

CHAPTER VIII - OTHER NON TAX RECEIPTS

8.1 Results of audit

Test check of the records of the following receipts during 2007-08 revealed non-raising of demand, loss/non-realisation of revenue etc. amounting to Rs. 1,470.27 crore in 13,265 cases, which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
FOREST RECEIPTS			
1.	Loss of revenue due to departmental lapses	6	34.19
2.	Less raising of demand	13	158.71
3.	Loss of revenue due to delay in initiation of certificate cases	7	2.82
4.	Non-raising of demand on illicit felling of trees	1	822.79
5.	Other cases	75	444.43
Total		102	1,462.94
WEIGHTS AND MEASURE			
1.	Non-realisation of revenue due to non-verification of weights and measure	12,547	2.83
2.	Sale of unstamped weights	1	0.16
3.	Non-renewal of licences	545	0.06
Total		13,093	3.05
WATER RATES			
1	Loss of revenue due to non-achievement of target of irrigation	46	1.37
2	Other cases	24	2.91
Total		70	4.28
Grand Total		13,265	1,470.27

During 2007-08, the departments accepted cases of non-raising of demand, loss/non-realisation of revenue etc. of Rs. 42.47 crore in 102 cases of which 28 cases involving Rs. 38.05 crore has been pointed out in audit during 2007-08 and rest in earlier years.

A few illustrative cases involving loss of revenue of Rs. 272.12 crore are discussed in the succeeding paragraphs:

FOREST RECEIPTS

8.2 Loss of royalty

Indian Forest Act, 1927, provides realisation of royalty and compensation for damages to forest produce and forest land from encroachers. Further, Bihar Forest (Amended) Act, 1990, provides that encroachment of forest land shall be cognizable and non-bailable offence. If any forest officer, not below the rank of the Divisional Forest Officer, has reasons to believe that encroachment of forest land has been done, he shall evict the encroachers using the powers conferred on a Magistrate under the Bihar Public Land Encroachment Act, 1956. By instructions issued in May 2002 (in the light of judgement of the Hon'ble Supreme Court), the Government of India directed the Chief Secretary, Secretary, Department of Forest and Environment and Principal Chief Conservator of Forest of all the States to get the encroachers evicted from forest land in a time bound manner, but not later than 30 September 2002. To this end, committees at State and circle levels were required to be constituted. The State level committee was required to meet biannually to plan and monitor the work of eviction of forest land. The circle level committees were required to meet quarterly to make a plan for evictions from the encroached forest land, ensure its execution and review the implementation of plan.

8.2.1 Test check of the records of office of the Conservator of Forest, Southern Circle, Chaibasa in March 2008 revealed that trees standing on 51,106.39 hectares of forest land were illicitly felled and the area so cleared was encroached by offenders. Further, as per a report of the Government of India 50,177.80 hectares of land in Jharkhand was under encroachment as on May 2002. Out of this, 80 *per cent* (39,913.45 hectares) of the encroachments pertained to Southern Circle, Chaibasa. The State Government in accordance with the direction issued by Government of India in May 2002 constituted committees at State level and circle levels in April 2003. The State level committee met in October 2004. The minutes of the meeting and decisions taken by the committee for evictions of the encroachment were not found on record. Thereafter, no meeting was held as of March 2008.

In Chaibasa circle, the circle level committee met in January 2004. It prepared an agenda for eviction of encroached land which *inter alia*, included seeking help of the police to evict encroachments from offenders. The committee had not met thereafter. This resulted in absence of monitoring by the committees during the period from May 2002 to March 2008. Further, records revealed that 11,192.94 hectares of forest land was encroached in Chaibasa circle during November 2002 to March 2008 and trees standing on these lands were illicitly felled.

As per a survey report, conducted by Conservator of Forest, Southern Circle, Chaibasa (November 2002), 39,913.45 hectares of forest land were encroached by offenders in the circle. Teak trees standing on these lands were illicitly felled. However, the survey report did not contain the names and the addresses of the encroachers except in 477 cases involving 902.88 hectares of land. Proceedings under the Bihar Public Land Encroachment Act were instituted in these cases. In addition 14,894.99 hectare of land was got evicted.

Thus, the survey report was incomplete and 35,308.52 hectares of forest land was still under encroachment by the offenders as mentioned below:

(In hectare)					
Total area under encroachment as on November 2002	Additional encroachment	Total area under encroachment	Area covered under BPLe cases	Evicted area	Area still under encroachment
39,913.45	11,192.94	51,106.39	902.88	14,894.99	35,308.52

Neither any steps were taken by the department to identify the encroachers nor were cases instituted under the Bihar Public Land Encroachment Act though the forest produce, on 35,308.52 hectares of encroached land, was illicitly removed by the offenders. The department had not estimated the quantity of forest produce extracted and its value to be recovered from the offenders. Thus, the Government suffered loss of revenue of Rs. 822.79 crore (royalty: Rs 727.36 crore¹ and sales tax: Rs 95.43 crore²) on 3.53 crore trees³ out of which 258.22 crore pertains to the period after November 2002. The loss has been worked out on the basis of density of the forest as per the working plans and the minimum price per tree recovered as royalty from different user agencies to whom forest land was transferred for non-forest purposes during the period.

After this was pointed out, the Principal Chief Conservator of Forests, Jharkhand stated in September 2008 that Rs. 284.19 crore (Rs. 213.78 crore upto 1994 and Rs. 70.41 crore after 1994) was realised between 1995-96 and 2005-06 on account of value of trees felled in 15,193 hectares. Further it was stated that the encroached area could not be more than 22,150 hectares as compiled in 1995 by the Conservator of Forests, State Trading Circle.

The reply was factually incorrect as it was based on the encroachment report compiled by Conservator of State Trading Circle in 1995 and not on the survey report of November 2002 conducted by Conservator of Forests, Southern Circle, Chaibasa.

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

8.2.2 Test check of the records of four forest divisions⁴ revealed that 3,405.225 acre of forest land was encroached between 2002-03 and 2006-07 and forest produce thereon was destroyed by the encroachers. Though name and addresses of the offenders were available with the department, it did not take any action to evict the encroached land. Besides, no action was taken for realisation of the damages caused to the forest in the shape of royalty and compensation of Rs. 1.93 crore payable by the encroachers.

After the cases were pointed out between November 2007 and March 2008, the concerned Divisional Forest Officers stated that action would be taken

¹ 3,53,08,520 x Rs. 206 (minimum value of one tree) = Rs. 7,27,35,55,120 or Rs. 727.36 crore

² (Sales tax leviable on Rs. 727.36 crore @ 12 per cent = Rs. 87.28 crore) + (Additional tax @ 1 per cent Rs. 727.36+87.28 = Rs. 814.64 crore = Rs. 8.15 crore) = Rs. 95.43 crore.

³ 35,308.52 hectare x 2,500 (maximum trees in one hectare as per Government order dated 24.11.1998) = 8,82,71,298 trees. 0.4 (minimum density, page 91 of Chaibasa working plan) of 8,82,71,298 = 3,53,08,520 trees.

⁴ Dhanbad, Giridih, Koderma and Latehar.

under Bihar Public Land Encroachment Act. Further reply has not been received (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

8.3 Loss due to non-harvesting of bamboo

Under the provisions of the Forest (Conservation) Act, 1980, the Eastern Region Office of Ministry of Environment and Forests, Government of India at Bhubaneswar approved the management plan for bamboo working in Chatra North forest division in April 2002 for 2002-03 to 2005-06. The extraction of bamboo is required to be done on rotation basis for a period of four years.

Test check of the records of Chatra North Forest Division in June 2007 revealed that as per management plan 48,998.96 sale units⁵ of bamboo were required to be extracted for 2002-03 to 2005-06. The department extracted 28.17 sale units during 2002-03 and thereafter no extraction was done. 48,970.79 sale units of bamboo valued at Rs. 9.06 crore could not be extracted. This resulted in loss of Rs. 9.06⁶ crore.

After the case was pointed out in June 2007, the Divisional Forest Officer stated that management plan had not been approved. The reply was not in order as the management plan was approved by the Government of India in April 2002.

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

8.4 Non-disposal of confiscated vehicles

Under the provisions of the Indian Forest Act, read with the Bihar Forest (Amended) Act, when a forest offence has been committed in respect of any forest produce, such produce together with vehicle used in such offence may be seized and confiscated by the Divisional Forest Officer and sold through public auction after allowing 30 days time for appeal from the date of confiscation. Further, the Government constituted committees at State and district levels in May 1999 and July 2001 respectively to determine the reserve price of confiscated vehicles and their sale through auction.

Test check of the records of eight forest divisions⁷ revealed that 56 vehicles (truck, matador, trekker etc.) seized and confiscated by divisions between 1994 and 2007 were lying undisposed in the divisions. The reserve price of these vehicles were fixed as Rs. 41.36 lakh by the Motor Vehicle Department in January 2002 and May 2007, but these vehicles were not auctioned/sold. Non-adherence to the instructions of the Government resulted in non-disposal of confiscated vehicles and non-realisation of reserve price of Rs. 41.36 lakh.

⁵ One sale unit = 116 bundles of bamboos consisting of 20 bamboos of 1 meter length in each bundle.

⁶ 48,970.79 sale units x Rs. 1,850 (Net profit) per sale unit = Rs. 9,05,95,961.50 or Rs. 9.06 crore.

⁷ Chaibasa South, Dhanbad, Daltonganj, Giridih, Hazaribag East, Hazaribag West, Koderma, and Kolhan division Chaibasa.

After the cases were pointed out between October 2007 and March 2008, the Divisional Forest Officers stated that steps were being taken to dispose of the seized vehicles. Further reply has not yet been received (November 2008).

The matter was reported to the Government in April, 2008; their reply has not been received (November 2008).

8.5 Non-disposal of unclaimed seized/illicit forest produce

Under section 48 of the Indian Forest Act, unclaimed forest timber shall vest with the Government. According to an order issued by the Principal Chief Conservator of Forest in September 1999, unclaimed seized/illicit forest produce is required to be disposed off immediately or transferred to State Trading Corporation. Prosecution is required to be initiated in claimed cases only.

Test check of the records of Divisional Forest Offices, Dhanbad and Giridih revealed that forest produce valued at Rs. 28.48 lakh, seized by the department between 2005-06 and 2006-07 were lying unclaimed. The department forwarded the cases to court instead of disposing the produce immediately or transferring it to State Trading Corporation. The department also did not seek permission from the court for disposal of seized timber. This resulted in non-realisation of revenue of Rs. 28.48 lakh.

After the cases were pointed out between November and December 2007, the Divisional Forest Officers stated that steps would be taken for disposal of unclaimed forest produce. Further reply has not been received (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

8.6 Non-initiation of proceeding against offenders

Under the provisions of the Bihar Forest Rules (adopted by the Government of Jharkhand), all forest offences may either be compounded on spot or may be filed in a court of law within two months of the commission of the offence.

Test check of the records of Latehar Forest Division, Latehar revealed that 28 offences were listed during 2005-06 to 2006-07. But even after lapse of 3 to 24 months, these cases were neither compounded nor were sent to court by the division. This resulted in non-realisation of revenue of Rs. 6.20 lakh.

After the cases were pointed out in December 2007, the Divisional Forest Officer stated that necessary action would be taken. Further reply has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

WEIGHTS AND MEASURES

8.7 Non-realisation of revenue due to non-verification of weights and measures

Under the provisions of the Standards of Weights and Measures (Enforcement) Act, 1985 and Rules made thereunder (adopted by the Government of Jharkhand), every person in possession, custody or control of any weight or measure which he intends to use in any transaction or for industrial production, shall present such weight or measure for verification by an inspector and get it stamped at least once in a year on payment of the prescribed fee. In case of contravention to the Act, the defaulters shall be punished with a fine which may extend to Rs. 500. Further, if such weight and measure are presented for verification after expiry of the validity of stamping, an additional fee at half the rates prescribed in Rules shall be payable for every quarter for the period of delay. The inspector shall visit, as frequently as possible during a year, every premises within the local limits of his jurisdiction to inspect and test any weight or measure which is being, or intended or likely to be, used.

Test check of the records (between December 2007 and January 2008) of the offices of 22 inspectors⁸ of Weights and Measures under the control of one Joint Controller, two Deputy Controller and three Assistant Controller, Weights and Measures⁹, between December 2007 and January 2008 disclosed that 12,547 users did not produce their weights and measures for verification. The inspectors neither inspected the weights and measures at the place of installation nor directed the users to produce the same for inspection. This resulted in irregular use of weights and measures and also in non-realisation of fee of Rs. 2.20 crore including additional fee of Rs. 1.88 crore for the period from 1992-93 to 2006-07, out of which Rs. 1.77 crore pertained to the period from 2002-03 to 2006-07. Further, the department did not institute any case in the court against the defaulters which led to non levy of fine of Rs. 62.74 lakh.

After the matter was reported to the department and the Government in March 2008, their reply has not been received (November 2008).

8.8 Sale of unstamped weights

Under the provisions of the Standards of Weights and Measures (Enforcement) Act and Rules made thereunder, no weight or measure shall be sold, or offered, or exposed or possessed for sale by a manufacturer, repairer or seller, or used or kept for use in any transaction, or for industrial production, or for protection unless it has been verified and stamped. Fees at the specified rates are payable for verification and stamping of weights and measures.

⁸ Bistupur, Chatra, Deoghar, Dhanbad Sadar, Dhanbad Addl.-II, Dhanbad Addl.-III, Dhanbad Addl.-IV, Dumka, Godda, Gumla, Hazaribag, Jamtara, Khunti, Koderma, Lohardaga, Pakur, Ramgarh, Ranchi, Ranchi Addl.-II, Sahebganj, Simdega and TELCO Jamshedpur.

⁹ Joint Controller W&M, Ranchi, Dy. Controller W&M, Dumka and Hazaribag, Assistant Controller W&M, Dhanbad, Dumka and Ranchi.

Test check of the records of Secondary Standard Laboratory, Deoghar under Assistant Director of Agriculture-cum-Deputy Controller Weights and Measures, Dumka, in February 2008 revealed that 37,135 and 7,508 weights of different denominations¹⁰ manufactured by a manufacturer of weights and measures were verified and stamped during 2005-06 and 2006-07 respectively. Cross verification of weights verified by the department with the records of Central Excise Department, Deoghar revealed that 1,10,722 and 87,412 weights were cleared for home consumption during the aforesaid year respectively. Thus 1,53,491 weights of different denominations were sold without verification and stamping resulting in loss of verification and stamping fee of Rs. 16.49 lakh.

After the matter was reported in March 2008, the Government stated in September 2008 that the weights shown cleared were proportional weights for which licence was not required. The reply was not in order as weights defined in the Act *ibid* includes any object, instrument, apparatus or device or any combination thereof, which is, or is intended to be, used, exclusively or additionally, for the purpose of making any weightment or measurement, and includes any appliance, accessory or part associated with any such object, instrument, apparatus or device for which licence is required.

8.9 Non-renewal of licences

Under the provisions of the Standards of Weights and Measures (Enforcement) Act and Rules made thereunder, no person shall make, manufacture, repair or sale or offer, expose or possess for repair or sale, any weight or measure unless he holds a valid licence issued in this behalf by the Controller. Every such licence shall be valid for a period of one calendar year and may be renewed from year to year on payment of prescribed fee. An additional fee at half the rates specified shall be payable by the applicant, if permission is granted by the Controller to make the application for renewal of licence within a period of one month from the date of expiry of the period of validity of the licence.

Test check of the records of office of the Joint Director of Agriculture-cum-Controller of Weights and Measures, Jharkhand, Ranchi revealed that the validity of licences of 78 manufacturers, 137 repairers and 330 dealers of weights and measures expired between 2003 and 2007. Neither the licensees had applied for renewal of their licence nor did the department initiate any action to get the licences renewed. The department did not take action against the defaulters which resulted in non-realisation of licence fee and additional fee of Rs. 5.68 lakh.

After the matter was reported in March 2008, the Government stated in September 2008 that the licences of 201 dealers, 87 repairers and 62 manufacturers had been cancelled in August 2008. Action taken by the Government to realise the licence fee and additional fee has not been intimated.

¹⁰ 50, 20, 10, 5, 2, 1 Kilogram, 500, 200, 100, 50 gram .

WATER RATES

8.10 Non-raising of demand of water rates

Under the Bihar Irrigation Act, 1997 (Act II of 1998), the Canal Officer (Executive Engineer) may supply water for purposes other than those of irrigation on payment of water rates as prescribed by the Government from time to time. Water may not be supplied without execution of an agreement for a purpose other than agriculture.

Test check of the records of office of the Executive Engineer, Waterways Division, Ranchi in January 2008 revealed that the department could not raise any demand of water rates for water withdrawn by M/s Hindalco Industries Limited, Ranchi due to non-execution of agreement. The records revealed that the user agency had withdrawn 15,45,381 kilolitre (3,38,899 thousand gallon) water during 2005-06 and 2006-07 for which water rates amounting to Rs.15.25 lakh though realisable were not demanded by the department. This resulted in non-realisation of Rs. 15.25 lakh.

After the case was pointed out in January 2008, the Executive Engineer stated that demand would be raised. Further reply has not been received (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

8.11 Non-raising of demand due to non-preparation of *khatiani*

Under the provisions of the Bengal Irrigation Act, 1876 and Rules made thereunder, as adopted by the Government of Jharkhand, preparation of the statement of irrigated land (*sudkar*), preparation of detailed measurements cultivator-wise (*khesra*) and preparation of demand statement (*khatiani*) is required to be completed within the stipulated period of 99 days in respect of *kharif* and 68 days for *rabi* crops for the purpose of the recovery of water rates.

Test check of the records of office of the Executive Engineer, Water Ways Divisions, Medininagar (Palamu) and Gumla in March 2008 revealed that out of the total area of 7,360.55 hectares of irrigated land during 2004-05 to 2006-07, *khatiani* in respect of 4,731.63 hectares of land was not prepared and despatched to revenue divisions for raising demand and collection of revenue. Consequently, water rates amounting to Rs. 8.08 lakh could not be realised.

After the cases were pointed out in April 2008, the Executive Engineer, Gumla stated that preparation of *Khatiani* was pending due to non-deployment of Moharir¹¹ while the Executive Engineer, Medininagar stated that in future efforts would be made to have co-ordination between *sudkar* and *khatiani*. The reply is not in order as the statement of the irrigated land etc. should have been prepared within the stipulated period.

¹¹ One who prepares *khatiani*.

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

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