



**Report of the  
Comptroller and Auditor General of India  
on**

**Revenue Sector  
for the year ended March 2015**



**Government of Odisha  
Report No. 1 of the year 2016**

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## **PREFACE**

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2015 has been prepared for submission to the Governor of Odisha under Article 151 of the Constitution of India.

The Report contains significant findings of audit of Receipts and Expenditure of major Revenue earning Departments under Revenue Sector conducted under the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

The instances mentioned in this Report are those, which came to notice in the course of test audit during 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

This Report contains 33 paragraphs including one Performance Audit (PA) relating to non-levy / short levy of tax, interest, penalty, revenue foregone, etc., involving ₹ 357.41 crore. Some of the major findings are mentioned below:

### I General

The total revenue receipts of the Government for the year 2014-15 amounted to ₹ 56,997.88 crore against ₹ 48,946.85 crore in the previous year. Of this, 48.95 *per cent* was raised by the State through tax revenue (₹ 19,828.29 crore) and non-tax revenue (₹ 8,070.87 crore). The balance 51.05 *per cent* was received from the Government of India in the form of State's share of divisible Union taxes (₹ 16,181.22 crore) and Grants-in-aid (₹ 12,917.50 crore).

(Paragraph 1.1.1)

Test check of the records of assessment / collection of Value Added Tax including Sales Tax, Entry Tax, Professional Tax etc., Motor Vehicles Tax, Stamp Duty and Registration Fees, State Excise Duty, Mining Receipts during the year 2014-15 revealed under assessment / short-levy / loss of revenue and other observations amounting to ₹ 11,665.85 crore in 1,78,420 cases.

(Paragraph 1.9)

### II Value Added Tax, Central Sales Tax and Entry Tax etc.

Audit of “**System of assessment under Value Added Tax**” revealed the following:

- There was huge shortfall in tax audit during 2011-14 which led to non-assessment of dealers selected on the basis of the prescribed criteria.

(Paragraph 2.4.3.1)

- Fraud / Tax Evasion case reports involving value added tax of ₹ 9.24 crore had not been disposed of even though more than one year had passed from the date of receipt of those reports.

(Paragraph 2.4.5.1)

- Action for imposition of penalty of ₹ 2.83 crore through provisional assessments under Odisha Value Added Tax Act was not initiated against 2,830 dealers who did not file monthly returns.

(Paragraph 2.4.6.1)

Audit of “**Levy and Collection of Entertainment Tax from Cable Television and Direct to Home Broadcasting Service Operators**” revealed the following:

- Failure to obtain information from the Department of Posts led to continuation of cable television operators without registration.

(Paragraph 2.5.3.1)

- Lack of Departmental coordination led to continuation of services by two Direct to Home (DTH) Broadcasting Service operators without getting themselves registered.

**(Paragraph 2.5.3.2)**

- Less payment of tax due to understatement of gross receipts / erroneous calculation remained undetected.

**(Paragraph 2.5.4.2)**

Value added tax and penalty of ₹ 5.58 crore was short levied against a dealer due to application of lower rate of tax.

**(Paragraph 2.7.1)**

Due to allowance of irregular deductions towards labour and service charges from the gross receipts of two works contractors, value added tax of ₹ 4.84 crore was short levied. Besides, penalty was also leviable.

**(Paragraph 2.7.3)**

Action for levy of penalty under Odisha Value Added Tax Act was not initiated against 5,510 dealers for non-submission of Certified Annual Audited Accounts and against 21,140 dealers for non-submission of Statement of Closing Stock in trade.

**(Paragraph 2.7.6)**

There was short levy of central sales tax of ₹ 1.53 crore against a dealer due to irregular acceptance of tampered declarations in Form 'C'.

**(Paragraph 2.8.2)**

Entry tax and penalty of ₹ 3.90 crore was not levied by the assessing authority against a dealer due to misclassification of scheduled goods as non-scheduled goods.

**(Paragraph 2.9.1)**

Due to misclassification of 'minor minerals' as non-scheduled goods under the Odisha Entry Tax Act, tax and penalty of ₹ 2.55 crore was not levied.

**(Paragraph 2.9.2)**

### **III State Excise Duty and Fees**

Differential State Excise Duty of ₹ 2.52 crore on annual closing stock of India Made Foreign Liquor (IMFL) of 2013-14 sold during 2014-15, was not realised from Odisha State Beverage Corporation (OSBC).

**(Paragraph 3.5.1)**

Fine of ₹ 34.07 lakh on expired IMFL was not levied against a distillery.

**(Paragraph 3.5.2)**

Extra hour operation charges, overtime fees and establishment cost amounting to ₹ 35.35 lakh were not realised from different distilleries / breweries.

**(Paragraphs 3.5.3 and 3.5.4)**

Licence fee and application fee of ₹ 16 lakh was not realised from five sugar factories for trading of molasses.

**(Paragraph 3.5.5)**

Differential Excise Adhesive Label fee of ₹ 15.86 lakh was not realised from the bottling unit of a sugar factory.

**(Paragraph 3.5.6)**

#### **IV Stamp Duty and Registration Fee**

Stamp Duty and Registration Fee of ₹ 84.75 lakh was short realised on sale certificates registered and endorsed by the District Sub Registrars / Sub Registrars.

**(Paragraph 4.5.1)**

There was short realisation of Stamp Duty and Registration Fee amounting to ₹ 24.47 lakh due to misclassification of 20 instruments of conveyance as cancellation deeds.

**(Paragraph 4.5.2)**

Stamp Duty and Registration Fee of ₹ 10.51 lakh was short realised due to under valuation of property.

**(Paragraph 4.5.3)**

Stamp Duty and Registration Fee of ₹ 2.25 crore was short realised due to registration of 40 documents under General Power of Attorney instead of conveyance deeds.

**(Paragraph 4.5.4)**

#### **V Motor Vehicles Tax**

Motor Vehicle tax and additional tax of ₹ 53.23 crore including penalty was not realised / short realised in respect of 18,695 vehicles under different categories.

**(Paragraphs 5.5.1.1 and 5.5.1.2)**

Vehicle Check Reports in respect of 176 vehicles carrying load beyond permissible limit were not disposed of resulting in non-realisation of compounding fee of ₹ 13.64 lakh.

**(Paragraph 5.5.3)**

Penalty of ₹ 18.63 lakh was not realised / short realised in 60 cases for belated payment of tax and additional tax.

**(Paragraph 5.5.4)**

#### **VI Mining Receipts**

Performance Audit of “**Implementation of the Integrated Mines and Minerals Management System (i3MS)**” revealed the following:

- As against 43,464 e-Permits issued in Joda mining circle for 188.60 million tonnes of iron and manganese ore, e-Passes for only 19,053 permits for transportation of 88.39 million tonnes were available in the database indicating inadequate end to end tracking of transportation of minerals.

**(Paragraph 6.4.11.1)**

- Minerals to the tune of 47,835.32 tonnes valued at ₹ 6.99 crore was transported through e-Passes in excess of the quantity permitted in 175 e-Permits issued to a lessee thereby defeating the objective of i3MS to restrict illegal transportation of minerals without permit.

**(Paragraph 6.4.11.2)**

- Gaps in e-Pass serial numbers found in database were fraught with the risk of loss of royalty of ₹ 12.14 crore.

**(Paragraph 6.4.11.3)**

- Cross check of weighbridge data with the system data revealed discrepancy in transportation of 2,32,778 tonnes of bauxite valued at ₹ 633.37 crore by a lessee resulting in potential revenue loss to the Government.

**(Paragraph 6.4.11.7)**

- Partial capture of data for several important fields and lack of validation controls over several key fields / parameters affected the reliability of the database.

**(Paragraph 6.4.12.1)**

- Due to absence of exit management plan and non-imparting of training to State Government officials as envisaged in the Memorandum of Understanding, the Department continued to be dependent on the vendor / software developer.

**(Paragraph 6.4.16.1)**

Royalty of ₹ 32.53 crore was short levied on 71.38 lakh tonnes of bauxite.

**(Paragraph 6.6.1)**

## CHAPTER I

### GENERAL

#### 1.1 Trend of Revenue Receipts

**1.1.1** The tax and non-tax revenue raised by Government of Odisha during the year 2014-15, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grants-in-aid received from Government of India during the year and the corresponding figures for preceding four years are depicted in **Table-1.1.1**.

**Table-1.1.1**  
**Trend of Revenue Receipts**

(₹ in crore)						
Sl. No.	Particulars	2010-11	2011-12	2012-13	2013-14	2014-15
1.	<b>Revenue raised by State Government</b>					
	• Tax revenue	11,192.67	13,442.74	15,034.13	16,891.59	19,828.29
	• Non-tax revenue	4,780.37	6,442.96	8,078.04	8,378.60	8,070.87
	<b>Total</b>	<b>15,973.04</b>	<b>19,885.70</b>	<b>23,112.17</b>	<b>25,270.19</b>	<b>27,899.16</b>
2.	<b>Receipts from Government of India</b>					
	• State's net proceeds of divisible Union taxes and duties	10,496.86	12,229.12	13,965.01	15,247.24	16,181.22 <sup>1</sup>
	• Grants-in-aid	6,806.25	8,152.20	6,859.73	8,429.42	12,917.50
	<b>Total</b>	<b>17,303.11</b>	<b>20,381.32</b>	<b>20,824.74</b>	<b>23,676.66</b>	<b>29,098.72</b>
3.	Total revenue receipts of the State Government (1 and 2)	33,276.15	40,267.02	43,936.91	48,946.85	56,997.88
4.	<b>Percentage of 1 to 3</b>	<b>48.00</b>	<b>49.38</b>	<b>52.60</b>	<b>51.63</b>	<b>48.95</b>

Source: Finance Accounts for the year 2014-15 of Government of Odisha

In the year 2014-15, the revenue raised by the State Government (₹ 27,899.16 crore) was 48.95 per cent of total revenue receipts. The balance (₹ 29,098.72 crore) 51.05 per cent of the receipts during 2014-15 was from the Government of India.

<sup>1</sup> For details, please see Statement No 14- Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Odisha for the year 2014-15. Figures under the minor head 901-Share of net proceeds assigned to the States under the major heads 0020-Corporation Tax; 0021-Taxes on Income other than Corporation Tax; 0028- Other Taxes on Income and Expenditure; 0032- Taxes on Wealth; 0037- Customs; 0038- Union Excise Duties; 0044 – Service Tax and 0045- Other Taxes and Duties on Commodities and Services booked in the Finance Accounts under A-Tax Revenue have been excluded from the revenue raised by the State and exhibited as State's share of divisible Union taxes.

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

**Table-1.1.2**  
**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 (+) or decrease (-) in 2014-15 over 2013-14
		BE	Actual									
1.	OVAT including Odisha Sales Tax (OST)	5,909.51	6,221.28	7,556.35	7,463.39	9,016.20	8,929.61	10,195.00	9,882.03	11,505.69	10,892.11	(+)10.22
	Central Sales Tax (CST)	590.49	585.52	725.04	733.45	783.80	755.07	900.00	846.52	929.59	924.62	(+)9.23
2.	Taxes and Duties on Electricity	460.00	458.06	500.00	551.65	580.00	590.48	640.00	670.11	768.00	1,722.60	(+)157.06
3.	Land Revenue	405.32	390.66	465.00	521.47	480.00	420.21	400.00	431.26	440.00	645.64	(+)49.71
4.	Taxes on Vehicles	715.00	727.58	843.00	787.99	850.00	746.19	900.00	859.67	972.00	910.31	(+) 5.89
5.	Taxes on Goods and Passengers	875.00	1,111.37	1,235.00	1,312.36	1,350.00	1,342.54	1,500.00	1,613.46	1,740.00	1,710.87	(+) 6.04
6.	State Excise	1,000.00	1,094.26	1,350.00	1,379.00	1,500.00	1,498.64	1,725.00	1,780.13	2,100.00	2,035.24	(+) 14.33
7.	Stamp Duty and Registration Fee	450.00	415.82	510.00	498.14	550.00	544.88	620.00	605.48	802.32	800.23	(+) 32.16
8.	Other Taxes and Duties on Commodities and Services	58.15	54.84	55.00	68.39	60.28	70.52	65.00	53.23	40.06	17.70	(-)66.75
9.	Other Taxes on Income and Expenditure- Tax on Professions, Trades, Callings and Employments	145.00	133.28	160.00	126.90	140.00	135.99	160.00	149.70	176.00	168.97	(+) 12.87
	<b>Total:</b>	<b>10,608.47</b>	<b>11,192.67</b>	<b>13,399.39</b>	<b>13,442.74</b>	<b>15,310.28</b>	<b>15,034.13</b>	<b>17,105.00</b>	<b>16,891.59</b>	<b>19,473.66</b>	<b>19,828.29</b>	

*Source: Finance Accounts for the year 2014-15 of Government of Odisha*

The respective Departments reported the following reasons for variation:

**Odisha VAT (OVAT) including OST / CST:** Increase (OVAT 10.22 per cent and CST 9.23 per cent) was due to increase in business activities of industry sector and vigorous collection drive by the Department.

**Taxes on Vehicles:** Increase (5.89 per cent) was due to increase in registration of vehicles, stringent enforcement activities and arrear collection.

**State Excise:** Increase (14.33 per cent) was due to enhancement in the fee structure and excise duty against last year's fee and duty structure.

**Taxes and Duties on Electricity:** Increase (157.06 per cent) was due to more receipt of duty on captive power.

The other Departments despite being requested (April, July and October 2015), did not furnish the reasons for variations in receipts from that of the previous year (2013-14).

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

**Table-1.1.3**  
**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 (+) or decrease (-) in 2014-15 over 2013-14
		BE	Actual									
1.	Non-ferrous Mining and Metallurgical Industries	2,556.48	3,329.25	3,804.63	4,571.57	5,000.00	5,695.70	5,515.00	5,518.80	5,660.07	5,310.09	(-) 3.78
2.	Interest Receipts	100.00	260.84	340.00	576.38	200.00	588.25	300.00	1241.18	408.98	330.67	(-) 73.36
3.	Forestry and Wildlife	90.00	157.68	91.87	192.39	117.46	188.92	30.22	95.11	31.73	61.51	(-) 35.33
4.	Irrigation & Inland Water Transport	100.80	143.09	178.30	333.11	295.28	396.76	380.30	451.70	435.77	629.60	(+) 39.38
5.	Other Administrative Services	24.79	11.06	11.00	16.07	10.24	12.76	13.30	24.44	23.86	29.75	(+) 21.73
6.	Public Works	47.24	48.79	40.25	47.16	40.04	49.77	47.00	69.72	63.03	88.59	(+) 27.07
7.	Police Receipts	47.45	38.45	39.19	36.18	33.97	52.62	37.15	44.70	52.38	50.00	(+) 11.86
8.	Education	11.22	25.98	15.37	21.18	10.17	89.10	16.63	75.86	27.69	18.87	(-) 75.13
9.	Medical and Public Health	35.70	19.55	18.00	37.12	9.90	10.55	28.84	28.71	30.81	33.15	(+) 15.46
10.	Miscellaneous General Services	32.00	412.29	7.95	86.86	7.11	225.60	11.00	126.50	29.54	118.84	(-) 6.06
11.	Power	1.67	2.07	2.13	3.37	2.17	2.14	2.30	4.70	41.95	2.18	(-) 53.62
12.	Co-operation	3.57	2.18	2.05	1.92	2.20	2.97	2.30	3.34	2.47	2.56	(-) 23.35
13.	Other Non-tax Receipts	314.56	329.14	258.48	519.65	308.24	762.90	441.10	693.84	796.87	1,395.06	(+) 101.06
	<b>Total:</b>	<b>3,365.48</b>	<b>4,780.37</b>	<b>4,809.22</b>	<b>6,442.96</b>	<b>6,036.78</b>	<b>8,078.04</b>	<b>6,825.14</b>	<b>8,378.60</b>	<b>7,605.15</b>	<b>8,070.87</b>	

Source: Finance Accounts for the year 2014-15 of Government of Odisha

The respective Departments reported the following reasons for variation:

**Non-ferrous Mining and Metallurgical Industries:** Decrease (3.78 per cent) was due to non-working of mines on the ground of non-availability of statutory clearance.

**Interest Receipts:** Decrease (73.36 per cent) was due to decline in receipt of interest from 91 days and other treasury bills and also from GRIDCO (WB Loan).

The other Departments despite being requested (April, July and October 2015), did not furnish the reasons for variation in receipts from that of the previous year (2013-14).

## 1.2 Analysis of Arrears of Revenue

The arrears of revenue, as on 31 March 2015, on some principal heads of revenue amounted to ₹ 9,468.37 crore of which ₹ 1,770.28 crore was outstanding for more than five years as detailed in **Table-1.2**.

**Table-1.2**  
**Arrears of Revenue**

(₹ in crore)

Sl. No.	Head of Revenue	Total amount outstanding as on 31 March 2015	Amount outstanding for more than five years as on 31 March 2015	Replies of Department
<b>A-Tax Revenue</b>				
<b>0040- Taxes on Sales, Trade etc.</b>				
1.	VAT (including OST and CST)	5,483.35	1,565.55	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Amount covered by show cause notices and penalty 1,747.60</li> <li>• Amount stayed by <ul style="list-style-type: none"> <li>➤ Departmental Authorities 869.25</li> <li>➤ Supreme Court/ High Court 2,096.34</li> </ul> </li> <li>• Demands covered by tax recovery proceedings 764.63</li> <li>• Amount likely to be written off 5.53</li> </ul>
<b>0042-Taxes on Goods and Passengers</b>				
2.	Entry Tax	1,892.39	121.53	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Amount covered by show cause notices 797.68</li> <li>• Recoveries stayed by <ul style="list-style-type: none"> <li>➤ Departmental Authorities 348.15</li> <li>➤ Supreme Court/ High Court 718.41</li> </ul> </li> <li>• Demands covered by certificate proceedings 28.11</li> <li>• Amount likely to be written off 0.04</li> </ul>
<b>0041-Taxes on Vehicles</b>				
3.	Taxes on Vehicles	153.23	73.27	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Demands covered by certificate proceedings/ tax recovery proceedings 111.04</li> <li>• Recoveries stayed by Departmental Authorities 0.06</li> <li>• Other stages 42.12</li> </ul>
<b>0039-State Excise</b>				
4.	State Excise	54.59	--	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Recoveries stayed by Supreme Court / High Court 37.84</li> <li>• Demands covered by certificate proceedings/ tax recovery proceedings 13.83</li> <li>• Other stages 2.92</li> </ul>
<b>B-Non-Tax Revenue</b>				
5.	Mining Receipts	1,884.81	9.93	Department stated reasons of arrears as under: <ul style="list-style-type: none"> <li>• Certificate cases 1.56</li> <li>• Amount under dispute 1,334.58</li> <li>• Amount likely to be written off 2.46</li> <li>• Court of law 55.00</li> <li>• Recoverable dues 491.20</li> </ul>
<b>Total:</b>		<b>9,468.37</b>	<b>1,770.28</b>	

Source: Replies of concerned Departments

Arrears of ₹ 1,770.28 crore were pending for recovery for more than five years. Arrears of ₹ 1,217.46 crore were pending with the departmental authorities and sufficient efforts were not made to dispose of the same. Certificate cases / tax recovery proceedings initiated for recovery of ₹ 919.17 crore had not been finalised. Cases referred for write off (₹ 8.03 crore) were also not being pursued.

### 1.3 Arrears in Assessments

The details of cases pending at the beginning of the year, cases due for assessment, cases disposed of during the year and cases pending finalisation at the end of the year as furnished by the Commercial Tax wing of Finance Department in respect of Odisha Sales Tax, Value Added Tax, Central Sales Tax, Odisha Entry Tax, Professional Tax and Entertainment Tax are given in **Table-1.3**.

**Table-1.3**  
**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)
Odisha Sales Tax	4,822	230	5,052	430	4,622	8.51
CST	619	76	695	126	569	18.13
VAT	1,786	3,015	4,801	2,802	1,999	58.36
Entry Tax	748	1,946	2,694	1,791	903	66.48
Professional Tax	35,033	27,661	62,694	32,352	30,342	51.60
Entertainment Tax	96	118	214	115	99	53.74

Source: Commercial Tax wing of the Finance Department

4,622 assessments under the erstwhile Odisha Sales Tax Act were pending assessment as on 31 March 2015 although the Act had been repealed on 1 April 2005.

### 1.4 Evasion of Tax

The details of cases of evasion of tax detected by the Commercial Tax wing of Finance Department, cases finalised and the demands for additional tax raised as reported by the Department are given in **Table-1.4**.

**Table-1.4**  
**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 assessment / investigation completed and additional demand with penalty etc. raised		Number of cases pending for finalisation as on 31 March 2015
					Number of cases	Amount of demand	
1.	Odisha Sales Tax	26	0	26	0	0	26
2.	Entry Tax	70	26	96	47	110.24	49
3.	Value Added Tax	725	687	1,412	696	37,777.84	716
4.	Central Sales Tax	6	10	16	8	54.13	8
<b>Total:</b>		<b>827</b>	<b>723</b>	<b>1,550</b>	<b>751</b>	<b>37,942.21</b>	<b>799</b>

Source: Commercial Tax wing of the Finance Department

The number of cases pending at the end of the year 2014-15 had reduced slightly (3.39 per cent) as compared to those at the beginning of the year.

## 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 the cases pending at the close of the year 2014-15 as reported by the Commercial Tax wing of Finance Department are given in **Table-1.5**.

**Table-1.5**  
**Details of Pendency of Refund Cases**

Sl. No.	Particulars	Sales Tax / VAT		Entry Tax	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	1,392	192.83	141	8.09
2.	Claims received during the year	601	62.65	73	22.16
3.	Refunds made during the year	649	67.68	0	0.00
4.	Balance outstanding at the end of the year	1,344	187.80	214	30.25

(₹ in crore)

*Source: Commercial Tax wing of the Finance Department*

32.56 per cent of refund cases of Sales Tax / VAT were disposed of during 2014-15, while no refund case relating to Entry Tax was disposed of during the year.

Odisha VAT Act provides for payment of simple interest at the rate of eight per cent per annum if the refund is not made to the dealer within 60 days from the date of receipt of order for refund or within 90 days from the date of receipt of application for refund till the refund is made. If refund cases are not cleared expeditiously, Government may incur liability for payment of interest. During the year 2013-14, Government had paid interest of ₹ 2.50 lakh due to such delay in disposal of refund cases.

## 1.6 Response of Departments / Government towards Audit

The Principal Accountant General (E&RSA), Odisha (PAG) conducts periodical inspection of the Government Departments to test check the transactions and verify maintenance of important accounts and other records as prescribed in the rules and procedures. Inspection Reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot are issued to the heads of the offices inspected. Copies are issued to the next higher authorities for taking prompt corrective action. The heads of 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 PAG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

Inspection Reports issued up to December 2014 disclosed that 6,768 paragraphs of 2,891 IRs involving ₹ 14,540 crore remained outstanding at the end of June 2015 as mentioned below along with the corresponding figures for the preceding two years in **Table-1.6**.

Table-1.6

## Department-wise details of IRs

	June 2013	June 2014	June 2015
Number of IRs pending for settlement	2,376	2,939	2,891
Number of outstanding audit observations	7,884	6,656	6,768
Amount of revenue involved (₹ in crore)	5,442.03	11,060.31	14,540.00

Source: Records of the Principal Accountant General (E&RSA)

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

Table-1.6.1

## Department-wise details of IRs (Revenue Receipts)

(₹ in crore)

Sl. No.	Name of the Department	Nature of Receipts	Number of outstanding IRs	Number of outstanding audit observations	Money Value involved
1.	Finance	OVAT including OST / CST	820	2,010	1,190.36
		Entry Tax	277	550	349.80
		Professional Tax	12	15	16.97
2.	Excise	State Excise	214	590	445.89
3.	Revenue & Disaster Management	Stamp Duty and Registration Fee	519	986	450.03
4.	Steel & Mines	Mining Receipts	229	684	11,775.49
5.	Transport	Taxes on Vehicles and Taxes on Goods and Passengers	302	1,051	247.10
<b>Total</b>			<b>2,373</b>	<b>5,886</b>	<b>14,475.64</b>

Source: Records of the Principal Accountant General (E&RSA)

## Department-wise details of IRs (Expenditure)

(₹ in crore)

Sl. No.	Name of the Department	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Finance	76	130	0
2.	Excise	93	129	0
3.	Revenue & Disaster Management	131	177	0
4.	Steel & Mines	38	90	6.47
5.	Transport	180	356	57.89
<b>Total</b>		<b>518</b>	<b>882</b>	<b>64.36</b>

Source: Records of the Principal Accountant General (E&RSA)

Audit did not receive even the first replies in respect of 55 IRs issued during 2014-15 from the heads of offices within one month from the date of issue of the IRs. Pendency of IRs due to non-receipt of the replies is indicative of failure to initiate action to rectify the defects, omissions and irregularities pointed out by the PAG in the IRs.

### 1.6.2 Departmental Audit Committee (DAC) Meetings

The Government set up audit committees to monitor and expedite the progress of settlement of IRs and paragraphs contained therein. The details of audit committee meetings held during the year 2014-15 and the paragraphs settled are mentioned in **Table-1.6.2**.

**Table-1.6.2**

#### Details of Departmental Audit Committee Meetings

(₹ in crore)

Sl. No.	Name of the Department	Number of meetings held	Number of Paras settled	Amount
1.	Finance	7	154	30.22
2.	Transport	1	6	0.49
3.	Excise	3	100	52.72
<b>Total</b>		<b>11</b>	<b>260</b>	<b>83.43</b>

Source: Records of the Principal Accountant General (E&RSA)

The Revenue & Disaster Management Department and Steel & Mines Department did not hold any DAC meeting during 2014-15.

### 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 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 1,640 assessment files, returns, refund registers and other relevant records involving tax effect of ₹ 833.18 crore were not made available to audit. Break-up of these cases are given in **Table-1.6.3**. There was no case of non-production of records in other departments.

**Table-1.6.3**

#### Details of non-production of records

(₹ in crore)

Name of the Department	Type of Tax/ Non-tax revenue	Year in which it was to be audited	Number of cases not audited	Tax Amount
Finance	Taxes / VAT on sales, trade etc.	Upto 2013-14	1,153	683.18
		2014-15	487	150.00
<b>Total:</b>			<b>1,640</b>	<b>833.18</b>

Source: Records of the Principal Accountant General (E&RSA)

### 1.6.4 Response of Departments to 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 PAG to the Principal Secretaries / Secretaries of the concerned Departments drawing their attention to audit findings and requesting them to send their response within six weeks. The fact of non-receipt of replies from the Departments / Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Audit forwarded 36 draft paragraphs and one Performance Audit (PA) to the Principal Secretaries / Secretaries of the respective Departments by name between May and October 2015. The Principal Secretaries / Secretaries of the Departments did not send replies to 24 draft paragraphs despite issue of

reminders (October 2015) and the same have been included in this Report without the response of the Departments.

### 1.6.5 Follow-up on Audit Reports – summarised position

Based on the recommendations of the High Powered Committee on response of the State Governments to the Audit Reports of the Comptroller and Auditor General of India, Finance Department issued (December 1993) instructions to Secretaries of all Departments to submit explanatory notes on paragraphs included in the Audit Reports within three months from the date of placing of Report in Odisha Legislative Assembly, indicating the action taken or proposed to be taken. In spite of these instructions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Odisha containing 805 paragraphs (including Performance Audit) for the years ended 31 March 1994, 1995 and 1998 to 2014 were placed before the State Legislative Assembly between June 1995 and March 2015. The action taken explanatory notes in respect of 84 paragraphs featured in the Audit Reports for the years ended March 2013 and March 2014 were not received (November 2015) from five Departments<sup>2</sup>.

The Public Accounts Committee (PAC) discussed 184 selected paragraphs pertaining to the Audit Reports for the years from 1985-86 to 2006-07 and its 428 recommendations were incorporated in 28 Reports. However, Action Taken Notes (ATNs) in respect of 10 recommendations of the PAC laid in the Odisha Legislative Assembly between February 1991 and December 2008 had not been received from the Departments concerned although the same were required to be received within three months from the date of laying of the Reports in the legislature. The details are mentioned in **Table-1.6.5**.

**Table-1.6.5**

Year	Name of the Department			Total
	Commerce and Transport	Excise	Steel & Mines	
1990-91 (10 <sup>th</sup> Assembly)	-	2	-	2
1995-96 (11 <sup>th</sup> Assembly)	1	-	-	1
2007-08 (13 <sup>th</sup> Assembly)	-	1	-	1
2008-09 (13 <sup>th</sup> Assembly)	-	5	1	6
<b>Total</b>	<b>1</b>	<b>8</b>	<b>1</b>	<b>10</b>

### 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, action taken on the paragraphs and PAs included in the Audit Reports of the last 10 years in respect of one Department is evaluated and included in this Audit Report.

The succeeding paragraphs 1.7.1 to 1.7.3 discuss the performance of the **Steel & Mines Department** under revenue head **0853-Non-Ferrous Mining and Metallurgical Industries** and the cases detected in local audit during the

<sup>2</sup> Commerce and Transport (Transport): 13, Excise: 29, Finance: 19, Revenue & Disaster Management: 10 and Steel & Mines: 13.

last 10 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 IRs issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2015 are given in **Table-1.7.1**.

**Table-1.7.1**  
**Position of Inspection Reports**

(₹ in crore)

Sl. No.	Year	Opening Balance			Addition during the year			Clearance during the year			Closing Balance		
		IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
1.	2005-06	144	304	24.12	33	57	59.72	39	118	3.58	138	243	80.26
2.	2006-07	138	243	80.26	18	37	148.16	6	30	103.63	150	250	124.79
3.	2007-08	150	250	124.79	28	58	35.48	50	106	9.1	128	202	151.17
4.	2008-09	142	328	597.04	36	121	175.76	36	160	456.84	142	289	315.96
5.	2009-10	142	289	315.96	48	152	285.48	51	123	96.76	139	318	504.68
6.	2010-11	139	318	504.68	42	146	1,273.90	31	99	228.24	150	365	1,550.34
7.	2011-12	150	365	1,550.34	46	155	199.67	28	80	55.02	168	440	1,694.99
8.	2012-13	168	440	1,694.99	26	156	1,827.42	12	90	413.89	182	506	3,108.52
9.	2013-14	182	506	3,108.52	44	182	12,775.43	11	25	111.17	215	663	15,772.78
10.	2014-15	215	663	15,772.78	29	115	48,306.68	22	103	7,339.34	222	675	56,740.12

Source: Records of the Principal Accountant General (E&RSA)

The Government arranges *ad hoc* Committee meetings between the Department and PAG's office to settle the old paragraphs. Against 144 outstanding IRs with 304 paragraphs at the beginning of 2005-06, the number of outstanding IRs increased to 222 with 675 paragraphs at the end of 2014-15. Thus, there was no substantial improvement in clearance of IRs and paragraphs by the Department during the years 2005-06 to 2014-15.

### 1.7.2 Recovery of Accepted Cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are mentioned in **Table 1.7.2**.

**Table-1.7.2**

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases as on 31 March 2015
2004-05	6	29.49	4	26.05	--	25.68
2005-06	2	3.13	1	1.99	--	1.95
2006-07	4	9.26	3	9.18	--	9.18
2007-08	1	206.20	5	8.38	--	2.41
2008-09	4	6.39	2	0.23	--	0.23
2009-10	2	19.24	1	3.01	--	3.01
2010-11	3	238.71	2	227.70	--	6.37
2011-12	7	1,511.68	4	64.92	--	0.69
2012-13	6 Paras+ 1 PA	5,646.99	3 Paras +1 PA	648.33	149.07	149.07
2013-14	6	84.43	4	45.47	--	-

Source: Records of the Principal Accountant General (E&RSA)

The progress of recovery even in accepted cases relating to Audit Reports 2007-08, 2010-11, 2011-12 and 2013-14 was very slow. The recovery of accepted cases was to be pursued as arrears recoverable from the concerned parties. No mechanism for pursuance of the accepted cases was put in place by the Department / Government.

### 1.7.3 Action taken on the recommendations accepted by the Department / Government

The draft reports on PAs conducted by the PAG are forwarded to the concerned Department / Government for their information with a request to furnish replies within six weeks. These PAs are also discussed in the exit conference and the Department's / Government's views are included while finalising the PAs for inclusion in the Audit Reports.

The following PA on the Steel & Mines Department featured in the Audit Report for the year ended March 2013. The details of recommendations and their status are given in **Table 1.7.3**.

**Table-1.7.3**

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
2012-13	Working of Steel & Mines Department	5	<ul style="list-style-type: none"> <li>• Prescribing time limit for disposal of applications;</li> <li>• Instituting mechanism for timely termination of non-operating mines;</li> <li>• Ensuring regular inspection of mines;</li> <li>• Prescribing time limit for disposal of seized minerals; and</li> <li>• Conducting internal audit regularly.</li> </ul>	Actions taken by the Department on the recommendations have not been intimated to Audit.

## 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* includes critical issues in Government revenue 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 513 auditable units of which 191 units were planned and audited which is 37.23 *per cent* of the total auditable units.

Besides the above, one Performance Audit was also taken up in the Department of Steel & Mines to assess whether implementation of the Integrated Mines and Minerals Management System (i3MS) was successful and fulfilled the requirements of the Department.

## **1.9 Results of Audit**

### **Position of local audit conducted during the year**

Test check of records of 142 units relating to Value Added Tax, Goods and Passengers Tax, State Excise Duty, Stamp Duty and Registration Fee, Motor Vehicle Tax and other Non-Tax receipts conducted during the year 2014-15 showed underassessment / short levy / loss of revenue aggregating ₹ 11,665.85 crore in 1,78,420 cases. During the year, Departments concerned accepted underassessment and other deficiencies of ₹ 144.95 crore involved in 1,21,514 cases which were pointed out in audit during 2014-15 and realised ₹ 9.85 crore in 509 cases pertaining to audit findings of 2014-15 and previous years.

Similarly, test check of records of 142 units under Commercial Taxes, Excise, Revenue & Disaster Management, Transport and Steel & Mines Departments conducted during the year 2014-15 showed irregular expenditure / payment amounting to ₹ 571.49 crore in 263 cases. During the year, the Departments concerned accepted irregularities of ₹ 9.19 crore involved in 99 cases which were pointed out in audit during 2014-15 and realised ₹ 5.06 lakh in 8 cases pertaining to previous years.

### **1.10 Coverage of this Report**

This Report contains 33 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 “**Implementation of the Integrated Mines and Minerals Management System (i3MS)**” involving financial effect of ₹ 357.41 crore.

The Departments / Government have accepted audit observations in 17 paragraphs involving financial effect of ₹ 122.02 crore out of which ₹ 0.92 crore had been recovered. Replies in the remaining cases have not been received (December 2015). These are discussed in the succeeding Chapters II to VI.

## CHAPTER II

### VALUE ADDED TAX, CENTRAL SALES TAX AND ENTRY TAX ETC.

#### 2.1 Tax Administration

Value Added Tax, Entry Tax, Central Sales Tax, Professional Tax, Entertainment Tax, Luxury Tax Acts and Rules framed thereunder are administered at the Government level by the Additional Chief Secretary, Finance Department, Government of Odisha. The Commissioner of Commercial Taxes (CCT) is the head of the Commercial Tax wing of Finance Department who is assisted by Additional CCTs in 3 zones, Joint CCTs (JCCTs) in 12 ranges, Deputy CCTs (DCCTs) / Assistant CCTs (ACCTs) / Commercial Tax Officers (CTOs) in 45 circles and CTOs in 14 assessment units for administering the relevant tax laws and rules under Odisha Value Added Tax (OVAT) Act, 2004, Odisha Entry Tax (OET) Act, 1999, Central Sales Tax (CST) Act, 1956, Odisha State Tax on Professions, Trades, Callings and Employments Act, 2000 (commonly known as Professional Tax Act, 2000). Besides, there are 6 enforcement ranges headed by Special Commissioners of Commercial Taxes (Enforcement) and 15 investigation units for checking tax evasion and interstate transactions.

#### 2.2 Internal Audit

The Internal Audit Wing (IAW) of the Department is defunct since 2002-03. The Department has not taken any steps to revive IAW despite this being pointed out in Audit Reports (Revenue Sector) during the previous years. The Department stated (July 2015) that steps would be taken to revive IAW.

#### 2.3 Results of Audit

##### A. REVENUE RECEIPTS

In 2014-15, test check of records of 51 units relating to OVAT, CST, OET, Odisha Entertainment Tax and Professional Tax assessments and other records showed underassessment of tax and other irregularities involving ₹ 2,375.79 crore in 540 cases which fall under the following categories as given in **Table 2.1** below.

**Table - 2.1**

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
<b>Sales Tax / VAT(including CST)</b>			
1.	Audit of Levy and collection of Entertainment Tax from Cable Television and Direct to Home Broad casting service operators	1	0.82
2.	Audit of System of Assessment under Value Added Tax	1	591.50
3.	Underassessment of tax	131	522.52
4.	Acceptance of defective statutory declaration forms	25	6.54

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
5.	Evasion of tax due to suppression of sales / purchase	12	29.64
6.	Irregular / incorrect/excess allowance of input tax credit	36	28.02
7.	Other Irregularities	171	1047.15
	<b>Total</b>	<b>377</b>	<b>2,226.19</b>
<b>Entry Tax</b>			
1.	Underassessment of tax	81	94.90
2.	Acceptance of defective statutory declaration forms	5	3.00
3.	Evasion of tax due to suppression of sales / purchase	2	0.64
4.	Other Irregularities	68	50.96
	<b>Total</b>	<b>156</b>	<b>149.50</b>
<b>Professional Tax</b>			
1.	Other Irregularities	7	0.10
	<b>Total</b>	<b>7</b>	<b>0.10</b>
	<b>Grand Total</b>	<b>540</b>	<b>2,375.79</b>

During the year 2014-15, Department accepted underassessment and other deficiencies of ₹ 9.58 crore in 78 cases which were pointed out in audit during 2014-15 and earlier years. An amount of ₹ 1.16 crore was realised in 37 cases during the year 2014-15.

#### **B. EXPENDITURE**

Audit also test checked records relating to expenditure accounts of the above units and found irregularities involving ₹ 0.23 crore in 54 cases which fall under the following categories as given in **Table 2.2** below.

**Table 2.2**

(₹ in lakh)			
Sl. No.	Categories	No. of cases	Amount
1.	Irregularity in management of cash	12	5.77
2.	Irregular payment of House Rent	6	4.96
3.	Other Irregularities	36	12.11
	<b>Total</b>	<b>54</b>	<b>22.84</b>

During the course of the year, Department accepted irregularities and other deficiencies of ₹ 0.02 crore in 4 cases which were pointed out in audit during 2014-15 and earlier years. An amount of ₹ 0.10 lakh pointed out in 2014-15 had been realised.

## 2.4 Audit of System of Assessments under Value Added Tax

### 2.4.1 Introduction

Value Added Tax (VAT) is a multi-point tax levied at each stage of value addition with a provision to allow input tax credit (ITC) on tax paid earlier at the time of purchase which is adjusted against the tax payable on sale by the dealer. The Odisha Value Added Tax (OVAT) Act, 2004 introduced in the State with effect from 1 April 2005 is administered by the Additional Chief Secretary, Finance Department, Government of Odisha. VAT constitutes a major portion of the State revenue and accounts for nearly 58 per cent of it. Assessment, levy and collection of VAT are entrusted to the Commissioner of Commercial Taxes, Odisha. Assessment of tax has a direct bearing on levy and collection of tax and quality of tax administration. Since assessments are made only in respect of the dealers selected on the basis of certain parameters, audit was conducted between April and August 2015 to study the effectiveness of the system of assessment in 15<sup>1</sup> out of 45 circles under the Commercial Tax (CT) wing of the Finance Department covering the tax periods from 2011-12 to 2013-14. Audit revealed several systemic and compliance deficiencies in the system of assessment as discussed in the succeeding paragraphs.

### 2.4.2 Trend of Revenue Collection under VAT vis-à-vis Collection from Assessments

The details regarding total revenue collection of the 15 test checked circles during the last three years 2011-12 to 2013-14 vis-à-vis the number of assessments made, amount demanded and amount realised from assessments were as follows:

(₹ in lakh)								
Year	Number of dealers selected for tax audit	Number of dealers covered under tax audit during the year	Total number of assessments made by test checked circles under VAT	Total revenue collection of test checked circles under VAT	Amount of tax demanded by test checked circles under VAT on the basis of assessment	Percentage of amount demanded to total revenue under VAT	Amount realised out of tax demanded under VAT on the basis of assessment	Percentage of amount realised to amount demanded on assessments under VAT (col. 6 ÷ col. 4 × 100)
1	2	3	4	5	6	7	8	9
2011-12	5,618	2,300	1,110	5,41,569.63	35,743.24	6.60	3,194.12	8.94
2012-13	5,672	3,882	1,441	6,27,662.71	33,498.58	5.34	3,055.04	9.12
2013-14	3,260	2,718	1,723	6,93,597.85	39,712.84	5.73	3,039.27	7.65
<b>Total</b>	<b>14,550</b>	<b>8,900</b>	<b>4,274</b>	<b>18,62,830.19</b>	<b>1,08,954.66</b>	<b>5.85</b>	<b>9,288.43</b>	<b>8.53</b>

Source: Information furnished by the assessing authorities of test checked circles

As may be seen from the above, the percentage of amount demanded on assessments was 5.85 per cent of the total revenue under VAT on an average during the above three years and the remaining 94.15 per cent of the VAT revenue came from *suo motu* tax compliance by the dealers. Further, though the test checked units demanded 5.85 per cent of VAT, they realised only 0.5 per cent mainly due to departmental inaction to realise the amount. It was also seen that the percentage of assessments

<sup>1</sup> Angul, Balasore, Bhubaneswar-I, Bhubaneswar-II, Bhubaneswar-III, Bhubaneswar-IV, Bhadrak, Cuttack-I (Central), Cuttack-I (West), Cuttack-I (East), Cuttack-II, Gajapati, Jharsuguda, Mayurbhanj and Rourkela-II.

conducted by the test checked circles to the total number of dealers selected for tax audit during the year 2011-14 was 29.37 per cent.

## **Audit Findings**

### **2.4.3 Selection of Dealers for Tax Audit**

As per Section 41 of the OVAT Act read with Rule 41 of the OVAT Rules, the Commissioner may select certain number of registered dealers on random basis or on the basis of risk analysis or on the basis of any other objective criteria at such intervals as may be prescribed ordinarily before the close of the year for tax audit during the following year. However, for control of large taxpayers, the Commissioner may plan audit checks across the totality of the business of such dealers, within an audit cycle of three years.

The CCT, Odisha, had prescribed the following major parameters for selection of dealers for tax audit during 2011-12, 2012-13 and 2013-14.

- (a) Decrease in tax paid in a year as compared to the preceding year;
- (b) Dealers obtaining waybills and statutory declaration forms but filing 'nil' returns;
- (c) Dealers carrying forward input tax credit consecutively for three tax periods;
- (d) Misclassification of goods (lower tax rate versus higher tax rate); and
- (e) Dealers disclosing total purchase turnover more than total sale turnover.

Dealers satisfying any three or more of the parameters so prescribed are considered for selection for tax audit. In addition to the above, large taxpayer units who were not audited for last two years are also selected for tax audit.

#### **2.4.3.1 Shortfall in Tax Audit**

From the information furnished by the CCT, Odisha, Audit noticed that out of 14,550 dealers selected by the CCT for tax audit during 2011-12 to 2013-14 on the basis of various parameters / criteria, only 8,900 dealers were audited, leading to a shortfall in tax audit of 5,650 dealers (39 per cent). The details are given in the table below:

Year	Number of dealers selected for tax audit	Number of dealers covered under tax audit during the year	Shortfall in tax audit	Percentage of shortfall
2011-12	5,618	2,300	3,318	59
2012-13	5,672	3,882	1,790	32
2013-14	3,260	2,718	542	17
<b>Total</b>	<b>14,550</b>	<b>8,900</b>	<b>5,650</b>	<b>39</b>

As may be seen from the above table, while the percentage of shortfall in tax audit was 59 per cent during 2011-12, it declined to 32 per cent during 2012-13 and 17 per cent in 2013-14. The Department could not attribute

any reason for shortfall in tax audit. Shortfall in tax audit indicated that the transactions of the dealers which were selected on the basis of the prescribed criteria, could not be assessed.

#### 2.4.4 Non-adherence to Executive/ Departmental Instructions for Tax Audit

**2.4.4.1** As per Section 41(4) of the OVAT Act, after completion of tax audit of any dealer, the officer authorised to conduct such audit shall, within seven days from the date of completion of audit, submit the audit report called as 'Audit Visit Report' (AVR) to the assessing authority (AA) in the prescribed form along with the statements recorded and documents obtained evidencing suppression of purchases or sales or both, erroneous claims of deductions including input tax credit and evasion of tax, if any, relevant for the purpose of investigation, assessment or such other purposes. To make the AVR comprehensive and qualitative covering all aspects of accounts, the CCT prescribed<sup>2</sup> (July 2009) an Audit Check Sheet to be duly filled in by the tax audit team which will form part of the AVR. The check sheet shall include, among other things, the details of purchase and sales, details of statutory forms and waybills used, details of closing stock and physical verification thereof by the tax audit team.

From the scrutiny of 678 out of total 3,223 AVRs produced by the AAs of test checked circles on the basis of which audit assessments were finalised during 2011-12 to 2013-14, Audit noticed that 449 AVRs did not contain the prescribed audit check sheets. The year-wise details are given below:

Year	Total number of AVRs produced to audit along with audit assessment records	Number of AVRs in which audit check sheets were not available	Percentage of AVRs in which audit check sheets were not available
2011-12	106	58	54.71
2012-13	189	130	68.78
2013-14	383	261	68.15
<b>Total</b>	<b>678</b>	<b>449</b>	<b>66.22</b>

As may be seen from the above, on an average, 66.22 per cent of the AVRs did not contain the audit check sheets and thus lacked the required information. Despite this, audit assessments were finalised on the basis of the AVRs. As a result, it could not be ascertained whether the assessments in these cases were done correctly or not.

After Audit pointed out the matter, the AAs of all the test checked circles admitted (between June and August 2015) the audit observation and stated to have noted the same for future guidance.

**2.4.4.2** Tax authorities, when performing quasi-judicial functions have the jurisdiction of a court and accordingly they are required to discharge the duties enjoined upon them under the statute in accordance with the norms of the judicial procedure.

2 CCT's Circular No. 12492/Ct, dated 8 July 2009.

Based on the direction of the Hon'ble High Court of Odisha<sup>3</sup> the CCT, Odisha issued instructions (November 2009, September 2012 and July 2014) to the AAs for-

- (i) using the Government printed order sheet forms from 1 December 2009;
- (ii) issuing orders of assessment and the demand notices to the dealers by registered post with acknowledgement form; and
- (iii) maintaining the records up-to-date and taking signatures of the dealers or their authorised representatives on the body of the order sheets on the date of appearance.

Audit examined the records relating to 1,008 assessments involving financial implication of ₹ 500.29 crore (including 678 audit assessments) out of 4,284 assessments made during 2011-14 in the test checked circles and noticed (between June and August 2015) as under.

- In 862 cases (85.52 *per cent*), signatures of dealers or their authorised representatives were not taken on the order sheets.
- In 518 cases (51.39 *per cent*), the order sheets were not maintained in Government printed order sheet forms.
- In 915 cases (90.77 *per cent*), demand notices were not issued within two weeks from the date of issue of assessment orders.
- In 821 cases (81.45 *per cent*), the assessment orders were not despatched through registered post.

Thus, non-maintenance of assessment records as per the Court's directions was fraught with risk of the assessments becoming vulnerable to challenges in judiciary and consequential blockage of Government revenue. In this connection, it may be mentioned that the Hon'ble High Court in three other cases<sup>4</sup> also quashed (August 2013) the assessment orders as the directions of the Court were not carried out.

After Audit pointed out (between June and August 2015) the above cases, the concerned AAs admitted (between June and August 2015) the facts and noted it for future guidance. The matter was brought to the notice of the CCT, Odisha in August 2015 and reply is awaited (December 2015).

#### **2.4.5 Assessment of Escaped Turnover**

As per Section 43 of the OVAT Act read with Rule 50 of the OVAT Rules, if after assessment of the dealer, the AA, on the basis of any information in his possession, is of the opinion that the whole or any part of the turnover of the dealer in respect of any tax period has escaped assessment or been under assessed or been assessed at a rate lower than that leviable, he may, after giving the dealer a reasonable opportunity of being heard, proceed to assess the escaped turnover. Further, if the AA is satisfied that the

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<sup>3</sup> WP(C) No. 2180 of 2008- M/s Geetanjali Cement Products vrs. Sales Tax Officer, Rourkela II Circle, Rourkela [(2010) 036 VST 0380].

<sup>4</sup> WP(C) No. 16616 of 2013-dated 16 August 2013, WP(C) No. 16617 of 2013-dated 16 August 2013 and WP(C) No. 16622 of 2013-dated 16 August 2013.

escapement is without any reasonable cause, he may direct the dealer to pay, by way of penalty, a sum equal to twice the amount of tax additionally assessed. Enforcement and Vigilance wings of the Department play an important role in checking the evasion of tax by unscrupulous dealers. CCT, Odisha in his circular<sup>5</sup> dated 29 December 2012, issued instructions to all AAs for speedy disposal of investigation reports of Enforcement and Vigilance wings of the Department. As per the instruction, the assessment proceedings must be initiated immediately after receipt of investigation reports and completed within six months from the date of receipt of these reports. In case of compelling reasons, such proceedings may be completed within one year from the date of receipt of reports. In the event of extending the assessment beyond one year, reasons have to be recorded and the CCT kept informed of the same.

#### **2.4.5.1 Non-completion of Assessments of Fraud / Tax Evasion cases**

During scrutiny of records relating to fraud / tax evasion cases, Audit noticed that during 2011-12 to 2013-14, the test checked circles received 991 fraud cases / tax evasion reports from the Enforcement and Vigilance wings of the Department. Out of the above, 973 reports had been disposed of within the prescribed time limit and the remaining 18 reports involving evasion of tax of ₹ 9.24 crore had not been disposed of by four<sup>6</sup> circles even after more than one year.

After Audit pointed out the cases, the AAs stated (between June and August 2015) that the assessment proceedings against the dealers were in progress and would be completed very soon. The matter was reported (August 2015) to the CCT, Odisha and reply is awaited (December 2015).

#### **2.4.5.2 Short levy of tax due to non-inclusion of Transport Charges in the Taxable Turnover of Sales**

The term 'sale price' as defined under Section 2(46) of the OVAT Act, means the amount of valuable consideration received or receivable by a dealer as consideration for the sale of any goods less any sum allowed as cash discount or trade discount at the time of delivery or before delivery of such goods but inclusive of any sum charged for anything done by the dealer in respect of the goods at the time of or before the delivery thereof. As per Explanation (a) to the above section applicable with effect from 1 June 2008, any sum charged for freight, delivery, distribution, installation or insurance at the time of delivery or before delivery of such goods, shall be included in the sale price.

During scrutiny of assessment records in Jharsuguda Circle, Audit noticed that a dealer engaged in trading of coal within the State received transport charges of ₹ 6.78 crore during the tax periods from 1 June 2008 to 31 March 2012 as revealed from the Profit & Loss Accounts of the dealer on which tax of ₹ 27.11 lakh was payable. The dealer did not include the

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<sup>5</sup> Circular No. III (I) 38/09-22239/CT, dated 29 December 2012.

<sup>6</sup> Bhubaneswar-III (two cases), Cuttack-I East (one case), Jharsuguda (14 cases) and Rourkela-II (one case).

transportation charges in the sale turnover in the purchase / sale statements. The AA, while finalising the audit assessment under Section 42 of the Act for the tax periods from 1 April 2007 to 31 March 2012, had also failed to include such transport charges in the taxable turnover. This resulted in short levy of tax of ₹ 27.11 lakh. Besides, penalty of ₹ 54.22 lakh was also leviable.

After Audit pointed out (December 2014) the case, the AA stated (December 2014) that the matter would be examined and results would be intimated later.

#### **2.4.6 Provisional Assessment**

As per Section 40 of the OVAT Act read with Rule 47 of the OVAT Rules, where a dealer fails to file return in respect of any tax period or files return not accompanied by proof of payment of tax for any tax period within the prescribed time, the AA may assess the dealer provisionally. Further, as per the provisions of Section 34(3) of the Act, if a registered dealer or any other dealer required to furnish return, without any sufficient cause, fails to furnish the returns, the commissioner may, after giving the dealer a reasonable opportunity of being heard, direct him to pay in addition to any tax, interest and penalty payable or paid by him, a penalty of a sum of rupees one hundred per each day of default subject to a maximum of rupees ten thousand. Further, as per Section 31 of the Act, the registering authority may, at any time, for reasons to be recorded in writing, suspend the certificate of registration if such dealer fails to file returns under the Act within the time prescribed.

##### **2.4.6.1 Non-initiation of action for not filing returns**

During analysis of data generated from the VAT Information System (VATIS) and information furnished by all test checked circles for the year 2013-14, Audit noticed that 2,830 dealers registered under the OVAT Act stopped filing returns between July 2009 and April 2014. The number of months for which returns were not filed by these dealers ranged between 15 and 72. It was however noticed that although these dealers were required to be assessed provisionally under Section 40 of the Act, neither had the AAs made any such provisional assessments nor did they initiate any action for imposition of penalty of ₹ 2.83 crore<sup>7</sup> as per the provisions of the Act.

After Audit pointed out these cases, the AAs stated (between June and August 2015) that the cases would be taken up for examination. The matter was reported to the CCT, Odisha in August 2015 and reply is awaited (December 2015).

#### **2.4.7 Non-assessment of Casual Dealers**

As per provision under Section 45 of the OVAT Act read with Rule 52(1) of the OVAT Rules, a casual dealer shall furnish to the assessing authority including the officer-in-charge of check post or barrier referred to in

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<sup>7</sup> 2,830 dealers × ₹ 10,000 (penalty at the rate of ₹ 100 per day subject to a maximum of ₹ 10,000).

Section 74, a return of estimated turnover in Form VAT-311A either on his own motion or when called upon to do so by notice in Form VAT-309, immediately. The assessing authority or the officer in-charge of check post or barrier, if he is satisfied, after making such enquiry as he may consider necessary, that the return furnished under sub-rule (1) is correct and complete, shall provisionally assess the amount of tax due from him on the basis of such return.

From the information furnished by the five circles<sup>8</sup>, Audit noticed that no survey and assessments of casual dealers were conducted during the period 2011-12 to 2013-14. However, as per the information on casual dealers obtained by Audit from the Deputy Commissioner of Police, Bhubaneswar and Additional District Magistrate, Balasore, 1,324 casual dealers under the four circles of Bhubaneswar and 12 dealers under Balasore Circle had taken licence for sale of firecrackers during the period which is taxable at the rate of 13.5 *per cent*. However, neither did these dealers furnish returns in respect of the transactions effected nor did the AAs of above five circles issue notices to them for assessment as per the provisions of the Act.

After Audit pointed out the cases, while the AA of Bhubaneswar-I Circle stated (June 2015) that the list provided by Audit would be taken into consideration for survey, the AAs of Bhubaneswar-III and Balasore Circles noted the audit observation for future action. The AAs of Bhubaneswar-II and Bhubaneswar-IV circles stated (July 2015) that the matter would be examined and steps taken accordingly.

The matter was reported to the CCT, Odisha in August 2015 and reply is awaited (December 2015).

## **2.4.8 Follow-up of Assessments**

### **2.4.8.1 Non-levy of interest and penalty for non-payment of amount demanded in assessments**

As per the provisions of Section 50 (5) of the OVAT Act, where a registered dealer fails to make payment of the tax assessed, interest payable or penalty imposed or any other amount due from him under the Act within 30 days of the date of service of the notice of demand, the AA shall, after giving the dealer a reasonable opportunity of being heard, direct that such dealer shall pay, in addition to the amount due for payment, by way of penalty, a sum equal to two *per cent* of such amount of tax, interest, penalty or any other amount due, for every month for which payment has been delayed by him after the date on which such amount was due to be paid. Further, as per sub-section (6) of the Section *ibid*, if the dealer is in default in payment of the amount payable by him under sub-section (5), he shall be liable to pay simple interest on such amount at the rate of two *per cent* per month with effect from the date of such default till the payment of the amount. This apart, Section 50 (7) *inter alia* provides that all amounts that remain unpaid after the due date of payment in pursuance of the notice issued under Section 50 (5) of the Act shall be recoverable as arrears of

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<sup>8</sup> Balasore, Bhubaneswar-I, Bhubaneswar-II, Bhubaneswar-III and Bhubaneswar-IV.

public demand or in accordance with the provisions contained in Schedule E to the Act.

During scrutiny of assessment records and Demand Collection Registers<sup>9</sup> for the years 2011-12 to 2013-14 in the test checked circles and further information furnished by the Department, Audit noticed that till the date of audit, 540 dealers had not paid tax, interest and penalty of ₹ 74.06 crore demanded (between April 2011 and September 2014) by the AAs during finalisation of 552 assessments under various provisions of the Act during 2011-12 to 2013-14. However, neither had the AAs issued show cause notices to the defaulting dealers nor levied any interest as per the provision of the Act. Besides, the AAs had also not initiated action for recovery of the amount as prescribed in Section 50(7) of the Act along with penalty and interest of ₹ 79.24 crore.

(₹ in crore)

Provision under which assessed	Number of cases (assessments)	Amount of tax, interest and penalty levied	Period during which demand notices issued	Range of delay till date of audit (in days)	Penalty leviable	Interest leviable	Total of penalty and interest leviable
Section 40	3	0.27	May 2012 to December 2013	550 to 1095	0.10	0.10	0.20
Section 42	346	40.37	May 2011 to September 2014	262 to 1525	20.41	20.41	40.82
Section 43	162	32.05	April 2011 to June 2014	292 to 1518	18.32	18.32	36.64
Section 44	41	1.37	September 2011 to March 2014	184 to 1408	0.79	0.79	1.58
<b>Total</b>	<b>552</b>	<b>74.06</b>			<b>39.62</b>	<b>39.62</b>	<b>79.24</b>

After Audit pointed out (August 2015) the above cases, the AAs of 13 out of 15 test checked circles stated (between June and August 2015) that action would be taken to realise the amount after examination. However, AAs of Bhubaneswar-I and Cuttack-II circles stated (June and July 2015) that tax recovery proceedings would be initiated against the defaulting dealers.

#### **2.4.8.2 Non-adherence to the Executive Instructions for Review of Assessment Records**

The CCT, Odisha instructed<sup>10</sup> (February 2010) all the zonal Additional CCTs and JCCTs/DCCTs of the ranges to review at least two / five assessment records every month and to submit monthly compliance report.

From the information furnished by the AAs of 11<sup>11</sup> out of total 15 test checked circles, it was noticed that no such review of assessment records had been conducted by the JCCTs/DCCTs of the ranges or the zonal Additional CCTs during 2011-12 to 2013-14. It was further noticed

<sup>9</sup> Demand Collection Registers are maintained by the circles to watch the recovery of tax, interest, penalty etc. demanded during assessments.

<sup>10</sup> CCT's letter No. 1745/ CT, dated 2 February 2010.

<sup>11</sup> Angul, Balasore, Bhubaneswar-I, Bhubaneswar-II, Bhubaneswar-III, Cuttack-I Central, Cuttack-I East, Gajapati, Jharsuguda, Mayurbhanj and Rourkela-II.

that neither the compliance reports were submitted by the JCCTs / DCCTs / Additional CCTs to the office of the CCT nor did the latter monitor receipt of the same. The remaining four circles<sup>12</sup>, though stated that reviews had been done by the JCCTs of the concerned ranges, could however produce no evidence in support thereof to Audit.

Audit reported the matter to the CCT, Odisha in August 2015. However, his reply is awaited (December 2015).

#### **2.4.9 Assessment Module of VATIS remained non-operational**

The VAT Information System (VATIS) provides an assessment module for maintaining and updating of information relating to assessments right from the issue of notice to the dealer for assessment upto the generation of demand collection register. The CCT, Odisha instructed (22 May 2013) all the AAs, among other things, for updation of the module at the time of assessment of the dealers. However, from the information furnished by the selected circles, it was noticed that the Department had not utilised the assessment module of VATIS during assessments. Non-utilisation of the module at the time of assessments is fraught with risk of manipulation of data such as antedating of notices, assessment orders, demand notices etc. Further, the assessment orders could not also be uploaded to the module to maintain transparency in assessments as well as for review and monitoring of such assessments by the higher authorities. The CCT also failed to monitor proper adherence to his instructions by the AAs.

Audit reported the matter to the CCT, Odisha in August 2015. However, his reply is awaited (December 2015).

#### **2.4.10 Conclusion**

The audit of system of assessments under Value Added Tax revealed several deficiencies. While there were huge shortfalls in tax audit of selected dealers leading to non-assessment, the assessing authorities failed to adhere to the executive instructions regarding tax audit and audit assessments issued from time to time. Casual dealers remained unidentified due to absence of intensive surveys. The department also failed to initiate any action against the dealers who defaulted in filing returns continuously.

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<sup>12</sup> Bhadrak, Bhubaneswar-IV, Cuttack-I West and Cuttack-II.

## **2.5 Audit of Levy and Collection of Entertainment Tax from Cable Television and Direct to Home Broadcasting Service Operators**

### **2.5.1 Introduction**

The assessment, levy and collection of entertainment tax in Odisha is governed by the Odisha Entertainment Tax Act, 2006 (OENT Act) and the Rules made thereunder, as amended from time to time. Under the Act, the proprietor of a cable television (TV) network or Direct to Home (DTH) Broadcasting Service shall be liable to pay entertainment tax at such rate as may be prescribed.

The administration of Entertainment Tax (ENT) in the State is entrusted to the Commercial Tax wing of Finance Department and the Commissioner of Commercial Taxes (CCT), Odisha is responsible for implementation of the provisions of OENT Act and the Rules made thereunder.

As per information furnished by the Department of Posts, the number of cable TV operators increased from 985 in 2011-12 to 1,496 in 2013-14. In view of increasing number of cable TV and DTH operators in the State, audit was taken up during April to June 2015 through test check of nine<sup>13</sup> out of 45 circles where cable TV and DTH operators were registered, covering the period from 2010-11 to 2013-14 to assess the existence of system to check evasion of ENT and the extent of compliance to the provisions under the Act and the Rules in levy and collection of tax.

### **2.5.2 Trend of Revenue Collection**

#### **2.5.2.1 Trend of collection of entertainment tax**

Total revenue collected by the Department *vis-à-vis* the collection of entertainment tax for the last three years 2011-14 is given in the table below.

(₹ in crore)

Year	Total revenue collected	Entertainment tax receipts	Percentage of entertainment tax receipts to total revenue
2011-12	9,657.45	9.09	0.09
2012-13	11,134.07	9.78	0.09
2013-14	12,555.38	12.81	0.10

*Source: Data collected from Commissioner of Entertainment Tax*

Revenue collected towards entertainment tax ranged between 0.09 and 0.10 *per cent* of the total revenue collected during the above three years. As the department could not furnish the budget estimates (BE) of ENT, the achievement / shortfall of the department with respect of BE could not be analysed.

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<sup>13</sup> Balangir, Barbil, Bhubaneswar-II, Bhubaneswar-III, Bhubaneswar-IV, Ganjam-I, Kalahandi, Puri and Koraput.

### 2.5.2.2 *Trend of collection through Cable TV and DTH Operators*

Total revenue collected by Government towards entertainment tax *vis-à-vis* the revenue collected from cable TV and DTH operators of the State in the nine test checked circles during the last three years is given below:

(₹ in crore)

Year	No. of Cable TV operators	Total collection from Cable TV operators	No. of DTH operators	Total collection from DTH operators	Total Cable TV and DTH operators	Total collection from Cable TV and DTH operators	Total ENT receipts	Percentage of collection from Cable TV and DTH operators to total ENT
2011-12	22	2.29	4	4.42	26	6.71	9.09	73.82
2012-13	23	2.60	4	4.66	27	7.26	9.78	74.23
2013-14	24	2.87	4	5.54	28	8.41	12.81	65.65
<b>Total</b>	<b>69</b>	<b>7.76</b>	<b>12</b>	<b>14.62</b>	<b>81</b>	<b>22.38</b>	<b>31.68</b>	

Source: Data collected from Commissioner of Entertainment Tax

The collection of ENT from cable TV and DTH operators to total entertainment tax receipts increased by 0.41 *per cent* in 2012-13 as compared to the previous year, it decreased by 8.58 *per cent* in 2013-14 despite increase in number of cable TV operators during 2013-14.

## **Audit Findings**

### **2.5.3 Loss of revenue due to non-initiation of action against unregistered operators**

Section 15 of OENT Act empowers the officer authorised by the State Government to search and inspect any place of entertainment while the entertainment is proceeding and any place ordinarily used as a place of entertainment or for keeping connected records with a view to securing compliance of the provisions of the Act or the Rules.

#### **2.5.3.1 Failure to obtain information from the Department of Posts led to continuation of cable operators without registration**

As per Sections 3 and 4 of Cable Television Networks (Regulation) Act, 1995 read with Rule 3 of Cable Television Networks (Regulation) Rules, 1994, a cable TV operator is required to register himself with the Department of Posts of Government of India and obtain a certificate for running the cable TV network till the operator carries on the cable TV service or where the surrender of the certificate is accepted by the competent authority. Rule 12 of the OENT Rules, 2006 stipulates that the proprietor of a cable TV network shall submit to the Commissioner, an application in Form XA at least fifteen days before the date of providing such entertainment and the Commissioner, after making enquiry, shall issue a certificate in form XIII A permitting the proprietor to operate the cable TV network. As per Section 9(2) of OENT Act, 2006, no proprietor of a cable television network shall provide entertainment unless he obtains permission from the Commissioner in Form XIII A. Further, as per Rule 31(1)(a) of OENT Rules, where the proprietor failed to give information or take

permission as required under above rule, the AA shall issue notice in Form VIII for assessment of tax.

From the information collected from the Department of Posts, Audit noticed that more than 98 *per cent* of the cable TV operators of the State registered under the Department of Posts were not registered under the OENT Act during 2011-12 to 2013-14. The details regarding number of operators registered under the Department of Posts vis-à-vis the OENT Act during 2011-12 to 2013-14 are given below.

Year	Number of cable TV operators registered under		Number of cable TV operators not registered under OENT Act	Percentage of cable TV operators not registered under OENT Act
	Department of Posts	OENT Act		
2011-12	985	22	963	97.77
2012-13	1,269	23	1,246	98.19
2013-14	1,496	24	1,472	98.40

*Source: Data collected from Department of Posts and Commissioner of Entertainment Tax*

Thus, 1,472 cable TV operators (more than 98 *per cent*) registered under the Department of Posts were not registered under the OENT Act and had also not submitted application in Form XA to the Commissioner for issue of certificates as on 31 March 2015. Despite this, the Department did not attempt to get the information regarding cable TV operators from the Department of Posts and initiate any action as per the provision of the Act for inspection and search. Thus, failure to obtain information from the Department of Posts and non-initiation of action against unregistered cable TV operators led to continuation of cable operators without registration and consequential evasion of tax.

After Audit pointed this out, the Assistant Commissioners of Entertainment Tax (ACETs) of seven circles<sup>14</sup> stated (May and June 2015) that action would be taken after confirmation from the Department of Posts. ACET, Bhubaneswar-II Circle stated (July 2015) that there is no provision in the Act for survey and registration of cable TV operators. He further added that the activities of such cable TV operators would be examined and necessary steps would be taken to get them registered if their liabilities are established.

The matter was reported to the CCT, Odisha and the Government in August 2015. Their replies are awaited (December 2015).

### **2.5.3.2 Lack of Departmental coordination led to continuation of DTH operators without registration**

Rule 12 of the OENT Rules, 2006 stipulates that the proprietor of a DTH Broadcasting service shall submit to the Commissioner, an application in Form XA at least fifteen days before the date of providing such entertainment and the Commissioner, after making enquiry, shall issue a certificate in form XIII A permitting the proprietor to operate the DTH broadcasting service. As per Section 9(2) of OENT Act, 2006, no proprietor of a Direct to Home Broadcasting Service shall provide entertainment unless he obtains permission from the Commissioner in Form XIII A.

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<sup>14</sup> Barbil, Balangir, Bhubaneswar-III, Bhubaneswar-IV, Ganjam-I, Koraput and Puri.

Further, as per Rule 31(1)(a) of OENT Rules, if the proprietor failed to give information or take permission as required under above rules, the AA shall issue notice in Form VIII for assessment of tax.

Audit noticed that six DTH operators in the State were registered under the Odisha Value Added Tax Act in four circles<sup>15</sup> during the period covered under audit. However, only four of them were registered under the OENT Act and the remaining two were not registered. Further, no application for seeking registration was also received from the DTH Operators. The Department, though aware of the existence of these two DTH operators, had not initiated any action as per the provision of the Act. This led to continuation of DTH operators without registration and consequential evasion of tax.

After Audit pointed this out, ACET, Bhubaneswar-I Circle stated that show cause notices were issued (June 2015) to the operators and in one case, based on the show cause notice, a DTH Operator registered (September 2015) himself and paid entertainment tax amounting to ₹ 2.03 crore for the months from April to September 2015.

The matter was reported to the CCT, Odisha and the Government in August 2015. Their replies are awaited (December 2015).

#### **2.5.4 Non-realisation / short realisation of tax, interest and penalty**

As per Section 7(1) of OENT Act, 2006 read with Part II of Schedule to the Act, the proprietor of a cable TV network providing cable TV service shall be liable to pay entertainment tax at the rate of five *per cent* on his monthly gross receipt. The term 'gross receipt' as defined under the said schedule shall mean the aggregate amount received or receivable by the proprietor of a cable TV network from the subscribers. As per Section 16(2) of the Act, when the proprietor fails to file return along with full payment of tax as admitted in the said return, penalty not exceeding the amount of tax defaulted shall be levied for such default after giving the proprietor an opportunity of being heard. Section 20 of the Act further provides that if the proprietor fails to pay tax due under the provisions of the Act, he shall, in addition to tax due, be liable to pay interest at the rate of one and half *per cent* per month from the date immediately following the last date for payment of tax, for a period of one month, and at the rate of two *per cent* per month thereafter so long as he continues to make default in such payment. Further, as per Section 17(1) of the OENT Act read with Rule 31(1)(b) of OENT Rules, while assessing a proprietor after giving him a reasonable opportunity of being heard, if the assessing authority assesses any amount of tax payable, he may impose penalty equal to twice the amount of tax assessed.

Test check of assessment records and monthly returns revealed non-realisation / short realisation of tax, penalty and interest due to

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<sup>15</sup> Bhubaneswar-I, Bhubaneswar-II, Bhubaneswar-III and Bhubaneswar-IV.

erroneous calculation, understatement of gross receipts etc. as discussed below.

#### **2.5.4.1 Less payment of tax due to calculation of tax on net receipts instead of gross receipts**

During test check of monthly returns in two circles<sup>16</sup>, Audit noticed in 57 returns filed during 2011-12 to 2013-14 by three operators that as per the returns, they had received gross subscription amount of ₹ 53.37 crore on which entertainment tax of ₹ 2.67 crore was payable at the rate of five *per cent*. However, the operators paid ₹ 2.53 crore. The ACETs of the concerned circles could not detect such less payment of tax and did not take any action for realisation of the differential tax. This led to less payment of tax of ₹ 13.90 lakh. Besides, interest of ₹ 8.63 lakh and penalty were also leviable as per the provisions of the Act.

After Audit pointed (May 2015) this out, the ACETs agreed (June 2015) to examine the cases and take appropriate action.

The matter was reported to the CCT, Odisha and the Government in August 2015. Their replies are awaited (December 2015).

#### **2.5.4.2 Less payment of tax due to understatement of gross receipts / erroneous calculation**

During test check of monthly returns for the years 2011-12 to 2013-14, Audit noticed that in Bhubaneswar-III Circle, a cable TV operator received total receipt of ₹ 22.36 crore during four months<sup>17</sup> on which tax of ₹ 1.12 crore was payable. However, the operator disclosed total subscription as ₹ 16.99 crore in his return and paid tax of ₹ 80.89 lakh thereon. The ACET of above circle could not detect such understatement of gross receipt of ₹ 5.37 crore. This resulted in non-realisation of tax of ₹ 30.90 lakh. Besides, interest of ₹ 15.62 lakh and penalty were also leviable as per the provisions of the Act.

Similarly, in Bhubaneswar-II and Bhubaneswar-III Circles, Audit noticed that as against tax of ₹ 46.21 lakh payable at the rate of five *per cent* on gross subscriptions of ₹ 9.24 crore disclosed by two DTH operators and one cable TV operator in 18 returns relating to the period between October 2011 and October 2013, they paid tax of ₹ 41.50 lakh. The ACETs of above two circles could not detect such less payment of tax of ₹ 4.71 lakh. Besides, interest of ₹ 2.22 lakh and penalty were also leviable as per the provisions of the Act.

After Audit pointed out (May and June 2015) the above cases, the ACETs stated (June 2015) that action would be taken.

The matter was reported to the CCT, Odisha and the Government in August 2015. Their replies are awaited (December 2015).

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<sup>16</sup> Bhubaneswar-II and Bhubaneswar-III.

<sup>17</sup> April 2011, February 2013, April 2013 and October 2013.

### **2.5.5 Non-realisation of security deposit**

As per the provision of Section 10 of OENT Act, 2006, every proprietor before holding an entertainment on which tax is leviable, shall deposit such security as may be prescribed. Rule 14(2) of OENT Rules, 2006 prescribes for realisation of security deposit not exceeding twenty five *per cent* of the estimated amount of total tax chargeable for one month based on the gross receipt from the subscribers. As per the proviso under the said Rule, the amount of security deposit may also be fixed at an amount higher than that specified above in the interest of revenue.

During test check of periodical returns in five<sup>18</sup> circles, Audit noticed that though three DTH and seven cable TV operators were continuing their services and filing monthly returns during the period 2010-14, the ACETs had not realised security deposits of ₹ 12.63 lakh as calculated by Audit taking into consideration the estimated tax as per the latest returns filed for the year 2013-14. Thus, the Department failed to adhere to the vital deterrent provision of the Act to check evasion of tax.

After Audit pointed out (between April and June 2015) the above cases, while the ACET, Bhubaneswar-IV Circle issued (May 2015) demand notice to one operator; ACETs of Balangir, Bhubaneswar-II, Bhubaneswar-III and Ganjam-I Circles agreed (June 2015) to take action.

The matter was reported to the CCT, Odisha and the Government in August 2015. Their replies are awaited (December 2015).

### **2.5.6 Conclusion**

Audit of levy and collection of entertainment tax from cable TV and direct to home (DTH) broadcasting service operators revealed several deficiencies. Failure to obtain information from the Department of Posts as well as inadequacies within the Department led to continuation of operators without registration and consequential tax evasion. Due to ineffective examination of returns, underpayment of tax and interest by the operators and understatement of receipts in contravention of the provisions of Act and the Rules remained undetected, thereby pointing to a significant scope of tax revenue augmentation.

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<sup>18</sup> Balangir, Bhubaneswar-II, Bhubaneswar-III, Bhubaneswar-IV and Ganjam-I.

## **2.6 Other Audit Observations**

Audit test checked the assessment records relating to the OVAT, CST and OET Acts in commercial tax range / circle offices of the State and noticed several cases of non-observance of the provisions of the aforesaid Acts and Rules made thereunder which led to non-levy and short levy of tax and penalty as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and based on test checks carried out by Audit. Audit points out similar omissions on the part of the AAs every year, but not only do many of the irregularities persist, these also remain undetected until the next audit is conducted. This indicated that the internal control system in the Department was weak and ineffective. The Government needs to improve the internal control system including strengthening of internal audit so that occurrence of such cases can be detected, corrected and avoided in future.

## **Odisha Value Added Tax**

### **2.7 Non-observance of the provisions of the Act and Rules read with Government notifications**

*The Odisha Value Added Tax (OVAT) Act, 2004 and the Odisha Value Added Tax Rules, 2005 made thereunder provide for:*

- *completion of the audit assessments by the Assessing Authorities (AAs) on the basis of Audit Visit Reports (AVRs) and levy of tax on the correctly assessed Taxable Turnover (TTO) of outputs after giving due credit / adjustment of admissible Input Tax Credit (ITC);*
- *imposition of penalty at the prescribed rates in addition to the tax assessed at the audit assessment stage by the AAs;*
- *demand and collection of tax / interest / penalty as per the prescribed procedures; and*
- *imposition of penalty for non-submission of certified reports on annual audited accounts as well as statements of closing stock in trade within the prescribed date.*

*The AAs, while finalising the audit assessments of the dealers for certain tax periods, did not observe some of the aforesaid provisions read with the Government notifications issued from time to time, as mentioned in the following paragraphs:*

### **2.7.1 Short levy of tax and penalty due to application of lower rate of tax**

As per Section 14 of the Odisha Value Added Tax Act, 2004 (OVAT Act), tax payable by a dealer under the Act shall be levied on his taxable turnover (TTO) in respect of different goods at the rates specified in Schedules B and C appended to the Act. Goods not specified in Part II or IIA of Schedule B as well as Schedule C are taxable at the rate of 12.5 *per cent* up to 31 March 2011 and at the rate of 13.5 *per cent* thereafter under Part III of Schedule B. Electrical goods and equipment not being specified under Part II or IIA of Schedule B or Schedule C are taxable at the prescribed rates. Further, as per Section 42(5) of the OVAT Act, if any tax is additionally assessed during the audit assessment, penalty equal to twice the amount of tax so assessed shall be imposed on the dealer.

During scrutiny of assessment records in Bhubaneswar-IV Circle, Audit noticed (August 2014) that the AA, while assessing a dealer for the tax periods from 12 September 2007 to 30 November 2012, determined TTO of electrical goods at ₹ 21.13 crore. However, while finalising the assessment (December 2013), the AA incorrectly levied tax of ₹ 0.89 crore at the rate of 4 *per cent* up to 31 March 2012 and 5 *per cent* thereafter instead of levying tax of ₹ 2.75 crore at the applicable rate of 12.5 *per cent* up to 31 March 2011 and 13.5 *per cent* from 1 April 2011 onwards due to misclassification. Thus, application of tax at lower rate resulted in short levy of tax of ₹ 1.86 crore. Besides, penalty of ₹ 3.72 crore was also leviable as per the Act.

After this was pointed out, the AA reopened (August 2014) the case for examination. The report on the result of reassessment was yet to be received.

Audit reported the matter to Commissioner of Commercial Taxes (CCT), Odisha in March 2015 and to the Government in May 2015. Their replies are awaited (December 2015).

### **2.7.2 Short levy of tax and penalty due to irregular allowance of input tax credit**

As per Section 20(3) of the OVAT Act, 2004, input tax credit (ITC) shall be allowed for purchases made within the State from a registered dealer holding a valid certificate of registration in respect of goods intended, among other things, for the purpose of use as inputs or as capital goods in the manufacturing of goods, other than those specified in Schedule A, Schedule C and Schedule D for sale. Government of Odisha, Finance Department clarified (May 2006) that 'industrial inputs' shall be construed as those inputs which directly go into the composition of the finished products manufactured by the purchasing dealer for sale and shall include consumables directly used in such manufacturing process for production of finished products which the purchasing dealer is licensed to manufacture subject to the condition that such industrial inputs are specified in the certificate of registration (RC) of the purchasing dealer. Further, as per the

provisions of Section 42(5) of the Act, if any tax is additionally assessed during audit assessment, the dealer shall be imposed with penalty equal to twice the amount of tax so assessed.

On scrutiny of assessment records under the OVAT Act in Koraput Range, Audit noticed (January 2014) that during the tax periods from 1 October 2007 to 31 August 2009, a dealer engaged in manufacturing and trading of paper purchased 'steam' valued at ₹ 47.64 crore as an input for production of paper and availed ITC of ₹ 5.96 crore thereon at the rate of 12.5 per cent. It was noticed that during that period, the RC of the dealer did not include 'steam' as an input and hence he was not eligible to claim ITC towards tax paid on purchase of 'steam'. Further, as per the RC of the selling dealer from whom the instant dealer purchased 'steam', he was also not authorised to sell 'steam'. The AA, while finalising the assessment for the above tax period, though reversed ITC of ₹ 1.50 crore towards tax involved in finished goods transferred outside the State otherwise than by way of sale on which ITC was not admissible, yet he allowed and adjusted the remaining ITC of ₹ 4.45 crore from the output tax payable on sale within the State. This resulted in short levy of tax of ₹ 4.45 crore. Besides, the dealer was liable to pay a penalty of ₹ 8.90 crore at twice the tax so short levied as prescribed in the Act.

After Audit pointed this out, the AA stated (January 2014) that steam was a consumable and it fulfils the condition to qualify for availing credit of ITC in accordance with the provisions of law. The reply is not tenable as the RC of the dealer did not specify 'steam' as input and he was therefore not entitled to ITC.

The matter was reported to the CCT, Odisha in February 2015 and the Government in July 2015. Their replies are awaited (December 2015).

### **2.7.3 Short levy of tax and penalty due to irregular deduction towards labour and service charges**

Rule 6 of the OVAT Rules, 2005 provides for determination of TTO of sales of dealers. According to Rule 6(e) of the said Rules, in case of a works contract, expenditure incurred under certain heads as specified therein shall be deducted from the gross turnover (GTO) to determine the TTO. These heads, however, do not include depreciation charges, transportation charges and repair of machinery.

Further, as per the provisions of Section 42(5) of the OVAT Act, if any tax is assessed during audit assessment, penalty equal to twice the amount of tax so assessed shall be imposed on the dealer.

During scrutiny of assessment records in Jharsuguda Circle and Koraput Range, Audit noticed (December 2014 and January 2015) that two dealers engaged in execution of works contracts were assessed (March 2014) under the OVAT Act for different tax periods between 1 April 2005 and 31 March 2012. The AAs determined the gross turnover of the two dealers at ₹ 758.11 crore (excluding tax). After allowing deduction of ₹ 417.16 crore towards labour and service charges, the AAs determined TTO at ₹ 340.96 crore and assessed appropriate tax thereon. However, on examination of the

deductions allowed to the dealers towards labour and service charges, it was noticed that the AA irregularly allowed deduction of ₹ 64.79 crore towards depreciation charges (₹ 20.87 crore), transportation charges (₹ 38.29 crore) and repair of machinery (₹ 5.63 crore) although these deductions are not specified under the above Rules. Thus, irregular allowance of the above deductions from gross turnover resulted in short levy of tax of ₹ 4.84 crore. Besides, penalty was also leviable under the Act.

In reply, Government stated (December 2015) that reassessment of both the dealers had been completed and in respect of the dealer of Koraput Range, extra demand has been raised. However, in respect of the dealer of Jharsuguda Circle, Government stated that the AA, after reassessment, did not raise any extra demand on the ground that 'depreciation charges' come under the scope of one of the deductible expenses provided under the OVAT Rules i.e. 'charges for obtaining on hire or otherwise machinery and tools used for the execution of the works contract'. The reply of the Government is not tenable as 'depreciation charges' and 'hire charges' of plant and machinery are two different charges and cannot be treated as the same.

#### **2.7.4 Short levy of tax due to irregular allowance of input tax credit**

As per Section 20(8)(c) of the OVAT Act, no ITC shall be allowed to a registered dealer in respect of capital goods used for the purposes and in the circumstances as specified in Schedule D. Second hand purchase or subsequent purchases of capital goods, being specified under Sl. No. 7 of Schedule D of the Act are therefore not eligible for ITC. Further, as per the provisions of Subsection (2) of Section 43 of the OVAT Act, if the AA, while assessing the escaped turnover of a dealer, is satisfied that the escapement or under assessment of tax is without any reasonable cause, he may direct the dealer to pay, by way of penalty, a sum equal to twice the amount of tax additionally assessed.

During scrutiny of assessment records in Rayagada Circle, Audit noticed (March 2015) that the AA while finalising the assessment of a dealer under the OVAT Act for the tax period from 1 April 2008 to 31 March 2009 on the basis of a Fraud Case Report<sup>19</sup>, allowed ITC of ₹ 10.63 lakh on machinery and equipment valued at ₹ 2.66 crore although the said machinery and equipment were initially purchased by another dealer and sold to the instant dealer during April and September 2008. Thus, allowance of ITC on the above 'second hand purchase' was irregular and in contravention of the provisions of the Act. This resulted in short levy of tax of ₹ 10.63 lakh. Besides, penalty was also leviable under the provisions of the Act.

After Audit pointed this out, the AA stated (March 2015) that the case would be re-examined.

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<sup>19</sup> Fraud Case Report No. 8 dated 28 August 2012 submitted by the Sales Tax Officer, Investigation Unit, Jeypore.

The matter was reported to the CCT, Odisha and the Government in June 2015. Their replies are awaited (December 2015).

### **2.7.5 Non-levy of purchase tax on goods transferred otherwise than by way of sale**

Under Section 12(ii) of the OVAT Act, 2004, every dealer who, in the course of his business, purchases or receives any taxable goods within the State from any person other than a registered dealer shall be liable to pay tax on the purchase price or the prevailing market price of such goods, if after such purchase or receipt, the goods are not sold within the State or in the course of interstate trade or commerce or in the course of export but are disposed of otherwise. Further, under Section 42 (5) of the Act, penalty equal to twice the amount of tax additionally assessed during audit assessment is also imposable. 'Gum' being unspecified goods under Part II and Part IIA of Schedule B of the OVAT Act, is taxable at the rate of 13.5 per cent with effect from 1 April 2011 under Part III of the said Schedule.

During scrutiny of assessment records under the OVAT Act in Kantabanji Circle, Audit noticed (February 2015) that during the tax periods from 1 April 2007 to 31 March 2012, a dealer purchased 'gum' valued at ₹ 33.74 crore from local unregistered dealers on which no tax was paid. Out of the same, it transferred 'gum' valued at ₹ 37.54 lakh during October 2011 otherwise than by way of sale to its branch in Maharashtra against Form 'F'. Although the said purchase value of ₹ 37.54 lakh was liable to tax under Section 12 of the Act, neither the dealer paid tax on such purchase value nor the AA while finalising the assessment in May 2013, levied tax of ₹ 5.07 lakh and penalty of ₹ 10.14 lakh thereon. This resulted in non-levy of tax and penalty of ₹ 15.21 lakh.

After Audit pointed this out, the AA stated (February 2015) that the case would be examined. Further compliance was awaited.

The matter was reported to the CCT, Odisha in June 2015 and the Government in July 2015. Their replies are awaited (December 2015).

### **2.7.6 Non-initiation of action against dealers for default in submission of Certified Annual Audited Accounts/statements of closing stock**

Under Section 65 (1) of the OVAT Act, 2004 read with the CCT, Odisha's Notification<sup>20</sup> in December 2012 and related Circular of August 2013, if the GTO of a dealer during a financial year exceeds ₹ 60 lakh, he shall get his accounts audited and furnish a true copy of the audited accounts for that year duly certified by a chartered / cost accountant by 31 October of the next financial year to the concerned AA. The CCT in his Circular<sup>21</sup> of September 2009 had also prescribed for maintenance of a register to monitor timely receipt of such accounts at the circle level and to use it as a reference at the time of tax audit and assessment.

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<sup>20</sup> Notification No. III (III) 14/ 2012-21114/ CT dated 12 December 2012.

<sup>21</sup> Circular No. 18755 dated 22 September 2009.

Further, as per the provisions of Section 65(1-a) of the OVAT Act made effective from 1 June 2008, a dealer who is liable to pay tax under Section 11 but not liable to get his accounts audited under Section 65(1), shall furnish a statement of closing stock in trade held at the end of the year in the prescribed manner to the Commissioner within a period of three months from the date of expiry of that year.

Section 65(2) of the Act provides that in case the dealer fails to furnish or furnishes the certified annual audited accounts (CAAA)/ statement of closing stock belatedly, the AA shall, after giving the dealer a reasonable opportunity of being heard, impose on him a penalty of rupees one hundred for each day of default in submission.

During scrutiny of registers relating to receipt of annual audited accounts in 33 circles<sup>22</sup>, Audit noticed (between May 2014 and March 2015) that out of 18,156 dealers having GTO exceeding ₹ 60 lakh during 2012-13, as many as 5,510 dealers had not submitted the copies of CAAA till the dates of audit. Delays in submission of CAAA ranged from 181 to 502 days. However, the AAs neither monitored the timely receipt of CAAA nor did initiate any action for levy of penalty amounting to ₹ 18.88 crore prescribed under the Act till the date of audit.

After Audit pointed out (between May 2014 and March 2015) the above cases, AAs of all the circles assured (between June 2014 and March 2015) to take necessary action against the defaulting dealers.

Similarly, from the information collected from the Value Added Tax Information System (VATIS) and subsequently confirmed by the AAs, Audit noticed (between May 2014 and March 2015) in 32 commercial tax circles<sup>23</sup> that out of 21,306 dealers who were liable to furnish statements of closing stock for the year 2012-13 by 30 June 2013, as many as 21,140 dealers had not submitted the same to the concerned AAs till the dates of audit. The period of delay ranged between 304 and 625 days. However, the AAs neither monitored timely receipt of statements of closing stock nor initiated any action for levy of penalty amounting to ₹ 98.16 crore prescribed under the Act till the date of audit.

After Audit pointed out these cases, 24 AAs assured (between May 2014 and March 2015) to take appropriate action for imposition of penalty and 8 AAs<sup>24</sup> stated (between June 2014 and March 2015) that there was no prescribed format for submission of the statement of closing stock. The

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<sup>22</sup> Barbil, Bargarh, Bhadrak, Bhanjanagar, Bhubaneswar-I, Bhubaneswar-II, Bhubaneswar-III, Bhubaneswar-IV, Balasore, Balangir, Cuttack-I-Central, Cuttack-I-City, Cuttack-I-East, Cuttack-II, Cuttack-I-West, Dhenkanal, Ganjam-I, Ganjam-II, Jagatsinghpur, Jajpur, Jatni, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nayagarh, Puri, Rayagada, Rourkela-I, Rourkela-II, Sambalpur-I and Sundargarh.

<sup>23</sup> Barbil, Bargarh, Badrak, Bhanjanagar, Bhubaneswar-I, Bhubaneswar-III, Bhubaneswar-IV, Balasore, Balangir, Cuttack-I-Central, Cuttack-I-City, Cuttack-I-East, Cuttack-II, Cuttack-I-West, Dhenkanal, Ganjam-I, Ganjam-II, Jagatsinghpur, Jajpur, Jatni, Jharsuguda, Kalahandi, Keonjhar, Mayurbhanj, Nayagarh, Puri, Rayagada, Rourkela-I, Rourkela-II, Sambalpur-I, Sambalpur-II and Sundargarh.

<sup>24</sup> Bhubaneswar-I, Bhubaneswar-IV, Cuttack-I City, Cuttack-I West, Dhenkanal, Kalahandi, Mayurbhanj and Sambalpur-II.

reply is not acceptable since absence of format for the statement of closing stock can not be treated as the ground of non-submission.

Audit reported the matter to the CCT, Odisha and the Government in June 2015. Their replies are awaited (December 2015).

## Central Sales Tax

### 2.8 Non-observance of the provisions of the Central Sales Tax Act / Rules read with Government notifications / executive orders

*The Central Sales Tax (CST) Act, 1956 and Rules made thereunder read with Government notifications and executive orders issued from time to time provide for:*

- (i) *completion of audit assessment based on Audit Visit Report (AVR) and levy of tax at the assessment stage at the prescribed rates, subject to certain conditions on the Net Taxable Turnover (NTO) of goods correctly determined at such stage and adjustment of admissible Input Tax Credit (ITC); and*
- (ii) *imposition of penalty at the prescribed rates, for contravention of provisions of the Act and Rules, on the tax liability determined by the AA in audit assessment including penalty for misutilisation of declaration in prescribed forms.*

*Audit noticed that while finalising the assessments, the AAs did not observe some of the above provisions read with Government notifications / orders as mentioned in the following paragraphs:*

#### 2.8.1 Short levy of tax and penalty due to application of lower rate of tax

As per Section 8 (1) read with Section 8(4) of the CST Act, 1956, sale of goods to a registered dealer in the course of interstate trade supported by the declarations in Form 'C' is taxable at the rate of three *per cent* up to 31 May 2008 and at the rate of two *per cent* thereafter. Further, as per Rule 12 (3) (g) of CST (Odisha) Rules, if any additional tax is assessed during audit assessment of a dealer, penalty equal to twice the amount of tax so assessed shall be levied.

During scrutiny of assessment records under the CST Act in Rourkela-II Circle, Audit noticed (December 2014) that during assessment of a dealer for the tax periods from 1 April 2007 to 31 March 2012, the AA determined total interstate sales turnover at ₹ 155.06 crore. This included ₹ 33.57 crore relating to the period from 1 April 2007 to 31 May 2008 which was taxable at the rate of three *per cent*. The AA, however, while finalising the assessment, levied tax at two *per cent* thereon instead of three *per cent*. Thus, irregular application of lower rate of tax resulted in short levy of tax of ₹ 33.57 lakh at the differential rate of one *per cent*. Besides, penalty of ₹ 67.14 lakh was also leviable on the dealer.

Government replied (June 2015) that as the assessment for the tax period in question has become barred by limitation of time, the DCCT, Sundargarh has referred the case to Joint Commissioner of Commercial Taxes, Sundargarh Range for *suo motu* revision as per the provisions of law.

### **2.8.2 Short levy of tax and penalty due to acceptance of tampered declaration forms**

As per the provisions of Section 8 (1) read with Section 8(4) of the CST Act, 1956, interstate sale of goods made to registered dealers is taxable at the concessional rate of three *per cent* up to 31 May 2008 and at the rate of two *per cent* thereafter or at such lower rate as applicable to the sale or purchase of such goods within the State subject to condition that the selling dealer furnishes to the prescribed authority, a declaration in Form 'C' containing the prescribed particulars and duly filled in and signed by the registered dealer to whom the goods are sold. Further, as per Rule 12(3)(g) of CST (Odisha) Rules, 1957, if any tax is additionally assessed during audit assessment of a dealer, penalty equal to twice the amount of tax so assessed shall be imposed. The Additional Commissioner of Commercial Taxes (VAT), Odisha issued (March 2011) instructions to all assessing authorities to ensure cent *per cent* verification of declaration forms with Tax Information Exchange System (TINXSYS) at the time of assessment to avoid possibility of acceptance of bogus declaration forms leading to loss of revenue.

During scrutiny of assessment records in Jajpur Range, Audit noticed (October 2014) that while assessing a dealer associated with mining and sale of iron ore and manganese ore, under CST Act for the tax periods from 1 April 2006 to 31 March 2010, the AA determined the Net Taxable Turnover (NTO) at ₹ 89.42 crore. Of the same, the dealer submitted declarations in Forms 'C' for ₹ 69.48 crore on which the AA allowed concessional rate of tax. However, on verification of the declarations in Form 'C' against which concessional rate of tax was allowed on a sales turnover of ₹ 69.48 crore, Audit noticed (October 2014) that five declarations, covering interstate sale of goods valued at ₹ 51.95 crore stated to have been sold against 260 invoices, were tampered with. Audit cross verified these forms in the TINXSYS and found that the said declarations in Form 'C' were issued by one purchasing dealer of West Bengal for ₹ 15.17 crore against 163 invoices. Though the dealer inflated sales turnover to the tune of ₹ 36.78 crore in the declaration forms 'C' by tampering and availed concessional rate of tax thereon, the AA could not detect the same due to non-verification of the said forms in TINXSYS. Thus, failure of the AA to verify the declaration forms before allowance of concessional rate of tax resulted in short levy of tax of ₹ 0.51 crore at the rate of one *per cent* up to 31 May 2008 and two *per cent* thereafter. Besides, penalty of ₹ 1.02 crore was also leviable as per the Act.

After Audit pointed out (June 2015) the case, Government stated (December 2015) that the case has been reassessed by the AA and extra demand raised.

### 2.8.3 Short levy of tax and penalty due to irregular allowance of concession under Central Sales Tax Act

Under Section 8(1) read with Section 8(4) of the CST Act, interstate sale of goods supported with declarations in form 'C' is taxable at the rate of three *per cent* from 1 April 2007 to 31 May 2008 and at the rate of two *per cent* thereafter. However, as per Government of Odisha Notifications dated 31 March 2005 and 16 June 2006 issued under Section 8(5) of the Act *ibid*, interstate sale of goods manufactured by Small Scale Industrial (SSI) units of the State supported by declarations in Form 'C' were taxable at a concessional rate of one *per cent* up to 15 June 2006 and at the rate of two *per cent* thereafter. As per Government of India order<sup>25</sup> dated 24 December 1999, read with Notification<sup>26</sup> dated 29 September 2006, industrial units with fixed capital investment (FCI) in plant and machinery up to rupees five crore are considered as small enterprises. As per Rule 12(3)(g) of CST (Odisha) Rules, 1957, if any tax is additionally assessed during audit assessment of a dealer, penalty equal to twice the amount of tax so assessed shall be imposed.

During scrutiny of assessment records in Rourkela-I Circle, Audit noticed (November 2014) that the AA determined NTO of a dealer under the CST Act at ₹ 250.39 crore for the tax periods from 1 April 2007 to 31 March 2012 and levied tax at the rate of two *per cent* on ₹ 100.54 crore supported by declaration forms and at the rate of four *per cent* on ₹ 149.85 crore for which declaration forms were not submitted by the dealer. It was noticed that the turnover of ₹ 100.54 crore on which tax was levied at the rate of two *per cent* included ₹ 33.42 crore relating to the tax periods from 1 April 2007 to 31 May 2008. As such, the said turnover was taxable at the rate of three *per cent* instead of two *per cent* since the FCI in plant and machinery had exceeded the limit of rupees five crore as on 31 March 2007 as revealed from the annual audited accounts submitted by the dealer. Thus, allowance of concessional rate of tax without cross verification with the annual audited accounts resulted in short levy of tax of ₹ 33.42 lakh at the differential rate of one *per cent*. Besides, penalty of ₹ 66.84 lakh was also leviable under Rule 12(3)(g) of the CST (Odisha) Rules.

After Audit pointed this out, the AA stated (November 2014) that concessional rate of tax was levied on the basis of exemption certificate issued by District Industries Centre (DIC) of Industries Department which could not be cancelled by the Sales Tax authorities in view of the judgement of Hon'ble Supreme Court in the case of M/s Vadilal Chemical Ltd vrs. State of Andhra Pradesh and others (142 STC 2005). He further added that as per the pronouncement of Hon'ble High Court of Odisha in the case of M/s Bhushan Power and Steel Ltd vrs. State of Odisha [(2012) 47 VST 466 (Ori)], the AA cannot utilise adverse report other than the Audit Visit Report (AVR) while making audit assessment. The reply is not tenable as the AA was not bound to accept the certificate irregularly issued

<sup>25</sup> Government of India, Ministry of Commerce and Industries, Department of Industrial Policy and Promotion (GoI) order dated 24 December 1999.

<sup>26</sup> Government of India, Ministry of Small Scale Industries Notification No. SO 1642(E), dated 29 September 2006.

by DIC as investment in plant and machinery had crossed the limit of rupees five crore and hence the turnover was taxable at the higher rate. Further, Rule 12(3) provides for completion of audit assessment by the AA based on the materials available in the AVR and such other materials as may be available. Thus, even if inadmissibility of concession could not be pointed out in the AVR, this could have been pointed out by the AA during the assessment based on the annual audited accounts which was available with him.

The matter was reported to the CCT, Odisha in December 2014 and the Government in June 2015. Their replies are awaited (December 2015).

## Entry Tax

### 2.9 Non-observance of the provisions of Odisha Entry Tax Act / Rules and Government notifications

*The Odisha Entry Tax (OET) Act, 1999 and Rules made thereunder read with Government notifications issued from time to time provide for levy of tax on the entry of scheduled goods into a local area<sup>27</sup> for consumption, use or sale therein at the prescribed rates and imposition of penalty at the prescribed rates for the tax levied in audit assessment.*

*Audit noticed that while finalising the assessments, the AAs did not observe the above provisions in some cases as mentioned in the following paragraphs:*

#### 2.9.1 Non-levy of Entry Tax on carbon black

As per Sl. No. 73 of Part I of Schedule to Odisha Entry Tax Act, 1999 (OET Act), 'chemicals used for any purpose' are taxable at the rate of one *per cent*. As per Central Excise Tariff Act (Chapter 28- Products of the Chemical or Allied Industries), 'carbon black' is a tariff item classified as a chemical element under heading No. 2803 00 10 of the said Act. Further, as per Government of India, Ministry of Finance, Department of Economic Affairs Notification<sup>28</sup> dated 12 November 1958, 'carbon black' is a chemical used in rubber and rubber manufacturing industries. Thus, 'carbon black' being a chemical, is a scheduled item and therefore taxable under the OET Act. Further, as per the provisions of Section 9C(5) of the OET Act, if any additional tax is assessed during audit assessment, penalty at twice the amount of tax so assessed shall be leviable on the dealer.

During scrutiny of assessment records in Balasore Range, Audit noticed (July 2014) that a dealer engaged in manufacture and sale of tyres, tubes and flaps, purchased 'carbon black' valued at ₹ 129.65 crore during the tax periods 1 April 2009 to 31 March 2010 on which entry tax of ₹ 1.30 crore was leviable at the rate of one *per cent*. However, the AA, while finalising the assessment of the dealer for the above period in August 2013, did not levy any entry tax on such purchase turnover of 'carbon black' treating the same as non-scheduled goods. This resulted in non-levy of entry tax of ₹ 1.30 crore. Besides, penalty of ₹ 2.60 crore was also leviable on the dealer as per the provisions of OET Act.

After Audit pointed this out (July 2014), the AA stated (April 2015) that the case had been reassessed and demand of ₹ 3.89 crore had been raised against the dealer in November 2014, but the dealer after depositing ₹ 0.50 crore, had preferred appeal before the Hon'ble High Court of Odisha.

The matter was referred to the CCT, Odisha in April 2015 and the Government in May 2015. Their replies are awaited (December 2015).

<sup>27</sup> Local area means the area within the limits of any municipality, Grama Panchayat, other local authority by whatever name called, constituted or continued in any law for the time being in force and includes the area within an industrial township constituted under Section 4 of the Odisha Municipal Act, 1950.

<sup>28</sup> Notification No. F9(88)-ST-57 dated 12 November 1958.

## **2.9.2 Non-levy of Entry Tax on Minor Minerals**

As per Section 3(1) of the OET Act, 1999, scheduled goods entered into a local area for consumption, use or sale therein are taxable at the rates prescribed in the Schedule appended to the Act. As per Section 3(a) of Mines and Minerals (Development and Regulation) Act, 1957, “minerals” include all minerals except mineral oils. As per Odisha Minor Minerals Concession Rules (OMMC Rules), 2004, ordinary clay, sand, *morrum*<sup>29</sup> and chips etc. are minor minerals. Minerals are taxable at the rate of one *per cent* as per entry No. 59 of Part I of Schedule to the OET Act. As envisaged under Section 26 of the OET Act, every manufacturer of scheduled goods who is registered under the VAT Act shall collect by way of tax, an amount equal to the tax payable on the value of such finished products. Further, Section 9C (5) of the Act provides for imposition of penalty equal to twice the amount of tax assessed during audit assessment.

During scrutiny of assessment records in eight circles<sup>30</sup> and one range<sup>31</sup>, Audit noticed (between May 2014 and February 2015) that 12 registered dealers purchased stone products, sand, *morrum*, chips etc. valued at ₹ 69.71 crore from unregistered dealers of Odisha between April 2005 and March 2013 for utilisation in various works related to works contracts. Similarly, four dealers engaged in excavation and sale of stone chips, sold stone chips valued at ₹ 15.72 crore during the period between April 2007 and December 2012. However, the above dealers did not pay Entry Tax of ₹ 85.43 lakh payable at the rate of one *per cent* on the above purchase / sales turnover while filing returns. Audit noticed that though AAs finalised assessments of these dealers under the OVAT Act, they however failed to assess the dealers under the OET Act or completed the assessments treating these minor minerals as non-scheduled goods. This resulted in non-levy of entry tax of ₹ 0.85 crore. Besides penalty of ₹ 1.70 crore was also leviable.

After Audit pointed out (between May 2014 and February 2015) these cases, all the AAs except the AA, Bhubaneswar-I stated (between June 2014 and February 2015) that the cases would be re-examined and compliance would be intimated to Audit. The AA of Bhubaneswar-I Circle, however, stated (May 2014) that he had no scope to investigate the matter beyond the purview of AVR. The reply was not tenable since Section 9C(4) of the OET Act provides for assessment basing on the materials available in the AVR and such other materials as may be available. As such, the books of accounts produced by the dealer during assessment being vital for assessment should have been examined in addition to the observations made in the AVR.

The matter was reported to the CCT, Odisha in April 2015 and the Government in May 2015. Their replies are yet to be received (December 2015).

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<sup>29</sup> ‘*Morrum*’ is a minor mineral used in construction of roads.

<sup>30</sup> Balasore, Bhubaneswar-I, Bhubaneswar -III, Bhubaneswar -IV, Cuttack-I Central, Jharsuguda, Koraput and Mayurbhanj.

<sup>31</sup> Koraput Range.

### 2.9.3 Non-levy of Entry Tax on generator sets

Under Section 3(1) of the OET Act, 1999, there shall be levied and collected a tax on purchase value of scheduled goods entered into a local area for consumption, use or sale therein, at the rates specified by the State Government. As per Sl. 13 of Part II of Schedule appended to the Act, generator sets are taxable at the rate of two *per cent*. Further, as per the provisions of Section 10(2) of the Act, if the AA is satisfied that the escapement is without any reasonable cause, he may direct the dealer to pay, in addition to the tax assessed under Subsection (1), a penalty equal to twice the amount of tax additionally assessed.

During scrutiny of assessment records under the OVAT Act in Bhubaneswar-I Circle, Audit noticed (May 2014) that a dealer purchased diesel generator sets valued at ₹ 9.07 crore from outside the State and sold the same inside the State for ₹ 10.19 crore during the tax periods from 1 April 2008 to 30 September 2010. However, the dealer did not pay tax on the said sales turnover claiming such sale as sale during transit under Section 6(2) of the CST Act. The Assistant Commissioner of Commercial Taxes, Vigilance, Cuttack detected evasion of tax by the said dealer in a Tax Evasion Case Report. Based on this, the AA assessed (January 2014) the escaped sales turnover of the dealer and disallowed the claim of the dealer for exemption of tax on sales turnover of ₹ 10.19 crore and levied tax under the OVAT Act. Since the diesel generator sets were purchased from outside the State at a cost of ₹ 9.07 crore, the same was also taxable under the OET Act which the AA failed to assess. This resulted in non-levy of tax of ₹ 18.15 lakh at the rate of two *per cent*. Besides, penalty was also leviable as per the provision of the Act.

After Audit pointed this out, the AA stated (May 2014) that the case would be examined.

The matter was reported to the CCT, Odisha in June 2015 and the Government in July 2015. Their replies are awaited (December 2015).

### 2.9.4 Irregular exemption of Entry Tax

As per Section 3(1) of OET Act, 1999, entry of scheduled goods into a local area for consumption, use or sale therein is taxable at rates prescribed in the Schedule appended to the Act. Government of Odisha, Finance Department, in their notification<sup>32</sup> dated 7 June 2011, exempted entry tax on plant and machinery brought into the local area by new micro and small enterprises in pursuance with Para 18.2 of the Industrial Policy Resolution (IPR), 2007. As per the provisions<sup>33</sup> of Micro, Small and Medium Enterprises Development Act, 2006, industrial units with Fixed Capital Investment (FCI) in plant and machinery up to rupees five crore are considered as small enterprises. 'Machinery and Equipment' are taxable at the rate of two *per cent* under Sl. 9 of Part II of the Schedule. Further, as per the provisions of Section 9C(5) of the OET Act, if any additional tax is

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<sup>32</sup> Finance Department Notification S.R.O No.434/ 2011 dated 07.06.2011

<sup>33</sup> Section 7(1)(a)(ii) of the Micro, Small and Medium Enterprises Development Act, 2006.

assessed during audit assessment, penalty at twice the amount of tax so assessed shall be leviable on the dealer.

During scrutiny of assessment records under OET Act in Rayagada Circle, Audit noticed (March 2015) that a dealer registered in March 2007 under the Act for processing / extraction of crude palm oil, purchased plant and machinery worth ₹ 7.31 crore from outside the State for its crude palm oil plant and started its commercial production from May 2008. The plant and machinery worth ₹ 7.31 crore being scheduled goods, were taxable at the rate of two *per cent*. The AA, however, while assessing the dealer under the OET Act, did not levy entry tax treating the dealer as a small enterprise. Exemption of entry tax under IPR 2007 on the ground that the dealer was a small enterprise was irregular since the investment of the dealer in plant and machinery exceeded the limit of rupees five crore. Thus, allowance of exemption irregularly resulted in non-levy of entry tax of ₹ 14.63 lakh. Besides, penalty of ₹ 29.26 lakh was also leviable.

After Audit pointed this out, the AA stated (March 2015) that the case would be examined.

The matter was referred to the CCT, Odisha in June 2015 and the Government in July 2015. Their replies are awaited (December 2015).

## CHAPTER III

### STATE EXCISE

#### 3.1 Tax Administration

The Principal Secretary, Excise Department is the administrative head at Government level. The Department is headed by the Excise Commissioner (EC). The Department has been divided into three Divisions<sup>1</sup> namely Central, Northern and Southern which are headed by Deputy Commissioners of Excise. Besides, 69 Inspectors of Excise, 211 Sub-inspectors and 137 Assistant Sub-inspectors of Excise under the control of 31 Superintendents of Excise are deployed in respective districts to oversee and regulate levy / collection of excise duties and allied levies.

#### 3.2 Internal Audit

Internal Audit System in Excise Department is functioning since June 2010 consequent upon introduction of Internal Audit Wing (IAW) in accordance with the decision of Government for regular internal audit check of field offices as well as entire organisation, to ensure correct assessment, prompt collection of excise revenue and timely deposit of revenue to Government Account. During 2014-15, out of 16 units planned for audit, the IAW covered 10 units. The shortfall was attributed by the Department to shortage of manpower. Audit noticed that 427 paragraphs of Internal Audit Reports having money value of ₹ 81.44 crore issued during 2011-12 to 2014-15 were pending for disposal as on 31 March 2015.

#### 3.3 Results of Audit

##### A. REVENUE RECEIPTS

In 2014-15, test check of the records of 20 units relating to excise duty, licence fee receipts etc., showed non-realisation / short realisation of excise duty / licence fee / interest / penalty and other irregularities involving ₹ 35.63 crore in 1,863 cases, which fall under the categories as given in the **Table 3.1** below.

**Table 3.1**

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non / short realisation of excise duty and Non / short recovery of licence fee / interest / penalty	446	15.26
2.	Other irregularities	1,417	20.37
<b>Total</b>		<b>1,863</b>	<b>35.63</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 22.96 crore pointed out in 1,379 cases. During the year,

<sup>1</sup> Central Division (Balasore, Bhadrak, Cuttack, Jagatsinghpur, Jajpur, Kendrapara, Khurda, Mayurbhanj, Nayagarh and Puri), Northern Division (Angul, Bargarh, Balangir, Deogarh, Dhenkanal, Jharsuguda, Keonjhar, Sambalpur, Subarnapur and Sundargarh) and Southern Division (Berhampur, Boudh, Gajapati, Ganjam, Kalahandi, Kandhamal, Koraput, Malkangiri, Nabarangpur, Nuapada and Rayagada).

the Department recovered an amount of ₹ 132.16 lakh in 40 cases pointed out in earlier years. A few illustrative cases involving ₹ 3.63 crore are discussed in paragraphs 3.5.1 to 3.5.7.

**B. EXPENDITURE**

During the year, test check of records showed irregular expenditure involving ₹ 1,073 in 24 cases, which fall under the categories as given in the **Table 3.2** below.

**Table 3.2**

<b>Sl. No.</b>	<b>Category</b>	<b>No. of Cases</b>	<b>Amount (in ₹)</b>
1.	Cash book and management of cash	22	Nil
2.	Other Miscellaneous expenditure	2	1,073
<b>Total</b>		<b>24</b>	<b>1,073</b>

The Department accepted all the cases which were pointed out during 2014-15.

### **3.4 Audit Observations**

Audit scrutinised the assessment records of State Excise Duty and associated fees in the District Excise Offices (DEOs) and found several cases of non-observance of the provisions of the Act / Rules / Annual Excise Policies (AEPs) leading to non-levy / short levy and realisation of excise duty, fees and fines etc. as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by Audit. Such omissions on the part of the Superintendent of Excise (SE) are pointed out by Audit each year, but not only do the irregularities persist, these remain undetected until the next audit is conducted. There is need for the Department to improve the internal control system including strengthening of internal audit to avoid recurrence of such irregularities.

### **3.5 Non-observance of provisions of the Act / Rules / Annual Excise Policies and instructions of Government**

*The Bihar and Odisha Excise (B&OE) Act, 1915 and Rules made thereunder by the Government as well as by the Board of Revenue (BOR) read with the Excise Manual, AEPs and notifications of Government provide for levy and collection of State Excise Duty (SED), fees like utilisation fee (UF), import fee (IF), bottling fee (BF), transportation fee (TF), excise adhesive label (EAL) fee and charges like establishment cost and extra hour operation charge etc. at the prescribed rates.*

*The SEs, while finalising the assessments, did not observe the above provisions in some cases as mentioned in the subsequent paragraphs which resulted in non-levy and non-realisation of SED / fees, fines etc.*

### **3.5.1 Non-realisation of differential State Excise Duty on closing stock of India Made Foreign Liquor / Beer sold during 2013-14**

As per Government Notification dated 30 January 2001, Odisha State Beverage Corporation Limited (OSBC) has the exclusive right and privilege of importing, exporting and carrying on wholesale trade of foreign liquor in the State and sale of liquor to the retailer at the issue price inclusive of State Excise Duty (SED). The SED is collected by OSBC at the time of issue of foreign liquor to retailers. In the Annual Excise Policy (AEP) for the year 2013-14, SED was increased by ₹ 1 to ₹ 30 per bulk litre (BL) of beer / London proof litre (LPL) of India Made Foreign Liquor (IMFL) based on the brands.

During test check of Pass Issue (FL-16) records and stock taking reports in the office of the SE, Khurda, Audit noticed (July and August 2014) that OSBC issued IMFL / Beer to retailers during 2013-14 at the revised sales prices including therein the enhanced SED as per AEP 2013-14. The stock of IMFL / Beer sold during 2013-14 included closing stock of 23,36,951.60 LPL of IMFL and 22,71,872.58 BL of Beer relating to the year 2012-13 on which SED had been paid at the rates applicable during 2012-13. Though OSBC collected the differential SED amounting to ₹ 2.52 crore at enhanced rate during 2013-14 on sale of the above closing stock of 2012-13, it did not deposit the same. Despite this, SE, Khurda had not raised demand for realisation of the amount from OSBC.

After Audit pointed this out (August 2014), SE, Khurda raised demand for ₹ 2.52 crore in August 2014.

Audit reported the matter to the Excise Commissioner (EC), Odisha in March 2015 and the Government in June 2015. Their replies are awaited (December 2015).

### **3.5.2 Non-levy of fine on expired IMFL**

As per Rule 39 (1) of the Board's Excise Rules (BER), 1965, the licensee shall remove all bottled liquor from an approved storeroom within three months after it is bottled. As per Rule 39A (7), the SE shall be careful while issuing import and transport permits with a view to voiding unnecessary piling up of huge stock which may lead to sedimentation and deterioration in quality if not disposed of in time and if any stock of IMFL becomes unfit for human consumption owing to long storage or other factors, the licensee shall be squarely responsible and shall be liable to pay a fine equal to five times the duty payable to the Government on the stock so spoiled. Further, the stock so found unfit for human consumption is required to be destroyed by the SE as per Rule 135 of the Rules *ibid*.

During test check of records of SE, Berhampur relating to stock taking accounts and batch-wise figures of closing stock of one distillery, Audit noticed (December 2014) that four<sup>2</sup> brands of IMFL involving 509.25 cases

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<sup>2</sup> Officer's Choice XXX Rum, Chancellor FB Whisky, Xing Mango Tropicana Vodka and Ultra Smooth Vodka.

(3,339.97 LPL) were shown in closing stock as on 31 March 2014. From the report of the Officer-in-Charge (OIC) of the Unit, it was noticed that these stocks were lying in warehouse for a period ranging from more than 3 to 12 years. OSBC Ltd is the sole authority to sell IMFL / Beer in the State of Odisha since 2001 and as per the above rules, the IMFL stock was required to be sent to the OSBC depot within three months of its manufacture. Although more than 3 to 12 years had elapsed from the respective dates of manufacturing, the SE neither took any action for destruction of the above stock of expired IMFL nor did impose the requisite fine amounting to ₹ 34.07 lakh as per the provisions of BER.

After Audit pointed this out (December 2014), the SE, Berhampur stated (December 2014) that action would be taken for destruction of the old stock and realisation of fine after verification of the stock.

The matter was reported to the EC, Odisha in January 2015 and the Government in June 2015. Their replies are awaited (December 2015).

### **3.5.3 Non-realisation of extra hour operation charges and overtime fees**

As per Rule 20 of BER, 1965, all operations in a distillery, bottling unit and brewery which require the presence of an Excise officer shall be stopped on Sundays, other public holidays and specially declared holidays. The production unit may function for the second shift with prior permission of the EC and additional staff shall be posted as determined by the EC. The licensee shall pay, in addition to the cost of establishment of additional staff, ₹ 1,000 per each extra hour of operation of his bottling unit / warehouse beyond the scheduled hours. Further, overtime fees at the rate of one-seventh of a day's pay of the Officer concerned for each hour of overtime work shall be paid by the unit.

During scrutiny of records relating to extra hour operations in two District Excise Offices (DEOs), Audit noticed (August 2014 and January 2015) that one sugar factory under DEO, Ganjam had not paid extra hour operation charges of ₹ 20.02 lakh for carrying out 2,002 extra hours operations beyond the scheduled hours during April to June 2013. Similarly, overtime fee amounting to ₹ 3.42 lakh in respect of Excise staff engaged for 2,013 extra hours in five Distillery / Bottling / Brewery units under DEO, Khurda during 2013-14 had also not been paid by those units till the date of audit. The DEOs also did not raise demand for realisation of the above dues. Thus, Government revenue of ₹ 23.44 lakh remained unrealised.

After Audit pointed this out, while SE, Khurda issued demand notice in August 2014, SE, Ganjam stated (January 2015) that demand would be raised after verification of records.

Audit reported the matter to the EC, Odisha, Cuttack in March 2015 and the Government in June 2015. Their replies are awaited (December 2015).

### **3.5.4 Non-realisation of establishment cost**

As per Rule 33 (3) of BER, 1965, potable foreign liquor shall not be stored either in shape of bottles or in bulk or compounded, blended, reduced, bottled in a warehouse or storeroom in bond and issued or sold therefrom otherwise than in the presence of an Excise Officer. Further, as per Rules 34 (1) and 34 (2) of the Rules *ibid*, the EC shall appoint the Excise Officers (EOs) for proper supervision of the operations carried out in each warehouse or storeroom mentioned in Rule 33 (3). The licensee shall pay to the State Government, at the end of each calendar month, such fees which shall not exceed the whole of the cost of the excise staff employed for the purpose.

During test check of records of breweries and distilleries in three<sup>3</sup> DEOs, Audit noticed (between September and December 2014) that EOs and staff were posted at different times during 2013-14 in one brewery and two distilleries for supervising the operations such as warehousing, compounding, blending of potable foreign liquor and sale of the same to different liquor manufacturing units, wholesale traders as well as retailers of the State. As per the provisions of BER, the units were liable to deposit the gross salary paid to the EOs and staff towards cost of establishment at the end of each calendar month. It was, however, noticed that neither the DEOs claimed the establishment cost for the year 2013-14 nor did the units deposit the same in Government Account. Thus, establishment cost of ₹ 11.91 lakh remained unrealised.

After Audit pointed out (between September and December 2014) these cases, SE, Balangir stated (November 2014) that steps would be taken to realise the establishment cost. The SEs of Sundargarh and Dhenkanal stated (between September and December 2014) that demand notices would be issued after verification of records.

Audit reported the matter to the EC, Odisha in March 2015 and the Government in June 2015. Their replies are awaited (December 2015).

### **3.5.5 Non-realisation of revenue due to trading of molasses without licence**

Molasses is an intoxicant<sup>4</sup> as per Section 2(12-a) of Bihar and Odisha Excise (B&OE) Act, 1915. As per Section 20 of the Act *ibid*, no intoxicant shall be manufactured or produced or stored or sold except under the authority and subject to the terms and conditions of a licence granted by the Collector of the District. Further, as per Section 18 of the Act, no person shall have in his possession any intoxicant which has not been obtained from a licensed vendor. AEP of Government for the year 2013-14 prescribed licence fee for trading of molasses at ₹ 3.00 lakh and application fee at ₹ 20,000.

Audit noticed that despite the above provisions in the Act regarding production, storing and sale of intoxicants only under the terms and conditions of a licence, the AEP did not have specific provision for issue of licences to

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<sup>3</sup> District Excise Offices: Balangir, Dhenkanal and Sundargarh.

<sup>4</sup> "Intoxicant" means any liquor or intoxicating drug and includes *Mohua* flower and molasses –Section 2(12-a) of B&OE Act.

sugar industries producing and trading molasses. During scrutiny (July 2014) of records of EC, Odisha relating to issue of No Objection Certificates (NOCs) and further verification (November and December 2014) of records of three SEs<sup>5</sup>, Audit noticed that although five sugar factories had not obtained licences for production and trading of molasses, the EC however issued NOCs to molasses traders and users to procure molasses from these factories during 2013-14. Since the above sugar factories sold molasses, each of them was required to obtain licence for such trading on payment of application fee of ₹ 20,000 and licence fee of ₹ 3.00 lakh. Thus, due to issue of NOCs to traders for procurement of molasses from these five sugar factories not having licences, there was non-realisation of revenue of ₹ 16 lakh towards licence fee (₹ 15 lakh) and application fee (₹ 1 lakh). Although a similar observation was made in paragraph 3.5.8 of the Report of the Comptroller and Auditor General of India on Revenue Sector for the year ended March 2014, such irregularity still persisted.

In reply, the EC stated (July 2014) that the compliance would be submitted later on. However, compliance was not received till date (December 2015).

Audit reported the matter to EC, Odisha in March 2015 and the Government in June 2015. Their replies are awaited (December 2015).

### **3.5.6 Non-realisation of differential Excise Adhesive Label fee**

As per Rule 115-B of BER, 1965, Excise Adhesive Label (EAL) shall be affixed on each bottle / can of IMFL / Beer and on each pouch / container of country spirit (CS). In the AEP for the year 2013-14, Government increased the fee of polyester based hologram EAL from 35 to 50 paise for each bottle of IMFL, Beer and CS pouch / bottles.

During test check of EAL Fee Registers of the bottling unit of a sugar factory under the DEO, Ganjam for the year 2013-14, Audit noticed (December 2014) that the unit had 1,05,74,548 numbers of EAL in its closing stock at the end of the year 2012-13 which was purchased at the rate of 35 paise per EAL. Though the unit utilised the said stock of EAL during 2013-14, it however paid EAL fee at the old rate (35 paise) instead of 50 paise per EAL. The SE, Ganjam also did not raise demand for the differential EAL fee. This resulted in short realisation of EAL fee of ₹ 15.86 lakh.

After Audit pointed out (January 2015), the SE, Ganjam stated (January 2015) that demand would be raised after verification of records.

Audit reported the matter to the EC, Odisha, Cuttack in April 2015 and the Government in June 2015. Their replies are awaited (December 2015).

<sup>5</sup> SEs: Bargarh, Balangir and Ganjam.

### **3.5.7 Non-realisation of State Excise Duty on less production of spirit**

As per Rule 13 of the BER, 1965, samples of raw materials used in distilleries for manufacture of spirit and spirit manufactured therefrom shall be sent to the Chemical Examiner for examination once in July and again in December each year and at other times, if required. In the absence of any norm, Chemical Examiner's report is the only basis provided in the rules on which the production of spirit can be ascertained. As per AEPs of 2009-10 and 2011-12, minimum SED on CS for those years was ₹ 18 and ₹ 20 per LPL respectively.

During test check of stock taking reports of a distillery for the years 2009-10 to 2013-14 in the office of the SE, Koraput, Audit noticed (June 2014) that samples of molasses used by the distillery as raw materials were sent to the State Drug Testing and Research Laboratory (SDTRL), Odisha for chemical examination twice a year during the above period. As per the test reports of SDTRL, the average out-turn of alcohol per MT of molasses was shown as 201.97 BL and 214.16 BL for 2009-10 and 2011-12 respectively based on which, production of alcohol from 5,470.89 MT of molasses utilised by the distillery during the above two years should have been 19.18 lakh LPL (at 166.6 degree strength). However, the Unit disclosed production of only 18.65 lakh LPL of spirit. Although the SE was aware of the test report, he failed to detect the shortfall in production of 53,006.15 LPL of spirit and realise the differential SED of ₹ 10.04 lakh at the minimum rate of ₹ 18 and ₹ 20 per LPL applicable on CS during 2009-10 and 2011-12 respectively.

After Audit pointed this out (June 2014), the SE stated (June 2014) that clarification would be sought for from the Distillery Officer concerned and compliance would be furnished later.

Audit reported the matter to the EC, Odisha and the Government in June 2015. Their replies are awaited (December 2015).

## CHAPTER IV

### STAMP DUTY AND REGISTRATION FEE

#### 4.1 Tax Administration

Receipts from Stamp Duty (SD) and Registration Fee (RF) are regulated under the Indian Stamp Act, 1899 (IS Act), the Registration Act, 1908 and the rules framed thereunder as applicable in Odisha and are administered at the Government level by the Principal Secretary, Revenue & Disaster Management (R&DM) Department. The Inspector General of Registration (IGR) is the head of the Revenue Department who is empowered with the task of superintendence and administration of registration work. He is assisted by one Joint Inspector General (JIG), three Deputy Inspectors General (DIGs), 30 District Registrars and 30 District Sub-Registrars (DSRs) at the district level and 151 Sub-Registrars (SRs) at the unit level.

#### 4.2 Internal Audit

The Internal Audit Wing (IAW) of R&DM Department was created in the year 1969. During 2014-15, out of 54 units planned for audit, the IAW of the Department covered only 26 units thereby resulting in shortfall of 28 units. The reason for shortfall has been attributed by the Department to shortage of staff. Audit noticed that 9,457 paragraphs of Internal Audit Reports having money value of ₹ 3,644.91 crore issued up to March 2015 were pending for disposal as on 31 March 2015.

#### 4.3 Results of Audit

##### A. REVENUE RECEIPTS

In 2014-15, test check of the records of 32 units of the R&DM Department showed non-levy / short levy of stamp duty and registration fee etc. and other irregularities amounting to ₹ 12.34 crore in 10,387 cases, which fall under the categories given in **Table 4.1** below:

**Table 4.1**

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Incorrect determination of market value of property and irregular exemption on housing loan	43	0.32
2.	Non-levy /short levy of stamp duty and registration fee	162	12.02
3.	Other irregularities	10,182	Nil
<b>Total</b>		<b>10,387</b>	<b>12.34</b>

During the course of the year, the Department accepted under assessments and other deficiencies of ₹ 12.40 crore in 10,262 cases which were pointed out in 2014-15 and realised an amount of ₹ 1.82 crore in 158 cases relating to years 2000-01 to 2014-15. A few illustrative cases involving ₹ 3.47 crore are discussed in paragraphs 4.5.1 to 4.5.4.

**B. EXPENDITURE**

Similarly, test check of records relating to Expenditure Accounts showed irregularities amounting to ₹ 5.67 crore in 53 cases, which fall under the categories given in **Table 4.2** below.

**Table 4.2**

(₹ in crore)

Sl. No	Category	No. of cases	Amount
1.	Cash book and management of cash	25	Nil
2.	Other Miscellaneous expenditure	28	5.67
<b>Total</b>		<b>53</b>	<b>5.67</b>

During the year, the Department accepted 48 cases involving ₹ 5.50 crore and recovered ₹ 1.02 lakh in six cases.

#### **4.4 Audit Observations**

Audit scrutinised records relating to assessment and collection of Stamp Duty and Registration Fee which revealed short realisation of revenue on sale certificates, cancellation deeds, general power of attorney and due to under valuation of land and wrong calculation of cost of buildings as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by Audit.

#### **4.5 Non-observance of the provisions of the Acts / Rules and Government instructions**

*The Indian Stamp (IS) Act, 1899 and the Registration Act, 1908 prescribe that deeds of sale certificate, cancellation of sale deeds, general power of attorney and conveyance deeds etc. are to be registered on realisation of Stamp Duty (SD) and Registration Fee (RF) at the prescribed rates on the consideration truthfully and correctly mentioned therein keeping in view the benchmark value<sup>1</sup> (BMV) or the rates prescribed in the Industrial Policy Resolutions (IPRs) of the Government of Odisha. The documents registered with undervaluation of properties are to be impounded for correct valuation and realisation of differential SD and RF.*

*Non-observance of the provisions of the above Acts by the Assessing Authorities (AAs) in the cases as mentioned in the following paragraphs resulted in under valuation of documents and short realisation of SD and RF.*

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<sup>1</sup> Benchmark Valuation: Under Benchmark Valuation principle, Revenue and Disaster Management Department of Government of Odisha approves the rates of land from time to time in all districts of the State which ought to be taken into consideration while determining the prevailing market rate / price of the land.

#### 4.5.1 Short realisation of Stamp Duty and Registration Fee on Sale Certificates

As per Article 18(b) of Schedule I-A of Indian Stamp Act, 1899 as amended by Odisha Act 1 of 2003, certificate of sale granted to a purchaser of any property sold by public auction shall be deemed as conveyance and SD shall be charged accordingly on the consideration equal to the amount of purchase money. Instrument as defined under Section 2(14) of the Stamp Act, 1899 includes every document by which any right or liability is, or purports to be created, transferred, limited, extended, extinguished or recorded. Sale certificate issued under Rule 9(6) of Security Interest (Enforcement) Rules, 2002 in favour of auction purchaser while securing immovable property from borrower is therefore an instrument since possession of the property is handed over to the purchaser and right of the property is recorded in the sale certificate and endorsement as “registered” is recorded by the Registering Authority (RA) under Section 60 of Registration Act.

During analysis of e-Registration database and test check of records relating to sale certificates in the offices of four District Sub-Registrars<sup>2</sup> (DSRs) and three Sub-Registrars<sup>3</sup> (SRs) between February 2014 and May 2015 revealed that 51 sale certificates in respect of land auctioned for ₹ 15.31 crore were endorsed by the DSRs / SRs as “registered” between October 2010 and July 2014. Audit noticed that as against SD of ₹ 76.57 lakh realisable on all the 51 documents at the rate of five *per cent*, the DSRs / SRs realised SD of ₹ 0.69 lakh only without any basis. Similarly, in 20 out of the above documents presented for registration, Registration Fee (RF) of ₹ 3.46 lakh was realised as against ₹ 12.33 lakh realisable at the rate of two *per cent*. This resulted in short realisation of SD of ₹ 75.88 lakh and RF of ₹ 8.87 lakh.

After Audit pointed out (February 2014) these cases, DSRs of Cuttack, Khurda and Bhadrak stated (between February and May 2014) that sale certificates are not compulsorily registrable under Section 17(1) of Registration Act and are only to be filed in Book No. 1 as per the provisions of Section 89 (4) of Registration Act. While SR, Khandagiri stated (March 2014) that compliance would be submitted after scrutiny of the document, DSR, Balasore admitted (September 2014) the lapses and SR, Jagatpur stated (September 2014) that demand would be raised.

Replies of DSRs of Cuttack, Khurda and Bhadrak are not tenable as sale certificates are to be compulsorily stamped as per Article 18 (b) of Schedule I-A of IS Act, 1899 at the rates applicable to conveyance deeds. While registration of sale certificates being optional under Section 18(b) of the Registration Act, when presented for registration, RF is also to be realised at the applicable rate of two *per cent*.

The matter was reported to the Inspector General of Registration (IGR), Odisha, Cuttack in February 2015 and the Government in May 2015. Their replies are awaited (December 2015).

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<sup>2</sup> DSRs: Balasore, Bhadrak, Cuttack and Khurda.

<sup>3</sup> SRs: Jagatpur, Khandagiri and Pipili.

#### 4.5.2 Short realisation of Stamp Duty and Registration Fee due to misclassification of instrument of conveyance as cancellation deeds

As per Article 17 of Schedule I-A of IS Act, 1899 as amended in Odisha Act 1 of 2003, in case of an instrument by which any instrument previously executed is cancelled, if attested and not otherwise provided for, SD of ₹ 150 is leviable. As per Section 27 of IS Act, 1899 (Odisha Amendment), the consideration, if any, the market value of property and all other facts and circumstances affecting chargeability of any instrument with duty or the amount of the duty with which it is chargeable shall be fully and truly set forth therein. Further, as per Section 64 of the Act, if any person who, with intent to defraud the Government, executes any instrument in which all the facts and circumstances are not fully and truly set forth or neglects or omits fully and truly to set forth therein all such facts and circumstances or does any other act to deprive the Government of any duty or penalty under this Act, shall be punishable with fine which may extend to five thousand rupees.

The term “conveyance” as defined under Section 2(10) of IS Act, 1899 includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred *inter vivos* and which is not otherwise specifically provided for in Schedule I-A of the Act.

During test check of e-Registration database and copies of deeds in the office of DSR, Khurda and SR, Khandagiri, Audit noticed that 20 cancellation deeds were registered during 2013 and SD of ₹ 150 and Registration Fee (RF) of ₹ 200 in each case were realised. The reasons for cancellation as recorded in the said deeds, among other things, were that consideration money was not received after execution of the original deeds. Audit scrutinised the original deeds and noticed that the vendors had already received full consideration money at the time of execution of such deeds and rights and interests over the said properties had been transferred to the vendees. As such, if the original vendors intended to reacquire the said properties by cancellation of original deeds, the same should have been reconveyed through execution of fresh conveyance deeds and SD and RF should have been realised at appropriate rates applicable to conveyance deeds. Thus, registration of the above instruments of conveyance as cancellation deeds resulted in short realisation of SD of ₹ 17.50 lakh and RF of ₹ 6.97 lakh. Besides, fine was leviable.

After Audit pointed out (March 2014) these cases, SR, Khandagiri stated (March 2014) that compliance would be submitted after scrutiny of the documents. DSR, Khurda stated (March 2014) that as per Article 17 of IS Act, 1899, any instrument by which any instrument previously executed was cancelled, if attested, SD is leviable at ₹ 150.

The reply of DSR, Khurda was not tenable since rights and interests to the properties were already vested with the vendees through registration of sale deeds on receipt of full consideration money and the same could not be divested unto the vendors again by registration of deed of cancellation even with the consent of the parties.

The matter was reported to the IGR, Odisha, Cuttack in January 2015 and Government in May 2015. Their replies are awaited (December 2015).

### **4.5.3 Short realisation of Stamp Duty and Registration Fee due to undervaluation of buildings**

As per Section 27 of IS Act, 1899 (Odisha Amendment), the consideration, if any, the market value of the property and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth in the document. Government of Odisha issued guidelines in March 2011 and in December 2013 for valuation of buildings / superstructure with instruction to registering authorities to follow the guidelines while checking the valuation of buildings / superstructure set forth in the instruments presented for registration. As per Section 47A of the Act, in case of undervaluation of a property during registration, the case shall be referred to the Collector who would determine the value and the deficient amount shall be paid by the person liable to pay the duty.

During test check of conveyance deeds in the offices of four DSRs<sup>4</sup> and three SRs<sup>5</sup>, Audit noticed (between February and July 2014) that 41 parcels of land measuring 1.56 acres with buildings sold by the vendors to the vendees for a consideration of ₹ 10.46 crore were registered between January and December 2013. It was however noticed that while the value of 4 parcels of land measuring 0.51 acres was ₹ 2.34 crore as per the guidelines issued by Government in March 2011, the value of the remaining 37 parcels of land measuring 1.05 acres of land registered in December 2013 was ₹ 9.67 crore as per the Government's guidelines issued in December 2013. However, the RAs, while registering the documents, levied SD and RF on ₹ 10.46 crore instead of ₹ 12.01 crore as per the above guidelines. This resulted in undervaluation of property by ₹ 1.55 crore and consequential short realisation of SD and RF amounting to ₹ 10.51 lakh.

After Audit pointed this out, SR, Berhampur (Town), DSRs, Sambalpur and Koraput stated (May and July 2014) that the matter would be looked into and compliance would be intimated to Audit. However, DSRs, Cuttack and Khurda, SRs, Berhampur (Rural) and Khandagiri stated (between February and May 2014) that the guidelines issued on 13 December 2013 prescribing rates of buildings and superstructure were received belatedly between 19 and 23 December 2013 and hence could not be adhered to.

The replies of DSRs, Cuttack and Khurda, SRs, Berhampur (Rural) and Khandagiri were not tenable as deficit of SD and RF caused due to undervaluation of property in the said documents registered at old rates after revision of rates in the guidelines need to be realised as per the provisions of Section 47A of IS Act.

The matter was reported to the IGR, Odisha in February 2015 and the Government in May 2015. Their replies are awaited (December 2015).

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<sup>4</sup> DSR, Cuttack (six conveyance deeds), DSR, Khurda (fifteen conveyance deeds), DSR Koraput (two conveyance deeds) and DSR Sambalpur (two conveyance deeds).

<sup>5</sup> SR, Berhampur Rural (two conveyance deeds), SR, Berhampur Town (four conveyance deeds) and SR, Khandagiri (ten conveyance deeds).

#### 4.5.4 Short realisation of Stamp Duty and Registration Fee due to registration of documents as General Power of Attorney

As per Article 48(f) read with explanation below Article 23 of Schedule I-A of IS Act, 1899 as amended by the State in 2003, and Sections 78 and 79 of the Registration Act, 1908, an agreement to sell any immovable property or a power of attorney (POA) shall, in case of transfer of possession of such property before or at the time of or after execution of such Agreement or POA, be deemed to be a conveyance. Accordingly, SD and RF applicable to conveyance shall be charged thereon. Further, it was clarified (December 2011) by the Deputy Inspector General of Registration (Central Region) that as the 'principal' permanently hands over the possession of the property to the 'attorney holder' for development of land and relinquishes his power to cancel the POA in future, such document should be classified as deed of conveyance and SD and RF should be charged as per benchmark value of the property. Section 33 of IS Act also empowers the RA to impound the instrument if it is not duly stamped.

During test check of documents relating to general power of attorney (GPA) in the offices of DSR, Khurda and SR, Khandagiri, Audit noticed (March 2014) that in 40 documents, owners of land executed irrevocable / general power of attorney with second parties for land measuring 55.26 acres valued at ₹ 32.17 crore. As per recitals in those documents, the 'principals' agreed to transfer the possession of said lands after registration to Attorney holders (second party) to sell, lease out, develop, construct buildings and to receive consideration from prospective purchasers. As such, these documents were classifiable as instruments of conveyance and SD of ₹ 1.61 crore and RF of ₹ 64.34 lakh was leviable. However, the RAs, while registering the documents, realised SD of ₹ 0.15 lakh and RF of ₹ 0.15 lakh classifying the documents as GPA. This resulted in short realisation of SD and RF of ₹ 2.25 crore.

After Audit pointed out these cases, DSR, Khurda and SR, Khandagiri stated (March 2014) that compliance would be submitted after scrutiny of the documents.

The matter was reported to the IGR, Odisha in January 2015 and the Government in May 2015. Their replies are awaited (December 2015).



## CHAPTER V

### MOTOR VEHICLE TAX

#### 5.1 Tax Administration

The receipts from Motor Vehicle Tax are regulated under the provisions of the Central and the State Motor Vehicle Acts and Rules made thereunder. The Transport Commissioner (TC)-cum-Chairman, State Transport Authority (STA), Odisha under the overall supervision of the Commissioner-cum-Secretary, Commerce and Transport (Transport) Department administers the above Acts and Rules made thereunder. The TC is assisted by Joint Commissioners and Deputy Commissioners at the headquarters level and Regional Transport Officers (RTOs) at unit level. RTOs are the Assessing Authorities (AAs) as well as the Tax Recovery Officers (TROs).

#### 5.2 Internal Audit

The Internal Audit Wing of the STA has not conducted any audit after 2007-08. The reason was attributed to shortage of staff. However, the newly created Audit team of the Transport Department has been conducting internal audit of regional transport offices since 2011. During 2014-15, Internal Audit Wing had audited 13 out of 14 offices planned for audit.

#### 5.3 Results of Audit

##### A. REVENUE RECEIPTS

In 2014-15, test check of the records of 22 units relating to Motor Vehicle Tax, additional tax, registration fee, permit fee and penalty showed underassessment of tax and other irregularities involving ₹ 62.14 crore in 1,65,498 cases, which fall under the categories as shown in the **Table 5.1** below.

**Table 5.1**

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Non-levy / non-realisation of motor vehicle tax / additional tax and penalty	27,960	60.20
2.	Non-realisation / short realisation of compounding fee, permit fee, process fee and fitness fee etc.	59,627	0.90
3.	Short levy / realisation of motor vehicle tax / additional tax and penalty	184	0.18
4.	Non-realisation / short realisation of penalty on belated payment of tax	41	0.15
5.	Non-realisation / short realisation of trade certificate tax / fee	67	0.07
6.	Other irregularities	77,619	0.64
<b>Total</b>		<b>1,65,498</b>	<b>62.14</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 61.59 crore in 1,09,775 cases, which were pointed out in 2014-15. An amount of ₹ 0.22 crore was realised in 118 cases during the

year 2014-15. A few illustrative cases involving ₹ 53.85 crore are discussed in paragraphs 5.5.1 to 5.5.5.

**B. EXPENDITURE**

In 2014-15, test check of records of 22 units showed irregularities in expenditure / cash management involving ₹ 51.68 crore in 78 cases, which fall under the categories as shown in the **Table 5.2** below.

**Table 5.2**

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Non-completion of project / non-levy of compensation / Double payment / Retention of fund / Loss of Interest	63	51.66
2.	Cash book and management of cash / Appropriation of Government revenue	15	0.02
<b>Total</b>		<b>78</b>	<b>51.68</b>

During the course of the year, the Department accepted irregularities of ₹ 3.67 lakh in 23 cases which were pointed out in 2014-15.

## 5.4 Audit Observations

Audit scrutinised the records relating to assessment and collection of motor vehicle tax (MV Tax) in the offices of the Transport Commissioner (TC)-cum-Chairman, State Transport Authority (STA) and the Regional Transport Officers (RTOs) and found several cases of non-observance of some of the provisions of the Acts / Rules and other cases as mentioned in the succeeding paragraphs in this chapter. The cases are illustrative and are based on a test check carried out by Audit. Such omissions remain undetected till an audit is conducted. The Government may direct the Department to improve the internal control system including strengthening of internal audit so that such omissions can be detected, corrected and avoided in future.

## 5.5 Non-compliance of the provisions of the Acts / Rules

*The provisions of the Motor Vehicles (MV) Act 1988, Odisha Motor Vehicles Taxation (OMVT) Act, 1975 and Rules made thereunder require levy and collection of:*

- (i) motor vehicle tax / additional tax from the vehicle owner at the prescribed rate in advance and within the grace period provided;*
- (ii) penalty up to double the tax for belated payment of tax, if the tax is not paid on time within two months after the expiry of the grace period of 15 days;*
- (iii) compounding fee from the goods vehicles carrying excess load; and*
- (iv) fitness / renewal fee and penalty for late application for renewal of transport vehicles.*

*Non-compliance of the provisions of the Acts / Rules in some cases are mentioned in paragraphs 5.5.1 to 5.5.5.*

### 5.5.1 Non-realisation / short realisation of motor vehicle tax and additional tax

#### 5.5.1.1 Non-realisation of tax in respect of goods carriages, contract carriages and stage carriages

Under Sections 3, 3A, 4(1) and 10 of OMVT Act, 1975, motor vehicle tax and additional tax due on every motor vehicle used or kept for use should be paid in advance at the rates prescribed for different classes of vehicles in Taxation Schedule I of the Act, unless exemption from payment of such tax is allowed for the period covered by off-road undertaking<sup>1</sup>. As per Section 13(1) of the Act read with Rule 9(2) of OMVT Rules, 1976, if the tax is not paid within two months after expiry of the grace period of 15 days from the due date of payment, the registered owner or the person having possession or control thereof shall, in addition to payment of tax due, be liable to pay penalty at 200 per cent of the tax due.

During analysis of *Vahan*<sup>2</sup> database pertaining to payment of tax and further cross check of records like Permit Registers (PRs) and Off-Road Registers (ORRs) of 14 RTOs, Audit noticed (between June 2014 and March 2015) that registered owners of 18,628 vehicles of different classes (Goods carriages: 13,432, Contract carriages: 5,166 and Stage carriages: 30) not covered under off-road undertakings, did not pay MV tax and additional tax for different periods between April 2013 and March 2014. The RTOs did neither issue demand notices nor take any action against the vehicle owners for realisation of tax and imposition of penalty thereon. This resulted in non-realisation of MV tax and additional tax of ₹ 17.70 crore and penalty of ₹ 35.40 crore. The details are given in the table below:

(₹ in crore)

Sl. No.	Number of RTOs Type of vehicles	Number of vehicles	Amount of tax / additional tax not realised	Penalty leviable	Total
1.	<sup>14</sup> Goods carriages	13,432	14.48	28.96	43.44
2.	<sup>14</sup> Contract carriages	5,166	3.10	6.20	9.30
3.	<sup>10</sup> Stage carriages	30	0.12	0.24	0.36
	<b>Total</b>	<b>18,628</b>	<b>17.70</b>	<b>35.40</b>	<b>53.10</b>

Source: *Vahan* database

After Audit reported (June 2015) the matter, Government stated (July and August 2015) that out of 18,628 cases, tax and penalty of ₹ 41.72 lakh has been realised from 111 goods carriages, 51 contract carriages and one stage

<sup>1</sup> An undertaking given by the owner of the vehicle to the RTO and prior permission obtained from him for not plying the vehicle for a temporary period and for not to pay tax for the said period.

<sup>2</sup> VAHAN is an application software which caters to all the requirements for registration of vehicles and collection of taxes by the Transport Department.

<sup>3</sup> Balasore, Bargarh, Bhadrak, Balangir, Chandikhol, Dhenkanal, Ganjam, Jharsuguda, Kalahandi, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

<sup>4</sup> Same as per list of all RTOs at Sl. No. 1 of the table.

<sup>5</sup> List of all RTOs at Sl. No. 1 of the table except RTOs, Balasore, Bhadrak, Dhenkanal and Jharsuguda.

carriage. Government further stated that demand notices have also been issued in other cases.

### **5.5.1.2 Short realisation of tax due to non-adoption of prescribed rates of tax**

Motor Vehicle Tax and additional tax in respect of stage carriages are prescribed in Sl. No. 4(A) of the Taxation Schedule I of the OMVT Act, 1975 and are levied on every motor vehicle at specific rates applicable to the description of motor vehicles and other particulars such as distance covered by the vehicle in a day and nature of permit (express / ordinary).

During analysis of *Vahan* database pertaining to payment of tax and further cross check of records such as PRs, ORRs, Permit case records etc. of 12 RTOs<sup>6</sup>, Audit noticed (between June 2014 and March 2015) that though permit parameters like distance covered in a day, nature of permit (express / ordinary) were changed in respect of 67 stage carriages during the period from April 2013 to March 2014, registered owners of vehicles did not pay MV tax and additional tax at the rates applicable to the changed permit particulars. Audit noticed that the above lapses occurred due to non-integration of taxation particulars of stage carriages with their permit particulars in the computerised system as the permit module of *Vahan* was not made operational and consequently permit details of stage carriages were not captured in *Vahan*. This resulted in short realisation of MV Tax and additional tax of ₹ 4.43 lakh. Besides, penalty of ₹ 8.86 lakh was also leviable.

After Audit pointed out the cases, concerned RTOs stated (between June 2014 and March 2015) that demand notices would be issued to realise the dues.

Audit brought the matter to the notice of the TC-cum-Chairman, STA, Odisha and the Government in June 2015. Their replies are awaited (December 2015).

### **5.5.2 Non-realisation / short realisation of motor vehicle tax from private service vehicles**

Under Sections 3, 4(1) and 10 of OMVT Act, 1975, MV tax on every motor vehicle used or kept for use shall be levied and realised at the rates specified in the Taxation Schedule I of the Act unless the vehicle is covered under off-road undertaking. MV tax on Private Service Vehicle (PSV) is leviable at the rate of ₹ 800 per seat per annum with effect from 14 May 2010 under Sl. No. 5-A of the said Schedule on the basis of seating capacity excluding the driver's seat. Further, as per the provisions of Section 13 of the OMVT Act read with Rule 9 of OMVT Rules, 1976, if the tax is not paid within two months after the expiry of the grace period of 15 days, the owner / possessor of the vehicle shall be liable to pay penalty of 200 *per cent* of the tax due.

During analysis of *Vahan* database pertaining to payment of tax with cross check of taxation records, Audit noticed (between June 2014 and March 2015) that while 11 RTOs<sup>7</sup> did not realise MV tax of ₹ 5.75 lakh for the year

<sup>6</sup> Bargarh, Balangir, Chandikhol, Dhenkanal, Ganjam, Jharsuguda, Kalahandi, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

<sup>7</sup> Balasore, Bargarh, Balangir, Dhenkanal, Ganjam, Jharsuguda, Kalahandi, Rayagada, Rourkela, Sambalpur and Sundargarh.

2013-14 from 52 PSVs not covered under off-road undertakings, two RTOs<sup>8</sup> among them short realised MV tax of ₹ 0.25 lakh from five such vehicles due to application of lower rate of tax than the prescribed. This led to non-realisation / short-realisation of tax of ₹ 6.00 lakh. Since the periods of delay involved in all these cases were more than two months, penalty of ₹ 12.00 lakh was also leviable.

After Audit reported (May 2015) the matter, Government stated (November 2015) that in case of two vehicles there was no short realisation of tax as category / sitting capacity of vehicles was not entered correctly in VAHAN. However, no supporting documents could be furnished to audit. In respect of the remaining 55 vehicles, Government stated that demand notices have been issued against the vehicle owners.

### **5.5.3 Non-disposal of Vehicle Check Reports**

Under Section 194 (1) of MV Act, 1988 read with Government Notification of 29 September 1995, whoever drives a motor vehicle or causes or allows a motor vehicle to be driven with load exceeding the permissible limit shall be punishable with minimum fine of ₹ 2,000 and an additional amount of ₹ 1,000 per tonne of excess load for such offences. The TC, Odisha, in July 2005, instructed the RTOs for expeditious disposal of Vehicle Check Reports (VCRs) by issue of notices to the owners or persons having possession or control over the vehicles for compounding the offences, failing which the Certificate of Registration (RC) of the vehicle shall be suspended / cancelled.

During scrutiny of records such as Miscellaneous Proceeding Registers<sup>9</sup> (MPRs), VCRs and Management Information System (MIS) Reports of Vahan database of eight RTOs<sup>10</sup>, Audit noticed (between September 2014 and March 2015) that the Enforcement Wing (EW) of the RTOs issued VCRs suggesting imposition of fines amounting to ₹ 13.64 lakh against 176 goods vehicles carrying excess loads ranging from 470 to 25,530 kg beyond the permissible limit during the period between April 2012 and March 2014. However, the said VCRs have not been disposed of even after lapse of one to three years from the dates of issue.

After Audit reported (June 2015) the matter, Government stated (July 2015) that out of 176 cases, two cases have been disposed of by realising ₹ 8,067 and in other cases demand notices have been issued.

### **5.5.4 Non-levy / short levy of penalty for belated payment of tax and additional tax**

As per Rule 9 (1) of the OMVT Rules, 1976, due date of payment of tax and additional tax of a vehicle shall be the date of expiry of the period for which tax had been last paid. As per Section 13(1) of the OMVT Act, 1975 read with Rule 9(2) of the OMVT Rules, if the tax is not paid within the grace period of 15 days from the due date, the vehicle owner / possessor shall be liable to pay

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<sup>8</sup> Jharsuguda and Sundargarh.

<sup>9</sup> Miscellaneous Proceedings Register is a register containing details of VCRs issued by the Enforcement Wing (EW) of RTOs and State Transport Authority and watching their disposal through realisation of fines.

<sup>10</sup> Bargarh, Chandikhol, Ganjam, Kalahandi, Rayagada, Rourkela, Sambalpur and Sundargarh.

penalty ranging from 25 to 200 *per cent* of the tax due depending upon the period of delay.

During analysis of *Vahan* database pertaining to payment of tax and test check of the records of eight RTOs<sup>11</sup>, Audit noticed (between June 2014 and March 2015) that MV tax and additional tax of ₹ 13.36 lakh in respect of 60 vehicles for different periods between January 2002 and March 2014 were paid by the owners of the vehicles between April 2013 and March 2014 with delays ranging between two days and 135 months (excluding the grace period of 15 days) from the due date of payment. However, in 47 cases, the RTOs levied penalty of ₹ 6.88 lakh as against ₹ 18.54 lakh leviable as per applicable rates thereby resulting in short levy of penalty of ₹ 11.66 lakh. In the remaining 13 cases, the RTOs did not levy penalty of ₹ 6.97 lakh.

After Audit reported (June 2015) the matter, Government stated (July 2015) that out of 60 cases, penalty of ₹ 23,625 has been recovered in three cases and in the remaining cases demand notices have been issued.

### 5.5.5 Plying of Goods Vehicles with expired fitness certificate

As per Section 56 of MV Act, 1988 read with Rule 62 of the Central Motor Vehicles (CMV) Rules, 1989, a transport vehicle shall not be deemed to be validly registered unless it carries a Certificate of Fitness (FC) issued by the prescribed authority. The FC in respect of a new transport vehicle shall be valid for two years; otherwise it shall be renewed every year against receipt of prescribed fee for inspection and testing of the vehicles and grant or renewal of FC as specified under CMV Rules. The fee prescribed under Rule 81 of CMV Rules for conducting test of fitness ranged from ₹ 200 to ₹ 400 per motor vehicle and in addition a fee of ₹ 100 is payable towards grant or renewal FC. Further, Rule 22(7) of Odisha Motor Vehicles (OMV) Rules, 1993 prescribes a penalty of ₹ 100 for non-filing of application for renewal of FC within the prescribed period of not less than 30 days before the expiry of FC.

During analysis of MIS reports in the database of *Vahan* and further test check of taxation records of eight RTOs<sup>12</sup>, Audit noticed (between November 2014 and March 2015) that FCs of 2,527 goods vehicles expired between November 1965 and March 2014. Although taxes were realised from these vehicles, the RTOs neither asked the vehicle owners to apply for renewal of FCs on payment of prescribed fees nor initiated any action against them. In one case, FC had not been renewed even after 50 years from the date of its expiry. As a result, besides the road safety having been compromised due to plying of these vehicles on road with expired fitness, there was a loss of Government revenue of ₹ 11.80 lakh towards fitness fee (₹ 9.27 lakh) and penalty (₹ 2.53 lakh).

After Audit reported (June 2015) the matter, Government stated (July 2015) that demand notices have been issued to all the vehicle owners.

<sup>11</sup> Chandikhol, Dhenkanal, Jharsuguda, Kalahandi, Puri, Rayagada, Rourkela and Sundargarh.

<sup>12</sup> Bargarh, Chandikhol, Ganjam, Jharsuguda, Puri, Rourkela, Sambalpur and Sundargarh.



## CHAPTER VI

### MINING RECEIPTS

#### 6.1 Non-tax revenue Administration

Assessment and collection of mining receipts are regulated by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the Mineral Concession (MC) Rules, 1960, Mineral Conservation and Development (MCD) Rules, 1988 and Odisha Minerals (Prevention of Theft, Smuggling and Illegal Mining and Regulation of Possession, Storage, Trading and Transportation) (OM) Rules, 2007 framed thereunder. The above Act / Rules are administered by Director of Mines, Odisha under the overall supervision of Principal Secretary, Department of Steel and Mines. He is assisted by the Deputy Directors of Mines (DDM) and Mining Officers at the Circle level who are the assessing authorities (AAs) of mining receipts like royalty, dead rent, fees and fines etc. on raising and removal of minerals.

#### 6.2 Internal Audit

Out of 19 units planned for audit by Steel and Mines Department during 2014-15, only 9 units were audited thereby resulting in shortfall of 10 units. The Department attributed the reasons of shortfall to shortage of staff. Audit noticed that 123 paragraphs of 23 Inspection Reports having money value of ₹ 529.16 crore issued during 2007-08 to 2014-15 were pending for disposal as on 31 March 2015. The Director of Mines had not chalked out any programme for its internal audit during 2014-15.

#### 6.3 Results of Audit

##### A. REVENUE RECEIPTS

In 2014-15, test check of the records of 17 units relating to the Steel and Mines Department showed non-receipt / short receipt of Government Revenue and other irregularities amounting to ₹ 9,179.95 crore in 132 cases which fall under the categories as indicated in **Table 6.1** below.

**Table 6.1**

			(₹ in crore)
Sl. No.	Categories	Number of cases	Amount
1.	Performance Audit (PA) of “Implementation of the Integrated Mines and Minerals Management System (i3MS)”	1	658.77
2.	Non / short receipt of Government revenue under Government account	91	298.05
3.	Other irregularities	40	8,223.13
<b>Total</b>		<b>132</b>	<b>9,179.95</b>

During the course of the year 2014-15, the Department accepted underassessment and other deficiencies of ₹ 38.42 crore in 20 cases pointed out during the year. An amount of ₹ 0.82 crore was realised during 2014-15 in six cases pointed out in earlier years. An illustrative case involving ₹ 32.53 crore is discussed in paragraph 6.5.1.

## **B. EXPENDITURE**

In 2014-15, test check of records showed irregularities in expenditure / cash management involving ₹ 513.91 crore in 54 cases which fall under the categories as indicated in **Table 6.2** below.

**Table 6.2**

(₹ in crore)			
Sl. No.	Subject	No. of cases	Amount
1.	Blockage of funds due to delay in completion of work	2	24.61
2.	Other irregularities	52	489.30
<b>Total</b>		<b>54</b>	<b>513.91</b>

During the year, the Department did not furnish any reply to the above 54 cases and realised ₹ 3.94 lakh in two cases relating to objection raised in 2003-04.

## **6.4 Performance Audit of “Implementation of the Integrated Mines and Minerals Management System (i3MS)”**

### **Highlights**

Implementation of the project without detailed feasibility study and user requirement specifications (URS) led to infructuous expenditure of ₹ 11.38 lakh on Radio Frequency Identification based mineral tracking system developed initially.

**(Paragraph 6.4.10.2)**

As against 43,464 e-Permits issued in Joda mining circle for 188.60 million tonnes of iron and manganese ore, e-Passes for only 19,053 permits for transportation of 88.39 million tonnes were available in the database indicating inadequate end to end tracking of transportation of minerals.

**(Paragraph 6.4.11.1)**

Minerals to the tune of 47,835.32 tonnes valued at ₹ 6.99 crore were transported through e-Passes in excess of the quantity permitted in 175 e-Permits issued to a lessee thereby defeating the objective of i3MS to restrict illegal transportation of minerals without permit.

**(Paragraph 6.4.11.2)**

Gaps in e-Pass serial numbers found in database fraught with the risk of loss of royalty of ₹ 12.14 crore.

**(Paragraph 6.4.11.3)**

Cross check of weighbridge data with the system data revealed discrepancy in transportation of 2,32,778 tonnes of bauxite valued at ₹ 633.37 crore by a lessee.

**(Paragraph 6.4.11.7)**

Partial capture of data for several important fields and lack of validation controls over several key fields/ parameters affected the reliability of the database.

**(Paragraph 6.4.12.1)**

Due to absence of exit management plan and non-imparting of training to State Government officials as envisaged in the Memorandum of Understanding (MoU), the Department continued to be dependent on the vendor / software developer.

**(Paragraph 6.4.16.1)**

#### **6.4.1 Introduction**

Integrated Mines and Minerals Management System (i3MS), a comprehensive information technology based e-Governance initiative by Government of Odisha (GoO) in Steel and Mines Department was introduced in the State in 2010. The system provides an end to end tracking of minerals produced, despatched and consumed and is spread across the State over all the 14 mining circles. The system involves many critical business processes such as:

- Monitoring statutory compliance of lessees as well as licensees in respect of mining operation and mineral despatch such as mining plan, forest clearance, environmental clearance etc.;
- Monitoring day-to-day as well as cumulative mineral production as against quantity approved in mining plan, environment clearance and clearances of Odisha State Pollution Control Board;
- Monitoring total permissible quantity to be despatched for domestic sale, export as well as consumption inside and outside the State;
- Monitoring / checking the activity at Government and mines weighbridges; and
- Checking of actual quantity despatched through check-gates.

The scope of the project was to customise, develop, test, deploy, operate and maintain a web based system for all the stake holders involved in mining activities in the entire State. The project was developed by IDCOL Software Limited (ISL), a Government of Odisha Undertaking, through a Memorandum of Understanding (MoU) signed in December 2010, followed by a supplementary MoU in April 2012. The project became operational in all the mining circles of the State with effect from June 2012.

#### **6.4.2 Organisational set up**

The Steel and Mines Department is the administrative department and is currently headed by a Principal Secretary. Two Directorates i.e. Directorate of Mines and Directorate of Geology and one public sector undertaking i.e. Odisha Mining Corporation Limited (OMC Ltd.) operate under the Department. The Directorate of Mines, headed by the Director of Mines, Odisha (DMO) is assisted by the Joint Director of Mines at the Headquarters level and Deputy Directors of Mines (DDMs) and Mining Officers (MOs) at the field level. The i3MS project is managed by the IT Project Management Unit (PMU) headed by a DDM at the Directorate of Mines.

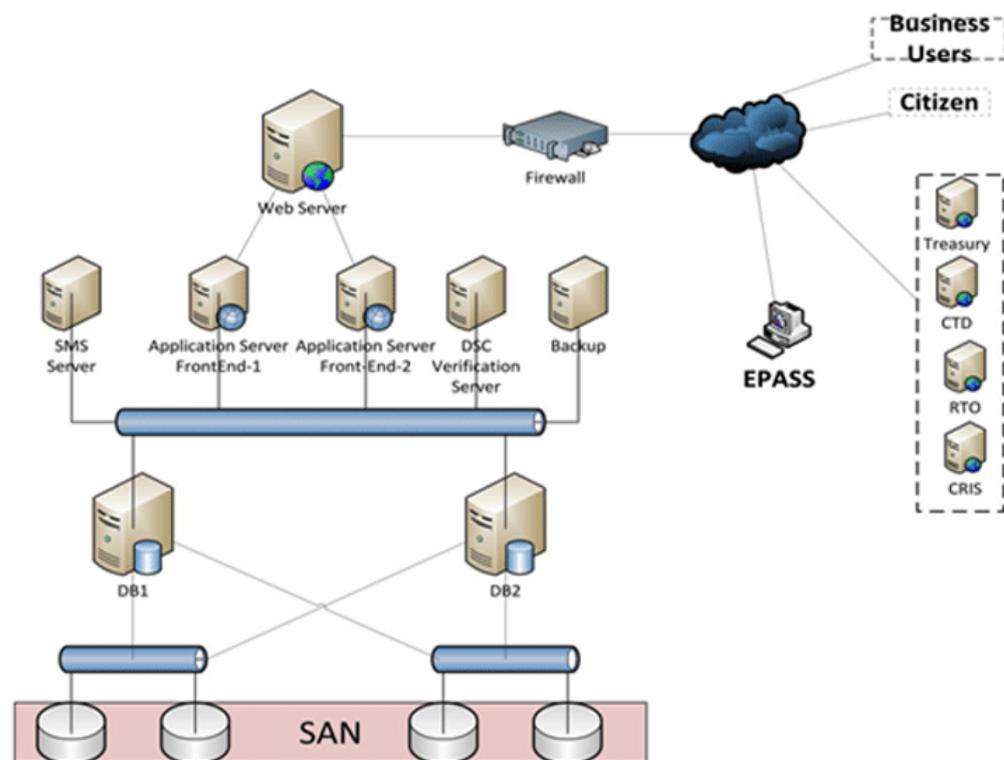
#### **6.4.3 Funding pattern of the i3MS project**

The State Government, in September 2010, approved five projects in the mining sector which included ₹ 3.13 crore related to implementation of i3MS

project. The project initially comprised of two phases i.e. Phase-1<sup>1</sup> and Phase-2<sup>2</sup> to be implemented in two pilot circles with an estimated cost of ₹ 3.13 crore. As against this, an actual expenditure of ₹ 2.56 crore was incurred in the two pilot circles. However, through a supplementary MoU signed in April 2012, Government approved an estimate of ₹ 2.30 crore which was spent in the next stage<sup>3</sup> of the project. Besides, for sustainability and continuance of the project, the Department has also approved a plan for business continuity model (2012-2017) to be developed with a cost of ₹ 160.17 crore from the expenditure budget of the Department which is to be met from the user fee collected at the rate of ₹ 1 per tonne during movement of minerals towards i3MS related online e-Governance services.

#### 6.4.4 Features of the application software and system overview

The i3MS was developed by ISL through an agreement made with a third party namely, Cybertech Software and Multimedia Pvt. Limited (CSM), Bhubaneswar using Microsoft SQL server 2008 R2 as backend database and “Asp.Net” as front-end tool. The database is a centralised architecture with connectivity across all the mining circles headed by DDMs / MOs for synchronisation of data. The system architecture and flow chart are as follows.

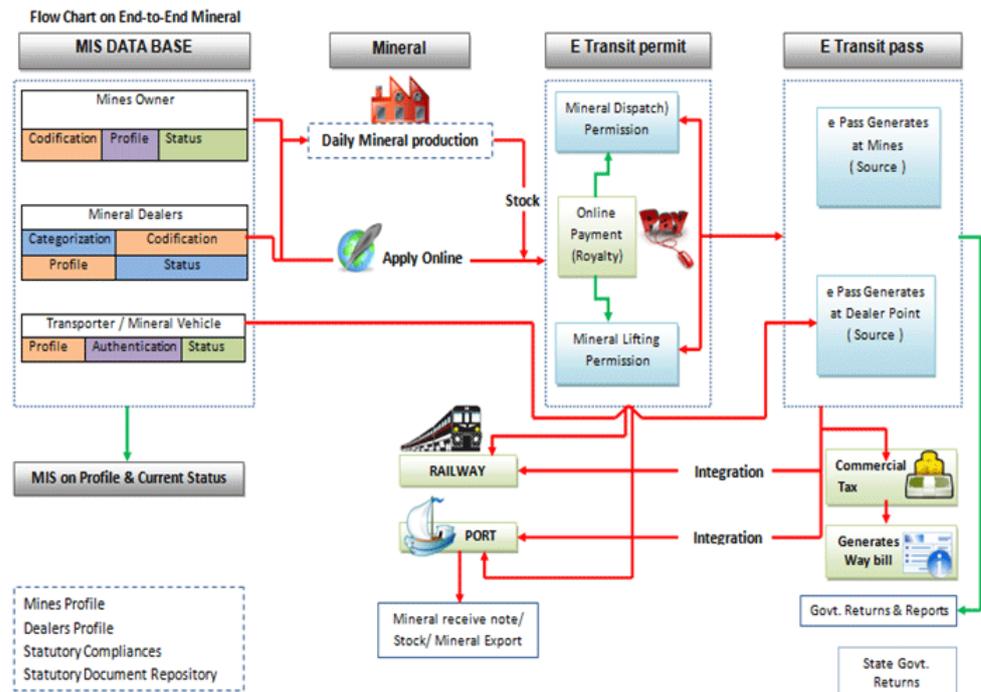


<sup>1</sup> Phase-1 of the project comprised of creation of infrastructure in several pilot locations such as check gate at Lahanda, mines weighbridge (Roida-C, Jajang), Railway siding, Hopping point and mining circle office at Joda and development of software for MIS application, Permit & Pass management system and RFID based mineral transportation tracking system.

<sup>2</sup> Phase-2 of the project comprises of creation of infrastructure in other locations like check gate (Nalda, Nayagad etc.), mines weighbridge, railway siding etc. and mining circle office at Keonjhar.

<sup>3</sup> Next stage of the project to be implemented through supplementary MoU comprises of integration of the system with Ports, Customs, Railways, integration with electronic weighbridge for generation of bar coded e-pass and development of additional modules for major value addition to permit management system such as online submission of OMPTS returns, MCDR returns, grant of licence (Form-D) and issue of MDCC etc.

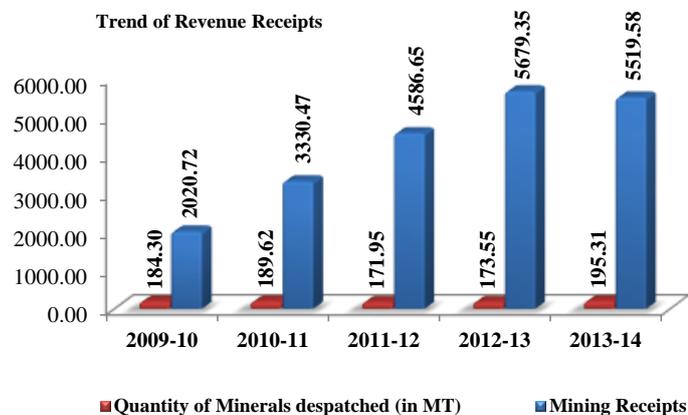
### Flow Chart on End to End Mineral tracking



The system provides major application modules such as e-Permit, e-Pass, grant of licence, stake holder database, demand assessment, online returns to Government of India etc. Besides, there are also other modules for integration of i3MS with the information systems of other concerned departments like Transport Department, Commercial Tax Department, Government Treasury and Railway Authorities etc.

### 6.4.5 Trend of revenue receipts

The details regarding quantity of minerals despatched and mining revenue collected during last five years from 2009-10 to 2013-14 are given below:



(₹ in crore)

Source: Information furnished by the Department

#### 6.4.6 Audit objectives

The Performance Audit was conducted to ascertain whether:

- the Department had an IT strategy that enables good IT Governance;
- performance of the vendor was in accordance with the agreement signed with the Government and the objectives of the project were achieved;
- there existed adequate general controls to ensure efficient and effective functioning of the system; and
- system functionality and application level controls were in place to ensure data integrity and mapping of business Rules.

#### 6.4.7 Audit Criteria

Audit criteria were sourced from the following:

- The Mines and Minerals (Development & Regulation) Act, 1957;
- Mineral Concession Rules, 1960;
- Mineral Conservation & Development Rules, 1988;
- Odisha Minerals (Prevention of Theft, Smuggling & Illegal Mining & Regulation of Possession, Storage, Trading and Transportation) Rules, 2007;
- Executive instructions issued from time to time by the Central Government, State Government and the DMO;
- Memoranda of Understanding signed between Government of Odisha and ISL;
- Result Framework Document of Department of Mines, Government of India; and
- Best industry practices followed in implementation of IT systems.

#### 6.4.8 Scope of Audit and audit methodology

The PA was conducted between April and September 2015 in 5<sup>4</sup> out of total 14 mining circles of the State, covering the period from December 2010 to March 2015. The circles were selected through stratified random sampling taking into consideration the risk perception on revenue collection. Audit analysed the entire database of the i3MS retrieved from data dump collected from the central database at State Data Centre with the help of the vendor. Besides, Audit examined e-records pertaining to royalty assessment, records relating to collection of various fees such as application fee, licence fee, permit fee etc. as well as fines, penalties and interest on belated payments in the offices of DDMs / MOs. An Entry Conference was held on 27 April 2015 wherein objectives, criteria and methodology were discussed. The audit findings were

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<sup>4</sup> Bhawanipatna, Jajpur Road, Joda, Koraput and Talcher.

discussed in the Exit Conference held on 24 November 2015 and replies of the Government have been duly incorporated in the report.

#### **6.4.9 Acknowledgement**

Audit acknowledges the co-operation of the Department in providing necessary information and records to audit and for furnishing replies to the audit observations.

#### **Audit findings**

##### **6.4.10 Implementation of the project**

The State Level Task Force (SLTF), in its meeting held on 13 October 2009 under the chairmanship of the Chief Secretary, decided on deployment of technology including IT applications in mineral administration to prevent illegal mining operations at various stages including weighment, check gates, transportation and surveillance of boundaries. Accordingly, an inter organisational group (IOG) was constituted with members<sup>5</sup> from various departments. This team was to liaise with IIT, Kharagpur, various departments and organisations, of both the State and Central Government that could help in designing a technology package for mineral administration. In the first meeting held in December 2009, the IOG decided to

- (a) develop Geographical Information System (GIS) application with respect to various leasehold areas under the administrative control of the Steel and Mines Department;
- (b) develop a software for monitoring all mineral concession applications; and
- (c) develop a software to monitor the despatched quantity of ore vis-à-vis the quantity of ore produced on real time basis.

In the second meeting of IOG held in January 2010, IIT, Kharagpur submitted a project proposal for 'Preparation of GIS based district-wise / mineral-wise composite mineral movement map and design of Global Positioning System (GPS) based online mineral movement tracking system' covering the decisions taken in the first meeting in respect of (b) and (c) above with project duration of three years.

However, in the third meeting held on 3 June 2010, the IOG took decisions for

- (a) Creation of geo-reference cadastral maps for mining lease to be implemented by Odisha Remote Sensing Application Centre;
- (b) Implementation of online permit management system by the National Informatics Centre (NIC), Bhubaneswar with the help of NIC, Karnataka; and
- (c) Monitoring movement of ore and computerising transit pass information.

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<sup>5</sup> (i) Additional Secretary to Government of Odisha, Steel and Mines Department, (ii) Deputy General Manager (IT), Odisha Mining Corporation, (iii) Assistant Director, Directorate of Survey and Settlement, (iv) Deputy Director, Directorate of Mines and (v) Representative of Odisha Remote Sensing Application Centre.

Audit noticed that although the IIT, Kharagpur had submitted the project proposal, the same was not considered. Similarly, decision taken by the IOG in its third meeting for developing “Online Permit Management System” by NIC, Bhubaneswar with the help of NIC, Karnataka was not pursued. However in the said meeting, a proposal was submitted voluntarily by IDCOL Software Limited (ISL) to take up IT activities in mines in Keonjhar and Jajpur districts on pilot basis and then rolling out the said activities to other areas of the State. Accordingly, ISL was selected (August 2010) on a ‘nomination’ basis as per a circular issued (September 2000) by the Industries Department authorising it to provide consultancy services in procuring hardware / software for various departments of Government as well as public sector undertakings. A Memorandum of Understanding (MoU) was signed between the Steel and Mines Department and ISL on 21 December 2010 for developing the various components of the project as follows at an estimated cost of ₹ 3.13 crore:

- (a) Development and implementation of Management Information System (MIS);
- (b) Development and implementation of Permit and Pass Management System (PPMS); and
- (c) Development and implementation of Radio Frequency Identification (RFID) based Mineral Transportation Tracking System (MTTS).

Government stated (November 2015) that proposal submitted by IIT, Kharagpur was of three year duration and hence not considered. Considering the urgency and to expedite the work, the decision was taken to distribute the work to Government agencies working in the concerned areas. However, the fact remains that ISL did not have the expertise in the concerned areas and therefore it outsourced the project to CSM Limited. Hence, by awarding the work to ISL due to urgency, the quality of the project was impacted.

The status of implementation of various components of Phase-1, Phase-2 under the MoU and next stage of the project under the supplementary MoU are detailed below.

Component / activities		Status
Phase-1	Creation of infrastructure in several pilot locations	Completed
	Development of software for MIS application	Completed
	Permit and permit pass management system	Completed
	RFID based mineral transport tracking system	Software module developed but abandoned.
Phase-2	Creation of infrastructure like check gates in other locations (Nalda, Nayagad etc.)	Completed
	Creation of infrastructure in mines weighbridge	Completed
	Creation of infrastructure in railway sidings	Completed
	Creation of infrastructure in mining circle office at Keonjhar	Completed

Component / activities		Status
Next Stage (Supplementary MoU)	Integration of the system with Ports	Completed but not fully operational
	Integration of the system with Railways	Completed but not fully operational
	Integration with electronic weighbridge for generation of bar coded e-Pass	Completed
	Development of additional modules for major value addition to permit management system such as online submission of OMPTS returns, MCDR returns, grant of licence (Form-D), issue of MDCC etc.	Completed
	Online submission returns by MoU signed steel plants	Completed but not used
	Creation of additional hardware such as setting up network and online support for Paradeep	Not done due to non-availability of line of sight.

Audit examined the records relating to implementation of the project and noticed several deficiencies as discussed in the succeeding sub-paragraphs.

#### **6.4.10.1 Abandonment of Radio Frequency Identification based mineral transportation tracking component of the project due to absence of feasibility study**

As a part of the scope of the project, the MoU signed between the Department and ISL in December 2010 provided for Radio Frequency Identification (RFID) based tracking system which was to be developed and implemented in two mining circles on pilot basis at an estimated cost of ₹ 34.78 lakh. The said system was also intended to be replicated in other 12 circles subsequently after successful implementation in the above pilot circles.

Audit noticed that after incurring an expenditure of ₹ 11.38 lakh<sup>6</sup> in one pilot circle in phase-1, the Department abandoned the RFID tracking system on the ground that rolling out the system across all licensees and circles would require huge logistic support, high level human and financial resources, maintenance of infrastructure, other overheads apart from day to day technical challenges due to lack of connectivity. It instead opted for a 2-D barcode tracking system on advice of the vendor. This indicated that implementation of RFID based tracking system was taken up without foreseeing the above aspects and without conducting a feasibility study which resulted in infructuous expenditure of ₹ 11.38 lakh. Though possibility of reuse of RFID cards was discussed in seventh Steering Committee<sup>7</sup> meeting held on 25 June 2012, the same remained unused till date (August 2015).

Government stated (November 2015) that as per the decision of the Steering Committee in the meeting held on 2 June 2011, the roll out of the RFID software was put on hold. However, there was a plan for implementation of RFID across the State in the approved five year plan of the Department through engagement of professional service provider and the Department would revisit the proposal of implementation of RFID across the State.

<sup>6</sup> Development of RFID software: ₹ 8.78 lakh and cost of RFID cards (10 Nos.): ₹ 2.60 lakh.

<sup>7</sup> Steering Committee was formed to provide strategic guidance and periodical review of the progress at implementation stage.

### 6.4.10.2 Implementation of the project without adequate infrastructure and human resources

Government of Odisha in Steel and Mines Department in their Notification<sup>8</sup> dated 30 September 2011, directed, among other things, that on introduction of e-Pass system, truck details with weight need to be entered in a computer to generate the Pass at the exit point and the lessee/licensee would, for this purpose, have adequate IT facility and internet connectivity so that the weight of the load was recorded on real time basis in the central server and adjusted against the permitted quantity.

Audit noticed that despite these instructions, provision was made in i3MS to generate off-line e-Passes (Desktop and Mobile versions) where no internet connectivity was available at exit points. Due to provision for off-line issue of e-Passes in i3MS, updation of transportation details could not be made on real time basis which defeated the objective of the system for end to end tracking of mineral transportation. Further, posting of Government checking staff at private weighbridges was not ensured as prescribed under Rule 11 of the OM Rules, 2007.

Government, while accepting the facts, stated (November 2015) that basic IT infrastructure like computer and internet was made available to all circle mining offices. The OMC Ltd. is being pursued to provide checking staff, security guards in all the check gates and weighbridges. However, internet connectivity and checking staff in the check gates are basic prerequisite for such web based project which requires real time data updation and end to end tracking of minerals movements.

### 6.4.10.3 Non-completion / non-inclusion of various components of i3MS

In the supplementary MoU signed between the Department and ISL on 30 April 2012 for rolling out the application software in all the 14 circles at an estimated cost of ₹ 2.30 crore, the following additional components / modules were proposed for development:

1. Design, Development and implementation of “web based application software”
2. Additional modules under i3MS project<sup>9</sup>
3. Additional hardware and onsite support<sup>10</sup>

Audit observed that “Setting up Network and onsite Support for Paradeep” which was part of additional hardware proposed in the supplementary MoU was not undertaken by the vendor. Similarly number of modules/ sub-modules of i3MS such as “port integration”, “railway integration”, “linkage coal and fuel supply arrangement” and “Demand Assessment for online assessment of royalty of lessee mineral transactions” were also not made fully operational.

<sup>8</sup> Notification No. 7742/ SM, dated 30 September 2011.

<sup>9</sup> Online Submission of OMPTS/MCDR Returns, Online grant of Licence, issued of MDCC Certificate, Registration of Mineral Carrying Trucks.

<sup>10</sup> Setting up Network & Onsite Support for Paradeep, Camera along with related hardware accessories and onsite support in 3 check gates at Joda.

Further, Audit noticed that though there was a module in the i3MS for assessment and collection of royalty, no module for assessment and realisation of dead rent and surface rent was provided in the system due to non-inclusion of the same in the scope of the project while signing the original or supplementary MoU. As a result, the Department completely depended upon manual intervention in case of assessment of dead rent<sup>11</sup> and surface rent<sup>12</sup>. Besides, the i3MS did not cover the assessment of minor minerals.

While accepting the fact, Government stated (November 2015) that there was a plan to set up a Closed User Group (CUG) network connection between DDM office, Jajpur Road and the AMO office, Paradeep, but due to unavailability of line of sight, the same was not taken up. Government further stated that port and railway integration would be made in consultation with the concerned authorities and coal linkage already implemented in Rourkela circle would be extended to Sambalpur and Talcher circles within three months. Regarding the module for online payment of dead rent, surface rent etc., it was stated that the same would be enforced from the financial year 2015-16 onwards. As regards minor minerals assessment and collection of royalty, it was stated that the same would be covered under i3MS after amendment of Odisha Minor Mineral Concession Rules, 2004.

#### **6.4.11 Mapping of business rules into i3MS**

As per Section 23C of the Mines and Minerals (Development and Regulations) Act, 1957 (MMDR Act) the State Government may, by notification in the Official Gazette, make rules for preventing illegal mining, transportation and storage of minerals and for the purposes connected therewith. Accordingly, GoO framed Odisha Minerals (Prevention of theft, smuggling & illegal mining and regulation of possession, storage, trading and transportation) Rules, 2007 (OM Rules). As per the said rules, there are two different types of mineral users i.e. Lessee and Licensee.

- A lessee can be a person, a company, a firm or an organisation in whose name there is a mining lease.
- Other than the lessee, a person/ company/ firm/ organisation who intends to transport or remove minerals from any place either for its own consumption or trading is treated as licensee.

As per Rule 10 of the OM Rules, a lessee has to apply in Form 'J' and obtain Transit Permit (TP) in Form 'L'. Similarly, the licensee has to apply in Form 'H' and obtain a TP in Form 'I' to transport or to remove any mineral from any place. In the TP, quantity and grade of mineral to be despatched / transported is mentioned along with the name of the party and place of destination. The lessee is required to pay royalty at the rate prescribed by Government of India on the quantity of minerals despatched from mines whereas a licensee is not required to pay the same. Based on

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<sup>11</sup> When the mine is temporary closed, the lessee has to pay dead rent prescribed in MMDR Act, 1957. A lessee is liable to pay royalty or dead rent whichever is higher.

<sup>12</sup> A lessee is liable to pay for the surface area used by him for the purpose of mining operation at such rate not exceeding land revenue assessable on the land.

the quantity permitted in the TPs, transit passes are issued in Form 'M' to lessee and in Form 'G' to licensee for transportation of minerals.

The Department introduced e-Permit system in 13<sup>13</sup> out of 14 mining circles between March 2011 and August 2013. Similarly, the e-Pass system was introduced in the above 13 circles between February 2012 and August 2013 under the i3MS. The e-Permit / e-Pass numbers are unique and auto generated serial numbers and there should be no gap in between these numbers.

Audit noticed several deficiencies in operation of e-Permit and e-Pass systems as discussed in the succeeding paragraphs.

#### **6.4.11.1 Failure in tracking of transport of minerals through introduction of e-Permits and e-Passes**

During analysis of i3MS database in Joda mining circle, Audit noticed that during the period from 10 March 2011<sup>14</sup> to 31 March 2015, total 43,464 e-Permits were issued to 28 lessees for transportation of 188.60 million tonnes of iron and manganese ore. However, the details of 65,37,101 e-Passes used against 19,053 e-Permits only for transportation of 88.39 million tonnes of ore were available in the database and in respect of the remaining 24,411 e-Permits issued for transportation of 100.21 million tonnes of ore, no e-Passes were available.

This indicated that the Department failed to monitor end to end tracking of transportation of minerals after issue of e-Permits and e-Passes under i3MS. Besides, there is no provision in i3MS to calculate royalty taking into account the transported / despatched quantity of minerals as the manual method of assessment of royalty is still in existence. Thus, the database appeared to be unreliable.

While accepting the audit observation in the Exit Conference, Government stated that provisions would be made in the system to record all modes / types of transportation of minerals i.e. through truck or railway or conveyor belt.

#### **6.4.11.2 Transportation of excess quantity of minerals through e-Passes due to non-mapping of business rules**

The i3MS provides an end to end tracking of minerals produced, despatched and consumed and is spread across the State over all the 14 circles. One of the main objectives of i3MS was to check actual quantity despatched through check gates and verification of original transit passes, which is sometimes tampered to do illegal transportation.

During analysis of i3MS data in Joda Circle, Audit noticed that during the period from January 2012 to February 2015, as against 175 e-Permits issued for transportation of 13,79,072.79 tonnes of minerals, the lessees transported 14,26,908.11 tonnes of minerals on the strength of 87,174

<sup>13</sup> E-Permit and e-Pass system was not implemented in Phulbani mining circle as there were no mines and no licensees available.

<sup>14</sup> The date from which issue of e-Permit through the system was introduced.

e-Passes thereby resulting in transportation of 47,835.32 tonnes of minerals valuing ₹ 6.99 crore in excess of the permitted quantity. As e-Passes are the trip sheets generated against e-Permits, the sum total of transported quantity through e-Passes should not have exceeded the quantity permitted. The excess transportation of minerals through e-Passes in respect of these 175 e-Permits indicated deficiency in mapping of the business rule. Thus, cost of 47,835.32 tonnes of minerals transported over and above the permitted quantity needs to be recovered as per the provisions of Section 21(5) of the MMDR Act, 1957.

During the Exit Conference, Government, while accepting the audit observations, stated that provisions would be made in the system to issue distinct permit numbers to lessees and licensees.

### **6.4.11.3 Gaps in serial numbers of e-Passes**

During analysis of data on transportation of minerals by a lessee under the DDM, Joda, Audit noticed that during the period from May 2011 to March 2014, the lessee was issued with 103 e-Permits to transport 20.15 million tonnes of iron ore. As against the above 103 e-Permits, printed e-Passes were issued in respect of 29 and online e-Passes were issued in respect of the remaining 74 e-Permits. Audit analysed the quantity of minerals transported through online e-Passes against 74 e-Permits and noticed the following discrepancies in respect of 8 out of the 74 e-Permits:

- In respect of six e-Permits against which transportation of 64,679 tonnes of minerals was permitted, the serial numbers of 1,155 e-Passes were found missing in the database.
- In respect of one e-Permit (No. 7949) in which transportation of 46,886 tonnes of mineral was permitted, data was found missing in the log table of the database.
- In respect of one e-Permit (No. 52676) in which transportation of 1,12,089 tonnes of mineral was permitted, though serial numbers of the e-Passes were in order there were 27 duplicate serial numbers<sup>15</sup> in the log table.

As online e-Passes are generated serially, the missing serial numbers of e-Passes in the database without mentioning the reasons for the missing e-Passes in the system, indicated the possibility of manipulation of data in the back end. This is also fraught with risk of escapement of royalty of ₹ 12.14 crore as detailed below since transportation of the entire quantity of minerals through the above e-Passes could not be ruled out:

<b>e-Permit number</b>	<b>Month in which e-Permit issued</b>	<b>Rate of royalty (in ₹)</b>	<b>Non-lifted quantity (in tonne)</b>	<b>Amount of Royalty (in ₹)</b>
7949	February 2012	544.60	46,886.000	2,55,34,422
8403	February 2012	544.60	13,753.154	74,89,968
8762	March 2012	692.10	11,552.156	79,95,247
9228	March 2012	692.10	725.220	5,01,925
9251	March 2012	692.10	9,710.360	67,20,540

<sup>15</sup> e-Pass Serial Nos. 234 to 244, 535 to 547 and 595 to 597 (Total-27).

e-Permit number	Month in which e-Permit issued	Rate of royalty (in ₹)	Non-lifted quantity (in tonne)	Amount of Royalty (in ₹)
9623	March 2012	692.10	562.050	3,88,995
33773	June 2012	779.20	28,376.600	2,21,11,047
52676	March 2014	451.70	1,12,089.000	5,06,30,601
<b>Total</b>			<b>2,23,654.540</b>	<b>12,13,72,745</b>

During the Exit Conference, Government stated that instructions would be issued to the vendor to provide proper validation controls in the system to record valid reasons for cancellation / deletion of e-Passes which were the main reasons for gaps in e-Pass serial numbers.

#### **6.4.11.4 Missing e-permits in the i3MS due to gaps**

Since commencement of e-Permit system till 31 March 2015, the Department issued 71,116 e-Permits to different lessees in Form 'L' and 1,44,388 e-Permits to different licensees in Form 'I'. During analysis of database, Audit however noticed that there were 302 missing e-Permits in case of lessees and 1,646 e-Permits in case of licensees due to gaps which was fraught with the risk of manipulation / tampering of the database.

Government stated (November 2015) that since 2011-12, portable document format (PDF) tool was used to generate e-Permits but later on, provisions were made for generating multiple e-Permits on a single request of lessees / licensees and in these cases PDF tool could not accommodate the sequence of e-Permits. As a result, the e-Permits already generated were missing from the database. It was further stated that due to corrections made in the e-Permits on the request of lessees / licensees, the e-Permits might have been deleted. The reply is not acceptable as trail of such corrections made were not available in the database.

#### **6.4.11.5 Non-registration of mineral carrying vehicles by the Directorate of Mines**

As per Rule 45(13) of Mineral Conservation and Development Rules, 1988 (MCD Rules), as amended in February 2011, vehicle used for transportation of minerals shall be required to be registered with the Department handling mining matters in the State Government and the lessee shall maintain trip-sheets (either in the form of written record or on computers) of the vehicles, the nature and weight of minerals and the approximate time of the trip and its destination. GoO in Steel and Mines Department, in their Notification, instructed (November 2011) that no truck / vehicle shall be permitted to transport mineral / ore on expiry of three months from the date of issue of such notification unless the vehicle is registered with the Directorate of Mines.

During analysis of i3MS data, Audit noticed that in Joda Circle, 72,406.18 tonnes of iron ore was shown as transported by a lessee through 811 e-Passes in four vehicles<sup>16</sup>. However, on verification of the registration numbers of the said vehicles from the RTO database, it was found that

<sup>16</sup> Vehicle numbers: OD09A1242, OD09A1243, OD09A1244 and OD09A1245.

those vehicles were two-wheelers<sup>17</sup>. This indicated that the approval of Directorate of Mines for registration of mineral carrying vehicles under i3MS as required under MCD Rules were either not adhered to or the approval was made without proper verification. Further, this indicated that the integration of i3MS database with that of RTOs which was a part of the project, was not complete in validating the process of approval of mineral carrying vehicles.

Government stated (November 2015) that temporary registration numbers were allotted by the RTO, Keonjhar in respect of above four vehicles which were allotted permanent registration number<sup>18</sup> later on and the lessee used these vehicles during the period from 23 February 2013 to 02 March 2013 for mineral transportation. In the Exit Conference, Government assured that proper validation control would be provided in the system to register vehicles for transportation of minerals which have a valid / permanent registration number.

#### **6.4.11.6 Non-fixing of minimum carrying capacity of vehicles under i3MS**

A lessee under DDM, Joda obtains e-Permits for transportation of iron ore from its mines to the crusher site of a licensee situated within the premises of the lessee. The transported minerals are weighed on the weighbridge of lessee. The entire quantity of ore transported by the lessee is finally taken by the licensee for its captive consumption.

Audit noticed that during the period from May 2011 to March 2014, the lessee transported 14.90 million tonnes of iron ore through 2,73,505 e-Passes engaging 43 mineral carrying vehicles (MCVs). However, on analysis of trip wise mineral transportation data, it was seen that the MCVs transported less quantity of minerals than their carrying capacity. The percentage of mineral carried by these vehicles per trip ranged between 13.08 and 62.19 *per cent* of their actual carrying capacity. In absence of fixation of minimum carrying capacity of MCVs at the time of registration in i3MS, the possibility of re-filling the remaining capacity after weighment and escapement of royalty thereon cannot be ruled out.

Government stated (November 2015) that transportation of less quantity of minerals by the mineral carrying vehicles was due to presence of voids caused by oversized boulders which are loaded mechanically. However, it was admitted that the system does not indicate the minimum mineral loading capacity of the vehicle.

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<sup>17</sup> Hero Honda make.

<sup>18</sup> OD09A1331, OD09A1332, OD09A1333 and OD09A1334

**6.4.11.7 Unauthorised raising / transportation / consumption of bauxite by a lessee**

Scrutiny of records at DDM, Koraput revealed that a lessee was allowed to transport bauxite for its captive consumption on payment of highest grade of royalty and exempted from stacking and sampling of minerals by the DMO in November 2013 under provisions of Rule 10(7) of OM Rules. As per the conditions laid down in the letter of the DMO in which exemption was allowed, adequate electronic weighing facility for minerals to be despatched should be provided by the lessee and the same should be integrated with the i3MS for proper determination of ores / minerals despatched.

Audit conducted a joint verification of the mines weighbridge of the lessee on 21 July 2015 along with the officers of the DDM, Koraput and one of the officials of the lessee. It was noticed that the weighbridge of the lessee was not integrated with the i3MS server due to non-availability of internet at the mines end. The lessee used to generate offline e-Passes from the plant office which is 25 kilometers away from the mine and hands over the same to the transporters for recording the quantity of minerals to be despatched through the weighbridge of the lessee located at the mine. After weighment of the minerals at the mines weighbridge, the gross weight, tare weight and mineral weight along with the vehicle numbers were entered manually in the printed e-Passes in duplicate. Minerals were then transported by the transporters to the plant of the lessee along with the e-Passes. After receipt of minerals at the plant office, details of transportation were updated later on by the lessee into the i3MS database.

Analysis of the i3MS database revealed that during the period from 26 May 2013 to 31 March 2015, the lessee was issued with 38 e-Permits to transport 5.07 million tonnes of bauxite against which the lessee transported 4.68 million tonnes of mineral using 2,08,045 e-Passes. To verify the quantity of minerals disclosed in e-Passes with the actual quantity of minerals recorded in the weighbridge data, Audit called for the backup of weighbridge data relating to the above period. However, the lessee could provide sporadic backup data for the period between April 2014 and March 2015 and expressed its inability to provide the data relating to the period prior to April 2014 as the same was stated to have been lost due to “thundering problem”. The weighbridge data provided to Audit by the lessee contained information on 45,918 e-Passes only which matched with the i3MS data.

Cross verification of the details of the above 45,918 e-Passes as reflected in the weighbridge data with the i3MS data revealed the following discrepancies.

- In 33,920 e-Passes, all the details such as permit number, pass number, vehicle number and quantity of minerals matched with the i3MS data. However, in 2,926 e-Passes, though the permit number, pass number, vehicle number were the same, the actual transported quantity as shown in weighbridge data was however higher by

19,840.42 tonnes valued at ₹ 54.18 crore indicating manipulation of printed e-Passes.

- In 202 e-Passes, the transported quantity as per weighbridge data was less by 944.38 tonnes than the i3MS data.
- In 8,712 e-Passes, though the permit numbers and pass numbers were the same in both the i3MS and weighbridge data, the vehicle numbers did not match. Due to mismatch of vehicle numbers, transportation of 2,09,249.04 tonnes of minerals valued at ₹ 569.20 crore by the vehicles recorded in the weighbridge data over and above 1,91,544.52 tonnes reflected in the i3MS database are thus illegal.
- In 158 cases, invalid e-Pass serial numbers were found in weighbridge data through which 3,688.63 tonnes of minerals valued at ₹ 9.99 crore were transported.
- The weighbridge data produced to audit by the lessee was only 22.07 *per cent* of the total number of e-Passes used for transportation of minerals during the period from 26 May 2013 to 31 March 2015. As such, possibility of occurrence of the discrepancies of above nature in the remaining e-Passes cannot be ruled out.

As the details entered manually into the printed e-Passes were error prone and subject to manipulation / tampering, reconciliation of i3MS data with the weighbridge data was essential for ascertaining actual quantity of minerals transported. However, it was noticed that the DDM, Koraput had never reconciled the weighbridge data with the printed copies of e-Passes retained by the lessee. Further, no Government staff was engaged at the weighbridge of the lessee to verify the quantity of transportation of minerals made through the weighbridge.

Thus, in absence of IT infrastructure and internet connectivity for online tracking and non-deployment of Government officials at the weighbridge of the lessee for checking of the details of weighment, there was a discrepancy of 2,32,778.09 tonnes<sup>19</sup> of bauxite valued at ₹ 633.37 crore. The Department may reconcile the above discrepancy and initiate action as per the provisions of Act and Rules.

In the Exit Conference, Government agreed with the audit observation on failure of Directorate of Mines and assured to comply both the issues i.e. online connectivity of the weighbridges of the lessee with i3MS and posting of Government staff at the weighbridges. Government also instructed for a departmental enquiry into the matter immediately and to fix responsibility.

#### **6.4.11.8 Mismatch between e-Passes generated vis-à-vis utilised and updated**

In the i3MS, there was no provision to ascertain total number of e-Passes of different versions<sup>20</sup> issued to the lessee. The number of e-Passes allowed

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<sup>19</sup> 19840.423 tonne + 2,09,249.04 tonne + 3,688.630 tonne

<sup>20</sup> Different versions of e-Passes: (1) e-Pass (Web), (2) e-Pass (Desktop) and (3) e-Pass (Mobile).

to be generated by the lessee was based on a formula<sup>21</sup>. The above formula was based on average 10 tonne of minerals in one trip. The lessee, while transporting the minerals from its weighbridge was allowed to generate online e-Passes and quantity of minerals transported in each trip were deducted till completion of transportation of the entire quantity permitted. Similarly, in case of offline e-Passes the lessee was allowed to generate e-Passes offline and the quantity of minerals transported through e-Passes were updated later. In the i3MS database, total number of e-Passes generated are recorded in 'M\_EPASS\_PERMIT\_STS' table and the number of e-Passes through which minerals were transported by the lessee is recorded in 'T\_EPASS\_MINERALTRANSPORT' table.

During analysis of data relating to transport of minerals through e-Passes against 41,577 e-Permits, Audit noticed that in respect of 2,654 e-Permits, though maximum e-Passes generated as shown in 'M\_EPASS\_PERMIT\_STS' table is less, number of e-Passes through which minerals transported were higher as reflected in 'T\_EPASS\_MINERALTRANSPORT' table. For example, in case of the following two permits (out of 2,654 permits) the discrepancies reflected in the system are detailed below:

Permit Number	Number of e-Passes generated as reflected in table 'M_EPASS_PERMIT_STS'	Number of e-Passes through which minerals were transported as reflected in table 'T_EPASS_MINERALTRANSPORT'	Difference in number of e-Passes as reflected in these two tables.
9219	1,526	4,300	2,774
17552	1	352	351

As there was no provision in the system to reconcile the total number of e-Passes generated, number of e-Passes utilised and number of e-Passes not utilised, the above discrepancy remained undetected.

In the Exit Conference, Government agreed to sort out the issue by way of providing validation controls in the system so that proper reasons would be recorded wherever there is cancellation / deletion of e-Passes. It was also assured that provisions would be made in the system so that cancellation / deletion cannot be made in the system unless justified reasons are recorded.

## 6.4.12 Application Controls

### 6.4.12.1 Incomplete database/ data quality

An efficient system should have built in features to capture all the details required on a particular aspect for providing efficient e-Governance to the stakeholders.

During analysis of i3MS data, Audit noticed that the system captured partial data as detailed below:

- In 15 cases, the system accepted transactions without entries of lease period.
- In 243 cases, the dates of registration of lease deeds were left blank.

<sup>21</sup> Number of passes to be generated: permitted quantity in tonne ÷ 10 tonne per trip + 50 e-Passes extra.

- In 27 cases, validity / expiry date of lease deeds were found blank.

While accepting the fact, Government stated (November 2015) that the system only checks the statutory clearances like mining plan, forest clearance, environment clearance, pollution clearance, lease status during issue of permit. Government further stated that it would be ensured to update the lease period of all the working leases, date of registration and details of validity / expiry date of all lease deeds.

#### **6.4.12.2 Absence of key fields/ parameters for determining royalty**

The key features of i3MS includes calculation of royalty automatically basing on the permit application duly inspected by the Senior Inspector of Mines (SIM) which is dependent on grade and type of mineral and sale value of minerals published by Indian Bureau of Mines (IBM) etc. During analysis, Audit noticed that the system did not map some of the crucial parameters for determining royalty. Some of these are given below.

- Provision has not been made in the system to determine the latest sale value of minerals published by IBM for All India or for the State in case of non-availability of the IBM published rate for the concerned assessment period as required under Rule 64-D of MC Rules, 1960.
- No provision has been made in the system to identify the status of mines i.e. captive or non-captive according to the lease records / deeds and Mining Lease / Renewal of Mining Lease applications filed, linking with nature of despatch of minerals as captive or non-captive as per returns filed by the lessees. During analysis of data, Audit noticed that some of the lessees under 'non-captive' category were filing returns irregularly exhibiting themselves under 'captive' category. This would affect the fixation of sale price of minerals since determination of sales price of minerals by IBM depends on average sale value of top ten non-captive producers of the State.

Government stated (November 2015) that publication of average sale price of mineral is delayed by almost a quarter each time. Royalty is therefore assessed in the system based on the latest sale value published by IBM. On publication of sale price of required month, the same is again updated in the i3MS for recalculation of royalty as per the provision under 64-B of MC Rules, 1960. Now Government of India has requested Government of Odisha to develop mobile apps for submission of monthly return in form F, so that the average sale price could be determined quickly. Further, Government of Odisha has already started the development of mobile applications.

However, the facts remains that provision under 64-D of MC Rules, 1960 for adoption of All India price in case of non-publication of sale price for the previous month of the State was not customised in the system.

### 6.4.12.3 Lack of continuity of request ID numbers

A sequential numbering pattern is required to be followed by the system while auto-generating request ID numbers and processing permit applications of lessees / licensees. Similarly, a unique sequential numbering pattern is required to be adopted in permit numbers of lessees / licensees in the system.

During data analysis, Audit noticed that:

- In 16 out of 50,701 permit applications received, request ID numbers of lessees were found missing.
- In 115 out of 1,32,413 permit applications received, request ID numbers of licensees were found missing.

Lack of continuity of request IDs in above cases is fraught with the risk of backend manipulations.

Government, while accepting the fact, stated (November 2015) that skipping of serial number of request IDs was due to technical error which would be addressed in consultation with the software developer.

### 6.4.12.4 Deficiencies in the system design

The i3MS was developed taking into consideration the provisions of OM Rules, MCD Rules and MC Rules. Besides, the system design comprises several tables with various fields in each table to accommodate the provisions of the above Rules. During data analysis, Audit noticed that the system did not map some of the provisions of OM Rules, MCD Rules and MC Rules as given below:

- Since there are two types of mineral users i.e. lessee and licensee, the permit numbers are required to be allotted in a coding pattern to easily distinguish between the lessee permits and the licensee permits. Audit however observed that no such distinguishable numbering pattern has been adopted. This led to difficulty in identifying the lessee permit with that of licensee permits as there were 69,844 permits with same numbers, appearing both in lessee permits as well as in licensee permits.
- Since trading of minerals by the licensees through e-Permits are sourced from the mines leased out to lessees, the e-Permits of licensees are required to be linked to the e-Permits of lessees. It was however noticed that no such linkage has been provided in the system.

As permits issued to the lessee and licensee were not inter-linked and are issued on parallel basis, the main objective of the system for end to end tracking of minerals could not be achieved.

Government stated (November 2015) that table used for recording permit request by lessee and licensee are two different tables. In a common table in "T\_E\_PASS\_MINERALTRANSPORT", the pass type is used to identify the permit type Form L for 1, Form I for 2 and Form I of MCL for 3. However the suggestion of Audit would be examined and necessary follow up would be ensured in consultation with the software developer.

Regarding non-linkage of permits of lessee and licensee, Government stated that the e-Permits of licensees have since been duly linked to the e-Permits of the lessees.

#### **6.4.12.5 Master data management**

Scrutiny of records and analysis of master data tables of i3MS revealed that several redundant codes were allotted in various master tables which indicated poor master data quality.

<b>Name of the Master table</b>	<b>Name of the mineral/ Company</b>	<b>Code allotted</b>	<b>Date of creation</b>	<b>Whether active</b>
Mineral Code	Felspar	8	-	Yes
	Feldspar	47	-	Yes
Company Master	Deepak Steel and Power Limited	2565, 2566	30 August 2012	Yes
	Ispat Alloys Limited	2349, 2350, 2351, 2352 and 2353	12 June 2012	Yes

Further, the registration number allotted to lessees / licensees by the IBM were not adopted while allotting codes to lessees / licensees as a unique identifier instead of allotment of several master codes thereby resulting in redundancy in master data.

Government stated (November 2015) that there are different form of same mineral like *felspar*, *feldspar* and *fluorospar*. All the different forms are given different codes. However the fact remains that there is no such mineral named as *feldspar* as per the minerals notified in the schedule under MMDR Act, 1957. Thus allotment of code to *feldspar* was not proper. Further, it was stated that the user at times enters the company name in more than one way like Ispat Alloys Pvt. Ltd. and Ispat Alloys Private Ltd which would be rectified during the one State one licence concept as per new amended OM Rules 2015.

#### **6.4.13 Validation controls**

##### **6.4.13.1 Lack of validation control in issue of e-Permits**

As per Rule 10 (3) of the OM Rules 2007, e-Permits in Form 'I' are required to be issued to licensees within seven days from the date of application. The period of e-Permit shall not exceed one month from the date of its issue. Similarly, as per Rule 10(8) of the above Rules, in case of lessees, e-Permits in Form 'L' shall be issued within seven days from the date of receipt of stack verification report from the Senior Inspector of Mines (SIM).

During analysis of database and scrutiny of records relating to issue of e-Permits for the period from April 2012 to March 2015, Audit noticed the following discrepancies due to lack of validation controls:

- Out of 1,34,137 e-Permits issued to licensees during the period, in 67 cases, the closing dates of e-Permits preceded the respective starting dates by 2 to 664 days (upto 30 days in 39 cases, beyond 30 days but upto 180 days in 17 cases, beyond 180 days but upto 365 days in 5 cases and beyond 365 days in 6 cases).

- Out of 1,34,137 e-Permits, in 3,836 cases, e-Permits were issued beyond the prescribed period of seven days and the delay ranged between 1 and 441 days (upto 30 days in 3,786 cases, beyond 30 days but upto 180 days in 46 cases, beyond 180 days but upto 365 days in 2 cases and beyond 365 days in 2 cases).
- In respect of 5,459 e-Passes, though valid mineral weights and vehicle numbers were available in the database, yet the said e-Passes had been marked as deleted without recording any reasons thereof.

Government while accepting the fact stated (November 2015) that initially at the time of issue of permit, the system was not checking the application date with issue of permit date for which validation was provided subsequently and the suggestion of Audit was noted for updation in the system. Regarding deletion of e-Passes, it was stated that initially e-Pass cancellation was done centrally where no reasons were mentioned. However, after introduction of e-Pass cancellation module, every cancelled e-Pass has a valid reason recorded in the i3MS.

#### **6.4.13.2 Lack of validation control in mapping OM Rules**

As per Rules 10(5) and 10(6) of the OM Rules 2007, after proper dressing, stacking, grading and analysis of minerals, the lessee shall apply to the MO / DDM, notifying his intention of removing such minerals. The SIM shall verify the stacks with reference to the chemical analysis report, land from which mineral raised, balance stock from previous quantity, total stock at mines sites and forward the application to the MO / DDM with his verification report within seven days of receipt of the application. On receipt of the verification report of SIM, the MO / DDM shall issue a permit within seven days.

Analysis of database and scrutiny of records for the period from April 2012 to March 2015 revealed that 37,174 inspections were conducted by SIMs during the period. Audit noticed lack of validation controls due to non-mapping of the provisions of OM Rules as follows:

- In 3,674 cases, the verification reports of SIMs were submitted beyond the stipulated period of seven days from the date of receipt of the application. The period of delay in submission ranged between 1 and 214 days (upto 30 days in 3,645 cases, beyond 30 days but upto 180 days in 28 cases and beyond 180 days in 1 case).
- In 65 cases, the system accepted dates of inspections which were prior to the dates of receipt of applications from lessees.
- Out of 60,646 e-Permits issued to lessees during the period, 2,116 e-Permits were issued with delays ranging between 1 and 240 days beyond the prescribed period of seven days (upto 30 days in 2,024 cases, beyond 30 days but upto 180 days in 84 cases and beyond 180 days in 18 cases).

Government stated (November 2015) that at the time of issue of permit, the system was not checking the application date during submission of report. Subsequently, validation of 30 days were provided for permit approval cycle.

However, the suggestion of audit would be taken into consideration for validation in the system.

#### **6.4.13.3 Existence of invalid dates and status of receipt of minerals**

Analysis of i3MS database revealed that 1,90,09,974 e-Passes were used by lessees / licensees for transportation of minerals since the date of implementation of i3MS till 31 March 2015. Transportation of minerals made by the lessees and licensees was recorded in the database under e-Pass Type 1 (ePT1) and e-Pass Type 2 (ePT2) respectively. Similarly, transportation of coal was recorded under e-Pass Type 3 (ePT3). The category-wise details of e-Passes utilised and recorded in i3MS are given below:

e-Pass Type	Receive Status "0"	Receive Status "1"	Deleted e-Passes	e-Pass Wise Total
e-Pass Type 1	29,81,283	99,01,804	6,697	1,28,89,784
e-Pass Type 2	8,66,707	9,58,912	9,348	18,34,967
e-Pass Type 3	15,91,999	26,92,780	417	42,85,196
e-Pass Type 11	-	-	27	27
<b>Total</b>	<b>54,39,989</b>	<b>1,35,53,496</b>	<b>16,489</b>	<b>1,90,09,974</b>

Audit noticed lack of validation controls as follows:

- Out of 1,28,83,087 e-Passes issued to lessees (ePT1), receive dates of minerals were mentioned as "01-01-1900" in 3,82,654 cases and "14-03-1905" in 6,65,858 cases.
- Out of 18,34,967 e-Passes issued to licensees (ePT2), receive dates of minerals were mentioned as "01-01-1900" in 12,25,679 cases.
- In 54,39,989 out of total 1,89,93,485 e-Passes issued (excluding deleted e-Passes), mineral receive status were mentioned as "0" despite entry of valid mineral quantities and vehicle numbers therein.

Thus, presence of invalid dates of receipt of minerals, status of receipt of minerals as "0" despite entry of valid mineral quantities and vehicle numbers indicated inadequate validation and security controls.

While admitting the fact, Government stated (November 2015) that due to technical error in setting of date and time in the respective computers at receiving end, the lessees and licensees were requested to ensure proper date and time setting while executing any action in i3MS.

#### **6.4.13.4 Grant / renewal of trading licences preceded the dates of applications**

As per Rule 4 of the OM Rules, 2007, any person who intends to procure, possess, store, sell, trade in, consume or otherwise deal with any minerals shall make an application for trading licence for each mineral in form 'A'. Further, as per Rule 8 of the said rules, the licence can be renewed for further period not exceeding two years on application in Form A1, which would be processed in the same manner as the new licence.

During analysis of i3MS database and scrutiny of records relating to grant / renewal of trading licences, Audit noticed that in two cases of grant of new trading licences and one case of renewal of licence, the system accepted dates of grant / renewal of licences preceding to the dates of applications of licensees. This indicated lack of validation controls in respect of grant / renewal of licences.

Government stated (November 2015) that instead of applying renewal application the lessee applied for a new licence after expiry of earlier licence. On the date of approval, DDM put the licence validity period from earlier licence expiry period. This was not treated as renewal of earlier licence by the competent authority. The reply is not acceptable as there was no validation in the system to distinguish between grant of new licence and renewal of licence.

#### **6.4.14 Generation of MIS reports**

The application software of i3MS has the facility of generating several MIS reports such as royalty related reports; permit related reports, lessee / licensee profiles etc. During analysis of i3MS database, MIS reports available in the web portal ([www.orissaminerals.gov.in](http://www.orissaminerals.gov.in)) and scrutiny of records in the offices of DDM / MO and DMO, Audit observed that several MIS reports required under different Statutory Rules or required by the Management for decision support system, were not customised properly for effective utilisation and monitoring of mineral administration. Some of these are given below.

- A Report showing lessee-wise details of permitted quantity of minerals, advance royalty paid, actual quantity of minerals despatched / transported through e-Passes, returns submitted, royalty assessed etc. has not been customised.
- Provision has not been made in the system for generation of an MIS report on average sale price of minerals taking into consideration the sale price of top ten non-captive producers of the State based on the returns filed by them so as to use the same in assessment of royalty in case of delay in publication of sale value of minerals by IBM.

Government stated (November 2015) that individual MIS reports are available in i3MS for permitted quantity of minerals, advance royalty paid, permitted quantity vis-à-vis despatched quantity. Further the software developer is being requested to customise few analysis reports which would facilitate decision making on policy matters by Government. However the fact remains that the MIS reports reconciling the permitted quantity vis-à-vis despatched quantity, advance royalty paid, return submitted and assessment report of lessee were not readily available.

Regarding MIS report on average sale price of minerals, Government stated that IBM is the authorised body to publish the average sale price of minerals across the country on the basis of “F” series data. As requested by Ministry of Mines, Government of India, a mobile application is being developed for the above details of production, despatch and average sale price on real time basis. This would automatically be populated in the MIS report under i3MS. However, the fact remains that the current sale price of mineral was not available in the system through a customised MIS report.

## **6.4.15 Security and Backup**

### **6.4.15.1 Inadequate Access controls**

The i3MS is a web-based application and the database is centralised with connectivity across all DDMs / MOs for synchronisation of data. Hence the system required high standard of security both in physical and logical access controls. The Department of Electronics and Information Technology (DEITY), Ministry of Communication and Information Technology, Government of India have also issued e-Governance Password Management Guidelines to implement password controls. Further, advanced security features can also be implemented as controls improvement depending upon the criticality as envisaged in e-Governance Security Standards Framework (e-SAFE) guidelines.

Audit observed inadequacy of access controls in the following cases:

- No policy had been adopted to prevent reuse of last five passwords and for locking of user account in case of five successive invalid user logins.
- Use of digital signature of DDMs/ MOs in generation of all e-Permits and licences was not done though it had been decided in the review meeting on hardware held on 24 September 2011.
- The decision not to mention numbers below the barcode in the e-Permits generated from the system for security purpose taken in the third Steering Committee meeting held on 2 April 2011 was not complied with.
- Provision was not made for generating SMS prompts to the stakeholders / lessees / licensees for each transaction as decided in the third Steering Committee meeting held on 2 April 2011.

Further analysis of database revealed misuse of privileges as given below:

- Though all the lessees and licensees had been provided with user Ids, it was however noticed that out of 45,413 applications filed by lessees for issue of e-Permits, 240 applications were filed using departmental user Ids.
- Out of total 1,89,93,485 e-Passes issued (excluding deleted e-Passes), in respect of 1,03,13,750 e-Passes (54 *per cent*), administrative privileged user Ids were used.
- Though instruction to Senior Inspectors of Mines for detailed verification of stacking of minerals are to be given by the DDMs / MOs using their departmental Ids, it was however noticed that 127 out of 37,628 such instructions were issued using the user Ids provided to concerned lessees.
- Out of 37,174 inspection reports submitted by the Senior Inspectors of Mines, in 120 cases the inspection reports were submitted using the user Ids of the lessees.

- Out of 37,539 inspection reports placed before the MO for assessment of royalty or for other considerations, in 123 cases, the applications were recommended for rejection using the user Ids of lessees.
- Out of 36,766 applications of lessees for issue of e-Permits placed before concerned DDMs / MOs for final permission / rejection, 118 applications were rejected using the user Ids of lessees.

Government stated (November 2015) that locking of user account in case of five consecutive login has been suggested to the software developer for customisation as suggested by Audit. Digital signature of NIC for DDM / MO in generation of permit and licence introduced in the year 2011-12 did not sustain due to hardware incompatibility issues. Number below barcode is written in e-permit for easy identification by the user agency. Due care has been taken to remove the number below the bar code.

Due to limited service of the SMS gateway, SMS prompts given to the stakeholders were stopped. However steps are being taken to provide the facility.

In respect of observations relating to user Ids, Government stated that when the permit application is rejected by the concerned DDM / MOs and reapplied by the lessee, the system updates the lessee user Id in the “action taken by” field of the table “T\_PMS\_Form\_Action” in all the actions taken by different users before rejection. Further in case of request not approved / rejected by the DDM within 30 days from the date of application, the system automatically cancels the application putting a remark as “Request has been cancelled due to non-approval within 30 days”. In such cases “the action taken by” is updated as lessees. The same has been rectified in the system.

#### **6.4.16 Exit Management Plan**

##### **6.4.16.1 Complete dependence on vendor / software developer due to absence of exit management plan**

The MoU and supplementary MoU signed between the State Government and ISL envisaged that training and hand holding is to be imparted to the stakeholders, users and Government officers at State level as well as at mining circles level for operating the system. Further, there should be regular / continuous training on different functionalities of the application and enhancement of modules and introduction of new modules and capacity building programmes should be planned among Government officials for ultimate takeover of the project as a long term plan.

The Department had no comprehensive plan for the exit management for the project. The pilot phases of i3MS project started during the year 2010 as per MoU signed in December 2010 were completed by March 2011. Similarly, some additional works of the project as per supplementary MoU signed in April 2012 were completed by June 2012. Subsequently, a five year business continuity model and strategic plan for implementation of IT (from 2012-2017) was formulated and implemented from the year 2013. A tripartite agreement was signed on 3 February 2014 by Director of Mines with

ISL (vendor) and CSM (software developer) for carrying out the IT services such as:

1. Annual maintenance contract (AMC) for the software;
2. Change request processes;
3. Development of new modules, enhancement; and
4. Operational Support Unit.

Audit observed that there was complete dependency of the Department on third party vendor / software developer in the i3MS project. Even after five years of operation and maintenance business continuity model (2012-2017), there was no plan for complete takeover of the IT system / exit management plan by the Department. Further, in the event of the vendor / software developer abandoning the IT services as envisaged in the tripartite agreement abruptly at any time, the Department has no contingency action plan to manage the project.

Government stated (November 2015) that the observation of Audit would be duly taken care of through exit management plan and vendor would be requested to work out an exit management plan within three months.

#### **6.4.17 Conclusion**

The Performance Audit of Implementation of IT project of Integrated Mines and Minerals Management System brought out several deficiencies. The objective of the system in curbing illegal mining by end to end tracking of mineral movement / transportation could not be achieved due to several deficiencies such as non-updation of transportation made through off-line e-Passes, absence of internet connectivity and non-integration of weighbridges with the system. Deficient user requirement specifications, inadequate feasibility study, system study, non-use of Radio Frequency Identification system already developed in initial phase besides resulting in infructuous expenditure also affected the end to end tracking system. Excess despatch of minerals against the permitted quantity defeated the objective of the system to restrict illegal transportation of mineral without permit and failed in end to end tracking of mineral movement. Despite computerisation, continued dependence on manual intervention in arriving at royalty assessment continued due to belated receipt of sale value of minerals for top ten non-captive producers from Indian Bureau of Mines. Capture of incomplete data in crucial fields along with lack of validation control in the system affected the reliability of database. Further, provision for online assessment of royalty by reconciling the e-Permits issued with actual quantity transported through e-Passes, advance royalty paid and return submitted by lessee was not customised in the system.

#### 6.4.18 Recommendations

The Government may consider:

- making it mandatory for all lessees and licensees to install electronic weighbridges with internet connectivity as well as for integration of weighbridges with i3MS;
- ensuring end to end tracking of mineral movement by way of updating data of end destination on real time basis;
- making it mandatory to capture data for all important fields to maintain transparency in transactions made by lessees / licensees;
- developing the MIS by linking it with the average sale value of minerals of top ten non-captive mineral producers to arrive at the current average sale price for assessment of royalty in absence of IBM published sales price; and
- ensuring proper mapping of the provisions of OM Rules for lessee, licensee and trading licensees.

While accepting all the recommendations in the Exit Conference (November 2015), Government appreciated Audit for undertaking such a comprehensive study of the i3MS bringing out issues relating to system deficiencies which would result in value addition to the project. Government assured, it would implement the recommendations latest by May 2016.

## **6.5 Other Audit Observations**

Audit scrutinised the records maintained in the offices of the Director of Mines, Odisha, Deputy Directors of Mines (DDMs) and Mining Officers and noticed short levy of royalty in a case as discussed in the succeeding paragraph. This case is an illustrative one and based on a test check carried out by Audit.

## **6.6 Non-observance of the provision of Act / Rules**

*Mines and Minerals (Development and Regulation) Act, 1957, Mining Concession Rules, 1960, Mineral Conservation and Development Rules, 1988 read with the notifications and instructions of the State / Central Government issued from time to time provide for assessment, levy and realisation of royalty at the prescribed rate.*

*An illustrative case of short levy of royalty involving ₹ 32.53 crore is discussed in the following paragraph.*

### **6.6.1 Short levy of royalty on bauxite**

Under Second Schedule of the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, royalty on bauxite produced and despatched for use in alumina and aluminium metal extraction is leviable at the rate of 0.50 per cent of London Metal Exchange Aluminium metal price<sup>22</sup> chargeable on the contained aluminium metal (Al<sub>2</sub>O<sub>3</sub>) in ore. For Bauxite or Laterite ore despatched for use in alumina and aluminium metal extraction or despatched to alumina or aluminium metal extraction industry within India, Rule 64 D (1) (iv) of the Mineral Concession (MC) Rules, 1960 provides for computation of royalty. As per the said Rules, the total contained alumina in the bauxite or laterite on dry basis produced during a period as per statutory monthly return shall be considered for the purpose of computing royalty in the first place and then royalty shall be computed as percentage of average monthly price for the contained aluminium metal in the said alumina content of the ore published by the Indian Bureau of Mines (IBM) as per the formula prescribed. As per Sub-Rule (5) of Rule 10 of Odisha Minerals (Prevention of Theft, etc.) Rules (OM Rules), 2007 read with Sub-Rule (6) and (7) of rules ibid, the lessee after proper dressing, stacking, grading and analysis of the mineral shall apply to the concerned Mining Officer (MO) or DDM notifying his intention to remove such minerals and the Senior Inspector of Mines, after verifying the stack with chemical analysis report, shall forward the said application to the MO / DDM along with his verification report, for issue of permit. However, as per the proviso to Rule 10 (7), in case of fully mechanised mines, if the lessee declares to pay the highest rate of royalty as prescribed under the Second Schedule of MMDR Act, stacking and sampling as provided under Sub-Rules (6) and (7) of the above Rules shall be dispensed with.

During test check of assessment records and returns of the DDM, Koraput, Audit noticed (December 2014) that the Director of Mines, Odisha in

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<sup>22</sup> London Metal Exchange (LME) is the futures exchange which offers futures and options contracts for aluminium, aluminium alloy, NASAAC (North American Special Aluminium Alloy), cobalt, copper, lead, molybdenum, nickel, steel billet, tin and zinc. The price of aluminium in India is regulated by the price fixed by LME.

consideration of full mechanisation of two mines, exempted the concerned lessees from stacking and sampling of bauxite with effect from August 2012 and November 2013 on the condition that the lessees would pay the highest rate of royalty as prescribed under the Second Schedule of the MMDR Act. According to guidelines issued under Rule 64 D (1) (iv) of the MC Rules, the highest rate of royalty on bauxite is linked with aluminium content ( $Al_2O_3$ ) in bauxite despatched during the period for which royalty is computed. Audit noticed that as against ₹ 122.96 crore payable towards royalty on highest  $Al_2O_3$  content of 60 per cent on 71.38 lakh tonnes of bauxite despatched during April 2013 to March 2014, the lessees paid royalty of ₹ 90.43 crore based on monthly average of aluminium content ( $Al_2O_3$ ). The DDM also while assessing the royalty, accepted the same. This resulted in short levy of royalty of ₹ 32.53 crore. Similar irregularity was also pointed out in paragraph 6.5.2 of the Report of the Comptroller and Auditor General of India on Revenue Sector for the year ended March 2014 and as per the instructions of the Government, Steel and Mines Department, the DDM had also raised (October 2014) demand for the differential amount of royalty.

After Audit reported (July 2015) the matter, Government stated (October 2015) that the DDM, Koraput has raised demand of ₹ 32.53 crore against both the lessees in February 2015.

**Bhubaneswar**  
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**The**

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**Comptroller and Auditor General of India**



# **GLOSSARY**



## Glossary of Abbreviations

### A

AA	Assessing Authority
ACCT	Assistant Commissioner of Commercial Taxes
ACET	Assistant Commissioner of Entertainment Tax
AEP	Annual Excise Policy
Al <sub>2</sub> O <sub>3</sub>	Aluminium Metal
AMC	Annual Maintenance Contract
ATN	Action Taken Note
AVR	Audit Visit Report

### B

B&OE Act	Bihar and Odisha Excise Act
BE	Budget Estimate
BER	Board's Excise Rules
BF	Bottling Fee
BL	Bulk Litre
BMV	Benchmark Value
BOR	Board of Revenue

### C

CAAA	Certified Annual Audited Accounts
CCT	Commissioner of Commercial Taxes
CMV Rules	Central Motor Vehicles Rules
CS	Country Spirit
CSM	Cybertech Software and Multimedia Pvt. Limited
CST	Central Sales Tax
CT	Commercial Tax
CTO	Commercial Tax Officer
CUG	Closed User Group

### D

DAC	Departmental Audit Committee
DCCT	Deputy Commissioner of Commercial Taxes
DDM	Deputy Directors of Mines
DEITY	Department of Electronics and Information Technology
DEO	District Excise Office
DIC	District Industries Centre
DIG	Deputy Inspector General
DMO	Director of Mines, Odisha
DSR	District Sub-Registrar

DTH Direct to Home

**E**

EAL Excise Adhesive Label

EC Excise Commissioner

ENT Entertainment Tax

EO Excise Officer

ePT e-Pass Type

e-SAFE e-Governance Security Standard Framework

EW Enforcement Wing

**F**

FC Certificate of Fitness

FCI Fixed Capital Investment

**G**

GIS Geographical Information System

GoI Government of India

GoO Government of Odisha

GPA General Power of Attorney

GPS Global Positioning System

GTO Gross Turnover

**I**

i3MS Integrated Mines and Minerals Management System

IAW Internal Audit Wing

IBM Indian Bureau of Mines

IIT Indian Institute of Technology

IF Import Fee

IGR Inspector General of Registration

IMFL India Made Foreign Liquor

IOG Inter-Organisational Group

IPR Industrial Policy Resolution

IPR Intellectual Property Rights

IR Inspection Report

IS Act Indian Stamp Act

ISL IDCOL Software Limited

ITC Input Tax Credit

**J**

JCCT Joint Commissioner of Commercial Taxes

JIG Joint Inspector General

## L

LPL London Proof Litre

## M

MC Rules Mineral Concession Rules  
MCD Rules Mineral Conservation and Development Rules  
MCV Mineral Carrying Vehicles  
MIS Management Information System  
MMDR Act Mines and Minerals (Development and Regulation) Act  
MO Mining Officer  
MoU Memorandum of Understanding  
MPR Miscellaneous Proceeding Register  
MTTS Mineral Transportation Tracking System  
MV Motor Vehicle  
MV Tax Motor Vehicle Tax

## N

NIC National Informatics Centre  
NOC No Objection Certificate  
NTO Net Taxable Turnover

## O

OENT Act Odisha Entertainment Tax Act  
OET Odisha Entry Tax  
OIC Officer-in-Charge  
OMC Odisha Mining Corporation  
OM Rules Odisha Minerals, Prevention of Theft, Smuggling and  
Illegal Mining and Regulation of possession, Storage,  
Trading and Transportation Rules  
OMMC Rules Odisha Minor Minerals Concession Rules  
OMV Rules Odisha Motor Vehicles Rules  
OMVT Odisha Motor Vehicles Taxation  
ORR Off-Road Register  
OSBC Odisha State Beverage Corporation Limited  
OST Odisha Sales Tax  
OVAT Odisha Value Added Tax

## P

PA Performance Audit  
PAC Public Accounts Committee  
PAG Principal Accountant General  
PDF Portable Document Format

PMU	Project Management Unit
POA	Power of Attorney
PPMS	Permit and Pass Management System
PR	Permit Register
PSV	Private Service Vehicle

**R**

R&DM	Revenue & Disaster Management
RA	Registering Authority
RC	Certificate of Registration
RF	Registration Fee
RFID	Radio Frequency Identification
RTO	Regional Transport Officer
RTO	Regional Transport Office

**S**

SD	Stamp Duty
SDTRL	State Drug Testing and Research Laboratory
SE	Superintendent of Excise
SED	State Excise Duty
SIM	Senior Inspector of Mines
SLTF	State Level Task Force
SMS	Short Messaging Service
SR	Sub-Registrar
SSI	Small Scale Industry
STA	State Transport Authority

**T**

TC	Transport Commissioner
TF	Transportation Fee
TINXSYS	Tax Information Exchange System
TP	Transit Permit
TRO	Tax Recovery Officer
TTO	Taxable Turnover
TV	Television

**U**

UF	Utilisation Fee
URS	User Requirement Specification



VAT

VATIS

VCR

Value Added Tax

VAT Information System

Vehicle Check Report

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AUDITOR GENERAL OF INDIA  
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