

PREFACE

This Report for the year ended 31 March 2010 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising sales tax, land revenue, stamp duty and registration fees, profession tax, electricity duty, state excise, other tax receipts, mines and minerals and other non-tax receipts of the State.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2009-10 as well as those noticed in earlier years but could not be included in previous years' reports.

OVERVIEW

I. General

This Report contains 27 paragraphs including one review relating to under-assessment/non-realisation/loss of revenue etc. involving ₹ 222.56 crore. Some of the major findings are mentioned in the following paragraphs:

The total receipts of the Government for the year 2009-10 increased to ₹ 36,921.65 crore against ₹ 36,904.39 crore in the previous year. Of this, 52 *per cent* was raised by the Government through tax revenue (₹ 16,899.98 crore) and non-tax revenue (₹ 2,438.11 crore). The balance 48 *per cent* was received from the Government of India as the State's share of net proceeds of divisible Union taxes (₹ 11,648.16 crore) and grants-in-aid (₹ 5,935.40 crore).

(Paragraph 1.1.1)

As on 30 June 2010, 1,109 inspection reports issued upto December 2009 containing 3,012 audit observations involving ₹ 4,253.42 crore were outstanding for want of response or final action by the concerned departments.

(Paragraph 1.2.1)

Test check of the records of sales tax, land revenue, state excise, stamp duty and registration fees, profession tax, electricity duty, amusement tax, other tax and non-tax receipts conducted during the year 2009-10 indicated under-assessment/short levy/loss of revenue amounting to ₹ 540.26 crore in 951 audit observations. During the course of the year, the departments accepted underassessment of ₹ 136.20 crore in 386 audit observations pointed out in 2009-10 and recovered ₹ 1.92 crore at the instance of audit.

(Paragraph 1.5.1)

II. Sales Tax/Value Added Tax

Determination of gross turnover (GT)/taxable balance (TB) at ₹ 661.38 crore instead of ₹ 908.85 crore led to short determination of GT/TB by ₹ 247.47 crore resulting in short levy of tax of ₹ 45.63 crore in 22 cases.

(Paragraph 2.11.1 and 2.11.2)

Irregular allowance of exemption/concession on account of transfer of goods/sale of declared goods to registered dealers resulted in underassessment of tax of ₹ 16.46 crore in 15 cases.

(Paragraph 2.12.1 and 2.12.2)

Application of incorrect rate of tax on the turnover of ₹ 12.66 crore by the assessing authorities resulted in short levy of tax of ₹ 33.56 lakh in eight cases.

(Paragraph 2.16.1 and 2.16.2)

Irregular allowance of exemption of sales of ₹ 286.17 crore to 37 eligibility certificate (EC) holders contravening the conditions of EC resulted in short levy of tax and interest of ₹ 33.83 crore.

(Paragraph 2.18)

Non-imposition of minimum penalty on concealed sales of ₹ 83.35 crore resulted in non-realisation of revenue of ₹ 10.51 crore.

(Paragraph 2.23)

Irregular allowance of compounded rate of tax on the turnover of ₹ 2.24 crore resulted in short levy of tax of ₹ 17.06 lakh in four cases.

(Paragraph 2.24)

Allowance of input tax credit of ₹ 45.92 lakh instead of ₹ 15.51 lakh by the assessing authorities resulted in short levy of tax of ₹ 30.41 lakh in five cases.

(Paragraph 2.25)

III. Land Revenue

Failure of the department to settle 18.45 acres of land with six unauthorised occupiers (four firms, one municipality and one individual) resulted in non-realisation of rent, *salami* and interest of ₹ 79.56 lakh.

(Paragraph 3.8)

Failure of the department to realise *salami*, rent and interest from the lessees occupying 36.50 acres of land resulted in non-realisation of *salami*, rent and interest of ₹ 46.67 lakh.

(Paragraph 3.9)

IV. State Excise

Failure of three district excise authorities to realise excise duty on 49,656.96 London Proof Litre (LPL) of unsold stock of foreign liquor resulted in non-realisation of revenue of ₹ 91.54 lakh.

(Paragraph 4.9.1)

Failure of three district excise authorities to initiate action to destroy 20,962.44 LPL of unregistered/unsold stock of foreign liquor resulted in non-realisation of excise duty of ₹ 39.58 lakh

(Paragraph 4.10)

V. Other Tax Receipts

Failure of the registering authorities to raise demand for deficit stamp duty and registration fees after determination of market value of properties resulted in non-realisation of revenue of ₹ 1.32 crore.

(Paragraph 5.4.1)

Inaction of the department in raising demand in respect of 216 enrolled persons, employers and traders resulted in non-realisation of profession tax of ₹ 52.70 lakh

(Paragraph 5.5)

VI. Other Non-Tax Receipts

A Review on ‘**Management of Forest Receipts**’ indicated the following deficiencies:

- Absence of a system to watch realisation of arrears of revenue resulted in non-realisation of revenue of ₹ 51.04 crore from the West Bengal Forest Development Corporation (WBFDC).
(Paragraph 6.3.8.1 and 6.3.8.2)
- Absence of a system for monitoring the deductions made by the WBFDC resulted in excess deduction of administrative cost and service charges of ₹ 38.63 crore.
(Paragraph 6.3.9.1 and 6.3.9.2)
- Non-implementation of the working plan in five forest divisions resulted in non-harvesting of 364.91 hectares and led to blocking of revenue of ₹ 37.96 crore.
(Paragraph 6.3.13.1)
- Sale of timber and cashew nuts below the reserve price resulted in loss of revenue of ₹ 51.28 lakh.
(Paragraph 6.3.17)
- Delay in disposal of a proposal for diversion of forest land resulted in non-realisation of revenue of ₹ 22.26 crore.
(Paragraph 6.3.21)
- Inaction of the department against contravention of the provisions of the Forest (Conservation) Act and Rules resulted in non-realisation of revenue of ₹ 17.14 crore.
(Paragraph 6.3.22.1)

Absence of a system for cross verification of records with the railways led to non/short realisation of price of earth of ₹ 3.43 crore.

(Paragraph 6.5.2)

CHAPTER I

GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of West Bengal, during the year 2009-10, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India during the year 2009-10 and the corresponding figures for the preceding four years are mentioned below:

(Rupees in crore)

Sl. No.	Receipts	2005-06	2006-07	2007-08	2008-09	2009-10
1	Revenue raised by the State Government					
	• Tax revenue	10,388.38	11,694.77	13,126.33	14,419.15	16,899.98
	• Non-tax revenue	1,018.81	1,248.76	1,473.09	4,966.39	2,438.11
	Total	11,407.19	12,943.53	14,599.42	19,385.54	19,338.09
2.	Receipts from the Government of India					
	• State's share of net proceeds of divisible Union taxes	6,668.33	8,505.60	10,729.06	11,321.78	11,648.16
	• Grants-in-aid	5,650.37	4,379.18	4,838.90	6,197.07	5,935.40
	Total	12,318.70	12,884.78	15,567.96	17,518.85	17,583.56
3.	Total receipts of the State Government (1 and 2)	23,725.89	25,828.31	30,167.38	36,904.39	36,921.65¹
4.	Percentage of 1 to 3	48	50	48	53	52

The above table indicates that during the year 2009-10, the revenue raised by the State Government (₹ 19,338.09 crore) was 52 *per cent* of the total revenue receipts against 53 *per cent* in the preceding year. The balance 48 *per cent* of receipts during 2009-10 was from the Government of India.

¹ For details, please see Statement No. 11 – Detailed accounts of revenue by minor heads in the Finance Accounts of the Government for the year 2009-10. Figures under the heads 0020 - Corporation tax, 0021 - Taxes on income other than Corporation tax, 0032 - Taxes on Wealth, 0037 – Customs duty, 0038 - Union excise duties, 0044 - Service tax, - 'Share of net proceeds assigned to States' booked in the Finance Accounts under A - Tax revenue have been excluded from revenue raised by the State and included in State's share of divisible Union taxes in this statement.

1.1.2 The following table presents the details of tax revenue raised during the period 2005-06 to 2009-10:

(Rupees in crore)							
Sl. No.	Head of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+)/decrease (-) in 2009-10 over 2008-09
1.	Tax on Sales, trade etc.	6,108.78	7,079.03	8,060.46	8,955.09	10,509.64	(+) 17.35
2.	State excise	743.46	817.36	935.46	1,082.94	1,443.81	(+) 33.32
3.	Stamp duty and registration fees						
	Stamps judicial	90.57	112.53	54.99	357.16	85.83	(-) 75.96
	Stamps non-judicial	648.36	746.70	490.23	527.15	722.20	(+) 37.00
	Registration fees	438.66	399.34	871.74	625.18	1,006.19	(+) 60.94
4.	Taxes and duties on electricity	382.46	526.35	506.69	587.52	664.57	(+) 13.11
5.	Taxes on vehicles	537.56	508.97	532.07	608.01	774.34	(+) 27.35
6.	Land revenue	917.11	952.69	1,039.58	983.78	928.92	(-) 5.57
7.	Other taxes on Income and Expenditure-Taxes on Profession, Trades, Callings and Employment	249.15	264.85	295.06	321.60	362.40	(+) 12.69
8.	Other taxes and duties on Commodities and Services	269.36	284.73	341.18	367.15	393.11	(+) 7.07
9.	Other taxes	2.91	2.22	(-) 1.13	3.57	8.97	(+) 150.98
Total		10,388.38	11,694.77	13,126.33	14,419.15	16,899.98	(+) 17.20

The increase in tax revenue receipts in 2009-10 over the preceding year from State Excise (33.32 *per cent*), Stamp Duty and Registration Fees (20.18 *per cent*) and Taxes on vehicles (27.35 *per cent*) was mainly due to increased receipts of ‘excise duty on account of increase in the number of retail outlets and shifting to the *ad valorem* duty structure for foreign liquor’, ‘upgradation of market value database and increase in transaction of real estates in urban and developing areas’ and ‘collection of tax and additional tax on motor vehicles and fees and fines under the Central Motor Vehicles Act’ respectively.

The other departments did not inform (October 2010) the reasons for variation despite being requested (May 2010).

1.1.3 The following table presents the details of non-tax revenue raised during 2005-06 to 2009-10:

(Rupees in crore)							
Sl. No.	Head of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+)/decrease (-) in 2009-10 over 2008-09
1.	State lotteries	20.06	28.32	33.51	30.61	31.80	(+) 3.88
2.	Forestry and wildlife	38.61	40.87	49.84	45.33	64.17	(+) 41.56
3.	Interest receipts	378.08	683.66	689.96	3999.90	362.83	(-) 90.92
4.	Medical and public health	53.16	68.13	42.83	66.36	47.34	(-) 28.66
5.	Education, sports, art and culture	22.64	16.22	21.42	44.62	73.04	(+) 63.69
6.	Food storage and warehousing	191.50	87.67	247.71	340.17	1,292.97	(+) 280.10
7.	Police	57.05	71.33	63.02	66.88	68.67	(+) 2.68
8.	Dairy development	26.44	22.25	26.94	29.84	27.43	(-) 8.08
9.	Housing	9.67	10.43	9.68	9.07	14.52	(+) 60.09
10.	Others	221.60	239.88	288.18	333.61	455.34	(+) 36.49
Total		1,018.81	1,268.76	1,473.09	4,966.39	2,438.11	(-) 50.90

The decrease in non-tax revenues in 2009-10 over the preceding year under 'Interest receipts' (90.92 *per cent*) and 'Medical and public health' (28.66 *per cent*) was mainly due to decrease in receipts of 'interest from public sector and other undertakings' and 'employees state insurance scheme and other receipts' respectively.

The other departments did not inform (October 2010) the reasons for variation despite being requested (May 2010).

1.2 Response of the department/Government towards audit

Audit observations raised during local inspection are replied by the concerned authorities after issue of inspection reports (IRs). The observations of serious irregularities are converted into draft paragraphs and forwarded to the concerned administrative departments/Government for their replies/comments within six weeks. In case of non-receipt of reply or if the reply furnished by the department/Government is not satisfactory, the draft paragraphs are included in the Audit Report. The Government after laying the Audit Report in the legislature forwards explanatory notes on the relevant paragraphs to the Committee on Public Accounts (PAC) for vetting by the Accountant General (AG). After discussion, the PAC makes recommendations for compliance by the Government within six months for final settlement of the paragraph.

1.2.1 Failure of senior officials to enforce accountability and protect the interest of the State Government

The Accountant General (R,W & LBA) conducts periodic inspection of the Government departments to test check the transactions and verify the maintenance of the important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the IRs incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the AG within two months from the date of issue of the IRs. We report serious financial irregularities to the heads of the departments and the Government.

We noticed that out of the IRs issued upto December 2009, disclosed that 3,012 paragraphs involving ₹ 4,253.42 crore relating to 1,109 IRs remained outstanding at the end of June 2010 as mentioned below alongwith the corresponding figures for the preceding two years.

	June 2008	June 2009	June 2010
Number of outstanding IRs	1,188	1,145	1,109
Number of outstanding audit observations	3,292	3,161	3,012
Amount involved (Rupees in crore)	4,181.67	4,179.03	4,253.42

The department-wise details of the IRs and audit observations outstanding as on 30 June 2010 and the amounts involved are mentioned below:

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (Rupees in crore)
1.	Finance	Sales Tax/VAT	83	347	45.33
		Electricity duty	53	98	48.80
		Amusement Tax	68	131	27.39
		Profession Tax	77	192	8.59
2.	Excise	State excise	20	68	47.50
3.	Land and Land Reforms	Land Revenue	106	717	182.64
4.	Transport	Taxes on motor vehicles	100	267	9.44
5.	Finance	Stamp duty and registration fees	288	431	51.25
6.	Commerce and Industries	Non-ferrous mining and metallurgical industries	95	323	111.76
7.	Forest	Forestry and wildlife	99	194	49.11
8.	Public Works, Police and Irrigation and Waterways	Receipts from Public Works, Police and Water rate	120	244	3,671.61
Total			1,109	3,012	4,253.42

Even the first replies required to be received from the heads of offices within two months from the date of issue of the IRs were not received for 457 IRs issued upto December 2009. This large pendency of IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and heads of the departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

We recommend that the Government may design an effective procedure to ensure prompt and appropriate response to audit observations as well as institute a system for taking action against officials/officers who fail to send replies to the IRs/paragraphs as per the prescribed time schedules and who fail to take action to recover loss/outstanding demand in a time bound manner.

1.2.2 Departmental audit committee meetings

The Government sets up audit committees to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. The details of the audit committee meetings held during the year 2009-10 and the paragraphs settled are mentioned below:

Name of the department	Number of meetings held	Number of paragraphs		Money value of paragraphs settled (Rupees in lakh)
		Discussed	Settled	
Power and non-conventional Energy sources	2	4	4	2.00
Commerce and Industries	1	42	-	-
Industrial Reconstruction	1	2	-	-
Total	4	48	4	2.00

Thus, out of eight departmental² audit committees, three committees held four meetings during 2009-10 and settled four paragraphs involving money value of ₹ 2 lakh. The other departments did not hold any audit committee meeting during 2009-10 despite being requested.

We recommend that the Government may consider holding audit committee meetings of each department at least twice a year.

1.2.3 Response of the departments to the draft audit paragraphs

We issued 42 draft paragraphs (DPs) including two³ reviews to six departments and proposed these for inclusion in the Audit Report 2009-10. Of these, only four⁴ departments furnished replies in respect of 11 draft

² Commerce and Industries Department, Excise Department, Finance (Revenue) Department comprising of Directorate of Commercial Taxes, Directorate of Registration and Stamp Revenue, Directorate of Electricity, Land and Land Reforms Department, Power and Non-conventional Energy Sources Department, Industrial Reconstruction Department, Public Works Department and Forest Department.

³ The review on "Collection of Motor Vehicles Taxes, Fees and Fines" will be issued as a stand alone report.

⁴ Finance, Excise, Land and Land Reforms and Forest.

paragraphs in spite of repeated reminders. The details of draft paragraphs issued and replies received during the last three years are mentioned below:

Name of the Department	Head of revenue	Year	Number of DPs issued	Reply received
Finance	Sales Tax/VAT	2007-08	19+1 (R) ⁵	5
		2008-09	20+1 (R)	12
		2009-10	22	1
	Stamp Duty and Registration Fees	2007-08	3	Nil
		2008-09	2+2 (R)	Nil
		2009-10	2	2
	Profession Tax	2007-08	1	Nil
		2008-09	1	Nil
		2009-10	2	Nil
Excise	State Excise	2007-08	6	5
		2008-09	9	7
		2009-10	5	2
Land and Land Reforms	Land Revenue including Mines and Minerals	2007-08	5	Nil
		2008-09	8	3
		2009-10	8	5
Transport	Taxes on Motor Vehicles	2007-08	4	Nil
		2008-09	5	Nil
		2009-10	1 (R)	Nil
Forest	Forest Receipts	2007-08	2	Nil
		2008-09	1	1
		2009-10	1 (R)	1
Irrigation and Waterways	Water rate	2007-08	1	Nil
		2008-09	1	Nil
		2009-10	1	Nil

The Government may consider issuing instructions to the concerned departments for furnishing reply to the draft paragraphs within the stipulated period of six weeks.

1.2.4 Follow-up on Audit Reports – summarised position

As per the Rules of Procedure of the Committee on Public Accounts of the West Bengal Legislative Assembly (Internal Working) framed in 1997, the concerned department shall send action taken notes (ATN) on the recommendations contained in the Report of the PAC within six months from the date of its presentation to the House. The position of outstanding ATNs due from the departments is mentioned in the following table:

⁵ Review.

PAC Report	Date of presentation in the Assembly	Name of the Department	Year of Audit Report	Number of ATNs due
17 th Report of 1988-89	5 May 1989	Irrigation and Waterways	1978-79 1983-84	2 1
22 nd Report of 1990-91	26 March 1991	Transport	1979-80 1980-81	1 1
7 th Report of 1991-93	23 March 1993	Finance	1983-84	1
17 th Report 1993-94	31 March 1994	Land and Land Reforms	1985-86	1
25 th Report of 1994-96	1 August 1995	Transport	1983-84	1
		Home (Police)	1988-89	1
		Land and Land Reforms	1980-81	1
17 th Report of 1998-99	28 June 1999	Land and Land Reforms	1988-89 1992-93	1 1
16 th Report of 2002-03	8 July 2003	Finance	1998-99	1
22 nd Report of 2003-04	7 July 2004	Finance	1998-99	8
35 th Report of 2004-05	8 July 2005	Land and Land Reforms	1999-2000	5
2 nd Report of 2006-07	28 November 2006	Finance	2003-04	8
20 th Report of 2008-09	17 March 2009	Housing Department	2001-02	2
23 rd report of 2008-09	24 March 2009	Transport	2006-07	2
Total				38

Thus, the departments failed to submit ATNs within the stipulated period of six months in respect of 38 paragraphs included in the Audit Reports upto the year ended March 2007.

1.2.5 Compliance with the earlier Audit Reports

The Committee on Public Accounts discusses the Receipt Audit Reports and presents its own reports and recommendations for compliance by the Government. Normally 20 *per cent* of the total number of paragraphs of the Audit Report are selected every year for discussion. The remaining paragraphs are disposed of on the basis of replies of the Government.

As of 31 March 2010, the Government had not furnished explanatory notes in respect of 33 selected and 1,334 unselected paragraphs including 377 sub paragraphs of Audit Reports from 1981-82 to 2007-08. The lack of response from the Government would adversely impact the revenue realisation.

1.3 Analysis of the mechanism for dealing with the issues raised by audit

Excise Department

The succeeding paragraphs 1.3.1 and 1.3.2 discuss the action taken by the **Excise Department** to deal with the cases detected in the course of local audit conducted during the last 10 years and also the cases included in the Audit Reports for the years 2000-01 to 2009-10.

1.3.1 Position of Inspection Reports

The summarised position of inspection reports issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2010 are tabulated below:

(Rupees in crore)

Year	Opening Balance			Addition during the year			Clearance during the year			Closing balance		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2000-01	120	264	32.42	9	81	369.50	5	61	1.58	124	284	400.34
2001-02	124	284	400.34	12	82	51.69	13	76	11.50	123	290	440.53
2002-03	123	290	440.53	13	57	21.63	1	24	1.48	135	323	460.68
2003-04	135	323	460.68	12	61	5.46	23	91	54.37	124	293	411.77
2004-05	124	293	411.77	17	87	60.88	1	34	12.99	140	346	459.66
2005-06	140	346	459.66	6	65	49.18	2	45	6.07	144	366	502.77
2006-07	144	366	502.77	7	72	41.27	10	93	26.30	141	345	517.74
2007-08	141	345	517.74	10	122	22.57	3	75	98.57	148	392	441.74
2008-09	148	392	441.74	6	52	27.67	1	36	3.72	153	408	465.69
2009-10	153	408	465.69	10	82	59.06	132	370	463.44	31	120	61.31

The department settled lesser number of paragraphs as compared to additions during the last 10 years except in the years 2003-04, 2006-07 and 2009-10.

It would be seen from the above that the pace of clearance was very slow upto 2008-09 and during 2009-10 there was a steep rise in clearance. Since with the passage of time the chances of recovery of the receipts become remote, the department may settle the audit observations promptly.

The department did not hold any audit committee meeting during the year 2009-10 to settle outstanding IRs/paras despite being requested. The position of audit committee meetings held during the last five years is mentioned below:

Year	Number of meetings held	Number of paragraphs settled	Money value of the paragraphs settled (Rupees in lakh)
2005-06	2	45	2.17
2006-07	1	59	2.83
2007-08	1	33	39.37
2008-09	1	42	13.05
2009-10	Nil	Nil	Nil

1.3.2 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the department and the amount recovered are mentioned below:

(Rupees in crore)

Year of AR	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Position of recovery of accepted cases as on 31.03.2010
1999-00	6	3.02	5	1.64	0.53
2000-01	4	356.18	1	0.17	0.04
2001-02	2	0.21	2	0.21	0.03
2002-03	4	84.50	2	16.11	0.10
2003-04	3	8.32	3 ⁶	0.30	0.06
2004-05	4	11.57	3	11.18	0.11
2005-06	5	0.81	4	0.30	0.08
2006-07	14	37.69	7	27.02	0.08
2007-08	4	11.13	2	0.27	0.23
2008-09	6	20.66	3	0.73	0.32
Total	52	534.09	32	57.93	1.58

The department accepted 32 paragraphs involving ₹ 57.93 crore during the last 10 years but realised ₹ 1.58 crore (2.72 per cent) till 31 March 2010 which is very low. This shows that the recovery mechanism like issue of demand notices to the licensees and debit to the personal ledger account is not functioning properly.

1.4 Audit planning

The unit offices under various departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which *inter alia* includes critical issues in government revenues and tax administration i.e. budget speech, White Paper on State finances, reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, features of the tax administration and audit coverage and its impact during the past five years etc.

During the year 2009-10, the audit universe consisted of 939 auditable units, of which 201 units were planned and audited during the year 2009-10 which is 21.40 per cent of the total auditable units. The details are shown in **Appendix-I** of the report.

⁶ Out of three, two paragraphs partly accepted.

1.5 Results of audit

1.5.1 Position of local audit conducted during the year

Test check of the records of 128⁷ units of commercial tax, State excise, forest and other departmental offices conducted during the year 2009-10 revealed underassessments/short levy/loss of revenue aggregating to ₹ 540.26 crore in 951 cases. During the course of the year, the departments concerned accepted underassessments and other deficiencies of ₹ 263.80 crore involved in 439 cases of which 386 cases involving ₹ 136.20 crore were pointed out in audit during 2009-10 and the rest in the earlier years. The departments recovered ₹ 1.92 crore in 77 cases during 2009-10.

1.5.2 This Report

This report contains 27 paragraphs including one performance review on “Management of Forest Receipts” relating to short/non-levy of tax, duty and interest, penalty etc., involving financial effect of ₹ 222.56 crore. The departments/Government have accepted audit observations involving ₹ 83.49 crore out of which ₹ 71.18 lakh has been recovered. The replies in the remaining cases have not been received (October 2010). The paragraphs are discussed in the succeeding chapters II to VI.

⁷ Excludes units of Motor Vehicles.

CHAPTER II

SALES TAX / VALUE ADDED TAX

2.1 Tax administration

Sales Tax and Value Added Tax (VAT) comprise the receipts under the West Bengal Sales Tax Act, 1994, the Central Sales Tax Act, 1956 and the Value Added Tax Act, 2003. The provisions of the Acts and Rules are administered by the Finance (Revenue) Department headed by the Principal Secretary to the Government of West Bengal. He is assisted by the Commissioner of Commercial Taxes, two Special Commissioners, 36 Additional Commissioners, 89 Senior Joint Commissioners, 325 Joint Commissioners and 655 Sales Tax Officers.

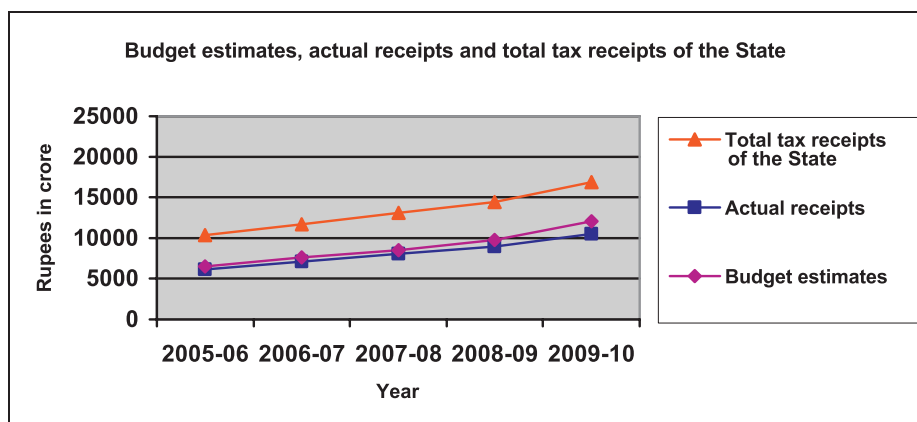
2.2 Trend of receipts

Actual receipts from VAT¹ during the years from 2005-06 to 2009-10 along with the total tax receipts during the same period is exhibited in the following table and graph.

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual VAT receipts vis-à-vis total tax receipts
2005-06	6,502.89	6,108.78	(-) 394.11	(-) 6.06	10,388.38	58.80
2006-07	7,622.48	7,079.03	(-) 543.45	(-) 7.13	11,694.77	60.53
2007-08	8,505.71	8,060.46	(-) 445.25	(-) 5.23	13,126.33	61.40
2008-09	9,794.18	8,955.09	(-) 839.09	(-) 8.56	14,419.15	62.10
2009-10	12,046.85	10,509.64	(-) 1,537.21	(-) 12.76	16,899.98	62.18

¹ Includes sales tax



Percentage of actual VAT receipts vis-à-vis total tax receipts indicates that VAT is the main source of revenue of the State Government. However, a study of the budget estimates vis-à-vis actual receipts shows that the actual collection has never achieved the desired target and the gap between the budget estimate and actual receipts has widened during the last two years.

2.3 Cost of VAT per assessee

The cost of VAT per assessee for the last four years is shown in the following table:

(Rupees in thousand)			
Year	Cost of collection	Number of dealers at the end of the year	Cost of VAT per assessee
2006-07	8,37,867	1,84,753	4.54
2007-08	9,24,178	2,12,603	4.35
2008-09	10,03,416	2,17,731	4.61
2009-10	15,00,100	2,89,299	5.18

The cost of VAT per assessee has steadily gone up during the last two years from ₹ 4.35 thousand per assessee to ₹ 5.18 thousand per assessee. The steady rise is due to sharp increase in the cost of collection.

2.4 Arrears in assessment

Sl. No.	Particulars	2005-06	2006-07	2007-08	2008-09	2009-10
1.	Opening balance	1,84,198	1,69,076	1,15,099	33,045	27,572
2.	Cases initiated during the year	1,30,038	80,077	39,271	62,085	1,02,518
3.	Cases disposed of during the year	1,45,160	1,34,054	1,21,325	67,558	41,004
4.	Cases pending at the end of the year	1,69,076	1,15,099	33,045	27,572	89,086

The arrears in assessment in 2009-10 has increased three times over the previous financial year though there was a steady decrease in the arrears from 2005-06 to 2008-09.

2.5 Working of internal audit wing

Internal audit wing of the Directorate of Commercial taxes started functioning from May 1991 as a permanent in-house mechanism for scrutinising and detecting irregularities in the assessments of Sales tax and VAT cases as well as checking of different records/registers to ascertain whether the internal control system as envisaged in the Act and Rules made thereunder is functioning properly. The wing is headed by the Commissioner of Commercial Taxes (CCT) who is assisted by an Additional Commissioner, five Sr. Joint Commissioners, four Joint Commissioners and five Assistant Sales Tax Officers. The wing does not have any internal audit manual. The wing planned and audited only three charge offices out of 67 charge offices during the year 2009-10. Thus, coverage of internal audit wing during 2009-10 was only 4.47 *per cent* of the total auditable charge offices.

The functioning of the internal audit may be streamlined by drafting its manual and the audit coverage should be widened.

2.6 Cost of collection

The gross collection from Sales tax and VAT, the expenditure incurred on its collection and the percentage of such expenditure to gross collection for the years 2006-07 to 2009-10 are given in the following table:

(Rupees in crore)

Year	Gross collection	Gross expenditure	Percentage of expenditure to gross collection
2006-07	7,079.00	83.79	1.18
2007-08	8,060.46	92.42	1.15
2008-09	8,955.09	100.34	1.12
2009-10	10,509.64	150.01	1.42

The percentage of expenditure on collection of VAT has sharply increased in 2009-10 (1.42) and was well above the all India average (0.88). Thus, there is considerable scope for the Government to improve the efficiency of collection.

2.7 Analysis of collection

(Rupees in crore)

Year	Amount collected at preassessment stage	Amount collected after regular assessment	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection	Percentage of column 2 to 6
1	2	3	4	5	6	7
2006-07	6,993.04	94.57	31.03	39.62	7,079.02	99
2007-08	8,223.06	99.87	33.17	32.12	8,323.98	99
2008-09	8,857.15	98.53	36.12	24.40	8,967.40 ²	99
2009-10	10,600.09	96.37	41.27	114.05	10,623.68	99.77

² Departmental figure is at variance with the Finance Accounts figure which is to be reconciled.

The above table shows that 99 *per cent* of VAT collection is at the pre-assessment stage. This indicates that most of the dealers pay tax voluntarily.

2.8 Revenue impact of audit reports

During the last five years (including the current year's report), audit through its audit reports had pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, mistakes in computation etc., with revenue implication of ₹1,125.45 crore in 86 paragraphs. Of these, the department/Government had accepted audit observations in 67 paragraphs involving ₹272.69 crore against which no recovery has since been intimated. The details are shown in the following table:

(Rupees in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount	Number	Amount
2005-06	15	493.54	10 ³	146.16	NA*	NA
2006-07	15	37.64	12 ⁴	13.79	NA	NA
2007-08	21	412.51	17 ⁵	9.48	NA	NA
2008-09	20	44.91	15 ⁶	10.39	NA	NA
2009-10	15	136.85	13 ⁷	92.87	NA	NA
Total	86	1,125.45	67	272.69		

* NA - Not available.

2.9 Results of audit

Test check of the records of 30 units relating to VAT receipts indicated underassessment of tax and other irregularities involving ₹273.35 crore in 433 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Incorrect determination of gross turnover	48	49.36
2.	Irregular deduction/exemption	157	54.22
3.	Non/short levy of interest/penalty	69	14.24
4.	Irregular allowance of input tax credit	25	1.13
5.	Other cases	134	154.40
Total		433	273.35

During the course of the year, the department accepted underassessment and other deficiencies of ₹202.98 crore in 153 cases, of which 133 cases involving ₹76.47 crore were pointed out in audit during the year 2009-10 and the rest in

³ All paragraphs partly accepted.
⁴ 10 paragraphs partly accepted.
⁵ 16 paragraphs partly accepted.
⁶ 14 paragraphs partly accepted.
⁷ All paragraphs partly accepted.

earlier years. An amount of ₹ 0.10 crore was realised in 18 cases during the year 2009-10.

A few illustrative cases involving ₹ 136.85 crore are mentioned in the following paragraphs.

2.10 Audit observations

Scrutiny of the assessment records of sales tax/value added tax (VAT) indicated several cases of non-observance of the provisions of the Acts/Rules, non/short levy of tax/penalty/interest/acceptance of defective statutory forms/suppression of sales/irregular concession/incorrect application of rate of tax, etc. as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions on the part of the Assessing Authorities are pointed out in audit each year in sales tax, but not only do the irregularities persist; these remain undetected till an audit is conducted. Compliance deficiencies in respect of VAT have been pointed out for the first time. There is need for the Government to improve the internal control system including internal audit so that such errors can be corrected timely and avoided in future.

Non-compliance of provisions of the Acts/Rules

As per the provisions of the WBST Act, 1994, WBVAT Act, 2003 and the CST Act, 1956 while finalising the assessments of a dealer, the Assessing Authorities are required to follow the provisions of the Acts and Rules and conduct required verifications to ensure the correctness of the assessment.

The West Bengal Sales Tax (WBST)/West Bengal Value Added Tax (WBVAT)/Central Sales Tax (CST) Acts and Rules made thereunder provide for:

- (i) determination of turnover after allowing permissible deductions;
- (ii) levy of tax/interest/penalty at the prescribed rate;
- (iii) allowing exemption of turnover subject to fulfillment of the prescribed conditions; and
- (iv) allowing of input tax credit as admissible.

We noticed that the Assessing Authorities (AAs) while finalising the assessments did not observe some of the provisions which resulted in non/short levy/non-realisation of tax/interest/penalty of ₹ 136.85 crore as mentioned in the following paragraphs.

2.11 Incorrect determination of gross turnover

The turnover of sales in relation to any period means the aggregate of the sale prices or parts of sale prices receivable by a dealer, in respect of sales of goods made during such period. A dealer is liable to pay tax at the prescribed rate on the amount of such turnover after allowing permissible deductions or admissible input tax credit. In addition, the dealer is liable to pay surcharge and additional surcharge on the amount of tax payable from April and August 2002 respectively under the WBST Act, 1994.

2.11.1 We found in three⁸ charge offices between February 2008 and November 2009 that in assessing/reassessing 13 cases of 13 dealers under the WBST Act between June 2005 and May 2008 for different assessment periods between 2001-02 and 2004-05, the AAs determined gross turnover

(GT)/taxable balance (TB)/taxable turnover (TT) at ₹ 618.24 crore instead of ₹ 831.82 crore due to short assessment of TB/TT, short disclosure of opening stock, irregular allowance of exemption/credit notes and non-inclusion of sale of empty bottles/job work/other income in GT. Short determination of GT/TB/TT of ₹ 213.58 crore resulted in short levy of tax of ₹ 44.28 crore including surcharge and additional surcharge.

After we reported the cases between July 2009 and January 2010, the department accepted the audit observations (between January and December 2009) in six cases involving ₹ 43.10 crore but did not furnish any report on realisation. The department did not furnish any reply in the remaining seven cases involving ₹ 1.18 crore.

We forwarded the cases to the Government between November 2009 and February 2010 followed by reminders issued upto June 2010; they did not furnish any reply (October 2010).

2.11.2 We found in four⁹ charge offices between July and September 2009 that in assessing nine cases of nine dealers under the WB VAT Act between September and November 2008 for the assessment period 2005-06, the AAs determined turnover of sales/taxable balance (TB) at ₹ 43.14 crore instead of ₹ 77.03 crore due to short assessment of turnover/TB, irregular allowance of exemptions and non-consideration of returns at the time of assessment. Short determination of turnover of sales/TB of ₹ 33.89 crore resulted in short levy of tax of ₹ 1.35 crore.

After we reported the cases between September and November 2009, the department accepted the audit observations between December 2009 and February 2010 in seven cases involving ₹ 1.16 crore but did not furnish any report on realisation. The department did not furnish any specific reply in remaining two cases involving ₹ 18.85 lakh.

⁸ Corporate Division (CD 2001 - CD 2010), Corporate Division (CD 2011 - CD 2020) and Salkia.

⁹ Bhowanipore, Park Street, Salkia and Tamluk.

We forwarded the cases to the Government between September and November 2009 followed by reminders issued upto July 2010; they did not furnish any reply (October 2010).

2.12 Irregularities in declaration forms

Section 8 and Section 6A of the CST Act, 1956 prescribe that a dealer seeking exemption for transfer of goods and concessional rate of tax has to furnish declaration forms 'F' and 'C' respectively. Transfer of goods effected during a calendar month is to be covered in a single declaration form 'F'. Otherwise, such transfer of goods is liable to be treated as inter-state sale and taxed accordingly. Production of form 'F' has been made mandatory from June 2002.

2.12.1 We found in five¹⁰ charge offices between March 2008 and November 2009 that while assessing/reassessing 14 cases of 14 dealers between June 2005 and November 2008 for different assessment periods between 2001-02 and 2005-06, the AAs allowed exemption on account of transfer of goods to the branches/agents outside the State for ₹ 409.45 crore. Of these, transfer of goods of ₹ 5.32 crore in five cases was not supported by form 'F'; in one case transfer of ₹ 1.41 crore was allowed to a dealer declared

as fake by the Sales Tax department of the State. In another case, inter-unit transfer of raw materials was allowed for ₹ 83.64 lakh though no such transfer was evident from the final accounts. In the remaining seven cases, transfer of goods worth ₹ 70.34 crore was supported by form 'F' covering transactions of more than one calendar month. Thus, incorrect exemption on transfer of goods worth ₹ 77.90 crore resulted in underassessment of tax of ₹ 15.82 crore.

The department admitted the audit observations in 10 cases between April 2009 and January 2010 involving ₹ 15.44 crore. However, report on recovery has not been received. In the remaining four cases involving ₹ 0.38 crore, the department did not furnish any reply/specific reply.

We forwarded the cases to the Government between July 2009 and January 2010 followed by reminders issued upto June 2010; they did not furnish any reply (October 2010).

2.12.2 We found in Corporate Division (2011-2020) in May 2009 that while assessing the case of a dealer in October 2007 for 2003-04, the AA allowed claim of tax at concessional rate on sale of declared goods of ₹ 16.52 crore though the dealer did not furnish declaration in forms 'C' in support of the claim. This resulted in short levy of tax of ₹ 63.54 lakh.

We forwarded the case to the Government in January 2010 followed by reminders issued upto June 2010; they did not furnish any reply (October 2010).

¹⁰ Alipore, Bhowanipore, Corporate Division (CD 2001 – CD 2010), Corporate Division (CD 2011 – CD 2020) and Lalbazar.

2.13 Non/short levy of purchase tax

Section 13 (1) of the WBST Act, 1994, prescribes that a manufacturer dealer is liable to pay purchase tax at the rate of four *per cent* on all purchases of goods from unregistered dealers intended for direct use in manufacture of goods for sale in West Bengal. A registered dealer, who is not a manufacturer, is also liable to pay purchase tax on all purchases from unregistered dealers on sale of such goods within the State. The dealers making such purchases shall furnish Annexure 'P' with the returns indicating therein the taxable specified purchase price (TSPP) and tax payable.

We found in Corporate Division (2001-2010) between February and November 2008 that in assessing / reassessing three cases of two dealers between June 2005 and February 2007 for assessment periods between 2002-03 and 2003-04, the AAs incorrectly assessed purchase tax on purchase of ₹ 57.03 lakh instead of ₹ 44.13 crore. Of these in two cases TSPP of

₹ 42.96 crore was assessed short while in one case though the TSPP of ₹ 60.45 lakh was assessed correctly, tax was not levied. This resulted in underassessment of taxable purchase worth ₹ 43.56 crore and consequent non/short levy of purchase tax of ₹ 1.78 crore.

After we reported the cases in July 2009, the department accepted (December 2009) the audit observations in two cases involving ₹ 1.72 crore and stated that proposal for revision has been sent. Report on realisation of tax has not been received. The department did not furnish any reply in the remaining case involving ₹ 6.04 lakh.

We forwarded the cases to the Government in November 2009 followed by reminders issued upto June 2010; they did not furnish any reply (October 2010).

2.14 Underassessment of tax due to mistake(s) in computation

Under the WBST Act, 1994 and WBVAT Act, 2003 tax or output tax is to be computed at the rate applicable from time to time along with surcharge, additional surcharge, interest and penalty, if any, on the goods/commodities sold.

2.14.1 We found in three¹¹ charge offices (between January 2008 and January 2009) that in assessing four cases of four dealers under the WBST Act between June 2005 and June 2006 for different assessment periods between 2002-03 and 2003-

04, the AAs assessed tax including surcharge and additional surcharge at ₹ 4.74 crore instead of ₹ 6.31 crore due to arithmetical mistake in computing taxable balance and tax payable. This resulted in short levy of tax including surcharge and additional surcharge of ₹ 1.57 crore as detailed below:

¹¹ Bhowanipore, Corporate Division (CD 2001 – CD 2010) and Princep Street.

(Rupees in lakh)

Sl. No.	Name of the charge	Assessment year/date of assessment	No. of cases/dealers	Tax computable	Tax computed	Tax effect
1.	Bhowanipore	2003-04/ 30.06.06	1/1	263.95	262.73	1.22
2.	Corporate Division	2002-03/ 15.06.05	2/2	362.85	208.24	154.61
3.	Princep Street	2003-04/ 29.06.06	1/1	4.09	2.94	1.15
Total			4/4	630.89	473.91	156.98

After we reported the cases in October 2008 and July 2009, the department accepted the audit observations in two cases involving ₹ 9.86 lakh but report on realisation has not been received. The department did not furnish any reply in the remaining two cases involving ₹ 1.47 crore.

We forwarded the cases to the Government between November and December 2009 followed by reminders issued upto June 2010; they did not furnish any reply (October 2010).

2.14.2 We found in Park Street charge (August 2009) that in assessing two cases of two dealers under the WBVAT Act in November 2008 for the assessment period 2005-06, the AAs assessed output tax of ₹ 3.31 crore instead of ₹ 3.77 crore due to arithmetical mistake in computation. This resulted in short levy of output tax of ₹ 46.23 lakh.

After we reported the cases in October 2009, the department accepted the audit observations in both the cases, but did not furnish any report on realisation of tax (October 2010).

We forwarded the cases to the Government in December 2009 followed by reminders issued upto June 2010; they did not furnish any reply (October 2010).

2.15 Non/short levy of interest

2.15.1 We found in three¹² charge offices between April 2008 and September 2009 that in assessing/

Sections 31 and 32 of the WBST Act, 1994 and Section 33 of the WBVAT Act, 2003 prescribe that a dealer becomes liable to pay interest at the rate of 12 *per cent* per annum if he either failed to furnish returns or failed to pay tax by the prescribed date or failed to adjust any amount of ITC by way of reverse credit.

reassessing/ initiating certificate proceedings in eight cases of seven dealers under the WBST Act between June 2005 and April 2008 for different assessment periods between 2002-03 and 2004-05, the AAs levied interest of ₹ 11.40 lakh instead of ₹ 56.64 lakh leviable on tax dues of

₹ 1.93 crore resulting in non/short levy of interest of ₹ 45.24 lakh.

¹² Corporate Division (CD 2001 – CD 2010), Park Street and Tamluk.

After we reported the cases between July and October 2009 the department admitted between February and December 2010, the audit observations in seven cases involving ₹ 26.43 lakh and did not furnish any reply in the remaining case involving ₹ 18.81 lakh.

We forwarded the cases to the Government in December 2009 followed by reminders issued upto June 2010; they did not furnish any reply (October 2010).

2.15.2 We found in three¹³ charge offices between July and September 2009 that in assessing four cases of four dealers under the WB VAT Act between September and November 2008 for the assessment period 2005-06, the AAs levied interest of ₹ 8.53 lakh instead of ₹ 32.79 lakh for non/delayed payment of tax of ₹ 94.25 lakh. This resulted in non/short levy of interest of ₹ 24.26 lakh.

After we reported the cases between September and October 2009 the department admitted the audit observations in all the cases between December 2009 and February 2010 but did not furnish any report on realisation (October 2010).

We forwarded the cases to the Government in December 2009 followed by reminders issued upto July 2010; they did not furnish any reply (October 2010).

2.16 Application of incorrect rate of tax

Section 17 of the WBST Act, 1994 and Section 16 (2) of the WB VAT Act, 2003 prescribe that the rate of tax on goods/commodities sold depends on classification of goods in the schedules.

2.16.1 We found in four¹⁴ charge offices between September 2008 and July 2009 that in assessing four cases of four dealers under the WBST Act between June 2005 and June 2007 for the

assessment periods between 2002-03 and 2004-05, the AAs levied tax of ₹ 99.77 lakh instead of ₹ 1.28 crore on turnover of ₹ 11.49 crore due to application of incorrect rate of tax. This resulted in short levy of tax of ₹ 28.54 lakh.

After we reported the cases between February 2009 and January 2010, the department admitted (February 2010) the audit observation in one case involving ₹ 3.81 lakh but did not furnish any report on realisation. The department did not furnish any specific reply in the remaining three cases involving ₹ 24.73 lakh.

We forwarded the cases to the Government between November 2009 and February 2010 followed by reminders issued upto June 2010; they did not furnish any reply (October 2010).

¹³ Lalbazar, Park Street and Tamluk.

¹⁴ Chandni Chawk, Corporate Division (CD 2001 - CD 2010), Corporate Division (CD 2011 - CD 2020) and Salkia.

2.16.2 We found in three¹⁵ charge offices between July and November 2009 that in assessing four cases of four dealers under the WBVAT Act between September 2008 and February 2009 for the assessment period 2005-06, the AAs in two cases levied tax on sales of ₹ 35 lakh at the rate of 4 *per cent* instead of 12.5 *per cent* whereas in the other two cases, the AAs levied tax at the rate of 10 *per cent* instead of the applicable rate of VAT of 12.5 *per cent* on inter-state sale of ₹ 82 lakh not supported by declaration forms. Thus, application of incorrect rate of tax resulted in short levy of tax of ₹ 5.02 lakh.

After we reported the cases between September and December 2009, the department admitted between December 2009 and February 2010 the audit observations in three cases involving ₹ 4.06 lakh but did not furnish any report on realisation. The department stated in the remaining case involving ₹ 0.96 lakh, that the matter has been referred to the appellate authority. However, report on further development has not been received (October 2010).

We forwarded the cases to the Government between September and December 2009 followed by reminders issued upto July 2010; they did not furnish any reply (October 2010).

2.17 Non/short determination of taxable contractual transfer price

Section 15 (1) of the WBST Act, 1994 prescribes that any transfer of property in goods involved in the execution of works contract shall be deemed to be a sale by the person making such transfer attracting levy of tax at the prescribed rates on such taxable contractual transfer price (CTP).

2.17.1 We found in two¹⁶ charge offices in August 2008 and June 2009 that while assessing two cases of two dealers under the WBST Act between June 2005 and June 2006 for the assessment

periods 2002-03 and 2003-04, the AAs determined taxable CTP at ₹ 20.27 lakh instead of ₹ 3.22 crore due to non-inclusion of taxable CTP of Metro Railway work valued of ₹ 2.88 crore in respect of one dealer and short inclusion of cost of materials of ₹ 14.26 lakh in respect of another dealer. This resulted in non/short determination of taxable CTP by ₹ 3.02 crore with consequential tax effect of ₹ 26.78 lakh.

We forwarded the cases to the department/Government in October 2008 and January 2010 followed by reminders issued upto June 2010; they did not furnish any reply (October 2010).

¹⁵ Barasat, Park Street and Tamluk.

¹⁶ Bhowanipore and Corporate Division (CD 2011 - CD 2020).

Section 18 of the WB VAT Act, 2003 prescribes that in case of civil works where the taxable contractual transfer price for application of proper rate of tax is not ascertainable from the books of accounts maintained by the dealer or where a dealer does not maintain books of accounts worthy of credence, 25 per cent of the value of contract may be deducted for labour, service and other like charges and tax at the rate of 4 and 12.5 per cent is to be charged on 20 per cent and 55 per cent of the value of the contract respectively.

2.17.2 We found in Tamluk charge in July 2009 that while assessing two cases of two dealers under the WB VAT Act in July 2008 for the assessment period 2005-06, the AAs determined taxable CTP at ₹ 2.65 crore¹⁷ instead of ₹ 6.40 crore

ignoring the procedure prescribed in the rules for determination of taxable CTP in respect of civil works. This resulted in short determination of CTP by ₹ 3.75 crore with consequential tax effect of ₹ 38.62 lakh.

After we reported the cases in September 2009, the department admitted the audit observations in December 2009 in both the cases and stated that proposals for *suo-motu* revision were being sent to the higher authority.

We forwarded the cases to the Government in December 2009 followed by reminders issued upto June 2010; they did not furnish any reply (October 2010).

2.18 Irregular allowance of exemption to the eligibility certificate holders not fulfilling the conditions thereof

The eligibility certificate (EC) is granted by the Special Cell headed by the Special Commissioner under the Directorate of Commercial Taxes for extending benefits to the dealers having small scale industrial units. Under the provisions of Rule 98 (2 and 3) of the WBST Rules, 1995, the EC holder shall maintain and keep true and up-to-date accounts, sale bill or cash memo, separate set of serially numbered bills/cash memos, stock register for the purchase and issue of materials and also the records of production of goods in his unit and issue of such goods by sale of goods or otherwise. Rule 101 provides for invalidation of the EC in case of contravention of the conditions.

We found in 17¹⁸ charge offices between December 2008 and March 2010 that in assessing 98 cases of 37 dealers between April 2002 and June 2007 for different assessment periods ending between March 2001 and March 2005, the AAs allowed exemption of sales of

₹ 286.17 crore though the dealers had contravened the conditions of the EC.

¹⁷ The dealers had not maintained books properly and the AAs had arbitrarily determined their taxable turnover.

¹⁸ Asansol, Bally, Bankura, Belgachia, Beliaghata, Berhampur, Budge Budge, Burdwan, Durgapur, Jorabagan, Manohar katra, Medinipur, Park street, Postabazar, Princep street, Shibpur and Serampur.

Of these, in 67 cases involving ₹ 9.73 crore the dealers did not maintain true and up-to-date books of accounts, in 21 cases involving ₹ 21.70 crore the dealers did not maintain proper sale bills or cash memos and in 10 cases involving ₹ 2.40 crore the dealers did not maintain proper stock registers. These resulted in short levy of tax and interest of ₹ 33.83 crore.

After we reported the cases, the department admitted the audit observations in 36 cases involving ₹ 5.14 crore stating that proposals for *suo motu* revision/reopening of the cases had been sent to the higher authorities. The department did not furnish any reply in the 38 cases involving ₹ 7.92 crore while in the remaining 24 cases involving ₹ 20.77 crore, the department did not accept the audit observations. The contention of the department is not tenable as mentioned below:

- In three cases involving ₹ 78 lakh the assessing authorities stated that they could not reject the claim unless the EC is cancelled by the granting authority. The replies furnished are not correct as Rule 101 provides for invalidation of the EC in case of contravention of the prescribed conditions. But in these cases no effort was made by the assessing authorities to process the cases for invalidation.
- In 19 cases involving ₹ 62 lakh the AAs stated that the purchases were made from unregistered hawkers/cultivators who were not in the habit of issuing bills. The replies furnished are not correct as the Act provides that the EC holder shall maintain and keep true and up-to-date accounts, sale bills or cash memos, separate set of serially numbered bills/cash memos and stock registers for the purchase and issue of materials for claiming exemption from payment of tax.
- In two cases involving ₹ 19.37 crore, the AAs stated that the dealers had maintained the books of the accounts and as such they were allowed deduction. The replies are not correct as the assessment records of the dealers indicated that the dealers had not maintained true/correct books of accounts and had thus contravened the conditions of the EC. As such, the exemption allowed was incorrect. Instead, action was required to be taken for declaring the EC invalid.

We forwarded the cases to the Government between April 2009 and March 2010 followed by reminders issued upto July 2010; their reply has not been received (October 2010).

The Government may consider establishing a mechanism for co-ordination between the AAs and the EC granting and renewing authority to prohibit allowance of tax benefit to the EC holders who violate the conditions of the EC.

2.19 Irregular allowance of exemption to eligibility certificate holders not furnishing gross value of fixed assets

Section 39 (4) of the WBST Act, 1994 provides that a registered dealer having eligibility certificate shall not be entitled to enjoy the benefit of exemption from the day immediately following the day on which the aggregate of the benefit of exemption from payment of tax enjoyed by the dealer exceeds two hundred *per cent* of the gross value of fixed assets (GVFA). Rule 101A (2) made under the Act *ibid* prescribes that the dealer shall inform the assessing authority in writing on or before 30.06.2003 of the GVFA as it stood on 01.04.2003 and furnish copies of documents, duly certified by the dealer, in support of such GVFA.

We found in nine¹⁹ charge offices between December 2008 and March 2010 that in assessing 24 cases of 13 dealers between July 2005 and October 2008 for different assessment periods between March 2004 and March 2005, the AAs in 21 cases of 12 dealers allowed exemption of sale of ₹ 177.35 crore though the dealers did not furnish the GVFA within the prescribed date whereas in three cases of two dealers, though the AAs disallowed the exemption and levied tax, interest was not levied. These resulted in short levy of tax and interest of ₹ 23.97 crore.

After we reported the cases, the department admitted the audit observations in six cases involving ₹ 4.63 crore. However, further action taken for recovery and reply in the remaining 18 cases involving ₹ 19.34 crore has not been received (October 2010).

We forwarded the cases to the Government between April 2009 and March 2010 followed by reminders issued upto July 2010; their reply has not been received (October 2010).

2.20 Incorrect allowance of remission of tax

Section 41 of the WBST Act, 1994 and the rules made thereunder prescribe that a registered dealer holding an eligibility certificate (EC) may avail the benefit of remission of tax on sale of goods manufactured by him subject to fulfillment of the prescribed conditions. However, the dealer shall not be eligible for such remission of tax beyond the last date of validity of the EC.

We found in two charge offices²⁰ between August 2008 and September 2009 that in assessing/ reassessing two cases of two dealers between June 2005 and December 2008 for the assessment periods 2002-03 and 2003-04, the AAs incorrectly allowed remission of tax of ₹ 6.91 crore instead of

₹ 6.69 crore. Of these in one case the AA disallowed set-off of ₹ 8.08 lakh but subsequently included it in the amount of remission allowed to the dealer

¹⁹ Asansol, Baruipur, Chandni Chowk, Ezra Street, Jorabagan, Lyons Range, Salt Lake, Shibpur and Siliguri.

²⁰ Corporate Divisions (CD 2001 - CD 2010) and (CD 2011 - CD 2020).

without any such provision under the Act. In other case the set off of tax of ₹ 13.95 lakh was allowed for the period 01.04.2003 to 13.08.2003 though the EC was valid only upto 08.01.2003. This resulted in incorrect allowance of remission of tax of ₹ 22.03 lakh.

After we reported the cases in July 2009 and January 2010, the department in December 2009 accepted the audit observation in one case involving ₹ 13.95 lakh. However, they did not furnish any report on realisation. The department did not furnish any reply in the remaining case involving ₹ 8.08 lakh.

We forwarded the cases to the Government between November 2009 and February 2010 followed by reminders issued upto June 2010; they did not furnish any reply (October 2010).

2.21 Short realisation of tax due to excess credit

Section 30 (4) of the WBST Act, 1994 prescribes that a dealer is liable to pay sales tax on the basis of self assessment at the time of furnishing returns of his turnover. The amount of tax so paid is adjusted against the tax finally assessed.

We found in Corporate Division (2001-2010) in June 2008 that while assessing the case of a dealer in June 2005 for the assessment period 2002-03, the AA adjusted ₹ 10.49 crore as tax paid by the dealer through 16 challans. Out of these, one challan²¹ of ₹ 20 lakh was not

produced to audit. We verified the records of Information Systems Division²² and found that no entry was made there regarding this challan. This resulted in allowance of excess credit and consequent short realisation of tax of ₹ 20 lakh.

We forwarded the case to the department/Government in December 2009 followed by reminders issued upto June 2010; they did not furnish any reply (October 2010).

2.22 Short raising of demand

Rule 9 of the CST Rules, 1958, prescribes that the AA shall serve a notice of demand in the prescribed form to the dealer after final assessment showing the actual amount of tax, interest and penalty payable by the dealer specifying the date of payment therein.

We found in Park Street charge in August 2009 that while assessing the case of a dealer in November 2008 for 2005-06, the AA assessed tax and penalty at ₹ 19.96 lakh of which the dealer paid ₹ 6.14 lakh before assessment. However, the AA allowed credit of ₹ 6.14 lakh twice and

raised demand of ₹ 7.68 lakh instead of ₹ 13.82 lakh. This resulted in short raising of demand of ₹ 6.14 lakh.

²¹ Challan no. 97335/4 dated 04.04.2002 (40/HV-19).

²² Information Systems Division of the Directorate of Commercial Taxes is the centralised authority which compiles data and generates reports which *inter alia* contains reports on payment of tax, penalty and interest.

After we reported the case to the department/Government in December 2009, the department stated in January 2010 that the case was under appeal and the Appellate Authority had been informed of the audit observation. They did not report on further development (October 2010).

2.23 Non-levy of penalty on evaded tax

Section 76 (1) of the WBST Act, 1994, prescribes that if a dealer has concealed any turnover or furnished incorrect particulars thereof with the intent to reduce the amount of tax payable by him, the AA in addition to tax, may impose by way of penalty a sum which shall not be less than one and a half times and not more than thrice the amount of tax that would have been avoided by him. According to instructions (June 1991) of the CCT, West Bengal, the AA is required to record the reasons for not initiating penalty proceedings, if he decides to do so, in the assessment order itself.

We found in two²³ charge offices between December 2007 and November 2009 that while assessing nine cases of nine dealers between June 2004 and December 2007 for different assessment periods between 2001-02 and 2004-05, the AAs detected concealment of turnover of sales of

₹ 83.35 crore by the dealers with the intent to evade payment of tax of ₹ 7.01 crore, but neither levied minimum penalty of ₹ 10.51 crore nor recorded any reasons in the assessment order for not doing so.

After we reported the cases in July 2009 and January 2010, the department in November 2009 accepted the audit observation in one case involving ₹ 12.07 lakh and in the remaining eight cases involving ₹ 10.39 crore, did not furnish any reply.

We forwarded the cases to the Government in November 2009 and February 2010 followed by reminders issued upto June 2010; they did not furnish any reply (October 2010).

2.24 Irregular allowance of compounded rate of tax

Section 16(F) of the WB VAT Act, 2003 and the rules made thereunder prescribe that any registered dealer who intends to opt for payment of tax at compounded rate²⁴ shall exercise his option by making an application to the appropriate authority in Form-16 within the prescribed date. In absence of application in Form-16 the dealer is liable to pay tax at normal rate.

We found in three²⁵ charge offices between August and October 2009 that while assessing four cases of four dealers between June and September 2008

²³ Corporate Division (CD 2001 - CD 2010) and Corporate Division (CD 2011 - CD 2020).

²⁴ 0.25 *per cent* in case of registered dealers, four *per cent* in case of registered clubs and two *per cent* in case of registered dealers making sales by way of transfer of right to use goods.

²⁵ Alipore, Asansol and Tamluk.

for 2005-06, the AAs levied tax at compounded rate on the turnover of ₹ 2.24 crore though the dealers were not eligible for payment of tax at compounded rate due to non/delayed submission of option in Form-16. This resulted in short levy of tax of ₹ 17.06 lakh.

After we reported the cases between September and December 2009, the department accepted the audit observations between December 2009 and January 2010 in three cases involving ₹ 15.26 lakh but did not furnish any report on realisation. The department did not furnish any specific reply in the remaining case involving ₹ 1.80 lakh.

We forwarded the cases to the Government between November and December 2009 followed by reminders issued upto June 2010; they did not furnish any reply (October 2010).

2.25 Irregular allowance of input tax credit

Section 22 of the WBVAT Act, 2003, and Rules made thereunder prescribe that a registered dealer can avail the benefit of Input Tax Credit (ITC) to the extent of the amount of tax paid or payable by him in respect of purchase of goods from registered dealers of West Bengal. ITC is also allowable on the stock of goods as on 1 April 2005 purchased from registered dealers within the State. However, no ITC is allowable for purchase of goods for manufacturing tax exempted goods.

We found in three²⁶ charge offices between July and August 2009 that in assessing five cases of five dealers between July and November 2008 for the assessment period ending

March 2006, the AAs allowed ITC of ₹ 45.92 lakh instead of ₹ 15.51 lakh. This resulted in irregular allowance of ITC of ₹ 30.41 lakh as detailed below:

(Rupees in lakh)					
Sl. no.	Assessment year/date of assessment	ITC allowable	ITC allowed	Tax effect	Nature of irregularity
1.	2005-06/ 26.11.08 (u/s 46)	9.23	10.22	0.99	The dealer made purchases from nine dealers. The principal place of business and VAT number of the purchasing dealers did not match. As such, ITC claimed should have been disallowed.
2.	2005-06/ 28.11.08	2.00	2.95	0.95	Allowance of ITC on purchase of goods for manufacturing tax exempted goods.
3.	2005-06/ 04.11.08	0.00	14.64	14.64	Allowance of ITC despite non-production of tax invoice/stock register and production of incomplete purchase statement.
4.	2005-06/ 25.07.08	4.28	5.24	0.96	Allowance of excess claim of ITC than claimed in returns.
5.	2005-06/ 04.11.08	0.00	12.87	12.87	Allowance of ITC on transitional stock of goods without verifying the statement.
	Total	15.51	45.92	30.41	

After we reported the cases between September and November 2009 the department accepted the audit observations between September and December

²⁶ Asansol, Park Street and Tamluk.

2009 in four cases involving ₹29.42 lakh but did not furnish any report on realisation. The department did not furnish any specific reply in the remaining case involving ₹0.99 lakh.

We forwarded the cases to the Government in December 2009 followed by reminders issued upto July 2010; they did not furnish any reply (October 2010).

CHAPTER III

LAND REVENUE

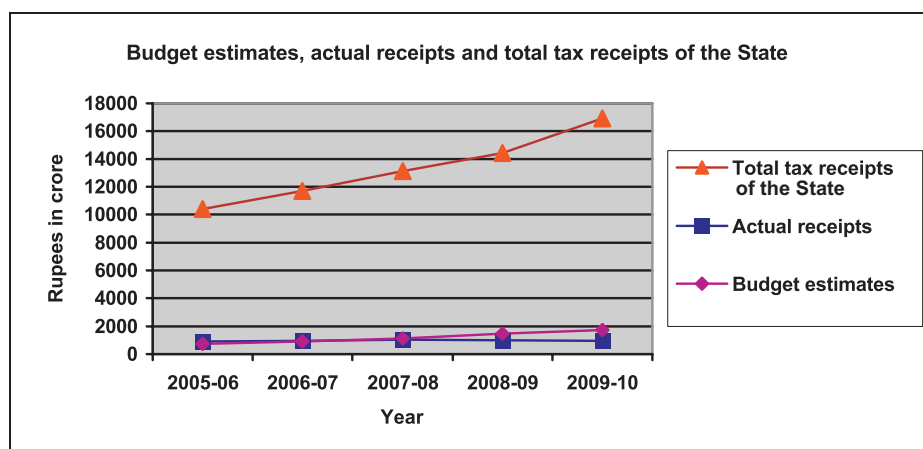
3.1 Tax administration

Land revenue consists of receipts from land rent, rates and cess, management of ex-*Zamindari* estates, survey and settlement operations etc. The assessment and collection of land revenue is governed by the West Bengal Land Reforms Act, 1955, West Bengal Land Reforms Rules, 1965, West Bengal Land Acquisition Manual, 1991, West Bengal Land and Land Reforms Manual, 1991 and Land Transfer Rules contained in the Bengal Land Acquisition Act, 1917. Land Revenue is administered by the Land and Land Reforms Department headed by the Principal Secretary who is assisted by the Director of Land Records and Survey, 19 District Land and Land Reforms officers (DL and LRO), 59 Sub-divisional Land and Land Reforms officers and 698 Block Land and Land Reforms officers (BL and LRO).

3.2 Trend of receipts

Actual receipts from land revenue during the years 2005-06 to 2009-10 along with the budget estimates and total tax receipts of the State during the same period is exhibited in the following table and graph.

(Rupees in crore)						
Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2005-06	742.42	917.11	(+) 174.69	(+) 23.53	10,388.38	8.83
2006-07	894.51	952.69	(+) 58.18	(+) 6.51	11,694.77	8.15
2007-08	1,109.64	1,039.58	(-) 70.06	(-) 6.32	13,126.33	7.92
2008-09	1,488.58	983.78	(-) 504.80	(-) 33.92	14,419.15	6.83
2009-10	1,711.87	928.92	(-) 782.95	(-) 45.74	16,899.98	5.50



A study of the budget estimates vis-à-vis actual receipts shows that in 2005-06, the actual receipt was higher than the budget estimate by 23.53 per cent and contribution to the total receipt was 8.83 per cent. Thereafter, the actual receipts showed a declining trend and the variation between the budget estimate and the actual receipt was highest in 2009-10 i.e. (-) 45.74 per cent and contribution towards total revenue came down to 5.50 per cent. The reasons for this variation though called in September 2010 have not been received.

The huge variation between the budget estimates and the actuals indicates that the budget estimates are not realistic. **It is recommended that the Government may consider issuing instructions to the department for framing the budget estimates on a realistic basis to ensure that the actuals are close to the budget estimates.**

3.3 Cost of collection

The gross collection of land revenue and the expenditure incurred on collection during the years 2007-08 to 2009-10 are given in the following table:

(Rupees in crore)				
Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection
Land revenue	2007-08	1,039.58	332.84	32.01
	2008-09	983.78	353.89	35.97
	2009-10	928.92	536.29	57.73

The percentage of expenditure on collection of land revenue showed an increasing trend. Thus, there is considerable scope for the Government to improve the efficiency in collection of land revenue.

3.4 Revenue impact of audit reports

During the last five years (including the current year's report), we pointed out non/short levy, non/short realisation, underassessment/loss of revenue etc., with revenue implication of ₹1,015.49 crore in 24 paragraphs. Of these, the

department/Government had accepted audit observations in 20 paragraphs involving ₹ 312.48 crore and had since recovered ₹ 14.24 crore. The details are shown in the following table:

(Rupees in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted by the department		Amount recovered	
	Number	Amount	Number	Amount	Number	Amount
2005-06	4	13.22	1	0.02	Nil	Nil
2006-07	6	962.50	6	273.93	Nil	Nil
2007-08	5	0.70	4 ¹	0.40	Nil	Nil
2008-09	5	37.34	5 ²	37.03	1	14.20
2009-10	4	1.73	4 ³	1.10	2 ⁴	0.04
Total	24	1,015.49	20	312.48	3	14.24

Thus, against the accepted cases involving ₹ 312.48 crore, the department/Government has recovered an amount of ₹ 14.24 crore which is only 4.5 *per cent*.

We recommend that the department revamp its revenue recovery mechanism to ensure that they could recover at least the amount involved in the accepted cases.

3.5 Working of internal audit wing

The internal audit wing of an organisation is a vital component of its internal control mechanism and is generally defined as the control of all controls to enable the organisation to assure itself that the prescribed system is functioning reasonably well.

The internal audit wing of the Land and Land Reforms Department has been re-introduced in the year 2007-08 with the objective of fulfilling accountability obligation, complying with applicable laws and regulations, executing orderly, ethical, economic, efficient and effective operations and safeguarding resources against loss. The wing is headed by the Audit Officer cum Ex-officio Deputy Secretary who is assisted by three Internal Audit Officers and three Assistant Auditors. Though the manual of the wing has been drafted, it has not yet been published. The wing planned and audited only six DL and LROs, three LA Collectors, one Rent Controller and one Controller of Thika Tenancy out of 18 DL and LROs, 19 LA Collectors, 66 Rent Controllers and two Controllers of Thika Tenancy during the year 2009-10 which is only 10.48 *per cent* of units auditable. Thus, the coverage of the Internal Audit Wing needs to be widened.

3.6 Results of audit

In 2009-10 we test checked the records of 10 units relating to receipts from Land Revenue and found non-realisation/blocking of revenue and other

¹ Partly accepted.

² Four paragraphs partly accepted.

³ Partly accepted.

⁴ Partly recovered.

irregularities involving ₹ 21.46 crore in 207 cases which fall under the following categories:

(Rupees in crore)			
Sl. no.	Categories	No. of cases	Amount
1.	Loss/non-realisation of revenue due to non-settlement of land	12	6.51
2.	Non-levy/realisation of rent and <i>salami</i>	108	6.08
3.	Blocking/loss of revenue due to non-leasing of <i>sairat</i> sources	21	0.80
4.	Other cases	66	8.07
Total		207	21.46

During the course of the year, the department accepted non-realisation/blocking of revenue and other deficiencies of ₹ 8.83 crore in 117 cases, of which 113 cases involving ₹ 8.77 crore were pointed out in audit during the year 2009-10 and the rest in earlier years. An amount of ₹ 18.44 lakh was realised in 14 cases at the instance of audit.

After we issued the draft paragraphs the Land and Land Reforms Department recovered ₹ 4.29 lakh during the year 2009-10.

A few illustrative cases involving ₹ 1.73 crore are mentioned in the following paragraphs.

3.7 Audit observations

Scrutiny of the records of the DL and LR offices indicated several cases of non-compliance with the provisions of the West Bengal Land Reforms (WBLR) Act, 1955, West Bengal Land and Land Reforms (WBL and LR) Manual 1991 and the Cess Act, 1880 as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Although such omissions are pointed out in audit every year but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that recurrence of such cases can be avoided.

3.8 Non-settlement of land with unauthorised occupiers

Rule 238 of the West Bengal Land and Land Reforms (WBL and LR) Manual, 1991, provides that Government land remaining in possession of a person(s) without any lease, may be offered to such person(s) on long term settlement of land for non-agricultural purpose on realisation of rent and *salami* at the prescribed rates. The occupiers are to pay in addition to the lease rent, interest at the rate of 6.25 *per cent* per annum on the amount of lease rent in arrear.

We found in two⁵ DL and LROs in June 2009 that in seven cases 18.45 acres of Government land remained unauthorisedly occupied by four firms, one municipality (two cases) and one individual since 1988. The occupiers between September 2001 and June 2007 applied for long term settlement of land for 30 years in six cases and for 99 years in one case. However, the department did not finalise the long term

settlements even after lapse of 23 to 92 months. Of these, two cases were pending with the Government, three cases were pending with DL and LRO while one case was pending with BL & LRO. The stage at which the remaining case was pending was not made available to audit. Thus, failure of the department to settle the land with unauthorised occupiers resulted in non-realisation of revenue of ₹ 79.56 lakh (Rent : ₹ 23.99 lakh, *Salami* : ₹ 52.57 lakh and Interest: ₹ 3 lakh).

After we reported the cases, the DL and LRO, Paschim Medinipur admitted in June 2009 audit observations in five cases involving ₹ 71.38 lakh and stated that action would be taken to realise the dues. The DL and LRO, Coochbehar in the remaining two cases involving ₹ 8.18 lakh did not furnish any specific reply.

We forwarded the cases to the Government in July 2009 followed by reminders issued upto July 2010; they did not furnish any reply (October 2010).

The Act and Rules framed thereunder do not provide a time limit for settlement of land with the unauthorised occupants. As such, for speedy settlement of the cases, **it is recommended that the Government may**

⁵ Coochbehar and Paschim Medinipur.

consider framing a time limit for eviction/settlement of land with the unauthorised occupants.

3.9 Non-realisation of rent and interest

Rule 235 of the WBL and LR Manual, 1991 prescribes that a lessee is liable to pay lease rent yearly according to the Bengali calendar. The rent falls due on the last day of the year in respect of which it is paid. In case of default in payment of rent, he is to pay, in addition to the arrear of rent, interest at the rate of 6.25 *per cent* per annum on the amount of rent in arrear.

The WBL and LR Manual provides for maintenance of lease registers to watch the payment of lease rent by each DL and LR Office.

We found during the test check of lease registers in three⁶ DL and LR offices between August 2008 and June 2009 that in 24 cases involving 36.50 acres of land, the lessees did not pay the annual lease rent of ₹ 39.78 lakh and interest of ₹ 2.78 lakh for the period between 1411 BS⁷ and 1415 BS (2004-05 to 2008-09). The DL and LROs did not initiate any action to realise the lease rent and interest even

after a lapse of 2 to 50 months from the due date. Further, *salami* of ₹ 4.11 lakh due from six lessees was also not realised. Thus, inaction of the department resulted in non-realisation of rent, interest and *salami* of ₹ 46.67 lakh. We also noticed that the lease registers were not periodically reviewed by the DL and LROs.

After we reported the cases, two⁸ DL and LROs in 21 cases involving ₹ 34.77 lakh admitted between August 2008 and June 2009 the audit observations and stated that action would be taken to realise the dues. A report on realisation and reply from the DL and LRO, Hooghly in the remaining cases involving ₹ 11.90 lakh has not been received (October 2010).

The Government stated in October 2010 that an amount of ₹ 26.85 lakh has been realised by the DL & LRO, Paschim Medinipur in one case. Report on realisation of the balance amount and reply in respect of other DL and LROs has not been received.

The department may consider issuing directions for periodical review of the lease register for ensuring realisation of lease rent.

⁶ Bankura, Hooghly and Paschim Medinipur.

⁷ Bengali calendar year commencing from 15 April to 14 April of the following year.

⁸ Bankura and Paschim Medinipur.

3.10 Non/short realisation of rent, cess and surcharge on land used for commercial purposes

Section 23 of the West Bengal Land Reforms (WBLR) Act, 1955, provides that *raiya*ts using land for commercial purposes are liable to pay land rent, different kinds of cess and surcharge at the prescribed rates.

We found in four⁹ DL and LR offices between May 2008 and August 2009 that 118 *raiya*ts¹⁰ under 19 BL and LR offices used 385.69 acres of land for commercial purposes during the period between 1411 BS (2004-05) and 1415 BS (2008-09), of which 101 *raiya*ts did not pay land rent

and cess of ₹27.76 lakh for using 308.76 acres of land whereas 17 *raiya*ts using 76.93 acres of land paid rent and cess of ₹1.71 lakh instead of ₹3.46 lakh. The DL and LROs did not initiate any action to realise the dues even after lapse of 28 to 37 months. This resulted in non/short realisation of rent, cess and surcharge of ₹29.51 lakh.

As per West Bengal Land and Land Reforms Manual, 1991 tenant's ledger was required to be maintained by each block office. However, we noticed that it was not maintained in any of the block offices. In absence of this, the BL and LROs could not monitor realisation of rent, cess and surcharge.

The DL and LROs admitted the audit observations between May 2008 and August 2009 and stated that action would be taken to realise the dues.

The Government stated in August 2010 that out of ₹6.86 lakh realisable, an amount of ₹84,242 has been realised by DL and LRO, Nadia. Report on realisation of the balance amount and reply in respect of other DL and LROs has not been received (October 2010).

3.11 Non-realisation of land revenue from *raiya*ts

Section 23 of the WBLR Act, 1955 provides that *raiya*ts using land are liable to pay land rent and cess yearly at the prescribed rates which falls due on the last day of the Bengali year. In case of default in payment of rent, the *raiya*ts are to pay interest, in addition to the arrears of rent, at the rate of 6.25 *per cent* per annum on the amount of the rent in arrear.

We found in two¹¹ DL and LR offices between June and August 2009 that 1,161 *raiya*ts under 19 Block Land and Land Reforms (BL and LR) offices did not pay land rent of 12,295.67 acres of land for the period between 1411 BS (2004-05) and 1415 BS (2008-09). The DL and LROs did not raise demand to realise the land rent, cess and interest. This resulted in non-realisation of land revenue

of ₹17.54 lakh.

The DL and LROs admitted the audit observations in August 2009 and stated that action would be taken to realise the dues.

⁹ Howrah, Nadia, Paschim Medinipur and Purba Medinipur.

¹⁰ *Raiyat* means a person or an institution holding land for any purpose.

¹¹ Coochbehar and Nadia.

The Government stated in August 2010 that out of ₹ 4.45 lakh realisable, an amount of ₹ 3.45 lakh has been realised by DL and LRO, Nadia. Report on realisation of the balance amount and reply in respect of DL and LRO, Coochbehar has not been received (October 2010).

CHAPTER IV

STATE EXCISE

4.1 Tax administration

State excise revenue mainly comprises the receipts from country spirit, foreign liquor, malt liquor, other spirits, fees and fines. The assessment and collection of excise revenue is governed by the Bengal Excise Act, 1909, the Narcotic Drug and Psychotropic Substances Act, 1985, the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 and the West Bengal Molasses Control Act, 1973. The Excise Department is headed by the Principal Secretary who is assisted by the Excise Commissioner, Additional Excise Commissioner, four Deputy Excise Commissioners, three Special Superintendents of Excise, two Collectors of Excise and 19 Superintendents of Excise.

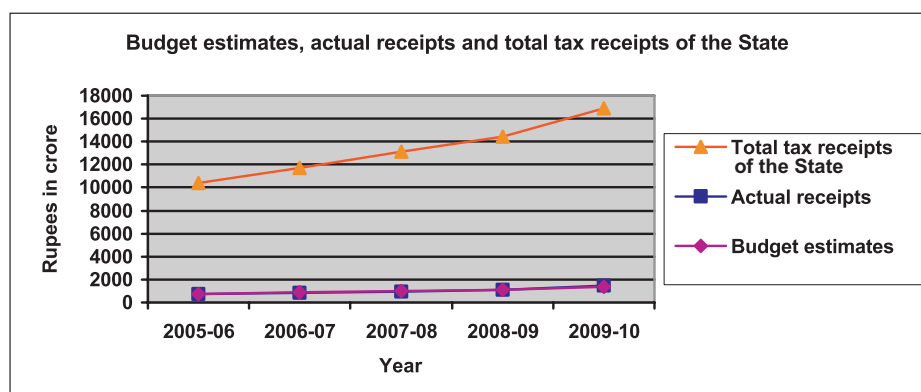
4.2 Trend of receipts

Actual receipts from State Excise during the years 2005-06 to 2009-10 along with the budget estimate and total tax receipts during the period is exhibited in the following table and graph.

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2005-06	750.92	743.46	(-) 7.46	(-) 1.00	10,388.38	7.16
2006-07	869.95	817.36	(-) 52.59	(-) 6.05	11,694.77	6.99
2007-08	1,017.66	935.46	(-) 82.20	(-) 8.08	13,126.33	7.13
2008-09	1,115.42	1,082.94	(-) 32.48	(-) 2.92	14,419.15	7.51
2009-10	1,338.50	1,443.81	(+) 105.31	(+) 7.87	16,899.98	8.55

The percentage of variation between the budget estimates and actual receipts was between (-) 1.00 *per cent* and (+) 7.87 *per cent* during 2005-06 and 2009-10. This shows that the budget preparation was more or less realistic.



4.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2010 amounted to ₹ 13.96 crore of which ₹ 5.36 crore were outstanding for more than five years. The following table depicts the position of arrears of revenue during the period 2005-06 to 2009-10.

(Rupees in crore)

Year	Opening balance of arrears	Arrears accumulated during the year	Arrears settled during the year	Closing balance of arrears
2005-06	11.05	1.29	Nil	12.34
2006-07	12.34	3.54	Nil	15.88
2007-08	15.88	Nil	0.81	15.07
2008-09	15.07	Nil	4.57	10.50
2009-10	10.50	3.46	Nil	13.96

In view of the increase in accumulated arrears in 2009-10, the department should adopt proactive steps to collect the arrear revenue.

4.4 Cost of collection

The gross collection of excise revenue and the expenditure incurred on collection during the years 2007-08 to 2009-10 are given in the following table:

(Rupees in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage of expenditure to collection
2007-08	935.46	49.59	5.30	3.27
2008-09	1,082.94	65.76	6.07	3.66
2009-10	1,443.81	77.99	5.40	NA

We noticed that the percentage of expenditure to gross collection was higher than the all India average percentage of expenditure.

We recommend that the Government may examine the reasons for such high cost of collection and take appropriate measures to bring down the cost.

4.5 Revenue impact of audit reports

During the last five years (including the current year's report), we pointed out through our audit reports non/short levy, non/short realisation, underassessment/loss of revenue etc., with revenue implication of ₹ 72.32 crore in 32 paragraphs. Of these, the department/Government had accepted audit observations in 19 paragraphs involving ₹ 29.02 crore and had since recovered ₹ 0.66 crore. The details are shown in the following table:

(Rupees in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted by the department		Amount recovered	
	Number	Amount	Number	Amount	Number	Amount
2005-06	4	0.35	4 ¹	0.14	1	0.03
2006-07	14	37.69	7 ²	27.02	2	0.06
2007-08	4	11.13	2 ³	0.27	1	0.23
2008-09	6	20.66	3 ⁴	0.73	2	0.32
2009-10	4	2.49	3	0.86	1 ⁵	0.02
Total	32	72.32	19	29.02	7	0.66

Thus, the amount recovered was only 2.27 per cent of the accepted paragraphs which was very low.

We recommend that the Government may revamp the recovery mechanism to ensure that the amount involved in accepted cases is promptly recovered.

4.6 Working of internal audit wing

The internal audit wing (IAW) of an organisation is a vital component of its internal control mechanism and is generally defined as the control of all controls to enable the organisation to assure itself that the prescribed system is functioning reasonably well.

The internal audit wing of Excise department has been established in the year 1983 with the objective of having the accounts audited independently so that errors and frauds could be detected in time and action could be taken promptly and effectively upon such detection. The wing is headed by the Deputy Commissioner of Excise (Audit) who is assisted by three Assistant Commissioner of Excise (Audit) and three Auditors. The wing has not yet prepared an internal audit manual. The Excise department has 23⁶ auditable units but since 2006 the wing has not audited even a single unit. This was attributed to vacancy in the posts of Deputy Commissioner of Excise (Audit) and Assistant Commissioner of Excise (Audit) since May 2001.

¹ Out of four paragraphs two are partly accepted.

² Out of seven paragraphs two are partly accepted.

³ All are partly accepted.

⁴ Out of three one is partly accepted.

⁵ Partly accepted.

⁶ Collector of Excise-2, Superintendent of Excise-19, Directorate of Excise-1, Medicine and toilet preparation-1.

We recommend that the IAW may be made fully operational by filling up the vacant posts.

4.7 Results of audit

In 2009-10 we test checked the records of 12 units relating to excise receipts and found underassessment of tax and other irregularities involving ₹ 59.07 crore in 84 cases which fall under the following categories:

(Rupees in crore)			
Sl. no.	Categories	No. of cases	Amount
1.	Non/short levy of excise duty, wastage fee on chargeable wastage of rectified spirit/India made foreign liquor	5	0.38
2.	Non/short realisation of privilege fee, additional fee, pass fee etc.	11	0.90
3.	Non/short realisation of establishment cost	7	0.32
4.	Non/short realisation of excise duty due to short yield of alcohol/beer	1	0.27
5.	Other cases	60	57.20
Total		84	59.07

During the course of the year, the department accepted underassessment and other deficiencies of ₹ 5.59 crore in 45 cases, of which 32 cases involving ₹ 4.90 crore were pointed out in audit during the year 2009-10 and the rest in earlier years. An amount of ₹ 1.20 crore was realised in 26 cases during the year 2009-10.

A few illustrative cases involving ₹ 1.95 crore are mentioned in the following paragraphs.

4.8 Audit observations

Scrutiny of the records in the offices of Superintendents of Excise indicated several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of duty, fee etc., as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions are pointed out in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that such mistakes can be avoided.

4.9 Non-realisation of excise duty/fee on unsold stock of foreign liquor

Rule 241(2) of the West Bengal Excise (Foreign Liquor) (WBEFL) Rules, 1998 provides that if bottled foreign liquor is lying unsold in the warehouse after the expiry of twelve months from the end of the month of manufacture, the licensee shall forthwith apply to the excise officer in charge for moving the stock to the adjunct trade on payment of duty who will ensure that such stock is transferred to the trade. Failure of the licensee to comply with the provision of the Rule renders him liable for cancellation/suspension of his license.

4.9.1 We found in three District Excise Offices⁷ between August and September 2009 that in five cases 49,656.96 London Proof Litre (LPL) of different brands and measures of foreign liquor were lying unsold in the warehouses of five licensees after expiry of twelve months from the month of their manufacture. The licensees were required to move such stock to the adjunct trade on payment of duty. However, we noticed that one licensee did not apply for removal of the stock

and the district excise authority also did not take any action like suspension/cancellation of the license or recovery of the excise dues. The other four licensees applied between October 2007 and July 2009 for removal of the stock but no action was initiated for its removal resulting in non-realisation of revenue of ₹ 91.54 lakh.

After we pointed this out, the department stated in one case involving ₹ 16.36 lakh that the license of the licensee has been cancelled and action for realisation of the duty is being taken. In three cases against ₹ 9.97 lakh realisable, ₹ 2.17 lakh has been realised at the instance of audit. Report on realisation of the balance amount has not been received while in the remaining case involving ₹ 65.21 lakh the department stated that the provision is not applicable in the instant case without assigning any specific reason. However, the fact remains that the licensee had applied for removal of the liquor on payment of duty on which no action had been taken by the district excise authorities.

⁷ Burdwan (West), Nadia and North 24-Parganas.

We forwarded the cases to the Government between September and October 2009 followed by reminders issued upto July 2010; they did not furnish any reply (October 2010).

The proviso of the Rule provides that for removal of liquor from the warehouse, the licensee shall pay a fee of ₹ 3 per Bulk Litre (BL) per day for such stock for the period from the date of expiry of twelve months from the end of the month of manufacture till the date of application to the excise officer-in-charge.

4.9.2 We found in three excise offices⁸ between November 2008 and December 2009 that foreign liquor of 7901.64 BL was lying unsold in three warehouses after the expiry of twelve months from the end of the month of their manufacture. The licensees applied to the excise officer-in-charge for removal of the said stock

between November 2007 and November 2009 i.e. after expiry of twelve months from the end of the month of their manufacture. However, the district excise authorities debonded the liquor without levy of late fee of ₹ 63.90 lakh resulting in non-realisation of revenue to that extent.

After we pointed this out, all the three district excise officers accepted the audit observations and in one case raised demand of ₹ 50.63 lakh out of ₹ 61.56 lakh. However, the reason for raising less demand has not been intimated. In the remaining cases it was stated that the licensees have been directed to deposit the amount of ₹ 2.34 lakh.

We forwarded the cases to the Government between December 2008 and January 2010 followed by reminders issued upto July 2010; they did not furnish any reply (October 2010).

4.10 Non-realisation of excise duty due to non-destruction of unregistered and unsold stock of foreign liquor

Rule 118 of the WBEFL Rules, 1998 provides that the stock of foreign liquor lying unsold in any bonded warehouse after the expiry of one month from the last day of validity of registration of the brand name and the label shall be destroyed by the Collector with the prior approval of the Excise Commissioner (EC), West Bengal on realisation of excise duty.

We found in three District Offices⁹ between July and September 2009 in the case of five¹⁰ licensees of foreign liquor bonded warehouses that 20,962.44 LPL of different brands and measures whose label registration had expired between April 2001 and April 2008 was lying unsold in the warehouses of the licensees. The district excise authorities

⁸ Kolkata (North), Kolkata (South) and South 24-Parganas.

⁹ Kolkata (North), Paschim Medinipur and South 24-Parganas.

¹⁰ M/s BBM Enterprise, M/s D. P. Shaw and Co., M/s IFB Agro Industries Ltd., M/s S. N. Shaw and M/s VTR Marketing.

(DEAs) did not initiate any action for destruction of the liquor after realisation of excise duty. Failure of the DEAs to comply with the rules resulted in non-realisation of excise duty of ₹ 39.58 lakh.

After we pointed this out, the department in one case involving ₹16.92 lakh stated in August 2010 that the licensee had applied for re-processing of the liquor which was under consideration of the Excise Commissioner. In one case involving ₹3.20 lakh it stated that the licensee has applied for destruction of the liquor which was under consideration of the EC while in the remaining cases involving ₹ 19.46 lakh the department did not furnish any reply.

We forwarded the cases to the Government between September and October 2009 followed by reminders issued upto July 2010; they did not furnish any reply (October 2010).

The Government may consider fixing a time limit for destruction of unregistered stock for early realisation of excise duty.

CHAPTER V

OTHER TAX RECEIPTS

5.1 Tax administration

The assessment and collection of Stamp Duty and Registration Fees, Profession Tax, Electricity Duty and Amusement Tax are governed by separate sets of Acts and Rules. These taxes are administered by Finance (Revenue) department headed by the Principal Secretary, Finance who is assisted by the concerned directorates.

5.2 Results of audit

We test checked the records of 46 units relating to Stamp Duty and Registration Fees, Profession Tax, Electricity Duty and Amusement Tax and found underassessment of tax and other irregularities involving ₹ 47.35 crore in 96 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
STAMP DUTY AND REGISTRATION FEES			
1.	Non-realisation of Stamp Duty and Registration Fees	15	0.87
2.	Non-issuance of demand notice for realisation of Government revenue	13	2.94
3.	Other irregularities	23	0.42
Total		51	4.23
PROFESSION TAX			
1.	Non-realisation of profession tax due to non-enrolment	18	0.44
2.	Non-realisation of profession tax from enrolled professionals	5	0.10
3.	Other irregularities	12	0.81
Total		35	1.35
ELECTRICITY DUTY			
1.	Non-realisation of assessed electricity duty/interest	2	40.86
2.	Other irregularities	3	0.01
Total		5	40.87
AMUSEMENT TAX			
1.	Non-realisation of entertainment tax	1	0.70
2.	Other irregularities	4	0.20
Total		5	0.90
Grand total		96	47.35

During the course of the year, the department accepted underassessment and other deficiencies of ₹ 8.81 crore in 74 cases, of which 59 cases involving ₹ 8.47 crore were pointed out in audit during the year 2009-10 and the rest in earlier years. An amount of ₹ 43.28 lakh was realised in 18 cases during the year 2009-10.

A few illustrative cases involving ₹ 2.43 crore are mentioned in the following paragraphs.

5.3 Audit observations

Scrutiny of the records in the offices of the Additional District Sub-Registrars, Sub-Registrars and Profession Tax Officers indicated non-realisation of stamp duty, registration fees and profession tax as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions are pointed out in audit repeatedly, but not only do these persist; they also remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.

A. STAMP DUTY AND REGISTRATION FEES

5.4 Non-realisation of deficit stamp duty and registration fees due to non-issuance of demand notice

Rule 3(8) of the West Bengal Stamp (Prevention of Undervaluation of Instruments) [WBS(PUI)] Rules, 2001 provides that where the registering authority has reason to believe that market value of the property has not been truly set forth in the instrument presented for registration, he shall ascertain the market value of the property and issue notice to the executant directing him to pay the deficit stamp duty and registration fees within 30 days from the date of receipt of such notice.

5.4.1 We found in 15¹ Registration Offices of 10² districts between July 2008 and June 2009 that 1,110 documents presented for registration between April 2004 and October 2008 were kept in abeyance due to undervaluation of property. Though the registering authorities subsequently determined the market value of the property in all the cases, demand notices were not issued to the executants for payment of the deficit stamp

duty and registration fees. This resulted in non-realisation of revenue of ₹ 1.32 crore (Stamp Duty: ₹ 1.07 crore and Registration Fees: ₹ 25.32 lakh).

After we pointed out the cases, the registering authorities of 11³ units in 814 cases involving ₹ 1.02 crore stated between March 2009 and June 2009 that action was being taken to issue demand notices for realisation of the deficit stamp duty and registration fees. The registering authorities of four⁴ units in the remaining 296 cases involving ₹ 30.17 lakh, did not furnish any specific reply.

¹ ADSR, Balichak, Baruipur, Bhagwangola, Chakdah, Domjur, Galsi, Kalyani, Katwa, Khandaghosh, Memari, Medinipur, Mothabari, Panskura, Raiganj and Rampurhat.

² Birbhum, Burdwan, Howrah, Malda, Murshidabad, Nadia, Paschim Medinipur, Purba Medinipur, South 24-Parganas and Uttar Dinajpur.

³ ADSR, Balichak, Baruipur, Chakdah, Domjur, Galsi, Katwa, Medinipur, Memari, Mothabari, Panskura and Raiganj.

⁴ ADSR: Bhagwangola, Kalyani, Khandaghosh and Rampurhat.

We reported the matter to the Government who stated in May 2010 that an amount of ₹ 2.66 lakh has been realised in 13 cases. Report in respect of the remaining 1,097 cases has not been received (October 2010).

We further noticed that the rules do not provide for a time frame for ascertaining the market value of the property and issuing the demand notice to the executant and its absence has resulted in non-realisation of Government revenue. **It is recommended that the Government may consider providing a time frame for ascertaining the market value of the property and issuing demand notices to the executants in the interest of Government revenue.**

The WBS(PUI) Rules, 2001 provide that if demand raised for payment of deficit duty is not paid within the stipulated period of 30 days mentioned in the demand notice the case is to be referred to the Collector/Deputy Inspector General of Registration (DIGR) for determination of market value of the property.

5.4.2 We found in the offices of the Additional District Sub-Registrar (ADSR), Ramnagar and Satahata in the district of Purba Medinipur between August 2008 and May 2009 that 68 documents presented for registration between April 2004 and November 2006 were kept in abeyance due to undervaluation of properties. The registering authorities subsequently assessed

the market value of the properties at ₹ 16.83 crore against the set forth value of ₹ 7.37 crore and issued demand notices to the executants for payment of the deficit stamp duty and registration fees of ₹ 52.47 lakh (stamp duty: ₹ 41.38 lakh and registration fees: ₹ 11.09 lakh) within 30 days. Though the executants did not pay the deficit stamp duty and registration fees within the stipulated period, the registering authorities did not refer the cases to the Collector/DIGR for determination of the market value of the properties even after lapse of an average period of 35 months from the date of presentation of the instruments as no time frame has been prescribed in the Act or Rules to refer such cases to the Collector/DIGR. This resulted in non-realisation of revenue of ₹ 52.47 lakh.

After we pointed out the above observations, the department stated between August 2008 and May 2009 that steps would be taken to refer the pending cases to the Collector/DIGR for early disposal.

We reported the matter to the Government who stated in July 2010 that an amount of ₹ 17.83 lakh has been realised in 19 cases. Report on action taken in the remaining cases has not been received (October 2010).

Thus, it would be seen from the above that delay in referring the cases to the concerned authorities results in delay in realisation of the Government revenue. **It is recommended that the Government may consider issuing directions to the department for prescribing a time limit for referring the cases to the Collector/DIGR.**

B. PROFESSION TAX**5.5 Non-raising of demand and non-realisation of profession tax**

Rule 15 (2) of the West Bengal State Tax on Professions, Trades, Callings and Employments Rules, 1979 provides that any person or employer who stood enrolled before the commencement of the year, is liable to pay profession tax at the prescribed rate before 30th September each year. In case of non-payment, the Profession Tax Officers (PTOs) who are also the Assessing Authority (AA) shall serve a notice of demand directing the defaulter to pay the dues within 15 days from the date of receipt of notice.

We found in four⁵ unit offices between November 2006 and September 2009 that 216⁶ enrolled persons/ employers/ owners of nursing homes, diagnostic centres, beauty parlours, foreign liquor shops, etc. had not paid profession tax for different periods ending between 2004-05 and 2008-09. The PTOs did not assess and issue any demand notice to those defaulters resulting in non-realisation of profession tax of ₹ 52.70 lakh.

The PTOs of two⁷ units admitted the audit observations (November 2006 and June 2007) in respect of 187 cases involving ₹ 5.41 lakh. The PTOs of the remaining two units in 29 cases involving ₹ 47.29 lakh did not furnish any specific reply.

We forwarded the cases to the Government between December 2006 and October 2009 followed by reminders issued upto July 2010; they did not furnish any reply (October 2010).

5.6 Non-realisation of profession tax due to non-enrolment

Section 5 (2) of the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 provides that every person coming under the purview of the Act shall obtain a certificate of enrolment from the prescribed authority and pay tax at the prescribed rates.

We cross verified the records of four⁸ licence issuing offices with those of three⁹ unit offices of profession tax between December 2008 and October 2009 and found that 89¹⁰ professionals,

⁵ ACPT, Kolkata West Range ; PTOs South Unit- I, Howrah, Central Unit-V, Barasat and Central Unit-VII, Baruipur.

⁶ LIC Agents-135, Employer-25, Owners of Diagnostic Centres - 26, Nursing Homes-16, Beauty Parlours -3, Eye Care Centres-2, X-ray clinics-3 and Others-6.

⁷ AAs, Central Unit-V, Barasat and Central Unit -VII, Baruipur.

⁸ Serampore Municipality, Siliguri Municipal Corporation, Chief Medical Officer of Health, Barasat and Superintendent of Excise, North 24-Parganas.

⁹ DCPT, South Unit-III, Serampore, PTO, North Unit-I, Siliguri and PTO, Central Unit-V, Barasat.

¹⁰ Postal agents -32, Computer Training/Education Centre -10, Cinema Halls -3, Health Care Centre -1, Beauty Parlours - 4, Restaurants - 3, Bhawans - 7, Foreign Liquor Shops - 8 and Clinical Establishments/Diagnostic Centres - 21.

traders, etc. had not enrolled themselves under the Act and continued with their professions without payment of tax during the period between April 2004 and March 2009. The PTOs failed to bring these persons under the tax net and recover tax at the prescribed rate. Absence of a mechanism for cross verification with the records of license granting authorities in order to bring persons evading tax into the tax net resulted in non-realisation of profession tax of ₹5.99 lakh.

The PTOs of two¹¹ units admitted the audit observations between April and October 2009, in respect of 36 professionals, traders, etc. involving ₹2.25 lakh but did not furnish any report regarding their enrolment and realisation of tax. The Deputy Commissioner of Profession Tax, West Bengal, South Unit-II, Serampore in respect of the remaining 53 professionals, traders, etc. involving ₹3.74 lakh, did not furnish any specific reply.

We forwarded the cases to the Government between January and November 2009 followed by reminders issued upto July 2010; they did not furnish any reply (October 2010).

The Government may consider establishing a mechanism for cross verification with the records of license granting authorities to bring professionals, traders and other eligible persons evading tax into the tax net.

¹¹ PTO, North Unit- I, Siliguri and PTO, Central Unit -V, North 24 -Parganas.

CHAPTER VI

OTHER NON-TAX RECEIPTS

6.1 Tax administration

Receipts from Forests, Public Works, Police, Mines and Minerals and Irrigation and Waterways are major non-tax revenues of the State Government. The assessment and collection of these non-tax revenues are governed by separate sets of Acts and Rules which are administered by the Principal Secretaries/Secretaries of the concerned departments who are assisted by the respective Directorates.

6.2 Results of audit

We test checked the records of 30 units relating to non-tax receipts and found underassessment of revenue and other irregularities involving ₹139.03 crore in 131 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
FOREST			
1.	Management of Forest Receipts (A review)	1	75.19
2.	Non/short realisation of Government revenue	17	1.56
3.	Other irregularities	14	0.92
Total		32	77.67
MINES AND MINERALS			
1.	Non/short realisation of price of minerals	42	5.04
2.	Other irregularities	37	4.53
Total		79	9.57
DEPARTMENTAL RECEIPTS			
1.	Non-realisation of police cost	6	45.95
2.	Other irregularities	14	5.84
Total		20	51.79
Grand total		131	139.03

During the course of the year, the departments accepted underassessment and other deficiencies of ₹37.59 crore in 50 cases, of which 49 cases involving ₹37.58 crore were pointed out in audit during the year 2009-10 and the rest in earlier years. An amount of ₹0.66 lakh was realised in one case during the year 2009-10.

A few illustrative cases involving ₹ 4.40 crore and a review on ‘**Management of Forest Receipts**’ with a financial effect of ₹ 75.19 crore are mentioned in the following paragraphs.

A. FOREST RECEIPTS

6.3 Management of Forest Receipts

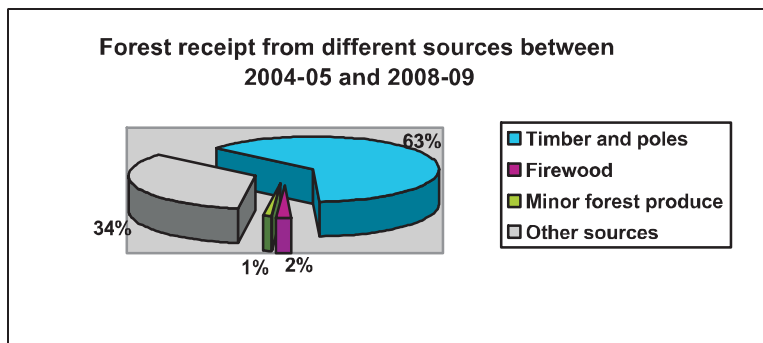
Highlights

- Absence of a system to watch realisation of arrears of revenue resulted in non-realisation of revenue of ₹ 51.04 crore from the WBFDC.
(Paragraph 6.3.8.1 and 6.3.8.2)
- Absence of a system for monitoring the deductions made by the WBFDC resulted in excess deduction of administrative cost and service charges of ₹ 38.63 crore.
(Paragraph 6.3.9.1 and 6.3.9.2)
- Non-implementation of the working plan in five forest divisions resulted in non-harvesting of 364.91 hectares and led to blocking of revenue of ₹ 37.96 crore.
(Paragraph 6.3.13.1)
- Sale of timber and cashew nuts below the reserve price resulted in loss of revenue of ₹ 51.28 lakh.
(Paragraph 6.3.17)
- Delay in disposal of a proposal for diversion of forest land resulted in non-realisation of revenue of ₹ 22.26 crore.
(Paragraph 6.3.21)
- Inaction of the department against contravention of the provisions of the Forest (Conservation) Act and Rules resulted in non-realisation of revenue of ₹ 17.14 crore.
(Paragraph 6.3.22.1)

6.3.1 Introduction

Forest receipts are non-tax revenue of the State Government and during the period 2004-05 to 2008-09, accounted for 0.31 *per cent* and 2.14 *per cent* of the total revenue and the total non-tax revenue of the state respectively. These comprise sale proceeds of timber, honey, cashew nuts, royalty on minerals extracted from forest area, fees and fines. In case of diversion of forest land for non-forestry purpose, net present value (NPV) is realisable from the user agency. The work of harvesting and sale of timber in South West Bengal and North West Bengal was entrusted to the West Bengal Forest Development Corporation (WBFDC) by signing of two memoranda of understanding (MOU) between the WBFDC and the forest directorate. For South West Bengal, the MOU was signed in March 1999 and for North West Bengal the

MOU was signed in March 2004. The WBFDC pays royalty/revenue as provided in the MOU to the department from the sale value of timber.



6.3.2 Audit criteria

Forest receipts are mainly governed by the following Acts and Rules.

- The Indian Forests Act, 1927 as amended by the West Bengal Act, XXII of 1988.
- The Forest (Conservation) Act, 1980 and the Forest (Conservation) Rules, 2003.
- The West Bengal Forest Produce Transit Rules, 1959.
- The West Bengal Forest Manual Part I and Part II.

6.3.3 Organisational set up

The Additional Chief Secretary to the Government of West Bengal, Forest Department is the head of the Department and is assisted by three Principal Chief Conservators of Forests (PCCFs) viz. the PCCF, West Bengal (WB); the PCCF, Wildlife and Bio-Diversity and the PCCF, Research, Monitoring and Development.

The PCCF, West Bengal assisted by four Additional PCCFs¹, is the administrative head of the Forest Directorate consisting of 12 circles², each headed by a Chief Conservator of Forests (CCF). There are 56 forest divisions under the charge of Divisional Forest Officers (DFOs) and Deputy Field Directors (DFDs) out of which 46 are revenue generating divisions.

6.3.4 Audit objectives

We conducted the review to ascertain whether:

- Rules and regulations governing realisation of forest receipts were adequate and were complied with;
- Follow up action in case of default was adequate; and

¹ Finance, Headquarters WLD, Human Resource Development and Vigilance and Wildlife.

² Central, Conservation and Extension, Finance, Headquarters, Monitoring, Evaluation and Soil Conservation (North), Personnel Management Cell, Public Grievance, Law and Information, Research and Development, Sunderban Tiger Reserve (West) and Wildlife (North).

- Internal controls were in place for proper collection and accountal of forest receipts.

6.3.5 Audit scope and methodology

We conducted the review during September 2009 to March 2010 and covered 21³ forest divisions selected by applying stratification and simple random sampling method without replacement⁴ (SRSWOR) out of the 56 divisions. The review covered 76.91 *per cent* of the forest receipts during the period from 2004-05 to 2008-09.

In addition, we test checked the records relating to financial performance of the Joint Forest Management Projects, arrears of revenue, budgeting exercise and working plans, etc. in the offices of the PCCF, WB; the CCF, Finance and the CF, Working Plan & GIS (Geographical Information System).

6.3.6 Acknowledgement

We acknowledge the cooperation of the Forest Department in providing necessary information and records for audit. We held an entry conference in September 2009 with the PCCF, West Bengal and other senior officials of the forest directorate in which the objectives of the review and the audit methodology were explained. The findings of the review were forwarded to the department and to the Government in May 2010 and was discussed in an exit conference held in August 2010. The Government was represented by the Joint Secretary, Forest Department and the department was represented by the PCCF, WB. The replies of the Government and that of the department received during the exit conference have been appropriately incorporated in the respective paragraphs.

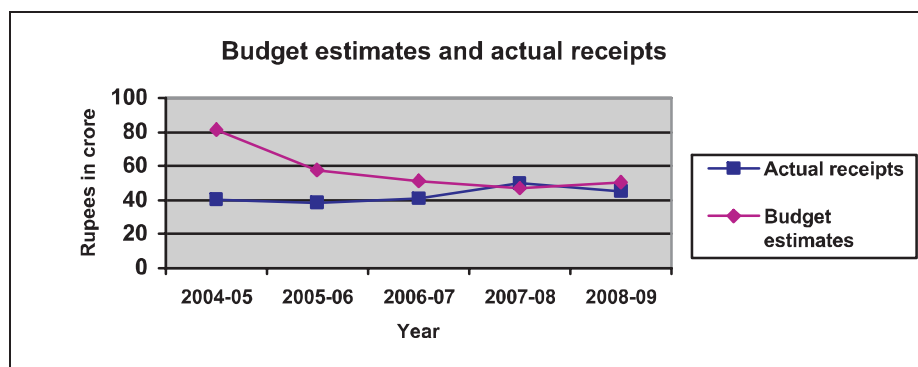
6.3.7 Trend of revenue

As per the provisions of the West Bengal Budget Manual, 1991, the budget estimate (BE) in respect of the forest receipts under the head of account “0406-Forestry & Wildlife” is prepared by the Forest Department every year in terms of Rule 333 of the West Bengal Financial Rules. The figures of budget estimates and actual receipts during the period under review were as under:

³ Baikunthapur, Bankura (North), Bankura (South), Burdwan, Buxa Tiger Reserve (East), Buxa Tiger Reserve (West), Coochbehar, Darjeeling, Durgapur, Jalpaiguri, Kharagpur, Kurseong, Medinipur, Non-Timber Forest Produce, Panchet, Parks & Gardens (North), Utilisation, Wildlife-I, Wildlife-II, South 24-Parganas and Sunderban Tiger Reserve.

⁴ We divided the 56 divisions in three strata on the basis of collection of revenue and selected 100 *per cent* of the divisions from the first stratum, 50 *per cent* divisions from the second stratum and 10 *per cent* divisions from the third stratum.

(Rupees in crore)				
Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation excess (+)/shortfall (-)
2004-05	81.39	40.44	(-) 40.95	(-) 50.31
2005-06	57.67	38.61	(-) 19.06	(-) 33.05
2006-07	51.18	40.87	(-) 10.31	(-) 20.14
2007-08	46.99	49.84	(+) 2.85	(+) 6.06
2008-09	50.43	45.33	(-) 5.10	(-) 10.11



Though the department followed the prescribed system for framing the BE, wide variations between BE and actual receipts were noticed during 2004-05 to 2006-07 which indicated that the BE prepared during these years were not realistic. The PCCF, WB stated that the variation between budget estimates and actual receipts was due to non-achievement of approved target of harvesting of timber in South West Bengal due to extremist activities in forest areas during the last two years. However, the reasons for wide variations during 2004-05 to 2006-07 were not furnished (October 2010).

SYSTEM DEFICIENCIES

6.3.8 Realisation of revenue

6.3.8.1 Absence of a system to watch realisation of arrears of revenue

The Forest Department earns revenue from sale proceeds of timber, honey, cashew nuts, royalty on minerals extracted from forest area, NPV and cost of afforestation, etc. Therefore, in case of default in payment of revenues, the department should take suitable remedial measures.

We noticed that no periodic return depicting the amount of arrears pending collection from various sources was prescribed by the department. In absence of such a system, the department was unaware of the total amount pending collection. From the accounts of the WBFDC we found that

₹ 45.50 crore was outstanding as on 31 March 2009 from the WBFDC. Year-wise details are mentioned below:

(Rupees in crore)					
Year	2004-05	2005-06	2006-07	2007-08	2008-09
Outstanding liabilities of the WBFDC towards the Forest Department	7.90	10.49	16.95	30.25	45.50

The amount of arrears have mounted from ₹ 7.90 crore to ₹ 45.50 crore during the last five years. The department failed to monitor the realisation of revenue resulting in non-realisation of Government revenue of ₹ 45.50 crore from the WBFDC.

After this was pointed out, the PCCF, WB intimated that the matter was being brought to the notice of the WBFDC.

The Government may consider putting in place a monitoring system by way of periodical returns and creating and maintaining a database for monitoring revenue realisable and realised from various sources.

6.3.8.2 Absence of a provision for levy of interest on belated payment of revenue

As per the MOUs executed in March 1999 and March 2004, the WBFDC shall pay the Government revenue from sale of timber in the financial year following the harvesting year in respect of South West Bengal and deposit the revenue twice a year, in September and March respectively in respect of North West Bengal. However, the Forest Acts, Rules and instructions issued thereunder do not have any provision for levy of interest on non/belated payment of dues to the Government though in other states, like Orissa, the Forest Corporation has to pay interest on belated payment of royalty.

We found in 51 cases of 10⁵ divisions that there was belated payment and non-payment of Government revenue of ₹ 14.61 crore and ₹ 5.54 crore respectively by the WBFDC. The average delay in remittance of the amount was 48 months beyond the prescribed time limit. Had there been a provision for levy of interest, the department would have realised the outstanding revenue of ₹ 5.54 crore and also earned an interest of at least

₹ 2.02 crore as mentioned in **Appendix-II** of the report.

After we pointed this out, the PCCF, WB stated that the WBFDC had been requested to ensure regular payment of revenue and since the WBFDC is a 100 *per cent* State Government undertaking the imposition of interest will not be desirable. The reply is not tenable since we noticed that though the WBFDC defaulted in payments of revenue to the forest department its fixed deposits in banks increased from ₹ 17.23 crore to ₹ 62.99 crore between 2004-05 and 2008-09 and it earned interest of more than ₹ 4 crore during 2004-05 to 2007-08.

⁵ Baikunthapur, Bankura (North), Bankura (South), Burdwan, Darjeeling, Jalpaiguri, Kharagpur, Kurseong, Medinipur and Panchet.

The Government may consider making a provision for levy of interest to deter non/belated payment of revenue.

6.3.9 Absence of a system for monitoring the deductions made by the WBFDC

As per the MOUs signed in March 1999 and in March 2004, the revenue collected by the WBFDC by sale of timber is paid to the Government after making the prescribed deductions for operational expenses, project input (i.e., money advanced for the project) and share of forest protection committees. Further, the WBFDC is entitled to deduct its administrative cost at the rate of 15 per cent and service charge at the rate of 17 per cent from the sale value of timber in South West Bengal and North West Bengal respectively.

6.3.9.1 We found that no information was maintained by the department for monitoring the deductions made by the WBFDC from sales of timber before payment of revenue to the Government. We noticed from the status report⁶ of the WBFDC that the Corporation had deducted ₹59.82 crore at the rate of 23 per cent as administrative cost instead of ₹30.47 crore at the rate of 15 per cent in respect of South West Bengal during the period from 1998-99 to 2006-07. The reasons for excess deduction by the WBFDC were neither found on record nor furnished by the PCCF, WB. Thus, absence of a system for

monitoring the deductions made by the WBFDC led to excess deduction of the administrative cost of ₹29.35 crore by the WBFDC.

6.3.9.2 We found that the WBFDC authorised five⁷ divisions to harvest and auction timber on its behalf. The divisions remitted the total revenue from sales of timber to the WBFDC. Thereafter, the WBFDC paid the Government revenue after making the deductions in respect of service charge of ₹9.28 crore. Since the divisions themselves harvested and auctioned timber, the WBFDC was entitled to get only the component of the service

The service charge consists of 'Interest on working capital' and 'Selling and distribution expenses'. However, the percentage of each component has not been mentioned in the MOU.

charge pertaining to the 'Interest on working capital'. In absence of a prescribed percentage of composition of service charge, the loss of Government revenue could not be ascertained.

6.3.9.3 We found from the records of the DFD, Buxa Tiger Reserve (West) and the DFD, Buxa Tiger Reserve (East) divisions that the WBFDC deducted an amount of ₹7.98 lakh pertaining to the sundry debtors of the WBFDC in

⁶ Status report: A report prepared by the WBFD Corporation on joint forest management and enhancing forest produce.

⁷ Baikunthapur, Buxa Tiger Reserve (East), Buxa Tiger Reserve (West), Darjeeling and Jalpaiguri.

addition to the prescribed deductions of the operational cost, project inputs, service charges, etc. This resulted in short realisation of revenue of ₹7.98 lakh.

After we pointed this out, the PCCF, WB replied that the matter was being brought to the notice of the WBFDC.

The Government may consider establishing a system to watch the deductions made by the WBFDC from the revenue and also defining the percentage composition of the service charge.

6.3.10 Short realisation of transit pass fee on imported timber

Timber is imported into West Bengal through the Kolkata Port Trust (KOPT). From the accounts of the KOPT⁸ we found that 28,65,000 cum⁹ of timber was imported during the period between 2004-05 and 2008-09 and TP fee of

Rule 5 of the West Bengal Forest Produce Transit Rules, 1959 provides that timber can be imported and transported under a transit pass (TP) issued by the forest department. The department realises a TP fee at the rate of ₹50 per cubic meter (cum) from the importers of timber for issue of the TP with effect from February 2000.

₹ 14.34 crore was realisable from the importers. We cross checked this information with the data collected from the department and found that the department realised TP fee of ₹ 8.51 crore on imported timber between 2004-05 and 2008-09. This resulted in short realisation of TP fees of ₹ 5.83 crore as mentioned in **Appendix-III** of the report. To prevent evasion of tax on import of commodities the Sales Tax authorities liaise with the Customs authorities. However, the Forest

Department does not have a mechanism to cross verify the records regarding import of timber of the Customs authorities with the TPs issued by the department to identify the importers who imported timber without TP.

After we pointed this out, the PCCF, WB replied that the matter had been taken up with the Chairman of the KOPT requesting him to issue necessary instructions to the CISF personnel manning the exit points in the port area, to ensure that all trucks carrying timber are accompanied by transit passes. However, the reply was silent about the action to recover the fees pointed out by us.

The Government may consider establishing liaison with the Customs authorities in respect of imported timber to avoid leakage of revenue.

⁸ <http://kolkataporttrust.gov.in/>

⁹ The quantity of imported timber was 28,65,000 tonne as per website of Kolkata Port Trust.

6.3.11 Non-disposal of timber

Under the provisions of Section 52 and 58 of the Indian Forest Act, 1927, the forest produce seized in connection with forest offences need prompt disposal to avoid natural decay.

6.3.11.1 We reviewed the undetected offence register and found in 113 cases of three¹⁰ divisions that timber was seized between July 1991 and March 2009 in connection with forest offences. Age-wise analysis of the cases is mentioned below:

	Number of cases
Cases more than 15 years old but less than 18 years old	4
Cases more than 10 years old but less than 15 years old	6
Cases more than 5 years old but less than 10 years old	15
Cases more than 2 years old but less than 5 years old	20
Cases less than 2 years old	68
Total	113

Though the timber was required to be disposed of immediately this was not done even after average delay of 86 months from the date of seizure resulting in blocking of revenue of ₹ 52.28 lakh as mentioned below:

(Rupees in lakh)				
Name of the forest division	Number of cases	Timber seized between	Time lapsed till date of audit between	Value of timber
Wildlife-II	29	January 2005 and December 2008	12 and 60 months	16.86
Buxa Tiger Reserve (West)	60	April 2007 and March 2009	9 and 32 months	23.34
Coochbehar	24	July 1991 and July 2006	27 and 163 months	12.08
Total	113			52.28

We further noticed that though the register of offence cases was checked by the higher authorities like CF and CCF, no effort was made to conduct periodical verification to check the extent of deterioration of the timber.

After we pointed this out, the PCCF, WB replied that the divisions were being asked to take corrective action.

6.3.11.2 We found that the Divisional Manager, Kurseong Logging Division of the WBFDC returned 54 timber lots in August 2006 to the DFO, Baikunthapur. These lots were handed over to the WBFDC between 1999-2000 and 2003-04 for disposal. We noticed that out of these 54 timber lots, 15 timber lots were rotten at the time of return and no reasons were recorded for acceptance of such old timber lots. We further noticed that the DFO, Baikunthapur did not initiate any action to dispose of the remaining 39 timber lots.

¹⁰ Buxa Tiger Reserve (West), Coochbehar and Wildlife-II.

This resulted in loss of revenue of ₹3.78 lakh involved in the 15 rotten timber lots as well as blocking of revenue of ₹18.94 lakh involved in the unsold 39 timber lots.

After we pointed this out, the PCCF, WB replied that the matter was being brought to the notice of the WBFDC.

The Government may consider strengthening the system of monitoring the disposal of timber to avoid deterioration of its quality and consequent revenue loss.

6.3.12 Absence of time limit for auction of confiscated vehicles

Under the provisions of section 59A(4) (a) of the Indian Forest Act, 1927, as amended by the West Bengal Act, XXII of 1988, the vehicles confiscated for forest offences may be sold by public auction. Before disposing the vehicle through public auction the forest department is required to get the reserve price fixed by the Motor Vehicles Department. For this purpose requisition is required to be sent to the Motor Vehicles Department. No time limit has been prescribed for early auction to prevent deterioration of the vehicles.

We found in five¹¹ divisions that 131 vehicles confiscated between May 1992 and August 2008 for forest offences were not disposed of till date (October 2010).

Age-wise analysis of these vehicles is mentioned below:

	Number of cases	Trucks	Vans	Cars
Cases more than 15 years old but less than 18 years old	11	3	6	2
Cases more than 10 years old but less than 15 years old	20	8	8	4
Cases more than 5 years old but less than 10 years old	22	10	10	2
Cases more than 2 years old but less than 5 years old	78	10	42	26

Thus, it would be seen from the above table that 53 vehicles are pending disposal for more than five years.

Of these, two divisions sent request for fixation of reserve price in 21 cases to the Motor Vehicles Department. Three¹² forest divisions did not take any initiative to get the reserve prices of the vehicles fixed by the transport authorities. We noticed that the department had not fixed a time frame for itself and had not developed any system for prompt disposal of the vehicles in case of non-receipt of the reserve prices from the Motor Vehicles Department. The condition of the vehicles was bound to deteriorate decreasing their utility

¹¹ Baikunthapur, Buxa Tiger Reserve (East), Buxa Tiger Reserve (West), Coochbehar and Jalpaiguri.

¹² Baikunthapur, Buxa Tiger Reserve (East) and Coochbehar.

and sale value. The revenue blocked due to non-disposal of the confiscated vehicle could not be quantified as the reserve prices were not available with the department.

After we pointed this out, the PCCF, WB replied that in case of non-receipt of the reserve price from the Motor Vehicles Department, the district magistrate would be requested to depute one executive magistrate to be present at the time of holding auctions to ensure transparency and the divisions were being advised accordingly.

The Government may consider fixing a time limit for disposal of the confiscated vehicles.

6.3.13 Preparation and implementation of Working Plan

The silvicultural activities of a forest division are carried out in accordance with the approved Working Plan (WP) of the division. A WP aims at continuity of activities under the forest policy. The WPs are prepared by the Forest Department for a period of 10 years and contain sub-plans for plantation, regeneration and collection of timber from dead and wind fallen trees, timber operations, etc. and are approved by the Regional Chief Conservator of Forests (RCCF), Ministry of Environment and Forests, Government of India. When the WPs are not followed, this adversely affects the activities of plantation, regeneration and timber operation leading to shortfall in revenue collection.

6.3.13.1 We found in 11 divisions¹³ that clear felling coupe (CFC)¹⁴ operation in 8,093 hectare (ha) was due as per the WPs between 2004-05 and 2008-09. Of these, one division¹⁵ did not carry out the CFC operation in 32 ha whereas 10 divisions¹⁶ carried out CFC operations in 6,927 ha only instead of the prescribed area of 8,061 ha. This resulted in non/short CFC operation in 1,166 ha leading to blocking of revenue amounting to ₹ 44.59 crore.

After we pointed this out, the PCCF, WB replied that the shortfall in the harvesting targets of CFCs in South West Bengal was due to

severe political disturbance. However, the reasons for non/short CFC operation in 364.91 ha involving ₹ 37.96 crore in five¹⁷ forest divisions of North West Bengal were not furnished.

¹³ Baikunthapur, Bankura, Burdwan, Buxa Tiger Reserve (East and West), Durgapur, Jalpaiguri, Kharagpur, Kurseong, Medinipur and Panchet.

¹⁴ Clear Felling Coupe: It is a system in which old crop is cleared by one single felling.

¹⁵ Baikunthapur.

¹⁶ Bankura, Burdwan, Buxa Tiger Reserve (East and West), Durgapur, Jalpaiguri, Kharagpur, Kurseong, Medinipur and Panchet.

¹⁷ Baikunthapur, Buxa Tiger Reserve (East and West), Jalpaiguri and Kurseong.

6.3.13.2 We found in four divisions¹⁸ that thinning¹⁹ operation in 2,163 ha was due as per the WPs between 2006-07 and 2008-09. Out of these, one division (Buxa Tiger Reserve, East) did not carry out the thinning operation at all in 13 ha, whereas three divisions carried out thinning operations in 735 ha only instead of the prescribed area of 2,150 ha. This resulted in non/short thinning of 1,428 ha leading to blocking of revenue as well as hampering the growth of the forest.

After we pointed this out, the PCCF, WB replied that the thinning operations could not be carried out in some of the divisions due to lack of funds and such shortfall in harvesting/thinning targets should not be considered as blocking of revenue since the primary goal of forestry operation is to conserve forest resources. The reply is not tenable as non-conducting of thinning operation hampers the growth of trees in the forest besides blocking revenue.

6.3.14 Inadequate coverage by internal audit

Internal audit is a vital tool available to the management to monitor the functioning of an organisation. It helps the management to take corrective action wherever necessary to ensure that the systems are functioning reasonably well and the stated objectives are achieved.

The Internal Audit (IA) Branch set up in November 1998 under the Finance Department conducts internal audit in various departments. The IA Branch is headed by the Commissioner and assisted by two Joint Commissioners. 28 Internal audit officers in place of the sanctioned strength of 192 are conducting the internal audit of the departments.

We found that the IA Branch started the audit of the Forest Department only in the year 2008-09 and audited six divisions between August 2008 and March 2009. The remaining 49 divisions were never audited by the wing till March 2009. The findings regarding receipts were also limited to sale of timber below the schedule of rate and non-disposal of seized timber. No audit plan was prepared by the IA Branch.

The Government may strengthen the manning of the Internal Audit Branch to ensure that internal audit of a certain percentage of units of the Forest Department is conducted at regular intervals.

6.3.15 Non-updating of forest manual

Documentation and updating of procedure for various functions of the department is essential for assisting the authorities at various levels to carry out their duties.

We found that the present West Bengal Forest Manual, Part I and Part II, published in 1964, was not updated/revised despite many changes in the activities of the department as well as in the Acts and Rules. Some examples are:

¹⁸ Buxa Tiger Reserve (East), Jalpaiguri, Kurseong and Medinipur.

¹⁹ Thinning – it is an operation to thin out some trees to help in improving the growth of the remaining trees in a specified area.

- The Forest Department entrusted the work of harvesting and sale of timber in the state to the WBFDC under two projects of Joint Forest Management in 1998-99 and 2004-05. The WBFDC is required to pay within the prescribed time a royalty/revenue to the Government “at the prescribed rates”/“after making prescribed deductions” of/from sale value of timber. Because of non-updating/revision, the manuals do not provide for a system of monitoring the sales and payments/deductions of/from revenue by the WBFDC and also for deterrent measures to prevent default in payment of revenue by the WBFDC.
- Under the provisions of the Indian Forests Act, 1927, as amended by the West Bengal Act, XXII of 1988, the forest produce seized and the vehicles confiscated in connection with the forest offences may be sold by the authorities. However, the manuals do not provide for early sale to prevent the forest produce and the vehicles from deterioration.
- The manuals do not contain the provisions of the Forest (Conservation) Act, 1980 and the Forest (Conservation) Rules, 2003.
- The changes in the Acts and Rules as well as in the activities of the department were available only in notifications/circulars issued from time to time.

The manuals, thus, did not serve the intended purpose due to non-updating/revision.

After we pointed this out, the PCCF, WB replied that efforts were being made to update the manuals within the next two years.

The department may consider updating the manuals periodically so that these serve the purpose for which they were intended.

COMPLIANCE ISSUES

6.3.16 Non-realisation of depot rent

As per condition of Auction Sale notice of timber lots, the timber lots from the depot have to be lifted by the purchaser within 120 days from the last date of auction. For lifting of the lots beyond the stipulated date the purchaser shall have to pay depot rent of ₹0.50 per day per hundred rupees.

We found in the offices of the DFO, Durgapur and Bankura (North) that in 392 cases the lots were lifted by the purchasers from the depots after the prescribed time limit. The average delay was 278 days for which the depot rent was not realised. This resulted in non-realisation of depot rent

of ₹ 89.18 lakh as mentioned in **Appendix-IV** of the report.

After we pointed this out, the PCCF, WB replied that necessary instructions were being issued to the divisions for realisation of depot rent.

6.3.17 Loss of revenue due to sale of timber and cashew nuts below the reserve price

A Price Fixation Committee (PFC) consisting of the Chief Conservator of Forests (CCF), Marketing Circle, the CCF and the Divisional Forest Officer of the concerned division fixes the reserve price for the lots of timber and cashew nuts to be auctioned. In case of sale below the reserve prices fixed by the PFC, the reasons are to be recorded in the auction register and have to be approved by the competent authority.

We noticed in 480 cases of three divisions that the timber and cashew nut lots were sold below the reserve prices fixed by the PFC without assigning any reason. This resulted in loss of revenue of ₹ 51.28 lakh as given below:

(Rupees in lakh)		
Name of the forest division	Number of cases	Short realisation of revenue
DFO, Medinipur	32	6.24
DFO, Kharagpur	124	23.59
DFO, Panchet	324	21.45
Total	480	51.28

After we pointed this out, the PCCF, WB did not furnish any specific reply.

6.3.18 Non-realisation of royalty on supply of honey

A PFC headed by the Secretary/ Principal Secretary of the forest department fixes the rates of royalty for supply of honey to the WBFDC every year. The rate of royalty was fixed at ₹ 10 per kg for supply of honey to the WBFDC during the years 2008-09 and 2009-10.

We observed in two²⁰ divisions that royalty from the WBFDC on the supply of 50,316 kg of honey was not collected. Reasons for non-realisation of royalty on supply of honey were neither found on record nor furnished by the PCCF,

WB. This resulted in non-realisation of royalty of ₹ 5.04 lakh as mentioned below:

Name of the forest division	Year of supply of honey	Amount of crude honey supplied (In Kgs)	Rate of royalty	Amount of royalty realisable from WBFDC (Rupees in lakh)
Sunderban Tiger Reserve	2008-09	12,550.00	₹ 10 per kg	1.26
	2009-10	13,800.00		1.38
24 Parganas (South)	2008-09	12,015.80		1.20
	2009-10	11,950.00		1.20
Total		50,315.80		5.04

²⁰ South 24-Parganas and Sunderban Tiger Reserve.

After we pointed this out, the PCCF, WB replied that the matter had been taken up with the WBFDC.

6.3.19 Non-realisation of lease rent

Three²¹ divisions leased out forest land measuring 2,479.973 hectares to the Defence department on yearly rent. We noticed that lease rent of ₹4.74 crore was outstanding from July 1971 to March 2009 as mentioned below:

Name of the forest divisions	Area of leased out forest land (in hectares)	Period of due lease rent	Amount of lease rent due (Rupees in crore)
Jalpaiguri	130.275	April 1981 to March 2009	0.20
Kurseong	2,044.76	July 1971 to March 2009	4.35
Baikunthapur	304.938	April 1997 to March 2009	0.19
Total	2,479.973		4.74

After we pointed this out in May 2010, the PCCF, WB replied that the matter of non-payment of lease rent by the army authorities for the forest land given on lease to the army in the past had been discussed in the Civil-Military Liaison Conference held on 31 July 2010 and the army authorities had promised to clear the outstanding dues of rent at an early date.

6.3.20 Non-realisation of compensation for damaged trees

Teesta “B” range in the Darjeeling district was notified by two Government orders for field firing by the army.

In terms of Section 68 of Indian Forest Act, 1927, causing damage to trees is a forest offence and compensation is realisable from the offender for damage to trees.

We found that due to field firing, 50 per cent of the trees in 1,660 hectares of forest area comprising pure middle aged Sal crop were damaged between April and September 2004 under the Sarugarah Range of the DFO, Baikunthapur division. The CCF

(North Bengal) intimated the PCCF, WB and the DFO, Baikunthapur in September 2004 to take up the matter with the Defence authorities for realisation of cost of compensatory afforestation. The division did not take any action including ascertaining the quantum of loss, for realisation of compensation. Based on the rates of compensatory afforestation realised by the forest department from the NHPC Ltd. for Teesta Low Dam Project – III in the same district, the amount of compensation stood at ₹ 24.21 crore.

After we pointed this out, the PCCF, WB did not furnish any specific reply.

²¹ Baikunthapur, Jalpaiguri and Kurseong.

6.3.21 Delay in disposal of proposal for diversion of forest land

Under the guidelines of the Forest (Conservation) Act, 1980, a proposal for diversion of forest land should be disposed of at the state level within a maximum period of 60 days. After that, the matter has to be referred to the Central Government.

We found in the DFO, Baikunthapur division that forest land measuring 304.938 hectares was leased out to the Defence authorities in 1973 on yearly rental. In January 2009 the Defence authorities submitted a proposal for diversion of the said forest land

under section 2 of the FC Act, 1980. They also gave an undertaking to bear the costs prescribed under the Act. We noticed that the proposal was pending in the DFO, Baikunthapur division since the date of its submission i.e. January 2009.

The yearly rental of the forest land was ₹ 0.90 lakh only, whereas the inordinate delay in diversion of the said forest land resulted in non-realisation of Net Present Value(NPV) of a minimum of ₹ 22.26 crore²². The Defence authorities had agreed to make available non-forest land of equivalent area to be occupied by them and also agreed to pay cost of compensatory afforestation to the Forest department. But the proposal was still pending with the department though the time period of sixty days provided in the Act had already expired.

After we pointed this out, the PCCF, WB replied that there were many aspects to be considered before a forest land is diverted for non-forestry purpose. The reply of the department, as regards to the adherence of the time schedule is not, however, in consonance with the guidelines of the Forest (Conservation) Act, 1980.

6.3.22 Inaction against contravention of Forest (Conservation) Act and Rules

6.3.22.1 Short realisation of environmental loss

Under the Forest (Conservation) Act and Rules, continuation or resumption of mining operation on expiry of a mining lease as well as use of forest land for non-forestry purpose without prior approval of the Central Government would amount to contravention of the Act and Rules. Whoever contravenes or abets the contravention of the provisions, shall be punishable with a simple imprisonment which may extend to fifteen days. However, no complaint in this regard shall be filed in a court without giving the person or the authority an opportunity to explain the conduct and to show cause by issuing a notice in writing.

We found in Durgapur division that a mining lease was granted in January 1996 for a period of 10 years to the Eastern Coalfields Limited (ECL), Jhanjra area involving forest land measuring 90.30 hectares for the purpose of coal

²² At the rate of ₹ 7,30,000 per hectare applicable to Eco Class-I for open forests.

mining. The period of lease expired on 31 January 2006 but the ECL continued to use the forest land even after expiry of period of lease in violation of the provisions. We also noticed that the department raised a demand of ₹18.14 crore for compensation of environmental loss in April 1998 including an amount of ₹one crore paid by the ECL in November 1995. Thereafter the DFO, Durgapur Division issued a show cause notice in November 2008 to the ECL for non-payment of the remaining dues and for contravening the provisions of the Act. The division did not take any further action as per the provisions of the Act.

After we pointed this out, the PCCF, WB replied that the matter had been taken up with the ECL authorities and the Ministry of Environment and Forest for sorting out the same.

6.3.22.2 Unauthorised construction of Rock Garden in forest area

We found in the DFO, Darjeeling that the Darjeeling Gorkha Hill Council (DGHC) authorities used reserved forest area of 1.95 hectares for creation of Rock Garden without getting the required approval. The division did not take any action as prescribed under the Act, against the authorities. Consequently, the authorities did not come forward with the proposal of diversion of the forest land resulting in non-realisation of net present value of a minimum of ₹13.63 lakh²³.

After we pointed this out, the PCCF, WB did not furnish any specific reply (October 2010).

6.3.23 Blocking of revenue due to non-disposal of cashew nuts and timber lots

We found in 113 cases of the DFO, Kharagpur division that the purchasers failed to pay the sale value within the prescribed time limit. We also noticed that neither were those lots re-auctioned nor was any action taken against the defaulting purchasers for realisation of the outstanding amount even after lapse of time ranging between 9 and 21 months. This resulted in blocking of revenue of ₹50.82 lakh.

Under the terms and conditions of the auction sales notices, the successful bidders have to pay the sale value within the prescribed time. Failure will render the purchaser liable to forfeiture of the security deposit and earnest money. The lots so affected will be resold by auction/tender and defaulters shall be liable to pay for any loss arising out of such resale.

After we pointed this out, the PCCF, WB replied that the divisions were being asked to take further necessary action.

²³ At the rate of ₹6,99,000 per hectare applicable to Eco Class - VI for open forest.

6.3.24 Non-recovery of loss from defaulting purchasers

We found in 141 cases of eight²⁴ divisions that there was a loss of revenue of ₹ 51.81 lakh due to resale or failure to resell the lots, in respect of which the purchasers defaulted in payment of the sale value. The divisions did not take any action to recover the loss even after lapse of average time of 32 months. This resulted in non-recovery of loss of ₹ 51.81 lakh as mentioned in **Appendix V** of the report.

After we pointed this out, the PCCF, WB replied that the divisions were being advised to lodge certificate cases against the defaulters.

6.3.25 Conclusion

The review revealed a number of deficiencies in the system of collection of forest receipts. Absence of a system to watch realisation of revenue resulted in non-realisation of huge amount of arrears. Non-prescription of a deterrent provision to prevent delay in payment of Government revenue led to non-payment or belated payment. The department did not establish liaison with the customs authorities to check leakage of transit pass fee on imported timber. There was no system to monitor deductions made by the WBFDC. The department did not prescribe any time limit for recovery of loss from the defaulting purchasers of Forest produce and for disposal of confiscated vehicles. The coverage by the internal audit was inadequate due to inadequate staff strength. Besides, the forest manual published in 1964 was not updated.

6.3.26 Summary of recommendations

The Government may consider implementation of the following recommendations in the interest of collection of revenue:

- putting in place a monitoring system by way of periodical returns and creating and maintaining a database for monitoring revenue realisable and realised from various sources;
- making a provision for levy of interest to deter non/belated payment of revenue;
- establishing a system to watch the deductions made by the WBFDC from the revenue and also define the percentage component of the service charge;
- establishing liaison with the customs authorities in respect of imported timber to avoid leakage of revenue;
- strengthening the system of monitoring the disposal of timber to avoid deterioration of its quality and consequent revenue loss;
- fixing a time limit for disposal of vehicles confiscated for forest offences;

²⁴ Bankura (North), Bankura (South), Baikunthapur, Burdwan, Buxa Tiger Reserve (West), Darjeeling, Durgapur and Medinipur.

- strengthening the manning of the Internal Audit Branch to ensure that internal audit of a certain percentage of units of the Forest Department is conducted at regular intervals; and
- updating the Forest manual so that it serves the purpose for which it was intended.

B. RECEIPTS FROM MINES AND MINERALS

6.4 Non/short realisation of royalty and cess on minor minerals

Rule 33 (5) of the West Bengal Minor Minerals Rules, 2002 prescribes that extraction of minor minerals is permissible on the strength of a quarry permit issued after realisation of royalty and other dues in advance at the rates prescribed by the Government. Besides, under the provisions of the Cess Act, 1880 as amended in 1984, read with the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976, holders of quarry permits are also liable to pay cess at the prescribed rates. A Register called Brick field register is maintained by the department in which the details of mining operations relating to brick earth are entered into. The cess is paid at the time of payment of royalty.

We found between March 2007 and August 2009 during the test check of five²⁵ DL and LR offices that in 78 cases quarry permit holders extracted and dispatched 76.70 lakh cubic feet (cft) of brick earth during the period from 2004-05 to 2008-09, of which in 62 cases the district authorities failed to realise cess of ₹8.93 lakh for extraction of 59.56 lakh cft. of brick earth and in 16 cases realised cess of ₹1.19 lakh against the realisable amount of ₹2.57 lakh for extraction of 17.14 lakh cft. of brick earth. This resulted in

non/short realisation of cess of ₹10.31 lakh.

Further, we observed that in another 69 cases quarry permit holders extracted and dispatched 111.78²⁶ lakh cft. of brick earth and sand for which royalty and cess of ₹52.07 lakh was realisable but the district authorities realised ₹27.92 lakh only. This resulted in short realisation of royalty and cess of ₹34.24 lakh.

The DL and LRO, Burdwan stated between June 2007 and September 2008 in 44 cases involving ₹26.90 lakh that action was being taken to realise the dues. A report on realisation has not been received. In the remaining cases, the DL and LROs did not furnish any specific reply.

The Government stated in August 2010 that out of ₹21 lakh realisable, an amount of ₹6.31 lakh has been realised by three²⁷ DL and LROs but a report on the action taken by other DL and LROs has not been received.

²⁵ Burdwan (East), Burdwan (West), Howrah, Murshidabad and Nadia.

²⁶ Brick earth: 64,49,175 cft. Sand: 47,29,170 cft.

²⁷ Burdwan (West), Howrah and Nadia.

6.5 Non/short realisation of revenue from minerals extracted unauthorisedly

Rule 33 (5) of West Bengal Minor Minerals Rules, 2002 prescribes that no person is entitled to undertake mining operation except under the authority of a valid quarry permit. In the event of unauthorised extraction of minor minerals apart from other penal action, the department is empowered to recover the minerals raised unlawfully or where such minerals have already been disposed of, the price thereof.

6.5.1 We found in 22 BL and LR offices under seven²⁸ DL and LR offices between August 2008 and 2009 that in 121 cases 104 brickfield owners and in one case a company extracted 94.31 lakh cft. of brick earth and 0.86 lakh cft. of sand respectively between 2003-04 and 2008-09 without any valid quarry permit. Though the department conducted physical verification of unauthorised extraction of

brick earth/sand, they did not initiate any action to recover the price of the minerals or lodge FIR with the police in 73 cases resulting in non-realisation of price of brick earth of ₹ 29.98 lakh while in the remaining 49 cases, ₹ 15.36 lakh was realised as royalty and cess instead of realising ₹ 37.82 lakh as the price of earth/sand. This resulted in non/short realisation of revenue of ₹ 52.44 lakh.

The district authorities admitted the audit observations and stated that action would be taken to realise the dues. A report on recovery is awaited.

The Government stated in August 2010 that out of ₹ 29.76 lakh realisable an amount of ₹ 11.07 lakh has been realised by three²⁹ DL and LROs. They did not intimate about the action taken by other DL and LROs.

6.5.2 We cross verified the records of Eastern and South Eastern Railways with those in three³⁰ District Land and Land Reforms offices (DL and LROs) between December 2009 and March 2010 and found that 13 railway contractors extracted 5.24 crore cft. of earth between April 2004 and March 2009 for construction of new railway line/doubling of existing railway line without obtaining valid quarry permit from the concerned DL and LROs. As the extraction of earth was unauthorised, the price thereof was recoverable at the prescribed rate under the Mines and Minerals (Development and Regulation) Act. The DL and LROs, North 24-Parganas and Hooghly did not take any action to recover the price of earth worth ₹ 1.88 crore from the contractors whereas the DL and LRO, Purba Medinipur realised ₹ 1.55 lakh as the price of earth instead of ₹ 1.56 crore realisable. This resulted in non/short realisation of price of earth of ₹ 3.43 crore.

²⁸ Bankura, Murshidabad, Burdwan (West), Paschim Medinipur, Coochbehar, Howrah and Nadia.

²⁹ Bankura, Murshidabad and Nadia.

³⁰ Hooghly, North 24-Parganas and Purba Medinipur.

After we pointed this out, the district authorities stated that necessary steps have been taken for issuing demand notice to the authority concerned for realisation of Government dues. They did not furnish any report on realisation.

We forwarded the cases to the Government in April 2010 followed by reminders issued upto July 2010; they did not furnish any reply (October 2010).

We noticed that the department had not put in place any system of cross verification of the earth extracted and used by the railway contractors with the Railway's records.

The Government may consider putting in place a mechanism to cross check with the Railways information regarding the earth extracted by the railway contractors.

Kolkata
The



(A. Roychoudhury)
Accountant General
(Receipt, Works & Local Bodies Audit)
West Bengal

Countersigned

New Delhi
The



(VINOD RAI)
Comptroller and Auditor General of India

APPENDIX – I
(Ref: Para – 1.4)
Units Planned and Audited in 2009-10

Department	Revenue head	No. of Units	Nature of Audit
Commerce & Industries	Minor Minerals	11	Receipt
Finance (Revenue)	Agricultural Income Tax	1	Receipt
	Amusement Tax	2	Receipt
	Non-Judicial Stamp Duty	1	Receipt
	Profession Tax	8	Receipt
	Sales Tax	9	Expenditure
	Sales Tax	27	Receipt
	Stamp Duty and Registration Fees	13	Expenditure
	Stamp Duty and Registration Fees	36	Receipt
Forest	Forest Expenditure	22	Expenditure
	Forest Receipts	21	Receipt
Home	Departmental Receipts	1	Receipt
Irrigation & Waterways	Departmental Receipts	3	Receipt
Land & Land Reforms	Land Revenue	10	Receipt
Power	Electricity Duty	3	Receipt
Public Works	Departmental Receipts	2	Receipt
State Excise	State Excise	10	Expenditure
	State Excise	11	Receipt
Transport	Motor Vehicles	10	Receipt
Total		201	

APPENDIX – II
Para-6.3.8.2

(Rupees in crore)

Name of the forest division	Harvesting year/ period	Amount		Period of delay after the prescribed time-limit	Interest @ 1 percent per month
		Belated payment	Not paid		
Baikunthapur	July-December 2006 to January - June 2007	0.99	--	Between 1 and 6 months	0.03
Bankura (North)	2004-05 to 2007-08	2.75	4.69	Between 4 and 67 months	1.30
Bankura (South)	2006-07 to 2007-08	--	0.80	Between 10 and 22 months	0.10
Medinipur	2005-06 to 2007-08	2.17	--	Between 1 and 5 months	0.10
Burdwan	2005-06 to 2007-08	0.53	0.05	Between 2 and 11 months	0.02
Darjeeling	2004-05 to 2005-06	0.07	--	Between 4 and 11 months	0.01
Jalpaiguri	2005-06 to 2008-09	5.24	--	Between 1 and 3 months	0.06
Kurseong	1985 to 1996	0.19	--	96 months	0.19
Panchet	2004-05 to 2006-07	2.24	--	Between 7 and 21 months	0.19
Kharagpur	2001-02 to 2007-08	0.43	--	Between 4 and 73 months	0.02
Total		14.61	5.54		2.02

APPENDIX – III
Para-6.3.10

(Rupees in crore)

Year	Timber imported as per website of the Kolkata Port Trust (in 1,000 m ³)	TP fee realisable on (2)	Total TP fee realised by the department on imported timber	Short realisation of TP fee on imported timber = (3) – (4)
(1)	(2)	(3)	(4)	(5)
2004-05	621	3.11	1.63	1.48
2005-06	551	2.76	1.54	1.22
2006-07	445	2.23	1.44	0.79
2007-08	718	3.59	1.95	1.64
2008-09	530	2.65	1.95	0.70
Total	2,865	14.34	8.51	5.83

APPENDIX – IV
Para – 6.3.16

(Rupees in lakh)

Name of the forest division	Number of cases	Delays in lifting between	Non-levy of depot rent
Durgapur	203	4 and 552 days	26.24
Bankura (North)	189	4 and 338 days	62.94
Total	392	4 and 552 days	89.18

APPENDIX – V
Para – 6.3.24

(Rupees in lakh)

Name of the division	Number of cases	Loss of revenue	Time lapsed
Darjeeling	23	10.43	41 months
Buxa Tiger Reserve (West)	12	1.99	34 to 60 months
Durgapur	5	0.67	18 to 61 months
Baikunthapur	3	1.01	7 months
Bankura (South)	9	1.49	22 months
Bankura (North)	1	1.03	5 months
Burdwan	24	3.42	4 to 6 months
Medinipur	64	31.77	7 to 43 months
Total	141	51.81	