



**Report of the
Comptroller and Auditor General of India
on
Revenue Sector
for the year ended March 2012**

The Report has been laid on the table of the State Legislature Assembly on 10-07-2014



Government of West Bengal
Report No. 2 of the year 2013

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PREFACE

This Report for the year ended 31 March 2012 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising sales tax/value added tax, land revenue, motor vehicles tax, stamp duty and registration fees, other tax receipts and mining receipts of the State.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2011-12 as well as those noticed in earlier years but could not be included in previous years' reports.

OVERVIEW

OVERVIEW

I. General

This Report contains 31 paragraphs including three Performance Audits relating to under-assessment/non-realisation/loss of revenue etc. involving ₹ 530.97 crore. Some of the major findings are mentioned in the following paragraphs:

The total receipts of the Government for the year 2011-12 increased to ₹ 58,755.04 crore against ₹ 47,264.20 crore in the previous year. Of this, 45 *per cent* was raised by the Government through tax revenue (₹ 24,938.16 crore) and non-tax revenue (₹ 1,340.25 crore). The balance 55 *per cent* was received from the Government of India as the State's share of net proceeds of divisible Union taxes (₹ 18,587.81 crore) and grants-in-aid (₹ 13,888.82 crore).

(Paragraph 1.1.1)

As on 30 June 2012, 673 inspection reports issued upto December 2011 containing 2,780 audit observations involving ₹ 832.52 crore were outstanding for want of response or final action by the concerned departments.

(Paragraph 1.2.1)

Test check of the records of sales tax, land revenue, state excise, stamp duty and registration fees, profession tax, electricity duty, amusement tax, other tax and non-tax receipts conducted during the year 2011-12 indicated under-assessment/short levy/loss of revenue amounting to ₹ 1,037.55 crore in 1,409 audit observations. During the course of the year, the departments accepted underassessment of ₹ 187.02 crore in 716 audit observations pointed out in 2011-12 and recovered ₹ 83.15 lakh at the instance of audit.

(Paragraph 1.5.1)

II. Sales Tax/Value Added Tax

A Performance Audit on 'e-Services in the Directorate of Commercial Taxes' indicated the following:

- Lack of input and validation controls led to capturing of incomplete/invalid/duplicate data in the system.
(Paragraphs 2.10.12 and 2.10.17)
- Absence of validation control also led to manipulation of tax amount in e-return by the dealers.

(Paragraph 2.10.20)

- Non-integration of return module with the registration module resulted in irregular claim of ITC on purchases from unregistered dealers.

(Paragraph 2.10.21)

- Non-mapping of business rules resulted in irregular issue of H forms and issue of declaration form H in excess of the purchases declared in the e-return.

(Paragraphs 2.10.22 and 2.10.24)

- Non-submission of utilisation of e-transit declarations by transporters.

(Paragraph 2.10.29)

Determination of turnover of sales (TOS) at ₹ 1,413.57 crore instead of ₹ 1,472.31 crore led to short determination of TOS by ₹ 58.74 crore resulting in short levy of tax of ₹ 5.34 crore in 23 cases.

(Paragraph 2.12)

Due to failure on the part of the Assessing Authorities (AA), additional sales tax of ₹ 23.18 crore though leviable on inter-State sales to unregistered dealers was not levied in two cases.

(Paragraph 2.14)

Non-compliance of the provisions of the Act/Rules and lack of internal control mechanism resulted in irregular allowance of deferment and non-realisation of deferred tax of ₹ 3.21 crore in four cases.

(Paragraph 2.16)

Irregular allowance of remission of tax resulted in underassessment/irregular remission of tax of ₹ 2.33 crore in four cases.

(Paragraph 2.17)

Excess/irregular allowance of deduction of labour charges and payments to sub-contractors led to short levy of tax of ₹ 18.66 crore on contractual transfer price (CTP) in three cases.

(Paragraph 2.21)

Mistake in computation of output tax on the part of AAs led to short levy of output tax of ₹ 3.30 crore in 10 cases.

(Paragraph 2.24)

III. Land Revenue

A Performance Audit on ‘**Management of Government Land**’ indicated the following:

- The department failed to check illegal transfer of vested land and subsequently lost rights over 1,898.20 acres of land due to improper maintenance of Record of Rights.

(Paragraph 3.7.8.1, 3.7.8.2 and 3.7.8.3)

- Non-initiation of action to realise land rent from defaulting raiyats led to non-realisation of rent, cess and surcharge of ₹ 2.07 crore.

(Paragraph 3.7.12)

- Department did not realise/short realised the transfer value of ₹ 7.53 crore for 70.23 acres of vested land in possession of Body Corporate.

(Paragraph 3.7.14)

- Due to delay in settlement of Government land measuring 397.84 acre on long term lease led to non-realisation of *salami* and annual rent.

(Paragraph 3.7.15)

- The department failed to resume/settle 2,337.11 acres of *Khasmahal* land occupied by the ex-lessees after the expiry of their leases.

(Paragraph 3.7.16)

- Deficient data management of Government land and absence of provision for periodicity of reconnaissance survey led to failure of the Government to monitor the status of land and its utilisation.

(Paragraph 3.7.17.1 and 3.7.17.2)

- Non-monitoring of encroachments resulted in non-settlement of 176.41 acres of land.

(Paragraph 3.7.18)

IV. Motor Vehicles Tax

Lack of internal control mechanism to watch receipt and remittance of composite fees resulted in short realisation of revenue of ₹ 2.13 crore.

(Paragraph 4.8)

Lack of monitoring by registering authorities in absence of electronic Tax Demand Register (TDR) led to non-realisation of special tax and penalty of ₹ 89.31 lakh from the owners of 1,370 vehicles.

(Paragraph 4.9)

V. Stamp Duty and Registration Fees

Absence of time limit for issuance of demand notice for payment of deficit stamp duty and registration fees in the Act/Rules and delay in referring the cases to the higher authorities for determination of market value of properties resulted in non-realisation of revenue of ₹ 3.15 crore.

(Paragraph 5.8)

Additional stamp duty of ₹ 17.53 lakh was avoided by the purchasers on purchase of high value properties by splitting the property due to absence of provision in the Act/Rules prohibiting such splitting.

(Paragraph 5.9)

VI. Other Tax Receipts

Absence of a mechanism for cross-verification by the profession tax officers with the license granting authorities to bring the tax evaders in the tax net led to non-realisation of profession tax of ₹ 59.84 lakh.

(Paragraph 6.5)

VII. Mines and Minerals

A Performance Audit on ‘Receipts from Major Minerals’ indicated the following:

- Involvement of four departments in assessment and collection of receipts from major minerals and operation of two major heads of accounts led to mismanagement, delay and resultant evasion of receipts.

(Paragraph 7.5.8)

- Incorrect gradation of coal resulted in short assessment of Rural Employment and Primary Education cess of ₹ 50.15 crore.

(Paragraph 7.5.8.1)

- Absence of timely disposal of appeal cases have rendered 13 cases with money value of ₹ 2,201.16 crore still under litigation.

(Paragraph 7.5.10)

- Failure to initiate certificate proceeding by the Cess Deputy Collector, Asansol even after a delay of 18 to 139 months of its assessment resulted in non-realisation of revenue of ₹ 31.36 crore.

(Paragraph 7.5.12)

- Due to non-revision of royalty in coal, which is a major revenue generating mineral for the state, revenue realisation has been adversely affected.

(Paragraph 7.5.13)

- Due to short payment of Rural Employment and Primary Education cess, Eastern Coalfields Ltd is required to pay ₹ 31.20 crore.

(Paragraph 7.5.16)

- Surface rent and cess thereto of ₹ 1.18 crore remained unrealised.

(Paragraph 7.5.20)

- Absence of checkpost, weighbridge, transit pass, inspection and internal audit led to ineffective internal control.

(Paragraph 7.5.23)

CHAPTER - I

CHAPTER I : GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of West Bengal during the year 2011-12, the State's share of net proceeds of divisible Union taxes and duties assigned to the States and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

Table 1.1 – Trend of revenue receipts

(₹ in crore)						
Sl. No.	Receipts	2007-08	2008-09	2009-10	2010-11	2011-12
1.	Revenue raised by the State Government					
	Tax revenue	13,126.33	14,419.15	16,899.98	21,128.74	24,938.16
	Non-tax revenue	1,473.09	4,966.39	2,438.11	2,380.49	1,340.25
	Total	14,599.42	19,385.54	19,338.09	23,509.23	26,278.41
2.	Receipts from the Government of India					
	State's share of net proceeds of divisible Union taxes	10,729.06	11,321.78	11,648.16	15,954.95	18,587.81
	Grants-in-aid	4,838.90	6,197.07	5,935.40	7,800.02	13,888.82
	Total	15,567.96	17,518.85	17,583.56	23,754.97	32,476.63
3.	Total receipts of the State Government (1 and 2)	30,167.38	36,904.39	36,921.65	47,264.20	58,755.04¹
4.	Percentage of 1 to 3	48	53	52	50	45

The above table indicates that during the year 2011-12, the revenue raised by the State Government (₹ 26,278.41 crore) was 45 *per cent* of the total revenue receipts against 50 *per cent* in the preceding year. The balance 55 *per cent* of receipts during 2011-12 was received from the Government of India as State's share of net proceeds of divisible Union taxes and grants-in-aid.

¹ For details, please see Statement No. 11 – Detailed statement of revenue by minor heads in the Finance Accounts of the Government of West Bengal for the year 2011-12. Figures under the heads 0020-Corporation tax, 0021 - Taxes on income other than corporation tax, 0032 - Taxes on wealth, 0037 – Customs duty, 0038 - Union excise duties and 0044 - Service tax mentioned in the Statement under caption “A - Tax revenue” have been excluded from the revenue raised by the State and included in the State's share of divisible union taxes.

1.1.2 The following table presents the details of tax revenue raised during the period 2007-08 to 2011-12:

Table 1.2 - Details of Tax revenue

(₹ in crore)							
Sl. No.	Head of revenue	2007-08	2008-09	2009-10	2010-11	2011-12	Percentage of increase (+)/ decrease (-) in 2011-12 over 2010-11
1.	Tax on Sales, trade etc.	8,060.46	8,955.09	10,509.64	13,275.77	15,888.41	(+) 19.68
2.	Stamp duty and registration fees	1,416.96	1,509.49	1,814.22	2,265.21	2,731.68	(+) 20.59
3.	State excise	935.46	1,082.94	1,443.81	1,783.34	2,117.04	(+) 18.71
4.	Land revenue	1,039.58	983.78	928.92	1,253.66	1,872.23	(+) 49.34
5.	Taxes on vehicles	532.07	608.01	774.34	936.01	1,007.23	(+) 7.61
6.	Other taxes and duties on Commodities and Services	341.18	367.15	393.11	441.18	477.39	(+) 8.21
7.	Other taxes on Income and Expenditure-Taxes on Profession, Trades, Callings and Employment	295.06	321.60	362.40	388.54	426.68	(+) 9.82
8.	Taxes and duties on electricity	506.69	587.52	664.57	769.09	408.19	(-) 46.93
9.	Other taxes	(-)1.13	3.57	8.97	15.94	9.31	(-) 41.59
Total		13,126.33	14,419.15	16,899.98	21,128.74	24,938.16	(+) 18.03

The increase in tax revenue receipts in 2011-12 over the preceding year from Sales Tax (19.68 *per cent*), Stamp Duty and Registration Fees (20.59 *per cent*), State excise (18.71 *per cent*), Land Revenue (49.34 *per cent*), Taxes on vehicles (7.61 *per cent*), other Taxes and duties on Commodities and Services (8.21 *per cent*) and other Taxes on income and expenditure (9.82 *per cent*) was attributed by the departments mainly to higher receipts on collection under Central Sales Tax Act and Value Added Tax (VAT) Act; increase in receipts on sale of non-judicial stamps and collection of registration fees; higher receipts of excise duty from country spirits, malt liquors and foreign liquors; higher receipts from surcharge on land revenue under Rural Employment and Production Act, 1976 and Rural Employment and Education cess on Coal Mines, collection of royalties

from Mines and Minerals and Public Works cess; higher tax collection under State Motor Vehicles Act; higher collection under West Bengal Entertainment & Luxuries Tax Act 1972, collection of cess on sale of motor spirit, high speed diesel, L.P. gas used for commercial, industrial purposes and collection from holders of VCD/VCR sets and higher collection of taxes on Profession, Trades, Callings and Employment respectively.

The decrease in taxes and duties on electricity (46.93 *per cent*) was due to lower receipts of electricity duty in cash payable by West Bengal State Electricity Distribution Company Ltd, West Bengal State Electricity Board and Calcutta Electric Supply Corporation and waiving of electricity duty under West Bengal Incentive Scheme, 1993.

1.1.3 The following table presents the details of the non-tax revenue raised during 2007-08 to 2011-12:

Table 1.3 - Details of Non-Tax revenue

(₹ in crore)							
Sl. No.	Head of revenue	2007-08	2008-09	2009-10	2010-11	2011-12	Percentage of increase (+)/ decrease (-) in 2011-12 over 2010-11
1.	Interest receipts	689.96	3,999.90	362.83	716.84	291.54	(-)59.33
2.	Police	63.02	66.88	68.67	103.62	152.79	(+)47.45
3.	Forestry and wildlife	49.84	45.33	64.17	75.49	92.47	(+)22.49
4.	Medical and public health	42.83	66.36	47.34	67.03	82.13	(+)22.53
5.	Dairy development	26.94	29.84	27.43	26.84	28.37	(+)5.70
6.	Roads and Bridges	13.66	18.58	25.90	22.52	23.34	(+)3.64
7.	Education, sports, art and culture	21.42	44.62	73.04	65.21	20.54	(-)68.50
8.	Housing	9.68	9.07	14.52	11.52	11.94	(+)3.65
9.	Food storage and warehousing	247.71	340.17	1,292.97	877.31	1.55 ²	(-)99.82
10.	Others	308.03	345.64	461.24	414.11	635.58	(+)53.48
Total		1,473.09	4,966.39	2,438.11	2,380.49	1,340.25	(-)43.70

² During the period from 2007-08 to 2010-11, food subsidies received from the Central Government were included in the receipts from "Food storage and warehousing". In the Finance Account/ State Budget Document of 2011-12, the same was excluded from the non-tax revenue raised by the State and included under grants-in-aid at the instance of audit.

The decrease in non-tax revenues in 2011-12 over the preceding year under education, sports and culture (68.50 *per cent*) and interest receipts (59.33 *per cent*) was mainly due to decrease in receipts under tuition and other fees from elementary and secondary education, grants from the Government of India for post matric students in Hindi and recoveries/fines/forfeitures etc. from general education, technical education etc. and lower interest receipts from West Bengal State Electricity Distribution Company Limited respectively.

1.2 Response of the departments/Government towards audit

Audit observations raised during local inspection are replied by the concerned authorities after issue of inspection report(s). On non-receipt of satisfactory reply/non-settlement of the observations in the departmental Audit Committee meeting(s), the potential observations are converted into draft paragraph(s) and forwarded to the departments/government for reply/comments within six weeks. In case, the reply furnished by the Government is not satisfactory, the draft paragraphs are finally included in the Audit Report. The Secretary to the Government of the concerned department, after laying of the Audit Report in the legislature, forwards explanatory notes on the relevant paragraphs to the committee on public accounts (PAC) for vetting by the Accountant General (AG). After discussion, the PAC makes recommendations for compliance by the Government within six months for final settlement of the paragraphs.

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

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

Inspection Reports issued upto December 2011 disclosed that 2,780 paragraphs involving ₹ 832.52 crore relating to 673 IRs remained outstanding at the end of June 2012 as mentioned below alongwith the corresponding figures for the preceding two years:

Table 1.4 - Summary of outstanding IRs

	June 2010	June 2011	June 2012
Number of outstanding IRs	1,109	1,007	673
Number of outstanding audit observations	3,012	3,039	2,780
Amount involved (₹ in crore)	4,253.42	4,280.62	832.52

The department-wise details of the IRs and audit observations outstanding as on 30 June 2012 and the amounts involved are mentioned below:

Table 1.5 - Department wise details of outstanding IRs

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1	Finance	Sales Taxes/ VAT	152	893	304.98
		Electricity duty	29	43	22.61
		Amusement Tax	15	26	1.36
		Profession Tax	60	153	6.21
		Stamps duty and registration fees	143	316	70.78
2.	Excise	State excise	22	111	85.50
3.	Land and Land Reforms	Land Revenue	77	573	184.25
		Receipts from minor minerals	85	359	134.13
4.	Transport	Taxes on motor vehicles	89	305	22.63
5.	Directorate of State Lotteries	Departmental Receipts	01	01	0.07
Total			673	2,780	832.52

Even the first replies required to be received from the heads of offices within four weeks from the date of issue of the IRs were not received for 182 IRs issued upto December 2011. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and heads of the departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

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

1.2.2 Departmental Audit Committee meetings

The Government sets up Audit Committees to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. The details of the Audit Committee meetings held during the year 2011-12 and the paragraphs settled are mentioned in the following table:

Table 1.6 - Details of Departmental Audit Committee meetings

Departments	Number of meetings held	Number of paragraphs		Money Value of paragraphs settled (₹ in lakh)
		Discussed	Settled	
Land and Land Reforms	3	76	33	351.78
Commercial Tax	1	120	08	16.35
TOTAL	4	196	41	368.13

Thus, out of six departmental³ Audit Committees, two committees held four meetings during 2011-12 and settled 41 paragraphs involving money value of ₹ 368.13 lakh. The other departments did not hold any Audit Committee meeting during 2011-12 despite being requested.

The Government may consider holding Audit Committee meetings of each department at least twice a year.

1.2.3 Response of the departments to the draft audit paragraphs

We issued 33 draft paragraphs (DP) and three Performance Audits (PA) to four departments proposed for inclusion in the Audit Report 2011-12. After regular persuasion through reminders, two departments furnished replies in respect of four DPs within stipulated period of six weeks and departments furnished replies in respect of 27 DPs and three PAs after the stipulated period. The departments did not furnish reply in respect of two DPs (December 2012).

The details of DPs issued and reply received are mentioned below:

Table 1.7 - Response of the departments to the DPs

Name of the Department	Head of Revenue	No. of DPs issued	Reply received within due date	Reply received after due date
Finance	Sales Tax/VAT	14+01(PA)	Nil	13+01(PA)
	Stamp Duty and Registration Fees	03	Nil	03
	Profession Tax	01	Nil	01
Excise	State Excise	01	01	Nil
Land and Land Reforms	Land Revenue including Mines and Minerals	08+02(PA)	03	04+02(PA)
Transport	Taxes on Motor Vehicles	06	Nil	06
Total		33+03(PA)	04	27+03(PA)

The Government should issue instructions to the concerned departments for furnishing reply to the DPs within the stipulated period of six weeks.

³ Commerce and Industries Department, Excise Department, Finance (Revenue) Department (comprising of Directorate of Commercial Taxes, Directorate of Registration and Stamp Revenue, Directorate of Electricity), Industrial Reconstruction Department, Land and Land Reforms Department and Transport Department.

1.2.4 Follow up on Audit Reports – summarised position

As per the Rules of Procedure of the Committee on Public Accounts of the West Bengal Legislative Assembly (Internal Working) framed in 1997, the concerned department shall send action taken notes (ATN) on the recommendations contained in the Report of the PAC within six months from the date of its presentation to the House. However, the departments failed to submit ATNs within the stipulated period of six months in respect of 34 paragraphs included in the Audit Reports upto the year ended March 2007 of which 20 belonged to the period prior to 2001-02.

The position of outstanding ATNs due from the departments in respect of Audit Reports of last 10 years is mentioned in the following table:

Table 1.8 - Position of outstanding ATNs

Year of Audit Report	No. of paragraphs /PA	No. of paragraphs /PA discussed	PAC Report	Date of presentation in the Assembly	No. of ATNs due
2001-02	53+02(PA)	03	37 th Report of 2010-11	25 March 2011	1
2001-02			20 th Report of 2008-09	17 March 2009	2
2003-04	34+02(PA)	01+01(PA)	2 nd Report of 2006-07	28 November 2006	8
2006-07	53+03(PA)	05+02(PA)	23 rd Report of 2008-09	24 March 2009	2
2006-07			35 th Report of 2010-11	25 March 2011	1

The Government should put in place a monitoring mechanism to watch and ensure timely action on the recommendations with a view to safeguard the interests of revenue of the State.

1.2.5 Compliance with the earlier Audit Reports

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

As of 31 March 2012, the Government had not furnished explanatory notes in respect of 10 selected paragraph including one sub-paragraph and 1,019 unselected paragraphs including 510 sub-paragraphs of Audit Reports from 1981-82 to 2009-10. The lack of response from the Government would adversely affect the revenue realisation.

1.2.5.1 Recovery of accepted cases of earlier Audit Reports

During the years 2006-07 to 2010-11, the Departments/Government accepted audit observations involving ₹ 1,967.00 crore of which an amount of ₹ 18.79 crore was recovered till March 2012 as mentioned in the following table:

Table 1.9 - Recovery of accepted cases of earlier Audit Reports

(₹ in crore)

Year of Audit Report	Total money value of the Audit Report	Total money value of the accepted cases	Amount recovered
2006-07	2,483.81	1,008.60	1.01
2007-08	616.07	193.74	0.49
2008-09	784.58	495.00	14.83
2009-10	236.97	88.24	0.85
2010-11	558.70	181.42	1.61
Total	4,680.13	1,967.00	18.79

Thus, recovery in respect of accepted cases was very low (0.96 *per cent*) compared to the accepted money value.

The Government may take action to install a mechanism to pursue and monitor prompt recovery in accepted cases.

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

Transport Department

The succeeding paragraphs 1.3.1 to 1.3.2 discuss the action taken by the **Transport Department** to deal with the cases detected in the course of local audit conducted during the last 10 years and also the cases included in the Audit Reports for the years 2002-03 to 2011-12.

1.3.1 Position of Inspection Reports

The summarised position of inspection reports issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2012 are tabulated below:

Table 1.10 - Position of Inspection Reports

(₹ in crore)

Year	Opening Balance			Addition during the year			Clearance during the year			Closing balance		
	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value
2002-03	355	956	38.63	18	153	3.84	1	5	3.86	372	1104	38.61
2003-04	372	1104	38.61	16	90	3.81	8	74	0.25	380	1120	42.17
2004-05	380	1120	42.17	22	133	7.39	3	124	0.92	399	1129	48.64
2005-06	399	1129	48.64	9	69	2.58	0	7	0.02	408	1191	51.20
2006-07	408	1191	51.20	17	64	3.02	2	3	0.01	423	1252	54.21
2007-08	423	1252	54.21	6	37	4.88	2	9	0.11	427	1280	58.98
2008-09	427	1280	58.98	8	38	14.68	0	12	0.90	435	1306	72.76
2009-10	435	1306	72.76	8	49	5.41	332	1015	59.83	111	340	18.34
2010-11	111	340	18.34	7	53	5.31	10	53	4.35	108	340	19.30
2011-12	108	340	19.30	18	307	156.76	21	154	85.79	105	493	90.27

The department settled lesser number of paragraphs as compared to additions during the last 10 years except in the years 2009-10 and 2010-11.

It would be seen from the above table that the pace of clearance was very slow except 2009-10. Since with the passage of time the chances of recovery of the receipts become remote, the department may settle the audit observations promptly.

The department did not hold any Audit Committee meetings during the year 2011-12 to settle outstanding IRs/paras despite being requested.

1.3.2 Recovery of accepted cases

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

Table 1.11 - Recovery of accepted cases

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Position of recovery of cases as on 31.03.2012
2002-03	6	1.92	5 ⁴	1.30	Nil
2003-04	5	5.56	2	1.35	Nil
2004-05	6	3.40	6	3.03	0.03
2005-06	5	0.81	1	0.14	Nil
2006-07	6	132.90	5	68.36	Nil
2007-08	4	4.66	4	1.09	Nil
2008-09	5	10.69	5	1.17	Nil
2009-10	42	14.41	9	4.76	Nil
2010-11	4	73.97	4	9.05	0.07
2011-12	6	4.28	5	2.15	0.02
Total	89	252.60	42	92.40	0.12

The department accepted 42 paragraphs involving ₹ 92.40 crore during the last 10 years but realised ₹ 12 lakh (0.13 *per cent*) till 31 March 2012 which is very low. This indicates that the recovery mechanism of the department needs improvement.

1.4 Audit planning

The unit offices under various departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which *inter-alia* include critical issues in government revenues and tax administration i.e. budget speech, White Paper on state finances, reports of the Finance Commission (state and central), recommendations of the taxation reforms committee; statistical analysis of the

⁴ One fully accepted and four partly accepted.

revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during last five years etc.

During the year 2011-12, the audit universe consisted of 210 auditable units out of 515 units. 172 units were audited against the 168 planned units. The details are shown in the **Annexure-I** of the report.

Besides Compliance Audit mentioned above, three Performance Audits on “e-Services in the Directorate of Commercial Taxes” (an IT audit), “Management of Government Land” and “Receipts from Major Minerals” were also taken up to examine the efficacy of the tax administration of these receipts.

1.5 Results of Audit

1.5.1 Position of local audit conducted during the year

Test check of records of 168 units of commercial tax, state excise, land and land reforms, transport, stamp duty and registration fees and other departmental offices conducted during the year 2011-12 revealed underassessments/short levy/loss of revenue aggregating to ₹ 1,037.55 crore in 1,409 cases. During the year, the departments concerned accepted underassessments and other deficiencies in 716 cases involving ₹ 187.02 crore of which 493 cases involving ₹ 147.95 crore were pointed out during 2011-12 and the rest in the earlier years. The departments collected ₹ 83.15 lakh in 48 cases during 2011-12.

1.5.2 This Report

This report contains 28 paragraphs and three Performance Audits on “e-Services in the Directorate of Commercial Taxes”, “Management of Government Land” and “Receipts from Major Minerals” involving financial effect of ₹ 530.97 crore. The departments/Government has accepted audit observations involving ₹ 286.12 crore of which ₹ 1.48 crore has been recovered. Replies in the remaining cases have not been received (December 2012). These are discussed in succeeding chapters II to VII.

CHAPTER - II

Sales Tax/Value Added Tax

EXECUTIVE SUMMARY	
Increase in tax collection	In 2011-12 tax collection in respect of VAT including sales tax and central sales tax increased by 19.68 <i>per cent</i> over the previous year which was attributed by the Department to higher receipts under the Central Sales Tax Act and the Value Added Tax (VAT) Act.
Low audit coverage by internal audit wing	Internal audit wing of the Directorate of Commercial Taxes does not have any Audit Manual. The wing planned and audited only three charge offices out of 76 offices (67 charge offices and nine ranges) during 2011-12 which was only 3.95 <i>per cent</i> of the total auditable units.
Very low recovery by the Department against observations pointed out by audit	During the period 2007-08 to 2011-12 audit had pointed out non/short levy, non/short realisation, underassessment / loss of revenue, etc. with revenue implication of ₹ 710.61 crore in 89 paragraphs. Of these, the Department accepted 76 paragraphs involving ₹ 198.36 crore but recovered only a meagre amount of ₹ nine lakh.
Results of audit conducted in 2011-12	<p>In 2011-12, test check of the records of 44 units relating to VAT receipts indicated underassessment of tax and other irregularities involving ₹ 221.96 crore in 515 cases.</p> <p>The Department accepted underassessment and other deficiencies of ₹ 41.44 crore in 169 cases, of which 162 cases involving ₹ 41.18 crore were pointed out in audit during the year 2011-12 and the rest in the earlier years. An amount of ₹ 20.47 lakh was realised in seven cases during the year 2011-12.</p>
What has been highlighted in this Chapter	<p>In this Chapter a Performance Audit on “e-Services in the Directorate of Commercial Taxes” with financial effect of ₹ 1.20 crore has been presented.</p> <p>The following points have been highlighted in the Performance Audit:</p> <ul style="list-style-type: none"> • Lack of input and validation controls led to capturing of incomplete/invalid/duplicate data in the system. • Absence of validation control also led to manipulation of tax amount in

	<p>e-return by the dealers.</p> <ul style="list-style-type: none"> • Non-integration of return module with the registration module resulted in irregular claim of ITC on purchases from unregistered dealers. • Non-mapping of business rules resulted in irregular issue of H forms and issue of declaration form H in excess of the purchases declared in the e-return. • Non-submission of utilisation of e-transit declarations by transporters. <p>Besides these, some illustrative cases of ₹ 66.91 crore noticed during the test check of records in compliance audit have also been included.</p> <p>Similar omissions on the part of the Assessing Authorities (AAs) were pointed out repeatedly in the Audit Reports for the past several years. However, these irregularities persisted and remained undetected by the audited entity till these were redetected in Audit. Omissions were apparent from the records which were made available to Audit, however the AAs were unable to detect them.</p>
Conclusion	<p>Performance Audit on "e-Services in the Directorate of Commercial Taxes" revealed a number of deficiencies in the system of e-services of the directorate. Documentation of the project, change management control, business continuity and disaster recovery plan were inadequate. Further proper input and validation controls were not put in place resulting in capturing of incomplete, invalid, duplicate data in the system. Business rules were also not properly incorporated in the application software and the modules were not integrated.</p> <p>The department may :</p> <ul style="list-style-type: none"> • Improve the efficiency and effectiveness of the system of e-services of the directorate. • Streamline the functioning of the internal audit wing by preparing its Manual and widening the audit coverage. • Initiate action to recover the non-realisation, undercharge of tax, etc pointed out by Audit, more so in cases where Audit contention has been accepted.

CHAPTER II : SALES TAX/VALUE ADDED TAX

2.1 Tax administration

Sales Tax and Value Added Tax (VAT) comprise the receipts under the West Bengal Sales Tax (WBST) Act, 1994 (effective from May 1995), the Central Sales Tax (CST) Act, 1956 (effective from January 1957) and the Value Added Tax Act, 2003 (effective from April 2005). The WBST Act, 1994 is operative on sales of commodities like foreign liquor, country liquor, diesel, petrol and motor spirit, whereas, on the remaining commodities the WBVAT Act, 2003 is applicable. The various provisions under the Act/Rules are administered by the Finance (Revenue) Department headed by the Secretary to the Government of West Bengal. He is assisted by the Commissioner of Commercial Taxes (CCT), two Special Commissioners, 45 Additional Commissioners, 154 Senior Joint Commissioners, 166 Joint Commissioners, 208 Deputy Commissioners and 488 Commercial Tax Officers.

2.2 Trend of revenue

Actual receipts from VAT¹ during the years from 2007-08 to 2011-12 along with the total tax receipts during the same period is exhibited in the following table and chart:

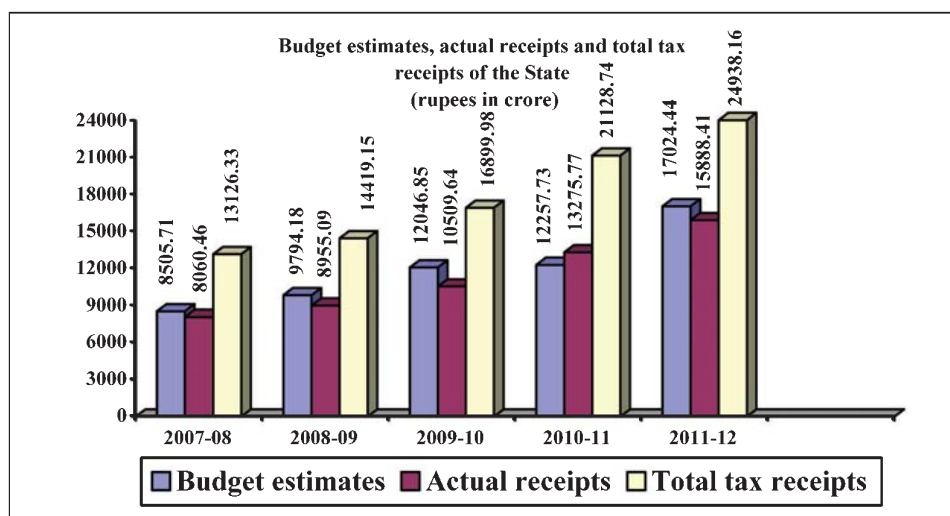
Table 2.1 - Trend of revenue

(₹ in crore)						
Year	Budget estimates	Actual receipts	Variation Excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual VAT receipts vis-à-vis total tax receipts
2007-08	8,505.71	8,060.46	(-)445.25	(-)5.23	13,126.33	61.41
2008-09	9,794.18	8,955.09	(-)839.09	(-)8.57	14,419.15	62.11
2009-10	12,046.85	10,509.64	(-)1,537.21	(-)12.76	16,899.98	62.19
2010-11	12,257.73	13,275.77	(+)1,018.04	(+)8.31	21,128.74	62.83
2011-12	17,024.44	15,888.41	(-)1,136.03	(-)6.67	24,938.16	63.71

Source : Finance Accounts and Budget Publications of the Government of West Bengal.

¹ Includes sales tax, central sales tax and VAT.

Chart 2.1: Budget estimates, Actual receipts and Total tax receipts



The total tax receipts of the State have been following an increasing trend for the last five years as is with the receipts of taxes on sales, trade etc. The percentage of the revenue contribution to the total tax receipts by the receipts of taxes on sales, trade etc. has been almost stable within a range of 61 *per cent* to 64 *per cent*. In 2011-12, tax collection in respect of sales, trade etc increased by 19.68 *per cent* over the previous year which was attributed by the Department to higher receipts under the CST Act and the VAT Act.

2.3 Cost of collection of VAT per assessee

Cost of collection of VAT per assessee for the last three years is shown in the following table:

Table 2.2 - Cost of collection of VAT per assessee

Year	Cost of collection (₹ in crore)	No. of dealers at the end of the year	Cost of VAT per assessee (₹ in thousand)
2009-10	150.01	2,89,299	5.19
2010-11	165.18	3,10,832	5.31
2011-12	174.52	2,27,351	7.68

Source: Finance Accounts and figures furnished by the Department.

Cost of collection of VAT per assessee suddenly increased to ₹ 7.68 thousand per assessee in 2011-12 from ₹ 5.31 thousand per assessee in 2010-11. Thus, there is ample scope for better tax administration by lowering the cost of collection and bringing more dealers in the tax net.

2.4 Arrears in assessment

The position of arrears in assessment during the period from 2009-10 to 2011-12 is shown in the following table:

Table 2.3 – Arrears in assessment

Sl. No.	Particulars	2009-10	2010-11	2011-12
1	Opening Balance	27,572	89,086	1,05,804
2	Cases initiated during the year	1,02,518	61,514	77,383
3	Cases disposed of during the year	41,004	44,796	55,325
4	Cases pending at the end of the year	89,086	1,05,804	1,27,862

Source: Figures furnished by the Department.

From above table it has been seen that the cases pending for assessment has steadily increased between 2009-10 and 2011-12. The Government may consider fixing a target for the disposal of assessment cases by the Assessing Authorities in a year.

2.5 Working of internal audit wing

Internal audit wing of the Directorate of Commercial taxes started functioning from May 1991 as a permanent in-house mechanism for scrutinising and detecting irregularities in the assessments of Sales Tax and VAT cases as well as checking of different records/registers to ascertain whether the internal control system as envisaged in the Act and Rules made thereunder is functioning properly. The wing is headed by the Additional Commissioner of Commercial Taxes (ACCT) who is assisted by two Sr. Joint Commissioners, two Joint Commissioners, one Upper Divisional Clerk and one Lower Divisional Clerk. The wing does not have any internal audit manual. The wing planned and audited only three charge offices out of 67 charge offices and nine ranges during the year 2011-12. Thus, coverage of internal audit wing during 2011-12 was only 3.95 *per cent* of the total auditable units and needs to be widened. The wing did not furnish information regarding the number of assessments done and the number of assessments selected for scrutiny in three charge offices audited by them, hence coverage of audit could not be ascertained.

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

2.6 Cost of collection

The gross collection from sales tax and VAT, the expenditure incurred on its collection and the percentage of such expenditure to gross collection for the years 2009-10 to 2011-12 are given in the following table:

Table 2.4 – Cost of collection

(₹ in crore)

Year	Gross Collection	Gross Expenditure	Percentage of expenditure to gross collection	All India average percentage of expenditure on collection for the preceding year
2009-10	10,509.64	150.01	1.43	0.88
2010-11	13,275.77	165.18	1.24	0.96
2011-12	15,888.41	174.52	1.10	0.75

Source: Finance Accounts.

Though the percentage expenditure on collection of VAT has steadily come down from 1.43 *per cent* in 2009-10 to 1.10 *per cent* in 2011-12, it was always higher than the all India average.

2.7 Analysis of collection

Table 2.5 – Analysis of collection

(₹ in crore)

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection ²	Percentage of column 2 to 6
1	2	3	4	5	6	7
2009-10	10,600.09	96.37	41.27	114.05	10,623.68	99.78
2010-11	13,292.42	95.09	47.82	48.82	13,386.51	99.30
2011-12	Not furnished by the Department.				15,904.44	--

Source: Figures furnished by the Department.

Since the department did not furnish (though called for) the figures of VAT collection at the pre-assessment stage and after regular assessment for 2011-12, we could not ascertain the voluntary tax compliance by the dealers.

2.8 Revenue impact of audit reports

During the last five years (including the current year's report), audit had pointed out in the audit reports non/short levy, non/short realisation, underassessment / loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, mistake in computation etc., with revenue implication of ₹ 710.61 crore in 89 paragraphs. Of these, the Department / Government had accepted audit observations in 76 paragraphs involving ₹ 198.36 crore against which part

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

recovery of ₹ nine lakh in four cases has been intimated. The details are shown in the following table:

Table 2.6 – Revenue impact of audit reports

(₹ in crore)

Year of audit report	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount	Number	Amount
2007-08	21	412.51	17 ³	9.48	NA	NA
2008-09	20	44.91	15 ⁴	10.39	NA	NA
2009-10	15	136.85	13 ⁵	92.87	NA	NA
2010-11	18	48.23	17 ⁶	17.97	2 ⁷	0.04
2011-12	15	68.11	14	67.65	2 ⁸	0.05
Total	89	710.61	76	198.36	4	0.09

* NA- Not Available.

The above table shows that the department did not report any recovery against the accepted cases during 2007-08 to 2009-10 and reported marginal recovery in 2010-11 and 2011-12.

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

³ 16 paragraphs partly accepted.

⁴ 14 paragraphs partly accepted.

⁵ All paragraphs partly accepted.

⁶ Three paragraphs fully and 14 paragraphs partly accepted.

⁷ Partly recovered.

⁸ Partly recovered.

2.9 Results of audit

In 2011-12 we test checked the records of 44 units relating to VAT receipts and found underassessment of tax and other irregularities involving ₹ 221.96 crore in 515 cases which fall under the following categories:

Table 2.7 – Results of audit

Sl. No.	Categories	(₹ in crore)	
		Number of cases	Amount
1	e-Services in the Directorate of Commercial Taxes (A Performance Audit)	1	1.20
2	Incorrect determination of Contractual Transfer Price (CTP)/ Turnover of Sales (TOS).	76	56.93
3	Irregular allowance of transfer of goods/Input tax Credit (ITC) / remission.	85	51.48
4	Irregular allowance of compounded /concessional rate of tax.	81	3.75
5	Application of incorrect rate of tax / Mistake in computation.	50	12.19
6	Non / short levy of purchase tax / penalty / interest.	109	17.39
7	Others	113	79.02
Total		515	221.96

During the course of the year, the department accepted underassessment and other deficiencies of ₹ 41.44 crore in 169 cases, of which 162 cases involving ₹ 41.18 crore were pointed out in audit during the year 2011-12 and the rest in earlier years. An amount of ₹ 20.47 lakh was realised in seven cases during the year 2011-12.

Audit findings of the Performance Audit on ‘e-Services in the Directorate of Commercial Taxes’ with financial effect of ₹ 1.20 crore and a few illustrative cases involving ₹ 66.91 crore are mentioned in the following paragraphs.

2.10 Performance Audit on “e-Services in the Directorate of Commercial Taxes”

The Directorate of Commercial Taxes (DCT) under the administrative control of the Finance (Revenue) Department is responsible for assessment and collection of Central Sales Tax (CST) and Value Added Tax (VAT). The DCT introduced various e-services as a step towards modernisation of the tax administration by providing easily accessible services to the citizens and dealers.

With the objective to ensure the correctness, completeness and reliability of data and to assess the efficiency and effectiveness of the Information Technology system in tax administration we conducted the Performance Audit on “e-Services in the Directorate of Commercial Taxes” which revealed the following:

Highlights

Lack of input and validation controls led to capturing of incomplete/invalid/duplicate data in the system.

(Paragraphs 2.10.12 and 2.10.17)

Absence of validation control also led to manipulation of tax amount in e-return by the dealers.

(Paragraph 2.10.20)

Non-integration of return module with the registration module resulted in irregular claim of ITC on purchases from unregistered dealers.

(Paragraph 2.10.21)

Non-mapping of business rules resulted in irregular issue of H⁹ forms and issue of declaration form H in excess of the purchases declared in the e-return.

(Paragraphs 2.10.22 and 2.10.24)

Non-submission of utilisation of e-transit declarations¹⁰ by transporters.

(Paragraph 2.10.29)

2.10.1 Introduction

The initiative of computerisation in the Directorate of Commercial Taxes (DCT) commenced in 2001 and for better tax administration in the Value Added Tax (VAT) regime, the National Informatics Centre (NIC) developed web based application software ‘Information Management for Promotion of Administration in Commercial Taxes’ (IMPACT) in 2003 for the DCT. The objectives of development of IMPACT was to provide transparent and easily accessible service to the citizens and the dealers by building an Information and Communication Technology enabled modern tax administration that is equitable, efficient and effective. The NIC was also engaged as the consultant to the DCT for e-Governance under the National e-Governance Plan.

⁹ A central declaration form required for claiming exemption against inter-state sale made immediately preceding the export sale.

¹⁰ A declaration required to be submitted by the transporters for transporting any taxable goods from one State to other using West Bengal as a corridor.

e-Services were introduced by the DCT from December 2007 onwards under the Mission Mode Project of the Commercial Taxes (MMPCT) in a phased manner for e-registration, e-application and e-generation of waybills and central declaration forms, generation of e-transit declaration forms and e-payment of taxes.

2.10.2 Organisational set up

The Information Systems Division (ISD) under the DCT is responsible for computerisation in the Directorate. The ISD is headed by an Addl. CCT who is assisted by a Sr. Jt. CCT, three Jt. CCTs, five DCCTs, and five CTOs. Besides, one system analyst and a programmer are also serving under the ISD.

2.10.3 Information system architecture

IMPACT was developed using Oracle as the back-end database and IDS, D2K and J2EE as front-end. The entire system having three-tier architecture works in Wide Area Network (WAN) environment using West Bengal State Wide Area Network (WBSWAN) and Managed Leased Line Network (MLLN) from BSNL connectivity where WBSWAN is not available. All the 68 charge offices, 15 circle offices and six¹¹ road checkpoints were connected to the central server and worked online in WAN. One Disaster Recovery Server (DRS) for internet and one for the DCT server have also been setup. IMPACT contained 11¹² modules which helped the DCT for Customised Decision Support System (CDSS) and generation of Management Information System (MIS) reports. All the modules were functional at the time of Performance Audit.

2.10.4 Audit objectives

Performance Audit of the e-Services was undertaken with a view to ascertain whether

- documentation for user requirement specification (URS) and system requirement specification (SRS) are in order;
- adequate security controls and disaster recovery plan exist;
- proper input, validation and process controls exist in the system to ensure the authenticity, completeness and accuracy of data;
- the database provides complete, reliable and authorised information for management action; and
- the system is in accordance with the provisions of the commercial tax laws.

¹¹ Barobhisa, Baxirhat, Chichira, Dalkhola, Duburdih and Sonakania.

¹² Assessment, Audit, Central Declaration Forms, Challan, Decision Support System, Interface with TINXSYS, MIS Query and Reports, Registration, Return, Transit Document and Waybill.

2.10.5 Scope and methodology of audit

We conducted the Performance Audit covering five modules of IMPACT viz. Registration, Return, Central Declaration Forms, Waybill and Transit Declaration between November 2011 and March 2012 as only these modules were related to e-services and open to the dealers. The centralised data provided by the DCT was analysed using Interactive Data Extraction and Analysis (IDEA). The results of the analysis were also test checked with the manual records of fourteen¹³ charge offices.

2.10.6 Audit criteria

The provisions of the following Acts and Rules were used as audit criteria for conducting the Performance Audit:

- Central Sales Tax (CST) Act, 1956;
- Central Sales Tax (Registration and Turnover) Rules, 1957;
- West Bengal Value Added Tax (WB VAT) Act, 2003 and
- West Bengal Value Added Tax (WB VAT) Rules 2005.

2.10.7 Acknowledgement

An Entry Conference to discuss and explain the objectives and scope of the Performance Audit was held in February 2012 which was attended by the CCT, Addl. CCT (ISD) and other senior officials of the Directorate. The findings of the Performance Audit were forwarded to the Government in June 2012 and were discussed with the CCT, Addl. CCT (ISD) and other senior officials of the Directorate in an Exit Conference held in September 2012. The replies received from the Department have been suitably incorporated in the respective paragraphs. We acknowledge the co-operation of the Finance (Revenue) Department and the DCT in providing necessary information and records to audit.

Audit findings

Performance Audit revealed various deficiencies in the system relating to security and access controls, input and validation controls, non-mapping of business rules and non-integration of modules which are mentioned in the succeeding paragraphs.

General Controls

2.10.8 Organisational and management controls

Organisational and management controls are adopted to ensure that the computer system functions correctly and is achieving business objectives. The involvement of management and documentation of the objectives are vital elements for success of an IT system. This documentation includes the user requirement specification (URS), user manual etc.

The DCT did not prepare URS and thus, did not spell out the basic objectives of the designing and development of IMPACT to the NIC. Further, the DCT assigned the work

¹³ Ballygunge, Behala, Bhabanipur, Corporate Division, Esplanade, Ezra Street, Jorabagan, Manoharkatra, N.D. Sarani, Park Street, Purulia, Rajakatra, Strand Road and Taltala.

to the NIC without specifying the deliverables and time schedule for implementation of each module. As a result, there was no prioritisation of work and modules were incorporated as and when required basis.

After we reported the case, the Government accepted that there was no written down URS for the job and stated (November 2012) that NIC was assigned the job to study the system, develop SRS and design application.

2.10.9 Information security policy

An information security policy through physical and logical controls allows access of only authorised individuals to the system. We noticed a number of deficiencies in the system which are mentioned in the following paragraphs:

2.10.9.1 Inadequate physical and environmental controls

An IT system is required to be protected from unauthorised access and interferences. Physical controls should be put in place to prevent access of unauthorised users to computer equipments and information contained therein. The IT system should also be protected from power surges/shortages and risk of damage caused by environmental reasons like earthquake, fire, water, humidity etc.

The DCT did not formulate a documented security policy. We noticed that entry within the central server room located at the DCT headquarters was not restricted through logical devices to the unauthorised persons.

The servers were neither protected in fire proof cabinets nor fire extinguishing devices were provided in the room. The condition of the uninterrupted power supply (UPS) room was reported to be poor by the annual maintenance contract (AMC) vendor. Thus, physical and environmental controls of the server room and the UPS room were inadequate to prevent the IT assets from unauthorised access and damages.

After we reported the case, the Government accepted (November 2012) the audit observation and stated that corrective measures would be taken.

2.10.9.2 Inadequate logical controls

In an IT system, logical access controls are required for protection of the data files and information therein from unauthorised access, amendment or deletion.

No documented password policy was formulated by the DCT. There was no system of documented approval of access profiles from the DCT authorising various levels of

officials to access different modules and screens. There was also no evidence of review of system logs to detect attempts of unauthorised access or unexpected events. In the absence of adequate logical access controls, the system was prone to risk of intrusion and data corruption. Further, the system did not prompt the users to change passwords after periodical intervals.

After we reported the case, the Government accepted (November 2012) the audit observation and stated that the Department was in the process of formulating of a password policy.

2.10.10 Lack of change management controls

Change management controls should be put in place to ensure that the changes incorporated in the system are authorised, tested and documented to provide adequate audit trail. The Request For Change (RFC) should be authorised by the designated authorities of the organisation and all the changes should be tested before they are put to use in the live environment.

The documents regarding request, approval, testing and authorisation of changes made in the system were not made available to us, though called for. Absence of documentation not only resulted in lack of a trail of changes but was also fraught with the risk of non-detection of any

unauthorised changes made in the system.

After we reported the case, the Government stated (November 2012) that authorisation of changes are presently being done through e-mail to keep trail and eliminate any unauthorised changes. The reply is not tenable because e-mails may not always be available for retrospection of the system changes.

2.10.11 Lack of business continuity and disaster recovery controls

Business continuity and disaster recovery controls ensure that the organisation would not lose the capability to process, retrieve and protect information in the event of an interruption or disaster leading to temporary or permanent loss of data.

A Disaster Recovery Server (DRS) was installed at the disaster recovery site located at Salt Lake for taking real time backup of the data of the central server. We found that due to failure of

synchronisation between the central server and the backup server, no real time backup was taken in the DRS since December 2007 and synchronisation with the central server could not be established till March 2012. Despite lapse of five years the central server and DRS could not be synchronised for real time back up. The backup was taken only on digital tapes after periodical intervals. We found that online data of e-services stored in the (internet) server of the NIC was also not transferred to the central server of the DCT on real time basis. Non-utilisation of the DRS for taking the real time back up of data was fraught with the risk of loss of data in case of a system crash.

After we reported the case, the Government accepted (November 2012) the audit observation and stated that remedial action would be taken.

Application Controls

Registration Module

Registration module of IMPACT deals with capturing of details furnished by the dealers in the application forms. Registration Certificate (RC) is generated after processing the details furnished in the application form as prescribed under the WBVAT Act and the CST Act. The module also processes the application for cancellation of RCs of the dealers. E-registration was introduced by the DCT from January 2010. The dealers' database (REGD_DEALER) contained data of 3,10,917 dealers registered under the

VAT Act upto 5 April 2011. We noticed a number of deficiencies in the registration module which are mentioned in the following paragraphs:

2.10.12 Incomplete/invalid/duplicate data

We found that the essential fields like date of registration under different Acts, name of the owner, bank details, commodity details and PAN of the dealers were not made mandatory resulting in non-capturing of those information in many cases. Due to lack of input control, the system also accepted invalid and duplicate entries in the fields for capturing PAN and e-mail ID. Thus, the data base of the registered dealers' profile was incomplete and it contained invalid and duplicate entries as mentioned below:

Table 2.8 – Incomplete/invalid/duplicate data

Nature of deficiencies	Number of cases	Percentage of cases
Non-capturing of the date of VAT registration	68,277	21.96
Non-capturing of the date of CST registration	54,523	17.54
Non-capturing of the name of the owners	1,27,639	41.05
Non-capturing of bank details of dealers	1,52,890	49.17
Non-capturing of the name of the commodities dealt by dealers	79,492	25.57
Non-capturing of PAN data	23,743	7.64
Capturing of invalid PAN	39	0.01
Capturing of duplicate PAN	9,539	3.07
Capturing of invalid e-mail IDs	10,930	3.51
Capturing of duplicate e-mail IDs	1,69,448	54.50

After we reported the cases, the Government accepted (November 2012) the audit observations and stated that action had been initiated to rectify the deficiencies.

The Government may consider putting in place proper input and validation controls to avoid capturing of incomplete, invalid and duplicate entries in the system.

2.10.13 Partial mapping of commodities

Under the WBVAT Act, the rate of tax depends on the commodities sold by the dealers. Each commodity is identified by a unique seven digit code assigned by DCT in the system. A total of 750 commodities had been defined in the WBVAT Act as on 30 June 2011.

- We found that only 582 commodities out of 750 were codified in the master table of commodity (COMMODITY). Thus, commodities were partially mapped in the system and the database was incomplete to that extent.
- We also noticed that in 706 cases 247 commodities were captured against 659 dealers for which no commodity codes were available in the master table of commodities (COMMODITY). Thus, in the absence of input and validation control the system accepted the invalid data.

After we reported the cases, the Government stated (November 2012) that under VAT, commodity details are not required to be mapped as those are captured in waybills, returns etc. The reply is not tenable because the commodity detail is an essential information for determining the applicable rate of tax.

2.10.14 Ineffective monitoring of dealers

The Jt. CCT of a charge shall allot a group code to a dealer denoting the assessing authority (AA) under whom he would be assessed and shall update the group code in the dealers' database to keep an effective tracking of the dealers.

We found that 28,841 dealers were allotted group code '99' which is a default group code allotted by the system. The system was not prompting the Jt. CCTs to force change the group code in the system.

After we reported the cases, the Government accepted (November 2012) the audit observation and stated that steps were being taken to eliminate the problem.

2.10.15 Non-cancellation of RC of dormant dealers

Under Section 29(1)(e) of the WB VAT Act, RC of a dealer shall be cancelled by appropriate authority if the dealer has defaulted in furnishing any return under section 32 together with receipted challan showing payment of net tax and interest payable, if any, according to such return within the prescribed date or the time.

We found that 3,616 dealers of 61 charge offices registered between April 2005 and September 2010 did not file any return for the return period between June 2010 and June 2011. However, no action was initiated by the AAs to cancel the RCs of these dormant

dealers till March 2012 though they had defaulted in submission of returns for three consecutive return periods and more. The purchasing dealers may enjoy Input Tax Credit (ITC) against purchases from these dealers due to non-cancellation of their RCs. Thus, the dealers remaining dormant for a considerable time might facilitate evasion of tax. Due to absence of an in-built MIS report in the system, the return defaulters remained undetected and no action could be taken by the AAs against them.

After we reported the cases, the Government accepted (November 2012) the audit observation and stated that NIC had been requested to develop a module so that, in future, the charge offices are informed of the dealers defaulting in filing return.

The Government may consider conducting periodical review of data to ensure prompt detection and cancellation of RCs of dormant dealers.

2.10.16 Delay in updating the database of the cancelled dealers

The database of cancelled dealers is required to be updated promptly to provide updated information to the AAs and dealers.

We found that the RCs of 86,544 registered dealers were cancelled upto March 2011. But the database of the cancelled dealers was updated after a

delay ranging between 1 and 2,173 days in respect of 73,193 dealers as mentioned in the following table:

Table 2.9 – Delay in updating the database of the cancelled dealers

Range of delay	Number of dealers involved
No delay	13,351
Upto 180 days	68,740
Between 181 and 365 days	1,460
Between 366 and 1095 days	2,703
Exceeding 1095 days	290
Total	86,544

Delay in updating the database resulted in submission of e-returns by the cancelled dealers and generation of e-waybills and central declaration forms by them as discussed below:

- We found that in 765 cases e-returns in form 14 or 15 were submitted by 341 dealers for the period between September 2008 and September 2011 though their RCs were cancelled prior to the return periods.
- We found that out of 86,544 cancelled dealers, five dealers generated five e-waybills during the period between January and March 2011 involving consignment value of ₹ 25.49 lakh. We also found that in two cases, involving ₹ 10 lakh, utilisation was also submitted by the dealers.
- We found that in 26 cases e-declaration form ‘C’ were generated by a dealer after the date of cancellation of the RC. Though the RC of the dealer was restored with retrospective effect, the fact remained that during the intervening period between the date of cancellation and the date of restoration the dealer had access to the system which might lead to misuse of the e-declaration forms.

After we reported the cases, the Government accepted (November 2012) the audit observation and stated that real time updating of the cancellation of RC had been started after issue of a Departmental circular in December 2011. The reply is not tenable because from analysis of data we found that between January 2012 and August 2012, RCs of 1,373 dealers were cancelled out of which, in 290 cases there was delay ranging between 11 and 229 days in updating the database.

The Government may consider issuing instructions to all the assessing officers for updating the cancelled dealers’ database on the date of cancellation of RC of a dealer.

Way Bill Module

Waybills are used to monitor import of goods into the State. Issue of e-waybill (in Form – 50A) was introduced from December 2010. The registered dealer willing to import goods has to generate the e-waybill and submit its utilisation online within seven days from the date of entry of the goods in the State. Upto April 2011, 2,24,305 e-waybills were generated. The waybill module

contained data of e-waybills issued to the dealers and their utilisation. We noticed a number of deficiencies in the waybill module which are mentioned in the following paragraphs:

2.10.17 Lack of validation control

Absence of input controls led to entry and acceptance of incorrect data in the database which made the data unreliable as is evident from the cases cited below:

We analysed the data of issue and utilisation of e-waybills upto April 2011 and found that

- In 461 cases the date of utilisation of e-waybills was prior to the date of their issue.
- In 17 cases the date of consignment of the imported goods was after the date of expiry of the e-waybills.
- In 1,063 cases goods were imported from the north eastern States by road but the system accepted the entry check posts which were not situated on the north eastern borders.

Thus, lack of validation control in the system resulted in entry of invalid data in the e-waybills database.

After we reported the cases, the Government accepted (November 2012) the audit observations and stated that the problem existed at the nascent stage of the e-application which has since been rectified.

2.10.18 Non-submission of utilisation of e-waybills

Under Rule 110B(3) of the WB VAT Rules, 2005 registered dealers are required to submit utilisation statement of e-waybills within seven days from the date of entry of consignment in West Bengal.

During analysis of e-waybill data pertaining to the period from December 2010 to April 2011 we found that utilisation in respect of 49,176 e-waybills involving consignment value of ₹ 4,460.68 crore, were not submitted by 605 dealers. There was no inbuilt

mechanism in the system to restrict the dealers in generating the subsequent e-waybills in case of non-submission of utilisation within prescribed period.

After we reported the cases, the Government stated (November 2012) that this was due to cancellation of e-waybills. The reply is not tenable since there was no provision in the Act/Rules for such cancellation.

Return Module

The return module contains information about the assessment of a dealer. E-filing of returns was introduced by the DCT from the quarter ended December 2007 initially with 4,518 big and selected dealers and was subsequently made mandatory for all the dealers from the quarter ended March 2010. After filing of e-return the dealers are required to submit the printed copy of the e-return to the concerned charge offices. The return module contained data of 12,73,976 VAT returns (Form-14 and 14D); 1,55,506 VAT returns (Form-15) and 8,05,793 CST returns upto September

2011. We noticed a number of deficiencies in the return module which are discussed in the following paragraphs:

2.10.19 Non-mapping of business rules

Specific business rules of the organisation are required to be studied to evaluate corresponding application controls.

We found that business rules of the department were not mapped in many cases as discussed below:

- **Acceptance of belated revised returns**

Under section 32(3) of the WBVAT Act, revised returns are required to be submitted by a dealer within six month from the end of the month in which the original return is due.

We found that in 14 out of 58,963 cases of revised returns the system accepted belated revised returns for the quarters ended between March 2009 and September 2010, though those were submitted after the due dates. Verification at the front-end also corroborated the audit finding.

After we reported the cases, the Government accepted (November 2012) the audit observations and stated that necessary validation control has been introduced in the system so that no revised return is accepted after due date.

- **Irregular benefit of Composition Scheme**

Under section 16(3) of the WBVAT Act, manufacturing and importing dealers and dealers making inter-state sale/purchase are not eligible for the benefit of composition scheme¹⁴. Further, under rule 34 (2) of the WBVAT Rules, 2005 the dealers under composition scheme shall furnish return in Form-15.

We found that:

In 411 cases VAT returns in Form 15 for the quarters ended between December 2009 and September 2011 were submitted by 124 dealers though they were either importer or manufacturer as per information available in the system. Thus, due to non-mapping of business rules, the system accepted such returns.

In 25 cases 20 dealers submitted returns in Form 15 for the return periods between June 2009 and September 2011, showing inter state sale during those periods. Thus, the dealers ceased to be eligible for the composition scheme. However, they continued to file returns in Form 15 by paying tax at the rate of 0.25 or 2 *per cent* under the composition scheme and the system did not restrict them due to non-mapping of business rules in the system.

The Government did not furnish any specific reply to the cases reported.

¹⁴ Composition scheme is an optional scheme where a dealer can pay tax at a concessional rate between 0.25 *per cent* and 4 *per cent*.

- **Submission of CST returns without submitting VAT returns**

Under Rule 8 (4) of the CST (West Bengal) Rules, 1958, every dealer, who is required to furnish CST return, shall furnish such return only after furnishing the VAT return for the relevant period under the WBVAT Act.

We noticed that in four out of 8,05,793 cases the CST returns were submitted by the dealers without submitting VAT returns. Due to lack of validation control the system allowed submission of CST return without filing VAT return.

After we reported the cases, the Government stated (November 2012) that NIC was examining the reasons for such irregularity.

- **Submission of returns in two formats**

Under Rule 34(1) and 34(2) of the WBVAT Rules, 2005 every registered dealer shall submit return quarterly in any of the Form-14, 14D or 15. However, no dealer shall submit returns in both the forms in the same return period.

We found that in 15 cases the dealers furnished VAT returns both in Form 14 and Form 15 for the same period between January 2009 and April 2011. Due to lack of validation control, the system allowed the dealers to furnish returns in two formats.

After we reported the cases, the Government stated (November 2012) that due to technical snags, some dealers under the composition scheme were allowed to file form-14. The reply is not tenable because manual verification of records revealed that the dealers though not enjoying composition scheme submitted e-return in both Form-14 and 15 and submitted hard copy of Form-14 only.

- **Non-assessment of purchase tax**

Under Section 12(2) of the WBVAT Act, every registered dealer under Composition Scheme shall, in addition to the tax payable under the Act shall also pay tax at the appropriate rate on his taxable turnover of purchase.

We found that in 656 cases the dealers registered under composition scheme furnished returns for the return periods between June 2009 and September 2011 showing unregistered purchase of ₹ 32.31 crore but did not pay purchase tax of ₹ 1.29 crore (calculated at minimum four *per cent*) on such purchases. Due to non-mapping of business rules, the system allowed the dealers to file returns without payment of purchase tax. Thus, non-payment of purchase tax in these cases could not be ruled out. Test check of manual records also corroborated the audit observation.

After we reported the cases, the Government accepted (November 2012) the audit observations and stated that the validation process has been introduced.

2.10.20 Lack of validation controls

Proper validation control is required to be inbuilt in the system not only for capturing correct and complete data but also to prevent manipulation of data in a calculated field.

We found lack of validation controls in the return module as discussed in the following points:

- **Manipulation of tax amount**

We found that the amount of output tax payable by a dealer on his turnover of sales under different tax rates was calculated automatically in the e-return form downloaded from the DCT's website. We noticed that in 866 cases the calculated tax amount was manipulated in the e-return form submitted for the quarter ending between September 2008 and September 2011 which resulted in short payment of tax of ₹ 5.86 crore as detailed below:

Table 2.10 – Manipulation of tax amount

(₹ in lakh)

Form Type	No of cases	Rate of tax	Turnover of sales	Tax payable	Tax paid	Short payment of tax
Form-14	327	4%	37,297.09	1,491.88	1,304.45	187.43
	155	12.5%	45,004.38	5,625.55	5,355.94	269.61
	93	13.5%	3,046.99	411.34	375.51	35.83
Form-15	9	0.25%	132.32	0.33	0.06	0.27
	282	2%	7,129.19	142.58	49.32	93.26
Total	866		92,609.97	7,671.68	7,085.28	586.40

This was due to lack of validation control in e-return form. Test check of manual records also corroborated the audit observation.

After we reported the cases, the Government accepted (November 2012) the audit observations and stated that the matter had since been rectified and steps were being taken to realise the taxes.

- **Non-assessment of late fee**

Under section 32 of the WBVAT Act, every dealer is required to file returns quarterly within the next calendar month from the end of the relevant quarter. In case of late submission of return, a dealer is liable to pay late fee at the prescribed rate at the time of submission of return.

We found that in 1,133 cases VAT returns (Form-14) and in 31 cases CST returns for the periods between December 2007 and July 2010, the dealers submitted the returns after a delay ranging between one and fourteen months. Thus, the dealers were liable to pay late fee at the prescribed rate for delayed submission of returns. However, due to non-mapping of business rule, the late fee payable by the dealers for delayed submission of returns was not assessed by the system and the system accepted the value inserted by the dealers. Thus, the system allowed the dealers to submit returns without payment of late fee of ₹ 49.04 lakh. Test check of manual records in 28 cases also corroborated the audit observation.

After we reported the cases, the Government accepted (November 2012) the audit observations and stated that the validation was introduced.

- **Mismatch between tax paid amount and payment details**

In the VAT e-return dealers furnish the amount of tax, interest and late fee paid into the government treasury in each month of a quarter. The challans against which such payments are made, are shown in the payment details of the e-return. The amount shown as paid into the government treasury should tally with the payment details.

We found that out of 9,65,837 VAT returns submitted by the dealers for the return periods between December 2007 and March 2011, in 1,805 cases the challan amount shown in payment details was found to be less than the tax paid amount by ₹ 21.33 crore. We also noticed that in all the cases the dealers did not file revised returns. Due to lack of validation control the system accepted returns having mismatched data. Verification at the front-end also corroborated the audit observation.

After we reported the cases, the Government accepted (November 2012) the audit observations and stated that the validation was introduced at the instance of audit.

2.10.21 Non-integration of modules

Modules are required to be integrated to make the IT application efficient and effective.

We found that modules of the IMPACT software were not integrated as discussed below:

- **Irregular Claim of ITC against unregistered purchases**

Under Section 22(4) of the WBVAT Act, the benefit of ITC is allowable to the extent of tax paid or payable by the registered purchasing dealer on his purchase of taxable goods from the registered dealers of West Bengal. No ITC is allowable on purchase from unregistered dealers.

We analysed the data of return for the quarter ended between December 2007 and March 2009 and found that in 1,231 cases 634 registered dealers filed returns for the period between December 2007 and March 2009 showing the details of purchases made from 399 dealers amounting to ₹ 221.40 crore. The tax paid towards the above transaction was shown as ₹ 8.98 crore. We however found that the RCs of all the selling dealers were cancelled prior to the date of purchase of goods from them. Thus due to non-integration of return module with the registration module, the purchasing dealers were able to upload return showing the unregistered purchase as registered purchase and claiming inadmissible ITC thereon. This resulted in irregular claim of ITC of ₹ 8.98 crore.

Test check of manual records in twelve¹⁵ charge offices revealed that in 133 cases inadmissible ITC of ₹ 1.20 crore was allowed by the AAs due to non-detection of the cases at the assessment stage. Two charge offices reported realisation of ₹ 1.71 lakh in four cases at the instance of audit.

¹⁵ Behala, Bhabanipur, Corporate Division, Esplanade, Ezra Street, Jorabagan, Manoharkatra, N.D. Sarani, Park Street, Purulia, Strand Road and Taltala.

After we reported the cases, the Government accepted (November 2012) the audit observations and stated that the cases had been referred to the respective charge offices for necessary action. Regarding non-integration of the modules the Government did not furnish any specific reply.

- **Understatement of import value in returns**

We found that in 318 cases VAT returns were submitted by the dealers for the return period March 2011 showing import of goods of ₹ 255.77 crore. We, however, noticed from waybill module that these dealers imported goods of ₹ 529.84 crore against 5,898 e-waybills during the said return period and submitted the utilisation thereof. Due to non-integration of the waybill module with the return module, the dealers were able to understate the import by ₹ 274.07 crore in the e-return. Test check of manual records established the audit observation.

After we reported the cases, the Government stated (November 2012) that this was due to non-cancellation of incorrectly generated e-waybills. The reply is not tenable because the dealers submitted online utilisation of the e-waybills in all the cases and the system did not detect the mismatch.

The Government may consider integrating all the modules to prevent mismatch of information provided by the dealers in different modules.

Declaration Forms Module

Declaration forms module contains details of central declaration forms issued to the registered dealers and its utilisation. E-application for obtaining central declaration forms was introduced by the DCT from January 2009. Press printed blank declaration forms were issued to the dealers' business place against their e-application. From July 2010, replacing this system the DCT introduced online issue of C and F forms. Dealers could generate e-declaration form C and F after e-filing of CST returns along with its annexure. We noticed a number of deficiencies in the declaration form module which are mentioned in the following paragraphs:

2.10.22 Irregular issue of H forms

Under section 5(3) of the CST Act, last sale or purchase of any goods preceding the export of those goods out of the territory of India is exempted from sales tax subject to production of H form. Such last sale or purchase should take place after the agreement or order of export and for complying with the order of the foreign buyer. If such last sale or purchase is made prior to the date of such agreement or order, it cannot be deemed to be in the course of export and the purchasing dealer is not eligible to get H forms in such cases.

We analysed the data of issue and utilisation of H forms and found that 603 H forms were issued to 119 dealers of 36 charge offices between April 2009 and March 2011 against 1,710 transactions involving ₹ 92.08 crore though the dates of inter-state purchases were prior to the dates of export orders by 1 to 1,096 days. Since, the

purchases were made prior to the dates of export orders, the dealers were not eligible to get the forms. Manual verification of 460 H forms involving

₹ 70.36 crore corroborated the audit observation. Remaining 143 H forms involving ₹ 21.72 crore were not furnished by 10 charge offices though called for in audit. Thus, due to lack of validation control, the system allowed the dealers to file e-application for supply of H forms against inadmissible transactions. The selling dealers may get exemption of tax against those forms resulting in revenue loss to other States.

After we reported the cases, the Government accepted (November 2012) the audit observations and stated that, the problem has since been rectified.

2.10.23 Incomplete e-application for H forms

All the particulars prescribed in the e-application form (Form 2B), are required to be entered in the system. Input and validation control are essential to ensure correct and complete capturing of data in e-application form.

We found that data capturing was partial even in crucial fields like the date of export order (74 cases) the date of purchase order (1,212 cases), date of export invoice (335 cases), and the date of bill of lading

(2,468 cases) out of a total 53,334 applications made between January 2009 and March 2011. This indicated that these essential information fields were not made mandatory and consequently, the database remained incomplete.

After we reported the cases, the Government accepted (November 2012) the audit observations and stated that the problem has since been rectified.

2.10.24 Issue of excess valued H form

In column 15C of the VAT return, dealers are required to furnish the amount of purchases made under section 5(3) of the CST Act in a quarter. The dealers are eligible for H forms only to that extent. No dealer can get H forms exceeding the amount of purchases shown in the return.

We found that in seven cases VAT returns for the return periods between September 2008 and September 2009 were submitted by four dealers showing purchase of goods of ₹ 21.03 crore. However,

H forms of ₹ 35.79 crore were issued to them against their e-application for the same return periods. Thus, due to non-integration of return module and declaration form module the system failed to detect mismatch of figure in the e-return and e-application resulting in excess issue of H forms of ₹ 14.76 crore.

After we reported the cases, the Government stated (November 2012) that all the forms were issued after proper reconciliation at the charge offices. The reply is not tenable. The system not only accepted it, but also the DCT issued H forms of the excess value and the system did not have provision for non-acceptance for mismatched figures. Manual verification of records in two cases of a dealer also revealed that the figures were not reconciled by the dealer.

2.10.25 Issue of online C forms without checking the RC coverage

Under Section 8(1), 8(3) and 8(8) of the CST Act, a selling dealer shall be liable to pay tax at the concessional rate on production of C form and subject to the condition that such goods are covered under the registration certificate (RC) of the purchasing dealer of other State.

Annexure - E to the CST return contains the details of inter-state purchases for which Form-C is required.

We found that provision for capturing the commodity details of purchased good was not made in Annexure - E. We also noticed that in 22,661 cases e-declaration form C of ₹ 2,937.39 crore were issued between

August 2010 and April 2011 to 2,834 dealers but commodity dealt by those dealers were not available in the database of dealers' commodity.

In the absence of these details, RC coverage of the goods could not be verified by the system and e-declaration form C were being issued without verifying the RC coverage from the dealers' profile in the Registration Module.

After we reported the cases, the Government, citing a judgment of the Hon'ble High Court of Calcutta, stated (November 2012) that Form C can be issued even if there is no coverage in the RC. The reply is not tenable because the judgment is not relevant in the instant case.

Transit Declaration Module

Under Section 80(1) of the WBVAT Act, 2003 when a goods vehicle, transporting any taxable goods enters into West Bengal, and such vehicle is bound for any place outside West Bengal, the transporter is required to make a declaration. Such declaration is called Transit Declaration (TD). The transporters are not permitted to sale or unload the goods transported in the State. Transit Declaration Module maintained data of TDs issued to the transporters and their utilisation. Issue of e-TDs was introduced by the DCT in November 2010. Transporters can generate e-TDs by furnishing required particulars in the e-application form and shall submit utilisation online. We noticed a number of deficiencies in the TD module which are detailed in the following paragraphs:

2.10.26 Absence of user authentication

User ID and passwords are the most common ways of authentication of a user's identity. The system of user id and password is required to be placed in the system to restrict unauthorised user access.

No user id and passwords were required for generation of e-TDs. Thus, in absence of user authentication, e-TDs can be generated by non-existent transporters with

the willful intention to evade tax by unauthorised import of goods into the state.

After we reported the case, the Government stated (November 2012) that a change in the TD module had already been under way for development by NIC in which a transporter's registration page would be introduced.

2.10.27 Absence of internal control of the DCT on e-TDs

Under Section 80(2) of the WB VAT Act, 2003 the transporter shall produce the e-TD and other connected documents before the commercial tax authorities only if the goods vehicle is intercepted during its movement within West Bengal. The e-TDs are endorsed only in case of interception by the commercial tax authorities.

There was no system of compulsory endorsement of e-TDs at the entry and exit checkpoints. This is fraught with risk of evasion of tax as the transporters may sell the transported goods in the State and submit false

utilisation online. Further, after the introduction of Entry Tax in the State from April 2012, the unscrupulous dealers may be encouraged to import goods through e-TDs instead of waybills leading to leakage of revenue.

After we reported the case, the Government accepted the audit observation (November 2012) and stated that though there was no legal endorsement provision, barcode printing on e-TDs had been introduced by the Department and online barcode reading facility at the time of both entry and exit was going to be introduced in two checkpoints as a pilot project with a plan to extend it to all existing checkpoints along with internal ranges and other places in near future.

2.10.28 Repeated generation of e-TDs without submitting utilisation

For generation of e-TDs, transporters are required to register the goods vehicle on the DCT's website.

However, there is no provision in the system to restrict the generation of e-TDs on subsequent occasions without submission of utilisation of the e-TDs generated on the previous occasions.

We found that e-TDs were generated repeatedly by the transporters against 12,137 vehicles without submitting utilisation of the e-TDs generated on the previous occasions. Thus, the system was not able to restrict repeated generation of e-TDs by the

transporters defaulting in submission of utilisation of e-TDs.

After we reported the cases, the Government stated (November 2012) that in the newly proposed TD module, certain restrictions are possible to be imposed.

The Government may consider introducing provisions in the system for preventing generation of e-TDs by defaulters to prevent evasion of tax.

2.10.29 Non-submission of utilisation of e-TDs

Under section 80 (5A) and (14) of the WBVAT Act, the transporters are required to submit the utilisation statement of e-TDs within two days from the date of exit of the goods from the State. In case of non-submission of utilisation by the transporters within the prescribed time, the goods shall be presumed to be sold within the State and the transporter shall be liable to pay taxes on such goods.

We found that out of 4,47,388 e-TDs generated between November 2010 and March 2011 in 72,422 cases involving goods of ₹ 13,810 crore utilisation was not submitted by the transporters. We further observed that

no MIS report was generated by the IMPACT application to monitor such cases of non-submission of utilisation statement of e-TDs for taking appropriate action against the defaulters. Tax liability of ₹ 552.40 crore (calculated on ₹ 13,810 crore at the minimum rate of tax of 4 per cent) was involved in the aforesaid cases.

After we reported the cases, the Government accepted the audit observation (November 2012) and stated that with the introduction of proposed new e-TD module and barcode system, the matter will be taken care of.

Other Points of interest

2.10.30 Irregularities in engagement of programmers in the software development

On the recommendation of the NIC, the DCT hired 18 programmers from empanelled vendors of the National Informatics Centre Services Inc. (NICSI), for development of software at an approved rate from October 2008. Administrative approval and financial sanction for hiring programmers was accorded by the Government on the condition that the programmers should have qualification of BE, B Tech or MCA and have a minimum of three years experience in development of software.

We found that out of 12 programmers, four did not have any experience in development of software while the remaining had less experience than required. Of these, one programmer did not have even the required qualification. The experience in development of software of the six programmers joined in February 2010 was not furnished though called for. Thus,

inexperienced and less qualified programmers were engaged for the software development in violation of Government order on the pay package of experienced programmers. This resulted in not only payment of higher pay package to less qualified and inexperienced programmers but also development of software with deficiencies mentioned in the foregoing paragraphs.

After we reported the case, the Government citing various communication of the NICSI¹⁶ stated (November 2012) that qualification and experience for the programmers had been kept under ‘either – or’ condition and was as per standard norms of NIC/NICSI. The reply is not tenable as in the proposal of DCT and in the administrative approval and financial sanction, qualifications and required experience was specifically defined.

2.10.31 Non-digitisation of endorsed waybills of six checkposts

Manual waybills were issued prior to December 2010 and were required to be endorsed at the check posts. Subsequently, these endorsed waybills were to be digitised and uploaded in the central server. The digitisation work of endorsed waybills of six checkposts Duburdih, Chichira, Dalkhola, Barobisha, Baxirhat and Haldia Dock for the year 2011-12 was entrusted to a vendor, M/s CMC Ltd in June 2011. The vendor was required to send digitised data from the check posts to the DCT for uploading in the system for the purpose of cross verification with the returns of the dealer at the time of assessment/scrutiny by the AA.

We noticed that the work of digitisation was not started by the vendor till March 2012. No action was taken by the DCT in this regard. Thus, the waybill database was incomplete to that extent. At the time of assessment/scrutiny, the AA might not be able to cross verify the import value shown in the return through the system and would have to depend on the dealers’ documents. Thus, the possibility of evasion of tax could not be ruled out.

After we reported the cases, the Government accepted the audit observation (November 2012) and stated that the process had since been started. However, no documentary evidence was provided by the Department.

2.10.32 Conclusion

Performance Audit of e-Services in the DCT revealed a number of deficiencies in the system. Documentation of the project, change management control, business continuity and disaster recovery plan were inadequate. Further, proper input and validation controls were not put in place resulting in capturing of incomplete, invalid, duplicate data in the system. Business rules were also not properly incorporated in the application software (IMPACT) and the modules were not integrated. E-TDs were being generated without any authentication in the system and also did not ensure reliability of data. As a result, IT system could not address business needs of the DCT and benefits of the computerisation sought to be achieved did not materialise.

¹⁶ National Informatics Centre Services Incorporated, a Government of India Enterprise under the NIC.

2.10.33 Summary of recommendations

Government may consider to

- Put in place proper controls in the system for capturing correct, complete, valid and reliable data in the system and to update it promptly to provide the latest information.
- Incorporate business rules specifically in the system wherever required to avoid irregular transactions through the system.
- Integrate modules wherever required to make the IT application more efficient and effective.
- Introduce the system of user authentication for generation of e-TD for ensuring data reliability.
- Put in place effective business continuity and disaster recovery plan for providing smooth services.

Sales Tax/Value Added Tax

2.11 Audit observations

Scrutiny of the assessment records of sales tax/value added tax (VAT) indicated several cases of non-observance of the provisions of the Act/Rules, non/short levy of tax/penalty/interest, besides acceptance of defective statutory forms/suppression of sales/irregular concession/incorrect application of rate of tax as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Similar omissions on the part of the Assessing Authorities have been pointed out by Audit earlier, but the irregularities persist and remain undetected till next audit. Therefore, there is need to improve the internal control system including internal audit so that such errors can be corrected timely and avoided in future.

Non-compliance of provisions of the Acts/Rules

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

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

- Determination of turnover after allowing permissible deductions;
- Levy of tax/interest/penalty at the prescribed rate;
- Allowing exemption of turnover subject to fulfillment of the prescribed conditions; and
- Allowing input tax credit as admissible.

We noticed that the Assessing Authorities (AAs) while finalising the assessments did not observe some of the provisions which resulted in non/short levy/non-realisation of tax/interest/penalty of ₹ 66.91 crore as mentioned in the following paragraphs.

2.12 Short determination of turnover of sales

Sections 2(40) and 17 of the WBST Act, 1994 and sections 2(55) and 16 of the West Bengal Value Added Tax (WB VAT) Act, 2003 prescribe that turnover of sales (TOS) in relation to any period means the aggregate of the sale prices or parts of sale prices receivable by a dealer, or if a dealer so elects, actually received by the dealer during such period. A dealer is liable to pay tax at prescribed rates on the amount of such turnover after allowing permissible deductions.

(1) We found in Corporate Division (CD 2001- CD 2010) in Kolkata between September 2010 and December 2010 that in three cases under the WBST Act the AAs between June 2007 and December 2009 incorrectly determined turnover of sales (TOS) for the assessment period 2004-05, at ₹ 625.42 crore instead of ₹ 644.50 crore. This resulted in short

determination of TOS by ₹ 19.08 crore and consequent short levy of tax of ₹ 3.01 crore as detailed in the following table:

Table 2.11.1 – Short determination of turnover of sales

(₹ in lakh)

Sl No.	Nature of irregularity	No. of cases	TOS to be determined	TOS determined by AAs	Short determination of TOS	Short levy of tax
1.	Non-inclusion of sales of plant and machinery	1	20,958.01	20,596.37	361.64	33.27
2.	Excess deduction of inter-unit transfer	1	23,478.42	22,963.52	514.90	59.21
3.	Allowance of inadmissible discounts	1	20,013.19	18,981.62	1,031.57	208.89
Total		3	64,449.62	62,541.51	1,908.11	301.37

After we pointed out the cases, the department stated (January 2011) in one case involving ₹ 33.27 lakh that the case is pending with the West Bengal Commercial Taxes Appellate and Revisional Board and the audit observation would be considered at the revisional forum; but did not furnish further report. In the remaining two cases, the department did not furnish any reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

(2) We found in eight¹⁷ charge offices between May 2010 and September 2011 that in 20 cases assessed under the WB VAT Act between June 2007 and June 2010 for the assessment periods between 2005-06 and 2006-07, the AAs

¹⁷ Ballygunge, Corporate Division (CD 2001-CD 2010), Esplanade, Ezra Street, New Market, Park Street, Salt Lake and Taltala.

incorrectly determined TOS at ₹ 788.15 crore instead of ₹ 827.81 crore due to errors/omissions/irregularities. These resulted in short determination of TOS by ₹ 39.66 crore and consequent short levy of tax of ₹ 2.33 crore as detailed in the following table:

Table 2.11.2 – Short determination of turnover of sales

(₹ in lakh)

Sl. No.	Nature of irregularity	No. of cases	TOS to be determined	TOS determined by AAs	Short determination of TOS	Short levy of tax
1.	Non-inclusion of turnover admitted by the dealers/ determined by Internal Audit Wing	8	40,165.66	38,575.85	1,589.81	90.99
2.	Non-inclusion of amount of carriage outward and sales of vehicle, plant and machinery etc.	3	1,983.98	1,125.06	858.92	40.70
3.	Non-inclusion of non-reconciled stock transfer/ import value of goods	3	7,418.87	6,921.77	497.10	37.79
4.	Underassessment of inter-State sales and intra-State sales	2	2,464.64	1,950.76	513.88	20.56
5.	Non-inclusion of excise duty	1	2,182.62	1,883.95	298.67	19.33
6.	Short disclosure of closing stock	1	20,724.97	20,602.00	122.97	15.37
7.	Excess deduction towards tax free goods and allowance of double deduction towards sale of DEPB ¹⁸	2	7,840.08	7,755.77	84.31	8.64
Total		20	82,780.82	78,815.16	3,965.66	233.38

After we pointed out the cases, the department accepted the audit observations (between December 2010 and October 2011) in 13 cases involving ₹ 1.56 crore; but did not furnish any report on levy and realisation of tax. In the remaining seven cases, the department did not furnish any reply/specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

¹⁸ Duty Entitlement Pass Book.

2.13 Non-levy of surcharge and additional surcharge

Under sections 16 and 16A of the WBST Act, 1994 every dealer is liable to pay surcharge and additional surcharge at the rate of 10 *per cent* and five *per cent* respectively on the amount of sales tax payable by him. Further, under section 9(2) of the CST Act, 1956 the authorities empowered to assess, re-assess, collect and enforce payment of tax under the WBST Act are also empowered to assess, re-assess, collect and enforce payment of tax under the CST Act.

We found in Corporate Division (CD 2001 - CD 2010) in Kolkata in August 2010 and February 2011 that in two cases assessed in June 2007 under the CST Act for the assessment period 2004-05, the AAs levied tax of ₹ 1.08 crore at the rate of 15 *per cent* on inter-State

sales of goods of ₹ 7.22 crore. However, surcharge and additional surcharge though leviable were not levied. This resulted in non-levy of surcharge and additional surcharge of ₹ 16.24 lakh.

After we pointed this out, the department accepted (February 2011) the audit observation in one case involving ₹ 12.89 lakh and stated that a revision proposal was being sent to the higher authority, but did not furnish report on revision. In the remaining case the department did not furnish any reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

2.14 Non-levy of additional sales tax

Section 18A of the West Bengal Sales Tax (WBST) Act, 1994 prescribes that an additional sales tax at the rate of 20 *per cent* shall be levied on the sales tax payable by a dealer in respect of sales of goods specified in Part B of Schedule IV other than furnace oil and kerosene oil. Further, under section 9(2) of the Central Sales Tax (CST) Act, 1956, the authorities empowered to assess, re-assess, collect and enforce payment of tax under the WBST Act are also empowered to assess, re-assess, collect and enforce payment of tax under the CST Act. Section 8(2)(b) of the CST Act provides that in case of inter-State sales made to unregistered dealers of goods other than declared goods, tax shall be leviable at the rate of 10 *per cent* or at the rate applicable to the sale or purchase of such goods inside the State, whichever is higher.

We found in Corporate Division (CD 2001 - CD 2010) in Kolkata in August 2010 that in two cases assessed in June 2007 for the assessment period 2004-05 under the CST Act, the AAs levied tax of ₹ 115.88 crore on inter-State sales made to unregistered dealers of goods specified in Part B of Schedule IV other than furnace oil and kerosene oil. However, additional sales tax though leviable was not levied. This resulted in non-levy of additional sales tax of ₹ 23.18

crore.

After we reported the cases, the department admitted (February 2011 and January 2012) the audit observations and in one case involving ₹ 22.92 crore stated that a proposal for revision had been sent; but did not furnish any report on revision/ realisation of tax (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

2.15 Non/short levy of interest

Sections 31 and 32 of the WBST Act, 1994 and sections 33 and 34 of the WBvat Act, 2003 prescribe that if a dealer who

- furnishes a return of any period but fails to make full payment of tax payable for such period by prescribed date; or
- fails to furnish a return of any period and after assessment it is found that full amount of tax payable for such period have not been paid by him by prescribed date; or
- fails to deduct inadmissible input tax credit (ITC) from the amount of ITC for a period by prescribed date; or
- fails to make payment of the tax demanded after assessment by the date specified in the demand notice;

he shall be liable to pay interest at the rate of one per cent per month.

1. We found in two¹⁹ charge offices in February and December 2010 that in two cases assessed in June 2007 and November 2008 for the assessment period 2004-05 under the WBST Act, the AAs did not levy interest of ₹ 21.15 lakh though the dealers failed to pay the tax within the prescribed dates. This resulted in non-levy of interest of ₹ 21.15 lakh.

After we pointed out the cases, the department admitted

(September 2011) the audit observation in one case involving ₹ 19.82 lakh and stated that modified demand notice was issued; but did not furnish any report on realisation. In the remaining case, the department did not furnish any reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

2. We found in 16²⁰ charge offices between March 2010 and September 2011 that in 34 cases assessed between September 2008 and July 2010 for the assessment periods between 2005-06 and 2007-08 under the WBvat Act, the AAs in 31 cases did not levy interest of ₹ 2.71 crore and in other three cases levied interest short by ₹ 27.82 lakh on non-payment of tax by prescribed/ specified dates, failure to deduct inadmissible ITC and commencement of certificate proceedings. This resulted in non/short levy of interest of ₹ 2.99 crore.

After we pointed out the cases, the department admitted (between September 2011 and May 2012) the audit observations in 25 cases involving ₹ 1.19 crore; but did not furnish any report on realisation. The department in one case involving ₹ 36.95 lakh stated (June 2011) that the amount of tax payable was

¹⁹ Corporate Division (CD 2001 – CD 2010) and Esplanade.

²⁰ Ballygunge, Beadon Street, Bhowanipore, Bowbazar, Corporate Division (CD 2001 – CD 2010), Coochbehar, Esplanade, Ezra Street, Jorabagan, Park Street, Salt Lake, Serampore, Siliguri, Suri, Taltala and Ultadanga.

not admitted by the dealer and thus, interest was not leviable. The reply is not tenable since the dealer did not furnish his returns and after assessment it was found that the amount of tax payable by him was not paid. In the remaining eight cases involving ₹ 1.43 crore, the department did not furnish any reply/specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

2.16 Irregular allowance of deferment of tax and non-realisation of deferred tax

Section 40 of the WBST Act, 1994 and Rule 112 of the WBST Rules, 1995 prescribe that a dealer who has enjoyed the benefit of deferment of payment of tax, shall pay the full amount of deferred tax within 15 days from the end of the deferment period. Further, rule 181(1) of the Rules prescribes that the AA shall specify in the demand notice the amount of tax which is eligible for deferment and the date on which such deferred tax shall be paid.

Under the deferment scheme, an eligible dealer would collect the tax levied on the sales of manufactured goods and retain it for a specified period (deferment period) and thereafter, the tax so retained shall be deposited into Government account.

1. We found in Corporate Division²¹ in Kolkata in December 2010 that in March 2010 in one case for the assessment period 2002-03, the AA allowed deferment of payment of tax of ₹ 74.49 lakh, of which deferment of payment of tax of ₹ 53.31 lakh had expired in December 2009. But the AA did not take note of this and allowed the deferment in full. This resulted in irregular allowance of deferment of payment of tax of ₹ 53.31 lakh.

The Government accepted (October 2012) the audit

observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

2. We found in Corporate Division²² in Kolkata in April and August 2011 that in three cases the dealers did not pay the deferred tax of ₹ 2.68 crore for the assessment periods between 1999-2000 and 2002-03 though the deferment periods had expired between 2006-07 and 2009-10 and as such, they were required to pay the deferred tax between April 2007 and April 2010. We noticed that the AAs did not specify in the demand notices the dates on which such deferred tax should be paid and, no record/register was maintained to monitor the realisation of deferred tax dues after expiry of deferment period. Thus, non-compliance of the provisions of the Acts and Rules and lack of internal control mechanism resulted in non-realisation of Government revenue of ₹ 2.68 crore.

²¹ CD 2001 – CD 2010.

²² CD 2011 – CD 2020.

After we pointed out the cases, the department admitted (April 2012) the audit observations in two cases involving ₹ 2.27 crore and stated that ₹ 3.24 lakh was realised and the remaining amount would be realised; but did not furnish report on realisation of the balance amount. In another case involving ₹ 40.73 lakh, the department admitted (November 2011) the audit observation; but did not furnish any report on realisation (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

2.17 Irregular allowance of remission of tax

Section 41 of the WBST Act, 1994 prescribes that a manufacturer dealer who holds an Eligibility Certificate (EC) issued by the Commercial Tax Directorate may avail the benefit of remission of tax for a specified period. However, the dealer shall not be eligible for remission of tax on goods which are not specified in his EC. Further, in a circular issued in October 2002, the Commissioner of Commercial Taxes instructed that the benefit of remission of tax will be limited to the items and respective production capacity specified in the EC.

We found in Corporate Division²³ in Kolkata between November 2009 and January 2011 that in four cases between June 2005 and June 2009 for the assessment periods between 2002-03 and 2004-05, the AAs in three cases allowed remission of tax of ₹ 3.33 crore on sales of “coal tar pitch”

instead of ₹ 1.14 crore as calculated by audit upon the specified production capacity in the EC and in one case the AA allowed remission of tax of ₹ 14.55 lakh on sales of “mustard oil” which was not included in the items specified in his EC. These resulted in irregular allowance of remission of tax of ₹ 2.33 crore.

After we pointed out the cases, the department admitted (February 2012) the audit observation in one case involving ₹ 84.80 lakh; but did not furnish any report on realisation. In the remaining three cases the department did not furnish any reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

²³ CD 2001 – CD 2010 and CD 2011 – CD 2020.

2.18 Non-levy of minimum penalty on evaded tax

Section 76(1) of the WBST Act, 1994 prescribes that if a dealer has concealed any turnover or furnished incorrect particulars thereof with intent to reduce the amount of tax payable by him, the AA in addition to tax, may impose by way of penalty a sum which shall not be less than one and half times and not more than thrice the amount of tax that would have been avoided by him.

We found during test check of 800 assessment cases in the Corporate Division (CD 2001- CD 2010) between August 2010 and January 2011 that in four cases between June 2007 and September 2010 for assessment periods 2004-05 and 2005-06 respectively under the

WBST Act, the AAs detected concealment of sales/import of commodities valuing ₹ 4.76 crore by the dealers with the intent to evade payment of tax of ₹ 71.09 lakh.

But the AAs while finalising the assessments did not levy minimum penalty for such concealment. This resulted in non-levy of minimum penalty of ₹ 1.07 crore.

After we reported the cases, the department in November and December 2011 admitted the audit observations in two cases involving ₹ 43.69 lakh and stated that proceedings for imposition of penalty had been started in one case and a proposal for revision had been sent to the higher authority in another case; but did not furnish any report on realisation/revision. In the remaining two cases involving ₹ 62.93 lakh, the department did not furnish any reply/specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

2.19 Non-raising of demand

Rule 190 of the WBST Rules, 1995 prescribes that where any amount of tax, penalty or interest due from a dealer is modified in consequence of an order passed on re-assessment, re-determination, appeal, review or revision, the AA shall serve upon such dealer a notice in Form 33 specifying therein the modified amount of tax, penalty or interest remaining due from him. The AA shall also specify, in Form 33, the date by which a receipted copy of challan as proof of payment of such amount is to be furnished.

We found in Corporate Division (CD 2001-CD 2010) in Kolkata in January 2011 that in one case in October 2009 for the assessment period 2004-05 under the WBST Act, the AA assessed the amount of tax, penalty and interest due from the dealer at ₹ 45.78 lakh and fixed 30 December 2009 for production of challan. However, demand notice in Form 33 was not served

upon the dealer till January 2011. This resulted in non-raising of demand of ₹ 45.78 lakh.

After we reported the case, the department admitted (February 2011) the audit observation regarding non-raising of demand and stated that the dealer had filed an application for revision before the West Bengal Appellate and Revisional Board (WBARB) in December 2009 and the matter would be taken care of after receiving the order of the WBARB. The reply is not tenable since the AA should have issued demand notice to the dealer in Form 33 for the modified amount of tax dues under rule 190 of the WBST Rules.

The Government stated (October 2012) that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

2.20 Non/short levy of purchase tax

Section 12 of the WBVAT Act, 2003 provides that a registered dealer is liable to pay purchase tax at prescribed rates on all his unregistered purchases of goods which are not directly related to his business or fall in the Negative List of the Act.

We found in four²⁴ charge offices between August 2009 and May 2011 that in five cases between June 2008 and June 2010 for the assessment periods 2005-06 and 2007-08 under the WBVAT Act, the AAs incorrectly assessed the taxable purchases at ₹ 20.95

lakh instead of ₹ 2.13 crore. This was due to non-inclusion of unregistered purchases shown by the dealers in their returns and annexure in their taxable purchases. This resulted in underassessment of taxable purchases of ₹ 1.92 crore and consequent non/short levy of purchase tax of ₹ 13.46 lakh.

After we reported the cases, the department accepted (in June and September 2011) the audit observations in three cases involving ₹ 10.23 lakh; but did not furnish any report on realisation. In the remaining two cases involving ₹ 3.23 lakh, the department did not furnish any reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

²⁴ Corporate Division (2001-2010), Ezra Street, Park Street and Taltala.

2.21 Short levy of tax on contractual transfer price

Sections 14 and 18 of the WBVAT Act, 2003 prescribe that any transfer of property in goods involved in the execution of works contract shall be deemed to be a sale by the person making such transfer and tax at prescribed rates shall be levied on his contractual transfer price (CTP) after allowing deductions towards labour charges, service charges and payments to sub-contractors etc. Further, where the taxable CTP for application of proper rate of tax is not ascertainable from the books of accounts maintained by the dealer or where a dealer does not maintain books of accounts worthy of credence, tax on CTP should be assessed according to the table given under Rule 30(2) of the WBVAT Rules, 2005.

We found in three²⁵ charge offices between September 2010 and August 2011 that in three cases under the WBVAT Act between November 2008 and June 2010 for the assessment periods between 2005-06 and 2007-08, the AA in one case allowed deduction of labour charges of ₹ 1.93 crore instead of ₹ 2.02 lakh from CTP as disclosed in books of accounts of the dealer which resulted in excess deduction of labour

charges of ₹ 1.91 crore. In the remaining two cases, the AAs allowed deductions towards labour charges of ₹ 201.10 crore and payments to sub-contractors of ₹ 23.89 crore from gross CTP of ₹ 356.75 crore though the dealers did not produce supporting documents or books of accounts. Hence, tax on gross CTP of ₹ 356.75 crore was chargeable after allowing deductions as per the table²⁶ under Rule 30(2). These omissions resulted in excess allowance of deduction from CTP / irregular levy of tax on CTP and consequential short levy of tax of ₹ 18.66 crore.

After we pointed out the cases, the department admitted (May and September 2012) the audit observation in two cases involving ₹ 18.42 crore; but did not furnish any report on levy/realisation of tax. In the remaining one case, the department did not furnish any specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

²⁵ Corporate Division (CD 2001- CD 2010), Durgapur and Esplanade.

²⁶ The table prescribes percentage of deduction allowable (for labour, service and other like charges) from gross CTP and rates of tax leviable on remaining taxable CTP depending upon the type of the works contract.

2.22 Application of incorrect rate of tax

Section 16(2) of the WBVAT Act, 2003 prescribes that the rate of tax on the goods/commodities sold depends on classification of goods in the schedule. Section 8(2) of the CST Act, 1956 provides that in case of goods other than declared goods, inter-State sale made to unregistered dealers or not supported by declaration in form C tax is leviable at the rate of 10 *per cent* or at the rate applicable to the sale or purchase of such goods inside the State, whichever is higher.

We found during test check of 2,126 assessment cases in four charge offices²⁷ between February 2010 and September 2011 that in seven cases between May 2008 and June 2010 for the assessment periods from 2005-06 to 2007-08, the AAs in five cases levied tax on sales of ₹ 12.11 crore at the rate of four *per cent* instead of 12.5 *per cent* due to misclassification of goods. In two other cases the AAs levied tax at the rate of four and ten *per cent* instead of 12.5 *per cent* under the CST Act on inter-State sales of ₹ 2.13 crore to unregistered dealers or

sales not supported by declaration forms. Thus, application of incorrect rate of tax resulted in short levy of tax of ₹ 1.05 crore.

After we reported the cases, the department admitted (between December 2010 and September 2011) the audit observations in three cases involving ₹ 31.85 lakh but did not furnish report on levy and realisation of tax. In two cases involving ₹ 54.71 lakh the department stated in March and September 2011 that proposals for *suo motu* revision were sent but did not furnish any report on revision. In the remaining two cases involving ₹ 18.53 lakh the department did not furnish any specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

²⁷ Asansol, Ballygunge, New Market and Salt Lake.

2.23 Irregular allowance of ITC

Section 22 of the WB VAT Act, 2003 prescribes that a registered dealer can avail the benefit of Input Tax Credit (ITC) to the extent of tax paid or payable by him in respect of purchases of taxable goods from registered dealers of West Bengal. However, the ITC shall not be allowed on purchase of capital goods or goods specified in the Negative List of the Act. Further, ITC is not allowable to a registered dealer who does not receive an original invoice (containing the prescribed particulars) or where the original invoice is not available with the dealer.

We found in nine²⁸ charge offices between June 2010 and August 2011 that in 22 cases between July 2008 and February 2011 for assessment periods between 2005-06 and 2007-08, the AAs allowed ITC of ₹ 19.78 crore instead of ₹ 15.51 crore. Such excess allowance of ITC was attributable to non-verification of purchase documents, non-furnishing of purchase documents by dealers, on

purchase of capital goods or goods specified in the Negative List, on purchases of goods from non-existent dealers or dealers whose registrations were cancelled and non-consideration of the reports of the VAT Audit Wing regarding inadmissibility of ITC. Such omissions/mistakes/irregularities resulted in irregular allowance of ITC of ₹ 4.27 crore.

After we pointed out the cases, the department admitted (between September 2010 and January 2012) the audit observations in 11 cases involving ₹ 1.86 crore; but did not furnish any report on levy and realisation of tax. In the remaining cases, the department did not furnish any reply/specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

2.24 Short levy of tax due to mistake in computation

Under the WB VAT Act, 2003, tax is to be computed at the rates applicable from time to time along with interest and penalty, if any, on the goods sold.

We found in seven²⁹ charge offices between February 2010 and September 2011 that in 10 cases under the WB VAT Act between May 2009 and June 2010 for the assessment periods between 2005-06 and 2007-08, the AAs assessed tax at ₹ 30.30

crore instead of ₹ 33.60 crore due to arithmetical mistakes in computing the tax payable. This resulted in short levy of tax of ₹ 3.30 crore.

²⁸ Armenian Street, Asansol, Corporate Division, Cossipore, Durgapur, Esplanade, Ezra Street, Park Street and Ultadanga.

²⁹ Ballygunge, Bhowanipore, Corporate Division (CD 2001 - CD 2010), Durgapur, Esplanade, Salt Lake and Siliguri.

After we reported the cases, the department admitted (between December 2010 and September 2012) the audit observations in nine cases involving ₹ 3.29 crore; but did not furnish any report regarding levy and realisation of tax. In the remaining one case involving ₹ 1.15 lakh, the department did not furnish specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

2.25 Irregular allowance of compounded rate of tax

Rules 38(4) and 39(4) of the WBVAT Rules, 2005 prescribe that a registered dealer who intends to avail the benefit of paying tax at compounded rate in lieu of normal rate shall have to exercise such option in Form 16 before the appropriate authority within 90 days from the date of commencement of the assessment year.

During test check of assessment records in seven³⁰ charge offices between August 2010 and June 2011 we found that in 11 cases between May and June 2009 and three deemed assessment cases for assessment periods between 2006-07 and 2007-08, the AAs levied tax

of ₹ 12.82 lakh at compounded rate³¹ instead of ₹ 67.03 lakh at normal rate on turnover of sales of ₹ 8.48 crore though the dealers were not eligible for such benefit due to non/delayed submission of Form 16. This resulted in short levy and consequent short payment of tax of ₹ 54.21 lakh.

After we pointed out the cases, the department admitted (between November 2010 and December 2011) the audit observations in nine cases involving ₹ 45.09 lakh; but did not furnish any report on realisation of tax. In the remaining five cases involving ₹ 9.12 lakh, the department did not furnish any specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however, their detailed reply is awaited (December 2012).

³⁰ Armenian Street, Asansol, Ballygunge, Bhowanipore, Esplanade, Jalpaiguri and Rajakatra.

³¹ @ 0.25% under Rule 38(3) and @ 2% under Rule 39(3) of the WBVAT Rules, 2005.

CHAPTER - III

Land Revenue

EXECUTIVE SUMMARY	
Tax administration	In 2011-12, collection in respect of land revenue increased by 10.50 <i>per cent</i> over the previous year which was attributed by the Department to higher receipts from cess and surcharge on land revenue.
Low recovery by the department against observations pointed out by Audit	During the period from 2007-08 to 2011-12, Audit had pointed out non/short levy, non/short realisation, underassessment/loss of revenue etc. with revenue implication of ₹ 130.28 crore in 20 paragraphs. Of these, the department/Government had accepted audit observations in 12 paragraphs involving ₹ 122.25 crore and had since recovered ₹ 15.02 crore which is only 12.29 <i>per cent</i> .
Audit coverage by internal Audit Wing	The wing planned to audit 18 District Land and Land Reforms Offices (DL&LRO), 19 Land Acquisition (LA) Collectors, one First Land Acquisition (FLA) Collector, two Rent Controllers and two Controllers of Thika Tenancy out of 18 DL&LROs, 19 LA Collectors, one FLA Collector, two Rent Controllers and two Controller of Thika Tenancy during the year 2011-12. Audit was conducted in respect of 17 DL&LROs, eight LA Collectors, one Rent Controller and one Controller of Thika Tenancy during the period which is 64 <i>per cent</i> of the units planned for audit.
Results of audit conducted in 2011-12	In 2011-12, test check of the records of 10 units relating to receipts from Land Revenue indicated non-realisation/blocking of revenue and other irregularities involving ₹ 127.07 crore in 166 cases. During the year, the department accepted non-realisation/blocking of revenue and other deficiencies of ₹ 35.82 crore in 128 cases, of which 117 cases involving ₹ 35.61 crore were pointed out during the year 2011-12 and the rest in the earlier years. An amount of ₹ 14.33 lakh was realised in 11 cases at the instance of audit.
What has been highlighted in this Chapter	In this Chapter a Performance Audit on “Management of Government Land” with financial effect of ₹ 89.24 crore has been presented. The following points have been highlighted in

	<p>the Performance Audit:</p> <ul style="list-style-type: none"> • The department failed to check illegal transfer of vested land and subsequently lost rights over 1,898.20 acres of land due to improper maintenance of Record of Rights. • Non-initiation of action to realise land rent from defaulting raiyats led to non-realisation of rent, cess and surcharge of ₹ 2.07 crore. • Department did not realise/short realised the transfer value of ₹ 7.53 crore for 70.23 acres of vested land in possession of Body Corporates. • Due to delay in settlement of Government land measuring 397.84 acre on long term lease led to non-realisation of <i>salami</i> and annual rent. • The department failed to resume/settle 2,337.11 acres of <i>Khasmahal</i> land occupied by the ex-lessees after the expiry of their leases. • Deficient data management of Government land and absence of provision for periodicity of reconnaissance survey led to failure of the Government to monitor the status of land and its utilisation. • Non-monitoring of encroachments resulted in non-settlement of 176.41 acres of land.
Conclusion	<p>The Performance Audit revealed that the centralised and computerised database on land, maintained by the department had deficiencies which need immediate attention. The database was compilation of basic data forwarded by the BL&LROs to DLRS and the DL&LROs had no access to that database.</p> <p>A number of activities like vesting, resumption and settlement in respect of Government land held by mills, factories, workshops etc. were not carried out in accordance with the relevant provisions of the Act/Rules.</p> <p>Monitoring mechanism was weak as is</p>

evidenced by the fact that no reference was recorded in the RORs relating to the land held by the mills/factories regarding that land being vested to the Government under EA Act. Thus, control of the Government over lands allowed to be retained by the factories/mills was lost.

In addition, non-settlement of KM land and encroached land, lack of initiative in collection of pending dues towards *salami* & rent and delay in finalisation of cases of settlement of land caused loss of revenue to the exchequer as well as loss of rights of Government over vested land.

The Government may :

- maintain a reliable, updated and centralised database of the Government land with information on land vested under EA Act, encroachment/unauthorised occupation and *khasmahal* land. The data should be regularly updated based on periodical surveys and access should be provided to the district level and block level offices for monitoring and taking necessary action.
- make provisions in the rules for fixing periodicity of reconnaissance survey and submission of reports on retained land of mill/factory under EA Act so as to check illegal sale/misuse of the Government land.
- direct the DL&LROs to maintain records of the land under encroachment with details of land schedule and persons occupying the land with date of occupation so that timely action could be taken for ejection/settlement.

CHAPTER III : LAND REVENUE

3.1 Tax administration

Land Revenue consists of receipts from land rent, rates and cess, management of Ex-Zamindari Estates, survey and settlement operations etc. Assessment and collection of land revenue are governed by the West Bengal Land Reforms Act, 1955, the West Bengal Land Reforms Rules, 1965, the West Bengal Land Acquisition Manual, 1991, the West Bengal Land and Land Reforms Manual, 1991 and Land Transfer Rules contained in the Bengal Land Acquisition Act, 1917.

3.2 Trend of revenue

Actual receipts from land revenue during the years 2007-08 to 2011-12 along with the total tax receipts of the year during the same period is exhibited in the following table and chart:

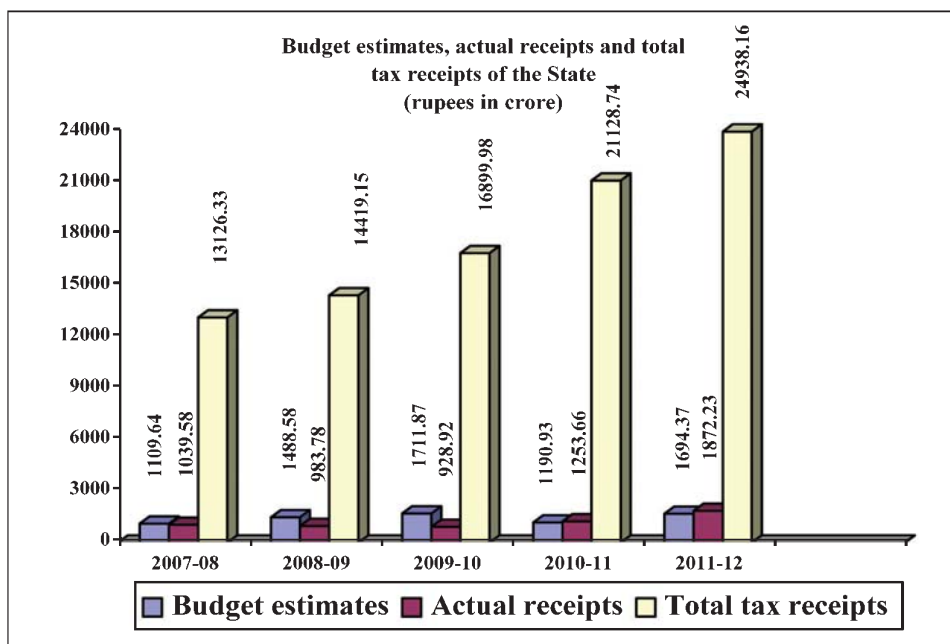
Table 3.1 - Trend of revenue

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	1,109.64	1,039.58	(-) 70.06	(-) 6.31	13,126.33	7.92
2008-09	1,488.58	983.78	(-) 504.80	(-) 33.91	14,419.15	6.82
2009-10	1,711.87	928.92	(-) 782.95	(-) 45.74	16,899.98	5.50
2010-11	1,190.93	1,253.66	(+) 62.73	(+) 5.27	21,128.74	5.93
2011-12	1,694.37	1,872.23	(+) 177.86	(+) 10.50	24,938.16	7.51

Source : Finance Accounts and Budget Publications of the Government of West Bengal.

Chart 3.1 - Trend of revenue



In 2011-12, collection in respect of land revenue increased by 10.50 *per cent* over the previous year which was attributed by the Department to higher receipts from cess and surcharge on land revenue. However, the percentage of variation in budget estimates and actual receipts ranged between (-) 45.74 and (+) 10.50 *per cent* in the years 2008-09, 2009-10 and 2011-12. This shows that the budget estimates failed to project the prospective collection properly.

3.3 Cost of collection

The gross collection of land revenue and the expenditure incurred on collection during the years 2009-10 to 2011-12 are given in the following table:

Table 3.2 – Cost of collection

(₹ in crore)

Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection
Land Revenue	2009-10	928.92	536.29	57.73
	2010-11	1,253.66	576.57	45.99
	2011-12	1,872.23	565.64	30.21

Source: Finance Accounts.

The percentage of expenditure on collection of land revenue decreased gradually from 2009-10 to 2011-12 which shows a better tax administration by the department.

3.4 Revenue impact of audit reports

During the last five years (including the current year's report), we pointed out non/short levy, non/short realisation, underassessment/loss of revenue etc. with revenue implication of ₹ 130.28 crore in 20 paragraphs. Of these, the department/Government had accepted audit observations in 18 paragraphs involving ₹ 122.25 crore and had since recovered ₹ 15.02 crore. The details are shown in the following table:

Table 3.3 – Revenue impact of audit reports

(₹ in crore)

Year of audit report	Paragraphs included		Paragraphs accepted by the departments		Amount recovered	
	Number	Amount	Number	Amount	Number	Amount
2007-08	5	0.70	4 ¹	0.40	NIL	NIL
2008-09	5	37.34	5 ²	37.03	4	14.22
2009-10	4	1.73	4 ³	1.10	3 ⁴	0.18
2010-11	5	1.27	4 ⁵	1.25	4	0.19
2011-12	1	89.24	1 ⁶	82.47	1 ⁷	0.43
Total	20	130.28	18	122.25	12	15.02

¹ Partly accepted.

² Four paragraphs partly accepted.

³ Partly accepted.

⁴ Partly recovered.

⁵ One Paragraph partly accepted.

⁶ Partly accepted.

⁷ Partly recovered.

Thus, against the accepted cases of ₹ 122.25 crore, the department /Government has recovered ₹ 15.02 crore which is only 12.29 per cent.

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

3.5 Working of internal audit wing

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

The internal audit wing of the L&LR Department was re-introduced in the year 2007-08 with the objective of fulfilling accountability, obligations, complying with applicable rules and regulations, executing orderly and effective operations and safeguarding resources against loss. The wing is headed by the Audit Officer cum Ex-officio Deputy Secretary who is assisted by Internal Audit Officers and Assistant Auditors. No Internal Audit Officer was posted in the IAW against sanctioned strength of 16 whereas the existing strength of Assistant Auditor was 12 against the sanctioned strength of 14. Though the manual of the wing has been drafted, it has not yet been published. The wing planned to audit 18 DL&LROs, 19 Land Acquisition (LA) Collectors, one First Land Acquisition (FLA) Collector, two Rent Controllers and two Controllers of Thika Tenancy and audit was conducted in respect of 17 DL&LROs, eight LA Collectors, one Rent Controller and one Controller of Thika Tenancy during the period.

3.6 Results of audit

In 2011-12 we test checked the records of 10 units relating to receipts from Land Revenue and found non-realisation/blocking of revenue and other irregularities involving ₹ 127.07 crore in 166 cases which fall under the following categories:

Table 3.4 – Results of audit

(₹ in crore)			
Sl. no.	Categories	No. of cases	Amount
1	Management of Government Land (A Performance Audit)	1	89.24
2	Non-realisation of rent at commercial rate	85	6.87
3	Non-levy and non-realisation of rent and salami	24	12.33
4	Non-realisation of rent, cess and surcharge	17	17.77
5	Non-realisation of Land Revenue/Cess from big raiyats	9	0.49
6	Blockage/loss of revenue due to non-leasing of <i>Sairati interest</i>	14	0.25
7	Other cases	16	0.12
Total		166	127.07

During the year, the department accepted non-realisation/blocking of revenue and other deficiencies of ₹ 35.82 crore in 128 cases, of which 117 cases involving ₹ 35.61 crore were pointed out during the year 2011-12 and the rest

in earlier years. An amount of ₹ 14.33 lakh was realised in 11 cases at the instance of audit.

Audit findings of the Performance Audit on ‘**Management of Government Land**’ with financial effect of ₹ 89.24 crore are mentioned in the following paragraphs.

3.7 Performance Audit on “Management of Government Land”

Government land means land vested with the State Government, which includes *Khasmahal*⁸ (KM) land, estate land, agricultural and non-agricultural land. Land revenue comprises *salami*⁹ lease rent, receipts from management of estates, survey and settlement operation etc. All the receipts from Government land are deposited under the head of account “0029”. We conducted a Performance Audit on “**Management of Government Land**” covering the period 2006-07 to 2010-11 which revealed:

Highlights

- The department failed to check illegal transfer of vested land and subsequently lost rights over 1,898.20 acres of land due to improper maintenance of Record of Rights.
(Paragraph 3.7.8.1, 3.7.8.2 and 3.7.8.3)
- Non-initiation of action to realise land rent from defaulting raiyats led to non-realisation of rent, cess and surcharge of ₹ 2.07 crore.
(Paragraph 3.7.12)
- Department did not realise/short realised the transfer value of ₹ 7.53 crore for 70.23 acres of vested land in possession of Body Corporates.
(Paragraph 3.7.14)
- Due to delay in settlement of Government land measuring 397.84 acre on long term lease led to non-realisation of *salami* and annual rent.
(Paragraph 3.7.15)
- The department failed to resume/settle 2,337.11 acres of *Khasmahal* land occupied by the ex-lessees after the expiry of their leases.
(Paragraph 3.7.16)
- Deficient data management of Government land and absence of provision for periodicity of reconnaissance survey led to failure of the Government to monitor the status of land and its utilisation.
(Paragraph 3.7.17.1& 3.7.17.2)
- Non-monitoring of encroachments resulted in non-settlement of 176.41 acres of land.
(Paragraph 3.7.18)

⁸ *Khasmahal* land means Government estates, managed by the Collector in direct communication with the *tenant*.

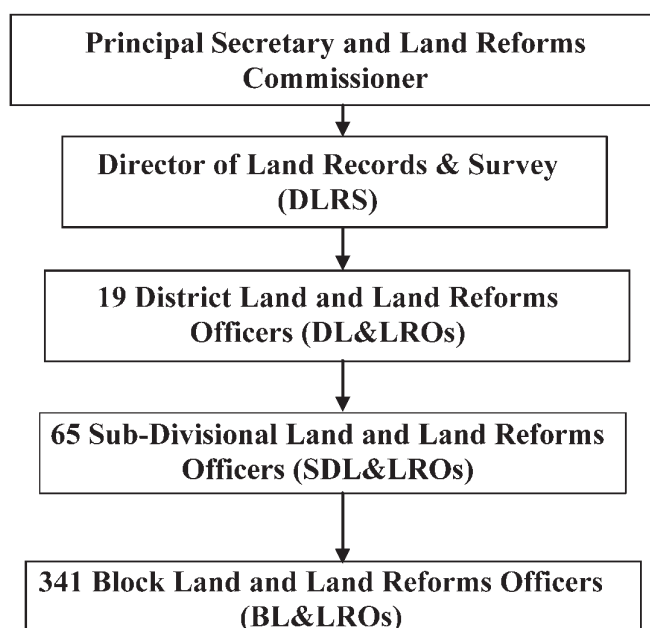
⁹ *Salami* means lumpsum amount payable by the lessee in the case of settlement of Government land.

3.7.1 Introduction

Government land is managed broadly under the provisions of West Bengal Estate Acquisition Act, 1953 and West Bengal Land Reforms Act, 1955. The Land and Land Reforms Department (L&LR) frames rules for management of Government land, collects revenue (at block/district level) and issues executive instructions to safeguard the land vested to the Government.

3.7.2 Organisational set up

The L&LR Department is headed by the Principal Secretary and Land Reforms Commissioner, who is assisted by DLRS, DL&LROs, SDL&LROs and BL&LROs. The organisational structure of the L&LR Department is shown below:



All matters relating to land management/utilisation are forwarded to the Principal Secretary & Land Reforms Commissioner (PS&LRC), L&LR Department by the DL&LROs for approval.

3.7.3 Audit objectives

We conducted the Performance Audit to ascertain whether:

- provisions of Acts/Rules and departmental instructions were followed for vesting and resumption of Government land;
- rent, *salami*, transfer value were properly assessed and collected;
- effective monitoring mechanism existed to safeguard Government land.

3.7.4 Scope and Methodology

Out of 19 DL&LROs, 10 DL&LROs were selected for the Performance Audit by application of 'risk analysis' and 'Stratification and Simple Random Sampling' method focussing on the districts having larger vested land all along the industrial belt in West Bengal. Details are as under:



1. Birbhum
2. Burdwan
3. Hooghly
4. Jalpaiguri
5. North 24 Parganas
6. Paschim Medinipur
7. Nadia
8. Purba Medinipur
9. Purulia
10. South 24 Parganas

3.7.5 Audit criteria

The provisions of the following Acts and Regulations were used as source for the audit criteria:

Bengal Land Acquisition Manual, 1917 (BLAM);

West Bengal Estate Acquisition Act, 1953 (EA Act);

West Bengal Land Reforms Act, 1955 (WBLR Act);

West Bengal Land and Land Reforms Manual, 1991 (WBL&LRM);

Kolkata Land Revenue Act, 2003 (KLR Act); and

Rules made thereunder.

3.7.6 Acknowledgement

An Entry Conference was held on 20 October 2011 which was attended by the Additional Secretary and the Deputy Secretary of the L&LR Department wherein the scope and objectives of the Performance Audit were explained to the department. The findings of the Performance Audit forwarded to the Government in June 2012 were discussed with the Principal Secretary, DLRS, Additional Secretary and Deputy Secretary in the Exit Conference held on 16 October 2012. The views of the Department have suitably been incorporated in the relevant paragraphs. We acknowledge the co-operation of the L&LR Department in providing necessary information and records.

3.7.7 Trend of revenue

Land Revenue (LR) is collected under the major head “0029”. This major head accounts for receipts from lease rent, *salami*, receipts from management of estates, survey and settlement operations and various types of cesses viz. public works cess, rural employment cess, road cess, education cess on coal mines and tea gardens etc. In this Performance Audit, revenue from various cesses has been excluded from the LR in order to segregate the revenue from management of government land.

Position of receipts under “Land Revenue Excluding the Cess (LREC)” for the period from 2006-07 to 2010-11 is tabulated below:

Table 3.5-Trend of Revenue

(₹ in crore)

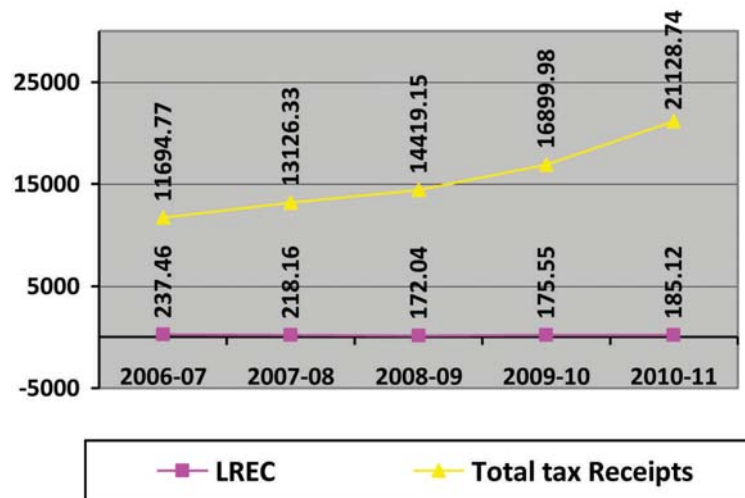
Year	Budget Estimates	Actual Receipts	Difference between BE and Actual	Percentage of variation	Total Tax revenue collected in the state	Percentage of LREC in respect of total tax revenue
2006-07	161.41	237.46	(+)76.05	(+)47.11	11,694.77	2.03
2007-08	231.20	218.16	(-)13.04	(-)5.64	13,126.33	1.66
2008-09	371.04	172.04	(-)199.00	(-)53.63	14,419.15	1.19
2009-10	426.70	175.55	(-)251.15	(-)58.85	16,899.98	1.03
2010-11	587.20	185.12	(-)402.08	(-)68.47	21,128.74	0.87

Source : Finance Accounts and Budget Publications of the Government of West Bengal.

It is evident from the above table that except in 2007-08, there was a wide variation ranging from (+) 47 *per cent* to (-) 68 *per cent* between BEs and the actual receipts. Such wide variations indicate that system followed for framing estimates or assessing prospective collection was flawed.

The collection of LREC was the lowest in the year 2008-09 with a decrease of 21.14 *per cent* as compared to 2007-08. The comparison between the LREC and the total tax receipts of the state for the period from 2006-07 to 2010-11 is illustrated in the following graph.

Graph 3.1: Trend of Revenue



During the period under audit the collection of total tax revenue in the state increased by 80.66 *per cent* and the increase was 31.59 *per cent* in case of LR. The increase in LR was attributable to higher receipts towards various cesses. Audit observed that while the collection of LR increased by 31.59 *per cent*, the collection of LREC uniformly decreased from 2.03 *per cent* to 0.87 *per cent* during the same period.

We observed that while preparing BEs of land revenue, no feedback was taken from the subordinate offices by the department in contravention of the provisions of Budget Manual and West Bengal Financial Rules (WBFR).

In reply the department stated (October 2012) that the Finance (Budget) Department so far prepared the budget of L&LR Department on the basis of assumptions. However, initiative has been taken to develop mechanism for obtaining information from the district level for preparation of BEs and Revised Estimates etc. through liaisoning with the Finance Department.

Audit findings

During the audit it was observed that a large portion of land vested in the Government was occupied unauthorisedly owing to non-renewal of leases, encroachments etc. which could generate revenue towards *salami*, lease rent and transfer value if resumed and settled. Considering the enormity of the potential revenue, if calculated at present market value, only the quantum of land has been included in audit observations on cases of unsettled Government land.

The Performance Audit revealed various deficiencies which are mentioned in the succeeding paragraphs.

3.7.8 Violation of provisions of the West Bengal Estate Acquisition Act, 1953 (EA Act)

As per EA Act, 1953 read with different rules, after the land was formally vested under Section 5, following steps were to be taken by the Government in L&LR Department:

- (i) Record of Rights (RoR) was to be corrected in the name of the mill, factory etc. with specific notings that provisions of Section 6(3) were applicable.
- (ii) Periodical reconnaissance surveys were to be conducted for detection of surplus land for resumption.
- (iii) Resumed lands were to be settled with the prospective lessees on realisation of revenue.

We observed that due to non-adherence to the above provisions during last fifty years, Government lost possession of sizeable area of land and the inaction of the Department facilitated the intermediaries to sell the Government land to the private parties. We found in a number of cases where one or other of the aforesaid provisions had been violated which are depicted in the following paragraphs.

3.7.8.1 Failure to correct the Record of Rights (RoR)¹⁰

We found in two¹¹ DL and LR offices, that 225.59 acres of land held by seven mills/factories established prior to April 1955, vested to the Government under the EA Act, was allowed to be retained by the intermediaries. The RoR had to be corrected accordingly by inserting an entry regarding vesting of land. Those mills/factories were closed between 1970 and 2002 and the intermediaries sold the land to the private parties, in spite of having no right, title and interest in the land. Due to non-correction of RoR, illegal transfer of these vested land could not be checked. Thus Government lost rights over 225.59 acre of land as mentioned in the following table:

Table 3.6 – Failure to correct Record of Rights (RoR)

Sl. No.	Name of the mill/factory	Year of closure	Year of sale/ transfer	Area of land transferred (in acres)
1.	M/s Hind Wire Industries Ltd	1996	Not available	7.32
2.	M/s Dabur Ltd. in South 24 Parganas	Prior to 2002	1975	4.65
3.	M/s Eastern Paper Mills Ltd.	1985	2006	7.59
4.	M/s Hindusthan Storage & distribution Ltd	Not available	1970	110.00
5.	M/s Eagle Plywood	1982	Not available	1.33
6.	M/s New Central Jute mill Co. Ltd	Not available	2008	78.91
7.	M/s Hindustan Cotton Mills	-do-	1976	15.79
Total				225.59

In reply, the department accepted the fact (October 2012), however did not specify any action for correcting the RoRs.

3.7.8.2 Failure of the department to protect the vested land

During test check of records of four¹² DL&LROs, we found that 1,507.90 acres of land held by seven mills was sold by the Official Liquidators appointed by the Hon'ble Calcutta High Court after those became sick and went into liquidation. Thus, due to insufficient monitoring/control mechanism, the department failed to protect the land from liquidation by taking timely action to apprise the court about the status of land. This resulted in loss of rights over Government land of 1,507.90 acres as mentioned in the following table:

¹⁰ Records of Rights: It is a statutory document maintained by the prescribed authority u/s 50 of WBLR Act 1955 and is a notice to the public at large as to who are the owners of the land in the records of the authorities. This record is maintained at the level of BL&LRO. Necessary corrections are made in the RoR as and when ownership changes. As per provisions of EA Act, for retention/resumption cases under section 6(3), corresponding corrections and specific noting should be recorded in the RoR.

¹¹ North 24 Parganas and South 24 Parganas.

¹² Birbhum , Burdwan, Hooghly and North 24 Parganas.

Table 3.7 – Failure of the department to protect the vested land

Sl. No.	Particulars of the mill, factory etc.	Year of closure	Year of sale/ transfer	Area of land sold/ transferred (in acres)
1.	M/s Bengal Paper Mill Ltd	1989	2004	122.03
2.	M/s Rishra Steel Ltd	NA	2000	37.56
3.	M/s Durga Cotton Mills	Liquidation in 1987	2005	28.66
4.	M/s Eastern Explosives & Chemicals Ltd (ECCL)	1995	2006	1,232.71
5.	M/s Hindusthan Pilkington Glass Works	1980	2003	55.69
6.	M/s East End Paper Industries Ltd	1993	Before 2008	22.25
7.	M/s Siliguri Steel Ltd & others	1993	2004	9.00
	Total			1,507.90

Department did not furnish any specific reply on the above issue.

3.7.8.3 Irregular transfer of vested land

WBLR Act does not permit sale of Government land excepting under second proviso to Sec. 14Z (1), which permits sale of Government land under written order by way of open auction only for the purpose of revival of the mill, factory etc. under specific terms and conditions.

We found in two¹³ DL&LROs that out of 296.02 acres of vested land held by four intermediaries, 164.71 acres was sold/transferred without the permission of the Government. As none of these mills/factories

required revival, the sale/transfer was violative of provisions of the Act. This resulted in loss of rights over the vested land of 164.71 acres.

Table 3.8 – Irregular transfer of vested land

Sl. No.	Particulars of the mill, factory etc.	Area of land	
		Held (in acres)	Transferred/Sold/Leased (in acres)
1.	M/s Nicco Corporation Ltd	16.21	7.96
2.	M/s Annapurna Cotton Mill Ltd	34.53	34.53
3.	M/s Angus Co Ltd	197.45	74.39
4.	M/s Gondalpara Jute Mill	47.83	47.83
	Total	296.02	164.71

The Public Accounts Committee (2008-09) in their 25th Report recommended that the L&LR Department should intimate all the concerned authorities that, wherever such plots lying vacant, not to allow any registration or mutation thereof without prior approval of the L&LR Department.

¹³ Hooghly and North 24 Parganas.

In response to the audit observation, the department stated (October 2012) that the Government would not allow real estate to come up in vested land under EA Act. However methodology to be adopted to check unauthorised transfer of Government land was not explained.

3.7.9 Blockage of revenue due to delay in approval of settlement of land proposed for Long Term Settlement

Under Rule 219 of the WBLLRM, settlement of Government land for non-agricultural purpose shall ordinarily be made for a period of 30 years with the prospective lessee.

Under Rule 225 of the WBLLRM, the lease proposal is to be completed within five months from the date of receipt of proposal and the lease agreement is to be executed within the date specified in the sanction order on realisation of *salami* and rent for the first year.

During test check of the case records in seven¹⁴ DL&LROs we found that 14 proposals for long term settlement of 465.49 acres of land were received between July 2004 and December 2010. Till date the department could

neither finalise the cases nor took any action to evict the occupiers. Non-finalisation of these cases resulted in blockage of expected revenue towards *salami* amounting to ₹ 77.71 crore as detailed in **Annexure-II**.

The department accepted audit observations (October 2012) and it was assured that appropriate action would be taken.

3.7.10 Short realisation of revenue due to incorrect assessment of market value for calculation of *Salami* and rent

Rule 222 of the WBLLRM prescribes that the market value of the land proposed for settlement should be carefully assessed from the records obtainable from Sub-Registration Offices.

During test check of case records of two¹⁵ DL&LROs we noticed that proposals for long term settlement of 8.92 acres of land were received from two

organisations and forwarded the same to the Government between December 2004 and November 2007. Further scrutiny of the records revealed that the land was settled by the above DL & LROs on realisation of *salami* amounting to ₹ 51.63 lakh which was much lower than ₹ 104.76 lakh as calculated and forwarded by the BL&LROs on the basis of market value obtained from the respective sub-registrar offices. This has resulted in short realisation of revenue of ₹ 53.13 lakh.

The Government did not furnish any reply till November 2012.

¹⁴ Burdwan, Jalpaiguri, North 24 Parganas, Paschim Medinipur, Nadia, Purba Medinipur and Purulia.

¹⁵ Burdwan and Paschim Medinipur.

3.7.11 Non-realisation of *Salami*, rent and interest thereon

As per Rule 235 of WBLLRM, the rent shall be payable yearly according to the Bengali year (BS) and shall fall due on the last day of the Bengali year in respect of which it is paid. Rule 303 prescribes for interest at the rate of 6.25 per cent per annum on delayed payment of revenue.

During test check of the case records of three¹⁶ DL&LROs, we found that in four cases *salami* and rent of ₹ 21.70 lakh including interest for

the period from 1997-1998 to 2010-11 on account of lease of 71.68 acres of land were not paid by the lessees as detailed in the following table:

Table 3.9—Non-realisation of *salami*, rent & interest

Name of the Lessee	Area of the Land in acre	Period of lease	<i>Salami</i> assessed (in ₹)	Yearly Rent assessed (till 03/11)	Rent fallen due since BS	Rent Due (in ₹)	Interest due (in ₹)	Total Due (in ₹)
Banipur Engg College	24.20	30	0	45,707.00	1410 (2003-04)	3,65,656.00	1,02,840.75	4,68,496.75
WBSCBL	0.11	30	0	33,619.00	1411 (2004-05)	2,35,333.00	58,833.25	2,94,166.25
S Giri	0.0225	99	3,88,094.00	1,225.00	1403 (1997-98)	18,375.00	8,039.06	4,14,508.06
20 Misc. cases	47.35	--	Not applicable	2,99,333.00	1414 to 1416 (2007-08 to 2010-11)	8,98,000.00	95,000.00	9,93,000.00
Total	71.6825		3,88,094.00			15,17,364.00	2,64,713.06	21,70,171.06

Government accepted (October 2012) the audit observation in 20 miscellaneous cases involving ₹ 9.93 lakh and stated that an amount of ₹ 2.68 lakh had been realised. In the remaining cases, Government did not furnish any reply (December 2012).

3.7.12 Non-realisation of rent, cess and surcharge on land used for commercial purpose

Section 23 of the WBLR Act provides that *raiya*ts using land for commercial purposes are liable to pay land rent at the prescribed rate. A surcharge and different kinds of cess are also realisable on the land rent payable by the *raiya*ts. The *bhumi sahayaks* posted in the revenue inspectors' offices under the BL&LROs are responsible for collection of land rent. Under Rule 235 of the WBLLRM rent shall be payable yearly according to the Bengali year and shall fall due on the last day of the Bengali year (30th Chaitra) in respect of which it is paid.

During the test check of records in the DL&LROs, Hooghly and North 24 Parganas we found that in 320 cases 156 *raiya*ts¹⁷ under 10 BL&LROs used 965.03 acres of land for commercial purposes without paying land rent

¹⁶ South 24 Parganas, North 24 Parganas and Paschim Medinipur.

¹⁷ *Raiyat* means a person or an institution holding land for any purpose.

during the period between 1414 BS¹⁸ (2007-08) and 1416 BS (2009-10). However, the DL&LROs did not initiate any action to realise the land rent from the defaulting *raiya*ts.

This resulted in non-realisation of rent, surcharge etc. of ₹ 2.07 crore.

After we reported the cases, the DL&LRO, Hooghly admitted the audit observations and stated (May 2012) that ₹ 32.93 lakh had been realised from 115 *raiya*ts; but did not furnish any report on realisation of the balance amount of ₹ 1.58 crore. The DL&LRO, North 24 Parganas admitted (June 2010) the audit observations involving ₹ 15.65 lakh; but did not furnish any report on realisation (December 2012).

The Government accepted (October 2012) the audit observation and stated that a report on further realisation would be submitted; their report on realisation is awaited (December 2012).

3.7.13 Non-realisation of rent from *Sairati*¹⁹ interest

Rules 272, 275 and 275A of the WBLLRM prescribe that *Sairati* interests should be leased out on yearly basis for a period not exceeding seven years. The collector of the district is required to fix the rent and realise 25 per cent of the rent for the first year at the time of settlement and the balance should be deposited before the beginning of the year. The rent for the successive years is to be deposited by the lessee in full before the beginning of the respective year.

We found in three²⁰ DL&LROs that 24 water bodies involving 1,003.331 acres were leased out between May 2011 and December 2011 but the rent for

the periods between 2008-09 and 2010-11 was not realised. This resulted in non-realisation of revenue of ₹ 8.98 lakh.

After we reported the cases, two²¹ DL&LROs admitted the audit observations in case of nine water bodies involving ₹ 7.00 lakh and stated that action would be taken to realise the dues; but did not submit report on realisation. In the remaining 15 cases the DL&LROs²² did not furnish any specific reply (December 2012).

The Government while accepting (October 2012) the audit observation stated that ₹ 7.10 lakh was realised and a report on further realisation would be submitted; their report on realisation is awaited (December 2012).

¹⁸ Bangla Sakabda (from 15 April of a year to 14 April of next year).

¹⁹ Derived from the word *Sair*. The duties which the owners of *Hat*, bazaar, markets, ferries, fisheries etc. used to levy on commodities sold or benefits derived from these places were designated as *Sair* collection. Such *Hat*, ferries etc. are known as *Sairati* interests.

²⁰ Malda, Nadia and Paschim Medinipur.

²¹ Nadia and Paschim Medinipur.

²² Malda and Paschim Medinipur.

3.7.14 Land settled with Government body corporates

In the following cases it was observed that the transfer value of the vested land, transferred to the Government organisations was either not realised or realised short.

Under Rule 470 of the WBLRM the transfer of land to Government undertakings by any department other than L&LR Department should route through L&LR and land should be settled with its approval.

Land Transfer Rules read with Government order No. 681 (64)-LR dated 03.09.1993 and No. 2435 (40)/ SS (s)-LA dated 17.10.2005 prescribe that in case of transfer of land to the Government of India and any other company or body corporate, transfer value comprising market value and capitalised value which is 20 or 25 times of the annual land revenue is realisable from the transferee.

(a) We found in two²³ DL&LROs, 12.64 acres of land was granted to two body corporates between August 1999 and March 2011. In terms of the Land Transfer Rules read with the Government order of September 1993, the land in each case was to be transferred on realisation of transfer value. The transfer value

of ₹ 6.12 crore calculated by the department was not realised as detailed in the following table:

Table 3.10—Non-realisation of transfer value

District	Name of the Body Corporate	Area Involved in acre	Market Value (₹)	Capitalised Value (₹)	Transfer value (₹)	Non-realisation of Transfer Value (₹)
Burdwan	ECL	11.94	Not provided in the order		5,78,26,913	5,78,26,913
Jalpaiguri	Min of Telecom, GoI	0.70	28,01,098	5,40,720	33,41,818	33,41,818
Total		12.64				6,11,68,731

When it was reported, the DL&LRO, Burdwan stated (November 2011) in one case involving ₹ 5.78 crore that action would be taken. The DL&LRO, Jalpaiguri in one case involving ₹ 33.41 lakh stated (May 2012) that the BL&LRO had been asked to furnish market value which might fetch higher transfer value.

(b) We found in DL&LRO, South 24 Parganas that Kolkata Port Trust (KoPT), a body corporate under the Government of India had requested for transfer of 50.59 acres of land for setting up of port facilities for Haldia Dock Complex. Instead of transferring the land against transfer value the department settled in August 2010 the land on long term lease on realisation of salami of ₹ 6.40 crore and annual rent of ₹ 2.01 lakh. Had the land been transferred on realisation of transfer value of ₹ 7.81 crore as requested, the Government would have gained an additional revenue of ₹ 1.41 crore.

²³ Burdwan and Jaipauri.

However, the element of annual rent would get set off against the interest on ₹ 1.41 crore.

The department stated in October 2012 that the land of 50.59 acres was transferred to the Commerce & Industries Department. The reply is not tenable since the settlement was done directly by L&LR Department with KoPT.

(c) Refugee Relief & Rehabilitation Department (RR&RD) granted LTS of 7.00 acres of land to the Indian Institute of Foreign Trade (IIFT) during 2009 at a premium of ₹ one for 99 years without the approval of the L&LR Department as provided under Rule 470 of WBLLRM. Due to absence of any review mechanism to watch over actual utilisation of land, the L&LR Department failed to resume the land, not required by RR&RD and settle the same with the IIFT. This resulted in non-realisation of transfer value.

3.7.15 Non-realisation of Government revenue due to non-settlement of long term lease

Rule 238 of the WBLLRM provides that Government land, remaining in possession of a person(s) without any lease, may be offered to such person(s) on long term settlement for non-agricultural purpose on realisation of rent and salami at the prescribed rates. Further, Rule 225 prescribes that the procedure of long term settlement is to be completed by the Department within five months from the date of its initiation.

We found in three DL&LROs (Bankura, Coochbehar and Jalpaiguri) that 397.84 acres of land was under unauthorised occupation of two firms and private individuals. The occupiers applied between December 2002 and December

2007 for long term settlement of the land for residential and industrial purposes. However, the Department did not finalise the long term settlement even after lapse of periods ranging from 5 to 10 years. Department calculated the *Salami* and annual rent of ₹ 1.09 crore for 42.97 acres of land in Bankura and Coochbehar districts. Thus, failure of the Department to settle the land with unauthorised occupiers within the prescribed time-limit resulted in non-realisation of revenue of ₹ 1.09 crore and non-settlement of 354.87 acres of land in Jalpaiguri district.

After we reported the cases, the DL&LRO, Bankura in one case stated (May 2012) that the company had submitted a revised proposal for long term settlement of land which was sent to the Department on 16.03.2012 and in another case stated that the company had submitted the prayer for long term lease for acquired land but did not furnish report on further development in both the cases. In the remaining cases, the DL&LRO, Coochbehar did not furnish any reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that further report would be submitted; their report is awaited (December 2012).

3.7.16 Failure to settle KM land led to non-realisation of *salami* and rent

In terms of Rule 238 of WBLLRM read with G.O. No. 3719 dated 15.12.2006 and No. 11185 dated 24.12.1997, Government land occupied unauthorisedly shall be settled with the occupiers on long term settlement on realisation of *salami* and rent assessed on current market value.

During scrutiny of records of two²⁴ DL and LROs, we found that 2,337.11 acres of KM land covering 16 areas/mouzas²⁵ was under the unauthorised occupation of the

ex-lessees for domestic purposes over a period of 35 years as the lease period had expired between 1950 and 1977. The DL&LROs did not initiate any action to resume the land or to settle with the ex-lessees who became unauthorised occupants in terms of the Government order 2006. Non-settlement of the land of 2337.11 acres unauthorisedly occupied by the ex-lessees resulted in non-realisation of *salami* annual rent.

On this being pointed out, the DL&LRO, South 24 Parganas stated (April 2012) that the proposal for settlement of 50.77 acres of KM land had been sent to the department for approval. But case records in connection with such proposals were not provided with.

DL&LRO, Paschim Medinipur furnished no reply.

The department did not furnish any reply (November 2012).

3.7.17 Control mechanism to manage/safeguard Government land

Land policy of the Government is manifested through various Acts/Rules and relevant orders of the Government. Rule 23 of WBLLRM provides that BL&LRO is responsible for vesting, taking over possession and distribution of surplus land and therefore he is required to maintain various registers including Register VIII, Register X under provisions of Rule 323. Register VIII contains information about vested/resumed land and the Register X contains information on settlement of Government land on long/short term basis. He is also responsible for maintenance of RoR and to make necessary corrections therein in case of change in ownership of land.

Under Rule 28, the BL&LRO is required to submit Monthly Progress Return (MPR) (of collection of land revenue and status of land) to the SDL&LRO who in turn sends it to the DL&LRO. The DL&LRO compiles the MPR of the district and sends it to the DLRS.

As per the provisions contained in EA Act, reconnaissance survey is required to be conducted to keep a watch on the vested/resumed/retained Government land. Deficiencies in compliance of these provisions noticed during the audit have been noted below:

²⁴ South 24 Parganas and Paschim Medinipur.

²⁵ Unit of Area for determining the land revenue.

3.7.17.1 Deficient data management

The DLRS maintained a centralised and computerised database of land of the state on the basis of basic data forwarded from the Block Land and Land Reform offices (Block Level) in CD form and it is updated monthly. We noticed that retention and resumption of land comprised in mills/factories was not noted separately in the centralised database.

We also found that the Act/manual did not have any provision for maintenance of any register by the DL&LRO for keeping records of mills/factories and their land which were vested and allowed to be retained and resumption of surplus land as per EA Act. We also analysed the centralised database in the DLRS and noticed that retention and resumption of land comprised in mills/factories were not noted separately. In absence of the notings in the centralised database in DLRS and any register in DL&LROs there existed no control over such land.

In reply, the department stated (October 2012) that retention of land was noted with a reference to the notification made under section 6(3) of EA Act in RoR⁴² itself and resumption is noted in Register VIII as per provisions of WBLLRM. Both the RoR and the Register VIII are maintained in the BL&LR Office.

The above view is not based on facts since examination of the data of 27 mills/factories in the centralised database of DLRS revealed (November 2012) that data in respect of only 12 mills/factories could be retrieved. A sample of 276 plots belonging to 12 mills/factories were selected for data checking and it was found that RoRs of 264 plots did not contain information about the plots vested under EA Act. No information was found in respect of remaining 15 numbers of mills/factories as per samples applied. Thus, controls of Government over land allowed to be retained by the mills/factories were not in place.

3.7.17.2 Absence of provision for periodicity of reconnaissance survey

As per proviso to Section 6(3) of the EA Act read with the notification No. 459-LR/5M-01/05 GE(M) dated 10 February 2005 of L&LR Department, reconnaissance survey is to be done from time to time for assessing the requirement of land for the purpose of the mill/factory etc.

During scrutiny of records of the L&LR Department we found that though there is provision of reconnaissance survey²⁶ of the land comprised in mills/factories but there

is no provision in the rules/notification/Government order prescribing the periodicity of the reconnaissance survey. There is also a lack of provision regarding the time limit to complete the resumption procedure where the land declared surplus as a result of reconnaissance survey. Absence of these provisions resulted in failure of the Department to monitor the status of land and to complete the resumption without delay.

²⁶ Preliminary survey or study.

The department accepted (October 2012) the audit observation.

3.7.18 Deficiencies in management of encroached land

The Board of Revenue in August 1988 asked the district magistrates to identify encroachments on Government land for removal of encroachments. Rule 238 of the WBLLRM provides the procedure for settlement of lands under unauthorised occupancy. L&LR in their order issued in December, 2006 specified that for long term settlement of Government land with the unauthorised occupiers, *salami* and rent shall be assessed on current market value of land.

Out of the 10 test checked DL&LROs, it was found that only DL&LRO, Birbhum furnished a statement of 1,455.87 acres of land under encroachment relating to six blocks with the *mouza*-wise break-up of the area under each block. Remaining nine

DL&LROs did not maintain any record/information about the encroached Government land under their jurisdictional area. Non-maintenance of such information indicates lack of monitoring and internal control over Government land.

We found that 176.41 acres of Government land under two²⁷ DL & LROs was encroached by 36 persons/organisations and the department came to know about the encroachment only in December 2011 and February 2012. No attempt was made by the department to settle the land with the unauthorised occupiers which led to non-realisation of *salami* and annual rent.

On this being pointed out, the DL&LRO South 24 Parganas stated (March 2012) that in one case the BL&LRO had been asked to enquire and ascertain the actual area under occupation.

During Exit Conference (October 2012) the Principal Secretary, L&LR Department stated that the reply would be furnished shortly. However, the Government reply is still awaited (December 2012).

3.7.19 Conclusion

The Performance Audit revealed that despite the department has managed to maintain a centralised and computerised database on land there were different weaknesses as discussed before, which need immediate attention by the department. As a result a number of activities like vesting, resumption and settlement of resumed land held by mills, factories, workshops etc. were not carried out in accordance with the provisions of the law and regulations. This had led to overall mismanagement of Government land. Monitoring mechanism was weak as is evidenced by the fact that no reference recorded in the RORs relating to the plots of land held by the mills/factories regarding land being vested to the Government under EA Act. Thus, control of the Government over lands allowed to be retained by the factories/mills was lost.

Poor monitoring of vested land, non-settlement of KM land and encroached land, lack of initiative in collection of pending dues towards *salami* & rent and

²⁷ Purba Medinipur and South 24 Parganas.

delay in finalisation of cases of settlement of land on Long Term Settlement caused loss of revenue to the exchequer as well as loss of rights of Government over vested land.

3.7.20 Recommendations

To improve the effectiveness of the state machinery for better management of receipts from the Government land, the Government may:

- maintain a reliable, updated and centralised database of the Government land with information on land vested under EA Act, encroachment/unauthorised occupation and *khasmahal* land. The data should be regularly updated based on periodical surveys and access should be provided to the district level and block level offices for monitoring and taking necessary action.
- make provisions in the rules for fixing periodicity of reconnaissance survey and submission of reports on retained land of mill/factory under EA Act so as to check illegal sale/misuse of the Government land.
- direct the DL&LROs to maintain records of the land under encroachment with details of land schedule and persons occupying the land with date of occupation so that timely action could be taken for ejection/settlement.

CHAPTER - IV

Motor Vehicles Tax

EXECUTIVE SUMMARY	
Increase in tax collection	Tax collection in respect of Motor Vehicles Taxes for the year 2011-12 increased by 7.61 <i>per cent</i> over the previous year which was attributed by the Department to higher collection under State Motor Vehicles Act.
Internal audit not conducted	Transport Department has no Internal Audit Wing. As a result, deficiencies due to internal control failure as discussed in paragraphs 4.8 to 4.13 were detected.
Very low recovery by the Department against observations pointed by Audit	During 2007-08 to 2011-12, Audit had pointed out non/short levy, non/short realisation, underassessment/loss of revenue, etc. with revenue implication of ₹ 108.01 crore in 61 paragraphs. Of these, the Department accepted 27 paragraphs involving ₹ 18.22 crore of which only a meagre amount of ₹ nine lakh has been recovered by the Department.
Results of audit conducted in 2011-12	<p>In 2011-12, test check of the records of 15 units relating to Motor Vehicle Tax receipts indicated non-realisation/blocking of revenue and other irregularities involving ₹ 214.25 crore in 235 cases.</p> <p>The Department accepted non-realisation/blocking of revenue and other deficiencies of ₹ 54.72 crore in 84 cases, of which 70 cases involving ₹ 54.08 crore were pointed out in audit during 2011-12 and the rest in earlier years. An amount of ₹ 24.89 lakh was realised in 12 cases at the instance of audit.</p>
What has been highlighted in this Chapter	<p>In this Chapter cases of short realisation of composite fee, non-realisation of special tax, non/short realisation of fitness fee, non/short realisation of permit fee, non-realisation of audio fee and non/short realisation of dealer's tax in the offices of the State Transport Authority, West Bengal, Director, Public Vehicles Department, Kolkata, Regional Transport Officers and Additional Regional Transport Officers amounting to ₹ 4.28 crore have been presented.</p> <p>Similar omissions on the part of the Assessing Authorities (AAs) were pointed out in the Stand Alone Report on "Collection of motor vehicle taxes, fees and fines" in the year 2010, despite</p>

	<p>which the irregularities persisted. These remained undetected till these were again pointed out by Audit. Such irregularities/omissions were apparent from the records made available to Audit but were not detected by the AAs.</p>
Conclusion	<p>Transport Department may take appropriate steps to prepare an e-Tax Demand Register and initiate immediate action to recover the revenue pointed out by Audit, more so in cases where Audit contention has been accepted.</p>

CHAPTER IV: MOTOR VEHICLES TAX

4.1 Tax administration

Taxes on vehicles consist of receipts under the Central Motor Vehicles Act and the State Motor Vehicles Taxation Act etc. Assessment and collection of Motor Vehicles tax is governed by the Central Motor Vehicles Act, 1988, the Central Motor Vehicles Rules, 1989, the West Bengal Motor Vehicles Tax Act, 1979, the West Bengal Motor Vehicles Rules, 1989 and the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989. Motor Vehicles Tax is administered by the Transport Department headed by the secretary who is assisted by one Special Secretary, five joint secretaries, two assistant secretaries, one registrar and one statistical officer at the Headquarters. The Secretary, State Transport Authority (STA), West Bengal, Director, Public Vehicles Department (PVD), Kolkata, 18 Regional Transport Officers (RTOs) and seven Additional Regional Transport Officers (ARTOs) administer the provisions of the Motor Vehicles Acts and Rules.

4.2 Trend of revenue

Actual receipts from Taxes on Vehicles during the years 2007-08 to 2011-12 along with the budget estimates and the total tax receipts of the state during the same period is exhibited in the following table and chart:

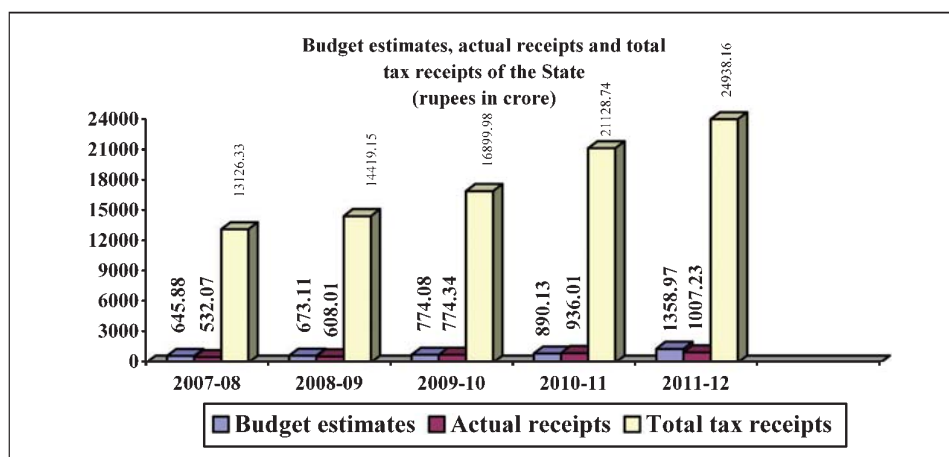
Table 4.1 – Trend of revenue

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	645.88	532.07	(-)113.81	(-)17.62	13,126.33	4.05
2008-09	673.11	608.01	(-)65.10	(-)9.67	14,419.15	4.22
2009-10	774.08	774.34	(+)00.26	(+)0.03	16,899.98	4.58
2010-11	890.13	936.01	(+)45.88	(+) 5.15	21,128.74	4.43
2011-12	1,358.97	1,007.23	(-)351.74	(-)25.88	24,938.16	4.04

Source : Finance Accounts and Budget Publications of the Government of West Bengal.

Chart 4.1 – Budget estimates, Actual receipts and Total tax receipts



Revenue collection in respect of Motor Vehicles Taxes for the year 2011-12 increased by 7.61 *per cent* over the previous year which was attributed by the Department to higher collection under State Motor Vehicles Act. It was also observed that there was a variation of (-) 25.88 *per cent* in budget estimates and actual receipts indicative of unrealistic estimation.

4.3 Cost of collection

The gross collection of Motor Vehicles Tax and the expenditure incurred on collection during the years 2009-10 to 2011-12 are given in the following table:

Table 4.2 – Cost of collection

(₹ in crore)					
Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average of expenditure on collection for the preceding year
Motor Vehicles Tax	2009-10	774.34	17.88	2.31	2.93
	2010-11	936.01	19.64	2.10	3.07
	2011-12	1,007.23	20.16	2.00	3.71

Source: Finance Accounts.

The table shows a decreasing trend of expenditure over the years indicating positive improvement in tax administration.

4.4 Revenue impact of audit reports

During the last five years (including the current year's report), we pointed out non/short levy, non/short realisation, underassessment/loss of revenue etc., with revenue implication of ₹ 108.01 crore in 61 paragraphs. Of these, the Department/Government has accepted audit observations in 27 paragraphs involving ₹ 18.22 crore and has since recovered ₹ nine lakh. Details are shown in the following table:

Table 4.3 – Revenue impact of audit reports

(₹ in crore)

Year of audit report	Paragraph included		Paragraphs accepted by the departments		Amount recovered	
	Number	Amount	Number	Amount	Number	Amount
2007-08	04	4.66	04	1.09	Nil	Nil
2008-09	05	10.69	05	1.17	Nil	Nil
2009-10	42	14.41	09	4.76	Nil	Nil
2010-11	04	73.97	04	9.05	02 ¹	0.07
2011-12	06	4.28	05	2.15	03	0.02
Total	61	108.01	27	18.22	05	0.09

Thus, against the accepted cases of ₹ 18.22 crore, the Department/Government has recovered ₹ nine lakh which is only 0.49 *per cent*.

Government may take appropriate steps to improve recovery position of outstanding dues.

4.5 Working of internal audit wing

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

We observed that the Transport Department had no internal audit wing. As a result, deficiencies due to internal control failure as discussed in paragraphs 4.8 to 4.13 were detected.

¹Partly accepted.

4.6 Results of audit

In 2011-12 we test checked the records of 15 units relating to Motor Vehicles Tax and found non-realisation/blocking of revenue and other irregularities involving ₹ 214.25 crore in 235 cases which fall under the following categories:

Table 4.4 – Results of audit

(₹ in crore)

Sl. no.	Categories	No. of cases	Amount
1	Non-realisation of tax, additional tax and penalty	96	170.98
2	Non-realisation of special tax	14	34.47
3	Short realisation of composite fee	1	1.28
4	Non-realisation of audio fee	12	1.08
5	Non-realisation of special fee	11	1.08
6	Short realisation of fitness inspection fee/fine	14	1.16
7	Non-realisation of penalty for delayed payment of tax	10	1.18
8	Other cases	77	3.02
Total		235	214.25

During the year, the Department accepted non-realisation/blocking of revenue and other deficiencies of ₹ 54.72 crore in 84 cases, of which 70 cases involving ₹ 54.08 crore were pointed out in audit during the year 2011-12 and the rest in earlier years. An amount of ₹ 24.89 lakh was realised in 12 cases at the instance of audit.

A few illustrative cases involving ₹ 4.28 crore are mentioned in the following paragraphs.

4.7 Audit observations

Scrutiny of the records in the offices of the State Transport Authority (STA), West Bengal, Public Vehicles Department (PVD), Kolkata, Regional Transport Officers (RTOs) and Additional Regional Transport Officers (ARTOs) pointed out short realisation of composite fee, non-realisation of special tax, non/short realisation of fitness fee, non/short realisation of permit fee, non-realisation of audio fee, non/short realisation of dealer's tax as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Similar omissions were pointed out by audit repeatedly but these persisted and also remained undetected till next audit. There is need to improve the internal control system so that recurrence of such cases can be avoided.

4.8 Short realisation of composite fee

As per Rule 87 (2) of the Central Motor Vehicles (CMV) Rules, 1989 the State Transport Authorities (STAs) of different states grant National Permit (NP) to goods carriages and collect composite fee in the form of bank draft from the holders of such permits and dispatch these to the STA of the concerned state for permitting those vehicles to ply in that state*. Further, Rule 128(4) of the West Bengal Motor Vehicles (WBMV) Rules, 1989 provides that the annual rate of composite fee for goods carriages of other states in West Bengal shall be the same as fixed by those states from time to time for permitting the vehicles of WB to ply in those states.

**Amended with effect from 07.05.2010.*

We found during scrutiny in March 2011 of the Bank Draft Received Register maintained in STA, WB that composite fees were received ranging from ₹ 1,040 to ₹ 3,800 through 10,425 bank drafts from 15 states² during April 2009 to March 2010 instead of prescribed rates ranging between ₹ 3,000 and ₹ 5,000. Thus, composite fees were collected by those states at lower rates.

The states were liable to send the composite fees of ₹ 4.49 crore instead of ₹ 2.36 crore. We also noticed that the Bank Draft Received Register was not reviewed by the authorities. Thus, the STA, WB was not in a position to watch whether the composite fees received from other states were at prescribed rate or at lower rate. Consequently, the STA, WB could not take up the matter with the concerned authorities for realisation of the balance amount.

Thus, lack of internal control mechanism to watch receipt and remittance of composite fees resulted in short realisation of revenue of ₹ 2.13 crore.

The STA, WB did not furnish any reply to the cases pointed out by audit (December 2012).

² Assam, Bihar, Chandigarh, Haryana, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Nagaland, Orissa, Punjab, Rajasthan, Tamilnadu, Uttar Pradesh and Uttaranchal.

The Government stated (October 2012) that detailed reply would be furnished shortly; their detailed reply is awaited (December 2012).

4.9 Non-realisation of special tax

Section 3 of the West Bengal Motor Vehicles Tax (WBMVT) Act, 1979 and sections 9B and 10 of the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989 provide for realisation of special tax for air conditioned vehicles at the prescribed rates based on their use, seating capacity, engine capacity and category of the vehicle. Section 11 (b) (iii) of the WBMVT Act also provides that in case of delay in payment of tax exceeding 60 days after the expiry of grace period of 15 days, penalty equal to the amount of tax payable is also realisable. Further, rule 26 of the WBMVT Rules, 1957 prescribes for maintenance of a Tax Demand Register (TDR) by the Registering Authorities (RAs) to monitor the realisation of tax, which was to be reviewed periodically.

During the course of audit between January and February 2011 by analysis of data of seven Registering Authorities (RAs) we found that special tax and penalty in respect of 1,370 air conditioned vehicles amounting to ₹ 89.31 lakh was not paid by the owners during the period from April 2005 to March 2010. We also noticed that although no provision was made in the information technology (IT) system, the RAs did not maintain the prescribed TDR to monitor the realisation of tax from the defaulters. Thus, lack of monitoring in absence of TDR in the

changed scenario of IT environment led to non-realisation of special tax and penalty of ₹ 89.31 lakh as detailed in the following table:

Table 4.5 – Non-realisation of special tax

(₹ in lakh)

Sl No.	Name of the RA	No. of Vehicles	Special Tax and penalty realisable
1.	Birbhum	76	10.62
2.	Coochbehar	44	1.14
3.	Jalpaiguri	16	1.86
4.	Murshidabad	265	16.52
5.	Purulia	23	1.78
6.	Public Vehicles Department (PVD), Kolkata	910	54.21
7.	Uttar Dinajpur	36	3.18
Total		1,370	89.31

After we pointed out the cases, the RA, Uttar Dinajpur admitted the audit observation (August 2011) in 35 cases involving ₹ 3.15 lakh and stated that demand notices were being issued to the owners; but did not furnish any report on realisation. In the remaining cases the Department did not furnish any specific reply (December 2012).

The Government while accepting (October 2012) the audit observation stated that in a number of cases demand notices were issued, vehicles were blacklisted and realisation was made. They also stated that detailed reply would be submitted shortly; their detailed reply is awaited (December 2012).

4.10 Non/short realisation of fitness fee

Rules 62 and 81 of the CMV Rules prescribe that the owners of the transport vehicles shall produce their vehicles for inspection annually after completion of two years of registration and to pay the prescribed fees for inspection and renewal of certificate of fitness (CF). Further, rule 57(6) of the WBMV Rules prescribes that the owner of a vehicle shall apply for renewal of CF not less than one month before the date of its expiry and if the owner fails to do so, he shall be liable to pay 150 *per cent* of the application fee. In addition, if the owner fails to produce the vehicle for inspection for renewal of CF on or before the expiry of last CF he shall be liable to pay 150 *per cent* of fee for conducting test of fitness together with the amount as prescribed in the Schedule-E-14 of the WBMV Rules.

During the course of audit in January and February 2011 on analysis of data of six RAs we found that 2,245 transport vehicles were plying with the CFs expired during 2006-07 to 2009-10. This jeopardised the public safety and environment besides fitness fees of ₹ 11.19 lakh remaining unrealised. We also noticed that in case of 21,194 transport vehicles, the fitness fees were realised at the rates lower than the prescribed rates due to non-mapping of provisions of rule 57(6) of the WBMV

Rules, which resulted in short realisation of fitness fees of ₹ 33.17 lakh. Thus, there was an overall non/short realisation of fitness fees of ₹ 44.36 lakh as given in the following table:

Table 4.6 – Non/short realisation of fitness fee

(₹ in lakh)

Sl No.	Name of the RA	No. of vehicles	Short realisation of fitness fee (no. of vehicles)	Non realisation of fitness fee (no. of vehicles)
1.	Birbhum	4,723	6.06 (3,147)	5.33 (1,576)
2.	Coochbehar	31	-	0.11
3.	Jalpaiguri	332	-	1.50
4.	Murshidabad	147	-	0.55
5.	Purulia	1,478	2.43 (1,319)	3.70 (159)
6.	PVD, Kolkata	16,728	24.68	-
Total		23,439	33.17	11.19
			44.36	

After we pointed out the cases, the RAs did not furnish any specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be furnished shortly; their detailed reply is awaited (December 2012).

4.11 Non/short realisation of permit fee

Section 66 of the Motor Vehicles (MV) Act, 1988 provides that the owner of a transport vehicle can use his vehicle in a public place only after obtaining a permit from the prescribed authority. Further, rules 126 and 127 of the WBMV Rules prescribe that fees for application and grant/renewal of permit in respect of different kinds of vehicles are realisable as per rates specified in Schedule-‘A’ of the Rules. The permit fees were revised with effect from 20.10.2005 vide notification no. 4026-WT/6M-13 dated 05.10.2005. Further, rule 151 of the Rules provides that in case of delay in applying for renewal beyond 90 days after the expiry of the permit, a late fee of ₹ 3,000 is realisable.

During the course of audit between January and May 2011 we found from the scrutiny of permit registers of nine RAs that 252 public transport vehicles were plying with permits expired during 2006-07 to 2009-10. We also noticed that owners of those vehicles were paying fitness fees and road taxes, however, the RAs did not show due diligence in realising permit fees from them at the time of payment. This resulted in non-

realisation of permit fees including late fee of ₹ 22.92 lakh. We also found that permit fees in case of 349 public transport vehicles were realised during 2006-07 to 2009-10 at the pre-revised rates. This resulted in short realisation of permit fees of ₹ 10.38 lakh. Thus, there was an overall non/short realisation of permit fees of ₹ 33.30 lakh as given in the following table:

Table 4.7 – Non/short realisation of permit fee

(₹ in lakh)

Sl No.	Name of the RA	Permit fee short realised (no. of vehicles)	Permit fee non-realised (no. of vehicles)	Late fee non-realised (no. of vehicles)
1.	Birbhum	2.25 (79)	3.45 (43)	-
2.	Coochbehar	0.26 (18)	-	-
3.	Dakshin Dinajppur	-	2.21 (26)	-
4.	Jalpaiguri	0.79 (55)	-	-
5.	Murshidabad	2.85 (82)	-	-
6.	Nadia	0.26 (9)	-	-
7.	Purulia	3.46 (82)	3.23 (38)	-
8.	PVD, Kolkata	0.51 (24)	9.20 (114)	3.12 (104)
9.	Uttar Dinajpur	-	1.71 (31)	-
Total		10.38 (349)	19.80 (252)	3.12 (104)
		33.30		

After we pointed out the cases, the RA, Birbhum admitted the audit observation (February 2012) and recovered an amount of ₹ 1.18 lakh in 29 cases of short realisation and stated that the realisation was in progress in the remaining cases. The RAs, Coochbehar and Uttar Dinajpur also admitted the audit observations (February 2011 and February 2012 respectively); but did not furnish any report on realisation. The remaining RAs did not furnish any specific reply (December 2012).

The Government while accepting (October 2012) the audit observation stated that in a good number of cases permit fee was realised and a detailed reply would be furnished shortly; their detailed reply is awaited (December 2012).

4.12 Non-realisation of audio fee

Schedule F to Rule 218(7) of the WBMV Rules provides for realisation of audio fees at prescribed rates for installation of radio set, gramophone, tape recorder, cassette recorder or any kind of apparatus producing sound effect or voice in the motor vehicle.

During analysis of data of four RAs in January and February 2011 we found that audio fee was not realised from the owners of 8,788 vehicles fitted with audio sets for the period between April 2005 and March 2010. We also noticed that the

VAHAN³ software was not customised to make the field “audio fee” mandatory for realisation of the due audio fee at the time of payment of road tax. This resulted in non-realisation of audio fee of ₹ 29.42 lakh as detailed in the following table:

Table 4.8– Non-realisation of audio fee

(₹ in lakh)

Sl No.	Name of the RA	No. of Vehicles	Non-realisation of audio fees
1.	Birbhum	196	2.32
2.	Coochbehar	55	0.63
3.	Murshidabad	735	3.04
4.	PVD, Kolkata	7,802	23.43
Total		8,788	29.42

After we pointed out the cases, the RA, Birbhum admitted the audit observation (February 2012) in 196 cases involving ₹ 2.32 lakh and stated that ₹ 0.06 lakh had been realised in seven cases and the process of realisation in the remaining cases was in progress. The other RAs did not furnish any specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that steps would be taken to make the “audio fee” field mandatory in the software; their report on action taken is awaited (December 2012).

³ VAHAN - software used by the Transport Department for registration of vehicles and collection of taxes and fees thereof.

4.13 Non/short realisation of dealer's tax

Section 3 (2) of the WBMVT Act prescribes that every dealer or manufacturer who keeps in his possession or control any motor vehicle shall pay dealer's tax on such motor vehicle at the time of its first registration at the prescribed rates. Further, section 11 (b) (iii) of the Act provides that in case of delay in payment of tax exceeding 60 days after the expiry of grace period of 15 days, penalty equal to the amount of tax payable is also realisable from a defaulter dealer.

During analysis of data of six Registering Authorities (RAs) between January and February 2011 we found that dealer's tax and penalty in respect of 1,249 newly registered vehicles amounting to ₹ 18.26 lakh were not realised from the dealers during the period from April 2005 to March 2010. We also found in 43 cases, in RAs, Coochbehar and Purulia that dealer's tax

amounting to ₹ 0.24 lakh was realised at a rate which was lower than the prescribed rate. This resulted in non/short realisation of dealer's tax and penalty of ₹ 18.50 lakh as detailed in the following table:

Table 4.9 – Non/short realisation of dealer's tax

(₹ in lakh)

Sl No.	Name of the RA	Short realisation (no. of vehicles)	Non-realisation (no. of vehicles)	Penalty (no. of vehicles)
1.	Birbhum	-	6.36 (952)	6.36 (952)
2.	Coochbehar	0.15 (30)	-	-
3.	Jalpaiguri	-	0.58 (72)	0.58 (72)
4.	Murshidabad	-	1.16 (89)	1.16 (89)
5.	Purulia	0.09 (13)	0.29 (28)	0.29 (28)
6.	PVD, Kolkata	-	0.74 (108)	0.74 (108)
Total		0.24 (43)	9.13 (1,249)	9.13 (1,249)
		18.50		

After we pointed out the cases, the RA, Birbhum accepted the audit observation (February 2012) in 952 cases involving ₹ 12.72 lakh and stated that ₹ 0.35 lakh had been realised in 23 cases and the process of realisation was in progress in the remaining cases. The RA, Jalpaiguri admitted the audit observation (January 2011) in 72 cases involving ₹ 1.16 lakh; but did not furnish report on realisation. In the remaining cases, the Department did not furnish any specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; their detailed reply is awaited (December 2012).

CHAPTER - V

Stamp Duty and Registration Fees

EXECUTIVE SUMMARY	
Increase in tax collection	In 2011-12, the collection from Stamp Revenue increased by 20.59 <i>per cent</i> over the previous year which was attributed by the Department to increase in receipts on sale of non-Judicial stamps and collection of Registration fees.
Very low recovery by the Department against observations pointed out by Audit	During 2007-08 to 2011-12, Audit pointed out non/short levy, non/short realisation, underassessment/loss of revenue etc., with revenue implication of ₹ 64.18 crore in 10 paragraphs. Of these, the department/Government had accepted audit observations in nine paragraphs involving ₹ 61.33 crore and had since recovered ₹ 2.11 crore which is only 3.44 <i>per cent</i> .
Audit coverage by Internal audit wing	The Directorate of Registration and Stamp Revenue which governs the receipt from stamp duty and registration fees has no internal audit wing of its own. The internal audit branch of the Finance Department which conducts internal audit of various departments also did not conduct any internal audit of the directorate as well as other subordinate offices.
Results of audit conducted in 2011-12	<p>In 2011-12 test check of the records of 58 units relating to stamp duty and registration fees indicated non-realisation/blocking of revenue and other irregularities involving ₹ 31.77 crore in 180 cases.</p> <p>During the year, the Department accepted non-realisation/blocking of revenue and other deficiencies of ₹ 31.03 crore in 155 cases.</p>
What has been highlighted in this Chapter	<p>In this Chapter illustrative cases of ₹ 3.33 crore selected from the observations noticed during the test check of records of the offices of Registrar of Assurance, Kolkata and Additional District Sub-Registrars (ADSRs) have been presented.</p> <p>In 20 cases the sellers split a piece of land in each case having money value of more than ₹ 25 lakh into two or more plots to limit the value below ₹ 25 lakh. Thus, 82 deeds were executed to sell 20 pieces of land which resulted in avoidance of additional Stamp duty of ₹ 17.53 lakh.</p> <p>Other similar omissions on the part of Registrar of Assurance, ADSRs and District Sub-Registrars were pointed out by Audit repeatedly, but the irregularities persisted and these remained undetected by them till these were detected once again in Audit. These irregularities / omissions were apparent from the records made available to</p>

	Audit by the department; however they were unable to detect these mistakes.
Conclusion	<p>The Directorate has no internal audit wing of its own and the internal audit wing of Finance Department has not conducted any internal audit of the Directorate. The Directorate should create an internal audit wing of its own to ensure that various provisions of Acts and Rules are properly administered for effective tax administration.</p> <p>The Department needs to initiate immediate action to recover the unrealised revenue and check other irregularities pointed out by Audit, more so in cases where Audit contention has been accepted.</p>

CHAPTER V: STAMP DUTY AND REGISTRATION FEES

5.1 Tax administration

Levy and collection of stamp duty and registration fees are regulated under the Indian Stamp (IS) Act, 1899 and the Indian Registration (IR) Act, 1908 and the Rules framed thereunder as applicable in West Bengal. Instruments to be registered under the Acts are chargeable to stamp duty and registration fees at the rates prescribed by the State Government from time to time. West Bengal Finance Act, 2007 provides for levy of additional stamp duty at the rate of one *per cent* if the market value of the property exceeds ₹ 25 lakh.

In West Bengal, there are 239 registration offices (RO) spread over 19 districts. The Directorate of Registration and Stamp Revenue, West Bengal collects stamp duty and registration fees and other fees payable for the registration of the instruments and is responsible for maintaining records of the registered documents. The Directorate has taken up an information technology (IT) project of e-Registration of documents in the year 2000. The State Government approved the Public Private Partnership (PPP) model in 2005 for infrastructure development and initial commissioning of the project. Three agencies¹ were entrusted with the job for three zones² covering all the ROs on the basis of recommendation of the Evaluation Committee. The application software was developed by National Informatics Centre (NIC).

Stamp duty and registration fees are administered by the Finance (Revenue) Department headed by the Secretary. The overall control and superintendence over assessment, levy and collection of stamp duty and registration fees vest with the Inspector General of Registration and Commissioner of Stamp Revenue, West Bengal, who is assisted by 11 Deputy Inspectors General of Registration (DIGR), 20 District Registrars (DR), 25 District Sub-Registrars (DSR), three Additional Registrars of Assurances, 190 Additional District Sub-Registrars (ADSR) and seven Sub-Registrars.

5.2 Trend of revenue

Actual receipts from stamp duty and registration fees during the years 2007-08 to 2011-12 along with the budget estimates and the total tax receipts of the state during the same period is exhibited in the following table and chart:

Table 5.1 - Trend of revenue

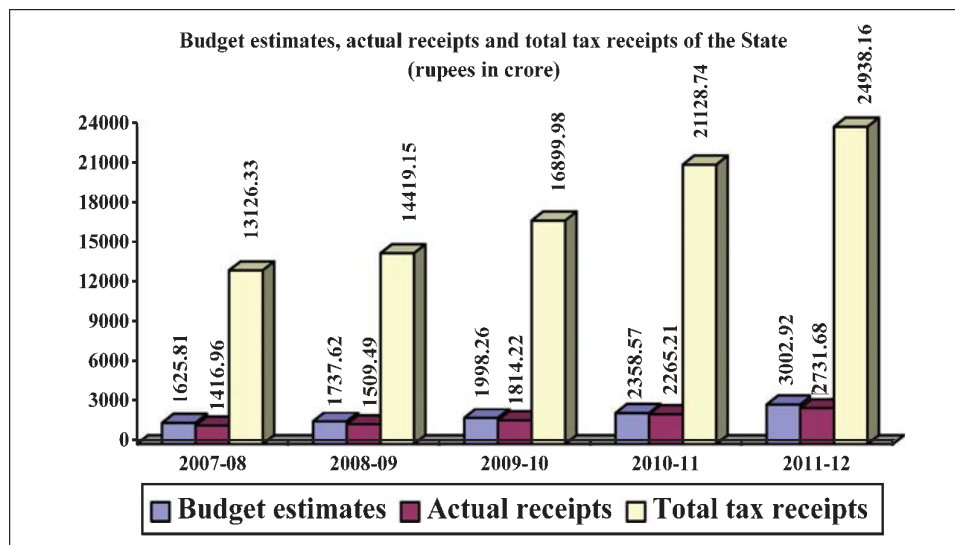
(₹ in crore)						
Year	Budget estimates	Actual receipts	Variation excess(+)/ shortfall(-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	1,625.81	1,416.96	(-)208.85	(-)12.85	13,126.33	10.79
2008-09	1,737.62	1,509.49	(-)228.13	(-)13.13	14,419.15	10.47
2009-10	1,998.26	1,814.22	(-)184.04	(-)9.21	16,899.98	10.74
2010-11	2,358.57	2,265.21	(-)93.36	(-)3.96	21,128.74	10.72
2011-12	3,002.92	2,731.68	(-)271.24	(-)9.03	24,938.16	10.95

Source : Finance Accounts and Budget Publications of the Government of West Bengal.

¹ CMC Ltd, CMS Ltd and WTL.

² Burdwan, Jalpaiguri and Presidency Divisions.

Chart 5.1 – Budget estimates, Actual receipts and Total tax receipts



A study of the budget estimates vis-à-vis actual receipts shows that the actual receipts were less than the budget estimates during the years 2007-08 to 2011-12. The percentage of variation ranged between (-) 3.96 *per cent* and (-) 13.13 *per cent* but the pace of growth of stamp revenue is almost identical to that of tax revenue of the State. Further, in 2011-12 the collection from stamp duty and registration fees increased by 20.59 *per cent* over the previous year which was attributed by the Department to increase in receipts on sale of non-Judicial stamps and collection of registration fees.

5.3 Cost of collection

The gross collection of stamp duty and registration fees and the expenditure incurred on collection during the years 2009-10 to 2011-12 are given in the following table:

Table 5.2 – Cost of collection

(₹ in crore)					
Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average of expenditure on collection for the preceding year
Stamp duty and registration fees	2009-10	1,814.22	88.46	4.88	2.77
	2010-11	2,265.21	94.31	4.16	2.47
	2011-12	2,731.68	96.62	3.54	1.60

Source: Finance Accounts.

The percentage expenditure on collection of stamp revenue has steadily come down from 4.88 *per cent* in 2009-10 to 3.54 *per cent* in 2011-12.

5.4 Revenue impact of audit reports

During the last five years (including current year's report), we pointed out non/short levy, non/short realisation, underassessment/loss of revenue etc., with revenue implication of ₹ 64.18 crore in 10 paragraphs. Of these, the department/Government had accepted audit observations in nine paragraphs involving ₹ 61.33 crore and had since recovered ₹ 2.11 crore.

The details are shown in the following table:

Table 5.3 – Revenue impact of audit reports

(₹ in crore)

Year of audit report	Paragraph included		Paragraph accepted by the departments		Amount recovered	
	Number	Amount	Number	Amount	Number	Amount
2007-08	2	1.48	2 ³	0.69	NIL	NIL
2008-09	3	52.30	2 ⁴	50.54	NIL	NIL
2009-10	1	1.84	1 ⁵	1.54	1 ⁶	0.20
2010-11	1	5.23	1	5.23	1 ⁷	0.99
2011-12	3	3.33	3	3.33	2	0.92
Total	10	64.18	9	61.33	4	2.11

Thus, against the accepted cases of ₹ 61.33 crore, the department/Government has recovered ₹ 2.11 crore which is only 3.44 *per cent*.

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

5.5 Working of internal audit wing

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

The Internal Audit Branch set up in November 1998 under the Finance Department conducts internal audit in various departments.

We observed that the directorate does not have an internal audit system of its own. Further, the department of internal audit of the State Government is yet to conduct internal audit of the directorate.

³ One paragraph partly accepted.

⁴ Partly accepted.

⁵ Partly accepted.

⁶ Partly realised.

⁷ Partly realised.

5.6 Results of audit

In 2011-12 we test checked the records of 58 units relating to stamp duty and registration fees and found non-realisation/blocking of revenue and other irregularities involving ₹ 31.77 crore in 180 cases which fall under the following categories:

Table 5.4 – Results of audit

Sl. no	Categories	(₹ in crore)	
		No of cases	Amount
1	Non-realisation of stamp duty and registration fees	59	24.08
2	Under valuation of properties due to non-implementation of government order	13	3.28
3	Splitting of property during registration	9	0.24
4	Others	99	4.17
Total		180	31.77

During the year, the Department accepted non-realisation/blocking of revenue and other deficiencies of ₹ 31.03 crore in 155 cases.

A few illustrative cases involving ₹ 3.33 crore are mentioned in the following paragraphs.

5.7 Audit observations

Scrutiny of the records in the offices of the Registrar of Assurance, Additional District Sub-Registrars (ADSR), District Sub-Registrars (DSR) indicated non-raising of demand of deficit stamp duty and registration fees, non-realisation of deficit stamp duty and registration fees and avoidance of additional stamp duty by splitting of property in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions, pointed out by us repeatedly in the past, not only persisted but remained undetected till this audit. There is hence need for the Government to improve the internal control system so that recurrence of such lapses are avoided in future.

5.8 Non-raising of demand and non-realisation of deficit stamp duty and registration fees

Rules 3(8), 4(1) and 5(4) of the West Bengal Stamp (Prevention of Undervaluation of Instruments) [WBS (PUI)] Rules, 2001 provides that where the registering authority has reason to believe that the market value of the property has not been truly set forth in the instrument of sale, gift etc. presented for registration, he is required to ascertain the market value of the property. If he finds that the market value of the property is more than that has been set forth in the instrument, he shall keep the registration of the document in abeyance and issue notice to the executant directing him to pay the deficit stamp duty and registration fees within 30 days from the date of receipt of such notice. In the event of non-payment within the stipulated period of 30 days, the case is to be referred to the Collector/Deputy Inspector General of Registration (DIGR) for determination of the market value of the property and realisation of stamp duty and registration fees.

(1) During scrutiny of pending instruments of sale and gift in the offices of the Registrar of Assurance, Kolkata and the ADSR, Falta in January and September 2011 we found that 98 instruments presented for registration between January 2007 and March 2011 were kept in abeyance due to undervaluation of properties. We further noticed that the registering authorities subsequently assessed the market value of the properties but did not issue demand notices to the executants for payment of deficit stamp duty and registration fee of ₹ 2.92 crore. The non-raising of demand was due to inaction on

the part of the registering authorities and non-stipulation of any time limit in the Act/Rules for issuing demand notice. This resulted in non-realisation of deficit stamp duty and registration fees of ₹ 2.92 crore.

The age-wise analysis and details of these cases have been mentioned in the following tables:

Table 5.5 – Age-wise analysis of pendency

Pendency of cases	No of cases
4 - 5 years old	53
3 - 4 years old	30
2 - 3 years old	07
1 - 2 years old	04
0 - 1 year old	04
Total	98

Table 5.6 – Non-raising of demand of deficit stamp duty and registration fees

(₹ in crore)

Name of the registering authority	No. of instruments	Market value set forth in the instruments	Market value assessed by registering authorities	Stamp duty and registration fees assessed	Stamp duty and registration fees paid	Deficit stamp duty and registration fees
Registrar of Assurance, Kolkata	28	7.34	39.79	2.92	0.46	2.46
ADSR, Falta	70	1.20	9.09	0.53	0.07	0.46
Total	98	8.54	48.88	3.45	0.53	2.92

After we pointed out the cases, the ADSR, Falta admitted (September 2011) the audit observation and stated that notices were being sent; but did not furnish any report on realisation. The Registrar of Assurance, Kolkata replied (January 2011) that action would be taken at an early date; but did not furnish report on further action taken (December 2012).

The Government stated (October 2012) that ₹ 88.64 lakh was realised in nine cases and the remaining 89 cases involving ₹ 2.03 crore were referred to the DIGR, Range – I for taking suitable action for realisation; but did not furnish further report on realisation (December 2012).

The Government may consider amending the WBS (PUI) Rules by prescribing a time-limit for issue of demand notice to the executants for payment of deficit stamp duty and registration fees.

(2) On scrutiny of registers of pending deeds in five Registering (ADSR) offices between March and August 2011 we found that 97 instruments presented for registration between January 2005 and August 2008 were kept in abeyance. The registering authorities subsequently assessed the market value of the properties at ₹ 4.69 crore against the set forth value of ₹ 1.06 crore and issued demand notices between July 2009 and February 2010 to the executants for payment of deficit stamp duty and registration fees of ₹ 23.35 lakh within 30 days. Though the executants did not pay the dues within the stipulated period, the registering authorities did not refer the cases to the Collector/DIGR

for determination of the market value of the properties even after lapse ranging between 12 and 23 months from the date of issue of demand notices. This resulted in non-realisation of deficit stamp duty and registration fees of ₹ 23.35 lakh as detailed in the following table:

Table 5.7 – Non/short realisation of deficit stamp duty and registration fees

(₹ in lakh)

Name of the ADSR	No. of instruments	Market value set forth in the instruments	Market value assessed by ADSR	Stamp duty and registration fees assessed by ADSR	Stamp duty and registration fees paid	Deficit stamp duty and registration fees
Amdanga	20	18.00	65.77	4.01	1.10	2.91
Baduria	20	22.09	76.23	4.70	1.35	3.35
Cossipore	08	28.74	167.16	12.81	2.05	10.76
Deganga	12	9.03	47.20	3.35	0.65	2.70
Goghat	37	28.09	112.52	5.02	1.39	3.63
Total	97	105.95	468.88	29.89	6.54	23.35

After we pointed out the cases, four⁸ADSRs stated (between March and August 2011) that the cases would be referred to DIGR; but did not furnish report on further action taken. The ADSR, Goghat did not furnish any specific reply (December 2012).

The Government stated (October 2012) that ₹ 3.30 lakh was realised in 27 cases and the remaining 70 cases involving ₹ 20.05 were referred to the DIGRs of the respective Ranges for taking suitable action for realisation; but did not furnish further report on realisation (December 2012).

5.9 Avoidance of additional stamp duty by splitting of property

The Indian Stamp (IS) Act, 1899 (as applicable in West Bengal) as amended by the West Bengal Finance Act, 2007 provides for levy of additional stamp duty at the rate of one *per cent* if the market value of the property exceeds ₹ 25 lakh.

During scrutiny of data relating to registered instruments and fee book registers in the offices of the Registrar of Assurance, Kolkata and ADSR, Chakdah in January 2012 we found that in 20 cases the sellers split a piece of land

(valuing more than ₹ 25 lakh in each case) into two or more plots limiting the value of each plot within ₹ 25 lakh. Thus 82 deeds were executed to sell 20 pieces of land having total market value of ₹ 21.33 crore. In each case, the seller sold plots of a piece of land to the same purchaser and the deeds were registered on the same date. Hence, the splitting of the plot was

⁸ Amdanga, Baduria, Cossipore and Deganga.

done to avoid payment of additional stamp duty. Absence of suitable provision in the Act and Rules prohibiting such splitting of high value property during registration resulted in avoidance of payment of additional stamp duty of ₹ 17.53 lakh and also defeated the purpose of the amendment for augmentation of revenue.

After we pointed out the cases, both the registering authorities (RAs) stated (January 2012) that there was no provision in the relevant Act and Rules prohibiting splitting of plots for the registration. The reply is not tenable as the IS Act as applicable in WB was amended to augment the revenue and the RAs should have applied the discretion provisions to check such avoidance of additional stamp duty for effective tax administration.

The Government accepted the audit observation and issued a circular in October 2012 to the registering authorities to keep a strict vigil so that properties are not split with the intention to avoid additional stamp duty.

The Government may consider amending the IS Act as applicable in West Bengal to prevent splitting of high value properties during registration to check avoidance of additional stamp duty.

CHAPTER - VI

Other Tax Receipts

EXECUTIVE SUMMARY	
Tax administration	This Chapter contains cases on receipts from the State Excise and Profession Tax. The assessment and collection of Excise duty and Profession Tax are governed by separate sets of Acts and Rules. These taxes are administered by the Excise Department and the Finance (Revenue) Department headed by the Secretary who is assisted by the concerned directorates.
Results of audit conducted in 2011-12	<p>In 2011-12 test check of the records of 30 units relating to Excise Duty and Fees, Profession Tax, Amusement Tax and Electricity Duty indicated underassessment of tax and other irregularities involving ₹ 63.62 crore in 174 cases.</p> <p>The departments accepted underassessment and other deficiencies of ₹ 12.04 crore in 66 cases, of which 42 cases involving ₹ 5.30 crore were pointed out in audit during the year 2011-12 and the rest in the earlier years.</p>
What has been highlighted in this Chapter	In this Chapter illustrative cases of ₹ 65.88 lakh selected from the observations noticed during the test check of records of the office of the Superintendent of Excise, South 24 Parganas and the unit offices of Profession Tax have been highlighted.
Conclusion	There is no mechanism of cross verification by the profession tax officers with the license granting authorities to bring persons evading professions tax into the tax net.

CHAPTER VI : OTHER TAX RECEIPTS

6.1 Tax administration

Assessment and collection of Excise duty and other Fees, Profession Tax, Amusement Tax and Electricity Duty are governed by separate sets of Acts and Rules. These taxes are administered by the Excise Department and the Finance (Revenue) Department headed by the Principal Secretary/Secretary who is assisted by concerned directorates.

6.2 Results of audit

In 2011-12 we test checked the records of 30 units relating to Excise Duty and other Fees, Profession Tax, Amusement Tax and Electricity Duty and found underassessment of tax and other irregularities amounting to ₹ 63.62 crore in 174 cases falling under the following categories:

Table 6.1 – Results of audit

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
A. STATE EXCISE			
1	Non/short levy of excise duty/wastage fee on chargeable wastage of RS/IMFL	07	1.92
2	Non/short realisation of privilege fee/additional fee/licence fee/renewal fee/initial grant fee/pass fee etc.	11	0.33
3	Non/short realisation of establishment cost/fee	12	0.99
4	Loss/blockage of revenue	09	1.11
5	Non/short realisation of excise duty due to short yield of alcohol/beer etc.	01	0.81
6	Other cases	45	5.99
Total		85	11.15
B. PROFESSION TAX			
1	Non-realisation of Profession tax due to non-enrolment	25	0.63
2	Non-realisation of Profession tax from enrolled companies/professionals	08	0.13
3	Other cases	09	0.27
Total		42	1.03
C. AMUSEMENT TAX			
1	Non/short realisation of Entertainment/Luxury/Amusement tax etc.	18	0.92
2	Other cases	16	0.24
Total		34	1.16

D. ELECTRICITY DUTY			
1	Non/short assessment and non/short realisation of Electricity duty	05	36.10
2	Non-levy/realisation of interest of delayed payment of Electricity duty	01	4.44
3	Short raising of demand	03	9.73
4	Other cases	04	0.01
Total		13	50.28
Grand Total		174	63.62

During the year, the departments accepted underassessment and other deficiencies of ₹ 12.04 crore in 66 cases, of which 42 cases involving ₹ 5.30 crore were pointed out in the year 2011-12 and the rest in the earlier years. An amount of ₹ 15.39 lakh was realised in five cases during the year.

A few illustrative cases involving ₹ 65.88 lakh are mentioned in the following paragraphs.

6.3 Audit observations

Scrutiny of the records in the offices of the Superintendent of Excise, Joint Commissioners of Profession Tax (JCPTs), Deputy Commissioners of Profession Tax (DCPTs) and Profession Tax Officers (PTOs) indicated short realisation of annual licence renewal fee and non-realisation of profession tax as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions pointed out in audit repeatedly but not only did these persist, but also remained undetected till next audit. There is need to improve the internal control system in these departments so that recurrence of such lapses is avoided.

A. State Excise

6.4 Short realisation of annual licence renewal fee

Rule 7(vi) of the West Bengal Excise (Foreign Liquor) [WBEFL] Rules, 1998 provides for charging of annual renewal licence fee from a manufactory of foreign liquor (FL). The licence fee is payable at the rate of ₹ 0.50 per bulk litre (BL), subject to a minimum of ₹ 2,00,000 for the quantity of foreign liquor (FL) manufactured during the 12 months up to the last day of January of the preceding licensing year.

During scrutiny of Production Registers in the office of the Superintendent of Excise (SE), South 24 Parganas between August and September 2011 we found that two FL manufactories paid annual licence renewal fee of ₹ 63.14 lakh for the licensing year 2010-11 which was calculated on the quantity of production of 11 months during March 2009 to January 2010. However, the

annual renewal licence fee was payable on the quantity of production of 12 months during February 2009 to January 2010 which works out to be ₹ 69.18 lakh. This resulted in short realisation of annual licence renewal fee of ₹ 6.04 lakh as detailed in the following table:

Table 6.2 – Short realisation of annual licence renewal fee

(₹ in lakh)

Name of the FL manufactory	Production of FL during February 2009 to January 2010	Annual renewal licence fee payable	Annual renewal licence fee paid	Short realisation of annual renewal licence fee
M/s IFB Agro Industries Ltd., Mahestala	1,01,04,667 BL	50.52	46.25	4.27
M/s Madhusala Drinks Pvt. Ltd., Pujali	37,31,541 BL	18.66	16.89	1.77
Total	1,38,36,208 BL	69.18	63.14	6.04

SE, South 24 Parganas did not furnish any specific reply to the above case pointed out by audit.

The Government stated (June 2012) that the two FL manufactories were required to pay annual renewal licence fee based on quantity of production of 11 months (March 2009 to January 2010). The reply is not tenable in view of the rule 7(vi) of WBEFL Rules which stipulates payment of annual renewal licence fee based on quantity of production of 12 months.

B. Profession Tax

6.5 Non-realisation of Profession Tax due to non-enrolment

Sections 3(2) and 5(2) of the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 provides that every person coming under the purview of the Act shall obtain a certificate of enrolment from the prescribed authority and pay tax at the prescribed rates.

We obtained information about professionals, traders etc. from 13 licence issuing offices¹ and cross verified it with the records of enrolment of six unit offices² of profession tax between October 2010 and June 2011 and found that 1,008³

professionals, traders etc. had not enrolled themselves with the prescribed authority and continued their professions without payment of profession tax between 2006-07 and 2010-11. The Profession Tax Officers (PTOs) failed to bring these persons under the tax net and recover the tax at the prescribed rates. Absence of a mechanism to bring the persons evading tax into the tax net by cross verification with the licence granting authorities resulted in non-realisation of profession tax of ₹ 59.84 lakh as shown in **Annexure - III**.

After we pointed these out, the PTO, West Bengal Central Unit-VIII, Barrackpore admitted the audit observations (October 2010) in respect of 362 professionals, traders etc. involving ₹ 20.50 lakh and stated that demand notices would be served to realise the amount; but did not furnish any report on realisation. The PTO, WBSU – IV, Purba Midnapore stated (February 2012) that notices had been issued to 185 professionals, traders etc.

¹ Sub-divisional Officer, Barrackpore, 24 Parganas (N), District Excise Office, 24 Parganas (N), Senior Post Master, 24 Parganas (N), CMOH, 24 Parganas (N), CMOH, Howrah, Bidhan Nagar Municipality, Head Post Master, Nadia, CMOH Nadia, District Excise Office, Malda, CMOH Malda, Postmaster, Malda Head Post Office, CMOH, Purba Midnapore and District Excise Office, Purba Midnapore.

² PTO, WBCU-VIII, Barrackpore, PTO, WBSU-I, Howrah, JCPT, Kolkata East Range, PTO, WBCU-II, Krishnanagar, Nadia, DCPT, WBNU-V, Malda and PTO, WBSU-IV, Purba Midnapore.

³ Money lenders -88, Country liquor shop owners – 42, Foreign Liquor ON/OFF shop owners – 103, Cable operators – 151, Nursing Homes and Pathological Laboratories – 522, Day Care Centres – 23, Beauty Parlours – 9, Petrol Pump owners-5, USG Clinics – 23 and X-ray Centres -42.

involving ₹ 14.27 lakh and ₹ 1.70 lakh had been realised. In the remaining cases, the Department did not furnish any specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted; their reply is awaited (December 2012).

CHAPTER - VII

Mines and Minerals

EXECUTIVE SUMMARY	
Tax administration	Assessment and collection of mining receipts are governed by the Mines and Minerals (Development and Regulation) [MMDR] Act, 1957, the West Bengal Minor Minerals (WBMM) Rules, 2002, the Public Demands Recovery (PDR) Act, 1913, the Cess Act, 1880, the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976.
Very low recovery by the Department against observations pointed out by Audit	During 2007-08 to 2011-12, Audit pointed out non/short levy, non/short realisation, underassessment/loss of revenue etc., with revenue implication of ₹ 557.74 crore in 19 paragraphs. Of these, the department/Government had accepted audit observations in 14 paragraphs involving ₹ 139.21 crore and had since recovered ₹ 61 lakh which was only 0.44 <i>per cent</i> .
Results of audit conducted in 2011-12	<p>In 2011-12, test check of the records of 11 units relating to mining receipts indicated underassessment of tax and other irregularities involving ₹ 378.88 crore in 139 cases.</p> <p>The department accepted underassessment and other deficiencies in 114 cases of ₹ 11.97 crore, of which 102 cases involving ₹ 11.78 crore were pointed out during the year 2011-12 and the rest in earlier years. An amount of ₹ 8.06 lakh was realised in 12 cases at the instance of audit during the year.</p>
What has been highlighted in this Chapter	<p>In this Chapter a Performance Audit on “Receipts from Major Minerals” with financial effect of ₹ 363.95 crore has been presented.</p> <p>The following points have been highlighted in the Performance Audit:</p> <ul style="list-style-type: none"> • Involvement of four departments in assessment and collection of receipts from major minerals and operation of two major heads of accounts led to mismanagement, delay and resultant evasion of receipts. • Incorrect gradation of coal resulted in short assessment of Rural Employment and Primary Education cess of ₹ 50.15 crore. • Absence of timely disposal of appeal cases have rendered 13 cases with money value of ₹ 2,201.16 crore still under litigation. • Failure to initiate certificate proceeding by the Cess Deputy Collector, Asansol even after a delay of 18 to 139 months of its assessment resulted in non-realisation of revenue of ₹ 31.36 crore.

	<ul style="list-style-type: none"> • Non-revision of royalty has deprived the State of substantial revenue. • Due to short payment of Rural Employment and Primary Education cess, Eastern Coalfields Ltd is required to pay ₹ 31.20 crore. • Surface rent and cess thereto of ₹ 1.18 crore remained unrealised. • Absence of checkpost, weighbridge, transit pass, inspection and internal audit led to ineffective internal control. <p>Besides these, some illustrative cases of ₹ 1.41 crore noticed during the test check of records in Compliance Audit have also been included.</p>
Conclusion	<p>The Performance Audit indicated a number of system deficiencies like complex system of assessment and collection, absence of provisions in the Acts and rules for early disposal of PL applications, absence of provision for timely assessment of RE and PE cess, and compliances deficiencies like blockage of revenue due to non-assessment or delay in assessment, non/short levy and realisation of royalty, surface rent, dead rent, different kinds of cess and interest and defunct internal control.</p> <p>Government may:</p> <ul style="list-style-type: none"> • take steps for early implementation of the recommendation of the Public Accounts Committee made in 2004 for bringing the entire matter of mines and minerals under one umbrella. • prescribe a time limit for granting of Prospecting Licence in the rules. • specify a time frame for timely assessment of RE and PE cess for early realisation of the revenue and introduce a time limit in the line of the department of Commercial Taxes for speedy disposal of appeal cases. • include penal provision in the rules for non/short extraction of minimum quantity of minerals. • develop a mechanism to monitor the prospecting and mining operations in the authorised areas. • introduce system for inspection, monitoring returns, establishing checkposts and weighbridges, introducing transit pass and strengthening internal audit to ensure effective internal control.

CHAPTER VII : MINES AND MINERALS

7.1 Tax administration

The mining receipts comprise mainly the application fees for lease/permits for reconnaissance, prospecting and reserve licences, royalty for extraction of major and minor minerals, dead rent, surface rent, fines and penalties for offences and interest for delayed payment of dues etc. Primary Education cess, Rural Employment cess, Public Works cess and Road cess are also realised from the holders of quarry permits and mining leases.

Assessment and collection of mining receipts are governed by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the West Bengal Minor Minerals (WBMM) Rules, 2002, the Public Demands Recovery (PDR) Act, 1913, the Cess Act, 1880, the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976.

Four departments viz. Commerce and Industries (C&I) Department, Finance Department, Land and Land Reforms (L&LR) Department and the General Administration Department are associated with the assessment, levy and collection of mining receipts. All departments are headed either by an Additional Chief Secretary or Principal Secretary/Secretary level officer and assisted by Director and district level officers.

7.2 Revenue impact of audit reports

During the last five years (including the current year's report), we pointed out through our audit reports non/short levy, non/short realisation, underassessment/loss of revenue etc., with revenue implication of ₹ 557.74 crore in 19 paragraphs. Of these, the department/Government had accepted audit observations in 14 paragraphs involving ₹ 139.21 crore and had since recovered ₹ 61 lakh. The details are shown in the following table:

Table 7.1 – Revenue impact of audit reports

(₹ in crore)

Year of audit report	Paragraphs included		Paragraphs accepted by the department		Amount recovered	
	Number	Amount	Number	Amount	Number	Amount
2007-08	02	183.51	01*	0.66	Nil	Nil
2008-09	05	1.59	04*	1.43	03*	0.10
2009-10	03	4.30	02*	4.22	02*	0.17
2010-11	04	2.98	04	2.98	04*	0.27
2011-12	05	365.36	03*	129.92	02*	0.07
Total	19	557.74	14	139.21	11	0.61

* partly recovered/accepted.

The amount recovered was only 0.44 *per cent* in the accepted paragraphs which was very low.

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

7.3 Working of internal audit wing

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

The internal audit wing of the L&LR Department was re-introduced in the year 2007-08 with the objective of fulfilling accountability, obligations, complying with applicable rules and regulations, executing orderly, ethical, economic, efficient and effective operations and safeguarding resources against loss. The wing is headed by the Audit Officer cum Ex-officio Deputy Secretary who is assisted by Internal Audit Officers and Assistant Auditors. No Internal Audit Officer was posted in the IAW against sanctioned strength of 16 whereas the existing strength of Assistant Auditor was 12 against the sanctioned strength of 14. Though the manual of the wing has been drafted, it has not yet been published. The wing planned to audit 18 DL&LROs, 19 Land Acquisition (LA) Collectors, one First Land Acquisition (FLA) Collector, two Rent Controllers and two Controllers of Thika Tenancy during the year 2011-12, whereas audit was conducted in respect of 17 DL&LROs, eight LA Collectors, one Rent Controller and one Controller of Thika Tenancy during the period which was 64 *per cent* of the units planned for audit.

7.4 Results of audit

In 2011-12, we test checked the records of 11 units¹ relating to mining receipts and found underassessment of tax and other irregularities involving ₹ 378.88 crore in 139 cases which fall under the following categories:

Table 7.2 – Results of audit

Sl. no.	Categories	(₹ in crore)	
		No. of cases	Amount
1	Receipts from Major Minerals (A Performance Audit)	01	363.95
2	Non/short assessment/realisation of price of minor/major minerals extracted unauthorisedly.	54	3.15
3	Non/short assessment/levy/realisation of royalty and cess.	21	0.51
4	Penalty for underperformance.	19	3.19
5	Non/short raising of demand.	35	7.49
6	Other cases.	09	0.59
Total		139	378.88

During the year, the department accepted underassessment and other deficiencies in 114 cases of ₹ 11.97 crore, of which 102 cases involving

¹ 10 units of the L&LR Department and one unit of the C&I Department.

₹ 11.78 crore were pointed out during the year 2011-12 and the rest in earlier years. An amount of ₹ 8.06 lakh was realised in 12 cases during the year.

Audit findings of the Performance Audit on **‘Receipts from Major Minerals’** with financial effect of ₹ 363.95 crore and a few illustrative cases involving ₹ 1.41 crore are mentioned in the following paragraphs.

7.5 Performance Audit on “Receipts from Major Minerals”

Minerals are broadly classified into two categories viz. major and minor minerals. Bauxite, chromite, iron ore, coal, chinaclay/fireclay, moulding sand etc. are major minerals whereas stone, gravel, ordinary clay, ordinary sand etc. are minor minerals. **Coal is the most important major mineral available in West Bengal.** Apart from coal other major minerals available in West Bengal are **chinaclay/fireclay, quartz/feldspar, rock phosphate, moulding sand and silica sand.**

We conducted Performance Audit of “Receipts from Major Minerals” covering the period from 2006-07 to 2010-11 which revealed:

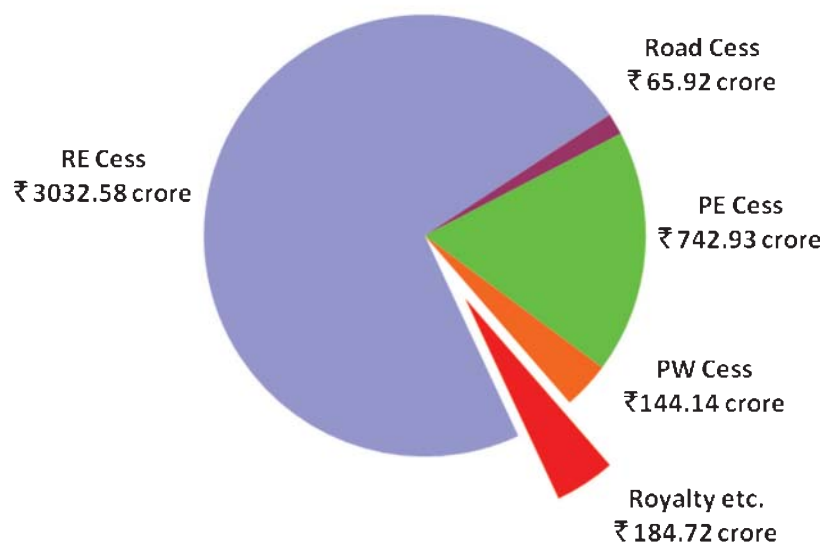
Highlights

- Involvement of four departments in assessment and collection of receipts from major minerals and operation of two major heads of accounts led to mismanagement, delay and resultant evasion of receipts.
(Paragraph 7.5.8)
- Incorrect gradation of coal resulted in short assessment of Rural Employment and Primary Education cess of ₹ 50.15 crore.
(Paragraph 7.5.8.1)
- Absence of timely disposal of appeal cases have rendered 13 cases with money value of ₹ 2,201.16 crore still under litigation.
(Paragraph 7.5.10)
- Failure to initiate certificate proceeding by the Cess Deputy Collector, Asansol even after a delay of 18 to 139 months of its assessment resulted in non-realisation of revenue of ₹ 31.36 crore.
(Paragraph 7.5.12)
- Due to non-revision of royalty in coal, which is a major revenue generating mineral for the state, revenue realisation has been adversely affected.
(Paragraph 7.5.13)
- Due to short payment of Rural Employment and Primary Education cess, Eastern Coalfields Ltd is required to pay ₹ 31.20 crore.
(Paragraph 7.5.16)
- Surface rent and cess thereto of ₹ 1.18 crore remained unrealised.
(Paragraph 7.5.20)
- Absence of checkpost, weighbridge, transit pass, inspection and internal audit led to ineffective internal control.
(Paragraph 7.5.23)

7.5.1 Introduction

The receipts from major mineral comprise royalty, dead rent, surface rent, price of minerals, Public Works (PW) Cess, Road Cess and interest on delayed payments. Apart from these, the Government of West Bengal also collects Rural Employment (RE) Cess and Primary Education (PE) Cess at the rate of 20 *per cent* and five *per cent* respectively on annual value of coal. **In West Bengal, out of the total receipts from major minerals, 95.5 *per cent* comes from cesses on coal and the rest comes from the royalty etc.** Under the Mines and Minerals (Development and Regulation), Act 1957, the Central Government is authorised to fix the rate of royalty and dead rent while under the various cess Acts the State Government is empowered to fix the rate of different kinds of cesses and also fix the rate of surface rent, fees etc. Receipts for the period from 2006-07 to 2010-11, from RE cess, PE cess, PW cess, road cess and royalty amounting to ₹ 4,170.29 crore and its components are depicted below:

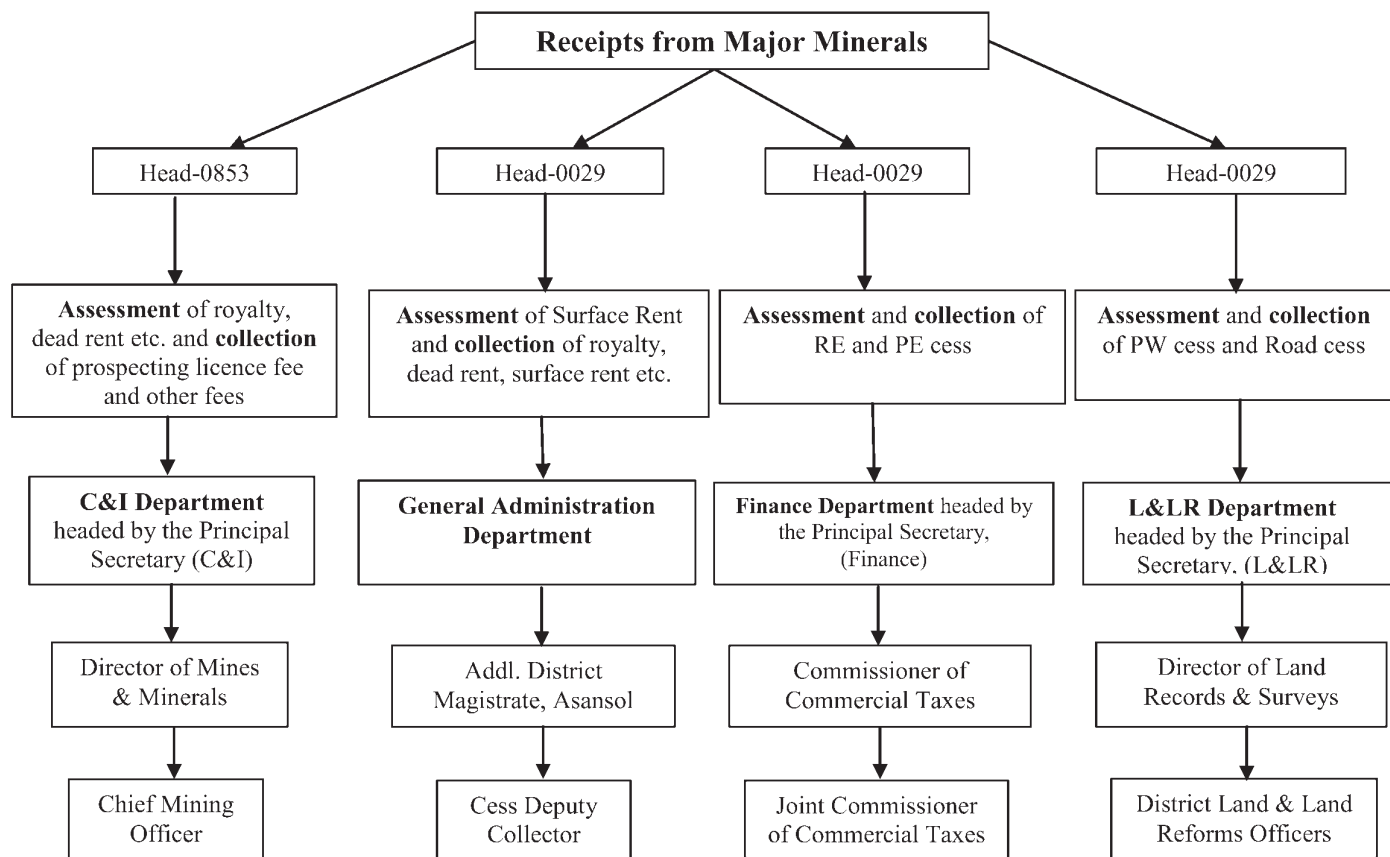
**Receipts from Major Minerals
in West Bengal from
2006-07 to 2010-11**



7.5.2 Organisational set up

In West Bengal, four departments viz ‘Commerce and Industries’(C&I), ‘Finance’, ‘Land and Land Reforms’ (L&LR) and ‘General Administration’ are associated with the assessment, levy and collection of receipts from major minerals. All these departments are headed by the Additional Chief Secretary/ Principal Secretary level officer and assisted by Directors and district level officers.

The organisational set up of all the four departments is shown in the following chart:



7.5.3 Audit objectives

We conducted the Performance Audit to ascertain whether:

- the provisions of Acts/Rules and departmental instructions were adequate and enforced to safeguard the revenue of the state;
- royalty and cess were properly assessed and collected in time; and
- there exists an effective internal control mechanism.

7.5.4 Scope and Methodology

We conducted the Performance Audit during December 2011 to March 2012 covering nine² out of eleven³ units associated with assessment and collection of receipts from major minerals. In addition to scrutiny of records, we cross verified the information/data from different departments and other sources.

² CMO Asansol, MOs (Suri and Purulia), CDC Asansol, JCCT Asansol, DL&LROs (Purulia, Birbhum, Burdwan and Bankura).

³ CMO Asansol, MOs (Suri, Chinsurah, Siliguri and Purulia), CDC Asansol, JCCT Asansol, DL&LROs (Purulia, Birbhum, Burdwan and Bankura). Two units were left out from the purview of Performance Audit due to non-existence of any mining lessee in those units and hence, there was no collection of revenue.

7.5.5 Audit criteria

The provisions of the following Acts and Rules were used as audit criteria for conducting the Performance Audit:

- The Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act);
- The Mineral Concession Rules, 1960 (MC Rules);
- The Mineral Conservation and Development Rules, 1988;
- The Cess Act, 1880;
- The West Bengal Primary Education Act, 1973 (WBPE Act); and
- The West Bengal Rural Employment and Production Act, 1976 (WBREP Act).

7.5.6 Acknowledgement

An Entry Conference to discuss and explain the objectives and scope of the Performance Audit was held in December 2011 which was attended by the senior management of the above four departments. The findings of the Performance Audit forwarded to the Government in June 2012 were discussed with the Pr. Secretary (C&I), Addl. Secretary (L&LR), Sr. JCCT, Directorate of Commercial Taxes, Jt. Secretary (Finance) and other senior officials in the Exit Conference held in September 2012. The replies received from the departments have been suitably incorporated in the respective paragraphs. We acknowledge the co-operation of the C&I Department, L&LR Department, Finance (Revenue) Department and General Administration Department in providing necessary information and records to audit.

7.5.7 Trend of revenue

The budget estimates (BEs) and the actual receipts from major minerals during 2006-07 to 2010-11 alongwith the percentage of variation are mentioned below:

Table 7.3 - Trend of revenue

(₹ in crore)				
Year	Budget estimate	Actual receipts*	Variation Excess (+)/Shortfall (-)	% of variation Excess (+)/Shortfall (-)
2006-07	773.10	715.23	(-)57.87	(-)7.49
2007-08	878.44	821.42	(-)57.02	(-)6.49
2008-09	1,117.54	811.74	(-)305.80	(-)27.36
2009-10	1,285.17	753.37	(-)531.80	(-)41.38
2010-11	603.73	1,068.54	(+)464.81	(+)76.99

Source: Finance Accounts and Budget Publication No. 4

There was a wide variation from (-) 41.38 *per cent* to (+) 76.99 *per cent* between budget estimates and actual receipts during the period under review which indicates unrealistic budgeting.

In reply to an audit query the Finance (Budget) Department stated in January 2012 that the reason for downward variation in 2008-09 was mainly due to less collection in RE cess over the anticipated receipts. It was further noted by audit that excess revenue realised during 2010-11 was due to increase in production of coal.

Audit findings

The Performance Audit revealed various system and compliance deficiencies which are mentioned in the succeeding paragraphs.

System issues

7.5.8 Complex system of assessment and collection

The system of assessment and collection of receipts on major minerals is quite complex as it involves four departments. The royalty and dead rent are assessed by the Chief Mining Officer (CMO), whereas, these are collected by the Cess Deputy Collector (CDC). These receipts are deposited under the head 0029 (a tax revenue head under Land Revenue) instead of the head 0853 (a non-tax revenue head meant for Mineral Concession Fees, Rent and Royalties). Primary Education (PE) cess and Rural Employment (RE) cess are assessed and collected by the JCCT under Finance Department, whereas, Public Works (PW) cess and Road cess are assessed and collected by the District Land and Land Reforms Officers (DL&LROs) under L&LR Department. All the cess collections made by these departments are credited to the major head 0029 (a tax revenue head under Land Revenue).

The involvement of four different departments of the State Government and two heads of accounts led to mismanagement, delay and resultant evasion of receipts.

In 2004, the Public Accounts Committee made observations on the complex system of assessment and collection of mining receipts in the state, and recommended **to formulate a concrete system to bring the entire matter of mines and minerals under one umbrella**. But the Government has not taken any decision so far.

After we reported the matter, the L&LR Department stated (September 2012) that they had taken up the matter with the C&I Department, so that the issue might be sorted out at the earliest.

Under Section 4(2) (b) of the WBREP Act and Section 78(2) (b) of the WBPE Act, every lessee of coal mine shall pay RE and PE cess at the rate of 20 *per cent* and five *per cent* respectively of annual value of coal bearing land for any financial year (on the basis of half of the annual value of the entire coal produced during the two years immediately preceding that financial year). Further Section 4A(b) of the WBREP Act and Section 78A(b) of the WBPE Act, provides that every owner of a coal bearing land is required to submit a declaration relating to a year showing the amount of RE cess and PE cess respectively payable for that year to such authority as may be notified by the State Government.

7.5.8.1 In West Bengal five companies (three⁴ Public Sector Undertakings and two⁵ Private) are associated with coal mining. During audit of the office of the CMO, Asansol (C&I department) we found that out of 25 cases, in five cases M/s Bengal Emta Coal Mines Ltd (BECML) extracted only 'C' grade coal during 2003-04 to 2007-08 and submitted returns to the CMO for assessment of royalty. We also verified the records of Coal Controller under the Ministry of Coal (Government of India) which confirmed the fact that BECML extracted only 'C' grade coal during the same period.

However, during cross verification with the annual declaration submitted to the JCCT, Asansol (Finance Department) for assessment of RE and PE cess for the said period the lessee showed extraction of coal of different grades varying between 'B' and 'G'. JCCT made his assessment and subsequent collection on the basis of that **gradation** (in the annual declaration submitted by the lessee) without cross verifying it with the C&I Department (CMO)/Coal Controller. Absence of any system of cross verification among these departments, resulted in short assessment of RE and PE cess of ₹ 50.15 crore as detailed below:

Table 7.4 – Assessment of cess

(₹ in crore)						
Period of assessment	Date of assessment	Annual value of coal assessable*	Annual value of coal assessed**	RE & PE cess assessable	RE & PE cess assessed	Short assessment of RE & PE cess
2003-04	12.11.2009	209.98	169.65	52.49	42.41	10.08
2004-05	19.11.2009	239.99	202.45	60.00	50.61	9.39
2005-06	19.11.2009	318.70	281.79	79.68	70.45	9.23
2006-07	15.12.2010	327.88	290.26	81.97	72.57	9.40
2007-08	19.05.2011	367.78	319.69	91.94	79.90	12.05
Total				366.08	315.94	50.15

* As per returns submitted to the CMO, Asansol.

** As per annual declaration statement submitted to JCCT, Asansol.

After we reported the cases, the Finance Department admitted the audit observations (October 2012) and stated that out of the above five assessment

⁴ Eastern Coal Field Limited, Bharat Cooking Coal Limited and Steel Authority of India Limited.

⁵ Bengal EMTA Coal Mines Limited and Integrated Coal Mining Pvt. Limited.

periods, in one case assessment had been reviewed, in three cases proposals were sent to the Appellate Authority, Asansol circle to consider the fact during disposal of the appeal cases and in the remaining one case proposal for *suo motu* revision in view of the audit findings had been sent to the Revisional Authority.

7.5.8.2 Out of five lessees we found that two lessees had submitted their “returns of production and dispatch” for the period 2001-02 to 2005-06 to the CMO Asansol (C&I Department) for assessment of royalty and were assessed on the basis of those returns. However, while cross checking “the annual declaration of production”⁶ of the same two lessees for the same period submitted to the JCCT Asansol (Finance Department), who assesses and collects RE and PE cess, we found that they had shown short production of coal.

Thus absence of any system of cross verification between the two departments resulted in underassessment of RE and PE cess of ₹ 5.03 crore as detailed below:

Table 7.5 - Assessment of cess

(₹ in crore)

Name of the lessee	Period of assessment	Annual value of coal assessable *	Annual value of coal assessed **	RE & PE cess assessable	RE & PE cess assessed	Short assessment of RE & PE cess
BECML	2006-07	298.52	290.26	74.63	72.57	2.06
ECL	2003-04 to 2006-07	18,412.18	18,388.46	2,301.50	2,298.53	2.97
Total		18,710.70	18,678.72	2,376.13	2,371.10	5.03

* As per returns submitted to the CMO, Asansol.

** As per annual declaration statement submitted to JCCT, Asansol

After we reported the cases, the Finance Department stated (October 2012) in respect of BECML that the lessee had appealed against the assessment order and the matter was sent to the Appellate Authority for taking the audit observation into consideration. While in case of ECL the authority accepted the audit observation and stated that assessment for the year 2003-2004 had been reviewed *suo motu* and assessment for the years 2004-05, 2005-06 and 2006-07 proposals had been forwarded to the Appellate Authority for taking the audit observation into consideration.

7.5.8.3 During cross verification of assessment sheets submitted by the Bharat Cooking Coal Ltd (BCCL), in the year 2004-05 and 2005-06 to the CMO Asansol (C&I Department) with the records of JCCT, Asansol (Finance Department) revealed that the BCCL had shown short production of coal to the JCCT by suppressing production of jhama⁷ during the assessment year 2006-07. This resulted in short assessment of RE and PE cess of ₹ 97 lakh as detailed in the following table:

⁶ Annual value of coal bearing land calculated on the average production of coal during the preceding two years.

⁷ Jhama is one kind of coal.

Table 7.6- Assessment of cess

(₹ in crore)

Period of Assessment	Date of Assessment	Rate of Cess		Annual value of coal Assessable* (in ₹)	Annual value of coal Assessed** (in ₹)	Cess Assessable	Cess Assessed	Short Assessment
2006-07	14.07.10	RE	20%	46.97	43.06	9.39	8.61	0.78
		PE	5%	46.97	43.06	2.34	2.15	0.19
Total						11.73	10.76	0.97

* As per returns submitted to the CMO, Asansol.

** As per annual declaration statement submitted to JCCT, Asansol.

After we reported the cases, the Finance Department stated (October 2012) in respect of BCCL that the lessee had appealed against the assessment order and the matter has been informed to the Appellate Authority for taking the audit observation into consideration.

7.5.8.4 Actual collection of receipts from major minerals as per Finance Accounts/Budget Publication and the C&I Department for the period from 2006-07 to 2010-11 is shown in the following table:

Table 7.7- Receipts from major minerals

(₹ in crore)

Year	Actual collection as per Finance Accounts/Budget Publication	Actual collection as per C&I Department
2006-07	715.23	NA
2007-08	821.42	731.81
2008-09	811.74	802.15
2009-10	753.37	785.79
2010-11	1,068.54	1,072.09

The above differences between the Finance Accounts data and the data provided by the C&I Department indicated lack of co-ordination between different assessing and collecting authorities.

After we reported the cases the C&I Department stated in September 2012 that they had collected data from various agencies, hence there was a chance of difference of data.

7.5.9 Absence of provisions for timely grant of Prospecting Licence (PL) applications

Section 10(3) of the MMDR Act 1957 provides that on receipt of an application under this section, the State Government may, having regard to the provisions of this Act and any rules made thereunder, grant or refuse to grant the prospecting licence.

We found from the records of Director of Mines & Minerals (DM&M) that 24 applications were sent to the C&I Department between December 2004 and May 2010 for grant of

PL of various⁸ minerals. These applications were neither refused nor granted by the C&I Department till the date of audit (January 2012). There is also no time limit for grant of PL in the rules. Therefore, delay in granting PL subsequently delayed the entire process of prospecting and realisation of royalty and cess.

After we reported the cases, the C&I Department stated (September 2012), that they could not grant PL, as the approval of the central Government was required. Hence the C&I Department was not in a position to dispose of the application in a time bound manner.

7.5.10 Non-disposal of appeal cases

Under the provisions of West Bengal Rural Employment and Production (WBREP) Act, 1976 and West Bengal Primary Education (WBPE) Act, 1973, the Assessing Officer may assess the Rural Employment (RE) and Primary Education (PE) cess on annual value of coal bearing land. However, no specific time limit has been prescribed for assessment of RE and PE cess and disposal of subsequent appeals.

We found from the records of the JCCT, Asansol that the assessments of RE and PE cess in 13 cases out of 25 cases as shown in the table below, for the year 2002-03 to 2007-08 were assessed between October 2009 and August 2011 and noticed that an amount of ₹ 2,201.16 crore (RE and PE cess of

₹ 940.93 crore + interest of ₹ 1,260.23 crore) was outstanding from three lessees for the period 2002-08, as assessed by the Assessing Authority (AA) between 2009-11. Thereafter, the lessees appealed against the assessment orders and the appeal cases involving ₹ 2,201.16 crore were locked with the Appellate Authority⁹ since October 2009. Long delay in assessment as well as non-disposal of appeal cases, not only affected timely realisation of Government revenues but also defeated the purpose for which RE and PE cess were created.

⁸ Copper, Dolomite, Feldspar, Gold, Iron Ore, Lead, Limestone, Magnetite, Manganese, Mica, Quartz, Rare metals, Tin, Tungsten, Zinc etc.

⁹ Assistant Commissioner of Commercial taxes.

Table 7.8- Assessment of RE and PE cess with interest

(₹ in lakh)

Sl No	Name of the lessee	Period of assessment	Date of assessment	Additional RE cess due	Interest due on RE cess	Additional PE cess due	Interest due on PE cess	Total
1	ECL	2002-03	29.04.2010	41,403.98	55,881.87	10,358.49	13,970.47	1,21,614.81
		2003-04	29.04.2010	17,428.38	28,037.99	4,357.09	7,009.50	56,832.96
		2005-06	29.03.2010	8,882.04	8,625.91	2,220.51	2,156.48	21,884.94
		2006-07	03.12.2010	349.30	679.08	87.33	169.77	1,285.48
		2007-08	09.08.2011	5,843.54	5,490.19	1,460.89	1,255.75	14,050.37
2	BECML	2005-06	19.11.2009	-	597.72	-	177.97	775.69
		2006-07	15.12.2010	-	1,153.67	-	266.19	1,419.86
3	BCCL	2002-03	17.10.2009	214.51	228.74	57.38	57.18	557.81
		2003-04	17.10.2009	275.59	9.50	68.90	2.37	356.36
		2004-05	17.10.2009	320.23	7.66	80.06	1.91	409.86
		2005-06	17.10.2009	438.37	99.06	109.59	24.77	671.79
		2006-07	14.07.2010	76.22	67.84	19.05	16.96	180.07
		2007-08	19.05.2011	32.89	27.96	8.22	6.99	76.06
Total				75,265.05	1,00,907.19	18,827.51	25,116.31	2,20,116.06

After we reported the cases, the Finance Department stated (October 2012) that proposal was being moved through the appropriate authority to the State Legislature for amendment of the Acts to introduce the provision of time limit for assessments as well as for disposal of appeal cases.

In the department of Commercial Taxes under the WBVAT Act, 2003 there is a provision¹⁰ of time limit for disposal/settlement of appeal cases. However, there is no such time limit for disposal/settlement of appeal cases here. The Government may consider to introduce a time limit for speedy disposal of appeal cases.

7.5.11 Loss of revenue due to non/short extraction of minimum quantity of minerals

Rule 31 of the MC Rules provides that the lease deed in Form K shall be executed. The model lease deed (Form K) provides that holder of mining lease shall extract the minimum quantity of minerals from the leasehold area every year and satisfy the Government about compliance specified in Form K.

We found from the “statements of raising” submitted by two out of five lessees during the period between 2006-07 and 2010-11 to the CMO, Asansol that they raised lesser quantity of coal than agreed upon in their lease deeds. As

there was no provision in the rules to levy penalty for non/short extraction of

¹⁰ Under section 84 of WBVAT Act, 2003.

minimum quantity of mineral accepted in the lease deeds, the department was deprived of revenue in shape of royalty of ₹ 1.40 crore as detailed below:

Table 7.9- Shortfall of Production

Name of the lessee	Period	Annual Target (in MT)	Actual Production (in MT)	Grade of coal	Shortfall of Production (in MT)	Rate of royalty (₹ /MT)	Loss of revenue in the shape of royalty (₹ in lakh)
M/S Bengal EMTA Coal mines Limited (BECML)	19.12.07 to 31.03.08	1,00,000	NIL	B	1,00,000.00	6.50	6.50
	01.04.08 to 31.03.09	5,00,000	NIL	B	5,00,000.00	6.50	32.50
	01.04.09 to 31.03.10	5,00,000	1,14,698.00	B	3,85,302.00	6.50	25.04
	01.04.10 to 31.03.11	5,00,000	2,57,194.56	B	2,42,805.44	6.50	15.78
M/S Integrated Coal Mining Pvt. Limited (ICML)	01.04.06 to 31.03.07	35,00,000	25,70,587.06	F	9,29,412.94	2.50	23.24
	01.04.07 to 31.03.08	35,00,000	27,53,996.11	F	7,46,003.89	2.50	18.65
	01.04.08 to 31.03.09	35,00,000	29,84,163.81	F	5,15,836.19	2.50	12.90
	01.04.09 to 31.03.10	35,00,000	32,78,111.42	F	2,21,888.58	2.50	5.55
Total							140.16

Further, we found in the Mining offices, Purulia and Suri that out of 41 mining leases granted for excavation of minerals other than coal, 15 mining lessees raised lesser quantity of minerals than agreed upon in their lease deeds for the periods between 2006-07 and 2010-11. This also resulted in loss of government revenue in the shape of royalty of ₹ 29.56 lakh.

After we reported the cases, the C&I Department stated (September 2012) that they would take up the issue with the Central Government for necessary amendment.

7.5.12 Absence of time limit for initiation of certificate proceedings

Rule 25 of the MMDR Act provides that any rent, royalty, tax, fee or other sum due to the Government under this Act or the rules made thereunder are under the terms and conditions of any reconnaissance permit or mining lease may, on a certificate of such officer as may be specified by the State Government in this behalf by general or special order, be recovered in the same manner as an arrear of land revenue.

We found from the demand and collection register maintained in the office of the CDC, Asansol and C&I Department that mining receipts of ₹ 31.36 crore was outstanding from ECL upto September 2010. No action for certificate proceeding was initiated either by the

CDC or C&I Department even after the lapse of 18 to 139 months from the

date of issue of demand notice. This resulted in non-realisation of revenue of ₹ 31.36 crore. Audit scrutiny further revealed that the Government did neither prescribe any time limit for initiation of the certificate proceedings nor had it instituted a periodic review and monitoring mechanism to ensure that the certificate proceedings were initiated in time.

After we reported the cases, the C&I Department stated (September 2012) that this department is taking up the matter with the concerned district administration for initiation of certificate proceedings, if not already done and recovery of the outstanding receipts.

7.5.13 Non-revision of rates of royalty and reduction in rates of cess

Section 9(3) of the MMDR Act provides that the Central Government may enhance or reduce the rate of royalty once during any period of three years in respect of any mineral by a notification in the official Gazette with effect from such date as may be specified in the notification. Royalty accrues to the State Exchequer.

Under section 4(2)(b) of the WBREP Act and section 78(2)(b) of the WBPE Act, every lessee of coal mine shall pay RE and PE cess for any financial year on the basis of half of the annual value of the entire coal produced during the two years immediately preceding that financial year.

We found that the royalty rates on coal for West Bengal was last revised in May 1987 and thereafter it was revised several times in other states but not in West Bengal. Comparative rates of royalty applicable to West Bengal and other States during the period between 2006-07 and 2010-11

were as under:-

Table 7.10 - Royalty Rates

(₹ Per Tonne)

Grade	West Bengal	Other States		
	From 1987 to till date (Fixed)	From 1-4-06 to 31-7-07 (Fixed)	From 1-8-07 to 15-10-09	From 16-10-09 (due to price escalation)
			(on ad valorem basis)	
S/C-I	6.50	165.00	224.00	237.50
A	6.50	165.00	226.00	240.00
B	6.50	165.00	220.00	233.50
C	5.50	115.00	169.00	181.00
D	4.30	85.00	138.00	148.00
E	4.30	85.00	113.00	119.00
F	2.50	65.00	87.00	91.50
G	2.50	65.00	76.00	79.00

Analysis of the table shows that the rates of royalty have been revised thrice in other States during last five years whereas in West Bengal it remained unrevised since 1987. Due to non-revision of royalty of coal, which is the major revenue generating mineral in the state, revenue realisation has been adversely affected.

Further we observed that the State Government has decreased the rate of cess from 45 per cent to 25 per cent in the year 1998. This reduction of cess had caused the state exchequer to lose a sum of ₹ 230.40 crore in each year.

After we reported the matter, the CMO in respect of royalty confirmed the facts and figures and stated (November 2011) that the matter would be referred to the competent authority while in case of cess the Finance Department did not furnish any reply.

State Government should take a holistic view of revenue generated from coal by way of royalty/cess etc. vis-à-vis revenue generated by other states and take up the matter with the Central Government to revise the rate of royalty to tap the potential from the sector.

7.5.14 Non-assessment of water rate

MC Rules 27(1)(d), provides that the lessee shall pay for the surface area used by him for the purposes of mining operations, water rate at such rate not exceeding the land revenue, water and cesses assessable on the land, as may be specified by the State Government in the lease. Water rate has been fixed at ₹ 54 per acre per annum under the West Bengal Irrigation (Imposition of Water Rate) Act, 1974.

During test check of records of the CDC, Asansol and four¹¹ DL&LROs, we noticed that the water rate for various periods between 2006-07 and 2010-11 was not assessed and realised on 1,67,133.17 acres of land occupied or used by five lessees for extraction of coal. Further scrutiny revealed that there is no provision that which department would

collect the same. This resulted in non-assessment and consequent non-realisation of water rate of ₹ 4.52 crore.

After we reported the case, the L&LR Department stated (September 2012) that the non-assessment and non-realisation of water rate was due to absence of any authority. However, they had pursued the matter with the Finance Department.

¹¹ Bankura, Burdwan, Purulia and Suri.

Compliance Issues

7.5.15 Failure of the department to revoke prospecting license

Rule 15 of the MC Rules provides that where, on any application for a PL, an order has been made for the grant of such licence, a deed granting such licence shall be executed within 90 days of the date of communication of order and if no such deed is executed within the said period the State Government may revoke the order, granting the license. Further, under rule 15(3) of the MC Rules, the date of commencement of the period for which a PL is granted shall be the date, on which the deed is executed.

During scrutiny of records of the office of the DM&M we noticed that seven applicants were granted PL between December 2006 and June 2010. All the PL holders executed the lease deeds after a delay ranging between four and 20 months but in none of the cases the department revoked the PL of the licensees.

After we reported the cases, no specific reply about revocation of PL licences was given by the department (September 2012).

7.5.16 Short realisation of RE and PE Cess

We found in two assessment orders in respect of RE and PE Cess assessed between April and May 2010, the AA allowed ECL to deposit RE cess of ₹ 256.00 crore and PE Cess of ₹ 64 crore. However, scrutiny of challans for payments revealed that the assessee actually deposited ₹ 240.00 crore and ₹ 60 crore towards RE cess and PE cess respectively. This resulted in short payment of ₹ 20 crore and consequent short realisation of ₹ 31.20 crore towards RE cess, PE cess and interest thereto.

After we reported the cases, the Finance Department stated (October 2012) that observation of the audit had been duly considered and demand notices had been issued.

7.5.17 Evasion of royalty, PW cess and Road cess

We found from the returns of production and dispatch submitted by Bharat cooking coal limited (BCCL) to the CMO, Asansol for the period from 1 April to 30 June 2008, that the opening balance was shown as Nil though the closing balance as on 31 March 2008 was shown as 8,96,070 MT. This indicated evasion of royalty of ₹ 38.53 lakh (8,96,070 x ₹ 4.30) and PW cess and Road cess of ₹ 8.96 lakh (8,96,070 x ₹ 0.5 each cess).

After we reported the case, the CMO admitted the audit observation and stated (April 2012) that the case would be taken up with the BCCL authority.

7.5.18 Non-levy of dead rent and cess

In terms of rule 27(1)(c) of the MC Rules, the holder of mining lease shall pay to the State Government every year, except the first year of the lease, dead rent at such rate as may be specified in the Third Schedule of the Act. Provided that where the holder of such mining lease becomes liable to pay royalty for any mineral, he shall be liable to pay either such royalty or the dead rent whichever is higher in amount. Further in terms of Cess Acts read with clarification issued in May 2000, cess on dead rent is realisable at the rate of 86 paise per rupee.

7.5.18.1 We found in the office of the CMO, Asansol that dead rent for the period from April 2010 to March 2011 in respect of 19 collieries belonging to two lessees were not assessed. Accordingly, CDC also did not assess cess on dead rent. This resulted in non-levy/non-realisation of dead rent and cess amounting to ₹ 31.22 lakh

as detailed below:

Table 7.11- Dead rent and cess

(₹ in lakh)

Name of the lessee	No of collieries	Period	Amount of dead rent	Amount of cess on dead rent (@86 paise per rupee)	Total amount
ECL	14	2010-11	15.63	13.44	29.07
BCCL	5	2010-11	1.15	1.00	2.15
Total	19		16.78	14.44	31.22

After we reported the cases, the C&I Department stated (September 2012) that assessment of dead rent was made by the CMO and sent to the realising authority (CDC). But report on realisation is still awaited (December 2012).

7.5.18.2 We found in the office of the CMO, Asansol that in six¹² collieries covering an area of 13,837.79 hectare under ECL, the assessee paid royalty of ₹ 24.72 lakh for the period from 2006-07 to 2010-11 calculated on the basis of actual dispatch. However, the dead rent for the said period worked out to ₹ 75.48 lakh (₹ 150 per hectare per annum) which was higher than the royalty paid. As per provision of the rule, the lessee was to pay royalty or dead rent, whichever is higher. The CMO, Asansol did not comply with the provision and allowed the lessee to pay at the lower rate. This resulted in non-levy/ non-realisation of dead rent and cess amounting to ₹ 94.41 lakh (₹ 50.76 lakh dead rent and ₹ 43.65 lakh cess on dead rent).

After we reported the cases, the C&I Department stated (September 2012) that they had taken note of the audit observation and accordingly action had been initiated by the CMO, Asansol.

¹² Barmondiha, Begunia & Gourangdih, Bhanora & Bhanora, Girmint (Kushadanga), Jemehari and Madhujora.

7.5.19 Non-levy of interest

Under Rule 64(A) of the MC Rules the State Government may without prejudice to the provisions contained in the Act or any other Rule in these Rules, charge simple interest at the rate of twenty four per cent per annum on any rent, royalty or fee (other than the fee payable under sub-rule (1) of Rule 54) or other sum due to that Government under the Act or these rules or under the terms and conditions of any prospecting licence or mining lease from the sixtieth day of the expiry of the date fixed by that Government for payment of such royalty, rent, fee or other sum and until payment of such royalty, rent, fee or other sum is made.

We found from the demand and collection register of the CDC, Asansol that two¹³ lessees in two cases paid mining dues (royalty and dead rent) of ₹ 8.64 crore between March 2007 and June 2011 for the periods from 2004-05 to 2010-11. Though there was delay in payments ranging from 18 to 677 days after the expiry of the sixtieth day, the CDC Asansol, however, did not levy and realise interest of ₹ 45.94 lakh on the lessee.

After we reported the cases, the CDC, Asansol admitted the audit observations and stated (April 2012) that demand notices would be issued shortly. The ADM, Asansol stated (October 2012) that an amount of ₹ 2.13 lakh was realised.

7.5.20 Non-realisation of surface rent and cess

Under Rule 27(1)(d) of the Mineral Concession Rules, 1960, the holder of mining lease shall pay to the State Government annual surface rent at the prescribed rate in respect of the area used for the purpose of mining operation. In addition, all kinds of cess are also leviable at the rate 86 paise per rupee of rent under the different cess Act read with clarification issued in May 2000.

7.5.20.1 We found from the records of the CDC, Asansol that 26,608.62 acres of land was granted in favour of three lessees for their mining operations. Though the demand was raised regularly, the lessees did not pay the surface rent of ₹ 59.86

lakh and cess of ₹ 51.48 lakh on surface rent for five years from 2006-07 to 2010-11. This resulted in non-realisation of surface rent and cess of ₹ 111.34 lakh as detailed in the following table:-

¹³ M/s Bengal EMTA Coal Mines Limited and ECL.

Table 7.12.1 – Surface rent and cess

Name of the lessee	Surface area used (in acres)	Rate of surface rent	Period	Total amount of surface rent (₹ in lakh)	Rate of cess	Cess amount being unrealised (₹ in lakh)	Total amount unrealised (₹ in lakh)
M/s ECL	24,675.78	₹ 45 per acre per annum	2006-07 to 2010-11	55.52	86 paisa per rupee of rent	47.75	103.27
M/s BCCL	854.40		2006-07 to 2010-11	1.92		1.65	3.57
M/s ISSCO	1,078.44		2008-09 to 2010-11	2.42		2.08	4.50
Total	26,608.62			59.86		51.48	111.34

After we reported the cases, the CDC, Asansol admitted the audit observation and stated (April 2012) that necessary action would be taken as early as possible.

7.5.20.2 During scrutiny of records of the C&I Department and four¹⁴ DL&LROs we found that the C&I Department granted 1,694.06 acres of land to ECL for extraction of stowing sand from the riverbeds. But the surface rent of ₹ 3.82 lakh and cess of ₹ 3.27 lakh were neither paid by the ECL nor demanded by the department. This resulted in non-realisation of ₹ 7.09 lakh towards surface rent and cess as detailed below:

Table 7.12.2 – Surface rent and cess

Name of District	Total area in acre	Rate of Surface rent	Surface rent assessable for 5 years (₹ in lakh)	Rate of Cess	Amount of Cess assessable for 5 years (₹ in lakh)	Loss of revenue in the shape of Surface rent and Cess (₹ in lakh)
Burdwan	1,261.02	₹ 45 per acre per annum	2.84	86 paisa per rupee of rent	2.44	5.28
Birbhum	291.54		0.66		0.56	1.22
Bankura	136.50		0.31		0.26	0.57
Purulia	5.00		0.01		0.01	0.02
Total	1,694.06		3.82		3.27	7.09

After we reported the cases, the C&I Department stated that the duty of realisation of dues in respect of surface rent and cess was vested with the respective district collectors. As a follow up measure, they were taking up the matter with the concerned district authorities so that the dues could be realised while the L&LR Department stated that the matter had been taken up with the District Authority for immediate action.

7.5.21 Short realisation of cess against the demand raised

C&I Department had fixed a target for extraction of stowing sand at the rate of 5,000 cft per acre per month on an area of 761.30 acres of land and the cess amount due to be realised was ₹ 30.83 lakh irrespective of extraction in every six months.

¹⁴ Bankura, Birbhum, Burdwan and Purulia.

On scrutiny of records in the DL&LRO, Burdwan we noticed that ECL was granted an area of 761.30 acres of land for extraction of stowing sand and was required to pay ₹ 30.83 lakh towards the cess every six month from 1.07.2006 to 31.03.2011. However, we found that against an amount of ₹ 154.16 lakh, ₹ 112.08 lakh was realised. This resulted in short realisation of ₹ 42.08 lakh as shown below:

Table 7.13 – Payment of cess

Periods of Payment	Targeted quantity for extraction in each six month (cft)	Cess amount due to be realised (₹ in lakh)	Cess amount realised (₹ in lakh)	Amount of short-realisation of cess from stowing sand (₹ in lakh)
1.7.2006 to 31.12.2006	2,28,39,000	30.83	28.36	2.47
1.7.2007 to 31.12.2007	2,28,39,000	30.83	30.49	0.34
1.7.2009 to 31.12.2009	2,28,39,000	30.83	25.03	5.80
1.4.2010 to 30.09.2010	2,28,39,000	30.83	0.00	30.83
1.10.2010 to 31.3.2011	2,28,39,000	30.83	28.20	2.64
Total	11,41,95,000	154.16	112.08	42.08

After we reported the case, the L&LR Department stated (October 2012) that a demand notice of ₹ 42.08 lakh was issued to ECL and the ADM, Asansol was instructed to realise the dues from ECL, as early as possible.

7.5.22 Unlawful Extraction

7.5.22.1 Extraction of mineral other than coal

Rule 22A of the MC Rules prescribes that mining operations shall be undertaken in accordance with the duly approved mining plan and the modification of the approved mining plan during the operation of a mining lease also requires prior approval. As per rule 24A of MC Rules an application for the renewal of a mining lease shall be made to the State Government in Form - J, at least twelve months before the date on which the lease is due to expire. Under Section of 21(5) of MMDR Act, no person shall undertake any mining operation in any area except under the terms and conditions of a lease. In the event of unauthorised extraction of minerals, the State Government is empowered to recover the mineral raised unlawfully or where such minerals have already been disposed of, the price thereof.

We found from the records of the Mining Officer (MO), Purulia that one out of 23 lessees was granted mining lease for china clay for 20 years in 1984.

The lease expired in October 2004 and he submitted renewal application in October 2004 in violation of the provision of rule 24A, of the MC rules.

The MO, instead of taking any action against the lessee for delayed application of renewal forwarded the application to the DM&M in August 2006 recommending rejection of the lease application. The DM&M also recommended rejection

and forwarded it to the Government (C&I Department) for approval (November 2006).

The Government, after a lapse of six years had not yet taken any decision on the application and the lessee had continued extraction upto March 2012.

The MO, Purulia had stopped assessment of the lessee after December 2006 and the lessee had not submitted any return to the MO since January 2007. However, he continued to extract minerals and paid PW and road cess to the DL&LRO, Bankura during 2008 to 2010.

Further, we found from the records of MO, Suri that a lessee had extracted 3,00,000 cft. of china clay and fire clay, without having any lease agreement and approved mining plan during 2008-09. Therefore the price of the minerals worth ₹ 27.02 lakh remained unlevied and unrealised. The MO, Suri detected it (June 2008) but no action was taken by the department till the date of audit.

The C&I Department stated (November 2012) that in the case of MO, Purulia they had taken up with the DM&M and in the case of MO, Suri, they had assessed the penalty to the tune of ₹ 27.02 lakh at the instance of audit and forwarded it to the DL&LRO, Birbhum for realisation.

7.5.22.2 Non-imposition of price of unlawful extraction of stowing sand

On scrutiny of the records in the offices of the DL&LRO, Burdwan and the C&I Department we noticed that 12 temporary working permits were granted to M/s ECL between January 2006 and September 2011 for extraction of sand for stowing purposes from the river beds. The quantity of sand permitted for extraction against three permits, was 6.8517 crore cft. The ECL had extracted 7.9589 crore cft of sand. The DL&LRO, while finalising the assessments between September 2006 and July 2011, did not recover the price of extra sand of 1.1072 crore cft extracted unauthorisedly for stowing purpose. This resulted in non-imposition and non-realisation of the receipts of ₹ 24.37 lakh as detailed below:

Table 7.14- Excess extraction of sand

Period of permit	Permit no.	Permitted quantity in c.ft	Extracted quantity in c.ft	Excess extraction in c.ft	Excess extraction in M.T	Royalty involved (₹ In lakh)	Penal price payable (₹ In lakh)
1.1.06 to 30.6.06	16 dt. 18.01.06	2,28,39,000	3,01,92,239	73,53,239	4,04,428	1.62	16.18
1.1.07 to 30.6.07	31 dt. 29.01.07	2,28,39,000	2,43,83,134	15,44,134	84,927	0.34	3.40
1.1.08 to 30.6.08	459 dt. 18.12.07	2,28,39,000	2,50,14,059	21,75,059	1,19,628	0.48	4.79
Total		6,85,17,000	7,95,89,432	1,10,72,432	6,08,983	2.44	24.37

After we reported the case, the L&LR Department stated (October 2012) that a demand notice for payment of ₹ 24.37 lakh was issued to ECL and the ADM, Asansol was instructed to realise the dues from ECL as early as possible.

7.5.22.3 Illegal Mining

Under Section 23C of the MMDR Act, the Ministry of Mines has formulated a three-pronged strategy for prevention of illegal mining viz. constitution of Task Force by the State Government at State and District level having a representative of Indian Bureau of Mines (IBM), framing of rules under Section 23C of the MMDR Act and furnishing of quarterly returns on illegal mining for review by the Central Government.

We found from the records of DM&M that 1,12,027.24 MT of illegal coal was seized by four¹⁵ District Police Authorities (DPAs) upto December 2007. However, the C&I Department did not initiate any step to recover the price of minerals involving ₹ 4.31 crore.

The C&I Department stated (September 2012)

that the matter was related to the concerned DPAs and the department had no role to play.

The reply is not tenable as the MMDR Act states that the State Government (C&I Department) may recover the mineral so raised, or the price thereof, where such mineral has already been disposed of.

- No check gate for detecting illegal transfer of minerals was identified to prevent illegal mining. We also noticed that the post of Deputy CMO entrusted with all the matters relating to illegal mining of coal was lying vacant for last 20 years. Scrutiny of the minutes on State Level Task Forces (formed in 2006) revealed that illegal mining of coal was quite common in 57 sites under Baraboni, Jamuria, Asansol (South/North), Kulti, Hirapur, Salanpur and Raniganj police stations within the lease hold area of ECL and 15 sites under Jamuria, Baraboni and Asansol north police station not within lease hold area of ECL.

After we reported the case, the C&I Department stated (September 2012) that one amendment was already proposed to the West Bengal Mineral (Prevention of illegal mining for Transportation & Storage) Rules, 2002 including setting up of check post at the strategic points, issuing of transit pass and allotment of registration to the mine owners.

- One “State Level Task Force” under the chairmanship of Chief Secretary and the “District Level Task Force” under the DM of the concerned district were set up in July 2006 which took up an agenda to prevent activities of illegal mining at micro level so that it could be countered through use of satellite imagery. But the same had not been implemented till date. The department also had no record about the illegal mining spots and illegal coal depots.

After we reported the case, C&I Department stated (September 2012) that the matter was being taken up with the Information and Technology Department.

¹⁵ Bankura, Birbhum, Burdwan and Purulia.

7.5.23 Internal control

Internal Control is an integral component of an organisation's management which provides reasonable assurance so that the operations are carried out efficiently and effectively. It also ensures the accountability and compliance of rules and regulations and therefore safeguarding resources against loss. An evaluation of internal control in all the four departments associated with assessment and collection of receipts from major minerals revealed some weaknesses which are discussed in the following paragraphs:

7.5.23.1 Non-monitoring of the work done by the Prospecting licensees

Rule 16 of the MC Rules prescribes that prospecting licensees shall submit to the state Government a six monthly report of work done by him. The licensees shall also submit, within three months of the expiry of the license, a full report of work done by him, in the course of prospecting operations in the area covered by the license.

We found from the records of the CMO, Asansol, the DM&M and C&I Department that no "full reports" in cases of three prospecting licensees (whose PL had expired) and no "six monthly reports" in four cases (where the licenses were alive) were available. There was no provision of monitoring the returns as well as inspection to be done by the CMO to oversee the activities of the prospecting licensees. As a result, the CMO could not exercise his effective control to monitor whether the prospecting operations were carried out in the authorised areas or prospecting was done for those minerals for which the licence had been granted.

After we reported the cases, the C&I Department stated (September 2012) that there might be some deviation/departure and efforts were being made by the department to streamline the system.

7.5.23.2 Non-establishment of check posts and weigh bridges

Provisions of the MMDR Act empower the State Government to make rules for prevention of illegal mining, transportation and storage of minerals.

Further, the West Bengal Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2002 provides for establishment of check post, barriers and weighment and inspection of minerals in transit.

We found that the CMO did not undertake any surveillance and weighment and the minerals were transported without verification of quality and quantity. In the absence of check posts, weighbridges and frequent checking, the chances of leakage of revenue could not be ruled out.

7.5.23.3 Non-issuance of transit pass

Rule 3 of the provisions of West Bengal Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2002 provides that no person shall transport or carry or cause to transport or carry any mineral by any means from the place of raising to another place without being in possession of a valid transit pass issued by the competent authority under the rules.

We found in CMO, Asansol that no system of issue of transit pass was adopted though defined in rules. In the absence of system to issue transit pass, the CMO was wholly depending on the returns submitted by the lessee for calculation of royalty and other receipts. Further, there was no other means of cross verification of issue and dispatch of minerals to ensure the correctness of the returns

submitted by the lessees.

After we reported the cases mentioned at para no. 7.5.23.2 and 7.5.23.3, the C&I Department stated (October 2012) that an amendment of the West Bengal Mineral (Prevention of illegal mining for transportation and storage) Rules, 2002 had already been proposed including setting up of check posts at the strategic points, issuing of transit pass and allotment of registration to the mine owners, stockists, dealers, transportation etc. and also stated that the matter was being taken up with the Information Technology Department.

7.5.23.4 Internal Audit

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

We found that out of the four departments associated with the assessment and collection of the receipts from major minerals, two departments viz. C&I Department and general administration do not have any internal audit wing. Further the department of internal audit of State Government is yet to conduct audit of those offices.

As a result, the department was not in a position to monitor the production/dispatch, assessment, irregularities, non-compliance of rules and therefore safeguarding leakage of revenue.

7.5.24 Conclusion

The Performance Audit indicated a number of system deficiencies like complex system of assessment and collection, absence of provisions in the Acts and rules for early disposal of PL applications, absence of provision for timely assessment of RE and PE cess, and compliances deficiencies like blockage of revenue due to non-assessment or delay in assessment, non/short levy and realisation of royalty, surface rent, dead rent, different kinds of cess and interest and defunct internal control.

7.5.25 Summary of Recommendations

In order to improve the effectiveness of the State's enforcement machinery for better management of Receipts from Major Minerals the Government may:

- take steps for early implementation of the recommendation of the Public Accounts Committee made in 2004 for bringing the entire matter of mines and minerals under one umbrella.
- prescribe a time limit for granting of Prospecting Licence in the rules.
- specify a time frame for timely assessment of RE and PE cess for early realisation of the revenue and introduce a time limit in the line of the department of Commercial Taxes for speedy disposal of appeal cases.
- include penal provision in the rules for non/short extraction of minimum quantity of minerals.
- develop a mechanism to monitor the prospecting and mining operations in the authorised areas.
- introduce system for inspection, monitoring returns, establishing checkpoints and weighbridges, introducing transit pass and strengthening internal audit to ensure effective internal control.

7.6 Audit observations

Scrutiny of the records in the offices of the District Land and Land Reforms Offices and the Block Land and Land Reforms Offices indicated non/short realisation of royalty and cess on brick earth, non-imposition of penalty on short extraction of sand/black stone, non/short realisation of price of brick earth extracted unauthorisedly and short levy of royalty and cess on sand as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions pointed out by us repeatedly not only do persist; but also remain undetected till next audit. There is need for the Government to improve the internal control system including internal audit so that recurrence of such irregularities is avoided.

7.7 Non/short realisation of royalty and cess on brick earth

Section 27 (1) of the West Bengal Minor Minerals (WBMM) Rules, 2002 provides that the district authority or any other officer authorised in this behalf by the State Government may grant quarry permit to any person to extract any minor mineral on pre-payment of royalty at prescribed rates. Further, under the provisions of the Cess Act, 1880 (as amended in 1984), the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976, the holders of quarry permits are liable to pay different types of cesses at prescribed rates on extraction of minor minerals.

During scrutiny of Brick Field Registers in District Land and Land Reforms Offices (DL&LROs), North 24 Parganas and Purba Medinipur in June 2010 and June 2011 we found that the DL&LROs allowed the brick field owners to extract brick earth and pay royalty and cess latest by 15 January/February during the years 2007-08 to 2010-11. This was in violation of both the conditions for extraction of minor minerals viz. prior permit and pre-payment of

royalty. Further, we found that in 72 cases, although the brick field owners extracted 108.02 lakh cubic feet (cu ft) of brick earth, yet neither did the brick field owners pay the royalty and cess of ₹ 38.87 lakh nor was any action taken by the DL&LROs to realise the dues. In other 13 cases, the brick field owners extracted 24.50 lakh cu ft of brick earth and paid royalty and cess of ₹ 5.04 lakh against the payable amount of ₹ 10.76 lakh. However, the DL&LROs did not initiate any action to realise the differential amount. Thus, in 85 cases royalty and cess of ₹ 5.04 lakh was paid against ₹ 49.63 lakh which resulted in non/short realisation of royalty and cess of ₹ 44.59 lakh.

After we reported the cases, the DL&LRO, North 24 Parganas admitted (June 2010) the audit observations in 70 cases involving ₹ 34.79 lakh and stated that the dues would be realised; but did not furnish any report on realisation. In the remaining 15 cases involving ₹ 9.80 lakh the DL&LRO, Purba Medinipur did not furnish any specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that details regarding realisation would be submitted; their report on realisation is awaited (December 2012).

7.8 Non-imposition of penalty on short extraction of sand/black stone

Under Rule 21(1) (e) of the WBMM Rules, the holder of a mining lease shall extract and despatch the minimum quantity of mineral/s from the leasehold area annually as prescribed in the lease deed. In case there is any shortfall in the extraction and despatch of the prescribed minimum quantity without any satisfactory reason, penalty to the extent of twice the amount of royalty that should have accrued on such shortfall shall have to be paid by the lessee.

During test check of the records of the DL&LROs, Bankura and Birbhum between August 2010 and September 2011 we found that in 18 cases nine lessees extracted 22.13 lakh cubic feet (cu ft) of sand/ black stone against the minimum prescribed quantity of 54.51 lakh cu ft as per the lease

deeds. However, the DL&LROs did not levy and demand a penalty of ₹ 40.80 lakh for short extraction of 32.38 lakh cu ft of sand/ black stone. This resulted in non-levy of penalty and consequent non-realisation of revenue of ₹ 40.80 lakh.

After we reported the cases, the DL&LRO, Birbhum stated (September 2011) that in 12 cases demand notice would be issued to realise the dues. The DL&LRO, Bankura in the remaining six cases stated (September 2010) that steps would be taken to regularise the matter; but they did not furnish any report on realisation (December 2012).

The Government stated (October 2012) that detailed reply would be submitted; their reply is awaited (December 2012).

7.9 Non/short realisation of price of brick earth extracted unauthorisedly

Section 4(1) of the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 prescribes that no person shall undertake any mining operation in any area except under the authority of a permit/licence of a mining lease granted under the Act. Further, section 21(1) of the Act provides that whoever contravenes the provisions of section 4(1) of the Act shall be punished with imprisonment upto two years or fine upto ₹ 25,000 or with both. In addition, under section 21(5) of the Act in the event of unauthorised extraction of minerals, the Department is empowered to recover either the minerals raised unlawfully or where such minerals have already been disposed of, the price thereof. By an order issued in September 1984, the Board of Revenue, West Bengal fixed the price of brick earth as ₹ 30 per 100 cubic feet (cu ft) for 1981 with an increase of ₹ 1.50 per 100 cu ft each year.

During scrutiny of brick field registers in four¹⁶ DL&LROs between June 2010 and April 2011 we found that in 48 cases brick field owners extracted 48.07 lakh cu ft of brick earth between 2006-07 and 2010-11 without valid permit /licence. Out of these, in 25 cases price of brick earth of ₹ 17.42 lakh though realisable was not realised. While in the remaining 23 cases, ₹ 10.69 lakh was realised against the realisable amount of ₹ 17.16 lakh due to

application of a lower rate than the prescribed rates. This resulted in unauthorised extraction of brick earth of 48.07 lakh cu ft and consequent non/short realisation of revenue of ₹ 23.89 lakh.

After we reported the cases, all the DL&LROs, admitted (between June 2010 and April 2011) the audit observations but did not furnish report on realisation (December 2012).

The Government while accepting (October 2012) the audit observation stated that ₹ 4.54 lakh has been realised in 12 cases and report on further realisation would be submitted. However, their report on further realisation is awaited (December 2012).

¹⁶ Burdwan (West), Malda, North 24 Parganas and South 24 Parganas.

7.10 Short levy of royalty and cess on sand

The WBMM Rules provides that the district authority or any other officer authorised in this behalf by the State Government may grant quarry permits to any person to extract any minor mineral on pre-payment of royalty at prescribed rates. Further, under the provisions of the Cess Act, 1880 (as amended in 1984), the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976, the holders of quarry permits are liable to pay different types of cess at prescribed rates on extraction of minor minerals.

By a notification issued in November 2002, the Commerce and Industries Department, Government of West Bengal fixed the rate of royalty of sand at ₹ 22 per cubic meter. In pursuance of the notification and to operationalise the rates of royalty, the Director of Land Records and Surveys and Joint Land Reforms Commissioner (DLRS and JLRC), West Bengal issued a conversion chart in December 2002 to all the

DL&LROs and instructed them to levy royalty and cess for wet sand at ₹ 63 and ₹ 15 respectively per 100 cubic feet (cu ft).

We found in September 2011 from the Registers of sand regarding mining lease maintained in six¹⁷ Block Land and Land Reforms Offices (BL&LROs) under the DL&LRO, Burdwan that in 864 cases 14,60,73,983 cu ft of wet sand was extracted by the holders of quarry permits between 2009-10 and 2010-11. We noticed that despite specific instruction issued to the DL&LRO, Burdwan by the DLRS and JLRC in May 2007 to levy royalty and cess as per the conversion chart, the concerned BL&LROs levied and realised royalty and cess on wet sand at the rate of ₹ 75.81 (₹ 62.31 royalty + ₹ 13.50 cess) per 100 cu ft instead of ₹ 78.00 (₹ 63 royalty + ₹ 15 cess). Due to injudicious application of lower rate, royalty and cess of ₹ 11.07 crore was levied and realised instead of leviable amount of ₹ 11.39 crore. This resulted in short levy and realisation of royalty and cess of ₹ 32.00 lakh.

After we reported the cases, the DL&LRO, Burdwan stated (September 2011) that the royalty and cess were charged as per the notification issued in November 2002. The reply is not tenable as charging of royalty and cess at a lower rate was in violation of the instructions issued by the DLRS and JLRC, West Bengal and principles of sound tax administration.

The Government stated (October 2012) that the rate chart annexed with the WBMM Rules should be followed in this regard. Though the opinion of the Government is valid, the conversion chart of December 2002 was issued to

¹⁷ Burdwan I, Burdwan II, Galsi II, Jamalpur, Khandaghosh and Memari.

facilitate and operationalise the levy of royalty in accordance with the rate chart.

**Kolkata
The**

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Accountant General
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West Bengal**

Countersigned

**New Delhi
The**

**(VINOD RAI)
Comptroller and Auditor General of India**

APPENDICES

Annexure-I
(Ref. Para No. 1.4)

Units planned and audited in 2011-12

Category/Nature of Audit	Total number of units	Audit planned	No. of units audited
Value Added Tax			
Corporate Division	4	4	2
Charge Offices (Receipt cum expenditure)	67	35	40
Cess on Petrol, Diesel etc.	1	1	0
Checkpost and Others	12	2	2
Other Receipts			
State Excise (Receipt cum expenditure)	23	7	7
Stamp Duty and Registration Fees including Non-Judicial Stamp(Receipt cum expenditure)	255	60	62
Motor Vehicles Tax	27	16	15
Amusement Tax	19	6	6
Profession Tax	30	11	11
Agricultural Income Tax	4	0	0
Land Revenue	21	10	11
Minor Minerals and Mining Receipts	24	12	11
Electricity Duty	20	2	4
Departmental Receipts	8	2	1
Total	515	168	172

Annexure-II

(Ref. Para No. 3.7.9)

Sl No	District	Name of the Applicant	Size of the Land in acre	Lease Period	Date of Application	Lying with the Comm/ Govt since	Salami assessed (₹ in thousands)
1	Nadia	Thakkers Dairy Products (P) Ltd.	180.51	99	Not available	Sept 2008	2,08,897
2	Paschim Medinipur	Dyuti Agro Marine	0.40	99	Aug 2009	Oct 2009	615
3	Jalpaiguri	Ranjan Khan	1.97	99	July 2004	Oct 2010	4,626
4		Mittal Merchant (P) Ltd.	3.73	99	Not available	Mar 2007	2,883
5	Purulia	Damodar Valley Corporation	13.74	30	Not available	July 2006	668
6	Purba Medinipur	Kanailal Arjya	0.64	99	May 2005	Feb 2007	66
7		Egra Municipality	0.66	30	Dec 2010	July 2011	1,210
8	Burdwan	Asansol Durgapur Development Authority	201.88	30	Not available	Sept 2001	1,22,740
9		Essar Oil Ltd.	2.66	30	April 2008	Jan 2009	180
10		Techno Fab Manufacturing Ltd.	20.50	30	Mar 2008	Feb 2010	5,811
11	North 24 Parganas	Titagarh Wagon Ltd.	26.9613	99	Dec 2004	Aug 2008	3,04,804
12		National Council of Science Museum	11.07	30	Not available	June 2008	1,16,342
13		Khardah Adarsh Pally Janakalyan Samity	0.71	99	Dec 2005	Dec 2006	8,208
14	Jalpaiguri	Aghore Sarkar	0.061	99	June 2005	Oct 2010	50
Total			465.4923				7,77,100

Annexure – III**(Ref. Para No. 6.5)****(₹ in lakh)**

Sl. No.	Name of the Office	No of cases	Year	Non-realisation of profession tax
1.	PTO/WBCU-VIII, Barrackpore	362	2007-10	20.50
2.	PTO, WBSU – I, Howrah	94	2010-11	2.35
3.	JCPT/Kolkata East Range	14	2008-11	1.00
4.	PTO, WBCU-II, Krishnanagar, Nadia	184	2006-10	11.41
5.	DCPT/WBNU-V, Malda	85	2006-10	4.44
6	PTO/WBSU-IV, Purba Midnapore	269	2006-10	20.14
Total		1,008		59.84