

CHAPTER-IV : LAND REVENUE

4.1 Tax administration

The Assam Land and Revenue Regulation (ALRR), 1886, along with four other ancillary Acts¹ and Rules made and instructions issued thereunder prescribe the procedure governing assessment, levy and collection of land revenue as well as the functions of the Revenue Department. In addition to land revenue, all land, whether revenue paying or held free of revenue, are assessed to local rates under the Assam Local Rates Regulation, 1879. The Revenue Department, Government of Assam is responsible for collection of land revenue through *Kanongoos, Mondals and Patowaries* in respect of Goalpara District and Barak Valley and through *Mouzadars* appointed by Deputy Commissioners in respect of Brahmaputra Valley.

4.2 Analysis of budget preparation

As per the provisions of the Assam Budget Manual, the estimates of revenue and receipts should show the amount expected to be actually realised within the year, arrears for the previous years and advance collections for the coming year. In estimating the fixed revenue, the calculations should be based upon the actual demand including arrears due for past years and the probability of its realisation during the year.

The parameters taken into consideration for preparation of budget estimates by the Government of Assam, Revenue Department, could not be ascertained in audit. The Government, however, stated that the budget estimates are prepared every year by enhancing 30 per cent on the collection of the previous year. This is also not correct as may be seen from the following paragraph.

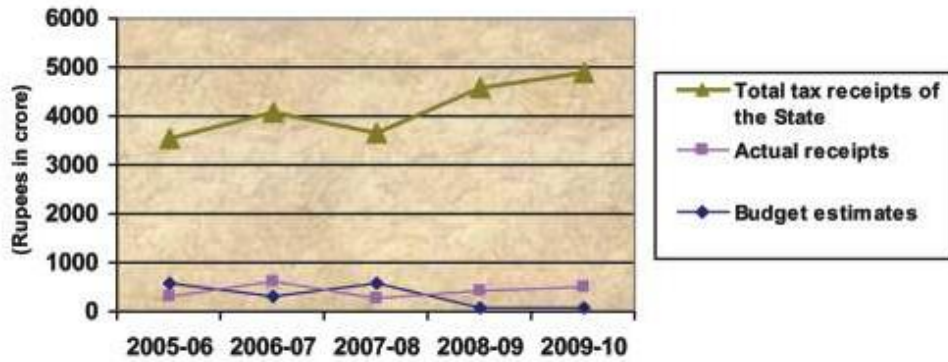
4.3 Trend of receipts

Actual receipts from land revenue during the last five years 2005-06 to 2009-10 along with total tax receipts during the same period is exhibited in the following table and graph.

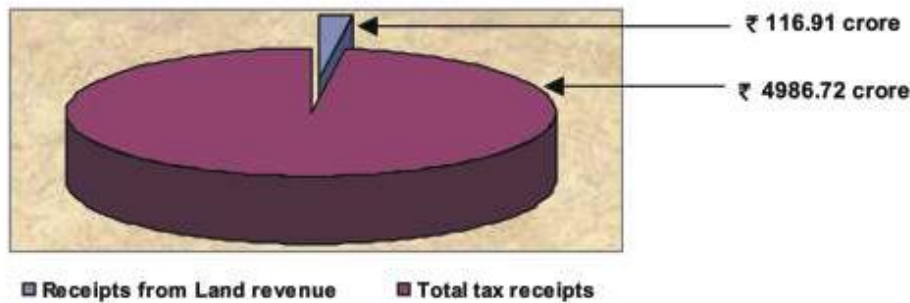
(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+) shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2005-06	129.31	74.65	(-) 54.66	(-) 42	3,232.21	2
2006-07	183.07	74.15	(-) 108.92	(-) 59	3,483.32	2
2007-08	91.55	79.76	(-) 11.79	(-) 13	3,359.50	2
2008-09	90.49	113.36	22.87	25	4,150.21	3
2009-10	89.38	116.91	27.53	31	4,986.72	2

¹ (1) Assam Land Revenue Reassessment Act, 1936 (2) Assam Land Revenue and Rent (Surcharge) Act, 1970 (3) Assam Land (Requisition & Acquisition) Act, 1964 and (4) Assam Land Holding (adoption of relation under the Assam Land and Revenue Regulation, 1886 in the acquired permanently settled estate) Act, 1974.



The table and the line graph above indicate that though there were shortfalls in the collection over the budget estimates (BEs) between 2005-06 to 2007-08, the collection increased to 25 per cent and 31 per cent in 2008-09 and 2009-10 respectively. The wide variation between the BEs and the actual receipts underline the fact that the BEs were not prepared in a scientific manner.



The share of land revenue to the total tax receipts remained static at around two per cent during 2005-06 to 2007-08 and increased to three per cent in 2008-09 but again fell to two per cent in 2009-10.

4.4 Impact of audit

During the last five years, we through our inspection reports (IRs), had pointed out non/short recovery of land revenue, non-levy of surcharge, retention of cash in hand, etc, with revenue implication of ₹ 58.39 crore in 352 paragraphs. Of these, the Department/Government had accepted audit observations in 25 paragraphs involving ₹ 1.33 crore. The details are shown in the following table.

Year of Inspection Report	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	25	73	12.12	2	0.17	Nil	Nil
2005-06	18	55	17.94	11	0.37	Nil	Nil
2006-07	34	58	13.20	10	0.31	Nil	Nil
2007-08	27	107	4.30	2	0.48	Nil	Nil
2008-09	26	59	10.83	Nil	Nil	Nil	Nil
Total	130	352	58.39	25	1.33	Nil	Nil

Though the department accepted 25 cases involving ₹ 1.33 crore against 352 cases featured in the IRs for the years from 2004-05 to 2008-09, the recovery made, if any, was not intimated to us.

4.5 Working of internal audit wing

The Finance Department, Government of Assam had not put in place an Internal Audit Wing with the Department nor did the Land Revenue Department engage some other body like the Director of Local Audit for audit of the records/accounts of the Department internally. As such, the records/accounts of the Revenue Department as well as the unit offices at the district level were not subjected to internal audit. Thus, an important component of the internal control mechanism of the Government was lacking.

4.6 Results of audit

Our test check of records of 16 units relating to Land Revenue revealed underassessment of tax and other irregularities involving ₹ 21.61 crore in 59 cases which fall under the following categories:

Sl. No.	Categories	No. of cases	(₹ in crore)
			Amount
1.	Recovery of dues treated as arrears of land revenue (A review)	1	1.97
2.	Retention of cash balances beyond permissible limit	9	0.53
3.	Outstanding land revenue	11	14.57
4.	Other irregularities	38	4.54
Total		59	21.61

During the course of the year, the Department accepted audit observations in two cases involving ₹ 1.97 crore which were pointed out by us during 2009-10.

A review on “**Recovery of dues treated as arrears of land revenue**” involving ₹ 1.97 crore and other audit observations involving ₹ 4.80 lakh are mentioned in the following paragraphs.

4.7 Recovery of dues treated as arrears of land revenue

Highlights

Recovery of arrears ranged between 2.56 and 8.18 *per cent* during the five years from 2004-05 to 2008-09. 1,08,027 certificate cases involving recovery of ₹ 350.76 crore were pending at the end of 31 March 2009.

(Paragraph 4.7.6)

Absence of guidelines was fraught with the risks of gaps in documentation resulting in difficulty in verifying the occurrences and genuineness of public demand cases.

(Paragraph 4.7.7)

Non-recording and inordinate delay in instituting certificate cases led to delay in recovery of certified dues of ₹ 45.38 crore.

(Paragraph 4.7.9)

Certified dues of ₹ 23.91 crore remained unrealised due to non-execution of 259 certificate cases.

(Paragraph 4.7.10)

Due to non-pursuation of certificate cases pending in Civil Courts/High Court, certified dues amounting to ₹ 3.16 crore remained unrealised.

(Paragraph 4.7.15)

The Government sustained loss of revenue of ₹ 1.71 crore due to non-levy of interest on the dues realised.

(Paragraph.4.7.18)

4.7.1 Introduction

For recovery of public demands², the Government of Assam has adopted the Bengal Public Demands Recovery (PDR) Act, 1913. The PDR Act provides that any sum recoverable as public demand can be recovered by effecting service of written demand, sale of movable property, attachment of the estate or holding, proceeding against other immovable property held by the defaulter and arrest and detention of the defaulter.

The modes of recovery of arrears of the Government departments/undertakings, corporations, banks etc., are laid down in the relevant Acts of the concerned Departments/organisations. However, if recovery cannot be effected and the dues become irrecoverable under the provisions of the relevant Acts, the officers responsible for administering those Acts are required to send the requisitions in the prescribed form, furnishing full details of the defaulter and the recovery to be effected as public demands to the certificate officer for initiation of certificate proceedings. The certificate proceeding is initiated by serving a demand notice on the certificate debtor

² Public demands mean arrears of land revenue, other revenue, demand of Government other than revenue and demands due to persons other than Government.

once the certificate officer is satisfied that the dues are legally due. If the debtor does not respond to the notice served, the recovery can be made (after 30 days of serving notice) under Section 14 of PDR Act by adopting any or all of the following methods.

- i) by attachment and sale or by sale without attachment of any property
- ii) by attachment of any decree
- iii) by arresting the certificate debtor and detaining him in the civil prison

We conducted a review on ‘Recovery of dues treated as arrears of land revenue’ covering the period from 2004-05 to 2008-09 to study the effectiveness of the systems prescribed for recovery of public demands. The review revealed a number of system and compliance deficiencies which are discussed in the succeeding paragraphs.

4.7.2 Organisational setup

The Principal Secretary (Revenue), Government of Assam administers the certificate organisation (*Bakijai* Branch) through the Commissioners of four³ divisions covering all the 27 districts in the State of Assam. At the district level the Deputy Commissioner/Collector is responsible for monitoring recoveries under the PDR Act for execution of certificates of recovery of public demand. There is no separate sanctioned post for the *Bakijai* branch. The staff of the Deputy Commissioner (DC)/Collector’s office are utilised for administering the certificate cases.

4.7.3 Audit objectives

We conducted the review with a view to assess:

- the effectiveness of the administration for recovery of public demand to collect the dues treated as arrears of land revenue;
- the compliance to the prescribed rules and procedure related to recovery of the dues treated as arrears of land revenue; and
- the efficacy of the internal control mechanism and internal audit.

4.7.4 Audit scope and methodology

We selected 10⁴ out of 27 district collectorates for test check of their records covering the period from 2004-05 to 2008-09 with reference to the provisions of the PDR Act between October 2009 to February 2010. We also verified the records of the four Commissionerates and the Government.

³ 1) Lower Assam, 2) Upper Assam, 3) North Assam and 4) Hills & Barak Valley.

⁴ (1) Upper Assam (Jorhat); (2) Lower Assam (Darrang, Kamrup (Metro), Kamrup (Rural , Nalbari); (3) North Assam (Nagaon, Sonitpur); and (4) Hills & Barak Valley (Karimganj, Hailakandi, Karbi Anglong).

4.7.5 Acknowledgement

We acknowledge the co-operation of the Revenue Department for providing necessary information to audit. We organised an entry conference in December 2009 wherein the audit criteria, objectives and methodology were discussed with the Principal Secretary, Revenue. We communicated our findings to the Department in June 2010 and discussed the same in the exit conference held in July 2010 with the Principal Secretary, Revenue. The replies on the draft review were received in August 2010 and we incorporated the same suitably in the respective paragraphs.

Audit findings

4.7.6 Trend of arrears

The position of total demand for recovery, demand settled and balance carried over to the following year during the period 2004-05 to 2008-09, as per the details furnished by the Commissioners and collected during field audit, in respect of 27 district collectorates⁵ were as under:

Table-I
Trend of arrears and recovery of dues

Sl. No.	Year	Opening balance		Cases instituted during the year		Total cases		Cases disposed during the year		Balance		Percentage	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount recovered	No. of cases	Amount	Disposal Amount	
1	2	3	4	5	6	7	8	9	10	11	12	13	
1.	2004-05	99,989	6,948	1,06,937	2,588	1,04,349	2.42	185.86	57.86	243.72	8.33	235.39	3.42
2.	2005-06	1,04,349	2,668	1,07,017	2,061	1,04,956	1.93	235.39	30.35	265.74	12.23	253.51	4.60
3.	2006-07	1,04,956	2,627	1,07,583	1,834	1,05,749	1.70	253.51	42.61	296.12	18.35	277.77	6.20
4.	2007-08	1,05,749	3,478	1,09,227	1,508	1,07,719	1.38	277.77	38.69	316.46	8.09	308.37	2.56
5.	2008-09	1,07,719	3,068	1,10,787	2,760	1,08,027	2.49	308.37	73.62	381.99	31.23	350.76	8.18
Total			18,789	10,751	78.23								
			243.13										

Thus, the percentage of disposed cases varied between 1.38 and 2.49 per cent of the total pending cases. Collection effected varied from 2.56 and 8.18 per cent compared to the total demand for the respective years. The disposal with reference to opening balance of 2004-05 and the cases instituted during the last five years was only nine per cent. The department had not fixed any target for disposal of pending cases by each collectorate leading to accumulation of ₹ 350.76 crore in 1,08,027 cases at the end of the year 2008-09 against ₹ 185.86 crore in 99,989 cases at the beginning of the year 2004-05.

⁵ (1) Bongaigaon, (2) Barpeta, (3) Baksa, (4) Chirang, (5) Cachar, (6) Dibrugarh, (7) Dhubri, (8) Dhemaji, (9) Darrang, (10) Golaghat, (11) Goalpara, (12) Hailakandi, (13) Jorhat, (14) Kokrajhar, (15) Karimganj, (16) Karbi Anglong, (17) Kamrup (Metro), (18) Kamrup (Rural), (19) Morigaon, (20) North Lakhimpur, (21) Nagaon, (22) Nalbari, (23) NC Hills, (24) Tinsukia, (25) Sibsagar, (26) Sonitpur and (27) Udalguri.

This indicates ineffectiveness in implementation of the PDR Act in the State of Assam. The Government or the Commissioners could not provide us the age-wise pendency of arrears and hence we could not analyse the pendency of arrears further. The Government did not also prescribe any report or return to be furnished periodically by the administrators to the controlling officers of the Department to keep a watch on the progress of public demand cases. This indicated weak monitoring mechanism in regard to recovery of dues at all the levels of the State Government.

We noticed that arrears in 38,147 cases (out of total 1,08,027 pending cases) involving recoverable dues of ₹ 58 crore were lying outstanding for more than five years as on 31-3-2009 in nine⁶ out of 10 test checked districts.

The Government while accepting the audit contentions stated that suitable instructions will be issued to the district collectorates to reduce the pendency of certificate cases.

The Government may consider prescribing reports/returns to be furnished periodically by the administrators to the controlling officers to enable monitoring of the progress of public demand cases and setting specific targets for disposal of certificate cases.

System Deficiencies

4.7.7 Absence of guidelines

The Government had neither prepared any manual nor issued any standing order about the system and procedure to be followed for initiation of certificate proceedings on receipt of requisition from the requisitioning authorities for administering the public demand. Absence of guidelines was fraught with the risk of gaps in documentation resulting in difficulty in verifying the occurrences and genuineness of public demand cases.

The Government may consider preparing a departmental manual compiling all orders and detailing functions and responsibilities of departmental staff.

4.7.8 Manpower

Manpower is a key instrument for efficient management of operational performance of an organisation to provide quality service to the stakeholders. Timely disposal of certificate cases in terms of the PDR Act is a key measure of the operational efficiency of the certificate organisation and is dependent on adequate and efficient manpower.

We found that there were no separate sanctioned posts for dealing with certificate cases in the 10 test checked districts. The work was managed by the existing staff of the amalgamated establishment of DC offices. Absence of dedicated manpower in the certificate organisation resulted in delay in disposal and increased the pendency of claims, as brought out in succeeding paragraphs.

⁶ (1) Darrang, (2) Kamrup (Metro), (3) Kamrup (Rural), (4) Nalbari, (5) Nagaon, (6) Sonitpur, (7) Hailakandi, (8) Karimganj and (9) Karbi Anglong.

The Government accepted the audit observation and stated that district collectorates will be asked to earmark at least one UDA⁷ level staff from their amalgamated establishment exclusively for dealing with the certificate cases under the supervision of one Additional Deputy Collector level officer, whose performance on certificate cases will be considered while recording his Annual Confidential Report.

The Government may consider creating separate sanctioned posts as well as deployment of manpower for the certificate organisation (Bakijai Branch).

4.7.9 Non-recording of requisition for institution of certificate cases

The Bengal PDR Act, 1913 provides that the certificate officer on receipt of a requisition is required to sign a certificate after his satisfaction that the demand is recoverable and that the recovery of the demand by suit is not barred by law. The Act also provides for maintenance of a Register of Certificates cases wherein the particulars of the certificates are required to be recorded.

We found that the Government did not issue any standing order specifying the period within which a requisition received is to be converted into a certificate case. We also found that there was no system of reconciliation of records of the Requiring Officer (RO) and the Certificate Officer (CO) in

any of the 10 test checked districts. This resulted in delay in instituting certificate cases and consequent non-recovery of dues of ₹ 45.38 crore as discussed below:

(i) The district collectorates, Karbi Anglong and Jorhat neither recorded the six requisitions received between 2001-02 and 2006-07 in the register of certificate cases nor instituted certificate cases (February 2010). The details of the cases are shown in the table below:

Table-II

Non-recording of requisitions for institution of certificate cases

Sl. No.	Name of Office	Requiring Officer	Reference No. and date of requisition	Amount of public dues (₹ in lakh)
1	2	3	4	5
1.	District Collectorate, Karbi Anglong	Assistant Labour Commissioner, Golaghat	(i) Misc.IDA/2006/530-32 dt.12-7-2006 (ii) Misc.IDA/2006/534-36 dt. 12-7-2006	1.92 4.57
2.	District Collectorate, Jorhat	Chairman, Board of Trustee, ATPPF, Guwahati	(i) PF (L) 2002/S-146/6644-48 dt. 24-1-2002 (ii) PF(L)2002/S-199/6693-97 dt.24-1-2002 (iii) PF (L)/2003/S/266/1009-13 dt. 27-5-2003	26.62 38.78 36.98
3.	District Collectorate, Jorhat	Branch Manager, Apex Bank, Jorhat	No. Nil dt.4-4-2005	2,653.23
Total				2,762.10

⁷ Upper Division Assistant.

The CO or the RO never reconciled their records to ascertain the actual position of the cases. Thus, non-reconciliation and non-recording the requisitions led to delay in initiation of the process for realisation of public dues amounting to ₹ 27.62 crore.

(ii) We observed that 324 certificate cases involving recoverable dues of ₹ 1.61 crore as on 31 March 2009 were awaiting settlement as per records of the Divisional Forest Officers, Nagaon and Karimganj against 122 cases involving ₹ 55 lakh in the records of the COs as detailed below:

Table-III
Variation between the figures of ROs and COs

Sl No	Name of office	As per records of Divisional Forest Officers		As per records of the certificate officers		Difference	
		No. of cases outstanding with certificate officers as on 31/3/09	Recoverable amount	No. of cases outstanding as on 31/3/09	Recoverable dues	No. of cases	Amount involved
1	2	3	4	5	6	7	8
1.	DFO, Nagaon Division	281	1.11	89	0.11	192	1.00
2.	DFO, Karimganj Division	43	0.50	33	0.44	10	0.06
Total		324	1.61	122	0.55	202	1.06

The COs did not reconcile their records with that of the ROs to ascertain the reasons for the difference of 202 cases involving recoverable dues of ₹ 1.06 crore.

(iii) In five out of the 10 test checked district collectorates we observed inordinate delays on the part of the COs ranging between two and 108 months (after receiving the requisitions) in instituting 1,089 certificate cases. This led to delay in recovery of ₹ 16.70 crore as shown in the following table:

Table-IV
Delay in conversion of requisitions into certificate cases

Sl. No.	District	No. of cases	Recoverable amount (₹ in crore)	Month/Year of receipt of requisitions	Month/Year of institution of certificate cases	Period of delay In months)
1	2	3	4	5	6	7
1.	Nalbari	998	10.64	Between 1999-2000 and 2004-05	2008-09	48 to 108
2.	Darrang	22	0.30	August 2001	June 2003	22
3.	Jorhat	18	5.41	Between 2001-02 to 2007-08	2007-08	2 to 72
4.	Kamrup (Metro)	10	0.06	November 2006	October 2009	36
5.	Karbi-Anglong	41	0.29	Between May 2003 and July 2006	Between July 2008 and October 2008	27 to 61
Total		1,089	16.70			

We did not find any reasons for non-recording of the requisitions in the register of certificate cases and delay in institution of certificate cases for such long periods.

The Government stated that a time frame will be fixed for registering the requisitions and conversion of requisitions into certificate cases.

The Government may consider prescribing the procedure for recording requisitions from the requisitioning authorities and also specifying a time frame within which a requisition received is to be converted into a certificate case.

4.7.10 Non-execution of certificate cases

Section 7 of the PDR Act provides that the certificate officer is required to execute the certificate in the event of non-payment of dues by the certificate debtor after a lapse of 30 days of serving notice. In the event of denial of liability by the certificate debtor, the case is required to be heard by the certificate officer and after taking the evidences the demand is to be determined.

We observed that there was no mechanism for monitoring the execution of certificate cases at the Government level.

In six⁸ out of 10 test checked districts, we found that 259 certificate cases were pending for execution. The details are given in the following table:

Table-V
Non-execution of certificate cases

Sl. No.	District	Period of institution of Certificate Cases	No. of cases	Amount involved (₹ in lakh)	Irregularities
1	2	3	4	5	6
1.	Nalbari	January 1986 to May 2005	21	14.54	Notices/reminders were issued between June 1989 and June 2005. No further action was taken thereafter.
2.	Karimganj	June 2005	1	773.19	Demand notice was issued in July 2005 followed by reminder in July 2006. No action was taken thereafter.
3.	Kamrup (Metro)	January 2008	1	85.79	Demand notice was issued in February 2008, but the certificate debtors could not be traced at the given address. No further action was taken.
4.	Kamrup (Metro)	November 2003	1	147.13	Demand notice was issued in November 2003. No action was taken thereafter.
5.	Karbi Anglong	February 2002	4	14.04	Demand notice was not issued till date for reasons not on record.
6.	Karbi Anglong)	Between 1998 and 2004	31	17.41	Reasons for non-execution could not be ascertained due to non-availability of records.
7.	Sonitpur	Between February 1997 and March 2008	108	157.24	Besides issue of demand notices, warrants in all the cases for arrest were issued more than once but not executed. No penal measures, like attachment /sale of properties of the certificate debtors, were adopted for realisation of the dues.
8.	Kamrup (Rural)	Between September 2001 and November 2007	62	108.22	
9.	Kamrup (Rural)	April 2007	9	10.36	These cases were instituted on 20 April 2007 and after the issue of first demand notices, no further action was taken to execute the cases.
10.	Nagaon	February 2001 to September 2008	5	547.35	These cases were instituted on receipt of requisitions from the authority of the Assam Tea Plantation Provident

⁸ (1) Nalbari, (2) Karimganj, (3) Kamrup (Metro), (4) Kamrup (Rural), (5) Karbi Anglong and (6) Sonitpur.

11.	Karimganj	May 2001 to September 2001	16	515.40	Fund Scheme. But on receipt of request from the Managing Director of Assam Tea Corporation Ltd., these cases were deferred by the COs in January 2009 without the approval of the Government. The cases are pending (July 2010) resulting in locking up of recoverable dues of ₹ 10.63 crore. There is no provision in the Act for deferment of a certificate case once it is instituted.
Total			259	2,390.67	

The district collectors could not furnish the reasons for non-execution of the cases. This resulted in locking up of certified dues amounting to ₹ 23.91 crore.

The Government while accepting our point stated that the matter of non-execution/deferment of certificate cases would be examined/verified and remedial measures adopted.

The Government may consider adopting an effective monitoring system for execution and disposal of certificate cases as per the provisions of the Act.

4.7.11 Lack of control in respect of public demand sent to other Collectors

The PDR Act provides that when a public demand is payable by a defaulter having property in a district(s) other than the one in which the arrear accrued or the sum is payable, the Collector may send to the Collector of the other district(s), a copy of the certificate indicating the name of the defaulter and such other particulars as may be necessary for his/her identification including the amount payable and the ground on which it is due. The Collector(s) of the other district(s) shall, on receiving the certificate, proceed to recover the amount stated therein as if it was a public demand which had accrued in his (Collector's) district.

4.7.11.1 The District Collector of Kamrup (Metro), on receipt of a requisition from the authorities of Assam Financial Corporation, Guwahati, instituted in April 2002 a certificate case involving ₹ 15.11 lakh. On cross verification with the records of the RO, we found that the defaulter hailed from Sonitpur district of Assam and was having properties there. But the Collectorate did not transfer (February 2010)

the case to Sonitpur district for recovery of the loan as arrears of land revenue and instead retained the case without any further action. This resulted in non-recovery of certified dues amounting to ₹ 15.11 lakh.

4.7.11.2 The Sales Tax Department of Madhya Pradesh had requested the District Collector, Kamrup (Metro) in 1999 to recover ₹ 10.60 lakh in respect of a dealer⁹. The Collector instituted the case on 16 September 1999 and issued a demand notice on the same day itself followed by a reminder on 19 January 2000. On 16 February 2000, the dealer presented himself through his

⁹ M/s Bajrang Tea India Company, Guwahati.

advocate in the District Collector's Office. The Collector, in contravention of the extant rules, decided that as the arrears related to sales tax, the concerned department may be written to for recovery of the dues. Any correspondence made with the concerned tax department thereafter could not be ascertained in audit. The case is still pending (November 2010).

The Government accepted our observations and stated that suitable instructions would be issued to the district collectors to take action on certificates received.

4.7.12 Slow pace of disposal of cases

The Bengal PDR Act provides that any sum recoverable as arrears of land revenue under various relevant Acts can be recovered by effecting attachment and sale of property, sale of property without attachment, attachment of any decree, arrest and detention of defaulter.

The year-wise position of certificates issued, the number of certificates where recovery was made and the balance cases during the period from

2004-05 to 2008-09 in respect of the 10 test checked districts are given below:

Table-VI
Slow pace of recovery

Sl. No.	Year	Opening balance (Cases)	Fresh cases instituted (Cases)	Total demand (Cases)	Disposal (Cases)	Closing balance (5-6) (Cases)	Percentage of pendency	Percentage of cases where recovery made
1	2	3	4	5	6	7	8	9
1.	2004-05	50,714	3,423	54,137	977	53,160	98.20	1.80
2.	2005-06	53,160	1,349	54,509	1,149	53,360	97.89	2.11
3.	2006-07	53,360	1,037	54,397	1,108	53,289	97.96	2.04
4.	2007-08	53,289	2,492	55,781	804	54,977	98.56	1.44
5.	2008-09	54,977	2,027	57,004	2,445	54,559	95.71	4.29

Thus, during 2004-05 to 2008-09, the percentage of recovery ranged between 1.44 and 4.29 of the total number of cases. The number of cases where recoveries were made was less than the cases instituted during 2004-05, 2005-06 and 2007-08, while the number of cases disposed of during 2006-07 and 2008-09 were higher than those instituted during these years. However, the pace at which the cases were disposed during the five years was not encouraging given the steady increase in the numbers of cases pending at the end of each year except in 2006-07, when the number of such cases came down marginally from 54,509 to 54,397. The Government had not framed an action plan for clearing the pending cases expeditiously.

Further check of the records revealed that:

- The District Collectorate of Jorhat reduced 30 cases amounting to ₹ 10.85 lakh from the closing balance for the year 2008-09 without recovering the arrears on the ground that the certificate debtors were not traceable and returned the cases to the certificate holders.

We found that no police report relating to non-traceability of the certificate debtors was obtained by the CO.

- The District Collectorates of Jorhat, Nagaon and Sonitpur during 2007-08 and 2008-09 had written off ₹ 68.20 lakh without assigning any reasons on record. The PDR Act does not provide for write off of any recoverable dues under the certificate cases and as such the action taken by the District Collectorates were not in order.

The Government, while accepting the audit contention, stated that periodical reviews will be conducted for quick disposal of the cases. The COs will be directed to enforce the provisions of the Act strictly and in case the certificate debtor is found untraceable, an untraceable report should be obtained and dues recoverable should not be written off.

The Government may consider making the process of admittance and disposal of certificate cases time bound to minimise delays at various stages thereby causing blocking/non-realisation/loss of revenue.

4.7.13 Internal control

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. They also help in creation of reliable financial and management information system for prompt and efficient service and for adequate safeguards against defaults.

The internal control system in the department was inadequate as brought out below:

- Records relating to receipt and recording of requisitions were not

maintained in any of the 10 test-checked collectorates as there was no defined procedure for maintaining of such records. Absence of such records rendered monitoring of receipt of requisitions and conversion of these requisitions into certificates difficult, if not, impossible.

- There was no system of periodical inspection of certificate cases by the higher authorities. The progress of disposal of cases and recovery thereof also remained unmonitored. Three¹⁰ out of 10 test checked districts disposed/settled 11 certificate cases, involving recoverable dues of ₹ 65.36 lakh, but did not remove these from the balance cases and continued to exhibit them as live cases.

- Rule 79 under Schedule II of the Bengal PDR Act provides for maintenance of a Register of Certificate cases wherein the particulars of the certificates are required to be recorded. The Government/Department had not, however, prescribed any format for maintaining the register. We found that though the registers were maintained in all the 10 test checked districts, these did not disclose the required information needed for disposal, monitoring and supervision of certificate cases.

¹⁰ 1) Kamrup (Metro) – one case, 2) Karbi Anglong –four cases and 3) Nagaon – six cases.

- There was lack of an effective system for monitoring the cases at the Government/Commissionerate level other than getting the consolidated statements of amounts outstanding for recovery. Information regarding the period of pendency of the certificate cases was not being intimated by the district collectorates to the Government/Commissionerates. The Government/Commissionerates had also never called for such details from the subordinate offices/officers. There was no prescribed format for the returns to be furnished to the higher authorities for monitoring the cases.

The Government accepted this and stated that guidelines prescribing a monitoring system and maintenance of registers in a prescribed format will be issued.

4.7.14 Incorrect reporting of demands due

The statement of demands of revenue collection for the month of March 2009 as reported to the Government by the District Collectorates of Jorhat and Sonitpur, were not correct as may be seen from the following table:

Table-VII
Incorrect reporting of demands due

Sl. No	District	Name of the Certificate Holders	Figures as per monthly statement for March 2009 submitted to Government		Figures as per records of the certificate officer		Difference	
			No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)
1	2	3	4	5	6	7	8	9
1.	Jorhat	ATPPF ¹¹ Authority	142	9.19	38	9.73	104	0.54
		DFO ¹² , Jorhat	19	0.11	14	0.47	5	0.36
2.	Sonitpur	DFO, Sonitpur	9	0.34	5	0.02	4	(-) 1.74

This indicated that the reports were prepared without verifying the basic records. The discrepancies remained unreconciled.

The Government stated that the District Collectorates will be directed to submit returns to the Government after proper scrutiny.

4.7.15 Delay in recovery of certificate dues due to cases pending in Court

The following table shows that 92 cases involving ₹ 3.11 crore and five cases involving ₹ five lakh (filed between 2003-04 to 2008-09) were pending in Civil Courts and the High Court (as of March 2009) respectively but the COs did not pursue the matter for early settlement. The officers at higher levels also did not monitor the disposal of the court cases.

¹¹ Assam Tea Plantation Provident Fund.

¹² Divisional Forest Officer.

Table-VIII
Delay in recovery of certificate dues due to cases pending in Court

Sl. No.	District	Cases pending in Civil Courts		Cases pending in High Court	
		No. of cases	Amount involved	No of cases	Amount involved
1	2	3	4	5	6
1.	Karimganj	1	1.25	Nil	Nil
2.	Kamrup (Metro)	5	236.13	Nil	Nil
3.	Sibsagar	10	2.96	Nil	Nil
4.	Kamrup (Rural)	18	27.72	Nil	Nil
5.	Nagaon	3	9.04	Nil	Nil
6.	Nalbari	Nil	Nil	5	5.00
7.	Morigaon	1	2.70	Nil	Nil
8.	Dhamaji	5	5.44	Nil	Nil
9.	Dhubri	42	21.91	Nil	Nil
10.	Cachar	7	3.51	Nil	Nil
	Total	92	310.66	5	5.00

The pending court cases need to be pursued in the interest of recovery of certified dues.

The Government stated that the District Collectorates will be directed to monitor the pending court cases.

4.7.16 Internal audit

Internal Audit is a vital component of the internal control mechanism and enables an organisation to assure itself that the prescribed systems are functioning reasonably well.

We found that there was no arrangement for any internal audit within the Department nor was any arrangement made for internal audit by the Finance Department for scrutinising the records relating to the

management of certificate cases. As no internal audit of the records of the Collectorates was conducted, we are not in a position to comment on the adequacy and efficacy of internal audit as far as recovery of dues is concerned.

The Government stated that the Finance Department will be requested to introduce the system of Internal Audit in respect of recovery cases.

4.7.17 Computerisation

The activities of the Government at various levels relating to certificate cases had not been computerised.

The Government stated (August 2010) that a project on computerisation of certificate cases will be undertaken which will include development of a software.

The Government may consider early computerisation of the entire gamut of activities relating to certificate cases so as to enable proper monitoring of the progress of certificate proceedings, quick disposal of the cases and prompt realisation of dues.

Compliance deficiencies

4.7.18 Non/short levy of interest on the dues realised under certificate cases

Section 16 of the PDR Act provides for recovery of interest at the rate of 6.25 per cent per annum on the demands from the certificate debtors, chargeable from the date of filing of the case upto the date of realisation of dues.

The COs of nine District Collectorates did not levy interest of ₹ 1.71 crore on the dues realised against 1,779 cases disposed of during 2004-05 to 2008-09 as shown in the following table :

**Table-IX
Non-levy of interest on the dues realised under certificate cases**

Sl. No.	Districts	No. of cases for which records made available	Amount of interest not charged (₹ in lakh)
1	2	3	4
1.	Nalbari	125	7.41
2.	Karimganj	116	12.87
3.	Kamrup (Metro)	99	14.38
4.	Kamrup (Rural)	160	15.77
5.	Nagaon	311	30.42
6.	Sonitpur	304	29.45
7.	Jorhat	124	17.20
8.	Karbi Anglong	236	14.84
9.	Darrang	304	28.70
Total		1,779	171.04

We also noted that the rate of interest of 6.25 per cent was fixed in the year 1913, at the time of enactment of the PDR Act. The prescribed rate of interest is very low and has not been received since then. The Government of Assam had also not considered revising the rate so far (July 2010).

The Government stated that the COs will be directed to levy interest as per the PDR Act and the matter of revision of the rate of interest will be considered.

The Government may consider enhancing the rate of interest recoverable from certificate debtors to act as a deterrent to habitual and willful defaulters.

4.7.19 Delay in remittance/non-accounting of dues collected

The Bengal PDR Act stipulates that the recovered certificate dues are required to be remitted to the departments/organisations on whose behalf the certificates were issued immediately.

4.7.19.1 In six out of ten test checked districts there were delays ranging between one to 17 months in remitting the collected dues which led to accumulation of money at the end of each month. The amount accumulated upto March 2009 in six districts

aggregated to ₹ 1.01 crore as detailed below:

Table-X
Delay in remittance of recovered dues (₹ in lakh)

Sl. No.	District	Accumulated amount upto March 2009
1	2	3
1.	Kamrup (Metro)	28.01
2.	Nagaon	57.48
3.	Karimganj	4.29
4.	Nalbari	2.57
5.	Darrang	3.13
6.	Jorhat	5.87
Total		101.35

We found that the dues collected were disbursed to the certificate holders on obtaining a receipt slip without recording the same in the Collection Register.

The Government may issue directions for prompt remittance of recovered dues to the concerned departments and prescribing a format for the Collection Register.

4.7.19.2 The daily collection of certified dues was being recorded in the daily collection register and at the end of each day the collected amount was to be handed over to the cashier for accounting and crediting the amount in favour of the certificate holder on whose behalf the collection was made.

We found from the receipt books that the District Collectorates of Darrang and Nagaon (Koliabor Sub-division) between June 2007 and December 2008 collected certified dues amounting to ₹ 15,260 in 10 cases but this was neither recorded in the cash books nor accounted for in any other records. The details of the collection were as under:

Table-XI
Non-accounting of dues realised (₹ in lakh)

Sl. No.	District	Period of collection	No of cases	Amount collected	Present position
1	2	3	4	5	6
1.	Darrang	December 2008	6	0.06	Not yet regularised
2.	Nagaon	June 2007 to August 2008	4	0.09	Not yet regularised
Total			10	0.15	

The Government while accepting the point stated that the District Collectorates will be directed to ensure that the recovered certificate dues are remitted to the concerned Department/organisation immediately.

4.7.20 Conclusion

Despite existence of enforceable provisions in the PDR Act, the Department failed to take effective and meaningful action to recover arrears of certificate dues. Improper maintenance of basic records, failure to invoke penal and coercive provisions in recovery proceedings, lack of co-ordination with other departments and delay in filing and disposing certificate cases were the main reasons which hampered the Department's efforts in effective and efficient collection of arrears of certificate dues. The absence of age-wise analysis of the instituted cases weakened the monitoring of pending cases with likely risk

of old cases becoming unrealisable. The internal controls were inadequate. The internal audit wing also did not exist. There was absence of automation which would have helped in effective monitoring of the system of recording and disposal of public demand cases.

4.7.21 Recommendations

To strengthen the system for compliance leading to streamlining the process of speedy disposal of the certificate cases, the Government of Assam may consider:

- Creating separate sanctioned posts as well as deployment of manpower for the certificate organisation (*Bakijai* Branch);
- Prescribing the format of reports and returns to be furnished periodically by the administrators to the controlling officers to keep a watch on the progress of public demand cases and setting specific targets for disposal of certificate cases;
- Preparing a departmental manual compiling all orders and detailing functions and responsibilities of departmental staff;
- Prescribing the procedure for maintenance of registers in respect of receipt of requisitions from the requisitioning authorities and specifying the time frame within which a requisition received is to be converted into a certificate case;
- Adopting an effective monitoring system on execution and disposal of certificate cases as per the provisions of the Act;
- Making the process of admittance and disposal of certificate cases time-bound to lessen the scope of undue delay at various stages thereby causing blocking/non-realisation/loss of revenue;
- Considering early computerisation of the entire gamut of activities relating to certificate cases so as to increase the pace of disposal of these cases and facilitate monitoring the progress of certificate proceedings, disposal and realisation of dues; and
- Enhancing the rate of interest recoverable from certificate debtors to act as a deterrent to habitual and willful defaulters.

LAND REVENUE

4.8 Non-observation of the provisions of the Act and the Assam Treasury Rules

As per executive instructions, mouzadars are allowed to retain cash in hand upto ₹ 10,000. The provisions of the Assam Treasury Rules state that any money received shall not be appropriated to meet departmental expenditure.

We found that mouzadars not only retained cash beyond the permissible limit but also utilised it towards meeting departmental expenditure instead of depositing the same into Government account. Though cases of unauthorised retention of cash have been repeatedly pointed out in earlier Audit Reports, the Department/Government failed to take any corrective steps. A few cases in this regard are discussed in paragraphs 4.8.1 and 4.8.2.

4.8.1 Retention of cash in hand by mouzadars

[Circle Officers, Doboka, Mayang and Tinsukia; April 2008 and January 2010]

In accordance with the executive instruction issued by the Land Revenue Department under notification dated 29 March 1996, no *mouzadars* is allowed to retain cash in hand beyond the permissible limit of ₹ 10,000 with regard to the land revenue collected by him. Subject to this limit, the *mouzadar* should remit the land revenue, local rates and other Government revenue collected by him into the treasury at least once in a month.

As per instructions under the Land Laws of Assam, the Sub-Deputy Collectors shall inspect the accounts of the *mouzas* in their respective jurisdictions at least twice a year. For this purpose they should inspect at least half of the *mouzas* in their charge every quarter of the year.

We found from the *Amdani* (Collection) Register that land revenue of ₹ 41.40 lakh (pertaining to the period from 1984 to 2009), collected between January 2007 and December 2009, was retained by thirteen¹³ *mouzadars*¹⁴ under the Circle Officers (COs), Doboka, Mayang and Tinsukia each in excess of the permissible limit ranging between ₹ 42,000 and ₹ 14.74 lakh. We also found that none of these *mouzadars* had been inspected by the Sub-Deputy

Collectors or the COs. This is indicative of lack of follow-up action on the instructions contained in the land laws of Assam. This also led to unauthorised retention of revenue of ₹ 41.40 lakh outside the Government account.

¹³ (i) Bogdung (Part), (ii) Gharbandi (Part), (iii) Gobha, (iv) Kapashbari, (v) Manaha, (vi) Mayang, (vii) Namati, (viii) Niz ghagua, (ix) Pakaria, (x) Rongagora, (xi) Tingrai, (xii) Tinsukia and (xiii) Tipling (Part).

¹⁴ *Mouzadars* are revenue officers appointed under Section 124 of the Assam Land and Revenue Regulation, 1886.

The CO, Doboka stated (June 2010) that after proper verification of records they found that the *mouzadar* of Namati *Mouza* retained ₹ 10.19 lakh and not ₹ 14.74 lakh as pointed out by audit. But the statement annexed to the reply disclosed that the *mouzadar* actually retained ₹ 19.87 lakh. In respect of Kapahbari *Mouza*, he stated that actual retention was ₹ 72,000 (₹ 24,000 retained by the *mouzadar* and the balance of ₹ 48,000 retained by the Jr. Assistant of Doboka Circle Office against whom departmental proceedings was on). We do not agree as the figures shown were after deduction of the amount of commission due to be paid to the *mouzadar*. We have not received any reply from other COs (November 2010).

We reported the cases to the Department/Government between August 2008 and February 2010; we are yet to receive their replies (November 2010).

4.8.2 Utilisation of land revenue to meet departmental expenditure

[Circle Officer, Sonari; December 2008]

The Assam Treasury Rules provide that all moneys received by or tendered to Government on account of revenue of the State, shall without undue delay be remitted into treasury or into the bank. Money so received shall not be appropriated to meet departmental expenditure.

Land revenue of ₹ 4.80 lakh, collected during the period from 2005-06 to 2007-08 by three *mouzadars* of Abhoypur, Sapekhati and Silakuti, was unauthorisedly utilised as commission by the *mouzadars* in violation of the above rule. This resulted in unauthorised

appropriation of Government revenue of ₹ 4.80 lakh. This was also indicative of weak budgetary and expenditure controls and an instance of by-passing the required legislative approval.

We reported the case to the Department/Government in February 2009; we are yet to receive their reply (November 2010).