

CHAPTER-V
OTHER TAX RECEIPTS

CHAPTER – V: OTHER TAX REVENUE

A. LAND REVENUE

5.1 Tax administration

The legal framework of Revenue and Land Reforms Department¹ is administered by the Secretary/Commissioner. All important cases of settlement, framing of policies and sanction of alienation of Government land are decided at the Government level. The State is divided into five divisions² each headed by a Divisional Commissioner and 24 districts³ each headed by a Deputy Commissioner. At the district level the Deputy Commissioner is assisted by the Additional Collector/Additional Deputy Commissioner (AC/ADC). Districts are divided into sub-divisions headed by a Sub-Divisional Officer (SDO) who is assisted by a Deputy Collector Land Reforms (DCLR). The sub-divisions are divided into circles each headed by a Circle Officer (CO).

The various receipts under 'Land Revenue' are land rent, *salami*⁴, commercial/residential rent, cess⁵ etc.

5.2 Results of audit

The Revenue and Land Reform Department collected ₹ 83.54 crore during 2014-15. During the period 2014-15 we test checked the records of 20 units out of 307 units of Land Revenue with revenue collection of ₹ 5.69 lakh, revealed non/short levy of cesses and/or interest on arrears of cess, non/short fixation of *salami* and commercial rent, non-settlement of vested lands etc. involving ₹ 3.89 crore in 178 cases. This indicates the near abdication of duty of collection of Land Revenue by 20 units as detailed in **Table – 5.2**.

Table – 5.2

Sl. No.	Categories	Number of cases	(₹ in crore)
			Amount
1	Non-settlement of vested lands	16	0.10
2	Non-settlement of <i>sairats</i>	9	0.02
3	Other cases	153	3.77
Total		178	3.89

¹ The Bihar Tenancy Act, 1885, Chotanagpur Tenancy Act, 1908, Santhal Parganas Act, 1949, Bihar Land Reforms Act, 1950, Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, Bihar Bhoodan Act, 1954, Bihar Government Estate (*Khas Mahal*) Manual, 1953, Bihar Public Land Encroachment Act, 1956, Bengal Cess Act, 1880 and Executive orders issued by the Revenue and Land Reforms Department,

² South Chotanagpur (Ranchi), North Chotanagpur (Hazaribag), Santhal Parganas (Dumka), Palamu (Medininagar) and Kolhan (Chaibasa).

³ Bokaro, Chatra, Dhanbad, Dumka, Deoghar, East Singhbhum, Garhwa, Godda, Giridih, Gumla, Hazaribag, Jamtara, Koderma, Khunti, Latehar, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi, Sahebganj, Saraikela-Kharsawan, Simdega and West Singhbhum.

⁴ *Salami* is the market value of the land.

⁵ Education cess: 50 per cent, Health cess: 50 per cent, Agriculture Development cess: 20 per cent and Road cess: 25 per cent of the rent (Total 145 per cent).

During the course of the year, the Department accepted 22 cases of non-renewal of lease amounting to ₹ 2.24 crore.

In this chapter we present a few illustrative cases having recoverable financial implication of ₹ 2.24 crore. These are discussed in the following paragraphs.

Audit observations

5.3 Non-observance of the provisions for *Salami*

The Bihar Government Estates (Khas Mahal) Manual, 1953 and instructions issued from time to time, as adopted by the Government of Jharkhand, provide for:

- (i) *levy of salami on fresh leases equal to prevailing market value of land besides annual rent at the rate of two and five per cent for residential and commercial purposes respectively of such salami; and*
- (ii) *levy of salami, penal rent and interest on non-renewal of lease.*

The Revenue and Land Reforms Department did not observe diligently the provisions of the Acts/Rules resulting in non/short realisation of Government revenue as mentioned in the succeeding paragraphs:

5.4 Non-realisation of revenue due to non-renewal of lease

Government was deprived of revenue on account of *salami*, penal rent and interest due to non-renewal of lease.

We test checked the lease records of Anchal Office, Simdega, out of 12 Anchal Offices in Simdega district under Deputy Collector Land Reforms (DCLR) in October 2014 and noticed that 22 leases out of 102 leases involving 2.44 acres of land had expired between 1960 and 1996. We observed that neither the lessees applied for renewal of leases within the prescribed time nor the Department reviewed lease records and issued notices to the lessees to apply for renewal. However, on the basis of a survey conducted by DCLR, notices were served by the Department to the leaseholders for renewal of leases in 2002-03. Accordingly, the leaseholders submitted their willingness for renewal of leases, but the leases had not been renewed (April 2015). In fact, land holders were required to be treated as trespassers under the provisions of Rule 9 of Bihar Government Estates (*Khas Mahal*) Manual and the Rules framed thereunder (as adopted by the Government of Jharkhand), which stipulates that a lessee continuing to occupy leasehold property without payment of rent and without renewal of lease as a trespasser and has no claim for renewal on past terms and conditions. Thus, failure on the part of the Department to review the concerned records periodically and take action for renewal of expired leases within the prescribed time in accordance with the above provisions resulted in non-realisation of Government revenue of ₹ 2.24 crore on account of *salami*, penal rent and interest.

After we pointed out the matter, the DCLR, Simdega stated in October 2014 that action was being taken for renewal of leases. Further reply has not been received (October 2015).

We reported the matter to the Government in May 2015; their reply has not been received (October 2015).

B. STAMP DUTY AND REGISTRATION FEES

5.5 Tax administration

The levy and collection of Stamp duty and Registration fees in the State of Jharkhand is governed by the Indian Stamp Act, 1899 and rules made thereunder and the Registration Act, 1908. On creation of the State of Jharkhand, with effect from 15 November 2000, the existing Acts, Rules and executive instructions of the State of Bihar were adopted by the State of Jharkhand.

5.6 Results of audit

The Stamp and Registration Department collected ₹ 530.67 crore during 2014-15. We test checked the records of 14 units out of 46 units relating to Stamp duty and Registration fees. The test checked units revealed short levy of Stamp duty and Registration fees, undervaluation of properties etc. involving ₹ 2.33 crore in 626 cases, as detailed in **Table – 5.6**.

Table – 5.6

Sl. No.	Categories	No. of cases	(₹ in crore)
			Amount
1	Short levy of Stamp duty and Registration fees	26	0.39
2	Undervaluation of properties	7	0.42
3	Other cases	593	1.52
Total		626	2.33

During the course of the year, the Department accepted 37 cases of short levy of Stamp duty and Registration fees etc. amounting to ₹ 35 lakh pointed out during 2014-15.

In this chapter we present illustrative cases having financial implications of ₹ 29 lakh which have been discussed in the succeeding paragraphs.

5.7 Non-observance of provisions of Acts/Rules

The Indian Stamp Act, 1899 (IS Act), the Registration Act, 1908 and Bihar Registration Rules, 1937, Bihar Registration Manual, 1946 and Bihar Stamp (Prevention of under valuation of instruments) Rules, 1995 (as adopted by the Government of Jharkhand) made thereunder provide for:

- (i) *payment of Registration fees at the prescribed rate; and*
- (ii) *payment of Stamp duty by the executants at the prescribed rate.*

We noticed that the Registration Department did not observe the provisions of the Act/Rules in cases mentioned below:

5.8 Misclassification of deeds of conveyance as Development Agreements

Misclassification of 11 deeds of conveyance as development agreements in a District Sub Registrar Office resulted in short levy of Stamp duty and Registration fees amounting to ₹ 19.46 lakh.

We test checked (July 2014) Book-I, Fee Books and Valuation Registers of office of the District Sub Registrar (DSR), Dhanbad and found that 11 development agreements were registered in this office during 2012-13. In lieu of the consideration to be received, the owners of land were entitled to a part of the developed land. The developers were entitled to dispose of their shares of developed land in such a manner as they deemed fit without requiring any consent from the owners. Our scrutiny of documents further revealed that owners of land authorised the developers to take possession of the land with right to construct, develop and deal with the land in accordance with the terms and conditions of the agreements. As such, these documents were required to be registered as deeds of conveyance instead of development agreements because classification of an instrument depends upon the nature of the transaction recorded therein as stipulated in Section 2 (10) of the IS Act, 1899. But these documents were registered on incorrect consideration value, i.e., on advance payments made by developers to the owners of land instead of value of land transferred to the developer as per guideline register. The Department levied Stamp duty and Registration fees of ₹ 4.61 lakh on advances of simple agreements of ₹ 20.91 lakh instead of ₹ 24.07 lakh on consideration value of ₹ 3.44 crore. This resulted in short levy of Stamp duty and Registration fees amounting to ₹ 19.46 lakh including Registration fee of ₹ 8.34 lakh at a consideration arrived at by applying the market value of the land in accordance with the provisions of the Bihar Stamp (Prevention of undervaluation of instruments) Rules, 1995.

After we pointed out the cases in August 2014, the DSR, Dhanbad stated in June 2015 that notices have been issued and an amount of ₹ 2 lakh has been recovered in two cases. Further reply has not been received (October 2015).

We reported the matter to the Government in April 2015; their reply has not been received (October 2015).

Similar issue was pointed out in Paragraph Nos. 6.7.4 of Audit Report (Revenue Sector) for the year ended 31 March 2013, the Government accepted our observation and amended the table of fees under the Registration Act,

1908 (xvi of 1908) in October 2014 by inserting a provision under E(1) for levy of registration fees at the rate of two *per cent* of the total estimated cost of the building/apartment/construction project as approved by the competent authority.

5.9 Non-levy of Stamp duty and Registration fees on leases

Absence of a mechanism of inter-departmental exchange of data/information resulted in non-registration of leases executed by Anchal office, Municipal Council, Panchayats etc. and consequential non-levy of Stamp duty and Registration fees of ₹ 9.77 lakh.

We obtained information from six offices⁶ regarding settlement of *sairats* (the right and interest in respect of revenue earning *hat, bazaar, mela, trees, ferries* etc.) and cross verified (between June and October 2014) with the records of concerned four DSRs⁷ which revealed that between 2012-13 and 2013-14, out of 29 *sairats*, 17 *sairats* were settled with different bidders for more than one year or on year to year basis. But these were not registered as per the provisions of the Registration Act, which stipulates that leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent is to be compulsorily registered. Thus, non-registration of these documents resulted in non-levy of Stamp duty and Registration fees amounting to ₹ 9.77 lakh including Registration fee of ₹ 4.88 lakh.

After we pointed out the cases between June and October 2014, DSRs stated between June and November 2014 that correspondence would be made with the concerned Departments and action would be taken accordingly. Further reply has not received (October 2015).

We reported the matter to the Government in April 2015; their reply has not been received (October 2015).

Similar issue was pointed out in Paragraph Nos. 5.11 of Audit Report (Revenue Sector) for the year ended 31 March 2014: the Government accepted our observation and stated (June 2014) that the concerned deed had not been presented for registration. The Deputy Commissioners of the concerned districts have been instructed to get the lease agreements registered before settlement of lease property.

⁶ Anchal Adhikari, Chatra and Koderma, Municipal Council, Chatra, Nagar Panchayat Khunti, Koderma and Simdega.

⁷ Chatra, Khunti, Koderma and Simdega.

C. TAXES AND DUTIES ON ELECTRICITY

5.10 Tax administration

The Commercial Taxes Department is responsible for levy and collection of Electricity Duty under the provisions of Jharkhand Electricity Duty (Amendment) Act, 2011. The Secretary-cum-Commissioner of Commercial Taxes, assisted by an Additional Commissioner, three Joint Commissioners of Commercial Taxes (JCCT), three Deputy Commissioners of Commercial Taxes (DCCT) and two Assistant Commissioners of Commercial Taxes (ACCT) is responsible for administration of the Act and Rules. The State is divided into five Commercial Taxes Divisions⁸ each under the charge of a JCCT (Admn.) and 28 circles, each under the charge of a DCCT/ACCT of the circle. The DCCT/ACCT assisted by Commercial Taxes Officers, is responsible for levy and collection of Electricity Duty.

5.11 Results of audit

Collection of Electricity Duty (ED) during the period 2014-15 was ₹ 175.40 crore. Our test check of records relating to ED in three Commercial Taxes Circles⁹ out of 28 Commercial Taxes Circles in 2014-15 revealed non/short levy of duty and surcharge etc. involving ₹ 22.86 crore in 15 cases as mentioned in **Table – 5.11**.

Table – 5.11

Sl. No.	Categories	No. of cases	(₹ in crore)
			Amount
1	Short levy of Electricity Duty	6	15.26
2	Non/short levy of surcharge	6	7.30
3	Other cases	3	0.30
Total		15	22.86

During the course of the year, the Department accepted short levy of Electricity Duty and surcharge etc. amounting to ₹ 1.39 crore in one case pointed out during 2014-15.

In this part of the chapter, we present few illustrative cases having financial implication of ₹ 11.18 crore, which have been discussed in the succeeding paragraphs.

⁸ Dhanbad, Hazaribag, Jamshedpur, Ranchi and Santhal Parganas (Dumka).

⁹ Hazaribag, Jharia and Tenughat.

5.12 Non-observance of provisions of Acts/Rules

The Bihar Electricity Duty (BED) Act, 1948 and Rules made thereunder, as adopted by the Government of Jharkhand, provide for payment of electricity duty at the rate of 15 paise per unit for mining purposes and surcharge at the rate of 2 paise per unit of electrical energy used or consumed. The rate was revised from June 2011, i.e. electricity duty at the rate of 20 paise per unit for mining purposes and Section 3A of the BED Act, 1948, which provide for levy of surcharge at the rate of 2 paise per unit of electrical energy used or consumed was deleted by Jharkhand Electricity Duty (Amendment) Act, 2011. The BED Act, 1948 and Bihar Electricity Duty (BED) Rules 1949 as adopted by Jharkhand Government did not provide for a time limit for finalisation of assessment. However, Rule 12 (as amended) of the Jharkhand Electricity Duty (Amendment) Rules 2012, put into force with effect from 18 June 2012 provides for the assessment of the assessee within 18 months of filing of the Annual Returns.

We noticed that the Commercial Taxes Department did not observe the provisions of the Act/Rules in the case mentioned in the succeeding paragraph.

5.13 Non-levy of penalty for non/short payment of electricity duty and surcharge

Penalty of ₹ 7.35 crore though leviable under the provision of the BED Act for non/short payment of electricity duty and surcharge was not levied.

We noticed from the assessment records between February and December 2014 in three commercial taxes circles¹⁰ that seven assessee paid electricity duty and surcharge of ₹ 8.67 crore for consumed electrical energy of 122.49 crore units for the period between 2005-06 and 2012-13 against demand of ₹ 12.37 crore. Thus, there was non/short payment of electricity duty and surcharge amounting to ₹ 3.70 crore for which assessee were liable to pay penalty as per provisions of the Section 5A (2) of the BED Act, 1948 up to five per cent but not less than two and half per cent for each of the first three months or part thereof following the due date and up to ten per cent but not less than five per cent for each subsequent month or part thereof. The assessing authorities (AAs) also did not raise demand for payment of penalty resulting in non-levy of penalty of ₹ 7.35 crore (Appendix-XV).

As per provision of Section 7 of the BED Act, 1948, any duty or penalty imposed under the Act, which remains unpaid shall be recovered as if it were an arrear of land revenue.

After we pointed out the matter, AAs stated between February 2014 and January 2015 that the cases would be reviewed. The Assessing Authority, Tenughat reviewed the case and issued demand notices amounting to ₹ 1.39 crore in case of one assessee in July 2014. Further reply has not been received (October 2015).

¹⁰ Hazaribag, Jharia and Tenughat out of 28 circles in the State.

We reported the matter to the Government in May 2015; their reply has not been received (October 2015).

Similar issue was pointed out in Paragraph Nos. 6.10.16.2 of Audit Report (Revenue Sector) for the year ended 31 March 2013, the Government accepted our observation and stated that notices have been issued to the assesseees for further action.

5.14 Non/short levy of electricity duty and surcharge

Electricity duty was levied at the rates applicable for industrial purpose instead of mining purpose and surcharge was not levied.

5.14.1 We test checked the assessment records between February and December 2014 in three Commercial Taxes Circles¹¹ and noticed that five assesseees consumed 29.91 crore units of electrical energy for mining purposes during the period from 2006-07 to 2012-13. It has been judicially held¹² that the process of mining comes to an end only when the ore extracted from the mines is washed, screened, dressed and then stacked at the mining site. But the AAs levied electricity duty at lesser rate, applicable for industrial purpose, than that applicable for mining purposes which resulted in short levy of electricity duty amounting to ₹ 2.44 crore.

After we pointed out the matter, AAs stated between February 2014 and January 2015 that the cases would be reviewed. Further reply has not been received (October 2015).

5.14.2 We test checked the assessment records between October and November 2014 in Commercial Taxes Circle, Jharia and noticed that three assesseees filed returns showing consumption of electrical energy of 69.17 crore units during the period between 2006-07 and 2010-11. We further noticed that the assesseees paid electricity duty of ₹ 6.71 crore for electricity consumed but did not pay surcharge as per provision of the Bihar Electricity Duty Act, as adopted by the Government of Jharkhand, which provides that surcharge at the rate of two *paisa* per unit of energy consumed or sold shall be payable in addition to duty payable. The assessing authority also did not raise demand for payment of surcharge resulting in non-levy of surcharge of ₹ 1.39 crore.

After we pointed out the matter, the AA stated in November 2014 that the cases would be reviewed. Further reply has not been received (October 2015).

We reported the matter to the Government in May 2015; their reply has not been received (October 2015).

Similar issue was pointed out in Paragraph Nos. 6.10.12.2 and 6.10.12.3 of Audit Report (Revenue Sector) for the year ended 31 March 2013, the Government accepted our observation and stated that notices have been issued to the assesseees for further action.

¹¹ Hazaribag, Jharia and Tenughat.

¹² Chowgule and Co. vs Union of India (1981) 47 STC-124 SC.

The main focus of the Department is concentrated on administration of VAT/CST for which the assessments are to be finalised in a time bound manner. This indicated lack of commitment towards administration of the BED Act.