

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

### 4.1 Results of audit

Test check of the records relating to assessment and collection of land revenue and stamp duty and registration fees conducted during the year 2006-07 revealed non-collection, non/short assessment and blocking of revenue amounting to Rs. 501.77 crore in 48,270 cases, which may broadly be categorised as under:

(Rupees in crore)			
Sl. No.	Categories	No of cases	Amount
<b>LAND REVENUE</b>			
1.	Non/irregular lease of <i>sairat</i> sources	696	1.67
2.	Non-realisation of revenue due to delay in finalisation of OEA ( <i>Bebandobasta</i> ) cases	2,795	0.40
3.	Blocking of the Government revenue due to non-finalisation of alienation cases	76	139.02
4.	Miscellaneous/other irregularities	1,126	1.58
5.	Non-realisation of premium, ground rent and cess etc. in OLR cases	1,500	3.86
<b>Total</b>		<b>6,193</b>	<b>146.53</b>
<b>STAMP DUTY AND REGISTRATION FEES</b>			
1.	Blocking of the Government revenue due to non-disposal of 47-A cases	41,305	71.64
2.	Under valuation due to non-consideration of highest sale instances	500	0.32
3.	Short levy of stamp duty and registration fees due to change in <i>kissam</i> of instrument	3	0.01
4.	Short realisation due to misclassification and other irregularities	269	283.27
<b>Total</b>		<b>42,077</b>	<b>355.24</b>
<b>Grand total</b>		<b>48,270</b>	<b>501.77</b>

During the year 2006-07, the department accepted under assessment and other deficiencies of Rs. 17.07 crore in 18,273 cases, which were pointed out by audit in earlier years out of which Rs. 9.05 crore has been recovered in 7,593 cases.

A few illustrative cases highlighting important audit observations involving Rs. 282.18 crore are discussed in the following paragraphs.

## **Land Revenue**

### **4.2 Short raising of demand for cess**

As per the Government of Orissa, Revenue Department order of 4 September 1964 read with its letter dated 22 January 2005, government land can be leased out to the Central Government on payment of premium and capitalised value of land revenue which is 25 times of annual ground rent including cess. The ground rent is calculated at the rate of one *per cent* of the premium while cess is calculated at the rate of 75 *per cent* of the ground rent per annum.

Test check of the records of two *tahasils*, Marshaghai and Chandbali in November and December 2006 revealed that the *tahasildars* while assessing the capitalised value of land revenue of two patches of land leased to Defence Research and Development Organisation (DRDO), Integrated Test Range (ITR), Chandipur and East Coast Railways, Bhubaneswar in March 2005 and March 2006 respectively took into account only the annual ground rent leaving out the cess. This resulted in short raising of demand of revenue of Rs. 59.23 lakh.

After the cases were pointed out, the Government stated in June 2007 that demand of Rs. 30.38 lakh had been raised against the DRDO. A report on realisation and raising of demand against the East Coast Railways has not been received (November 2007).

### **4.3 Short realisation of premium on conversion of agricultural land for non-agricultural use**

Orissa Land Reforms (OLR) Act, 1993 provides that a land leased out for agricultural purpose but utilised otherwise can be resettled in favour of the lessee on payment of premium at the prescribed rate. The rate of premium was revised from Rs. 75,000 to Rs. 3 lakh per acre with effect from 5 October 2004.

During the audit of the records in three *tahasils* between July 2005 and November 2005, it was noticed that the *tahasildars* while resettling 280 cases covering 16.292 acres of agricultural land converted for non-agricultural use between 5 October and 31 December 2004, raised a demand and realised premium at the pre-revised rate. This resulted in short realisation of premium of Rs. 36.95 lakh as mentioned below:

( Rupees in lakh )

Sl. No.	Name of the tahasil	No. of cases	Area (in acre)	Premium as per revised rate	Premium realised as per old rate	Short realisation due to application of lower rate
1.	Balasore	192	10.269	30.81	7.32	23.49
2.	Jharsuguda	68	4.767	14.30	3.58	10.72
3.	Bhadrak	20	1.256	3.65	0.91	2.74
<b>Total</b>		<b>280</b>	<b>16.292</b>	<b>48.76</b>	<b>11.81</b>	<b>36.95</b>

After the cases were pointed out, the Government stated in July 2007 that action was initiated to realise the balance amount from the land owners in three *tahasils* and Rs. 3.30 lakh was realised in respect of Jharsuguda *tahasil*. A report on realisation in other cases has not been received (November 2007).

#### 4.4 Short realisation of revenue

According to the Government orders of October 1961, May 1963 and February 1966, government land can be leased on payment of premium, annual ground rent at one *per cent* of the premium and cess at 75 *per cent* of the ground rent. The occupier of the land is liable to pay interest on the premium, ground rent and cess at the rate of 12 *per cent* with effect from 28 November 1992 for the period from the date of occupation of the land till the date of payment.

Test check of the records of Baliapal *tahasil* in May 2006 revealed that the Basta electrical division of North Eastern Electricity Supply Company of Orissa Ltd (NESCO) which had been in occupation of government land measuring 0.50 acre since 1 April 1999, applied for settlement of lease for construction of 33/11 KV sub-station and control room in village Khagadapal on 3 January 2005. The lease of the land was sanctioned in March 2005 and the *Tahasildar*, Baliapal raised a demand for payment of premium amounting to Rs. 23.31 lakh. The demand raised, however, did not include the ground rent and cess of Rs. 2.86 lakh for the period from 1999-2000 to 2005-06. Besides, interest of Rs. 20.61 lakh was also payable. This resulted in short realisation of revenue of Rs. 23.47 lakh including interest of which Rs. 17.34 lakh pertained to the period from 2001-02 to 2005-06.

After the case was pointed out, the Government stated in May 2007 that the *tahasildar* had raised the demand. A report on recovery has not been received (November 2007).

#### Stamp duty & Registration fees

#### 4.5 Short levy of stamp duty and registration fee

Under the Indian Stamp (IS) Act, 1899, it is the substance of the transaction as embodied in the instrument and not the form of the instrument that determines the stamp duty. Further, a conveyance, as defined under the IS Act, is an instrument by which property whether movable or immovable is transferred on sale and which is not otherwise specifically provided for by the Schedule I of the Act. Such instrument which was not executed previously by any person shall be chargeable with stamp duty of the amount indicated in that schedule. Stamp duty is paid on the consideration mentioned in the deed. Besides, town planning surcharge at three *per cent* in the specified areas and registration fee at two *per cent* are chargeable on the consideration money.

Test check of the records of the Sub-Registrar (SR), Kujang in March 2007 revealed that a tripartite lease deed between Orissa Industrial Infrastructure Development Corporation (IDCO), M/s OSWAL Chemicals and Fertilisers Limited (OCFL) and M/s Indian Farmers Fertiliser Co-operative Limited (IFFCO) was registered on 26 June 2006 through which IDCO permitted transfer of lease hold right from M/s OCFL to M/s IFFCO in respect of 1,000 acres of land at Paradeep on payment of Rs. 3 crore as transfer fee on which stamp duty and registration fee of Rs. 37.52 lakh was levied. Another document titled “Special power of attorney” presented by M/s OCFL and registered on the same day and in the same office revealed that the purchase consideration money as stipulated in the sale agreement for the sale and transfer of the DAP complex including immovable properties, had already been paid by M/s IFFCO and physical possession handed over to them during October 2005. None of these documents recorded the amount of consideration though the special power of attorney clearly referred to the sale agreement stipulating the amount paid by M/s IFFCO for transfer of the said property. Cross verification of the sale agreement obtained from the Chief Electrical Inspector (T&D), Bhubaneswar in November 2005 revealed that the agreement was executed between M/s OCFL and M/s IFFCO in September 2005 for sale and transfer of the DAP complex at Paradeep of the said 1,000 acres of land including all immovable and movable properties for a consideration money of Rs. 2,159.89 crore mentioning, *inter alia*, that a conveyance deed would be executed simultaneously with the handing over of the possession and the stamp duty would be paid by M/s IFFCO.

Thus, taking into account the substance of both the documents, the transfer on sale of property from M/s OCFL to M/s IFFCO with the permission of IDCO for consideration money of Rs. 2,159.89 crore was complete and therefore required to be charged to duty as a conveyance for Rs. 2,162.89 crore including transfer fee of Rs. 3 crore. The SR, however, failed to read the substance of the transaction and levied duty on transfer fee of Rs. 3 crore for the leasehold rights only. This led to transaction for Rs. 2,159.89 crore remaining undetected and resulted in short levy of stamp duty and registration fees of Rs. 280.80 crore on the consideration money as calculated below.

<b>(Rupees in lakh)</b>	
Consideration money	2,15,989.00
Transfer fee	300.00
<b>Total (amount subject to duty)</b>	<b>2,16,289.00</b>
Stamp duty @ 11% (8% + 3% TP charges)	23,791.79
Registration fees @ 2%	4,325.78
<b>Total</b>	<b>28,117.57</b>
Stamp duty realised	36.85
Registration fee realised	0.67
<b>Total</b>	<b>37.52</b>
Stamp duty and registration fee short levied	28,080.05
	<b>Rounded off to Rs. 280.80 crore</b>

After the case was pointed out, the Government while agreeing with short levy of the said duty stated in August 2007 that M/s IFFCO had deposited Rs. 88.81 crore in September 2007. A report on recovery of the balance amount has not been received (November 2007).

#### 4.6 Short realisation of stamp duty and registration fee

As per the provision under Section 47(A) of the IS Act, highest sale value of similar classification of land in the same village should be the sale value of the 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 the records in four<sup>26</sup> District Sub-Registrar and 10<sup>27</sup> SR offices between April 2006 and January 2007 revealed that 84 documents were registered between January 2004 and December 2005 at Rs. 11.41 lakh on the consideration set forth in those instruments without verifying the highest sale value of three consecutive years upto the end of the month preceding the month in which the documents were presented. Further scrutiny revealed that the stamp duty and registration fee leviable on the basis of the highest sale value was Rs. 35.77 lakh. This resulted in short realisation of stamp duty and registration fees of Rs. 24.36 lakh.

After the cases were pointed out, seven<sup>28</sup> registering officers agreed to realise the differential stamp duty and registration fee. The others stated that action would be taken after verification of the records. A report on further development has not been received (November 2007).

The matter was referred to the Government in April 2007; their reply has not been received (November 2007).

26 Angul, Baripada, Puri and Rayagada.

27 Balipatna, Basudevpur, Bhubaneswar, Jagatpur, Machhkund, Patnagarh, Rengali, Satyabadi, Talcher and Tusra,.

28 Angul, Balipatna, Basudevpur, Bhubaneswar, Jagatpur, Puri and Satyabadi.