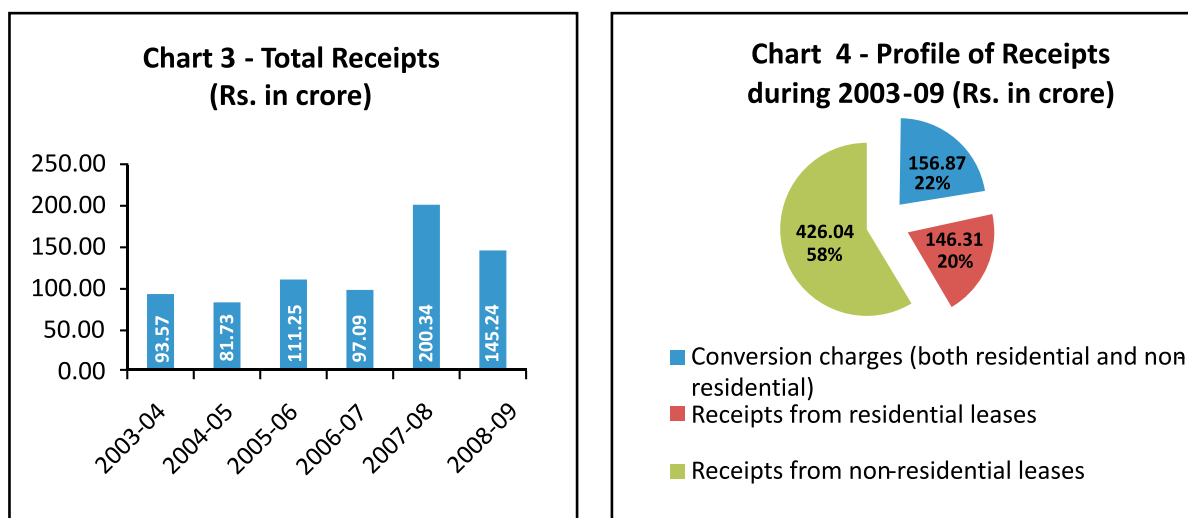


CHAPTER 4. RECEIPTS OF L&DO

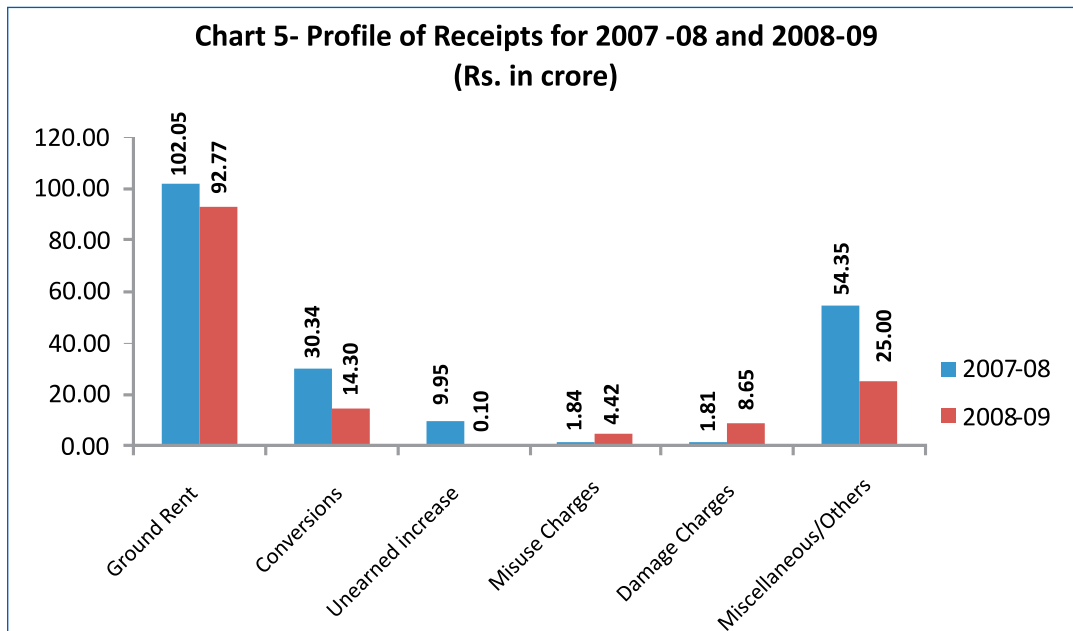
4.1 Trends in Receipts

The receipts of the L&DO comprise of ground rent for lease properties, lease conversion charges, damage/misuse charges and other miscellaneous receipts. The position of receipts over the last six years is depicted below:



Despite thousands of acres of land in prime localities in NCT, receipts from these leased out properties are relatively insignificant, considering the location of the properties. Ground rent (GR)/additional ground rent (AGR) from leased properties is the single largest component of total receipts of L&DO. Of the total receipts of Rs. 145.24 crore during 2008-09, ground rent/additional ground rent amounted to Rs. 92.77 crore constituting 63.87 per cent of the total receipts. Reasons for abysmally low receipts on account of ground rent are discussed at paragraph 4.2.

Head-wise classification of revenue receipts was available only from 2007-08 onwards, and the profile of receipts for 2007-08 and 2008-09 was as follows:



In reply (March 2009), the Ministry stated that efforts were now underway to classify receipts at an initial stage into different categories like ground rent, damage charges, penal interest etc. in the Information & Facilitation Centre with the help of a new module to be prepared by NIC.

L&DO accounts for receipts separately in terms of residential and non-residential leases; however, receipts from conversion are taken together. The following table shows head-wise receipts during 2006-07 to 2008-09:

Table-1: Head-wise receipts

(Rs. in crore)

Year	Receipts		
	Conversion	Other Receipts	
		Residential	Non-residential
2006-07	19.13	29.67	48.29
2007-08	30.34	72.31	97.69
2008-09	14.30	11.67	119.27

One of the reasons for the sharp decline in conversion receipts in 2008-09 as well as other receipts from residential leases was that since March 2008, inspection of properties prior to conversion to freehold was made mandatory. Apparently, fewer applications were received for conversion in 2008-09. The decrease in residential lease receipts was also attributable to fewer conversions, since all outstanding lease dues had to be settled prior to conversion.

4.2 Ground Rent

4.2.1 Introduction

Ground rent is an annual charge levied at prescribed rates with reference to the premium, or one-time payment levied at the time of allotment. This rent is payable, in advance, either in two half-yearly installments or annually on 1st April.

In respect of Nazul properties, ground rent is generally recoverable at the rate of 2.5 *per cent per annum* of the premium calculated at full market rates for premises used for remunerative purposes, and the premium determined by Government for premises used for unremunerative purposes. Ground rent is revisable at the option of L&DO every 30 years. However, for older Nazul leases where the ground rent was a fixed amount and not based on the market rate/premium, an Office Order was issued in February 1984, whereby the earlier ground rent was to be enhanced by a specified multiple, depending on the period of delay in revision. In respect of rehabilitation leases, the ground rent is nominal, but in cases of second sale/assignment, ground rent can be revised at 2.5 *per cent per annum* of the value of the land.

4.2.2 Non-recovery of Ground Rent

The recovery of ground rent in respect of each lease is to be watched through the ground rent registers, which were to be arranged block-wise and plot-wise. However, these registers were not produced to Audit, and were evidently not maintained.

Actual payments of ground rent by lessees were being recorded in the ground rent ledgers maintained by the accounts sections; these were, however, based on lease number, while the receipt challans indicated the property number, leading to difficulties in data entry and reconciliation. The L&DO could not indicate the total amount of outstanding ground rent and other dues to Audit. This was also pointed out in previous reports of the C&AG dating back to 1986. The Ministry had then assured that the registers would be updated, but no action had been taken even after lapse of 20 years of the C&AG's previous reports.

Ultimately, the objective of monitoring the recovery of ground rent, so as to take appropriate action for recovery of arrears, was not being achieved.

In reply, the Ministry admitted the facts and stated that efforts were being made to prepare a computerized record indicating both property number and lease number.

During check of four ground rent ledgers, conducted subsequently to receipt of reply of the Ministry, of 174 properties/leases, Audit observed that the postings after 2000 had been made in only 8 *per cent* of the cases, while in 11 *per cent* of the cases, postings were being made on an "on account basis" i.e subject to final settlement.

4.2.3 Non-revision of market rates/premium and ground rent

Ground rent for lease properties is determined based on the value of the land which is to be notified by the L&DO from time to time. The premium rates (market rates and other concessional rates) for allotment of land were notified with effect from 1 April 1998 till 31 March 2000. However, these have not been revised thereafter for a period of more than ten years. L&DO is therefore using 1998 notified rate of Rs. 57,960 per square metre for commercial property in Connaught Place for computing ground rent despite substantial increase in the real estate prices during the last decade. The MCD notified rate for category 'A' locality which are not as prime as Connaught Place, is Rs. 1.29 lakh per square metre in respect of commercial use.

The delay in revision of market rates has led to a wide gap between the market value of land and the notified rates. This has, in turn, resulted in substantial delay in recovery of enhanced ground rent, and possible loss on account of non-recovery of retrospective increases, which cannot be quantified in the absence of complete data with L&DO. According to L&DO, once the revision was notified, the arrears of enhanced ground rent would be recovered from the lessees. Further, in its reply, the Ministry stated that the proposal for revision of market rates had been pending in the Ministry of Finance since long. In Audit's opinion, the revision, whenever it is effected in due course, would lead to a situation of enormous amounts of dues becoming recoverable.

There are bound to be major practical and legal difficulties in calculating and recovering the arrears of ground rent from individual lessees after more than eight years. This would also cause undue hardship to lessees, in addition to the possibility of slow/non- recovery of dues and increased probability of these leases being embroiled in Court cases.

According to L&DO, the proposal for revision of rates was under submission to the Government of India; the relevant files or copies thereof were, however, not produced to Audit.

4.2.4 Revision of Ground Rent for Nazul Leases in terms of the Office Order of February 1984

4.2.4.1 Justification for formula

The office order of February 1984 specified that the earlier ground rent was to be enhanced by a specified multiple, depending on the number of years elapsed since the due date of revision, as follows:

Table-2 : Fixation of Revised Ground Rent

No. of years elapsed since revision had fallen due	No. of times
1 to 10 years	Four times
11 to 20 Years	Six times
21 to 30 years	Eight times
31 to 40 years	Ten times

In Audit's opinion, there is no justification for continuing with this ad hoc formula for the following reasons:

- Instead of revising ground rent on the basis of capitalization of rental values less outgoings over a period of 20 years, with 9 *per cent* of such capitalized value as the letting value, and one-third or one-half of this letting value as the revised ground rent, the Office Order introduced a multiple slab-based formula for the first-time enhancement of ground rent, based only on the existing ground rent. However, the financial justification for such a formula, keeping in view the loss of Government revenues (especially for non-residential leases) was not indicated in the Office Order. In fact, the ten hypothetical cases for calculation of ground rent illustrated in the Office Order clearly demonstrate a loss of Government revenue of 89 *per cent* by applying the multiple slab-based formula instead of basing the revised ground rent on letting value **(Annexure-II)**.
- The ten hypothetical cases illustrated in the Office Order assumed monthly rental values ranging from Re. 0.14 *per square meter* to Rs. 3.59 *per square meter*. Considering the prime locations of the areas under L&DO's control and current rental values, the justification for continuing with this formula based on such abysmally low rates is no longer valid **(Annexure-III)**.
- The ground rent was revised on the basis of a plaint or option exercised by the lessor. In the case of a plaint having already been filed by the lessor, the ground rent was revised retrospectively from the date of the plaint, while in other cases, the revised ground rent was levied only prospectively from the date of issue of notice for enhancement of ground rent, using the formula specified in the Office Order of February 1984. Thus, this formula effectively penalizes lessees in whose cases plaints had been filed, while letting off other lessees with prospective revisions even though allotment to them might have been made earlier. Had the rates been revised with minimum delays, there would have been an opportunity for the L&DO to conduct a second revision of ground rent. In four cases test checked by Audit, the loss of revenue due to delayed revision ranged from 44 to 70 *per cent* **(Annexure-IV)**.

Estimated Potential Loss of Government Revenue

Based on the receipts of Rs. 92.77 crore during 2008-09, L&DO was receiving an average annual ground rent of only Rs. 40.43 per *square meter* (**Annexure-V**).

The potential value of the properties under L&DO's control varies from Rs. 1,18,000 crore (if calculated based on Government of National Capital Territory of Delhi (GNCTD) notified 'A' category⁴ circle rates for localities which are less sought after than L&DO areas) to Rs. 3,44,000 crore (based on conservative market values) (**Annexure-VI**). Based on current monthly rental values of about Rs. 100 *per square feet* in the Connaught Place area, assuming 40 *per cent* of rentals as outgoings on maintenance and house tax, and considering only non-residential leases, the potential for revised ground rent in respect of even 1/30th of the leases⁵, if calculated on letting value, would amount to Rs. 356 crore (**Annexure-VII**). Thus, leases falling due for revision during last three years alone could have fetched Rs. 1068 crore annually. In our opinion, the scope for extracting the true value of land under L&DO's control in terms of ground rent thereon has not been fully exploited by L&DO.

Further, under the order of February 1984, premises occupied for residential purpose would be exempted from the scope of revision of ground rent; such cases would be reviewed each year to decide which ground rent could be revised advantageously to Government. Evidence of such annual review/revision was, however, not provided to Audit.

4.2.4.2 Revision of Ground Rent Cell (RGR Cell)

A cell for revision of ground rent for Nazul leases (RGR Cell), which was decided to be created in 2000, commenced functioning from 2003. During the period August 2003 to July 2008, 1085 files were furnished by the lease sections to the RGR Cell, as gathered by Audit from the list of files received as maintained by the Cell.

However, Audit could not verify whether all cases due for revision had been sent to the RGR cell. Further, in respect of the files furnished to the cell, L&DO could not indicate the number of cases in which the lessee had accepted the revised rates, and payment of such rates thereafter. The complete details of when the Nazul leases fell due for revision of ground rent could also not be ascertained in Audit.

Out of the 1085 cases, Audit selected 29 cases of revision. Audit scrutiny revealed that

- Only in 10 cases the lessor had filed plaints where the revised ground rent was leviable from the date of filing plaint, and 19 cases involved revision only with prospective effect.

⁴ Category 'A': Highest rates.

⁵ The figure of 1/30th has been adopted, since revision of ground rent falls due after every 30 years.

- Only 10 lessees had accepted the revised ground rent, of which 9 lessees had actually paid the ground rent at revised rates.

The Ministry accepted that all the cases of Revision of Ground Rent of lease could not be processed by the RGR cell due to shortage of manpower. The Ministry, however, added that whenever an application for sale permission, mortgage permission or conversions was received in L&DO, the revised ground rent was recovered in full.

The reply is not tenable for the following reasons:

- Even though it was decided to constitute RGR cell in 2000, it was established only in 2003.
- Recovery of revised ground rent at the time of applications received for sale permission, mortgage permission and conversions is not a substitute for a comprehensive exercise for revision, which was the intended objective of the constitution of the RGR cell. This shows the lax attitude of the L&DO towards prompt revision and recovery of ground rent.

Recommendations

1. The existing notified rates of land used for allotment and determination of ground rent of leased properties are way below the current market rates and need to be revised upwards in line with real estate price movements as already done by GNCTD for land transactions in MCD areas.
2. The ad hoc formula for revision of ground rent in respect of Nazul leases, notified in 1984 must be reviewed and replaced by a formula which is closely aligned with the current letting value of land to generate reasonable revenue from L&DO's vast land holdings in prime locations. Further, the schedule of area-wise letting values should also be revised at periodical intervals, in line with fluctuations in the land market.
3. The Ministry must put in place an effective oversight system to ensure that all outstanding dues on account of ground rent are properly assessed and recovered within a definite time frame.
4. As all the cases due for revision of ground rent have not been processed by the RGR Cell and L&DO is also not aware of how many cases have fallen due for revision, Ministry must prescribe a specific time frame within which all cases due for revision are identified and then revised by L&DO without delay.
5. Punitive action should be initiated in cases where the lessee does not accept or pay the revised ground rent or other dues. This can, at times, end in the process of resuming the lease, which will, in effect, unlock the true market value of the land.