audit or special audit of accounts and subsequent assessment is to be done on random basis or upon receipt of specific information under Section 46.

Summary of assessments under different Sections of the Act during the years 2007-08 to 2012-13 was as follows:

⁴² Dealers whose turnover of sales exceeds taxable quantum of ₹ five lakh in an accounting year or part thereof.

Table 2.5 - Assessment of dealers under various sections of the Act

Financial year	Total number of registered dealers	Selection under Section 43	Selection under Section 43A	Selection under Section 46	Percentage ⁴³ of selection
2007-08	2,12,603	Not furnished by the Department	0	43,211	20.32
2008-09	2,17,731		0	56,359	25.88
2009-10	2,13,465		57	73,803	34.60
2010-11	2,17,595		43	55,251	25.41
2011-12	2,27,351	7,556	9,083	20,330	16.26
2012-13	2,44,434	3,177	Not furnished by the Department		

(Source: Information furnished by the DCT)

In 2010-11 and 2011-12, though the number of registered dealers had increased, number of assessments under Section 46 had decreased substantially. This decrease in number of assessments under Section 46 resulted in increased number of cases of deemed/summary assessments. Audit scrutiny on the selection of dealers for detailed audit and assessment revealed the following deficiencies:

- Only 36,969 dealers (16.26 per cent) for the year 2011-12 as compared to 73,860 dealers (34.60 per cent) for the year 2009-10 were selected for detailed audit and assessment. Such reduction may go against complete assurance against leakage of Government revenues.
- DCT informed that the selection of dealers for VAT Audit was done on a centralised basis and was segregated charge-wise. Cases of the dealers where major discrepancies were detected in the past were not considered nor was such information sought from the Charge offices for the purpose of selection. Dealers, against whom the preventive wings of the Directorate had adverse findings, were also not compulsorily considered for future selection.
- The centralised selection process was also flawed as Audit noticed that there was no uniformity in the number of cases selected from different Charge offices while prescribing criteria for selection of dealers. Audit observation is based on the fact that no dealer out of 5,519 dealers in Baharampur Charge office was selected for audit for the year 2011-12. Further, Diamond Harbour Charge office (2,193 dealers) did not find any representation for the year 2012-13 whereas numbers of dealers selected from Balurghat Charge office (1,575 dealers), Darjeeling Charge office (1,203 dealers) and Malda Charge office (4,563 dealers) were in single digits.
- The Department had not formulated any manual for VAT audit even after lapse of ten years from the implementation of VAT to prescribe control mechanisms incorporating various procedural and

⁴³ Percentage of total number of dealers selected for audit and assessment to total number of registered dealers.

methodological aspects of audit to streamline the audit process and make it effective.

The CCT in the Exit Conference (September 2015) accepted the audit observation and stated that geographical representation in selection, increasing the number of dealers for VAT audit and compulsory selection of habitual defaulters would be considered.

Compliance to the existing provisions on scrutiny and assessment procedures under the WBVAT Act/Rules by the Assessing Authorities (AAs)

Compliance with extant Rules and Regulations by AAs while carrying out assessments was examined and findings were as follows:

2.4.14 Short determination of gross turnover of sales

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

Audit found in 16⁴⁴ Charge offices that in 33 cases of 28 dealers assessed between June 2010 and June 2014 for the assessment periods between 2007-08 and 2011-12, the AAs incorrectly determined TOS at ₹ 12,286.51 crore instead of at ₹ 14,520.79 crore. This was due to the failure of Department to correctly determine the TOS by cross verification of the amounts declared by the dealers from available authentic records, viz. books of accounts / audit reports of chartered accountants / TDS certificates etc. This resulted in short determination of TOS by ₹ 2,234.28 crore and consequent short levy of tax of ₹ 90.93 crore.

The Department admitted (between November 2013 and July 2015) the audit observations in 14 cases, but did not furnish any report on levy and realisation of tax. In the remaining cases, the Department did not furnish any/specific reply (October 2015).

The CCT in the Exit Conference (September 2015) stated that concerned Charge offices were being instructed to take necessary action for early disposal of observations raised during Performance Audit.

The cases were reported to the Government between October 2013 and August 2015; their reply has not been received (October 2015).

2.4.15 Short levy of purchase tax

Section 17 of the WBVAT Act prescribes a purchase tax payable by a dealer who purchases goods unrelated to his business from an unregistered dealer on

⁴⁴ Asansol, Barasat, Beliaghata, Berhampore, Bhawanipore, Budge Budge, Corporate Division, Coochbehar, Durgapur, Malda, N.D. Sarani, Shibpur, Siliguri, Srirampur, Taltala and Tamluk.

the purchase turnover at the rate applicable to the sale of such goods under Section 16(2) on the same commodities.

Audit observed in Durgapur Charge office that the AA, while assessing one case for the assessment period 2011-12, did not consider purchases amounting to ₹ 1.63 crore which were liable to be taxed for the purpose of levy of purchase tax. In another case for the assessment period 2010-11, the AA took ₹ 9.55 lakh for this purpose in place of actual amount of ₹ 9.55 crore as reflected in books of accounts. Thus, AA assessed the turnover of purchases at ₹ 9.55 lakh instead of ₹ 11.18 crore. This resulted in short levy of purchase tax of ₹ 44.33 lakh.

After being pointed out (June 2015), the Charge office did not furnish any specific reply.

The CCT in the Exit Conference (September 2015) stated that concerned Charge offices were being instructed to take necessary action for early disposal of observations raised during Performance Audit.

2.4.16 Short levy of tax due to mistake in computation

Under the WBVAT Act, 2003, tax is to be computed at prescribed rates along with interest and penalty, if any, on the goods sold. The Act also provides for levy of purchase tax on unregistered purchases of goods by a dealer which are not directly related to his business or fall in the negative list of the Act.

Audit found in eight⁴⁵ Charge offices that in 15 cases assessed between May 2012 and November 2014 for assessment period 2009-10 and 2011-12, the AAs assessed tax and interest at ₹ 1.43 crore instead of ₹ 3.21 crore on goods sold/purchased due to arithmetical mistakes in computation. This resulted in short levy of tax of ₹ 1.78 crore.

The Department admitted (between December 2013 and July 2015) the audit observations in nine cases involving ₹ 0.54 crore; but did not furnish any report on realisation of tax and interest. In the remaining cases, the Department did not furnish any specific reply (October 2015).

The CCT in the Exit Conference (September 2015) stated that concerned Charge offices were being instructed to take necessary action for early disposal of observations raised during Performance Audit.

The cases were reported to the Government between October 2013 and August 2015; their reply has not been received (October 2015).

⁴⁵ Alipore, Asansol, Barasat, Barrackpore, Durgapur, Medinipur, Park Street and Siliguri.

2.4.17 Incorrect allowance of deduction towards payment to sub-contractors

Section 18 of the Act provides for determination of Contractual Transfer Price (CTP) chargeable to tax after the allowed deductions⁴⁶. 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 amount claimed for deduction are included in the returns of sub-contractors and that the tax under Section 18(1) have been paid by them. 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, taxable CTP shall be determined in accordance with Rule 30(2) of the WBVAT Rules, 2005.

During scrutiny of deemed assessment case records in two⁴⁷ Charge offices in two cases for the period of assessment 2010-11, Audit found that assesses had claimed deduction of ₹ 0.80 crore from CTP of ₹ 1.84 crore towards payment to sub-contractors without submitting the details of deductions relating to sub-contracts as required under Section 18(2). These deductions were allowed without any verification of claims of deductions, which resulted in short levy of tax of ₹ 9.94 lakh.

After this being pointed out (April and May 2015), the Charge offices did not furnish any reply/specific reply.

The CCT in the Exit Conference (September 2015) stated that concerned Charge offices were being instructed to take necessary action for early disposal of observations raised during Performance Audit.

2.4.18 Non-reversal of ITC

Section 22(4) of the Act prescribes that 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 made in the state from a dealer, when such goods are purchased for use as raw materials required for the purpose of manufacture of taxable goods intended for sale. A manufacturing dealer is not eligible for claiming ITC on his purchases of raw materials used for production of such finished goods which are consumed by the dealer himself for personal/internal consumption and such ITC is liable to be reversed by the dealer.

During the course of Performance Audit in Durgapur Charge office, Audit found that a dealer in two cases for the periods 2010-11 and 2011-12 had availed ITC of ₹ 0.50 crore on his purchases of raw materials of ₹ 13 crore used for the purpose of manufacture of iron and steel, which was utilised for internal consumption. This irregular ITC availed was liable to be reversed. However, the dealer did not reverse such irregular ITC. The AAs also failed to detect and disallow such irregular claim of ITC. This resulted in irregular allowance of ITC of ₹ 0.50 crore.

⁴⁶ Deductions are allowed in respect of charges towards labour, service and other like charges, payments to sub-contractors engaged by the dealer for execution of works contract etc.

⁴⁷ Sealdah and Suri.

After this being pointed out (June 2015), the Charge office did not furnish any specific reply.

The CCT in the Exit Conference (September 2015) stated that concerned Charge offices were being instructed to take necessary action for early disposal of observations raised during Performance Audit.

2.4.19 Non/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 him to make payment of the amount of tax and penalty due, if any, by the date as may be specified in such notice. Rule 69 provides that if any amount due from a dealer is modified in consequence of an order passed on appeal, review or revision, the appropriate AA shall serve on the dealer a demand notice in Form 28. Further, Departmental Circular (2013) of the Directorate of Commercial Taxes instructed the AA to issue notice in Form 28 positively within 15 days from the date of receipt of such order.

Audit found in five⁴⁸ Charge offices that in nine cases assessed between May 2012 and September 2013 for the assessment period 2009-10 and 2010-11, in five cases the AAs assessed tax and penalty etc. of ₹ 293.96 lakh; however, they served demand notices for ₹ 223.81 lakh only. In the remaining four cases, the AAs did not issue demand notices for ₹ 15.20 lakh even after expiry of periods from five months to 15 months from the date of receipt of the order of confirmation/modification from the appellate authority. This resulted in non/short raising of demand of ₹ 85.35 lakh.

The Department admitted (between December 2013 and June 2015) the audit observations in eight cases, but did not furnish any report on realisation of tax (July 2015) and in the remaining one case no reply was furnished (October 2015).

The CCT in the Exit Conference (September 2015) stated that concerned Charge offices were being instructed to take necessary action for early disposal of observations raised during Performance Audit.

The cases were reported to the Government between January 2014 and August 2015; their reply has not been received (October 2015).

2.4.20 Application of incorrect rate of tax

Section 16(2) of the WBVAT Act, 2003 prescribes the rates of tax on the goods sold depending upon classification of the goods. Further, Sections 14 and 18 of the WBVAT Act, 2003 and Rule 30(2) of the WBVAT Rules, 2005 prescribe the rates of tax on contractual transfer price (CTP). 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.

⁴⁸ Asansol, Durgapur, Park Street, Siliguri and Suri.

Audit found in 15⁴⁹ Charge offices that out of 38 cases assessed between May 2012 and June 2014 for the assessment periods from 2008-09 to 2011-12, the AAs in 31 cases involving sales of ₹ 72.94 crore levied tax at the rate of four *per cent* instead of the applicable rate of 12.5/13.5 *per cent* due to misclassification of goods and levy of tax at lower rates on inter-state sales not supported by declaration forms etc. In the remaining seven cases, the AAs applied rates less than the applicable rates of tax on CTP of ₹ 233.25 crore. This resulted in overall short levy of tax of ₹ 10.19 crore in 38 cases due to application of incorrect rates of tax.

After Audit pointed out the cases, Department admitted (between September 2013 and November 2014) audit observations in 16 cases involving ₹ 7.46 crore, but did not furnish any report on levy and realisation of tax. In the remaining cases, the Department did not furnish any/specific reply (October 2015).

The CCT in the Exit Conference (September 2015) stated that concerned Charge offices were being instructed to take necessary action for early disposal of observations raised during Performance Audit.

The cases were reported to the Government between October 2013 and August 2015; their reply has not been received (October 2015).

2.4.21⁵⁰ Irregular allowance of input tax credit

Section 22 of the WB VAT 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 list⁵¹.

Audit found in 11⁵² Charge offices that in 16 cases assessed between June 2010 and June 2013 for the assessment periods between 2007-08 and 2010-11, the AAs allowed ITC of ₹ 29.43 crore instead of ₹ 27.51 crore resulting in irregular allowance of ITC of ₹ 1.92 crore due to the irregularities detailed in the following table:

⁴⁹ Amratala, Ballygunge, Barasat, Barrackpore, Beadon Street, Bhawanipore, Budge Budge, Chinabazar, College Street, N.D. Sarani, Park Street, Radhabazar, Sealdah, Shibpur and Siliguri.

⁵⁰ Observations under paragraphs 2.4.21 to 2.4.24 could not be discussed during Exit Conference of the Performance Audit as these observations were raised and communicated earlier but fall within the scope of Performance Audit.

⁵¹ Negative list (appended to Section 22 of the WB VAT Act) is the list of goods not eligible for ITC.

⁵² Alipore, Amratala, Asansol, Bhawanipore, Chandni Chawk, Coochbehar, Corporate Division, Diamond Harbour, Esplanade, New Market and Taltala.

Table 2.6 – 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 allowed despite absence of authentic records like books of accounts, purchase documents etc.	8	2,164.37	2,073.04	91.33
2.	ITC allowed on items not covered by the WBVAT Act/goods in the negative list etc.	4	323.95	273.86	50.09
3.	ITC allowed on incorrect carry forward of ITC from previous year.	1	301.40	262.98	38.42
4.	Irregular allowance due to arithmetical error.	2	148.33	140.98	7.35
5.	ITC allowed on claim of purchase from dealer having cancelled Registration Certificate.	1	5.02	0	5.02
Total		16	2,943.07	2,750.86	192.21

The Department admitted (between November 2013 and November 2014) the audit observations in 10 cases involving ₹ 87.81 lakh; but did not furnish any report on levy and realisation of tax. In the remaining cases, the Department did not furnish any/specific reply (October 2015).

The cases were reported to the Government between January 2014 and February 2015 followed by reminders issued upto April 2015; their reply has not been received (October 2015).

2.4.22 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 claimed for a period, by 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 17⁵³ Charge offices that in 61 cases assessed between June 2010 and June 2013 for assessment periods between 2006-07 and 2010-11, the AAs short levied interest of ₹ 0.39 crore in four cases and did not levy interest of ₹ 12.47 crore in remaining 57 cases where the dealers did not pay tax by prescribed/specified dates or did not deduct the inadmissible ITC while filing their returns. Although the 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 ₹ 12.86 crore.

After Audit pointed out the cases, the Department admitted (between August 2013 and November 2014) audit observations in 23 cases involving ₹ 2.01 crore but did not furnish any report on realisation. In the remaining cases, the Department did not furnish any/specific reply (October 2015).

⁵³ Alipore, Asansol, Ballygunge, Beadon Street, Beliaghata, Chandni Chawk, Corporate Division, College Street, Darjeeling, Ezra Street, Jalpaiguri, N.D. Sarani, New Market, Salt Lake, Srirampur, Shibpur and Taltala.

The cases were reported to the Government between October 2013 and February 2015 followed by reminders issued upto May 2015; their reply has not been received (October 2015).

2.4.23 Non-levy of penalty on evaded tax

Section 96 of the WBVAT Act, 2003 prescribes levy of penalty if a dealer has concealed any sales/purchases/CTP or claimed excess ITC but has not reversed the same. Further, the quantum of penalty should not exceed twice the amount of tax which would have been avoided if such concealment was not detected.

Audit found in seven⁵⁴ Charge offices that in 11 cases assessed between May 2012 and June 2014 for assessment periods between 2009-10 and 2011-12, the AAs noticed evasion of tax of ₹ 3.31 crore by dealers by means of concealment of sales/purchases/CTP or by claim of excess amount of ITC of ₹ 25.89 crore. However, although the AAs identified the evasion of tax, Audit found that they did not initiate proceedings to levy penalty under Section 96 of the WBVAT Act. Penalty at its maximum would have been ₹ 6.62 crore. Neither has the evaded tax been recovered.

The Department admitted (between December 2013 and September 2014) the audit observations in eight cases involving ₹ 1.88 crore; but did not furnish any report regarding levy and realisation of penalty. In the remaining cases, the Department did not furnish any/specific reply (October 2015).

The cases were reported to the Government between January 2014 and October 2014 followed by reminders issued upto February 2015; their reply has not been received (October 2015).

2.4.24 Irregular allowance of payment of tax at compounded rate

Rules 38(11) and 39(8) of the WBVAT Rules, 2005 provide that if a registered dealer, who has exercised his option to pay tax at a compounded rate⁵⁵, fails to make payment of such tax for any two quarters of the year, such dealer shall be deemed to have withdrawn his option so exercised. Further, Rule 38(9) prescribes that during the period of applicability of tax payment at compounded rate, if the TOS of a dealer exceeds ₹ 50 lakh, he will not be eligible to pay tax at compounded rate.

Audit found in three⁵⁶ Charge offices that out of six cases where dealers had opted to pay tax at compounded rate for assessment periods between 2008-09 and 2009-10, in four cases the dealers failed to make payment of tax for two quarters of the year and in the remaining two cases, the dealers' TOS exceeded ₹ 50 lakh while paying tax at compounded rate for which they were not eligible. This resulted in short levy of tax of ₹ 11.70 lakh.

The Department admitted (March 2014) the audit observations in two cases involving ₹ 6.66 lakh but did not furnish any report on levy and realisation of

⁵⁴ Asansol, Ballygunge, Beadon Street, Berhampore, Chinabazar, Park Street and Sealdah.

⁵⁵ 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.

⁵⁶ Ballygunge, Darjeeling and Siliguri.

tax. In the remaining cases, the Department did not furnish any reply (October 2015).

The cases were reported to the Government between October 2013 and April 2014 followed by reminders issued upto February 2015; their reply has not been received (October 2015).

2.4.25 Existence of sufficient internal controls in the Department for detecting irregularities in the assessments

2.4.25.1 Effectiveness of Internal Audit Wing

Internal Audit wing (IAW) of 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 DCT to ascertain effectiveness of the internal control system. The IAW of the Directorate was functioning since May 1991 and is headed by CCT who is assisted by an Additional CCT.

Audit observed that the manpower deployment in the IAW was inadequate as there was only one Sr. JCCT (in charge of DDO and service matters) and one CTO (August 2015) in position. IAW audited only two out of 68 Charge offices (2.94 per cent) during the year 2013-14. IAW could not provide specific information regarding the nature of irregularities detected in internal audit of assessments made in Charge offices. There was no target fixed for the IAW by CCT or the IAW itself. No audit manual was formulated on the working procedure of IAW. Further, there was no plan for conducting internal audit of dealers registered in different Charge offices during the last five years. Number of cases audited by IAW during the last five years was not intimated to audit though called for.

The CCT in the Exit Conference (September 2015) stated that internal audit of assessments was conducted by the circle offices. The reply is not correct as circle offices only audit the assessment but do not exercise any internal audit functions related to evaluation of the systems, procedures and controls within the department.

2.4.25.2 Absence of proper internal controls to monitor utilisation of MIS reports generated by DAW

The Data Analysis Wing (DAW) of DCT generates various MIS (Management Information System) reports regarding unauthorised ITC claims. Audit observed that there were no internal controls in place to monitor compliance of actions arising from the MIS reports. Failure to monitor proper compliance in this respect resulted in non-realisation of tax as discussed in the following points:

- *Inaction on reports of ITC from dealers paying tax at compounded rate:* DAW generated MIS reports for ITC claims from those dealers who were paying tax at compounded rate. As such, the ITC claims were found to be inadmissible. Audit scrutiny in three⁵⁷ Charge offices for the periods of assessment 2011-12 and 2012-13 revealed that though

⁵⁷ Jalpaiguri, Siliguri and Tamluk.

reports were sent regarding three dealers in four cases for inadmissible ITC of ₹ 12.33 lakh on purchases of ₹ 1.25 crore, no action was taken by the Charge offices to reassess or reopen the cases on basis of the MIS reports. These dealers were deemed assessed (except one case where the dealer was assessed but MIS report was not considered) for their periods of assessment which resulted in irregular allowance of ITC of ₹ 12.33 lakh.

After audit pointed out the cases (July 2015), Jalpaiguri Charge office stated (July 2015) in one case that the matter was being forwarded to higher authority. In the remaining cases, the Charge offices did not furnish any/specific reply.

- *Inaction on reports of ITC from cancelled dealers:* DAW generated MIS reports for ITC claims from those dealers whose registration certificates stood cancelled on the date of transaction. As such the ITC claims were found to be inadmissible. Audit scrutiny in three⁵⁸ Charge offices for the period of assessment 2011-12 revealed that though MIS reports were sent regarding 19 dealers in 33 cases for inadmissible ITC of ₹ 19.91 lakh on purchases of ₹ 4.17 crore, no action was taken by the Charge offices to reassess or reopen the cases on the basis of MIS reports. The dealers were deemed assessed which resulted in irregular allowance of ITC of ₹ 19.91 lakh.

After audit pointed out the cases (July and August 2015), two⁵⁹ Charge offices accepted (July and August 2015) audit observations in 27 cases whereas Burtola Charge office did not furnish any specific reply.

- *Inaction on the sale-purchase mismatch reports:* Sale-purchase mismatch reports of dealers are available at IMPACT utility of the DCT in every Charge office. Audit observed in four⁶⁰ Charge offices for the periods 2010-11 and 2011-12 that no action was taken against five dealers in five cases who did not reconcile the sale-purchase mismatches. This resulted in non-realisation of ₹ 13.88 lakh on differential amount of sale-purchase mismatch of ₹ 1.66 crore.

After audit pointed out the cases (between April and July 2015), Cossipore Charge office accepted (July 2015) the audit observation in one case. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) stated that number of MIS reports generated by DAW was huge and taking up all the MIS reports for compliance was a cumbersome task. He also stated that cases having greater revenue implications were being given preference over others. The reply was not tenable as otherwise the very purpose of generating such reports loses meaning.

⁵⁸ Barrackpore, Burtola and Jalpaiguri.

⁵⁹ Barrackpore and Jalpaiguri.

⁶⁰ Barasat, Cossipore, N.D. Sarani and Suri.

2.4.26 Conclusion

The Performance Audit noticed various system deficiencies and non-compliance to the provisions of the Act/Rules etc. The Department has no effective system to utilise data available with it to bring unregistered dealers into the tax net. There was no correlation between the IMPACT utility and assessments made as per returns to prevent tax evasion, irregular claims of ITC and excess claims of deductions. There was lack of pooling of information available with the DCT. In determining CTP of the works contractors, payments as per TDS were not taken into account. Exempted sales, deductions on account of MRP sales and sales returns were allowed without verifying the correctness of the claims of dealers. There were weaknesses in the internal control mechanism. There was no working manual formulated for the IAW. The internal control mechanism with regard to compliance of MIS reports generated by DAW was not effective.

2.4.27 Summary of recommendations

The Government may consider following steps to detect potential assesseees and prevent leakage of revenue:

- Use IT tools to bring potential tax assesseees into tax net by utilising the information in respect of transactions of unregistered dealers available in returns.
- To avoid leakage of revenue, the department needs to introduce validation checks in its IT system for example - application of correct rates of tax in returns, payment of tax on sale of taxable goods in VAT returns in Form-14, proper fields in returns to verify claims of sales returns, calculation of interest and carry forward of ITC.
- Information available in IMPACT should be compulsorily used by AAs for cross-verification of information/data to ensure accurate assessments and due payment of tax.
- Increase number of returns/assessments audited by IAW and;
- Make the DAW of the department more effective by sharpening its controls over unauthorised ITC claims.

Other audit observations

2.5 Loss of revenue in time barred appeal / set aside cases

2.5.1 Section 84 of the WBVAT Act, 2003 prescribes that an appeal case is to be disposed of within the period specified. If the appeal cases are not disposed of within the specified period, the same shall be deemed to have been disposed of in accordance with law and all the claims of the applicant shall be deemed to have been allowed in full.

Audit scrutinised the Appeal Receiving and Disposal Register maintained in three⁶¹ circle offices and found that out of 23,006 appeal cases received during the period from 2009-10 to 2013-14, 226 cases were barred by limitation of time and were disposed of in favour of the dealers without any hearing by the Appellate Authorities. This resulted in disposal of disputed amount of ₹ 112.92 crore in favour of the dealers in 199 cases. In 27 appeal cases, the disputed amounts were not furnished to audit though sought for.

On being pointed out, the circle officers did not furnish any /specific reply. The cases were reported to the Government in July 2015; their reply has not been received (October 2015).

A similar audit observation featured under paragraph no. 2.10.23 of the Audit Report (Revenue Sector), Government of West Bengal for the year ended 31 March 2013 which was accepted by the Commissioner of Commercial Taxes (CCT). The CCT subsequently issued a circular in August 2014 directing the appellate authorities to timely dispose the appeal cases so that automatic disposal could be avoided. However, the instructions of the CCT were not adhered to as evident from the above audit observation.

2.5.2 Section 48(4) of the WBST Act, 1994 prescribes that when a fresh assessment is required to be made in pursuance of an order under Section 79, 80, 81 or 82, such fresh assessment may be made at any time within two years from the date of such order.

Cross verification of revisional orders of the Appellate and Revisional Board (ARB) with the assessment case records in two⁶² Charge offices under Chowringhee circle office revealed that in three cases, for the period of assessments between 2003-04 and 2004-05, the ARB had set aside the assessment orders between February 2011 and January 2013 and directed the assessing authorities to make fresh assessment. The disputed amount in these cases was ₹ 43.05 lakh. Fresh assessments could not be made within the specified time limit and the cases became barred by limitation of time. This resulted in allowance of all claims of the dealers without hearing and the Government lost the opportunity of collecting the appropriate revenue.

On being pointed out, the Charge officers and the Circle officers did not furnish any reply. The cases were reported to the Government in July 2015; their reply had not been received (October 2015).

⁶¹ Chowringhee, Kolkata South and 24 Parganas.

⁶² Esplanade and Lalbazar.

2.6 Non-compliance of revisional orders and departmental circular

No time limit has been prescribed under the Act and Rules within which the demand notices would be issued by the assessing authorities in the cases where the assessment orders are confirmed/modified under Section 84/85/86/87/87A. The CCT instructed⁶³ the assessing authorities to issue a demand notice in Form-28 or intimation notice within 15 days from the date of receipt of the order of revision.

Cross verification of revisional orders of the ARB with the assessment case records in 11⁶⁴ Charge offices under six⁶⁵ circle offices revealed that in 16 cases for the period of assessments between 1998-99 and 2006-07, the ARB dismissed the revision petitions or confirmed/modified the assessment orders between February 2010 and July 2014 and directed the assessing authorities to do the needful. The amount involved under the instant cases was ₹ 5.61 crore. But no action had been taken by the assessing authorities for realisation of Government revenue even after a lapse of period ranging from eight to 62 months from the date of revisional order. This resulted in non-realisation of Government revenue of ₹ 5.61 crore.

On being pointed out, JCCTs, Jorasanko and Jorabagan stated that demand notices had been issued in respect of two cases involving ₹ 2.30 crore and JCCT, Bowbazar intimated that action was being taken to ensure realisation of dues as per ARB verdict. In the remaining cases, the Charge offices did not furnish any/specific reply. The cases were reported to the Government in July 2015; their reply has not been received.

2.7 Report of follow up audit on the Performance Audit on “e-Services in the Directorate of Commercial Taxes”

2.7.1 Introduction

The Performance Audit (PA) on “e-Services in the Directorate of Commercial Taxes (DCT)” featured as Paragraph no. 2.10 of Chapter II of the Report of the Comptroller and Auditor General of India on Revenue Sector (Report no.2 of the year 2013) of the Government of West Bengal. The PA was conducted between November 2011 and March 2012 covering five modules of IMPACT⁶⁶ viz. Registration, Return, Central Declaration Forms, Waybill and Transit Declaration as only these modules were related to e-services and open to the dealers. Centralised Data provided by DCT was analysed and various deficiencies in the system were pointed out in the PA.

⁶³ Vide Department Circular no. 801 dated 03.10.2013.

⁶⁴ Beliaghata, Bowbazar, Corporate Division, Jorabagan, Jorasanko, Lyons Range, New Market, Park Street, Radhabazar, Salt Lake and Taltala.

⁶⁵ Chowringhee, Corporate Division, Dharmatala, Kolkata North, Kolkata South and 24 Parganas.

⁶⁶ A web based application software “Information Management for Promotion of Administration in Commercial Taxes” (IMPACT) developed by the National Informatics Centre (NIC).

2.7.2 Objective, scope and methodology of audit

The follow up audit was conducted to ascertain the action taken by DCT on audit recommendations accepted by them. The Performance Audit Report contained 32 audit observations. Out of these, 23 were accepted by the department. A follow up audit was conducted during the period from May to July 2015 and data of the DCT was analysed to verify action taken by them in respect of accepted audit observations. Audit issued queries to the DCT and verified their replies with documentary evidence produced by them and also through data-analysis.

2.7.3 Acknowledgement

We acknowledge the co-operation of the DCT in providing necessary records and information to audit. The draft follow up audit report was forwarded to the Finance Department with a copy to the DCT for their comments on 31 August 2015. Comments of the Sr. Joint Commissioner of Commercial Taxes (Sr JCCT), Information Systems Division (ISD) received in June and October 2015 are incorporated in the report.

2.7.4 Audit findings

The status of implementation of the 23 audit observations accepted by the department has been arranged in three categories:

A Insignificant or No progress

Paragraph No. and caption of the PA	Gist of the audit observation/ Follow up audit observation	Replies/Comments of Directorate	Audit comments
2.10.19 <i>(Part-3)</i> Submission of Central Sales Tax(CST) returns without submitting Value Added Tax (VAT) returns	<i>Due to lack of validation control the system allowed submission of CST return without filing VAT return.</i> Audit noticed through data analysis that the dealers were still submitting CST return without filing VAT return.	The Sr JCCT, (ISD) stated (October 2015) that there is no provision in the Acts that VAT return is to be submitted prior to submission of CST return. The dealers are at liberty to submit any return first and then to furnish the return under other Act.	Reply is not tenable as under Rule 8(4) of the CST (West Bengal) Rules, 1958, every dealer, who is required to furnish CST return, shall furnish such return only after furnishing the VAT return for the relevant period under the West Bengal VAT Act.
2.10.20 <i>(Part 3)</i> Mismatch between tax paid amount and payment details	<i>Due to lack of validation control the system accepted VAT e-returns having mismatched data.</i> Audit noticed through data analysis that the system was accepting e-returns having mismatched data between tax paid amount and payment details in the VAT e-returns.	The Sr JCCT, (ISD) stated (October 2015) that there is no mismatch between tax paid amount and payment details in the return module.	Reply is not tenable as in VAT returns, the challan amount shown in payment details was found to be less than the tax paid amount as returns module was not capturing the full payment details although that was reflected in the e-challan data. So mismatched data in the return module could not be detected by the system automatically.

B Partial implementation

Paragraph No. and caption of the PA	Gist of the audit observation/ Follow up audit observation	Replies/Comments of Directorate	Audit comments
2.10.8 Organisational and management controls	<i>DCT did not prepare User Requirement Specification (URS) and thus, did not spell out the basic objectives of designing and development of IMPACT to National Informatics Centre (NIC). Audit found that no written down URS was prepared by the Directorate.</i>	The Sr JCCT, (ISD) stated (October 2015) that the sample System Requirement Specification (SRS) on e-Appeal/Revision/Review, provided to the audit team was for illustrative purpose only. Before launch of a module, SRS preparation by NIC is mandatory.	Reply is not tenable as the URS is written prior to the SRS, as the SRS is largely based on the user's expectations. Without written URS, deficiencies in SRS and consequent defects in functionality and usability of system could not be ruled out.
2.10.9.1 Inadequate physical and environmental controls	<i>Physical and environmental controls of server room and UPS room were inadequate to prevent IT assets from unauthorised access and damages. Audit noticed that the Directorate was dependent upon vendor for the physical and environmental controls of server which was located at the vendor's premises.</i>	The Sr JCCT, (ISD) stated (October 2015) that security policy had been implemented. The servers are located at West Bengal State Data Centre (WBSDC) at Salt Lake, Kolkata and are maintained by the vendor with adequate physical and environmental controls as per Government Security policy.	Directorate had not furnished any evidence about supervision for adequate maintenance of physical and environmental controls for the security of server and data contained therein.
2.10.9.2 Inadequate logical controls	<i>In the absence of adequate logical access controls, the system was prone to risk of intrusion and data corruption. Further, the system did not prompt the users to change passwords after periodical intervals. Audit noticed that there was no evidence of review of system logs to detect attempts of unauthorised access or unexpected events.</i>	The Sr JCCT, (ISD) stated (October 2015) that different function area of users are earmarked as specific roles, which are assigned to them by their controlling officers. Individual user ID is used only for a single individual who is responsible for every action performed under that account. System keeps log of individual's account so that unauthorised use may be detected.	Directorate could not furnish any evidence about generation of separate report by the system for attempts of unauthorised access to the system.
2.10.11 Lack of business continuity and disaster recovery controls	<i>Non-utilisation of the Disaster Recovery Server (DRS) for taking the real time back up of data was fraught with the risk of loss of data in case of a system crash. Audit noticed that DCT did not furnish information about DRS for taking real time backup of data.</i>	The Sr JCCT, (ISD) stated (June 2015) that DRS are installed at National Data Centre at New Delhi as per government guidelines and the installation process is in progress.	The DCT was yet to have DRS for taking real time back up of data.
2.10.12 Incomplete/invalid/duplicate data	<i>Due to lack of input control, the system accepted incomplete, invalid and duplicate entries in the data base. Audit found from the analysis of data that deficiencies existed.</i>	The Sr JCCT, (ISD) stated (October 2015) that corrective measures are being taken.	Out of ten types of data input errors pointed out, input controls in respect of seven types of errors had been introduced. The DCT was yet to introduce input control to prevent incomplete, invalid and duplicate entries in the data base in respect of the remaining three.

<p>2.10.14 Ineffective monitoring of dealers</p>	<p><i>The system was not prompting the JCCT to force change the group code '99' which is a default group code allotted by the system to the dealers to keep an effective tracking of the dealers.</i> Audit found from the analysis of data that 3,764 cases of dealers under group '99' existed and there was no timely allotment of appropriate group code for such dealers.</p>	<p>Sr JCCT, (ISD) stated (October 2015) that on an average 2,000 dealers are granted registration per month. So, it is obvious to have such numbers of dealers under group '99' before allotment.</p>	<p>Reply is not tenable as analysis of data pertaining to period between December 2012 and April 2015 showed that 3,764 cases were lying pending for a period ranging between one and 29 months. The system did not prompt for allotment of appropriate group code of the Assessing Authority (AA) under whom those were to be assessed.</p>
<p>2.10.15 Non-cancellation of registration certificate(RC) of dormant dealers</p>	<p><i>Due to absence of an in-built system for generating report, return-defaulter dealers remained undetected and no action could be taken by the AAs against them in time.</i> Audit noticed that the defaulters were not detected and blocked by the system automatically. Data Analysis Wing (DAW) was generating notice for cancellation of RCs of return-defaulter dealers.</p>	<p>The Sr JCCT, (ISD) stated (October 2015) that Management Information System (MIS) report has been provided in the system for the AAs to take necessary action against those return-defaulter dealers.</p>	<p>Reply is not tenable as the system was still not equipped to auto-generate the report on return-defaulter dealers and the AAs were dependent upon the manually generated reports.</p>
<p>2.10.16 Delay in updating the database of the cancelled dealers</p>	<p><i>Delay in updating the details of cancelled dealers in database resulted in submission of e-returns, generation of e-way bills and central declaration forms by such dealers.</i> Audit found from the analysis of data that cancelled dealers were still filing online returns and generating 'C' forms.</p>	<p>The Sr JCCT, (ISD) stated (October 2015) that the dealers were retrospectively cancelled by the AAs at a later 'order date'. The dealers filed returns or generated 'C' forms only when they were alive in the system.</p>	<p>The system had no provision for incorporating later 'order date' and its retrospective effect resulting in continued unauthorised access/ activities by cancelled dealers.</p>
<p>2.10.17 Lack of validation control</p>	<p><i>Absence of input controls led to entry and acceptance of incorrect data in the database which made the data unreliable.</i> Audit found from the analysis of data that due to lack of validation control, unreliable data was still accepted by the system.</p>	<p>The Sr JCCT, (ISD) stated (October 2015) that as there is no direct revenue implication, mapping was not found cost effective.</p>	<p>Reply is not tenable as maintaining unreliable data would affect the overall reliability of the system.</p>
<p>2.10.21 (Part 1) Irregular Claim of Input Tax Credit (ITC) against unregistered purchases</p>	<p><i>Due to non-integration of return module with the registration module, the purchasing dealers were able to upload return showing the unregistered purchase as registered purchase and claiming inadmissible ITC thereon.</i> Audit found from the analysis of data that return module and registration module were not integrated.</p>	<p>The Sr JCCT, (ISD) stated (October 2015) that integration of modules is taken care of by the mismatch reports generated by DAW and intimated to all charges from time to time (quarterly now). For older periods the mismatch is taken care of in assessment cases by AAs.</p>	<p>Mismatch reports were not being auto-generated by the system, defeating the primary objective of computerisation.</p>

<p>2.10.27 Absence of internal control of the DCT on e-Transit Declaration (TD)</p>	<p><i>There was no system of compulsory endorsement of e-TDs at the entry and exit checkpoints.</i> Audit noticed that endorsement of e-TDs was not compulsory at the checkpoints.</p>	<p>The Sr JCCT, (ISD) stated (October 2015) that barcode facility is not available in five checkpoints, still the checkpoints can endorse e-TDs using the application by keying-in the information.</p>	<p>Provisions for compulsory endorsement of e-TDs had still not been introduced.</p>
<p>2.10.29 Non-submission of utilisation of e-TDs</p>	<p><i>No MIS report was generated by the IMPACT application to monitor cases of non-submission of utilisation statement of e-TDs.</i> Audit noticed that no MIS report was generated by the IMPACT system.</p>	<p>The Sr JCCT, (ISD) stated (October 2015) that though barcode facility is not available, the check-post can endorse e-TDs using the application by keying-in the information.</p>	<p>Reply is not relevant, however, it was checked and verified by audit that no corrective measures were taken in the IMPACT system.</p>

C Full implementation

Paragraph No. and caption of the PA	Gist of the audit observation	Replies/Comments of Directorate	Audit comments
<p>2.10.19 (Part 1) Acceptance of belated revised returns</p>	<p><i>System accepted revised return submitted by the dealers after due dates.</i></p>	<p>The Sr JCCT, (ISD) stated (June 2015) that necessary validation controls have been put in place. Now no belated returns can be filed by the dealers.</p>	<p>Audit found no cases of belated revised returns in the database for the period between December 2012 and April 2015.</p>
<p>2.10.19 (Part 5) Non-assessment of purchase tax</p>	<p><i>Due to non-mapping of business rules, the system allowed the dealers under composition scheme to file returns without payment of purchase tax on unregistered purchase.</i></p>	<p>The Sr JCCT, (ISD) stated (June 2015) that law has been amended in such a way that the dealer cannot be assessed only on the basis of Purchase Tax.</p>	<p>Audit found no cases of non-payment of purchase tax on unregistered purchase by the dealers under composition scheme in the database for the period between December 2012 and April 2015.</p>
<p>2.10.20 (Part 1) Manipulation of tax amount</p>	<p><i>Due to lack of validation control dealers manipulated automatically calculated tax amount in the e-return form which was to be uploaded online on DCT's website.</i></p>	<p>The Sr JCCT, (ISD) stated (June 2015) that DAW circulated mismatch reports to all charges from time to time for scrutiny, provisional assessment and realisation of tax.</p>	<p>Audit found no cases of manipulation of tax amount related to audit observation in the database for the period between December 2012 and April 2015.</p>
<p>2.10.20 (Part 2) Non-assessment of late fee</p>	<p><i>Due to non-mapping of business rule, the late fee payable by the dealers for delayed submission of returns was not assessed by the system and the system accepted the value inserted by the dealers.</i></p>	<p>The Sr JCCT, (ISD) stated (June 2015) that validation control has been incorporated so that the dealers cannot file return successfully without paying the late fee, if applicable.</p>	<p>Audit found that system was assessing late fee for delayed submission of returns by the dealers.</p>
<p>2.10.22 Irregular issue of H forms</p>	<p><i>Due to lack of validation control, the system allowed the dealers to file e-application for supply of H forms against inadmissible transaction.</i></p>	<p>The Sr JCCT, (ISD) stated (June 2015) that we have fully dematerialised the H form module vide circular dated 05.09.2014. Necessary validation has been put in place.</p>	<p>Audit noticed that old system of e-application for supply of manual H forms was discarded and dematerialised H forms had been introduced.</p>

<p>2.10.23 Incomplete e-application for H forms</p>	<p><i>Essential information fields were not made mandatory in the e-application for H forms and consequently, the database remained incomplete.</i></p>	<p>The Sr JCCT, (ISD) stated (June 2015) that necessary system-check and validation control have been put in place.</p>	<p>Audit found no cases of incomplete essential information fields in the e-application for H forms in the database for the period between December 2012 and April 2015.</p>
<p>2.10.26 Absence of user authentication</p>	<p><i>In absence of user authentication, e-TDs could be generated by non-existent transporters with the wilful intention to evade tax by unauthorised import of goods into the state.</i></p>	<p>The Sr JCCT, (ISD) stated (June 2015) that e-TD Registration is in place now vide Circular dated 08.04.2014.</p>	<p>Audit noticed that user authentication for generation of e-TDs had been introduced in the module.</p>
<p>2.10.28 Repeated generation of e-TDs without submitting utilisation</p>	<p><i>The system was not able to restrict repeated generation of e-TDs by the transporters defaulting in submission of utilisation of e-TDs.</i></p>	<p>The Sr JCCT, (ISD) stated (June 2015) that in the new system transporters are required to submit utilisation of e-TD giving a reference number of the document like way bill/TD etc of the next state after exit from West Bengal.</p>	<p>Audit noticed that in the new e-TD module the issue of repeated generation of e-TDs had been addressed.</p>
<p>2.10.31 Non-digitisation of endorsed way bills of six checkposts</p>	<p><i>Due to non-digitisation of the way bill the database of way bill was incomplete. At the time of assessment/scrutiny, the AAs might not be able to cross verify the import value shown in the return through the system and would have to depend on the dealers' documents.</i></p>	<p>The Sr JCCT, (ISD) stated (June 2015) that as way bills have been made an online service, along with online utilisation/endorsement, the need of manual process has ceased to exist.</p>	<p>Audit found that manual process had ceased to exist. e-way bills were generated by the dealers by furnishing all the required information which could be verified by the AAs during assessment.</p>

2.7.5 Conclusion

Thus, the extent of implementation of the recommendations by the Directorate on accepted audit observations is 39.13 per cent implemented, 52.17 per cent partially implemented and 8.70 per cent not implemented (October 2015). This shows that the Directorate is making progress in this regard but its efforts are slow.

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), Revenue Officers and Revenue Inspectors.

3.2 Internal audit

The Internal Audit Wing (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. The Wing is headed by the Audit Officer cum ex-officio Joint Secretary who is assisted by Internal Audit Officers and Assistant Auditors.

No Internal Audit Officer was posted in the IAW against sanctioned strength of 16 while the existing strength of Assistant Auditors was 11 against the sanctioned strength of 14. The wing planned to audit 18 DL&LROs, 10 Land Acquisition (LA) Collectors, one First Land Acquisition (FLA) Collector, one Rent Controller and two Controllers of Thika tenancy during the year 2014-15, whereas audit was conducted in respect of 17 DL&LROs, four LA Collectors, one FLA Collector, one Rent Controller and two Controllers of Thika tenancy during the period which was 78.13 *per cent* of the units planned for audit.

3.3 Results of audit

In 2014-15, test check of the records of 12 units relating to receipts from Land Revenue showed irregularities involving ₹ 168.34 crore in 340 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, cess and surcharge	127	78.93
2.	Non-levy and non-realisation of rent and <i>salam</i>	91	60.24
3.	Non-realisation of rent at commercial rate	30	3.26
4.	Blockage/loss of revenue due to non-leasing of <i>sairati</i> interest	12	0.70
5.	Non-realisation of land revenue/cess from big <i>raiyyats</i>	11	0.25
6.	Other cases	69	24.96
Total		340	168.34

During the course of the year, the Department accepted non-realisation/blockage of revenue and other deficiencies of ₹ 108.31 crore in 206 cases, of which 199 cases involving ₹ 108.24 crore were pointed out during the year 2014-15 and the rest in earlier years. An amount of ₹ 7.30 lakh was realised in three cases at the instance of audit.

A few illustrative cases involving ₹ 3.03 crore are discussed in the following paragraphs.

3.4 Non-realisation of revenue on land used for commercial purposes

Sections 22 and 23 of the West Bengal Land Reforms (WBLR) Act, 1955 provide that *raiyyats*⁶⁷ using land for commercial purposes are liable to pay land revenue at the prescribed rate. Further, Section 3 of the West Bengal Rural Employment and Production (WBREP) Act, 1976 provides for levy and collection of a surcharge⁶⁸. Different kinds of cess⁶⁹ are also realisable on the land revenue payable by the *raiyyats*. The *Bhumi Sahayaks* posted in the Revenue Inspectors' offices under the Block Land and Land Reforms Offices (BL&LROs) are responsible for collection of land revenue.

During test check of *Bhumi Sahayaks*' Collection Registers (Register-III) and Rent Receipt Books in six⁷⁰ District Land and Land Reforms Offices (DL&LROs), Audit found (between August 2013 and February 2014) that in 2,314 cases⁷¹ 1,430 *raiyyats* did not pay rent, cess and surcharge of ₹ 1.19 crore on 2,128.71 acres of land being used for commercial purposes for various periods between 2010-11 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 ₹ 1.19 crore.

⁶⁷ *Raiyat* means a person or an institution holding land for any purpose.

⁶⁸ A surcharge of 15 paise (non-irrigated area) and 30 paise (irrigated area) on each rupee of land rent payable.

⁶⁹ Road cess six paise, Public Works cess 25 paise, Primary Education cess 10 paise and Rural Employment cess 30 paise on each rupee of land rent payable.

⁷⁰ Bankura, Burdwan (East), Malda, Murshidabad, Nadia and Paschim Medinipur.

⁷¹ One instance of non-payment of rent in any year constitutes one case.

After it was pointed out, the Department admitted (between August 2013 and May 2015) the audit observations. The cases were reported to the Government between September 2013 and March 2014 followed by reminders issued upto February 2015. Government intimated (May and July 2015) realisation of ₹ 15.84 lakh by two DL&LROs⁷², but no information regarding action taken by remaining DL&LROs has been furnished (October 2015).

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

Rules 223 and 238 of the West Bengal Land and Land Reforms (WBL&LR) Manual, 1991 provide 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 realisation of rent and *salami*⁷³ 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 seven⁷⁴ DL&LROs during May 2012 to September 2013 and found that in 12 cases 17.37 acres of land were under unauthorised occupation. The occupants had applied between June 1998 and December 2011 for long term settlement of the land for the same purposes for which they were using the land. The valuation of the land was done by the DL&LROs between June 2010 and November 2012, however, the long term settlements were not finalised even after substantial lapse of time (ranging from one year and two months to 15 years and two months from the date of application till the date of audit). In three cases the proposals for long term lease were not forwarded by the concerned DL&LROs to the approving authority (L&LR Department) while in the remaining nine 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 ₹ 1.08 crore.

The Department admitted (between June 2012 and March 2013) the audit observations in three cases involving ₹ 4.48 lakh; but did not furnish report on finalisation of the leases. In the remaining cases, the Department did not furnish any specific reply (October 2015).

The cases were reported to the Government between June 2012 and October 2013 followed by reminders issued upto February 2015; their reply has not been received (October 2015).

⁷² Bankura and Paschim Medinipur.

⁷³ *Salami* means the lump sum amount payable by the lessee in the case of settlement of Government land.

⁷⁴ Burdwan (East), Cooch Behar, Hooghly, Howrah, Krishnanagar, Murshidabad and Uttar Dinajpur.

3.6 Non-realisation of rent due to non-renewal of long term lease

Rule 219 of the WBL&LR Manual, 1991 provides that the long term lease shall ordinarily be for a period of 30 years and on expiration of the period the lessee shall be entitled to the option of successive renewals of the lease for the same length of time. Further, Rule 226(i) prescribes that no *salami* shall be charged at the time of the renewal of long term leases. But rent shall be realised at the rate of four *per cent* of the market price of the land at the time of the renewal, if the lease is for industrial or commercial purpose.

During scrutiny of files relating to renewal of long term lease cases between May 2012 and January 2014, Audit found in two DL&LROs, Malda and Murshidabad that in seven cases, leases of land covering area of 4.58 acres used for industrial and commercial purposes expired between April 1996 and April 2009. The occupants had applied for renewal of leases between April 1996 and March 2010. Though valuation of the land was done by the DL&LROs between July 2010 and October 2013, the renewal of leases was not completed even after such substantial lapse of time. In six cases involving ₹ 41.63 lakh, not only the BL&LROs/DL&LROs took time ranging from 44 months to 81 months for forwarding the cases to the Land and Land Reforms (L&LR) Department but also five cases were pending with the Department for the period ranging from eight months to 28 months. In remaining one case involving ₹ 1.77 lakh, the proposal was not forwarded by the concerned DL&LRO to the L&LR Department even after lapse of 20 months from date of application. Thus, failure of the Department to renew the long term lease cases resulted in non-realisation of rent of ₹ 43.40 lakh.

After it was pointed out, the Department admitted (between June 2012 and February 2014) the audit observations however did not furnish any justification for delay in forwarding the cases (October 2015).

The cases were reported to the Government between July 2012 and March 2014 followed by reminders issued up to February 2015; their reply has not been received (October 2015).

3.7 Non-realisation of lease rent and interest

Rule 235 of the 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.

During test check of lease registers and case records of lessees in DL&LROs Nadia and Paschim Medinipur, Audit found that annual lease rent of ₹ 19.94 lakh was not realised for various periods between 2010-11 and 2012-13 in 12 cases from six lessees in possession of 49.35 acres of land. This resulted in non-realisation of rent and interest of ₹ 20.20 lakh.

After it was pointed out, the Department admitted (November 2013) the audit observations in 11 cases involving ₹ 14.22 lakh; but did not furnish any report on realisation. In the remaining one case, the Department did not furnish any specific reply (October 2015).

Government intimated (July 2015) realisation of ₹ 8.79 lakh in ten cases of DL&LRO Paschim Medinipur, but did not furnish any reply in the remaining cases (October 2015).

3.8 Non/short realisation of rent from fisheries

Rules 272 and 275 of the WBL&LR Manual, 1991 prescribe that Government fisheries should be leased out on yearly basis for a period not exceeding seven years, for which the rent is to be fixed by the collector of the district. Further, 25 per cent of the rent for the first year should be deposited at the time of settlement and the balance should be deposited before the beginning of the year. Rents for the successive years should be deposited by the lessee in full before the beginning of the respective year.

In DL&LRO, Malda, Audit found in February 2014 that eight fisheries were leased out between 2008-09 and 2011-12 to five fishermen's cooperative societies. In three cases, rent for 2012-13 and in four cases, rent for 2011-12 and 2012-13 amounting to ₹ 6.49 lakh was not realised. In another case, rent of ₹ 0.79 lakh was realised in lieu of ₹ 6.45 lakh for the period 2011-12 and 2012-13. Thus, there was an overall non/short realisation of rent of ₹ 12.15 lakh in eight cases.

After it was pointed out, the Department admitted (February 2014) the audit observations in four cases involving ₹ 6.77 lakh, but did not furnish any report regarding realisation. In the remaining cases, no specific reply was furnished (October 2015).

The cases were reported to the Government in March 2014 followed by reminders issued upto February 2015; their reply has not been received (October 2015).

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 Vehicle 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 Results of audit

In 2014-15, test check of the records of 15 units relating to road tax, additional tax, special tax, special fee, dealer's tax, permit fee and penalties showed underassessment of tax and other irregularities involving ₹ 237.82 crore in 118 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.	Non-realisation of		
	• Tax, additional tax, special fees and penalty	14	213.54
	• Dealer's tax	14	15.31
	• Permit fee and fine	15	6.56
	• Special tax and penalty	13	0.07
	• Re-registration fees	9	0.06
2.	Short realisation of		
	• Fines for delayed production of vehicles for Certificate of Fitness	14	1.19
	• Road tax	23	0.97
3.	Other cases	16	0.12
	Total	118	237.82

During the course of the year, the Department accepted non-realisation/blockage of revenue and other deficiencies of ₹ 149.81 crore in 117 cases, of which 37 cases involving ₹ 144.98 crore were pointed out in audit during the year 2014-15 and the rest in earlier years. An amount of ₹ 30.11 lakh was realised in 22 cases at the instance of audit.

A few illustrative cases involving ₹ 230.31 crore are discussed in the following paragraphs.

4.3 Non-realisation of tax, additional tax, penalty and special fees due to non-maintenance of Tax Demand Register

Section 3 of the West Bengal Motor Vehicles Tax (WBMVT) Act, 1979 and Sections 3 and 4 of the West Bengal Additional Tax and One-time Tax on Motor Vehicles (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. Moreover, Rule 26 of the West Bengal Motor Vehicles Tax (WBMVT) Rules, 1957 prescribes that the tax officer shall maintain a Tax Demand Register (TDR) in Form 'J' showing registration number, name and address of the owner, tax due etc. and shall review the register in order to see whether the tax is regularly paid and shall take prompt action against the person concerned who has not paid the tax. In addition, Rule 121 of the West Bengal Motor Vehicles (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 rates⁷⁵ depending on the GVW.

During analysis of data of 14 Registering Authorities (RAs) between December 2013 and March 2014, Audit found that the VAHAN⁷⁶ software had no provision for maintenance of TDR for monitoring the payment of taxes due. The RAs also did not maintain prescribed TDRs in manual form. There was neither any provision in the software to automatically generate a report containing the information required in the TDR, even though the information was scattered through different tables created in the software. By analysing the information available in the tables relating to payment of different kinds, Audit was able to calculate the penalty leviable and observed that non-maintenance of the TDRs in the changed scenario of IT environment deprived the department from monitoring and taking necessary action. Audit observed that 92,136 owners of vehicles did not pay tax, additional tax and penalty of ₹ 201.29 crore during 2010-13, though their vehicles were plying on roads which was evident from records of payment of fitness fee. Audit also found that out of 92,136 vehicles, owners of 3,163 vehicles having GVW more than 22,542 kg did not pay special fee of ₹ 93.09 lakh. Thus, non-maintenance of TDRs led to non-realisation of tax, additional tax, penalty and special fee of ₹ 202.22 crore as detailed in the following table:

⁷⁵ 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.

⁷⁶ VAHAN - software used by the Transport Department for registration of vehicles and collection of taxes and fees thereof.

Table 4.2 - 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 defaulting vehicle	Amount o non-realisation	No. of defaulting vehicles	Amount of non-realisation	
1.	Alipur	23,907	6,905.00	101	3.12	6,908.12
2.	Alipurduar	1,199	166.36	15	0.38	166.74
3.	Asansol	6,550	1,530.04	362	8.23	1,538.27
4.	Bankura	2,123	168.78	-	-	168.78
5.	Barasat	7,376	1,197.87	392	9.92	1,207.79
6.	Barrackpore	5,192	1,163.99	372	8.45	1,172.44
7.	Burdwan	12,243	1,861.42	757	24.70	1,886.12
8.	Darjeeling	690	156.62	-	-	156.62
9.	Durgapur	3,382	806.75	198	5.91	812.66
10.	Hooghly	6,312	846.11	300	13.19	859.30
11.	Howrah	5,004	646.78	148	3.31	650.09
12.	Public Vehicles Department (PVD), Kolkata	10,344	3,593.24	44	0.79	3,594.03
13.	Siliguri	5,432	761.42	236	7.61	769.03
14.	Tamluk	2,382	324.46	238	7.48	331.94
	Total	92,136	20,128.84	3,163	93.09	20,221.93

In respect of tax, additional tax and penalty, RAs, Asansol, Bankura, Barasat, Darjeeling, Durgapur, Howrah and Siliguri admitted (between December 2013 and April 2015) the audit observations in 30,422 cases involving ₹ 52.57 crore and RA, Barasat also intimated realisation of ₹ 10.82 lakh in 261 cases. In respect of special fee, RAs, Asansol, Barasat, Burdwan, Durgapur, Howrah and Siliguri admitted (between December 2013 and April 2015) the audit observations in 2,093 cases involving ₹ 59.68 lakh.

In the remaining cases, the RAs did not furnish any specific reply (October 2015). However, the major point in audit observation regarding the inadequacy of VAHAN software has not been replied to.

The cases were reported to the Government between January and April 2014 followed by reminders issued upto May 2015; their reply has not been received (October 2015).

4.4 Non-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 and analysis of data of 10 RAs, Audit found between December 2013 and March 2014 that 15,543 public transport vehicles plied with expired permits during 2010-13. Audit also noticed that owners of those vehicles were paying fitness fees and road taxes which was indicative of those vehicles being on road. However, the RAs did not realise permit fees from them. This resulted in non-realisation of permit fee of ₹ 12.75 crore as detailed in the following table:

Table 4.3 – Non-realisation of permit fee

(₹ in lakh)

Sl. No.	Name of the RA	No. of vehicles	non-realisation of permit fee
1.	Alipur	778	58.26
2.	Bankura	58	4.34
3.	Barasat	1,648	116.11
4.	Burdwan	4,229	353.16
5.	Darjeeling	371	31.54
6.	Hooghly	2,639	223.82
7.	Howrah	85	8.35
8.	PVD, Kolkata	464	32.52
9.	Siliguri	2,741	232.99
10.	Tamluk	2,530	213.93
Total		15,543	1,275.02

RAs, Bankura, Burdwan, Hooghly, Howrah, Siliguri and Tamluk admitted (between December 2013 and June 2015) the audit observations in 5,393 cases involving ₹ 4.58 crore but did not furnish report on realisation except RA, Tamluk which intimated realisation of ₹ 1.16 lakh. In the remaining cases, the RAs, did not furnish any/specific reply (October 2015).

The cases were reported to the Government between January and April 2014 followed by reminders issued upto May 2015; their reply has not been received (October 2015).

4.5 Non-realisation of dealer's tax and penalty

Section 3(2) of the 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 rates specified in Part H of the Schedule appended to the Act. The description of motor vehicles in the Part H is (a) motor cycle (b) three wheelers (c) light motor vehicles (excluding motor cars and omnibuses with seats upto 14 and not registered as transport vehicle and tourist taxi, luxury taxi or contract

carriages with seats upto 14)⁷⁷ (d) medium motor vehicles, and (e) heavy motor vehicles including chassis. 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 14 RAs between December 2013 and March 2014, Audit found that out of 5,55,770 vehicles registered between 2010-11 and 2012-13, in case of 1,63,836 registered vehicles, dealer's tax and penalty of ₹ 6.72 crore was not realised from the dealers at the time of first registration of the vehicles.

It was noticed that the VAHAN software was not customised to make entries into the field "dealer's tax" mandatory for realisation of the dealer's tax at the time of first registration. This resulted in non-realisation of dealer's tax and penalty of ₹ 6.72 crore as detailed in the following table:

Table 4.4 – Non-realisation of dealer's tax and penalty

(₹ in lakh)

Sl. No.	Name of the RA	No. of newly registered vehicles	No. of defaulter vehicles	Non- realisation of dealer's tax and penalty
1.	Alipur	76,462	20,424	89.13
2.	Alipurduar	10,196	3,480	13.97
3.	Asansol	19,472	8,264	33.76
4.	Bankura	32,656	8,784	35.74
5.	Barasat	37,044	23,060	92.42
6.	Barrackpore	22,714	10,774	43.12
7.	Burdwan	50,908	14,656	62.40
8.	Darjeeling	529	34	1.00
9.	Durgapur	35,754	7,570	30.38
10.	Hooghly	98,839	17,504	70.66
11.	Howrah	29,231	16,254	65.14
12.	PVD, Kolkata	51,796	13,870	57.89
13.	Siliguri	58,444	10,915	43.80
14.	Tamluk	31,725	8,247	33.01
	Total	5,55,770	1,63,836	672.42

RAs, Bankura, Burdwan, Darjeeling, Howrah and Siliguri admitted (between December 2013 and January 2015) the audit observations in 34,453 cases involving ₹ 1.43 crore; but did not furnish any report on realisation.

RA, Howrah stated (December 2013) in 16,190 cases that the vehicles were motor cycles/two wheelers registered during September 2012 to March 2013 and need not pay dealer's tax as per the notification dated 10.08.2012. The

⁷⁷ Substituted by Government notification No. 1181-L dated 10.08.2012 for the words "light motor vehicles".

reply is not tenable as the amendment has been made only in item (c) of Part H which deals with the light motor vehicles only.

In the remaining cases, the RAs did not furnish any specific reply (October 2015).

The cases were reported to the Government between January and April 2014 followed by reminders issued upto October 2014; their reply has not been received (October 2015).

4.6 Non-realisation of special tax from air-conditioned vehicles

Section 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 December 2013 and March 2014, Audit found that out of 4,92,379 air-conditioned vehicles, owners of 21,912 vehicles did not pay the special tax for different periods between 2010-11 and 2012-13. However, the concerned RAs did not monitor such non-payments and did not issue demand notices to the defaulters for realisation of dues. The VAHAN system is not customised to generate the list of such defaulters regularly at periodic intervals so as to facilitate such monitoring, neither were the authorities undertaking any data analysis to detect such cases. This led to non-realisation of special tax and penalty of ₹ 4.77 crore as detailed in the following table:

Table 4.5 - 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.	Alipur	51,153	12,684	315.32
2.	Alipurduar	2,071	73	1.58
3.	Asansol	21,158	283	6.25
4.	Bankura	3,137	81	2.06
5.	Barasat	28,219	148	1.82
6.	Barrackpore	29,893	319	2.93
7.	Burdwan	9,887	231	6.10
8.	Durgapur	14,208	171	5.10
9.	Hooghly	15,665	675	74.89
10.	Howrah	15,577	1,012	14.34
11.	PVD, Kolkata	2,68,371	5,936	34.71
12.	Siliguri	27,577	108	4.29
13.	Tamluk	5,463	191	7.67
	Total	4,92,379	21,912	477.06

RAs, Asansol, Bankura, Barasat, Burdwan, Howrah and Siliguri admitted (between December 2013 and April 2015) the audit observations in 1,863 cases involving ₹ 34.86 lakh; but did not furnish any report on realisation. In the remaining cases, the RAs did not furnish any/specific reply (October 2015).

The cases were reported to the Government between January and April 2014 followed by reminders issued upto May 2015; their reply has not been received (October 2015).

4.7 Non-realisation of audio and video fee

Schedule-F to Rule 218(7) of the WBMV Rules, 1989 provides for realisation of (a) annual audio fee at prescribed rates for installation of radio set, gramophone, tape recorder, cassette recorder or any kind of apparatus producing sound effect or voice; and (b) annual video fee 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 in the motor vehicles.

During analysis of data of 13 RAs between December 2013 and March 2014, Audit found that in case of 49,723 vehicles, audio/video sets were found installed but the audio/video fee could not be realised from the owners of these vehicles as the VAHAN software was not customised to make entries in the field “audio/video fee” mandatory for realisation of the fee at the time of payment of road tax. This resulted in non-realisation of audio and video fee of ₹ 2.02 crore during the period from 2010-11 to 2012-13 as detailed in the following table:

Table 4.6 - Non-realisation of audio and video fee

(₹ in lakh)

Sl. No.	Name of the RA	Audio fee		Video fee		Total	
		No. of defaulter vehicles	Audio fee realisable	No. of defaulter vehicles	Video fee realisable	No. of defaulter vehicles ⁷⁸	Amount of non-realisation
1.	Alipur	4,457	22.89	84	0.86	4,498	23.75
2.	Alipurduar	476	2.10	-	-	476	2.10
3.	Asansol	2,222	6.74	-	-	2,222	6.74
4.	Bankura	131	0.61	-	-	131	0.61
5.	Barasat	5,588	16.84	149	0.79	5,621	17.63
6.	Barrackpore	12,481	37.87	132	0.66	12,491	38.53
7.	Burdwan	1,118	5.00	-	-	1,118	5.00
8.	Durgapur	418	2.16	-	-	418	2.16
9.	Hooghly	5,691	41.24	48	0.62	5,698	41.86
10.	Howrah	7,084	24.31	48	0.51	7,101	24.82
11.	PVD, Kolkata	5,237	16.93	-	-	5,237	16.93
12.	Siliguri	2,744	12.77	-	-	2,744	12.77
13.	Tamluk	1,925	8.55	56	0.84	1,968	9.39
Total		49,572	198.01	517	4.28	49,723	202.29

After Audit pointed out the cases, RAs, Bankura, Barasat, Burdwan, Howrah and Siliguri admitted (between December 2013 and April 2015) the audit observations in 16,715 cases involving ₹ 60.83 lakh. However, the RAs did not furnish any report on realisation. In the remaining cases, the RAs did not furnish any/specific reply (October 2015).

The cases were reported to the Government between January and April 2014 followed by reminders issued upto May 2015; their reply has not been received (October 2015).

4.8 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.

During analysis of data of 14 RAs pertaining to period 2010-11 to 2012-13, Audit found that in case of 78,383 vehicles, the owners produced their

⁷⁸ It includes 366 vehicles having liability to pay both audio fee and video fee: RAs Alipur - 43, Barasat-116, Barrackpore-122, Hooghly-41, Howrah-31 and Tamluk-13.

vehicles belatedly for inspection for renewal of CF. RAs realised 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 higher rate of 150 per cent in case of delayed production of vehicles, which resulted in short realisation of fitness fee of ₹ 1.26 crore as detailed in the following table:

Table 4.7 - 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)	Fee realised (inclusive of application fee)	Short realisation
1.	Alipur	7,525	37.85	28.17	9.68
2.	Alipurduar	1,345	7.59	5.06	2.53
3.	Asansol	5,507	32.81	23.71	9.10
4.	Bankura	2,096	10.90	8.04	2.86
5.	Barasat	9,842	49.88	36.54	13.34
6.	Barrackpore	7,982	49.04	35.36	13.68
7.	Burdwan	8,510	52.60	38.25	14.35
8.	Darjeeling	883	4.52	3.01	1.51
9.	Durgapur	2,936	19.77	14.30	5.47
10.	Hooghly	6,424	46.14	33.58	12.56
11.	Howrah	3,897	20.86	15.21	5.65
12.	PVD, Kolkata	9,035	70.85	59.96	10.89
13.	Siliguri	8,049	49.38	32.92	16.46
14.	Tamluk	4,352	30.02	21.74	8.28
	Total	78,383	482.21	355.85	126.36

RAs, Asansol, Bankura, Barasat, Burdwan, Darjeeling, Durgapur, Howrah and Siliguri admitted (between December 2013 and April 2015) the audit observations in 41,720 cases involving ₹ 68.74 lakh; but did not furnish any report on realisation. In the remaining cases, the RAs did not furnish any reply (October 2015).

The cases were reported to the Government between January and April 2014 followed by reminders issued upto May 2015; their reply has not been received (October 2015).

4.9 Short realisation of one-time and life-time tax

The WBMVT Act, 1979 and the WBAT & OTMV Act, 1989 prescribe the rates of tax and additional tax on vehicles.

The WBAT & OTMV Act, 1989 was amended⁷⁹ in August 2012 and provisions were made for:

⁷⁹ Vide Government notification No. 1182-L dated 10.08.2012.

- (a) realisation of life-time tax or one-time tax at prescribed rates on motor cars and omnibuses (with seats upto 14 and not registered as transport vehicles);
- (b) realisation of life-time tax from owners of such vehicles registered in other States; and
- (c) rebate on life-time tax or one-time tax to non-air-conditioned (non-AC) vehicles having engine capacity upto 800 cc.

During analysis of data of nine RAs between January and March 2014, Audit found that one-time and life-time taxes of ₹ 38.83 lakh in place of ₹ 68.16 lakh were assessed and realised in case of 200 vehicles during the period from September 2012 to March 2013. This was due to realisation of life-time and one-time tax at rates lower than the prescribed rates in 123⁸⁰ cases, realisation of tax on annual basis instead of one-time or life-time tax in 47 cases, irregular rebate to AC vehicles in 26 cases, rebate to non-AC vehicles having engine capacity more than 800 cc in three cases and payment of one-time tax instead of life-time tax by the owners of the vehicles registered outside West Bengal in 10 cases due to improper mapping of the amendment in the WBAT & OTMV Act in the VAHAN software which resulted in short levy and subsequently short realisation of life-time and one-time tax of ₹ 29.33 lakh as detailed in the following table:

Table 4.8 -Short realisation of one-time and life-time tax

(₹ in lakh)

Sl. No.	Name of the RA	No. of case	Amount of tax realisable	Amount of tax realised	Short realisation of tax
1.	Alipur	10	2.66	1.64	1.02
2.	Asansol	14	3.68	2.76	0.92
3.	Bankura	7	2.25	1.87	0.38
4.	Barasat	76	27.28	11.17	16.11
5.	Barrackpore	33	8.92	6.16	2.76
6.	Burdwan	3	3.92	0.80	3.12
7.	Darjeeling	8	2.80	2.34	0.46
8.	PVD, Kolkata	26	9.17	6.90	2.27
9.	Siliguri	23	7.48	5.19	2.29
Total		200	68.16	38.83	29.33

RAs, Bankura, Barasat, Darjeeling and Siliguri admitted (between December 2014 and April 2015) the audit observations in 114 cases involving ₹ 19.24 lakh; but did not furnish any report on realisation. In the remaining cases, the RAs did not furnish any reply (October 2015).

The cases were reported to the Government between February and April 2014 followed by reminders issued upto May 2015; their reply has not been received (October 2015).

⁸⁰ It includes nine cases of those vehicles where irregular rebate to AC vehicles were also allowed.

4.10 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 three RAs, Audit found that 2,01,543 new vehicles were registered during the period from 2010-11 to 2012-13; however, showroom inspection fee of ₹ 14.95 lakh was not realised in 11,580 cases. It was also noticed that the VAHAN software was not customised to make entries in the field "showroom inspection fee" mandatory for realisation of the fee at the time of first registration. This resulted in non-realisation of showroom inspection fee of ₹ 14.95 lakh as detailed in the following table:

Table 4.9 - 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.	Burdwan	50,908	1,180	2.34
2.	Hooghly	98,839	702	1.41
3.	PVD, Kolkata	51,796	9,698	11.20
Total		2,01,543	11,580	14.95

After the cases were pointed out, RA, Burdwan admitted (January 2014) the audit observations involving ₹ 2.34 lakh in 1,180 cases and stated that demand notices would be issued but did not furnish any report on realisation. In the remaining cases, the RAs did not furnish any specific reply (October 2015).

The cases were reported to the Government between January and April 2014 followed by reminders issued upto October 2014; their reply has not been received (October 2015).

4.11 Short levy of additional tax

Schedule-I appended to Section 3 of the WBAT & OTMV Act, 1989 prescribes levy of additional tax on the goods vehicles registered in other states and kept in West Bengal for use, at the rate of 80 per cent of the annual tax payable under the WBMVT Act, 1979.

During analysis of data of four RAs between January and March 2014, Audit found that in 850 cases of goods vehicles of other states, additional tax of ₹ 19.38 lakh were assessed and realised between April 2011 and March 2013. On further analysis, Audit found that the additional tax was assessed by the VAHAN software at rates below the prescribed rate of 80 per cent of tax payable under the WBMVT Act, 1979 due to improper mapping of Section 3 of the WBAT & OTMV Act, 1989 in VAHAN which resulted in short levy and realisation of ₹ 12.75 lakh as detailed in the following table:

Table 4.10 – 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	715	21.38	13.71	7.67
2.	Bankura	30	4.40	1.71	2.69
3.	Burdwan	48	1.74	1.09	0.65
4.	Siliguri	57	4.61	2.87	1.74
Total		850	32.13	19.38	12.75

After Audit pointed out the cases, RAs, Asansol, Bankura and Siliguri admitted (between December 2014 and January 2015) the audit observations in 802 cases involving ₹ 12.10 lakh, but did not furnish any report on realisation. RA, Burdwan did not furnish any specific reply in the remaining cases (October 2015).

However, the major point in audit observation regarding the inadequacy of VAHAN software has not been replied to.

The cases were reported to the Government between February and April 2014 followed by reminders issued upto May 2015; their reply has not been received (October 2015).

4.12 Inaction of Government in taking remedial action on deficiencies in VAHAN

Audit observations of similar nature on deficiencies in VAHAN software were already reported upon previously as detailed in the following table:

Table 4.11 – Deficiencies in VAHAN reported in earlier Audit Reports

Para No.	Nature of observation	Year of Audit Report	Para no. of the Audit Report
4.3	Non-realisation of tax, additional tax, penalty and special fees due to non-maintenance of Tax Demand Register	2009-2010	3.13
		2010-2011	5.9 , 5.10
		2012-2013	4.8 , 4.10
		2013-2014	4.10
4.5	Non-realisation of dealer's tax and penalty	2009-2010	3.8
		2011-2012	4.13
		2012-2013	4.9.7
		2013-2014	4.7
4.6	Non-realisation of special tax from air-conditioned vehicles	2009-2010	3.6
		2011-2012	4.9
		2012-2013	4.8
		2013-2014	4.11
4.7	Non-realisation of audio and video fee	2009-2010	3.7
		2011-2012	4.12
		2012-2013	4.9.5
		2013-2014	4.4 , 4.9
4.8	Short realisation of fitness fee	2009-2010	3.3
		2011-2012	4.10
		2012-2013	4.9.2
		2013-2014	4.5
4.10	Non-realisation of showroom inspection fee	2009-2010	3.9
		2012-2013	4.9.6
		2013-2014	4.6
4.11	Short levy of additional tax	2012-2013	4.9.8
		2013-2014	4.8

Government did not take any remedial action, leading to recurrence of similar irregularities over the years resulting in loss/ non-realisation of revenue to Government.

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 (IS) Act, 1899; Indian Registration (IR) Act, 1908 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 one Joint Inspector General of Registration (JIGR), one Joint Commissioner of Stamp Revenue (JCSR), seven Deputy Inspectors General of Registration (DIGR), 20 District Registrars (DR), 26 District Sub-Registrars (DSR) and 184 Additional District Sub-Registrars (ADSR).

5.2 Internal audit

Internal Audit Wing (IAW) of an organisation is a vital component of its internal control mechanism to enable the organisation to assure itself that the prescribed system is functioning reasonably well.

Audit observed that the Directorate of Registration and Stamp Revenue has no IAW. Deficiencies such as detected in paragraphs 5.4 to 5.7 occurred unchecked in the absence of internal control.

5.3 Results of audit

In 2014-15, test check of the records of 54 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 ₹ 76.68 crore in 244 cases, which fall under the categories given in **Table 5.1**.

Table 5.1

(₹ in crore)

SL No.	Categories	Number of cases	Amount
1.	Misclassifications of documents/property	25	31.05
2.	Non-levy of additional stamp duty	4	11.76
3.	Furnishing of incorrect particulars of amenities /car parking space	19	4.04
4.	Under-valuation of property	19	3.44
5.	Splitting of property during registration	33	0.67
6.	Others	144	25.72
	Total	244	76.68

During the course of the year, the Department accepted non-realisation/blockage of revenue and other deficiencies of ₹ 31.14 crore in 125 cases, of which 117 cases involving ₹ 30.70 crore were pointed out during the year 2014-15 and the rest in earlier years. An amount of ₹ 18.39 lakh was realised in eight cases at the instance of audit.

A few illustrative cases involving ₹ 15.13 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 Indian Stamp (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

Further, as per Articles 5(d), 33, 35 and 63 of the Schedule-IA, same rates are applicable for agreements of sale, gift made to any person other than family member, lease granted for a period exceeding five years and transfer of lease. All assessments are made through a software called CORD (Computerisation of Registration of Documents) used in all Registration Offices (ROs).

From analysis of CORD data of sale deeds/agreements, gift deeds and lease deeds obtained from three⁸¹ ROs, Audit observed (between October 2013 and November 2014) the following which indicate incorrect mapping of business rules in the CORD software:

5.4.1 In 6,316 cases, documents were executed and registered between April 2012 and March 2014 involving market value of ₹ 1,036.19 crore in respect of properties situated in ‘panchayat areas’ of Howrah district. The Directorate of Registration and Stamps assessed stamp duty through CORD at the rate of five per cent or six per cent for these properties. Since 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 Article 23 of Schedule-IA to the IS Act.

5.4.2 In another 1,084 cases, documents were executed and registered between September 2012 and March 2014 involving market value of ₹ 148.21 crore in respect of properties situated in Joka-I and II Gram Panchayats. The Directorate of Registration and Stamps assessed stamp duty through CORD at

⁸¹ ADSR, Behala; DSR, Howrah and Registrar of Assurance, Kolkata.

the rate of five *per cent* or six *per cent* for these properties. Since these two Gram Panchayats were incorporated under the jurisdiction of Kolkata Municipal Corporation (KMC) with effect from 1 September 2012⁸², 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 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 ₹ 11.73 crore.

After Audit pointed out the cases, the Department did not furnish any specific reply (October 2015).

The cases were reported to the Government between January and December 2014 followed by reminders issued up to February 2015; their reply has not been received (October 2015).

5.5 Short levy of stamp duty and registration fees due to misclassification of deeds

5.5.1 Article 33(i) of Schedule-IA to the IS Act, 1899 as applicable in West Bengal provides that any instrument of gift in favour of family members⁸³ 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 the office of the Additional District Sub-Registrar (ADSR), Sealdah, Audit found in May 2014 that in two deeds (registered in August and September 2011), the relation between the donor and the donee did not fall within the ambit of family members. However, the deeds were misclassified as gift deeds in favour of family members and stamp duty of ₹ 1.14 lakh was levied instead of ₹ 13.05 lakh leviable. Due to such misclassification of deeds, there was short levy and consequent short realisation of stamp duty of ₹ 11.91 lakh.

After Audit pointed out the cases, the Department admitted (May 2014) the audit observation but did not furnish any report on further action taken (October 2015).

5.5.2 Under Section 5 of the IS Act, 1899, any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which individual instruments, each comprising or relating to one of such matters, would be chargeable under the Act. Schedule-IA of the Act prescribes the rates of stamp duty for development agreements and lease deeds under Articles 5 and 35 respectively. Section 105 of the Transfer of Property Act, 1882 defines a lease of immovable property as transfer of rights to enjoy such property for a certain time or in perpetuity in

⁸² Government of West Bengal Notification No. 203/MA/O/C-5/CC/IL-1/2011 dated 28 May 2012.

⁸³ 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)

consideration of money to be rendered periodically to the transferor by the transferee.

During scrutiny of deeds in the office of the Registrar of Assurance, Kolkata in October 2013, Audit found that one deed (registered in July 2012) was classified as development agreement and accordingly stamp duty and registration fees of ₹ 0.75 lakh was levied and realised. However, from the recitals of the deed it was observed that in addition to the development of the property, the rights to use the immovable property were also transferred to the developer for a period of 25 years on an annual payment as user fees. Hence, the deed contained two distinct matters – (a) development agreement and (b) lease as the transfer of property falls in the definition of lease as defined in Transfer of Property Act. The stamp duty and registration fees leviable on the lease stood at ₹ 2.38 crore. Thus, due to misclassification of the deed as development agreement only instead of a combination of development agreement and lease resulted in short levy of stamp duty and registration fees of ₹ 2.38 crore.

After audit pointed out the case, the Department admitted (November 2013) the audit observation but did not furnish any report on further action taken (October 2015).

The cases were reported to the Government in August 2014 followed by reminders issued up to February 2015; their reply has not been received (October 2015).

5.6 Irregular allowance of remission on subsequent transfer of flats of Co-operative Housing Societies

The Government of West Bengal vide a notification (2014), remitted stamp duty and registration fees on the amount of difference between the cost of construction of the property of a Co-operative Housing Society and its present market value on execution of deed of conveyance of the property by the Society in favour of its members. However, the benefit of remission is not applicable in case of second or subsequent transfer of such property.

During scrutiny of deeds in the office of the District Sub-Registrar (DSR)-III, Alipore, Audit found (July 2014) that in 13 cases remission of stamp duty and registration fees was allowed on transfer of flats in March 2014 of five Co-operative Housing Societies. However, a cross-checking of the names of purchasers of these flats with the Co-operation Directorate (under which Co-operative Housing Societies are registered) revealed that these purchasers were not the initial members of the societies but the subsequent transferees of the property. Hence, the benefit of remission was not applicable to these purchasers and stamp duty and registration fees of ₹ 63.17 lakh was chargeable instead of ₹ 11.20 lakh. This resulted in irregular allowance of remission of ₹ 51.97 lakh.

After Audit pointed out the cases, the Department did not furnish any reply (October 2015).

The cases were reported to the Government in August 2014 followed by reminders issued up to February 2015; their reply has not been received (October 2015).

5.7 Short realisation of interest on delayed payment of stamp duty

Under Rules 3 and 5 of the West Bengal Stamp (Prevention of Undervaluation of Instruments) Rules, 2001, a registering authority can refer a case to the Collector/Deputy Inspector General of Registration (DIGR) for determination of the market value of property. The Collector/DIGR shall determine the market value of the property and send notice to the executant for payment of deficit stamp duty within the specified date. Further, the executant shall be liable to pay interest at the rate of two *per cent* for each month of default from the month following the month in which payment of deficit stamp duty was to be made upto the month preceding the month of full payment of such duty.

During scrutiny of deeds in District Sub-Registrar (DSR)-III, Alipore, Audit found in July 2014 that in two cases of deeds of conveyance, DSR-III determined the market value of the properties as ₹ 9.61 crore and deficit stamp duty as ₹ 52.29 lakh⁸⁴. As the executants disputed the market value determined by DSR-III, the matters were referred (under Rule 3) to the DIGR, Range-I in October 2009. DIGR determined (November 2009) the market value of the properties at ₹ 9.15 crore and issued notices to the executants directing them to make payment of the deficit stamp duty of ₹ 49.07 lakh by December 2009. The executants did not pay the demanded deficit stamp duty by due date. After 42 months (July 2013), instead of making payment of ₹ 90.29 lakh (demanded stamp duty of ₹ 49.07 lakh and accrued interest thereon of ₹ 41.22 lakh), the executants made payment of ₹ 52.29 lakh as per the earlier demand and the registering authority registered the deeds without levying interest, resulting in short realisation of interest of ₹ 38 lakh.

After Audit pointed out the cases, the Department did not furnish any specific reply (October 2015).

The cases were reported to the Government in August 2014 followed by reminder issued up to February 2015; their reply has not been received (October 2015).

⁸⁴ After deducting the cost of the stamps already paid by executants.

CHAPTER-VI

CHAPTER VI

MINES AND MINERALS

6.1 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.

Commerce and Industries (C&I) Department, Finance Department, Land and Land Reforms (L&LR) Department, Irrigation and Waterways (I&W) 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 (s) and district level officers.

6.2 Internal audit

There was no separate Internal Audit Wing (IAW) for the units related to mining receipts. As the mining activities are mainly 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 established 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 Paragraph No. 3.2 of this report.

6.3 Results of audit

In 2014-15, test check of the records of 15 units relating to mining receipts showed underassessment of tax and other irregularities amounting to ₹ 26.50 crore in 171 cases, which fall under the categories given in **Table 6.1**.

Table 6.1

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non/short assessment/realisation of price of minor/major minerals extracted unauthorisedly	73	15.34
2.	Non/short assessment/levy/realisation of royalty and cess	58	5.80
3.	Penalty for underperformance	11	3.83
4.	Short realisation of royalty due to collection made on pre-revised rate instead of revised rate	9	1.50
5.	Other cases	20	0.03
	Total	171	26.50

During the course of the year, the Department accepted underassessment and other deficiencies in 147 cases of ₹ 24.51 crore, of which 135 cases involving ₹ 22.72 crore were pointed out during the year 2014-15 and the rest in earlier years. An amount of ₹ 22.03 lakh was realised in 12 cases during the year.

A Performance Audit on “**Assessment and Collection of revenue from Minor Minerals**” having money value of ₹ 231.81 crore is discussed in the following paragraphs.

6.4 Performance Audit on “Assessment and Collection of revenue from Minor Minerals”

Highlights

- Absence of provisions in the Rules on inspection and checking of minor minerals at the place of excavation resulted in non-realisation of price of minerals worth ₹ 64.59 crore.
(Paragraph 6.4.9)
- Failure to prescribe a system of intra/inter departmental cross-verification of data resulted in non-detection of extraction of minerals and consequent non-realisation of revenue of ₹ 54.63 crore.
(Paragraph 6.4.10)
- Due to absence of related provision in the Rules, Department could not levy interest of ₹ 37.74 crore for delayed payment of mining dues.
(Paragraph 6.4.11)
- Failure to initiate proceedings by the Department even after a lapse of one to 14 years of assessments resulted in non-realisation of revenue of ₹ 7.31 crore.
(Paragraph 6.4.12)

6.4.1 Introduction

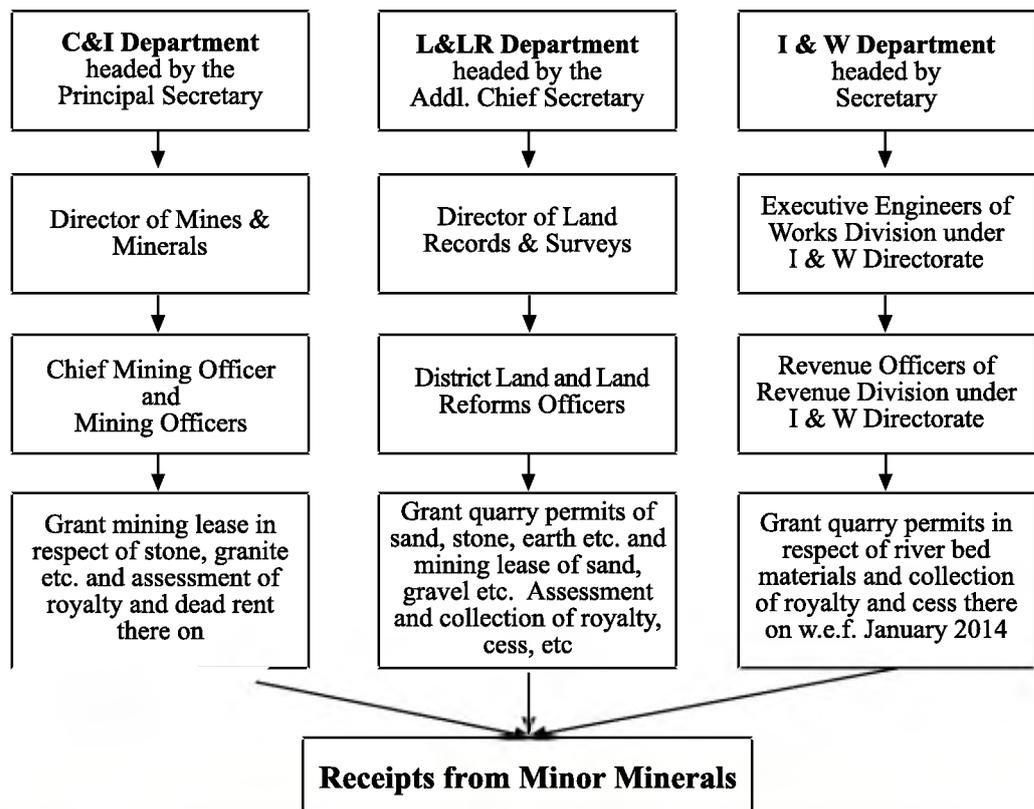
Minerals are broadly divided into two categories viz. major minerals such as coal, iron ore, china clay, fire clay, etc. and minor minerals such as stone, gravel, ordinary earth, ordinary sand, etc. Receipts from minor minerals in the State comprise royalty, dead rent, surface rent, price of minerals extracted unauthorisedly and application fee for lease/permit etc. In addition, four kinds of cess i.e. Rural Employment (RE) Cess, Road Cess, Public Works (PW) Cess and Primary Education (PE) Cess are recovered from the holders of mining leases and quarry permits. Receipts from minor minerals during the period from 2009-10 to 2013-14 amounted to ₹ 781.49 crore.

6.4.2 Organisational set up

In West Bengal, mainly two departments, Land and Land Reforms Department and Commerce and Industries Department, are entrusted with the assessment and collection of revenues from minor minerals. Land and Land Reforms (L&LR) Department grants quarry permits for sand, stone, earth etc. and mining lease of sand, gravel etc. It is also entrusted with the assessment and collection of royalty, cess, etc. Commerce and Industries (C&I) Department

grants mining lease in respect of stone, granite, etc. and assesses royalty and dead rent thereon. From January 2014, Irrigation and Waterways (I&W) Department has been entrusted with the grant of quarry permits for river-bed materials and collection of royalty and cess thereon.

All the three departments are under the administrative control of Additional Chief Secretary/Principal Secretary/Secretary and are assisted by Directors and district level officers as shown in the following organogram:



6.4.3 Audit objectives

This Performance Audit was conducted to seek an assurance on:

- adequacy of Acts/Rules and departmental instructions to safeguard the revenue of the State;
- working of existing provisions on assessment and collection procedures, being followed by the Department; and
- efficiency and effectiveness of internal control mechanisms.

6.4.4 Scope and methodology of audit

Audit selected six⁸⁵ out of 19⁸⁶ District Land and Land Reforms Offices (DL&LRO) and two respective Mining Offices by adopting stratified sampling method by application of IDEA software. In the Entry Conference, the Addl. Chief Secretary, L&LR Department suggested to include two more

⁸⁵ Birbhum, Burdwan, Darjeeling, North 24 Parganas, Paschim Medinipur and Purba Medinipur.

⁸⁶ Selected out of 18 Districts as Alipurduar district was created with effect from 25 June 2014.

DL&LROs namely Hooghly and Jalpaiguri. In addition to verification of records, audit cross-verified the information / data from different departments and other sources. The Performance Audit was conducted during March 2015 to August 2015 covering the period from 2009-10 to 2013-14.

6.4.5 Audit criteria

The receipts from minor minerals are governed by the following Acts and Rules.

- Mines and Minerals (Development and Regulation) Act, 1957
- The West Bengal Minor Minerals Rules, 2002
- The West Bengal Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2002
- The Cess Act, 1880
- The West Bengal Primary Education Act, 1973
- The West Bengal Rural Employment and Production Act, 1976

The recovery of outstanding mining dues is governed by the Bengal Public Demands Recovery (BPDR) Act, 1913.

6.4.6 Acknowledgement

Audit acknowledges the co-operation of the L&LR Department and C&I Department in providing necessary records and information for the Performance Audit. Prior to the audit, an Entry Conference between the Accountant General and Addl. Chief Secretary/Secretaries of the concerned Departments was held on 24 April 2015 where the objectives, scope, criteria and methodology of the Performance Audit were discussed. Findings of the Performance Audit were forwarded to the Departments in August 2015. The Exit Conference with L&LR Department was held on 15 October 2015 and views of the Departments have been suitably incorporated in the relevant paragraphs.

6.4.7 Trend of Revenue

Year-wise collection of revenue from minor minerals for the last five years as per information furnished by the Director, Land Records and Surveys, West Bengal is shown in **Table 6.2**.

Table 6.2 - Trend of revenue

(₹ in crore)

Year	Revenue from minor minerals
2009-10	87.80
2010-11	87.72
2011-12	179.34
2012-13	217.47
2013-14	209.16

As seen from the table, revenue from minor minerals continuously increased during the period from 2009-10 to 2013-14 except during the years 2010-11 and 2013-14, the reasons for which were not furnished by the departments.

Audit findings

Adequacy of Acts / Rules and Departmental instructions to safeguard the revenue of the State

During Performance Audit, a number of inadequacies in the Acts and Rules were observed which resulted in non/short realisation of Government revenue as discussed in the following paragraphs:

6.4.8 Multiplicity of departments for assessment and collection

Three departments are involved in assessment and collection of minor minerals. Royalty and dead rent in respect of stone, granite etc. of mining lease are assessed by the Chief Mining Officer (CMO) and Mining Officers (MO) under C&I Department, whereas, these are collected by the DL&LROs under L&LR Department. Royalty and cess in respect of mining lease of sand is assessed and collected by DL& LROs under L&LR Department, whereas, royalty and cess in respect of quarry permit holder of sand is assessed and collected by the I&W Department. All these receipts are deposited under the head 0029 (a tax revenue head under Land Revenue).

The involvement of three different departments of the State Government led to lack of coordination, delay and resultant evasion of Government revenue as discussed below:

6.4.8.1 Different royalty rate being applied by the I&W Department and the L&LR Department

In terms of the Notification⁸⁷ issued by C&I Department, the Executive Engineer of a Division under I&W Department is entrusted with grant of quarry permit in accordance with MM Rules, 2002 to extract or remove river- bed materials from any specified land on pre-payment of royalty at the rates as may be fixed from time to time. Accordingly, I&W Department formulated and notified in August 2014, the guidelines and procedures to be followed for issuance of quarry permits for extraction of river bed materials. But in the said notification the I&W Department quoted the rate of royalty on sand as ₹ 63 per 100 cft whereas, the rate of royalty on sand under Rule 20(1)(a) of the MM Rules, 2002 (read with Notification No. 809/CI/O/MM/84/11 dated 1.12.2011 of C&I Department) was fixed at ₹ 100 per 100 cft effective from 5.12.2011 as collected by L&LR Department.

Thus, I&W Department was collecting royalty on sand at lower rate than that was collected by L&LR Department, in violation of the said Rules. Consequently, the short term quarry permit holders under I&W Department were availing undue benefit of lower royalty than the long term mining lessee under L&LR Department, though the sand was extracted from the same river bed.

⁸⁷ No. 37/CI/O/MM/MNM/MIS/03/2013 dated 21.1.2014.

After this was pointed out (July 2015), C&I Department accepted that I&W Department was realising royalty as per old rate whereas the L&LR Department was realising it as per new rates as fixed in December 2011. The Department assured that it would shortly notify the West Bengal Minor Minerals Concession Rules, 2015 with new rates of royalty for minor minerals. Although the C&I Department conceded the audit observation, they did not intimate any remedial action in this regard.

6.4.9 Absence of a system of inspection at the place of excavation

Under Section 23C of the MMDR Act, 1957 read with Rule 34 of MM Rules 2002, the State Government was directed to frame rules for prevention of illegal mining, transportation and storage of minerals by incorporating provisions for inspection, checking and search of minerals at the place of excavation. Accordingly the state government framed the MPIMTS Rules, 2002, but there was no provision for inspection of minerals at the place of excavation. As per Section 21(5) of the MMDR Act, in case of unauthorised extraction of minerals, apart from other penal actions, the authority is empowered to recover either the minerals extracted or the price thereof.

Scrutiny of the long term lease files maintained by the DL&LRO, Birbhum revealed that a lessee⁸⁸ had acquired the mining lease of black stone on an area of 131.80 acres of land which expired in the year 1972 and thereafter the company did not apply for renewal/fresh lease. The company however, extracted black stone from that area till 2012 without obtaining any long term lease from the appropriate authority and dispatched them by Railways. In the absence of any provision in the MPIMTS Rules, 2002 for inspection and checking of minor minerals at the place of excavation, the L&LR Department could not detect the unauthorised extraction till March 2012. In March 2012 when it came to the notice of the department, it conducted a pit measurement and found extraction of 478.91 lakh cft of black stone between January 2009 and March 2012. The department instead of collecting the value⁸⁹ of the unauthorisedly extracted minerals i.e. ₹ 70.53 crore, assessed royalty and cess amounting to ₹ 5.94 crore resulting in short collection of revenue amounting to ₹ 64.59 crore. In the absence of any provision for inspection at the place of excavation, unauthorised extraction of minerals remained undetected.

After this was pointed out (June 2015), the ADM and DL&LRO, Birbhum admitted (June 2015) the audit observation and stated that action would be taken accordingly.

The Land Reforms Commissioner (LRC) in the Exit Conference (October 2015) stated that demand notice had been issued by the ADM and DL&LRO, Birbhum for short realisation and this Department had requested C&I Department to make a specific provision in MPIMTS Rules regarding inspection and checking of minerals at the place of excavation.

⁸⁸ M/s Rajgaon Stone Company Pvt. Ltd.

⁸⁹ Value as per schedule of rates of circles under Public Works Department has been considered as the price of the minerals.

6.4.10 Absence of a system of cross verification of data with Central and State Government departments

As per Section 21(5) of the MMDR Act, 1957 and Rule 33(5) of the MM Rules, 2002, no person is entitled to undertake mining operation without a proper lease or valid permit. In the event of violation, apart from other penal actions, the authority is empowered to recover either the minerals raised unlawfully or the price thereof.

As per General Conditions of Public Works Division (West Bengal), Schedule of Rates, Volume-III, Road and Bridge Works, all rates quoted by the working contractors/agencies will be inclusive of royalty, cess etc. as may have to be incurred by the contractor/agency for getting the respective items of works. L&LR Department had issued orders⁹⁰ to different executing agencies to obtain royalty and cess clearance/payment certificate from the contractors for minerals used. In absence of that, royalty and cess were to be deducted at source by the executing agencies before clearing final bill.

Cross verification, conducted by audit, of data of different organisations with the quarry permit registers of concerned DL&LROs, revealed a number of discrepancies as discussed below:

6.4.10.1 In Darjeeling and Jalpaiguri districts, one company (M/s Italian Thai Development Public Co. Ltd.) was entrusted by National Highway Authority of India (NHAI) with the work of widening and strengthening of existing National Highway from 2-lane to 4-lane⁹¹. The material consumption statements received from NHAI revealed that the contractor had extracted 6,513.27 lakh cft earth and 29.60 lakh cft river bed material between 2009-10 and 2013-14 in excess of the permitted quantity. Thus, extraction of the minerals in excess of the permitted quantity was unauthorised for which price of minerals of ₹ 49.21 crore, should have been realised.

After this was pointed out (May 2015), ADM and DL&LRO, Darjeeling and Jalpaiguri admitted (May 2015) the audit observation. LRC in the Exit Conference (October 2015) stated that L&LR Department had issued instructions advising all concerned to develop a system of cross verification with other Central Organisations.

6.4.10.2 In Darjeeling and Uttar Dinajpur districts, a company (M/s IRCON International Ltd.) was entrusted by NHAI with the work of widening and strengthening of existing National Highway⁹². The company had used 13.56 lakh cft river bed materials between 2009-10 and 2013-14 as revealed from the material consumption statements received through the NHAI. The company did not take any quarry permit from the district authorities, resulting in non-realisation of price of minerals of ₹ 61.44 lakh.

⁹⁰ L&LR Deptt. Order No.-4234(4)-M&M dated 12.08.2005, L&LR Deptt. Order No.6107/LR/All/M&M dated 03.08.2010, DM, North 24 Parganas Order No.C/47(16)/L&LR(N) dated 06.01.2012 and DL&LRO, Darjeeling Order No. 12 dated 27.06.12.

⁹¹ Salsalabari to Assam Bengal Border section of NH-31 C in West Bengal of East-West Corridor under NHDP Phase-II.

⁹² From 2-lane to 4-lane of Siliguri to Islampur section of NH-31 and Islampur bypass of 10.31 km length in West Bengal.

After this was pointed out (May 2015), ADM and DL&LRO, Darjeeling and Uttar Dinajpur admitted (May 2015) the audit observation. LRC in the Exit Conference (October 2015) stated that L&LR Department had issued instructions advising all concerned to develop a system of cross verification with other Central Organisations.

6.4.10.3 Cross verification of data of 33 contractors with quarry permit register of the concerned DL&LROs who worked under Zilla Parishads of North 24 Parganas, Burdwan and Purba Medinipur revealed that the contractors used 121.27 lakh cft of earth for construction of road in the respective districts without taking any quarry permit from the district authorities. However, the executing agencies did not deduct royalty and cess at source before clearing final bill. Thus the contractors were liable to pay price of earth of ₹ 89.61 lakh.

On being pointed out (between December 2014 and April 2015), ADM and DL&LRO, Burdwan stated (January 2015) that appropriate authority would be intimated about the irregularity. ADM and DL&LROs, North 24 Parganas and Purba Medinipur did not furnish any/specific reply.

LRC in the Exit Conference (October 2015) stated that the contractors should deposit the amount in the LR head and submit the copy of challan to the concerned DL&LRO for cross verification.

6.4.10.4 Cross verification of data obtained from the Executive Engineer, Teesta Barrage Division, Siliguri revealed that 13 contractors were awarded maintenance and repair works under Teesta Barrage Project and used 3.56 lakh cft earth and 1.74 lakh cft river bed material during the execution of the said work without taking any quarry permit from the district authorities. However, the Executive Engineer, Teesta Barrage Division, Siliguri did not deduct royalty and cess at source from the contractor's final bill. Thus the contractors were liable to pay price of earth of ₹ 10.66 lakh.

On being pointed out (May 2015), ADM and DL&LRO, Darjeeling admitted (May 2015) the observation and stated that necessary action was being taken to guard against the evasion of revenue.

LRC in the Exit Conference (October 2015) stated that demand notice has been issued by the DL&LRO, Darjeeling.

6.4.10.5 Gorkhaland Territorial Administration (GTA) consisting of 13 working divisions executed different development works under various schemes of Central and State Government. Audit found from the register and records of SDL&LROs, Kalimpong and Darjeeling Sadar that five out of 13 divisions had deducted royalty and cess from the contractors bill and deposited in the LR head by issuing of cheques during the period from 2009-10 to 2013-14. However, there was no record available with regard to payment of royalty and cess in respect of remaining eight divisions.

Test check of final bills of eight contractors in one division (Special Department Engineering Division) revealed that in five cases royalty and cess of minor minerals amounting to ₹ 18.07 lakh were deducted from the contractors' final bill by the executing division but same was not deposited in the LR head. In one case, the contractor used 80.33 lakh cft river bed material

in 2011-12 in excess of the permitted quantity for which price of minerals of ₹ 3.64 crore was realisable, but which was not realised.

On being pointed out (May 2015), the ADM and DL&LRO, Darjeeling admitted (May 2015) the facts and stated that necessary action would be taken accordingly.

LRC in the Exit Conference (October 2015) stated that demand notice had been issued by the DL&LRO, Darjeeling.

6.4.10.6 Cross verification of data of six contractors with quarry permit register of DL&LRO, Darjeeling, who worked under Siliguri Jalpaiguri Development Authority (SJDA) revealed that the contractors used 23.89 lakh cft of earth for construction of road, land development etc. without taking any quarry permit from the district authority. However, SJDA did not deduct royalty and cess at source before clearing the final bill. Thus the contractors were liable to pay price of earth of ₹ 16.33 lakh.

On being pointed out (May 2015), ADM and DL&LRO, Darjeeling admitted (May 2015) the audit observation and stated that necessary action was being taken to guard against the evasion of revenue.

LRC in the Exit Conference (October 2015) stated that demand notice had been issued by the DL&LRO, Darjeeling.

Thus, audit observed that there was no system of cross verification of data with the information of minor minerals used by the contractors/agencies to other Central and State Government departments to guard against the evasion of royalty and cess.

LRC in the Exit Conference (October 2015) stated that L&LR Department issued instructions in September 2015 to all the DL&LROs to make arrangements for cross verification of data relating to royalty/cess with other executing agencies of the Central and State Government on a regular basis.

6.4.11 Rate of interest not prescribed by the State Government

Clause 4 of Part VI under Rule 24(1) of the MM Rules, 2002 provides that the lessee shall be liable to pay interest at the rate prescribed by the Government on any amount remaining payable. However, unlike the rate of interest prescribed under Rule 64(A) of Government of India's Mineral Concession (MC) Rules, 1960, the State Government has not prescribed any rate of interest for delayed payment of mining dues of minor minerals till date.

Audit observed from the records of DL&LRO, North 24 Parganas that Housing Infrastructure Development Corporation Ltd. (HIDCO) had developed New Township Project area with the extraction of 4,296.47 lakh cft of earth through 14 developing agencies during the period from 1998-99 to 2004-2005. Accordingly, the BL&LRO, Rajarhat issued demand notice of ₹ 27.71 crore towards price of the extracted earth for payment by 31 March 2007. HIDCO made payment of the dues of ₹ 13.85 crore in February 2012 and ₹ 13.86 crore in December 2012 after delays of 59 and 70 months respectively.

Audit also observed from the records of DL&LRO, Birbhum that the outstanding dues of M/s West Bengal Mineral Development and Trading

Corporation Ltd. (WBMDTC) for Panchami Project area as on 30 September 2000 were ₹ 90.91 lakh. WBMDTC made delayed payment of the dues of ₹ 90.91 lakh in February 2012 after delay of 135 months.

The concerned BL & LROs and DL&LROs, however, could not levy interest of ₹ 37.74 crore⁹³ for delayed payment of mining dues.

After this was pointed out (April and June 2015), the ADM and DL&LRO, North 24 Parganas stated (April 2015) that the matter of delayed payment in respect of HIDCO would be looked into while the ADM and DL&LRO, Birbhum (June 2015) stated that the matter would be referred to the higher authority for instructions.

LRC in the Exit Conference (October 2015) stated that “the matter relating to prescribing rate of interest on arrear revenue will be explored by the department in respect of such cases in future”. The C&I Department stated that in terms of Rule 2(2) of MM Rules, there was no bar to impose interest at the rate as prescribed in MC Rules. Although L&LR Department accepted the audit observation while C&I Department stated that there was no need for prescribing the rate of interest separately as the same already exists in the MC Rules. However, the contention of audit is that no interest was being levied in these cases.

6.4.12 Absence of a time limit for initiation of certificate proceedings

Assessment and collection of royalty, cess, price of earth, etc. are governed under the MMDR Act, 1957, and Rules made there under. Further, Section 25 of the MMDR Act provides that the assessed dues remaining unpaid are recoverable as arrears of land revenue under the BPDR Act, 1913. The process prescribed in the Act to recover the assessed dues remaining unpaid is called certificate proceedings.

Audit found from the statement of dues of the DL&LRO, Birbhum that the mining dues of black stone from 88 quarry permit holders relating to the period between December 2006 and July 2014 under Nalhati-I and Rampurhat-I blocks were ₹ 5.57 crore. Only an amount of ₹ 2.33 lakh was realised from five out of 88 quarry permit holders of black stone between August 2014 and May 2015. Further, mining dues of sand for the period between 2004-05 and 2012-13 in respect of seven lessees were ₹ 19.25 lakh.

Audit also found from the records of four⁹⁴ DL&LROs that outstanding dues relating to the period between 2000-01 and 2013-14 in respect of 115 brick fields were ₹ 1.57 crore.

By taking cognizance of the audit observations that appeared in the Audit Reports (Revenue Receipts) for the years 2005-06 and 2007-08, the L&LR Department (PAC Branch) had directed⁹⁵ in February 2011, all DL&LROs to take initiatives to keep track of the progress of certificate proceedings. However, audit observed that DL&LROs did not take any step to realise

⁹³ Calculated by applying the rate of interest prescribed in MC Rules, 1960.
⁹⁴ Burdwan, Hooghly, Jalpaiguri and Purba Medinipur.
⁹⁵ Memo no. 833 dated 04.02.11.

outstanding dues by initiating certificate proceedings under BPDR Act, 1913 even after lapses of between one and 14 years. This resulted in non-realisation of revenue of ₹ 7.31 crore.

Audit observed that the Government had neither prescribed any time limit for initiating the certificate proceedings nor had it instituted a periodic review and monitoring mechanism to ensure prompt realisation of assessed dues.

After this was pointed out (between March and August 2015), DL & LRO, Birbhum stated (June 2015) that action would be taken accordingly and ADM and DL&LRO, Burdwan stated (August 2015) that the concerned BL&LROs would be instructed soon to initiate certificate cases against the defaulters. Remaining ADM and DL&LROs did not furnish any/ specific reply. LRC in the Exit Conference assured that the instructions issued in February 2011 will be followed *mutatis mutandis*. However, no comments were made on the issue of fixing any timeline for initiating the certificate action.

6.4.13 Payment of royalty on brick earth at lower rate

Section 15(3) of the MMDR Act, 1957 read with Rule 20 of the MM Rules, 2002 provides that the holder of a mining lease/quarry permit shall pay royalty at the prescribed rate in respect of any mineral or minerals extracted or removed or consumed by him or his agent, manager, employee or contractor. Further, the State Government shall not enhance the rate of royalty more than once during any period of three years.

Audit observed that the C&I Department enhanced rate of royalty on brick earth on three occasions between June 1987 and December 2011. These were challenged by Bengal Brick-Field Owners' Association & Ors. and Birbhum Brick-Field Owners' Association & Ors. before the Hon'ble High Court, Calcutta. Operation of the notifications revising the royalty rates was stayed⁹⁶ and the Government was directed to fix royalty area wise and region wise. Under the Hon'ble High Court orders, the brick fields continued payment at the old rate.

The C&I Department did not comply with the court judgement regarding fixing royalty area wise and region wise nor framed a new Rule under Section 15(1) of MMDR Act, 1957. Thus, a large number of brick field owners in West Bengal were paying royalty at the rate of ₹ 15 (rate applicable prior to June 1987) instead of royalty at the rate of ₹ 51 (rate from December 2011) per 100 cft brick earth for last 25 years. Inaction on the part of the department has been causing recurrent loss of revenue to the State exchequer.

After this was pointed out (January 2015), the C&I Department stated that the Department had constituted a committee to fix the rate of royalty for minor minerals including brick earth and that the committee had submitted a final report which was under consideration.

⁹⁶ Judgement and order dated 02.09.1998 in C.O. No. 6895(W) of 1990 Birbhum Brick Field Owners' Association & Others-Vs-State of West Bengal and Others. Judgement and order dated 16.01.03 in W.P. No. 992(W) of 2003 Bengal Brick Field Owners' Association & Ors-Vs-State of West Bengal & Others.

6.4.14 Absence of environmental protection measures

(i) For optimal utilisation of mineral resources and sustainable development of the mineral sector, National Mineral Policy, 2008, was framed by the Central Government. The Model State Mineral Policy, 2010 was circulated to all State Governments, requiring them to develop suitable mineral policy within the ambit of the National Mineral Policy, keeping in view their local requirements. The States were to frame a policy for the proper exploitation of minor minerals, addressing environmental concerns which were to address the following:

- (1) The licence or permits for minor minerals are to be given wherever possible to local bodies such as co-operatives or panchayats.
- (2) Mining is done in such a way that does not cause environmental disturbance including water and air pollution or disturbance to natural ecological regimes.

The State Government had not yet formulated State Mineral Policy to ensure scientific, systematic and sustainable development of mineral resources and to address all environmental and ecological issues though other states like Rajasthan, Karnataka, Meghalaya, Madhya Pradesh, Goa etc. already formulated State Mineral Policy.

LRC in the Exit Conference (October 2015) stated that the State Government was working on the formulation of State Mineral Policy and that once it is finalised, instructions would be issued for implementation.

(ii) Rule 27 of the MM Rules, 2002 read with Government of India, Ministry of Environment, Forests & Climate Change (MoEFCC) notifications⁹⁷ provides that brick fields situated within a radius of 100 kms of a thermal power plant should mix 30 *per cent* fly ash with brick earth as an environmental protection measure. From the field enquiry reports of the brick fields and the information provided by five DL&LROs⁹⁸, audit observed that out of the 1,791 brick fields test checked, 1,777 brick fields were not using fly ash although located within the radius of 100 kms of thermal power plants.

(iii) In addition, as per L&LR department orders of September 2000, brick field owners must produce a 'Consent to Operate' certificate from the West Bengal Pollution Control Board. Under Air (Prevention and Control of Pollution) Act, 1981 as amended from time to time, for the purpose of dealing with matters relating to grant/refusal of the above certificate to brick fields, authorities have been delegated to the DL&LROs, who are also ex-officio Environmental Officers of the West Bengal Pollution Control Board. Audit observed that out of the test checked 1,791 brick fields only 266 brick fields submitted 'Consent to Operate' and remaining 1,525 brick fields were operating without pollution control clearance. The concerned DL&LROs did not monitor the non-compliance nor took any action against the defaulting brick fields.

⁹⁷ No. S.O.763 (E) dated 14.9.99, subsequently amended vide notification No. S.O.979 (E) dated 27.8.2003 and letter No. S.O.2804 (E) dated 3.11.2009.

⁹⁸ Burdwan, Hooghly, North 24 Parganas, Paschim Medinipur and Purba Medinipur.

Whether existing provisions on assessment and collection procedures being followed by the Department

During Performance Audit a number of deficiencies in the compliance of existing provisions of the Acts and Rules were observed which resulted in non/short realisation of Government revenue as discussed in the following paragraphs:

6.4.15 Non-monitoring of revenue collected by other departments on behalf of L&LR Department

In terms of Notification⁹⁹ by C&I Department, effective from 5 December 2011, the rate of royalty for extraction of earth was revised from ₹ 34 to ₹ 51 per 100 cft.

Cross verification of data relating to contractors who had worked under two Divisions¹⁰⁰ of West Bengal State Rural Development Agency (WBSRDA), in connection with Pradhan Mantri Gram Sadak Yojana Work (Phase-VII) revealed that WBSRDA included royalty and cess in the estimates prepared for each package. The executive agencies deducted royalty and cess towards extraction of earth etc. from bills of the contractors. These were deposited in the relevant head of accounts through the respective DL&LROs. Further scrutiny revealed that during the period upto 2013-14, the Executive Engineers of both divisions deducted royalty from bills of 102 contractors/agencies at the pre-revised rate. As the WBSRDA was sending cheques along with details of extraction to the DL&LROs for them to deposit in LR head, DL&LROs neither checked nor informed the WBSRDA about short deduction of royalty at pre-revised rate. As a result there was short levy and short realisation of royalty and cess to the tune of ₹ 53.08 lakh.

After this was pointed out (January and April 2015), ADM and DL&LRO, Burdwan stated (January 2015) that appropriate authority would be intimated about the irregularity shortly while ADM and DL&LRO, Purba Medinipur, did not furnish any reply.

LRC in the Exit Conference (October 2015) stated that the Department had requested WBSRDA to report the realisation of royalty and cess towards extraction of minor minerals and requested the C&I Department to regularly intimate other concerned departments regarding enhancement of rates of royalty to prevent short levy of royalty/cess. However, the L&LR Department cannot be absolved of responsibility to check correctness of rates applied.

6.4.16 Non/short realisation of royalty and cess on minor minerals

According to Rule 20(1)(a) of MM Rules, 2002, every lessee/person is required to pay royalty in respect of mineral removed/consumed by him or his agent/contractor at the specified rates. In addition, cess is payable at the rate of ₹ 24 and ₹ 15 per 100 cft for removal of black stone and other minor minerals respectively.

⁹⁹ No. 809/CI/O/MM/84/11 dated 01.12.2011.
¹⁰⁰ Burdwan-2 Division and Purba Medinipur Division.

6.4.16.1 It was observed that West Bengal Industrial Development Corporation (WBIDC) submitted a prayer to the DL&LRO, Paschim Medinipur in February 2014 for conversion of 73.33 acres¹⁰¹ out of 154.43 acres of land at Godapiasal Industrial Park at Salboni. This entire area of 154.43 acres of land was allotted to OCL Bengal Cement Works India Ltd (Company) by WBIDC. While processing the case, the DL&LRO demanded ₹ 1.56 crore to WBIDC as royalty and cess towards minor minerals used for filling the uneven land.

Audit scrutiny revealed that the Company intimated to WBIDC in April 2014 that filling of land was done by using lesser quantity of minor minerals compared to the demand raised by the DL&LRO. On the basis of this information, a field enquiry was conducted by L&LR Department in June 2014. This revealed that although WBIDC had requested for conversion for 73.33 acres, the entire area of 154.43 acres had been filled and 5.55 crore cft of minor minerals were used without taking permission from competent authority.

Accordingly revised demand of ₹ 4.64 crore was issued to WBIDC in June 2014 but the same had not been realised even after lapse of 13 months from the date of demand and 12 months from the date of issue of conversion certificate. This resulted in non-realisation of royalty and cess of ₹ 4.64 crore.

After this was pointed out (July 2015), ADM and DL&LRO, Paschim Medinipur stated (July 2015) that the matter had already been referred to the L&LR Department.

LRC in the Exit Conference (October 2015) stated that though the demand notice was issued to WBIDC, no response had been received till date.

6.4.16.2 Under MM Rules 2002, extraction of minor minerals is permissible on the strength of a quarry permit on realisation of royalty and other charges, in advance, at rates prescribed by the Government from time to time. The rate of royalty on earth, sand and stone/boulder etc. was revised from ₹ 63 per 100 cft to ₹ 100 per 100 cft with effect from 5 December 2011.

Audit found from the records of three¹⁰² DL&LROs that 27 quarry permits were granted for extraction of 38.85 lakh cft minor minerals between 5 December 2011 and 31 March 2013. The DL&LROs, however, realised royalty and cess of ₹ 30.23 lakh at the pre-revised rate instead of ₹ 44.29 lakh realisable. This resulted in short realisation of royalty of ₹ 14.06 lakh.

After it was pointed out (September 2013 and February 2014), ADM and DL&LROs, Malda and Murshidabad admitted (September 2013 and February 2014) the audit observations in 16 cases. In the remaining cases, the ADM and DL&LRO, Purba Medinipur did not furnish any specific reply.

6.4.16.3 Audit found from the records of BL&LRO, Rampurhat-I under the DL&LRO, Birbhum that in 94 cases, the quarry permit holders of stone paid cess at the rate of ₹ 21.25 instead of ₹ 24.00 per 100 cft. This resulted in short realisation of cess of ₹ 13.22 lakh.

¹⁰¹ Change of classification from one category to another category in the land revenue records.

¹⁰² Malda, Murshidabad and Purba Medinipur.

After this was pointed out (January 2015) the ADM and DL&LRO, Birbhum did not furnish any specific reply.

LRC in the Exit Conference (October 2015) stated that demand notice had been issued to the defaulters for realisation of the amount as pointed out by audit.

6.4.17 Non-realisation of price of minerals

Under Section 21(5) of the MMDR Act, 1957 and Rule 33(5) of the MM Rules, 2002, no person is entitled to undertake mining operation without a proper lease or valid permit. In the event of violation, apart from other penal action, the authority is empowered to recover either the minerals raised unlawfully or the price thereof.

Mutation was done in favour of WBIDC in Paschim Medinipur district in respect of 1,134.23 acres of land falling under Vidyasagar Industrial Park at Kharagpur. Subsequently, WBIDC allotted this land to different companies for setting up industries and other commercial purposes. WBIDC submitted prayer for conversion of said land in September 2013 to DL&LRO, Paschim Medinipur. Accordingly, the DL&LRO demanded ₹ 29.61 crore in September 2013 and March 2014 as price of the minor minerals used for land filling while processing the conversion of said land. But WBIDC, instead of paying the amount, stated that the entire filling job was done by the companies, so the companies were liable to pay the amount of royalty and cess of minor minerals used for filling job. Hence, to ascertain the actual filling area, a field enquiry was conducted by DL&LRO in June 2014. The report revealed that 456.66 acres of land was filled with minor minerals and the price of which was assessed as ₹ 16.21 crore.

Although, DL&LRO opined that as per the land records, WBIDC was the *raiyat*¹⁰³ hence liable to pay the price of minor minerals, it did not raise the revised demand. This resulted in non-realisation of price of minor minerals of ₹ 16.21 crore.

After this was pointed out (July 2015), ADM and DL&LRO, Paschim Medinipur stated (July 2015) that no realisation had been made till date and the matter was conveyed to L&LR and C&I Departments for realisation of the demand. There was no response from the Department about the non-issuance of revised demand.

6.4.18 Non-realisation of price of brick earth

Under Section 21(5) of MMDR Act, 1957 and Rule 33(5) of the MM Rules, 2002, no person is entitled to undertake mining operations without a lease or valid permit. In the event of violation, apart from other penal actions, the authority is empowered to recover either the minerals raised unlawfully or the price thereof. By an order passed in September 1984, the Board of Revenue, West Bengal fixed the market price of brick earth at ₹ 30 per 100 cft for 1981 with an increase of ₹ 1.50 per 100 cft each year until a new price is fixed.

¹⁰³ *Raiyat* means a person or an institution holding land for any purpose.

Audit found from records of 10¹⁰⁴ DL&LROs that in 1,131 cases, brick field owners extracted 19.93 crore cft of brick earth unauthorisedly between 2009-10 and 2013-14 without valid permits. Out of these, in 775 cases, the price of brick earth of ₹ 9.73 crore though realisable was not realised. In the remaining 356 cases, out of the realisable amount of ₹ 5.44 crore, only ₹ 2.54 crore were realised. This resulted in non/short realisation of revenue of ₹ 12.63 crore.

After it was pointed out (between August 2013 and June 2015), four¹⁰⁵ ADM and DL&LROs admitted (between September 2013 and January 2015) the audit observations in 435 cases. In the remaining cases, the ADM and DL&LROs did not furnish any/specific reply.

In the Exit Conference (October 2015), LRC contended that the order passed in 1984 was cancelled vide memo dated 19.5.2014 hence, price of earth could not be realised. The contention of the department was not based on facts as the cases commented upon pertained to the period when the said orders were in force.

6.4.19 Non-realisation of penalty

In terms of Rule 21(1)(e) of MM Rules, 2002, the lessee shall extract and dispatch the minimum quantity of mineral from the leasehold area annually, as prescribed in the lease deed. In case there is any shortfall in the extraction and dispatch of the said minimum quantity without any satisfactory reason, penalty to the tune of twice the amount of royalty that should have accrued in respect of the shortfall in quantity shall have to be paid by the lessee.

Audit found from records of six¹⁰⁶ DL&LROs that 42 lessees in 67 cases extracted 6.70 crore cft of sand and stone against the minimum prescribed quantity of 17.86 crore cft as per the lease deeds. However, DL&LROs did not levy and demand penalty of ₹ 17.74 crore for short extraction of 11.16 crore cft of sand and stone though nothing was found on record regarding the reasons for such short extraction. This resulted in non-levy of penalty and consequent non-realisation of revenue of ₹ 17.74 crore.

After it was pointed out (between September 2012 and June 2015) by audit, ADM and DL&LROs, Burdwan and Paschim Medinipur admitted (July and August 2015) the audit observations in 20 cases. In the remaining cases the ADM and DL&LROs did not furnish any/specific reply.

LRC in the Exit Conference (October 2015) accepted the point and stated that the position of realisation would be reported shortly.

6.4.20 Non-realisation of dead rent

Under Rule 20 (1)(b) of MM Rules, 2002, the lessee shall annually pay the higher of the dead rent ¹⁰⁷ or the royalty in respect of each mineral.

¹⁰⁴ Birbhum, Burdwan, Hooghly, Howrah, Murshidabad, Nadia, North 24 Parganas, Paschim Medinipur, Purba Medinipur and South 24 Parganas.

¹⁰⁵ Burdwan, Murshidabad, Paschim Medinipur and South 24 Parganas.

¹⁰⁶ Bankura, Birbhum, Burdwan, Darjeeling, Jalpaiguri and Paschim Medinipur.

¹⁰⁷ Dead rent is an annual rent to be paid by the lessee of a mine.

Audit found from the files of mining leases in two¹⁰⁸ DL&LROs that 13 lessees of sand did not extract sand for different periods during the lease period. Out of these, dead rent was assessed in respect of two lessees but was not realised; for the remaining 11 lessees, no dead rent was assessed or demanded. This resulted in non-realisation of dead rent of ₹ 9.37 lakh.

After this was pointed out (June and July 2015), ADM and DL&LRO, Birbhum stated (June 2015) that action would be taken accordingly. DL & LRO, Hooghly did not furnish any reply.

LRC in the Exit Conference (October 2015) stated that action would be taken at an early date and position of realisation would be reported shortly.

6.4.21 Non/ short-realisation of revenue from extraction of brick earth

Rules 27 and 28 of MM Rules 2002, regulate the grant of quarry permits for extraction and removal of minerals. The quarry permit is to be issued by the DL&LROs in Form- 'F' on receipt of the application from the applicant in Form- 'G'. These have to be submitted along with challan of deposit of the prescribed application fee and on pre-payment of royalty for the quantity of minor minerals permitted to be extracted.

Detailed scrutiny of 254 cases in seven¹⁰⁹ DL&LROs revealed that brick field owners did not apply for permits in Form-'G' nor paid the royalty in advance and continued their extraction of brick earth during the year 2009-10 to 2013-14 for manufacturing of bricks. In 198 out of these 254 cases, it was seen that although the brick field owners had extracted¹¹⁰ 3.26 crore cft of brick earth, neither did the owners pay royalty and cess amounting to ₹ 1.17 crore, nor was any action initiated by the DL&LROs to realise these dues. In other 56 cases, the brick field owners extracted 93.40 lakh cft of brick earth and paid royalty and cess of ₹ 29.22 lakh against ₹ 38.60 lakh, but the DL&LROs did not initiate any action to realise the differential amount. Thus, non-compliance of the provisions related to pre-payment of royalty resulted in non / short realisation of royalty and cess of ₹ 1.26 crore.

After this was pointed out (between August 2013 and July 2015), five¹¹¹ ADM and DL&LROs admitted (between September 2013 and July 2015) the audit observations in 100 cases. In the remaining cases, the ADM and DL&LROs did not furnish any/specific reply.

LRC in the Exit Conference (October 2015) stated that action would be taken accordingly.

Efficiency and effectiveness of internal control mechanism

Internal control is an integral component of an organisation's management processes to provide reasonable assurance that the organisation's operations

¹⁰⁸ Birbhum and Hooghly.

¹⁰⁹ Birbhum, Burdwan, Howrah, Nadia, North 24 Parganas, Paschim Medinipur and South 24 Parganas.

¹¹⁰ As per quantum fixed in the yearly meeting.

¹¹¹ Burdwan, Howrah, North 24 Parganas, Paschim Medinipur and South 24 Parganas.

are carried out effectively, economically and efficiently. Deficiencies in the internal control mechanism are discussed in the following sub-paragraphs:

6.4.22 Non-verification of challans issued by the L&LR Departments with the returns submitted by the lessee

As per Rule 20(1) of the West Bengal Minor Minerals Rules, 2002 (MM Rules), the holder of a mining lease needs to pay royalty in respect of minerals extracted or removed or consumed. Rule 4(2) of the West Bengal Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2002 (MPIMTS Rules) envisages that all dispatches of minerals by the holder of a mining lease or quarry permit by a carrier shall be accompanied by a challan or transit pass issued by the officer authorised by the State Government in this regard.

The DL&LROs under the L&LR Department have been authorised to issue challans for despatching the stone, granite etc. whereas royalty in respect of these minerals of a mining lease is assessed by the Mining Officers under C&I Department. However, Mining Officers assessed the royalty only on the basis of returns submitted by the lessee. There was no system of exchange of information or cross verification between the records of the Mining Officers and DL&LROs in respect of the numbers of these challans issued, in the absence of which, Mining Officers assessed the royalty without verifying the quantities of materials actually transported.

During the scrutiny of records of the DL&LRO, Birbhum, audit found that challans were issued on demand to a lessee¹¹² for Panchami-Hatgachha Stone Mining Project, for carrying 281.60 lakh cubic feet (cft) of black stone during the period between April 2012 and March 2014. However, scrutiny of returns submitted by the lessee to the MO, Suri, for assessment of royalty revealed that the lessee disclosed extraction and dispatch of only 192.74 lakh cft of black stone. The MO, Suri, assessed royalty and the lessee deposited the assessed royalty to the Government account accordingly. The difference of 88.86 lakh cft (= 281.60 - 192.74) remains unexplained, and no records exist from which the utilisation of such challans could be independently verified and assurance obtained about the correctness of the royalty assessed and collected.

After this was pointed out (June 2015), DL&LRO, Birbhum stated (June 2015) that action would be taken accordingly.

LRC in the Exit Conference (October 2015) stated that demand notice had been issued by the ADM and DL&LRO, Birbhum for short realisation of royalty and cess. Department had also referred the recommendation to the C&I Department for making provisions in the relevant rules.

6.4.23 Disposal of lease applications for minor minerals other than sand

In terms of Rule 7 of MM Rules, 2002, an application for mining lease shall be disposed of within one year from the date of its receipt, provided that the period of disposal may be extended by a further period of one year. Extension

¹¹² M/s West Bengal Mineral Development & Trading Corporation Ltd. (WBMDTC).

can only be granted after recording the reasons for considering the extension to be fit and deserving, after the party submits an application.

During test check of lease registers and case files of lessees in the office of the Director of Mines and Minerals (DMM), audit found that out of 411 lease applications received upto March 2014, 377 lease applications were lying pending as detailed in the following **Table 6.3**.

Table 6.3- Disposal of lease applications

Application pending as on 31 March 2009	Application received between 2009-10 and 2013-14	Disposal of lease application			Application pending (as on January 2015)		
		Granted	Rejected	Total disposal	Total pending	Pending with the DMM	Pending with the C&I Department
220	191	08	26	34	377	14	363

Lease applications could not be disposed of, for periods ranging between one and 26 years as depicted in the table below.

Table 6.4- Age analysis of pending applications

Period	Pending applications
Below 5 years	157
6 to 10 years	121
11 to 15 years	98
More than 15 years	1
Total	377

The disposal of applications during the above period was therefore only 8.27 *per cent*. No report/return has been prescribed in the Acts and Rules to watch timely disposal of the lease applications, in the absence of which the Government was not even aware of the low percentage of settlement of lease applications causing loss of Government revenue.

After this was pointed out (January 2015), DMM admitted (January 2015) the audit observation and stated that C&I Department had been informed accordingly whereas the C&I Department did not furnish any specific reply.

6.4.24 Non-renewal of expired sand mining lease

6.4.24.1 As per Rule 12(1) of MM Rules, 2002, an application for renewal of mining lease shall be made to the State Government or to an officer duly authorised by the State Government in this behalf. Application has to be made in Form-‘D’ at least six months before the date on which the lease is due to expire but not before nine months from date of expiry. The application for renewal has to be disposed of within nine months from the date of receipt.

Under a notification issued in November 2006, the DL&LRO of the district concerned was to issue public notices after consulting the concerned Executive Engineer of I&W Directorate inviting fresh application for mining lease in

respect of minor minerals available in riverbed, brick earth and morrum for the district and to process such applications.

Audit found from the records of three DL&LROs that 98 leases expired between September 2002 and November 2011. In the DL&LRO, Birbhum six renewal applications and 69 fresh applications were received in respect of 24 expired leases but no action was taken to grant these leases, whereas no application was invited for granting of lease in respect of 74 expired leases in DL&LRO, Darjeeling (04) and DL&LRO, Burdwan (70).

Audit noticed that there was no system to watch the date of expiry of leases through regular returns, reports etc., due to which the grant of mining leases for such a long period escaped the notice of the department. Mining lease registers were also not being maintained as has been discussed in following Paragraph No. 6.4.26. This resulted in loss of Government revenue to the extent of ₹ 10.55 crore as royalty and cess in 98 cases.

After this was pointed out (between May 2015 and July 2015), ADM and DL&LROs did not furnish (between June 2015 and August 2015) any/specific reply.

LRC in the Exit Conference (October 2015) accepted the audit observation and stated that efforts were being made for renewal of expired leases.

6.4.24.2 In terms of Rule 16B of MM Rules, 2002 read with notification¹¹³ issued by C&I Department, mining lease in respect of river-bed materials and minerals like kankar, morrum and brick earth on land vested in Government shall be granted only through public notices inviting tenders in sealed cover. Such mining lease shall be for a period of not more than two years. Further, in another notification¹¹⁴, C&I Department issued guidelines for implementation of amended provisions of the rule.

Audit found from the records of three DL & LROs (Burdwan, Birbhum and Darjeeling) that 64 leases had expired between December 2011 and December 2013, of which two lessees had applied for renewals of their leases. While notices inviting tenders were issued and published in the local newspapers in the said districts between May 2012 and April 2013, auctions were conducted in which interested bidders offered bids. However, no further action for granting/ renewal of mining lease was taken by the authorities, reasons for which were not on record.

Non-settlement of expired mining leases resulted in loss of Government revenue to the extent of ₹ 3.61 crore as royalty and cess in 64 cases. Further, it was also noticed that no enquiry was conducted by the competent authority to assess whether any extraction was continuing in the said expired mining lease areas.

After this was pointed out (between May 2015 and July 2015), ADM and DL&LROs did not furnish (between June 2015 and August 2015) any/specific reply.

¹¹³ No. 809/CI/O/MM/84/11 dated 01.12.2011.

¹¹⁴ No. 819(36)/CI/O/MM/84/11 dated 08.12.2011.

LRC in the Exit Conference (October 2015) accepted the audit observation and stated that efforts were being made for renewal of expired leases.

6.4.25 Non-maintenance of register of arrear of revenue

According to the instructions issued in August 2000 by Director of Land Records and Surveys, West Bengal, BL&LROs are required to maintain a minor mineral wise register showing the details of demand, amount paid, date of payment, outstanding dues etc.

Audit observed that BL&LROs under DL&LROs Purba Medinipur¹¹⁵, North 24 Parganas¹¹⁶, Darjeeling¹¹⁷ and Paschim Medinipur¹¹⁸ did not maintain the register of arrears of revenue. Two DL&LROs (Birbhum and Paschim Medinipur) did not maintain the said register though they were collecting revenue from minor minerals at district level.

The department did not maintain the register of arrears of revenue and in absence of which the DL&LROs could not watch the position of outstanding dues and recovery thereof.

LRC in the Exit Conference (October 2015) stated that necessary steps would be taken accordingly.

6.4.26 Non-maintenance of register of mining leases

Under Rule 25(1) of MM Rule, 2002, a register of mining lease in respect of minor minerals shall be maintained with necessary details¹¹⁹.

Scrutiny of records of mining lease maintained in DL&LROs, Birbhum and Paschim Medinipur revealed that they did not maintain the register of mining lease as prescribed in the MM Rules. Due to non-maintenance of mining lease register audit could not verify the following:

1. Date of commencement of lease, date of possession, period of lease and date of expiry of lease;
2. Raising of minor minerals and assessment of royalty and cess, realisation of royalty, cess, dead rent, surface rent, water rate etc. and mining dues remaining unrealised; and
3. Prayer for renewal of lease, surrender of lease, date of renewal and further period of lease.

Due to non-maintenance of mining lease register, the DL&LROs could not watch the dates of expiry of lease, assessment and demand of royalty/cess and

¹¹⁵ Four block offices.

¹¹⁶ Two block offices.

¹¹⁷ One block office and two sub-division offices.

¹¹⁸ Three sub-division offices.

¹¹⁹ Specifying serial number, name of applicant and address, date of application, situation and boundaries of the land, land schedule, name, estimated area, name of the mineral or minerals for which the lease has been granted, date of the grant of lease, period from which granted, renewed or extended, application fee paid, amount of security deposit paid, the royalty and dead rent payable, other rents payable, particular of disposal or refund of security deposit, date of assignment / relinquishment / cancellation / expiry etc.

realisation of mining dues. Also, no action in respect of fresh lease or renewal of lease could be taken within the prescribed time.

After this was pointed out (June and July 2015), ADM and DL&LRO, Birbhum assured (June 2015) that register would be maintained. ADM and DL&LRO, Paschim Medinipur stated (July 2015) that preparation of the register was in progress.

LRC in the Exit Conference (October 2015) stated that the register of mining lease was being maintained from September 2015 onwards which would be verified in Audit.

6.4.27 Non-establishment of check posts and weighbridges

Rule 5 of the MPIMTS Rules, 2002, provides for establishment of check posts, barriers and weighment and inspection of minerals in transit to prevent illegal transportation of minerals.

Test check of the records of DL&LROs, North 24 Parganas, Burdwan and Paschim Medinipur revealed that no check posts have been established for inspection of minor minerals in transit. Further, no weighbridges to measure the quantity of minerals being transported have been set up since the issue of the above Rules. In the absence of check posts, weighbridges and regular checking, the chances of leakage of revenue could not be ruled out.

LRC in the Exit Conference (October 2015) stated that the proposal for establishment of check post had already been sent to the authority concerned but did not provide copy of the proposal or any other details.

6.4.28 Conclusion

The Performance Audit noticed various system deficiencies such as multiplicity of departments for assessment and collection of revenue; absence of provisions in the rules related to inspection at the place of excavation; absence of a system of cross verification with Central organisations/other State Government departments; absence of provision prescribing rate of interest; etc. Audit also noticed various compliance deficiencies like non-monitoring of the revenue collected by other agencies, non/short levy and realisation of royalty, cess, and dead rent, etc. There were weaknesses in the internal control mechanism with regard to non-maintenance of registers, non-maintenance of reports/returns, lack of system to keep a watch over timely disposal of expired lease applications and non-establishment of checkpoints and weighbridges.

6.4.29 Summary of recommendations

Government may consider:

- vesting powers of fixing rates and collection of revenue from various minor minerals, as far as possible, in one department;
- making specific provisions in MPIMTS Rules regarding inspection and checking of minor minerals at the place of excavation;
- framing specific provisions for cross-verification of data relating to royalty/cess with data of other executing agencies;

- building a database of mining leases granted to monitor expiry of lease and initiate action for renewal/grant of fresh leases.

The LRC in the Exit Conference (October 2015) stated that the Department broadly agreed with the recommendations and requested the C&I Department for incorporation in the relevant rules.

CHAPTER-VII

CHAPTER VII

OTHER TAX RECEIPTS

7.1 Tax administration

This chapter consists of receipts from Excise Duty and Fees, Electricity Duty, Amusement/Entertainment Tax and Profession Tax. 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.

7.2 Results of audit

In 2014-15, test check of the records of 45 units relating to Excise Duty and Fees, Electricity Duty, Amusement/Entertainment Tax and Profession Tax showed underassessment of tax and other irregularities amounting to ₹ 37.42 crore in 257 cases, which fall under the following categories as indicated in **Table 7.1**.

Table 7.1

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
A. State Excise			
1.	Non/short levy of Excise Duty/Wastage Fee on chargeable wastage of Rectified Spirit/India Made Foreign Liquor	43	5.14
2.	Loss/blockage of revenue	7	4.87
3.	Non-realisation of Fee due to delayed removal of foreign liquor from bonded warehouse	3	3.01
4.	Non/short realisation of Initial Grant Fee/Licence Fee/Pass Fee/Regulatory Fee/Renewal Fee etc.	23	2.03
5.	Non-levy and non-realisation of Excise Duty due to non-destruction of unsold stock of foreign liquor	4	1.14
6.	Other cases	32	1.80
Total		112	17.99
B. Electricity Duty			
1.	Non/short assessment and non/short realisation of Electricity Duty	9	8.59
2.	Non-levy of interest on delayed payment of Electricity Duty	3	1.44
3.	Other cases	18	0.15
Total		30	10.18
C. Amusement/Entertainment Tax			
1.	Non/short realisation of Entertainment /Luxury/ Amusement Tax etc.	17	5.58
2.	Other cases	24	0.18
Total		41	5.76

D. Profession Tax			
1.	Non-realisation of profession tax due to non-enrolment	41	3.07
2.	Non-realisation of profession tax due to non-assessment	5	0.15
3.	Non-realisation of demand of Profession tax against enrolled certificate holders	7	0.13
4.	Other cases	21	0.14
Total		74	3.49
Grand Total		257	37.42

During the course of the year, the Departments accepted underassessment and other deficiencies of ₹ 8.48 crore in 135 cases, of which 80 cases involving ₹ 6.96 crore were pointed out in the year 2014-15 and the rest in the earlier years. An amount of ₹ 1.09 crore was realised in 39 cases during the year 2014-15.

A few illustrative cases involving ₹ 4.55 crore are discussed in the following paragraphs.

State Excise

7.3 Non-realisation of fee on unsold stock of foreign liquor

Rule 241(1) of the West Bengal Excise (Foreign Liquor) Rules, 1998 provides that the licensee shall forthwith intimate the collector for destruction of foreign liquor lying unsold in any licensed premises after the period indicated as 'best for use' on the label of the bottle. In case of failure, the licensee shall pay fee at the rate of ₹ two per Bulk Litre (BL) *per diem* on such stock from the date on which the FL ceased to be best for use till the date of intimation to the collector. The said Rule was revised in October 2013¹²⁰ and it was provided that prior to any destruction of unsold stock of bottled foreign liquor, the licensee shall pay a fee of ₹ two per BL on such quantity.

During scrutiny of annual stock taking reports and correspondence between the licensee and the Excise Department, Audit found in the office of the Superintendent of Excise, Burdwan (West), Asansol in December 2013 that 8,087.26 BL of beer of a licensee remained unsold after the dates indicated as best for use. The licensee, however, did not intimate the collector even after lapse of 35 to 38 months from the indicated dates i.e. September and December 2010. Out of this, 322.08 BL of beer was destroyed by the licensee (October 2011) without intimation in contravention of Rules. It was also observed that though the expiry of the beer had come to notice of the Excise authority during stock taking in July 2011, they did not initiate any action against the licensee to raise demand and realise the fee. This resulted in non-realisation of fee of ₹ 1.79 crore.

The Department admitted (March 2015) the audit observation and stated that a demand notice was issued in February 2014 against which the licensee had deposited ₹ 16,819 in February 2014 by taking instance of the revised Rule. However, Department did not furnish any reasons for not taking action till audit pointed out. Since the demand pertained to the period when the rules were not

¹²⁰ Notification No. 15(N) EX dated 31.10.2013.

revised, the demand cannot be settled against the amount deposited by the licensee. Department did not furnish any information about realisation of the remaining amount (October 2015).

The case was reported to the Government in January 2014 followed by a reminder issued in February 2015; their reply has not been received (October 2015).

7.4 Non-realisation of wastage fee on handling wastage

Rule 38(2) of the Consolidated Rules framed under Section 86 of the Bengal Excise (BE) Act, 1909 provides that if the wastage in handling of spirit exceeds 0.25 *per cent* of the total quantity of spirit handled in a year, the licensee shall be required to pay a wastage fee at the rate of ₹ 186 per LPL¹²¹ on such excess wastage within a week on demand by the collector.

During scrutiny of records relating to stock taking of a distillery under the Superintendent of Excise, South 24 Parganas, it was found in September 2014 that the licensee handled 4.14 crore LPL of spirit in 2013-14. The permissible handling wastage in respect of this quantity of spirit was 1.03 lakh LPL against which the licensee had availed handling wastage of 1.71 lakh LPL. Hence, on such excess wastage of 0.68 lakh LPL, the licensee was required to pay wastage fee of ₹ 1.26 crore on demand. Though the excess wastage had come to notice of the excise authorities during annual stock taking in April 2014, they did not initiate any action as per provisions of the BE Act and Rules to raise demand and realise the wastage fee. This resulted in non-realisation of wastage fee of ₹ 1.26 crore on excess handling wastage.

The Department admitted the audit observation and intimated (March 2015) that the demand notice was issued, but did not furnish any report regarding realisation (October 2015).

The case was reported to the Government in October 2014 followed by reminders issued upto February 2015; their reply has not been received (October 2015).

Electricity Duty

7.5 Non-levy of interest on delayed payment of electricity duty

Section 5A of the Bengal Electricity Duty Act, 1935 prescribes that where a licensee fails to make payment to the State Government by the prescribed date electricity duty collected by him, he shall pay a simple interest at the rate of one *per centum* for each month of default till the month previous to the one in which duty is paid fully.

During scrutiny of records of payment of electricity duty by licensees in the office of the Inspecting Officer, Asansol Zonal Office, Audit found that a State Government company deposited electricity duty amounting to ₹ 47.53 crore on 11 occasions between February 2013 and December 2013 which were due between September 2012 and August 2013. For such delay in payment of electricity duty, interest of ₹ 1.20 crore though leviable was not levied. This resulted in non-levy and non-realisation of interest of ₹ 1.20 crore.

¹²¹ 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.

After this was pointed out, the Department did not furnish any specific reply (October 2015).

The case was reported to the Government in July 2014 followed by reminders issued up to February 2015; their reply has not been received (October 2015).

Entertainment Tax

7.6 Non-levy and non-realisation of entertainment tax

Section 3 of the Bengal Amusement Tax Act, 1922 prescribes that entertainment tax at the rate of 20 *per cent* shall be paid to the State Government upon the value of tickets sold for admission to sports and games held in an amusement park, theme park or water games park.

During scrutiny of the reports of inspections in November 2014 in the office of the Agricultural Income Tax Officer, 24 Parganas (North) relating to an amusement park, Audit noticed that the park was opened to public in December 2012 and conducted various entertainment events. Further scrutiny revealed that tickets valuing ₹ 78.52 lakh were sold by the park between June 2013 and September 2014 for various sports and games in the park like shikara boating, kayaking, water zorbing, car ride, duo cycling and speed boating. However, no entertainment tax was paid. It was also observed that though the matter came to the notice of the assessing authority in June 2013, they did not levy the entertainment tax. This resulted in non-levy and subsequently non-realisation of entertainment tax of ₹ 15.70 lakh.

After Audit pointed out the case, the Department did not furnish any specific reply (October 2015).

The matter was reported to the Government in December 2014 followed by reminders issued upto February 2015; their reply has not been received (October 2015).

Profession Tax

7.7 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 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. Further, under Section 17 of the Act, authorities are empowered to inspect and search any place of work where records relating to employment, trade, salaries etc. are to be kept.

Cross verification of records of seven licence-issuing offices¹²² with five¹²³ unit

¹²² Seven units of different authorities responsible for issuing licences/permissions to carry out different trades/professions as follows :- AITO, Coochbehar; Chief Medical Officer of Health (CMOH), Coochbehar; Coochbehar Municipality; Dum Dum Municipality; Kolkata Municipal Corporation; Paschim Midnapore Municipality and Raiganj Municipality.

¹²³ Deputy Commissioner of Profession Tax (DCPT), Kolkata East Range; DCPT, North Unit IV, Coochbehar; DCPT, West Bengal North Unit III, Raiganj; DCPT, West Bengal South Unit III, Paschim Midnapore and Joint Commissioner of Profession Tax (JCPT), Kolkata West Range.

offices of profession tax between November 2013 and May 2014 revealed that 430 professionals had not enrolled themselves with the prescribed authority and continued their professions without payment of any profession tax between 2010-11 and 2013-14. The Department also failed to bring these persons under the tax net and recover tax from them at the prescribed rates. Absence of a mechanism to bring the persons evading tax into the tax net by cross verification with the licence-granting authorities resulted in non-realisation of profession tax of ₹ 13.94 lakh.

The Department accepted (in November 2013 and May 2014) the audit observations in 162 cases involving ₹ 7.27 lakh, but did not furnish any information regarding realisation of tax. In the remaining cases, the Department did not furnish any/specific reply (October 2015).

The cases were reported to the Government between January 2014 and July 2014 followed by reminders issued up to March 2015; their reply has not been received (October 2015).

Kolkata 29.01.2016


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Accountant General
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New Delhi 01.02.2016


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Comptroller and Auditor General of India

APPENDICES

Appendix-I
(Ref: Para-1.9)

Units planned and audited in 2014-15

Category/Nature of Audit	Total number of units	Audit planned	No. of units audited
Value Added Tax			
Sales Tax/VAT units consisting of Corporate Division; DCT; Charge offices; Cess on Petrol, diesel etc. and Check Posts	109	42	42
Other receipts			
State Excise (Receipt cum expenditure)	37	15	15
Stamp Duty and Registration Fees including Non-Judicial Stamp (Receipt cum expenditure)	271	58	58
Motor Vehicles Tax	27	15	15
Amusement Tax	22	9	9
Profession Tax	35	15	15
Land Revenue	22	11	12
Minor Minerals and Mining Receipts	28	15	15
Electricity Duty	21	6	6
Departmental Receipts	1	1	1
Total	573	187	188

GLOSSARY

Glossary of Abbreviations

Abbreviation	Full form
AA	Assessing Authority
AC	Air Conditioned
ACTO	Assistant Commercial Tax Officer
Addl. CCT	Additional Commissioner of Commercial Taxes
ADM	Additional District Magistrate
ADSR	Additional District Sub-Registrar
AITO	Agricultural Income Tax Officer
ARB	Appellate and Revisional Board
ARTO	Additional Regional Transport Officer
ASR	Annexure for Sales Return
BE Act	Bengal Excise Act
BL	Bulk Litre
BL&LRO	Block Land and Land Reforms Officer
BPDR Act	Bengal Public Demands Recovery Act
C&I Department	Commerce and Industries Department
CCT	Commissioner of Commercial Taxes
CF	Certificate of Fitness
CMO	Chief Mining Officer
CMOH	Chief Medical Officer of Health
CMV Rules	Central Motor Vehicles Rules
CORD	Computerisation of Registration of Documents
CST Act	Central Sales Tax Act
CTO	Commercial Tax Officer
CTP	Contractual Transfer Price
DAW	Data Analysis Wing
DCCT	Deputy Commissioner of Commercial Taxes
DCPT	Deputy Commissioner of Profession Tax
DCT	Directorate of Commercial Taxes
DDO	Drawing and Disbursing Officer
DIGR	Deputy Inspector General of Registration
DL&LRO	District Land and Land Reforms Officer

DLR&S	Director of Land Records and Surveys
DMM	Director of Mines and Minerals
DP	Draft Paragraph
DR	District Registrar
DRS	Disaster Recovery Server
DSR	District Sub-Registrar
FL	Foreign Liquor
FLA Collector	First Land Acquisition Collector
GTA	Gorkhaland Territorial Administration
GVW	Gross Vehicle Weight
HIDCO Ltd.	Housing Infrastructure Development Corporation Ltd.
I&WD	Irrigation & Waterways Department
IAW	Internal Audit Wing
IGR	Inspector General of Registration
IMPACT	Information Management for Promotion of Administration in Commercial Taxes
IR	Inspection Report
IR Act	Indian Registration Act
ISD	Information Systems Division
IS Act	Indian Stamp Act
ITC	Input Tax Credit
ITR	Input Tax Rebate
JCCT	Joint Commissioner of Commercial Taxes
JCPT	Joint Commissioner of Profession Tax
JCSR	Joint Commissioner of Stamp Revenue
JIGR	Joint Inspector General of Registration
KMC	Kolkata Municipal Corporation
LA Collector	Land Acquisition Collector
L&LR Department	Land and Land Reforms Department
LPL	London Proof Litre
LRC	Land and Land Reforms Commissioner
MC Rules	Mineral Concession Rules
MIS	Management Information System

MMDR Act	Mines and Minerals (Development and Regulation) Act
MO	Mining Officer
MPIMTS Rules	Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules
MRP	Maximum Retail Price
MV	Motor Vehicles
NHAI	National Highway Authority of India
NIC	National Informatics Centre
PAC	Public Accounts Committee
PE Cess	Primary Education Cess
PVD	Public Vehicles Department
RA	Registering Authority
RC	Registration Certificate
RE Cess	Rural Employment Cess
RO	Registration Office
SDL&LRO	Sub-divisional Land and Land Reforms Officer
SJDA	Siliguri Jalpaiguri Development Authority
Sr. JCCT	Senior Joint Commissioner of Commercial Taxes
SRS	System Requirement Specification
STA	State Transport Authority
STDS	Sales Tax Deducted at Source
TDR	Tax Demand Register
TDS	Tax Deducted at Source
TOS	Turnover of Sales
UPS	Uninterrupted Power Supply
URS	User Requirement Specification
VAT	Value Added Tax
WBAT & OTMV Act	West Bengal Additional Tax & One-time Tax on Motor Vehicles Act
WBE (FL) Rules	West Bengal Excise (Foreign Liquor) Rules
WBIDC	West Bengal Industrial Development Corporation
WBMDTC Ltd.	West Bengal Mineral Development and Trading Corporation Ltd.

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
WBREP Act	West Bengal Rural Employment and Production Act
WBSDC	West Bengal State Data Centre
WBSRDA	West Bengal State Rural Development Agency
WBST Act	West Bengal Sales Tax Act
WBVAT Act	West Bengal Value Added Tax Act

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