

## CHAPTER VII: OTHER NON TAX RECEIPTS

### 7.1 Results of Audit

Test check of records of following receipts conducted in audit during the year 2004-05, revealed losses/non recovery of revenue etc. of Rs 292.22 crore in 203 cases as indicated below:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
<b>• Mines and Minerals</b>			
1	Short levy of royalty due to downgrading of coal	1	0.09
2	Non levy of royalty and cess	2	1.49
3	Non levy of interest	5	0.21
4	Non levy of penalty/fees	17	16.45
5	Non levy of stamp duty and registration fees	8	0.92
6	Non/short levy of auction money due to non/irregular settlement of sand <i>ghat</i>	8	7.21
7	Non initiation of certificate proceedings	5	13.42
8	Other cases	79	59.67
<b>Total</b>		<b>125</b>	<b>99.46</b>
<b>• Water Rates</b>			
1	Non realisation of revenue due to non achievement of target of irrigation	10	16.99
2	Delay in assessment of water rates	03	11.77
3	Other cases	61	119.88
<b>Total</b>		<b>74</b>	<b>148.64</b>
<b>• Audit Fee</b>		<b>2</b>	<b>2.72</b>
<b>• Interest receipts</b>		<b>2</b>	<b>41.40</b>
<b>Grand Total</b>		<b>203</b>	<b>292.22</b>

During the year 2004-05, the concerned departments accepted irregularities in four cases involving Rs 44.92 crore which had been pointed out in audit during 2004-05.

A few illustrative cases involving tax effect of Rs 50.33 crore are discussed in the following paragraphs:

## MINES AND MINERALS

### 7.2 Non/short levy of penalty for illegal mining of brick earth

Under the provisions of Bihar Minor Mineral Concession (BMMC) Rules, 1972 and notification issued thereunder, every brick kiln owner/brick earth remover shall pay amount of prescribed consolidated royalty based on category of brick kiln before issue of permit. Under Rule 26A of the BMMC Rules, a consolidated amount of royalty shall be paid by the brick kiln owner/brick earth remover per kiln per annum to the State Government in a manner prescribed therein on a fixed number of bricks for every classified area. Further, Rule 40(8) of the Rules *ibid* provides, that, whoever removes minor mineral without valid lease/permit shall be liable to pay the price thereof as penalty and the Government may also recover from such person rent, royalty or taxes, as the case may be, for the period during which the land was occupied by such person without any lawful authority. The Department issued instructions in October 1986 for periodical raids and report thereon to superior authorities to stop the business of illegal mining.

Mention was made in paragraph 8.3 of the Report of the Comptroller and Auditor General of India (Revenue Receipt), Government of Bihar for the year ended 31 March 1997 on the subject and Public Accounts Committee (PAC) recommended that the case may be reviewed by the Department and appropriate action taken. Action taken by the Department is awaited (September 2005).

In six district mining offices<sup>1</sup>(DMOs), it was noticed between May and November 2004 that 232 brick kilns were operated in brick season 2002-03 and 2003-04 without payment of prescribed consolidated royalty and without obtaining valid permit. Out of these, in 14 cases relating to two DMOs (Patna and Jamui) demands for penalty of Rs 0.70 lakh were raised without reference to the price of mineral. Taking the minimum price of mineral equivalent to royalty and deducting the amount of penalty already levied, there was non/short levy of penalty of Rs 1.97 crore.

The cases were reported to the Department and Government in March and April 2005, Government replied in July 2005 that PAC directed the Department to take appropriate action at their end and a new Rule- 26A has been introduced with an overriding provision; thus Rule 40(8) cannot be attracted. The reply of Government was not tenable as Rule 40(8) attracts the penal provision for illegal removal/excavation of minor mineral/brick kiln earth whereas Rule 26A deals with payment of consolidated royalty by brick kiln owner having valid permit. Where mining is being done without any permit, all such cases are to be treated as illegal excavation and penalty imposed under Rule 40(8) *ibid*. Further reply has not been received (September 2005).

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1. *Begusarai, Bhagalpur, Jamui, Munger, Patna and Sitamarhi*

### 7.3 Loss of revenue due to non execution of deed of settlement

Under the provisions of BMMC Rules, settlement of sand is done for one calendar year by the Collector of the district by public auction and deed of settlement is to be executed within 60 days of the order of the settlement on payment of stamp duty as prescribed in the Indian Stamp Act, 1899. In case of non execution of deed, the settlement order shall be deemed to have been revoked.

In five<sup>2</sup> DMOs, 118 sand bearing areas were settled at Rs 8.89 crore for the years 2003 and 2004 without execution of proper deeds of settlement as required under the Rules. Settling sand bearing areas without getting the deeds of settlement executed resulted in loss of stamp duty of Rs 71.92 lakh including surcharge of Rs 37.67 lakh.

After this was pointed out in audit between January and September 2004, the concerned AMOs stated in September 2004 that action would be taken. Further reply has not been received (September 2005).

The cases were reported to Government between June 2004 and March 2005; reply has not been received (September 2005).

## WATER RATES

### 7.4 Non raising of demand due to non preparation of *khatiani*

Under the provisions of Bihar Irrigation Act, 1997 and Rules framed thereunder, various formalities such as preparation of statement of land irrigated (*sudkar*), preparation of detailed measurement cultivator wise (*khesra*) and preparation of demand statement (*khatiani*) are required to be completed by 30 November for *kharif* and 30 April for *rabi* crops by Irrigation Department for the purpose of recovery of water rates from the beneficiaries to whom water is supplied for irrigation purposes.

In four divisions<sup>3</sup> it was noticed between August and December 2004, that *khatiani* for 1.73 lakh acres of *kharif* and 2.09 lakh acres of *rabi* land irrigated during the years 2001-02 to 2003-04 were not prepared and forwarded to the concerned revenue divisions for raising demand and collection of water rates of Rs 3.03 crore. This resulted in delay in realisation of water rates of Rs 3.03 crore.

After this was pointed out in August and December 2004, the Executive Engineer (EE), Dehri stated in October 2004 that action is being taken while other EEs attributed the reasons for non preparation of *khatiani* to shortage of staff. The reply is not tenable as the manpower available was adequate with reference to the norms fixed by the Department for preparation of demand statements. Further reply has not been received (September 2005).

The cases were reported to the Government between January and March 2005; reply has not been received (September 2005).

<sup>2</sup> Bhagalpur, Biharsharif, Jamui, Munger and Vaishali

<sup>3</sup> Dehri Division, Dehri and East Sone High Level Canal Division Aurangabad, Sone Canal Division, BikramGanj and Kamla Canal Division, Jainagar

### **7.5 Loss of revenue due to settlement of *chat land* at lower rates**

Under the provisions of Bihar Irrigation Manual and instructions issued thereunder, *chat land*<sup>4</sup> is to be settled on lease for nine months for the period from 25 June to 25 March each year to scheduled caste/scheduled tribes and landless farmers on priority basis at the prescribed rates, as revised from time to time including water rates. The Department revised the rates of *bandobasti* of *ek/do fasli chat* land as communicated in its order of March 2002.

In two canal divisions<sup>5</sup> it was noticed that 5,115 acres of double crop *chat land* was settled at the old rate of Rs 213 per acre instead of the revised rate of Rs 1,163 per acre applicable for the years 2002-03 and 2003-04 resulting in short realisation of revenue of Rs 48.60 lakh.

After this was pointed out in September 2004, the concerned EEs attributed the reasons for settlement at old rate to non/delayed receipt of revised rates. Reply of the Department is not tenable as the order for the revision of rate was communicated in the month of March 2002.

The cases were reported to Government in January and February 2005; reply has not been received (September 2005).

## **AUDIT FEE**

### **7.6 Non recovery of audit fee**

The Bihar Co-operative Societies Act, 1935 and Rules framed thereunder provide for audit of all registered cooperative societies at least once in each year and realisation of audit fee as determined by the Registrar, Co-operative Societies (RCS). According to instructions issued by RCS in June 2001, if the co-operative societies (CS) fail to pay the dues, audit fee is to be recovered from saving bank account (SB A/c) of the CS through the District Central Cooperative banks (DCCB) and in case of non availability of accounts, the outstanding amount was to be recovered by instituting certificate cases against the concerned CS.

Examination of data furnished by the Joint Registrar (Audit) Cooperative Societies for the year 2000-01 to 2003-04 revealed that outstanding audit fee payable by the CS stood at Rs 2.29 crore including Rs 0.35 crore outstanding against 10<sup>6</sup> apex CS as on 31 March 2004 as detailed below:

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<sup>4</sup> Government land which is situated on both sides of the Canal.

<sup>5</sup> Dehri Division Dehri and Sone Canal Division Bikramganj.

<sup>6</sup> Relating to Chief Auditor Magadh and Patna : Bihar Rajya Anusuchit Jati Sahkarita Vikas Nigam, Cooperative Sugar Factories Ltd., Patna, Bihar State Industrial Cooperative Federation Ltd., Patna and Bihar State Sheep and Wool Weavers Cooperative Union Ltd. Patna.

Relating to Chief Auditor Biscomaun : Biscomaun, Bihar State Handloom Weavers Cooperative Union Ltd. and Bihar State Cooperative Union Ltd.

Relating to Chief Auditor LDB : Bihar State Cooperative Land Development Bank Ltd.

Relating to Chief Auditor Bihar State Cooperative Bank : Bihar State Teachers Union and Bihar State Fisheries Cooperative Federation.

(Rupees in lakh)						
Year	No. of CS audited	Opening Balance	Audit fee charged	Total	Audit fee realised	Audit fee outstanding
2000-01	4,546	171.76 <sup>7</sup>	34.54	206.30	30	176.30
2001-02	3,890	176.30	45.52	221.82	38	183.82
2002-03	3,373	183.82	36.91	220.73	43	177.73
2003-04	3,191	177.73	53.03	230.76	36	194.76

Test check of the records of assistant registrars in four<sup>8</sup> districts revealed that neither recovery from SB A/c through DCCB was made nor any certificate proceedings initiated by the concerned authorities. Thus due to non compliance to departmental instructions and the provisions of the Act *ibid*, Government revenue of Rs 2.29 crore remained unrecovered as of April 2005.

The case was reported to Government in June 2005; reply has not been received (September 2005).

### 7.7 Cooperative Societies remaining unaudited

The Bihar Cooperative Societies Act provides for audit of accounts of every registered society at least once in every year. Under Rule 58 (1) (a) of the Bihar Co-operative Societies Rule, 1959, the managing committee of a registered society shall prepare annual accounts and submit the same to RCS within three months of the close of the cooperative year<sup>9</sup> and also produce it before the auditor failing which the RCS may get accounts prepared and assess the cost thereof on the society and the same shall be realisable from the society as audit fee.

The details of CS allotted for audit during the year 2000-01 to 2003-04 and completed as furnished by the Department were as under:

Year	No. of auditable CS	No. of CS allotted for audit	No. of CS audited	No. of CS left unaudited	Percentage of audit completed
2000-01	10,536	9,859	4,546	5,313	46
2001-02	10,126	9,177	3,890	5,287	42
2002-03	9,652	8,943	3,373	5,570	38
2003-04	9,520	8,600	3,191	5,409	37
<b>Total</b>				<b>21,579</b>	

The completion of audit ranged between 37 to 46 *per cent*. It was observed that no specific norm was fixed by the RCS for audit of CS. From the allotment of number of CS for audit during the said year emerged an average number of 35 to 40 CS to be audited by each auditor out of the available manpower during the aforesaid years.

<sup>7</sup> Out of Rs 171.76 lakh, Rs 168.92 lakh pertained to previous years.

<sup>8</sup> Gaya, Motihari, Muzaffarpur and Patna

<sup>9</sup> 'Co-operative year' means a year beginning with 1 July and ending on the 30<sup>th</sup> June.

Non completion of audit of 21,579 units of cooperative societies during the period from 2000-01 to 2003-04 involved a minimum chargeable audit fee of Rs 43.16 lakh calculated at average rate of Rs 200 per unit<sup>10</sup>.

Reasons of non completion of audit were attributed to non completion and non submission of accounts by the CS and shortage of manpower. The reply was not tenable as the allotment of CS for audit was made according to the manpower available in the districts during the said years. Also the Department failed to invoke the aforesaid provisions of the Act to get the accounts of the CS completed.

The matter was reported to Government in June 2005; reply has not been received (September 2005).

## INTEREST RECEIPTS

### 7.8 Non raising/realisation of demand

Under the provisions of Bihar Financial Rules, responsibility for recovery of loan and interest rests with the sanctioning authority. The term and condition as specified in the sanction order indicate the manner of repayment of principal and payment of interest. Penal interest is also chargeable on instalments of principal not repaid as per terms and conditions of the sanction.

- Test check of records of the Rural Development Department (Panchayati Raj Directorate) revealed that the Department had advanced loans of Rs 15.21 crore to various zila parishads of the State during February 2001 to February 2004. The loans were to be repaid within 10 years with interest ranging between 13 per cent and 16 per cent failing which penal interest at the rate of two and a half per cent was chargeable. It was noticed that the Department had neither worked out nor raised the demand for interest and penal interest which worked out to Rs 6.51 crore for the period March 2001 to March 2005 as detailed in **Annexure V**.

After this was pointed out in audit, the Department stated in May 2005 that interest had not been calculated. Further reply has not been received (September 2005)

- The Transport Department sanctioned loans to Bihar State Road Transport Corporation (BSRTC), Patna to be converted into equity shares. As per terms and conditions, if loans were not converted into equity shares within a year, the loan would be repayable with interest and penal interest at rate of 13 per cent and two and a half per cent respectively.

Test check of records of Transport Department and BSRTC revealed that the Department granted loan of Rs 58.85 crore to BSRTC during 1999-2000 to 2003-04. The loans were neither converted into equity nor was repayment of loans made. The outstanding interest and penal interest on the loans worked out to

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<sup>10</sup> *The rate of audit fee ranged from Rs 50 per unit to Rs 10,000 per unit based on the working capital of the co-operative society.*

be Rs 34.89 crore as of March 2005 as detailed in **Annexure VI**. The Transport Department had not raised any demand for interest and penal interest.

After this was pointed out in audit, the Department accepted in May 2005 the fact of non raising of demand and non realisation of interest. Further reply has not been received (September 2005).

The cases were reported to Government in May 2005; their reply has not been received (September 2005).

**Patna**  
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