

CHAPTER-V
OTHER TAX RECEIPTS

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A. STAMP DUTY AND REGISTRATION FEES

5.1 Tax administration

The levy and collection of stamp duty and registration fees in the State of Jharkhand is governed by the Indian Stamp (IS) Act, 1899 and Rules made thereunder and the Registration Act, 1908. The Indian Stamp (Bihar Amendment) Act, 1991, Bihar Stamp Rules, 1954, Bihar Stamp (Prevention of Under-Valuation of Instruments) Rules, 1995 and executive instructions of the State of Bihar as existing on the date of creation of State of Jharkhand on 15 November 2000 have been adopted by the State.

The Revenue, Registration and Land Reforms Department (Registration Department) is under the overall administrative control of the Principal Secretary/ Secretary at the Government level. The Inspector General of Registrations (IGR) is responsible for administration of Act, Rules and orders issued by the Government from time to time. He is assisted by a Deputy/ Assistant Inspector General (DIG)/ (AIG) and a Deputy Secretary at the headquarters, and an Inspector of Registration in the divisions. Further, there are 24¹ registration districts each under the charge of a District Sub Registrars (DSRs) and 18² sub-registration offices each under the charge of a Sub-Registrar (SRs). These offices are the primary units responsible for levy and collection of stamp duty and registration fees under the IS Act, 1899 and Registration Act, 1908.

5.2 Results of audit

During 2016-17, Audit test checked the records of 19³ out of 56 auditable units (34 *per cent*) of the Registration Department. The Department collected revenue of ₹ 531.64 crore (stamp duty: ₹ 381.10 crore and registration fees and other receipts: ₹ 150.54 crore) during 2015-16 out of which the audited units collected ₹ 436.04 crore (82 *per cent*). Audit noticed deficiencies and irregularities amounting to ₹ 9.73 crore in 726 cases (of which ₹ 6.12 crore involving 40 cases relates to three district sub-registrar offices⁴) as detailed in **Table-5.1**.

¹ Bokaro, Chatra, Chaibasa, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Koderma, Khunti, Latehar, Lohardaga, Pakur, Palamu, Ranchi, Ramgarh, Sahibganj, Simdega and Saraikela-Kharsawan.

² Barhi (Hazaribag), Bermo (Bokaro), Bundu (Ranchi), Chakradharpur (Chaibasa), Chandil (Saraikela-Kharsawan), Dumri (Giridih), Ghatsila (Jamshedpur), Govindpur (Dhanbad), Gola (Ramgarh), Hussainabad (Palamu), Jamua (Giridih), Madhupur (Deoghar), Nagar Utari (Garhwa), Rajdhanwar (Giridih), Rajmahal (Sahibganj), Ranchi Urban Area -02 Doranda Sector, Ranchi Urban Area – 03 Kanke Sector and Ranchi Rural Area.

³ Offices of District Sub Registrar/ Sub-Registrar, Barhi, Bokaro, Chatra, Dhanbad, Dumka, Garhwa, Ghatshila, Giridih, Godda, Hazaribag, Hussainabad, Jamshedpur, Koderma, Khunti, Latehar, Ranchi, Saraikela-Kharsawan, Simdega and Inspector General of Registration, Ranchi.

⁴ Chatra, Ranchi and Saraikela-Kharsawan.

Table-5.1

Sl. No.	Categories	No. of cases	Amount (₹ in crore)	Share in per cent to the total objected amount
1	Short levy of stamp duty and registration fees	587	5.59	57.45
2	Misclassification of instruments	19	3.74	38.44
3	Under valuation of properties	109	0.38	3.90
4	Other cases	11	0.02	0.21
Total		726	9.73	

Irregularities involving 117 cases worth ₹ 7.73 crore have been illustrated in this section of the chapter. Of these irregularities, non-levy of stamp duty and registration fees had been repeatedly reported during last five years as detailed in **Table - 5.2**.

Table - 5.2

Nature of observations	₹ in lakh											
	2011-12		2012-13		2013-14		2014-15		2015-16		Total	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
Non-levy of stamp duty and registration fees	858	56.28	9,215	229.51	19	133.22	17	9.77	106	29.48	10,215	458.26

Recommendation:

The Department is required to introduce systemic measures to ensure that similar lapses pointed out by Audit year after year do not recur.

5.3 Compliance to 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.

Failures of departmental officers to comply with the above mentioned provisions are highlighted below:

5.4 Short levy of stamp duty and registration fees on mining leases

Failure of mechanism to ensure that leases are registered on the basis of verification of the average annual royalty projected in the approved mining plan, as required under the law and rules, resulted in incorrect valuation of documents and consequential short levy of stamp duty and registration fees of ₹ 3.85 crore.

The Registration Act, 1908 stipulates that leases of immovable properties for any term exceeding one year are to be registered compulsorily. According to the Indian Stamp Act, 1899 stamp duty and registration fees are to be charged on the value of average annual rent depending on the periodicity of lease. The Jharkhand Minor Minerals Concession (Amendment) Rules 2014 provide that mining work will be done as per approved mining plan. Further, as per instructions (November 1996) of the Mines and Geology Department, royalty

of one year (as per approved mining plan) or dead rent⁵, whichever is higher, will be considered as average annual rent for the purpose of calculation of stamp duty in respect of mining lease.

Audit test checked the records (between November 2016 and March 2017) of eight district sub-registrar offices⁶ and their cross-verification with the records of eight district mining offices⁷ revealed that 63 lease deeds (out of 64 lease deeds test checked) were registered during June 2014 to March 2016 considering the value of annual dead rent instead of the average annual royalty projected in the approved mining plan. It was further observed that the Department had no system in place to check the valuation of instruments with the basic records, viz., mining plan. Failure of the DSRs to perform such checks resulted in short levy of stamp duty and registration fees amounting to ₹ 3.85 crore.

The Department accepted (March 2018) the audit observation and assured appropriate remedial action.

Recommendation:

The Department may introduce a system to ensure that lease deeds are registered on the basis of the average annual royalty projected in the approved mining plan, as required under the law and rules.

5.5 Non-levy of stamp duty and registration fees

Absence of system for inter-departmental exchange of data/ information resulted in failure to ensure presentation of documents relating to two toll contracts and 52 leases executed by circle offices and local bodies for registration and consequential non-levy of stamp duty and registration fees of ₹ 3.88 crore.

The Indian Stamp Act defines, 'lease' as including any instrument by which toll of any description is let.

Audit has repeatedly identified areas escaping Government revenue due to non-registration of documents which were liable for registration, and reported 10,215 cases of unregistered documents relating to four departments⁸, Public Sector Undertakings⁹ and Pollution Control Board involving government revenue of ₹ 458.26 lakh through Audit Reports for the years 2011-12 to 2015-16. The irregularity has repeatedly re-occurred in five DSR offices¹⁰ reported through previous Audit Reports. To evaluate the corrective measures adopted by the Department to ensure registration of lease documents, the records of 19 units were test checked (between November 2016 and March 2017). It was noticed in two district sub-registrar offices¹¹, that the General

⁵ Deterrent against the tendency of leaseholders in cornering the mining lease and keeping the mineral resource idle.

⁶ Chatra, Dhanbad, Dumka, Godda, Garhwa, Koderma, Ranchi and Saraikela-Kharsawan.

⁷ Chatra, Dhanbad, Dumka, Godda, Garhwa, Koderma, Ranchi and Saraikela-Kharsawan.

⁸ Urban Development Department, Rural Development Department, Revenue, Registration and Land Reforms Department and Animal Husbandry and Fisheries Department.

⁹ Heavy Engineering Corporation, State Bank of India and National Highways Authority of India.

¹⁰ Chatra-9, Dhanbad-896, Godda-50, Koderma-2, Ranchi-8,355.

¹¹ DSRs, Ranchi and Saraikela-Kharsawan.

Manager (Commercial Operation), Regional office NHAI, Ranchi and Executive Engineer, Road Construction Department (RCD), Road Division, Saraikela entered into contract agreements between February and March 2016 for collection of toll for one year with two private entrepreneurs¹² on a consideration value of ₹ 56.61 crore and ₹ five crore respectively. Further, information regarding settlement of *sairats*¹³ in respect of revenue earning *haat, bazaar, bus/ taxi stand etc.*, was collected (between December 2016 and March 2017) from eight offices¹⁴ of various departments/ bodies of the State Government. Audit found that out of 60 *sairats* test checked, 52 *sairats* were settled between 2014-15 and 2015-16 with different bidders for more than a year or on yearly basis. The above information relating to tolls from NHAI and EE (RCD) and other offices were cross-verified with the records of the concerned six DSRs and two SRs¹⁵, and it was noticed that these documents were not registered, though the contracts contained provisions for registration of lease. In the absence of a system for exchange of information between Registration Department and other departments/ bodies of State/ Central Governments, the Department remained unaware of these contracts/ leases which led to non-levy of stamp duty and registration fee of ₹ 3.88 crore.

The Registration Department assured (March 2018) that remedial action would be taken in this regard. The Road Construction Department, directed (March 2018) the Regional Officer (NHAI) and Chief Engineer (RCD) to ensure presentation of documents for registration.

Recommendation:

The Registration Department may introduce a mechanism (preferably electronic) to ensure that data/ information relating to lease of government property (including tolls) is shared by all departments, so that there is no leakage of revenue through failure to register documents.

¹² M/s MEP Infrastructure Developers Ltd., Delhi and M/s Balaji Enterprises, Lucknow (Uttar Pradesh).

¹³ The right and interest in respect of revenue earning *hat, bazaar, mela, trees, ferries, ponds etc.*

¹⁴ Circle offices, Barhi and Saraikela, Municipal Corporation, Dhanbad, Nagar Parishads, Chatra and Garhwa, Nagar Panchayats, Dumka, Hussainabad and Saraikela.

¹⁵ DSRs Chatra, Dhanbad, Dumka, Garhwa, Ranchi and Saraikela-Kharsawan; and SRs, Barhi and Hussainabad.

B. TAXES AND DUTIES ON ELECTRICITY

5.6 Tax administration

The Commercial Taxes Department (CTD) is responsible for levy and collection of electricity duty under the 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 Divisions¹⁶ each under the charge of a JCCT (Administration) and 28 circles, each under the charge of a DCCT/ ACCT of the circle. The DCCT/ ACCT assisted by Commercial Taxes Officers (CTO), is responsible for levy and collection of electricity duty (ED).

5.7 Results of audit

During 2016-17, Audit test checked the records of 27¹⁷ out of 44 auditable units (61 per cent) of the CTD and noticed deficiencies and irregularities amounting to ₹ 41.44 crore in 14 cases (of which ₹ 41.23 crore involving seven cases related to three offices¹⁸) as detailed in **Table-5.3**

Table-5.3

Sl. No.	Categories	No. of cases	Amount (₹ in crore)	Share in per cent to the total objected amount
1	Suppression of energy turnover	2	36.77	88.73
2	Non-levy of interest	4	2.46	5.94
3	Application of incorrect rate	6	2.14	5.16
4	Incorrect grant of exemption from electricity duty	2	0.07	0.17
Total		14	41.44	

This section of the chapter illustrates irregularities involving 10 cases worth ₹ 6.83 crore. Some of these types of irregularities have been repeatedly reported during the last five years as detailed in **Table – 5.4**.

Table – 5.4

Nature of observations	(₹ in crore)											
	2011-12		2012-13		2013-14		2014-15		2015-16		Total	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
Non/ short levy of ED and interest	3	1.40	16	15.80	-	-	8	3.83	2	0.25	29	21.28
Concealment of electrical energy	-	-	1	30.63	21	2.00	-	-	-	-	22	32.63

Recommendation:

The Department may introduce systems to ensure that similar types of irregularities reported in successive Audit Reports do not recur.

¹⁶ Dhanbad, Hazaribag, Jamshedpur, Ranchi and Santhal Pargana (Dumka).

¹⁷ Offices of DCCT/ ACCT, Adityapur, Bokaro, Chaibasa, Chirkunda, Deoghar, Dhanbad, Dhanbad Urban, Dumka, Giridih, Godda, Hazaribag, Jamshedpur, Jamshedpur Urban, Jharia, Katras, Koderma, Pakur, Palamu, Ramgarh, Ranchi East, Ranchi South, Ranchi Special, Ranchi West, Sahibganj, Singhbhum and Tenughat and Commissioner, Commercial Taxes, Ranchi.

¹⁸ Offices of DCCT/ ACCT, Jharia, Ranchi South and Tenughat.

5.8 Non/ short levy of electricity duty and interest

Failure of the assessing authorities to levy higher electricity duty on mining activity in terms of the amended Act, and failure of the Department to introduce software application to implement its orders to make e-filing of taxes mandatory, resulted in short levy of electricity duty of ₹ 2.12 crore and interest of ₹ 3.36 crore.

According to the Jharkhand Electricity Duty (Amendment) Act 2011, the rate of electricity duty for mining activity, where the total load exceeds 100 British Horse Power (BHP), is 20 *paise* per unit of energy sold or consumed; it is 5 and 24 *paise* per unit for industrial purposes and domestic use (when consumption exceeds 250 units) respectively. Further, as per the Jharkhand Electricity Duty (Amendment) Rules 2012, failure to pay the duty within the 21st of the following month attracts interest at the rate of 1.5 *per cent* per month.

The Audit Reports for the years 2011-12 to 2015-16 pointed out failures of assessing authority (AAs) to apply the correct rate of electricity duty in respect of 29 assesseees resulted in loss of revenue amounting to ₹ 21.28 crore. Though the Department assured (August 2016) that appropriate action would be taken, subsequent audit noticed recurrence of similar irregularities/ lapses as detailed below.

(i) Test check of assessment records for the period 2012-13 to 2013-14 (assessed between September 2015 and May 2016) in Hazaribag and Tenughat circles revealed that electricity duty of ₹ 1.42 crore was levied at lesser rates in the case of five assesseees out of 36 assesseees test checked. Further scrutiny revealed that the failure arose due to the AAs misinterpreting “washing of coal” as industrial activity, attracting duty at lower rate, despite the new provisions of the Jharkhand Electricity Duty (Amended) Act 2011. This resulted in short levy of duty of ₹ 2.12 crore and interest of ₹ 89.61 lakh.

(ii) Similar check of assessment records for the period 2012-13 to 2014-15 (assessed between March 2015 and March 2016) in Giridih and Jharia Circles revealed that though the AAs assessed the duty at ₹ 9.38 crore (on the ground that energy consumed in mining activity by the assesseees attracts higher rate of duty) against the lower amount of ₹ 2.02 crore admitted and paid by four assesseees out of 19 assesseees test checked, the AAs failed to levy interest of ₹ 2.46 crore on the additional assessment. Audit noted that the Department had made mandatory (April 2011) the e-filing of returns relating to Value Added Tax which had the facility of automatic calculation of interest in case of delayed payment of tax. Despite this, the Department had not introduced the software application for this, and returns continued to be filed manually, resulting in failure of AAs to levy interest on delayed payment of tax.

The Department accepted (September 2017) the audit observation but did not address the need for ensuring e-filing of returns.

Recommendations:

- 1. The Department may suitably instruct the AAs to levy electricity duty on mining activity at higher rates in terms of amended Jharkhand Electricity Duty Act.**

2. The Department may immediately develop the software application required to make e-filing of returns mandatory.

5.9 Concealment of electrical energy

The Department did not have a mechanism for cross-verification of transfer of electrical energy between two assessees. This resulted in concealment of 4.68 crore units of electrical energy and consequential under-assessment of duty of ₹ 1.35 crore including interest.

As per the Jharkhand Electricity Duty (Amendment) Act, 2011 and Rules framed there under, every person other than a licensee who obtains bulk supply of energy generated by a licensee for sale or partly for his own use shall pay every month, electricity duty at the appropriate rate to the Government. Failure to pay the duty within 21st day of the following month attracts interest at the rate of 1.5 *per cent* per month or part thereof.

The Audit Reports for the years 2012-13 and 2013-14 highlighted non-adherence to the above provisions of the Act/ Rules leading to short/ non levy of duty of ₹ 32.63 crore in the case of 22 assessees. To ascertain the action taken by the department on the findings, Audit test checked assessment case records of 18 assessees in Tenughat commercial taxes circle, and noted that an assessee during 2012-13 and 2013-14 (assessed in May 2016) had shown receipt of electrical energy on stock transfer for 15.51 crore units. However, Audit scrutiny of assessment records of the transferor assessee showed that the assessee had actually transferred 20.19 crore units of electrical energy. The reasons for concealment of turnover of electrical energy was analysed and noticed that the AA while finalizing the assessment did not carry out the functions of cross verification of transfer of energy between two assessees registered in the same circle. Further, no provision exists under the Jharkhand Electricity Duty (Amendment) Act 2011 to carry out cross-verification of the sale/ purchase turnover. This resulted in concealment of 4.68 crore units of electrical energy by the transferee on which electricity duty of ₹ 93.68 lakh was leviable, besides interest of ₹ 41.26 lakh for non-payment of ED.

The Department accepted (September 2017) the audit observation.

Recommendation:

CTD may evolve a mechanism of cross verification of sale/ transfer of electrical energy by amending the Jharkhand Electricity Duty (Amendment) Act 2011.

