

CHAPTER-V: OTHER TAX RECEIPTS

5.1 Results of audit

Test check of the records of the following receipts, conducted during the year 2005-06, revealed under assessments of tax, fee, duty and losses of revenue etc., of Rs 210.75 crore in 371 cases which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
A	Land revenue		
1	Non/short levy of cess and/or interest on arrears of cess	49	3.51
2	Non fixation of salami and commercial rent	87	16.71
3	Non settlement of vested lands	25	1.27
4	Non settlement of sairats	41	2.03
5	Other cases	70	5.49
6	Review on Levy and collection of land revenue	1	160.63
	Total	273	189.64
B	Entry tax		
1	Non/short levy of tax	29	4.77
2	Irregular allowance of exemption from tax	2	0.14
3	Non levy of penalty	3	0.21
4	Application of incorrect rate of tax	3	0.04
5	Short levy due to incorrect determination of turnover	1	0.16
6	Non levy of penalty for excess collection of tax	1	0.05
7	Other cases	10	0.45
	Total	49	5.82
C	Stamp duty and registration fees		
1	Short levy due to misclassification of documents	2	0.59
2	Short realisation of stamp duty and registration fees due to late receipts of revised rates	2	0.20
3	Other cases	16	1.68
	Total	20	2.47
D	Taxes on sugarcane		
1	Non levy of interest on arrears of tax	12	1.18
2	Non recovery of tax on removal of sugar from factory	5	6.41
3	Other cases	12	5.23
	Total	29	12.82
	Grand Total	371	210.75

During the year 2005-06, the concerned department accepted under assessment etc. involving Rs 1.05 crore in 12 cases which were pointed out during the year 2005-06.

A few illustrative cases including review on "**Levy and collection of land revenue**" involving tax effect of Rs 165.83 crore are discussed in the following paragraphs:

5.2 Review: Levy and Collection of Land Revenue

Highlights

- Arrears of Rs 113.76 crore was pending for collection as of March 2006.
(Paragraph 5.2.8)
- Non fixation of commercial rent for conversion of agricultural land for commercial purposes by tenants resulted in non realisation of revenue of Rs 4.37 crore.
(Paragraph 5.2.9)
- *Khas mahal* leases were sold/transferred without permission of competent authority. Besides, leases were occupied without payment of rent. This resulted in non levy of revenue of Rs 140.51 crore.
(Paragraph 5.2.11)
- Public land, encroached by persons, was neither got vacated nor settled which resulted in non realisation of Rs 60 lakh in shape of *salami* and rent.
(Paragraph 5.2.14)
- Non settlement of 15,750 acres of *Bhoodan* land with eligible persons resulted in revenue foregone of Rs 12.49 lakh in shape of rent and cess.
(Paragraph 5.2.16)

Recommendations

5.2.1 Government may consider that

- provision of Acts/ Rules and instructions of the department should be followed for assessment and collection of land rent /cess and renewal of leases etc; and
- internal control may be evolved to monitor assessment and collection of revenue.

Introduction

5.2.2 Levy and collection of land revenue in State is governed mainly under the provisions of Bihar Tenancy Act, 1885 (BT Act) as amended from time to time, Bihar Land Reforms Act, (BLR Act), 1950 Bihar Public Land Encroachment Act, 1956 (BPLE Act), Bihar Land Rent (exemptions from payment) Act, 1982 and Bihar Government Estates (*Khas Mahal*) Manual, 1953 and Rules made under these Acts.

With enactment of the BLR Act, effective from 25 September 1950, the management of land, maintenance of records and collection of revenue came under control of Government. Bihar Government Estates (*Khas Mahal*) Manual provides for maintenance of registers and returns for land records, demand, collection and balances of land revenues. Since vesting land in

Government, no survey of land in the state was conducted; consequently, land rent fixed in first decade of the twentieth century is still being levied.

Besides land rent, cess such as road cess, education cess, health cess, and agricultural development cess as provided in Bengal Cess Act, 1880 (as adopted by Bihar and amended from time to time) are leviable.

Organisational set up

5.2.3 The Commissioner cum Secretary, Revenue and Land Reforms Department is the head of the department. He is responsible for administration and execution of the provisions of Acts/Rules in respect of revenue, settlement policies and programmes. For efficient administration, State is divided into nine revenue divisions each under the control of divisional commissioner (DC). The divisions are divided into 38 districts, each headed by Collector who is assisted by Additional Collector (AC). There are 99 sub divisions each headed by sub divisional officer (SDO) who is assisted by Deputy Collector, Land Reforms (DCLR). At the block level there are 510 *anchals* (circles). *Anchal adhikari* (AA) is incharge of circle for assessment and collection of land revenue including cess. The collection of revenue is effected primarily through *halka*¹ *karmacharis* in each circle.

Audit objectives

5.2.4 The review was conducted with a view to ascertain that:

- provisions of the Acts, Rules and executive instructions are enforced to manage land records properly and to safeguard the revenue of state; and
- there exists an internal control mechanism within the department, which is reliable and working efficiently for levy and collection of land revenue.

Scope of audit

5.2.5 The review of records of four ACs (Revenue), five DCLRs and 14 AAs for the period from 2000-01 to 2004-05 was conducted during the period between February and May 2006. Beside, the records of the Commissioner cum Secretary were also test checked. The points noticed during audit have been included in review.

Internal control mechanism

5.2.6 Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. Internal audit, a vital component of internal control is generally defined as control of all controls to enable an organisation to assure itself that the prescribed systems are functioning reasonably well.

Bihar Government Estate (*Khas Mahal*) Manual provides for maintenance of following registers/returns by Collector and AAs.

¹ A primary unit of a revenue circle.

5.2.6.1 Return I and II are prepared and maintained at *anchal*, subdivision and district level showing consolidated statement of annual demand, collection and balance of revenue. Targets and achievements are monitored by the department through these returns.

Test-check of return I of 34 out of 63 *anchals* revealed that returns I showing consolidated demand, collection and arrear were not maintained properly.

5.2.6.2 Register II is maintained in *anchals*, wherein a separate page is allotted for each tenant in which annual demand of rent is recorded.

During test check of records, 9 out of 19 AAs did not produce register II and in other cases, the register II was not properly maintained.

5.2.6.3 Return III is maintained at *anchal* level comprising of detailed list of defaulters on basis of register II who were not making payment of dues or arrears.

During test check it was revealed that 16 out of 19 AAs were not maintaining return III.

5.2.6.4 Register IX is maintained in *anchal* office in which arrears of land rent, cess and other revenue recoverable under Bihar and Orissa Public Demand Recovery Act, 1914 (PDR Act) are recorded.

Test check revealed that 18 out of 19 AAs were not maintaining register IX.

5.2.6.5 For collection of revenue, a register showing demand in arrears of previous years, demand raised, collections and balances (DCB) during the year is to be maintained in each circle. After the close of year, a list of defaulters is to be prepared which is to be scrutinised by an officer deputed by collector for the purpose who will after enquiry pass order in cases where certificates are to be issued. He should submit a certificate to collector before 1 July that scrutiny of return has been done.

Further, a return which contains DCB of rent and cess of estates are prepared on the basis of entries in DCB Register as stated above.

During test check of return of 34 AAs², one DCLR³ and two ACs⁴, it was noticed that returns did not indicate actual annual rent due for the year and closing balances correctly, and merely represented the target fixed by the department. The opening balance of the year did not tally with the closing balance of previous year. Thus, the closing balance furnished to department by the circles concerned did not represent the actual arrears of rent including cess as confirmed by the department. The details of defaulters were not mentioned and consequently certificate proceedings were not initiated as required under PDR Act.

5.2.6.6 Under the provisions of the PDR Act, certificate proceedings are initiated for realisation of arrears for which the requiring officer (RO) sends

² *Asthawan, Azamnagar, Barh, Bhabhua, Barsoi, Banka, Bounsi, Benipur, Biroul, Bakhtiarpur, Chapra, Chandi, Chanan, Darbhanga, Ekangarsarai, Hilsa, Kako, Katoria, Kalyanpur, Hazipur, Lalganj, Mokama, Nawada, Noorsarai, Bettiah, Katihar, Pandarak, Rahui, Supaul, Sherghati, Sarai Ranjan, Sakra, Ujiarpur and Vaishali.*

³ *Dalsinghsarai.*

⁴ *Darbhangha and Jehanabad.*

proposals to the certificate officer (CO) and make entries of such cases in register IX and the CO after being satisfied that any public demand payable to the collector is due, signs a certificate.

Scrutiny of monthly reports on commercial rent of 19 AAs⁵, four DCLRs⁶ and three ACs⁷ during April 2005 to May 2006, revealed that out of Rs 39.64 crore on account of rent recoverable by the department during the years from 2000-01 to 2004-05, only Rs 0.30 crore was realised. No certificate proceedings were initiated under PDR Act by the department for realisation of dues.

5.2.6.7 The applications received for mutation⁸ of land shall be serially numbered and entered in register VIII. All pending cases should be first entered in red ink and thereafter new cases be entered serially.

Test check of mutation cases and relevant register in AAs, Patna Sadar and Hajipur revealed that applications received for mutations were not entered in register VIII making monitoring of disposal of cases difficult.

5.2.6.8 Government instructions issued in April 1969, provide for disposal of mutation cases within three months followed by monthly inspection by AA and periodical inspection by DCLR.

Scrutiny of mutation register and relevant records of AA, Vaishali revealed abnormal delay ranging from two to three years in disposal of mutation cases. Six cases for the year 2002-03, 14 cases of 2003-04 and 371 cases of 2004-05 were pending till August 2006.

Improper/non maintenance of registers/returns was indicative of non adherence to internal control measures and had adverse effect on the assessment and realisation of revenue as described in succeeding paragraphs:

5.2.7 Trend of revenue

5.2.7.1 BEs and actual receipts during the period from 2000-01 to 2004-05 was as under:

(Rupees in crore)				
Year	BEs	Actual receipts	Excess (+)/shortfall (-)	Percentage of variation
2000-01	37.61	34.33	(-) 3.28	9
2001-02	35.00	34.08	(-) 0.92	3
2002-03	56.19	36.15	(-)20.04	36
2003-04	75.00	33.80	(-)41.20	55
2004-05	84.00	33.39	(-)50.61	60

There was substantial variations between BEs and receipt realised which ranged between 36 and 60 *per cent* during the period from 2002-03 and 2004-05. Reasons for variation though called for in May 2006 were not furnished.

⁵ Barh, Bettiah, Bhabhua, Chapra, Hazipur, Katoria, Lakhisarai, Mokama, Nawada, Noorsarai, Pandarak, Patna Sadar, Rajauli, Rahui, Sakra, Samastipur, Sandesh, Sheikhpura and Shahpur.

⁶ Barsoi, Dalsinghsarai, Nalanda and Supaul.

⁷ Darbhanga, Jahanabad and Saran.

⁸ Transfer of title in Register II/Government record.

5.2.7.2 Bihar Financial Rules Vol-I (BFRs) provides for periodical reconciliation of figures of department with those of Accountant General (A&E).

As per information supplied by the Land Reforms and Revenue Department, it was noticed that there was wide variation between the figures of department and of Accountant General (A&E), as shown under:

(Rupees in crore)

Year	As per Finance Accounts	As per department	Difference	Percentage of variation
2000-01	34.33	25.52	(-)8.81	(-)25.66
2001-02	34.08	27.70	(-)6.38	(-)18.72
2002-03	36.15	32.01	(-)4.14	(-)11.45
2003-04	33.80	31.17	(-)2.63	(-)7.78
2004-05	33.39	34.24	(+)0.85	(+) 2.54

Variations between revenue receipt as per Finance Accounts and departmental figures ranged between (-) 7.78 per cent and (-) 25.66 per cent during the period between 2000-01 to 2003-04, whereas during 2004-05 it was (+) 2.54 per cent in departmental figures. It is evident that department did not reconcile the figures with the figures as booked by the Accountant General (A & E).

Arrear pending collection

5.2.8 According to BT Act, land rent payable by a tenant shall be paid in four equal instalments falling due on the last day of each quarter of the agricultural year⁹. Rent not paid in time shall be deemed to be arrear at the end of the agricultural year which is recoverable through certificate proceedings under PDR Act.

As per information furnished by Government in September 2006, arrears of revenue of Rs 113.76 crore were pending collection for last five years as of March 2006. Yearwise details of arrears of revenue are as under:

(Rupees in crore)

Year	Amount
2000-01	16.52
2001-02	15.44
2002-03	17.76
2003-04	38.61
2004-05	25.43
Total	113.76

However, agewise analysis and stages at which the arrears were pending though called for in May 2006, was not furnished by the department (October 2006).

Non fixation of land rent

5.2.9 Under the provisions of the BT Act as amended with effect from 26 August 1993, a *raiyat*¹⁰ may, with prior permission of collector, use the land for purpose other than agriculture purpose. The Collector, before giving such permission, shall redetermine the rent of such land to the extent of five

⁹ Section 53 of B. T. Act, 1885.

¹⁰ *raiyat*-a person who has acquired a right to hold land for cultivation by himself or by member of his family and includes his successor.

per cent but not less than three *per cent* of the market value of such land. If a *raiyat* has not taken prior permission for such use, Collector may allow such use on payment of double the amount of rent which he would have been liable to pay, had he applied in time for the period between the date of use or the date of application or detection as the case may be.

Scrutiny of case records and entries in commercial rent registers maintained in offices of 18 AAs¹¹ and 6 DCLRs¹² during April 2005 to May 2006 revealed that 799.321 acres of agricultural land involving 869 tenants were utilised for commercial purposes such as saw mills, market shops, petrol pumps, hotels, cinema halls, flour mills and godown etc; without permission and were detected by department during the period from 2000-01 to 2004-05. Commercial rent in these cases was not fixed by departmental authorities resulting in non realisation of revenue of Rs 4.37 crore during the period from 2000-01 to 2004-05 as worked out on the basis of value of land indicated in the case records.

Non renewal of expired leases

5.2.10 Under the Bihar Government Estates (*Khas Mahal*)¹³ Manual and Rules made thereunder for leasehold *Khas Mahal* land, Government is to issue notice to the lessees to apply for renewal of the lease, six months prior to its expiry. The lessee is required to apply for renewal of his lease, three months prior to its expiry.

Mention was made in paragraph 2.4 of the Report of the Comptroller and Auditor General of India (Revenue Receipt), Government of Bihar for the year ended 31 March 1998 on the above subject and revenue implications thereof. Public Accounts Committee (PAC) recommended in July 2003 that lapses may be explained and reported to committee within six months. However, no report has been submitted to the committee, so far (August 2006)

Test check of records between January and June 2006 in the office of Additional Collector, Purnea revealed that 30.865 acres of *Khas Mahal* land held in 179 leases for 30 years were not renewed after their expiry between 1970-71 and 2004-05 and the lessees or their heirs continued to occupy lease hold property without payment of rent. In above cases, though the lessees applied for renewal of their expired leases in time, inaction on the part of the department to renew leases on fresh terms and conditions resulted in non realisation of Rs 13.06 crore as lease rent only during 2001-02 to 2005-06.

After this was pointed out, the Commissioner stated in October 2006 that action for renewal of expired leases was being taken up. Further reply has not been received (October 2006).

Violation of terms and conditions in case of lease in perpetuity

5.2.11 Bihar Government Estates (*Khas Mahal*) Manual provides that in case a lessee who changes the purpose of lease or transfers the property without

¹¹ Balrampur, Barsoi, Biraul, Darbhanga, Ekangarsarai, Goraul, Hazipur, Hilsa, Kanti, Lakhisarai, Motihari, Rajauli, Sakara, Samastipur, Sherghati, Supaul, Ujarpur and Vaishali.

¹² Aurangabad, Benipur, Dalsighsarai, Darbhanga, Nalanda and Samastipur.

¹³ *khas mahal* means Government estate under the direct management of Government.

approval of competent authority is to be treated as trespasser and shall have no claim for continuation of lease on past terms and conditions of lease agreement and Government may resume such land. The trespassers should be issued notices to notify their intention if they are desirous of taking land on fresh lease by a fixed date. On fresh lease, *salami* at the current market value of land besides annual rent at the rate of two and five *per cent* for residential and commercial purposes respectively is leviable. As penal rent, the defaulter is liable to pay double the rent as envisaged in fresh lease for the period of default together with penal interest at the rate of 10 *per cent* per annum.

Scrutiny of records in the office of AC, Purnea revealed that 280.60 acres of *Khas Mahal* land held by 36 lessees in perpetual lease, either sold or transferred their leasehold land without permission of competent authority and the trespassers/transferees continued to occupy the land without payment of rent since 1983-84. The department failed to resume the land or to make fresh lease on fresh terms and conditions which resulted in non levy of revenue of Rs 140.51 crore (salami: Rs 114.23 crore; penal rent: Rs 22.85 crore; and penal interest: Rs 3.43 crore) during the period from 2001-02 to 2005-06.

After this was pointed out, the Commissioner stated in October 2006 that action for eviction against the trespassers was being taken. Further reply has not been received (October 2006)

Non levy of rent and cess due to non assessment of rent on *Kabil lagan*¹⁴ land

5.2.12 Under the provisions of BT Act, Government may, in any case, make an order directing that a survey be made and a record of rights be prepared by revenue officer in respect of lands in any local area, estate or part thereof. The revenue officer shall after publication of the records of rights, assess fair and equitable rent for tenants of every class.

Scrutiny of records of rights and assessment of rent on *Kabil lagan* land in the AA, Purnea, East (Purnea Sadar) revealed that as per municipal survey completed in 1990, 10536.16 acres of *Kabil lagan* land was identified for assessment. Out of which, 146.31 acre only was assessed for rent till 1991-92. Thus, 10389.85 acre was pending for assessment of rent as on March 2006. This resulted in non levy of rent and cess amounting to Rs 1.21 crore for the period 2000-01 to 2004-05.

After this was pointed out, AA Purnea stated (August 2006) that steps were being taken to assess rent on *Kabil lagan* land. The reply is not tenable as considerable period of 17 years has lapsed since publication of records of rights and AA has failed to assess the rent.

Non levy of cess

5.2.13 Under the Bihar Land Rent (Exemption from Payment) Act, 1982, Government exempted small holdings up to two hectares from levy of land rent with effect from 1 April 1978. However, such holdings were not exempted from levy of various cess like road cess, education cess, health cess

¹⁴ *Kabil lagan* holdings are those, which are legally assessable to rent but on which rent has not been assessed so far and which do not come within the purview of sections 5,6, and 7 of the Bihar Land Reforms Act, 1959.

and agricultural development cess leviable under the Bengal Cess Act (1880) as applicable in Bihar. Government while revising the rates of different classes of cess in 1982 instructed all the revenue officers to levy and collect cess from all tenants (*raiyats*) including those who were exempted from payment of land rent.

Scrutiny of records of AC, Muzaffarpur, revealed in April 2005 that demand of various cess were not raised against tenants of small holdings who were exempted from payment of land rent. This resulted in non levy of cess of Rs 88.15 lakh for the period from 2001-02 to 2003-04.

Non removal/settlement of encroached public land

5.2.14 Under BPLE Act, if a person has encroached, any public land, he may be served a notice requiring him to vacate the encroachment or to settle such public land on payment of rent and damages for the use of such land as per rules under Government Estates (*Khas Mahal*) Manual 1953. In case of impairment of the value of the public land by using it for residential/commercial purposes, *salami*¹⁵ at the prevailing market value of such land together with annual residential/commercial rent at the rate of two or five percent as the case may be, of such *salami* is payable respectively.

During test check of records in four AAs¹⁶ it was noticed that 35 persons had encroached 4.42 acres of land and used it for hotels, shops, market and residential houses between the year 1987-88 and 2004-05. No action has been taken by the department either to vacate the encroachment or to settle such land with these persons. This resulted in non realisation of Rs 60 lakh in shape of *salami* and rent calculated for the period 2000-01 to 2004-05.

Non settlement of vested land

5.2.15 The rights of intermediaries in *gair mazarua khas land*¹⁷ (GM Khas) were abolished and all such lands were vested with Government under BLR Act. As per instructions issued by Government from time to time, revenue officer is to examine cases of unsettled *GM khas* land to settle such land with persons of eligible categories, such as scheduled caste, scheduled tribes, backward classes and landless persons at fair and equitable rent.

Scrutiny of monthly progress reports of six AAs¹⁸ and five DCLRs¹⁹ revealed that out of 1,38,044 acres of *GM khas land* vested in Government, 94,451 acres of land was settled with eligible categories up to March 2005 leaving 43,593 acres of land pending for settlement by the department. Non settlement of land with eligible persons had a revenue effect of Rs 35.61 lakh in shape of land rent and cess for the period 2000-01 to 2004-05.

¹⁵ *Salami is the Government share in increased value of land.*

¹⁶ *Benipur, Ekangarsarai, Hazipur and Pusa.*

¹⁷ *Public land, the ownership of which is vested in Government and may be settled with persons of eligible category.*

¹⁸ *Chatarpur, Fatehpur, Goroul, Kako, Nawada, Supaul.*

¹⁹ *Aurangabad, Barsoi, Dalsinghsarai, Darbhanga, Samastipur.*

Non settlement of land donated under *Bhoodan Yagna*

5.2.16 Under the *Bihar Bhoodan Yagna Act, 1954* the land vested in the Bihar *Bhoodan Yagna* Committee is to be granted to landless persons or to a village community, gram panchayat or co-operative societies by committee in the prescribed manner. The Act provides for conferment of occupancy right on the grantee over such land subject to payment of rent and cess.

On scrutiny of records of four AAs,²⁰ four DCLRs²¹ and two ACs²², it was noticed that out of 36,573 acres of *bhoodan* land donated during the period 1954-55, 20,823 acres of land was distributed upto 2004-05 leaving a balance of 15,750 acres. Had Government settled the land during the last three to five years, it would have fetched revenue of Rs 12.49 lakh in form of rent and cess during the period between 2000-01 to 2004-05.

Conclusion

5.2.17 The Revenue and Land Reforms Department could not exercise proper internal control for demand and collection from lessees. The returns prescribed were not properly maintained. No certificate proceedings were instituted to recover the arrears. The leases were not revised though the lease holders had applied within prescribed period. *Kabil* land was not assessed even after delay of 17 years after publication of records of rights. Government failed either to vacate encroachment or settle the same with occupants.

Acknowledgment

Audit findings as a result of test check of records were reported to Government in August 2006 with specific request to attend the meeting of the Audit Review Committee (ARC) of land revenue. Meeting of ARC was held on 31 October 2006 and Additional Secretary (Land Reforms and Revenue) attended the meeting. Reply of the Government has been incorporated in the review.

B: ENTRY TAX

5.3 Non / short levy of tax due to non registration of dealers/non filing of returns

Under the provisions of Bihar Tax on Entry of Goods into Local Areas for consumption, use or sale therein Act, (BTEG Act) 1993 read with BF Act and Rules framed and instructions issued thereunder, on entry of certain specified goods (scheduled goods) for consumption, use or sale in Bihar, entry tax is levied at the rates prescribed from time to time. Every dealer who is liable to pay tax under the BTEG Act, shall make an application for registration before the prescribed authority within seven days of his becoming liable to pay tax. The prescribed authority after verifying the particulars furnished by the dealer, shall grant him a registration certificate within 30 days from the date of receipt of application. Failure to apply for registration attracts penalty, in addition to tax, at the rate of Rs 50 for each day of default or an amount equivalent to the

²⁰ *Barsoi, Chatarpur, Kako and Obra.*

²¹ *Aurangabad, Benipur, Samastipur and Sherghati.*

²² *Nawada and Saran.*

amount of tax, whichever is less. According to executive instructions of the department issued in November 1998 and May 2002, the assessing authorities (AA) are required to cross verify the returns and other information and initiate proceedings against the defaulting dealers. Further, every dealer liable to pay tax shall furnish an abstract of monthly import of goods, a true and complete return for each quarter and also an annual return in respect of all scheduled goods under BTEG Act and admitted tax payable thereon in accordance with the provisions of BF Act.

Cross verification of information collected in audit from case files, utilisation statements of declaration forms C and F, trading accounts and returns filed under BF Act and CST Act by eight dealers revealed the following:

5.3.1 In five circles²³, it was noticed in June and December 2005 that five dealers imported scheduled goods valued at Rs 60.10 crore between 2001-02 and 2004-05. Of this, two dealers of Special Circle, Patna and Siwan, who imported scheduled goods of Rs 54.11 crore between 2001-02 and 2003-04, did not file any return as required under the Act but paid entry tax of Rs 2.26 crore against payable entry tax of Rs 3.29 crore. In the remaining three cases, the dealers had not paid entry tax of Rs 0.43 crore. This resulted in non / short payment of entry tax of Rs 2.75 crore including penalty which escaped notice of the AA.

5.3.2 In three circles²⁴, it was noticed between October 2004 and November 2005 that three dealers imported scheduled goods valued at Rs 6.50 crore during 2002-03 and 2003-04. The dealers neither got themselves registered nor paid any entry tax under the provisions of BTEG Act. This resulted in non registration of dealers and non levy of entry tax of Rs 34.48 lakh.

The AAs, being common under both the Acts, failed to detect the fact of non registration and non deposit of tax under the BTEG Act through cross verification of figures of periodical returns filed by assesses under both the Acts.

After this was pointed out, the ACCT, Siwan circle stated in August 2006 that entry tax and penalty was deposited by one dealer. The reply was not tenable as proof of payment produced to audit was for Rs 11.79 lakh against payable amount of Rs 26.34 lakh. The DCCT, Patna West circle stated in October 2004 that the dealer concerned has applied for registration while the ACCT, Jehanabad circle stated that steps would be taken for registration of the dealers. In the remaining cases, the ACCTs/DCCTs²⁵ agreed to examine the records. Further reply has not been received (October 2006).

The cases were reported to Government in April 2006; reply has not been received (October 2006).

5.4 Suppression of turnover

Under the provisions of BTEG Act read with BF Act, if the prescribed authority in the course of any proceedings or otherwise is satisfied that any registered dealer has furnished incorrect statement of his turnover or incorrect

²³ Barh, Danapur, Nawada, Special Circle Patna and Siwan.

²⁴ Jehanabad, Patna (West), and Patna City (West).

²⁵ Barh, Danapur, Nawada, Patna City (West) and Special Circle Patna.

particulars of his sales or purchase in the return, he shall after giving the dealer an opportunity of being heard, direct that he shall in addition to any tax, pay by way of penalty a sum not exceeding three times but not less than an amount equal to the amount of tax.

In three commercial taxes circles, it was noticed between September and November 2005 from the assessment records, utilisation of road permit, certificate of declaration forms, purchase statements, trading accounts and returns, that four dealers suppressed value of scheduled goods of Rs 13.86 crore imported/purchased between 2001-02 and 2003-04. The AAs while finalising assessment between December 2003 and December 2004 failed to detect the suppression of turnover. In case of DCCT Danapur, the AA detected suppression of turnover and imposed penalty but failed to levy entry tax while finalising assessment in September 2004. This resulted in short levy of entry tax of Rs 1.34 crore including minimum penalty as shown in the table given below:

(Rupees in lakh)								
Sl. No.	Name of the circle Number of dealer	Assessment year Month and year of assessment	Commodity	Rate of tax (in percent)	Actual value of import according to records assessed value	Difference	Amount of leviable tax Penalty	Short levy of Entry Tax
1	DCCT, Patna Special 2	2002-03 Jan. 2004 to June 2004.	Cement	5	7480.74 6250.41	1230.33	61.52 61.52	123.04
			Coal	4	1649.65 1581.91	67.74	2.71 2.71	5.42
2	DCCT, Patna City, West 1	2003-04 Dec. 2004	Waxed Paper, Plastic lamination	5	37.09 7.05	30.04	1.50 1.50	3.00
3	DCCT, Danapur 1	2001-02 Dec. 2003 to Sept. 2004	Iron & steel	4	703.34 645.08	58.26	2.33 (Already imposed)	2.33
Total						1,386.37	68.06 65.73	133.79

The cases were reported to Government between January and April 2006; reply has not been received (October 2006).

5.5 Irregular reduction of tax liability

Under the provisions of BTEG Act and Rules framed thereunder, an importer of scheduled goods becomes liable to pay tax under the BF Act by virtue of sale of such scheduled goods. The liability to pay tax under the BF Act shall stand reduced to the extent of tax paid under BTEG Act. The claim for reduction of liability to pay sales tax is required to be scrutinised by the AA before the next quarterly return falls due. The AA is to satisfy itself regarding the correctness of the claim for reduction and make appropriate endorsement in the assessment records and certificate in form ET-X. Tax liability of the dealer is to be reduced at the time of assessment of sales tax only after production of such certificate.

5.5.1 In Darbhanga circle, it was noticed in January 2006 that a dealer assessed to tax for the year 2002-03 in March 2005, availed reduction in liability of tax of Rs 5.79 lakh payable under BF Act, on the basis of entry tax

paid on the goods valued at Rs 1.16 crore though these goods were not sold during the year. This resulted in irregular adjustment of tax of Rs 5.79 lakh.

After this was pointed out, the DCCT, Darbhanga circle admitted in January 2006 that it was a procedural mistake. Further reply has not been received (October 2006).

5.5.2 In Patliputra circle, it was noticed in December 2005 that a dealer assessed to tax of Rs 4.22 crore under BF Act in July 2005 for the assessment year 2001-02, was allowed reduction in liability of tax to the tune of Rs 11.71 lakh being entry tax paid on purchase of goods valued at Rs 2.54 crore. Of this, goods of Rs 90.21 lakh only was, however, sold to other dealers for resale within the state (through form IX) on which the dealer had no liability to pay tax under BF Act. Adjustment of entry tax of Rs 8.11 lakh was only admissible on the balance amount of Rs 1.64 crore. Reduction allowed in the liability of tax to the tune of Rs 3.60 lakh was, therefore, irregular.

The matter was reported to department and Government in April 2006; reply has not been received (October 2006).

5.6 Non levy of penalty

Under the BTEG Act read with BF Act, if a registered dealer fails to make payment of the tax due by 15th day of the following month, the AA shall, after giving the dealer an opportunity of being heard, impose penalty which may extend to five *per cent* but not less than two and a half *per cent* of the amount of tax for each of first three months or part thereof and 10 *per cent* but not less than five *per cent* for each subsequent month or part thereof following the due date of payment of tax.

In four commercial taxes circles²⁶, it was noticed between July and December 2005, that four dealers did not deposit admitted tax of Rs 1.14 crore by the due dates for the assessment years 2000-01 to 2002-03. The delay in payment ranged between 12 and 892 days. The AAs, while finalising the assessments between May 2003 and November 2004, however failed to levy penalty of Rs 25.72 lakh.

After this was pointed out, the ACCT, Siwan circle stated in January 2006 that taxes were deposited in time. In remaining cases the officers incharge agreed to examine the cases. The reply of ACCT, Siwan was not tenable as it was apparent from challans and statement furnished by the dealer that the amount was paid belatedly. Further reply has not been received (October 2006).

The cases were reported to Government in April 2006; reply has not been received (October 2006).

C: TAXES ON SUGARCANE

5.7 Non levy of interest

Under the provisions of the Bihar Sugarcane (Regulation of Supply and Purchase) Act, 1981 and Rules framed thereunder, cane tax is payable within 15 days from the closure of the month to which the tax relates. In case of non

²⁶ *Bhagalpur, Danapur, Patna Special and Siwan.*

payment of tax within due date, interest at the rate of 11 *per cent* per annum is recoverable for the period of delay.

In test check of records of three cane officers²⁷, it was noticed between June and December 2005 that cane tax aggregating Rs 14.93 crore pertaining to the crushing years²⁸ 2002-03 to 2004-05 was assessed as payable by seven sugar factories²⁹. These amounts were, however, paid belatedly between March 2003 and June 2006. Interest amounting to Rs 47.81 lakh³⁰, though leviable, was not levied on the occupiers of factories.

After this was pointed out between June 2005 and January 2006, Government stated in June 2006 that demand notices had been issued in June 2006 to the defaulting factories for payment of interest. Report on recovery is awaited (October 2006).

²⁷ Bettiah, Gopalganj and Ramnagar.

²⁸ crushing year means the year commencing from 1st July in every year and ending on 30th June of the following year.

²⁹ M.P. Udyog Ltd., Majhauria, Haringagar Sugar Mill, Harinagar, New Swadeshi Sugar Mills, Narkatiaganj, Tirupati Sugar Ltd., Bagaha, Bharat Sugar Mill, Sidhwalia, Vishnu Sugar Mill, Harakhua and Sasamusha Mills Ltd., Sasamusha.

³⁰ Calculated at bank rate of 6 per cent prevailing during 2002-05 according to Reserve Bank of India.