

CHAPTER-IV: LAND REVENUE, STAMP DUTY AND REGISTRATION FEE

EXECUTIVE SUMMARY

Increase/decrease in tax collection	<p>In 2011-12 the collection of taxes from land revenue increased by 12.14 <i>per cent</i> as compared to the Budget Estimates (BE) for the year and by 33.48 <i>per cent</i> over the previous year which was attributed by the Department to the increase in conversion of land under Section 8A of the OLR Act, 1960, alienation of Government land to the different agencies, collection of premium thereof and collection of more royalty etc. The collection of stamp duty and registration fee during 2011-12 increased by 19.80 <i>per cent</i> over the previous year. However, it decreased by 2.33 <i>per cent</i> as compared to the BE for the year which was attributed to excess target fixed in comparison to previous years.</p>
Low recovery by the Department against the observations pointed out by audit in earlier years	<p>During the period 2006-11 audit pointed out non / short-levy, blocking, non / short-realisation of land revenue and fee etc., with revenue implication of ₹ 981.02 crore in 50,131 cases. Of these, the Department accepted audit observations in 36,769 cases involving ₹ 107.30 crore; but recovered only ₹ 7.41 crore in 1,293 cases. The average recovery position, being 6.91 <i>per cent</i>, as compared to acceptance of objections, was very low and it ranged between 0.20 <i>per cent</i> and cent <i>per cent</i>.</p> <p>Similarly, during the period 2006-11 audit pointed out non / short-levy, non / short-realisation of stamp duty and registration fee etc., with revenue implication of ₹ 946.32 crore in 1,66,460 cases. Of these, the Department accepted audit observations in 14,436 cases involving ₹ 16.14 crore; but recovered ₹ 7.40 crore in 3,751 cases. The average recovery position, being 45.85 <i>per cent</i>, as compared to acceptance of objections was low and it ranged between 4.48 <i>per cent</i> and 96.57 <i>per cent</i>.</p>
Results of audit conducted in 2010-11	<p>In 2011-12, Records of 135 units relating to land revenue, stamp duty and registration fees were test checked and found non-collection, non / short-assessment, blocking of revenue etc. involving ₹ 1,905.77 crore in 15,153 cases.</p> <p>The Department accepted underassessment and other deficiencies of ₹ 186.29 crore in 1,100 cases in respect of land revenue and ₹ 1.03 crore in 412 cases in respect of stamp duty and registration fees pointed out in audit during the year 2011-12. An amount of ₹ 5.29 crore in 377 cases in respect of land revenue</p>

and ₹ 1.49 crore in 637 cases in respect of stamp duty and registration fees were recovered during the year 2011-12.

Highlights

In this Chapter illustrative cases of ₹ 72.15 crore selected from the audit observations noticed during test check of records relating to assessment and collection of land revenue, stamp duty and registration fees in the offices of the Tahasildars, District Sub-Registrars (DSRs) and Sub Registrars (SRs), where the provisions of the Acts / Rules were not followed.

It is a matter of concern that similar omissions have also been pointed out repeatedly in the Audit Reports in the past; but the Department has not taken adequate corrective action. Further, though these omissions were apparent from the records which were made available to audit, the Tahasildars / DSRs / SRs were unable to detect these mistakes.

Conclusions

The Department needs to improve the internal control system including strengthening of the internal audit wing so that weaknesses in the system are addressed and omissions of the nature detected by audit are avoided in future.

It also needs to initiate immediate action to frame / amend the Rules for early finalisation / regularisation of lease of Government lands and to realise the Government dues as pointed out.

4.1.1 Tax administration

Levy and collection of Land Revenue (LR) is regulated under the Orissa Government Land Settlement (OGLS) Act, 1962, the Orissa Prevention of Land Encroachment (OPLE) Act, 1972, the Orissa Land Reforms (OLR) Act, 1960 and Rules made thereunder. The Board of Revenue (BOR) administers the above Acts and Rules being assisted by field functionaries like Collectors, Sub Collectors and Tahasildars under the overall control of the Principal Secretary to Government in the Revenue and Disaster Management (R&DM) Department.

The levy and collection of Stamp Duty (SD) and Registration Fee (RF) are regulated under the Indian Stamp (IS) Act, 1899, the Indian Registration Act, 1908 and Rules made thereunder. The Inspector General of Registration (IGR) under the overall control of the Principal Secretary to the Government in Revenue and Disaster Management Department administers the above Act and Rules being assisted by a Joint Inspector General (JIG), three Deputy Inspectors General (DIGs) and 30 District Sub Registrars (DSRs) at the district level and Sub Registrars (SRs) at the unit level.

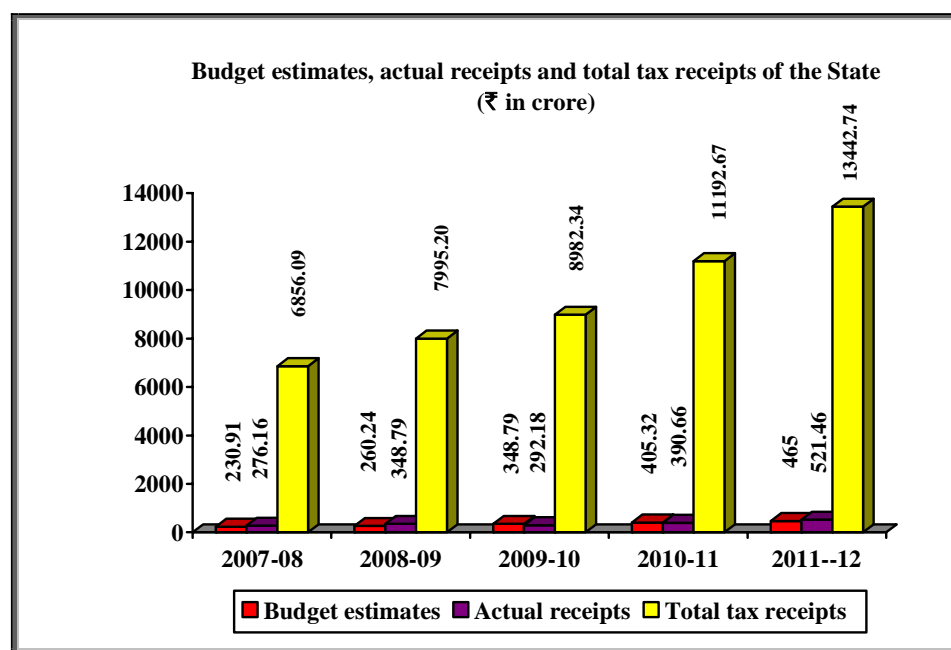
4.1.2 Trend of receipts

Actual receipts from LR, SD and RF during years 2007-08 to 2011-12 along with the total tax receipts during the same period are exhibited in the following tables and bar graphs showing their contribution to the total tax receipts of the State.

A Land Revenue

(₹ in crore)

Year	Budget estimate	Actual receipts	Variation Excess (+)/ Short-fall (-)	Percentage of variation	Total tax receipts of the state	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	230.91	276.16	(+) 45.25	(+) 19.60	6,856.09	4.03
2008-09	260.24	348.79	(+) 88.55	(+) 34.03	7,995.20	4.36
2009-10	348.79	292.18	(-) 56.61	(-) 16.23	8,982.34	3.25
2010-11	405.32	390.66	(-) 14.66	(-) 3.62	11,192.67	3.49
2011-12	465.00	521.46	(+) 56.46	(+) 12.14	13,442.74	3.88

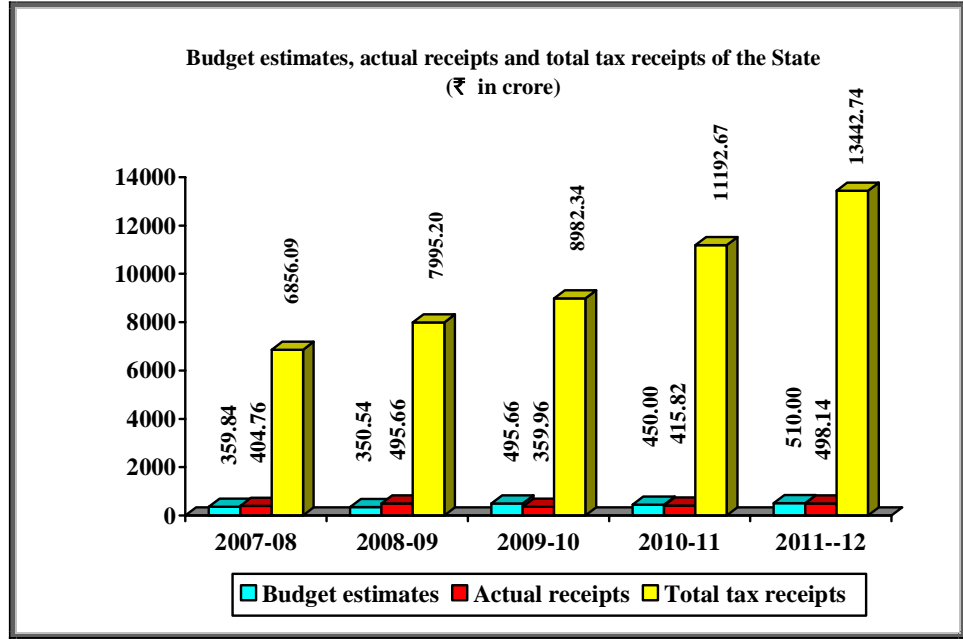


No reasons were, however, furnished by the Department for wide fluctuation in the receipts vis-à-vis the budget estimates made during the above period. While the increase in collection for revenue during 2007-08, 2008-09, 2010-11 and 2011-12 as compared to the previous years was stated to be due to conversion of land under Section 8-A of OLR Act, 1960, alienation of Government land to the different agencies, collection of premium thereof and collection of more royalty etc., no reasons for decrease in collection of revenue during 2009-10 as compared to the previous year was given by the Department.

B Stamp duty and registration fee

(₹ in crore)

Year	Budget estimate	Actual receipts	Variation Excess (+)/ Short-fall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	359.84	404.76	(+) 44.92	(+) 12.48	6,856.09	5.90
2008-09	350.54	495.66	(+) 145.12	(+) 41.40	7,995.20	6.20
2009-10	495.66	359.96	(-) 135.70	(-) 27.38	8,982.34	4.01
2010-11	450.00	415.82	(-) 34.18	(-) 7.60	11,192.67	3.72
2011-12	510.00	498.14	(-) 11.86	(-) 2.33	13,442.74	3.71



The reason for increase in collection during 2011-12 over the previous year was attributed by the Department to the efforts by the IGR and field functionaries, revision of Bench Mark Valuation, disposal of pending undervaluation cases by way of one time settlement. The lower collection against the target during 2010-11 and 2011-12 was also stated to be due to excess target fixed in comparison to previous years which is not correct since the target (₹ 450 crore) fixed for 2010-11 was less than the target of ₹ 495.66 crore for the year 2009-10.

The Government may prepare realistic budget estimates both for LR and SD etc., duly adhering to the provision of the Budget Manual.

4.1.3 Cost of collection

The gross collection under SD and RF, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2009-10, 2010-11 and 2011-12 along with the All India average percentage of expenditure for collection to gross collection in the respective previous years are mentioned below.

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the previous year
2009-10	359.96	15.91	4.42	2.77
2010-11	415.82	17.09	4.11	2.47
2011-12	498.15	23.87	4.79	1.60

The percentage of the cost of collection was always higher than the all India average percentage during the above years. During the year 2011-12, it was almost three (2.99) times the all India average percentage of previous year (1.60) which needs to be reviewed by the Departments. **The Government may, after the review take appropriate steps to reduce the cost and increase the collection.**

4.1.4 Impact of Audit

Revenue Impact

A. Land Revenue

During the last five years (2006-07 to 2010-11) we pointed out non/short-levy, blocking, non/short-realisation of land revenue and fees etc. with revenue implication of ₹ 981.02 crore in 50,131 cases. Of these, the Department/Government accepted audit observations in 36,769 cases involving ₹ 107.30 crore and had since recovered ₹ 7.41 crore in 1,293 cases.

The recovery position as compared to the acceptance of objections was very low.

The Government may take appropriate steps to improve the recovery position.

B. Stamp Duty and Registration Fee

During the last five years (2006-07 to 2010-11) we pointed out non/short-levy, non/short-realisation of SD and RF etc. with revenue implication of ₹ 946.32 crore in 1,66,460 cases. Of these, the Department/Government accepted audit observations in 14,436 cases involving ₹ 16.14 crore and had since recovered ₹ 7.40 crore in 3,751 cases. The recovery position as compared to the acceptance of objections was low.

The Government may take appropriate steps to improve the recovery position.

4.1.5 Results of Audit

During the year 2011-12 we test checked the records of 135 units relating to land revenue, stamp duty and registration fees and detected non-collection, non / short-assessment, blocking of revenue etc., involving ₹ 1,905.77 crore in 15,153 cases.

During the year, the Department accepted underassessment and other deficiencies of ₹ 186.29 crore in 1,100 cases in respect of land revenue and ₹ 1.03 crore in 412 cases in respect of stamp duty and registration fees pointed out in 2011-12. An amount of ₹ 5.29 crore in 377 cases in respect of land revenue and an amount of ₹ 1.49 crore in 637 cases in respect of stamp duty and registration fees were recovered during the year 2011-12.

After the draft paragraphs were issued, the Department recovered ₹ 22.49 lakh (August, 2012) in a single case pointed out during 2011-12.

LAND REVENUE

4.2 Audit observations

We scrutinised the records relating to assessment and collection of land revenue, stamp duty and registration fees which revealed occupation of Government land without payment of revenue, non-finalisation of lease cases resulting in non-realisation of revenue, short-levy of royalty and penalty, non / short-realisation and loss of revenue as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions are pointed out repeatedly, but not only do the irregularities persist, these remain undetected till an audit is conducted by us. There is need for the Government to improve the internal control system including strengthening of internal audit so that these omissions can be avoided, detected and corrected.

4.3 Non-compliance of Acts/Rules and Government orders/instructions

Section 3 of the Orissa Government Land Settlement (OGLS) Act, 1962 read with Rule 3 and 5 of the OGLS Rules and the Government orders / instructions issued from time to time in respect of lease¹ / alienation² of Government land require that Government land can be leased out / alienated to Government Departments and various bodies / organisations on payment of premium equivalent to the market value of the land, incidental charges at the rate of 10 per cent thereon along with the ground rent at the rate of one per cent on premium and cess at the rate of 50 per cent of ground rent up to 1993-94 and 75 per cent thereafter. However, in case of land alienated in favour of Central Government Departments, capitalised value at the rate of 25 times of ground rent and cess is payable along with the premium and interest at the rate of six per cent up to November 1992 and 12 per cent thereafter is also chargeable for default in payment of Government dues.

The Orissa Prevention of Land Encroachment (OPLE) Act, 1972 and Rules made thereunder prescribe the procedure for eviction or settlement of Government land unauthorisedly occupied. The Orissa Minor Mineral Concession (OMMC) Rules, 2004 prescribe the rates of levy of royalty on removal of minor minerals from Government/ Private land, punishment for illegal extraction of such minerals and the procedure for auction of the sairat³ sources and collection of revenue therefrom. The Orissa Land Reforms (OLR) Act, 1960 and Rules made thereunder provide for conversion of agricultural land for non-agricultural purposes against receipt of prescribed fees.

Non-observance of the above provisions by the Assessing Authorities (AAs) in some cases as mentioned in the succeeding paragraphs resulted in non / short-realisation of revenue of ₹ 70.44 crore.

¹ A contract for letting or renting of land for a specific term.

² Transfer or diversion of land from its original possessor to any other person.

³ Revenue earning

4.3.1.1 Occupation of Government land without payment of revenue

As per Section 3 of the Orissa Government Land Settlement (OGLS) Act, 1962 read with Rule 3 and 5 of the OGLS Rules and the Government's order of 26 November 2010, where the land is to be occupied after formal sanction of lease, the market value of the land as on the date of recommendation of the Tahasildar for sanction of lease should be charged, provided that a period of more than one year has not lapsed from the date of such recommendation to the date of submission of the proposal to the authority competent to sanction the lease. Wherever a period of more than one year has lapsed from the date of recommendation of the Tahasildar, the authority competent to sanction the lease may direct the Tahasildar to reassess the market value based on recent sale statistics.

Where the land is occupied by way of advance possession with the permission of the competent authority, the market value of the land should be determined as on the date of taking over advance possession or occupation by the applicant. The arrear land revenue and cess at the prescribed rates shall also be payable for the entire period of occupation. The interest on premium and arrear land revenue and cess for the entire period of occupation shall also be payable at the prevailing rate of interest.

During test check of the records of two⁴ Tahasils, we noticed (October 2011 and January 2012) that in four cases, advance possessions of Government land measuring 31.743 acres⁵ were given during the period August 1996 to December 2009. Though the occupants applied for formal lease of the said lands to the concerned Tahasildars, the cases were pending at various levels which led to engagement of Government land without payment and blockage of revenue of ₹ 59.97 crore⁶ (31 March 2011).

(a) The advance possession of Ac.14.158 of Gharabari kism of Government land inside the old Jail Campus at Unit-II Oriya Bazar, Cuttack was given to Cuttack Development Authority (CDA) in August

1996 in pursuance to orders (July 1995) of the Government. The occupant (CDA) applied (December 1996) for lease of Ac 2.360 of land for development and it was recommended (June 1999) by the Tahasildar, Cuttack Sadar for sanction of lease. CDA was liable to pay ₹ 5.62 crore towards premium, ground rent, cess and incidental charges and interest (31 March 2011) after deduction of ₹ 3.20 crore deposited by the CDA in February and March 2008. Due to delayed action of the Departmental authorities the case was not finalised till the date of audit and the amount of ₹ 5.62 crore was not realised from CDA.

⁴ Cuttack Sadar, Tahasil (CDA, Cuttack and IDCO, Bhubaneswar) and Rourkela Tahasil (RDA, Rourkela and IDCO, Bhubaneswar).

⁵ CDA, Cuttack - Ac. 14.158, IDCO, Bhubaneswar -Ac. 7.000, Ac. 8.330 and RDA, Rourkela (Ac. 2.255).

⁶ CDA, Cuttack - ₹ 5.62 crore, IDCO, Bhubaneswar - ₹ 12.15 crore, ₹ 37.90 crore and RDA, Rourkela - ₹ 4.30 crore.

The Government stated (September 2012) that in response to the request made by the Tahasildar, Cuttack to deposit ₹ 5.62 crore, CDA has suggested to examine the demand pending sanction of the lease. The lease case record was under process at the Collectorate in Cuttack.

(b) The Industrial Infrastructure Development Corporation, Odisha (IDCO), Bhubaneswar applied (August 2009) for lease of Government land of Patita kissam⁷ measuring Ac.7.00 under Unit 4, Cuttack Town for use by Indian Oil Corporation Limited (IOCL) for commercial purpose. Advance possession of the land was given (December 2009) to IDCO and the Tahasildar, Cuttack Sadar recommended (January 2010) the case for formal sanction of lease and the land was in use by IOCL from that date without payment of Government dues. However, due to non-finalisation of the lease case, the value of Government land, which was ₹ 12.15 crore could not be realised.

Government stated (September 2012) that the Collector, Cuttack moved the Government for fixation of the concessional rate for the above land as per Clause 16.2 of IPR, 2007 and demand notice was raised against IDCO, who in turn had assured (August 2012) to deposit the amount after sanction of lease.

(c) Rourkela Development Authority (RDA) applied (May 2007) for lease of Government land measuring Ac.2.255 for setting up a Truck Terminal (Commercial Space) at Rourkela Town, Unit No. 44. The Revenue Inspector (RI), Raghunathpali reported (August 2007) that the land was in the possession of the RDA, Rourkela, since August 2007. The Land Allotment Committee (LAC) headed by the Revenue Divisional Commissioner, Northern Division, Sambalpur decided (September 2009) to allot the land on payment of the premium at the rate of ₹ 1.20 crore per acre and requested (December 2009) the RDA to deposit the premium of ₹ 2.71 crore and execute the lease deed within 90 days from the date of receipt of the letter of request, failing which the allotment would be automatically cancelled. The RDA, however, deposited (March 2011) ₹ 20 lakh only towards payment of premium and hence, the lease case was not sanctioned till date of audit (January 2012). The Tahasildar neither demanded the balance Government dues of ₹ 2.51 crore nor initiated the proceedings for cancellation of the allotment made by the LAC. Thus, Government land was in occupation without payment of Government dues of ₹ 4.30 crore by RDA towards premium, ground rent, cess, incidental charges and interest thereon as on March 2011.

The Tahasildar, Rourkela stated (January 2011) that the matter would be intimated to RDA.

(d) IDCO, Bhubaneswar applied (March 2008) to the Tahasildar, Rourkela for sanction of lease of Government land measuring Ac.8.33 for establishment of a Software Technology Park Complex and other Information Technology (IT) related industries in Sabik village Sanlanjiberna, Rourkela Town Unit (RTU) No. 20, Rourkela. The land was under possession of Software Technology Park of India (STPI) since March 2008 and the LAC fixed (January 2010) the premium at the rate of ₹ 3.60 crore per acre taking into

⁷ Waste/fallow variety of land.

account the rate of adjoining unit RTU No 29. However, due to non-sanction of formal lease up to date of audit (January 2012) STPI was in occupation of this land without payment of ₹ 37.90 crore towards premium, ground rent, cess, incidental charges and interest (31 March 2011).

Government assured (June 2012) to raise the demand and realise the Government dues from IDCO soon after sanction of lease. The case is under process for sanction of lease in favour of STPI.

4.3.1.2 Non-finalisation of lease case

As per the Government's order of 26 November 2010, where land applied for settlement is occupied without prior approval of the competent authority, it should be treated as encroachment and the occupier will be required to pay:

- Premium calculated at the market value of the land as on the date of occupation and interest thereon for the entire period of occupation or the market value as applicable in the cases where the land is to be occupied after formal sanction of lease, whichever is higher.
- An amount equal to the penalty, as would have been payable under the provisions of the OPLE Act and Rules; and
- Arrear ground rent and cess with interest, based on market value prevailing during the relevant period.

During test check of the records of two tahasils⁸, we noticed (July- August 2007 and October- November 2011) that in four cases Government land measuring 12.14 acres⁹ was in unauthorised occupation of the encroachers for different periods from 1958-59 to 2008-09. The cases were pending finalisation by the competent authority as on the dates of audit. This led to occupation and enjoyment of Government land without realisation and remittance of ₹ 9.78 crore¹⁰ towards premium, incidental charges, ground rent, cess and interest

calculated up to 31 March 2011.

(a) The Sovaniya Sikhyasram, Bidanasi, Cuttack applied (April 1992) for sanction of lease of patita kissam¹¹ of Government land measuring Ac.10.00 in Mouza- Bidyadharpur for the purpose of construction of an Educational Institution. After protracted correspondences, the Tahasildar, Cuttack Sadar recommended (May 2010) for lease of Ac 4.00 of land at the Bench Mark Valuation (BMV) rate of ₹ 75 lakh per acre on the date of possession (2008). However, only ₹ 0.11 lakh towards assessment and penalty was realised (July 2010) against an encroachment case booked against the institution. The case

⁸ Tahasildar, Cuttack Sadar (OFDC, Bhubaneswar and Sovaniya Sikhyasram, Bidanasi, Cuttack) and Tahasildar, Rairangpur (NAC, Rairangpur and Gowsala Committee, Rairangpur).

⁹ Sovaniya Sikhyasram, Bidanasi, Cuttack – Ac. 4.00, OFDC, Bhubaneswar- Ac. 2.94, NAC, Rairangpur – Ac. 0.20, Rairangpur Gowsala Committee– Ac. 5.00.

¹⁰ Sovaniya Sikhyasram, Bidanasi, Cuttack – ₹ 445.41 lakh, OFDC, Bhubaneswar- ₹ 109.52 lakh, NAC, Rairangpur – ₹ 30.08 lakh, Rairangpur Gowsala Committee– ₹ 393.25 lakh.

¹¹ Waste/fallow variety of land.

was not finalised, although ₹ 4.45 crore is payable by the occupant towards premium, incidental charges, ground rent, cess, and interest etc (31 March 2011).

The Government stated (September 2012) that the case was in process for sanction of lease in favour of Sobhaniya Sikshasrama, Bidyadharpur, Cuttack Government dues would be realised from the institution with interest.

(b) The Odisha Forest Development Corporation (OFDC) unauthorisedly occupied (1962) Government land measuring Ac.2.94 of Nuapada Mouza at Khapuria, Cuttack. In two encroachment cases booked against OFDC, the Tahasildar, Cuttack Sadar realised ₹ 11,860 only (₹ 669.75 in 1988-89 and ₹ 11,160 in 2002-03) towards assessment and penalty. However, OFDC applied (September 2010) for alienation of the above land; but the case was pending at the level of the concerned Tahasildar for finalisation as on date of audit. Thus, due to inaction of the Department, the land cost of which to OFDC as on 31 March 2011 towards premium, ground rent and cess etc was ₹ 1.10 crore, was in unauthorised occupation of OFDC for the last 50 years by paying nominal amount of ₹ 0.11 lakh only.

Government stated (September 2012) that a lease case had been initiated on the application of OFDC dated 29 September 2010. Different paraphernalias were required to be maintained including de-reservation of kism of land before making it leasable. Hence the delay caused might not be construed as the negligence on the part of the Tahasildar. Government dues would be realised from OFDC after sanction of lease, since the Corporation had given an undertaking on 31 August 2012 to pay the same.

(c) The Notified Area Council (NAC), Rairangpur unauthorisedly occupied (2006-07) Government land measuring Ac.0.20 of Rakhit-Gochar¹² kism in Mouza Rout Khamar under the same NAC and constructed a “Yatri Nivas” a double storied building and it was leased out. The NAC was not either evicted or any assessment and penalty was realised. Government revenue of ₹ 30.08 lakh towards premium, incidental charges, ground rent, cess and interest up to 31 March 2011 was realisable from the occupant in addition to penalty leviable under the OPLE Act, 1972 and Rules made thereunder.

Government stated (August 2012) that they directed the Tahasildar, Rairangpur to seal the building and initiate action against the encroacher. However, the above direction could not be carried out due to obstruction of the Chairman, Councillors and public of NAC, Rairangpur on 10 April 2012. The occupant filed a writ petition before the Hon’ble High Court of Odisha to avoid eviction and the Hon’ble Court have passed an interim stay order on 12 April 2012 till next date.

(d) Rairangpur Gowsala Committee was in unauthorised occupation of Ac. 5.00 reserved/homestead kism¹³ of Government land in Mouza Anladova under Rairangpur Tahasil since 1958-59 and applied (August 1993) for alienation of the said land for construction of a Gowsala. Two encroachment cases were booked against the occupant in 1993 and 2007 and 0.25 lakh only

¹² Rakhit-Gochar means land reserved for grazing of cattle.

¹³ Kism means variety.

was realised towards assessment and penalty. The Tahasildar could not evict the occupant even after a lapse of more than 50 years of possession thereon. The Committee's representation (April 2005) to the Government for exemption of premium was rejected as there was no such provision in the OGLS Rules, 1983. On the fresh application of occupant (2007) the case was, processed (February 2008) by the Tahasildar and it was sent back (December 2009) by the Collector with objections which are yet to be compiled. The Committee was to pay ₹ 3.57 crore towards premium at the current BMV rate of ₹ 71.50 lakh¹⁴ per acre and incidental charge of 0.36 crore as on 31 March 2011.

The Secretary, BOR, Odisha, Cuttack, while confirming (May 2012) the above facts and figures stated that the alienation proposal could not be processed and the case record had been closed by the Tahasildar as the Committee expressed their inability to pay due to paucity of fund. However, another encroachment case was booked in 2010 and the Committee was directed (October 2010) to vacate the land. Thus, the Department could not realise the Government dues.

¹⁴ In the absence of the BMV of the above land on/after the date of occupation i.e. 1958-59 onwards.

4.3.2 Short-levy of royalty and penalty for unauthorised removal of minor minerals

Under Sub-Rules 1(i), 3 and 4 of Rule 68 of OMMC Rules, 2004 any person illegally extracting or transporting minor minerals by himself or on behalf of others shall be punishable with simple imprisonment for a term up to two years or with fine up to ₹ 25,000 or with both by the appropriate Court of Law on a complaint from the concerned Tahasildar. The Tahasildar may seize the minor mineral products together with all tools, equipments and vehicles used in committing the offence for confiscation/disposal of the same in accordance with the directions of the Court. Further, whenever any person raises, without any lawful authority, any mineral from any land, the Tahasildar may recover from such person the mineral so raised, or, where such mineral has already been disposed of, the price thereof along with the royalty for the period the land was unlawfully occupied. As per Rule 28(ii) of the above Rules, the rate of royalty for extraction and removal of a cubic metre (Cum) of moorum should be fixed at ₹ 19.60¹ per Cum. from 31 August 2010 onwards.

During test check of a case in Betnoti Tahasil, we noticed (November 2011) the Revenue Inspector (RI), Baisinga reported (21 March 2011) that M/s Meenakshee Infrastructure Pvt. Ltd of Khantapada, Balasore unauthorisedly lifted 72,000 Cum of moorum through its agent, from a jungle-II kissam¹⁵ plot of Mouza-Jayapuria by using a Poclain machine. Instead of forwarding the case to the appropriate Court of Law, the Tahasildar realised ₹ 0.39 lakh towards royalty and fine from the offender, without realising the cost of minerals illegally removed. Recoverable amount of ₹ 13.97¹⁶ lakh towards balance royalty and fine was accepted by the Tahsildar (November 2011). In response thereto, the Government stated that ₹ 0.54 lakh was realised towards royalty (₹.0.49 lakh)

and penalty (₹.0.05 lakh) on 2,448 Cum moorum extracted, and not 72,000 Cum as pointed by Audit. However, a scrutiny of papers furnished (April 2012) by the Tahasildar, Betonati indicated that the documents do not agree with the original papers made available to audit in November 2011 due to inconsistencies and the case was again referred (July 2012) to the Secretary with revised calculation of the recoverable balance amount of ₹ 46.22 lakh towards royalty, fine and cost of minerals taking into account the amount of ₹ 0.54 lakh already realised by the Tahasildar. The Secretary BOR, Odisha stated (September 2012) that the factual position submitted by the Tahasildar in course of compliance contravened the factual position submitted at the time of audit and further added that it culminated in tampering of original case record. This fact was communicated to Government with suggestion for

¹⁵ Jungle –II Kissam is kissam of land marked for forest variety of land in the Records of Right (ROR).

¹⁶ Royalty: ₹ 14.11 lakh on 72,000 Cum at the rate of 19.60 per Cum plus maximum Penalty of ₹ 0.25 lakh less 0.39 lakh realised in March 2011.

drawal of departmental proceeding and criminal investigation against the defaulting staff by the Crime Branch. Further progress in the case is awaited (January 2013).

4.3.3 Short-realisation of bid value of sairat sources

Under provision of Rule 47 of the OMMC Rules 2004, when the sairat sources are put to auction, all the bidders taking part in the bid are to deposit 10 per cent of the upset price of the bid value towards the Earnest Money Deposit (EMD). The successful bidder shall deposit, 25 per cent of the bid money immediately after the bid is knocked down by the competent authority; failing which the EMD shall be forfeited to Government account and the bid offered by him shall be treated as null and void. Further, as per Rule 48 and 49 of the Rules of the OMMC Rules 2004 the successful bidder, on receipt of the confirmation, shall deposit the balance seventy five per cent of the bid amount within thirty days from the date of confirmation of the bid. On failure to do so, the competent authority shall cancel the confirmation order and forfeit the amount so far deposited including the earnest money.

During test check of the seven sairat case records relating to auction of seven¹⁷ sairat¹⁸ sources of the Tahasildar, Jaleswar, we noticed (November 2011), that the said sairat sources were put to auction (March 2010) involving a total bid amount of ₹ 42.12¹⁹ lakh for the year 2010-11. Against this, ₹ 25.87²⁰ lakh including initial deposit of ₹ 10.58 lakh only was realised leaving a balance of ₹ 16.25²¹ lakh (October 2011). However, without taking steps to cancel the bids by forfeiting the initial deposits made within 30 days of the knocking of the bids, the Tahasildar allowed the bidders to utilise the sairat sources without realisation of the balance

amount.

After we pointed this out in November 2011, the Government intimated (June 2012) that out of ₹ 16.25 lakh, an amount of ₹ 7.57 lakh was collected from the bidders, further amount of ₹ 1.60 lakh was adjusted from their security deposit and steps were taken to collect the balance amount of ₹ 7.08 lakh from the auction holders through certificate cases.

We reported the matter to the Secretary, BOR, Odisha in April 2012 and the Government in July 2012. The reply is yet to be received (January 2013).

¹⁷ Sekh Savai Sand source (KGO)-Jamalpur, Srirampur Sead Source-Saradiha, M.N. Patna Sand Source (GOA)-Jamalpur, Sijharpur Sand Souce-Sardiha, Chakhari Sand Source-Sardiha, Kantapal Sand source- Paschingad and Sukhadukhia Ferry Ghat.

¹⁸ Revenue earning sources like sand and morrum quarry, ferry ghat etc.

¹⁹ ₹ 5.70 lakh + ₹ 12.98lakh + ₹ 2.02 lakh + ₹ 2.00 lakh + ₹ 1.82 lakh + 17.55 lakh + ₹ 0.05 lakh of above circles respectively.

²⁰ ₹ 4.05 lakh + ₹ 7.75 lakh+ ₹ 0.51 lakh + ₹ 0.5 lakh + ₹ 0.5 lakh + ₹ 12.55 lakh + ₹ 0.01 lakh of above circles respectively.

²¹ ₹ 1.65 lakh+ ₹ 5.24 lakh + ₹ 1.50 lakh + ₹ 1.50 lakh+ ₹ 1.32 lakh + ₹ 5.00 lakh + ₹ 0.04 lakh of above circles respectively.

4.3.4 Short-realisation of conversion fee

Where the authorised officer allows conversion of any agricultural land for non-agricultural purpose under section 8A (2)(i) of OLR Act, 1960 as amended on 7 July 2006 and read with the Government notification dated 28 January 2006, the raiyat (title holder of the land) is required to pay the conversion fee of such land, calculated at the rate specified in the Act, and the kissam of the land may be converted accordingly. The land coming under the Municipal area “or” as per Government notification 965 dated 7 July 2006 within half a kilometer of the National Highways (NH) are required to be converted against realisation of highest conversion fee of at the rate of rupees three lakh per acre.

During test check of the land revenue case records of the Tahasildar, Jeypore, we noticed (November 2010) that the Tahasildar allowed conversion of agricultural land measuring Ac.2.661 in 51 cases for non-agricultural purposes basing on the spot visit report of the concerned Revenue Inspectors (RI) about the location of land; but the conversion fees were realised at lower rate than the applicable rate in 51 cases. This resulted in short-realisation of Government revenue of ₹ 6 lakh.

The Government, stated (May 2012) that the lands pointed out by Audit are coming under rural area under the Gram Panchayats and neither within the

Municipality area nor between one-fourth and half a kilometer from the NH and the conversion fee charged by the Tahasildar appeared to be genuine.

The reply is not acceptable as the same Tahasildar had earlier furnished the reports of RI's wherein it was stated that the plots were within the Municipal area.

We reported the matter to the Government in July 2012; whose reply is yet to be received (January 2013).

STAMP DUTY AND REGISTRATION FEE

4.4 Non-observance of the provisions of the Acts/Rules and Government instructions

Section 9(1) of the Indian Stamp (IS) Act, 1899 read with clause (b) of sub-section (2) thereof and division (b) of Article 23 of schedule 1A of the above Act, as amended by the State on 05 August 2008 of the Indian Stamp (IS) Act, 1899 and part I(1) of Article A of Section 78 of the Registration Act, 1908 as amended by the State on 30 January 2001 prescribe that sale agreements, lease deeds and conveyance deeds etc. are to be registered on realisation of Stamp Duty (SD) at the prescribed rates of eight per cent up to 4 August 2008 and at five per cent thereafter and Registration Fee (RF) at the rate of 2 per cent on the consideration truthfully and correctly mentioned therein keeping in view the Market Value Guidelines (MVG) or the rates prescribed in the Industrial Policy Resolutions (IPRs) of the Government. As per Section 47A of the IS Act, 1899, in case of under valuation of any property noticed after registration of a document the Registering Officer shall refer the matter to the Collector for determination of the market value of such property and proper stamp duty payable thereon.

Non-observance of the provisions of the above Acts by the assessing authorities resulted in short-realisation of SD and RF of ₹1.71 crore as discussed in subsequent paragraphs.

4.4.1 Loss/short-levy of Government revenue

4.4.1.1 Loss of Government revenue due to belated revision of Bench Mark Valuation (BMV)

Rule 40 of the Orissa Stamp (Amendment) Rules, 2001 stipulates that the District Level Valuation Committee (DLVC) headed by the Collector of the District should issue the Market Value Guideline (MVG) containing the set of values of immovable properties in different villages, NACs, Municipalities, Corporations and other local areas of the District as soon as it is prepared and thereafter revise it biennially from the 1st April. In case the DLVC fails to revise the MVG commonly known as Bench Mark Valuation (BMV), the Collector-cum-Chairman of the Committee would enhance the value by 10 per cent of the value so fixed after expiry of two years.

During test check of the Sale deeds by two²² District Sub-Registrars (DSRs) and two²³ Sub-Registrars (SRs), we noticed (February to May 2011) that revision of the BMVs biennially from 1 April, was not effected and were revised and adopted after a delay which ranged between 13 and 103 days. The Collector-

cum- Chairman of the committee also did not enhance the BMVs by 10 per cent during the intervening period, i.e. from 1 April to the actual date of

²² Khurda and Puri

²³ Badachana and Bari

revision to safe guard the revenue of the Department. The documents continued to be stamped and registered by taking into account the pre-revised rates fixed during 1 April up to the dates of actual revision. Thus, due to belated revision of BMV, there was irrecoverable loss of SD and RF amounting to ₹ 92.70²⁴ lakh.

The SRs and DSRs stated (February to May 2011) that the BMVs took effect as per the approval of the Collector-cum-Chairman of the concerned DLVCs. However, the reply was silent about that the belated revisions.

We reported the matter to the Inspector General of Registration (IGR), Odisha in May 2012 and the Government in July 2012. The reply is yet to be received (January 2013).

4.4.1.2 Short-levy of revenue due to non-revision of Bench Mark Valuation and undervaluation of land

During test check of the registration records of the SR, Panposh, we noticed (January 2012) that four deeds²⁵ of immovable property situated in Rourkela were registered between December 2009 and June 2010 based on the sales statistics data of land available there for the years 2007 to 2009 since BMV of lands of the district made in 2006 was not biennially revised or enhanced by the Collector. Further we noticed that the per decimal rates of land fixed for different areas of Rourkela by the Land Allotment Committee (LAC) headed by the Revenue Divisional Commissioner, Northern Division, Sambalpur on 7 September 2009 were higher than the rates of land at which the properties mentioned in the above deeds were registered after acceptance by the SR, Panposh. This led to under valuation of the properties by ₹ 1.42 crore and consequential short-realisation of ₹ 9.92 lakh²⁶ towards SD and RF.

The IGR, Odisha stated (August 2012) that the SR, Panposh had issued notices to deposit the deficit amount in respect of four documents.

We reported the matter to the Government in June 2012. The reply is yet to be received (January 2013).

4.4.1.3 Short-levy of revenue due to under valuation of land

During test check of two sale deeds²⁷ of the DSR, Sambalpur, we noticed (March 2010) that the documents for conveyance of two patches of private land situated in Sambalpur Town²⁸ area were registered in April and May 2008 with recital of consideration money lower than the BMV for such areas determined by the DLVC. This led to under valuation of the properties by ₹ 35.38 lakh and consequential short-levy of SD and RF of ₹ 2.89 lakh²⁹.

The IGR, Odisha replied (September 2012) that both the documents were booked under section 47A of IS Act by the DSR, Sambalpur and forwarded to

²⁴ SD= ₹ 66.21 lakh + RF = ₹ 26.49 lakh.

²⁵ Lease deed No.1865 dated 24 December 2009 and sale deed Nos.311 dated 15 February 2010,1335 dated 20 May 2010 and 1474 dated 4 June 2010.

²⁶ SD of ₹ 7.09 lakh and RF of ₹ 2.83 lakh.

²⁷ No.1002 dated 25 April 2008 and 1078 dated 07 May 2008.

²⁸ Unit No.16 Sarala P.S and Unit-2 Dhanupali P.S.

²⁹ SD : ₹ 2.37 lakh and RF : ₹ 0.52 lakh.

the respective Stamp Collectors, Sambalpur for realisation of deficit SD and RF and disposal of the same as per Law expeditiously.

We reported the matter to the Government in June 2012. The reply is yet to be received (January 2013).

4.4.2 Irregular exemption/short-realisation of Stamp Duty and Registration Fee

As per clause 16.2 of the IPR, 2007, effective from 2 March 2007, Government Land earmarked for Land Bank scheme and other Government land, wherever available, may be allotted to the Odisha Industrial Infrastructure Development Corporation (IDCO) for industrial and infrastructure use at a concessional industrial rate. Area available outside Municipality/NAC under the Revenue Sub-Division of Jajpur and Sundergarh coming under Zone B and C are valued at the concessional rate of rupees two lakh and rupees one lakh per acre respectively. Further, Government in their order of May 2007 provided for remission of SD payable under the Act to the extent specified therein based on the recommendation of the competent authorities recorded on the body of the document presented at the time of execution and registration of the deed.

During test check of five agreements³⁰ executed in May 2007 and June 2008 between Government of Odisha and IDCO in the offices of the DSRs Jajpur and Sundergarh, we noticed (May 2009 and August 2010) that in one case of DSR Jajpur, the total consideration money received in the document for Ac.159.50 of Government land given to IDCO was valued at the rate of ₹ one lakh per acre though the applicable rate as per IPR 2007 was ₹ two lakh³¹ per acre as per the IPR 2007. However, RF of ₹ 3.41 lakh only was collected instead of ₹ 6.82

lakh which resulted in short-realisation of RF of ₹ 3.41 lakh. Further, we observed that without the recommendation of the Managing Director (MD), IDCO recorded on the body of the above document, SD of ₹ 27.31 lakh at the prescribed *per cent* of the consideration money was not collected. Thus, there was short-realisation/inadmissible exemption of SD and RF amounting to ₹ 30.72³² lakh in the above case.

In four cases of DSR, Sundergarh we noticed (August 2010) that Ac.52.72 of Government land was given to IDCO at the rate of ₹ one lakh³³ per acre as against ₹ two lakh is applicable and SD of ₹ 4.51 lakh was exempted without the recommendation of the MD, IDCO being recorded on the body of the documents which resulted in inadmissible exemption of SD of ₹ 4.51 lakh.

Thus, there was inadmissible exemption /short-realisation of SD aggregating to ₹ 35.23 lakh in all the five cases.

³⁰ DSR, Jajpur: DOC No.922/29.05.2007, DSR, Sundergarh: DOC Nos.515, 514, 516 and 518 of 12.06.2008.

³¹ Zone B as per IPR 2007

³² SD ₹ 27.31 and RF ₹ 3.41

³³ Zone C as per IPR, 2007

After we pointed this out the Government stated (August 2012) that the DSR, Jajpur has accepted the objection and issued demand notice for realisation of deficit SD and RF of 30.71 lakh. As regards DSR, Sundargarh, Government stated that the recommendation of IDCO was obtained subsequently to regularise the exemption of SD/RF of ₹ 4.51 lakh.

The reply of Government is not acceptable as the recommendation of IDCO had to be made on the body of the deeds executed at the time of registration of the same.

4.4.3 Short/non-realisation of Stamp Duty and Registration Fee

As per schedule-I Article 35 (a) vi & (c) of IS Act 1899, in case of lease deed of any immovable property executed against a premium, SD and RF will be charged at the prescribed rates on the premium along with four times the average annual rent reserved for such property by treating it as a conveyance to the premium reserved for a term exceeding twenty years, but not exceeding 100 years. Further, as per clause 16.2 of the IPR 2007, Government land may be allotted for new Industrial Units (IUs) including infrastructure projects at the concessional rate of 2 lakh per acre in the non Municipal/NAC area of Champua Sub-division being specified under Zone B.

During test check of a lease deed registered by the DSR, Keonjhar, we noticed (May 2009) that it was executed on 31 May 2007 between IDCO, the lessor and Tata Steel Limited (TSL), the lessee. As per the recital of the deed, Ac.120 of land in the village Nayagarh of Champua Tahasil/ Sub-division of Keonjhar district classified under Zone B was given on lease for 90 years at a consideration money (premium) of ₹ 1.20 crore at the rate of ₹ one lakh per acre against the correct consideration money of ₹ 2.40 crore at the concessional rate of ₹ two lakh per acre as prescribed in the IPR 2007. Thus, the consideration money³⁴ of the immovable

property, based on which SD and RF was to be collected at the time of registration, was understated by ₹ 1.35 crore. This resulted in short-realisation of SD and RF of ₹ 14.90 lakh³⁵.

After we pointed this out, the IGR, Odisha stated (August 2012) that action was being taken for realisation of deficit revenue. Further information is yet to be received (January 2013).

We also reported the matter to the Government in July 2012; The FA-cum-Special Secretary to Government replied (September 2012) that Government land measuring Ac 120.00 for establishment of an industry by TISCO was sanctioned by the Collector, Keonjhar on 14 December 2004 and IDCO has paid the Government dues for the said land as per prevalent rate prescribed in IPR 2001 i.e. ₹ one lakh per acre and IDCO has taken possession of the land on 13 April 2005 after execution of lease deed.

The reply is not tenable as the lease deed was registered on 31 May 2007 during the currency of the IPR 2007 when the land value was fixed at the rate

³⁴ Premium and four times of the average annual rentals i.e. ground rent and cess.

³⁵ SD of ₹ 12.64 lakh + RF of ₹ 2.26 lakh

of two lakh per acre and the deficit SD/RF is realisable from the lessee i.e. TSL.

4.4.4 Short-realisation of Stamp Duty and Registration Fee due to under valuation of land

Notification under Section 73(c) of the Orissa Land Reforms (OLR) Act, 1960 allows a host of benefits to the land determined as required for industrial development. Government notified on 14 August 2009 that the land in the village Sahajbahal of Lakhanpur Tahasil under Jharsuguda District was reserved for industrial development, since the State Level Single Window Clearance Authority (SLSWCA) had approved the establishment of a Thermal Power Plant by M/s Ind-Barath Energy (Utkal) Limited (IBEUL) in that village. As per clause 16.2 of the IPR, 2007 of the Government, the concessional sale rate of Government land in the village Sahajbahal of Jharsuguda subdivision, which comes under Zone B, was fixed at ₹ two lakh per acre as it is situated in a place which was other than the Municipal/NAC area.

During test check of three sale deeds³⁶ registered in the office of the SR, Lakhanpur on 30 September 2009, we noticed (November 2011) that Ac. 156.09 of land in the village Sahajbahal were sold by three persons to IBEUL at a consideration money of ₹ 1.67 crore at the rate of ₹ 1.07 lakh per acre only. The BMV was ₹ 0.66 lakh per acre. This was far below the concessional rate of ₹ two lakh per acre prescribed in the IPR, 2007 for the Government land. As the notification under section 73(C) of OLR Act, 1960 allows several benefits, the BMV of the notified lands of the above village should have been revised to at least ₹ two lakh per acre, in line with the IPR 2007, in order to arrest the under valuation of sales transactions at the time of registrations and safeguard the interest of the private land owners of

that area. However, no such revision was made subsequent to the issue of the notification on 14 August 2009. As a result of this, the three persons who sold their land on 30 September 2009, were deprived of getting the minimum sale vale of ₹ 3.12 crore as stated above from IBEUL. Instead they were paid ₹ 1.67 crore only resulting in under valuation of the consideration money of the land to the extent of ₹ 1.45 crore involving short-realisation of SD and RF of ₹ 10.15³⁷ lakh at the prescribed rates in course of the registration of the above sale deeds.

After we pointed this out, the SR, Lakhanpur stated (November 2011) that action was being taken for realisation of the deficit SD and RF from the IBEUL.

³⁶ Document No.775/30.09.2009=Ac.12.78, Document No.776/30.09.2009=Ac.38.04 and Document No.777/30.09.2009=Ac.105.27.

³⁷

Document No.775	30.09.2009	₹ 83,197
Document No.776	30.09.2009	₹ 2,47,640
Document No.777	30.09.2009	₹ 6,84,558
Total:		₹ 10,15,395

We reported the matter to IGR, Odisha in April 2012 and to the Government in July 2012. The reply is yet to be received (January 2013).

4.4.5 Short-realisation of revenue due to misclassification of land

Section 27 and 64 of the IS Act, 1899, as amended stipulates that the facts and circumstances shall be rightly and truly set-forth in the instruments presented to the Registering Officer for assessment of SD and RF. Any person who intends to deprive the Government of any duty or penalty shall be punishable with a fine up to ₹ 5000 in addition to payment of the deficit SD and RF.

During test check of records of the DSR, Sambalpur, we noticed (March 2010) that though the plots sold and registered³⁸ in two documents were classified as “Commercial” the documents were registered with lower consideration values than the BMVs. This led to short-realisation of Government revenue ₹ 4.90³⁹ lakh, besides non-imposition of penalty up to ₹ 0.10 lakh since it was an attempt to defraud the Government.

After we pointed this out, the DSR, Sambalpur stated (March 2010) that necessary demand would be raised against the party and the facts would be intimated to audit.

We reported the matter to the IGR, Odisha in April 2012 and the Government in May 2012. The reply is yet to be received (January 2013).

³⁸ Sale Deed No.1594 and 1595 dated 20 June 2008.

³⁹ SD : ₹ 4.15 lakh + RF : ₹ 0.75 lakh.