

**CHAPTER-V**  
**OTHER TAX RECEIPTS**

## CHAPTER – V: OTHER TAX RECEIPTS

### A. LAND REVENUE

#### 5.1 Tax administration

The legal framework of Revenue, Registration and Land Reforms Department<sup>1</sup> 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 divisions<sup>2</sup> each headed by a Divisional Commissioner and 24 districts<sup>3</sup> 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*<sup>4</sup>, commercial/residential rent, cess<sup>5</sup>, *sairat*<sup>6</sup> etc.

#### 5.2 Results of audit

We planned for test check of records of four annual units, one biennial unit and 25 triennial units out of the total 341 units relating to 'Land Revenue' of Revenue, Registration and Land Reforms Department during 2015-16 and test checked 23<sup>7</sup> out of 30 units planned, which collected revenue of ₹ 2.79 crore. Our Audit revealed cesses not levied/short levied and interest on arrears of cess, *salami* and commercial rent not fixed/short fixed, vested lands not settled etc. involving ₹ 8,892.97 crore in 95 cases as detailed in **Table-5.1**.

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<sup>1</sup> 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, Registration and Land Reforms Department.

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

<sup>3</sup> 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.

<sup>4</sup> *Salami* is the market value of the land.

<sup>5</sup> 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).

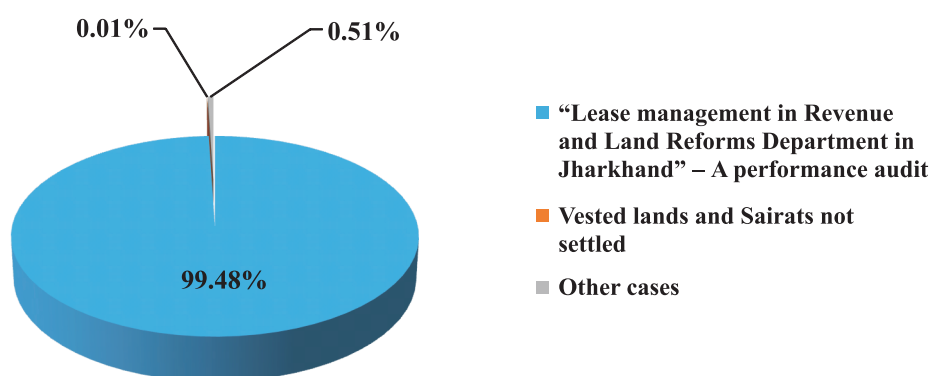
<sup>6</sup> The right and interest in respect of revenue earning *hat, bazaar, mela*, trees, ferries, Ponds.

<sup>7</sup> Offices of CO, Baliapur, Bermo, Chandankyari, Chandrapura, Chas, Dhanbad, East Tundi, Gomia, Jharia, Nirsa, Petarwar, Topchachi and Tundi, DCLR, Bermo, Bokaro and Dhanbad, AC, Bokaro, Dhanbad and Jamshedpur, Settlement Office, Dhanbad, District Land Acquisition, Bokaro, Special Land Acquisition, Bokaro and Secretary, Revenue, Registration and Land Reforms Department, Ranchi.

**Table-5.1**

Sl. No.	Categories	Number of cases	(₹ in crore)
			Amount
1	“Lease management in Revenue and Land Reforms Department in Jharkhand” – A Performance Audit	1	8,846.91
2	Vested lands and <i>Sairats</i> not settled	4	1.10
3	Other cases	90	44.96
<b>Total</b>		<b>95</b>	<b>8,892.97</b>

**Pictorial presentation of nature of irregularities**



In this chapter we present a Performance Audit on “**Lease management in Revenue and Land Reforms Department in Jharkhand**” having financial implication of ₹ 8,846.91 crore. The Department accepted all the audit observations which are discussed in the succeeding paragraphs.

### 5.3 Lease Management in Revenue and Land Reforms Department in Jharkhand

#### Highlights

##### Irregular allotment/transfer of sub-lease land

- Government was deprived of revenue of ₹ 3,376.24 crore as *salami*, rent and cess in case of 1,279 sub-leases involving 469.38 acres for the period from 1971-72 to 2014-15.

(Paragraph 5.3.9.1)

- Government was deprived of revenue of ₹ 974.48 crore for the period 1999 to 2015 as lease rights of plant area of 122.82 acres of land given to Tata Steel Limited, Jamshedpur were irregularly transferred to another company. The Rules do not envisage the transfer of lease rights by lessees.

(Paragraph 5.3.9.2)

- Government was deprived of revenue of ₹ 26.76 crore as 23 sale deeds of land involving 4.31 acres of land were registered during the period 2010-11 to 2014-15 even though sub-lessee was not authorised to sell these land/flats.

(Paragraph 5.3.9.3)

##### Securing against trespassers and renewal of leases

- Department failed to collect rent and interest of ₹ 3,964.94 crore as 7,862 lessees out of 10,425 lessees did not renew their lease involving 2,547.42 acres of *khas mahal* land for periods falling within 1934-35 to 2014-15. The department neither issued notices to the lessees for renewal of leases nor took steps to evict them.

(Paragraph 5.3.10.1)

- Government was deprived of revenue of ₹ 248.77 crore for the period 1996-97 to 2014-15 as the Department failed to evict and earn revenue from 1,859.68 acres of land under encroachment and could not account for location of 69.43 acres of land leased out to Tata Steel Limited, Jamshedpur.

(Paragraph 5.3.10.3)

##### Revenue not realised

- Government was deprived of revenue of ₹ 216.59 crore as Department failed to realise the lease rent, cess, interest, *salami* and capitalised value of land in respect of 78 lessees during the period 2006-07 to 2014-15.

(Paragraph 5.3.11)

##### Internal control

- National Land Records Modernisation Programme was not completed in any district even six years after commission. There were discrepancies of an area of 12,098.25 acres of *khas Mahal* land due to improper maintenance of records.

(Paragraphs 5.3.12.2 and 5.3.12.3)

### 5.3.1 Introduction

The Lease<sup>8</sup> Management in Revenue and Land Reforms Department, Jharkhand is covered by Chhotanagpur Tenancy Act, 1908, Santhal Paragana Tenancy Act, 1949 read with Bihar Land Reforms (BLR) Act, 1950, Bihar Public Land Encroachment (BPLE) Act, 1956, Bihar Land Rent (exemption from payment) Act, 1982, Bihar Government Estates (*Khas Mahal*<sup>9</sup>) Manual, 1953, Bihar Land Acquisition Manual (as amended from time to time) and rules made and instructions issued thereunder. The purpose of the Acts, as adopted by Government of Jharkhand, was to enable levy and collection of rent directly by the Government in accordance with the existing tenancy laws and not go through intermediaries such as *Zamindars* which was the norm till then. Thus, the Acts provides a direct link between the State and the tenants and brought assessment and collection of land revenue under the direct control of the State.

Besides, *salami*<sup>10</sup>, land rent and interest<sup>11</sup>, Cess is also leviable under provisions of Bengal Cess Act, 1880, as adopted by the Government of Jharkhand.

#### 5.3.1.1 Procedure for management of leases on Government land

In brief the procedure of allotment and expiry of leases is explained below:

The proposal of Divisional Commissioner for the grant of lease of land to private individuals should be submitted to Government together with the particulars specified in clause (a) of Rule 171 of Bihar Government Estates (*Khas Mahal*) Manual, 1953 which clearly specify the object and the terms and details of the proposed transfer, particulars of area, market value, terms of year and estimated yearly rent of land. Further, as per terms and condition contained in schedule II of Appendix A-18B of *Khas Mahal* Manual, 1953 in para 6(v), the lessee while selling or assigning the said land or such part thereof to any other party shall do so with prior approval of the State Government. In case of breach of any of the terms and conditions like irregular sub-lease/ transfer of lease rights/unauthorise sale by the lessee, the lessor<sup>12</sup> shall have the right to resume the whole of the said land.

According to the Bihar Government Estates (*Khas Mahal*) Manual and rules framed thereunder for renewal of lease, the Collector/Dy. Commissioner is required to issue notices to the lease holders six months prior to expiry of the lease to apply for renewal of such leases. Further, the lessee<sup>13</sup> concerned is required to apply for renewal of his lease three months prior to its expiry. A lessee who continues to occupy leasehold property without renewal of lease

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<sup>8</sup> A transfer of a right to enjoy such a property, made for a certain time, express or implied or in perpetuity, in consideration of a price paid or promised to the transferor by the transferee, who accepts the transfer on such terms.

<sup>9</sup> The estates under the direct possession/management of the Government.

<sup>10</sup> *Salami* is the current market value of the land. It is a share in the increase of value anticipated during the period of lease.

<sup>11</sup> Interest at the rate of 6.25 per cent per annum upto 14.04.1999 and thereafter at the rate of 10 per cent per annum.

<sup>12</sup> The transferer of the property on lease.

<sup>13</sup> The transferee of the property transferred on lease.

and also without payment of rent is to be treated as a trespasser and has no claim for renewal on the basis of past terms and conditions. On fresh lease for residential/commercial purposes, *salami* at the current market value of land besides annual rent at the rate of two *per cent* for residential and five *per cent* for commercial of such *salami* is leviable.

Under Bihar Land Encroachment Act, 1956 as adopted by Government of Jharkhand, if a person had encroached upon the leased out area or the vacant portion of *khas mahal* land, he may be served a notice requiring him to vacate the encroachment or to settle such land on payment of rent as per rule laid down in Bihar Estate (*Khas Mahal*) Manual, 1953 and accordingly such person is liable to pay *salami* at the prevailing market value of such land along with residential/commercial rent at the rate of two *per cent* or five *per cent* of *salami*.

### 5.3.1.2 Special provision in respect of land leased to Tata Iron and Steel Company

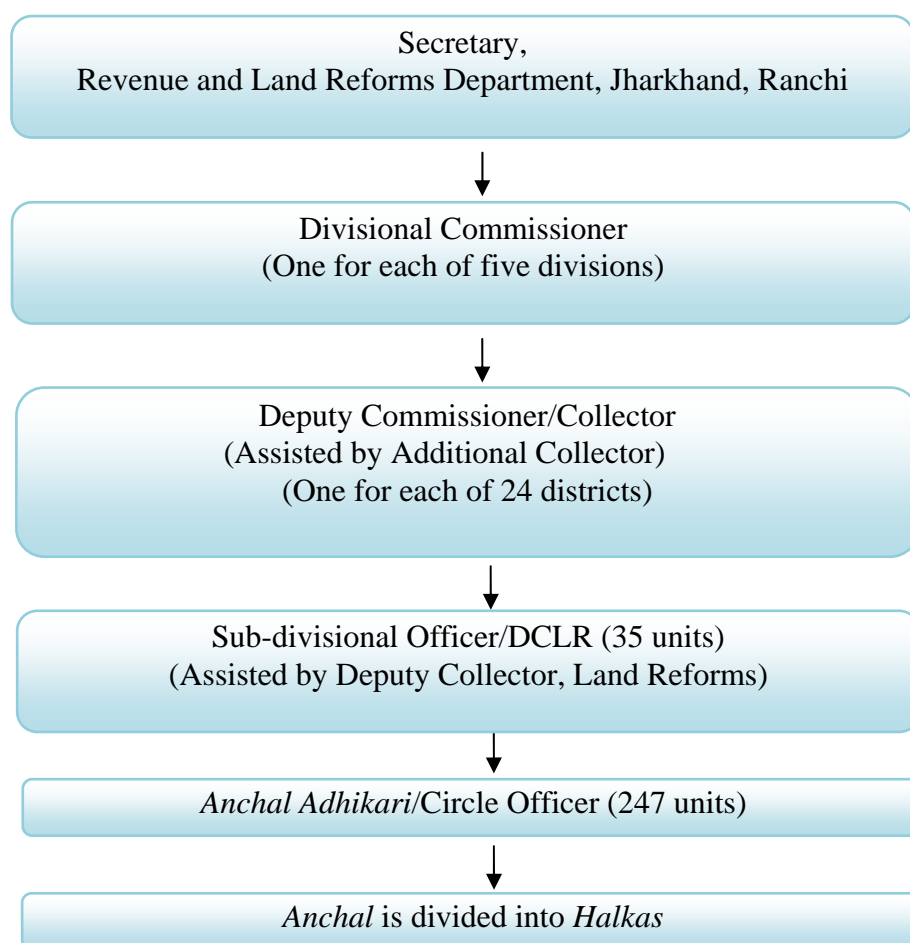
Government of Jharkhand, Revenue and Land Reforms Department leased (January 1956) 12,708.59 acres of land to Tata Iron and Steel Company (TISCO), free from encroachment, for a period of 40 years which expired in December 1995. Prior to expiry of the lease, TISCO applied (August 1995) for renewal of lease for a further period of 30 years for an area of 10,852.27 acres only and requested for excluding an area of 1,786.89 acres from the earlier lease.

According to the lease agreement of August 1984 between Government and TISCO which was given retrospective effect from January 1956, provisions have been made for regularization of sub-leases after 22 June 1970 under Land Reforms Act, 1950 (Amendments of 1972, para 7D and 7E). It also provides for payment of all rents and premium or *salami* realised by the company to the State Government for leases entered into after January 1956. As per Clause 6 (i) of the Part II of the Schedule II under Appendix A-18B of the Bihar Government Estates (*Khas Mahal*) Manual, the lessee is not eligible to assign, mortgage, underlet or part with the possession over the land or any right or interest therein or in respect thereto without the previous consent of the lessor or his nominee.

### 5.3.2 Organisational set up

The laws governing the land revenue in Jharkhand are administered by Revenue and Land Reforms Department with Secretary/Commissioner at the head. He is further assisted by Divisional Commissioner at division level, Dy. Commissioner at district level supported by Additional Collector/Additional Dy. Commissioner (ADC), Sub-Divisional Officers (SDOs)/Deputy Collector Land Reforms (DCLR) at sub divisional level and Circle Officers (CO)/*Anchal Adhikari* (AA) at circle level. The State is sub-divided into five divisions, 24 districts, 35 sub-divisions and 247 circles. All important cases of settlement of lease, framing of policies and sanction of alienation of the Government land are decided at Government level.

The organisational chart of the department is as under:



### 5.3.3 Audit Objectives

We conducted the Performance Audit to ascertain whether:

- the grant of Government land on lease was in accordance with the existing provisions of concerned Acts, Rules and Regulations;
- there exists a proper monitoring/internal control mechanism to ensure that the process of allotment was transparent, that terms and conditions of lease were being adhered and renewal of leases were proper;
- timely action was taken by the concerned competent authority for eviction of the encroachment on leased out area; and
- action for resumption of unutilised land allotted on lease and on breach of condition of lease agreement was proper and on time.

### 5.3.4 Audit criteria

We conducted the Performance Audit with reference to the provisions made under the following Acts and Rules<sup>14</sup>:

1. Bihar Land Reforms Act, 1950;
2. Bihar Government Estate (*Khas mahal*) Manual, 1953;

<sup>14</sup> As adopted by Government of Jharkhand

3. Bihar Public Land Encroachment Act, 1956;
4. Bihar and Orissa Public Demand and Recovery Act, 1914;
5. Bengal Cess Act, 1880; and
6. Executive Orders issued by the Revenue and Land Reforms Department, Government of Jharkhand from time to time.

### 5.3.5 Audit scope and coverage

The Performance Audit on “Lease Management of Revenue and Land Reforms Department in Jharkhand” for the period from 2010-11 to 2014-15 was conducted between July 2015 and May 2016. We collected data of demand raised and revenue collected of all 24 districts<sup>15</sup> in the State. We selected 14 districts<sup>16</sup> for audit through random sampling method without replacement after stratifying the universe as high, medium and low on the basis of risk analysis<sup>17</sup>. We further selected 29 circle offices<sup>18</sup> for detailed audit from the selected districts, including Tata lease office, ensuring a combination of rural and urban areas, mining areas, industrial areas, *khas mahal* and *gairmazarua*<sup>19</sup> (GM) land etc.

### 5.3.6 Audit methodology

An entry conference was held on 4 February 2016 with the Secretary, Revenue and Land Reforms Department, Government of Jharkhand in which the audit objectives, scope of audit, audit methodology & initial findings of pilot study were discussed in detail. A test check was performed of lease records/returns and statements in the selected districts/Circle Offices, in order to detect irregularities in renewal of lease, transfer of GM Land, sub-leasing by lessees and realisation of Government revenue.

We held an exit conference with the Government and Department on 5 August 2016 during which the findings were discussed with the Secretary and Joint Secretary, Revenue and Land Reforms Department, Government of Jharkhand and their response have been incorporated in the relevant paragraphs.

<sup>15</sup> Bokaro, Chatra, Deoghar, Dhanbad, Dumka, East Singhbhum (Jamshedpur), Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamtara, Khunti, Koderma, Latehar, Lohardaga, Palamu, Pakur, Ramgarh, Ranchi, Sahebganj, Saraikela-Kharsawan, Simdega and West Singhbhum (Chaibasa).

<sup>16</sup> Bokaro, Chatra, Dhanbad, East Singhbhum, Garhwa, Giridih, Hazaribag, Koderma, Latehar, Palamu, Ranchi, Sahebganj, Saraikela-Kharsawan and West Singhbhum.

<sup>17</sup> Risk analysis based on the demand raised and actual collection. We not only selected the districts from which demands and collections were the highest but also selected districts where the achievements were low.

<sup>18</sup> Angara, Barkagaon, Bengabad, Chatra (Sadar), Chas (Bokaro), Chaibasa (Sadar), Chakradharpur, Dhanbad (Sadar), Dhanwar, Garhwa (Sadar), Giridih (Sadar), Gamahria, Hazaribagh (Sadar), Jaganathpur, Jamua, Jugsalai-cum-Golmuri, Koderma (Sadar), Latehar (Sadar), Namkum, Noamundi, Medininagar Palamu (Sadar), Potka, Ranchi (Sadar), Ratu, Simaria, Sahebganj (Sadar), Saraikela (Sadar), Tandwa and Tata Lease Office, Jamshedpur.

<sup>19</sup> Uncultivated and unsettled land belonging to the Government. It can be settled to the raiyats/tenants as per rules.



### 5.3.7 Acknowledgment

The Indian Audit and Accounts Department acknowledges the co-operation of the Revenue and Land Reforms Department in providing necessary information and records for audit.

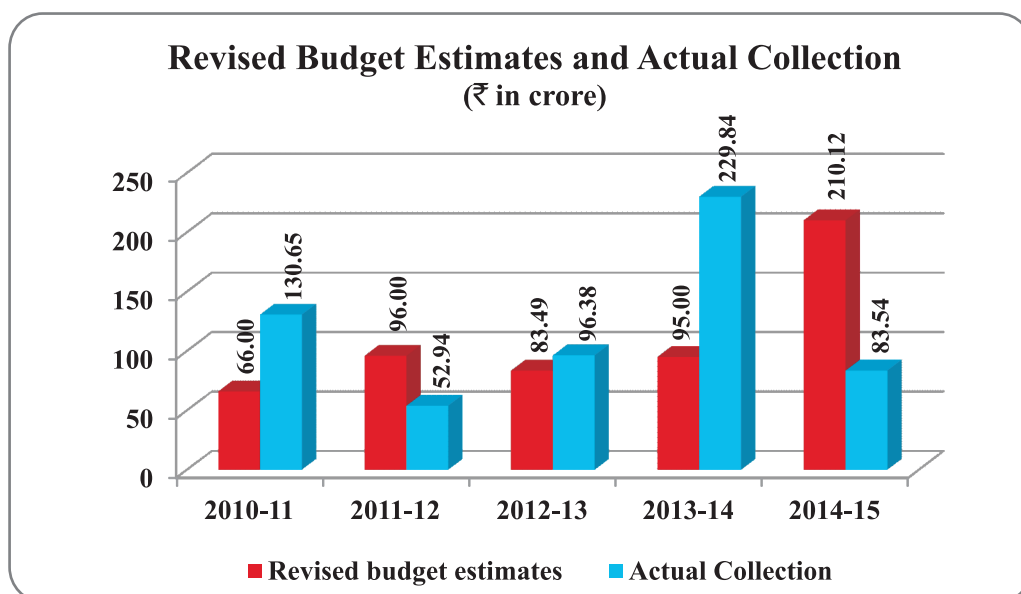
### 5.3.8 Trend of revenue receipts

According to the provisions of the Bihar Financial Rules, Vol. I (as adopted by the Government of Jharkhand) the responsibility for preparation of Budget Estimates (BE) of revenue receipts is vested in the Finance Department. However, the figures for the Budget Estimates are obtained from the Administrative Department concerned which is responsible for the correctness of the figures. In case of fluctuating revenue, the estimates should be based on a comparison of the last three year receipts.

Framing of the Budget Estimates is an important part of the Financial Planning of the Government. It is therefore necessary that the budget estimates should be as close as possible to the actual. However, an analysis of the Budget Estimates and the Actual Collection of land revenue for the period from 2010-11 to 2014-15 indicated wide variations as mentioned in **Table-5.2**.

**Table-5.2**

(₹ in Crore)				
Year	Revised budget estimates	Land Revenue Collected (Actual)	Variation Increase (+) / Shortfall (-) (3-2)	Percentage of variation
1	2	3	4	5
2010-11	66.00	130.65	(+)64.65	(+)197.95
2011-12	96.00	52.94	(-)43.06	(-)55.15
2012-13	83.49	96.38	(+)12.89	(+)115.43
2013-14	95.00	229.84	(+)134.84	(+)241.93
2014-15	210.12	83.54	(-)126.58	(-)39.75



The collection of revenue during 2011-12 and 2014-15 was 55 and 40 per cent lower than the BEs, while in other years increase over the budget estimate was greater than 100 per cent. The wide variation and volatility in collections of revenue indicates that the BEs/Revised BEs were not realistic. The reason for

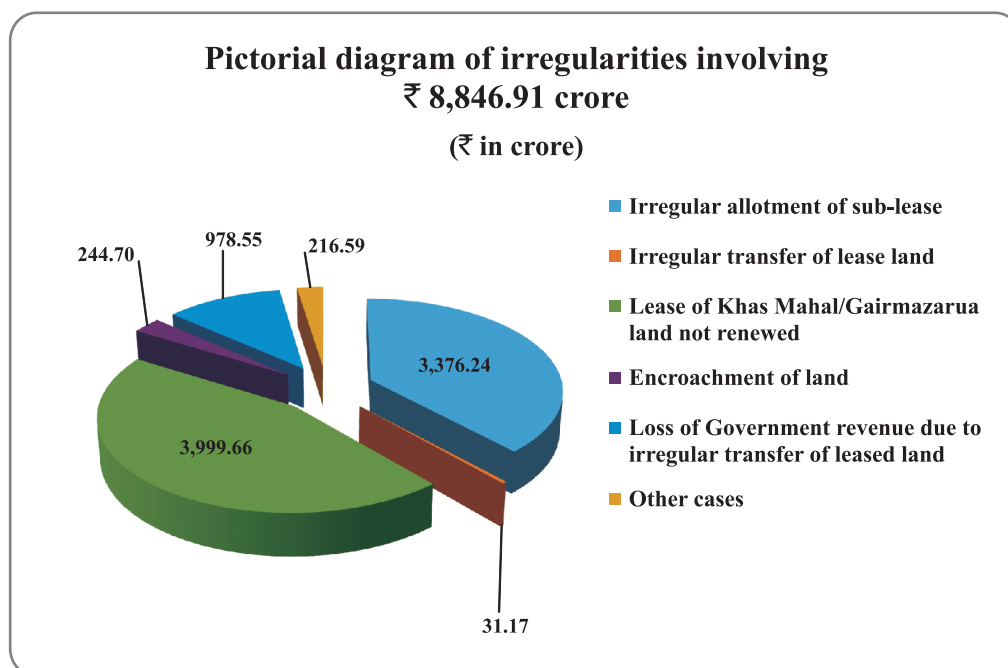
increase of 241.93 *per cent* in Land Revenue in 2013-14 over the previous year was attributed by the Department to deposit of dues amounting to ₹ 129 crore of previous years.

After we reported the matter (July 2016), the Department/Government in the exit conference stated that the BEs are fixed by the Finance Department on the basis of internal resources. Further, the Department stated that deposit of old dues and Capitalised value of land from the lessees resulted in wide variation over the previous years.

**We recommend that the Government may issue suitable instructions to the Revenue and Land Reforms Department for preparing the BEs on a realistic and scientific basis and ensuring that these are close to the actual receipts to prevent it from being an exercise in futility.**

### **Audit Findings**

Major irregularities involving ₹ 8,846.91 crore were noticed in 7,862 out of 10,452 leases in respect of 2,549.85 acres of *Khas Mahal land*, in the settlement records of 3,10,620.82 acres in respect of GM land, and in 57 sub-leases involving an area of 4,649.94 acres granted to private companies, shown as under:



These deficiencies are discussed in the succeeding paragraphs.

### **5.3.9 Conformity with laws governing leases**

Under the provisions of Clause 6 (i) and (v) of Part II of the Schedule under Appendix A-18 B of the Bihar Government Estates (*Khas Mahal*) Manual, the lessee will not assign, mortgage, underlet or part with the possession over the land or any right or interest therein or in respect thereto without the previous consent of the lessor or his nominee. In case of breach of the terms and conditions of lease deed, the Government shall have the right to resume the

whole or part of the said land. As per clause (8) of the Lease Agreement (August 1984) between Government and Tata Steel Limited, if the lessee finds it necessary in future to sub-lease any portion of the vacant lands in favour of any person, such allotment will be made with the prior approval of the Government. Clause 8 (para 7D and 7E) also refers to an amendment brought in 1972 under Bihar Land Reforms Act, 1950 that set a cut-off date of 22 June, 1970 for regularisation of sub-leases. Further, clause 2 of the Resolution no. 241 of January 2011 provides *salami* as equivalent to current market value of the land.

Our audit findings revealed that the grant of an area of 598.94 acres of land on lease was not in accordance with the existing provisions of Acts, Rules and Regulation. The succeeding paragraphs revealed that Government was deprived of revenue of ₹ 4,381.89 crore as *salami*, rent and Cess.

### 5.3.9.1 Irregular allotment of sub-lease land

**Government was deprived of revenue of ₹ 3,376.24 crore as 1,279 sub-leases were granted without prior approval. Action was not taken for resumption of sub-leased land or to realise Government revenue.**



**Market at Bistupur, Jamshedpur on irregular sub-lease land**

We test checked the lease agreement files and their corresponding records of three offices<sup>20</sup> and observed that Tata Steel and Damodar Valley Corporation (DVC, a public sector enterprise) had sub-leased an area of 469.38 acres of land to 1,279 individuals/industries etc. between 25 June 1970 and October 2009 without prior approval of the Government. We

further noticed that the information about these irregular sub-leases of leased land were available in the office of the Dy. Collector of Tata Lease office and in the office the Secretary, Revenue and land Reform Department but no action was taken for resumption of sub-leased land or to realise Government revenue as per the provisions *ibid*. As such, the Government was deprived revenue of ₹ 3,376.24 crore calculated from 1971-72 to 2014-15 as *salami*, rent and Cess (**Appendix-VIII**).

After we reported the matter (July 2016), the Department/Government accepted audit observations in the exit conference regarding irregularities of sub-lease given by Tata Steel and DVC. The Department further stated that a

<sup>20</sup> Circle Office, Nirsa, Office of the Secretary, Revenue and Land Reforms Department and Tata Lease office, Jamshedpur.

committee had been constituted to calculate the loss of Government Revenue. Further reply has not been received (October 2016).

**We recommend that Government may constitute a reviewing committee for detecting breaches of terms and conditions and to ensure that all lessees obtain prior permission from Government for change of purpose/sub-lease/sale of the lease land. We also recommend that the Government take steps urgently for recovery of revenue realisable on sub-leases.**

### 5.3.9.2 Irregular transfer of lease rights

**Government was deprived of revenue of ₹ 974.48 crore due to irregular transfer of lease rights of leased land as Rules do not permit the transfer of lease rights to others. DSR, East Singhbhum registered deed and failed to insist for fresh lease.**

Bihar Government Estates (*Khas Mahal*) Manual and the lease agreement executed between Government of Jharkhand and TISCO (now, known as Tata Steel Limited) in August 1984 and renewed in August 2005 does not envisage the transfer of lease rights to others.



**Jojobera Cement Plant, Jamshedpur**



**Lafarge Cement Factory**

We test checked the records in Tata Lease Office (March 2016) which revealed that Tata Steel had set up a cement plant in the leasehold area, but in due course, the lease rights of the plant area measuring 122.82 acres of land were transferred to Lafarge India Pvt. Ltd. in November 1999. This was pursuant to a Business Transfer Agreement (BTA) executed between the seller (Tata Steel) and purchaser (Lafarge India Pvt. Ltd.) in March 1999 in which the seller *inter alia* agreed with the purchaser for the absolute sale, free from encumbrances of the immovable asset on payment of ₹ 550 crore. We further noticed in District Sub-Registrar (DSR), East Singhbhum, Jamshedpur that transfer of lease rights were registered vide deed no. 3913 in November 1999 in favour of Lafarge India Pvt. Ltd.



Audit also noticed that Tata Steel did not obtain the prior approval from the Government for Jojobera Site License Agreement over the proposed use of land at Jojobera. The Deputy Commissioner, Jamshedpur issued a letter in October 2015 to Lafarge India Pvt. Ltd. stating that Tata Steel has no licensing rights under the provision of the Lease Agreement or under the Bihar Land Reforms Act, 1950.



Main Gate of Lafarge Cement Plant

Thus, lessee transferred the lease rights over the land in contravention of the provisions of the lease agreement and Bihar Government Estates (Khas Mahal) Manual which

was irregular and deprived the Government revenue of ₹ 974.48 crore for the period 1999 to 2015 as *salami* along with rent and cess (Appendix-IX) as calculated, based on Clause 2 of Resolution (January 2011) of the Government of Jharkhand. It also indicates that there was absence of inter-departmental check for preventing irregular transfer of lease rights of Government land as the DSR permitted this transaction without insisting on a fresh lease between the purchaser and the Government that would have realised the revenue due to it.

After we reported the matter (July 2016), the Department/Government accepted audit observations in the exit conference that the consent of the State Government is required to be taken prior to the transfer of the use of land in question and stated that a letter has been issued in August 2016 to Commissioner, Kolhan, Chaibasa to enquire into the matter. Further reply has not been received (October 2016).

**We recommend that the Government may recover the amount and instruct the Collectorates to display on website the details of all leases active in their jurisdiction so as to ensure that the plots are not sold/transferred unauthorisedly.**

### 5.3.9.3 Unauthorised sale of land of Tata lease area

**A total of 23 sale deeds of land involving 4.31 acres of land were registered during the period 2010-11 to 2014-15 even though the sub-lessee was not authorised to sale these lands/flats.**



Apartment on Lease Area

We test checked 250 sale deeds of land registered between 2010-11 and 2014-15 in the Office of the District Sub-Registrar, East Singhbhum and noticed that 23 sale deeds involving 4.31 acres of Tata lease area were registered. We further noticed that these sale deeds

had been executed by sub-lessees of Tata Steel, which was only a sub-lessee and therefore not authorised to transfer land by sale. However, DSR registered these unauthorised sale deeds without verifying the facts. Thus, failure of the extant mechanism to monitor unauthorised sale of leased area deprived the Government of revenue of ₹ 26.76 crore as *salami* and rent.

After we reported the matter (July 2016), the Department/Government accepted audit observations in the exit conference and stated that opinion of Law Department has been sought on the basis of which further action will be taken. Further reply has not been received (October 2016).

#### 5.3.9.4 Irregular sale/transfer of lease land

**Government was deprived of revenue amounting to ₹ 4.41 crore due to irregular sale/transfer of Khas Mahal lease land. Department failed to resume of the land/building on breach of the terms and conditions of lease deed.**

We test checked the records of DCLR, Ranchi and *Khas Mahal* Officer, Sahebganj (between October 2015 and May 2016) and noticed that 2.43 acres of *khas mahal* land out of 1910.73 acres were transferred by way of sale deeds, *Ekrarnama*<sup>21</sup> and power of attorney in contravention to the above provisions to Surbhi Apartment, Circular Road, Ranchi and 38 other cases at Sahebganj. As provisions of Rule 38 to 40 of Bihar State *Khas Mahal* Manul, *Halka Karmchhari/Tahsildar* should have enquired the matter and brought out to the notice of *Khasmahal* Officer/Circle Officer. Thus, due to the mechanism to monitor irregular transfer of *khas mahal* land not functioning as it should, Government was deprived of revenue of ₹ 4.41 crore as *salami* and rent.



**Surbhi Apartment, Circular Road, Ranchi on *Khas Mahal* land**

After we reported the matter (July 2016), the Department/Government accepted audit observations in the exit conference and stated that a resolution has been issued in March 2016 regarding regularisation or eviction of *Khas Mahal* land where the terms and conditions of lease were violated. Further reply has not been received (October 2016).

**We recommend that the Government should take action for resumption of *Khas Mahal* land allotted on lease for breach of condition of lease agreement.**

<sup>21</sup> Transfer of land on mutual understanding.

### 5.3.10 Securing against trespassers and renewal of leases

Our findings revealed that terms and conditions of lease were not being adhered to as timely action for renewal and eviction was not taken in respect of 5,308.97 acres of land involving 8,026 lessees, resulting in depriving Government revenue of ₹ 4,248.43 crore as depicted in the following paragraphs:

#### 5.3.10.1 Lease of *khas mahal* land not renewed

**A total of 7,862 *khas mahal* land leases, measuring an area of 2,547.42 acres which expired between 1934-35 and 2013-14 were not renewed due to which rent and interest of ₹ 3,964.94 crore was not realised. The Department neither issued notices to the lessees for renewal of lease nor took steps to evict them.**

According to the Bihar Government Estates (*Khas Mahal*) Manual and rules framed thereunder for grant of lease, the Collector/Deputy Commissioner is required to issue notices to the lease holders six months prior to expiry of the lease for renewal of such leases. Further, the lessee is required to apply for renewal of his lease three months prior to its expiry. A lessee who continues to occupy leasehold property without renewal of lease and also without payment of rent is to be treated as a trespasser and has no claim for renewal on the basis of past terms and conditions. On fresh lease for residential or commercial purposes, *salami* at the current market value of land besides annual rent at the rate of two *per cent* and five *per cent*, respectively of such *salami* is leviable on the lessee. The Government issued instructions in July 2004 and April 2011 to all the Deputy Commissioners to take action for renewal of pending cases within three months.

We test checked the records of four Circle Offices<sup>22</sup>, Additional Collector, Chaibasa and seven Khasmahal/DCLR offices<sup>23</sup> and noticed that leases for 2,547.42 acres of *khas mahal* land held by 7,862 lessees (out of 10,413 lessees) covering an area of 5,019.58 acres, expired between 1934-35 and 2013-14. The lessees or their heirs continued to occupy the leasehold property without payment of rent and also without renewal of lease. Neither did the lessees apply for fresh lease nor did the Department issued notices to the lessees for executing lease deeds or taken steps to evict them. Thus, rent and interest amounting to ₹ 3,964.94 crore for the period from 1934-35 to 2014-15 was not realised (**Appendix-X**).

At the instance of audit, Commissioner, South Chhotanagpur Division, Ranchi and Dy. Commissioner, Palamu issued resolution in March and May 2016 respectively for renewal of *Khas Mahal* lease land within a scheduled timeframe.

After we reported the matter (July 2016), the Government accepted audit observations in the exit conference and stated that Instructions had been issued (March 2016) to ensure the renewal of lease within schedule timeframe and steps would also be taken to evict the trespassers under Bihar Public Land

<sup>22</sup> Chakradharpur, Jagannathpur, Golmuri cum Jugsalai and Noamundi.

<sup>23</sup> Garhwa, Hazaribagh, Koderma, Latehar, Medninagar, Ranchi and Sahibganj.

Encroachment Act, 1956. Government had also passed a resolution in March 2016 in this regard.

Similar paragraphs featured in the Audit Report of the Comptroller and Auditor General of India (Revenue Receipts) pertaining to the year ending March 2000, 2003, 2005, 2006, 2008, 2010, 2012 and 2014, regarding loss of revenue due to failure to renew leases of Government *khas mahal* land but no steps were taken for renewal of leases (October 2016).

### **5.3.10.2 Expired lease of GM *khas* land not renewed**

**Government was deprived of revenue amounting to ₹ 34.72 crore as lease was not renewed.**

The Bihar Rent Fixation Act states that a lessee using the leasehold property for commercial activity is liable for payment of commercial rent at the rate of five *per cent* of the market value of the land.

We test checked the records of four offices<sup>24</sup> of the Revenue and Land Reforms Department and noticed that 820.44 acres of GM land was leased out to 161 lessees between 1948 and 1967 for 30 years. The same were not renewed after expiry of lease while the possession remained with lessees. This prevented levy and realisation of land revenue of ₹ 34.72 crore as lease rent along with interest. {Appendix-XI(i) and XI(ii)}.

After we reported the matter (July 2016), the Government accepted audit observations in the exit conference and stated that efforts are being made to obtain information from the districts concerned for initiation of further action.

Similar issue was pointed out in paragraph No. 5.2.7.8 of Audit Report (Revenue Receipts) for the year ended 31 March 2010 but no steps were taken for renewal of leases (October 2016).

### **5.3.10.3 Encroachment of Government land**

**Government was deprived of revenue of ₹ 248.77 crore for the period 1996-97 to 2014-15 as the Department failed to evict and earn revenue from 1,859.68 acres of land due to encroachment and could not account for 69.43 acres of land leased out to Tata Iron and Steel Company, Jamshedpur.**

Under the Bihar Public Land Encroachment (BPLE) Act, if a person encroaches upon any public land, he may be evicted or the land may be settled with such person on payment of rent and damages as per the rules laid down in Bihar Government Estate (*Khas Mahal*) Manual. Further, in case of settlement of public land for residential/commercial purposes, salami equal to the prevailing market value of such land together with annual residential/commercial rent at the rate of two/five *per cent* of *salami* is payable.

<sup>24</sup> Additional Collector, Chaibasa and Circle Offices, Chaibasa, Noamundi and Golmuri-cum-Jugsalai, Jamshedpur.





**Encroachment of land at 86 Basti**

Test check of land records/schedule of Tata Lease Office and statements furnished by the Settlement Office, Jamshedpur revealed that the Government leased out (January 1956) 12,708.59 acres of land to TISCO, free from encroachment, for a period of 40 years which expired in December 1995. Prior to expiry of the lease, TISCO applied (August 1995) for renewal of lease for a further period of 30 years for a smaller area of 10,852.27 acres only and requested for excluding an area of 1,786.89 acres (86 Basti) from the earlier lease. This 1,786.89 acres of land was completely encroached by a variety of persons of which 1,111.04 acres land was occupied by 17,986 buildings and the rest 675.85 acres was covered by roads, streets, drains, barren land, community hall, temple, mosque, *gurudwara*, schools, graveyards, playground etc. We did not find anything on record to indicate that steps were taken to evict the encroachers. Further, details of the remaining 69.43 acres of land that was not accounted for were not furnished by the Department. This indicated that the Department was negligent in monitoring the leased land resulting in loss of revenue of ₹ 220.04 crore as *salami* and rent for the period 1996-97 to 2014-15 (**Appendix-XII**).



**Land encroached by Railway**

Test check of records (December 2015) of Additional Collector, Chaibasa revealed that the Government leased out 463.69 acres of land to Steel Authority of India Limited (SAIL) in April 1979, free from encroachment for a period of 30 years. Prior to expiry of lease, Government renewed the lease in April 2009 for an area 378.90 acres only for further period of 30 years, excluding an area of 84.79 acres from earlier lease. We further noticed that 72.79 acres of GM land was occupied by Railway and rest 12 acres was under possession of Jindal Steel Plant Limited (JSPL) for construction of Railway siding. In these cases, grant of fresh lease was not found on records. The Department did not initiate action to evict the encroachment. This resulted in loss of revenue of ₹ 28.73 crore as *salami*, rent and cess for the period 2009-10 to 2014-15 as per current market of the land (**Appendix-XIII**).

After we reported the matter (July 2016), the Government accepted audit observations in exit conference and stated that 12.00 acres of land was resumed by the Government in June 2016 and action was being taken for verification of remaining 72.79 acres of land at district level with the Railways. The Department further stated that a Committee has been

constituted under the Chairmanship of Development Commissioner, Government of Jharkhand for inclusion of excluded area/land of Tata Lease. The matter of 86 *basti* is under consideration before the aforesaid committee.

Similar issue was pointed out in Paragraph No. 5.2.7.7 of Audit Report (Revenue Receipts) for the year ended 31 March 2010 but no steps were taken to evict the illegal occupants.

**We recommend that Government should evolve a clear policy on regularisation and clearance of encroachment. Government should ensure maintenance of accurate and updated data of leased land. Pending lease agreements ought to be finalised in a time bound programme. Effective action should be taken to follow up eviction of illegal encroachments.**

### 5.3.11 Realisation of lease rent, cess, interest, *salami* and capitalised value of land

Our audit findings revealed that timely action for realisation of lease rent, cess, interest, *salami* and capitalised value of land was not made in respect of 1,291.88 acres of land depriving Government revenue of ₹ 216.59 crore during the period 2006-07 to 2014-15 depicted in the succeeding paragraphs:

#### 5.3.11.1 Revenue not realised

**Government was deprived of revenue amounting to ₹ 195.31 crore due to breach of terms and conditions of lease agreement.**

The Clause 6 of Tata lease deed envisages that the vacant lands may be used by the lessee for factory, production processes, providing civic amenities to



FORTUNE HOTEL CENTRE POINT



TATA ROBINS FRASER (TRF) CO.

the town and housing facilities to the employees of the lessee. If the vacant land is put to any such use, the lease rent will be paid to the lessor in accordance with the rates specified in this lease for such use. Further, the Clause 8 of Indenture of Lease Deed constitutes that, if the Lessee finds it necessary in future to sub-lease any portion of the vacant lands in favour of any person, such allotment will be made with the prior approval of the Lessor on terms to be settled. An Appropriate Machinery Committee has been set up (06.12.2005) by the Lessor in consultation with the Lessee for expeditious disposal of such cases of sub-lease.



TATA BLUE SCOPE STEEL BUILDING  
SOLUTION Pvt. LIMITED



XLRI, JAMSHEDPUR

We test checked the records of Tata lease office and noticed that 144.33 acres of land out of 10,852.27 acres of Tata lease area was sub-leased to 59 entities with approval of Appropriate Machinery Committee (21.09.2012) and the Government during 2006-07 to 2010-11. Accordingly the Government issued a *Rajyadesh* for levy of *salami* & rent on such sub-leased land. The possession was handed over to the sub-lessees and certificates of delivery were issued by Tata Steel. However, revenue of ₹ 195.31 crore as *salami*, rent and cess was not realised (**Appendix-XIV**). It was also noticed that Clause 6 and 8 of Lease Agreement envisages the categorisation of vacant land under Schedule 'E' for sub-lease for commercial activities but the sub-lease was given under Schedule 'A' (used for purpose of factory, mills or gowowns by the company) by violating the Lease Agreement. Secondly, Registration of sub-lease was not executed within a scheduled time frame as per Section 107 of Transfer of Property Act, 1882 and Section 17 of Registration Act, 1908.

After we reported the matter (July 2016), the Department/Government accepted audit observations in the exit conference and stated that the Committee headed by the Commissioner, Kolhan Division, Chaibasa has submitted its Inspection Report to the Government and is under consideration before the Government. Further reply has not been received (October 2016).

**We recommend that Government may take appropriate action for timely settlement of the matter and realize the revenue of ₹ 195.31 crore.**

#### **5.3.11.2 Commercial rent and cess on GM land not raised**

**Commercial rent and cess amounting to ₹ 14.65 crore was not realised from three lessees of GM land.**

As per para No. (i)(a) and (ii) (a) of Resolution No. 241 of January 2011, if GM land has been settled on lease for residential/commercial purposes, annual residential/commercial rent at the rate of two/five *per cent* of *salami* is payable with a 7.5 *per cent* yearly increase. Further, cess is also realisable on lease rent.

- Test check of records of Circle Offices, Gamharia (East Singbhum) and Barkagaon (Hazaribag) which revealed that 107.54 and 995.11 acres of GM land was sanctioned through *Rajyadesh* to Adhunik power & Natural Resources Limited and National Thermal Power Corporation (NTPC) for industrial/commercial purposes. But the Department did not raise demand for

rent for the period from 2013-14 to 2014-15. Thus commercial rent and cess amounting to ₹ 14.31 crore was not realised.

- Test check of records of Circle Office, Barkagaon (Hazaribag) revealed that 13.44 acres of GM *khas* land was settled on lease for 30 years to NTPC. The Circle Officer while fixing the rent reduced the leasehold area by 8.48 acres without assigning any reason. This resulted in short realisation of ₹ 34.17 lakh in shape of *salami*, Commercial rent and cess for the period 2013-14 and 2014-15.

After we reported the matter (July 2016), the Department/Government accepted audit observations in the exit conference and stated that action was being taken to recover the rent and cess. Further reply has not been received (October 2016).

### 5.3.11.3 Commercial lease rent not realised

**Out of 23 lessees, 15 lessees did not pay the lease rent for the period 2009-10 to 2014-15 involving the amount of ₹ 2.32 crore as lease rent and interest.**

As per Appendix A-17 and State Government Circulars and Orders included in *Khas Mahal* Manual, in the event of the lessee failing to pay the rent on or before the date herein fixed for such payments, such arrear shall without prejudice to any other right or remedy of the lessor carry interest at the rate of 10 *per cent* per annum.

We test checked the records of GM Land and statement of 14 sampled districts and noticed in Circle Office, Noamundi that 23 lessees were awarded lease for carrying business of crusher units for which Commercial Rent along with interest were fixed, but scrutiny of records revealed that out of 23 lessees, 15 lessees had not been paying the lease rent for the period 2009-10 to 2014-15 which accounted for ₹ 2.11 crore. Besides, interest of ₹ 21 lakh was also leviable. Thus, lease rent and interest of ₹ 2.32 crore was not realised.

After we reported the matter (July 2016), the Department/Government accepted audit observations in the exit conference and stated that information regarding specific action taken in aforesaid cases were being gathered from respective districts/circles. Further reply has not been received (October 2016).

### 5.3.11.4 Misclassification of Industrial land as agricultural land

**Government was deprived of Revenue amounting to ₹ 2.27 crore due to application of agricultural rate instead of industrial rate for working out *salami*.**

Under the provisions of the Bihar *Khas Mahal* Manual read with resolution of January 2011, Government land (GM *khas* and *Aam*) may be transferred to a company on lease basis for 30 years either for commercial or industrial purpose on realisation of *salami* computed on the basis of prevailing market value of land as specified in valuation list of Registration Department.

We test checked the records of selected districts pertaining to transfer of Government land and noticed in Circle Officer, Gamharia that 38.94 acres of



land was sanctioned and transferred by Rajyadesh between March and April 2013, for industrial purpose to M/s Adhunik Power and Natural Resources Limited. As per provisions, *salami* was required to be calculated and realised on the rate applicable for industrial purpose. But it was found that *salami* was realised at the rate applicable for agriculture land in place of industrial, which resulted in short realisation of Government revenue of ₹ 2.27 crore.

After we reported the matter (July 2016), the Department/Government accepted audit observations in the exit conference and stated that information regarding specific action taken in each case was being gathered from respective districts/circles. Further reply has not been received (October 2016).

#### **5.3.11.5 Capitalised value of land not realised**

**Government was deprived of Revenue amounting to ₹ 1.62 crore as Capitalised value of land not realised.**

Under the provisions of Bihar *Khas Mahal* Manual read with executive order by the Revenue and Land Reforms Department, Government of Jharkhand (June 2004), competent authorities are responsible to assess capitalised value of transferred GM/Government land on the basis of valuation list approved by the Inspector General (I.G.), Registration and realisation of 80 *per cent* of capitalised value prior to forwarding the proposal of alienation/transfer of land in order to complete the process within time schedule and avoid refusal by the applicant.

We test checked the records of selected districts pertaining to transfer of Government land and noticed in Circle Office, Dhanbad that a demand of one acre land by the Life Insurance Corporation of India (LIC) was proposed to the Deputy Commissioner, Dhanbad in June 2007 for construction of Branch Offices on lease for 30 years. But the Circle Officer did not realise 80 *per cent* of capitalised value while forwarding the proposal in contravention to the provisions *ibid*. Thus, revenue of ₹ 1.62 crore was not realised.

After we reported the matter (July 2016), the Department/Government accepted audit observations in the exit conference and stated that the lease applications are not being entertained without payment of 80 *per cent* of the cost of land. However, the capitalised value was neither raised by the Department nor deposited by the lessee till date. Further reply has not been received (October 2016).

#### **5.3.11.6 Interest on arrears of commercial lease rent not realised**

**Department did not levy the interest on arrear of lease rent.**

As per Appendix A-17 and State Government Circulars and Orders maintained in *Khas Mahal* Manual, in the event of the lessee failing to pay the rent on or before the date herein fixed for such payments, such arrear shall without prejudice to any other right or remedy of the lessor carry interest at rate of 10 *per cent* per annum.

We test checked the records of 14 sampled districts and noticed in the office of Additional Collector, Chaibasa that in case of a lease given to SAIL, *salami* of

₹ 4.16 crore and lease rent along with cess of ₹ 4.52 lakh was paid after expiry of lease period. However, the interest was not levied by the Department resulting in short realisation of revenue amounting to ₹ 42.07 lakh.

After we reported the matter (July 2016), the Government/Department accepted audit observations in the exit conference and stated that information regarding specific action taken in each case was being gathered from respective districts/circles. Further reply has not been received (October 2016).

### 5.3.12 Internal controls

#### 5.3.12.1 Arrears of Land Revenue in respect of Tata lease area

**Database of arrears of revenue was not being maintained and despite arrears pending for previous years, certificate cases were not instituted for recovery of old outstanding dues of Land Revenue.**

According to the Bihar Tenancy Act (as adopted by Government of Jharkhand), land rent payable by a tenant is to be paid in four equal instalments falling due on the last day of each quarter of the agricultural year<sup>25</sup>. Rent not paid in time is deemed to be outstanding arrears of land revenue at the end of the agricultural year and was recoverable through certificate proceedings under the Bihar and Orissa Public Demand and Recovery (PDR) Act, 1914.

We scrutinised the Annual Return-I<sup>26</sup> which revealed that the returns were neither being consolidated/compiled nor reconciled by the Tata Lease Office to ascertain the total amount of outstanding arrears of land revenue at the end of the agricultural year.

We worked out the outstanding arrears of revenue on the basis of the Return-I as furnished by the office which amounted to ₹ 223.30 crore as on 31<sup>st</sup> March 2015, as mentioned in **Table-5.3**.

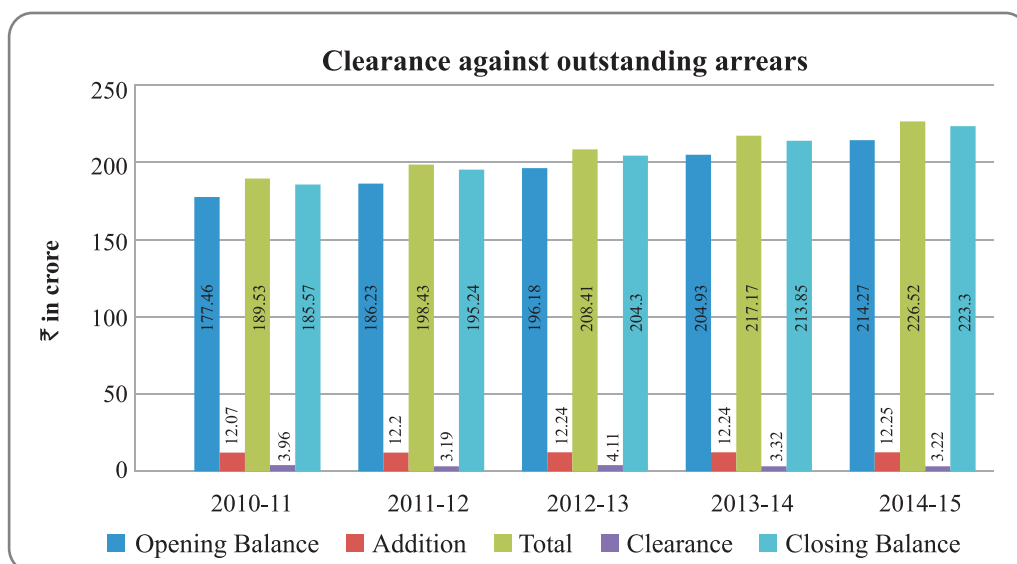
**Table-5.3**

(₹ in crore)

Year	Opening balance	Addition	Total outstanding arrears	Clearance	Closing Balance	Percentage of clearance of arrears to total arrears	Remarks
2010-11	177.46	12.07	189.53	3.96	185.57	2.08	Opening Balances of 2011-12 to 2014-15 have been shown in excess over Closing Balances of preceding years
2011-12	186.23	12.20	198.43	3.19	195.24	1.60	
2012-13	196.18	12.24	208.41	4.11	204.30	1.97	
2013-14	204.93	12.24	217.17	3.32	213.85	1.53	
2014-15	214.27	12.25	226.52	3.22	223.30	1.42	

<sup>25</sup> Means where the Bengali year prevails, the year commencing on the first day of Baisakh, where the Fasali or Amli year prevails, the year commencing on the first day of Asin and, where any other year prevails for agricultural purposes, that year.

<sup>26</sup> Return No. I contains the demands, collections, remissions and balances of rent, cess of estates under direct management of Government.



Despite arrears pending for previous years, certificate cases were not instituted for recovery of old outstanding dues of land revenue. After we reported the matter (July 2016), Department/Government accepted audit observations in the exit conference and stated that opinion of Law Department has been sought on the basis of which further action will be taken. Further reply has not been received (October 2016).

**We recommend that the Government may consider maintaining an electronic database of arrears of revenue on lines of BHOOMI project of Karnatka for digitization of land records, which can prove useful in keeping track of pending arrears of land revenue and may ensure its speedy recovery.**

### 5.3.12.2 Computerisation of land records

**Computerisation of land records under NLRMP was not completed in any district even after a lapse of six years.**

For modernisation of land records system in the country, a modified programme, viz., the National Land Records Modernisation Programme (NLRMP) has been formulated for computerisation of land records and strengthening of revenue administration and updating of land records. The main objective of the programme was computerisation of land records, survey and settlement of records, registration, construction of modern record room and training to fulfill the objective.

We noticed that a sum of ₹ 41.79 crore was sanctioned by the Government of India (GOI) for computerisation of land records out of which ₹ 25.03 crore was provided to Government of Jharkhand and released to all the Deputy Commissioners of 24 districts of the State between 2010-11 and 2015-16. Utilisation for ₹ 15.97 crore was on records, the detail of balance amount of ₹ 9.06 crore lying with the Deputy Commissioner were not furnished. We further noticed that progress of computerisation was not monitored at any level, reports/returns in this regard was not found records. Thus, due to slow progress of computerisation and lack of monitoring, none of the districts in the State have computerised land records even after a lapse of six years. The

discrepancy in respect of *khas mahal* land as mentioned in Para 5.3.12.3 could not be rectified as the land records have not been computerised.

After we reported the matter (July 2016), the Government/Department accepted audit observations in the exit conference and stated that utilisation certificate in this regard would be furnished accordingly.

**We recommend that the Government may complete the computerisation of land records in line with the systems in place in other States such as Karnataka (Bhoomi and Mojini projects). The system should be designed to create, maintain and issue accurate land records for effective revenue administration, land reforms and development planning by integrating data storage at various levels within a fixed time schedule.**

### 5.3.12.3 Discrepancy in notified *Khas Mahal* land

**There were discrepancies of an area of 12,098.25 acres of *Khas Mahal* land due to improper maintenance of records.**

Rule 78 of Bihar Estates (*Khas Mahal*) Manual states that in every district office, a list of Government Estates should be maintained in the prescribed proforma. Such a list should also be maintained separately in each sub-division office for the Government estates in the sub-division. The list should be periodically revised and updated.

We test checked the data relating to *Khas Mahal* land for the period March 2011 to April 2015 which revealed that the last survey of *Khas Mahal* land was conducted upto the year 2008 identified 47,803.60 acres of *Khas Mahal* land but the statement furnished by the Land Revenue Department for the year 2015, showed an area of 59,901.85 acres. However, the register of miscellaneous demand containing data on *Khas Mahal* land was not being maintained. As such, the *Khas Mahal* land acreage was 12,098.25 acres more than the survey report and no reasons were assigned thereof. Thus, due to incomplete maintenance of registers and returns there was discrepancy of an area 12,098.25 acres as mentioned in **Table-5.4**.

**Table-5.4**

Sl. No	Name of district	<i>Khas Mahal</i> area as on 3/2011 (in acres)	<i>Khas Mahal</i> area as on 4/2015 (in acres)	Difference in area (in acres)
1	Ranchi	287.25	489.73	202.48
2	Simdega	88.57	88.57	-
3	East Singhbhum,	373.89	373.89	-
4	West Singhbhum	767.30	775.75	18.45
5	Hazaribag	796.17	796.17	-
6	Koderma	331.55	333.97	2.42
7	Giridih	42,908.77	54,793.70	11,884.93
8	Sahibganj	1,421.00	1,421.00	-
9	Palamu	622.45	622.42	(-) 0.03
10	Garhwa	43.96	43.96	-
11	Latehar	162.69	162.69	-
<b>Total</b>		<b>47,803.60</b>	<b>59,901.85</b>	<b>12,098.25</b>

In case of Giridih, records furnished by Additional Collector do not mention *Khas Mahal* land whereas Department has shown *Khas mahal* area of 54,793.70 acres as on April 2015. This clearly indicates that deficiency in



system with respect to maintenance of records of *Khas Mahal* land may lead to irrecoverable alienation of land as well as leakage of legitimate Government revenue.

We reported the matter to the Department in February 2016; Further, the Department accepted audit observations in the exit conference and stated that information regarding specific action taken in each case is being gathered from respective districts/circles and action would be taken for enhancement of revenue.

#### **5.3.12.4 Internal Audit**

The Finance Department is responsible for conducting Internal Audit of the Revenue and Land Reforms Department including its various offices. We observed that no Internal Audit was conducted during the period 2010-11 to 2014-15 in any of the selected 29 units/offices test checked.

#### **Maintenance of Registers and Returns**

Internal Controls are intended to provide reasonable assurance of proper enforcement of laws, rules and Departmental/Executive orders. A vital component of internal control is to enable the management to assure itself that the prescribed systems are functioning reasonably well.

The Bihar Government Estate (*Khas Mahal*) Manual, provides for maintenance of the following registers/returns by the Collector and the AAs for efficient management of leased land and collection of land revenue and other land reforms:

**Register-IXA (Details of waste land):** This register is meant for recording details of settlement of waste lands. This register was not found maintained by any of the units selected for audit.

**Return-III (List of defaulters):** This return is maintained at the circle level comprising of detailed list of the defaulters on the basis of Register-II, who were not making payment of arrear dues. The return was required to be submitted to the Deputy Commissioner for initiating certificate proceeding against the defaulters.

We test checked the records of units selected for audit and observed that Return-III was not being maintained by AAs.

#### **Annual statement showing alienation of Government land was not maintained:**

As per Rule 173 maintained in *Khas Mahal* Manual, alienation of Government land when settled should be entered in the relevant Register concerned in Form given in Appendix “c (12)” of *Khas Mahal* Manual.

We test checked the records of units selected and observed that the above register was not being maintained by the units selected for audit for alienation of Government land.

**“Register of Miscellaneous Demand” was not maintained:**

As per Rule 89 of *Khas Mahal* Manual “Register of Miscellaneous Demand” is to be maintained by the circle office, in each districts. In remarks column of Register-32 merely the existence of these demand will be noted e.g. income from salami in town *khas mahal*. Further, to ensure realisation of salami in cases where it is due, Register- I of town *khas mahal* must also be examined annually with “Register of Miscellaneous Demand”. In this register, cross reference of register-I will be done by noting the *jamabandi* number which the new tenancy will bear after its creation on payment of salami. This register was not maintained by any of the units selected for audit.

**Register-IX was neither prepared nor maintained:**

As per Rule 97 of *Khas Mahal* Manual the Tehsildar must be advised by Circle Officer for making a certificate, and the advice sent to him should show the name of tenant, the number in the rent roll, year and the amount for which the certificate is made and the date of filing the certificate. The *Khas Mahal* Department will prepare the draft certificate in Form No. I of Schedule II of the Bihar and Orissa Public Demand Recovery Act, 1914 and send them to Certificate Officer for signature and execution.

We test checked the records and observed that the list of “certificate cases for non-payment of arrear” in Register-IX was not being maintained by any of the units selected for audit.

We further observed that the above mentioned registers/returns prescribed in the Manual for keeping permanent records of land holding, transfer of land holding, revenue realisable, details of waste land and surplus land for lease/settlement were neither maintained nor updated regularly in the selected circle. In the absence of such details, monitoring and control of various activities relating to revenue and land reforms at higher level were not possible which was likely to affect the collection of land revenue. The internal control in the Department was not adequate and need to be strengthened.

Apart from above, we also did not find any records in respect of Inspection by the Circle Officer or other higher officers as per provisions prescribed in Acts and Rules<sup>27</sup>, in any of the units selected for Performance Audit except in Koderma, Gamharia, Saraikela and Latehar.

**We recommend that the Government may take steps for strengthening the procedure for maintaining data relating to Land Revenue for keeping permanent records of Land holdings, transfer of land, revenue realizable and details of waste land/surplus land.**

**5.3.13 Conclusion**

During Performance Audit we observed the following:

The data on leased land was not complete in the department. The department had not developed any system for conducting periodical inspection for the land granted on lease. The Department was not monitoring the condition governing the grant of lease. Though a number of lessees had indulged in serious

<sup>27</sup> Rule-47 of Bihar Government Estates (*Khas Mahal*) Manual, 1953.

violation of terms and conditions of lease, no action had been taken to rectify the problem. In the case of sub lease by Tata Steel Limited the lease agreement had not been executed and registered. The Department failed to exercise proper control over settlement of lease/lease extension of Government land (*Khas Mahal* and *GM Khas*) to widen the land revenue base and enhancement of land revenue. There was short realisation of ₹ 8,846.91 crore of revenue. Data on arrears of land revenue was not complete due to which effective action could not be taken for realisation of arrears of lease rent, cess and interest. Internal control mechanism was weak as was evident by the fact that during the period under Performance Audit no internal audit as well or inspection was conducted, except in Koderma, Gamharia, Saraikela and Latehar. Further, the required registers were also not maintained, as prescribed in the various manuals of the Revenue Department. The shortfall of revenue over the years, if it were to be collected in a special drive will contribute to 80 per cent of the own revenue collection of the State, thereby providing sufficient funds to make capital investments that are lacking in the State.

#### **5.3.14 Summary of recommendations**

The Government may:

- take action for resumption of *khas mahal* land allotted on lease on breach of condition of lease agreement;
- constitute a reviewing committee for detecting breaches of terms and condition and ensuring that all lessees obtain prior permission from Government for change of purpose/sub-lease/resumption of the lease land and initiating proceedings for recovery of revenue foregone;
- display leases existing in collectorate prominently on the website;
- evolve a clear policy on regularisation/clearance of encroachments which are administratively considered necessary and streamlining the procedure for effective action;
- complete the computerisation of land records as has been done in other States. This would ensure good governance in the State in the matter of updating and maintenance of accurate data of leased land and would also enable execution of the pending lease agreements in a time bound manner; and
- follow-up eviction of illegal encroachment through effective action.

The Department/Government in exit conference accepted and appreciated (August 2016) our all recommendations.

## B. STAMP DUTY AND REGISTRATION FEES

### 5.4 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.

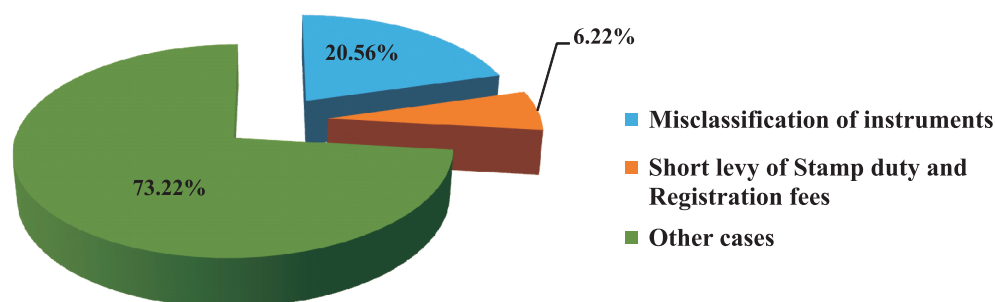
### 5.5 Results of audit

We planned for test check of records of 5 annual units and 15 biannual units out of the total 56 units relating to 'Stamp Duty and Registration Fees' of Revenue, Registration and Land Reforms Department during 2015-16 and test checked all the above planned units<sup>28</sup>, which collected revenue of ₹ 2.79 crore. Our Audit revealed misclassification of instruments, short levy of Stamp duty and Registration fees etc. involving ₹ 7.88 crore in 2,242 cases, as detailed in Table-5.5.

Table-5.5

			(₹ in crore)
Sl. No.	Categories	No. of cases	Amount
1	Misclassification of instruments	16	1.62
2	Short levy of Stamp duty and Registration fees	42	0.49
3	Other cases	2,184	5.77
<b>Total</b>		<b>2,242</b>	<b>7.88</b>

### Pictorial presentation of nature of irregularities



<sup>28</sup> Offices of District Sub Registrar/Sub-Registrar, Bermo, Bokaro, Chaibasa, Deoghar, Dhanbad, Dhanwar, Giridih, Gola, Gumla, Jamshedpur, Jamtara, Lohardaga, Pakur, Palamu, Rajmahal, Ranchi Rural, Ranchi Urban (Kanke), Ranchi Urban (Doranda) and Ranchi and Inspector General of Registration, Ranchi.

During the year, the Department accepted short levy of stamp duty and registration fees of ₹ 29.48 lakh in 106 cases pointed out by us during 2015-16.

In this chapter we present an illustrative case having financial implications of ₹ 29.48 lakh which has been discussed in the succeeding paragraphs.

## 5.6 Provision of Acts/Rules not complied with

*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 Revenue, Registration and Land Reforms Department did not observe the provisions of the Act/Rules in cases mentioned below:*

## 5.7 Stamp duty and Registration fees on leases not levied

**Cross-verification of data relating to leases executed between 2011-12 and 2014-15 by Circle offices, Municipal Council, Notified Area Committee etc. with records of six District Sub-registrar offices revealed that these documents were not registered, as such Stamp duty and Registration fees of ₹ 29.48 lakh was not levied.**

Under the provisions of Section 17 (1) (d) of the Registration Act, leases of immovable property from year to year, or for any term exceeding one year, of reserving a yearly rent is to be compulsorily registered. Stamp duty is chargeable as per article 35 of Schedule I-A of the IS Act, depending on the periodicity of lease and Registration fee is also leviable on the value on which Stamp duty is charged.



We obtained information from eight offices<sup>29</sup> (between July 2015 and January 2016) regarding settlement of *sairats* which is the right and interest in respect of revenue earning *hat, bazaar, mela, trees, ferries, Ponds* etc. We cross verified with the records of six DSRs<sup>30</sup> concerned which revealed that, out of 156 *sairats* test checked, 106 *sairats* were settled between 2011-12

and 2014-15 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

<sup>29</sup> Circle office, Chas (Bokaro), District Fishery Offices, Jamshedpur & Ranchi, Municipal Council, Giridih, Municipal Corporations, Deoghar, Dhanbad & Ranchi and Notified Area Committee, Jamshedpur.

<sup>30</sup> Bokaro, Deoghar, Dhanbad, Giridih, Jamshedpur and Ranchi.

Act. As such, Stamp duty and Registration fees amounting to ₹ 29.48 lakh including Registration fee of ₹ 14.77 lakh was not levied.

The Department stated (July 2016) that despite repeated correspondence, no action has been taken by other departments. However, it was assured that issue of persistent irregularity would be taken seriously in future to check leakage of revenue.

Similar issue was pointed out in Paragraph No. 5.9 of Audit Report (Revenue Sector) for the year ended 31 March 2015, the Department stated that correspondence would be made with the Departments concerned and action would be taken accordingly. However, the lapses still persist.

## C. TAXES AND DUTIES ON ELECTRICITY

### 5.8 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 Divisions<sup>31</sup> 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.

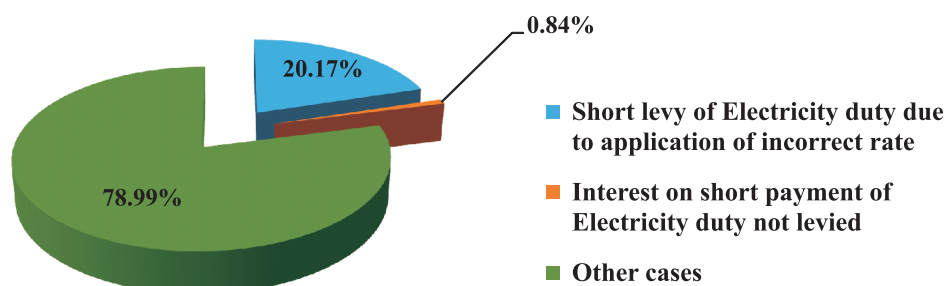
### 5.9 Results of audit

Collection of Electricity Duty (ED) during the period 2015-16 was ₹ 125.68 crore. Our test check of records relating to ED in three Commercial Taxes Circles<sup>32</sup> out of 28 Commercial Taxes Circles in 2015-16 revealed that duty and surcharge etc. of ₹ 1.19 crore not levied/short levied in five cases as mentioned in **Table-5.6**.

**Table-5.6**

			(₹ in crore)
Sl. No.	Categories	No. of cases	Amount
1	Short levy of Electricity duty due to application of incorrect rate	2	0.24
2	Interest on short payment of Electricity duty not levied	2	0.01
3	Other cases	1	0.94
<b>Total</b>		<b>5</b>	<b>1.19</b>

### Pictorial presentation of nature of irregularities



<sup>31</sup> Dhanbad, Hazaribag, Jamshedpur, Ranchi and Santhal Parganas (Dumka).

<sup>32</sup> Hazaribag, Jharia and Tenughat.



During the year, the Department accepted short levy of electricity duty of ₹ 24.34 lakh due to application of incorrect rate in two cases pointed out by us during 2015-16.

In this part of the chapter, we present an illustrative case having financial implication of ₹ 24.34 lakh, which has been discussed in the succeeding paragraph.

### 5.10 Provision of Acts/Rules not complied with

*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 provided 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.*

### 5.11 Short levy of electricity duty

**Electricity duty was levied at pre-revised rates or at rates applicable for industrial purpose instead of mining purpose which resulted in short levy of electricity duty of ₹ 24.34 lakh.**

Under the provisions of the BED Act, the rate of electricity duty for mining purposes in all premises where the total load exceeds 100 British Horse Power (BHP) is 20 paise per unit from 24 June 2011 of energy sold or consumed. The duty on sale of electrical energy for industrial purposes is leviable at the rate of five paise per unit from 24 June 2011. It has been judicially held<sup>33</sup> 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.



We test checked (October 2015) the assessment records of two assesseees in Hazaribag Commercial Taxes Circle and noticed that they had consumed 2.39 crore units of electrical energy for mining purposes during 2011-12. The assessing authority (AA) while finalising the assessment (October 2014)

<sup>33</sup> Chowgule & Co. vs Union of India (1981) 47 STC-124 SC.



in one case levied electricity duty at pre-revised rates on 1.10 crore units of electrical energy. While in another case electricity duty was levied at the rate applicable for industrial purposes instead of mining purposes on 1.29 crore units of electrical energy consumed. This resulted in short levy of electricity duty amounting to ₹ 24.34 lakh.

We reported the matter to the Department in June 2016; the Government/Department in the exit conference agreed with the fact and stated that appropriate action will be taken (August 2016). Further reply has not been received (October 2016).

**We recommend that the department should check assessment in all cases as test check in two cases alone revealed short realisation of revenue of ₹ 24.34 lakh.**