



सत्यमेव जयते

**Report of the
Comptroller and Auditor General of India
on
Revenue Sector
for the year ended March 2015**



Government of Bihar
Report No. 3 of the year 2015

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PREFACE

This Report for the year ended March 2015 has been prepared for submission to the Governor of Bihar under Article 151 of the Constitution of India.

The Report contains significant results of the performance audit and/or compliance audit of the Departments of the Government of Bihar under the Revenue Sector including Departments of Commercial Taxes, Registration, Excise and Prohibition, Transport, Revenue and Land Reforms and Mines and Geology.

The instances mentioned in this Report are those, which came to notice in the course of test audit for the period 2014-15 as well as those which came to notice in earlier years, but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2014-15 have also been included wherever necessary.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

OVERVIEW

OVERVIEW

This Report contains 39 paragraphs including Performance Audit on 'System of assessment under Value Added Tax' and Information Technology Audit on 'Computerisation of Commercial Taxes Department' relating to non/short levy of tax, duty, fees, interest, penalty etc. involving ₹ 1,235.07 crore. Some of the major findings are mentioned below:

I. General

Total receipts of the Government of Bihar for the year 2014-15 were ₹ 78,417.54 crore. The revenue raised by the State Government amounted to ₹ 22,308.21 crore comprising tax revenue of ₹ 20,750.23 crore and non-tax revenue of ₹ 1,557.98 crore. The receipts from the Government of India were ₹ 56,109.33 crore (States' share of divisible Union taxes: ₹ 36,963.07 crore and grants in aid: ₹ 19,146.26 crore). Thus, revenue raised by the State Government was only 28 *per cent* of total revenue receipts.

(Paragraph 1.1.1)

The number of inspection reports (IRs) and paragraphs issued up to December 2014 but not settled by June 2015 stood at 1,790 and 13,028 respectively involving ₹ 9,157.77 crore. We are yet to receive even first replies for 1,166 IRs though these were required to be furnished within four weeks of its receipt.

(Paragraph 1.6)

We conducted test-check of the records of commercial taxes, State excise, taxes on vehicles, stamp duty and registration fees, land revenue and non-ferrous mining and metallurgical industries during the year 2014-15 and observed underassessment/short levy/loss of revenue of ₹ 2,808.25 crore in 3,537 cases. During the period April 2014 to October 2015, the Departments accepted underassessment and other deficiencies of ₹ 688.10 crore in 373 cases, out of which 87 cases involving ₹ 596.43 crore were pointed out during 2014-15 and the rest in earlier years.

(Paragraph 1.9)

II. Commercial Taxes

A Performance Audit on 'System of Assessment under VAT' indicated the following deficiencies:

The Department had not made filling of all the fields and boxes mandatory while up-loading of returns. As a result dealers filed incomplete returns which were treated as self-assessed by the Department.

(Paragraph 2.3.10.1)

Surveys to detect un-registered dealers and enlarge the tax-base were conducted in only three to five circles out of the test checked 18 circles during 2010-11 to 2014-15, as a result only 275 dealers got registered under the BVAT Act on account of surveys.

(Paragraph 2.3.10.2)

The status of scrutiny done by the assessing authority was very low, as 99 *per cent* of dealer's returns remained un-scrutinised during 2010-11 to 2013-14 in 10 circles which is also indicative of lack of internal control and monitoring mechanism in the Department towards scrutiny.

(Paragraph 2.3.10.3)

In the 10 test checked circles 38.29 to 42.01 *per cent* of the registered dealers had not filed any return during 2010-11 to 2013-14 and despite that only a few number of cases were assessed under Section 27 of the BVAT Act.

(Paragraph 2.3.10.4)

Absence of provision for mandatory cross-verification of turnover with the other records of the dealer as well as returns of the other dealers coupled with non/deficient scrutiny/assessment resulted in suppression of turnover and consequential under-assessment of tax of ₹ 451.83 crore including leviable interest and penalty in case of 63 dealers in 15 circles out of 2,590 test checked dealers in 18 circles.

(Paragraph 2.3.11)

Non-prescribing of evidence or information to be furnished along-with the claims of ITC by the Government despite legislative intent to do so coupled with non/deficient scrutiny/assessment resulted in excess allowance/availing of ITC and consequential under-assessment of tax of ₹ 43.50 crore including leviable interest and penalty in case of 51 dealers in 12 circles out of test checked 2,590 dealers in 18 circles.

(Paragraphs 2.3.12.1 and 2.3.12.2)

The selection process of dealers for VAT audit was flawed as 55 dealers could not be selected despite fulfilling the eligibility criteria and due to absence of an Audit manual, the audit procedures and its follow-up actions were not prescribed resulting in low impact of VAT audit.

(Paragraphs 2.3.24.2 to 2.3.24.5)

Register to record the scrutiny/assessment done by the assessing authorities and Report/Return to be furnished in this regard was not prescribed for periodic monitoring at prescribed regular interval by the higher authorities.

(Paragraph 2.3.24.8)

Information Technology (IT) Audit on '**Computerisation of Commercial Taxes Department**' indicated the following deficiencies:

The service level agreement between BSEDC (State Designated Agency) and M/s TCS Ltd (Nominated agency for implementation of VATMIS) was not signed till date of audit (June 2015) and the User Requirement Specification, Software Requirement Specification, System Design Document, data flow diagram, data dictionary etc. were not on record. In addition, Commercial Taxes Department (CTD) had no source code of application, exit management and Disaster Recovery Centre for the system.

(Paragraph 2.4.6)

Due to non-completion of project activities within stipulated period, Central share of Mission Mode Project for Commercial Taxes (MMPCT) was curtailed. The Disaster Recovery Centre of the system was established at Patna instead of New Delhi.

(Paragraphs 2.4.7 and 2.4.8)

The application control of the system had various shortcomings like Tax Payers Identification Number (TIN) and Unique Electronic Identification Number (SUVIDHA) was generated with incomplete information of dealers and required business rules and validation checks were not mapped in the system. As a result, a number of errors in the uploaded data remained undetected and dealers were able to conceal facts in their favour.

(Paragraphs 2.4.12 to 2.4.14)

Irregular claim of Input Tax Credit (ITC) by the four dealers in four commercial taxes circles resulted in excess allowance of ITC of ₹ 2.56 crore including leviable penalty and interest.

(Paragraph 2.7)

In Bhagalpur commercial taxes circle, concealment of sale of energy by a dealer resulted in non-levy of electricity duty amounting to ₹ 121.75 crore including minimum leviable penalty of ₹ 60.87 crore.

(Paragraph 2.17)

Non-detection of irregular alteration of admission rate resulted in non-levy of entertainment tax amounting to ₹ 1.90 crore.

(Paragraph 2.19)

III. State Excise

No action was initiated by the excise authorities for realisation of the Government dues of ₹ 9.47 crore in respect of cancelled licences of excise shops.

(Paragraph 3.4)

Adjustment of security money against outstanding dues instead of forfeiture of security money in case of cancellation of excise shops resulted in undue favour to the licensees.

(Paragraph 3.5)

IV. Taxes on Vehicles

In 21 District Transport Offices, tax dues of ₹ 1.07 crore pertaining to 981 transport vehicles for the period between April 2011 and September 2014 were neither paid by the vehicle owners nor notices of demand for realisation of dues of ₹ 3.19 crore (including penalty) were issued by the concerned District Transport Officers.

(Paragraph 4.4)

Non/short levy of one time tax by the DTOs resulted in non-realisation of ₹ 6.26 crore in 19 DTOs.

(Paragraph 4.6.1)

V. Other Tax Receipts

Non-execution of fresh lease in cases of violation of terms and conditions of leases resulted in non-realisation of *Salami* and rent of ₹ 72.19 crore.

(Paragraph 5.4.3.1)

Non-regularisation of unauthorised construction in Gandhi Maidan, Gaya even after elapse of 19 months resulted into non-realisation of revenue in the shape of *salami* and rent amounting to ₹ 44.97 crore.

(Paragraph 5.4.3.4)

Misclassification of land in execution of 35 leases of petrol pumps resulted in short realisation of *salami* and rent amounting to ₹ 2.17 crore.

(Paragraph 5.4.4.2)

District Land Acquisition officer did not ensure realisation of the establishment charges of ₹ 97.15 crore for lands acquired on behalf of requisitioning body/departments.

(Paragraph 5.5)

Non-disposal of referred cases by the AIGs resulted in blocking of Government revenue of ₹ 1.47 crore in shape of stamp duty.

(Paragraph 5.8)

VI. Non-Tax Receipts

Lack of inter-departmental coordination resulted in non-levy of penalty of ₹ 40.76 crore against the works contractors for illegal procurement of minerals.

(Paragraph 6.4)

Penalty of ₹ 6.64 crore was not levied on works contractors for extraction of ordinary earth without obtaining requisite quarrying permits.

(Paragraph 6.8)

CHAPTER-I

GENERAL

CHAPTER-I: GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Bihar during the year 2014-15, 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 and the corresponding figures for the preceding four years are mentioned in **Table-1.1**.

Table- 1.1
Trend of revenue receipts

(₹ in crore)						
Sl. No.	Particulars	2010-11	2011-12	2012-13	2013-14	2014-15
1.	Revenue raised by the State Government					
	• Tax revenue	9,869.85	12,612.10	16,253.08	19,960.68	20,750.23
	• Non-tax revenue	985.53	889.86	1,135.27	1,544.83	1,557.98
	Total	10,855.38	13,501.96	17,388.35	21,505.51	22,308.21
2.	Receipts from the Government of India					
	• Share of net proceeds of divisible Union taxes and duties	23,978.38	27,935.23	31,900.39	34,829.11	36,963.07 ¹
	• Grants-in-aid	9,698.56	9,882.98	10,277.92	12,584.03	19,146.26
	Total	33,676.94	37,818.21	42,178.31	47,413.14	56,109.33
3.	Total revenue receipts of the State Government (1 and 2)	44,532.32	51,320.17	59,566.66	68,918.65	78,417.54
4.	Percentage of 1 to 3	24	26	29	31	28

(Source: Finance Accounts, Government of Bihar)

The above table indicates that during the year 2014-15, the revenue raised by the State Government (₹ 22,308.21 crore) was 28 *per cent* of the total revenue

¹ For details, please see Statement No. 14 - Detailed accounts of revenue by minor heads in the Finance Accounts of Government for the year 2014-15. Figures under Minor Head – 901 - Share of net proceeds assigned to the State under the Major Heads 0020 - Corporation Tax (₹ 12,907.72 crore), 0021 - Taxes on income other than Corporation Tax (₹ 9,217.35 crore), 0028 – Other taxes on Income and expenditure (₹ 0.31 crore), 0032 - Taxes on Wealth (₹ 34.84 crore), 0037 – Customs (₹ 5,977.99 crore), 0038 - Union Excise Duties (₹ 3,375.58 crore) and 0044 - Service Tax (₹ 5,449.29 crore) and 0045 – Other taxes and duties on commodities and services (- ₹ 1.00 lakh) booked in the Finance Accounts under A - Tax Revenue have been excluded from the revenue raised by the State and included in State's share of divisible union taxes in this statement.

receipts. The balance 72 per cent of receipts during 2014-15 was from the Government of India.

1.1.2 The details of tax revenue raised during the period 2010-11 to 2014-15 are given in Table-1.2.

Table- 1.2
Details of Tax Revenue raised

(₹ in crore)

Sl. No.	Head of revenue	2010-11	2011-12	2012-13	2013-14	2014-15	Percentage of increase (+)/decrease (-) in actual of 2014-15 in comparison to	
		<u>BE</u> Actual	<u>BE</u> Actual	<u>BE</u> Actual	<u>BE</u> Actual	<u>BE</u> Actual	BE of 2014-15	Actual of 2013-14
1.	Taxes on Sales, Trade etc.	<u>5,627.69</u> 4,557.18	<u>6,508.00</u> 7,476.36	<u>8,071.00</u> 8,670.79	<u>12,324.04</u> 8,453.02	<u>12820.15</u> 8,607.16	(-) 32.86	(+) 1.82
2.	Taxes on Goods and Passengers	<u>1,623.76</u> 2,006.32	<u>1,940.00</u> 828.30	<u>2,800.00</u> 1,932.12	<u>1,192.75</u> 4,349.00	<u>4117.50</u> 4,451.25	(+) 8.11	(+) 2.35
3.	State Excise	<u>1,400.00</u> 1,523.35	<u>1,790.00</u> 1,980.98	<u>2,715.00</u> 2,429.82	<u>3,300.00</u> 3,167.72	<u>3700.00</u> 3,216.58	(-) 13.07	(+) 1.54
4.	Stamps and Registration Fees	<u>1,215.00</u> 1,098.68	<u>1,600.00</u> 1,480.07	<u>1,906.00</u> 2,173.02	<u>3,200.00</u> 2,712.41	<u>3600.00</u> 2,699.49	(-) 25.01	(-) 0.48
5.	Taxes on Vehicles	<u>550.00</u> 455.43	<u>537.00</u> 569.13	<u>644.40</u> 673.39	<u>800.00</u> 837.48	<u>1000.00</u> 963.56	(-) 3.64	(+) 15.05
6.	Land Revenue	<u>112.17</u> 139.02	<u>125.20</u> 167.49	<u>185.00</u> 205.45	<u>205.00</u> 201.71	<u>250.00</u> 277.13	(+) 10.85	(+) 37.39
7.	Taxes and Duties on Electricity	<u>90.25</u> 65.22	<u>60.70</u> 54.69	<u>60.70</u> 102.55	<u>66.17</u> 141.31	<u>82.70</u> 374.76	(+)353.16	(+) 165.20
8.	Other Taxes and Duties on Commodities and Services	<u>24.29</u> 24.65	<u>24.99</u> 25.52	<u>41.99</u> 28.99	<u>34.14</u> 50.43	<u>48.59</u> 105.34	(+)116.79	(+) 108.88
9.	Other Taxes on Income and Expenditure-Taxes on Professions, Trades, Callings and Employment	<u>1.00</u> Nil	<u>23.30</u> 29.56	<u>31.00</u> 36.95	<u>32.59</u> 47.60	<u>44.00</u> 54.96	(+) 24.91	(+) 15.46
Total		<u>1,0644.16</u> 9,869.85	<u>12,609.19</u> 12,612.10	<u>16,455.09</u> 16,253.08	<u>21,154.69</u> 19,960.68	<u>25,662.94</u> 20,750.23		(+) 3.96

{Source: Finance Accounts, Government of Bihar and Revenue and Capital Receipts (Detail)}

It can be seen from the table 1.2 that there was a variation of (-) 32.86 to (+) 353.16 *per cent* between the budget estimates and the actual during 2014-15. Further there was a variation of (-) 0.48 *per cent* to (+) 165.20 *per cent* between actuals of 2013-14 and 2014-15 under various heads of taxes.

The following reasons for variation were reported by the concerned Departments.

Taxes on Sales, Trade etc.: The increase (1.82 *per cent*) over the actual of 2013-14 was due to enhancement of rate of tax on diesel from 16 *per cent* to 18 *per cent*, enhancement of rate of surcharge on petrol and diesel from 10 *per cent* to 20 *per cent*, multi-point levy of tax on potable spirit, wine or liquor and massive mobile checking and inspection of business premises. The decrease (32.86 *per cent*) over the BE was mainly due to reduction of rate of tax on tobacco from 30 *per cent* to 20 *per cent*.

Stamps and Registration fees: The decrease (25.01 *per cent*) over the BE was due to reduction of value of land in MVR and decrease in number of documents presented.

Land Revenue: The increase (37.39 *per cent*) over the actuals of 2013-14 was due to collection of establishment charges in respect of acquisition of land and cost of alienated government land to the Bihar State Electricity Board and other companies during the year.

The other departments did not inform (August 2015) the reasons for variation, despite being requested (between April and August 2015).

We recommend that while preparing budget estimates, the State Government may take realistic inputs as significant variations were noticed between budget estimates and actual.

1.1.3 The details of non-tax revenue raised during the period 2010-11 to 2014-15 are indicated in **Table 1.3**.

Table- 1.3
Details of Non-tax Revenue raised

(₹ in crore)

Sl. No.	Head of Revenue	2010-11	2011-12	2012-13	2013-14	2014-15	Percentage of increase (+)/decrease (-) in actual of 2014-15 in comparison to	
		<u>BE</u> Actual	<u>BE</u> Actual	<u>BE</u> Actual	<u>BE</u> Actual	<u>BE</u> Actual	BE of 2014-15	Actual of 2013-14
1.	Non-ferrous Mining and Metallurgical Industries	<u>294.00</u> 405.59	<u>280.00</u> 443.10	<u>470.00</u> 511.08	<u>641.00</u> 569.14	<u>750.00</u> 879.87	(+) 17.32	(+) 54.60
2.	Interest Receipts	<u>216.37</u> 237.96	<u>370.82</u> 573.70	<u>263.74</u> 167.12	<u>338.48</u> 269.48	<u>202.22</u> 344.77	(+) 70.49	(+) 27.94
3.	Roads and Bridges	<u>27.98</u> 39.60	<u>33.00</u> 60.35	<u>44.67</u> 32.56	<u>64.03</u> 40.72	<u>64.03</u> 54.52	(-) 14.85	(+) 33.89
4.	Medical and Public Health	<u>17.60</u> 15.33	<u>14.94</u> 23.91	<u>13.41</u> 41.02	<u>25.40</u> 29.93	<u>43.24</u> 30.22	(-) 30.11	(+) 0.97
5.	Police	<u>56.52</u> 11.85	<u>12.62</u> 9.26	<u>67.83</u> 25.01	<u>70.59</u> 27.27	<u>69.74</u> 29.50	(-) 57.70	(+) 8.18
6.	Forestry and Wild Life	<u>6.55</u> 7.64	<u>8.00</u> 11.04	<u>7.05</u> 16.60	<u>13.20</u> 19.58	<u>17.61</u> 25.24	(+) 43.33	(+) 28.91
7.	Medium Irrigation	<u>4.00</u> 15.45	<u>4.00</u> 17.59	<u>4.00</u> 13.99	<u>4.00</u> 18.22	<u>4.00</u> 16.95	(+) 323.75	(-) 6.97
8.	Fisheries	<u>7.32</u> 7.28	<u>15.89</u> 10.16	<u>9.14</u> 11.79	<u>10.78</u> 10.72	<u>12.50</u> 10.71	(-) 14.32	(-) 0.09
9.	Other Administrative Services	<u>39.37</u> 19.98	<u>59.64</u> 11.49	<u>46.56</u> 10.01	<u>65.01</u> 10.18	<u>251.60</u> 21.77	(-) 91.35	(+) 113.85
10.	Miscellaneous General Services	<u>385.27</u> 0.34	<u>0.34</u> (-)383.78	<u>1.20</u> 22.03	<u>0.86</u> 0.28	<u>0.91</u> 1.99	(+) 118.68	(+) 610.71
11.	Other non-tax receipts	224.51	113.04	284.06	549.31	142.44		(-) 74.07
Total		985.53	889.86	1,135.27	1544.83	1557.98		(+) 0.85

{Source: Finance Accounts, Government of Bihar and Revenue and Capital Receipts (Detail)}

It can be seen from the above table that there was a variation of (-) 91.35 to (+) 323.75 per cent between the budget estimates and the actual during 2014-15. Further, there was a variation of (-) 6.97 per cent to (+) 610.71 per cent between actuals of 2013-14 and 2014-15 under various heads of taxes.

The following reasons for variation were reported by the concerned Department.

Mines and Geology Department: The increase (54.60 per cent) over the actual of 2013-14 and increase (17.32 per cent) in comparison to BE in 2014-15 was due to settlement of several sand ghats.

We recommend that while preparing budget estimates, the State Government may take realistic inputs as significant variations were noticed between budget estimates and actual.

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2015 in respect of the principal heads of revenue amounted to ₹ 3,440.55 crore of which ₹ 444.27 crore was outstanding for more than five years as detailed in the **Table-1.4**.

Table- 1.4
Arrears of revenue

				(₹ in crore)
Sl. No.	Heads of revenue	Amount outstanding as on 31 March 2015	Amount outstanding for more than five years as on 31 March 2015	Replies of Department
1.	Taxes on Sales, Trade etc.	1,772.42	280.70	Out of ₹ 1,772.42 crore, demands for ₹ 308.71 crore were certified for recovery as arrears of land revenue, recovery of ₹ 410.93 crore and ₹ 16.60 crore were stayed by the courts and the Government respectively, recovery of ₹ 12.73 crore was held up due to rectification/review of appeal, a sum of ₹ 4.37 crore was held up due to assessee/dealers becoming insolvent and an amount of ₹ 1,019.08 crore was pending at other stages.
2.	Taxes on Goods and Passengers	438.87	4.84	Out of ₹ 438.87 crore, demands for ₹ 67.48 lakh were certified for recovery as arrears of land revenue, recovery of ₹ 320.85 crore was stayed by the courts and an amount of ₹ 117.34 crore was pending at other stages.
3.	Taxes and Duties on Electricity	559.89	2.27	Out of ₹ 559.89 crore, demands for ₹ 1.49 crore were certified for recovery as arrears of land revenue, recovery of ₹ 19.37 crore and ₹ 8.22 lakh were stayed by the courts and the Government respectively and an amount of ₹ 538.94 crore was pending at other stages.
4.	State Excise ²	55.66	8.73	Out of ₹ 55.66 crore, demands for ₹ 34.13 crore were certified for recovery as arrears of land revenue, recovery of ₹ 4.51 crore was stayed by the courts, ₹ 3.71 lakh was stayed by the Government; recovery of ₹ 13.77 lakh was held up due to dealer/party

² The amount of arrears in respect of State Excise does not include figures in respect of Aurangabad, Kaimur and Kishanganj District offices.

				becoming insolvent, an amount of ₹ 35.74 lakh was likely to be written off and ₹ 16.48 crore was pending at other stages.
5.	Taxes on vehicles	192.67	Not furnished	Arrear outstanding for more than five years and stages at which the arrears were pending for collection have not been intimated, despite being requested (between April and August 2015).
6.	Other Taxes and Duties on Commodities and Services	10.83	9.51	Out of ₹ 10.83 crore, demands for ₹ 9.67 crore were certified for recovery as arrears of land revenue; recovery of ₹ 4.52 lakh was stayed by the courts and an amount of ₹ 1.11 crore was pending at other stages.
7.	Land Revenue	188.03	Not furnished	Stages at which the arrears were pending for collection have not been intimated, despite being requested (between April and August 2015).
8.	Mines and Geology	218.12	137.71	Stages at which the arrears were pending for collection have not been intimated, despite being requested (between April and August 2015).
9.	Stamps and Registration fees	4.06	0.51	Stages at which the arrears were pending for collection have not been intimated, despite being requested (between April and August 2015).
TOTAL		3,440.55	444.27	

(Source: Information furnished by the Departments)

It would be seen from the table that recovery of ₹ 444.27 crore was pending for more than five years and no sincere efforts were being made to recover them. Arrears of ₹ 1,692.95 crore were pending with the departmental authorities. The cases referred for write off (₹ 35.74 lakh) were also not being pursued with the quarters concerned.

1.3 Arrear in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and number of cases pending for finalisation at the end of the year as furnished by the Commercial Tax Department in respect of Taxes on Sales, Trade etc., Taxes on Goods and Passenger, Other Taxes and Duties on Commodities and Services and Taxes and Duties on Electricity are as given in **Table 1.5**.

Table 1.5
Arrears in assessments

Head of revenue	Opening balance	New cases due for assessment during 2014-15	Total assessments due	Cases disposed of during 2014-15	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
1	2	3	4	5	6	7
Taxes on Sales, Trade etc.	38971	85289	124260	43271	80989	34.82
Taxes on Goods and Passenger	1234	7400	8634	3059	5575	35.43
Other Taxes and Duties on Commodities and Services	1847	1063	2910	744	2166	25.57
Taxes and Duties on Electricity	308	32	340	16	324	4.71

(Source: Information furnished by the Departments)

It would be seen from the above table that in Commercial Taxes Department the percentage of finalization of assessment ranged from 4.71 per cent to 35.43 per cent only during the year.

1.4 Evasion of tax

The details of cases of evasion of tax detected, cases finalised and the demands for additional tax raised as reported by the Commercial Taxes Department and Registration, Excise and Prohibition Department are given in Table 1.6.

Table- 1.6
Evasion of Tax

Sl. No.	Head of revenue	Cases pending as on 31 March 2014	Cases detected during 2014-15	Total	Number of cases in which assessments/investigation completed and additional demand including penalty etc., raised during the year 2014-15		Number of cases pending for initialisation as on 31 March 2015
					Number of cases	Amount of demand	
1.	Commercial Taxes ³	292	476	768	449	3.15	319
2.	State Excise	25	11	36	Nil	Nil	36
3.	Stamps and Registration fees	4	Nil	4	Nil	Nil	4

(Source: Information furnished by the Departments)

³ Commercial taxes include Taxes on Sales, Trade etc., Taxes on Goods and Passengers; Taxes and Duties on Electricity; Other Taxes on Income and Expenditure-Taxes on Professions, Trades, Callings and Employment and Other Taxes and Duties on Commodities and Services.

It would be seen from the foregoing table that in the Commercial Taxes Department and Registration, Excise and Prohibition (Excise) Department the number of cases pending at the end of the year was more than the number of cases pending at the beginning of the year, which needs to be looked into by the Department.

1.5 Pendency of Refund cases

The number of refund cases pending at the beginning of the year 2014-15, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2014-15 as reported by the Departments is given in **Table 1.7**.

Table- 1.7
Details of pendency of refund cases

(₹ in crore)

Sl. No.	Particulars	Taxes on Sales, Trade etc.		Entry tax		Entertainment tax		State excise	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	1684	80.02	103	14.81	6	0.02	634	20.06
2.	Claims received during the year	229	76.75	04	1.48	Nil	Nil	181	1.85
3.	Refunds made during the year	266	85.42	02	0.18	Nil	Nil	555	5.76
4.	Balance outstanding at the end of the year	1647	71.34	105	16.12	6	0.02	260	16.15

(Source: Information furnished by the Departments)

Section 70 (1) of the Bihar VAT Acts provides for payment of interest, at the rate of half *per cent* per month, if the excess amount is not refunded to the dealer within 90 days from the date of the order.

The progress to dispose of the refund cases of Tax on sales, trade etc. and entry tax was very slow during the year.

1.6 Response of the Government /departments towards audit

The Accountant General (AG), Audit, Bihar conducts periodical 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 Inspection Reports (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 four weeks from the date of receipt of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

Analysis of Inspection reports issued upto December 2014 disclosed that 13,028 paragraphs involving ₹ 9,157.77 crore relating to 1,790 IRs remained outstanding at the end of June 2015 as mentioned below along with the corresponding figures for the preceding two years in **Table 1.8**.

Table- 1.8
Details of pending Inspection Reports

	June 2013	June 2014	June 2015
Number of IRs pending for settlement	4,165	4,806	1,790 ⁴
Number of outstanding audit observations	23,327	27,764	13,028
Amount involved (₹ in crore)	10,847.46	17,825.55	9,157.77

1.6.1 The Department-wise details of the IRs and audit observations outstanding as on 30 June 2015 and the amounts involved are mentioned in the **Table 1.9**.

Table- 1.9
Department wise details of IRs

(₹ in crore)					
Sl. No.	Name of the departments	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Commercial Taxes	Taxes on Sales, Trade etc, Entry tax Electricity duty Entertainment tax, Luxury tax, etc.	274	4954	4772.58
2.	Registration, Excise and Prohibition (Excise)	State Excise	245	1034	1028.63
3.	Revenue and Land Reforms	Land Revenue	446	2730	1129.66
4.	Transport	Taxes on Vehicles	294	1988	1177.95
5.	Registration, Excise and Prohibition (Registration)	Stamps and Registration Fees	248	706	180.23
6.	Mines and Geology	Non-ferrous Mining and Metallurgical Industries	283	1616	868.72
Total			1790	13028	9157.77

⁴ The responsibility to follow up/settlement of the outstanding Inspection Reports upto 2006-07 had been left to the Departments concerned except the cases pending with Public Accounts Committee and the Hon'ble courts.

Audit did not receive even the first replies from the heads of offices, though these were required to be furnished within four weeks of receipt of the IRs, for 1,166 IRs issued upto December 2014. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and the departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

The Government may consider to have an effective system for prompt and appropriate response to audit observations.

1.6.2 Departmental audit committee meetings

The Government set up audit committees to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. During the course of the year, only three audit committees were held in which 88 paragraphs involving ₹ 256.09 crore were settled as mentioned in the **Table 1.10**.

Table- 1.10
Audit Committee meetings

(₹ in crore)

Head of revenue	Number of meetings held	Number of paragraphs settled	Amount
Commercial Taxes	1	6	0.30
State Excise	1	69	255.66
Taxes on motor vehicles	1	13	0.13
Total	3	88	256.09

Holding of only three meetings during the entire year (2014-15) had deprived the Government of the opportunity of settlement of more number of outstanding audit observations as mentioned in preceding paragraph.

The Government may take suitable steps to hold departmental audit committee meetings at regular intervals for the settlement of outstanding IRs/paragraphs.

1.6.3 Non-production of records to audit for scrutiny

The programme of local audit of Tax revenue/Non-tax revenue offices is drawn up sufficiently in advance and intimations are issued, usually one month before the commencement of audit, to the departments to enable them to keep the relevant records ready for audit scrutiny.

During the year 2014-15 as many as 357 assessment files, returns, refunds, registers and other relevant records were not made available to audit. In none of these cases the revenue involved could be ascertained. Break up of these cases are given in **Table 1.11**.

Table- 1.11
Details of non-production of records

Name of the Department	Year in which it was to be audited	Number of cases not audited
Revenue and Land Reforms	2014-15	226
Transport	2014-15	3
Registration, Excise and Prohibition (Excise)	2014-15	14
Mines and Geology	2014-15	77
Registration, Excise and Prohibition (Registration)	2014-15	37
Total		357

1.6.4 Response of the Departments to the draft audit paragraphs

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the AG to the Principal Secretaries/Secretaries of the concerned Department, drawing their attention to audit findings and requesting them to send their response within six weeks. The fact of non-receipt of the replies from the Departments / Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Thirty nine draft paragraphs including one Performance Audit, one IT Audit and one Long draft paragraph were sent to the Principal Secretaries/Secretaries of the respective Departments by name between May and July 2015. Mines and Geology Department had sent replies of five paragraphs and the Secretary of the Registration, Excise and Prohibition Department had sent replies of four paragraphs relating to Stamps and Registration fees and two paragraphs pertaining to State excise. The Principal Secretaries/ Secretaries of the remaining departments did not send replies despite issue of reminders (October 2015) and the same have been included in this Report without the response of the Government.

1.6.5 Follow up on the Audit Reports-summarised position

The Manual of Instructions (1998) of the Finance Department, Government of Bihar envisages that the Secretaries to Government of the concerned departments submit explanatory notes to the Assembly Secretariat on audit paragraphs and performance audits included in Audit Reports (AR) after vetting in audit within two months from the date of presentation of the ARs to the State Legislature without waiting for any notice or call from the Public Account Committee (PAC). In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. Three hundred thirty five paragraphs (including performance audit) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Bihar for the years 2004-05 to 2013-14 were placed before the State Legislature Assembly between March 2006 and December 2014. Action taken explanatory notes in respect of 117 paragraphs from departments concerned had not been received for the Audit Report for the years 2004-05 to 2013-14 so far (October 2015).

1.7 Analysis of the mechanism for dealing with the issues raised by Audit

To analyse the system of addressing the issues highlighted in the Inspection Reports/Audit Reports by the Departments/Government, the action taken on the paragraphs and performance audits included in the Audit Reports of the last ten years for one Department is evaluated and included in Audit Report.

The succeeding paragraphs 1.7.1 to 1.7.3 discuss the performance of the Revenue and Land Reforms Department under revenue head '0029-Land Revenue' and cases detected in the course of local audit during the last eight years and also the cases included in the Audit Reports for the years 2004-05 to 2013-14.

1.7.1 Position of Inspection Reports

The summarised position of the inspection reports issued during the last eight years, paragraphs included in these reports and their status as on 31 March 2015 are mentioned in **Table-1.12**.

Table 1.12
Position of Inspection Reports

(₹ in crore)

Sl. No.	Year	Opening Balance			Addition during the year			Clearance during the year			Closing balance		
		IRs	Paragraphs	Money value	IRs	Paragraphs	Money value	IRs	Paragraphs	Money value	IRs	Paragraphs	Money value
1.	2007-08 ⁵	0	0	0	25	86	3.75	0	0	0	25	86	3.75
2.	2008-09	25	86	3.75	59	246	58.35	0	0	0	84	332	62.10
3.	2009-10	84	332	62.10	61	309	245.27	0	13	0.03	145	641	307.38
4.	2010-11	145	641	307.38	46	216	80.06	6	35	1.47	185	822	385.96
5.	2011-12	185	822	385.96	25	132	5.73	0	18	0.02	210	936	391.68
6.	2012-13	210	936	391.68	83	652	216.89	0	4	0.04	293	1,584	608.52
7.	2013-14	293	1,584	608.52	101	861	40.53	0	11	0.17	394	2,434	648.88
8.	2014-15	394	2,434	648.88	73	425	536.53	0	22	0.77	467	2,837	1,184.65

The Government arranges ad-hoc Committee meetings between the Department and AG's office to settle the old paragraphs. As would be evident from the above table, the number of outstanding IRs accumulated to 467 with 2,837 paragraphs at the end of 2014-15. This is indicative of the fact that adequate steps were not taken by the Department in this regard resulting in heavy accumulation of the outstanding IRs and paragraphs.

1.7.2 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last ten years, those accepted by the Department and the amount recovered are mentioned in **Table 1.13**.

⁵ The responsibility to follow up/settlement of the outstanding Inspection Reports upto 2006-07 had been left to the Departments concerned except the cases pending with Public Accounts Committee and the Hon'ble courts.

Table 1.13
Recovery of accepted cases

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Cumulative position of recovery of accepted cases as of 31.03.2015
2004-05	1	58.53	Nil	Nil	Nil
2005-06	1 (Review)	161.11	1 (Partial)	154.78	Nil
2006-07	1	1.18	1	1.18	1.50
2007-08	2	204.72	2	204.72	Nil
2008-09	2	23.88	2	23.88	Nil
2009-10	Nil	Nil	Nil	Nil	Nil
2010-11	Nil	Nil	Nil	Nil	Nil
2011-12	4	138.07	3 (2 Partial)	2.85	Nil
2012-13	3	2.25	3	2.25	0.36
2013-14	1	0.11	1	0.11	Nil

It is evident from the above table that the progress of recovery even in accepted cases was very slow throughout during the last ten years. The recovery of accepted cases was to be pursued as arrears recoverable from the concerned parties. No mechanism for pursuance of the accepted cases had been put in place by the Department/Government. In the absence of a suitable mechanism, the Department could not monitor the recovery of accepted cases.

The Department may take immediate action to pursue and monitor prompt recovery of the dues involved in accepted cases.

1.7.3 Action taken on the recommendations accepted by the Departments/Government

The draft performance audits conducted by the AG are forwarded to the concerned Department/Government for their information with a request to furnish their replies. These performance audits are also discussed in an exit conference and the Department's/Government's views are included while finalising the performance audits for the Audit Reports.

The following performance audits on the Department of Revenue and Land Reforms featured in the last ten years Reports. The details of recommendations and their status are given in **Table 1.14**.

Table 1.14

Year of Audit Report/Name of the Performance Audit	Number of recommendations	Details of recommendations	Status
2005-06 Levy and collection of land Revenue	02	Provisions of Acts/Rules and instructions of the Department should be followed for assessment and collection of Land rent/Cess and renewal of leases etc.	Reply awaited

		Internal control may be evolved to monitor assessment and collection of revenue.	
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1.8 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 the audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which inter-alia include 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, factors of the tax administration, audit coverage and its impact during past five years etc.

During the year 2014-15, there were 1190 auditable units, of which 296 units were planned and 287 units had been audited, which is 24.12 *per cent* of the total auditable units. The details are shown in the **Annexure-I**.

Besides, the compliance audit mentioned above, one performance audit and one Information Technology Audit was also taken up to examine the efficacy of the tax administration.

1.9 Results of audit

Position of local audit conducted during the year

Test-check of the records of 287 units of Commercial Taxes, State Excise, Taxes on vehicles, Stamp duty and registration fees, Land revenue and receipts from Mines and minerals conducted during the year 2014-15 showed underassessment/short levy/loss of revenue aggregating ₹ 2,808.25 crore in 3,537 cases. During the period April 2014 to October 2015, the Department accepted underassessment and other deficiencies of ₹ 688.10 crore in 373 cases, out of which 87 cases involving ₹ 596.43 crore were pointed out during 2014-15 and the rest in earlier years.

1.10 Coverage of this Report

This Report contains 39 paragraphs (selected from the audit detections made during the local audit referred to above and during earlier years, which could not be included in earlier reports) including one Performance audit on 'System of assessment under VAT' and one Information Technology audit on 'Computerisation of Commercial Taxes Department', involving financial effect of ₹ 1,235.07 crore.

The Departments/Government have accepted audit observations involving ₹ 540.61 crore out of which ₹ 13.93 crore had been recovered. The replies in the remaining cases have not been received (October 2015). These are discussed in succeeding Chapters II to VI.

CHAPTER-II

COMMERCIAL TAXES

CHAPTER-II: COMMERCIAL TAXES

2.1 Tax administration

The levy and collection of commercial taxes¹ in the State is governed by the provisions of the following Acts and Rules made thereunder:

- Central Sales Tax (CST) Act, 1956;
- Bihar Value Added Tax (BVAT) Act, 2005;
- Bihar Tax on entry of goods into local areas (BTEG) Act, 1993;
- Bihar Entertainment Tax Act, 1948;
- Bihar Taxation on Luxuries in Hotels Act, 1988;
- Bihar Electricity Duties Act, 1948;
- Bihar Tax on Professions, Trade, Callings and Employments Act, 2011; and
- Bihar Tax on Advertisement Act, 2007.

It is administered by the Commercial Taxes Department which is headed by the Commissioner of Commercial Taxes (CCT). In the exercise of his functions, the CCT is assisted by five Additional Commissioners, three Joint Commissioners of Commercial Taxes (JCCT), 10 Deputy Commissioners of Commercial Taxes (DCCT)/Assistant Commissioners of Commercial Taxes (ACCT) and five Commercial Taxes Officers (CTOs) at the headquarters level including the Bureau of Investigation wing. At the field level the State is divided into nine administrative divisions², seven appeals divisions³ and four audit divisions⁴, each headed by a JCCT. The nine administrative divisions are further sub-divided into 49 circles each headed by a DCCT/ACCT assisted by CTOs. The circle is the basic activity centre of the Department.

2.2 Results of audit

In the course of audit of the records of 41 units, out of 63 auditable units, relating to commercial taxes during the year 2014-15, we found underassessment of taxes and other irregularities involving ₹ 1,914.91 crore in 1,939 cases which fall under the following categories as detailed in **Table 2.1**.

¹ Commercial taxes include Taxes on Sales, Trade etc.; Taxes on Goods and Passengers; Taxes and Duties on Electricity; Other Taxes on Income and Expenditure-Taxes on Professions, Trades, Callings and Employment and Other Taxes and Duties on Commodities and Services.

² Bhagalpur, Central, Darbhanga, Magadh, Patna East, Patna West, Purnea, Saran and Tirhut.

³ Bhagalpur, Central, Darbhanga, Magadh, Patna, Purnea and Tirhut.

⁴ Bhagalpur, Magadh, Patna and Tirhut.

Table- 2.1

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Performance Audit on "System of assessment under Value Added Tax"	1	645.60
2.	IT Audit on "Computerisation of Commercial Taxes Department"	1	4.28
A: Taxes on sales, trade etc./ VAT			
1.	Suppression of turnover	220	171.52
2.	Application of incorrect rates of tax	92	30.67
3.	Excess allowance of ITC	257	87.86
4.	Incorrect/excess reimbursement of VAT/Entry Tax	129	59.24
5.	Underassessment of CST	41	26.03
6.	Short Payment of tax and non-levy of interest	186	27.48
7.	Non-levy of interest	107	5.55
8.	Non-levy of purchase tax	22	2.52
9.	Other cases	546	154.23
Total		1,600	565.10
B: Entry Tax			
1.	Short levy of entry tax due to suppression of import value	30	78.98
2.	Application of incorrect rates of entry tax	42	11.10
3.	Non-levy of entry tax due to non-registration	63	9.18
4.	Other cases	188	295.20
Total		323	394.46
C: Electricity duty			
1.	Non/short levy of electricity duty	4	283.20
2.	Others	2	0.21
Total		6	283.41
D: Entertainment/Luxury Tax			
1.	Non/short levy of entertainment tax	4	3.16
2.	Non/short levy of luxury tax	2	0.08
3.	Other cases	2	18.82
Total		8	22.06
Grand Total		1,939	1,914.91

During the period April 2014 to October 2015, the Department accepted underassessment and other deficiencies of ₹ 221.73 crore in 170 cases, of which 17 cases involving ₹ 190.87 crore were pointed out during 2014-15 and the rest in earlier years. An amount of ₹ 2.54 crore was realised in 57 cases which were pointed out between 2009-10 and 2014-15.

After issue of draft paragraph, the Department recovered an amount of ₹ 16.69 lakh at the instance of audit in one case of Sasaram circle.

Audit findings of the Performance audit on 'System of Assessment under VAT', Information Technology Audit on 'Computerisation in the Commercial Taxes Department' and a few other illustrative audit observations involving ₹ 807.87 crore are mentioned in the succeeding paragraphs.

2.3 Performance Audit on ‘System of Assessment under VAT’

Highlights

The Department had not made filling of all the fields and boxes mandatory while up-loading of returns. As a result dealers filed incomplete returns which were treated as self-assessed by the Department.

(Paragraph 2.3.10.1)

Surveys to detect un-registered dealers and enlarge the tax-base were conducted in only three to five circles out of the test checked 18 circles during 2010-11 to 2014-15, as a result only 275 dealers got registered under the BVAT Act on account of surveys.

(Paragraph 2.3.10.2)

The status of scrutiny done by the assessing authority was very low, as 99 *per cent* of dealer’s returns remained un-scrutinised during 2010-11 to 2013-14 in 10 circles which is also indicative of lack of internal control and monitoring mechanism in the Department towards scrutiny.

(Paragraph 2.3.10.3)

In the 10 test checked circles 38.29 to 42.01 *per cent* of the registered dealers had not filed any return during 2010-11 to 2013-14 and despite that only a few number of cases were assessed under Section 27 of the BVAT Act.

(Paragraph 2.3.10.4)

Absence of provision for mandatory cross-verification of turnover with the other records of the dealer as well as returns of the other dealers coupled with non/deficient scrutiny/assessment resulted in suppression of turnover and consequential under-assessment of tax of ₹ 451.83 crore including leviable interest and penalty in case of 63 dealers in 15 circles out of 2,590 test checked dealers in 18 circles.

(Paragraph 2.3.11)

Non-prescribing of evidence or information to be furnished along-with the claims of ITC by the Government despite legislative intent to do so coupled with non/deficient scrutiny/assessment resulted in excess allowance/availing of ITC and consequential under-assessment of tax of ₹ 43.50 crore including leviable interest and penalty in case of 51 dealers in 12 circles out of test checked 2,590 dealers in 18 circles.

(Paragraphs 2.3.12.1 and 2.3.12.2)

The selection process of dealers for VAT audit was flawed as 55 dealers could not be selected despite fulfilling the eligibility criteria and due to absence of an Audit manual, the audit procedures and its follow-up actions were not prescribed resulting in very low impact of VAT audit.

(Paragraphs 2.3.24.2 to 2.3.24.5)

Register to record the scrutiny/assessment done by the assessing authorities and Report/Return to be furnished in this regard was not prescribed for periodic monitoring at prescribed regular interval by the higher authorities.

(Paragraph 2.3.24.8)

2.3.1 Introduction

The Value Added Tax (VAT) is a multi-stage tax levied at each stage of the value addition chain with a provision to allow input tax credit (ITC) on tax paid at an earlier stage, which can be appropriated against the VAT liability on subsequent sale. VAT constitutes major portion of State revenue. Assessment of tax has a direct bearing on tax collection and quality of tax administration. Under the BVAT Act great reliance was placed on the dealer by introducing self-assessment of tax.

A dealer (other than importer, works contractor or person engaged in transfer of right to use goods) becomes liable for registration under VAT when his turnover reaches the quantum of Rupees five lakh during any year. The quantum of turnover for works contractor or person engaged in transfer of right to use goods is nil whereas an importer is liable for registration after he first sells the goods so imported. After registration under the BVAT Act, a dealer (other than a dealer opting to pay compounding tax) is liable for online filing of quarterly returns in form RT-I and an annual return in form RT-III along-with a Tax Audit Report (TAR). A dealer opting to pay compounding tax is required to file quarterly return in form RT-IV. The payment of tax by a dealer (other than a dealer opting to pay compounding tax) is to be made monthly on or before the fifteenth day of the next month.

2.3.2 System of assessment under Bihar VAT Act

The followings are the main system of assessment under the BVAT Act:

Self-assessment of tax - Section 26 (1) of the BVAT Act provides that the tax due in respect of a financial year from every registered dealer who has furnished the returns before the expiry of the due date shall be deemed to have been assessed.

Scrutiny of returns - Section 25 of the BVAT Act provides for scrutiny of every return filed under sub-section (1) and (3) of Section 24 as per the check-list given therein under clause (a) to (f).

Assessment of dealer not filing return - Section 27 of the BVAT Act provides that if a registered dealer fails to furnish the annual return before the due date specified, the prescribed authority shall assess to the best of its judgement, the amount of tax due from the dealer and interest, if any.

Assessment of tax of dealers evading registration - Section 28 of the BVAT Act provides that if the prescribed authority is satisfied that any dealer has wilfully failed to apply for registration, he shall assess to the best of its judgement, the amount of tax due from the dealer.

Assessment or re-assessment of tax of escaped turnover - Section 31 (2) of the BVAT Act, 2005, provides for assessment/re-assessment of the escaped turnover/incorrect ITC of the dealer.

Assessment of tax of escaped turnover detected before or at the time of assessment of tax - Section 32 (1) of the BVAT Act, 2005, provides that, if the Assessing Authority (AA) is satisfied that any registered dealer has concealed or furnished incorrect statement or particulars of his sales or purchase in the return or has claimed excess amount of ITC, he shall direct

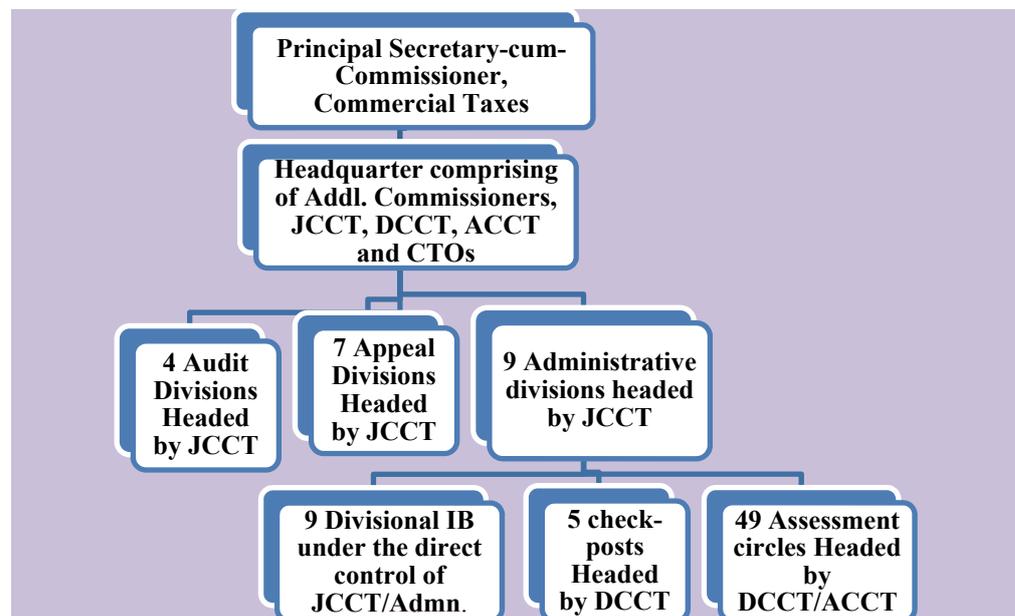
that the dealer shall, besides the amount of tax and interest, pay by way of penalty equivalent to three times the tax payable.

Assessment of tax based on audit objections - Section 33 of the BVAT Act, provides that where an objection has been made by the Comptroller and Auditor General of India in respect of an assessment/ re-assessment/scrutiny of any return filed under this Act, the prescribed authority shall proceed to re-assess the dealers.

Detailed Audit - Section 26 (3) of the BVAT Act, 2005 provides that the Commissioner of Commercial Taxes (CCT) may select any registered dealer for detailed audit of his business on the basis of a selection model/criteria fixed by him. The audit of a dealer selected, is to be conducted, within a period of thirty six months from the due date and the number of registered dealers to be audited every year shall ordinarily be not more than ten percentum of the total number of registered dealers.

2.3.3 Organisational set up

The levy and collection of VAT in the State is entrusted to the Commercial Taxes Department. At the apex level, the Department is headed by the Commissioner of Commercial Taxes (CCT). The circle is the basic activity centre of the Department where assessment/scrutiny is done by the Assessing Authority (AA). The organisational chart of the Department is given below:



2.3.4 Audit objectives

The Performance Audit was conducted with a view to ascertain that:

- system of assessment/scrutiny are in place and provide adequate safeguard to check the leakage of revenue and these are being duly followed;
- evidence in support of various claims made by the dealer and their manner of furnishing are prescribed and these are being duly followed;

- the tax assessed after assessment/scrutiny proceedings is being realised properly and duly credited into Government Account and tax refunds are made properly;
- there exists an effective and adequate internal control and monitoring mechanism in the Department with regard to assessment/scrutiny and realisation of taxes; and
- cases of appellate courts/other courts/audit (internal as well as external) are duly pursued and compliance assessments/re-assessments are being done in the prescribed manner.

2.3.5 Audit Criteria

The Audit criteria for the Performance Audit have been derived from the following sources:

- Bihar Value Added Tax (BVAT) Act, 2005;
- The Rules made there under, executive and departmental orders and instructions issued from time to time; and
- Rules of Executive Business, 1979.

2.3.6 Scope and Methodology

The Performance Audit was conducted during January to July 2015 covering the period from 2010-11 to 2014-15. Records of the office of the CCT and 18⁵ out of 49 circles in the State were examined and the relevant information was procured. In selecting the circles, random sampling by Population Proportionate Sampling with Replacement (PPSWR) method was adopted to select 17 circles. In addition, Muzaffarpur West circle (not selected by above method) having the maximum number of registered dealer and being the largest revenue earning circle of Tirhut Division was also selected to ensure representation of each division in the sample size.

Audit methodology included preparing guideline, conducting field visits for examination of records which includes test check of periodical returns, Tax Audit Report (TAR) -I and TAR-IV, utilization certificates of declaration in form- 'C', 'F, road permits/suvidha, purchase/sale statements, Balance sheet/ Profit and loss account etc. and cross-verified the data of sales/purchase shown by the dealer in their TAR/returns with the purchase/sales shown by another dealers, as well as collection of data from the Department, issuance of audit memos, questionnaires and obtaining replies from audited entities to arrive at the audit findings and conclusions.

2.3.7 Acknowledgment

Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Taxes Department in providing the necessary information and records to Audit. An entry conference was held with the Principal

⁵ Barh, Begusarai, Bhagalpur, Darbhanga, Forbesganj, Gandhi Maidan, Gaya, Hajipur, Jehanabad, Madhubani, Muzaffarpur West, Patliputra, Patna Central, Patna City East, Patna City West, Patna South, Patna Special and Purnea.

Secretary-cum-CCT on 13 March 2015 wherein we explained objectives, scope and methodology of audit and an exit conference was held with the Principal Secretary-cum-CCT on 18 September 2015 in which the audit findings, conclusions and recommendations were discussed. Their responses have been suitably incorporated in the relevant paragraphs.

2.3.8 Trend of Revenue

2.3.8.1 Variation between budget estimates and actual receipts

We observed in June 2015 that there was wide variation between Budget estimates (BEs) and actual receipts under VAT as per Finance Accounts, Government of Bihar ranging between (-) 32.86 *per cent* and (+) 14.88 *per cent* during the period 2010-11 to 2014-15 as given in **Table 2.2** below:

Table-2.2

(₹ in crore)

Year	Budget estimates	Receipts as per Finance Account	Excess(+)/ Shortfall (-)	Percentage of variation	Total tax receipts of Bihar	Percentage of VAT <i>viz-</i> <i>a-viz</i> total tax receipts of Bihar
2010-11	5,627.69	4,557.18	(-)1,070.51	(-)19.02	9,869.85	46.17
2011-12	6,508.00	7,476.36	(+) 968.36	(+)14.88	12,612.10	59.27
2012-13	8,071.00	8,670.79	(+)599.79	(+)7.43	16,253.08	53.34
2013-14	12,324.04	8,453.02	(-) 3,871.02	(-)31.41	19,960.68	42.34
2014-15	12,820.15	8,607.16	(-) 4,212.99	(-) 32.86	20,750.23	41.47

(Source: Revenue and Capital Receipt (Detail): Finance Accounts, Government of Bihar)

The above table showed that receipts from VAT though grew considerably from ₹ 4,557.18 crore to ₹ 8,670.79 crore during 2010-11 to 2012-13 but decreased during the period 2013-15. The above table also showed that the Budget estimates for the year 2013-14 (₹ 12,324.04 crore) and 2014-15 (₹ 12,820.15 crore) was very high in comparison to the actual receipts of preceding years. This indicates that while preparing the Budget estimates for the year 2013-14 and 2014-15 the VAT receipts of the Department during the preceding years were not taken into consideration as per the provision of Rule 54 of the Bihar Budget Procedures (BBP).

After this was pointed out, the Department accepted the audit observation and replied in the exit conference that the provision as laid down in the BBP had not been followed while formulating the Budget estimates.

2.3.8.2 Non-reconciliation of departmental revenue figures of VAT with the figures of Finance Accounts

We observed in June 2015 that there were large variations in the figures of receipts under VAT as furnished by the Department and the receipts shown in the Finance Accounts as given in **Table 2.3**:

Table-2.3

(₹ in crore)

Year	Budget estimates	Receipts as per Finance Account	Receipt as per Department	Variation between receipts as per Finance Account and Department
2010-11	5,627.69	4,557.18	4,532.19	(-) 24.99
2011-12	6,508.00	7,476.36	5,667.92	(-) 1,808.44
2012-13	8,071.00	8,670.79	7,390.66	(-)1,280.13
2013-14	12,324.04	8,453.02	8,546.43	(+) 93.41
2014-15	12,820.15	8,607.16	8,779.51	(+)172.34

(Source: Revenue and Capital Receipt (Detail): Finance Accounts, Government of Bihar and information provided by the department)

As indicated in the table, the variation of the actual receipts shown in the Finance Accounts and those furnished by the Department ranged between (-) ₹ 1,808.44 crore and (+) ₹ 172.34 crore during 2010-11 to 2014-15. This indicates that no reconciliation of figures of receipts of VAT was done by the Department, with the figures of the Accountant General (A&E), as required under the provision of Rule 37 of Bihar Financial Rules.

After this was pointed out, the Department stated in exit conference in September 2015 that reconciliation would be done.

2.3.9 Arrears of revenue

Arrear of revenue increased from ₹ 585.44 crore to ₹ 1,238.26 crore during 2011-12 to 2014-15. Thus growth of pendency of arrear was more than 100 per cent during the period.

The status of arrears of revenue in 10⁶ out of 18 selected circles during the year 2010-11 to 2014-15 was as given in the **Table 2.4** below:

Table-2.4

(₹ in crore)

Year	Opening Balance		Arrears of revenue added during the year		Amount of arrears realised		Closing Balance	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2010-11	3,354	595.26	3,152	78.41	2,629	109.48	3,877	564.19
2011-12	4,039 ⁷	585.44	1,997	508.91	3,040	248.29	2,996	846.06
2012-13	2,996	846.06	3,041	536.67	3,284	856.43	2,753	526.30
2013-14	2,753	526.30	4,753	1,476.48	5,110	398.42	2,396	1,604.36
2014-15	2,396	1,604.36	4,838	1,016.39	4,625	1,382.49	2,609	1,238.26

(Source: Information provided by the circles)

On the analysis of above information we observed that the arrear of revenue of ₹ 585.44 crore in 10 selected circles in the beginning of 2011-12 increased to ₹ 1,238.26 crore till the end of 2014-15 which shows that the growth of

⁶ Barh, Begusarai, Gandhi Maidan, Gaya, Hajipur, Patliputra, Patna Central, Patna City West, Patna Special and Purnea.

⁷ The opening balance of 2011-12 is more than closing balance of 2010-11 because Begusarai circle provided information only for 2011-12 to 2014-15.

pendency of arrear was more than 100 *per cent* during 2011-12 to 2014-15. This indicates that the pace of accumulation of arrears of revenue is more than the recovery. It also denotes weakness in control mechanism and poor monitoring in the Department.

We further observed that despite vesting of powers of certificate officers to the officers of the Department under the provision of Section 46 of the BVAT Act only 28 certificate cases could be instituted involving an amount of ₹ 14.09 crore during 2010-11 to 2014-15.

After this was pointed out, the Department stated in exit conference in September 2015 that reply would be sent after receipt of replies from circles.

Audit findings

The BVAT Act came into force with effect from 1 April 2005. Audit reviewed the system of assessment and noticed a number of deficiencies which have been discussed in the succeeding paragraphs.

2.3.10 Deficiencies in scrutiny/assessment

Section 25 and Section 26 under the BVAT Act, 2005 and Rules made thereunder contain the provisions of scrutiny and self-assessment of tax respectively. Audit noticed deficiencies and inadequacies in implementation of provisions of the BVAT Act for scrutiny, self-assessment/assessment.

2.3.10.1 Acceptance of incomplete returns for self-assessment

Filing of all the fields and boxes was not made mandatory while up-loading of returns. As a result, dealers filed incomplete returns which were treated as self-assessed by the Department.

We observed during March to June 2015 in course of audit of dealer's return filed on Value Added Tax Management Information System (VATMIS) that the returns were up-loaded without filling in all the information/figures/boxes in the format of returns, though Section 24(1A) of the BVAT Act provides that every registered dealer shall furnish a true and complete return. Further, Section 26 provides that the tax due in respect of a financial year from every registered dealer who has furnished the returns mentioned in Section 24, before the expiry of the due date, shall be deemed to have been assessed. Thus, it is obligatory for the dealers to up-load the returns complete in all respects for being self-assessed. But the returns are accepted and treated self-assessed in violation of the aforesaid provisions of the Act *ibid*, which implies that the Department had not made all the fields of returns mandatory while e-filing of return.

After this was pointed out, the Department replied in exit conference in September 2015 that from 1st April 2015 up-loading of information in Box-B and Box-C of the return and opening and closing stock in RT-III had been made mandatory and filling of Box-G would be made mandatory while on-line filing of returns.

The reply of the Department does not explain as to why up-loading of information in all the fields and other boxes such as Box-A, Box-D, Box-E,

Box-F and Box-H of the return were not made mandatory. In the absence of information in all the fields/boxes of the return, self-assessment in these cases may lead to leakage of revenue.

We recommend that the Government/Department may consider making filling of all the fields and boxes mandatory and that only self-contained, true and complete returns are accepted and treated as self-assessed.

2.3.10.2 Survey of unregistered dealers and assessment thereof

In three to five circles only the survey to identify unregistered dealers could be conducted during 2010-11 to 2014-15 and the AAs failed to do assessment and levy penalty in the 181 cases of non-registration.

The status of survey and registration of dealers and assessments thereof in the 18 test-checked circles during the period between 2010-11 and 2014-15 is given in **Table 2.5** below:

Table-2.5

Year	Total no. of survey done	No. of dealers found eligible for registration	No. of dealers registered after survey	No. of cases in which proceeding of assessment initiated u/s 28
2010-11	289	158	66	85
2011-12	99	78	42	0
2012-13	61	128	32	0
2013-14	94	73	40	14
2014-15	336	309	95	191
Total	879	746	275	290

(Source: Information furnished by the circles)

The above table indicates that only 879 surveys were conducted in three to five circles out of 18 test-checked circles and thus no survey was conducted in 13 to 15 circles during the year 2010-11 to 2014-15 to broaden the tax base, though Section 58 of the BVAT Act provides to carry out survey to detect the unregistered dealers. Further, in 879 surveys conducted, 746 dealers were found eligible for registration but only 275 dealers got registered and assessment under Section 28 of the BVAT Act was done in case of 290 dealers only. Thus, the AAs did not assess and levy tax and penalty in the remaining 181 cases.

The matter was reported to the Department/Government in July 2015; we are yet to receive the reply (October 2015).

2.3.10.3 Short number of scrutiny

Around 99 per cent of returns remained unscrutinised during the period 2010-11 to 2013-14 in the test-checked circles.

The status of registered dealers, return filing dealers and number of scrutiny done under Section 25 of the BVAT Act in 10 circles⁸ out of 18 selected circles was given in **Table 2.6**:

⁸ Barh, Begusarai, Darbhanga, Gandhi Maidan, Gaya, Hajipur, Jehanabad, Madhubani, Patna City West and Patna Special.

Table-2.6

Year	No. of registered dealers	No. of dealers filed return	No. of dealers whose scrutiny was done u/s 25	Percentage of dealers scrutinised	Shortfall in scrutiny (in per cent)
2010-11	38,996	22,612	248	1.09	98.91
2011-12	47,699	29,294	271	0.92	99.08
2012-13	51,895	32,023	228	0.71	99.29
2013-14	57,216	33,909	134	0.39	99.61

(Source: Information provided by the circles)

It was evident from the above table that around 99 per cent of returns remained un-scrutinised during the period 2010-11 to 2013-14 though under the provision of Section 25 of the BVAT Act read with rule 21 of the BVAT Rules, the AAs are responsible for scrutiny of every return filed under sub-section (1) and (3) of Section 24 before the end of the year following the year to which such return relates. Thus, the AAs failed to perform their very basic and primary duty of doing scrutiny of returns. Pendency of scrutiny of such a large number of dealers is also indicative of lack of internal control and monitoring mechanism in the Department which is also evident from the fact that no report/return regarding scrutiny is prescribed.

The matter was reported to the Department/Government in July 2015; we are yet to receive the reply (October 2015).

We recommend that the Government/Department may consider prescribing report/return so that scrutiny/assessment of cases could be effectively monitored by the higher authorities.

2.3.10.4 Assessment of dealers not filing return

In 10 test-checked circles, 38.29 to 42.01 per cent of the registered dealers had not filed their returns during 2010-11 to 2013-14 and only 0.01 to 0.09 per cent of cases were assessed under Section 27 during the year 2010-11 to 2013-14.

We observed in 10⁹ out of 18 test-checked circles that 38.29 to 42.01 per cent of the registered dealers had not filed their returns during the period between 2010-11 and 2013-14 as detailed in the **table 2.7**:

Table – 2.7

Year	No. of registered dealers	No. of dealers who have not filed their return	Percentage of dealers not filing return	No. of dealers assessed u/s 27	Percentage of dealers assessed u/s 27
2010-11	38,996	16,384	42.01	14	0.09
2011-12	47,699	18,405	38.58	05	0.02
2012-13	51,895	19,872	38.29	05	0.02
2013-14	57,216	23,307	40.74	03	0.01

(Source: Information furnished by the selected circles)

⁹ Barh, Begusarai, Darbhanga, Gandhi Maidan, Gaya, Hajipur, Jehanabad, Madhubani, Patna City West and Patna Special.

Non-filing of returns by such a large number of registered dealers was indicative of lack of internal control mechanism and monitoring in the Department. The AAs could assess only 0.01 to 0.09 *per cent* of cases during the period between 2010-11 and 2013-14 and the rest cases were left out though they were required to do assessments in all such cases under the provision of Section 27 of the BVAT Act.

The matter was reported to the Department/Government in July 2015; we are yet to receive the reply (October 2015).

2.3.11 Suppression of turnover

We observed that the scrutiny checklist did not provide for verification of the turnover as disclosed in the returns with other records of the dealer like utilisation statements of road permits/*suvridha*, declaration forms as well as Tax Audit Report (TAR) or information of sales and purchases obtained from the records of other dealers. We further observed that the system of cross-verification of purchase and sales figures of a dealer with the sales and purchase figures shown in the return by another dealer was also not prescribed there. These resulted into underassessment of tax, interest and penalty as discussed in the following paragraphs:

2.3.11.1 Suppression of turnover detected from the dealers' records

Non/deficient scrutiny of returns of the dealers resulted in under-assessment of tax of ₹ 39.23 crore including leviable interest and penalty.

We observed during the examination of 375 scrutinised/assessed cases and 2,215 self-assessed cases in the test-checked 18 circles during January and June 2015 that 33 dealers in 13 circles¹⁰ purchased/sold goods of ₹ 644.51 crore during the period 2010-11 to 2013-14 as shown in their utilisation statements of road permits (D-IX¹¹), statements of declaration form 'C'¹², Tax Audit Report¹³ (TAR) and *Suvridha* details. They, however, accounted for ₹ 538.80 crore only in their annual returns thereby suppressing purchase/sale of goods worth ₹ 105.71 crore. Due to absence of provision of verification of turnover shown in the return with the other records of the dealer, the AAs could not detect the suppression of turnover, even in one case which was assessed/scrutinised by them and the remaining cases were not scrutinised by the AAs even after the expiry of the time-limit prescribed for scrutiny. This resulted in underassessment of tax of ₹ 39.23 crore including penalty of ₹ 26.85 crore and interest of ₹ 3.43 crore leviable under Section 31 (2) of the BVAT Act as detailed in **Annexure-II**.

After this was pointed out, the Department stated that demand of ₹ 6.49 crore had been raised in respect of two dealers of two circles (Patna south and Patna

¹⁰ Barh, Bhagalpur, Darbhanga, Gaya, Forbesganj, Hajipur, Muzaffarpur West, Patliputra, Patna City East, Patna City West, Patna South, Patna Special and Purnea.
¹¹ D-IX- Road permit declaration used to import/purchase the goods for value of ₹ 10,000 or more from outside the State. This accompanies with the goods carrier.
¹² Form C- Used to purchase goods at concessional rate in the course of inter-State trade and commerce.
¹³ TAR- Every dealer having gross turnover of ₹ One crore and above is required to submit TAR certified by a Chartered Accountant before the stipulated date.

Special) while in the case of one dealer of Darbhanga circle the AA refuted the audit contention with plea that goods valued ₹ 70.90 lakh was despatched on 31 March 2011, which was accounted for in next financial year, however the dealer had neither admitted any stock transfer receipt nor paid any amount of tax in the year 2011-12. We await recovery in the accepted cases and replies in remaining cases (October 2015).

2.3.11.2 Suppression of turnover detected during cross-verification of purchase and sales figures

Absence of a system of cross-verification of purchase and sales figures of dealers resulted into concealment of turnover and consequent under-assessment of tax of ₹ 411.04 crore including leviable penalty and interest.

We observed during the examination of 375 scrutinised/assessed cases and 2215 self-assessed cases in 18 circles between January and June 2015 that 26 dealers in 11 circles¹⁴ accounted for sales/purchase of ₹ 432.46 crore instead of actual sales/purchase of ₹ 4,066.64 crore and thus suppressed the purchase/sales turnover of ₹ 3,634.18 crore. This was revealed after cross-verification of information of sale/purchase disclosed by dealers in their return/TAR from the information of purchase/sales disclosed in the return/TAR of the selling /purchasing dealers. Due to absence of system for such cross-verification these could not be detected by the AAs which resulted into under-assessment of tax of ₹ 411.04 crore including leviable penalty and interest as detailed in **Annexure-III**.

After this was pointed out, the Department stated that demand of ₹ 28.39 crore had been raised in respect of four dealers of two circles (Patliputra and Patna Special). We await recovery in the accepted cases and replies in remaining cases (October 2015).

2.3.11.3 Non-verification of the figures of inter-state purchase

Non-verification of the figures of inter-state purchase provided by the CCT to the circles resulted in short levy of tax of ₹ 1.56 crore including leviable penalty and interest.

We observed during the examination of 375 scrutinised/assessed cases and 2215 self-assessed cases in 18 circles between January and June 2015 that four dealers in four circles¹⁵ had exhibited purchase of goods of ₹ 11.39 crore during 2010-11 to 2011-12 in their returns. On cross-verification of figures of inter-state purchase of goods as circulated by the CCT to the circles with the direction to verify these figures, we observed that these dealers had actually purchased goods of ₹ 17.84 crore. Thus, these dealers suppressed the import value of ₹ 6.45 crore which was not detected by the AAs due to non-verification of purchases. This resulted in short levy of tax of ₹ 1.56 crore including leviable penalty of ₹ 1.06 crore and interest of ₹ 14.21 lakh as detailed in **Annexure-IV**.

¹⁴ Barh, Begusarai, Darbhanga, Forbesganj, Hajipur, Madhubani, Muzaffarpur West, Patliputra, Patna City West, Patna Special and Purnea.

¹⁵ Darbhanga, Gaya, Hajipur and Muzaffarpur West.

The matter was reported to the Department/Government in July 2015; we are yet to receive the reply (October 2015).

2.3.12 Input Tax Credit

We observed in May 2015 that clause (f) of Section 25 (1) of the BVAT Act was deleted w.e.f. 27 May 2011 by Bihar VAT (amendment) Act, 2011. After deletion of the said clause, the mandatory checks by the AAs to ascertain correct and proper claim of ITC claimed by the dealers was removed. The said clause (f) was again inserted w.e.f. 1st April 2012 and sub-section (1A) of Section 25 of the BVAT Act was inserted by Act 14 of 2012 but the Government has not prescribed any manner or evidence or information to be furnished along with the claims of ITC shown in the return till date, despite legislative intent to do so. Thus, no mandatory checks have been prescribed under Section 25(1) for the AAs to verify the genuineness/admissibility of the ITC. This resulted into excess/incorrect availing/allowance of ITC as discussed in the following paragraphs:

2.3.12.1 Excess/incorrect availing of ITC

ITC of ₹ 1.60 crore was incorrectly availed by 12 dealers in eight circles which could not be detected by the AAs. This resulted in non-levy of tax of ₹ 6.87 crore including leviable penalty and interest.

We observed during the examination of 375 scrutinised/assessed cases and 2,215 self-assessed cases in test-checked 18 circles between January and June 2015 that 12 dealers in eight circles¹⁶ had availed ITC of ₹ 19.18 crore in their annual returns during the period from 2011-12 to 2013-14. The claims of ₹ 1.60 crore relating to consumables, capital goods in case of traders, ITC brought forward from previous years without any such carry forward, inputs consumed in the manufacture of schedule-IV goods etc. were in-admissible as per the provision of Section 16 of the BVAT Act. Thus the dealers were entitled for ITC of ₹ 17.59 crore only. Due to absence of mandatory checks to verify the genuineness/ admissibility of ITC, the dealers claimed/availed excess ITC of ₹ 1.60 crore which could not be detected by the AAs. The leviable penalty under Section 31 (2) of the BVAT Act for the excess claim amounted to ₹ 4.80 crore and interest thereof worked out to ₹ 46.85 lakh. The total revenue impact was ₹ 6.87 crore as detailed in **Annexure-V**.

After this was pointed out, the Department stated that demand of ₹ 57.33 lakh had been raised in respect of three dealers of two circles (Darbhanga and Patna Special). We await recovery in the accepted cases and replies in the remaining cases (October 2015).

2.3.12.2 Incorrect ITC detected during cross-verification of purchase and sales figures

Absence of a system of cross-verification of purchase and sales figures of dealers resulted into availing of incorrect ITC of ₹ 36.63 crore including penalty and interest.

¹⁶ Begusarai, Darbhanga, Gaya, Madhubani, Patna Central, Patna City East, Patna South and Patna Special.

We observed during the examination of 375 scrutinised/assessed cases and 2,215 self-assessed cases in test-checked 18 circles between January and June 2015 that 39 dealers in 12¹⁷ circles had shown excess purchase of goods of ₹ 153.18 crore and excess ITC of ₹ 8.47 crore was availed thereon during 2010-11 to 2013-14 whereas the selling dealers had either not filed any return/TAR or not shown such sales to these dealers. This was revealed from the cross-verification of the returns/TAR of the selling/purchasing dealers. Due to absence of system for such cross-verification, these excess claim of ITC could not be detected by the AAs which resulted into under-assessment of tax of ₹ 36.63 crore including leviabale penalty and interest as detailed in **Annexure-VI**.

After this was pointed out, the Department stated that demand of ₹ 7.14 crore had been raised in respect of five dealers of two circles (Patliputra and Patna Special). We await recovery in the accepted cases and replies in the remaining cases (October 2015).

2.3.12.3 Irregular claim of ITC instead of adjustment of tax under Rule 10-A

Irregular adjustment of ITC of ₹ 40.93 crore was claimed by 10 dealers registered in six circles instead of adjustment of the tax paid at the preceding stage as per Rule 10A which could not be detected by the AAs.

We observed during the examination of 375 scrutinised/assessed cases and 2,215 self-assessed cases in 18 circles between January and June 2015 that 10 dealers in six circles¹⁸ had availed/claimed adjustment of tax in shape of ITC of ₹ 40.93 crore on purchase of tobacco products, a schedule-IV commodity notified w.e.f. 26 June 2012 as taxable at every point of sale. This was irregular adjustment of tax which was not allowable on purchase of these goods under rule 10-A of the BVAT Rules which stipulates that the adjustment of tax paid at the preceding stage is allowable on such schedule-IV goods as per the formula prescribed under the Act *ibid*. In two out of 10 cases, excess adjustment of tax in shape of ITC of ₹ 6.86 lakh including interest of ₹ 1.39 lakh was detected. In other eight cases actual excess adjustment of tax could not be calculated due to non-availability of adequate information in the annual returns as detailed in **Annexure-VII**.

- In Barh circle, we observed (June 2015) that a dealer of IMFL irregularly availed adjustment of tax of ₹ 45.84 lakh paid at the preceding stage while arriving at his tax liability as per Rule 10-A during 2012-13 and 2013-14. No adjustment under rule 10-A was admissible to the dealer as he was a manufacturer of a schedule-IV commodity. Therefore the dealer is liable to pay tax of ₹ 45.84 lakh besides interest of ₹ 12.44 lakh.

The matter was reported to the Department/Government in July 2015; we are yet to receive the reply (October 2015).

¹⁷ Barh, Begusarai, Darbhanga, Forbesganj, Gaya, Madhubani, Patliputra, Patna Central, Patna City East, Patna South, Patna Special and Purnea.
¹⁸ Begusarai, Gaya, Hajipur, Jehanabad, Madhubani and Muzaffarpur West.

2.3.13 Non/short calculation of reverse credit

Non/short calculation of reverse credit resulted in excess availing of ITC of ₹ 16.36 crore including leviable penalty and interest.

We observed during the examination of 375 scrutinised/assessed cases and 2,215 self-assessed cases in test-checked 18 circles between January and June 2015 that eight dealers in eight circles¹⁹ made interstate and intrastate stock transfer/purchase return/sale of schedule-I goods as shown in the return/TAR filed by them during the period 2010-11 to 2012-13. The inputs for these goods were also purchased from within the State after paying tax thereon in the State, for which ITC of ₹ 55.37 crore was availed of by the dealer. Though the dealers were required to calculate the reverse credit under Rule 15 and 16 of the BVAT Rules, 2005, but the ITC availed by the dealers were not reversed as the reverse credit of ₹ 3.69 crore was either not calculated or calculated short by the dealers which could not be detected by the AAs. This resulted in excess allowance of ITC of ₹ 16.36 crore including penalty of ₹ 11.07 crore and interest of ₹ 1.59 crore leviable under Section 31 (2) of the BVAT Act as detailed in **Annexure-VIII**.

After this was pointed out, the department accepted the case of one dealer of Patliputra circle and instructed to recover the amount of reverse credit. We await recovery in accepted case and replies in the remaining cases (October 2015).

2.3.14 Incorrect availing/allowance of deductions by works contractors

The AAs could not detect the incorrect claims of deduction of ₹ 165.98 crore which resulted in short levy of tax of ₹ 10.16 crore.

We observed that clause (e) of Section 25(1) of the BVAT Act provide that the AA shall scrutinise every return filed under sub-sections (1) and (3) of section 24 to ascertain that the deductions claimed therein are substantiated in the manner and form prescribed under the Act. But for the deduction towards labour and other charges in case of works contractors no form or manner was prescribed under the BVAT Act or rule. Therefore, mandatory checks to verify the deduction claimed towards these items were absent while doing the scrutiny. This resulted in availing of excess deductions and consequently underassessment of tax and interest as discussed below:

We observed during the examination of 375 scrutinised/assessed cases and 2,215 self-assessed cases in test-checked 18 circles between January and June 2015 that 24 works contractors in 10 circles²⁰ availed deductions of ₹ 961.94 crore against the admissible deduction of ₹ 795.95 crore during 2010-11 to 2013-14. We observed from the returns, TAR, profit and loss account and other relevant documents filed by those works contractors that they availed deductions of ₹ 165.98 crore on items such as gross profit and

¹⁹ Begusarai, Gaya, Hajipur, Patliputra, Patna Central, Patna City East, Patna South and Patna Special.

²⁰ Bhagalpur, Forbesganj, Gaya, Muzaffarpur West, Patliputra, Patna Central, Patna City East, Patna City West, Patna Special and Purnea.

establishment expenses relatable to materials, spare parts and maintenance of plant and machinery, commission etc. which were not admissible as deduction under the provision of Section 35 of the BVAT Act. The AAs, however, failed to detect the claims of inadmissible deductions even in the cases which were scrutinised or assessed by them which resulted in short levy of tax of ₹ 10.16 crore as detailed in **Annexure-IX**.

After this was pointed out, the Department stated that demand of ₹ 1.75 crore had been raised in respect of nine dealers of six circles (Bhagalpur, Forbesganj, Patliputra, Patna Central, Patna City West and Patna Special). We await recovery in the accepted cases and replies in remaining cases (October 2015).

2.3.15 Short levy of tax due to application of incorrect rate of tax

Application of incorrect rates could not be detected by the AAs which resulted in short levy of tax of ₹ 7.41 crore including leviable interest.

We observed during the examination of 375 scrutinised/assessed cases and 2,215 self-assessed cases in test-checked 18 circles between January and June 2015 that 29 dealers in 14 circles²¹ assessed their tax at the lower rates of zero to 20 *per cent* on the sale of various goods valued at ₹ 96.58 crore instead of the correct rate of five to 30 *per cent* during 2010-11 to 2013-14. The application of incorrect rate of tax remained undetected by the AAs though as per Section 25 (1) (c) of the BVAT Act they were required to scrutinise every return to ascertain that the rates of tax have been applied correctly. This resulted in short levy of tax of ₹ 7.41 crore including interest of ₹ 2.13 crore as detailed in **Annexure-X**.

After this was pointed out, the Department stated that demand of ₹ 2.86 crore had been raised in respect of 10 dealers of five circles (Muzaffarpur West, Patliputra, Patna City West, Patna Special and Patna South) and recovered a sum of ₹ 2.68 lakh. The AA of Muzaffarpur West circle refuted the audit contention and stated that the Isabgul was taxable at the rate of 5 *per cent* as per the English version of notification no. 289 dated 17 December 2009. The reply of the AA is not in consonance with the fact that the Department had issued corrigendum in February 2014 by which the term “and including Isabgul” was deleted from above notification from the date of issue of that notification and the order was passed by AA after the date of issuance of such corrigendum. We await recovery in the accepted cases and replies in the remaining cases (October 2015).

2.3.16 Non-levy of purchase tax

Purchase tax of ₹ 13.16 crore in case of eight dealers in six circles was not levied by the AAs.

We observed during the examination of 375 scrutinised/assessed cases and 2,215 self-assessed cases in test-checked 18 circles between January and June

²¹ Barh, Begusarai, Bhagalpur, Darbhanga, Gandhi Maidan, Gaya, Muzaffarpur West, Patliputra, Patna Central, Patna City East, Patna City West, Patna South, Patna Special and Purnea.

2015 that eight dealers in six circles²² had made purchases of taxable goods of ₹ 259.56 crore within the State from un-registered dealers as shown in their return/TAR/purchase statements and consumed them in the manufacture of goods during 2011-12 to 2013-14. This attracted purchase tax under the provisions of Section 4 of the BVAT Act. But the dealer had not admitted the purchase tax in their returns which remained un-detected by the AAs. This resulted in non-levy of purchase tax of ₹ 13.16 crore including interest of ₹ 2.36 crore as detailed in **Annexure-XI**.

The matter was reported to the Department/Government in July 2015; we are yet to receive the reply (October 2015).

2.3.17 Short levy of tax

Short levy of tax of ₹ 3.34 crore including interest in case of five dealers of four circles could not be detected by the AAs.

We observed during the examination of 375 scrutinised/assessed cases and 2,215 self-assessed cases in test-checked 18 circles between January and June 2015 that five dealers in four circles (Muzaffarpur West, Patliputra, Patna Central and Patna City West) had calculated their tax liability at ₹ 4.68 crore in the returns filed by them during the period 2011-12 and 2012-13 instead of the correct tax liability of ₹ 7.25 crore. Thus, these dealers admitted their tax liability short by ₹ 2.57 crore. These could not be detected by the AAs which resulted in short levy of tax of ₹ 3.34 crore including leviable interest of ₹ 76.26 lakh as detailed in **Annexure-XII**.

After this was pointed out, the Department stated (October 2015) that demand of ₹ 4.18 lakh had been raised in respect of one dealer of Patna City West circle. We await recovery in the accepted case and replies in the remaining cases (October 2015).

2.3.18 Short levy of Additional Tax

In Patliputra circle the additional tax of ₹ 19.26 crore was short levied by the AA while doing assessment.

In Patliputra circle, we observed in February 2015 that the AA while doing assessment in December 2013 incorrectly levied additional tax of ₹ 19.46 lakh at the rate of 3 per cent of the tax amount of ₹ 6.49 crore only instead of correct amount of the sale of food grain worth ₹ 648.55 crore during the year 2010-11. This was in contravention of provision of Section 3AA of the BVAT Act which provides to pay additional tax at the rate of 3 per cent on aggregate value of goods sold at the first point of sales within the state. This resulted in short levy of additional tax of ₹ 19.26 crore on which the dealer was also liable to pay interest of ₹ 9.82 crore.

The matter was reported to the Department/Government in July 2015; we are yet to receive the reply (October 2015).

²² Darbhanga, Gaya, Hajipur, Patliputra, Patna Central and Patna City East.

2.3.19 Non-levy of surcharge

Surcharge of ₹ 29.10 lakh was not admitted by six dealers in three circles in their returns which could not be detected by the AAs.

We observed during the examination of 375 scrutinised/assessed cases and 2,215 self-assessed cases in test-checked 18 circles between January and June 2015 that six dealers in three circles (Begusarai, Hajipur and Purnea) sold tobacco products and petroleum products worth ₹ 9.55 crore during 2012-13 and 2013-14 on which tax of ₹ 2.05 crore was admitted by them. But the surcharge as required to be paid as per the provision of Section 3A of the BVAT Act was not admitted and paid by them though surcharge at the rate of 15 per cent and 10 per cent was leviable on the sales of tobacco products and petroleum products respectively. The AAs could not detect this which resulted into non-levy of surcharge of ₹ 29.10 lakh including interest of ₹ 4.81 lakh as detailed in **Annexure-XIII**.

The matter was reported to the Department/Government in July 2015; we are yet to receive the reply (October 2015).

2.3.20 Payment/Adjustment of VAT liability and interest thereon

2.3.20.1 Incorrect adjustment of entry tax towards payment of VAT

Non-detection of incorrect adjustment of entry tax against the VAT liability resulted in short levy of tax of ₹ 40.14 crore including interest.

We observed during the examination of 375 scrutinised/assessed cases and 2,215 self-assessed cases in test-checked 18 circles between January and June 2015 that 36 dealers in nine circles²³ had availed entry tax adjustment of ₹ 194.20 crore towards their VAT liability during the period 2010-11 to 2013-14. Our scrutiny, however, revealed that the dealers were eligible for adjustment of entry tax of ₹ 164.22 crore only according to the criteria²⁴ prescribed for availing of the adjustment of entry tax as prescribed under Section 3 (2) of the BTEG Act, 1993. These remained undetected by the AAs which resulted into incorrect adjustment of entry tax of ₹ 29.98 crore towards payment of VAT and thus dealers were liable to pay ₹ 40.14 crore including interest of ₹ 10.16 crore as detailed in **Annexure-XIV**.

After this was pointed out, the Department stated that demand of ₹ 2.95 crore had been raised in respect of six dealers of three circles (Muzaffarpur West, Patliputra and Patna Special). We await recovery in the accepted cases and replies in the remaining cases (October 2015).

2.3.20.2 Short payment of admitted tax

Short payment of admitted tax of ₹ 14.87 crore including interest was not detected by the AAs.

²³ Bhagalpur, Darbhanga, Gaya, Hajipur, Madhubani, Muzaffarpur West, Patliputra, Patna Special and Purnea.

²⁴ (i) The goods imported were not re-sold. (ii) The rates of VAT were less than the rate of ET (iii) imported Schedule goods are not used or consumed in the manufacture of goods.

We observed during the examination of 375 scrutinised/assessed cases and 2,215 self-assessed cases in test-checked 18 circles between January and June 2015 that 48 dealers in 15 circles²⁵ had paid tax of ₹ 285.10 crore against the admitted tax of ₹ 296.39 crore. Thus, the dealers made short payment of admitted tax of ₹ 11.29 crore during 2011-12 to 2013-14. Though the AAs were required to scrutinise the returns as per the provision of Section 25 (1) (d) of the BVAT Act to verify the evidence of payment of tax and accordingly issue notice to the dealer, but due to failure of the AAs in scrutinising the return, short payment of admitted tax of ₹ 11.29 crore could not be detected even in one assessed case. This resulted in non-detection of short payment of the admitted tax of ₹ 14.87 crore including leviable interest of ₹ 3.58 crore as detailed in **Annexure-XV**.

After this was pointed out, the Department stated that demand of ₹ 81.96 lakh had been raised in respect of three dealers of two circles (Patliputra and Patna City East). We await recovery in the accepted cases and replies in the remaining cases (October 2015).

2.3.20.3 Non-levy of interest for delayed payment of tax

The AAs did not levy interest of ₹ 5.49 crore for delayed deposit of VAT in case of 26 dealers in eight circles during the period 2010-11 to 2013-14.

We observed during the examination of 375 scrutinised/assessed cases and 2,215 self-assessed cases in test-checked 18 circles between January and June 2015 that 26 dealers in eight circles²⁶ had paid their admitted/assessed tax of ₹ 195.97 crore with a delay ranging from one day to 43 months 20 days during the period 2010-11 to 2013-14. Neither the dealer paid the interest at the rate of one and a-half *per cent* per month leviable under Section 24 (10) of the BVAT Act nor the AAs levied the interest for delayed payment of admitted tax or interest on the tax assessed as required under Section 39(4) of the BVAT Act. They failed to levy interest even while doing assessment of the dealer which resulted in non-levy of interest of ₹ 5.49 crore as detailed in **Annexure-XVI**.

After this was pointed out, the Department stated that demand of ₹ 2.37 crore had been raised in respect of twelve dealers of four circles (Patna City East, Patliputra, Patna South and Patna Special). We await recovery in the accepted cases and replies in the remaining cases (October 2015).

2.3.21 Tax deduction at source (TDS)

We observed that as per clause (d) of sub-section (1) of Section 25 of the BVAT Act, the AAs were required to ascertain that the evidence in support of payment of tax and interest was furnished. There was no system to up-load and verify the evidence of payment (copy of C-II²⁷) on the VATMIS to substantiate the claims of payment. Therefore the provision prescribed for the

²⁵ Barh, Begusarai, Bhagalpur, Darbhanga, Gaya, Hajipur, Jehanabad, Madhubani, Muzaffarpur West, Patliputra, Patna Central, Patna City East, Patna City West, Patna South and Patna Special.

²⁶ Gaya, Muzaffarpur West, Patliputra, Patna Central, Patna City East, Patna South, Patna Special and Purnea.

²⁷ Tax deduction certificate from works-contractor.

scrutiny of returns was insufficient to detect non/short/delayed deposit of Tax deducted at source (TDS). This resulted in irregular availing of TDS set off by the dealers as discussed in the following paragraphs:

2.3.21.1 Irregular issue of demand notice

Incorrect adjustment of TDS of ₹ 48.29 lakh deducted from the payment bills of a sub-contractor resulted in irregular issuance of demand notice.

In Patna Special circle we observed in April 2015 that a dealer was issued demand notice for excess VAT of ₹ 64.08 lakh by the AA while doing the assessments in November 2014. The demand notice was issued by adjusting TDS of ₹ 48.29 lakh deposited by the dealer which was deducted by him from the payment bills of the contractor engaged by him. Under the provision of rule 29 of the BVAT Rules the claim of adjustment of TDS is admissible only to the contractor from whose bill such deduction was made. Thus, incorrect adjustment of TDS resulted in irregular issue of demand notice by ₹ 48.29 lakh.

After this was pointed out, the Department stated (October 2015) that demand of ₹ 48.29 lakh had been raised. We await recovery in the accepted case (October 2015).

2.3.21.2 Irregular claim of payment of tax

A dealer claimed payment of tax of ₹ 1.80 crore on the basis of tax payment certificate 'C-II' issued in favour of another dealer which could not be detected by the AA.

In Muzaffarpur West circle, we observed (March 2015) that a dealer had claimed payment of tax by way of advance deduction of ₹ 2.92 crore during 2011-12. Out of that the dealer had irregularly claimed adjustment of tax liability of ₹ 1.80 crore on the basis of the 'C-II' issued in favour of another dealer in violation of the provision of rule 29 (4) of the BVAT Rules 2005. This remained undetected by the AA which resulted in short levy of tax of ₹ 2.02 crore including interest.

The matter was reported to the Department/Government in July 2015; we are yet to receive the reply (October 2015).

2.3.22 Non-levy of penalty for excess collection of tax

Penalty of ₹ 35.23 lakh for excess collection of tax was not levied by the AAs in case of three dealers of three circles.

We observed during the examination of 375 scrutinised/assessed cases and 2,215 self-assessed cases in test-checked 18 circles between January and June 2015 that three dealers in three circles (Bhagalpur, Patliputra and Patna Special) had collected and deposited tax of ₹ 19.10 crore during the period 2011-12 to 2012-13, though as per the goods sold by them their tax liability was ₹ 18.92 crore only during the period. Thus, the dealers had collected excess tax of ₹ 17.61 lakh in contravention of the provision of the Section 43(2) of the BVAT Act. Further, Section 43 (3) of the Act provides that in case of violation, a sum equal to twice the amount collected in contravention of the provision is leviable as penalty. But the AAs could not detect the excess

collection of tax which resulted in non-levy of penalty of ₹ 35.23 lakh detailed in **Annexure-XVII**.

After this was pointed out, the Department stated that demand of ₹ 6.50 lakh had been raised in respect of one dealer of Patliputra circle. We await recovery in the accepted case and replies in the remaining cases (October 2015).

2.3.23 Refund cases

2.3.23.1 Irregular adjustment of refund

Adjustment of refund of ₹ 6.45 crore, which was refundable to a dealer was given to another dealer irregularly by the AA.

In Patliputra circle we observed (February 2015) that a dealer was given adjustment of refund of ₹ 6.45 crore due to another dealer, out of which ₹ 2.69 crore was adjusted against VAT and ₹ 3.76 crore was adjusted against entry tax by the AA while doing assessment in August 2014. Neither Section 68 of the BVAT Act nor Rule 43 of BVAT Rules provides to make the adjustment of a dealer's liability from the refund of another dealer. Thus, it was evident that favour of ₹ 6.45 crore was given irregularly to the dealer whose liability was adjusted.

The matter was reported to the Department/Government in July 2015; we are yet to receive the reply (October 2015).

2.3.23.2 Irregular payment of refund without ensuring payment of tax

Refunds of ₹ 4.39 crore were made without ensuring the requisite certificate regarding payment of tax into Government Account.

In Begusarai circle, we observed in June 2015 that a sum of ₹ 4.39 crore was refunded to six dealers during 2013-14 in respect of unadjusted ITC for the period from 2010-11 to 2012-13 though no such payment certificate was given by the refund making authority before making refund order. Thus, the refunds were made without ensuring payment of tax in to the Government Account, though the CTD notified (June 2010) that while making refund order in cases of excess input tax credit a certificate regarding payment of tax, penalty and interest in to treasury is to be ensured by the authority making refund payment order.

The matter was reported to the Department/Government in July 2015; we are yet to receive the reply (October 2015).

2.3.24 Internal Control Mechanism

We observed in June 2015 that no report/ return was prescribed regarding compliance assessments arising due to cases remanded by the appellate courts, assessments pursuant to audit by the Comptroller and Auditor General of India and the JC Audit for efficient monitoring by the Higher management of the department. Deficiencies noticed in internal control mechanism are discussed below.

2.3.24.1 Selection of low number of dealers for VAT audit at the Commissionerate level

Very low percentage (0.55 to 1.71) of dealers was selected during the years 2010-11 to 2013-14 for detailed audit in the State except 2012-13.

During the audit scrutiny of records in the office of the CCT we observed that 0.55 *per cent* to 11.07 *per cent* of dealers were selected for VAT audit during 2010-11 to 2013-14. The details of dealer selected for VAT audit are given in **Table 2.8:**

Table – 2.8

Year	No. of registered dealers	No. of dealers selected for audit (percentage in bracket)	No. of registered dealers in 18 selected circles	No. of dealers selected for audit (percentage in bracket)
2010-11	2,04,573	2,682 (1.31)	74,476	1,451(1.95)
2011-12	1,92,645	3,296 (1.71)	89,183	1,844(2.06)
2012-13	2,32,897	25,788 (11.07)	99,149	10,211(10.29)
2013-14	2,76,010	1,513 (0.55)	1,09,924	797(0.72)

(Source: Information furnished by the Department/circles)

The above table shows that except 2012-13 (11.07 *per cent*) where the selection of the dealers crossed the maximum limit of 10 *per cent*, very low percentage (0.55 to 1.71) of dealers was selected during other years though under the provision of Section 26 (3) and rule 22 of the BVAT Act and BVAT Rules respectively, up-to 10 *per cent* of the dealers can be selected.

The matter was reported to the Department/Government in July 2015; we are yet to receive the reply (October 2015).

2.3.24.2 Non-selection of the eligible dealers for VAT audit

In eight circles, 55 dealers were not selected for VAT audit for the year 2013-14 despite fulfilling the criteria.

During examination of the database of the Department maintained in VATMIS software, we observed that 55 dealers registered in eight circles²⁸ were not selected for VAT audit for the year 2013-14 despite fulfilling the Criteria-VI²⁹ prescribed for selection of dealers for VAT audit, thus putting a question mark on the credibility of entire selection process.

The matter was reported to the Department/Government in July 2015; we are yet to receive the reply (October 2015).

2.3.24.3 Non-prescribing of VAT audit manual

We observed that manual for VAT audit was not prepared by the Department even after the lapse of seven years to prescribe control mechanism incorporating various procedural and methodical aspects of audit such as preparation of audit plan, maintenance of files of the office copy of the audit

²⁸ Begusarai, Darbhanga, Forbesganj, Gaya, Hajipur, Muzaffarpur west, Patna Central and Patna South.

²⁹ Works contractors having GTO of ₹ 20 crore.

observations and relevant papers, maintenance of objection book and follow-up of the audit findings etc. to streamline the audit process and make it effective.

The matter was reported to the Department/Government in July 2015; we are yet to receive the reply (October 2015).

2.3.24.4 Absence of control mechanism at Joint Commissioner (audit) level

Registers/records were not maintained in the JC Audit to record information of audit plan, audit done, amount objected/recovered etc. and even office copy of the audit report/inspection report was not found.

We observed during the audit scrutiny of the information made available by two audit divisions (Patna and Central) that returns/records of 336 and 978 dealers were audited by Central division and Patna division respectively for the year 2010-11. But no information with regard to amount objected during audit was furnished to us. We found that no such register/record was maintained therein by which dealer-wise information of audit done, amount objected and recovery made could be verified. Even office copy of the audit report/inspection report was also not found in these audit divisions.

It was also noticed that no audit plan was prepared in respect of number of dealers selected for audit and available manpower/man-days. As a result, the audit of selected dealers was very slow which was evident from the fact that out of 426 and 1,249 selected dealers for 2011-12 in Central division and Patna division respectively, audit of only eight (1.87 *per cent*) and 69 (5.52 *per cent*) dealers was completed till date. Further, audit of the cases for the year 2012-13 was not initiated. Therefore, the possibility of completion of audit within the due date at this pace seems to be remote.

The matter was reported to the Department/Government in July 2015; we are yet to receive the reply (October 2015).

2.3.24.5 Low impact of VAT audit at the circle level

We observed in the 18 test-checked circles that out of total 1,195 selected dealers pertaining to the year 2010-11 whose assessments were done by the AAs, demand of ₹ 2.88 crore only was raised in the cases of 609 dealers and a meager amount of ₹ 7.39 lakh could be recovered which indicated low impact of VAT audit. No tax irregularities were found in 586 cases, which meant that the criteria fixed for selection of dealers for VAT audit was not based on proper risk analysis.

The matter was reported to the Department/Government in July 2015; we are yet to receive the reply (October 2015).

The Government/Department may consider making the selection criteria/process of dealers for VAT audit more inclusive and transparent and prescribing an Audit manual to streamline the audit procedures for making them effective.

2.3.24.6 Pendency in assessments pursuant to Audit by the Comptroller & Auditor General of India

In 17 selected circles, 536 observations were pending for compliance assessments despite lapse of the prescribed time of one month.

During the test-check of records in 17 out of 18 selected circles, we observed that out of 1,865 number of audit observations, compliance assessments were made by the circles in 1,329 cases and the remaining 536 cases were pending for assessments during 2010-11 to 2013-14 despite the provision of Section 33 of the BVAT Act and the instruction issued by CCT in December 2006 for compliance of Audit observations within one month of initiation of proceedings. We further noticed that in the assessed cases, demand of ₹ 753.54 crore was raised by the Department, out of which recoveries of ₹ 228.81 crore only could be made. Non-assessments pursuant to audit observations within the prescribed time-limit of one month as instructed by the CCT was indicative of the weak control mechanism in the Department.

The matter was reported to the Department/Government in July 2015; we are yet to receive the reply (October 2015).

2.3.24.7 Assessments pursuant to Remand by the appellate courts becoming time-barred

In 14 circles 71 cases remanded by the appellate courts during 2010-11 to 2013-14 remained pending for assessment after the lapse of prescribed time-limit and became time-barred.

As per the information provided by 14³⁰ out of 18 test-checked circles we observed that total 473 cases were remanded by the appellate courts during 2010-11 to 2013-14, out of which assessment in 402 cases only were done by the AAs. Thus, 71 cases remained pending which pertain to the period 2010-11 to 2013-14 and became time-barred as on 31 March 2015 though the first proviso below Section 37 of the BVAT Act provides that a proceeding for re-assessment in pursuance of or as a result of an order on appeal, revision or review shall be initiated and completed before the expiry of one year from the expiry of the year during which such order was communicated to the AA. It was further seen that out of demand for ₹ 389.11 crore, a sum of ₹ 316.62 crore only had been realised.

The matter was reported to the Department/Government in July 2015; we are yet to receive the reply (October 2015).

2.3.24.8 Monitoring of assessment/scrutiny cases

- We observed in May 2015 that there was no prescribed register to record the cases which are assessed/scrutinised by the AAs for better internal controls and monitoring.

The matter was reported to the Department/Government in July 2015; we are yet to receive the reply (October 2015).

³⁰ Barh, Begusarai, Bhagalpur, Darbhanga, Forbesganj, Hajipur, Madhubani, Muzaffarpur West, Patna Central, Patna City East, Patna City West, Patna South, Patna Special and Purnea.

- We observed in June 2015 that no report/return regarding the assessments/ scrutiny conducted by the officers of the Circles is prescribed under the BVAT Act/Rules to be submitted to the Higher Authorities so that the pace of scrutiny/assessment conducted is monitored efficiently and consequent action could be taken.
- We observed in June 2015 that there was no provision under the BVAT Act to mandatorily check certain percentage or number of assessment/scrutiny finalised by the assessing authorities of the Circles by the higher management.

After this was pointed out in June 2015, the Department replied in exit conference in September 2015 that though no report/return or provision had been prescribed under the BVAT Act/Rule but scrutiny/assessment cases are monitored in the monthly/quarterly/annual meetings. Poor state of control mechanism of scrutiny/assessment was also evident from our finding at Paragraph 2.3.10.3 of this Report.

2.3.24.9 Non-prescribing of DCB register

We observed in May 2015 that there was no provision for maintenance of Demand, Collection and Balances (DCB) register under the BVAT Act. In the absence of such a control tool, there is no prescribed mechanism to record the demand raised by the AAs after the assessments/scrutiny made by them under various provisions of the BVAT Act, collection of arrears of revenue and the balance to be deposited so that these are effectively monitored.

After this was pointed out in June 2015, the Department replied in exit conference in September 2015 that a circular had been issued by the Department in this regard to maintain such register.

2.3.25 Conclusions

The Performance Audit revealed the following:

- The Department had not made filling of all the fields and boxes mandatory while up-loading of returns. As a result dealers filed incomplete returns which were treated as self-assessed by the Department.
- Surveys to detect un-registered dealers and enlarge the tax-base were conducted in only three to five circles out of the test checked 18 circles, as a result only 275 dealers got registered under the BVAT Act on account of surveys.
- Large number of the registered dealers had not filed their returns and very low number of scrutiny/assessment of the return/record of the dealer was conducted by the AAs.
- Suppression of purchase/sale turnovers, incorrect/excess availing of deduction, incorrect availing/allowance of ITC, non-levy of additional tax and surcharge, non-levy of purchase tax, non/short payment of admitted/assessed tax, non-levy of interest and short levy of tax led to leakage of revenue.

- The internal control framework was deficient in terms of inadequate selection of dealers for VAT audit, non-selection of eligible dealers and non-prescribing of VAT manual. No Register/Report/Return was prescribed for recording/monitoring of scrutiny/assessment cases.

2.4 Information Technology Audit on ‘Computerisation of Commercial Taxes Department’

Highlights

Introduction

To improve service delivery to dealers and efficient Value Added Tax administration, the work of Value Added Tax Management Information System (VATMIS) in Commercial Taxes Department was allotted to M/s Tata Consultancy Services (TCS) Ltd. on nomination basis in November 2006 by Industry Department of Government of Bihar. VATMIS runs on the servers installed at the Bihar Revenue Administration Intranet (BRAIN) Data Centre (DC) under National e-Governance Plan (NeGP).

(Paragraph 2.4.1)

Project Management and Governance

The service level agreement between BSEDC (State Designated Agency) and M/s TCS Ltd (Nominated agency for implementation of VATMIS) was not signed till date of audit (June 2015) and the User Requirement Specification, Software Requirement Specification, System Design Document, data flow diagram, data dictionary etc. were not on records. In addition, Commercial Taxes Department (CTD) had no source code of application, exit management and Disaster Recovery Centre for the system.

(Paragraph 2.4.6)

Due to non-completion of project activities within stipulated period, Central share of Mission Mode Project for Commercial Taxes (MMPCT) was curtailed. The Disaster Recovery Centre of the system was established at Patna instead of New Delhi.

(Paragraphs 2.4.7 and 2.4.8)

IT Controls

The application control of the system had various shortcomings like Tax Payers Identification Number (TIN) and Unique Electronic Identification Number (SUVIDHA) was generated with incomplete information of dealers and required business rules and validation checks were not mapped in the system. As a result, a number of errors in the uploaded data remained undetected and dealers were able to conceal facts in their favour.

(Paragraphs 2.4.12 to 2.4.14)

2.4.1 Introduction

Computerisation in Commercial Taxes Department (CTD), Government of Bihar (GoB) was initiated in the year 1999-2000 with engagement of National Informatics Centre (NIC). Later, Industry Department, GoB had allotted the work of Value Added Tax Management Information System (VATMIS) to M/s Tata Consultancy Services (TCS) Ltd. on nomination basis in November 2006. The objectives of computerisation are given hereunder:

- Improved service delivery to dealers;
- Efficient VAT administration;
- Reduced official-dealer interface with reduced response time;
- Information sharing among different authorities; and
- Increased transparency and accountability.

VATMIS runs on the servers installed at the Bihar Revenue Administration Intra Net (BRAIN) Data Centre (DC) under National e-Governance Plan (NeGP). All the circles along with CTD Headquarter were connected to the BRAIN DC through Leased Lines/Secretarial Local Area Network (SECLAN) of Bharat Sanchar Nigam Limited (BSNL). Bihar State Wide Area Network (BSWAN under NeGP) provides the main backbone for connectivity between the BRAIN DC and locations. With installation of VATMIS, the stakeholders of the CTD may file their return online and make e-payment through Payment Gateway comprising of more than 40 premier Banks. Further, with this application, CTD can receive tax returns, monitor payments made by dealers, keep track of defaulters by taking resource to recovery procedures provided under the Statutes, assessments/re-assessment of tax due and generation and processing of data for cross-verification. The application functionalities of VATMIS include VAT, Central Sales Tax (CST), Entry Tax, Electricity Duty, Entertainment Tax, Luxury Tax, Advertisement Tax and Professional Tax.

2.4.2 Organisational Set up

Bihar State Electronics Development Corporation Ltd. (BSEDC) as State Designated Agency (SDA) was responsible for purchase of all types of software and hardware in the departments of GoB as well as implementation of VATMIS in the CTD. In the CTD, Commissioner of Commercial Taxes (CCT) is responsible for the administration of the Acts and Rules.

2.4.3 Audit Objectives

The IT audit was conducted to assess whether:

- System achieved the intended objectives, supported the business processes, ensured compliance with applicable rules and regulations and maintained data integrity;
- Necessary organizational controls were in place for effective and efficient management of the system;
- Necessary controls were in place for ensuring the security of information system assets; and
- Necessary controls were in place to ascertain continuity of business.

2.4.4 Audit Criteria

The following were the sources of the audit criteria adopted for the IT Audit:

- The Central Sales Tax Act, 1956;
- The Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993;
- The Bihar Value Added Tax Act, 2005;
- The Bihar Value Added Tax Rules, 2005;
- Bihar Financial Rules, 2005; and
- Gazette/Notifications issued by the Government from time to time.

2.4.5 Scope and Methodology

The IT audit on computerisation of Commercial Taxes Department was conducted between February and June 2015 with the help of Computer Assisted Audit Techniques (CAATs) and data was collected from the BRAIN DC at Technology Bhawan, Patna. In course of audit, the data from the period April 2009 to January 2015 was extracted and analysis of data relating to different modules³¹ present in VATMIS application was done. During audit questionnaire and audit memos were issued to CTD and BSEDC. An entry conference was held on 13 March 2015 with the Principal Secretary, CTD in which the objectives, scope and methodology of audit was discussed. The Audit findings and recommendations were discussed in the Exit Conference on 18 September 2015. Replies received during exit conference and other points of time have been suitably incorporated in the relevant paragraphs.

Audit findings

Audit findings of the IT Audit has been detailed in two broad categories namely - '**Project Management and Governance**' (Paragraph numbers 2.4.6 to 2.4.11) and '**IT Controls**' (Paragraph numbers 2.4.12 to 2.4.14).

Project Management and Governance

Industries Department through State Cabinet Decision, GoB allotted (November 2006) the work of VATMIS to TCS on nomination basis. According to the allotment order, this work was to be implemented through BSEDC. Accordingly, BSEDC issued purchase order (November 2006) to TCS for implementation of VATMIS. The purchase order included installation of VAT IT software framework and implementation charges (Core Charges), Annual maintenance Charges (AMC) of three years and Training. Scrutiny of records disclosed following facts.

2.4.6 Non-signing of Service Level Agreement (SLA) and inadequate documentation

As per best practices of Information technology, User Requirement Specifications (URS) and System Design Document (SDD) which gives the complete description of the proposed system to be developed should be approved by the user agency so that the vendor understands the requirement of

³¹ Registration, Check-Post (Statutory Forms), Return and Payment.

the client. Further, proper documentation such as URS, Software Requirement Specification (SRS), SDD, data flow diagram, data dictionary etc. are crucial for computerization of the project.

During audit we observed that though the purchase order issued to TCS by BSEDC (November 2006) clearly mentioned that the purchase order was to be substituted by a detailed agreement between BSEDC and TCS, neither service level agreement (SLA) was signed (till June 2015) nor the details of work to be covered in AMC clause was mentioned. The relevant documents (URS, SDD) prepared by the system developer were not available with CTD. As a result, CTD became fully dependent on implementing agency for every step as it did not have source code of the application and exit management. The Department accepted the proposal of TCS for change request (additions/alterations) and paid ₹ 88.00 lakh out of ₹ 2.21 crore to TCS till date. As the scope of AMC was undefined, the CTD was not in a position to impose any liquidated damage/penalty on TCS for non/under performance.

After this was pointed out, the Department stated (September 2015) that the service level agreement with provision of exit management and source code had since been executed in July 2015 between BSEDC and TCS. As regards payment for change request, the Department stated that requirement of the Department keeps on changing and it cannot be predefined. Further, it was stated that all the modules developed by TCS are available with the Department and a sample copy of the URS related to payment modules has been made available to audit.

Reply of the Department regarding payment for change request is not acceptable because the user requirement was not pre-defined by the Department/SDA before issuing purchase order to TCS and due to undefined scope of AMC, the Department had to accept proposal for change request by TCS and pay for the same. Moreover, if the department's requirement keeps on changing, this clause also must be incorporated in the agreement accordingly. Further, reply of the Department regarding URS/SDD is not acceptable as it shared with audit only module-wise database table list.

2.4.7 Financial status of the system

The Ministry of Finance, Government of India approved (26 March 2010) a Mission Mode Project for Computerisation of Commercial Taxes administration (MMPCT) with total project cost of ₹ 51.21 crore in which the proposed Central share and State share was ₹ 35.05 crore and ₹ 16.16 crore respectively. The release of Central Share of funds was linked to the achievement of milestones of the project. The project was to be completed by 31 March 2014 (after extension of one year). Details of actual release and expenditure under this project are given in **Table 2.9** below:

Table- 2.9
Release and expenditure under MMPCT

(₹ in lakh)

Year	Opening Balance	Actual release of fund		Total available fund	Expenditure			Closing Balance
		GoI	GoB		BSEDC	CTD	Total	
2009-10	0.00	500.00	0.00	500.00	0.00	0.00	0.00	500.00
2010-11	500.00	0.00	250.00	750.00	6.72	0.00	6.72	743.28
2011-12	743.28	1000.00	647.00	2390.28	443.26	171.47	614.73	1775.55
2012-13	1775.55	1654.00	345.00	3774.55	685.41	8.79	694.20	3080.35
2013-14	3080.35	0.00	374.00	3454.35	961.56	0.00	961.56	2492.79
2014-15	2492.79	0.00	0.00	2492.79	6.55	190.41	196.96	2295.83
Total		3154.00	1616.00		2103.50	370.67	2474.17	

(Source: - Information furnished by BSEDC and CTD)

It was evident from the above table that only ₹ 47.70 crore was released against approved project cost of ₹ 51.21 crore and the expenditure against the release was only ₹ 24.74 crore which indicated non-completion of milestones³² of MMPCT.

It was, further, observed that due to non-completion of project activities/milestones within stipulated period, Central share amounting to ₹ 3.51 crore (₹ 31.54 crore released against proposed Central share of ₹ 35.05 crore) could not be received. Further, it was also noticed that due to delay for more than two years in site preparation work at headquarters (an integral part of MMPCT), the State was deprived of the Central Share and hence borne an extra burden of ₹ 38.46 lakh. In addition, quarterly physical and financial progress reports were also not being maintained by BSEDC.

After this was pointed out, the Department stated (September 2015) that completion of On-line refund functionality is in progress. As soon as Standardisation, Testing and Quality Certification (STQC) Audit is conducted, Department would be in a position to request GoI to release the remaining fund.

2.4.8 Non-installation of Disaster Recovery Centre at New Delhi

The equipment earmarked for the Disaster Recovery Centre (DRC) was not installed at New Delhi (different seismic zone).

The conditions of MMPCT stipulated that establishment of Disaster Recovery Centre (DRC) was mandatory for any organization which did their work in IT environment so that in case of *force majeure* i.e. earthquake, floods etc. the data could be recovered from DRC and the organization might run smoothly. Accordingly, Secretary, Finance Department, GoB had accorded (March 2012) approval for establishment of DRC at New Delhi to BSEDC. Further, BSEDC had purchased (March 2013) Hardware (IT equipment) worth ₹ 1.60 crore on behalf of CTD.

³² Disaster Recovery Centre, Use of State Data Centres, Use of Common Service Centres, E-Refund.

Scrutiny of records of BSEDC disclosed that these equipment were not installed at DRC, New Delhi and lying idle at BSEDC Bhawan, Patna. As a result, establishment of DRC (i.e. milestone of MMPCT) could not be completed till date of audit (July 2015). Further, it was also noticed that the Department never tested backup data.

After this was pointed out, the Department stated (September 2015) that DRC had since been set up and is functional at the State Data Centre. Hence, there was no case of non-utilisation of procured hardware.

The reply of the Department is not in consonance with the facts as the equipment earmarked for DRC was to be set up at New Delhi (i.e. in different seismic zone) and not in Patna.

2.4.9 Excess expenditure on procurement of Software

Excess procurement of MS Office software licences of ₹ 8.29 lakh without requirement.

As per departmental letter (May 2012), 274 Desktops³³, 389 Laptops³⁴ and 663 M.S Office software licenses³⁵ were to be procured under MMP for Commercial Tax Offices.

During test-check of records relating to procurement, we observed that BSEDC procured 274 desktops and 300 (out of 389) laptops while 663 M.S Office software licenses were procured against the required 574 (274+300) licenses. Thus, 89 number of M.S Office software licenses amounting to ₹ 8.29 lakh³⁶ were procured excessively without its requirement. Further, BSEDC submitted detail of only 209 out of 300 laptops.

After this was pointed out, the Department/SDA accepted (August 2015) the fact and stated that 19 licenses were installed in old desktops and remaining 70 licenses would be used in future procurement.

Reply is not acceptable as technology changes rapidly and the Department may get upgraded version in future at lower price.

2.4.10 Excess payment to Data Base Administrator (DBA)

The Department had paid an extra amount of ₹ 16.18 lakh for hiring services of Data Base Administrator (DBA) separately.

The work of implementation of VATMIS under BRAIN Project for the Government of Bihar which was inclusive of AMC charges worth ₹ 1.26 crore for three years (which was later extended up to 22 August 2015) was awarded (28 November 2006) to TCS by BSEDC. Besides above mentioned work, TCS submitted (27 January 2012) a proposal for Database Administrator (DBA) for better monitoring of servers at Data Centre.

During test check, we observed that details of work covered under AMC by TCS were not on records. The Senior Consultant of MMPCT was also against

³³ Desktops at the rate of ₹ 55569 each.

³⁴ Laptops at the rate of ₹ 53077 each.

³⁵ M.S Office software licenses at the rate of ₹ 9317 each.

³⁶ 89 x ₹ 9317 = ₹ 829213

the proposal of separate DBA by TCS and suggested to the CTD (July 2012) that AMC should include all types of support and no payment should be demanded for human resources separately. However, CTD and BSEDC accepted the proposal for rendering service of Data Base Administrator (DBA) and paid an extra amount of ₹ 16.18 lakh to TCS for hiring service of DBA separately.

After this was pointed out, the Department stated (September 2015) that function of DBA was not part of initial scope of work for TCS. When the online services were launched the need for DBA was felt and TCS was given the work for one year. We do not agree with the reply of the Department as scope of works to be covered should have been detailed in the AMC.

2.4.11 Infructuous expenditure on development of software for Check Posts

Injudicious decision to develop another check post system module resulted in infructuous expenditure of ₹ 12.24 lakh.

As per purchase order for implementation of VATMIS, the Check Post System module (Goods Information System) was to be implemented by TCS. Accordingly, TCS had developed the required application software for Check Post System.

During test check of records of CTD, we observed that despite availability of application software www.biharcommercialtax.gov.in prepared by TCS for Check Posts, CTD ordered (May 2013) M/s BeST to develop another Check Post System Module i.e. online D-VII (Out to Out) D-VIII (within State) software. Accordingly, M/s BeST had developed another software www.ctdbihar.gov.in and received (June 2014) a sum of ₹ 12.24 lakh for the same. Later, the use of software prepared by M/s BeST was rescinded (May 2015). In addition, the work was awarded to M/s BeST without inviting tender in contravention to the provision of Rule 131(I) of BFR 2005 and without executing agreement in contrary to the Rule 30(v) of the Rules *ibid*.

After this was pointed out, the Department/SDA accepted (August 2015) the fact and stated that originally procured server became overburdened due to the added functionalities (e-suvidha). New hardware was purchased for the enhancement of server capacity but the same could not be installed due to non-availability of Oracle licenses. In view of restrictions of server capacity, the Department decided to shift the load of e-suvidha to another website and CTD approached BeST to develop a website exclusively for generation of e-suvidha. But, the services provided by M/s BeST were not up to mark and BeST gave in writing that they were unable to continue rendering service due to logistic problems and it was decided that the website would be closed from April 2015.

The reply itself demonstrates that the requirements of the Department were not frozen by the Department/SDA before issuing purchase order to TCS.

IT Controls

IT controls are specific controls that help to ensure the proper authorisation, completeness, accuracy, and validity of transactions, maintenance, and other

types of data input. These controls are used to provide assurance (primarily to management) that all transactions are valid, authorised and recorded. In course of this IT audit, Registration module, Check post module and Return and payment module of VATMIS application were analysed under IT Controls.

2.4.12 Registration module

Due to deficient Input Control and validation checks in the system, invalid data was accepted by the System.

Registration module of VATMIS helps the assessing officer to manage various aspects of the registration viz. initial registration, collection of taxes, cancellation of registration etc. A unique registration number³⁷ to identify a dealer and to trace all his transactions is the foundation of the VAT system. Under the provisions of Section 19(2) of the BVAT Act read with Rule 3 of BVAT Rules, 2005, an application in Form A-I, in which some information like PAN, Bank Details etc. have to be furnished. Further, Certificate of Registration in Form "C-I" granted to the dealer by the issuing authority mentions the date of Registration from which the dealer is liable to pay tax under the Act. The registered dealers are of different categories like Compounding³⁸, Normal etc. and the application software segregates these dealers by mentioning their specific category by allotting specific codes viz. YB, YC, SD and NORM.

During scrutiny of the database we observed that there were 3,37,318 registered dealers in the CTD as on January 2015 and the above said details of dealers were either not entered or entered with invalid data as given in the **Table 2.10** below:

Table- 2.10
Discrepancies in the data

Details of discrepancies	No. of dealers
PAN missing or Invalid PAN	64,405
Registration Type-blank	1,910
Bank Details- missing	99,765

(Source: -Information furnished by BSEDC)

As evident from the table above, the system had accepted invalid data. This was indicative of deficient input control in the system.

After this was pointed out, the Department stated (July 2015) that PAN was not mandatory at inception phase and now from May 2015 PAN was validated on real time basis with NSDL. Many records were of migrated data. Further, only 1,910 number of records under VAT were missing and the Department was working on the rectification.

The reply is not acceptable since all the details were mandatory and hence these should be compulsory to capture all the records as mentioned above.

³⁷ TIN (Tax payer Identification Number).

³⁸ Registered under Section 15 of the BVAT Act and pay a fix amount in lieu of the tax payable by the dealer under the Act.

2.4.13 Check Post Module

As per departmental notification issued (September 2010), the CTD had to establish six check posts³⁹ along the borders of the State for monitoring of goods transporting into and outside the State. However, the computerized Check post Management System module (SUVIDHA⁴⁰) was started in the State from July 2012 at five check posts⁴¹ to capture the details of goods purchased/sold and stock transferred into and outside State as well as transit of the goods through the State of Bihar.

The deficiencies noticed in the Check Post Module are discussed in the succeeding paragraphs.

2.4.13.1 Non-mapping of provisions of Section 62 of BVAT Act

The computerized system was not mapped properly with the provisions of Section 62 of BVAT Act, due to which the Department could not monitor exit of the vehicles utilising transit passes.

Under the provision of Section 62 of the BVAT Act, if any consignment of goods is being transported by road from a place outside the State of Bihar to another such place and the vehicle carrying consignment passes through the territory of the State, the driver or any other person in-charge of the vehicle shall obtain transit permission from first check-post *en-route* after entry into the State and shall surrender the same transit permission to the authority of the last check-post before leaving the State and in the event of failure to do so within seventy-two hours of leaving the first check-post falling *en-route*, it shall be deemed that goods transported have been sold within the State by the owner or the person in-charge of the vehicle. Further, the rate of penalty is rupees five hundred for every day of the default or a sum twice the amount of tax calculated on the value of the goods transported, whichever is higher.

The data is captured in VATMIS when a vehicle having D-VII authority enters/exits into/from the State border. The system should have an inbuilt mechanism to give alert to the Department on entering a vehicle, having transit pass, into the State border, so that the Department could monitor the exit of the same from the State border.

During data analysis of check posts for the period from July 2012 to January 2015, we noticed (June 2015) that the system did not have an inbuilt mechanism to monitor the exit of the goods from the State border. It was, however, observed from data analysis that 5,43,341⁴² out of 40,89,500 vehicles with consignment had got 'out to out SUVIDHA' during July 2012 to January 2015 and they did not surrender the transit passes within 72 hours but due to system deficiency (i.e. lack of mapping of provisions of Section 62 of BVAT Act) CTD could not monitor the stay of consignments in the State. This might

³⁹ Dalkola (Purnea), Dobhi (Gaya), Jalalpur (Gopalganj), Karmnasa (Kaimur), Rajauli (Nawada) and Sohanpatti (Buxar).

⁴⁰ Simplified Usage of Vehicle Information Data Harmonized Application.

⁴¹ Dalkola (Purnea), Dobhi (Gaya), Jalalpur (Gopalganj), Karmnasa (Kaimur), Rajauli (Nawada).

⁴² 14,532 vehicles having consignment value of ₹ 5,615.50 crore had already been reported in the Audit Report (Revenue Sector)-2013-14.

result into leakage of revenue⁴³ on those consignments as per system data. We further observed that out of 5,43,341 defaulter vehicles, 88,447 vehicles have repeatedly entered into the State (two to 227 times) after generating out to out SUVIDHA without surrendering their transit passes in each previous occasion. We also observed that 587 out to out SUVIDHA were generated without proper vehicle's registration numbers, but no restrictions/alerts as mentioned above were raised by the system. Further, 2,98,411 vehicles having consignment value ₹ 86,188.65 crore with tax effect (VAT) amounting to ₹ 10,560.06 crore out of 5,43,341 vehicles had to exit from those five check posts where computerized Check Post Management System module was functional.

A recommendation to evolve a full proof mechanism for vehicles making transit through Bihar by establishing check posts at those exit points for which SUVIDHA was generated was already given in earlier Audit Report (Revenue Sector) for the year ended March 2014 was not yet considered by the Department.

After this was pointed out in audit, the Additional Commissioner, CTD admitted (July 2015) that more than five lakh vehicles did not surrender their transit passes but denied their stay in the State. He further said that there were several routes from which vehicles could enter into the State and exit from the State where there was no functional check post. He also added that the drivers of vehicle could not understand the implications of the Section 62 of BVAT Act in the beginning hence, they did not surrender the transit passes. The Department further stated (September 2015) that it has revamped the mechanism through which defaulter vehicles are identified and mechanism for punitive action on defaulter vehicles and for deleting their identity from the defaulter list has been developed.

This was indicative of facts that CTD had not ensured pre-requisite checks at functional check posts and establishment of online check posts at each entry and exit points of the State before entering transactions under VATMIS.

2.4.13.2 Deficiency in input control of the system

The VATMIS Application had no inbuilt control mechanism to restrict the import of goods by unauthorised person/dealer.

Under the provisions of the BVAT Act, 2005 and BTEG Act, 1993, the following restrictions with regard to import of goods into the State had been made mandatory which should also be properly mapped in the computer application:

- Under provisions of Section 5 of the BTEG Act read with Section 28 of the BVAT Act, dealers not registered under BTEG Act are not allowed to import scheduled goods under BTEG Act.

During data analysis we observed that 77 Compounding Bricks Kiln Dealers imported the scheduled goods under BTEG Act amounting to ₹ 13.28 crore having Entry Tax impact of ₹ 69.80 lakh by generating 1,386 number of SUVIDHA without taking registration under ET.

⁴³ Consignment value of 5,43,341 vehicles = ₹ 1,19,383.98 crore, VAT amount = ₹ 13,950.15 crore.

Further, we also observed that 932 unregistered Normal Dealers (under ET) imported ET scheduled goods amounting to ₹ 84.34 crore having Entry Tax impact of ₹ 4.76 crore by generating 4,381 number of SUVIDHA.

After this was pointed out, the Department stated (June 2015) that 53 normal dealers out of 932 were registered under Entry Tax and 27 dealers out of 53 have deposited Entry Tax of ₹ 79.50 lakh. Further, the Department stated (September 2015) that the data of e-SUVIDHA and payment of Entry Tax upto February 2015 only had been taken under the audit observation whereas the payment of Entry Tax regarding SUVIDHA generated upto February 2015 was to be made after February 2015. The specific replies of the remaining cases are still awaited.

- Under the provisions of Section 15(1) and 15(1A) of the BVAT Act, the dealers classified as Compounding are not eligible to import any goods from outside the State.

During data analysis we observed that 110 dealers classified as Compounding Dealers in the database, imported goods worth ₹ 286.88 crore. Further, we also observed that 14 Compounding Dealers had paid lesser entry tax amounting to ₹ 4.73 crore than payable on import of ET scheduled goods worth ₹ 111.42 crore on 3,664 number of SUVIDHA and three Compounding Dealers did not pay the entry tax of ₹ 3.07 lakh on import of scheduled goods under ET worth ₹ 61.46 lakh on 54 numbers of SUVIDHA.

In reply the Department stated (June 2015) that 11 dealers out of these 110 were dealers of Schedule IV goods of the BVAT Act but these were classified wrongly as Compounding Dealers in the database. Again they stated in the Exit Conference (September 2015) that some more dealers are wrongly classified in this category which needs correction.

- Under the provisions of Section 19 of the BVAT Act, an unregistered dealer is not liable to pay tax under Section 3 or 4 of this Act, as the case may be. Further, as per VATMIS application, the CTAN (a temporary User ID) is generated by an individual (other than a dealer under BVAT Act or BTEG Act) for import of goods for his personal use while a dealer uses his TIN as User ID for generation of SUVIDHA.

The data analysis revealed that 275 SUVIDHA were generated for import of goods worth ₹ 7.34 crore by 104 dealers who were not registered under the BVAT Act or BTEG Act, impersonating as a dealer.

In reply the Department stated (June 2015) that 214 SUVIDHA were erroneously generated by 83 transporters for D-IX in place of D-VII and for remaining cases they assured to examine it individually.

Further, we also observed that 165 numbers of individuals had imported goods using 279 SUVIDHA on the basis of CTAN worth ₹ 10.62 crore for the purpose of Resale or Packing of Goods for sale/resale.

After this was pointed out by audit, the Department stated (September 2015) that most of the importers were individuals. These might be a result of wrong entries regarding purpose of import. However, action would be taken by the concerned circles after detail examination of the data on case to case basis.

In the Exit Conference (September 2015) the Department not only appreciated all the findings related to the deficiency in the system but also stated that many corrective measures in the VATMIS application have been taken with effect from the year 2015-2016.

We recommend that the system should restrict the generation of SUVIDHA for import of goods by an unauthorised dealers or by an individual for restricted purposes.

2.4.13.3 Short/non-payment of ET by Compounding Brick Kiln Dealers

The VATMIS application was not mapped to raise alert on short/non-payment of Entry Tax.

The provisions of Section 3 of the BTEG Act, 1993 provides that the Entry Tax is leviable at the prescribed rates when any scheduled goods is imported for sale, use or consumption in the State.

During data analysis we observed that 126 number of Compounding Brick Kiln Dealers had paid less entry tax of ₹ 58.72 lakh than payable on the import of scheduled goods worth ₹ 40.78 crore on generation of 4,180 number of SUVIDHA while 13 number of dealers did not pay the entry tax amounting ₹ 10.05 lakh on the import of scheduled goods worth ₹ 1.98 crore on generation of 188 number of SUVIDHA.

After this was pointed out, the Department accepted (June 2015) the fact.

2.4.14 Return and payment module

A registered dealer shall furnish a true and complete return in respect of all his transactions relating to sale, purchase, receipt and dispatch of goods and any other transactions prescribed specifically to the prescribed authority in such form and in such manner as may be prescribed.

With the help of Return and Payment module of VATMIS, a registered dealer under VAT can file returns and can make payment electronically from any place at any time through Internet. However, from October 2012 the Electronic filing of all returns under BVAT Act and e-payments on departmental website had been made compulsory for the registered dealers having Gross Turnover exceeding a sum of fifty lakh of rupees during any financial year or part thereof or having output tax liability during any quarter exceeding a sum of one lakh of rupees.

The system should have an inbuilt mechanism to give alert to the concerned assessing authority on the delay/non-filing of returns, short/non-payment of VAT, short payment of admitted tax, excess claims of rebate under Section 24 (12) of BVAT Act and generate demand notice automatically against defaulter dealers so that the assessing authority could monitor the case.

The shortcomings noticed in Return and Payment module of VATMIS are discussed in the succeeding paragraphs.

2.4.14.1 Absence of alert for delay/non-filing of Return

The VATMIS application was not mapped to raise alert on non/delayed filing of returns.

Under Section 24(3) of the BVAT Act, 2005, every registered dealer shall furnish to the prescribed authority, on or before due date, a true and complete return in respect of every financial year in the form and manner prescribed.

Further, as per provision of Section 24(8) of the BVAT Act, if a dealer fails to furnish the annual return (RT-III) within time, he shall be liable to pay fine⁴⁴ for the delay.

During analysis of data pertaining to such dealers whose at least one quarterly return was found uploaded in the system for the period from 2011-12 to 2013-14, it was noticed that 53,845 dealers did not file their RT-III while 30,718 filed RT-III with delay. However, due to system deficiency, demand notice of fine⁴⁵ for non-filing/delay filing of returns could not be generated automatically.

After this was pointed out in audit, the Department stated (September 2015) that there were possibilities that the assessing authorities might have imposed penalty/fine on dealers who failed to file return in time. As the demand created was not entered into the system, it does not reflect.

The reply was itself an admission of system fault. However, the actual position of demand created and fulfilled was awaited.

We recommend that the system should restrict the dealers from filing returns after due date without paying payable fine and also raise an alert regarding dealers who have not filed their returns after due date.

2.4.14.2 Absence of alert regarding short payment of VAT

The VATMIS application was not mapped to raise alert on short payment of tax by Brick Kilns Dealers who had opted for compounding scheme.

Under the provision of the sub section (4) of Section 15 of the BVAT Act, the Department issued (May 2006) notification under which the owner of brick kilns opting for compounding tax (VAT) has to pay a minimum amount ₹ 60,000 per financial year till 2011-12 and as per notification (July 2012), this amount was further enhanced to ₹ 75,000 for 2012-13 and ₹ 83,000 for 2013-14 (earmarked for lowest category of brick kilns).

During data analysis, it was noticed that 1,405 out of 4,102 brick kiln owners, who opted for compounding tax, paid short compounding tax amounting to ₹ 4.54 crore during the period 2009-10 to 2013-14 (calculated on minimum VAT/year).

⁴⁴ A sum of ₹ 750 for each month or part thereof for the first six month of delay and a sum of ₹ 1000/- for each month or part thereof for each subsequent month of delay.

⁴⁵ ₹ 86.43 crore (calculated upto December 2014 for the period 2011-13) for non-filing of RT-III and ₹ 9.35 crore (calculated upto January 2015 for the period 2011-14) for delayed filing of return.

After this was pointed out (May 2015), the Department accepted the facts and stated (June 2015) that 1,234 'YB' dealers⁴⁶ had actually paid short VAT of ₹ 3.51 crore, while 171 dealers were wrongly classified as 'YB' dealers in the system. Further the department stated (September 2015) that, if a brick kiln dealer does not fulfil the terms and conditions as laid down in notification issued under sub Section (4) of Section 15 of the BVAT Act, he is no longer treated as a compounding dealer. The facts remained as the system was still showing those dealers as compounding dealers.

2.4.14.3 Absence of alert regarding short/non-payment of admitted tax

The VATMIS application was not mapped to raise alert against short/non-payment of admitted tax.

Under the provisions of Section 24 of the BVAT Act, every dealer shall deposit the tax payable in respect of every month on or before the 15th day of the following month, failing which the dealer shall be liable to pay interest at the rate of one and a half *per cent* per month on the amount due from the date the tax was payable and became due to the date of its payment.

- During data analysis of the returns and payment of the dealers as made available to audit, it was noticed that 22,588 dealers had made short payment of ₹ 694.31 crore during 2009-10 to 2013-14 against their admitted tax liability under BVAT Act which was not flagged by the system automatically.
- It was also noticed that 14,034 dealers had not paid tax amounting to ₹ 180.25 crore during the year 2009-10 to 2013-14 against their admitted tax liability under BVAT Act which was also not flagged by the system automatically. The dealers were also liable to pay interest as per prevalent provision of the BVAT Act in addition to tax.

After this was pointed out, the Department stated (September 2015) that in some cases this happened due to wrong entry in the Returns by the dealers. Further, the Department stated that the short payment calculated by audit cannot be accepted as every parameters like payment of tax for return period, C-II claims, set-off of unadjusted ET of previous year, output tax, Input Tax, Rebate under Section 24 etc. were not considered. In case of non-payment the Department further stated that the individual cases are being examined at circles level.

The reply was not acceptable as the onus for entering data in a field lies on the dealer in case of e-filing and an automatic alert in this regard need to be generated by the system to minimize the manual intervention as an objective of the computerization and further it is to mention that the audit had calculated the short/non-payment after deducting the actual amount of VAT/CST paid (admitted/assessed/advance), ET set off claimed and amount shown in the TDS column in the returns (RT-III) from the amount of net tax payable shown in the earmarked column of the Annual Return (RT-III).

⁴⁶ Compounding brick kiln dealers.

2.4.14.4 Absence of alert regarding non-payment of interest on delay payment of VAT

The VATMIS application was not mapped to raise alert on non-payment of interest on delayed payment of VAT.

Under the provisions of Section 24(9) of the BVAT Act, every dealer, other than a dealer permitted to pay tax under Section 15(1) and 15(4), shall deposit the tax payable in respect of every month on or before the 15th day of the following month. Further, under the provisions of Section 24(10), a dealer required to furnish return under Section 24(1A) and 24(4), if fails to pay the tax payable according to the provisions of Section 24(9), such dealer shall be liable to pay interest at the rate of one and half *per cent* per month. The application should have inbuilt control so that an automatic alert for leviable interest against the defaulter dealer could be raised by the system.

During data analysis for the period from 2009-10 to 2013-14 it was noticed that ₹ 70.83 crore as interest for delayed payment of VAT has not been levied on 1,33,704 dealers. This was after considering interest paid amount, if any, by the dealers.

Thus, due to lack of inbuilt control in the system, the system did not raise any automatic alert in this regard. The Department did not give any specific reply in this regard.

We recommend that the steps should be taken to restrict the dealers from paying their tax without leviable interest.

2.4.14.5 Absence of alert regarding excess rebate availed by dealers

Due to lack of input and validation checks in the application software the dealers were allowed to claim excess rebate.

Under the provision of Section 24 (12) of the BVAT Act a rebate at the rate of half *per cent* of amount of tax admitted to be due in the return under Section 24 subject to maximum ₹ 50,000 in a year is allowable to a dealer.

During analysis of the returns of dealers under VATMIS for the period from 2009-10 to 2013-14, it was noticed that 1,680 dealers had claimed excess rebate.

After this was pointed out, the Department accepted (June 2015) that till now the return templates available for the dealers were not macro based so the dealers were open to upload values in wrong columns or absurd values due to mistake. It was further stated that from first quarter of 2015-16, provision for macro based excel template was being made in the system which would put end to these type of mistakes by auto calculation and subsequent correction.

Further, the Department stated (September 2015) that the dealers/Data Entry Operators have committed mistakes while uploading RT III and have put wrong amount against the column “Rebate under Section 24(12)”.

2.4.14.6 Non-mapping of provision of revision of quarterly returns

The application software was not properly mapped with the prevailing provisions of the BVAT Act, which allowed the dealers to revise their returns irregularly.

The State Government amended the provisions of sub-section 1 of Section 24 of BVAT Act in the year 2012 due to which the facility of revision of quarterly returns submitted under Section 24 (1A) were automatically ceased from the dealers. Accordingly, the system should be mapped with the prevailing provisions of the Act.

During analysis of data we observed that 63,127 and 72,618 number of quarterly returns submitted under sub-section 1A of Section 24 have been revised in the year 2012-13 and 2013-14 respectively which had been accepted by the software as well as the Department itself.

After this was pointed out, the Department passed the BVAT (Amendment and Validation) Act 2015 in August 2015 and restored the provision of revision of quarterly returns with retrospective effect i.e. from 1 April 2012.

2.4.14.7 Concealment of sale/stock transfer outside the State and purchase/stock receipts from outside the State

The system was not able to raise alert regarding any mismatch of the admitted sale/purchase figures with the actual sale or purchase as per check-post data. Further, it also failed to automatically restrict the dealers putting wrong figures of Opening Stock in the returns with regard to closing stock admitted in previous year's return.

Under the provisions of Section 31(2) of the BVAT Act, if a dealer conceals his turnover or any particulars thereof, he is liable to pay penalty with interest in addition to tax payable on the suppressed value.

- During cross verification of data of the check post (for approved and expired SUVIDHA) with the data of returns filed by dealers for the year 2012-13 (check post data available only from July 2012) and 2013-14, we found that 515 out of 1,632 dealers and 2,158 out of 3,138 dealers shown their outside sale and stock transfer of ₹ 118.18 crore and ₹ 1,249.31 crore less during 2012-13 and 2013-14 respectively.

After this was pointed out, the Department replied (July 2015) that the amount of outside sale shown in annual return (RT III) under VAT excludes the amount of CST, while in e-SUVIDHA it includes the CST amount which might be a reason of this difference.

The reply is not acceptable since under the provisions of Section 2(O) and 2(Zd) (vi) the sale price in the RT-III excludes only the tax under BVAT Act and not under the CST Act. Further, the data has been re-analysed in the light of Department's reply and only Sale/Resale and stock transfers have been considered for Approved e-SUVIDHA (D-X) only and found that 179 and 524 dealers have concealed their CST sale or Outside Stock Transfer for ₹ 19.64 crore and ₹ 166.47 crore during 2012-13 and 2013-14 respectively.

- During comparison of data of the check post (for approved and expired SUVIDHA) with the data of returns filed by dealers for the 2012-13

and 2013-14 it was observed that 3,005 and 5,666 number of dealers shown their outside purchase and stock receipts worth ₹ 9,775.88 crore and ₹ 6,068.46 crore less during 2012-13 and 2013-14 respectively. Further, it was noticed that 2,320 dealers in the year 2012-13 and 3,733 dealers in the year 2013-14 had not disclosed their rate wise purchase in their returns and only total purchase had been disclosed therein as the concerned fields were not made mandatory in the application, hence, the tax impact on said concealment had only been calculated against 685 and 1,933 dealers amounting to ₹ 365.00 crore and ₹ 1,466.13 crore (based on rate mentioned in the SUVIDHA) for the year 2012-13 and 2013-14 respectively. The above concealment also attracts leviable penalty and interest thereon.

Further, on Department's reply (July 2015), the audit re-analysed the data considering only Approved e-SUVIDHA(D-IX) by excluding the Capital Goods (CPGD) and Purchase Returns (PRUS) and found that 1029 and 1576 dealers in 2012-13 and 2013-14 respectively concealed their purchases (purchase and stock receipts from outside the State) worth ₹ 587.16 crore and ₹ 902.87 crore (since against 17,849 and 21,870 e-SUVIDHA using dealers only 13,746 and 14,851 RT-III were found uploaded in the database during 2012-13 and 2013-14 respectively).

Again, due to unavailability of the rate-wise purchase figures in the RT-III, which is a system deficiency duly accepted by the Department, the audit could calculate the tax impact of ₹ 10.42 crore and ₹ 29.01 crore on the basis of database figures against 117 and 272 dealers for the period 2012-13 and 2013-14. The penalty of ₹ 118.29 crore and interest amounting to ₹ 6.61 crore is also leviable. This amount excludes the amount of concealment due to putting wrong figures of invoice value in D-IX regarding 54 cases as made available by the Department.

We recommend that the system should raise an alert for any mismatch of figures of admitted sale/purchase in the returns with their respective figures in the SUVIDHA.

- It was noticed that 11,426 dealers had admitted either less Opening Stock than previous year's Closing Stock or admitted 'Nil' Opening Stock while they have admitted the Closing Stock during preceding year in their Annual Returns. The application neither disallowed the entries of wrong Opening Stock nor raised alert in this regard. This resulted in concealment of the Stock remaining with the dealer worth ₹ 3,459.79 crore which had tax impact of ₹ 219.76 crore (tax calculated on proportionate basis of GTO and tax admitted during preceding year). Since these were the cases of purchase concealments hence, the dealers were also liable to pay penalty and interest as provided under Section 31(2) of the BVAT Act.

After this was pointed out (July 2015), the Department stated (September 2015) that, the individual cases are being examined at the circles level.

We recommend that the Government may consider introducing an automated mechanism so that the entry of Opening Stock in the return should not differ from the Closing Stock of the previous year.

2.4.14.8 Mismatch in figures of TAR and Annual Returns

Due to absence of validation controls, the system could not raise any alert regarding mismatch of figures in annual returns and TAR.

Under the provisions of Section 24(3) and Section 54 of the BVAT Act, the liable dealers have to furnish their Annual Return (RT-III) and Tax Audit Report (TAR) in which they have to disclose same figures like Gross Turnover, Taxable Turnover, Purchase, output tax liability, etc. The application should have validation control so that the same figures disclosed in two different sets of records submitted by same dealer should not be different and if the different figure is entered the system should generate an alert in this regard.

During analysis of the purchase figures admitted by the dealers in their annual return with the figures accounted for in their respective Tax Audit Report (TAR), we observed that 9,625 dealers had declared different figures of purchase in both of their records.

Further, it was noticed that 1,783 dealers had admitted less output tax liability in the annual return (RT-III) as compared to their TAR amounting to ₹ 11,182.34 crore for the period from 2009-10 to 2013-14.

The system had no input validation control to match the same figures as mentioned above in RT-III and TAR. With regard to mismatch in purchase, there was risk of dealers inflating their purchase in the return to avail excess Input Tax Credit (ITC) on local purchase or for reporting a lower purchase in the accounts to suppress sales while in the cases of short admission of output tax liability there was risk of direct loss of tax to the Government exchequer.

After this was pointed out (July 2015), the Department stated (September 2015) that the individual cases are being examined at circles level.

2.4.14.9 Irregular claim of Input Tax Credit

The system had no validation control regarding putting invalid TIN in the Tax Audit Report which resulted in irregular claim of ITC.

Under the provisions of Section 16 of the BVAT Act, the ITC can be claimed by a registered dealer if he purchases goods (inputs) from a registered dealer of within the State of Bihar.

The system should have an inbuilt input control mechanism to give alert to the concerned assessing authority on Irregular claim of Input Tax Credit (ITC) taken by the dealers so that the assessing authority could monitor the case.

During analysis of TAR data for the period from 2009-10 to 2013-14 it was noticed that ₹ 266.61 crore was claimed as ITC on the inputs purchased by 7,415 dealers having invalid TIN and ₹ 40.45 crore was claimed as ITC on the inputs purchased by 1,129 dealers without mentioning their TIN.

Thus, the claimed ITC was irregular which could not be detected by the system and the application system failed to generate alert in this regard.

After this was pointed out, the Department accepted (September 2015) the system faults and stated that case to case examination was required.

2.4.14.10 Non-payment of tax on Closing Stock on discontinued business

The VATMIS application was not mapped to raise alert regarding non-payment of tax on closing stock on discontinued business.

Under the provisions of Section 3(5) of the BVAT Act, 2005 a registered dealer should, within a period of twelve consecutive months, pay tax on the stock of goods remaining with him on the date with effect from which he closes or discontinues his business.

The application should have a system to generate an automatic alert when a dealer discloses his Closing Stock and does not file any return in next twelve months.

During analysis for the period from 2009-10 to January 2015, we noticed that 1,008 dealers had admitted Closing Stock in their Annual Returns of the concerned years but neither filed any Return nor paid any Tax (VAT or CST) in the subsequent years. Since, some of dealers had admitted their GTO as NIL hence tax impact had been calculated only on 298 dealers amounting to ₹ 2.24 crore, calculated in proportion of tax admitted with respect to their GTO for the concerned years.

After this was pointed out (July 2015), the Department stated (September 2015) that the individual cases were being examined at circles level.

2.4.14.11 Non-verification of TDS claimed by the dealers

In the absence of provision for assigning unique ID to tax deducting authority on VATMIS application, the filing of statement in RT-VI and return in RT-VII was insufficient to verify the TDS amount deposited.

Under the provisions of Section 40 and 41 of the BVAT Act, every authority shall deduct Tax at Source (TDS) from the bill of the seller, supplier or works contractors, as the case may be, at the time of payment and deposit it to Government treasury. Further, the person making deduction shall submit a statement in RT-VI and a quarterly return in RT-VII and shall also issue a Certificate in Form C-II to the concerned dealers getting the payment which is a proof against TDS claimed by him in the returns.

The application should have facility to reconcile/verify automatically the amount of TDS claimed by the dealers with the Statement (RT-VI) or Return (RT-VII).

During data analysis for the period from 2009-10 to 2013-14, it was observed that 16,052 dealers had claimed TDS amounting to ₹ 1,794.77 crore. Analysis revealed that there were data of only 84 authorities who have filed their RT-VII in which TDS was shown as deducted against 98 dealers out of 16,052 existed in the system. This indicated that RT-VII was not being uploaded in the database properly. Resultantly, the claim of TDS could not be verified from the data. Further, due to non-assigning of unique ID to the TDS deducting authority on VATMIS application, it was also not possible to monitor the filing of RT-VII and verification of TDS deposited on VATMIS database.

After this was pointed out in audit, the Department accepted (September 2015) the audit observation and stated that the Department would try to ensure the filing of RT-VII and uploading these in the database.

2.4.14.12 Non-automation of calculation of Taxable Turnover

The system had no automation even regarding simple mathematical calculation.

Under the provision of Rule 19(2) of the BVAT Rules 2005, every registered dealer other than registered under Section 15 of the Act shall furnish annual return in which he has to disclose the Gross Turnover (GTO) and deductions under the BVAT Act. In the return, the total deduction was the sum of all deduction claimed while the Taxable Turnover (TTO) was calculated after deducting the deductions from GTO disclosed in the Returns.

The application should have inbuilt automation so that the total deduction and the TTO might be calculated automatically.

During data analysis for the period from 2009-10 to 2013-14 it was observed that 56,946 number of returns disclosed incorrect total deduction while 58,365 number of returns disclosed incorrect TTO, i.e. less than or more than actual calculation. This clearly indicated that the system had no automation even regarding a simple mathematical calculation.

After this was pointed out (May 2015), the Department accepted (September 2015) the audit observation and assured that from the 2015-16, macro based excel templates for quarterly and annual returns were being introduced for the dealers which would eliminate these types of errors pointed out by audit.

2.4.15 Conclusions

IT audit revealed the followings:

- The service level agreement with provision for exit management and source code was executed in July 2015 between BSEDC and TCS after a delay of more than eight years from issue (November 2006) of the purchase order to TCS for implementation of VATMIS.
- Transit passes issued between July 2012 and January 2015 for transit through the State were not surrendered by more than five lakh vehicles. The Department could not monitor the non-surrender of transit passes and stay of consignments in the State as the Check Post Modules of VATMIS application was not mapped properly with the provisions of Section 62 of the BVAT Act to raise an alert in cases of transit passes not being surrendered within prescribed time.
- The application control of the system had various shortcomings like insufficiency of input control and validation checks and generation of Tax Payer Identification Number (TIN) and Unique Electronic Identification Number (SUVIDHA) without complete information.
- The VATMIS application was not mapped to raise alert regarding delay/non-filing of returns, delayed/short/non-payment of VAT and excess availing of rebates etc.

2.5 Non-compliance of the provisions of the Acts/Rules

The provisions of the Bihar Value Added Tax (BVAT) Act, 2005, Central Sales Tax (CST) Act, 1956, Bihar Taxes on entry of goods into local areas (BTEG) Act, 1993, Bihar Entertainment Tax Act, 1948, Bihar Electricity Duty Act, 1948 and Rules made there under require levy and payment of:

- *taxes on sales, trade etc., luxury tax, electricity duty etc. by the dealers at the appropriate rates;*
- *penalty at the rate of three times of the tax assessed on escaped turnover in case of concealment of sales/purchases; and*
- *interest at the rate of one and a half per cent for each calendar month or part thereof for delay in payment of tax.*

Non-compliance of the provisions of the Acts/Rules/instructions in some cases as mentioned in paragraphs 2.6 to 2.19 resulted in non/short levy, underassessment of tax, incorrect exemption/deductions etc. of ₹ 157.99 crore which is indicative of absence of adequate controls in the Department.

A : Taxes on Sale, Trade etc./VAT

2.6 Suppression of sale turnover

Non-scrutiny of the returns of the dealer resulted in underassessment of tax of ₹ 70.14 lakh including penalty and interest.

We test-checked the records/returns of 111 dealers in Commercial Taxes circle, Biharsarif and observed in September 2013 that one self assessed dealer (M/s Spicy Beverage, TIN-101893619089) had sold goods of ₹ 14.11 crore during the period 2011-12 as shown in the quarterly return submitted by him. He, however, accounted for ₹ 13.78 crore only in his annual return against ₹ 14.11 crore thereby suppressing sale of goods worth ₹ 32.97 lakh. The Assessing Authority (AA) could not detect the suppression of turnover due to non-scrutiny of returns under Section 25 (1) of the Bihar Value Added Tax (BVAT) Act, 2005. This resulted in underassessment of tax of ₹ 70.14 lakh including penalty of ₹ 49.45 lakh equivalent to three times of the tax payable on escaped turnover as provided under Section 31 (2) of the BVAT Act, 2005 and leviable interest of ₹ 4.20 lakh at the rate of one and half *per cent* per month as prescribed under Section 39 (4) of the BVAT Act, 2005.

After this was pointed out, the AA Biharsarif accepted the audit observation and raised demand for ₹ 70.14 lakh in January 2015. We await recovery in the case.

The matter was reported to the Government/Department in May 2014; we are yet to receive their reply (October 2015).

2.7 Excess Input Tax Credit

Non-scrutiny of the returns of the dealers resulted in excess availing of input tax credit of ₹ 2.56 crore including penalty and interest.

We test-checked the records/returns of 486 dealers in four Commercial Taxes circles (Danapur, Muzaffarpur East, Patna North and Patna West) and observed between February and November 2014 from the annual returns (RT-III), TAR⁴⁷ etc. of four dealers (self-assessed) that they availed input tax credit (ITC) of ₹ 14.70 crore on the purchase of goods valued at ₹ 35.97 crore in their annual returns during the period between 2011-12 and 2012-13. However, the dealers were entitled for ITC of ₹ 14.10 crore only as per the provision of the Section 16 of the BVAT Act. The dealers availed excess ITC of ₹ 60.10 lakh on consumables, sale of Schedule-I goods and ITC claimed in annual return was more than that of quarterly returns. The penalty for the excess claim amounted to ₹ 1.80 crore as prescribed under Section 31 of the Act *ibid* and interest thereon worked out to ₹ 15.73 lakh. The AAs could not detect the excess availing of ITC due to non-scrutiny of returns of the dealers. The total revenue impact was ₹ 2.56 crore as detailed in **Annexure-XVIII**.

After this was pointed out, the Department stated between February and July 2015 that demand for ₹ 2.37 crore in respect of four dealers of four circles (Danapur, Muzaffarpur East, Patna West and Patna North) had been raised. The Department also reported recovery of ₹ 10.70 lakh in two cases of Patna North and Patna West circles. We await recovery in the cases (October 2015).

2.8 Short levy of tax due to application of incorrect rate of tax

Application of incorrect rate of tax remained undetected by the AAs due to non/deficient scrutiny of returns and resulted in short levy of tax of ₹ 36.19 lakh including interest.

We test-checked the records/returns of 640 dealers in five Commercial Taxes circles (Aurangabad, Muzaffarpur East, Patna North, Raxaul and Sasaram) and observed between September 2012 and December 2014 that five dealers (assessed:1 and self-assessed:4) assessed their tax at the lower rate of four to five *per cent* on the sale of various goods valued at ₹ 4.45 crore instead of the correct rate of five to 13.5 *per cent* during 2009-10 to 2012-13. Due to non/deficient scrutiny, the application of incorrect rate of tax remained undetected by the AAs resulting in short levy of tax of ₹ 36.19 lakh including interest of ₹ 8.62 lakh as per the provision of Section 39 (4) of the BVAT Act, which provides that interest at the rate of one and a half *per cent* per month is leviable on the amount of tax payable as detailed in **Annexure-XIX**. This is indicative of non-adherence to the provisions of Section 25(1) of the Act *ibid* which stipulates that the AA shall scrutinise every return filed under sub-sections (1) and (3) of Section 24 for the purpose of ascertaining that the rates of tax have been applied correctly.

⁴⁷ TAR- Every dealer having gross turnover of ₹ One crore and above is required to submit TAR certified by a Chartered Accountant before the stipulated date.

After this was pointed out, the Department accepted the case of three dealers of three circles (Muzaffarpur East, Patna North and Sasaram) between July 2014 and July 2015 and raised demand for ₹ 31.99 lakh. We await recovery in the accepted cases and replies in the remaining cases.

The matter was reported to the Government/Department between July 2014 and May 2015; we are yet to receive their reply (October 2015).

2.9 Irregular deduction on account of Transit sales

Short levy of tax of ₹ 7.73 crore (including interest) due to non-submission of prescribed forms to substantiate the claim of deduction on account of transit sales.

We test-checked the records/returns of 497 dealers in three Commercial Taxes circles (Begusarai, Bhagalpur and Patna Special) and observed between March 2013 and June 2014 that three dealers (assessed:1; self-assessed:2) had availed deduction of ₹ 140.04 crore during the period between 2010-11 and 2011-12 on account of transit sale but the claims of transit sale were not substantiated by both the declarations in form 'E-I' and form 'C' as required under Section 6(2) of the CST Act, 1956 and rule 12(1) and 12(4) of the CST Rules, 1957. Thus, entire claim of transit sale of the dealers was liable to be rejected which remained undetected by the AAs and resulted into short levy of tax of ₹ 7.73 crore including interest of ₹ 35.40 lakh as detailed in Annexure-XX.

After this was pointed out, the Department accepted the case of Bhagalpur in August 2015 and raised demand for ₹ 1.43 crore while AA Patna Special circle disallowed the claim of transit sale of the dealer in May 2013 and levied tax at the rate of two *per cent* treating them as inter-State sale because the dealer had submitted the declarations in form C and raised demand for ₹ 1.92 crore. Moreover, the form C submitted by the dealer were given/issued by a dealer/circle of the same State. As the dealer had not submitted the declarations in required form E-I, the claim of transit sale should have been rejected and tax should have been levied at the rate applicable for within State sale. We await recovery in the accepted cases and reply in the remaining case.

The matter was reported to the Government/Department between July and October 2014; we are yet to receive their reply (October 2015).

2.10 Short payment of admitted tax and non-levy of interest

Non-scrutiny of returns resulted in short payment of tax of ₹ 90.05 lakh including interest.

We test-checked the records/returns of 844 dealers in eight Commercial Taxes circles⁴⁸ and observed between February 2014 and January 2015 that 15 dealers (self-assessed) had paid ₹ 4.74 crore against the admitted tax of ₹ 5.44 crore during 2011-12 to 2012-13. Thus, there was short payment of admitted tax of ₹ 70.41 lakh which was required to be paid every month on or before the 15th day of the following month under the provision of Section 24

⁴⁸ Danapur, Motihari, Muzaffarpur East, Nawada, Patna North, Patna West, Raxaul and Samastipur.

of the BVAT Act, failing which the dealer shall be liable to pay interest at the rate of one and a-half *per cent* per month. Though the AAs were required to scrutinise the returns and verify the evidence of payment of tax and accordingly issue notices of demand to the dealer, but no scrutiny was found to have been done as required under the provision of Section 25 (1) of the Act *ibid*, which indicates control weaknesses in the Department. This resulted in non-detection of short payment of the admitted tax of ₹ 90.05 lakh including leviable interest of ₹ 19.64 lakh as detailed in **Annexure- XXI**.

After this was pointed out, Department accepted the audit observation in respect of 11 dealers of five circles (Danapur, Muzaffarpur East, Patna North, Patna West and Samastipur) between August and September 2015 and raised demand for ₹ 69.77 lakh and recovered a sum of ₹ 18.88 lakh in the case of four dealers of three circles (Muzaffarpur East, Patna North and Patna West). We await recovery in the accepted cases and replies in the remaining cases.

The matter was reported to the Government/Department between February and May 2015; we are yet to receive their reply (October 2015).

2.11 Irregular allowance of deductions

Irregular allowance/claim of inadmissible deduction by works contractors resulted in short levy of tax of ₹ 55.73 lakh.

We test-checked the records/returns of 308 dealers in three Commercial Taxes circles (Jamui, Nawada and Saran) and observed between September 2013 and January 2015 from the returns/profit and loss accounts of four works contractors (assessed: 1 self-assessed: 3) that they availed deductions of ₹ 29.79 crore during the period between 2008-09 and 2011-12, out of which they claimed deductions of ₹ 7.92 crore on material portion of establishment expenditure, overheads and gross profit, which was inadmissible as per Section 35 of the BVAT Act and Rule 18 of the BVAT Rules which stipulate that a works contractor is liable for deduction on the items of labour and cost of establishment to the extent it is relatable to supply of labour and services, other similar expenses relatable to supply of labour and services, profit earned by the contractor to the extent it is relatable to supply of labour and services. The AAs, however, failed to detect the claims of inadmissible deductions even in the assessed case. Thus, they were eligible for deduction of ₹ 21.87 crore only arrived at by apportioning the above claimed deductions of ₹ 29.79 crore between material and labour and services. This resulted in short levy of tax of ₹ 55.73 lakh calculated on the material component value of ₹ 7.92 crore as detailed in **Annexure-XXII**.

After this was pointed out, the Department accepted the audit observation between November 2014 and September 2015 in respect of one dealer each of Jamui and Saran circles and raised demand for ₹ 31.87 lakh. We await recovery in the accepted cases and replies in the remaining cases.

The matter was reported to the Government/Department between February and April 2015; we are yet to receive their reply (October 2015).

2.12 Incorrect adjustment of entry tax towards payment of VAT

Non-detection of incorrect adjustment of entry tax towards payment of VAT resulted in short levy of tax of ₹ 24.29 lakh including interest.

We test-checked the records/returns of 215 dealers in two Commercial Taxes circles (Patna North and Patna West) and observed in November 2014 that four dealers (self-assessed) had availed entry tax adjustment of ₹ 45.15 lakh towards their VAT liability during the period between 2010-11 and 2012-13. However, the dealers were eligible for adjustment of entry tax of ₹ 27.40 lakh only because their VAT liability was less than the entry tax paid as provided under Section 3 (2) of the Bihar Tax on entry of goods (BTEG) into local areas for consumption, use or sale therein Act, 1993. This remained undetected by the AAs which resulted in incorrect adjustment of entry tax of ₹ 17.75 lakh towards payment of VAT. Therefore, these dealers were liable to pay VAT of ₹ 24.29 lakh including interest of ₹ 6.53 lakh as detailed in Annexure- XXIII.

After this was pointed out, the Department accepted all the cases in August 2015 and raised demand for ₹ 24.29 lakh and updated interest and also recovered a sum of ₹ 2.14 lakh in case of a dealer of Patna West circle. We await recovery in accepted cases (October 2015).

2.13 Underassessment of CST

2.13.1 Irregular allowance of deduction

Availing of exemption of tax on the basis of incorrect declaration forms resulted in non-levy of tax ₹ 17.85 lakh including interest.

We test-checked the records/returns of 113 dealers in Patliputra Commercial Taxes circle and observed in March 2014 that a dealer (M/s Birla Tyres bearing TIN-10050125090) had availed deduction towards inter-State stock transfer of goods of ₹ 6.03 crore during 2011-12, against which 30 numbers of declarations in form F for ₹ 5.12 crore only was found placed on the record to substantiate the claim. It was further noticed that out of 30 declaration forms submitted by the dealer, seven forms for the value of ₹ 98.33 lakh pertained to the Bihar State itself, though the other details on the declaration forms were relating to a dealer of Jharkhand State. Thus, availing of exemption on the basis of these incorrect declaration forms was irregular as per the provision of Section 6A of the Central Sales Tax (CST) Act, 1956 and resulted in non-levy of tax of ₹ 17.85 lakh⁴⁹ including interest of ₹ 4.58 lakh.

After this was pointed out, the Department accepted the case in August 2015 and raised demand for ₹ 17.85 lakh. We await recovery in the case (October 2015).

⁴⁹

Calculation:

Value of irregular Forms- ₹ 98.33 lakh, Tax at the rate of 13.5 per cent- ₹ 13.27 lakh,

Interest at the rate of 1.5 per cent per month for 23 months- ₹ 4.58 lakh.

(Total - ₹ 17.85 lakh)

2.13.2 Unsubstantiated claim of deduction

Claiming of deduction on the goods transferred to outside the State without substantiation by declaration in form 'F' resulted in non-levy of tax ₹ 25.89 lakh including interest.

We test-checked the records/returns of 113 dealers in Patliputra Commercial Taxes circle and observed in March 2014 that a dealer (M/s Food Corporation of India bearing TIN/VAT-10050225097; CST-10020225194) had actually transferred the goods amounting to ₹ 22.11 crore to outside the State during 2011-12. But no declaration form 'F' was found placed on record, which is required to claim the deduction for inter-state stock transfer. Thus, the dealer was liable to pay tax of ₹ 88.45 lakh at the rate applicable in the State.

After this was pointed out, the Department stated in August 2015 that AA concerned had scrutinised the case in August 2014 and intimated that form 'F' in support of claims of ₹ 17.52 crore had since been furnished and for unsubstantiated claims, demand for ₹ 25.89 lakh including interest of ₹ 7.53 lakh had been raised. We await recovery in the case (October 2015).

B: Entry Tax

2.14 Short payment of admitted entry tax

Non/short payment of admitted tax resulted in non-realisation of entry tax of ₹ 2.11 crore.

We test-checked the records/returns of 113 dealers in Patliputra Commercial Taxes circle and observed between November and December 2014 that three dealers (self-assessed) had admitted their entry tax liability worth ₹ 19.08 crore during 2012-13 against the import of goods of ₹ 427.78 crore in their returns, but they actually paid the entry tax of ₹ 16.98 crore only in contravention to the provisions of Section 24 of the BVAT Act, read with Section 8 of the BTEG Act which stipulates that every dealer shall deposit the tax payable in respect of every month on or before the 15th day of the following month. This resulted in non-realisation of admitted entry tax of ₹ 2.11 crore as detailed in **Annexure-XXIV**.

After this was pointed out, the Department accepted all the cases between August and September 2015 and raised demand for ₹ 2.11 crore and also recovered a sum of ₹ 1.43 crore in one case. We await report on recovery in the remaining accepted cases (October 2015).

2.15 Application of incorrect rate of entry tax

Absence of mechanism for verification of application of rates resulted in underassessment of entry tax of ₹ 16.40 lakh.

We test-checked the records/returns of 358 dealers in three Commercial Taxes circles (Patna West, Patliputra and Teghra) and observed between September and December 2014 that five dealers (self-assessed) imported scheduled goods of ₹ 14.01 crore during the period between 2011-12 and 2012-13 and assessed themselves by admitting the entry tax at rates lower than the prescribed rates in their returns. Due to absence of mechanism for verification of application of

rates, these cases remained undetected by the AAs. This was also in contravention of the provision of Section 3 of the BTEG Act, which provides that there shall be levied and collected a tax on entry of scheduled goods into a local area at such rate as may be specified by the State Government. This resulted in underassessment of entry tax of ₹ 16.40 lakh as detailed in **Annexure-XXV**.

After this was pointed out, the Department accepted two cases of Patliputra and Teghra circles in August 2015 and raised demand for ₹ 4.43 lakh and also recovered a sum of ₹ 1.42 lakh in one case of Teghra circle . We await report on recovery in the accepted cases and replies in the remaining cases.

The matter was reported to the Government/Department between December 2014 and April 2015; we are yet to receive their reply (October 2015).

2.16 Non-levy of entry tax and penalty due to non-registration

Non-detection of import of scheduled goods by dealers not registered under entry tax Act resulted into non-levy of penalty and tax of ₹ 42.20 lakh.

We test-checked the records/returns of 530 dealers in four Commercial Taxes circles (Bettiah, Patna North, Raxaul and Saran) and observed between November 2014 and January 2015 from the examination of returns, TAR, utilisation statements of declaration forms etc. that six dealers (self-assessed) registered under the BVAT Act had imported various scheduled goods of ₹ 6.31 crore during 2011-12 to 2012-13. However, they did not get themselves registered under the BTEG Act, though they were liable to do so under the provision of Rule 3 of the BTEG Rules read with Section 5 of the BTEG Act, failing which the AA may direct that the dealer shall pay penalty, in addition to the amount of tax assessed, a sum of rupees one hundred for every day of default or an amount equal to the amount of tax assessed, whichever is higher. The AAs could not detect the fact of non-registration, though the information relating to their liability for registration was available with the AAs in the VAT records, which indicates slackness of the AAs towards compliance of the provision of the Act/Rules. This resulted in non-levy of entry tax of ₹ 9.19 lakh. Besides penalty of ₹ 33.01 lakh was also leviable as detailed in **Annexure -XXVI**.

After this was pointed out, the Department accepted the audit observation between August and September 2015 in respect of three dealers of three circles (Bettiah, Patna North and Saran) and raised demand for ₹ 16.87 lakh. We await recovery in the accepted case and reply in the remaining cases.

The matter was reported to the Government/Department between March and May 2015; we are yet to receive their reply (October 2015).

C : Electricity duty

2.17 Non-levy of Electricity duty on concealed sales of energy

Cross verification of the records of two assesses revealed concealment of sale of energy and subsequent non-levy of Electricity duty of ₹ 121.75 crore.

In Bhagalpur Commercial Taxes circle, we observed in March 2014 from the examination of return/statements submitted by an assessee (M/s NTPC Ltd. Kahalgaon having Registration No. ED-6) had not disclosed sale of energy made to Bihar State Electricity Board (BSEB)/North Bihar Power Distribution Co. Ltd. (NBPDCCL)/South Bihar Power Distribution Co. Ltd. (SBPDCL) during 2012-13. But as per the information available to audit, the BSEB/NBPDCCL/SBPDCL had shown purchase of energy of 2,858.59 mkwh from NTPC, Kahalgaon in their annual accounts during the same period. Thus, it is evident that assessee had concealed the sales of energy of 2,858.59 mkwh made to BSEB/NBPDCCL/SBPDCL on which duty was leviable as per the provision of Section 3, 4 and 6 of the Bihar Electricity Duty Act, 1948. Thus, the assessee is liable to pay the amount of duty of ₹ 121.75 crore⁵⁰ including minimum leviable penalty of ₹ 60.87 crore.

After this was pointed out, the Department accepted the case in August 2015 and raised the demand of ₹ 121.75 crore. We await recovery in the case (October 2015).

2.18 Non-levy of Electricity duty

Cross verification of records revealed the sale of energy by a dealer not registered under Bihar Electricity Duty Act, which resulted in non-levy of electricity duty of ₹ 18.15 crore.

In Muzaffarpur West Commercial Taxes circle, we observed in April 2014 that the Bihar State Electricity Board (BSEB) had shown purchase of energy of 1,055.58 mkwh in their annual accounts during the period 2007-08 to 2011-12 from a dealer M/s Kanti Bijlee Utpadan Nigam Ltd. (a subsidiary unit of National Thermal Power Corporation Ltd.). But M/s Kanti Bijlee Utpadan Nigam Ltd. had neither got itself registered nor filed any return or paid duty under the Bihar Electricity Duty Act, 1948, during the same period, though required under Section 6A(5) of the Act *ibid*. Thus, it is evident that the dealer had sold the energy to BSEB on which duty was leviable and the dealer is liable to pay the amount of duty of ₹ 18.15 crore as detailed in **Annexure-XXVII**.

The matter was reported to the Government/Department in July 2014; we are yet to receive their reply (October 2015).

⁵⁰

Calculation:

Value of energy purchase shown by BSEB/NBPDCCL/SBPDCL-	₹ 101457.44 lakh
Electricity duty @ 6% -	₹ 6087.44 lakh
Leviable penalty-	₹ 6087.44 lakh
Total-	₹ 12174.88 lakh

D: Entertainment Tax

2.19 Short levy of Entertainment tax

Non-detection of irregular alteration of admission rate resulted in short levy of entertainment tax of ₹ 1.90 crore.

In Patna North Commercial Taxes circle, we observed in November 2014 that a proprietor of a cinema hall was paying the compounding tax under Section 3-B of the Bihar Entertainment Tax Act during 2012-13 but he had neither applied for the compounding nor any permission was granted by the prescribed authority in Form-C to pay entertainment tax at the compounding rates. Further, we observed that the proprietor had altered the admission rate during the year, as a result the amount of payable compounding tax changed during the year. Thus, they violated the provisions of Section 3 (B) of the Entertainment tax Act 1948. No prior permission of the Commissioner for change in admission rate was found on the records. Therefore, the proprietor was liable to be assessed under Section 3(1) of the Bihar Entertainment Tax Act for contravention of the provisions and conditions prescribed under section 3-B on the basis of gross collection capacity and were therefore liable to pay entertainment tax of ₹ 1.90 crore⁵¹.

The matter was reported to the Government/Department in February 2015; we are yet to receive their reply (October 2015).

2.20 Internal Audit

The Internal Audit wing of any department is a special vehicle of the internal control mechanism and is generally defined as the control of all controls to enable an organization to assure itself that the prescribed systems are functioning reasonably well.

There is an internal audit wing called Finance (Audit), which works under the Finance Department and internal audit of the different offices of the Government is conducted on the basis of requisitions received from the Administrative Department. The Chief Controller of Accounts can also select units for internal audit on availability of audit team.

As informed by the Finance Department (July 2015), it did not conduct internal audit of the Commercial Taxes Department during 2014-15. In Commercial Taxes Department, there were four audit divisions responsible for ascertaining the correctness of accounts maintained by the dealers selected by the CCT. The Department did not select any unit for internal audit during the year 2014-15.

⁵¹ Calculation:
 Tax paid under compounding - 20 shows per week @ 24%- ₹ 9910036
 Tax payable under section 3(1)- 28 shows per week @ 50%-
 $\text{₹ } \frac{9910036 \times 28 \times 50}{24 \times 20} = \text{₹ } 28904272$
 Short levied= ₹ 28904272- ₹ 9910036= ₹ 18994236.

CHAPTER-III
STATE EXCISE

CHAPTER III: STATE EXCISE

3.1 Tax administration

The assessment, levy and collection of excise revenue in the State is governed by the provisions of the Bihar Excise (BE) Act, 1915 and Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor, Foreign liquor, Beer and Composite liquor Shop) Rules, 2007. It is administered by the Secretary, Department of Registration, Excise and Prohibition (Excise) at the Government level and by the Commissioner of Excise (CE) at the apex level of the Department of Excise and Prohibition. The CE is also the ex-officio Controller of Molasses for the administration and execution of the Bihar Molasses Control Act and Rules. The CE is assisted by one Joint Commissioner of Excise (JCE), one Deputy Commissioner of Excise (DCE) and one Assistant Commissioner of Excise (ACE) at the headquarters level. Further, there is one DCE at each of the four¹ divisional headquarters. At the district level, the Collector of the district is in-charge of the excise administration, assisted by an ACE or by a Superintendent of Excise (SE).

For supply of all types of liquor to retailers of excise shops in the State, the Bihar State Beverage Corporation Limited (BSBCL) headed by a Managing Director was formed in October 2006, to function as an exclusive wholesale depot.

3.2 Results of audit

In course of audit of records of 39 units, out of 51 auditable units, relating to State Excise revenue during the year 2014-15, we found non/short realisation, loss of revenue and other irregularities involving ₹ 44.09 crore in 270 cases which fall under the following categories as detailed in **Table 3.1**.

Table- 3.1

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non/delayed settlement of excise shop	47	13.37
2.	Non-realisation of license fee	40	5.65
3.	Loss due to non/short lifting of MGQ	5	0.28
4.	Other cases	178	24.79
Total		270	44.09

During the period April 2014 to October 2015, the Department accepted underassessment and other deficiencies *etc.* involving ₹ 52.16 crore in 70 cases, of which two cases involving ₹ 9.57 crore were pointed out during 2014-15 and the rest in earlier years. Further, the Department reported recovery of ₹ 1.37 crore in 20 cases which were pointed out during the period between 2010-11 and 2013-14.

¹ Bhagalpur-cum-Munger, Darbhanga-cum-Kosi-cum-Purnea, Patna-cum-Magadh and Tirhut-cum-Saran.

A few illustrative cases involving tax effect of ₹ 9.60 crore are mentioned in the following paragraphs.

3.3 Non-compliance of the provisions of the Acts/Rules

The provisions of the Bihar Excise Act, 1915 and Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor/Foreign liquor/beer and composite liquor shop) Rules, 2007 require:

- *settlement of excise shops through lottery;*
- *payment of licence fee at the prescribed rates as determined by the Government for respective excise shop ;*
- *payment of licence fee within the prescribed period and*
- *cancellation of licence or levy of penalty/fine for breach of any condition of the sale notification of excise shops.*

Non-compliance of the provisions of the Acts/Rules in some cases as mentioned in paragraphs 3.4 to 3.7 resulted in non/short levy, non/short realisation of licence fee etc. of ₹ 9.60 crore. There is need for the Government to improve the internal control system so that such omission can be prevented.

3.4 Short realisation of licence fee of excise shops after cancellation

The excise authorities did not initiate action for realisation of Government dues of ₹ 9.47 crore in respect of cancelled licences of excise shops.

We scrutinised the Settlement files, Demands, Collections and Balances Registers and Security Deposit Registers in 18 districts excise offices² and observed (between February 2014 and January 2015) that the licences of 144 groups of excise shops were cancelled during the period between December 2010 and March 2014 due to non-payment of monthly licence fee. The excise authorities did not initiate action for realisation of outstanding licence fee of ₹ 9.47 crore. Further, we also observed that the shops were cancelled after a delay of one to eight months, though it was required to be cancelled after the 20th day of the same month of default as per Rule 17 (2) of the Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor/Foreign liquor/beer and composite liquor shop) Rules, 2007. This resulted in short realisation of ₹ 9.47 crore.

After this was pointed out, the Department stated (September 2015) that in case of Samastipur, notices of demand had been issued for realisation of dues of ₹ 9.23 lakh, in case of Munger, revenue recovery certificates had been instituted against both licensees, in case of Madhepura, a sum of ₹ 2.33 lakh was recovered, ₹ 4.20 lakh was adjusted and revenue recovery certificates were instituted for ₹ 7.69 lakh while in case of Nalanda notices of demand had been issued for recovery of outstanding dues and security deposit and advance licence fee had been forfeited. We await replies in remaining cases (October 2015).

² Araria, Begusarai, Katihar, Madhepura, Munger, Muzaffarpur, Nalanda (Biharsarif), Nawada, Patna, Purnea, Rohtas (Sasaram), Saharsa, Samastipur, Saran (Chapra), Sitamarhi, Supaul, Vaishali (Hajipur) and West Champaran (Bettiah).

3.5 Undue favour to licensees due to incorrect adjustment of security money

The adjustment of security money against outstanding dues instead of forfeiture of security money in case of cancellation of excise shops resulted in undue favour to the licensees.

During scrutiny of settlement files and Demands, Collections and Balances Registers of the office of the Superintendent of Excise (SE), Katihar, we observed (March 2014) that licences of three groups of excise shops were cancelled due to non-payment of monthly licence fee during the period between October and November 2013. Further, we observed that the outstanding dues were adjusted from their deposited security money. The adjustment of security money of ₹ 12.79 lakh against outstanding dues was in contravention to the provision of Rule 17 (2) of the Bihar Excise Rules, 2007, which stipulates forfeiture of security money in case of cancellation of excise shops. This resulted in not only incorrect adjustment of security money of ₹ 12.79 lakh, but also undue favour to the licensees.

The matter was reported to the Government/Department in July 2014; we are yet to receive their reply (October 2015).

3.6 Non-levy of penalty for delayed deposit of licence fee

No action was initiated by the excise authorities either for cancellation of excise shops or imposition of penalty for delay payment of licence fees.

During test-check of Demands, Collections and Balances Registers in the four districts excise offices (Aurangabad, Madhubani, Purnea and Rohtas), we observed between February and October 2014 that 87 licensees of liquor shops out of 278 liquor shops had deposited their monthly licence fees of ₹ 10.31 crore for the period between December 2012 and February 2014 with delay ranging between five and 81 days in violation of the condition of the sale notification which requires that they have to deposit their monthly licence fee latest by the 20th day of each month. But the licensing authorities neither cancelled/suspended the licence nor imposed penalty on defaulting licensees as prescribed under Section 42(b) of Bihar Excise Act, 1915. Instead they accepted the amount of licence fee without realising the sums in shape of penalty. This could encourage to other licensees to make default in payments of revenue.

After this was pointed out, Superintendents of Excise (SEs), Aurangabad and Madhubani stated between February and September 2014 that penalty would be imposed against the concerned licensees, Assistant Commissioners of Excise (ACE) Rohtas stated in October 2014 that punitive action had not been taken in view of the revenue interest of the Government and SE Purnea stated in March 2014 that licence fee had already been recovered. The replies of ACE Rohtas and SE Purnea were not in consonance with the provisions of the Act as penalty for delay payment was not imposed.

The matter was reported to the Government/Department between September 2014 and February 2015; we are yet to receive their reply (October 2015).

3.7 Supply of substandard liquor

Supply of substandard country liquor before receipt of test report from laboratory defeated the purpose of testing and also involved risks to the human life.

We scrutinised the sample test report of the Chemical Examiner, Patna and stock and issue register (Proforma-II) in the office of the Superintendent of Excise (SE), Begusarai for the period 2012-13 and observed (January 2015) that two samples of country liquor chemically examined (May 2012) were not in accordance with the standard and it contained sediments. We further observed that 6.58 lakh LPL of country liquor belonging to these lots were issued (between April and June 2012) to BSBCL during the period 2012-13 for sale to retailers, though the deficiency was required to be rectified as prescribed under conditions of licence (Form 27). Thus, supply of substandard country liquor before receipt of test report from laboratory not only defeated the purpose of testing but also involved risks to the human life.

After this was pointed out, Department stated in September 2015 that there was possibility of impurities in the water due to presence of iron in the soil of Begusarai district, where oil refinery is situated. The supplier had been sternly warned and suggested to supply better quality of liquor in future. Since then no such complain had been received. The fact remains that the lot under chemical examination should not have been issued till receipt of the test report as the whole lot of country liquor, from where the samples were collected, contains sediments and required to be rectified before issue.

3.8 Internal Audit

The Internal Audit wing of any department is a special vehicle of the internal control mechanism and is generally defined as the control of all controls to enable an organization to assure itself that the prescribed systems are functioning reasonably well. There is an internal audit wing called Finance (Audit), which works under the Finance Department and internal audit of the different offices of the Government is conducted on the basis of requisitions received from the Administrative Department. The Chief Controller of Accounts can also select units for internal audit on availability of audit team.

As informed by the Finance Department (July 2015), it conducted internal audit of one unit of the Registration, Excise and Prohibition (Excise) Department during 2014-15. The Inspection Report containing three paragraphs were issued and letters/reminders were issued for its settlement.

CHAPTER-IV

TAXES ON VEHICLES

CHAPTER IV: TAXES ON VEHICLES

4.1 Tax administration

The levy and collection of taxes on vehicles in the State is governed by the provisions of Motor Vehicles (MV) Act, 1988, Central Motor Vehicles (CMV) Rules, 1989, Bihar Motor Vehicle Taxation (BMVT) Act, 1994 and BMVT Rules, 1994. It is administered by the Principal Secretary, Transport Department at the Government level and by the State Transport Commissioner (STC) at the apex level of the Department. In performance of his duties, the STC is assisted by two Joint State Transport Commissioners at the headquarters. The State is divided into nine¹ Regional Transport Authorities (RTAs) and 38 District Transport offices. They are assisted by the Motor Vehicle Inspectors (MVIs) in discharging their duties. The main function of the RTAs is to issue road permits to the vehicles and the responsibility of registration of motor vehicles, levy and collection of fees and taxes, grant of driving licences are assigned to the District Transport Officers (DTOs) in the State.

4.2 Results of audit

In the course of audit of records of 35 units (DTOs: 30, RTAs: 3, STC: 1 and PSU: 1), out of 49 auditable units (DTOs: 38, RTAs: 9, STC: 1 and PSU: 1), relating to taxes on vehicles during the year 2014-15, we found non/short levy, non/short realisation of revenue and other irregularities involving ₹ 96.82 crore in 292 cases which fall under the following categories as detailed in **Table 4.1**.

Table- 4.1

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Non-realisation of motor vehicles taxes from transport vehicles	24	3.50
2.	Non-realisation of one time tax	69	7.75
3.	Non-realisation of one time tax due to pending registration number of taxi/cab	22	2.49
4.	Short/non-realisation of trade certificates fees	26	4.20
5.	Delivery of motor vehicles without temporary registration and non-levy of fine	15	1.83
6.	Short realisation of one time tax and non-levy of penalty on belated payment of one time tax from light goods vehicles	26	1.28
7.	Non-realisation of principal and interest	1	67.76
8.	Other cases	109	8.01
Total		292	96.82

During the period April 2014 to October 2015, the Department accepted non/short levy, non/short realisation of tax and other deficiencies of ₹ 1.39 crore in 10 cases, of which 4 cases involving ₹ 36.87 lakh were pointed out during the course of the year and the rest in earlier years.

¹ Bhagalpur, Darbhanga, Gaya, Katihar, Madhubani, Muzaffarpur, Patna, Purnea and Vaishali.

A few illustrative cases involving tax effect of ₹ 17.45 crore are mentioned in the following paragraphs.

4.3 Non-compliance of the provisions of the Acts/Rules

The provisions of the Bihar Motor Vehicles Taxation (BMVT) Act, 1994, Motor Vehicles (MV) Act, 1988 and Rules made thereunder require levy and payment of:

- *taxes on motor vehicles/additional tax by the vehicle owners at the appropriate rates;*
- *tax/additional tax in advance and within the prescribed period and*
- *penalty up to twice the tax, if the tax is not paid within 90 days.*

Non-compliance of the provisions of the Acts/Rules in some cases as mentioned in paragraphs 4.4 to 4.9 resulted in non/short levy, non/short realisation of tax etc. of ₹ 17.45 crore.

4.4 Non-realisation of motor vehicle taxes

Absence of a mechanism for periodic review of the taxation registers/tax clearance table of VAHAN database by the DTOs resulted in non-realisation of motor vehicle taxes of ₹ 3.19 crore in 21 District Transport offices.

We scrutinised the taxation registers and the VAHAN database of 30 District Transport offices² for the period 2013-14 and found (between May 2014 and January 2015) in 21 District Transport offices³ that out of 3,961 transport vehicles test-checked (total number of registered transport vehicles: 99,245), the owners of 981 vehicles did not pay tax of ₹ 1.07 crore pertaining to the period between April 2011 and September 2014 within the due dates. This was violation of the provisions of Section 5 and 9 of the Bihar Motor Vehicles Taxation (BMVT) Act, 1994, which stipulates that motor vehicles tax is to be paid to the taxing officer in whose jurisdiction the vehicle is registered. The concerned DTOs neither seized the defaulting vehicles nor issued notices of demand for realisation of the dues from the defaulting vehicle owners as required under Section 22 of the BMVT Act. In none of the cases, change of addresses of the owners or surrender of documents for securing exemption from payment of tax was found on record. Further, penalty of ₹ 2.12 crore was also leviable under Rule 4 (2) of the BMVT Rules, 1994, which requires that in case of non-payment of tax, the taxing officer may impose penalty ranging between 25 and 200 *per cent* of the tax due. Thus, there was non-realisation of tax of ₹ 1.07 crore and penalty of ₹ 2.12 crore. This shows weak monitoring mechanism by higher authorities, though we have pointed this out repeatedly in the previous years.

² Aurangabad, Begusarai, Bhagalpur, Bhojpur (Ara), Buxar, Darbhanga, East Champaran, Gaya, Gopalganj, Katihar, Kaimur, Kishanganj, Lakhisarai, Madhepura, Madhubani, Munger, Muzaffarpur, Nalanda, Nawada, Patna, Purnea, Rohtas, Saharsa, Samastipur, Saran, Sitamarhi, Siwan, Supaul, Vaishali (Hajipur) and West Champaran.

³ Aurangabad, Begusarai, Bhagalpur, Bhojpur (Ara), Darbhanga, Gopalganj, Kaimur (Bhabhua), Katihar, Kishanganj, Lakhisarai, Madhepura, Madhubani, Munger, Muzaffarpur, Patna, Purnea, Rohtas, Saharsa, Samastipur, Siwan and Supaul.

The matter was reported to the Government/Department between September 2014 and March 2015; we are yet to receive their reply (October 2015).

4.5 Short realisation of Trade Certificate Fees

The registering authorities did not ensure realisation of trade certificate fees in respect of all motor vehicles in the possession of the dealers which resulted in short realisation of Trade Certificate Fees of ₹ 3.85 crore.

We scrutinised the trade tax registers, files and *VAHAN* database of 30 District Transport offices for the period 2013-14 and found (between May 2014 and January 2015) in 23 District Transport offices⁴ that 507 trade certificates were granted to test-checked 82 dealers of vehicles (out of 281 dealers) during the period between January 2011 and August 2014, though, these dealers had received 5,18,911 vehicles during the period as evident from the declarations filed by the dealers in Form B2 and registration table of the *VAHAN* database.

Though the information regarding number of vehicles in their possession was available to the Registering Authorities, they did not initiate action to raise demand for trade certificate fees against the defaulter dealers for the remaining 5,18,404 vehicles under their possession as required under Section 39 of the Motor Vehicle (MV) Act, 1988 read with Rule 33 of the Central Motor Vehicles (CMV) Rules, 1989 which provide that no person shall drive any motor vehicle in any public place unless the vehicle is registered and a motor vehicle in the possession of a dealer shall be exempted from the necessity of registration subject to the condition that he obtains a trade certificate from the Registering Authority. Hence, due to this omission there was short realisation of trade certificate fee of ₹ 3.85 crore.

The matter was reported to the Government/Department between September 2014 and March 2015; we are yet to receive their reply (October 2015).

4.6 One time tax

4.6.1 Non/short realisation of One Time Tax

Non/short levy of one time tax by the DTOs resulted in non/short realisation of one time tax of ₹ 6.26 crore.

We scrutinised the Tax Clearance Table of the *VAHAN* database of 30 District Transport offices for the period 2013-14 and found between May 2014 and January 2015 that the taxing officers of 19 District Transport offices⁵ did not realise one time tax (OTT) of ₹ 6.26 crore from the owners of 1,620 vehicles (tractor, trailer, taxi/cab, three-wheelers, light goods vehicles), out of 27,010 test-checked vehicles (total number of registered vehicles:1,62,248), which were registered between March 2010 and September 2014, as shown in **Table-4.2** below:

⁴ Aurangabad, Begusarai, Bhagalpur, Bhojpur (Ara), Darbhanga, Gopalganj, Kaimur (Bhabhua), Katihar, Kishanganj, Lakhisarai, Madhepura, Madhubani, Munger, Muzaffarpur, Nalanda (Biharsarif), Patna, Purnea, Rohtas (Sasaram), Samastipur, Sitamarhi, Siwan, Vaishali (Hajipur) and West Champaran (Bettiah).

⁵ Begusarai, Bhagalpur, Bhojpur (Ara), Gopalganj, Katihar, Kaimur, Kishanganj, Madhepura, Munger, Muzaffarpur, Nalanda, Purnea, Rohtas, Saharsa, Samastipur, Siwan, Supaul, Vaishali (Hajipur) and West Champaran (Bettiah).

Table- 4.2

Type of vehicle/number of defaulter vehicle	Number of offices involved	Non/short realisation of OTT (₹ in lakh)	Audit observation
Tractor (commercial) 628	8 DTOs ⁶	275.31	Short realised (₹ 151.82 lakh) from 248 vehicles due to tax charged on pre-revised rate, 206 vehicles not paid OTT (₹ 103.94 lakh) and 174 vehicles paid OTT short (₹ 19.55 lakh).
Trailer 101	5 DTOs ⁷	30.30	101 vehicles not paid OTT (₹ 30.30 lakh).
Taxi-cab 412	11 DTOs ⁸	201.53	Short realised (₹ 137.86 lakh) from 332 vehicles due to tax charged on pre-revised rate and 80 vehicles not paid OTT (₹ 63.67 lakh).
Three-wheeler 417	9 DTOs ⁹	93.59	249 vehicles not paid OTT (₹ 78.84 lakh) and 168 vehicles paid OTT short (₹ 14.75 lakh).
Light Goods Vehicles 62	3 DTOs ¹⁰	25.63	61 vehicles not paid OTT (₹ 25.37 lakh) and in one vehicle, tax realised short due to tax charged on pre-revised rate (₹ 26,000).
TOTAL		626.36	

The matter was reported to the Government/Department between May 2014 and March 2015; we are yet to receive their reply (October 2015).

4.6.2 Non/short realisation of penalty on One Time Tax

The DTOs did not realise penalty on belated payment of One Time Tax which resulted in non/short realisation of penalty of ₹ 81.56 lakh.

We scrutinised the Tax Clearance Table of the VAHAN database of 30 District Transport offices for the period 2013-14 and found between June and December 2014 that the taxing officers of seven District Transport offices¹¹ did not realise penalty of ₹ 81.56 lakh for delayed payment of OTT from the owners of 2,626 vehicles (tractor, trailer, three-wheelers and light goods vehicles), out of 17,584 test-checked vehicles (total number of registered vehicles: 95,557), which were registered between April 2010 and August 2014, as shown in **Table-4.3** below:

⁶ Begusarai, Bhojpur (Ara), Gopalganj, Katihar, Muzaffarpur, Samastipur, Vaishali (Hajipur) and West Champaran (Bettiah).

⁷ Katihar, Madepura, Purnea, Supaul and West Champaran (Bettiah).

⁸ Bhagalpur, Bhojpur, Kaimur, Kishanganj, Munger, Nalanda, Purnea, Samsastipur, Siwan, Supaul and West Champaran (Bettiah).

⁹ Begusarai, Gopalganj, Katihar, Muzaffarpur, Rohtas, Saharsa, Samastipur, Supaul and West Champaran (Bettiah).

¹⁰ Begusarai, Gopalganj and Samastipur.

¹¹ Gopalganj, Katihar, Madhepura, Purnea, Sitamarhi, Supaul and West Champaran (Bettiah).

Table- 4.3

Type of vehicles	Number of defaulter Vehicles	Name of offices involved	Non/short realisation of penalty on OTT (₹ in lakh)
Tractor (commercial)	1,093	DTOs Katihar, Purnea, Sitamarhi and West Champaran (Bettiah)	22.02
Trailer	276	DTOs Katihar, Purnea, Supaul and West Champaran (Bettiah)	11.17
Three-wheeler	967	DTOs Purnea, Supaul and West Champaran (Bettiah)	27.07
Light Goods Vehicles	290	DTOs Gopalganj, Madhepura, Purnea and West Champaran (Bettiah)	21.30
Total	2,626		81.56

The matter was reported to the Government/Department between May 2014 and March 2015; we are yet to receive their reply (October 2015).

4.6.3 Non-realisation of One Time Tax and penalty due to pending registration

The Registering Authorities did not monitor the pendency of the applications for registration of vehicles which resulted in non-realisation of OTT of ₹ 1.66 crore including penalty.

We test-checked the registration records of 23,682 transport vehicles in VAHAN database for the period 2013-14 in six District Transport offices¹² and found between May and December 2014 that owners of 482 vehicles (tractors: 200, Trailer: 105, Three-wheelers: 157, Taxi/cab: 10, Light Goods Vehicles: 10) applied for registration of their vehicles between April 2010 and March 2014. But certificate of registration to the owners of these vehicles were not issued and was still pending at the level of Registering Authorities in violation of the provision of Rule 47 of Central Motor Vehicles Rules, 1989 which stipulates that a certificate of registration pertains to transport vehicle shall be handed over to the owner within the period of thirty days from the receipt of an application. The registering authorities could not monitor the pendency of application for registration. Hence due to pending registration of 482 vehicles, OTT amounting to ₹ 1.66 crore including penalty was not collected as shown in **Table- 4.4:**

¹²

Bhagalpur, Munger, Purnea, Samastipur, Siwan and West Champaran (Bettiah).

Table – 4.4

Type of vehicles	Number of defaulter Vehicles	Name of the offices involved	Non-realisation of OTT and penalty (₹ in lakh)
Tractor (commercial)	200	DTOs Munger, Purnea, Samastipur, Siwan and West Champaran (Bettiah)	81.93
Trailer	105	DTOs Bhagalpur, Munger, Purnea and West Champaran (Bettiah)	31.50
Three-wheeler	157	DTOs Purnea and West Champaran (Bettiah)	44.01
Taxi/Cab	10	DTOs Munger and West Champaran (Bettiah)	5.18
Light Goods Vehicles	10	DTOs West Champaran (Bettiah)	3.30
Total	482		165.92

The matter was reported to the Government/Department between May 2014 and March 2015; we are yet to receive their reply (October 2015).

4.6.4 Short realisation of one time tax due to incorrect application of the provision of the Act

Due to grant of validity of registration for 10 years instead of 15 years to the vehicles resulted in short realisation of ₹ 18.48 lakh.

During Scrutiny of tax clearance table of the *VAHAN* database of six District Transport offices (Bhojpur, Katihar, Kishanganj, Madhepura, Saharsa and Supaul), we found between November 2014 and January 2015 that 567 newly registered three wheelers (out of 971 test-checked) were granted validity of registration for 10 years instead of 15 years during the period between April 2013 and March 2014 in contravention to the provisions of Section 3 (C) of the BF Act 2013 which stipulates that new three-wheeler be granted validity of registration for 15 years. The DTOs did not ensure compliance of provisions of the Act *ibid* which resulted in short realisation of the OTT of ₹ 18.48 lakh. The matter was reported to the Government/Department between October 2014 and March 2015; we are yet to receive their reply (October 2015).

4.7 Loss of revenue due to delivery of vehicles without temporary registration

Delivery of vehicles to the purchasers without allocating temporary registration mark resulted in loss of ₹ 1.06 crore.

We scrutinised the owner table of *VAHAN* database and Registration Registers of 30 District Transport offices for the period 2013-14 and found (between May 2014 and January 2015) in 13 District Transport offices¹³ that the holders of trade certificates delivered 1,15,574 vehicles (Light Motor Vehicles: 3,851 and two wheelers: 1,11,723) to the purchasers without allocating

¹³ Aurangabad, Bhagalpur, Bhojpur (Ara), Darbhanga, Kishanganj, Lakhisarai, Madhepura, Munger, Nawada, Purnea, Siwan, Vaishali (Hajipur) and West Champaran (Bettiah).

temporary/permanent registration mark during the period between January 2011 and April 2014. This was in contravention to the provision of Rule 42 of CMV Rules, 1989, which stipulates that no holder of a trade certificate shall deliver a motor vehicle to a purchaser without registration, whether temporary or permanent. The registering authorities (DTOs) permanently registered these vehicles which were delivered to the purchasers without temporary registration. This resulted in loss of revenue of ₹ 1.06 crore.

The matter was reported to the Government/Department between September 2014 and March 2015; we are yet to receive their reply (October 2015).

4.8 Short realisation of trade tax and penalty from the dealers of motor vehicles

The DTOs did not ensure correctness of payment of trade tax by the dealers of motor vehicles at the prescribed rate which resulted in short realisation of trade tax of ₹ 22.30 lakh.

We scrutinised the declaration furnished by the manufacturers/dealers in respect of motor vehicles under their possession and the registration registers of 30 District Transport offices for the period 2013-14 and found (between May and November 2014) in seven District Transport offices¹⁴ that in case of 16 dealers of motor vehicles, trade tax at the prescribed rate was deposited short in respect of 19,429 vehicles (two wheelers:16,946 and three/four wheelers:2,483) possessed by them between the period from April 2011 and May 2014. This was in contravention to the provisions of Section 6 of the BMVT Act, 1994 and the Rules framed thereunder, which stipulates that tax at an annual rate as prescribed shall be paid by a manufacturer or a dealer in respect of motor vehicles which are in his possession in course of his business as a manufacturer/dealer. The DTOs did not examine the correctness of payment of trade tax as per the declaration submitted by the dealers and also did not initiate action for realisation of tax and renewal of trade certificate as instructed by the State Transport Commissioner in September 2007. This resulted in short realisation of trade tax of ₹ 22.30 lakh including penalty.

The matter was reported to the Government/Department between October 2014 and February 2015; we are yet to receive their reply (October 2015).

4.9 Non-realisation of additional registration fee

Allotment of registration numbers out of sequence to the purchasers without realising additional registration fees for preferred registration number resulted in non-realisation of revenue of ₹ 20.60 lakh.

During scrutiny of the Dealer Point Registration Register and VAHAN database of four District Transport offices (Begusarai, Muzaffarpur, Samastipur and Vaishali), we observed between October and December 2014 that 21 dealers, to whom registration mark were issued during the period between November 2011 and August 2014 under dealer point registration, had allotted 412 (out of 66,512) registration numbers out of sequence to the

¹⁴ Bhagalpur, Darbhanga, Katihar, Lakhisarai, Madhubani, Nalanda (Biharsarif) and Sitamarhi.

purchasers for which additional registration fees for preferred registration number were not realised as per notification (June 2003) issued under the Bihar Motor Vehicles Taxation (BMVT) Rules, 1992 which stipulates that if an owner of a vehicle applied for a preferred registration number out of sequence, an additional registration fee of ₹ 5,000 shall be chargeable. The Department also instructed (July 2009) to issue registration number from the allotted block of registration number according to the dealer's sale invoice. The concerned DTOs did not initiate any action to realise the fee from the dealer for issue of the preferred registration numbers. This resulted in non-realisation of additional fee of ₹ 20.60 lakh.

The matter was reported to the Government/Department between February and March 2015; we are yet to receive their reply (October 2015).

4.10 Internal Audit

The Internal Audit wing of any department is a special vehicle of the internal control mechanism and is generally defined as the control of all controls to enable an organization to assure itself that the prescribed systems are functioning reasonably well. There is an internal audit wing called Finance (Audit), which works under the Finance Department and internal audit of the different offices of the Government is conducted on the basis of requisitions received from the Administrative Department. The Chief Controller of Accounts can also select units for internal audit on availability of audit team.

The Finance Department did not conduct internal audit of the Transport Department during 2014-15.

CHAPTER-V

OTHER TAX RECIEPTS

CHAPTER V: OTHER TAX RECEIPTS

5.1 Tax administration

The levy and collection of Land Revenue is governed under the Acts and Rules¹ and administered by the Revenue and Land Reforms Department in the State. At the apex level the Principal Secretary-cum-Commissioner is the administrative head and assisted by Divisional Commissioners, Collectors, Additional Collectors, Deputy Collectors and Circle Officers in the field. The circle offices are the primary units which are responsible for levy and collection of land revenue.

The levy and collection of Stamps and Registration Fees in the State is governed by the provisions of the Indian Stamp Act, 1899; the Registration Act, 1908; the Bihar Stamp Rules, 1991 and the Bihar Stamp (Prevention of Under-valuation of Instruments) Rules, 1995. It is administered by the Registration, Excise and Prohibition (Registration) Department headed by the Inspector General, Registration (IGR). The Department functions under the administrative control of the Secretary of the Registration Department who is the chief revenue controlling authority. The IGR is assisted by an Additional Secretary, two Deputy Inspectors General (DIGs) and four Assistant Inspectors General (AIGs) at the Headquarters level. Further, there are nine Assistant Inspectors General at the divisional level. Thirty eight District Registrars (DRs), 38 District Sub Registrars (DSRs), 83 Sub Registrars (SRs) and 26 Joint Sub Registrars (JSRs) at the districts/primary units are responsible for levy and collection of stamp duty and registration fees.

5.2 Results of audit

During the year 2014-15, audit of records of 97 units, out of 839 auditable units, relating to Land Revenue and 40 units, out of 140 auditable units, relating to Stamps and Registration Fees revealed non/short realisation of revenue and other irregularities involving ₹ 568.13 crore in 690 cases which fall under the following categories as mentioned in **Table 5.1**.

Table- 5.1

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
A: Land Revenue			
1.	Non-eviction/settlement of encroached public land	18	11.06
2.	Loss of revenue due to non-realisation of stamp duty and registration fee from settled <i>Sairat</i>	23	54.30
3.	Non-realisation of revenue due to non-settlement and non-execution of leases	9	296.26
4.	Non-accountal and non/short collection/remittance of establishment charges	1	97.00

¹ The Bihar Tenancy Act, 1908; Bihar Public Land Encroachment Act, 1956; Bihar Government Estate (*Khas Mahal*) Manual, 1953.

5.	Non-realisation/remittance of revenue on alienation/transfer of Government land	1	15.66
6.	Extra payment of interest due to delayed announcement of award	1	7.73
7.	Other cases	435	56.20
Total		488	538.21
B: Stamps and Registration Fees			
1.	Blockage of Government revenue due to non-disposal of referred cases	36	4.59
2.	Blockage of Government revenue due to non-realisation of revenue in finalised referred cases	23	2.68
3.	Non/short levy of stamp duty and registration fee on lease documents	37	6.79
4.	Loss of revenue due to under-valuation of property	7	1.38
5.	Other cases	99	14.48
Total		202	29.92
Grand total		690	568.13

(A) During the period April 2014 to October 2015, the Revenue and Land Reforms Department accepted underassessment and other deficiencies *etc.* involving ₹ 384.42 crore in 26 cases, out of which four cases involving ₹ 376.09 crore were pointed out during the course of the year and the rest during the earlier years. The Department also reported recovery of ₹ 10.79 crore in five cases which were pointed out in the years 2012-13 and 2013-14.

(B) During the period April 2014 to October 2015, the Registration, Excise and Prohibition (Registration) Department accepted underassessment and other deficiencies *etc.* involving ₹ 11.47 crore in 47 cases, out of which 18 cases involving ₹ 4.04 crore were pointed out during the course of the year and the rest during the earlier years. The Department also reported recovery of ₹ 27.15 lakh in seven cases which were pointed out during the period between 2007-08 and 2014-15.

A few illustrative cases involving tax effect of ₹ 339.30 crore are mentioned in the following paragraphs.

5.3 Non-compliance of the provisions of the Acts/Rules

Our scrutiny of the records of the offices of the Additional/Deputy collectors, Land Revenue and District Registrars/Sub Registrars revealed several cases of non-compliance of the provisions of the Acts/Rules and departmental orders as mentioned in the following paragraphs. These cases are illustrative and are based on test-checks carried out by us. Such omissions on the part of the departmental officers are pointed out by us 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 and internal audit.

A: Land Revenue

5.4 Long Paragraph on "Leases of Government land in Bihar"

5.4.1 Introduction

Land Revenue is one of the oldest sources of revenue of the Government. It comprises land rent and cesses, lease rent, *Salami*² from long term leases and transfer value of land transferred to Public Bodies/Associations or individuals. Leases of Government land is one of the prime sources of the Government for earning revenue from the land. According to Section 105 of the Transfer of Property Act, 1882, a lease of an immovable property is the transfer of right to enjoy such property, made for a certain time, express or implied, or for perpetuity in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered periodically on specified occasions to the transferor by the transferee who accepts the transfer on such terms. The State Government may let out Government land on lease in lieu of *salami* and annual rent in accordance with the provisions laid down in the Bihar Government Estate (*Khas Mahal*) Manual 1953 and the New *Khas Mahal* Policy, 2011.

5.4.2 Objective, Scope and Methodology

With a view to examine whether execution of fresh lease and renewal of leases were made as per provisions laid down in aforesaid manuals and guidelines, we examined records of office of the Additional Collectors in eight selected districts³ between April and June 2015 covering the period 2010-11 to 2014-15. These districts were selected using statistical sampling through probability proportion to size with replacement.

Audit methodology included preparing guidelines, conducting entry conference, field visit for examination of records, collection of data from the Department, issue of audit memos, questionnaire and obtaining replies from audited entities to arrive at the audit conclusions.

An entry conference was held with the Director-cum-Special Secretary of the Revenue and Land Reforms Department in April 2015 wherein the objectives, scope and methodology of audit were discussed. The exit conference was held in September 2015 with the Joint Director, Revenue and Land Reforms Department to discuss the audit observations and to elicit the view of the Government. The replies of the Government have been suitably incorporated in the respective paragraphs.

Indian Audit and Accounts Department acknowledges the co-operation of the Revenue and Land Reforms Department in providing the necessary information and records to Audit.

² *Salami* denotes current market value of land

³ Bhojpur, Darbhanga, East Champaran, Gaya, Muzaffarpur, Patna, Vaishali and West Champaran

Audit findings:

5.4.3 Leases of Government land

In pursuance of Clause 18 of New *Khas Mahal* Policy, 2011, a fresh lease may be awarded to a lessee on his written consent to the Collector. The Collector within 30 days from the receipt of such proposal will send the same for approval of the Government through the Divisional Commissioner. Such fresh lease shall be awarded to the lessee on the receipt of *Salami* equivalent to current market value of the land besides an annual rent of two *per cent* or five *per cent* of the *salami* for residential or commercial purposes respectively. Clause 1(a), (b) & (c) of the Policy *ibid* stipulates that if a residential, non-residential and commercial lessee has not violated any term and condition of lease, the lease shall be renewed for thirty years and the lessee shall be liable to pay *salami* equivalent to five *per cent* of the current market value of the land and the annual rent shall be enhanced to 0.5 *per cent* of the current market value of land for residential and 10 *per cent* of the current market value for *salami* and annual rent shall be enhanced to five *per cent* of the current market value of land for commercial use at the time of renewal. Further, Clause 2(a) and 4(a) of New *Khas Mahal* Policy, 2011 provide that if a lessee violates the terms and conditions of the leases or discontinues the payment of annual lease rent, he shall be presumed as trespasser and the Government shall offer him to take a fresh lease on new terms and conditions within a stipulated period of 90 days on payment of *salami* equivalent to the current market value of land and annual rent of two or five *per cent* of *salami* for residential or commercial purposes respectively.

5.4.3.1 Non-execution of fresh lease in case of violation of terms and conditions of leases

The Department did not execute the fresh lease in cases where terms and conditions of leases were violated by the lessee which resulted in non-realisation of *Salami* and rent of ₹ 72.19 crore.

We observed between April and June 2015 from the case records of leases relating to *Khas Mahal*/Government lands in two districts (Patna and Gaya) that four lessees whose leases were expired between the years 1994 and 2002 had either violated the terms and conditions or discontinued payment of annual rent for more than five years. In three cases of Patna, the Department did not initiate any action for fresh lease and in one case of Gaya, the Department issued notices for fresh lease (January 2012 and January 2013) for violation of lease condition i.e. non-payment of annual rent. The lessee had accepted the proposal (January 2013) but the fresh lease could not be executed till date. This resulted in non-realisation of *Salami* and rent of ₹ 72.19 crore.

After this was pointed out, the Department replied (September 2015) during exit conference that necessary action would be taken as per New *Khas Mahal* Policy 2011.

5.4.3.2 Non-renewal of Khas Mahal leases

The Department did not conduct physical verification of the land and the identification of the applicants which resulted in non-realisation of *Salami* and rent of ₹ 2.07 crore.

During scrutiny of records relating to leases of *Khas Mahal* land maintained in the office of the Additional Collector, Patna, we observed that three lessees (Uday Gupta and Renu Gupta, Vijay Gupta & Gomati Gupta and Lady Stephenson Hall), whose leases for total area of 128.44 decimals of land expired between December 2012 and August 2013 applied for renewal of leases. However renewal of these leases could not be done due to inordinate time taken in physical verification of the land and the identification of the applicants. This resulted in non-realisation of *salami* and rent amounting to ₹ 2.07 crore.

After this was pointed out, the Department replied (September 2015) during exit conference that necessary action would be taken as per New *Khas Mahal* Policy 2011.

5.4.3.3 Non-settlement of encroached land in excess of leased out area

The Department did not settle the encroached area of Government land with Bihar Industries Associations and Bihar State Electricity Board which resulted in non-realisation of *Salami* and rent of ₹ 97.73 crore.

During scrutiny of records relating to leases maintained in the office of the Additional Collector, Patna, we observed that Bihar Industries Associations (BIA), Patna was leased out an area of 14.06 decimal (4.5 *katha*) for a period of 30 years in November 1984. The lessee had encroached an additional area of 2.2 decimal. Similarly, the Bihar State Electricity Board (BSEB), Patna to whom a lease of 2.0 acres of Government land was given in September 1967 had also encroached an additional area of 3.67 acres of Government land. Both BIA and BSEB applied for regularisation in the years 1995 and 2006 respectively. In these cases regularisation of lease of encroached land was still pending.

Thus, due to non-settlement of encroached area of Government land in excess of leased out area, the Government could not realise a sum of ₹ 97.73 crore in shape of *salami* and rent.

After this was pointed out, the Department replied (September 2015) during exit conference that necessary action would be taken as per New *Khas Mahal* Policy 2011.

5.4.3.4 Non-regularisation of unauthorised construction

Non-observance of Government instruction to regularise the unauthorised construction resulted in non-realisation of *Salami* and rent of ₹ 44.97 crore.

During scrutiny of records relating to unauthorised construction on Government land of Gandhi Maidan, Gaya in the office of Additional Collector, Gaya, we observed that three unauthorised constructions were made on 437.91 decimal of Government land by Red Cross Society, Seva Sanwas

Sadan Samittee and Girija Ghar. Despite the clear instruction (April 2013) given by the Chief Secretary for taking the ex-post facto sanction of leases to regularise the unauthorised construction over the Government land at Gandhi Maidan, Gaya, no approval for regularisation of these unauthorised constructions could be obtained (November 2014) even after elapse of 19 months. This resulted in non-realisation of revenue in the shape of *salami* and rent amounting to ₹ 44.97 crore.

After this was pointed out, the Additional Collector, Gaya replied (June 2015) that an offer letter had been issued (May 2015) to the Secretary, Seva Sanwas Sadan Samittee to get the lease executed. However, the Department stated during exit conference held in September 2015 that necessary action would be taken as per New *Khas Mahal* Policy 2011.

5.4.3.5 Non-realisation of revenue due to inordinate delay in execution of lease deed

The Department did not execute the fresh lease with Singapore Buddhist lodge, which resulted in non-realisation of *Salami* and rent of ₹ 3.24 crore.

During scrutiny of files related to leases of Government land maintained in the office of the Additional Collector, Gaya, we observed that a piece of Government land measuring 3 acres acquired as surplus land under Ceiling Act situated in Bodh Gaya Anchal was proposed (August 2010) to be leased out by the Government to the President, Singapore Buddhist lodge for construction of Buddhist lodge/Pilgrim centre on a *salami* of ₹ 4.80 crore (at the rate of ₹ 1.60 lakh per decimal) with a commercial annual rent of ₹ 24 lakh (at the rate of five *per cent* of *salami*). On the request made (October 2010) by the lessee, the Government of Bihar again re-fixed the amount of *salami* of the said land at ₹ 3.09 crore (at the rate of ₹ 1.03 lakh per decimal) at residential annual rent of ₹ 6.18 lakh at the rate of two *per cent* of *salami* and the amended lease agreement was finally sent to the Collector in April 2013.

In the meantime, the current market value of the said land got enhanced substantially. In view of this, the Collector had referred (October 2013) the matter to the Department in order to save the Government revenue by making lease at the current market value instead of price fixed three years earlier. However, even after elapse of more than 13 months, the Department could not take any action for execution of lease (November 2014). This resulted in non-realisation of ₹ 3.24 crore⁴. The present value of the land was worked out to ₹ 16.50 crore.

After this was pointed out, the Department replied (September 2015) during exit conference that necessary action would be taken as per New *Khas Mahal* Policy 2011.

⁴ Calculated on the basis of the market value of land at the rate of ₹ 1,03,000 per decimal (for residential)- *Salami*: ₹ 3,09,00,000 + Annual rent at the rate of 2 *per cent* of *Salami*: ₹ 6,18,000 + Cess at the rate of 145 *per cent* of rent per annum: ₹ 8,96,100 (Total : ₹ 3,24,14,100).

5.4.3.6 Short realisation of *Salami* and rent in settlement of *Khas Mahal* lease

The Collector, East Champaran, Motihari applied the residential rate instead of commercial rate in settlement of land for commercial use, which resulted in short realisation of revenue of ₹ 19.69 lakh.

During scrutiny of records of leases maintained in the office of the Additional Collector Land Revenue, East Champaran, Motihari, we observed that a piece of Government land measuring 50 decimal in the Collectorate campus was settled with the State Bank of India at the rate of ₹ 1,59,000 per decimal considering the land as residential on branch road by the Collector. But we observed that the land was situated in the Collectorate campus having commercial uses for which the rate of ₹ 1,96,500 per decimal should have been recovered as per MVR. Thus, due to injudicious decision of the collector, there was short realisation of ₹ 19.69 lakh⁵.

After this was pointed out, the Additional Collector, Motihari stated (July 2015) that the balance amount would be realised from State Bank of India. Further development in this regard is awaited (October 2015).

5.4.4 Leases of Petrol pumps

In accordance with the instruction issued (May 1956) by Chief Engineer, Public Works Department (PWD) to all Superintending/Executive Engineers of PWD, the road side land should be leased out temporarily for providing passage/approach road to Petrol pumps for a period of five years and the amount of *salami* should be charged at the rate of 25 per cent of total market value of the land for each settlement or renewal of the settlement for five years. Besides, ground rent will also be charged annually at the rate of 10 per cent of the market value which may be fixed in consultation with the Collector.

5.4.4.1 Non-realisation of revenue due to non-renewal of road side leases of Government land for Petrol pumps

Executive Engineer could not renew the leases of 15 (10+5) petrol pumps which resulted in non-realisation of *Salami* and rent of ₹ 2.23 (1.75 + 0.48) crore.

- During scrutiny of records relating to leases of Petrol pumps maintained in two divisions of Road Construction Department (Muzaffarpur-1 and Muzaffarpur-2), we observed that 10 leases of Petrol pumps involving 61.99 decimal of land were due for renewal between 2010-11 and 2014-15, but the renewal of the same could not be done by the concerned Executive Engineer of the divisions while such leases were due for renewal at every five years. This resulted in non-realisation of *salami* and rent of ₹ 1.75 crore.

After this was pointed out, the Department replied (September 2015) during exit conference that necessary action would be taken in consultation with the Road Construction Department.

⁵ Calculation: Difference in rate - ₹1,96,500-₹1,59,000 =₹37,500x50 dec. =₹18,75,000
Rent- 5 per cent of ₹ 18,75,000 = ₹ 93,750. **Total- 19,68,750.**

- During scrutiny of case files of Petrol pumps maintained in the office of the Executive Engineer, Road Construction Division, Patna West, we observed that five leases of petrol pumps measuring an area 42.17 decimal were made between 2007 and 2010 for a period of fifteen years instead of five years in contravention to the above mentioned instructions of the Chief Engineer. The renewal of leases of these Petrol pumps was due between the period July 2012 and March 2015. This resulted in non-realization of revenue of ₹ 47.66 lakh.

After this was pointed out, the Department replied (September 2015) during exit conference that necessary action would be taken in consultation with the Road Construction Department.

5.4.4.2 Short levy of *salami* and rent due to misclassification of land

Executive Engineer did not calculate the value of land based on commercial nature of land in execution of 35 leases of petrol pumps which resulted in short realisation of *Salami* and rent of ₹ 2.17 crore.

During test-check of records relating to leases of Petrol pumps maintained in three divisions (Patna West, Motihari and Muzaffarpur-2) of Road Construction Department, we observed that in execution of 35 leases of Petrol pumps covering area of 369.826 decimal, the *salami* and rent on land were levied on market value of land as non-commercial category in place of commercial one. This resulted in short realisation of *salami* and rent amounting to ₹ 2.17 crore.

After this was pointed out, the Department replied (September 2015) during exit conference that necessary action would be taken in consultation with the Road Construction Department.

5.4.4.3 Non/improper maintenance of records of leases of Petrol pumps

Executive Engineers of four divisions of RCD did not maintain the records of leases of 115 petrol pumps which resulted in non-ascertainment of revenue from these running petrol pumps.

During scrutiny of records relating to leases of road side land for Petrol pumps in four districts⁶ we observed that 115 Petrol pumps across the road side under the jurisdiction of four divisions⁷ of Road Construction Department were in operation without maintaining proper lease files and the composite registers for leases of Petrol pumps in the concerned divisions. However, the concerned divisions could provide only a list of existing petrol pumps under their jurisdiction for which the survey reports were prepared in course of audit. For want of proper maintenance of records, the audit could not ascertain whether the leases of these Petrol pumps were made or they were running without paying any revenue to the Government.

Further, we observed that in two districts (Darbhanga and Gaya) no records of operationalisation of any Petrol pump were found maintained in the concerned Road Construction Divisions, though 511.14 Kms. of road were under the jurisdiction of both the divisions.

⁶ East Champaran, Muzaffarpur, Vaishali and West Champaran.

⁷ Road Construction Divisions – Bettiah, Hajipur, Motihari and Muzaffarpur No. 1.

Thus, no monitoring mechanism existed in the Road Construction Department for timely execution of leases of Petrol pumps and their renewal.

After this was pointed out, the Department replied (September 2015) during exit conference that necessary action would be taken in consultation with the Road Construction Department.

5.4.5 Conclusion

- Due to non-execution of fresh lease in cases where terms and conditions of existing lease were violated, there was non-realisation of Government revenue in shape of *salami* and rent.
- Due to lack of monitoring mechanism, the renewal of leases of Government land with Petrol pumps owners were delayed which resulted in non-realisation of Government revenue in shape of *salami* and rent.

5.5 Non/short collection of establishment charges

District Land Acquisition officer did not ensure realisation of the establishment charges of ₹ 97.15 crore for lands acquired on behalf of requisitioning body/departments.

We scrutinised (between May and June 2014) the project files/records in the office of the District Land Acquisition officer (DLAO), Patna for the period from 2009-10 to 2012-13 relating to six projects (one project of National Thermal Power Corporation, Barh; three projects of National Highway Authority of India; one project of Barauni Thermal Power Station and one project of Industries Department, Government of Bihar) out of total 31 projects for which lands (Raiyati/Government) were acquired and found that a sum of ₹ 102.83 crore was to be levied and collected as establishment charges for the period 2001-02 to 2012-13 in accordance with the provisions of Rule 139 of the Bihar Land Acquisition Manual and departmental orders which provides that establishment charges⁸ are to be levied and collected from the requisitioning Body/Department on the prescribed limit of compensation for the lands acquired by the DLAOs on behalf of that Body/Government before the commencement of acquisition proceedings. But we observed that an amount of ₹ 5.68 crore only was remitted into treasury. In five, out of the six projects, establishment charges could not be recovered at all and in one case there was short collection of establishment charges. Further, project-wise establishment charges were neither accounted for nor could their realisation be ensured by the DLAO. This omission resulted in non/short collection of establishment charges of ₹ 97.15 crore.

After this was pointed out, DLAO, Patna stated in July 2014 that the project-wise accounts of realisable amount of establishment charges were being accounted for and thereafter the proper action for their remittances into treasury would be taken. DLAO, Patna further intimated in June 2015 that an

⁸ At the rate of 5 per cent, 10 per cent, 15 per cent and 20 per cent prior to 15 May 2006 and thereafter at the rate of 20 per cent, 25 per cent, 30 per cent and 35 per cent.

amount of ₹ 10.76 crore was recovered and remitted into treasury. Further realisation of amount is awaited (October 2015).

The matter was reported to the Government/Department in September 2014, we are yet to receive their reply (October 2015).

5.6 Avoidable payment of interest due to delayed announcement of award

The Department of Industry had to pay an avoidable payment of interest of ₹ 14.61 crore to the awardees of Raiyati lands due to delayed announcement of award.

We scrutinized (June 2014) the project files/records of land acquisition of the office of the District Land Acquisition Officer (DLAO), Patna for the period 2009-10 to 2013-14 and found that in three cases, proceedings of land acquisition for Department of Industry, Government of Bihar, Patna were started between 2007-08 and 2008-09 for establishing a mega industrial park, but the final compensation was paid with a delay ranging between three and five years after possession. Consequently the Department of Industry had to pay interest of ₹ 14.61 crore in accordance with provision of Rule 122 of Statutory Rules issued under Section 55 of Land Acquisition Act, 1894 read with Section 34 of the Act *ibid* which provides that when the amount of compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of 9 percentum per annum from the time of so taking possession until it shall have been so paid or deposited provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of 15 percentum per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of expiry.

Thus, the Department of Industry had to pay an avoidable payment of interest of ₹ 14.61 crore to the awardees of Raiyati lands due to delayed announcement of award.

After this was pointed out, the DLAO, Patna stated in June 2015 that due to delay receipt of valuation reports of land and constructions thereon and delay in other process, there was delay in sanction of estimate.

The matter was reported to the Government/Department in October 2014, we are yet to receive their reply (October 2015).

5.7 Excess realisation of contingency charges

Excess collection of contingency charges of ₹ 82.56 lakh in contravention of the provision of the Government resolution.

We scrutinised (June 2014) the relevant files and estimates of the cost of lands of four projects out of total 31 projects in the office of District Land Acquisition Officer (DLAO), Patna and found that the DLAO had collected the contingency charges of ₹ 90.55 lakh from the requisitioning authority for acquisition of land for these projects for the period between 2001-02 and

2012-13. The estimate of land of the projects was prepared Mauja-wise and accordingly contingency charges were levied. However, these four projects attracted contingency charges of ₹ 8 lakh only at the rate of ₹ 2 lakh for each project. Thus, the DLAO had collected excess contingency charges of ₹ 82.56 lakh in violation of the provision of the Government resolution which stipulates that the requisitioning authority shall pay the contingency charges at the rate of 0.5 *per cent* on the estimated value of the land to be acquired for the project subject to maximum of ₹ 2.00 lakh.

After this was pointed out, DLAO, Patna stated in June 2015 that in view of resolution No. 747 dated 13 May 2008, contingency charges is collected mauza-wise. Reply is not correct as there is no mention about collection of contingency charges mauza-wise.

The matter was reported to the Government/Department in September 2014, we are yet to receive their reply (October 2015).

B: Stamps and Registration fees

5.8 Blocking of Government revenue due to non-disposal of referred cases

Non-disposal of referred cases by the AIG resulted in blocking of Government revenue of ₹ 1.47 crore in shape of stamp duty.

During scrutiny of the register of referred cases and information made available by six registering authorities⁹ (District Sub Registrars/Sub Registrars) between March and November 2014, we observed that 428 cases pertaining to the years 2008 to 2015 were referred between April 2008 and July 2014 to the Assistant Inspector General (AIG), for determination of market value of property under Section 47(A) of the Indian Stamp (IS) Act, 1899. Out of which, 250 cases were disposed off and remaining 178 cases valued at ₹ 1.47 crore were still pending for disposal though required to be disposed of within 90 days as per the instruction of the Commissioner-cum-Secretary and Inspector General of Registration Department, Government of Bihar (May 2006). Thus, there was blocking of Government revenue of ₹ 1.47 crore in shape of stamp duty.

After this was pointed out, the Department stated in September 2015 that out of 178 cases, 90 cases were disposed in cases of five registering authorities (Begusarai, Darbhanga, Madhubani, Lalganj and Munger) and ₹ 6.70 lakh was recovered in 29 cases in three registering authorities (Darbhanga, Madhubani and Lalganj) and in remaining cases concerned AIG had been requested to dispose the pending cases at the earliest.

5.9 Non-realisation of Government revenue from finalised referred cases

Non-initiation of Revenue Recovery Certificates in cases of non-payment of deficit stamp duty resulted in non-realisation of Government dues of ₹ 73.97 lakh.

⁹ DSR Begusarai, SR Belsand (Sitamarhi), DSR Darbhanga, DSR Madhubani, SR Lalganj (Vaishali) and DSR Munger.

During scrutiny of the register of referred cases and information made available by the District Sub Registrar, Begusarai in May 2014, we observed that 688 cases were referred to the Assistant Inspector General (AIG) for determination of market value of property under Section 47(A) of the IS Act and the AIG determined a sum of ₹ 73.97 lakh as deficit stamp duty in these referred cases. However the DSR neither realised the deficit stamp duty nor filed the Revenue Recovery Certificate against the concerned parties as instructed by the Government (January 2007) for realisation of Government dues of ₹ 73.97 lakh in shape of stamp duty. This non-realisation was the violation of Section 48 of the Act *ibid* which provides that all stamp duties, penalties required to be paid may be recovered by distress and sale of the movable property of the person from whom the same are due, or by any other process for the time being in force, for the recovery of arrears of land revenue.

After this was pointed out, the Department stated in September 2015 that an amount of ₹ 17.69 lakh had been recovered in 103 cases. We await replies in the remaining cases (October 2015).

5.10 Non-levy of Stamp duty on lease agreements entered into between the Mobile companies and land owners

Non-verification of payment of Stamp duty on lease agreements entered into between the mobile companies and land owners resulted in non-levy of stamp duty of ₹ 6.33 lakh.

During scrutiny of records of six Districts Sub Registrars¹⁰ and information made available by the Executive Officer of concerned Nagar Nigam/Parishad, we found between March and September 2014 that 49 agreements were entered into between mobile companies and land owners during the years between 2010 and 2013 for erection of mobile towers for the lease period of 15 to 21 years. These agreements came under the category of lease documents as the lease period was more than one year which attracts stamp duty. But we observed that the concerned DSR did not visit the public offices in any of the case in spite of the instruction (September 2012) of the Secretary of the Department and subsequent instruction of concerned Collector to verify the payment of stamp duty on the agreements for installing mobile towers to realise the Government revenue. This omission on part of the concerned DSR resulted in non-levy of stamp duty of ₹ 6.33 lakh¹¹.

After this was pointed out, the Department stated in September 2015 that in above mentioned Districts, Inspecting Officers had been nominated and inspection would be conducted shortly. However, the facts remains that due to non-verification of payment of stamp duty on lease agreements in public offices, the stamp duty could not be levied.

¹⁰ Aurangabad, Begusarai, Darbhanga, Kishanganj, Madhubani and Saharsa.

¹¹ At the rate of 15 *per cent* of the actual value of land in the cases where leases for the period more than 10 years and 5 *per cent* of the actual value of land in the cases where lease for the period up to 10 years.

5.11 Misclassification of category of land

Short levy of stamp duty and registration fees of ₹ 11.41 lakh due to misclassification of category of land.

During scrutiny of register of referred cases in the office of the District Sub Registrar (DSR), Patna and cases finalised by the AIG, Patna, we observed in November 2014 that the DSR Patna had referred (May 2007) three cases of undervaluation of land by levying stamp duty and registration fees of ₹ 27.35 lakh on the value of the land of ₹ 2.73 crore at the rate applicable to the 'Residential-Branch Road' to the AIG Patna for determination of the market value of the land. The AIG disposed (September 2012) the cases and decided to realise deficit stamp duty as recommended by the DSR without any spot verification and without ascertaining the actual classification of land.

Further, we observed that all these plots of land were located in the notified areas under Patna Municipal Corporation (PMC) and as per information made available by the PMC, seven plots measuring 305 decimal were situated on 'Main Road with Commercial purpose' while three plots measuring 183 decimal having 'Residential nature on Main Road'. Had the case been finalised on the actual classification of land, the market value of the land would have come to ₹ 3.88 crore and leviable stamp duty and registration fees would have been ₹ 38.76 lakh. Thus, there was a short levy of stamp duty and registration fees of ₹ 11.41 lakh due to misclassification of category of land.

After this was pointed out, the Department stated in September 2015 that nature of the land was residential-branch road at the time of registration of the documents in the year 2007. However, as per the information furnished (October 2010) by the PMC, all the above mentioned plots were situated on residential-main road in the year 2007. Hence, the fact remains that due to misclassification of land there was a short levy of stamp duty and registration fees of ₹ 11.41 lakh.

5.12 Internal Audit

The Internal Audit wing of any department is a special vehicle of the internal control mechanism and is generally defined as the control of all controls to enable an organization to assure itself that the prescribed systems are functioning reasonably well.

There is an internal audit wing called Finance (Audit), which works under the Finance Department and internal audit of the different offices of the Government is conducted on the basis of requisitions received from the Administrative Department. The Chief Controller of Accounts can also select units for internal audit on availability of audit team.

As informed by the Finance Department (July 2015), 16 requisitions from the Revenue and Land Reforms Department and two requisitions from the Registration, Excise and Prohibition (Registration) Department for internal audit were received during 2014-15 and the internal audit was conducted in all cases. The Finance Department further stated that Inspection Reports containing 170 and 12 paragraphs respectively were issued and letters/reminders were issued for settlement of outstanding Inspection Reports/paragraphs and also meeting was being organised.

CHAPTER-VI
NON-TAX RECEIPTS

CHAPTER VI: NON-TAX RECEIPTS

Non-ferrous Mining and metallurgical Industries

6.1 Tax administration

Mining of minerals is governed by the Bihar Minor Mineral Concession Rules (BMMC Rules), 1972 and Mineral Concession Rules (MC Rules), 1960 framed by the State Government under the Mines and Minerals (Regulation and Development) Act (MMRD Act), 1957. The regulation and development of mines and minerals are administered by the Mines and Geology Department with the Commissioner-cum-Principal Secretary as its head at the Government level. The Director of Mines is the head of the Department and is assisted by one Additional Director of Mines and three Deputy Director of Mines (DDMs) at headquarters level. Further there are nine Deputy Director of Mines at Divisional offices and at the district level, 14 district mining offices are headed by Assistant Director of Mines/Mining Development Officers independently whereas Mining Inspectors (MIs) are the in-charge of the remaining 24 district mining offices who are under the control of the Collector of the respective districts and are responsible for assessment, levy and collection of royalty and other mining dues.

Bihar State has minor minerals like sand, stone and earth and a few major minerals like Limestone, Mica, and Silica etc. Receipts from mines and minerals in Bihar comprise royalty, dead rent, surface rent, application fee for lease/permit/prospecting licence, pre-survey licence, penalty, fine and interest for delayed/belated payment of dues etc.

6.2 Results of audit

In course of audit of records of 35 units, out of 48 auditable units, relating to receipts from Non-ferrous Mining and Metallurgical Industries during the year 2014-15, we found non/short levy, non/short realisation of revenue and other irregularities involving ₹ 184.30 crore in 346 cases which fall under the following categories as detailed in **Table 6.1**.

Table- 6.1

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non-levy of penalty for illegal procurement of minerals by works contractors	46	89.57
2.	Non-realisation of royalty	25	7.28
3.	Non/short-realisation of royalty from brick kiln owners	23	11.05
4.	Loss of revenue due to delay in notification of settlement of <i>sandghat</i>	9	14.70
5.	Non-realisation of royalty and interest thereon from the lessee of stone quarry/settlee of <i>sandghat</i>	16	1.87
6.	Non-realisation of registration fee	17	7.09
7.	Loss of revenue due to non-realisation of royalty for excess dispatch of stone/sand	19	17.54
8.	Non-execution of deed for settlement of <i>sandghat</i>	9	8.92
9.	Loss of revenue due to non-levy of penalty for illegal removal of ordinary earth	26	16.69
10.	Other cases	156	9.59
Total		346	184.30

During the period April 2014 to October 2015, the Department accepted non/short levy, non/short realisation of revenue and other irregularities *etc.* involving ₹ 16.93 crore in 50 cases, out of which 42 cases involving ₹ 15.50 crore were pointed out during 2014-15 and the rest in earlier years. The Department also reported recovery of ₹ 75.01 lakh in one case which was pointed out during the period 2014-15.

A few illustrative cases involving tax effect of ₹ 60.69 crore are mentioned in the following paragraphs.

6.3 Non-compliance of the provisions of the Acts/Rules

Our scrutiny of the records of the District Mining Officers revealed several cases on non-compliance of the provisions of the Acts/Rules and departmental orders as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test-check carried out in audit. Such omissions on the part of the departmental officers are pointed out in audit each year, but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system and the internal audit.

6.4 Non-levy of penalty for illegal procurement of minerals by works contractors

Lack of inter-departmental coordination resulted in non-levy of penalty of ₹ 40.76 crore against the works contractors for illegal procurement of minerals.

We observed from the revenue collection report of 20 District Mining Offices¹ and the district treasury records between February 2014 and January 2015 that a sum of ₹ 40.76 crore was deposited by the Works departments in shape of royalty under the head “0853 Non-ferrous Mining and Metallurgical Industries” during the period 2012-13 and 2013-14 which was deducted from the bills of the works contractors. Works departments did not send the particulars of the mineral used by the works contractors to the concerned District Mining Offices for verification. Instead the works departments, deducted the royalty from the bills of works contractors against use of minerals in violation of Rule 40 (10) of the Bihar Minor Mineral Concession (BMMC) Rules, 1972 which provides that works contractor shall purchase the minerals from lessee/permit holder and authorised dealers only and no works department shall receive the bill which the works contractors submit to recover cost etc. of mineral used by them in completion of the works unless the same is accompanied with prescribed forms ‘M’ and ‘N’ describing the names and addresses of the dealers from whom the minerals were purchased. This indicates the possibility that the minerals may not have been purchased from the permit holder/authorised dealers. Further, MOs on receipt of the deduction of royalty by the works departments did not initiate any follow up action to check if the minerals had been procured illegally and the MOs also did not raise the demand for minimum penalty at least equivalent to royalty of ₹ 40.76 crore from the works contractors through works department as prescribed under Section 21 (5) of the Mines and Minerals (Development and Regulation) Act, 1957 read with Rule 40(8) of the BMMC Rules, 1972 which stipulates that whenever any person raises without any lawful authority, any mineral from any land, the State Government may recover from such person the minerals so raised or where such minerals have already been disposed off the price thereof and may also recover from such person rent, royalty or taxes as the case may be for the period, during which the land was occupied by such person without any lawful authority.

Thus, lack of inter-departmental coordination resulted in non-levy of penalty against the works contractors through works department to stop the illegal procurement of minerals.

¹ Aurangabad, Banka, Begusarai, Bettiah, Bhagalpur, Gaya, Gopalganj, Jamui, Kaimur, Khagaria, Kishanganj, Nalanda, Nawada, Patna, Rohtas, Saharsa, Sheikhpura, Saran, Siwan and Vaishali.

After this was pointed out, the Department stated (July 2015) that Rule 40(10) of the BMMC Rules clearly stipulates that where the royalty has been paid for minerals consumed by the Works Department as disclosed in the Affidavit, the concerned Mining Officer may not take action as prescribed in the Rules. The reply of the Department is not in consonance with the provision of Rule 40(10) of the Rules *ibid* as the works contractors did not submit Affidavit in Form M and particulars of minerals in Form N.

However, the Department further stated (July 2015) that necessary direction in this regard had been given to the concerned Works departments to comply the provisions of Rule 40 (10) of the BMMC Rules. Further, a committee had been constituted in pursuance of decision taken in PAC Meeting held in June 2015 to draft and prepare a road-map and works-plan for on-line verification of Form M and Form N and for establishing inter-departmental co-ordination.

6.5 Short realisation of royalty for excess dispatch of stone

Inaction on part of MOs to verify the monthly return submitted by the leaseholders resulted in short realisation of royalty of ₹ 1.19 crore for excess dispatch of stone.

We observed between May and September 2014 in three district mining offices (Banka, Gaya and Nawada) from test-check of 29 files out of 138 leases of stone quarry and monthly returns submitted by the leaseholders that 12 stone quarries were auctioned between November 2007 and July 2009 at ₹ 3.58 crore. The leaseholders had dispatched 8.49 lakh cubic metre of minerals (stone, murrum and dust) valued at ₹ 5.83 crore between the period November 2007 and March 2014, against which they paid only ₹ 4.64 crore in contravention to the provisions of the sanction order of settlement which provides that the settlee shall pay extra royalty for quantity of stone extracted and dispatched in excess of the quantity equivalent to the bid amount. Inaction on part of MOs to verify the monthly return submitted by the leaseholders as prescribed under Rule 26 (6) of the BMMC Rules, 1972 resulted in short realisation of royalty of ₹ 1.19 crore.

After this was pointed out, the Department replied (July 2015) that in case of Gaya and Nawada, a sum of ₹ 95.01 lakh had been recovered from eight leaseholders and in Banka, notice of demand for ₹ 7.70 lakh which also includes updated interest had been issued against the leaseholder. We await further development in the case of Banka and reply in case of remaining three leaseholders of Gaya district (October 2015).

6.6 Short realisation of royalty and interest from lessee of stone quarry

Inaction on part of MOs to realise the bid amount from the leaseholders of stone quarries resulted in short realisation of royalty and interest.

We observed between March and September 2014 from test-check of files of leases of 12 stone quarries in two mining offices (Banka and Gaya) that eight stone quarries were auctioned at ₹ 2.24 crore during the period between August 2007 and May 2009. The leaseholders had to pay the bid amount in instalments on yearly basis which accumulated to ₹ 1.75 crore upto January 2013, against which the leaseholders had paid a sum of ₹ 1.20 crore only between February 2009 and May 2013 in violation of the provision of Rule 52(1), (4) and (5) of the BMMC Rules, 1972 which provides that the bid amount shall be deposited on yearly basis in equal instalment and each instalment shall be deposited before 31st January. This resulted in short realisation of royalty of ₹ 54.82 lakh. Further, interest for delayed payment of royalty was also chargeable, which amounted to ₹ 6.84 lakh as per aforesaid provision. Despite short payment of yearly instalment of royalty, action for cancellation of lease had not been initiated by the MOs against the leaseholders.

After this was pointed out, the Department replied (July 2015) that in Gaya district revenue recovery certificate had been filed in both the cases during 2015-16, in Banka district notices of demand had been issued in three cases between July 2014 and July 2015 and revenue recovery certificates would be filed in the remaining cases. In all these cases notices of demand were issued after being pointed out in audit. We await recovery in the accepted cases and further development in the remaining cases (October 2015).

6.7 Non/short realisation of registration fees and stamp duty on settlement of sand ghats

Stamp duty and registration fees of ₹ 11.49 crore was not realised from the settlees of sand ghats.

We observed between February and May 2014 from the settlement files of sand *ghats* in ten District Mining Offices² that 14 sand *ghats* were settled for a period of three calendar years on an auctioned amount of ₹ 277.43 crore with 19 settlees during the years 2010 to 2012 with enhancement of 20 *per cent* of the settlement amount for next consecutive year. Settlement of sand *ghats* was done for three years but agreement was done every year. The agreement should have also been done for three years. Had the agreement been done for three years, the Government could have earned registration fees of ₹ 11.10 crore under the provision of Section 17(1) (d) of the Indian Registration Act, 1908, which provides that lease documents of immovable property from year to year or for any terms exceeding one year shall be registered. Besides, stamp duty of ₹ 39.00 lakh was also not realised from the four settlees in accordance with the provision of Section 3 of the Indian Stamp Act, 1899.

² Arwal, Banka, Bhojpur, Jamui, Nalanda, Nawada, Patna, Rohtas, Saran and Vaishali

After this was pointed out, the Department stated (July 2015) that as per Indian Registration Act, the registration of deed for one year was optional. It was further stated that sand *ghats* were settled on yearly basis and stamp duty at the rate of three *per cent* had already been realised. The reply of the Department is not in consonance with the facts that the settlement of sand *ghats* was for three years. Further on scrutiny of the replies of the Department, we observed that MO Banka had issued notice of demand for ₹ 1.65 lakh and MO Nalanda had instituted revenue recovery certificate case for ₹ 11.34 lakh in one case each for payment of stamp duty. Thus, due to non-execution of agreement for the whole period of settlement, the Government was deprived of revenue of ₹ 11.10 crore in shape of registration fees.

6.8 Non-levy of penalty for illegal use of ordinary earth

Penalty of ₹ 6.64 crore was not levied on works contractors for extraction of ordinary earth without obtaining requisite quarrying permits.

We observed between February and September 2014 from lease files/Bank Draft Register in eight District Mining Offices³ that ₹ 6.64 crore was deducted/ deposited by the works contractors as royalty during the period from April 2012 to March 2014 for use of mineral in earth work. We further observed that works contractors who had removed the minor mineral had not applied for the requisite quarrying permit for the same in violation of the provision of Rule 27 and 28 of the BMMC Rules, which provides that any quarrying activities require sanction of the competent authority on payment of requisite fee. Thus, the contractors removed the earth illegally for which they were liable to pay minimum penalty at least equivalent to the amount of royalty of ₹ 6.64 crore in terms of the Rule 40 (8) of the Rules *ibid* which prescribes the penalty for illegal mining which includes recovery of the price of the mineral, rent, royalty or taxes as the case may be. However, the MOs concerned had neither levied penalty of ₹ 6.64 crore nor any action for criminal proceedings was initiated in accordance with the provision of Rule 40(1) of the BMMC Rules.

After this was pointed out, the Department stated (July 2015) that royalty for the ordinary earth (minor mineral) had been paid and the works was executed in the interest of the Government for the construction of the Road and hence penalty was not imposed under the provision of Rule 40(10) of the BMMC Rules. The reply of the Department is not in consonance with the provision of Rule 40(1) of the Rules *ibid* which stipulates that mining of ordinary earth without obtaining requisite quarrying permit is illegal and hence penalty was leviable under Rule 40(8) of the Rules *ibid*. Moreover, five MOs (Aurangabad, Bhagalpur, Jamui, Nalanda and Rohtas) had issued notices of demand for payment of penalty after being pointed out in audit.

³ Aurangabad, Bhagalpur, Jamui, Nalanda, Rohtas, Saran, Siwan and Vaishali.

6.9 Internal Audit

The Internal Audit wing of any department is a special vehicle of the internal control mechanism and is generally defined as the control of all controls to enable an organization to assure itself that the prescribed systems are functioning reasonably well. There is an internal audit wing called Finance (Audit), which works under the Finance Department and internal audit of the different offices of the Government is conducted on the basis of requisitions received from the Administrative Department. The Chief Controller of Accounts can also select units for internal audit on availability of audit team. As informed by the Finance Department (July 2015), it did not conduct internal audit of the Mines and Geology Department during 2014-15.

**Patna
The**


(P.K. SINGH)
Accountant General (Audit), Bihar

Countersigned

**New Delhi
The**


(SHASHI KANT SHARMA)
Comptroller and Auditor General of India

ANNEXURES

ANNEXURE- I
(Refer paragraph: 1.8)
Audit Planning

Department	Total no. of auditable unit	No. of units planned	No. of units audited
Commercial Taxes	63	40	40+1*
Excise	51	39	39
Land Revenue	839	108	97
Transport	49	35	35
Stamps and Registration fees	140	39	39+1*
Mines	48	35	35
Total	1190	296	287

* One low risk unit was taken in the performance audit on 'Levy and collection on Entry tax' (Commercial Taxes Department) and one medium (Stamps and Registration fees) was taken on the basis of complain case.

ANNEXURE-II (Table-I)
(Refer paragraph: 2.3.11.1)
Suppression of sales turnover detected from the dealer's records

Sl No.	Name of the Circle	Name of the dealer/ TIN	Period	Commodity Rate (in per cent)	Actual sale	Sale accounted for	Value suppressed	Tax	Interest @1.5 per cent per month Penalty	Total	Difference found in
1	Bhagalpur	M/s Yadav Traders/ 10521852095	2012-13	<u>Cement</u> and <u>Iron & Steel</u> 13.5 and 5	4857791	117110	4740681	389368	<u>134332</u> 1168104	1691804	RT-III of 2011-12 and 2012-13.
2	Darbhanga	M/s Raghav Civcon Pvt. Ltd./ 10384982088	2010-11	<u>Iron, Sand</u> & <u>Cement</u> 4 & 12.5	74461042	70467353	3993689	197089	<u>109384</u> 591267	897740	RT-III and C- II and Payment Certificate.
3	Gaya	M/s Daya Engineering works Pvt Ltd/ 10200373046	2013-14	<u>PSC</u> <u>sleepers</u> 13.5	295442977	272533958	22909019	3092718	<u>603080</u> 9278154	12973952	RT-3 and profit and loss account
		M/s Rohit Construction Prop Sunil Kumar Singh/10205254021	2012-13	<u>Sand</u> 5	34391000	0	34391000	1719550	<u>644869</u> 5158650	7523069	VR-IV & Report of mining office
		M/s Ajay Kumar/ 10204807013	2013-14	<u>Sand</u> 5	127861256	0	127861256	2443113	<u>552879</u> 7329339	10325331	Return detail & Report of mining office

4	Hajipur	M/s Neha Goods Carrier/ 10294863048	2011-12	Stone chips 5	2571967	0	2571967	128598	50153 385794	564545	Sale invoice of selling dealer.
		M/s Shree Sai Baba Plasto Products Pvt. Ltd./ 10294586019	2011-12	Furniture 13.5	25227075	23374045	25227075	250159	52533 750477	1053169	RT-III and balance sheet.
		M/s Savitri devi Automobiles pvt. Ltd./ 10294918038	2012-13	Motor Vehicle 13.5	143663510	129617352	143663510	1896231	398208 5688693	7983132	RT-III and TAR-IV
5	Muzaffarpur West	M/s Shashi Kumar Singh/ 10306063082	2012-13	Work contractor 5	2166704	0	2166704	108335	37375 325005	470715	RT-I and contract & profit and loss account
6	Patna City West	M/s IND swift Ltd/ 10083850047	2012-13	Medicine 5	34527678	30687479	34527678	192010	69123 576030	837163	RT-3,TAR and CST return
7	Patna South	M/s Sonali Equipment Auto Pvt. Ltd./ 10127392082	2011-12	Auto Parts 5	6742407	5736905	6742407	50275	21869 150825	222969	RT-III and TAR.
Total					751913407	532534202	751913407	10467446	2673805 31402338	44543589	

ANNEXURE-II (Table-2)
(Refer Paragraph: 2.3.11.1)
Suppression of purchase turnover detected from the dealer's records

(Amount in ₹)

Sl No.	Name of the Circle	Name of the dealer/ TIN	Period	Commodity Rate (in per cent)	Actual purchase	Purchase accounted for	Value suppressed	Tax	Interest @1.5 per cent per month Penalty	Total	Difference found in
1	Barh	M/s Bharat Wagon & Engineering Co. Ltd./ 10020042092	2013-14	<u>Iron & steel</u> 5	298999487	193145766	105853721	5292686	<u>952683</u> 15878058	22123427	RT-III and suvidha detail
		M/s TRF Limited/ 10021567030	2013-14	<u>Works-contractor</u> 5	170081503	154643553	15437950	771897	<u>150520</u> 2315691	3238108	RT-III and suvidha detail
		M/s Power machines India ltd./10020884052	2013-14	<u>Works-contractor</u> 13.5	2588032	0	2588032	349384	<u>68130</u> 1048152	1465666	VR-IV and suvidha detail
2	Darbhangha	M/s Fashion Suiting Pvt. Ltd./10384313079	2010-11	<u>Hosiery & Readymade</u> 4 & 12.5	7906148	815639	7090509	494563	<u>267064</u> 1483689	2245316	RT-III and D-V
3	Gaya	M/s Poddar Hyundai/ 10204292040	2013-14	<u>Four wheeler</u> 13.5	92465257	83632561	8832696	1192414	<u>232521</u> 3577242	5002177	RT-III and suvidha detail
		M/s A B Enterprises/ 10201387084	2013-14	<u>Motorcycles</u> 13.5	40605919	37517047	3088872	416998	<u>81315</u> 1250994	1749307	RT-III and suvidha detail
		M/s Nitish Coal Depot/ 10206938094	2013-14	<u>Coal</u> 5	32947658	0	32947658	1647383	<u>321240</u> 4942149	6910772	RT-III and Road permit
4	Forbesganj	M/s Kali Traders/ 10441564031	2012-13	<u>Hardware</u> 13.5	3363269	1417345	1945924	262700	<u>82750</u> 788100	1133550	RT-III and suvidha detail
5	Hajipur	M/s Savitri devi automobile ltd./10294918038	2013-14	<u>Four wheeler</u> 13.5	83808681	78100579	5708102	770593	<u>161824</u> 2311779	3244196	RT-III and suvidha detail

		M/s Sneha automobile/ 10290904019	2013-14	<u>Automobile & Accessories</u> 13.5	15704288	15099263	605025	81678	<u>17152</u> 245034	343864	RT-III and suvidha detail
		M/s Sunil Tubes/ 10290185055	2013-14	<u>Pipe</u> 5	200737534	197276739	3460795	173040	<u>35041</u> 519120	727201	RT-III and suvidha detail
6	Muzaffarpur West	M/s Hindustan tyre company/10300786088	2012-13	<u>Tyre</u> 13.5	4532239	2457844	2074395	280043	<u>92414</u> <u>840129</u>	1212586	RT-III and suvidha detail
7	Patliputra	M/s Parley Biscuit Pvt. Ltd./ 10305416092	2011-12	<u>Biscuit</u> 13.5	284153599	276503247	7650352	1032797	<u>364061</u> 3098391	4495249	RT-III and TAR
		M/s Hindustan Coca Cola Beverages Pvt. Ltd./ 10050081052	2012-13	<u>Beverages</u> 13.5	407735400	308127513	99607887	13447065	<u>3832413</u> 40341195	57620673	RT-III, TAR and Trading Account
8	Patna City East	M/s Jai ram plywood Pvt. Ltd./10060316007	2012-13	<u>Plywood</u> 5	9754477	6989935	2764542	138227	<u>44578</u> 414681	597486	RT-III and suvidha detail
		M/s Bajrang Saw Industries/10060401076	2012-13	<u>Plywood</u> 5	10388066	8406182	1981884	99094	<u>31958</u> 297282	428334	RT-III and suvidha detail
9	Patna City West	M/s Redington India Ltd./ 10080788051	2011-12	<u>Computer & spares</u> 5	814679130	787857729	26821401	1341070	<u>402321</u> 4023210	5766601	RT-III, TAR and Trading Account
		M/s Fuji films india pvt. Ltd./10083370002	2012-13		1601899516	1452910184	148989332	7449466	<u>2402452</u> 22348398	32200316	RT-III, Trading account and consumption statement of road permit (Suvidha).
10	Patna Special	M/s Punj Lloyd Ltd./ 10010945002	2012-13	<u>Medical equipment & photographic</u> 5 & 13.5	99645669	97742275	1903394	104051	<u>32776</u> 312153	448980	RT-III and suvidha detail.
			2010-11	<u>Works Contractor</u> 12.5	327938859	0	327938859	40992357	<u>21520987</u> 122977071	185490415	RT-III and TAR

11	Purnea	M/s Usha motors/ 10493659020	2013-14	Motorcycle 13.5	426685303	416899923	9785380	1321026	<u>237785</u> 3963078	5521889	RT-III and suvidha detail
		M/s Shree Lakhi Metals & Steels Pvt Ltd/ 10494474057	2013-14	Iron & steel 5	248559033	235445136	13113897	655695	<u>137695</u> 1967085	2760475	RT-III and suvidha detail
		M/s Jakir Husain/ 10496999030	2013-14	Stone Chips 13.5	23146130	19172150	3973980	536487	<u>112662</u> 1609461	2258610	RT-III and suvidha detail
		M/s Rahul Trade wing Pvt Ltd/10495160091	2013-14	Iron & Steel 5	484877245	481278064	3599181	179959	<u>37791</u> 539877	757627	RT-III and suvidha detail
Total					5693202442	4855438674	837763768	79030673	31620133 237092019	347742825	

ABSTRACT

(Amount in ₹)

Table	Caption	Actual sale/ purchase	Sale/Purchase accounted for	Value suppressed	Short Levy			
					Tax	Interest	Penalty	Total
1	Suppression of Sale	751913407	532534202	219379205	10467446	2673805	31402338	44543589
2	Suppression of Purchase	5693202442	4855438674	837763768	79030673	31620133	237092019	347742825
Total		6445115849	5387972876	1057142973	89498119	34293938	268494357	392286414

ANNEXURE-III (Table-1)
(Refer paragraph: 2.3.11.2)
Suppression of sales turnover detected during cross-verification of purchase and sales figures

Sl. No.	Name of the Circle	Name of the dealer/TIN	Period	Actual Sale Sale accounted for	Suppression	Tax	Penalty	Interest	Total	Remarks
1	Barh	M/s R.A. Trading/10021721002	2011-12	7266032	7266032	363302	1089906	136238	1589446	Cross-verification of the purchase amount shown by a dealer with the sale figures shown by another dealer registered in the state.
			2012-13	Nil	6663882	333194	999582	64974	1397750	
			2013-14	8843584	8843584	442179	1326537	86225	1854941	
2	Begusarai	M/s Phoenix engicon/ 10365632014	2013-14	4388100	4388100	219405	658215	44430	922050	
			2013-14	81327938	18163248	908162	2724486	183903	3816551	
3	Forbesganj	M/s Jai Mata Dee Construction/ 10440618087	2011-12	5824652	5824652	291233	873699	148528	1313460	
			2012-13	9086758	9086758	454338	1363014	149931	1967283	
4	Hajipur	M/s Excel Paper Packaging Pvt. Ltd./10294843034	2013-14	27050771	2729204	136460	409380	26610	572450	
			2011-12	34105489	34105489	4604241	13812723	1622995	20039959	
6	Patna City West	M/s Vaishnavi construction/ 10083752056	2012-13	5311491	5311491	265575	796725	83656	1145956	
			2011-12	Nil	Nil	Nil	Nil	Nil	Nil	
7	Patliputra	M/s Nokia India Ltd./ 10050394071	2011-12	937652197	22218366	1110918	3332754	366603	4810275	
			2012-13	19830697315	19208022798	768320912	2304962736	213209059	3286492707	
8	Patna Special	M/s Ruchi Soya Industries Ltd./10010463051	2012-13	313719101	24026917	1201346	3604038	378423	5183807	
			2012-13	839012642	14000020	700001	2100003	231000	3031004	
Total				22110949952 2740299411	19370650541	779351266	2338053798	216732575	3334137639	

ANNEXURE-III (Table-2)
(Refer: Paragraph- 2.3.11.2)

Suppression of purchase turnover detected during cross-verification of purchase and sales figures

Sl. No.	Name of the Circle	Name of the dealer/TIN	Period	Actual purchase purchase accounted for	Concealment	Tax	Penalty	Interest	Total	Difference found in (Amount in ₹)
1	Darbhanga	M/s Amit General Stores/10386463004	2012-13	<u>5059979</u> 1158205	3901774	337698	1013094	111440	1462232	RT-I, Box-C & TAR
		M/s Door-Darshan/10380298055	2012-13	<u>4700666</u> Nil	4700666	634590	1903770	209414	2747774	Sale/Purchase figure in TAR of two dealers
		M/s Malti Singh/10385526064	2012-13	<u>12915989</u> Nil	12915989	1743658	5230974	575407	7550039	VR-IV & TAR
		M/s P & P Enterprises/10385316059	2012-13	<u>10096254</u> 4163856	5932398	296620	889860	97884	1284364	RT-I, Box-C & TAR
2	Madhubani	M/s Govind Jha/10413942092	2011-12	<u>6875332</u> Nil	6875332	343767	1031301	177899	1552967	RT-I & TAR
		M/s Shiv Traders/10410299088	2012-13	<u>25905868</u> 22739081	3166787	158339	475017	54627	687983	RT-III & TAR
		M/s Sri Binay Prasad/10410453027	2012-13	<u>4386799</u> Nil	4386799	219340	658020	75672	953032	Sale/Purchase figure in TAR of two dealers
		M/s Satya Deo Construction /10415126009	2012-13	<u>3121280</u> 393690	2727590	136379	409137	47051	592567	RT-III & TAR
3	Muzaffarpur West	M/s Jay Mata Di Steel/10410361071	2012-13	<u>32484197</u> 15906285	16577912	828895	2486685	285969	3601549	Sale/Purchase figure in TAR of two dealers
		M/s Tirhut Automobiles/10300047045	2010-11	<u>55774584</u> <u>50984389</u>	4790195	598774	1796322	323337	2718433	Sale detail of Company and RT-III

4	Patliputra	M/s B.S.F.C. Ltd./ 10050353040	2011-12	<u>17950655513</u> 1176713587	16773941926	167739419	503218257	57870099	728827775	RT-III, Box-C, TAR, Box-B
		M/s Lanco Infratech Ltd. / 10050208025	2010-11	<u>22312968</u> NIL	22312968	892519	2677557	468572	4038648	Sale details of IOCL, RT-III
			2011-12	<u>9545907</u> NIL	9545907	477295	1431885	164667	2073847	
5	Purnea	M/s Gammon India Ltd./ 10050198034	2010-11	<u>397086674</u> 312284717	84801957	3392078	10176234	1780840	15349152	Sale details of IOCL, RT-III & purchase details
		M/s Chandra Prakash/ 10490470073	2010-11	<u>8731288</u> Nil	8731288	349251	1047753	193834	1590838	VR-IV, RT-I & Sale details of IOCL
			2011-12	<u>5807442</u> Nil	5807442	290372	871116	108895	1270383	
Total				<u>18555460740</u> <u>1584343810</u>	16971116930	178438994	535316982	62545607	776301583	

ABSTRACT

(Amount in ₹)

Table	Caption	Actual sale/ purchase	Sale/Purchase accounted for	Value suppressed	Short Levy			
					Tax	Interest	Penalty	
1	Suppression of Sale	2211094952	2740299411	19370650541	779351266	2338053798	216732575	3334137639
2I	Suppression of Purchase	18555460740	1584343810	16971116930	178438994	535316982	62545607	776301583
Total		40666410692	4324643221	36341767471	957790260	2873370780	279278182	4110439222

ANNEXURE-IV
(Refer paragraph: 2.3.11.3)
Non-verification of the figures of inter-state purchase

Sl No.	Name of the Circle	Name of the dealer/ TIN	Period	Commodity Rate (in per cent)	Actual purchase	Purchase accounted for	Value suppressed	Tax	Interest @1.5 per cent per month Penalty	Total
1	Gaya	M/s Ramnandi Automobiles Pvt. Ltd./10210058231	2011-12	<u>Auto parts</u> 5	87178612	28875297	58303315	2915166	<u>1093187</u> 8745498	12753851
2	Darbhanga	M/s Vicky Motors/ 10386389088	2011-12	<u>Motorcycle & Accessories</u> 13.5	2475251	1356335	1118916	151054	<u>53246</u> 453162	657462
3	Muzaffarpur West	M/s Shandilya Bajaj/10305090075	2010-11	<u>Motorcycle</u> 12.5	86859034	83620409	3238625	404828	<u>218607</u> 1214484	1837919
4	Hajipur	M/s Saroj Kumar Nirala/10293622056	2010-11	<u>Bitumen</u> 4	1880099	0	1880099	75204	<u>55839</u> 225612	356655
Total					178392996	113852041	64540955	3546252	<u>1420879</u> 10638756	15605887

ANNEXURE- V
(Refer Paragraph: 2.3.12.1)
Excess/Incorrect availing of Input Tax Credit (ITC)

Sl. No.	Name of the Circle	Name of the dealer/TIN	Period	Purchase value on which ITC availed	ITC availed/ Allowed	Actual entitlement	Excess/ incorrect availing of ITC	Penalty Interest	Total	Nature of irregularities
1	Begusarai	M/s Kaniska Carbons Pvt. Ltd./10360367077	2012-13	187698443	9653540	9566419	87121	261363 18295	366779	Excess ITC allowed by the AA on electrical goods, spare and lubricant etc.
			2013-14	166815430	8547821	8352169	195652	586956 24946	807554	Excess ITC allowed by the AA on electrical goods, spare and lubricant etc.
2	Darbhanga	M/s Mahabir petro Products Pvt. Ltd./10360364070	2013-14	202559639	10115387	10071836	43551	130653 16658	190862	Excess ITC allowed by the AA on lubricants.
			2011-12	0	68719	0	68719	206157 24224	299100	Wrong claim of ITC on account of ITC carried forward from previous year.
3	Gaya	M/s A.P.R Automobiles Pvt. Ltd./10206644024	2012-13	577784620	78209632	77872122	337510	1012530 126567	1476607	Excess claim of ITC due to wrong calculation
			2012-13	0	4513482	1798084	2715398	8146194 529502	11391094	Wrong ITC carried forward from previous years
		10200373046	2013-14	0	4658819	2678050	1980769	5942307 386250	8309326	Wrong ITC carried forward from previous years

4	Madhubani	M/s Lanco Infratech Ltd./ 10413728038	2011-12	50804386	2593392	2116097	477295	1431885 250580	2159760	Excess allowance of ITC by AA on purchase invoice of another dealer.
5	Patna Central	M/s Speedcraft Ltd./ 10157235040	2012-13	29198245	2359602	2089952	269650	808950 80895	1159495	Excess claim of ITC on purchase lubricant, Electrical goods etc.
6	Patna City East	M/s Magadh Industries Pvt. Ltd./ 10061073092	2012-13	1237189220	60719366	60099112	620254	1860762 195380	2676396	ITC availed on consumables and spare parts.
7	Patna South	M/s Tirupati Enterprises/ 10120975054	2012-13	35261703	4759861	1210379	3549482	10648446 1118086	15316014	Excess claim of ITC due to wrong calculation
8	Patna Special	M/s IOCL/ 10010116082	2011-12	74944314	3747215	0	3747215	11241645 1236580	16225440	ITC availed on Ethanol used in making of schedule-IV goods was not allowable.
			2012-13	27580053	1379003	0	1379003	4137009 496442	6012454	
		M/s BPCL Ltd./ 10010121029	2011-12	5007256	250362	0	250362	751086 82619	1084067	
		M/s Shree Cement Ltd./ 10010949063	2012-13	4870149	272472	0	272472	817416 98090	1187978	Excess ITC claimed on those goods which were not allowed as capital input
Total				2599713458	191848673	175854220	15994453	47983359 4685114	68662926	

ANNEXURE- VI
(Refer Paragraph: 2.3.12.2)
Incorrect ITC detected during cross-verification of purchase and sales figures

Sl. No.	Name of the Circle	Name of the dealer/TIN	Period	Actual Purchase Accounted for	Excess Purchase claimed	Excess ITC	Penalty	Interest	Total	Remarks
1	Barh	M/s Siddhnath Construction / 10020990073	2012-13	Nil	13298328	1344027	4032081	262085	5638193	Cross-verification of the purchase amount shown by a dealer with sales figures by another dealer registered within the state.
				93664304	2555848	127792	383376	24920	536088	
				96220152	3173079	428366	1285098	83531	1796995	
				1601933	3524758	273276	819828	53289	1146393	
2	Begusarai	M/s Upendra Pd.Singh Hi-tech const. Pvt. Ltd. /10360329053	2013-14	Nil	25151314	1920091	5760273	374418	8054782	
				3524758	22078200	2979260	8937780	625645	12542685	
3	Darbhanga	M/s Shree Ramcharitra Construction/ 10384571002	2012-13	40549575	1341317	181078	543234	59755	784067	
				41890892	995227	134356	403068	44336	581760	
				1172707	4530686	611642	1834926	201842	2648410	
				2167934	7489811	141249	423747	46612	611608	
4	Forbesganj	M/s Shree Shyam Tyre House/10380311053	2012-13	38703932	1030469	139113	417339	45907	602359	
				39734401	3514725	175736	527208	55356	758300	
		M/s Ankur/10381221010	2012-13	182186960	189676771					
		M/s Krishna Motors/ 10385155039	2012-13	189676771						
		M/s Rakesh Khad Beej Bhandar/10381135068	2012-13	38703932	39734401					
		M/s Ankur/10381221010	2012-13	20774665	24289390					
		M/s Krishna Traders/ 10440447076	2012-13	24289390						

8	Patna Central	M/s Sai Highway & Builders Pvt. Ltd. / 10152414015	2012-13	6868720 15996745	9128025	1232283	3696849	369685	5298817	Cross-verification of the purchase amount shown by a dealer with sales figures by another dealer registered within the state.
		M/s Aparna Housing & Construction Pvt. Ltd./ 10150275068	2012-13	Nil 1317859	1317859	177911	533733	53373	765017	
		M/s Bharat Infracon Pvt. Ltd./ 10153489095	2012-13	42948627 79961872	37013245	7402649	22207947	2220794	31831390	
9	Patna City East	M/s Swastik Agency/10060702067	2012-13	33312337 42766574	9454237	472712	1418136	148904	2039752	
		M/s ISGEC Heavy Engineering Limited/10010916069	2012-13	Nil 9344595	9344595	699383	2098149	251778	3049310	
10	Patna Special	M/s Tantia construction/ 10010124036	2012-13	Nil 66089508	66089508	3147119	9441357	1132963	13721439	
		M/s Shapoorji Pallonji & co. Ltd./10011191019	2012-13	12426880 25203337	12776457	904129	2712387	305143	3921659	
		M/s Pratibha Industries Ltd./10010905071	2011-12	199119242 328459837	129340595	5179203	15537609	2641394	23358206	
			2012-13	95895316 163020493	67125177	3285296	9855888	1108787	14249971	
		M/s Punjilyod Delta Renewables Pvt. Ltd./ 10010946090	2010-11	72099070 114832000	42732930	1022452	3067356	536787	4626595	
			2011-12	Nil 41777825	41777825	5106268	15318804	1761662	22186734	
			2012-13	10375066 147717148	137342082	16719761	50159283	5517521	72396565	
		M/s Punj Lloyed Ltd./ 10010945002	2010-11	Nil 457218429	457218429	4558189	13674567	2393049	20625805	
			2011-12	Nil 107035825	107035825	1791899	5375697	618205	7785801	

11	Patna South	M/s Gangotri Electrocasting Ltd./10120694045	2012-13	Nil 2380456	2380456	119022	357066	39277	515365	Cross-verification of the purchase amount shown by a dealer with sales figures by another dealer registered within the state.
		M/s Rajeev Kumar/10127411008	2012-13	<u>7550840</u> 13676854	6126014	827012	2481036	272914	3580962	
12	Purnea	M/s Friends Automobiles Engineering./10490015046	2013-14	4466894 5706942	1240048	167402	502206	37665	707273	
		M/s world Nice Automobiles Pvt. Ltd./10494478021	2013-14	Nil 1379499	1379499	181191	543573	32614	757378	
		M/s Girihashti Bhandar/10490742061	2013-14	<u>7511101</u> 15317690	7806589	390330	1170990	70260	1631580	
Total				<u>5845481887</u> 737724642	1531764534	84723175	254169525	27434134	366326834	

ANNEXURE-VII (Table-I)
(Refer Paragraph: 2.3.12.3)
Irregular adjustment of tax under Rule 10-A

Sl. No.	Name of the Circle	Name of the dealer/TIN	Period	Scheduled IV goods on which adjustment taken in shape of ITC availed	Adjustment of tax availed/ allowed	Actual entitlement under Rule 10- A Excess /Incorrect adjustment of tax	Nature of Irregularities	(Amount in ₹)
1.	Begusarai	M/s Rehman Brother/ 10360182098	2013-14	5991680	1797503	Actual adjustment could not be calculated due to non-availability of OB and CB	Excess adjustment of tax in shape of ITC due to non-adjustment of tax paid at preceding stage under Rule 10-A	-do-
2.	Gaya	M/s P N Progressive Enterprises/10201322094	2013-14	71233728	21370118	-do-	-do-	-do-
3.	Jehanabad	M/s Baba Enterprises/ 10221526030	2012-13	16011903	3202380	-do-	-do-	-do-
4.	Madhubani	M/s Prem Enterprises/10410612010	2012-13	10003858	2000772	-do-	-do-	-do-
5.	Muzaffarpur West	M/sSai Baba Distributors/10308515063	2012-13	82560384	16512080	-do-	-do-	-do-
		M/s Shivam Enterprises/10307268016	2012-13	56683761	11336752	-do-	-do-	-do-
		M/s Kalyani Traders/10306781076	2012-13	34407149	6881430	-do-	-do-	-do-
		M/s Ratna Marketing/10301888008	2012-13	10179564	2035907	-do-	-do-	-do-
Total				287072027	65136942			

ANNEXURE-VII (Table-II)
(Refer Paragraph: 2.3.12.3)
Irregular adjustment of tax under Rule 10-A

Sl. No.	Name of the Circle	Name of the dealer/TIN	Period	Scheduled IV goods on which adjustment of tax in shape of ITC availed	Adjustment of tax availed/ allowed	Actual entitlement under Rule 10-A	Excess /incorrect adjustment of tax	Interest	Total	(Amount in ₹)						
										Nature of irregularities						
1.	Hajipur	M/s Satyam Enterprises/ 10293295069	2013-14	75910808	22773242	22423360	349882	73475	423357	Excess claim of ITC due to non adjustment of tax paid at preceding stage under Rule 10-A						
2.	Madhubani	M/s Shiva Traders/ 10410781081	2012-13	46273649	9254725	9056894	197831	65283	263114	Scrutinised Excess claim of ITC due to non adjustment of tax paid at preceding stage under Rule 10-A						
Total										122184457	32027967	31480254	547713	138758	686471	

ANNEXURE- VIII
(Refer Paragraph: 2.3.13)
Non/short calculation of reverse credit

Sl. No.	Name of the Circle	Name of the dealer/TIN	Period	Purchase value on which ITC availed	ITC availed/ allowed	Actual entitlement	Excess /incorrect availing of ITC	Penalty Interest	Total	Nature of irregularities
1	Begusarai	M/s Carbon Resources Pvt Ltd unit2/ 10361896088	2011-12	396833516	13030661	12891298	139363	<u>418089</u> 27175	584627	Reverse credit short calculated on inter-state stock transfer
2	Gaya	M/s Ramanandi Automobiles/ 10201599029	2010-11	1285352116	160198621	159787051	411570	<u>1234710</u> 148165	1794445	Reverse credit not calculated on within state stock transfer
3	Hajipur	M/s One touch Medical Product Pvt Ltd/ 10293648052	2010-11 2011-12	28612816 34579867	1146025 1729810	839319 1426490	306706 303320	<u>920118</u> 119615 <u>909960</u> 63697	1346439 1276977	Reverse credit not calculated on inter-state stock transfer Reverse credit not calculated on inter-state stock transfer
4	Patliputra	M/s Britannia industries Ltd./10050875050	2011-12 2012-13	405261015 363267939	44555993 29703754	44190540 24941102	365453 4762652	<u>1096359</u> 126082 <u>14287956</u> 1357355	1587894 20407963	On account of purchase return within six months Reverse credit short calculated on inter-state stock transfer
5	Patna Central	M/s Bikaner sweets & Pastry shop/ 10154696096	2012-13	7621663	757389	257753	499636	<u>1498908</u> 149890	2148434	Manufacturing/sale of tax-free goods consuming taxable goods

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6	Patna City East	M/s Parley biscuit Pvt.Ltd./ 10060425035	2011-12	218728272	5686852	1329152	4357700	<u>13073100</u> 1372675	18803475	Reverse credit calculated on inter-state transfer	short stock
			2012-13	332078692	17703665	13203931	4499734	<u>13499202</u> 1417416	19416352	Reverse credit calculated on inter-state transfer	short stock
7	Patna South	M/s Sonali Auto / 10125388069	2010-11	1085332790	134821707	121397299	13424408	<u>40273224</u> 8054644	61752276	Due to stock transfer of goods within the state	
			2011-12	1054992388	140961826	135501065	5460761	<u>16382283</u> 2293520	24136564		
8	Patna Special	M/s Niikamal / 10010289033	2012-13	24981473	3372498	999258	2373240	<u>7119720</u> 818768	10311728	Reverse credit calculated on inter-state transfer	short stock
Total				5237642547	553668801	516764258	36904543	<u>110713629</u> 15949002	163567174		

ANNEXURE-IX
(Refer paragraph : 2.3.14)
Incorrect availing/allowance of deductions by works contractors

Sl. No.	Name of the circle	Name of the dealer/TIN	Year	Items of inadmissible deductions	Rate (in percent)	Amount of such deduction	Allowable deduction	Excess deduction allowed on which tax leviable	Tax on excess deduction claimed/allowed	Record seen
1	Bhagalpur	M/S Amarpur Constructions Pvt Ltd/10521730069	2011-12	Material portion of G/P & establishment expenses	5 & 13.5	18637925	8182010	10455915	763825	RT-III and P/L & Trading account.
			2012-13	Material portion of G/P & establishment expenses	5 & 13.5	35574534	17100038	18474496	1348028	
		2011-12	M/S Hardev Construction Pvt. Ltd/ 10525067055	Material portion of G/P & establishment expenses	5 & 13.5	52517504	47013749	5503755	327958	RT-III and P/L & Trading account.
		2012-13		Material portion of G/P & establishment expenses	5 & 13.5	98007756	88096166	9911590	651945	
2	Forbesganj	Deep Narayan Roy/10524600087	2010-11	Material portion of G/P	4 & 12.5	8891530	6979093	1912437	141520	RT-III and P/L & Trading account.
			2012-13	Inter-state purchase of material	5	51575660	8256801	43318859	2165942	Dealer profile, RT-V
		2010-11	M/s Simanchal Construction/ 10440605089	Material portion of G/P & establishment expenses	4& 12.5	205752010	164060946	41691064	1846955	RT-III, TAR & Profit & loss account
		2012-13		Material portion of G/P & establishment expenses	5 & 13.5	318486328	275668112	42818216	2504865	
3	Gaya	Manisha Construction/ 10200018003	2011-12	Carriage on labour, royalty, repair and depreciation	5 & 13.5	21618614	17335193	4283421	268784	Assessment order
4	Muzaffarpur West	M/S Harishankar Pd./10305306094	2012-13	Material	5	16560717	0	16560717	828036	RT-III, TAR & P/L A/C

		M/s Progressive construction Ltd / 10305071063	2011-12	Expenses incurred on other site	4,5 & 13.5	784218391	747346509	36871882	1953564	RT-III, TAR & P/L A/C
		M/S Vasistha Construction/ 10050830067	2010-11	Material portion of profit & establishment expenses.	4 & 12.5	1205693458	614980939	590712519	40579587	Assessment order
		M/S Hindustan Steelworks Construction Ltd/10050036044	2012-13		5 & 13.5	1090066088	994238111	95827977	3777539	Assessment order & payment report
5	Patliputra	M/s NCCL Vasistha JV/ 10050828085	2010-11	Commission	4 & 12.5	918754795	903694337	15060458	1034593	RT-3, TAR & Payment detail
		M/s Freyssinet Prestressed Concrete Co Ltd/ 10050768043	2011-12	Material portion of G/P & establishment expenses	5 & 13.5	92468618	73775244	18693374	934668	RT-III, TAR & P/L A/C
		M/s Gammon India Ltd/10050198034	2010-11	Material portion of G/P & establishment expenses	4 & 12.5	2181972026	200557030	176401726	9976928	RT-III, TAR & P/L A/C
		M/s Vasistha Ayrus Infra Pvt Ltd/ 10050829076	2010-11	Commission	4 & 12.5	555642607	546725365	8917242	612578	RT-III, TAR & P/L A/C
6	Patna Central	M/S S.P. Singla Construction & Arvind Techno Engg.(JV)/ 10153759090	2012-13	TDS	5 & 13.5	25032094	20837950	4194144	316658	Scrutiny order order, RT-III & TAR
		M/S SDB-SPS JV/ 10155124027	2012-13	Royalty	5 & 13.5	411901046	404578377	7322669	465722	Scrutiny order, RT-III and P/L & Trading account

		M/S Aarpee Infra Projects Pvt Ltd/ 10155425034	2012-13	Spare parts & repair & maintenance	5 & 13.5	7704222	0	7704222	437535	Scrutiny order
		M/S GPT-Rahi(JV)/ 10153547058	2012-13	Material portion of G/P & establishment expenses	5 & 13.5	698333711	648069787	50263924	4598998	Scrutiny order & detailed statement of deduction
7	Patna City East	M/S Shristi Developer/ 10060321051	2010-11	G/P, establishment expenses, fuel and lubricant (used for transportation of material)	4 & 12.5	118376084	48240403	70135681	3464893	Assessment order RT-III & annual sale/purchase & deduction statement.
			2011-12			110868395	35157008	75711387	4543838	
8	Patna City West	M/S Standard Engineering Works/ 10081388093	2011-12	Labour charges in case of manufacturer	5	31276556	0	31276556	1563828	RT-III, TAR & dealer profile
			2012-13			67325024	0	67325024	3366251	
		CZAR Construction/ 10081161016	2010-11	Material portion of G/P & establishment expenses	4 & 12.5	146981455	120419785	26561670	2733195	RT-III, TAR & Profit & loss account
			2011-12			111241681	74396569	36845112	3157626	
9	Patna Special	M/S ISGEC Heavy Engineering Ltd / 10010916069	2011-12	Deduction on A/c of material	5	123836492	0	123836492	6119824	RT-III and TAR-IV
10	Purnea	M/s Asutosh Kumar/ 10490598016	2010-11	Material portion of G/P & establishment expenses	4&12.5	34059498	26105321	7954177	331689	RT-III, TAR & Profit & loss account
			2011-12			29847386	27679658	2167728	112071	
			2013-14			10102897	2240706	7862191	546815	
		Parashnath Construction/ 10494126085	2010-11	Material portion of G/P & establishment expenses	12.5& 4	36028479	32792293	3236186	143614	RT-III, TAR & Profit & loss account
		Total				9619353581	7959540770	1659812811	101619872	

ANNEXURE-X
(Refer Paragraph: 2.3.15)
Short levy of tax due to application of incorrect rate of tax

Sl. No.	Name of the Circle	Name of the Dealer/ TIN	Year	Commodity	Rate of tax leviable/levied (in per cent)	Amount on which difference of rate is to be levied	Tax	Interest	Total
1	Barh	M/s Singh Traders/10021507085	2013-14	Schedule-III commodity	5/4	18968242	189682	36988	226670
2	Begusarai	M/s CTS Industries/10363038069	2012-13	Bitumen emulsion	13.5/5	13689956	1163646	680732	1844378
			2013-14		13.5/5	30980485	2633341	987502	3620843
3	Bhagalpur	M/s Green Marketing Services/ 10524108024	2012-13	Plyboard	13.5/5	43663506	370898	122396	493294
4	Darbhanga	M/s Agrawal Traders/10521505029	2010-11	Isabgul	12.5/4	2517286	213969	115543	329512
			2011-12	Isabgul	13.5/5	2922239	248390	89420	337810
			2012-13	Isabgul	13.5/5	2442998	207655	71641	279296
5	Gandhi Maidan	M/s Chandra Automobiles/10380449084	2010-11	Accessories	12.5/4	722258	61392	32691	94083
			2011-12	Do	13.5/5	769427	65124	22956	88080
5	Gandhi Maidan	M/s Ajanta marketing & sales/10111265032	2010-11	Cycle Lock	12.5/4	10523311	894481	228093	1122574
6	Gaya	M/s Ashutosh Stone works Pvt. Ltd/10210411055	2013-14	Stone Chips	13.5/5	8192507	696363	141996	838359
			2013-14	Stone Chips	13.5/5	11698486	994371	193902	1188273

		M/s Ramiya Construction Pvt Ltd/10201785075	2013-14	Stone Chips	13.5/5	29539290	2510839	489613	3000452
7	Muzaffarpur West	M/s Raj Battery Co./10300904040	2012-13	Inverter	13.5/5	10001315	850112	286913	1137025
		S K Agency/10305329083	2011-12	D G Set & Lubricant	13.5/5	64937742	5519708	2980642	8500350
		M/s Utility Powertech Ltd/10306481055	2011-12	Schedule – III goods	5/4	6312600	63126	22725	85851
		M/s Gopal Kirana Bhandar/10300639036	2011-12	Isabgol	13.5/5	712776	60585	21810	82395
		M/s Bharat Wagon & Engg.Co./10300494021	2011-12	Rail wagon	5/4	211522397	2115223	745616	2860839
8	Patliputra	M/s Voltas Ltd./10050247019	2010-11	Copper Tubes	12.5/4	7907892	672170	241981	914151
		M/s Titan Company Ltd/10050028090	2011-12	Copper Tubes	13.5/5	12707920	1080173	194431	1274604
		M/s Luminous Power Technologies Pvt. Ltd/10128593040(old) 10051225004(New)	2012-13	Copper Tubes	13.5/5	7320637	622254	172675	794929
		M/s Wilson Engg. Industries Pvt Ltd/10150206004	2012-13	Sun glass	13.5/5	36327660	3087851	833719	3921570
9	Patna Central	M/s Wilson Engg. Industries Pvt Ltd/10150206004	2010-11	Mobile battery & Charger	12.5/4	2017402	171479	92598	264077
			2011-12		13.5/5	4559278	387538	139513	527051
			2010-11	Road-roller& spare	4/1	31506530	945195	439515	1384710
			2011-12		5/1	16795587	503867	143602	647469
10	Patna City East	M/s Bharat Trading/100614755082	2012-13	Tobacco Products	20/13.5	1667637	108396	34957	143353

11	Patna City West	M/s J. D. Enterprises/ 10082185045	2012-13	Mobile Phone Charger	13.5/5	19692013	1673821	539807	2213628
		M/s Leeds Engineering Pvt Ltd.10082821093	2011-12	Schedule – III goods	5/4	38822864	388229	116469	504698
12	Patna South	M/s Star Leather/ 10083228019	2010-11 2011-12	Leather board	12.5/4 13.5/5	246840 840461	20981 40838	10071 12251	31052 53089
		M/s Devendra Equipment/ 10129479020	2012-13	Spare parts of construction equipment	13.5/5	4986206	423827	127148	550975
13	Patna Special	M/s Envirotech East Pvt. Ltd./10010918051	2010-11 2011-12	Water Treatment Plant/system	12.5/4 13.5/5	38885000 38215874	3305225 3248349	2255816 1632295	5561041 4880644
		M/s Punjlloyd Delta Renewable Pvt. Ltd./10010946090	2010-11 2011-12	Water Treatment Plant/system	12.5/4 13.5/5	79800000 26605714	6783000 2261486	3561075 780212	10344075 3041698
14	Purnea	M/s Punjlloyd Ltd./10010945002	2011-12	Water Treatment Plant/system	13.5/5	83806000	7123510	2457610	9581120
		M/s Choudhary Marketing/10494123015	2013-14	Tobacco products	30/20	2676275	267628	56202	323830
		M/s Shiv Shakti Construction/ 10493067054	2013-14	Stone Chips	13.5/5	5844388	496772	96870	593642
		M/s Mojamml Hussain/10492093077	2011-12	Schedule – III goods	5/4	34425652	344256	123932	468188
Total						965774651	52815750	21333928	74149678

ANNEXURE-XI
(Refer paragraph: 2.3.16)
Non-levy of purchase tax

(Amount in ₹)

Sl No.	Name of the Circle	Name of the dealer/ TIN	Period	Amount on which purchase tax leviable	Commodity/ Rate in per cent	Purchase tax leviable	Purchase tax levied	Interest @1.5 per cent	Total
1	Darbhanga	M/s Ashoka Cattle and Poultry Feeds Pvt. Ltd./10386582097	2011-12 2012-13 2013-14	1842936 2868608 3777860	Medicine/5 -do- -do-	92147 143813 190465	Nil Nil Nil	46995 47458 28570	139142 191271 219035
2	Gaya	M/s Daya Engineering Works Pvt. Ltd./10200373046	2013-14	19154207	Store material, sand, coal and metal/5 and 13.5	1259834	Nil	255116	1514950
3	Hajipur	M/s Blooms Liquors Pvt. Ltd./10294338020 M/s Amrit Feeds Ltd./10290571018	2013-14 2013-14	9030258 1974765878	Bottle, glass/5 Animal or vegetable fat, HDPE, coal/5	451513 98738294	Nil Nil	91431 20735042	542944 119473336
4	Patliputra	M/s Britannia Industries Ltd./10050875050	2012-13	269805367	Wheat and flour/1	2698054	Nil	728474	3426528
5	Patna Central	M/s Amit Sandeep Food Pvt. Ltd./1015627029	2012-13	5653469	Khoya, ghee and paneer/5 and 13.5	736808	Nil	221042	957850

ANNEXURE-XII
(Refer paragraph: 2.3.17)
Short levy of tax

Sl. No.	Name of the Circle	Name of the dealer/TIN	Period	Tax Leviable	Tax admitted/ Assessed	Short admitted	Interest	Total	Remarks
1	Muzaffarpur West	M/s Shyama Power (P) Ltd./10302993032	2011-12	826251	418885	407366	207757	615123	Deduction disallowed by the AA but tax was not levied correctly.
			2012-13	3026016	1333009	1693007	558692	2251699	
2	Patliputra	M/s Guinea Motors Pvt. Ltd./10050098027	2011-12	8589720	6903289	1686431	581819	2268250	Discount disallowed but tax was not levied by AA.
			2012-13	55454707	34798426	20656281	5887040	26543321	Transit sale was disallowed by the dealer but the tax was not levied in correct proportion.
3	Patna Central	M/s Alankar Auto sales & service Pvt. Ltd./10152692017	2012-13	1870128	1058000	812128	243638	1055766	Tax on sale of used car was admitted under compounding scheme instead of prescribed rate.
4	Patna City West	M/s Gayatri Construction/10081957095	2011-12	1222276	900669.00	321607	96483	418090	The correct rate of tax was not applied by the dealer.
			2012-13	1530704	1370136	160568	50579	211147	
Total				72519802	46782414	25737388	7626008	33363396	

ANNEXURE-XIII
(Refer paragraph: 2.3.19)
Non-levy of surcharge

Sl. No.	Name of the Circle	Name of the dealer/TIN	Period	Value of goods on which tax payable	Tax on which surcharge payable	Rate of surcharge (in per cent)	Surcharge payable	Interest	(Amount in ₹)	
									Total	Total
1	Begusarai	M/s M.B Stores/ 10363161065	2013-14	2236160	670848	15	100627	19622	120249	
		M/s Rahman Brothers/ 10362692264	2013-14	4610362	1383109	15	207466	42012	249478	
2	Hajipur	M/s Rajiv Zarda Store/ 10291230036	2013-14	9255623	2776687	15	416503	81218	497721	
3	Purnea	M/s Agrawal Trading/ 10493435266	2013-14	2605100	781530	15	117230	24618	141848	
		M/s Khan Agency/ 10496562083	2013-14	6600546	1980164	15	297025	62373	359398	
		M/s NRL Energy Station/ 10493872043	2012-13	70236732	12895464	10	1289546	251461	1541007	
		Total		95544523	20487802		2428397	481304	2909701	

ANNEXURE-XIV
(Refer Paragraph : 2.3.20.1)
Incorrect adjustment of entry tax towards payment of VAT

Sl. No.	Name of the circle	Name of the dealer/TIN	Period	Amount eligible for adjustment	Adjustment Taken	Excess adjustment from VAT	Interest	Total	Remarks	Record seen
1	Bhagalpur	M/s Ganesh Ram Dokania/ 10522453010	2012-13	100000	994922	894922	308748	1203670	Set off availed more than payment and liability of ET	RT-III & ET-V
		M/s Anu Traders/ 10524694017	2012-13	2832201	3312788	480587	158594	639181	Set off availed on closing stock and more than payment of ET	RT-III, ET-V, TAR & Payment details
		M/s Shree Bhagwati Agency/ 10521642090	2012-13	386389	854753	468364	161586	629950	Goods imported were not sold but lying in stock	RT-III, ET-V & Payment details
2	Darbhanga	M/s Bath N Room/ 10380933017	2012-13	628208	1326913	698705	241053	939758	Set off availed more than payment of ET	RT-III, RT-I ET-V, ET-IV
		M/s Krishna Automobiles/ 10380339086	2011-12	26558843	26959426	400583	144210	544793	Goods imported were not sold but lying in stock	RT-III, TAR, ET-V
			2012-13	28514435	29646540	1132105	390576	1522681		RT-III, TAR, ET-V & Payment details
3	Gaya	M/s Krishna Motors/ 10385155039	2012-13	12549840	14019080	1469240	506889	1976129	Goods imported were not sold but lying in stock	RT-III, TAR, ET-V & Payment details
		M/s Pasa Resources Pvt. Ltd. / 1020997047	2013-14	7960393	8425643	465250	90724	555974	Goods imported were not sold but lying in stock	RT-III, TAR, ET-V & Payment details
		M/s Rajsthan Marbles & Tiles/ 10203827022	2013-14	639819	1225575	585756	118616	704372	Goods imported were not sold but lying in stock and Set off	RT-III, ET-V, TAR & Payment details

8	Patna Special	M/s Indo American Electricals Ltd./ 10050923006	2012-13	3758440	4332718	574278	167976	742254	E.T rate is higher than VAT rate	RT-III and E.T-V
		M/s The Freyssinet Prestressed Concrete Co. Ltd./ 10050768043	2012-13	1350000	2156038	806038	217630	1023668	Claimed excess set off of E.T but paid less E.T	RT-III and E.T-V
		M/s Amara Raja Batteries Ltd./ 10050107048	2012-13	26005978	27281038	1275060	363392	1638452	Goods were not sold but used as warranty replacement	RT-III and TAR-IV
		M/s Bharat Business Channel Ltd./10050933013	2011-12	0	4715609	4715609	2228125	6943734	Goods imported were not sold but used as capital goods	RT-III and TAR-IV
			2012-13	0	5735507	5735507	1677636	7413143		
		M/s TML Distribution Co. Ltd./ 10050699082	2011-12	91543466	94786551	3243085	1118864	4361949	Adjustment availed more than payment under ET	RT-III, ET-IV & Payment details
		M/s Tata Projects Ltd./ 10050748029	2012-13	4093747	6084001	1990254	567222	2557476	ET set off allowed more than that was claimed by the dealer	Assessment order RT-III & ET-V
		H.P.C.L/ 10010120059	2012-13	144465862	155678328	11212466	3616020	14828486	Adjustment availed on goods imported were not sold but lying in closing stock and goods sold on subsidized rate.	RT-III, ET-V and payment detail.
			2012-13	43891805	210680663	166788858	55040323	221829181	The rate of VAT was less than the rate of ET	RT-III, ET-V and TAR
			2012-13	0	2499301	2499301	806025	3305326	Goods imported were not sold but disposed free of cost	RT-III, ET-V, TAR-IV and statement.

ANNEXURE-XV
(Refer Paragraph: 2.3.20.2)
Short payment of admitted tax

Sl. No.	Name of the circle	Name of the dealer/TIN	Year	Tax payable	Tax paid	Short payment	Interest (calculated till date of audit)	Total	
1	Barh	M/s Guru Kirpa Enterprises/ 10021468048	2012-13	171198	0	171198	64199	235397	
			2013-14	184428	56000	128428	25043	153471	
2	Begusarai	M/s Choudhary Motors/ 10364389046	2013-14	10640378	3731615	6908763	1399025	8307788	
			M/s Chandra Prakash Automobiles / 10360416062	2013-14	4576919	4015409	561510	109494	671004
			M/s Mali Tractor Pvt. Ltd./ 10360589013	2013-14	983254	785000	198254	40146	238400
			M/s Kishan Automobile/ 10363222078	2013-14	1735910	500000	1235910	250272	1486182
			M/s Sri Krishna Yamaha/ 10363884006	2013-14	1618740	1383576	235164	47621	282785
3	Bhagalpur	M/s Pickup Credit and Trading Company Pvt. Ltd./ 10365738030	2013-14	63091128	60430674	2660454	538743	3199197	
			M/s Satyam Automobile/ 10360919007	2013-14	10316523	7870000	2446523	495421	2941944
			M/s S. Roy Marble/ 10525890020	2012-13	5325965	4626302	699663	230888	930551
			M/s Kalinga Sales/ 10524050018	2012-13	658497	104293	554204	182887	737091
			M/s Riyan Traders/ 10526267022	2012-13	1097732	943004	154728	51060	205788
			M/s Shiva Agencies/ 10522179082	2012-13	328494	20000	308494	101803	410297
			M/s Takshshila Regency Private Limited/ 10523306028	2012-13	813658	380486	433172	142947	576119
			M/s Gopal Prasad Bhagat/ 10520575090	2011-12	278188	38693	239495	122142	361637
				2012-13	256894	32338	224556	74103	298659

4	Darbhanga	M/s Shree Laxmi Traders/ 10380195041	2012-13	14807636	13484580	1323056	436608	1759664
		M/s Gupta Marble & Sanitary/ 10380806044	2012-13	2190115	1688000	502115	173230	675345
		M/s Apoorva Traders / 10384240038	2012-13	7417553	6499769	917784	302869	1220653
5	Gaya	M/s Brij Nandan Automobiles Pvt. Ltd./ 10206294070	2013-14	4892365	3883485	1008880	196732	1205612
		M/s Om Bhandar/ 10203375002	2013-14	1231405	1038529	192876	39057	231933
6	Hajipur	M/s Sudhir Kumar Singh & Imperial Associates/ 10206505014	2011-12	5253770	4475635	778135	431865	1210000
		M/s Ganga Tractor & Implements/ 10292284038	2012-13	3243092	2549468	693624	260109	953733
			2013-14	2509171	897610	1611561	314254	1925815
		M/s Anamika Automobiles Pvt. Ltd./ 10295232025	2013-14	17833830	17287281	546549	114776	661325
		M/s Reeshav Automobiles Pvt. Ltd./ 10294514085	2012-13	73617959	71288781	2329178	471663	2800841
7	Jehanabad	M/s S.R. Enterprises/ 10292626060	2013-14	4252149	3150000	1102149	231451	1333600
		M/s Swadeshi Plast Private Lmt/ 10294424022	2013-14	4440111	3969208	470903	98890	569793
8	Madhubani	M/s Buland Bhandar/10220061039	2012-13	486276	337260	149016	38000	187016
9	Muzaffarpur West	M/s Shri Guru Automobiles / 10412595078	2011-12	696872	0	696872	360632	1057504
		M/s Mithilanchal Motors / 10411716064	2012-13	13128794	12926192	202602	72937	275539
		M/s V.D. Automotive/ 10303075094	2011-12	28070455	27841432	229023	116802	345825
		M/s Sri Sai Sales & Service/ 10306077050	2012-13	32424647	31971362	453285	149584	602869
		M/s Shyama Power Pvt. Ltd./ 10302993032	2011-12	432993	0	432993	214332	647325
			2011-12	16733598	16286616	446982	160914	607896

10	Patliputra	M/s Guinea Motors Pvt Ltd./ 10050098027	2011-12	36464980	30885398	5579582	1924956	7504538
			2012-13	72625977	65332738	7293239	2078573	9371812
11	Patna Central	M/s CEAT Ltd. / 10050229074	2012-13	110519327	110243542	275785	80667	356452
			2012-13	86789737	73878375	12911362	3873408	16784770
12	Patna City East	M/s Cubs International/ 10061030024	2011-12	984911	573704	411207	203547	614754
			2012-13	1992871	1836745	156126	49180	205306
13	Patna City west	M/s Nand Lal Bajrang Lal/ 10060095041	2012-13	161785	0	161785	50962	212747
			2012-13	1654492	1400063	254429	80145	334574
14	Patna South	M/s Shiv Domestic Coke Pvt. Ltd. / 10060364022	2012-13	431984	150000	281984	88825	370809
			2012-13	5314388	4638988	675400	212751	888151
15	Patna Special	M/s Kundan Enterprises/ 10121372075	2011-12	1313312	1088165	225147	108071	333218
			2012-13	3335938	3284720	51218	15666	66884
15	Patna Special	M/s Morley Laboratories Pvt. Ltd./ 10122073094	2011-12	1135054	546534	588520	282490	871010
			2012-13	953830	798143	155687	46706	202393
15	Patna Special	M/s Ashwarya Enterprises / 10120711020	2011-12	1931765	1591566	340199	99508	439707
			2012-13	2909218	2119442	789776	231009	1020785
15	Patna Special	M/s Singh Bajaj Auto Pvt. Ltd./ 10125076020	2012-13	23936055	18320800	5615255	1768805	7384060
			2012-13	263438100	262538508	899592	296865	1196457
15	Patna Special	M/s Asian Paints Ltd./ 10010062053	2012-13	265434048	263277880	2156168	776220	2932388
			2012-13	990735738	985771046	4964692	1787289	6751981
15	Patna Special	M/s Lafarge India Pvt. Ltd./ 10010169044	2012-13	756109186	718207467	37901719	13644619	51546338
			Total			2963913393	2850976422	112936971

ANNEXURE-XVI
(Refer paragraph: 2.3.20.3)
Non-levy of interest for delayed payment of tax

(Amount in ₹)

Sl. No.	Name of the Circle	Name of the dealer/TIN	Year	Tax Payable	Amount of tax paid with delay	Delay in days	Interest leviable till date of audit
1	Gaya	M/s Ramnandi Automobiles/10201599029	2013-14	63577728	31918502	10 to 161 days	810213
		M/s Sudhir Kumar Singh & Imperial Associates/10206505014	2011-12	4475635	4475635	74 to 258 days	394656
			2012-13	3725000	3725000	14 to 78 days	95330
2	Muzaffarpur West	M/s Nava Bharat Fertilizers Ltd./10305000059	2010-11	3598613	3598613	44 months	2375084
			2011-12	2774864	2774864	32 months	1331934
			2012-13	4827969	4827969	22 months	1593230
		M/s Parley Biscuits Pvt. Ltd./10305416092	2012-13	134671046	9999440	27 to 568 days	894457
		M/s Shashank Auto Pvt. Ltd./10308385069	2012-13	50737050	17410691	4 to 160 days	212970
		M/s Shiv Shakti Bio Planteck Ltd./10305115004	2012-13	9454317	9454317	21.5 months	3049017
3	Patliputra	M/s Bharat Wagon & Engg. Ltd./10300494021	2011-12	8528216	5377626	7 to 356 days	312060
		M/s Exide industries Ltd./10050070091	2012-13	13658320	13658320	18 months 6 days	3728721
		M/s Nagarjuna Fertilizers & Chemicals Ltd./10050933013	2012-13	137675829	118441119	1 to 30 days	584660
		M/s United Breweries Ltd./10050119076	2011-12	3455074	3455074	10 months 20 days	552812
		M/s Cadbury India Ltd./10050251093	2011-12	290715071	39246535	21.5 months	12657008
			2012-13	22203332	22203332	17 months	5661850
		2010-11	12945834	12945834	42 months 12 days and 43 months 20 days	8335672	

		M/s Guinea Motors Pvt. Ltd./10050098027	2011-12	97036296	6747042	23 months	2327730
		M/s Food Corporation of India/10050225097	2012-13	72625977	24133644	9 to 163 days	318878
		M/s Mahindra & Mahindra Ltd. (jeep division)/10050023046	2010-11	623129551	9088454	258 days	1172411
		M/s Karlo Automobiles pvt. Ltd./10050077075	201 1-12	26910979	26910979	05 months 25 days	2354711
		M/s Kumar distributors Pvt. Ltd./10150024032	2011-12	5400000	5521400	138 to 227 days	577877
4	Patna Central	M/s Shristi Developers Pvt. Ltd./10060321051	2012-13	47490683	23440357	12 to 611 days	1107157
5	Patna City East	M/s Budha Motors Pvt. Ltd./10061602006	2011-12	47517497	43654847	8 to 248 days	424504
		M/s India tractor and component Pvt. Ltd./10061588035	2011-12	5990499	5990499	72 to 635 days	296079
		M/s Sonali Autos Pvt. Ltd./10125388069	2012-13	53499038	53099038	5 to 133 days	614555
6	Patna South	M/s Cadila Healthcare Ltd./10010456067	2012-13	3577567	3577567	16 to 15 months	377454
7	Patna Special	M/s /Technoelectric & Engineering Co. Ltd./10010038094	2010-11	122789181	44795000	4 to 18 days	244151
		M/s Karuna Management Service Pvt. Ltd./10010875050	2012-13	18620546	1525339	37 months 27 days	867155
		M/s Shreya Life Science Pvt. Ltd./10010236071	2012-13	1477302	1477302	16 months 25 days	373757
8	Purnea	M/s Mahakali Motors Pvt. Ltd./10494151054	2012-13	6706877	6706877	3 months to 18 months	624370
			2013-14	46400132	14385723	1 day to 3 months 10 days	204713
				1959669562	588040478	15 to 260 days	451408
		Total		1959669562	588040478		54926584

ANNEXURE-XVII
(Refer paragraph: 2.3.22)
Non-levy of penalty for excess collection of tax

Sl. No.	Name of the circle	Name of the dealer/TIN	Year	Value of goods	Rate levied/leviable (in per cent)	Tax collected	Tax leviable	Excess collected	Penalty
1.	Bhagalpur	M/s Moti Bhai Narsi Bhai Patel/ 10520760069	2012-13	3420292	20/0	684058	0	684058	1368116
2	Patliputra	M/s V Mart retail Ltd/10050916069	2011-12	1900657	5 & 13.5 /0 & 5	121536	15590	105946	211892
			2012-13	4290360	Do	225281	6331	218950	437900
3	Patna Special	M/s Steel Authority of India Ltd/ 10010060016	2012-13	3784449508	5/--	189974813	189222475	752338	1504676
Total				3794060817		191005688	189244396	1761292	3522584

ANNEXURE-XVIII
(Refer: Paragraph -2.7)
Excess Input Tax Credit (ITC)

Sl. No.	Name of the Circle	Name of the dealer/TIN	Period	Purchase value on which ITC availed	ITC availed	Actual entitlement	Excess availing of ITC	Penalty Interest	Total	Nature of irregularities
1	Danapur	Priyadarshi Motors Pvt. Ltd 10041941759	2012-13	103647564	130321242	125348472	4972770	14918310 1268056	21159136	ITC as per quarterly returns is less than shown in Annual Return.
2	Muzaffarpur East	Legend Alloys Pvt. Ltd. 10311354044	2011-12	16411012	762264	419830	342434	1027302 107867	1477603	ITC was not reversed on sale of schedule 1 goods.
3	Patna North	Ishwar Raj Beverages Pvt Ltd 10105996036	2012-13	9620074	547580	508667	38913	116739 10506	166158	ITC claimed on consumables.
4	Patna West	Ramky Infrastructure 10145427016	2012-13	230006641	15359843	14704030	655813	1967439 186907	2810159	ITC claimed on consumables.
Total				359685291	146990929	140980999	6009930	18029790 1573336	25613056	

ANNEXURE-XIX
(Refer: Paragraph –2.8)
Short levy of tax due to application of incorrect rate of tax

Sl. No.	Name of the Circle	Name of the Dealer/ TIN	Year	Commodity	Rate of tax leviable/ levied (in per cent)	Amount on which difference of rate is to be levied	Tax	Interest	Total	
1	Aurangabad	Ratna Infrastructure Projects Pvt. Ltd./ 10172925030	2010-11	Morum	12.5/4	1628906	138457	78920	217377	
2	Muzaffarpur East	Om Satyam Traders/ 10312532012	2010-11	Digestive Ayurvedic products, Nibu pani Jaljira	12.5/4	4741502	403028	108817	511845	
3	Patna North	Dabur Medico/ 10100076016	2012-13	Sat. Isobgul	13.5/5	15338739	1303793	342246	1646039	
4	Raxual	M/s Gayatri Contractors & Engineering Pvt. Ltd./ 10322684065	2011-12	Schedule-III goods	5/4	13674975	136750	66665	203415	
5	Sasaram	A K Auto/ 10241335079	2009-10	Helmet	12.5/4	831904	70712	42427	113139	
			2010-11	Do	12.5/4	3549549	301712	126719	428431	
			2011-12	Do	13.5/5	4736414	402592	96623	499215	
Total							44501989	2757044	862417	3619461

ANNEXURE-XX

(Refer: Paragraph -2.9)

Irregular deduction on account of Transit sale

Sl. No.	Name of circle	Name of Dealer/ TIN	Year	Total deduction	Inadmissible deduction	Rate leviable (in per cent)	Tax	Interest	Total	Remarks
1	Begusarai	M/s UEM India Pvt. Ltd./ 10364555007	2011-12	227916078	137144754	13.5 2	15771647	Nil	15771647	Interest was not levied as Tax has already been deducted at source.
2	Bhagalpur	M/s Abhijeet Project Ltd./ 10525902009	2011-12	214575772	214575772	5 0	10728789	3540500	14269289	-
3	Patna Special	M/s Punjilloyd Ltd./ 10010945002	2010-11	957908840	957908840	12.5 & 4 0	47272801	Nil	47272801	Interest was not levied as Tax has already been deducted at source.
Total				1400400690	1309629366		73773237	3540500	77313737	

ANNEXURE-XXI
(Refer: Paragraph -2.10)
Short payment of admitted tax and non-levy of interest

(Amount in ₹)

Sl. No.	Name of the Circle	Name of the dealer/TIN	Year	Tax payable	Tax paid	Short payment	Interest	Total
1	Danapur	Rohini Enterprises 10041071013	2012-13	12085534	11880399	205135	52309	257444
2	Motihari	Bajarang Agro Agency 10270255047	2012-13	6614136	6290908	323228	92120	415348
3	Muzaffarpur East	Mehrotra Engineering Works Pvt Ltd 10310592012	2011-12	4413572	3628398	785174	247330	1032504
4	Nawada	Maa Bhawani coal Traders 10233097034	2012-13	1252076	1155518	96558	26071	122629
5	Patna North	Ishwar Raj Beverages Pvt. Ltd. 10105996036	2012-13	7713550	7500798	212752	57443	270195
		Shri Ram Sales 10101523062	2012-13	4242728	4056365	186363	48920	235283
		Krishna Sanitation 10100757053	2012-13	4905942	3791084	1114858	301012	1415870
		Shri Hanuman Motors 10106129003	2012-13	1671828	1462131	209697	56618	266315
6	Patna West	Agro Pump and Power 10145782022	2012-13	1060902	929929	130973	36345	167318
		Data Line Agency 10140546065	2012-13	2099693	1898677	201016	55782	256798

7	Raxaul	Gayatri Contractors and Engineers Pvt. Ltd 10322684065	2012-13	197062	0	197062	59119	256181
		Shri Ganapati Enterprises 10321803040	2011-12	335014	172176	162838	78162	241000
8.	Samastipur	Mahavir Enterprises 10427140022	2012-13	833780	670000	163780	34394	198174
		Tara Automobile 10424984026	2011-12	1968435	890000	1078435	420589	1499024
		Star Equipments 10427214035	2012-13	3541974	2666001	875973	183954	1059927
			2012-13	1497436	400000	1097436	214000	1311436
Total				54433662	47392384	7041278	1964168	9005446

ANNEXURE-XXII
(Refer: Paragraph -2.11)
Incorrect allowance of deductions

Sl. No.	Name of the Circle	Name of the dealer/TIN	Year	Items of inadmissible deduction	Rate (in per cent)	Amount of such deduction	Allowable deduction	Excess deduction allowed on which tax is leviable	Tax on excess deduction claimed/ allowed	Records seen	
1	Jamui	SMS Infrastructure 10541108050	2008-09	Material portion on Estt. Expenditure, Over head and gross profit	4 and 12.5	124410406	110779972	13630434	1560971	Assessment order, RT-III and TAR	
		Ashok and Co. Niwas Pvt. Ltd. 10540629064	2011-12	Gross profit, Estt.expenses and departmental deduction	5 and 13.5	57716855	43745651	13971204	1108147	RT-III, TAR, profit and loss account.	
2	Nawada	C & C construction 10231944032	2011-12	Profit on materials	13.5, 5 and 4	75176317	54360475	20815842	1278093	TAR-IV	
3	Saran	JSR Construction 10334665084	2011-12	Estt. cost and profit element on materials	5 and 13.5	40547200	9800115	30747085	1626213	RT-III, Sale and purchase statement	
Total							297850778	218686213	79164565	5573424	

ANNEXURE-XXIII

(Refer: Paragraph –2.12)

Incorrect adjustment of entry tax towards payment of VAT

Sl. No.	Name of the circle	Name of the dealer/TIN	Period	Amount eligible for adjustment	Adjustment taken	Excess adjustment from VAT	Interest	Total	Record seen
1	Patna North	Orient General Dealers/ 10100111033	2012-13	1276233	2041972	765739	218236	983975	RT-III and ET-V
2	Patna West	M/s West India Electricals/ 10140187068	2011-12	252323	403718	151395	70398	221793	RT-III and ET-V
			2012-13	313767	502027	188260	53654	241914	RT-III and ET-V
		M/s Deep Electricals/ 10140221018	2012-13	281278	450045	168767	45567	214334	RT-III and ET-V
		M/s Gopal Electric Store/ 10140078040	2010-11	327957	655913	327956	209072	537028	RT-III and ET-V
			2011-12	76694	122711	46017	21053	67070	RT-III and ET-V
			2012-13	211891	339025	127134	35280	162414	RT-III and ET-V
Total				2740143	4515411	1775268	653260	2428528	

ANNEXURE-XXIV

(Refer: Paragraph -2.14)

Short payment of admitted entry tax

(Amount in ₹)

Sl. No.	Name of the circle	Name of Dealer/TIN	Period	Commodity	Import value	ET leviable	ET Paid	Short paid
1	Patliputra	Bharti Airtel/ ET-10050212293 VAT-10050212002	2012-13	Telcom goods and others	3814820025	169547664	155263966	14283698
		Unitech wireless Tamil Nadu Pvt. Ltd./ ET-10050662227	2012-13	Telcom goods, Electrical goods and Sim card	275184802	13122393	6599050	6523343
		Dishnet wireless Ltd./ 10050333058	2012-13	Telcom goods	187797853	8157842	7895761	262081
Total					4277802680	190827899	169758777	21069122

ANNEXURE-XXV

(Refer: Paragraph –2.15)

Application of incorrect rate of entry tax

							(Amount in ₹)	
Sl. No.	Name of the Circle	Name of the dealer/TIN	Period	Commodity	Rate leviable/levied (in per cent)	Import value	Difference of tax payable	
1	Patna West	East India Trading Co. 10145151075	2011-12	Electrical goods	8/5	11963733	358912	
2	Patliputra	Bharat Sanchar Nigam Ltd. (Anishabad) 10050277089	2012-13	Telecom Goods	5/4	44391668	443917	
		The Freyssinet Prestressed Concrete Co. Ltd. 10050652220	2012-13	Steel, PVC pipes	5/4	30145296	301453	
		Indian Railway Catering and Tourism Corpn. Ltd. 10050163211	2012-13	HDPE (High Density Polyethylene), Labels, others	5/4	39417967	394180	
3	Teghra	Deshratan Dr. Rajendra pd D U S Ltd. 10431412267	2012-13	Packing material	5/4	14183421	141834	
Total							140102085	1640296

ANNEXURE-XXVI

(Refer: Paragraph -2.16)

Non-levy of entry tax and penalty due to non-registration

Sl. No.	Name of the Circle	Name of the dealer/ TIN	Year	Commodity/ Rate of E. T (in per cent)	Value of goods	Entry Tax payable	E T adjustable against VAT payment	ET to be levied	Penalty	Total
1	Bettiah	SKT-NN (JV)/ 10262987054	2012-13	Bitumen/ 4/5	9109556	364382	364382	Nil	364382	364382
2	Patna North	Foundation Engineering 10100778005	2012-13	Iron and Steel 4/5	8694936	360573	360573	Nil	360573	360573
3	Raxaul	Gayatri Contractors & Engineers Pvt. Ltd./ 10322684065 Duncan Hospital/ 10320468067	2011-12 2011-12	Electrical Goods/ 8/4 Electrical & sanitary Goods / 8/4	12181315 3587405	974505 286992	487253 208668 (ET Paid)	487252 78324	974505 286992	1461757 365316
			2012-13	Stone chips, paper board/ 4/5 Transformer/ 8/5	1842481 2078963	73699 166317	0	73699 166317	73699 166317	147398 332634
		Ripuraj Agro Pvt. Ltd./ 10322149030	2011-12	MS Pipe/ 4 Elect. Goods, Transformer & paint/8	210000 1310251	8400 104820	0	8400 104820	8400 104820	16800 209640
4	Saran	JSR Construction Pvt. Ltd./ 10334665084	2011-12 2012-13	Bitumen/ 4/5	22173911 1867257	886956 74690	886956 74690	Nil Nil	886956 74690	886956 74690
Total					63056075	3301334	2382522	918812	3301334	4220146

ANNEXURE-XXVII
(Refer : Paragraph –2.18)
Non-levy of Electricity Duty

Name of the circle	Dealer	Year	Purchase shown by BSEB (in Kwh)	Rate of energy applied* (per kwh) (in ₹)	Value of energy (₹ in lakh)	Amount of duty at the rate of 6 per cent (₹ in lakh)
Muzaffarpur West	Kanti Bijli Utpadan Nigam Ltd.(unit of NTPC)	2007-08	20710000	2.05	424.56	25.47
		2008-09	189710000	2.34	4439.21	266.35
		2009-10	395820000	2.85	11280.87	676.85
		2010-11	273230000	3.14	8579.42	514.77
		2011-12	176110000	3.14 [▼]	5529.85	331.79
Total			1055580000		30253.91	1815.23

* Arrived at on the basis of average rate of interstate bulk sale of energy made by NTPC during the respective periods as given in the statement furnished by them.

▼ In the absence of rate of energy for the period 2011-12, the rate of pervious year has been taken.

GLOSSARY

Glossary of Abbreviations

Abbreviations	Full form
AA	Assessing Authority
ACCT	Assistant Commissioner of Commercial Taxes
ACE	Assistant Commissioner of Excise
A&E	Accounts & Entitlement
AG	Accountant General
AMC	Annual Maintenance Charge
ATNs	Action Taken Notes
BBP	Bihar Budget Procedure
BE	Budget Estimates
BMVT Act	Bihar Motor Vehicles Tax Act
BRAIN DC	Bihar Revenue Administration Intra Net Data Center
BSBCL	Bihar State Beverages Corporation Limited
BSEB	Bihar State Electricity Board
BSEDC	Bihar State Electronics Development Corporation Limited
BSNL	Bharat Sanchar Nigam Limited
BSWAN	Bihar State Wide Area Network
BTEG Act	Bihar Taxes on Entry of Goods into local areas for Consumption, Use or Sale therein Act
BVAT Act	Bihar Value Added Tax Act
C-II	Tax deduction certificate
CE	Commissioner of Excise
CCT	Commissioner of Commercial Taxes
CMV Rules	Central Motor Vehicles Rules
CST Act	Central Sales Tax Act
CTD	Commercial Taxes Department
CTO	Commercial Taxes Officer
D-IX	Statement of road permits
DBA	Database Administrator
DCB Register	Demand, Collection and Balance Register
DCCT	Deputy Commissioner of Commercial Taxes
DRC	Disaster Recovery Center
ED	Electricity Duty
ET	Entry Tax
Form C	Used to purchase goods at concessional rate of tax in course of inter-state trade and commerce
GTO	Gross Turnover
HSD	High Speed Diesel
IMFL	India Made Foreign Liquor
IT	Information Technology
ITC	Input Tax Credit
IR	Inspection Report
JCCT	Joint Commissioner of Commercial Taxes

Abbreviations	Full form
LPL	London Proof Litre
MGQ	Minimum Guaranteed Quantity
MMPCT	Mission Mode Project for Commercial Taxes
MV Act	Motor Vehicles Act
NeGP	National e-Governance Plan
NIC	National Informatics Center
NSDL	National Security Depository Ltd.
PAC	Public Accounts Committee
PAN	Permanent Account Number
PDR	Public Demand Recovery
PPSWR	Probability Proportion to size with replacement
RT-III	Annual return under BVAT Act
SDA	State Designated Agency
SDD	System Design Documents
SE	Superintendent of Excise
SECLAN	Secretarial Local Area Network
SLA	Service Level Agreement
SUVIDHA	Simplified Usage of Vehicle Information Data Harmonized Application
TAR	Tax Audit Report
TCS	Tata Consultancy Services
TDS	Tax Deducted at Source
TIN	Tax Payer Identification Number
TTO	Taxable Turnover
URS	User Requirement Specifications
VAT	Value Added Tax
VATMIS	Value Added Tax Management Information System

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