

CHAPTER-IV: LAND REVENUE, STAMP DUTY AND REGISTRATION FEES

4.1 Results of audit

Test check of records relating to assessment and collection of land revenue and stamp duty and registration fees conducted during the year 2005-06 revealed non collection, non/short assessment and blocking of revenue amounting to Rs.257.20 crore in 43,733 cases, which may broadly be categorised as under:

(Rupees in crore)			
Sl. No.	Categories	No of cases	Amount
LAND REVENUE			
1.	Non collection of premium etc. from land occupied by local bodies/private parties	65	174.81
2.	Non lease/irregular lease of <i>sairat</i> sources, non /short realisation of royalty on minor minerals	124	1.02
3.	Non realisation of revenue due to delay in finalisation of OLR cases	608	0.08
4.	Blockade of Government revenue due to non finalisation of OLR cases	1,481	1.65
5.	Miscellaneous/other irregularities	438	2.03
6.	Non assessment/short assessment and short collection of water rates	67	0.08
Total		2,783	179.67
STAMP DUTY AND REGISTRATION FEES			
1.	Blockage of Government revenue due to non clearance of S 47-A cases	39,823	50.26
2.	Short levy of stamp duty and registration fees due to under valuation/change of <i>kisam</i> of documents	698	0.79
3.	Under valuation due to non consideration of highest sale instances	10	0.02
4.	Short realisation due to irregular/misclassification of deeds	419	26.46
Total		40,950	77.53
Grand total		43,733	257.20

During the year 2005-06, the department accepted under assessment etc. of Rs.30.61 crore in 13,486 cases, which was pointed out by audit in earlier years out of which Rs.15.19 crore had been recovered in 12,873 cases.

A few illustrative cases highlighting important audit observations involving Rs.7.20 crore are discussed in the following paragraphs.

4.2 Non realisation of land revenue from M/s OPGC

According to Government orders of October 1961, May 1963 and February 1966, Government land can be leased out to local bodies, public sector undertakings, educational and charitable institutions, State and Central Government departments etc. on payment of premium fixed on the basis of market value of the land plus annual ground rent at one *per cent* of the market value. Board of Revenue (BOR) in their letter dated 7 August 1996 circulated that the occupier of the land is liable to pay interest at the rate of 12 *per cent* w.e.f. 28 November 1992 for the period from the date of occupation of land till the date of payment.

Test check of records of Laxmanpur tahasil in August 2005 revealed that Government sanctioned possession of 226.46 acre of forest land at a premium of Rs.5.51 crore to M/s Orissa Power Generation Corporation Ltd. (OPGC) on 2 April 1998 excluding the ground rent and cess for Rs.0.68 crore. In April 2001 OPGC made an appeal to Government for reduction of premium, which was rejected in November 2004. OPGC paid Rs.3.39 crore¹ towards premium by March 2002 in a phased manner. Thus the lessee was to pay an amount of Rs.2.11 crore towards premium and 0.68 crore towards ground rent and cess. Besides, interest of Rs.2.95 crore was also payable up to March 2005 for belated payment. The entire amount of Rs.5.74 crore remained uncollected.

After this was pointed out in August 2005, the tahasildar stated in August and November 2005 that action would be taken to raise the demand in DCB.

The matter was reported to Government in March 2006; reply had not been received (November 2006).

4.3 Delay in finalisation of alienation cases

According to Government orders of October 1961, May 1963 and February 1966, Government land can be leased out to local bodies, public sector undertakings, educational and charitable institutions, State and Central Government departments etc. on payment of premium fixed on the basis of market value of land plus annual ground rent at one *per cent* of the market value. Similarly, cess at 50 *per cent* of the ground rent up to 1993-94 and 75 *per cent* thereafter was leviable. In case of Government land leased out to improvement trust, urban local bodies and Orissa State Housing Board, premium shall be fixed at two third of actual prevailing rate, if utilised for economically weaker sections/slum dwellers. The market value of land was to be realised including capitalised value at 25 times the annual rental in case of transfer of State Government land to Union Government.

Test check of records of three tahasil offices between October and December 2005 revealed that in three cases occupation of Government land

1 Rs.1.5 crore in March 1999, Rs. 1 crore in March 2000 and Rs. 0.89 crore in March 2002.

measuring 13.434 acre was not regularised and interest was not levied from the date of occupation. Delay in regularisation of alienation cases resulted in blocking of Government revenue of Rs.6.49 crore towards premium, ground rent, cess and interest as detailed below.

(Rupees in lakh)

Sl. No	Name of Tahasil	Name of occupants	Year of occupation	Area (in acre)	Present position	Govt. dues remained unrealised					Total
						Premium	Ground rent	Cess	Paid	Interest not assessed	
1.	Dhenkanal	Project Coordinator, Regional Science Centre	July 1992	3.444	Not finalised	109.86	27.47	--	--	210.11	347.44
The lease proposal was initiated in 2001 after nine years of advance possession. The case was not finalised as lessee had not complied with some of the objections raised by RDC.											
2.	Pottangi	Orissa State Housing Board	1987-88	7.00	Lease not finalised	38.18	8.82	5.76	--	80.02	132.77
The lease proposal was initiated in 2003 after 16 years of possession. Tahasildar stated that Government orders were not available in the office resulting delay in calculation of actual demand as a result of which lease had not been finalised.											
3.	Koraput	Bharat Sanchar Nigam Limited	1985-86	2.99	Not sanctioned	48.87	9.77	6.23	--	104.25	169.12
Lease proposal initiated in December 2003 after 18 years of advance possession. The lease case had not been finalised by the Collector, Koraput.											
Total											649.34

The matter was referred to Government in April 2006. Government stated in May 2006 that Rs.0.04 crore was realised in respect of Koraput tahasil. Further report on realisation was awaited (November 2006).

4.4 Non raising of demand

As per Government of Orissa, Revenue Department order of 2 February 1966 read with letter dated 7 August 1996, the occupier of the land either with permission or without permission should be liable to pay interest at the rate of six *per cent* up to 27 November 1992 and 12 *per cent* thereafter on the amount due to Government for the period from the date of occupation of the land till the date of payment of the said amount. Under the provisions of Orissa Government Land Settlement (Amendment) Rule, 2002, fees for incidental charges like establishment cost, contingencies etc. in case of lease/alienation of Government land covering 500 acres and above in favour of any department of Government for commercial purpose or any company, corporation etc. is chargeable at the rate of 10 *per cent* of the market value of the land.

Test check of records of Tahasildar, Talcher revealed in October 2005 that Government of Orissa, Revenue Department sanctioned lease of land measuring Ac. 21.91 in village Rasol in favour of M/s National Thermal Power Corporation (NTPC), Talcher in March 2004. Advance possession of the land was given to NTPC on 7 October 1988. The tahasildar demanded and NTPC deposited Rs.3.37 crore in March 2004 towards premium, ground rent

and cess due to Government. However, demand for Rs.4.62 crore towards interest on premium, ground rent and cess for the period from 1988-89 to 2003-04 was not raised including interest of Rs.1.61 crore for the period 1998-99 to 2003-04. This resulted in non realisation of interest to that extent. Further the lessee was required to pay incidental charges for Rs.26.29 lakh, being 10 *per cent* of market value of land i.e. Rs. 262.9 lakh since the land leased in favour of NTPC for the same project exceeded 500 acres. It was however observed that the above was neither demanded nor realised. This led to non raising of demand for incidental charges for Rs.26.29 lakh.

After this was pointed out in October 2005, Government stated in May 2006 that demand was raised towards interest and incidental charges against NTPC. Report on realisation was awaited (November 2006).

4.5 Non levy of interest on Government dues

As per the Orissa Agricultural Year (Amendment) Act, 1992 and Cess (Amendment) Act, 1992 interest is leviable for non payment of arrear land revenue at the rate of 12 *per cent*. Amount remaining uncollected towards premium, rent etc. for occupation of Government land with or without permission of Government are in the nature of land revenue.

Test check of records of Tahasildar, Talcher revealed in October 2005 that Mahanadi Coal Fields Ltd (MCL) made payment of premium of Rs.3.77 crore for the settlement of Government land measuring Ac 360.96 during November 2000 to March 2002. Since the land was acquired in February 1998, interest amounting to Rs.1.62 crore from February 1998 to March 2002 was also payable by the lessee but the tahasildar did not raise any demand for the interest amount.

The matter was brought to the notice of Government in March 2006. Government stated in May 2006 that demand was raised towards interest against MCL (November 2006).

4.6 Short demand of Government dues

According to Government orders of October 1961, May 1963 and February 1966 Government land can be leased out to local bodies, public sector undertakings, educational and charitable institutions, State and Central Government departments etc. on payment of premium on the basis of market value plus annual ground rent at one *per cent* of the premium and cess at the rate of 75 *per cent* of the ground rent per annum. Besides interest at the rate of 12 *per cent* per annum is also payable from the date of occupation till the payment of dues.

4.6.1 Test check of records for the period 2004-05 of Tahasildar, Chatrapur in May 2005 revealed that an alienation case for grant of lease to Director of Airport, Biju Pattnaik Air Port, Bhubaneswar for 0.949 acre of land was sanctioned by Additional District Magistrate, Ganjam, Chatrapur on 22 January 2005. Advance possession of land was given to the lessee on 2 August 2000. Tahasildar raised a demand of Rs.30.63 lakh in March 2005 towards premium including ground rent and cess for one year. However actual Government dues on account of premium, ground rent, cess up to March 2005 worked out to Rs.32.74 lakh taking into account a period of five years from the date of advance possession. Thus there was short demand of Rs.2.11 lakh towards ground rent and cess. Besides interest due on premium, ground rent and cess for Rs.15.09 lakh was not demanded.

The matter was brought to the notice of Government in March 2006; final reply had not been received (November 2006).

4.6.2 Test check of records for the period from April 2004 to March 2005 of Tahasildar, Kendrapara (April 2005) revealed that the Collector, Kendrapara sanctioned in February 2004 the lease of Government land measuring Ac.0.79 in favour of Executive Engineer, Central Electricity Supply Company, Kendrapara Electrical Division-I, Kendrapara for construction of office building on payment of Government dues. Tahsildar, Kendrapara raised demand for payment of premium, ground rent and cess including interest thereon on their non payment for one year (2004-05) amounting to Rs.9.90 lakh. The tahasildar did not raise demand for ground rent, cess and interest on land occupied since 1 April 1999 till 2003-04 which resulted in short demand of Rs.6.34 lakh against the lessee.

After this was pointed out in April 2004 the tahasildar stated in April 2005 that correspondence had been made with CESCO authority in this regard.

The matter was brought to the notice of Government in March 2006. Government stated in May 2006 that the matter had been referred to Energy Department for decision on exemption of dues (November 2006).

4.7 Misappropriation of Government revenue

As per Orissa Nizarat Manual, when any amount is remitted into Government account either through a bank or treasury, the office superintendent or head ministerial officer should compare the receipted challan of the bank with the entry of the cash book before attestation to satisfy himself about the remittance. As a check against deposit through fake challans as soon as possible at the end of each month, a consolidated receipt of all remittances made during the month should be obtained and compared with the entries in the subsidiary registers and cash book.

Test check of records of Tahasildar, Padmapur revealed in September and October 2005 that an amount of Rs.21.60 lakh shown in the cash book as remittance towards cess, royalty and sairat etc into the

sub treasury, Padmapur was not deposited into Government account. These remittances made between February 2004 and September 2005 were found to be against fake deposit challans resulting misappropriation of Government revenue. Misappropriation occurred due to non reconciliation of consolidated receipt of remittances made during the month with the entries in the cash book.

After this was pointed out in September and October 2005 the tahasildar confirmed in September and October 2005 fact of non remittance of the amount into the Government account. The tahasildar also admitted that reconciliation of accounts of the tahasil with that of the treasury was not being done regularly.

The matter was referred to Government in April 2006. Government stated in May 2006 that departmental actions were initiated for realisation of the said amount from the concerned officials; final action of Government was awaited (November 2006).

4.8 Short realisation of ground rent and cess

Under the provisions of Government orders of October 1961, May 1963 and February 1966, Government land can be leased out to commercial departments, local bodies, public sector undertakings and private entrepreneurs etc. on payment of premium fixed on the basis of market value plus annual ground rent at one *per cent* of the market value. Cess is payable at 50 *per cent* of the ground rent upto 1993-94 and 75 *per cent* of the ground rent thereafter.

Test check of records of tahasildar, Talcher revealed in October 2005 that lease of Government land measuring Ac. 75.61 in five revenue villages was sanctioned by Revenue Department on 28 March 2005 on payment of premium, annual ground rent, cess and back rent and cess. Although the land was in occupation of NTPC since 1988-89, tahasildar raised demand and realised Rs.9.97 crore, including Rs.15.61 lakh towards rent and cess for only 2004-05 without including rent and cess amounting to Rs.2.32 crore for the period 1988-89 to 2003-04.

The matter was brought to the notice of Government in April 2006. Government stated in May 2006 that the demand was raised against NTPC; report on realisation was awaited (November 2006).

4.9 Conversion of agricultural land for non agricultural purpose

Under Orissa Land Reforms Act (OLR Act) 1960, a *rayat* is liable to eviction if he has used agricultural land for non agricultural purpose. Such land can however, on an application made by him in the prescribed form, be resettled on lease basis on payment of premium at the prescribed rate.

Test check of records of three² tahsils revealed in December 2005 and February 2006 that 168 cases involving conversion of 55.504 acres of agricultural land for non agricultural purpose were instituted during 2004-05 on receipt of applications from *rayats*. The cases involving Rs.68.88 lakh were pending in tahasil offices for disposal as of February 2006. Non disposal of conversion cases resulted in delay in realisation of Rs.68.88 lakh towards premium.

After these cases were pointed out between December 2005 and February 2006 tahasildar stated that steps were being taken for speedy disposal of pending cases.

The matter was referred to Government in April 2006; reply had not been received (November 2006).

4.10 Short demand of capitalised value

As per Government of Orissa, Revenue Department Order of 29 June 2002, no premium shall be charged on land utilised for national highways purpose but the Union Government would be required to pay capitalised value of land revenue computed at the rate of 25 times of annual rental. As per Revenue Department letter dated 22 January 2005, it was clarified that capitalised value of land revenue is 25 times of annual ground rent and cess etc.

Test check of records of Bhubaneswar tahasil revealed in February 2006 that the National Highway Authority of India (NHAI) acquired 27.686 acres of land for the purpose of national highways in January 2004. The tahasildar while assessing the capitalised value of the land revenue accounted only for the ground rent and raised a demand for Rs.46.93 lakh without including the cess for Rs.35.20 lakh. The lessee paid the demanded amount. The cess amount of Rs.35.20 lakh remained unrealised in absence of any demand.

The matter was brought to the notice of Government in April 2006. Government stated in May 2006 that demand was raised for the above amount. Report on realisation was awaited (November 2006).

2 Bhubaneswar, Cuttack and Sambalpur

Stamp duty & Registration Fees

4.11 Short realisation of stamp duty and registration fees

As per the provision under Section 47(A) of Indian Stamps Act, highest sale value of similar classification of land in the same village should be the sale value of land for the purpose of registration. The highest value of three consecutive years upto the end of the month preceding the month in which the document is presented for registration should be considered for valuation.

Test check of records in 23³ district sub registrar and sub registrar offices revealed that 523 documents were registered between 2003 and 2004 at Rs.28.15 lakh on consideration set forth in those instruments without verifying the true market value which was higher, on which stamp duty (SD) and registration fee (RF) of Rs. 86.56 lakh was leviable. This resulted in short levy of SD & RF of Rs.58.41 lakh.

After this was pointed out between March and December 2005, nine registering officers⁴ admitted between March and December 2005 the fact of under valuation and agreed to realise the deficit SD & RF. Final reply from remaining registering authorities had not been received (November 2006).

The matter was referred to Government in April 2006. Government stated in August 2006 that Rs.0.99 lakh had been realised in disposal of 10 cases and 135 cases had been booked. Final reply in other cases had not been received (November 2006).

4.12 Non realisation of stamp duty and registration fees

Under the provision of Indian Stamp Act, 1899 while registering any instrument, if the registering authority believes that the market value put forth has not been rightly set forth in the instrument, he may, after registering such instrument refer the matter to the stamp collector for determination of market value of such property. The stamp collector after giving opportunity to the parties determines the market value and realises the deficit amount of stamp duty and registration fee, if any. The stamp collector may also determine the value within two years from the date of registration.

Test check of records of registration offices of 10 districts⁵ revealed between November and December 2005 that in respect of 37,110 deeds registered prior

3 Banai, Banki, Bhadrak, Bhedan, Borigumma, Brahamgiri, Buguda, Dharamgarh, Dhusuri, Kantabanjhi, Kashipur, Keonjhar, Khaira, Khariar, Khurda, Koraput, Nandpur, Nayagarh, Nimapara, Nuapada, Odagaon, Puri and Udayagiri.

4 Banai, Bhadrak, Bhedan, Borriguma, Dhusuri, Khariar, Koraput, Nimapara and Nuapara.

5 Bhadrak, Cuttack, Dhenkhal, Jajpur, Jharsuguda, Keonjhar, Khurda, Nayagarh, Puri and Sambalpur.

to December 2003 and booked under 47A of Indian Stamp Act due to under valuation of documents, deficit stamp duty and registration fees of Rs.54.75 crore were lying unrealised as on 31 March 2005. Out of these 9,742 deeds involving stamp duty and registration fees of Rs.9.60 crore were covered under certificate case while no certificate case has been filed in respect of remaining deeds involving stamp duty and registration fees of Rs.45.15 crore as on March 2006.

After this was pointed out in audit in November and December 2005 it was stated in November and December 2005 that delay in institution of certificate proceeding was due to delay in forwarding the 47A cases by the registration officers and certificate cases would be instituted after fulfilment of all the prerequisite formalities prescribed under the Act. The reply was not tenable as the cases were registered prior to December 2003 and could not be finalised within the stipulated period of two years (November 2006).