

Report of the
Comptroller and Auditor General of India
on
Revenue Sector

for the year ended March 2014

Government of Bihar
Report No. 3 of the year 2014

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PREFACE

This Report is prepared for submission to the Governor of the State of Bihar under Article 151 of the Constitution of India.

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 commercial taxes, state excise, taxes on vehicles, land revenue, stamp duty and registration fees and other non-tax receipts of the Government of Bihar.

The cases mentioned in the Report are among those which came to notice in the course of test audit of accounts during the year 2013-14 as well as those which had come to notice in earlier years but could not be reported in previous Audit Reports; matters relating to the period subsequent to 2013-14 have also been included, wherever necessary.

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

OVERVIEW

OVERVIEW

This Report contains 44 paragraphs including one performance audit relating to non/short levy of tax, interest etc. involving ₹ 1,403.80 crore. Some of the major findings are mentioned below:

I. General

Total receipts of the Government of Bihar for the year 2013-14 were ₹ 68,918.65 crore. The revenue raised by the State Government amounted to ₹ 21,505.51 crore comprising tax revenue of ₹ 19,960.68 crore and non-tax revenue of ₹ 1,544.83 crore. The receipts from the Government of India were ₹ 47,413.14 crore (States' share of divisible Union taxes: ₹ 34,829.11 crore and grants-in-aid: ₹ 12,584.03 crore). Thus, the State Government's own contribution was only 31 *per cent* of total revenue.

(Paragraph 1.1.1)

The number of inspection reports (IRs) and paragraphs issued up to December 2013 but not settled by June 2014 stood at 4,806 and 27,764 respectively involving ₹ 17,825.55 crore. We are yet to receive even first replies for 1,773 IRs though these were required to be furnished within one month from the date of issue.

(Paragraph 1.6)

We conducted test-check of the records of commercial taxes, State excise, taxes on vehicles, land revenue, non-ferrous mining and metallurgical industries and other departmental offices during the year 2013-14 and observed underassessment/short levy/loss of revenue of ₹ 2,310.97 crore in 3,357 cases. During the period April 2013 to August 2014, the concerned departments accepted underassessment and other deficiencies of ₹ 785.06 crore which were pointed out in audit during 2013-14.

(Paragraph 1.9)

II. Commercial Taxes

A Performance Audit on '**Levy and Collection of Entry Tax**' indicated the following deficiencies:

Deviation from the cabinet decision was made while issuing notification for increase of rate of entry tax from four to five *per cent*, which involved revenue impact of ₹ 8.37 crore.

(Paragraph 2.3.7.1)

Provisions relating to scrutiny of returns, levy of interest and fine and tax audit was not applicable under the BTEG Act due to non-amendment of the provision of Section 8 of the BTEG Act after the introduction of BVAT Act bringing out these new features.

(Paragraph 2.3.8.1)

A sum of ₹ 7,482.61 crore collected under Bihar Trade Development Fund was not utilised for the purposes and the manner prescribed under the BTEG Act.

(Paragraph 2.3.9)

In 15 circles, 26 dealers did not get themselves registered under the BTEG Act despite import of scheduled goods of ₹ 37.88 crore which resulted into short levy of entry tax of ₹ 4.24 crore including penalty.

(Paragraph 2.3.11)

In 13 circles, only 12.57 to 17.48 *per cent* dealers were assessed during the year 2008-09 to 2012-13.

(Paragraph 2.3.13)

In 14 circles, suppression of import value of ₹ 714.89 crore by 21 dealers resulted into short levy of entry tax of ₹ 223.29 crore including leviable penalty during 2009-10 to 2012-13.

(Paragraph 2.3.14)

In nine circles, application of incorrect rate of entry tax by 22 dealers resulted into short levy of entry tax of ₹ 66.66 crore including leviable penalty during 2009-10 to 2012-13.

(Paragraph 2.3.15)

Cross-verification of transactions revealed suppression of import value of ₹ 1,416.22 crore and short levy of entry tax of ₹ 119.03 crore including penalty during 2010-11 to 2013-14.

(Paragraphs 2.3.21.1 and 2.3.21.2)

In two check-posts, 12,552 vehicles with consignment value of ₹ 5,402.37 crore used out to out *suvidha* for transit through Bihar. Though they entered into Bihar but did not exit leading to leakage of revenue.

(Paragraph 2.3.22)

In 11 commercial taxes circles, suppression of sales/purchase turnover of ₹ 217.87 crore by 15 dealers resulted in underassessment of tax of ₹ 76.27 crore including leviable penalty and interest.

(Paragraph 2.5)

Irregular claim of Input Tax Credit (ITC) by the seven dealers in four commercial taxes circles resulted in excess allowance of ITC of ₹ 33.80 crore including leviable penalty and interest.

(Paragraph 2.6)

In Bhagalpur commercial taxes circle, there was non-levy of electricity duty amounting to ₹ 416.96 crore including penalty on sales of energy.

(Paragraph 2.18)

III. State Excise

Due to allowing payment of differential amount on the basis of their tendered rate instead of rate quoted by lowest tenderer the Department would be deprived of ₹ 341.32 crore during 2014-15 to 2018-19.

(Paragraph 3.4.2.1)

Non-verification of the amount deposited by licensees from the records of treasury and non-observance of condition of sale notification by the Excise officers resulted in defalcation of ₹ 8.15 crore in three Excise offices.

(Paragraph 3.5)

IV. Taxes on Vehicles

In 30 District Transport Offices, tax dues of ₹ 2.09 crore pertaining to 1,608 transport vehicles for the period between April 2008 and March 2014 were neither paid by the vehicle owners nor notices of demand for realisation of dues of ₹ 5.84 crore (including penalty) were issued by the concerned District Transport Officers.

(Paragraph 4.4)

V. Other Tax Receipts

Stamp duty of ₹ 18.34 lakh was not levied on lease agreements entered into between the Mobile companies and land owners.

(Paragraph 5.7)

VI. Non-Tax Receipts

Penalty of ₹ 5.47 crore for illegal procurement of minerals against the works contractors in six district mining offices, though leviable, was not levied.

(Paragraph 6.4)

Due to non-registration of deeds of settlement of sand *ghats* in six district mining offices there was a loss of ₹ 2.94 crore in registration fees.

(Paragraph 6.6)

CHAPTER-I

GENERAL

CHAPTER-I: GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Bihar during the year 2013-14, the State's share of net proceeds of divisible Union taxes and duties assigned to States and Grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in **Table-1.1**.

Table- 1.1
Trend of revenue receipts

(₹ in crore)						
Sl. No.	Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
1.	Revenue raised by the State Government					
	• Tax revenue	8,089.67	9,869.85	12,612.10	16,253.08	19,960.68
	• Non-tax revenue	1,670.42	985.53	889.86	1,135.27	1,544.83
	Total	9,760.09	10,855.38	13,501.96	17,388.35	21,505.51
2.	Receipts from the Government of India					
	• Share of net proceeds of divisible Union taxes and duties	18,202.58	23,978.38	27,935.23	31,900.39	34,829.11 ¹
	• Grants-in-aid	7,564.16	9,698.56	9,882.98	10,277.92	12,584.03
	Total	25,766.74	33,676.94	37,818.21	42,178.31	47,413.14
3.	Total revenue receipts of the State Government (1 and 2)	35,526.83	44,532.32	51,320.17	59,566.66	68,918.65
4.	Percentage of 1 to 3	27	24	26	29	31

(Source: Finance Accounts, Government of Bihar)

The above table indicates that during the year 2013-14, the revenue raised by the State Government (₹ 21,505.51 crore) was 31 *per cent* of the total revenue receipts. The balance 69 *per cent* of receipts during 2013-14 was from the Government of India.

¹ For details, please see Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of Government for the year 2013-14. Figures under Minor Head – 901 - Share of net proceeds assigned to the State under the Major Heads 0020 - Corporation Tax (₹ 11,713.47 crore), 0021 - Taxes on income other than Corporation Tax (₹ 7,712.96 crore), 0032 - Taxes on Wealth (₹ 32.16 crore), 0037 - Customs (₹ 5,682.75 crore), 0038 - Union Excise Duties (₹ 4,013.57 crore), 0044 - Service Tax (₹ 5,674.21 crore) and 0045 - Other Taxes (- ₹ 1.00 lakh) booked in the Finance Accounts under A - Tax Revenue have been excluded from the revenue raised by the State and included in State's share of divisible union taxes in this statement.

1.1.2 The details of tax revenue raised during the period 2009-10 to 2013-14 are given in **Table-1.2**.

Table- 1.2

Details of Tax Revenue raised

Sl. No.	Head of revenue	2009-10		2010-11		2011-12		2012-13		2013-14		Percentage of increase (+)/decrease (-) in actual of 2013-14 in comparison to Actual of 2012-13	
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual		
1.	Taxes on Sales, Trade etc.	3,948.03	3,839.29	5,627.69	4,557.18	6,508.00	7,476.36	8,071.00	8,670.79	12,324.04	8,453.02	(-) 31.41	(-) 2.51
2.	Taxes on Goods and Passengers	1,270.00	1,613.16	1,623.76	2,006.32	1,940.00	828.30	2,800.00	1,932.12	1,192.75	4,349.00	(+) 264.62	(+) 125.09
3.	State Excise	850.00	1,081.68	1,400.00	1,523.35	1,790.00	1,980.98	2,715.00	2,429.82	3,300.00	3,167.72	(-) 4.01	(+) 30.37
4.	Stamps and Registration Fees	750.00	997.90	1,215.00	1,098.68	1,600.00	1,480.07	1,906.00	2,173.02	3,200.00	2,712.41	(-) 15.24	(+) 24.82
5.	Taxes on Vehicles	335.00	345.13	550.00	455.43	537.00	569.13	644.40	673.39	800.00	837.48	(+) 4.69	(+) 24.37
6.	Land Revenue	76.22	123.96	112.17	139.02	125.20	167.49	185.00	205.45	205.00	201.71	(-) 1.60	(-) 1.82
7.	Taxes and Duties on Electricity	63.06	66.63	90.25	65.22	60.70	54.69	60.70	102.55	66.17	141.31	(+) 113.56	(+) 37.80
8.	Other Taxes and Duties on Commodities and Services	32.50	21.92	24.29	24.65	24.99	25.52	41.99	28.99	34.14	50.43	(+) 47.69	(+) 73.92
9.	Other Taxes on Income and Expenditure- Taxes on Professions, Trades, Callings and Employment	0.81	Nil	1.00	Nil	23.30	29.56	31.00	36.95	32.59	47.60	(+) 46.05	(+) 28.82
Total		7,325.62	8,089.67	1,0644.16	9,869.85	12,609.19	12,612.10	16,455.09	16,253.08	21,154.69	19,960.68	(-) 5.64	(+) 22.81

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

It can be seen from the table 1.2 that there was a variation of (-) 31.41 to (+) 264.62 *per cent* between the budget estimates and the actual during 2013-14. Further there was a variation of (-) 2.51 *per cent* to (+) 125.09 *per cent* between actuals of 2012-13 and 2013-14 under various heads of taxes.

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

Stamps and Registration fees: The increase (24.82 *per cent*) over the actual of 2012-13 was due to increase in value of registered documents.

The other departments did not inform (August 2014) the reasons for variation, despite being requested (between April and July 2014).

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

1.1.3 The details of non-tax revenue raised during the period 2009-10 to 2013-14 are indicated in **Table 1.3**.

Table- 1.3
Details of Non-tax Revenue raised

Sl. No.	Head of Revenue	2009-10		2010-11		2011-12		2012-13		2013-14		Percentage of increase (+)/decrease (-) in actual of 2013-14 in comparison to 2012-13	
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual		
1.	Non-ferrous Mining and Metallurgical Industries	180.00	319.93	294.00	405.59	280.00	443.10	470.00	511.08	641.00	569.14	(-) 11.21	(+) 11.36
2.	Interest Receipts	53.62	353.27	216.37	237.96	370.82	573.70	263.74	167.12	338.48	269.48	(-) 20.39	(+) 61.25
3.	Roads and Bridges	19.03	30.02	27.98	39.60	33.00	60.35	44.67	32.56	64.03	40.72	(-) 36.40	(+) 25.06
4.	Medical and Public Health	13.39	14.08	17.60	15.33	14.94	23.91	13.41	41.02	25.40	29.93	(+) 17.83	(-) 27.04
5.	Police	42.27	11.89	56.52	11.85	12.62	9.26	67.83	25.01	70.59	27.27	(-) 61.37	(+) 9.04
6.	Forestry and Wild Life	10.00	6.78	6.55	7.64	8.00	11.04	7.05	16.60	13.20	19.58	(+) 48.33	(+) 17.95
7.	Medium Irrigation	3.50	14.80	4.00	15.45	4.00	17.59	4.00	13.99	4.00	18.22	(+) 355.50	(+) 30.24
8.	Fisheries	7.66	7.87	7.32	7.28	15.89	10.16	9.14	11.79	10.78	10.72	(-) 0.56	(-) 9.08
9.	Other Administrative Services	100.39	9.42	39.37	19.98	59.64	11.49	46.56	10.01	65.01	10.18	(-) 84.34	(+) 1.70
10.	Miscellaneous General Services	387.20	770.28	385.27	0.34	0.34	(-)383.78	1.20	22.03	0.86	0.28	(-) 67.44	(-) 98.73
11.	Other non-tax receipts		132.08		224.51		113.04		284.06		549.31		(+) 93.39
	Total		1,670.42		985.53		889.86		1,135.27		1,544.83		(+) 36.08

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

It can be seen from the above table that there was a variation of (-) 84.34 to (+) 355.50 *per cent* between the budget estimates and the actual during 2013-14. Further, there was a variation of (-) 98.73 *per cent* to (+) 93.39 *per cent* between actuals of 2012-13 and 2013-14 under various heads of taxes.

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

Mines and Geology Department: The increase (11.36 *per cent*) over the actual of 2012-13 was due to increased bidding amount of sand *ghats* and decrease 11.21 *per cent* in comparison to BE in 2013-14 was due to non-settlement of several sand *ghats*.

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

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2014 in respect of the principal heads of revenue amounted to ₹ 2,593.05 crore of which ₹ 536.77 crore was outstanding for more than five years as detailed in the **Table-1.4**.

Table- 1.4
Arrears of revenue

(₹ in crore)

Sl. No.	Heads of revenue	Amount outstanding as on 31 March 2014	Amount outstanding for more than five years as on 31 March 2014	Replies of Department
1.	Taxes on Sales, Trade <i>etc.</i>	1,505.92	385.27	Out of ₹ 1,505.92 crore, demands for ₹ 330.39 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 325.35 crore and ₹ 12.55 lakh were stayed by the courts and the Government respectively and recovery of ₹ 3.38 crore was held up due to rectification/review. An amount of ₹ 846.67 crore was pending at other stages.
2.	Taxes on Goods and Passengers	572.00	4.39	Out of ₹ 572.00 crore, demands for ₹ 17 lakh were certified for recovery as arrears of land revenue. Recovery of ₹ 485.13 crore was stayed by the courts. An amount of ₹ 86.70 crore was pending at other stages.

3.	Taxes and Duties on Electricity	97.94	2.36	Out of ₹ 97.94 crore, demands for ₹ 1.49 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 69.08 lakh and ₹ 8.22 lakh were stayed by the courts and the Government respectively. An amount of ₹ 95.67 crore was pending at other stages.
4.	State Excise	46.17	14.45	Out of ₹ 46.17 crore, demands for ₹ 21.25 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 1.35 crore and ₹ 5.08 lakh were stayed by the courts and the Government respectively and recovery of ₹ 13.77 lakh was held up due to dealer/party becoming insolvent. An amount of ₹ 39.52 lakh was likely to be written off and ₹ 22.99 crore was pending at other stages.
5.	Other Taxes and Duties on Commodities and Services	10.05	9.46	Out of ₹ 10.05 crore, demands for ₹ 8.88 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 4.52 lakh was stayed by the courts. An amount of ₹ 1.13 crore was pending at other stages.
6.	Land Revenue	148.01	Nil	Stages at which the arrears were pending for collection have not been intimated, despite being requested (between April and July 2014).
7.	Mines and Geology	212.96	120.84	Out of ₹ 212.96 crore, demands for ₹ 185.02 crore were certified for recovery as arrears of land revenue. An amount of ₹ 27.94 crore was pending at other stages
Total		2,593.05	536.77	

(Source: Information furnished by the Departments)

It would be seen from the table that recovery of ₹ 536.77 crore was pending for more than five years and no sincere efforts were being made to recover them. Arrears of ₹ 1,081.10 crore were pending with the departmental authorities. The cases referred for write off (₹ 39.52 lakh) were also not being pursued with the quarters concerned.

1.3 Arrears in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and number of cases pending for finalisation at the end of the year as furnished by the Commercial Tax Department in respect of Taxes on Sales, Trade etc., Taxes on Goods and

Passenger, Other Taxes and Duties on Commodities and Services and Taxes and Duties on Electricity was as given in **Table 1.5**.

Table 1.5
Arrears in assessments

Head of revenue	Opening balance	New cases due for assessment during 2013-14	Total assessments due	Cases disposed of during 2013-14	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
1	2	3	4	5	6	7
Taxes on Sales, Trade etc.	7,618	52,579	60,197	21,226	38,971	35.26
Taxes on Goods and Passenger	327	1,589	1,916	682	1,234	35.59
Other Taxes and Duties on Commodities and Services	1,867	879	2,746	899	1,847	32.74
Taxes and Duties on Electricity	283	49	332	24	308	7.23

(Source: Information furnished by the Departments)

1.4 Evasion of tax

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

Table- 1.6
Evasion of Tax

Sl. No.	Head of revenue	Cases pending as on 31 March 2013	Cases detected during 2013-14	Total	(₹ in crore)		
					Number of cases in which assessments/investigation completed and additional demand including penalty etc., raised during the year 2013-14	Number of cases pending of initialization as on 31 March 2014	
					Number of cases	Amount of demand	
1.	Commercial Taxes ²	294	718	1,012	720	5.23	292
2.	State Excise	Nil	25	25	Nil	Nil	25

(Source: Information furnished by the Departments)

² Commercial taxes include Taxes on Sales, Trade etc., Taxes on Goods and Passengers; Taxes and Duties on Electricity; Other Taxes on Income and Expenditure-Taxes on Professions, Trades, Callings and Employment and Other Taxes and Duties on Commodities and Services.

It would be seen from the foregoing table that in Commercial Taxes Department the number of cases pending at the end of the year has slightly reduced than number of cases pending at the start of the year.

1.5 Pendency of Refund Cases

The number of refund cases pending at the beginning of the year 2013-14, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2013-14 as reported by the Department is given in **Table 1.7**.

Table- 1.7

Details of pendency of refund cases

(₹ in crore)

Sl. No.	Particulars	Taxes on Sales, Trade etc.		Entry tax		Entertainment tax		State Excise	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	1,708	80.67	100	1.09	6	0.02	433 ³	15.51
2.	Claims received during the year	477	101.42	12	17.10	Nil	Nil	632	16.38
3.	Refunds made during the year	501	102.07	9	3.38	Nil	Nil	431	11.83
4.	Balance outstanding at the end of the year	1,684	80.02	103	14.81	6	0.02	634	20.06

(Source: Information furnished by the Departments)

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

The progress to dispose of the refund cases of Tax on sales, trade etc. was very slow as compared to claims received.

1.6 Response of the Government /departments towards audit

The Accountant General (AG), Audit, Bihar conducts periodical inspection of the Government departments to test-check the transactions and verify the maintenance of the important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the Inspection Reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to promptly comply with

³ The opening balance of 433 cases in respect of the State Excise as reported by the Department differs from the closing balance of 438 as reported by the Department during previous year and included in the last year's Audit report.

the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the AG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

Analysis of Inspection reports issued upto December 2013 disclosed that 27,764 paragraphs involving ₹ 17,825.55 crore relating to 4,806 IRs remained outstanding at the end of June 2014 as mentioned below along with the corresponding figures for the preceding two years in **Table 1.8**.

Table- 1.8
Details of pending Inspection Reports

	June 2012	June 2013	June 2014
Number of IRs pending for settlement	3,858	4,165	4,806
Number of outstanding audit observations	20,979	23,327	27,764
Amount involved (₹ in crore)	8,754.19	10,847.46	17,825.55

1.6.1 The Department-wise details of the IRs and audit observations outstanding as on 30 June 2014 and the amounts involved are mentioned in the **Table 1.9**.

Table- 1.9
Department-wise details of IRs

(₹ in crore)					
Sl. No.	Name of the departments	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Commercial Taxes	Taxes on Sales, Trade etc,	691	8,936	10,089.28
		Entry tax	180	554	247.34
		Electricity duty	24	29	39.68
		Entertainment tax, Luxury tax, etc.	22	41	7.34
2.	Registration, Excise and Prohibition (Excise)	State Excise	507	2,658	1,656.59
3.	Revenue and Land Reforms	Land Revenue	1,799	7,971	2,751.81
4.	Transport	Taxes on Vehicles	609	3,660	1,321.37
5.	Registration, Excise and Prohibition (Registration)	Stamps and Registration Fees	513	1,430	238.29
6.	Mines and Geology	Non-ferrous Mining and Metallurgical Industries	461	2,485	1,473.85
Total			4,806	27,764	17,825.55

Audit did not receive even the first replies from the heads of offices within one month from the date of issue of the IRs, for 1,773 IRs issued during 2013-14.

This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and the departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

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

1.6.2 Departmental audit committee meetings

The Government set up audit committees to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. One audit committee meeting with the Mines and Geology Department was held during the year 2013-14 wherein no paragraphs were settled. Holding of only one meeting during the entire year (2013-14) had deprived the Government of the opportunity of settlement of more number of outstanding audit observations as mentioned in preceding paragraph.

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

1.6.3 Non-production of records to audit for scrutiny

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

During the year 2013-14 as many as 587 assessment files, returns, refunds, registers and other relevant records were not made available to audit. In none of these cases the revenue involved could be ascertained. Break up of these cases are given in **Table 1.10**.

Table- 1.10

Details of non-production of records

Name of the Department	Year in which it was to be audited	Number of cases not audited
Revenue and Land Reforms	2013-14	500
Commercial Taxes	2013-14	34
Transport	2013-14	11
Registration, Excise and Prohibition (Excise)	2013-14	8
Mines and Geology	2013-14	34
Total		587

1.6.4 Response of the Departments to the draft audit paragraphs

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the AG to the Principal Secretaries/Secretaries of the concerned Department, drawing their attention to audit findings and requesting them to send their response within

six weeks. The fact of non-receipt of the replies from the Departments/ Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Forty four draft paragraphs including one Performance Audit and one Long draft paragraph were sent to the Principal Secretaries/Secretaries of the respective Departments by name between June and August 2014. The Principal Secretaries/Secretaries of the Departments did not send replies to 10 draft paragraphs despite issue of reminders (August 2014) and the same have been included in this Report without the response of the Departments.

1.6.5 Follow up on the Audit Reports-summarised position

The internal working system of the Public Accounts Committee (PAC), notified in December 2002, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. One hundred sixty nine paragraphs (including performance audit) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Bihar for the years ended 31 March 2009, 2010, 2011, 2012 and 2013 were placed before the State Legislature Assembly between July 2010 and August 2013. Action taken explanatory notes in respect of 98 paragraphs from departments concerned had not been received for the Audit Report for year ended 31 March 2003-04 to 2012-13 so far (August 2014).

The PAC discussed 169 selected paragraphs pertaining to the Audit Reports for the years from 2008-09 to 2012-13 and its recommendations on three paragraphs were incorporated in recommendation Report of PAC laid before the legislature during 2013-14. However, ATNS have not been received in respect of three recommendations of the PAC from the Registration, Excise and Prohibition Department and Transport Department.

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

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

The succeeding paragraphs 1.7.1 to 1.7.3 discuss the performance of the Registration, Excise and Prohibition (Registration) Department under revenue head '0030-Stamps and Registration Fees' and cases detected in the course of local audit during the last five years and also the cases included in the Audit Reports for the years 2008-09 to 2012-13.

1.7.1 Position of Inspection Reports

The summarised position of the inspection reports issued during the last five years, paragraphs included in these reports and their status as on 31 March 2014 are mentioned in **Table-1.11**.

Table 1.11
Position of Inspection Reports

(₹ in crore)

Sl. No.	Year	Opening Balance			Addition during the year			Clearance during the year			Closing balance		
		IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
1.	2008-09	336	940	79.75	41	103	64.00	Nil	Nil	Nil	377	1,043	143.75
2.	2009-10	377	1,043	143.75	34	71	2.90	Nil	Nil	Nil	411	1,114	146.65
3.	2010-11	411	1,114	146.65	24	53	22.43	Nil	Nil	Nil	435	1,167	169.09
4.	2011-12	435	1,167	169.09	29	54	52.18	Nil	3	0.005	464	1,218	221.26
5.	2012-13	464	1,218	221.26	45	188	12.90	Nil	4	0.20	505	1,402	233.96

The Government arranges ad-hoc Committee meetings between the Department and AG's office to settle the old paragraphs. As would be evident from the above table, against 336 outstanding IRs with 940 paragraphs as on start of 2008-09, the number of outstanding IRs accumulated to 505 with 1,402 paragraphs at the end of 2012-13. This is indicative of the fact that no adequate steps were taken by the Department in this regard resulting in heavy accumulation of the outstanding IRs and paragraphs.

1.7.2 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last five years, those accepted by the Department and the amount recovered are mentioned in **Table 1.12**.

Table 1.12

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Cumulative position of recovery of accepted cases as of 31.03.2014
2008-09	4 (Including one IT Review)	1.09	4	1.09	0.67
2009-10	1 (Review)	1.48	1 (partial)	0.34	0.11
2010-11	1	0.61	1 (partial)	0.61	0.55
2011-12	2	0.68	2	0.68	0.52
2012-13	3	6.40	3	6.40	0.19

It is evident from the above table that the progress of recovery even in accepted cases was very slow throughout during the last five years. The recovery of accepted cases was to be pursued as arrears recoverable from the concerned parties. No mechanism for pursuance of the accepted cases had been put in place by the Department/Government. Further, the arrear cases including accepted audit observations were not available with the Registration, Excise and Prohibition (Registration) Department. In the absence of a suitable mechanism, the Department could not monitor the recovery of accepted cases.

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

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

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

The following performance audit on the Department of Registration, Excise and Prohibition (Registration) are featured in the last five years Reports. The details of recommendations and their status are given in **Table 1.13**.

Table 1.13

Year of Audit Report/Name of the Performance Audit	Number of recommendations	Details of recommendations	Status
2009-10 Levy and collection of Stamp duty and Registration fee	6	Strictly follow the budgetary procedures under provision of Rule 54 of the Bihar Budget Procedures in preparation of budget estimates;	Reply has not been received
		Ensure that the internal control mechanism is strengthened and its effectiveness is periodically reviewed;	
		Fix the norms for periodical inspection of all public offices and prescribe reports/returns to be submitted by them and their periodicity of submission;	
		Prescribe a time frame for instituting revenue recovery certificates and follow up action thereof;	
		Prescribe a time limit for sending the referred/impounded cases and its finalisation;	
		Prescribe the rate of incidental expenses for collection of revenue on behalf of a body/authority/SCORE.	

1.8 Audit Planning

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of the audit observations and other parameters. The annual audit plan is prepared on the

basis of risk analysis which inter-alia include critical issues in government revenues and tax administration i.e. budget speech, white paper on state finances, Reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, factors of the tax administration, audit coverage and its impact during past five years etc.

During the year 2013-14, there were 963 auditable units, of which 295 units were planned and 286 units had been audited, which is 29.70 *per cent* of the total auditable units. The details are shown in the **Annexure-I**.

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

1.9 Results of audit

Position of local audit conducted during the year

Test-check of the records of 286 units of Commercial Taxes, State Excise, Taxes on vehicles, Stamp duty and registration fees, Land revenue and receipts from Mines and minerals conducted during the year 2013-14 showed underassessment/short levy/loss of revenue aggregating ₹ 2,310.97 crore in 3,357 cases. During the period April 2013 to August 2014, the Departments concerned accepted underassessment and other deficiencies of ₹ 785.06 crore which were pointed out in audit during 2013-14.

1.10 Coverage of this Report

This Report contains 44 paragraphs (selected from the audit detections made during the local audit referred to above and during earlier years, which could not be included in earlier reports) including one Performance audit on 'Levy and collection of Entry Tax', involving financial effect of ₹ 1,403.80 crore.

The Departments/Government have accepted audit observations involving ₹ 841.24 crore out of which ₹ 16.53 crore had been recovered. The replies in the remaining cases have not been received (August 2014). These are discussed in succeeding Chapters II to VI.

CHAPTER-II

COMMERCIAL TAXES

CHAPTER-II: COMMERCIAL TAXES

2.1 Tax administration

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

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

It is administered by the Commercial Taxes Department which is headed by the Commissioner of Commercial Taxes (CCT). In the exercise of his functions, the CCT is assisted by five Additional Commissioners, three Joint Commissioners of Commercial Taxes (JCCT), 10 Deputy Commissioners of Commercial Taxes (DCCT)/Assistant Commissioners of Commercial Taxes (ACCT) and five Commercial Taxes Officers (CTO) at the headquarters level including the Bureau of Investigation wing. At the field level the State is divided into nine² administrative divisions, seven³ appeals divisions and four⁴ audit divisions, each headed by a JCCT. The nine administrative divisions are further sub-divided into 49 circles each headed by a DCCT/ACCT assisted by CTOs. The circle is the basic activity centre of the Department.

2.2 Results of audit

In the course of audit of the records of 40 units out of 55 auditable units relating to commercial taxes during the year 2013-14, we found underassessment of taxes and other irregularities involving ₹ 2,025.73 crore in 1,563 cases which fall under the following categories as detailed in **Table 2.1**.

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

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

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

⁴ Bhagalpur, Magadh, Patna and Tirhut.

Table- 2.1

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
A: Taxes on sales, trade etc./ VAT			
1.	Suppression of turnover	152	276.00
2.	Incorrect allowance of deductions	200	36.94
3.	Application of incorrect rates of tax	118	33.36
4.	Excess allowance of ITC	89	30.40
5.	Incorrect/excess reimbursement of VAT/Entry Tax	86	28.59
6.	Non calculation of reverse credit	14	17.32
7.	Irregular deduction on account of transit sales	12	15.78
8.	Short Payment of Tax and Non-levy of Interest	106	9.65
9.	Non-levy of Interest	80	3.26
10.	Non-levy of purchase tax	10	0.77
11.	Other cases	446	147.71
Total		1,313	599.78
B: Entry Tax			
1.	Performance audit on ‘Levy and collection of Entry tax’	1	812.99
2.	Short levy of entry tax due to suppression of import value	46	92.14
3.	Application of incorrect rates of entry tax	23	28.00
4.	Other cases	156	48.40
Total		226	981.53
C: Electricity duty			
1.	Non/short levy of electricity duty	2	20.73
2.	Non- levy of electricity duty due to concealment of sales of energy	2	416.96
Total		4	437.69
D: Entertainment/Luxury Tax			
1.	Non/short levy of entertainment tax	4	5.62
2.	Non/short levy of luxury tax	2	0.87
3.	Other cases	14	0.24
Total		20	6.73
Grand Total		1,563	2,025.73

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 28.04 crore in 114 cases which were pointed out during the earlier years and an amount of ₹ 24.39 lakh was realised in 32 cases which were pointed out between 2009-10 and 2012-13.

Audit findings of the Performance audit on ‘**Levy and collection of Entry tax**’ with financial impact of ₹ 812.99 crore and a few other illustrative audit observations involving ₹ 548.61 crore including leviable penalty and interest are mentioned in the succeeding paragraphs.

2.3 Performance audit on ‘Levy and Collection of Entry Tax’

Highlights

Deviation from the cabinet decision was made while issuing notification for increase of rate of entry tax from four to five *per cent*, which involved revenue impact of ₹ 8.37 crore.

(Paragraph 2.3.7.1)

Provisions relating to scrutiny of returns, levy of interest and fine and tax audit were not applicable under the BTEG Act due to non-amendment of the provision of Section 8 of the BTEG Act after the introduction of BVAT Act bringing out these new features.

(Paragraph 2.3.8.1)

A sum of ₹ 7,482.61 crore collected under Bihar Trade Development Fund was not utilised for the purposes and the manner prescribed under the BTEG Act.

(Paragraph 2.3.9)

In 15 circles, 26 dealers did not get themselves registered under the BTEG Act despite import of scheduled goods of ₹ 37.88 crore which resulted into short levy of entry tax of ₹ 4.24 crore including penalty.

(Paragraph 2.3.11)

In 13 circles, only 12.57 to 17.48 *per cent* dealers were assessed during the year 2008-09 to 2012-13.

(Paragraph 2.3.13)

In 14 circles, suppression of import value of ₹ 714.89 crore by 21 dealers resulted into short levy of entry tax of ₹ 223.29 crore including leviable penalty during 2009-10 to 2012-13.

(Paragraph 2.3.14)

In nine circles, application of incorrect rate of entry tax by 22 dealers resulted into short levy of entry tax of ₹ 66.66 crore including leviable penalty during 2009-10 to 2012-13.

(Paragraph 2.3.15)

Cross-verification of transactions revealed suppression of import value of ₹ 1,416.22 crore and short levy of entry tax of ₹ 119.03 crore including penalty during 2010-11 to 2013-14.

(Paragraphs 2.3.21.1 and 2.3.21.2)

In two check-posts, 12,552 vehicles with consignment value of ₹ 5,402.37 crore using out to out *suvridha* for transit through Bihar. Though they entered into Bihar but did not make exit leading to leakage of revenue.

(Paragraph 2.3.22)

2.3.1 Introduction

The levy and collection of entry tax is governed by the “Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale therein (BTEG) Act, 1993” and Rules made/notification issued thereunder. Entry tax is levied on entry of scheduled goods into a local area⁵ for consumption, use or sale therein for the purpose of development of trade, commerce and industry in the State, at such rate, not exceeding twenty *per cent*, of the import value of goods above a specified quantum, as may be specified by the State Government. The Commercial Taxes Department of the Government of Bihar has been assigned with the levy and collection of entry tax in Bihar.

It is also prescribed under the BTEG Act that where an importer of scheduled goods liable to pay tax under the Act incurs tax liability, at the rate specified under Section 14 of the Bihar Value Added Tax (BVAT) Act, 2005, by virtue of sale of imported Scheduled goods or sale of goods manufactured by consuming such imported Scheduled goods, his tax liability under the BVAT Act, 2005 shall stand reduced to the extent of tax paid under the BTEG Act.

2.3.2 Audit Objectives

The Performance Audit was conducted to ascertain whether:

- the notifications, circulars and instructions for entry tax administration were issued in prescribed manner and under proper authority;
- the provisions are in place and sufficient to keep effective check on assessment, levy and collection of entry tax;
- Rules and procedures laid down are being duly observed to levy and collection of entry tax in the State and the VAT liability is being reduced in the manner prescribed under the BTEG Act/Rules;
- the proceeds of the levy under the Act had been appropriated to the earmarked fund and utilised exclusively for the intended purposes and
- an adequate internal control and monitoring mechanism existed to ensure proper realisation of entry tax.

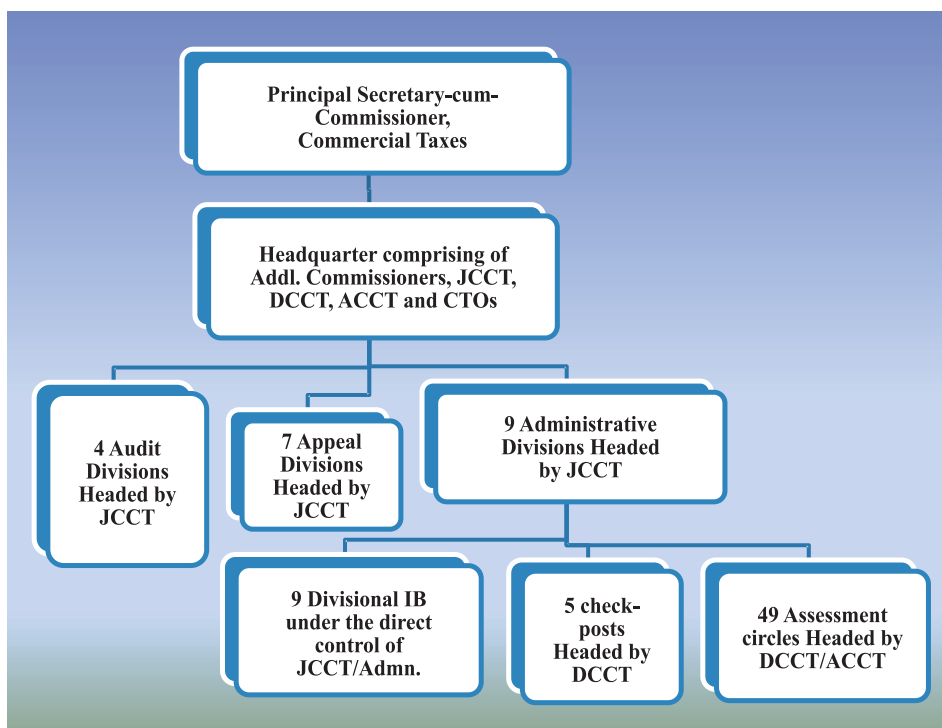
2.3.3 Organisational set up

At the apex level, Commissioner of Commercial Taxes (CCT) is responsible for the administration of the Acts and Rules in the Department. In the exercise of his functions, the CCT is assisted by Additional Commissioners, Joint Commissioners of Commercial Taxes (JCCT), Deputy Commissioners of

⁵ Local Areas means the areas within the limit of a Municipal Corporation, Municipality Notified Area Committee, Cantonment Board, Town Board, Mines Board, Municipal Board, Gram Panchayat and any other local authority under any law for the time being in force.

Commercial Taxes (DCCT)/Assistant Commissioners of Commercial Taxes (ACCT) and Commercial Taxes Officers (CTOs) at the headquarters level including the Bureau of Investigation (IB) wing. At the field level the State is divided into nine⁶ administrative divisions, seven⁷ appeals divisions and four⁸ audit divisions, each headed by a JCCT. The nine administrative divisions are further sub-divided into 49 circles each headed by a DCCT/ACCT assisted by CTOs. There are five⁹ integrated Check-posts located on five major entry points of the State.

Organisational Chart



2.3.4 Audit Criteria

The Audit criteria for the Performance Audit were derived from the following sources:

- Bihar Tax on Entry of Goods (BTEG) into Local Areas for Consumption, Use or Sale therein Act, 1993;
- Bihar Value Added Tax Act, 2005;
- The Rules made under the aforesaid Acts, executive and departmental orders and instructions issued from time to time; and
- Rules of Executive Business, 1979.

⁶ Bhagalpur, Central, Darbhanga, Magadh, Patna East, Patna West, Purnea, Saran and Tirhut.

⁷ Bhagalpur, Central, Darbhanga, Magadh, Patna, Purnea and Tirhut.

⁸ Bhagalpur, Magadh, Patna and Tirhut.

⁹ Dalkola, Dobhi, Jalalpur, Karmnasha and Rajauli.

2.3.5 Scope and Methodology

The Performance Audit was conducted between April and July 2014 covering the period 2008-09 to 2012-13. Records of the office of the CCT, Bihar including IB Headquarters, three Divisional IBs (Darbhanga, Muzaffarpur and Patna east and west) and 17¹⁰ out of 49 circles in the State were examined and the relevant information had been procured. Besides, two (Dobhi and Karmnasha) out of five check-posts were also taken up. The circle is main activity centre of the Department, where dealers are registered and file their returns and scrutiny/assessments are done by the DCCTs/ACCTs/CTOs. In selecting the circles, two highest revenue earning circles of each of the seven divisions and the highest revenue earning circles of the remaining two divisions have been selected for the Performance Audit. In addition, Darbhanga circle being the divisional headquarter (not selected by above method) was also selected to restrict number of circles as 17. Besides, audit observations made on assessments/self-assessments/scrutiny under the Act during compliance audit of other circles, which were audited during 2013-14 were also incorporated in this Performance Audit.

An entry conference was held with the Principal Secretary-cum-CCT in April 2014 wherein we explained objectives, scope and methodology of audit. The findings of the performance audit were forwarded to the Government and the Department in July 2014 for their response. An exit conference was held in July 2014 with the Secretary-cum-CCT in which the audit findings were discussed. Their comments have suitably been incorporated in the relevant paragraphs.

Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Taxes Department in providing the necessary information and records to Audit.

2.3.6 Trend of revenue

2.3.6.1 Variation between the Budget Estimates and receipts as per Finance Account

As per Rule 54 of the Bihar Budget Procedure (BBP) the estimates of revenue and receipts should show the amounts expected to be realised within the year. In estimating fixed revenue for the ensuing year, the calculation should be based upon the actual demand, including any arrears due for past years and the probabilities of their realisation during the year. The arrears and current demands should be shown separately and reasons given if full realisation cannot be expected. In the case of fluctuating revenue, the estimate should be based upon a comparison of the last three years receipts.

The variation between Budget estimates (BE) and receipts of entry tax appearing in the Finance Accounts during the period 2009-10 to 2013-14 along-with the total tax receipts during the same period is mentioned in **Table 2.2.**

¹⁰ Aurangabad, Barh, Begusarai, Bhagalpur, Darbhanga, Gaya, Hajipur, Katihar, Motihari, Muzaffarpur West, Patliputra, Patna Central, Patna City East, Patna Special, Patna South, Purnea and Samastipur.

Table- 2.2

(₹ in crore)

Year	Budget estimates	Receipts as per Finance Account	Variation	Percentage of variation	Total tax receipts of the State	Percentage of entry tax receipts (col.-3) vis-à-vis total tax receipts (col.-6)
1	2	3	4	5	6	7
2009-10	1,270.00	1,613.16	(+) 343.16	(+)27.02	8,089.67	19.94
2010-11	1,623.76	2,006.32	(+) 382.56	(+)23.56	9,869.85	20.33
2011-12	1,940.00	828.30	(-)1,111.70	(-) 57.30	12,612.10	6.57
2012-13	2,800.00	1,932.12	(-) 867.88	(-) 31.00	16,253.08	11.89
2013-14	1,192.75	4,349.00	(+) 3,156.25	(+) 264.62	19,960.67	21.79

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

The above table indicates that there was wide variation in the receipts vis-à-vis BEs during 2011-12 to 2013-14, which requires to be looked into by the Department. It may be seen that the percentage of variation ranged between (-) 57.30 *per cent* and (+) 264.62 *per cent* during the period 2009-10 to 2013-14. The percentage of entry tax to total tax revenue which remained around 20 *per cent* during the period 2009-10 to 2010-11 came down to 6.57 *per cent* only during 2011-12 and 11.89 *per cent* during 2012-13 but increased to 21.79 *per cent* during 2013-14.

The above table also indicates that the Budget estimates for the year 2013-14 was even lower than the average receipts of entry tax of last three years. This indicates that while preparing the Budget estimates for the year 2013-14, comparison of the entry tax receipts of last three years were not done.

2.3.6.2 Non-reconciliation of departmental revenue figures of entry tax with the figures of Finance Account

Rule 37 of the Bihar Financial Rules stipulates that it is the responsibility of the departmental officers to see that all sums due to the Government are regularly and promptly assessed, realised and duly credited in the public account and compare them with the records of the Accountant General (A&E) to see the amounts as realised have been duly credited in Public Account.

We observed in May 2014 from the revenue receipts of the Department as shown in the VATMIS (Value Added Tax Management Information System) and those appearing in the Finance Account that there were differences in the figures of receipts from entry tax shown in the Finance Accounts and the receipts of the Department as given in **Table 2.3**.

Table- 2.3

(₹ in crore)

Year	Budget Estimates	Receipts as per Finance Accounts	Receipts as per VATMIS	Variation
2009-10	1,270.00	1,613.16	1,591.79	(-) 21.37
2010-11	1,623.76	2,006.32	2,004.65	(-) 1.67
2011-12	1,940.00	828.30	2,591.16	(+) 1,762.86
2012-13	2,800.00	1,932.12	3,267.09	(+) 1,334.97
2013-14	1,192.75	4,349.00	4,271.15	(-) 77.85

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

As indicated in the table, the variation of the actual receipts shown in the Finance Accounts and those appeared in the VATMIS software of the Department ranged between (-) ₹ 77.85 crore and (+) ₹ 1,762.86 crore during 2009-10 to 2013-14. Wide variations were due to non-reconciliation of figures of entry tax receipts by the Department.

After these were pointed out, the Government stated in the exit conference held in July 2014 that Finance Accounts of these years has been finalised therefore the reconciliation of figures would be done from now at regular basis. As far as the specifics mentioned, the matter would be examined.

Audit Findings

2.3.7 Irregularities in issuing notifications at the Department level

2.3.7.1 Deviation from the Cabinet decision

Rule 18 (1) of the Rules of Executive Business, provides that when it has been decided to bring a case before the Council of Ministers, the Department to which the case belongs shall, prepare a memorandum, indicating with sufficient precision the salient facts of the case and the points for decision stating the main arguments for and against the particular course advocated, without over-stressing the advantages or under-stressing the disadvantages to suit the view finally recommended.

We observed during examination of file relating to a notification (S.O. 215 dated 27 November 2012) that there was proposal to increase the rate of entry tax of all those scheduled goods whose entry tax rate was four *per cent* and VAT rate was five *per cent* (Para no. 5.0) in the memorandum sent to the Council of Ministers. There were 11 such commodities/group of commodities in the schedule whose entry tax rate was four *per cent* and VAT rate was five *per cent*. But the draft notification as well as table-I mentioned in the memorandum had the mention of only nine commodities/group of commodities excluding entry no. 8 “Paper of all kinds excluding newsprint but including ...” and entry no. 26 “Petroleum coke and Bitumen” of the schedule. No reason was found recorded on the file for omission of these two commodities despite having fulfilled the criteria (VAT rate-five *per cent* and Entry tax rate-four *per cent*) adopted to increase the rate of entry tax of other nine goods. The same memorandum got approval of the Council of Ministers

and despite their approval entry tax rate of aforesaid two commodities could not be increased. This indicates lack of adequate controls as well as thorough preparedness by the Department while issuing the notification, which involved revenue impact of ₹ 8.37 crore on the “paper” only calculated on the basis of entry tax revenue collected on “paper” during December 2012 to March 2014. The revenue impact on account of Petroleum coke and Bitumen could not be worked out due to non-availability of revenue figures of these commodities.

2.3.7.2 Issue of notification on wrong premise

We observed during examination of file relating to a notification (S.O. 191 dated 17 October 2012) that there was proposal for reduction of rate of entry tax on Plyboard, Blackboard, flush-door and log, plank and veneer and Non-sal timber used in their manufacturing from eight *per cent* to five *per cent*.

The main reason for according approval of reduction of the rate of entry tax on the Plyboard and Blackboard was “to remove the difference between the rate of VAT and rate of Entry Tax”. The rate of VAT on the Plyboard etc. was quoted at four/five *per cent* and that of entry tax at eight *per cent* while approving the proposal on the file noting (page-4-N). Same points were mentioned in the memorandum sent to the Cabinet at para 2.2 (a).

However, it was found that the actual rate of VAT on Plyboard was 13.5 *per cent*¹¹ prevailing at the time of according approval (on 17 June 2012) for reduction in Entry Tax rate. The proposal for reduction of rate of Entry Tax on Plyboard to bring it at par with the VAT rate on Plyboard itself was based on wrong premise because the VAT rate on Plyboard was 13.5 *per cent* and Entry Tax rate on Plyboard was eight *per cent*. Thus, there was no need for reducing the rate of Entry Tax to make it at par with VAT rate. As a result, the Cabinet was misled to approve the proposal of reduction of rate of Entry Tax on Plyboard on a wrong premise and incorrect facts involving revenue impact of ₹ 5.41 crore.

2.3.7.3 Irregular prescribing of rate of goods without inclusion in the Schedule

Section 3 A of the BTEG Act provides that the State Government may, by notification, amend or alter the Schedule of this Act or add anything in it.

We observed during examination of file relating to a notification (S.O. 191 dated 17 October 2012) that the rate of entry tax was notified for “Blackboard, Flush Door including log, plank and veneer used in manufacture of Plyboard, Blackboard and Flush-door” without including them in the schedule appended with the Bihar Entry tax Act which was irregular.

After these cases were pointed out, the Government replied in the exit conference held in July 2014 that corrective remedial measures were being considered.

The Government may consider prescribing an internal control mechanism to ensure that all notifications are issued after due diligence and thorough scrutiny with respect to the existing laws.

¹¹ As per section 14 (1) (d) of BVAT Act, 2005, VAT rate was 13.5 *per cent* being goods not specified in any of the schedules i.e. schedule- I, II, III and IV.

2.3.8 System deficiencies

2.3.8.1 Absence of provision for levy of interest under the BTEG Act

Section 8 of the BTEG Act provides that subject to other provisions of this Act and the Rules framed thereunder the authority empowered to assess, reassess, collect and enforce payment of tax and penalty payable by a dealer under the Bihar Finance Act, 1981 (Bihar Act 5, 1981) shall assess, reassess, collect and enforce payment of tax and penalty payable under this Act and for this purpose they may exercise all or any of the powers assigned to them under the said Act and Rules made thereunder for the time being in force including the provisions relating to returns, assessment, reassessment, escaped assessment, recovery of tax, special mode of recovery, maintenance of accounts, inspection, search and seizure liability in representative character, refund, appeal, revision and reviews, statement of cases to the High Court, compounding of offences and other miscellaneous matter and the provisions of the said Act shall *mutatis mutandis* apply accordingly.

We observed that the assessing authorities draw their power from the provisions of Bihar Finance Act, 1981 while disposing off the cases of entry tax as the BTEG Act had no separate set of laws to deal with the assessment, re-assessment etc. Though the Bihar Finance Act, 1981 was repealed with effect from 1 April 2005 and replaced with the BVAT Act, 2005, but the above provision remained unamended. Further, many new features, such as levy of interest, fine, scrutiny of returns and tax audit etc. came into being after the introduction of BVAT Act, but these were not introduced under the Section 8 of the BTEG Act. In the absence of provision for interest, it cannot be imposed in the cases of non/delayed payment of entry tax.

Further, the Hon'ble Patna High court in the matter of Shree Shankar Ice and Cold Storage *vrs.* the State of Bihar and others (CWJC no. 19512/2010) also held that interest for non-payment of entry tax cannot be imposed as there is no substantial provision under the Entry tax Act for passing such interest. Therefore, in the absence of provision for interest there is no deterrent for the dealers for payment of entry tax, though during pre-VAT period (period prior to 1 April 2005) the deterrent measure for payment of entry tax was in existence as there was a provision of levy of penalty for such default under the erstwhile Bihar Finance Act, 1981 and the provision of Section 8 of the BTEG Act was sufficient for levy of such penalty. But BVAT Act provides for levy of interest for non-payment of tax instead of penalty and accordingly the provision of BTEG Act was not amended to include interest in Section 8 of the said Act. Therefore, due to absence of provision for interest in the BTEG Act, there was no deterrent measure for the default of non/delayed payment of entry tax.

After this was pointed out, the Government replied in the exit conference held in July 2014 that the remedial measures were being considered.

The Government may consider bringing out suitable amendments to make the new features relating to interest, fine, scrutiny and tax audit etc. of the BVAT Act, applicable under the BTEG Act.

2.3.8.2 Incomplete format of returns

- We observed that the liability of any dealer under the BTEG Act is determined on the basis of import of scheduled goods and rate of entry tax thereon. But the format of quarterly as well as annual return does not contain field to incorporate the name of goods imported by any dealer, so that the application of correct rate could be verified.
- As per the third proviso to Rule 4(A) of BTEG Rules, 1993, reduction from the tax (VAT) liability shall be admissible only if the dealer specifically mentions in the returns filed under Section 24 of the BVAT Act, 2005, the challan number, date and the amount by which the payment of entry tax in relation to which the reduction has been claimed, has been made.

We observed that the format of returns (quarterly as well as annual) prescribed under Section 24 of the BVAT Act, does not provide fields for mentioning the challan number, date and the amount of entry tax paid by the dealer.

After these cases were pointed out the Government replied in the exit conference held in July 2014 that remedial measures were being considered.

2.3.8.3 Non-prescribing of the due date for filing of monthly abstract

Under the provision of sub-rule (1) of Rule 4 of the BTEG Rules, every registered dealer or any other person liable to pay tax under sub-section (2) of Section 3 of the Act shall furnish an abstract of monthly import of goods in form ET-III.

We observed that the due dates for filing of returns were prescribed for quarterly as well as annual returns under the BVAT Act and the same due dates apply for filing of quarterly as well as annual return under the BTEG Act. But no due date was prescribed for filing of monthly abstract of import of goods in ET-III after the abolition of Monthly Return under the BVAT Act, 2005 w.e.f. 21 July 2007, though the BTEG Rules provide to furnish such monthly abstract.

After this was pointed out, the Government accepted the audit observation and stated in the exit conference held in July 2014 that in respect of monthly abstract of entry tax (ET-III) the inconsistency between Act and Rule would be removed.

2.3.8.4 Evidence in support of claim for exemption from entry tax on local goods

Under the provision of Rule 7 of the BTEG Rules, every registered dealer or importer shall file a copy of the relevant cash memo, bill or invoice containing the required certificate along-with a statement of all such cash memo etc. before the assessing authority for claiming exemption from tax on such goods at the time of assessment.

We observed that there was no provision for regular assessment under the BTEG Act and in that case the claims of the dealer regarding exemption from entry tax on the ground of locally manufactured/produced goods cannot be verified as there is no other alternate mechanism for the aforesaid documents to be filed in support of the proof of claim for exemption from entry tax. In the

absence of such supporting documents (cash memo, bill or invoice) possibility of availing of irregular exemption in the name of local goods cannot be ruled out.

After this was pointed out, the Government replied in the exit conference held in July 2014 that the Department was proposing to bring out amendment by adding provision of scrutiny under Section 8 of the BTEG Act, 1993.

Compliance deficiencies

2.3.9 Short utilisation of the Fund

Section 4 of the BTEG Act provides that “The proceeds of the levy under the Act shall be appropriated to the Bihar Trade Development Fund (Fund) and shall be utilised exclusively for the development of trade, commerce and industry in the State of Bihar which shall include (a) Construction, development and maintenance of roads and bridges for linking the market and industrial areas to their hinterlands, (b) Providing finance, aids, grants and subsidies to financial, industrial and commercial units, (c) Creating infrastructure for supply of electrical energy and water supply to industries, marketing and other commercial complexes and (d) Creation, development and maintenance of other infra-structure for the furtherance of trade, commerce and industry in general.

Accordingly, the Finance Department, Government of Bihar, issued a notification (October 2006) for creation of the said Fund. As per the notification, the amount of entry tax deposited under Major head- 0042, Minor head- 106 shall be treated as collection under the Fund and shall be part of the consolidated Fund of the State and the expenditure of the amount of the Fund shall be made for the purposes given above from (a) to (d). The notification further provides that a sub-head shall be opened under sub-major head/minor head under the Major Heads 3054- Roads and Bridges, 5054- Capital outlay on Road and Bridge, 2852- Industry, 2801- Electricity, 2215- Water supply and sanitation to ensure whether the entire proceeds accumulated to the Fund is being utilised or not.

We observed from the Appropriation Accounts, Government of Bihar for the period 2008-09 to 2012-13 that a sum of ₹ 7,650.08 crore was collected under entry tax (Major head-0042, minor head-106) by the Government of Bihar and a sum of ₹ 172.35 crore only was allocated from the said Fund for the aforesaid purposes. We further observed that out of ₹ 172.35 crore, a sum of ₹ 167.47 crore only was spent between 2010-11 and 2012-13 and no sum was found allocated during the period from 2008-09 and 2009-10. Thus, it is evident that the Government of Bihar had not utilised ₹ 7,482.61 crore collected under entry tax for the purposes and the manner prescribed as given above. Hence the legislative intent towards creation of such a Fund could not be fulfilled and it adversely affected the goal of reaching the National average in terms of infrastructures.

After this was pointed out, the Government accepted the audit observation in the exit conference held in July 2014 and stated that the action was being taken to ensure utilisation of money in the Fund for the intended purposes.

The Government may consider devising a monitoring mechanism to ensure that the proceeds of entry tax accumulated in the Fund is allocated and utilised for the intended purposes only.

2.3.10 Registration and Security

As per the provision of Section 5 of the BTEG Act, every dealer in scheduled goods shall get himself registered under the Act in such manner as may be prescribed. Rule 3 of the BTEG Rules provides that in order to ensure proper payment of tax, the officer-in-charge of the Circle, before granting the certificate of registration may require a dealer to furnish such security and in such manner as he may consider desirable. But such security shall not be more than the amount of tax which may be estimated as payable for a year.

- In 14 circles¹², we observed from the commodity-wise tax payment under VAT during 2008-09 to 2012-13 and comparing them with the number of dealers registered under the BTEG Act (as provided by the circle) that a large number of dealers who dealt in scheduled goods were not registered under the BTEG Act as given in **Table 2.4**.

Table- 2.4

	2008-09	2009-10	2010-11	2011-12	2012-13
Actual no. of dealers in scheduled goods	3,797	4,022	4,220	4,733	5,503
No. of dealers registered under the BTEG Act	2,112	2,357	2,777	3,077	4,094
No. of dealers unregistered under the BTEG Act despite dealing in scheduled goods	1,685	1,665	1,443	1,656	1,409
Percentage of unregistered dealers	44.37	41.39	34.19	34.98	25.60

(Source: Information furnished by the Department)

Thus, it is evident from the above table that percentage of eligible but unregistered dealers dealing in scheduled goods under the BTEG Act during 2008-09 to 2012-13 came down from 44.37 to 25.60. However a large number of dealers still remained unregistered under the BTEG Act. These dealers were liable for penalty under the provision of Section 28 of the BVAT Act read with Section 8 of the BTEG Act besides tax. This also indicates absence of mechanism for cross-verification of information between the returns filed by the dealer under the BVAT Act and the BTEG Act.

After this was pointed out, the Government stated in the exit conference held in July 2014 that the audit observation was well made and assured considering the development of a mechanism so that eligible dealers get registered and the tax net widened.

¹² Aurangabad, Barh, Begusarai, Bhagalpur, Gaya, Hajipur, Katihar, Muzaffapur West, Patna City East, Patna south, Purnia, Patliputra, Patna special and Samastipur.

The Government may consider making a system of cross-verification of sales and purchases given in the VAT returns/statements filed by the dealers to detect the unregistered dealers under the BTEG Act.

- The status of registration and furnishing of security provided by 14 test-checked circles is given in **Table 2.5**.

Table- 2.5

Year	No. of dealers applied for registration	No. of dealers registered during the year	Registration without any security
2008-09	261	253	09
2009-10	248	237	08
2010-11	402	391	34
2011-12	340	328	47
2012-13	1,020	1,005	86
Total	2,271	2,214	184

(Source: Information furnished by the Department)

In Gaya circle, we observed that 184 out of 214 dealers were granted registration certificate without obtaining any security during 2008-09 to 2012-13. In other test-checked circles, no information with regard to number of dealers registered without security was furnished to us. In the cases of registration without any security, realisation of arrear of revenue, if any, may become difficult. We further observed that obtaining of security from the dealers was upon discretion of the Registering Authority under the provision of the Act and no criteria or guideline was prescribed for exercising the discretionary power.

After this was pointed out, the Government stated in the exit conference held in July 2014 that obtaining security was not statutorily mandatory. However, audit advice would be considered.

The Government/Department may consider prescribing criteria or guideline for the Registering Authority in exercising discretionary power for obtaining of security.

- In Begusarai circle, we observed during test-check of 10 permanent registration record of the dealer that 5 dealers were registered without submitting any kind of security. We further observed that in five cases security bond in form ET-XII was submitted by the dealer having two sureties but the signature of the sureties was not found verified by the Registering Authority.

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

2.3.11 Non-levy of entry tax and penalty due to non-registration under the BTEG Act

As per the provision of Section 5 of the BTEG Act, every dealer in scheduled goods shall get himself registered under the BTEG Act in such manner as may be prescribed. Further, under the provision of Section 28 of the BVAT Act, if the prescribed authority is satisfied that any dealer was liable to pay tax and wilfully failed to apply for registration, he shall assess to the best of his

judgement, the amount of tax due, if any, and he may direct that the dealer shall pay by way of penalty, in addition to the amount of tax assessed, a sum of rupees one hundred for every day of default or an amount equal to tax assessed, whichever is higher.

- In 15 circles¹³, we observed that 26 dealers had imported/purchased the scheduled goods of ₹ 37.88 crore during 2008-09 to 2012-13 but did not get themselves registered under the BTEG Act. The Assessing Authorities (AAs) could not detect the fact of non-registration though the information relating to their liability for registration was available with the AAs in the VAT/other records maintained in the circles. This resulted in non-levy of entry tax of ₹ 4.24 crore including penalty of ₹ 2.13 crore as detailed in **Annexure- II**.

After this was pointed out, the AAs of Gaya and Patna west circle raised demand of ₹ 24.18 lakh in two cases in July and August 2014. The Government stated in the exit conference in July 2014 that the observation was well made. It was also a matter of concern to the Department.

- In six circles¹⁴, we observed from the information gathered from VATMIS and their subsequent scrutiny that 830 brick kilns were registered under the BVAT Act. One of the main ingredients for manufacturing of brick in Bihar is coal, which is a scheduled commodity under the BTEG Act. Despite dealing in schedule goods, only 84 out of these 830 brick kilns were registered under the BTEG Act and thus 746 brick kilns were unregistered under the BTEG Act. This resulted into substantive loss of revenue in shape of entry tax besides leviable penalty.

After this was pointed out, the Government stated in the exit conference held in July 2014 that in recent years action had been taken to get brick kilns registered under the BTEG Act, to widen the tax net. Positive results have been found. It was also a matter of concern to the Department and special attention on import of Coal from Jharkhand was required.

2.3.12 Returns

2.3.12.1 Non-filing of returns

Under the provision of sub-rule (1) of Rule 4 of the BTEG Rules, every registered dealer or any other person liable to pay tax under sub-section (2) of Section 3 of the Act shall furnish an abstract of monthly import of goods in Form ET-III, a true and complete return for each quarter in Form ET-IV and also an annual return for each year in Form ET-V.

We observed that there was lack of monitoring of the compliance of the provisions of the BTEG Act/Rules as the audit scrutiny in the 15 test-checked circles revealed that 17.08 to 28.12 *per cent* of the registered dealers had not filed their returns during the year 2008-09 to 2012-13. The details are given in **Table 2.6**.

¹³ Barh, Bhagalpur, Gaya, Hajipur, Jamui, Katihar, Munger, Muzaffarpur west, Patliputra, Patna City east, Patna South, Patna west, Purnea, Samastipur and Sasaram.

¹⁴ Aurangabad, Begusarai, Bhagalpur, Darbhanga, Gaya and Samastipur.

Table-2.6

Year	No. of circles	No. of registered dealers	No. of dealers who have not filed their returns	Percentage of dealers not filing return
2008-09	13	1,767	497	28.12
2009-10	13	1,956	419	21.42
2010-11	14	2,465	668	27.09
2011-12	14	2,757	605	21.94
2012-13	14	3,571	610	17.08

(Source: Information furnished by the Department)

The above findings are indicative of absence of a system for monitoring of the filing of returns.

After this was pointed out, the Government accepted the audit observation in the exit conference held in July 2014.

2.3.12.2 Non-levy of penalty

As per the provision of Rule 10 of the BTEG Rules, if any dealer or importer who contravenes the provisions of these Rules shall be punishable with a penalty not exceeding one thousand rupees and where the contravention is continuing one with a penalty not exceeding rupees twenty five for every day of such contravention.

- In 11 circles¹⁵, we observed that 96 dealers had not filed/submitted Annual Return of entry tax (ET-V) for the period 2011-12 and 2012-13. But the penalty of ₹ 1.16 lakh was not found levied by the AAs.
- In six circles¹⁶, we observed that 48 dealers had not filed/submitted part-A of the Annual Return of entry tax (ET-V) for the period 2011-12 and 2012-13. But penalty of ₹ 48,000 was not found levied by the AAs.
- In 13 circles¹⁷, we observed that 44 dealers had not filed/submitted quarterly return of entry tax (ET-IV) for the period 2011-12 and 2012-13. But the penalty of ₹ 46,000 was not found levied by the AAs.
- In 15 circles¹⁸, we observed that 176 dealers had not filed/submitted monthly abstract of entry tax (ET-III) for the period 2011-12 and 2012-13. But penalty of ₹ 1.97 lakh was not found levied by the AAs.

Above findings are indicative of absence of a system for monitoring of the filing of returns/abstract.

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

¹⁵ Aurangabad, Barh, Darbhanga, Gaya, Hajipur, Muzaffarpur West, Patliputra, Patna City East, Patna Special, Purnea and Samastipur.

¹⁶ Aurangabad, Bhagalpur, Darbhanga, Hajipur, Patna City East and Patna Special.

¹⁷ Aurangabad, Barh, Bhagalpur, Darbhanga, Gaya, Hajipur, Muzaffarpur West, Patliputra, Patna City East, Patna South, Patna Special, Purnea and Samastipur.

¹⁸ Aurangabad, Barh, Begusarai, Bhagalpur, Darbhanga, Gaya, Hajipur, Katihar, Muzaffarpur West, Patliputra, Patna City East, Patna South, Patna Special, Purnea and Samastipur.

The Government may consider prescribing a mechanism for effective monitoring of filing of returns and to ensure their proper assessment.

2.3.13 Assessment

Section 27 of the BVAT Act, 2005, amended w.e.f. 27 May 2011 provides that if a registered dealer fails to furnish, before the due date specified under sub-section (3) of Section 24, the return specified under sub-section (3) of Section 24, the prescribed authority shall, after giving the dealer a reasonable opportunity of being heard, assess to the best of its judgment, the amount of tax due from the dealer and interest.

We observed in 13 test-checked circles¹⁹ that 1,767 to 3,571 dealers were registered in these circles during 2008-09 to 2012-13. But assessment of only 300 to 449 cases were made by the AAs during 2008-09 to 2012-13 as given in **Table 2.7**.

Table- 2.7

Year	No. of registered dealers	No. of dealers who have not filed their returns	No. of dealers assessed	Percentage of registered dealers assessed
2008-09	1,767	497	309	17.48
2009-10	1,956	419	300	15.33
2010-11	2,465	668	322	13.06
2011-12	2,757	605	354	12.84
2012-13	3,571	610	449	12.57

(Source: Information furnished by the Department)

Above table indicates that very low number of cases ranging from 12.57 per cent to 17.48 per cent was assessed, though 419 to 668 dealers were liable to be mandatorily assessed under Section 27 of the Act *ibid* for non-filing of returns which point towards weak internal control mechanism in the Department.

After this was pointed out, the Government accepted the audit observation in the exit conference held in July 2014 and assured that the necessary action would be taken.

2.3.14 Suppression of import value

Under the provision of Section 8 of the BTEG Act, read with Section 31(2) of the BVAT Act, if the prescribed authority is satisfied that in respect of any assessment, any sale or purchase of goods liable to tax under the Act, has been underassessed or has escaped assessment, the prescribed authority shall assess or reassess the tax payable by such dealer within four years. In case of wilful omission by the dealer to disclose full and correct particulars of such sale or purchase or input tax credit, the prescribed authority shall impose, besides the amount of interest payable, penalty equal to three times the amount of tax which escaped assessment.

¹⁹ Aurangabad, Barh, Begusarai, Gaya, Hajipur, Katihar, Muzaffarpur West, Patliputra, Patna City East, Patna South, Patna Special, Purnea and Samastipur.

We observed that there is no provision for verification of the turnover as disclosed in the entry tax returns with other records of the dealer like utilisation statements of road permits, declaration forms as well as Tax Audit Report (TAR) and VAT returns or information of sales and purchases obtained from the records of other dealers.

- In 14 circles²⁰, from the cross-checking of the utilisation of declaration forms *etc.* with the returns filed by 21 out of the 964 dealers whose records were test- checked, we observed that they had disclosed import value of scheduled goods of ₹ 1,077.58 crore in their returns instead of the actual amount of ₹ 1,792.47 crore as shown in the utilisation statement of declaration forms 'C', Road permits, purchase statements, VAT returns and TAR *etc.* and thus suppressed import/purchase of scheduled goods of ₹ 714.89 crore during 2009-10 to 2012-13. Absence of a mechanism for such cross-verification resulted in short levy of entry tax of ₹ 223.29 crore including penalty of ₹ 167.60 crore as detailed in **Annexure- III**.

After this was pointed out, the AAs of four circles²¹ raised a demand of ₹ 3.99 crore in case of six dealers between April and August 2014.

- In 13 circles²², from the cross-checking of the utilisation statement of declaration forms 'C', Road permits, purchase statements, VAT returns and TAR *etc.* with the returns filed by 24 dealers, out of the 964 dealers whose records were test-checked, we observed that these dealers had shown their entry tax liability of ₹ 59.92 lakh only in their returns whereas they had the liability of ₹ 52.92 crore during 2008-09 to 2012-13. Thus, the dealers disclosed their entry tax liability short by ₹ 52.32 crore which remained undetected by the AAs. This resulted in short/non-levy of entry tax of ₹ 52.32 crore as detailed in **Annexure- IV**.

After this was pointed out, the AAs of Begusarai and Patna Special circle raised a demand of ₹ 65.24 lakh in case of four dealers in July and August 2014.

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

2.3.15 Application of incorrect rate of entry tax

Under the provision of Section 3 of the BTEG Act, there shall be levied and collected a tax on entry of scheduled goods into a local area at such rate not exceeding 20 *per cent* of the import value of such goods as may be specified by the State Government in a notification published in the Official Gazette. Further, under the provision of Section 8 of the BTEG Act, read with Section 31(2) of the BVAT Act, penalty equivalent to three times of the amount of tax on escaped assessment and interest at the rate of one and half *per cent* per month is also leviable on the amount underassessed.

²⁰ Barh, Begusarai, Bhagalpur, Gaya, Hajipur, Patliputra, Patna City East, Patna City West, Patna South, Patna Special, Patna West, Sahabad (Ara), Samastipur, and Sasaram.

²¹ Patna City west, Patna south, Patna special and Patna west

²² Barh, Begusarai, Bhagalpur, Darbhanga, Gaya, Hajipur, Jamui, Muzaffarpur west, Patliputra, Patna Central, Patna City east, Patna North and Patna Special.

In nine circles²³, we observed that 22 dealers, out of the 964 dealers whose records were test-checked, imported scheduled goods of ₹ 426.82 crore during the period between 2009-10 and 2012-13 and assessed themselves by admitting the entry tax at rates lower than the prescribed rates in their returns. Due to absence of mechanism for verification of application of rates, these cases remained undetected by the AAs. This resulted in underassessment of entry tax of ₹ 66.66 crore including penalty of ₹ 49.99 crore as detailed in **Annexure- V**.

After this was pointed out, the AAs of four circles²⁴ raised a demand of ₹ 6.39 crore in case of four dealers between March and August 2014.

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

2.3.16 Non/short payment of entry tax

Under the provisions of Section 24 of the BVAT Act read with Section 8 of the BTEG Act, every dealer shall deposit the tax payable in respect of every month on or before the 15th day of the following month.

In nine circles²⁵, we observed that 19 dealers, out of the 964 dealers whose records were test-checked, had admitted their entry tax liability of ₹ 707.06 crore during 2009-10 to 2012-13 in their returns, but they actually paid the entry tax of ₹ 571.46 crore only. This resulted in non/short payment of entry tax of ₹ 135.60 crore as detailed in **Annexure- VI**.

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

2.3.17 Incorrect adjustment of entry tax towards payment of VAT/CST

Section 3 (2) of the BTEG Act provides that, if any dealer liable to pay tax under the Act by virtue of sale of imported scheduled goods or sale of goods manufactured out of such imported scheduled goods incurs any liability to pay tax at the rate specified under Section 14 of the BVAT Act, his tax liability under the BVAT Act shall stand reduced to the extent of tax paid under the BTEG Act.

Provided that in case of a manufacturer, the reduction in tax liability as aforesaid shall only be allowed to industrial units of the small scale sector, the medium scale sector and sick industrial units.

Provided that the said reduction in tax shall be available to manufacturer if the imported schedule goods are used or consumed in the manufacture of goods which are sold within the State of Bihar or in the course of inter-State trade and commerce or in the course of export out of the territory of India. In case only a part of the goods manufactured out of imported Scheduled goods are

²³ Aurangabad, Barh, Darbhanga, Hajipur, Muzaffarpur West, Patliputra, Patna Special, Patna West and Saharsa.

²⁴ Muzaffarpur west, Patliputra, Patna special and Patna west

²⁵ Begusarai, Bhagalpur, Hajipur, Muzaffarpur East, Patliputra, Patna City East, Patna City West, Patna Special and Samastipur.

sold as above, the claim for reduction in tax liability shall stand proportionately reduced.

- In nine circles²⁶, we observed that 35 dealers, out of the 964 dealers whose records were test-checked, had availed entry tax adjustment of ₹ 216.04 crore towards their VAT liability during the period during 2009-10 to 2012-13. Our scrutiny, however, revealed that the dealers were eligible for adjustment of entry tax of ₹ 203.37 crore only because they were not fulfilling the criteria²⁷ prescribed for availing of the adjustment of entry tax. This remained undetected by the AAs which resulted into incorrect adjustment of entry tax of ₹ 12.67 crore towards payment of VAT. Therefore, these dealers were liable to pay VAT of ₹ 16.97 crore including interest of ₹ 4.30 crore as detailed in **Annexure- VII**.

After this was pointed out, the AAs of four²⁸ circles raised a demand of ₹ 7.89 crore in case of nine dealers between August 2013 and August 2014. Out of that recovery of ₹ 28.99 lakh was made in two (Patliputra and Patna west) circles in two cases.

- In three circles²⁹, we observed that three dealers had availed adjustment of entry tax from the liability of Central sales tax (CST) of ₹ 2.66 crore during 2010-11 to 2012-13 in violation of the provision of the Act *ibid*. This remained undetected by the AAs which resulted into incorrect adjustment of entry tax of ₹ 2.66 crore towards payment of CST. Therefore, these dealers were liable to pay CST of ₹ 3.51 crore including interest of ₹ 85.21 lakh as detailed in **Annexure- VIII**.

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

2.3.18 Evidence in support of claim for exemption from levy of tax

As per Rule 6 (1) of the BTEG Rules, a dealer who claims that any part of his turnover relating to import of scheduled goods is not liable to tax on the ground that tax was paid at the first point of entry into a local area, he shall substantiate such claim before the assessing officer by producing a true and complete declaration in form ET-IX received from the selling dealer. Further, Rule 4 (4) of the BTEG Rules provides that such dealer shall also furnish along with his return a statement in form ET-XI showing separately the total purchases made from each registered dealer who as first importer paid the tax at the time of first entry of the concerned Scheduled goods in a local area.

In five circles³⁰, we observed that eight dealers had availed/claimed exemption of ₹ 50.15 crore during 2010-11 to 2012-13 from entry tax on the ground that entry tax was paid at the first point in Bihar. But these dealers neither

²⁶ Bhagalpur, Danapur, Hajipur, Katihar, Patliputra, Patna City East, Patna South, Patna Special and Patna West.

²⁷ (i) The goods imported were not re-sold. (ii) The rates of VAT was less than the rate of ET (iii) imported Schedule goods are not used or consumed in the manufacture of goods.

²⁸ Danapur, Patliputra, Patna special and Patna west

²⁹ Gaya, Patna City East and Samastipur.

³⁰ Barh, Bhagalpur, Patna City East, Patna South and Patna Special.

substantiated the claims by producing declaration in form ET-IX nor submitted any statement in form ET-XI. This remained undetected by the AAs which resulted into irregular availing of exemption.

We also noticed that though the declaration in ET-IX was required to be submitted along with the return by the dealer but no such system has been devised/prescribed under the VATMIS to up-load these forms while filing the returns.

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

2.3.19 Short levy of entry tax due to incorrect availing of deduction under entry tax

As per Section 2 (1) (C) of the BTEG Act, amended from 29 August 2006 “Entry of goods”, with all its grammatical variations and cognate expression, means entry of goods; (i) into a local area from any place outside such area, (ii) into a local area from any place outside the State, (iii) into a local area from any place outside the territory of India, for consumption, use or sale therein.

In Patna Special circle, we observed in March 2014 that a dealer who was an oil marketing company (OMC) had availed deduction of ₹ 27,092.67 crore from entry tax on account of scheduled goods purchased or received which was manufactured or produced within the local area during 2011-12. But actually the dealer was liable to pay entry tax on these petroleum products manufactured or produced in the Barauni Refinery (other local area) and received in the Marketing division (at different marketing terminals) for sale during 2011-12. We further observed that out of the aforesaid goods the dealer had received MS/HSD of ₹ 1,939.65 crore in the marketing division at Patna terminal during 2011-12 from Barauni Refinery on which he had the liability of entry tax amounting to ₹ 310.34 crore. This fact of incorrect availing of deduction remained undetected by the AAs, which resulted into short levy of entry tax of ₹ 310.34 crore.

After this was pointed out, the AA accepted the audit observation and raised a demand of ₹ 310.34 crore in August 2014.

2.3.20 Irregular reduction of the liability

As per Rule 8 of the BTEG Rules, a claim for reduction in the liability to pay sales tax shall be made by registered dealer by furnishing a statement in triplicate in form ET-X which shall be filed along with the quarterly return. On receipt of the claim in form ET-X, the authority prescribed for assessment of tax shall scrutinise the same before the date for filing of the next quarterly return and shall satisfy itself regarding the correctness of the claim. As per provision of Rule 10 of the BTEG Rules, if any dealer or importer who contravenes the provisions of these Rules shall be punishable with a penalty not exceeding one thousand rupees and where the contravention is continuing one with a penalty not exceeding rupees twenty five for every day of such contravention.

In 10 circles³¹, we observed that the 82 dealers had not filed statement of claim for reduction in the liability of VAT payable (Form ET-X) for the period 2011-12 and 2012-13. Thus, these dealers availed reduction of ₹ 27.98 crore from payment of VAT without filing the ET-X. No scrutiny or endorsement in this regard was found done by the AA. Even penalty of ₹ 83,000 were not levied by the AA for the contravention of Rules *ibid* which was indicative of weak control mechanism in the Department.

After this was pointed out, the Government stated in the exit conference in July 2014 that it was a procedural lapse and there was no loss of revenue. However, reply would be sent after obtaining facts from concerned circles.

2.3.21 Cross-verification

Under Section 57 of the BVAT Act, the prescribed authority may, collect information regarding sales/purchases effected by any class of dealers and cause any of such transactions of sale and purchase to be cross-checked.

As per the information provided, we observed that in none of the test-checked circles, cross-verification of information under entry tax was done by the AAs during 2008-09 to 2012-13. We further observed that even in those cases where information was provided by the office of the CCT, no such cross-verification was done. These indicate towards lapses in the internal controls and the monitoring mechanism in the Department leading to short levy of entry tax.

However, the cross-checking of the same information circulated by the Department as well as some other cases done during Performance Audit revealed the following shortcomings:

2.3.21.1 Cross-verification with the inter-state information

In seven circles³², we observed that 14 dealers had exhibited the import of goods of ₹ 18.14 crore during 2010-11 and 2013-14 in their returns. On cross-verification of information of interstate import of bitumen and coal procured from other states, which was circulated by the Department to their circles, we observed that these dealers had actually imported goods of ₹ 50.17 crore. Thus these dealers suppressed the import value of ₹ 32.03 crore. This resulted into short levy of entry tax of ₹ 8.29 crore including penalty of ₹ 6.22 crore as detailed in **Annexure- IX**.

2.3.21.2 Cross-verification with the information received from the other departments

In Begusarai circle, we observed that a manufacturer of petroleum products had exhibited the import of Crude Oil amounting to ₹ 23,685.01 crore and ₹ 29,020.71 crore during 2011-12 and 2012-13 respectively in his annual returns. On cross-verification of this information with the information contained in the annual return (ER-4) filed to the Central Excise Department, we observed that the dealer had actually imported Crude Oil amounting to

³¹ Begusarai, Bhagalpur, Gaya, Katihar, Patliputra, Patna City East, Patna South, Patna Special, Purnea and Samastipur.

³² Aurangabad, Bhagalpur, Gaya, Patliputra, Patna Central, Patna City West and Purnea.

₹ 24,292.96 crore and ₹ 29,796.95 crore during 2011-12 and 2012-13 respectively and thus suppressed the import value of crude oil of ₹ 1,384.19 crore. This resulted into short levy of entry tax of ₹ 110.74 crore including leviable penalty.

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

The Government may consider making a system of cross-verification of transactions of sales and purchases with periodicity and target.

2.3.22 Check-posts

Section 62 of BVAT Act, provides that if any consignment of goods is transported by road from a place outside the Bihar to another such place through the territory of the State, the driver or any other person in-charge of the vehicle shall obtain transit permission in the prescribed manner from the first check-post falling *en route* after entry into the State and shall surrender the same to the last check-post before leaving the State. In the event of failure to do so within seventy two hours of leaving the first check-post, it shall be deemed that goods so transported have been sold within the State of Bihar. Further sub-section (2) provides that failure in doing so shall attract penalty at the rate of rupees five hundred for every day of the default or a sum twice the amount of tax calculated on the value of goods transported, whichever is higher.

2.3.22.1 Default in transit

- During test-check of computerised database of out to out *Suvidha*³³ application status at the Dobhi check-post for the months of May 2013, August 2013 and March 2014 and Karmnasha check-post for the month of May, June, July, August and December 2013, we observed that 5,997 and 6,555 vehicles having consignment value of ₹ 4,282.61 crore and ₹ 1,119.76 crore who utilised out to out electronic *Suvidha* was approved by the check-post at Dobhi and Karmnasha respectively which were scheduled to exit from either of the five integrated check-posts but their actual exit details were not found.

Thus, it was evident that 12,552 vehicles having consignment value of ₹ 5,402.37 crore defaulted during the aforesaid months and it can easily be presumed that the said consignments were sold by their owner within the State of Bihar and therefore penalty as per the provision of Act *ibid* was leviable against the owner of the vehicle. But no penalty for such default was found levied against those erring persons.

- During test-check of computerised database of out to out *Suvidha* application status report at the Dobhi check-post for the months of May, August 2013 and March 2014 and Karmnasha check-post for the month of May, June, July, August and December 2013 we observed that 1,515 and 465 vehicles having consignment value of ₹ 157.19 crore and ₹ 55.94 crore who utilised out to out electronic *Suvidha* was approved by the check-post at Dobhi

³³

A sixteen digit unique transit pass (D-VII) generated electronically to transport from any place outside the State to any such place outside the State i.e. transported through the State of Bihar

and Karmnasha which were scheduled to exit from the check-post at Amba, Barahat, Sohnipatti (Buxar), Jogbani, Pirpanti and Raxaul but their actual exit details were not found. No check-post was notified and operational on these places till the date of audit. In the absence of exit details it couldn't be ascertained that whether these consignments/vehicles actually made exit from the desired exit check-posts or the said consignments were off-loaded in the Bihar itself which may lead to tax evasion.

Thus, generation of *Suvidha* number for non-operational check-posts as exit point is fraught with the risk of tax evasion as there was no deterrent/check available at the exit point which was also indicative of absence of full-proof mechanism as provided and intended in the Act *ibid*.

After this was pointed out, the Government accepted the audit observation in the exit conference held in July 2014 and stated that a more effective mechanism is being contemplated.

2.3.22.2 Irregular relaxation

We observed that the proviso to sub-clause (1) of clause 3 of the notification No. BIKRIKAR/Vividh-43/2011-1245 dated 12 April 2013 in which consignments for places like Nepal, Garhwa, Latehar, Palamu, Godda, Sahebganj, Deoghar, Pakur, Jamtara, Dumka, Balia and Raigarh were spared from the requirement of making exit thorough a check-post was issued irregularly without any such authority under the Act or Rules and inconsistent to the provision of Section 62 of the BVAT Act.

Section 62 of the BVAT Act provides that all the consignments has to pass through a check-post while in transit from a place outside the State of Bihar to another such place during entry as well as exit. No exception in this regard was prescribed under the Act nor was any authority prescribed to relax the provision of the Section 62 of the Act, *ibid*. We further observed that Rule 40 (2) (b) of the BVAT Rules, 2005 also did not empower the Commissioner to award relaxation from requirement of passing through a check-post while making exit during transit from a place outside the State of Bihar to another such place.

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

The Government may evolve a full-proof mechanism for vehicles making transit through Bihar by establishing check-posts at those exit-points for which *suvidha* is generated and by withdrawing the irregular relaxation provided by the said notification.

2.3.23 Arrears of revenue

Section 46 of the BVAT Act, provides that prescribed authority shall, for the purpose of recovery of tax/dues have the same powers as are vested in the certificate officer under the Bihar and Orissa Public Demand Recovery (PDR) Act, 1914.

During audit scrutiny in 14 test-checked circles³⁴, we observed that there was accumulation of arrears to the tune of ₹ 65.85 crore in 153 cases as on 31 March 2013 and despite vesting of powers of a certificate officer to the officers of the Department, only one case involving an amount of ₹ 16.90 lakh was covered by certificate case. The accumulating arrears and low number of certificate cases indicate towards poor internal controls and monitoring in the Department.

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

2.3.24 Internal controls

Internal controls are intended to provide reasonable assurance of proper enforcement of Act, Rules and departmental instructions. Effective internal control system both in the manual as well as computerised environments is a pre-requisite for the efficient functioning of any department. The following deficiencies were noticed in the internal control mechanism.

2.3.24.1 Absence of register of returns

We observed that there is no provision for any such register to keep a watch on the filing of returns by the dealers for monitoring and subsequent action in time. As a result large number of dealers were not filing returns as given in the Para no. 2.3.12 of this Report.

2.3.24.2 DCB register

We observed that there is no provision for maintenance of Demand, Collection and Balances (DCB) register under the BTEG Act. In the absence of such a control tool, the monitoring and verification of demand raised by the AAs after the assessments made by them under various provisions, collection of arrears of revenue and the balance to be deposited becomes very difficult.

2.3.24.3 Absence of disposal register

We observed that there is no provision for maintenance of Disposal register under the BTEG Act/Rules. In the absence of such register, there is no prescribed mechanism to track the cases which are assessed by the AAs for better internal controls and monitoring.

After this was pointed out, the Government stated in the exit conference held in July 2014 that circulars/instructions would be issued for maintenance of these registers under entry tax.

2.3.24.4 Tax Audit

The internal audit wing of any department is a vital component of its internal control mechanism and enables the department to ensure itself that the prescribed systems are functioning appropriately. Section 26 of the BVAT Act provides for detailed audit of a dealer selected on the basis of a selection model in the prescribed manner by the Audit wing of the department.

³⁴ Aurangabad, Barh, Begusarai, Bhagalpur, Gaya, Hajipur, Katihar, Muzaffarpur West, Patliputra, Patna City East, Patna South, Patna Special, Purnea and Samastipur.

We observed that there is no such provision under the BTEG Act to conduct audit of the returns/records of dealers by the Audit wing of the Department despite the fact that VAT and entry tax is inter-related in many ways e.g. reduction of liability of VAT to the extent of entry tax paid by the dealer. Thus, a vital control mechanism was absent.

After this was pointed out, the Government accepted the audit observation and stated in the exit conference held in July 2014 that an amendment for adding provision of audit in Section 8 of the BTEG Act, was being considered.

The Government may consider prescribing provision for tax audit of the entry tax cases also by the Audit wing of the Department.

2.3.25 Conclusions

The control system in the Department was lacking as the provision of Acts/Rules/Statutes etc. were not followed in issuance of notifications for tax-administration. Due to non-amendment of the provisions of the BTEG Act, after the introduction of BVAT Act, many new features available under the BVAT Act was not applicable under the BTEG Act. The proceeds of entry tax accumulated in Bihar Trade Development Fund created for development of infrastructure was not exclusively utilised for the intended purposes. There was lack of compliance to the provision of the BTEG Act/Rules leading to large scale underassessment and short levy of entry tax. Large numbers of eligible dealers were not registered under the BTEG Act and assessment of dealers under the Act was very low. There was absence of full-proof mechanism in out to out *suviddha* generation and utilisation leading to leakage of revenue. Absence of provisions for scrutiny, regular assessment and tax audit was indicative of the fact that the Department has not instituted proper control checks to safeguard its revenue.

2.3.26 Summary of recommendations

- **The Government may consider prescribing an internal control mechanism to ensure that all notifications are issued after due diligence and thorough scrutiny with respect to the existing laws.**
- **The Government may consider bringing out suitable amendments to make the new features relating to interest, fine, scrutiny and tax audit etc. of the BVAT Act, applicable under the BTEG Act.**
- **The Government may consider devising a monitoring mechanism to ensure the proceeds of entry tax accumulated in the Bihar trade development fund is allocated and utilised for the intended purposes only.**
- **The Government may consider making a system of cross-verification of sales and purchases given in the VAT returns/statements filed by the dealers to detect the unregistered dealers under the BTEG Act.**

- **The Government may consider prescribing a mechanism for effective monitoring of filing of returns and to ensure their proper assessment.**
- **The Government may evolve a full-proof mechanism for vehicles making transit through Bihar by establishing check-posts at those exit-points for which *suvidha* is generated to check the leakage of revenue.**

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

The provisions of the Bihar Value Added Tax (BVAT) Act, 2005, Central Sales Tax (CST) Act, 1956, Bihar Taxation on Luxuries in Hotels Act, 1988, Bihar Electricity Duty Act, 1948 and Rules made there under require levy and payment of:

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

Non-compliance of the provisions of the Acts/Rules/instructions in some cases as mentioned in paragraphs 2.5 to 2.20 resulted in non/short levy, underassessment of tax, incorrect exemption/deductions etc. of ₹ 548.61 crore which is indicative of absence of adequate controls in the Department.

A: Taxes/VAT on Sales, trade etc.

2.5 Suppression of turnover

Under Section 31 (2) of the Bihar Value Added Tax (BVAT) Act, 2005, if the Assessing Authority (AA) is satisfied that any turnover liable to tax under the Act has been underassessed/escaped assessment, he shall assess or reassess the tax payable within four years and shall impose, besides tax and interest, penalty equivalent to three times the tax payable on escaped turnover.

Further, under the provision of Section 25 (1) of the BVAT Act, the prescribed authority shall, within the time and the manner prescribed, scrutinise every return filed under sub-sections (1) and (3) of Section 24 for the purpose of ascertaining that (a) calculations are arithmetically accurate, (b) the output tax, input tax, tax payable and interest payable, if any have been computed correctly and properly, (c) the rates of tax have been applied correctly, (d) evidence, as prescribed, has been furnished with regard to payment of tax and interest payable, if any, and (e) the deductions claimed therein are substantiated in the manner and form prescribed under the Act or under any other law for the time being in force.

We observed that the scrutiny provision did not provide specifically for verification of the turnover as disclosed in the returns with other records of the dealer like utilisation statements of road permits, declaration forms as well as

Tax Audit Report (TAR) or information of sales and purchases obtained from the records of other dealers while scrutinising the returns.

We observed between April 2012 and March 2014 in 11 Commercial Taxes circles³⁵ that 15 dealers (assessed: 1, scrutinised: 1 and self assessed: 13) out of 1,264 test-checked dealers, purchased/sold goods of ₹ 1,596.75 crore during the period between 2009-10 and 2011-12 as shown in their utilisation statements of road permits (D-IX³⁶), statements of declaration form 'C'³⁷, Tax Audit Report³⁸ (TAR), tax deduction certificate (C-II) and annual return furnished under Entry Tax Act. They, however, accounted for ₹ 1,378.88 crore only in their annual returns against ₹ 1,596.75 crore thereby suppressing purchase/sale of goods worth ₹ 217.87 crore. As the Department had not issued any instruction for cross checking the information, the Assessing Authorities (AAs) could not detect the suppression of turnover, even in those cases where the audit observations were based on the assessed/scrutinised returns. This resulted in underassessment of tax of ₹ 76.27 crore including penalty of ₹ 52.55 crore and leviable interest of ₹ 6.20 crore as detailed in **Annexure-X**. A few illustrative cases are given in **Table 2.8**.

Table- 2.8

(₹ in lakh)

Sl. No.	Name of circle No. of dealers	Period	Actual purchase Accounted for	Actual sale Accounted for	Amount concealed	Tax Penalty	Interest	Total
1	Muzaffarpur West 1	2010-11	-	11,646.97 3,649.11	7,997.86	372.13 1,116.37	128.38	1,616.88
2	Patliputra 2	2010-11 and 2011-12	-	50,059.95 47,712.77	2,347.18	219.76 659.29	89.52	968.57
3	Patna Special 2	2010-11	70,384.62 62,539.42		7,845.20	980.65 2,941.95	331.82	4,254.42

After this was pointed out, the concerned AAs/JCCT accepted the audit observation between June 2013 and July 2014 in respect of eight dealers of seven circles³⁹ and raised demand for ₹ 58.57 crore and recovered a sum of ₹ 16.07 crore in one case. We await recovery in accepted cases and replies in the remaining cases.

The matter was reported to the Government between July 2013 and July 2014; we are yet to receive their reply (August 2014).

³⁵ Danapur, Hajipur, Gaya, Kadamkuan, Kishanganj, Munger, Muzaffarpur East, Muzaffarpur West, Patliputra, Patna Special and Sasaram.

³⁶ D-IX- Road permit declaration used to import/purchase the goods for value of ₹ 10,000 or more from outside the State. This accompanies with the goods carrier.

³⁷ Form C- Used to purchase goods at concessional rate in the course of inter-State trade and commerce.

³⁸ TAR- Every dealer having gross turnover of ₹ One crore and above is required to submit TAR certified by a Chartered Accountant before the stipulated date.

³⁹ Hajipur, Kadamkuan, Munger, Muzaffarpur West, Patliputra, Patna Special and Sasaram.

2.6 Excess Input Tax Credit

Section 16 of the BVAT Act provides that when a registered dealer purchases any input within the State of Bihar from another registered dealer after paying him the tax under Section 14 or Section 4 of the Act, he is eligible to claim credit of input tax in the manner prescribed, if the goods are either sold within the State or in the course of inter-State trade and commerce or consumed in the manufacture of goods (other than Schedule-IV goods) for sale within the State or in the course of inter-State trade and commerce. Further, Section 31 of the Act provides for imposition of penalty equivalent to three times of the tax payable for excess/incorrect claim of Input Tax Credit (ITC), besides the amount of interest.

We observed in four Commercial Taxes circles⁴⁰ from the annual returns (RT-III), TAR etc. of seven dealers (assessed:2 and self-assessed:5) out of 662 test-checked dealers between March 2013 and March 2014 that they availed ITC of ₹ 9.57 crore on the purchase of goods valued at ₹ 88.42 crore in their annual returns during the period between 2010-11 and 2011-12. However, as per the provision of the Act *ibid*, the dealers were entitled for ITC of ₹ 1.79 crore only on these purchases. Thus, the dealers availed excess ITC of ₹ 7.78 crore. The penalty for the excess claim amounted to ₹ 23.34 crore and interest thereof worked out to ₹ 2.68 crore. The AAs could not detect the excess availing of ITC due to non-scrutiny of returns of the dealers. This is indicative of non-adherence to the provisions of scrutiny under Section 25 (1) of the BVAT Act. The total revenue impact was ₹ 33.80 crore as detailed in **Annexure-XI**

After this was pointed out, the AA/JCCT stated between October 2013 and August 2014 that demand for ₹ 9.38 crore in respect of three dealers of two circles (Bhagalpur and Patna Special) has been raised and a sum of ₹ 69,864 has since been recovered in one case. We await recovery in the accepted cases and replies in the remaining cases.

The matter was reported to the Government between July 2013 and July 2014; we are yet to receive their reply (August 2014).

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

Under the provision of Section 25 (1) of the BVAT Act, the prescribed authority shall, within the time and the manner prescribed, scrutinise every return filed under sub-sections (1) and (3) of Section 24 for the purpose of ascertaining that the rates of tax have been applied correctly.

Further, under the provision of Section 31 (2) and 39 (4) of the BVAT Act, penalty equivalent to three times of the tax payable and interest at the rate of one and a half *per cent* per month are leviable if the dealer fails to disclose full and correct particulars of sale so as to reduce the amount of tax payable.

We observed in eight Commercial Taxes circles⁴¹ between June 2012 and March 2014 that out of 1,265 test-checked dealers, eight dealers (scrutinised: 1

⁴⁰ Bhagalpur, Gaya, Patna Special and Patna West.

⁴¹ Hajipur, Munger, Patliputra, Patna City west, Patna Special, Purnea, Raxaul and Sasaram.

and self-assessed: 7) assessed their tax at the lower rate of zero to five *per cent* on the sale of various goods valued at ₹ 17.55 crore instead of the correct rate of five to 13.5 *per cent* during 2009-10 to 2011-12. Due to non/deficient scrutiny, the application of incorrect rate of tax remained undetected by the AAs resulting in short levy of tax of ₹ 4.66 crore including interest of ₹ 45.76 lakh and leviable penalty of ₹ 3.15 crore as detailed in **Annexure-XII**.

After this was pointed out, the concerned AAs of four circles⁴² accepted the case of four dealers between January 2013 and August 2014 and raised demand for ₹ 1.26 crore. In one case of Patna City West, a sum of ₹ 2.89 lakh was recovered. We await recovery in the accepted cases and replies in the remaining cases.

The matter was reported to the Government/Department between January 2013 and July 2014; we are yet to receive their reply (August 2014).

2.8 Incorrect allowance of deductions

Under Section 35 of the BVAT Act and Rule 18 of the BVAT Rules, a works contractor is liable for deduction on the items of labour and any other charges such as amount paid to a sub-contractor on account of labour and services, charges for planning, designing and architect fees, charges for obtaining machinery and tools used on hire, cost of consumables, cost of establishment to the extent it is relatable to supply of labour and services, other similar expenses relatable to supply of labour and services, profit earned by the contractor to the extent it is relatable to supply of labour and services and goods or transactions exempted under Section 6 or Section 7 of the BVAT Act.

We observed in 11 Commercial Taxes circles⁴³ between March 2012 and February 2014 from the returns/profit and loss accounts of 14 works contractors (assessed: 1 self-assessed: 13) out of 77 test-checked works contractors that they availed deductions of ₹ 661.29 crore during the period between 2009-10 and 2011-12, though they were eligible for deduction of ₹ 585.63 crore only. The AAs, however, failed to detect the claims of inadmissible deductions even in the assessed case. This resulted in short levy of tax of ₹ 4.41 crore calculated on the material component value of ₹ 75.66 crore arrived at by apportioning the above claimed deductions of ₹ 661.29 crore between material and labour and services as detailed in **Annexure-XIII**.

After this was pointed out, the concerned AA/Joint Commissioner accepted the audit observation between October 2012 and July 2014 in respect of four dealers of four circles⁴⁴ and raised demand for ₹ 2.82 crore. We await recovery in the accepted cases and replies in the remaining cases.

The matter was reported to the Government between August 2012 and May 2014; we are yet to receive their reply (August 2014).

⁴² Patliputra, Patna City west, Raxaul and Sasaram.

⁴³ Jamui, Katihar, Munger, Muzaffarpur East, Muzaffarpur West, Patliputra, Patna Central, Patna South, Patna Special, Purnea and Sasaram.

⁴⁴ Muzaffarpur East, Muzaffarpur West, Patliputra and Patna South.

2.9 Irregular deduction on account of Transit sales

Under the provisions of Section 3(b) of the Central Sales Tax Act, 1956, a sale or purchase of goods shall be deemed to take place in the course of inter-state trade or commerce if the sale or purchase is effected by the transfer of documents of title to the goods during their movement from one state to another and if, the contract of sale comes into existence before the commencement of movement of goods from one state to another, it cannot be treated as transit sales.

Further, Section 6(2) of the CST Act read with Rule 12(1) and 12(4) of the CST Rules, 1957 provides that if any dealer claims exemption on account of transit/subsequent sale to a registered dealer he should furnish certificate in forms E-I/E-II and form-C.

During scrutiny of records/returns in Patliputra Commercial Taxes Circle, Patna, we observed between January and February 2013 that two dealers out of 190 dealers test-checked had availed deduction of ₹ 44.03 crore during the period 2009-10 and 2010-11. Out of that deduction, a sum of ₹ 31.66 crore was made on account of transit sale but such sale were pre-determined and not a sale by transfer of document of title of goods during movement from one State to another. Thus entire claim of transit sale of the dealers was liable to be rejected which remained undetected by the AAs and resulted into short levy of tax of ₹ 4.02 crore including interest of ₹ 1.06 crore.

After this was pointed out, JCCT/AA concerned accepted (between May and September 2013) the facts in both cases and raised demand for ₹ 4.02 crore. We await recovery in these cases.

The matter was reported to the Government between July 2013 and May 2014; we are yet to receive their reply (August 2014).

2.10 Incorrect/excess reimbursement of VAT/Entry Tax

As per para 2 (ix) of the Bihar Industrial Policy, 2006, industries working prior to 1 April 2006 were to get reimbursement of 25 *per cent* of the VAT deposited by them into Government account. Further, Para 4 of the industrial incentive policy and the Department of Industries' letter (November 2006) provides that the aforesaid industrial units which have undergone expansion/diversification/modernisation will be eligible for such reimbursement at the rate of 80 *per cent* of the VAT deposited by them into Government account on their incremental production only. Further, condition 8 of Annexure-I of the said policy stipulates that in order to qualify a unit undertaking expansion/modernisation/diversification should send prior intimation to the concerned authority of the Industries Department and Deputy Commissioner Commercial Taxes before undertaking such expansion/modernisation/diversification programme. No reimbursement was to be made against the deposit of Central Sales Tax or entry tax.

Further, as per para 9 of the Bihar Industrial Policy, 2011 (effective from July 2011) any unit, new or existing, will be able to avail incentives under the Industrial Incentive Policy, 2011 only when the unit has not availed such incentives under any other Government Policy. The units at the time of availing these incentives will have to submit a declaration to this effect. In the

event of adjustment of entry tax against the output tax, amount paid as entry tax by new industrial units after commencement of commercial production, will be included in the amount of 80 *per cent* VAT for purpose of reimbursement.

Under the provision of Rule 4A of the BTEG Rules, 1993, where an importer of scheduled goods liable to pay tax under the Act, incurs tax liability under the BVAT Act, by virtue of sale of imported scheduled goods or sale of goods manufactured by consuming such imported goods, his tax liability under the BVAT Act shall stand reduced to the extent of tax paid under the Act. Further in case of manufacturer the reduction in tax liability shall only be allowed to industrial units of the small, medium and sick industrial units.

2.10.1 We observed in four Commercial Taxes circles⁴⁵ between May 2013 and December 2013 that out of 598 test-checked dealers, four dealers (assessed) got incorrect reimbursement of ₹ 6.02 crore against VAT/Entry Tax payment for the period 2011-12 to 2013-14 (first quarter). We further observed that two dealers had already availed such facility under the Bihar Industrial Incentive Policy, 2006, one dealer had got reimbursement for the period prior to the commencement date of the Bihar Industrial Incentive Policy, 2011(July 2011) against the payment made under entry tax and one dealer had got reimbursement of non-adjustable entry tax, though it does not belong to small, medium and sick industry.

After this was pointed out, the Department accepted the fact in May 2014 and raised demand of ₹ 3.82 crore in one case of Danapur circle and the AA Hajipur accepted the audit observation in respect of one dealer and recovered the whole amount of ₹ 1.65 lakh (December 2013). We await recovery in the accepted cases and replies in the remaining cases.

2.10.2 In Hajipur Commercial Taxes circle, we observed in April 2012 that a dealer (scrutinised) got an additional reimbursement of ₹ 75.59 lakh against payment made under VAT during 2009-10 without prior intimation to the concerned Deputy Commissioner Commercial Taxes and the Industry Department regarding expansion of unit though it was required under Bihar Industrial Incentive Policy, 2006, which prescribes proper intimation for exemption in case of expansion/modernisation/diversification.

After this was pointed out, the AA accepted (September 2013) the audit observations and raised the demand for ₹ 75.59 lakh. We await recovery in the case.

The matter was reported to the Government/Department between November 2013 and May 2014; we are yet to receive their reply (August 2014).

2.11 Short payment of tax and non-levy of interest

Under the provision of Section 24 of the BVAT Act, every dealer shall deposit the tax payable in respect of every month on or before the 15th day of the following month, failing which the dealer shall be liable to pay interest at the

⁴⁵ Danapur, Gandhi Maidan, Hajipur and Patna North.

rate of one and a-half *per cent* per month on the amount due from the date the tax was payable and became due to the date of its payment.

Under the provision of Section 25 (1) of the Act *ibid* the prescribed authority shall, within the time (by 31st March of next financial year to which the return relates) and the manner prescribed, scrutinise every return filed under sub-sections (1) and (3) of Section 24 for the purpose of ascertaining that evidence, as prescribed, has been furnished with regard to payment of tax and interest payable.

We observed in seven Commercial Taxes circles⁴⁶ between March 2013 and March 2014 that 10 dealers (self-assessed) out of 735 test-checked dealers, had paid the admitted tax short by ₹ 1.01 crore during 2010-11 and 2011-12. Though the AAs were required to scrutinise the returns and see the evidence of payment of tax and accordingly issue notice to the dealer, but no scrutiny was found to have been done till the date of audit, which indicates control weaknesses in the Department. This resulted in non-detection of short payment of the admitted tax of ₹ 1.32 crore including leviable interest of ₹ 31.50 lakh (calculated at the rate of 1.5 *per cent* per month) as detailed in **Annexure- XIV**.

After this was pointed out, the concerned AA/JCCT accepted the audit observation in respect of three dealers of Kadamkuan and Patna City West circles between April and July 2014 and raised demand for ₹ 20.86 lakh. We await recovery in the accepted cases and replies in the remaining cases.

The matter was reported to the Government/Department between December 2013 and July 2014; we are yet to receive their reply (August 2014).

2.12 Non-levy of interest for delayed payment of tax

Under the provisions of Section 24 of the BVAT Act, every dealer shall deposit the tax payable in respect of every month on or before the 15th day of the following month, failing which the dealer shall be liable to pay interest at the rate of one and a-half *per cent* per month on the amount due from the date the tax was payable and became due to the date of its payment. Further Section 39(4) of the Act *ibid* read with Section 9(2) of the CST Act stipulate that if the prescribed authority finds that the tax due, in addition to the amount of tax assessed under any proceeding, the dealer shall pay in addition to the amount of the tax assessed, simple interest at the rate of one and a-half *per cent* per month or part thereof, on the difference of the amount previously admitted and tax finally assessed.

Under the provision of Section 25 (1) of the Act *ibid* the prescribed authority shall, within the time (by 31st March of next financial year to which the return relates) and the manner prescribed, scrutinise every return filed under sub-sections (1) and (3) of Section 24 for the purpose of ascertaining that evidence, as prescribed, has been furnished with regard to payment of tax and interest payable.

⁴⁶ Gandhi Maidan, Hajipur, Kadamkuan, Patna City West, Patna Special, Shahabad and Siwan.

We observed in two Commercial Taxes circles (Saharsa and Patna Special) between January and March 2014 that four dealers (two self-assessed and two scrutinised) out of 303 test-checked dealers, had paid their admitted tax with a delay ranging from 12 days to 34 months during the period between 2010-11 and 2011-12. Even in the scrutinised cases the AAs did not levy interest for delayed payment of tax which resulted in non-levy of interest amounting to ₹ 53.04 lakh (calculated at the rate of one and half *per cent* per month).

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

2.13 Incorrect allowance of deduction on account of Bonus sales for drugs and medicines

As per Section 15(5) of the BVAT Act, notwithstanding anything to the contrary contained in the Act, the State Government may, by notification and subject to such conditions and restrictions and in respect of such goods as may be specified in the notification, permit if any class of registered dealers, being an importer or a manufacturer, to pay, in lieu of the tax payable by him, tax at the rate specified in Section 14 of the BVAT Act on the maximum retail price (MRP) of such goods in the manner prescribed.

The State Government issued notification in May 2006 to pay tax on the MRP of the goods for the dealers dealing in drugs and medicine.

We found that the Department did not devise any mechanism to ensure the correctness of tax paid in cases where the dealer had opted to pay tax on the MRP of goods. We further observed that the dealers resorted to issue of medicines free of cost as bonus sale to avoid tax on supply of medicines. An illustrative case is mentioned below.

We observed between March 2013 and April 2014 in two Commercial Taxes circles (Patna Special and Patna South) from RT-III and TAR-IV that two dealers (assessed) out of 209 test-checked dealers, had opted to pay tax on the MRP of goods (Medicine, taxable at the rate of four /five *per cent* on MRP) sold, had not included the amount of bonus sale of medicines of ₹ 6.51 crore and claimed as tax free bonus sale during the year 2010-11 and 2011-12. The AAs while scrutinising the case between October 2012 and August 2013 also allowed the claim of the dealer. However, there was no mention on the available records to the effect that these medicines shall not be sold out to the consumers. In the absence of such kind of restrictions or any other mechanism there was possibility of further sale of these medicines without levy of tax. The tax effect in these cases calculated to ₹ 47.64 lakh.

After this was pointed out, the AA, Patna Special stated (March 2013) that tax on bonus sale was not related to this circle and no action could be taken at this end, however the case would be examined. It may be seen that in the paragraph we had pointed out the possibilities of leakage of revenue in the shape of bonus sale which is different from the trade practice of allowing trade discount. However, in a case of another dealer registered in the Patna Special circle, the AA had levied tax on the bonus sale.

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

2.14 Non-deduction of tax at source

Under the provisions of sub-section (1) and (6) of Section 41 of the BVAT Act, every person, responsible for making any payment in discharge of any liability on account of valuable consideration payable in respect of transfer of property in goods, vested in the execution of a works contract, shall deduct an amount at the rate of four *per cent* from every bill raised by the works contractor and no such payment shall be made without deduction as aforesaid, failing which, such person shall be liable to pay, by way of penalty, a sum not exceeding twice the amount of tax deductible which was not deducted.

We observed in Muzaffarpur West Commercial Taxes circle during April 2012 that out of 107 test-checked dealers, a self-assessed dealer (M/s Bharat Heavy Electrical Ltd., TIN- 10305404064, a Government of India undertaking) did not deduct the tax at source from payment of bill of ₹ 3.10 crore made to his sub-contractor during the year 2008-09 as evident from auditor's observation in the TAR. This remained undetected by the assessing authority which ultimately resulted into non-levy of penalty amounting to ₹ 24.79 lakh.

After this was pointed out, the AA accepted (December 2013) the audit observation and issued notice for demand of ₹ 24.79 lakh. We await recovery in the case.

The matter was reported to the Government/Department in July 2013; their reply has not been received (August 2014).

2.15 Non-levy of purchase tax

Under the provision of Section 4 of the BVAT Act, every dealer who purchases goods in circumstances in which no tax on sales is payable or has been paid on the sale price of such goods and either consumes such goods in the manufacture of other goods for sale or otherwise disposes of such goods in any manner other than by way of sale in the State or sale in the course of inter-state trade, shall be liable to pay tax on the purchase price of such goods at the rate at which it would have been leviable on the sale price of such goods under Section 14 of the Act *ibid*.

We observed in December 2013 that out of 95 test-checked dealers, a manufacturer (self-assessed) of poultry feed had made purchases of taxable goods (raw rice bran and medicine) of ₹ 1.61 crore within the State from unregistered dealers and consumed them in the manufacture of poultry feed (a tax-free commodity) during 2010-11 and 2011-12. This attracted purchase tax as per the aforesaid provisions but the dealer had not paid the purchase tax which resulted in non-levy of purchase tax of ₹ 10.33 lakh including interest of ₹ 2.53 lakh.

After this was pointed out, the AA accepted (July 2014) the audit observation and raised demand for ₹ 10.33 lakh. We await recovery in the case.

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

2.16 Incorrect/excess availing of rebate

Under the provision of Section 24 (12) of the BVAT Act, a rebate at the rate of half *per cent* of the amount of tax admitted to be due in the return furnished under sub-section (1), subject to a maximum of ₹ 50,000 in a year, shall be allowed to a registered dealer who has furnished the return within the due dates specified under this Section and has paid such amount in full on or before the date specified for payment of tax under this Section.

We observed in two Commercial Taxes circles (Patna South and Purnea) between May 2013 and March 2014 that two self-assessed dealers, out of 198 test-checked dealers, had availed rebate of ₹ 7.14 lakh in his annual return during 2010-11 and 2011-12. The maximum limit prescribed for rebate under Section 24(12) of the BVAT Act was ₹ 50,000. Thus, the dealer had claimed excess rebate of ₹ 6.64 lakh which remain undetected by the AA and the dealer was liable to pay ₹ 8.85 lakh including interest of ₹ 2.20 lakh (calculated at the rate of one and half *per cent* per month).

The matter was reported to the Government in July 2014; their reply has not been received (August 2014).

2.17 Non-calculation of reverse credit

Under Rule 14 (1)(a) of the BVAT Rules, a dealer shall incur reverse credit when he makes within State stock transfer of the goods which was purchased by him from within the States after paying the tax thereon and the same has been availed by the dealer as input tax credit (ITC). The amount of ITC for which a dealer is entitled will be arrived at after the deduction of the reverse credit from the amount of the input tax paid on the purchases. Further, under the provisions of Section 31 (2) of the BVAT Act, if the AA is satisfied that an ITC has incorrectly been claimed, he shall impose, besides interest, penalty equivalent to three times of excess input tax credit so claimed.

We observed in Gaya Commercial Taxes circle in May 2013 from the returns of a dealer (self assessed) out of 122 test-checked cases that he had made stock transfer of taxable goods worth ₹ 15.25 lakh within the State during 2010-11. The inputs for these goods were also purchased from within the State after paying tax thereon in the State, for which ITC of ₹ 6.13 lakh was availed of by the dealer. Though the dealer was required to calculate the reverse credit and deduct the same from the total amount of ITC, the reverse credit of ₹ 1.91 lakh was not calculated by the dealers. The case was remained unscrutinised which indicates inadequate internal controls in the Department. This resulted in excess allowance of ITC of ₹ 8.31 lakh including leviable penalty of ₹ 5.72 lakh and interest of ₹ 69,000.

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

B : Electricity duty

2.18 Non-levy of Electricity duty on sales of energy

Section 3(1) of the Bihar Electricity Duty Act, 1948, provides that there shall be levied and paid to the State Government, either on the units or on the value of energy consumed or sold, excluding losses of energy in transmission and transformation, a duty at the rate or rates to be specified by the State Government in a notification.

Further, Section 4 of the Act *ibid* provide that every licensee or any person other than licensee who is liable to pay duty shall pay every month to the State Government, the proper duty payable under Section 3 on the units of energy consumed or sold by him. Further, Section 4A provides that the duty under the Act shall be levied at each point in a series of sales of energy in the State of Bihar.

Section 6 (c) of the Act *ibid* provides that if upon information or otherwise the prescribed authority is satisfied that reasonable ground exist to believe that any units of an assessee escaped assessment or any unit of energy has been underassessed, the prescribed authority, after giving the assessee a reasonable opportunity of being heard, reassess the assessee for such escaped units of energy and shall direct the assessee to pay by way of penalty a sum not exceeding three times but not less than an amount equivalent to amount of duty which is or may be assessed on the escaped units of energy.

In Bhagalpur circle, we observed in March 2014 from the examination of annual returns, assessment orders and other relevant statements submitted by an assessee (M/s NTPC Ltd. Kahalgaon having Registration No. ED-6) that it had not disclosed sale of energy made to Bihar State Electricity Board (BSEB) during 2005-06 to 2011-12. But as per the information available to audit, the BSEB had shown purchase of energy of 13,636.93 MKWH from NTPC, Kahalgaon in their annual accounts during the same period. Thus it is evident that assessee had not disclosed the sales of energy of 13,636.93 mkwh made to BSEB on which duty was leviable as per the provision of section 3 and 4 of the Bihar Electricity Duty Act, 1948. Even in the assessed cases for the years 2005-06 to 2009-10 the AA did not levy electricity duty, while doing the assessment in April 2011. Thus, the assessee is liable to pay the amount of duty of ₹ 416.96 crore including minimum leviable penalty of ₹ 208.48 crore.

After this was pointed out, the JCCT accepted (July 2014) the audit observation and raised demand for ₹ 416.96 crore. We await recovery in the case.

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

C: Entertainment Tax

2.19 Short levy of Entertainment tax

As per the provision of Section 3-B of the Bihar Entertainment tax Act, 1948, every proprietor is liable to apply for compounding of entertainment tax before commencement of the period for which he had intended to pay compounding tax and the prescribed authority will issue permission for the same in form-C. Under the provision of sub-section (4) of section 3-B of Act *ibid*, the option to compounding of tax shall continue to be in force till the end of the financial year in which such option is permitted. Further, the violation of the conditions of the compounding scheme shall make the proprietor from the commencement of the permission liable to pay tax applicable to the Gross collection capacity.

In Patna North circle, we observed in November 2013 that a proprietor of a cinema hall (out of two test-checked) was paying the compounding tax under Section 3-B of the Bihar Entertainment Tax Act during 2011-12 but he had neither applied for the compounding nor any permission was granted by the prescribed authority in Form-C to pay entertainment tax at the compounding rates. Further, we observed that the proprietor had altered the admission rate during the year as a result the amount of payable compounding tax changed during the year. Thus, they violated the aforesaid provisions. No prior permission of the Commissioner for change in admission rate was found on the records. Therefore, the proprietor was liable to be assessed under Section 3(1) of the Bihar Entertainment Tax Act, for contravention of the provisions and conditions prescribed under section 3-B, on the basis of gross collection capacity and were therefore liable to pay entertainment tax of ₹ 2.86 crore.

The matter was reported to the Government in May 2014; their reply has not been received (August 2014).

D: Luxury Tax

2.20 Non-levy of luxury tax and penalty for non-registration

Section 3 of the Bihar Taxation on Luxuries in Hotels Act, 1988 (LT Act) provides that the tax on luxuries shall be levied and paid by the proprietor at the rate of five *per cent* of the rent on the room or suit having rent of ₹ 500 or more and at the rate of 10 *per cent* on the room or suit having rent of ₹ 1,000 or more. Section 5 of the LT Act, provides that every proprietor, who is liable to pay tax under Section 3 shall apply for a certificate of registration in the prescribed manner within a month of coming into effect of this Act or within one month from the date he starts providing room along with luxuries in the Hotel. Further, as per Section 8(3), if the prescribed authority, upon information which has come into his possession is satisfied that the proprietor has been liable to pay tax under this Act in respect of any period, and has nevertheless failed to apply for registration under Section 5 or having so applied failed to comply with any requirement for registration within a reasonable time and for which his application for registration has been rejected, such prescribed authority shall, after giving the proprietor an opportunity of being heard, assess the amount of tax to the best of his judgment in respect of

such period and shall also impose a penalty which shall be equal to the amount of tax assessed.

We observed in two commercial taxes circles (Muzaffarpur West and Gandhi Maidan, Patna) between April 2013 and December 2013 that two dealers (self assessed) had admitted rent receipts worth ₹ 4.74 crore during 2009-10 to 2011-12 but both the dealers neither got themselves registered under the Luxury Tax Act nor paid any Luxury tax. This resulted in non-levy of luxury tax of ₹ 94.80 lakh including leviable penalty of ₹ 47.40 lakh for non-registration.

After this was pointed out, AA, Muzaffarpur West Circle assessed (March 2014) the case and raised demand for ₹ 38.47 lakh and AA, Gandhi Maidan stated in December 2013 that the case would be examined. We await recovery in the accepted case and further reply in the remaining case.

The matter was reported to the Government/Department between July 2013 and May 2014; we are yet to receive their reply (August 2014).

2.21 Internal Audit

The internal audit wing called Finance (Audit), works under the Finance Department. The internal audit of the different offices of the Government is conducted on the basis of requisitions received from the administrative departments. The Chief Controller of Accounts can also select units for internal audit on availability of audit team. The Finance Department did not conduct internal audit of the Commercial Taxes Department during 2013-14. In Commercial Taxes Department, there were four audit divisions responsible for ascertaining the correctness of accounts maintained by the dealers selected by the CCT. In 2013-14, the Department did not select any unit for internal audit.

CHAPTER-III

STATE EXCISE

CHAPTER-III: STATE EXCISE

3.1 Tax administration

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

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

3.2 Results of audit

In course of audit of records of 39 units out of 50 auditable units relating to State Excise revenue during the year 2013-14, we found non/short realisation, loss of revenue and other irregularities involving ₹ 82.00 crore in 274 cases which fall under the following categories as detailed in **Table 3.1**.

Table- 3.1

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non/delayed settlement of excise shop	47	37.44
2.	Defalcation of Government revenue	1	7.69
3.	Non-realisation of license fee	15	5.98
4.	Loss due to non/short lifting of MGQ	19	0.98
5.	Others	192	29.91
Total		274	82.00

During the year 2013-14, the Department accepted underassessment and other deficiencies *etc.* involving ₹ 3.87 crore in 40 cases, of which one case involving ₹ 1.12 lakh was pointed out during the course of the year and the rest in earlier years. Further, the Department reported recovery of ₹ 5.67 lakh in nine cases which were pointed out during 2012-13 and 2013-14.

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

A few illustrative cases involving tax effect of ₹ 14.14 crore are mentioned in the following paragraphs.

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

Non-compliance of the provisions of the Acts/Rules in some cases as mentioned in paragraphs 3.4 to 3.8 resulted in non/short levy, non/short realisation of licence fee etc. of ₹ 14.14 crore. There is need for the Government to improve the internal control system so that such omission can be prevented.

3.4 Allotment of Excise Licences for liquor

3.4.1 Introduction

The State Government may grant privilege of manufacture and/or supply of country/spiced country liquor within any specified local area. The manufacturers have to supply liquor to the Bihar State Beverage Corporation Limited (BSBCL). The BSBCL is an exclusive wholesale depot, which supplies all types of liquor to retailers of excise shops in the State.

With a view to examine grant of licence for manufacture and wholesale supply of liquor, the records of the office of the Commissioner of Excise (CE), Bihar were scrutinised between April and July 2014 covering the period 2012-14. Besides, files relating to settlement of retail licences were also test-checked in eight² excise districts. The selection of seven district excise offices was based on statistical sampling through Probability Proportion to Size with Replacement (PPSWR) and one excise district, Patna on the basis of maximum number of settled excise shops.

The tender files and other relevant records of contract for supply of country liquor in Polyethylene terephthalate (PET) bottles for the period April 2014 to March 2019 was examined and it was noticed that supply under this contract has not yet been started as PET bottling plants have not been established by the tenderers. In the meantime, short term contract for supply of country liquor has been awarded and supply under these contracts is being made in sachets instead of PET bottles. Besides, settlement file/register, demand, collection and balance register, security deposit register, permit register etc. in selected district excise offices were also examined. The audit findings noticed in course of examination are discussed in the succeeding paragraphs.

The audit findings were forwarded to the Government for response in July 2014. An exit conference was conducted in August 2014 with the Secretary to the Government to discuss the audit observations and to elicit the view of the Government. The replies of the Government/Department have been suitably incorporated in the respective paragraphs. We acknowledge the co-operation of the Department for providing the information and records required for conducting audit.

² East Champaran (Motihari), Katihar, Kishanganj, Patna, Purnea, Saran, Supaul and West Champaran (Betiah).

*Audit findings***3.4.2 Contract for manufacture and wholesale supply of country liquor in PET bottles during the period 1 April 2014 to 31 March 2019**

NIT was invited on 31 January 2014 by the Department for manufacture and wholesale supply of country liquor in PET bottles to BSBCL during the period 1 April 2014 to 31 March 2019.

3.4.2.1 Non-adoption of lowest rate for supply of liquor leading to huge loss of revenue of ₹ 341.32 crore during 2014-19

Rule 131 R (xiv) of the Bihar Finance (Amendment) Rules, 2005 provides that contract should ordinarily be awarded to the lowest evaluated bidder (L-1). However, where the lowest acceptable bidder is not in a position to supply the full quantity required, the remaining quantity, as far as possible be ordered from the next higher responsive bidder at the rates offered by the lowest responsive bidder. Central Vigilance Commission (CVC) instruction (March 1999) clarifies that many a time the quantity to be ordered is much more than L-1 alone can supply. In such cases, the quantity ordered may be distributed in such a manner that the purchase is done in a fair, transparent and equitable manner.

We scrutinised the conditions of NIT for supply of country liquor in PET bottles and observed that condition no. 2 (ix) of the NIT provided that the entire state was divided into 17 supply zones. Further, condition no. 3 of the NIT stipulated that the lowest tenderer (L-1) would be allotted one zone of his first preference and thereafter remaining tenderers would be allotted one supply zone each of their preference on the basis of their quoted rate and this process would continue till all the supply zones were allotted. Condition no. 3 further provided that each tenderer was required to deposit differential amount of base rate (₹ 5.78 and ₹ 9.76 for 200ml and 400 ml pack size respectively) and tendered rate. The provision of deposit of differential amount of base rate and quoted rate tantamounts to allowing supply of country liquor at different rates in different zones.

Condition of allotment of 17 supply zones to 17 different tenderers at different rates was against the provision of the Bihar Finance (Amendment) Rules, 2005 and CVC instruction because (i) capacity of L-1 was not exhausted before offering supplies to next higher responsive bidder, (ii) there was no provision that other suppliers would have to supply liquor at the rate quoted by L-1. It is also noteworthy that it was a departure from the established procedure adopted in previous tenders for the periods 2005-08, 2009-12 and 2012-14 in which the Department had fixed uniform rate for supply of liquor in the entire State.

The Department selected (February 2014) 17 tenderers for supply of liquor at different rates in 17 supply zones and the tenderers were required to deposit the differential amount. Thus, due to allowing payment of differential amount on the basis of their tendered rate instead of rate quoted by L-1 the Department would be deprived of ₹ 341.32 crore during 2014-15 to 2018-19 (₹ 68.26 crore per annum) calculated on the basis of Minimum Guaranteed Quantity (MGQ) of country liquor for the year 2013-14 as detailed in **Annexure- XV**.

After this was pointed out, the Department stated (August 2014) that this was a policy decision and was approved by the Council of Ministers. The Department further stated that mandate of policy decision had been bestowed to Government by the Constitution.

The Government replied during exit conference (August 2014) that concept of base rate was introduced in tendering process for the first time. So the high level committee under the chairmanship of the Chief Secretary had resolved that in order to break away the barriers of supply chain and the cartel of liquor traders, the entire State be divided into 17 different zones. Further the choice of zone became the focal point for decision making in awarding contract. It is mentioned in NIT that L-1 to L-17, whatever be the offer, would be provided with the opportunity of selecting a zone of its choice on the basis of minimum quoted rate at the very outset and the same procedure was to be continued till the last and final zone was awarded. Hence, the concept of L-1 has not been the criteria of the NIT, viewing the varying MGQ of the area/availability of human resources/accessibility of the area/and other local factors specific to the area. So, the freedom of choice remained the main criteria and ultimately one tenderer was to be awarded only one zone. If L-1 would have been the criteria, he might have claimed to grab all the 17 zones, if there would not have such in built restriction of allotting only one zone to one tenderer.

The reply of the Government was not in consonance with the facts as the memorandum submitted to the Council of Ministers did not elucidate the reasons for relaxation of Rule 131 R (xiv) of the Bihar Finance (Amendment) Rules, 2005. Further, Rule 18(1) of the Rules of Executive Business of Government of Bihar inter-alia prescribes the requirement of inclusion of the salient facts of the case and the main arguments for and against the particular course advocated in the memorandum for bringing a case before the Council of Ministers for a decision. This was not done as the consequential loss to the Government due to provision for allotment of supply zones to tenderers at rates higher than L1 was not placed in the memorandum. As it turns out now it is leading to a loss of ₹ 341.32 crore during the period 2014-15 to 2018-19.

Further, reply of the Government regarding apprehension of grabbing all the 17 zones by L1 is also not correct as in the previous tender, the Government itself approved the rate of lowest tenderer (L1) for supply of liquor in 17 different supply zones by 17 different tenderers, but in the instant case, the Government/Department had allowed the 17 successful tenderers to supply country liquor in their allotted zones at the price quoted by them instead of the lowest tendered rate (L1).

Moreover, the stated objective of breaking the cartelisation also could not be achieved as three successful tenderers had quoted same rate of ₹ 3.91 for 200 ml pack size and three other tenderers had quoted the same rate of ₹ 4.66 for 200 ml pack size. Further, the contract was yet to be executed since the tenderers were not in a position to supply in PET bottles due to delay in establishing of PET bottling plants and as a result, country liquor continued to be supplied in sachets which was sought to be discontinued since it could lead to supply of spurious liquor. The adoption of this method of awarding tenders would result in loss of revenue to the extent of ₹ 341.32 crore without conferring the claimed advantages during 2014-19.

3.4.2.2 Non-commencement of supply of liquor in PET Bottles

According to the Departmental Resolution (October 2013), manufacture and wholesale supply of country liquor in PET bottles to the BSBCL was to commence from 1 April 2014 and the process of tender was to be initiated prior to it.

During scrutiny of the tender file and other records, we observed that the supply of liquor in PET bottles has not commenced till date (July 2014), though it was to be started from 1 April 2014.

After this was pointed out, the Department stated that manufacturing of PET bottle is a lengthy process and lot of machines and construction of building are required and it would take time in its commencement.

The reply of the Department is not in consonance with the fact that in the previous two tenders (2009-12 and 2012-14) also the tendering process was inordinately delayed on the ground of policy decision for supply of liquor in PET bottles and extensions were given to existing licensees for supply of liquor in sachets. Though the Department was well aware that the manufacturing of PET bottles was a lengthy process and it would take considerable time, the Department did not take timely action to initiate tendering process for supply of liquor in PET bottles. Thus, due to delay in execution of tender for supply of country liquor in PET bottles, the Department could not achieve its objective to maximize the supply of better quality of liquor from authorised sources for past six years.

3.4.2.3 Non-transparency in allotment of supply zones

According to condition 3 (vi) (ii) of the NIT, the allotment of zones was to be made on the basis of preferences of tenderers submitting minimum rates. In the first stage, one zone each was to be allotted to 17 tenderers qualified in technical bid.

We scrutinised the condition of NIT and noticed that there was no specific criteria relating to finalisation of bid in case of identical financial bids. Thus, allotment of zones to three tenderers, who quoted same rate of ₹ 3.91 for 200 ml pack size and three other tenderers quoting the same rate of ₹ 4.66 for 200 ml pack size, was made in ad-hoc and non-transparent way.

Even though same situation had arisen in previous tender for the period from December 2012 to March 2014, no steps were taken to provide process for allotment in case of identical bids.

After this was pointed out, the Department intimated (August 2014) that allotment of zones among tenderers of identical rates were done in a prescribed manner. However, the Department did not furnish the criteria adopted in case of allotment of zones in identical bids.

3.4.3 Supply of substandard liquor

According to conditions of licence (Form 27), the country liquor sold should be of good quality and in accordance with the standard prescribed by the Commissioner of Excise. The liquor kept for sale in godown shall be analysed periodically and the licensee is bound to rectify the deficiency found, if any.

- We scrutinised sample test report in the office of the Chemical Examiner, Patna for the period 2012-13 and 2013-14 and observed that out of 1,940 samples of country liquor chemically examined, 224 samples were not in accordance with the standard and in three districts³ out of 89 samples, 24 samples contained sediments. With the view to check whether the lots from where the samples containing sediments were issued to retail shops, we checked the records in two⁴ excise districts and observed that 3.39 lakh LPL of country liquor belonging to those lots were issued to BSBCL during the period 2012-13 and 2013-14 for sale to retailers.

After this was pointed out the Department replied (August 2014) that sub standard liquor was destroyed and action was being taken against the suppliers. The reply was in contrary to the reply of the concerned SEs who stated (July 2014) that timely action could not be taken due to delay/non-receipt of sample test reports.

- We further observed that 17,600 sachets of 400 ml pack size of country liquor manufactured in December 2012 were substandard and were lying in the godown of BSBCL, Kishanganj for destruction till date of audit (July 2014).

After this was pointed out, the SE Kishanganj stated (July 2014) that letter was written (April and November 2013) to headquarters for necessary guidelines for destruction of 17,600 sachets.

The Government further stated during exit conference (August 2014) that eight new laboratories had been sanctioned and added that BSBCL would be directed to introduce methodology for liquor testing at the depot on random basis.

3.4.4 Settlement of licences for retail excise shops

Upto June 2007, the licences for retail vend of excise shops were settled annually by public auction and thereafter the settlement of licences for retail excise shops was to be made through lottery system as per the provisions of the Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor/foreign liquor/beer and composite liquor shop) Rules, 2007 (effective from 1 July 2007).

As per Rule 7 of the Rules *ibid*, a sale notification in excise Form-127 shall be published with the prior approval of the Board of Revenue, ordinarily 15 days before the date fixed for commencement of settlement, in which general conditions of settlement shall be mentioned.

3.4.4.1 Improper determination of Minimum Guaranteed Quantity of liquor for excise shops

Rule 5 of the Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor/foreign liquor/beer and composite liquor shop) Rules provides that the licensing Authority shall be competent to determine the minimum guaranteed quantity (MGQ) of each shop viz. country

³ Begusarai, Kishanganj and Supaul.

⁴ Kishanganj and Supaul.

liquor/spiced country liquor, foreign liquor/beer and wine including composite liquor shop but such MGQ of all the shops of a district shall not be less than the MGQ determined by the Excise Commissioner for that district. The Excise Commissioner shall issue a guideline to all the licensing Authority and the licensing Authority shall be bound by the consideration to follow the guideline of Excise Commissioner.

Further, Rule 20 (ii) of the Rules *ibid* stipulates that additional licence fee shall not be charged for additional lifting up to 15 *per cent* of the fixed MGQ, but for lifting more than 15 *per cent*, the additional licence fee shall be charged at the rate of 50 *per cent* of the fixed licence fee.

During test-check of Permit registers and data provided by BSBCL relating to nine⁵ districts excise offices, we observed between October 2013 and July 2014 that licensees of 92 out of 922 excise shops had lifted India made foreign liquor (IMFL)/country/spiced country liquor/beer in excess of their fixed MGQ during the period from 2010-11 to 2012-13, as detailed in **Annexure-XVI**.

This indicated that the licensing Authority had not determined the MGQ of excise shops in view of actual lifting of previous years although the data shows the trend of excess lifting during above periods. Also, the Excise Commissioner did not issue any guideline to the licensing Authorities to fix MGQ of the excise shops in their districts. Thus, in absence of such guideline and determination of MGQ of excise shops without considering their potential not only provides financial benefit to the licensees by exempting 15 *per cent* of MGQ and allowing them to pay only 50 *per cent* licence fee for lifting in excess of fixed MGQ but also the Government was deprived of revenue of ₹ 3.04 crore during the year 2012-13 as detailed in **Annexure-XVI**.

After this was pointed out, the Government accepted the audit contention during exit conference (August 2014) and agreed to look into the matter.

3.4.4.2 Non-provision of solvency condition

We scrutinised settlement register/file, lottery register and application file for the year 2012-13 and 2013-14 in all test-checked district excise offices and observed (between May and July 2014) that condition for submission of solvency certificate by licensees was not included in the sale notification for 2012-13 and 2013-14, though required under Rule 9 of the Bihar Excise Rules, 2007. As a result, none of the licensees had submitted the aforesaid certificates before settlement of excise shops. In the office of the SE, East Champaran, we noticed (June 2014) that first lottery winners of eight groups of excise shops did not turn up for settlement of shop. Further, in the office of the Assistant Commissioner of Excise (ACE), Patna, we observed (September 2013) that settlement of 26 groups of excise shops were cancelled between May 2012 and July 2013 on the ground of non-deposit of security money and advance licence fee. Delay in cancellation of licences of excise shops resulted in outstanding security money and licence fee of ₹ 4.17 crore against the defaulting licensees as detailed in **Annexure-XVII**. Further, we observed that demand of ₹ 1.15 crore was raised against 15 defaulting licensees only. Thus, in absence of any

⁵ East Champaran (Motihari), Kishanganj and Supaul (Selected districts) Aurangabad, Begusarai, Buxar, Kaimur (Bhabhua), Madhubani and Nalanda (Compliance audit).

mechanism to determine the solvency of the applicants for lottery of excise shops, non-serious applicants participated in lottery process, who did not turn up after settlement of excise shops.

After this was pointed out, the Government accepted the audit contention during exit conference (August 2014) and agreed to look into the matter.

3.4.4.3 Submission of security deposit by person other than the licensees of excise shops

Condition 14 (a) of sale notification for 2012-13 and 2013-14 provides that the settlee⁶ of excise shop shall deposit security money equivalent to one twelfth portion of annual licence fee immediately after settlement.

We scrutinised the settlement file/register and security deposit register of the SE, West Champaran for the year 2012-13 and 2013-14 and observed that in case of 82 groups of excise shops, security deposits were furnished by persons other than the licensees of excise shop and further analysis revealed that out of above 82 groups of excise shops, three persons furnished security deposits for 33 groups of excise shops in contravention to the condition of sale notification.

After this was pointed out, the Government accepted the audit contention during exit conference (August 2014) and agreed to look into the matter.

3.5 Cases of defalcation of excise revenue

Condition 14 of the sale notification for the years 2009-10 to 2013-14 of excise shops provides that the monthly installment of licence fee specified in the licence and determined by the Government shall be deposited by the licensee in the Government treasury of the district by the 1st day of the month, which in any event must be deposited by the 20th day of the month, failing which the licence shall be cancelled and all deposited security amount shall be forfeited and the shop shall be settled to the next applicant.

As per Rule 7 read with Rule 37 of the Bihar Financial Rules Volume-I, it is the responsibility of the departmental authority to see that all sums due to the Government are regularly and promptly assessed, realised and duly credited in the Government account under proper head without any delay.

Under provisions of sub para 22 of para 485 of chapter XIV (Appendix-I) of Excise Laws of Bihar Volume-II, every excise office will maintain a Challan Register in Form-106 and every challan for excise payments presented should be entered in the register after being satisfied of the correctness of the entries therein. The register will be sent to treasury at the end of each day for the signature of the Treasurer. The entries of payments made in other registers should be on production of challan of payments, be also duly compared with the entries made in the challan register, and discrepancies reconciled.

⁶ Settlee is a person with whom retail excise shop is settled through lottery.

As per Rule 45 of the Bihar Treasury Code, 2011, it shall be the duty of head of office in Excise Department to ensure that there is no loss of Government revenue. If the challan is in order in all respects, the departmental officer shall enforce it with an order to the Bank to receive the money and to grant a receipt.

3.5.1 During test-check of the Demand, Collection and Balance registers of the District Excise Office, Munger between February and July 2014, we observed that licence fee of ₹ 7.77 crore deposited by 16 licensees during the period April 2012 and February 2014 was not found deposited in the treasury schedule under head '0039 – State Excise'. Thus, the permits were issued against fake and fictitious payments. As the challan register was not maintained, the District Excise Officer could not verify the genuineness of the challans submitted by the licensees with the treasury records.

After this was pointed out, the Department intimated (August 2014) that departmental proceeding was under consideration against the head of the office, FIR was lodged against officers and officials who neglected the provisions of the Bihar Excise Rules and request has been made to investigate the matter by Economic Offence Investigation unit and the clerks, who had issued permits without verification of challans, are under judicial custody. The challans for the period prior to 2012 were being verified by the Collector, Munger.

3.5.2 During scrutiny of Demand, Collection and Balance register of the ACE, Patna for the period 2008-09 to 2009-10, we observed (June 2013) that licence fee amounting to ₹ 35.99 lakh as shown deposited by six licensees in the Demand, Collection and Balance register pertaining to the period October 2008 to February 2010 was not found deposited in treasury schedule.

After this was pointed out, the ACE, Patna stated (May 2014) that it appears that the said amount was not deposited in Government Treasury and necessary action was being taken against all concerned. It was observed that certificate case under Bihar and Orissa Public Demand Recovery Act 1914 was instituted against the defaulting licensees.

3.5.3 During test-check of the Demand, Collection and Balance register of the District Excise Office, Banka in March 2013, we observed that licence fee of ₹ 2.13 lakh deposited by two⁷ licensees during the period April 2009 and February 2011 was not found deposited in the treasury schedule under head '0039 – State Excise'. The concerned branch of State Bank of India also certified (3 July 2013) that the aforesaid sums were not found deposited into the bank. Thus, the permits were issued against fake and fictitious payments. As the challan register was not maintained properly in the office, the District Excise Officer could not verify the genuineness of the challans submitted by the licensees with the treasury records.

After we pointed (15 March 2013) this out, the SE, Banka stated (18 March 2013) that at the instance of audit the entire money had since

⁷ Shri Deepak Kr. Bhagat: Gr. No. 13 (2009-10) and Shri Sarwan Chaudhary: Gr. No. 4 (2010-11).

been recovered from one licensee⁸ and deposited (18 March 2013) in the Treasury and in other case report would be sent to audit after verification.

The Government stated (August 2014) during exit conference that the system of online payment was being introduced shortly and instructions had been issued to all district excise offices to ensure non-occurrence of these issues.

Similar issues were pointed out in paragraph 3.2.3 and 3.8 of Audit Reports (Revenue Sector) 2011-12 and 2012-13 respectively. In reply to the paragraph 3.2.3, the Government had stated that the amount was recovered in Muzaffarpur, FIR was lodged against the defaulting licensees in Patna and departmental proceeding against the erring officials had been initiated. The nature of lapses are still persisting which shows ineffectiveness of the internal control system of the Department to prevent recurring leakage of revenue.

Non-verification of the amount deposited by licensees from the records of treasury as well as non-observance of condition of sale notification by the Excise officers resulted in defalcation of Government Revenue of ₹ 8.15 crore by 24 licensees. Excise Department did not ensure checking areas of malfunctioning in system and could not take appropriate remedial measures which showed non-adherence to internal control mechanism.

3.6 Short realisation of licence fee of excise shops after cancellation

Rule 15 of the Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor/Foreign liquor/beer and composite liquor shop) Rules framed under the Bihar Excise Act stipulates that after the acceptance of settlement through lottery by the licensing Authority, one twelfth portion of the annual licence fee shall be paid by the settlee as security money and an equal amount shall be deposited by the settlee as advance licence fee which will be adjusted in the last month of the excise year.

Further as per Rule 17 (2) of the Rules *ibid* read with clause 14 of condition of sale notification of excise shops, one twelfth part of annual licence fee of each shop shall be deposited by the licensees in the treasury of the district by the first day of the month, which in any event must be deposited by the 20th of the concerned month, failing which the license shall be cancelled and all deposited security money shall be forfeited.

We scrutinised the Settlement files, Demand, Collection and Balance registers and Security Deposit register in six⁹ district excise offices and observed (between January 2013 and January 2014) that the licences of 31 groups of excise shops were cancelled during the period between December 2010 and August 2013 due to non-payment of monthly licence fee. Further, we observed that the shops were cancelled after a delay of one to five months, though it was required to be cancelled after the 20th day of the same month of default. Thus,

⁸ Shri Deepak Kr. Bhagat: Gr. No. 13 (2009-10) : ₹ 1,65,000 vide Challan No. 55 dated 18.3.2013.

⁹ Banka, Begusarai, Buxar, East Champaran (Motihari), Nawada and Patna.

due to delay in cancellation of shops, a sum of ₹ 1.83 crore remained unrealised till date of audit. No records of any action taken/initiated by the excise authorities for realisation of ₹ 1.83 crore were found/made available.

After this was pointed out, the Government accepted the audit contention during exit conference (August 2014) and stated that suitable action would be taken.

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

As per Rule 17 (2) read with Rule 15 given in paragraph 3.6, in case of failure in deposit of monthly licence fee by 20th day of the month, the licence shall be cancelled and all deposited security money shall be forfeited.

During scrutiny of settlement files and Demand, Collection and Balance registers of four¹⁰ district excise offices, we observed (between February and December 2013) that licences of 16 groups of excise shops were cancelled due to non-payment of monthly licence fee during the period between March 2011 and July 2013. Further, we observed that the outstanding dues were adjusted from their deposited security money. The adjustment of security money of ₹ 1.14 crore against outstanding dues was in contravention to the provisions of the Rules *ibid*, which stipulates forfeiture of security money in case of cancellation of excise shops. This led to short realisation of revenue of ₹ 1.14 crore and resulted in undue favour to the licensees.

After this was pointed out, the Government accepted the audit contention during exit conference (August 2014) and stated that suitable action would be taken.

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

Condition 14 of the sale notification of excise shops provides that the monthly installment of licence fee shall be deposited by the licensee in the Government treasury of the district by the first day of the month, which in any event must be deposited by the 20th day of the month, failing which the licence shall be cancelled and all deposited security money shall be forfeited and the shop shall be settled to the next bidder.

Section 42(b) of the Bihar Excise Act provides that if any duty or fee payable by the holder thereof be not duly paid the licensing Authority may cancel, suspend it or impose penalty.

Further, Section 68 of the Act *ibid* stipulates that excise officer may accept from any person whose licence, permit or pass is liable to be cancelled, suspended or imposed penalty on economic offence under clause (a), (b), (d), (e), (f), (g) and (h) of Section 42, payment of a sum of money minimum of ₹ one thousand and maximum ₹ one lakh in lieu of such cancellation, suspension or by way of composition for such offence, as the case may be.

¹⁰ Bhagalpur, Munger, Patna and Rohtas (Sasaram).

During test-check of Demand, Collection and Balance registers in four¹¹ districts excise offices, we observed between June 2013 and February 2014 that 97 licensees of liquor shops had deposited their monthly license fees of ₹ 9.04 crore for the period between June 2012 and November 2013 with delay ranging between four and 60 days. However, they were required to deposit their monthly licence fee latest by the 20th of each month as per the condition of sale notification. But the licensing Authorities neither cancelled/suspended the licence nor imposed penalty on defaulting licensees. Instead they accepted the amount of licence fee without realising the sums in shape of penalty. Moreover, encouragement to other licensees to default on payment of fee cannot be ruled out and thus penalty should have at least been imposed as a deterrent measure.

After this was pointed out, the Government accepted the audit contention during exit conference (August 2014) and stated that suitable action would be taken.

3.9 Internal Audit

There is an internal audit wing called Finance (Audit), which works under the Finance Department and internal audit of the different offices of the Government is conducted on the basis of requisitions received from the Administrative Department. The Chief Controller of Accounts can also select units for internal audit on availability of audit team. The Finance Department did not conduct internal audit of the Registration, Excise and Prohibition (Excise) Department during 2013-14.

¹¹ Buxar, Kaimur (Bhabhua), Nalanda and Nawada.

CHAPTER-IV

TAXES ON VEHICLES

CHAPTER-IV: TAXES ON VEHICLES

4.1 Tax administration

The levy and collection of taxes on vehicles in the State is governed by the provisions of Motor Vehicles (MV) Act, 1988, Central Motor Vehicles (CMV) Rules, 1989, Bihar Motor Vehicle Taxation (BMVT) Act, 1994 and BMVT Rules, 1994. It is administered by the Principal Secretary, Transport Department at the Government level and by the State Transport Commissioner (STC) at the apex level of the Department. In performance of his duties, the STC is assisted by two Joint State Transport Commissioners at the headquarters. The State is divided into nine¹ regions and 38 districts which are controlled by the Secretaries of the Regional Transport Authorities and the District Transport Officers (DTOs) respectively. They are assisted by Motor Vehicle Inspectors (MVIs) in discharging their duties.

4.2 Results of audit

In the course of audit of records of 35 units out of 49 auditable units relating to taxes on vehicles during the year 2013-14, we found non/short levy, non/short realisation of revenue and other irregularities involving ₹ 19.90 crore in 252 cases which fall under the following categories as detailed in **Table 4.1**.

Table- 4.1

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Non-realisation of motor vehicle taxes	32	5.97
2.	Non-renewal of trade certificate	21	4.82
3.	Non/short levy of one time tax from tractors and trailers	41	2.63
4.	Delivery without temporary registration	6	1.90
5.	Non/short levy of one time tax from three wheelers	23	1.32
6.	Non/short realisation of trade tax	19	0.41
7.	Other cases	110	2.85
Total		252	19.90

During the period 2013-14, the Department accepted non/short levy, non/short realisation and other deficiencies of ₹ 5.63 crore in 53 cases, of which 12 cases involving ₹ 28.23 lakh were pointed out during the course of the year and the rest in earlier years.

A few illustrative cases involving tax effect of ₹ 16.28 crore are mentioned in the following paragraphs.

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

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

Our scrutiny of the records of the offices of the District Transport Offices revealed several cases of non-compliance of the provisions of the Act/Rules and departmental orders as mentioned in the following paragraphs. These cases are illustrative and are based on test-checks carried out by us. Such omissions on the part of the departmental officers are pointed out by us each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system and internal audit.

4.4 Non-realisation of motor vehicle taxes

Under Section 5 and 9 of the Bihar Motor Vehicles Taxation (BMVT) Act, 1994, motor vehicles tax is to be paid to the taxing officer in whose jurisdiction the vehicle is registered. The vehicle owner can pay the tax to the new taxing officer in case of change of residence/business, subject to the production of No Objection Certificate (NOC) from the previous taxing officer. Further, the taxing officer may exempt the vehicle owner from payment of tax, if he is satisfied that the prescribed conditions have been fulfilled by the vehicle owner. The District Transport Officers (DTOs) are required to issue notices of demand to ensure timely realisation of tax.

Further under Section 23 of the Act *ibid* read with Rule 4 (2) of the BMVT Rules, 1994, non-payment of tax beyond 90 days attracts penalty at the rate of 200 *per cent* of the tax due. Under Section 22 of the BMVT Act, if the tax or penalty or both has not been paid in accordance with the provisions of the Act, an officer not below the rank of Inspector of Motor Vehicles or any other officer specially authorised by the State Transport Commissioner, may seize the motor vehicles and detain it till the payment of tax.

We observed that the Government/Department did not install a mechanism for periodic review of the taxation registers/tax clearance table of *VAHAN* database by the DTOs and also did not prescribe a time frame within which notices of demand are to be issued to the defaulting vehicle owners.

We scrutinised the taxation register and the *VAHAN* database of 30 District Transport Offices for the period 2012-13 and found (between May 2013 and January 2014) in 28 District Transport offices² that out of 8,571 transport vehicles test-checked (total number of registered transport vehicles: 1,74,348), the owners of 1,608 vehicles did not pay tax of ₹ 2.09 crore pertaining to the period between April 2008 and March 2014 within the due dates and the concerned DTOs neither seized the defaulting vehicles nor issued notices of demand for realisation of the dues from the defaulting vehicle owners. In none of the cases, change of addresses of the owners or surrender of documents for securing exemption from payment of tax was found on record. This resulted in non-realisation of tax of ₹ 5.84 crore including penalty of ₹ 3.75 crore.

² Araria, Aurangabad, Banka, Begusarai, Bhagalpur, Bhojpur, Darbangha, East Champaran (Motihari), Gaya, Gopalganj, Jamui, Jehanabad, Katihar, Kishanganj, Lakhisarai, Muzaffarpur, Nalanda, Nawada, Patna, Purnea, Rohtas, Samastipur, Saran (Chapra), Sitamarhi, Siwan, Supaul, Vaishali (Hajipur) and West Champaran (Bettiah).

This shows the slackness of the DTOs towards the implementation of *VAHAN* database as well as weak monitoring mechanism by higher authorities, though we have pointed this out repeatedly in the previous years.

After this was pointed out between May 2013 and January 2014, the Government furnished (July 2014) reply in respect of four District Transport Offices³ and stated that notices of demand had been issued against 136 vehicle owners for ₹ 35.72 lakh in three District Transport Offices (Bhagalpur, Jehanabad and Sitamarhi), a sum of ₹ 8.88 lakh had been realised from 15 vehicle owners in three District Transport Offices (Bhagalpur, Darbhanga and Sitamarhi) and revenue recovery certificate cases were instituted against nine vehicle owners for ₹ 4.75 lakh in District Transport Office, Darbhanga. The Government did not furnish reply in respect of remaining District Transport Offices.

4.5 Short realisation of Trade Certificate Fees

Section 39 of the Motor Vehicle (MV) Act, 1988 provides that no person shall drive any motor vehicle in any public place unless the vehicle is registered. Further, Rule 33 of the Central Motor Vehicles (CMV) Rules, 1989 provides that for the purpose of the proviso to Section 39, a motor vehicle in the possession of a dealer shall be exempted from the necessity of registration subject to the condition that he obtains a trade certificate from the Registering Authority having jurisdiction in the area in which the dealer has his place of business. Under Rule 34, an application for the grant or renewal of a trade certificate shall be made in Form 16 and shall be accompanied by the appropriate fee (Motor Cycle/Invalid carriage: Fifty rupees for each vehicle; Others: two hundred rupees for each vehicle) as specified in Rule 81.

Further, under Rule 37, a trade certificate shall be in force for a period of 12 months from the date of issue or renewal thereof and shall be effective throughout India for the purposes specified under Rule 41 of the Rules *ibid*.

We scrutinised the trade tax registers and files of 30 District Transport offices for the period 2012-13 and found (between August 2013 and January 2014) in 12 District Transport Offices⁴ that 1,185 trade certificates were granted to test-checked 93 dealers of vehicles (out of 517 dealers) during the period between January 2009 and November 2013, though, these dealers had received 5,28,538 vehicles during the period as evident from the declarations filed by dealers in Form B2. Though the information regarding number of vehicles in their possession was available to the Registering Authority, they did not initiate action to raise demand for trade certificate fees against the defaulter dealers for the remaining 5,27,353 vehicles under their possession as required under Rules *ibid*. Hence, due to this omission there was short realisation of ₹ 4.90 crore in the shape of trade certificate fee.

The matter was reported to the Government/Department between December 2013 and May 2014; we are yet to receive their reply (August 2014).

³ Bhagalpur, Darbhanga, Jehanabad and Sitamarhi.

⁴ Aurangabad, Begusarai, Bhojpur, East Champaran (Motihari), Gaya, Katihar, Kishanganj, Muzaffarpur, Patna, Rohtas (Sasaram), Saran (Chapra) and Siwan.

4.6 Short realisation of one time tax and penalty from goods carriage vehicles

Under the provision of serial no. 2 of Part–C of Schedule–I of the BMVT Act, 1994 as amended by Finance Act, 2011 (effective from 1 April 2011), One Time Tax (OTT) of ₹ 7700 for goods carriage vehicles excluding trailers up to 1000 kgs registered laden weight capacity and ₹ 5500 per ton or part thereof exceeding 1000 kgs but not exceeding 3000 kgs of registered laden weight capacity shall be levied at the time of registration for a period of ten years from the date of first registration of such vehicles and in cases of vehicles already registered, the one time tax payable shall be calculated after deducting the tax amount already paid.

Further, in case of delay of payment exceeding 15 days, penalty ranging between 25 *per cent* and 200 *per cent* of the tax due is leviable under Section 23 of the Act *ibid* read with Rule 4(2) of BMVT Rules, 1994.

We scrutinised the taxation registers/Tax Clearance Table of the *VAHAN* database of 30 District Transport Offices for the period 2012-13 and found (between June and December 2013) in 19 District Transport Offices⁵, that out of 3,083 test-checked goods carriage vehicles, the owners of 740 vehicles, which were registered between March 2005 and October 2012, did not pay one time tax as per the provisions of the Bihar Finance Act, 2011 or paid short one time tax. The DTOs did not ensure compliance with the provisions of the Act *ibid* and did not realise the OTT of ₹ 2.12 crore including penalty of ₹ 1.47 crore.

After this was pointed out between June 2013 and December 2013, the Government stated in July 2014 that notices of demand had been issued against 43 vehicle owners for ₹ 15.79 lakh in two District Transport Offices (Bhagalpur and Jehanabad) and a sum of ₹ 1.94 lakh had been realised from six vehicle owners in District Transport Office, Bhagalpur. The Government did not furnish reply in respect of remaining DTOs.

4.7 One time tax from three wheelers

Under Section 5 and 7 of BMVT Act, 1994 as amended by Bihar Finance Act, 8 of 2010 (effective from 9 April 2010), a one time tax (OTT) of ₹ 7,500 and ₹ 5,000 for seven and four seated three wheelers vehicles (excluding driver) respectively shall be levied on all three wheelers up to one year of age at the time of registration for a period of ten years from the date of first registration in the State. The OTT payable by three wheelers already registered shall be calculated after deducting the tax amount already paid and no OTT shall be payable if the vehicle has already paid tax of more than ₹ 7,500 and ₹ 5,000, as the case may be. Further, as per BF Act, 2013 (effective from 1 April 2013) (a) Three wheeler with seating capacity not more than 4 persons (excluding driver) - a one time tax of ₹ 9,000 shall be levied for 15 years for new registered vehicle, or a one time tax of ₹ 6,000 on all three wheelers up to one

⁵ Aurangabad, Begusarai, Bhagalpur, East Champaran (Motihari), Gaya, Gopalganj, Jamui, Jehanabad, Muzaffarpur, Nalanda, Nawada, Rohtas (Sasaram), Samastipur, Saran (Chapra), Sitamarhi, Siwan, Supaul, Vaishali (Hajipur) and West Champaran (Bettiah).

year of age at the time of registration for a period of ten years from the date of first registration in the State. (b) Three wheelers with seating capacity up to 7 persons (excluding driver) - a one time tax of ₹ 13,500 shall be levied for 15 years from new registered vehicles, or a one time tax of ₹ 9,000 on all three wheelers up to one year of age at the time of registration for a period of ten years from the date of first registration in the State.

Under Section 23 of the Act *ibid* read with Rule 4(2) of the BMVT Rules, 1994 non-payment of tax beyond 90 days attracts penalty at the rate of 200 *per cent* of the tax due.

4.7.1 Short realisation of one time tax and penalty from three wheelers

We scrutinised the taxation registers/Tax Clearance Table of the *VAHAN* database of 30 District Transport offices for the period 2012-13 and found (between June and December 2013) in 13 District Transport offices⁶, that out of 2,859 test-checked three-wheelers (total number of registered three wheelers: 39,606), the owners of 584 vehicles, which were registered between May 2007 and October 2013, did not pay one time tax as per the provisions of the Bihar Finance Acts of 2010 and 2013. The DTOs did not ensure compliance of provisions of the Act *ibid* which resulted in short realisation of the OTT of ₹ 1.05 crore including leviable penalty of ₹ 76.31 lakh.

After this was pointed out between June 2013 and December 2013 the Government stated in July 2014 that notices of demand had been issued against 30 vehicle owners for ₹ 4.52 lakh and a sum of ₹ 14,280 had been realised from one vehicle owner in District Transport Office, Jehanabad. The Government did not furnish reply in respect of remaining DTOs.

4.7.2 Incorrect mapping of business rules

During scrutiny of tax clearance table of *VAHAN* database of the office of the District Transport Officer (DTO), Muzaffarpur in respect of three wheelers, we observed (December 2013) that 578 three wheelers were registered between January 2010 and June 2010. Out of which owners of 130 three wheelers paid one time tax during September 2010 to November 2010 and the DTO granted the validity of the registration for the periods ranging between 15 years 3 months and 15 years 9 months from the date of registration instead of 10 years as provided under aforesaid Bihar Finance Act, 8 of 2010. This occurred due to incorrect mapping of business rules in *VAHAN* database. The irregularity in mapping of business rules was subsequently corrected by the Department. But the Department did not take any action to correct the validity of registration period in above cases.

After this was pointed out, DTO Muzaffarpur stated in December 2013 that notice would be issued. We await further reply (August 2014).

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

⁶ Begusarai, East Champaran (Motihari), Jamui, Jehanabad, Katihar, Kishanganj, Muzaffarpur, Nalanda, Nawada, Samastipur, Saran (Chapra), Supaul and Vaishali (Hajipur).

4.8 Short realisation of one time tax and penalty from trailers

Under Section 5 and 7 of BMVT Act, 1994 as amended by Bihar Finance Act, 8 of 2010 (effective from 09 April 2010), a one time tax (OTT) of ₹ 4,000 shall be payable by all trailers upto 3,000 Kgs registered laden weight and ₹ 6,000 shall be payable by all trailers more than 3,000 Kgs registered laden weight used or kept for use for other than agricultural purpose. The OTT payable by trailers already registered shall be calculated after deducting the tax amount already paid. Further, as per Bihar Finance Act, 2013 (Bihar Act 3, 2013 effective from 1 April 2013) one time tax for the life time at the rate of ₹ 10,000 shall be levied on the registration of trailers of all laden capacity.

Under Section 23 of the Act *ibid* read with Rule 4(2) of the BMVT Rules, 1994 non-payment of tax within due date attracts penalty ranging between 25 and 200 *per cent* of the tax due.

We scrutinised the taxation register/Tax Clearance Table of the *VAHAN* database of 30 District Transport offices, for the period 2012-13 and found (between May and December 2013) in 12 District Transport offices⁷ that out of 2,777 test-checked trailers (total number of registered trailers: 33,705), the owners of 575 trailers, which were registered between November 2006 and April 2013, did not pay one time tax as per provisions of the Bihar Finance Acts of 2010 and 2013. The DTOs did not ensure compliance with the provisions of Act *ibid*. This resulted in short realisation of the OTT of ₹ 82.39 lakh including the leviable penalty of ₹ 60.44 lakh.

After this was pointed out, DTO Jamui stated in June 2013 that amount of penalty would be realised as per direction, DTO Katihar stated in August 2013 that direction from the Headquarter was required in the case and DTO Nalanda stated in July 2013 that action would be taken as per rule while remaining DTOs stated (between May and December 2013) that notices of demand would be issued. We await further replies (August 2014).

The matter was reported to the Government/Department between September 2013 and May 2014; we are yet to receive their reply (August 2014).

4.9 Non/short realisation of one time tax and penalty from tractors

Under Section 7 (8) of BMVT Act, 1994 as amended by Bihar Finance Act, 2010 (effective from 9 April 2010) one-time tax (OTT) for the life time of the vehicle shall be levied on tractors used or kept for use for other than agricultural purpose at the rate of one *per cent* of the cost of the vehicle excluding Value Added Tax (VAT), provided one-time tax payable by tractors already registered shall be calculated after deducting the tax amount already paid. Previously the tax on tractor was ₹ 100 per annum. Further, as per Bihar Finance Act, 2013 (Bihar Act 3, 2013 effective from 1 April 2013), OTT for the lifetime of the vehicle shall be levied on tractors used or kept for use for other than agricultural purpose at the rate of two *per cent* of the cost of the vehicle excluding VAT.

⁷ Begusarai, East Champaran (Motihari), Jamui, Katihar, Kishanganj, Lakhisarai, Nalanda, Nawada, Samastipur, Sheikhpura, Supaul and Vaishali (Hajipur).

Further, under Section 23 of the Act *ibid* read with Rule 4(2) of the BMVT Rules, 1994, non-payment of tax within due date attracts penalty ranging between 25 and 200 *per cent* of the tax due.

We scrutinised the Tax Clearance Table of the *VAHAN* database/Taxation registers of 30 District Transport Offices, for the period 2012-13 and found between May and December 2013 in nine District Transport Offices⁸, that out of 3,994 test-checked tractors (total number of registered tractors: 64931) the owners of 850 tractors, which were registered between November 2009 and April 2013, did not pay the one time tax as per the provisions of the Bihar Finance Act, 2010. The District Transport Officers (DTOs) did not raise notices of demand for the tax due against the defaulter vehicle owners, which resulted into non/short realisation of OTT of ₹ 78.64 lakh including leviable penalty of ₹ 61.18 lakh.

After this was pointed out, DTO Jamui stated in June 2013 that amount of penalty would be realised, DTO Patna stated in December 2013 that necessary action would be taken and DTO Katihar stated in August 2013 that direction from the Headquarter was required in the case while remaining DTOs stated (between June and December 2013) that notices of demand would be issued. We await further replies (August 2014).

The matter was reported to the Government/Department between September 2013 and May 2014; we are yet to receive their reply (August 2014).

4.10 Irregular issue of tax token

Under the provision of Section 11 and 12 of the BMVT Act and Rules made thereunder, the taxing officer shall grant a receipt and a tax token in prescribed form to every person who pays prescribed tax for the vehicle. Further, the taxing officer shall not accept the tax or penalty, if any, in respect of motor vehicle for the current period unless the arrears of taxes and penalty due have been fully paid. Before issue of tax receipt and tax token, the taxing officer is to satisfy himself that the amount tendered in the payment of tax is equal to the tax payable at the specified rate.

Further, under Section 23 of the Act *ibid* read with Rule 4(2) of the BMVT Rules, 1994, non-payment of tax beyond 90 days attracts penalty at the rate of 200 *per cent* of the tax due.

During cross verification of taxation register with tax clearance table of *VAHAN* database in three District Transport Offices⁹, we observed between November and December 2013 that the tax authorities issued tax tokens to 79 transport vehicles through database without ensuring realisation of the arrear tax pertaining to the period between April 2008 and September 2013.

⁸ East Champaran (Motihari), Gaya, Jamui, Katihar, Lakhisarai, Nawada, Patna, Rohtas (Sasaram) and Sheikhpura.

⁹ Bhojpur (Ara), East Champaran (Motihari) and Rohtas.

However, the DTOs were required to verify the earlier tax payment in these cases from taxation register before issuing tax token from database. Issue of tax token without realising outstanding taxes was in contravention of the provision of the Act *ibid*, which resulted in non realisation of ₹ 34.09 lakh including penalty of ₹ 22.73 lakh as mentioned in **Table 4.2**.

Table - 4.2

(Amount in ₹)

Sl. No.	DTO	No. of vehicles to which tax token was issued irregularly	Period for which tax was in arrear	Duration for which tax was not paid	Tax due	Penalty	Total
1	Bhojpur (Ara)	22	between August 2010 and September 2013	One to 36 months	1,46,581	2,93,162	4,39,743
2	East Champaran (Motihari)	26	between August 2010 and July 2013	Three to 45 months	6,16,756	12,33,512	18,50,268
3	Rohtas	31	between April 2008 and June 2013	Three to 57 months	3,73,020	7,46,040	11,19,060
Total		79			11,36,357	22,72,714	34,09,071

After this was pointed out, DTO Rohtas stated (in December 2013) that notices of demand would be issued, DTO East Champaran stated (in December 2013) that matter would be examined and DTO Bhojpur stated (in December 2013) that manual collection of tax was stopped but did not explain the reason for not realising arrear tax before issue of tax token. Further development in the case is awaited (August 2014).

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

4.11 Non/short realisation of trade tax from the dealers of motor vehicles

Under Section 6 of the BMVT Act, 1994 and the Rules framed thereunder, tax at an annual rate as prescribed shall be paid by a manufacturer or a dealer in respect of motor vehicles which are in his possession in course of his business as a manufacturer/dealer.

Non-payment of tax within the due date attracts penalty ranging between 25 and 200 *per cent* of the tax due as provided under Section 23 of the Act *ibid* read with Rule 4(2) of the BMVT Rules. Further, the STC in September 2007 instructed all DTOs to initiate legal action for realisation of tax and renewal of trade certificate.

We scrutinised the declaration furnished by the manufacturers/dealers in respect of motor vehicles under their possession and the registration registers

of 30 District Transport Offices for the period 2012-13 and found (between July and November 2013) in seven District Transport Offices¹⁰, that in case of 19 dealers of motor vehicles, trade tax at the prescribed rate was either not deposited or deposited short in respect of 34,441 vehicles (25,753 two wheelers and 8,688 three/four wheelers) possessed by them between the period from April 2007 and October 2013. The DTOs did not examine the correctness of payment of trade tax as per the declaration submitted by the dealers. This resulted in non/short realisation of trade tax of ₹ 24.64 lakh including leviable penalty.

After this was pointed out, concerned DTOs stated between July and November 2013 that notices of demand would be issued. We await further replies (August 2014).

The matter was reported to the Government/Department between December 2013 and May 2014; we are yet to receive their reply (August 2014).

4.12 Non-renewal of driving licences in Form -7

As per Rule 16 of CMV Rules 1989, where the licensing authority has the necessary apparatus for issue of laminated/Smart card type driving licences (DLs) the same shall be issued in Form-7. Further as per Rule 16(3) *ibid*, on and from the date of commencement of this sub-rule (31 May 2002), every driving licence issued or renewed by the licensing authority shall be in Form-7¹¹. The State Transport Commissioner (STC) also instructed (February 2009) to issue DLs in smart card.

During test-check of the statements furnished by the District Transport Officers in respect of renewal of non-professional Driving Licenses (DLs) and data of *SARATHI*¹² software in three District Transport Offices¹³, we observed between June and September 2013 that out of 5,560 non-professional DLs renewed between April 2011 and March 2013, 5309 DLs were renewed manually in Form 6¹⁴ though the necessary apparatus for renewing licences in Form 7 was available in all District Transport Offices. Thus, non-adherence of the provisions of the Rules *ibid* defeated the purpose to have a National Register of DLs and to provide valuable data for the Centre and State security agencies and also resulted in loss of ₹ 8.89 lakh to the exchequer as mentioned in **Table 4.3**.

¹⁰ Begusarai, Gaya, Kishanganj, Muzaffarpur, Patna, Sitamarhi and Siwan.

¹¹ Form-7: Laminated/smart card type Driving Licence for driving motor vehicles.

¹² An application developed for issue of various licences.

¹³ Banka, Kishanganj and Nalanda.

¹⁴ Form-6: Driving Licence printed in book form (8x6 cm.) for driving motor vehicles.

Table - 4.3

(Amount in ₹)

Sl. No.	Name of DTOs	Period	Total no. of non-professional D L renewed	No. of D L renewed in Smart Card (Form-7)	No. of D L renewed manually	Amount to be realised at the rate of ₹ 200 per D L	Less amount payable by the DTOs to the agency for cost of smart card at the rate of ₹ 32.50 per D L	Loss
1.	Banka	April 2011 to March 2013	1,514	52	1,462	2,92,400	47,515	2,44,885
2.	Kishanganj	April 2011 to March 2013	1,530	129	1,401	2,80,200	45,533	2,34,667
3.	Nalanda	April 2011 to March 2013	2,516	70	2,446	4,89,200	79,495	4,09,705
Total			5,560	251	5,309	10,61,800	1,72,543	8,89,257

The matter was reported to the Government/Department between October 2013 and May 2014; we are yet to receive their reply (August 2014).

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

As per Rule 42 of CMV Rules, 1989, no holder of a trade certificate shall deliver a motor vehicle to a purchaser without registration, whether temporary or permanent. Further, Section 43 of the MV Act, 1988 provides that notwithstanding anything contained in Section 40, the owner of a motor vehicle may apply to any registering authority or other prescribed authority to have the vehicle temporary registered in the prescribed manner and for the issue in the prescribed manner of a temporary certificate of registration and a temporary registration mark. The Department vide office order no. 3415 dated 28 July 2009 also made it clear that in accordance with the provision of Section 43 of the MV Act, 1988 the registering authorities shall provide the blocks of the temporary registration numbers to the dealer agencies on their requisition.

We scrutinised owner table of *VAHAN* database and Registration Registers of 30 District Transport Offices for the period 2012-13 and found (between June and December 2013) in six District Transport Offices¹⁵ that the holders of trade certificates delivered 8,947 vehicles (Light Motor Vehicles: 509 and two wheelers: 8,438) to purchasers without allocating temporary registration mark during the period between April 2011 and May 2013. The registering authorities (DTOs) permanently registered the vehicles which were delivered to the purchasers without temporary registration in contravention of the aforesaid provision of the Act/Rules and departmental order. In these cases the vehicles were registered by the DTO after delays upto 2,191 days from the date of delivery. This resulted in loss of ₹ 8.31 lakh.

Similar issue was pointed out in paragraph 4.16 of Audit Report (Revenue Sector) 2012-13. The nature of lapses/irregularities is still persisting which

¹⁵ Aurangabad, Bhojpur (Ara), Nalanda, Nawadah, Rohtas and Sheikhpura.

shows ineffectiveness of the internal control system of the department to prevent recurring leakage of revenue.

The matter was reported to the Government/Department between October 2013 and May 2014; we are yet to receive their reply (August 2014).

4.14 Internal Audit

There is an internal audit wing called Finance (Audit) which works under the Finance Department and internal audit of the different offices of the Government is conducted on the basis of requisitions received from the Administrative Department. The Chief Controller of Accounts can also select units for internal audit on availability of audit team. The Finance Department did not conduct internal audit of the Transport Department during 2013-14.

CHAPTER-V

OTHER TAX RECIEPTS

CHAPTER-V: OTHER TAX RECEIPTS

5.1 Tax administration

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

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

5.2 Results of audit

During the year 2013-14, audit of records of 101 units out of 612 auditable units relating to Land Revenue and 38 units out of 140 auditable units relating to Stamps and Registration Fees revealed non/short realisation of revenue and other irregularities involving ₹ 51.81 crore in 1,018 cases which fall under the following categories as mentioned in **Table 5.1**.

Table- 5.1

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
A: Land Revenue			
1.	Non/short realisation of Stamp Duty & Registration Fees on executed deeds of <i>Sairat</i>	23	0.33
2.	Non-levy of revenue due to non-execution of fresh lease under <i>Khas Mahal</i> Policy, 2011	8	0.06
3.	Others	841	40.14
Total		872	40.53

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

B: Stamps and Registration Fees			
1.	Blocking of Government revenue due to non-disposal of referred cases	32	4.98
2.	Non-levy of Stamp duty and Registration Fees on leased documents	7	2.07
3.	Non-realisation of Government revenue from finalised referred cases	16	1.25
4.	Misclassification of category of land	1	0.03
5.	Others	90	2.95
Total		146	11.28
Grand total		1,018	51.81

(A) During the year 2013-14, the Revenue and Land Reforms Department accepted underassessment and other deficiencies *etc.* involving ₹ 1.33 crore in 53 cases, out of which 16 cases involving ₹ 48.57 lakh were pointed out during the course of the year and the rest during the earlier years.

(B) During the year 2013-14, the Registration, Excise and Prohibition (Registration) Department accepted underassessment and other deficiencies *etc.* involving ₹ 2.91crore in 16 cases which were pointed out during the earlier years. An amount of ₹ 0.18 lakh was recovered in one case which was audited in 2012-13.

A few illustrative cases involving tax effect of ₹ 1.23 crore are mentioned in the following paragraphs.

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

Our scrutiny of the records of the offices of the Assistant/Deputy collectors, Land Revenue and District Registrars/Sub Registrars revealed several cases of non-compliance of the provisions of the Acts/Rules and departmental orders as mentioned in the following paragraphs. These cases are illustrative and are based on test-checks carried out by us. Such omissions on the part of the departmental officers are pointed out by us each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system and internal audit.

A: LAND REVENUE

5.4 Non/short realisation of Stamp duty and Registration fees on settlement of *Sairat*

As per the Notices inviting for settlement of *Sairat*², the executed deeds shall be registered and Stamp duty at the rate of three *per cent* and Registration fee at the rate of four *per cent* (five *percent* with effect from 15 February 2013) on the value of settlement of *Sairat* shall be levied and collected accordingly from the settlees. Further as per the condition of the Notices inviting for settlement, the agreement should be registered before issue of *Parvana* to the highest bidder at his own cost.

During scrutiny of *Sairat* register and related files in three Circle Offices³ and Office of Additional Collector, Kishanganj for the year 2010-11 to 2013-14, we found between August 2013 and February 2014 that the *Sairat* were settled for the years 2010-11 to 2013-14 at ₹ 2.27 crore. But no agreement was entered into between the settlee and the concerned circle officer in pursuance of the settlement of *sairat*. Thus, failure of the concerned authority to execute the agreement and to get it registered before issue of *parvana* to the bidder as provided in the Notices inviting for settlement resulted in non/short realisation of Government revenue of ₹ 11.13 lakh in shape of Stamp duty and Registration fees.

After we pointed this out, the concerned Authority, accepted the facts and stated between August 2013 and March 2014 that action would be taken to realise the Government revenue.

B: STAMPS AND REGISTRATION FEES

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

Under Section 47(A) of Indian Stamp (IS) Act, 1899, where the registering authority has reason to believe that the market value of the property has not been rightly set forth in the instrument, he may refer the same to the Collector for determining its market value. Further, the Commissioner-cum-Secretary and Inspector General of Registration Department, Government of Bihar instructed (May 2006) all Collectors to transfer the cases referred under Section 47(A) to the Inspector of Registration Offices (IRO), now renamed as Assistant Inspector General of Registration (AIG), concerned for speedy disposal within 90 days.

During scrutiny of the register of referred cases and information made available by four registering authorities⁴ (District Sub Registrars/Sub Registrars) between October 2013 and February 2014, we observed that 238 cases were referred to the IRO/AIG, Patna for determination of market value of property under Section 47(A) of the Act *ibid* during the period between

² *Sairat* means the income derived by leasing out fisheries, hats, Melas, Toddy Mahals and ferry rights etc.

³ Daudnagar (Aurangabad), Kadwa (Katihar) and Patepur (Vaishali).

⁴ District Sub Registrar (DSR): Jamui, Sheohar and Sitamarhi; Sub Registrar (SR): Parihar (Sitamarhi).

August 2008 and May 2013 for the years 2008-09 to 2013-14. Out of which 170 cases were disposed off and remaining 68 cases, where valuation of property was determined by the DSR as ₹ 6.36 crore against the valuation mentioned in the instruments of ₹ 1.88 crore, were still pending for disposal. Thus there was blocking of Government revenue of ₹ 29.19 lakh in shape of stamp duty.

After this was pointed out, the Department replied (August 2014) that the concerned AIG had been instructed to expeditiously dispose of the referred cases and would be monitored in monthly review meeting at the Secretary level.

5.6 Non-realisation of Government revenue from finalised referred cases

Section 48 of the IS Act provides that all duties, penalties and other sums required to be paid under the Act may be recovered by the Collector by distress and sale of the movable property of the person from whom the same are due, or by any other process for the time being in force for recovery of arrears of land revenue.

Further, as per instruction issued (January 2007) by the Secretary-cum-Inspector General of Registration to the Collector-cum-District Registrar/IRO/DSR, if the parties do not pay the stamp duty in finalised referred cases, a notice may be served and after 30 days cases would be instituted under Public Demand Recovery Act, 1914 (PDR Act) after publishing their names in local newspaper for the realisation of stamp duty and registration fees.

During scrutiny of the register of referred cases and information made available by two registering authorities (District Sub Registrars, Patna and Siwan) between October 2013 and February 2014, we observed that 73 cases referred to the IRO for determination of market value of property under Section 47(A) were finalised between the period October 2011 and September 2013 and a sum of ₹ 51.28 lakh was to be realised as deficit stamp duty. We further observed that in 24 cases notices of demand were issued between May 2012 and December 2013 but no further action was initiated to realise the dues as per aforesaid provision. This omission resulted in non-initiation of Revenue Recovery Certificate Cases under the PDR Act and non-realisation of Government dues of ₹ 51.28 lakh⁵ in shape of stamp duty.

⁵ Calculation:

(Amount in ₹)					
Sl. No.	DSR	Period	No. of cases disposed	Period in which cases were disposed off	Amount of deficit Stamp Duty involved
1	Patna	2011-12	4	Between December 2012 and August 2013	10,34,550
		2012-13	41	Between January 2013 and September 2013	15,96,530
2	Siwan	2010	3	December 2012	36,060
		2011	9	Between October 2011 and December 2012	3,40,490
		2012	16	Between October 2012 and January 2013	21,20,120
Total			73		51,27,750

After this was pointed out, the Department replied (August 2014) that Revenue Recovery Certificate Cases had been instituted under PDR Act in many cases.

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

Under Section 73 of Indian Stamp Act, 1899, every public officer having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorised in writing by the Collector to inspect for such purpose the registers, books, papers, documents and proceedings.

The Secretary, Registration, Excise and Prohibition (Registration) Department instructed (September 2012) all the Collectors-cum-District Registrars to nominate inspecting officers to verify the payment of stamp duty on the agreements for installing mobile towers. Further, AIG reminded (December 2012) to nominate all the District Sub Registrars and Sub Registrars as inspecting officers.

During scrutiny of records of four Districts Registrars⁶ and information made available by the Executive Officer of concerned Nagar Nigam/Parishad, we found between January and March 2014 that 115 agreements were entered into between mobile companies and land owners during March 2004 to March 2013 for erection of mobile towers for the lease period of nine to 21 years. These agreements came under the category of lease documents as the lease period was more than one year which attracts stamp duty. But we observed that in none of the case stamp duty was levied in spite of the instruction of the Secretary of the Department to nominate the inspecting officer under the Act *ibid* to realise the Government revenue. This resulted in non-levy of stamp duty of ₹ 18.34 lakh⁷.

After this was pointed out, the Department replied (August 2014) that Stamp duty was realisable only when the instrument has been presented to the Public Officer and in the instant case these were not presented to the concerned Registration offices. The reply is not in consonance with the instruction of the Secretary (September 2012) to verify the payment of stamp duty on the agreements for installing mobile towers.

5.8 Misclassification of category of land

Under Section 47(A) (1) of the IS Act, 1899, where the registering authority has reason to believe that the market value of the property has not been rightly set-forth in the instrument, he may refer the same to the Collector for determining its market value and the collector shall after holding an enquiry

⁶ Katihar, Madhepura, Siwan and West Champaran (Bettiah).

⁷ At the rate of 15 *per cent* of the actual value of land in the cases where leases for the period more than 10 years and 5 *per cent* of the actual value of land in the cases where lease for the period up to 10 years.

determine the market value of the property as provided under Section 47(A) (2) of the Act *ibid*.

During scrutiny of referred cases finalised by the AIG, Patna we observed (December 2013) that one case of undervaluation of land in Chenari Circle of Sasaram district was referred (December 2012) to AIG Patna by the District Sub Registrar (DSR) Sasaram for determining the market value of the land. Further, we observed that the AIG disposed (March 2013) the case as 'Irrigated' land and determined the market value of the land as ₹ 10.85 lakh on the basis of the site verification conducted by the official of DSR Sasaram and accordingly a sum of ₹ 86,800 was realised as stamp duty and registration fees. However as per another site verification report conducted by another official of DSR Sasaram, the said land was shown as 'Residential'. As there were two different sets of report regarding nature of land, the AIG should have conducted the site verification himself or obtained the site verification report from the concerned Circle Officer. But no report regarding site verification by the AIG or Circle Officer was found on record. Had the case been finalised as residential land, the market value of the land would have come to ₹ 1.75 crore and leviable stamp duty and registration fees would have been ₹ 14.00 lakh. Thus there was a short levy of stamp duty and registration fees of ₹13.13 lakh⁸.

After we pointed this out, the AIG Patna conducted (June 2014) the site verification himself and found the land as 'Residential' in nature and accepted the audit observation and stated that the revised notice of demand would be issued. We await further development in the case.

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

5.9 Internal Audit

There is an internal audit wing called Finance (Audit), which works under the Finance Department and internal audit of the different offices of the Government is conducted on the basis of requisitions received from the Administrative Department.

As informed by the Finance Department (July 2014), nine requisitions from the Revenue and Land Reforms Department and three requisitions from the Registration, Excise and Prohibition (Registration) Department for internal audit were received during 2013-14 and the internal audit was conducted in all cases. The Finance Department further stated that Inspection Reports containing 86 and 26 paragraphs respectively were issued and letters/reminders were issued for settlement of outstanding Inspection Reports/paragraphs and also meeting was being organised.

⁸ Calculation:

(Amount in ₹)						
Area	Rate per decimal as per MVR	Value of land as per MVR	Rate per decimal decided by AIG	Value of land decided by AIG	Short valuation	Short levy of Stamp duty and Registration fee at the rate of 8 per cent
175 dec.	1,00,000	1,75,00,000	6,200	10,85,000	1,64,15,000	13,13,200

CHAPTER-VI

NON-TAX RECEIPTS

CHAPTER-VI: NON- TAX RECEIPTS

Non- Ferrous Mining and Metallurgical Industries

6.1 Tax administration

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

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

6.2 Results of audit

In course of audit of records of 33 units out of 58 auditable units relating to receipts from Non-ferrous Mining and Metallurgical Industries during the year 2013-14, we found non/short levy, non/short realisation of revenue and other irregularities involving ₹ 131.53 crore in 250 cases which fall under the following categories as detailed in **Table 6.1**.

Table- 6.1

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non-levy of penalty for illegal procurement of minerals by works contractors	25	42.50
2.	Loss of revenue due to non-registration of deeds of settlement of Sandghats	35	18.09
3.	Mineral excavation without approval of Mining Plan	1	5.21
4.	Non/short realisation of royalty from brick kiln owners	11	4.59
5.	Short realisation of royalty & interest from lease of stone query	13	2.68
6.	Non-levy of penalty for illegal use of ordinary earth	8	1.76
7.	Non-levy of fine for continued contravention of Acts/Rules	5	0.82
8.	Others	152	55.88
Total		250	131.53

During 2013-14, the Department accepted non/short levy, non/short realisation of revenue and other irregularities *etc.* involving ₹ 75.92 lakh in two cases, which were pointed out during the earlier years. An amount of ₹ 72,000 was recovered in two cases which were audited in 2011-12.

A few illustrative cases involving tax effect of ₹ 10.58 crore are mentioned in the following paragraphs.

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

Our scrutiny of the records of the District Mining Offices revealed several cases of non-compliance of the provisions of the Act/Rules and Departmental Orders as mentioned in the succeeding paragraphs in this Chapter. These cases are illustrative and are based on a test-check conducted in Audit. Despite such omissions and irregularities being pointed out in previous years, they continue to persist. There is need for the Government to improve the internal control system and internal audit.

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

Rule 40 (10) of the Bihar Minor Mineral Concession (BMMC) Rules, 1972 provides that works contractor shall purchase the minerals from lessee/permit holder and authorised dealers only and no works department shall receive the bill which the works contractors submit to recover cost *etc.* of mineral used by them in completion of the works unless the same is accompanied with prescribed forms 'M' and 'N' describing the names and addresses of the dealers from whom the minerals were purchased. The Department also

notified (January 2006) that no payment of bills shall be made without the production of form 'M' and 'N' by the works contractors. It shall be the duty of the officer, who receives the said bill to send the photocopy of the forms and particulars to the concerned DMO/AMO. If contents of the forms/affidavit on verification by the concerned DMO/AMO revealed that minerals were not purchased from any authorised lessee, it shall be presumed that the concerned mineral were obtained by illegal mining and in that case said DMO/AMO shall take action as prescribed in these Rules against the maker of the affidavit.

Further Section 21 (5) of the Mines and Minerals (Development and Regulation) Act, 1957 read with Rule 40(8) of the BMMC Rules, 1972 provide that whenever any person raises without any lawful authority, any mineral from any land, the State Government may recover from such person the minerals so raised or where such minerals has already been disposed off the price thereof and may also recover from such person rent, royalty or taxes as the case may be for the period, during which the land was occupied by such person without any lawful authority.

We observed from the revenue collection report of six District Mining Offices¹ and the district treasury records between January and February 2014 that a sum of ₹ 5.47 crore was deposited by the works departments in shape of royalty under the head "0853 Non-ferrous Mining and Metallurgical Industries" during the period 2012-13 which was deducted from the bills of the works contractors. Works departments did not send the particulars of the mineral used by the works contractors to the concerned District Mining Offices for verification. Instead the works departments, though they are not authorised to do so, deducted the royalty from the bills of works contractors against use of minerals. This indicates that the minerals were not purchased from the permit holder/authorised dealers. Further, Mining Officers (MOs) on receipt of the deduction of royalty by the works department did not initiate any follow up action to stop illegal procurement of minerals and the MOs also did not raise the demand for minimum penalty at least equivalent to royalty of ₹ 5.47 crore from the works contractors through works department.

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

After this was pointed out, the Department stated (August 2014) that if the payment of royalty for minerals used by the works contractor was made the concerned District/Assistant Mining Officer may not take penal action. The reply of the Department is not in consonance with the provision of Rule 40(10) of the Rules *ibid* which is applicable in case of submission of affidavit in Form M and particulars of minerals in Form N. Hence, the facts remains that deduction of royalty by the Works Departments against use of minerals and its remittance into treasury indicates that minerals were not purchased from the permit holder/authorized dealers and penalty should be levied in terms of the provisions of BMMC Rules.

¹ Aurangabad, West Champaran (Betiah), Jehanabad, Lakhisarai, Munger and Sheikhpura.

6.5 Mineral excavation without approval of Mining Plan

As per Rule 22 A of the Mineral Concession Rules, 1960, mining operations shall be undertaken in accordance with the duly approved Mining Plan and modification of approved mining plan during the operation of a mining lease also requires prior approval. Rule 12 of the Mineral Conservation and Development (MCD) Rules, 1988 provides that lessee shall review the Mining Plan and submit Mining Scheme to the Indian Bureau of Mines (IBM) for the next five years at least 120 days before expiry of the current plan and IBM shall communicate its approval or rejection within 90 days. Further under Rule 23B of the MCD Rules in case of a fresh grant or renewal of mining lease, the lessee shall submit a Progressive Mine Closure Plan as a component of Mining Plan. Section 21(5) of MMDR Act provides that whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, where the mineral has already been disposed of, the price thereof, along with royalty.

We observed in February 2014 from scrutiny of mining lease files of Silica stone (Quartzite) in the mining office, Munger that one lessee had not submitted any Mining Plan and Progressive Mine Closure Plan for the period 2004-05 to 2011-12 and continued to engage in production and dispatch of minerals from the mine. In absence of approved Mining Plan/scheme, the MO was unable to monitor the extraction of minerals. The transit passes were also issued for dispatch of minerals without ensuring the approval of Mining Plan and Progressive Mine Closure Plan of the leases and collected royalty on the basis of monthly returns. Despite the facts that lessee did not submit the mining plan, the concerned MO issued transit passes which facilitated the lessee to despatch their minerals. This undue favour to the lessee resulted in forgoing of Government revenue of ₹ 5.21 crore in shape of penalty.

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

6.6 Loss of revenue and undue benefit to lessees due to non-registration of deeds of settlement of sand ghats

As per Section 17(1)(d) of the Indian Registration Act, 1908, lease documents of immovable property from year to year or for any term exceeding one year shall be registered. Further, if the document is not registered it cannot be admitted as evidence by virtue of the provisions of Section 49(c) of the Indian Registration Act, 1908.

We observed between January and February 2014 from the settlement files of sand *ghats* in six District Mining Offices² that 10 sand *ghats* were settled for a period of three calendar years on an auctioned amount of ₹ 18.07 crore in the year 2010 with enhancement of 20 *per cent* of the settlement amount for next two consecutive years. The settlees had paid only stamp duty on the settlement amount but it was not registered for the settlement period 2010-12 which

² Aurangabad, West Champaran (Betiah), Jehanabad, Kaimur (Bhabhua), Lakhisarai and Munger.

resulted in loss of revenue in shape of registration fee amounting to ₹ 2.94 crore.

Further, we observed that the condition for registration of the agreement had not been included in the notification dated 31 December 2009 issued by the Mines and Geology Department, Government of Bihar for settlement of sand *ghats* for the calendar year 2010-12, though the condition for registration of agreement was included in the notification dated 2 December 2006 for the earlier settlement of 2007-09. Thus, the Government is losing substantial revenue in shape of Registration Fees due to splitting of settlement period for the settlement period 2010-12.

After this was pointed out, the Government stated (August 2014) that as per Indian Registration (IR) Act, the deed for registration of one year was optional. It was further stated that sand *ghats* were settled on yearly basis. The reply of the Government is not in consonance with the facts that the settlement of sand *ghats* was for three years. Thus, non-invoking of provision of the Indian Registration Act for registration of the deeds for settlement of sand *ghats*, the Government was deprived of revenue of ₹ 2.94 crore in shape of registration fees.

6.7 Non/short realisation of royalty from brick kiln owners

As per Rule 26 (A) of BMMC Rules, 1972 and notifications issued in March 2001 and January 2012, the brick kilns are classified into three categories for determination of the consolidated amount of royalty. Every brick kiln owner has to obtain a permit and pay the consolidated amount of royalty in two equal installments (50 *per cent* before the commencement of kiln and rest 50 *per cent* before the month of March). Rule 28 (2) provides that every application for quarrying permit shall be accompanied by a fee of ₹ 2000. If the brick kiln owner fails to make the payment of consolidated royalty in the manner so prescribed, he shall not be allowed to carry on the business and the competent officer shall stop such business and initiate certificate proceedings for realisation of the outstanding dues under Rule 37 of the BMMC Rules.

We observed in January 2014 from the brick kiln files and Demand and Collection Register for the period 2011-12 and 2012-13 in two District Mining Offices (Kaimur and Samastipur) that 584 brick kilns were operated during brick seasons 2011-12 and 2012-13. Out of which 93 brick kilns were operated without payment of the consolidated amount of royalty and application fee and 35 brick kilns were operated by paying partial amount of royalty. This resulted in non/short realisation of royalty of ₹ 82.17 lakh from 128 brick kiln owners.

The MOs concerned neither initiated steps to stop the business nor instituted the certificate proceeding for realisation of the outstanding dues against the defaulter as per the aforesaid provisions of the BMMC Rules.

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

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

Ordinary earth used for filling or levelling purpose in construction of embankments, roads, railways and buildings is a minor mineral. In this regard the Government of Bihar vide Gazette Notification (April 2006) fixed the rate of royalty of ordinary earth as ₹ 15 per cubic metre and further it was revised (January 2012) to ₹ 22 per cubic metre. Under Rule 27 and 28 of the BMMC Rules, any quarrying activities require sanction of the competent authority on payment of requisite fee.

Rule 40(1) of the BMMC Rules prescribes initiation of criminal proceedings attracting punishment of simple imprisonment that may extend to six months or with fine which may extend to rupees five thousand or both. Further, Rule 40 (8) of the Rules *ibid* prescribes the penalty for illegal mining which includes recovery of the price of the mineral, rent, royalty or taxes as the case may be.

We observed between January and February 2014 from lease files/Bank Draft Register in two District Mining Offices (Jehanabad and Lakhisarai) that ₹ 61.38 lakh was deducted/deposited by two works contractors as royalty during the period from October 2012 to October 2013 for use of mineral in earth work. We further observed that works contractors who had removed the minor mineral had not applied for the requisite quarrying permit for the same. Thus, the contractors removed the earth illegally for which they were liable to pay minimum penalty atleast equivalent to the amount of royalty of ₹ 61.38 lakh³ in terms of the Rules *ibid*. However, the MOs concerned had neither levied penalty of ₹ 61.38 lakh nor any action for criminal proceedings was initiated in accordance with the provision of the BMMC Rules.

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

6.9 Non-levy of fine for continued contravention of Acts/Rules

As per Rule 26 (A) of BMMC Rules, 1972 and the notification issued there under, brick kilns are classified into three categories in Bihar. The brick kiln owners are required to pay the consolidated amount of royalty in two equal installments before the month of March of the subsequent year. If the brick kiln owner fails to make the payment of the consolidated royalty, the competent officer shall stop such business and initiate certificate proceedings

³ Calculation:

(Amount in ₹)				
District Mining Office	Name of the contractor	Amount of royalty deposited	Period	Penalty leviable
Lakhisarai	M/s BSC-C&C 'JV'	30,93,274	Between October 2012 and October 2013	30,93,274
Jehanabad	Classic Col Construction Pvt. Ltd.	30,45,000	December 2012	30,45,000
Total		61,38,274		61,38,274

for realisation of the outstanding royalty/arrear amount under Rule 37 of the BMMC Rules.

Further, Section 21 (2) of the Mines and Minerals (Development and Regulation) Act, 1957 provides that whoever contravenes the provision of the Act shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees and in the case of a continued contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

During scrutiny of files of brick kilns and Register IX of District Mining Office, Samastipur in January 2014 we observed that 15 brick kiln owners continued to operate their brick kilns without paying the royalty and obtaining permit during the period 2010-11 to 2012-13. Although the MOs had filed revenue recovery certificate cases against the defaulter brick kiln owners between 2011-12 to 2013-14 for realisation of royalty and interest, but they failed to stop the business as well as to impose fine for continued contravention as per aforesaid provisions of the Act. The maximum fine leviable for continued contravention of the provision of the Act worked out to ₹ 40.90 lakh.

After this was pointed out, the Department stated in August 2014 that imposition of penalty for continued contravention is optional as there is mentioned 'may' instead of 'shall' in the Act *ibid*. The Department further stated that action under Rule 26 (A) of the Rules *ibid* had already been initiated by the concerned Mining Officer. The reply of the Department regarding imposition of penalty was not in consonance with the fact that Section 21 (2) of Act *ibid* provide that any contravention thereof 'shall' be punishable and only quantum of penalty may vary.

6.10 Short realisation of royalty and interest from lease of stone quarry

Rule 9 A of the BMMC Rules, 1972 provides that any mineral may be leased out or settled by public auction/tender in the manner prescribed under Rule 52. As per Rule 52(1), (4) and (5) of the Rules *ibid*, the bid amount shall be deposited in yearly basis in equal installment and each installment shall be deposited before 31st January. If any installment is not deposited before prescribed period, 24 *per cent* simple interest shall be charged up to two months and after that action for cancellation shall be taken.

We observed in February 2014 from scrutiny of files of leases of stone quarry in mining office, Sheikhpura that three stone quarries were auctioned at ₹ 184.50 lakh during the period between September 2008 and August 2009. The leaseholders had to pay the bid amount in installments on a yearly basis which accumulated to ₹ 184.50 lakh upto January 2014, against which the leaseholders had paid a sum of ₹ 154.50 lakh only between September 2008 and February 2014. This resulted in short realisation of royalty of ₹ 30 lakh. Besides, interest for delay payment of royalty was also chargeable, which comes to ₹ 2.79 lakh as per aforesaid provision. Despite short payment of yearly installment of royalty, action for cancellation of lease had not been initiated by the MO against the leaseholders.

After this was pointed out, MO, Sheikhpura stated in February 2014 that notices of demand and reminders would be issued for recovery of dues. We await further development in this regards (August 2014).

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

6.11 Internal Audit

There is an internal audit wing called Finance (Audit), which works under the Finance Department and internal audit of the different offices of the Government is conducted on the basis of requisitions received from the Administrative Department. As informed by the Finance Department (July 2014), it did not conduct internal audit of the Mines and Geology Department during 2013-14.

Patna
The



(P.K. SINGH)

Accountant General (Audit), Bihar

COUNTERSIGNED



New Delhi
The

(SHASHI KANT SHARMA)

Comptroller and Auditor General of India

ANNEXURES

ANNEXURE-I
(Refer: Paragraph-1.8)
Audit Planning

Name of the Department	Total number of auditable units	Number of units planned	Number of units audited
Commercial Taxes	55	40	40
Registration, Excise and Prohibition (Excise)	50	39	39
Revenue and Land Reforms	612	108	101
Transport	49	35	35
Registration, Excise and Prohibition (Registration)	140	38	38
Mines and Geology	58	35	33
Total	964	295	286

ANNEXURE-II

(Refer: Paragraph- 2.3.11 (1st bullet)

Non-levy of entry tax and penalty for non-registration under BTEG Act

Sl. No.	Name of the Circle	Name of the dealer	TIN	Year	Commodity	Value of goods	Rate of E.T (in per cent)	Entry Tax	Penalty	Total
1	Barh	M/s Raj Bricks	10021847032	2012-13	Coal	1516581	4	60663	60663	121326
2	Bhagalpur	M/s Baba Project	10524177088	2010-11	Bitumen	30834438	4	1233377	1233377	2466754
				2011-12	Bitumen	26686799	4	1067471	1067471	2134942
		M/s Ajay Kumar Yadav	105244445027	2010-11	Bitumen	4035452	4	161418	161418	322836
3	Gaya	M/s Friend & Co.	10204015008	2011-12	Lubricant	4984987	8	398799	398799	797598
		M/s Binay Indane Service	10200178076	2010-11	LPG	15259796	1	152598	152598	305196
					Commercial LPG	769236	8	61539	61539	123078
				2011-12	LPG	9795569	1	97956	97956	195912
					Commercial LPG	871084	8	69687	69687	139374
				2011-12	DG Set	595000	8	47600	47600	95200
		M/s Annapurna Dal Mill	10204058076	2011-12						
		M/s Hotel Lotus Nikko	10201645007	2012-13	Stone Chips	404250	4	16170	16170	32340
		M/s Bright Agency	10200377023	2010-11	Mobile	1148095	4	45924	139500	185424
4	Hajipur	M/s Shobha Electrical	10294736027	2012-13	Electrical Goods	5169704	8	413576	413576	827152

5	Jamui	M/s Lav kus Gas Agency	10540140087	2008-09	LPG Domestic	4954458	4	198178	198178	396356
				2009-10	LPG Domestic	2525852	4	101034	101034	202068
6	Katihar	M/s Sandeep Enterprises	10451214076	2012-13	Iron & steel	3114717	5	155736	155736	311472
7	Munger	M/s Shivananad Sansthan	10561880018	2011-12	HDPE pipe	4269690	4	170788	170788	341576
		M/s Munga Saw Mills	10560557035	2011-12	Timber	3005238	8	240419	240419	480838
8	Muzaffarpur West Circle	M/s Universal Engineering Works	10300014065	2010-11	DG Set	356000	8	28480	141400	169880
9	Patliputra	M/s Vaishal Patliputra Dugdh Utpadak Sahkari Sangh Ltd	10050008011	2010-11	Plastic crates and Polyfilms	24634220	4, 5 and 16	1067078	1067078	2134156
				2011-12	Packing Material of paper and Plastic, Electrical goods and LDO etc.	45161020	4, 5, 8 and 16	2317862	2317862	4635724
		M/s Bihar State Co-operative federation Ltd.	10050015092	2011-12	Electrical Goods, Pouch and crate etc.	11999056	4, 5 and 8	921300	921300	1842600
10	Patna City East	M/s Sunrise Industries	10060910035	2011-12	Plastic Goods	2744980	4	109799	109799	219598
		M/s Sona Gold Agrochem (p) Ltd`	10060468006	2011-12	DG Set	2746947	8	219756	219756	439512
					PP bag	2011793	4	80472	80472	160944
					Coal	3227909	4	129116	129116	258232
				2010-11	PP bag	1093758	4	43750	43750	87500
					Coal	2623295	4	104932	104932	209864

11	Patna West	M/s Birla Power Solutions Ltd.	10140680022	2011-12	Generator set	7909955	8	632796	632796	1265592
		M/s Amit Electricals	10140843079	2009-10	Electrical goods	1856833	8	148547	148547	297094
				2010-11		2940052	8	235204	235204	470408
				2011-12		9258663	8	740693	740693	1481386
12	Purnea	M/s S.S.Enterprises	10493560008	2010-11	Two Wheeler	21682279	8	1734582	1734582	3469164
		M/s Janjhyoti Electrical Industries	10490096041	2011-12	Two Wheeler	25581508	8	2046521	2046521	4093042
				2011-12	Electrical Goods	1076496	8	86120	86120	172240
				2012-13	Electrical Goods	1098305	8	87864	87864	175728
13	Samastipur	M/s Deputy Chief Material Manager(Depot)	10421026027	2011-12	Iron, paper, petroleum product etc.	54433760	4 and 8	3232076	3232076	6464152
14	Sasaram	M/s VindhyaBasini Rice Mills Cluster P. Ltd.	10247260009	2010-11	Iron & Steel, Electrical goods etc.	28473250	8 and 4	2109675	2109675	4219350
15	Patna South	M/s Takshhila Project	10125891014	2010-11	Bitumen	5741604	4	229664	229664	459328
		M/s Deo Contractors	10126762029	2010-11	Bitumen	2207586	4	88303	88303	176606
Total						378800215		21087523	21294019	42381542

ANNEXURE-III
(Refer: Paragraph-2.3.14(1st bullet)
Suppression of import value

Sl. No.	Name of the Circle	Name of the dealer/TIN	Period	Actual Purchase accounted for	Suppression	Commodity/ Rate (in per cent)	Entry Tax	Penalty	Total	Difference found in (Amount in ₹)
1	Barh	M/s United Spirits Ltd./ 10020044226	2012-13	213753728 Nil	213753728	Packing material of paper and Plastic /4 & 5	8839280	26517840	33557120	E.T V and statement of D-IX/SU/IDHA detail
2	Begusarai	M/s Barauni thermal Power station/ 103621762224	2011-12	3828388176 875115749	2953272427	Items used in generation of electricity/8	236261794	708785382	945047176	RT-III and Monthly/ Quarterly Return of E.T
			2012-13	6480107230 3427271599	3052835631		244226850	732680550	976907400	RT-III and Monthly/ Return of E.T
3	Bhagalpur	M/s N.T.P.C/ 10521193271	2011-12	456646404 1054200	455592204	Furnace Oil and AC/8 & 5	36350037	109050111	145400148	Revised statement of Purchase and E.T-III, E.T-IV
		M/s Katoria indane/ 10522862059	2009-10	3714005 2536201	1177804	LPG/4	47112	141336	188448	Scrutiny order and C folder
			2010-11	1929589 838999	1090599		43623	130869	174492	
4	Gaya	M/s Pareena Motors/ 10203892206	2011-12	394337074 390462919	3874155	Motor Vehicle/8	309932	929797	1239729	Purchase Ledger of Vehicles and E.T-IV
5	Hajipur	M/s C.I.P.E.T/ 10290768219	2010-11	1160214 Nil	1160214	Computer and Electrical goods/ 4 & 8	54339	163017	217356	E.T-V and Statement of D-IX
			2011-12	6573566 Nil	6573566		289475	868425	1157900	

6	Patliputra	M/s B.S.S Projects/ 10050705228	2010-11	4522596 Nil	4522596	Iron and steel/4	180903	542709	723612	Statement of D-IX and E.T-IV
			2011-12	1294870 Nil	1294870		51794	155382	207176	
7	Patna City East	M/s East North Interconnection company Ltd./ 10050884066	2010-11	98390506 10358144	88032362	Electrical goods/8	7042589	21127767	28170356	Statement of D-IX and E.T III, E.T-IV
			2011-12	40347424 19200925	21146499	Paper/4	845860	2537580	3383440	RT-III and E.T-V
8	Patna City West	M/s Colona Blenders & Bottlers (I) Pvt. Ltd./10060377214	2010-11	8492612 5263639	3228973	Paper and plastic/4	129160	387480	516640	Requirement/Consump tion statement of Form C and E.T-IV
			2011-12	5445950 2925480	2520470		100819	302457	403276	
9	Patna South	M/s Redington India Ltd./10080788245	2009-10	506757679 497432732	9324947	Computer and peripheral/4	372998	1118993	1491991	Statement of D-IX and E.T -V
			2010-11	521449869 488299796	33150073		1326003	3978009	5304012	
			2011-12	980432256 925262985	55169271		2206771	6620312	8827083	
9	Patna South	M/s Indian Progressive construction/ 10124050245	2010-11	10168176 NIL	10168176	HSD /16	1626908	4880724	6507632	Purchase invoice/Ledger and E.T-V
			2011-12	31429082 NIL	31429082		5028653	15085959	20114612	
9	Patna South	M/s Dayanand Prasad Sinha & Co./ 10126036264	2010-11	27922277 1765792	26156485	Bitumen/4	1046259	3138778	4185037	Scrutiny/Assessment order and Sale figure of IOCL
			2011-12	44391525 Nil	44391525		Nil	5326983	5326983	

10	Patna Special	M/s H.P.C.L/ 10010120253	2010-11	<u>2745877307</u> 2734823967	11053340	Electric Generating Set/8	884267	2652801	3537068	Consumption of form 'C' and E.T-V
		M/s OCL India Ltd./ 1001531242	2009-10	<u>1111522442</u> 1103201834	8320607	Cement/12	998472	2995419	3993891	E.T-V and TAR
11	Patna West	M/s Bihar State hydro electric power Corp. Ltd./ 10140501057	2011-12	<u>55082508</u> 52877388	2205120	Items used in generation of electricity/8	176409	523829	700238	RT-V and outside purchase statement
		M/s Ramky infrastructure/ 10144813213	2010-11	<u>211788822</u> 144010741	67778081	Motor Vehicle and DG Set/8	5422246	16266739	21688985	Statement of 'C'/D-IX and E.T-V
		M/s Ascend Telecom Infrastructure Ltd./ 10144993042	2011-12	<u>96677683</u> 70481562	26196121	Electrical, telecom goods and AC/8,4&5	2217598	6652795	8870393	Statement of 'C' form/E.T-IV
12	Sasaram	M/s B.S.H.C.L/ 10244900217	2010-11	<u>22784949</u> 18806949	3978000	Items used in generation of electricity/8	318240	954720	1272960	Utilization statement of C Form and E.T-V
13	Samastipur	M/s Kritika Rice Mill Pvt. Ltd./ 10423632269	2012-13	<u>4160723</u> 2542243	1618480	HDPE/4	64739	194217	258956	RT-III, TAR and E.T-V
14	Shahabad (Ara)	M/s Shahabad Dugdh utpadak sahkari sangh ltd./ 10160133081	2011-12	<u>9142478</u> 1249625	7892853	Packing Material of paper and Plastic goods/ Electrical goods/4 & 8	443776	1331328	1775105	statement of 'C' Form and E.T-V
Total				<u>17924691720/</u> <u>10775783469</u>	7148908259		556906906	1676042309	2232949215	

ANNEXURE-IV
(Refer: Paragraph-2.3.14 (2nd bullet)
Suppression of Import value)

Sl. No.	Name of the Circle	Name of the dealer	TIN	Year	Commodity	E.T payable	E.T admitted/ paid	Short payment	Difference found in
1	Barh	M/s R.P.S Bricks	10021836034	2012-13	Coal	94503	0	94503	Payment Report and RT-III
		M/s United Spirits Ltd.	10020044062	2010-11	IMFL	2375428	1350112	1025316	Road Permit statement and E.T-V
				2011-12		7943763	2407001	5536762	
2	Begusarai	M/s Barauni Thermal Power Station	10362176224	2010-11	Freight Charges on Coal	2820374	0	2820374	Assessment order and E.T Return
		M/s Ganga Diary Ltd.	10360314018	2009-10	Generator	423748	0	423748	Assessment order and Details of outside purchase
3	Bhagalpur	M/s Auradha Indane Agency	10521475056	2009-10	LPG	149466	0	149466	Payment Report and RT-III
				2010-11		269451	0	269451	
		M/s Shila Indane Agency	10521415013	2009-10	LPG	371027	0	371027	TAR and Payment report
				2010-11		429646	34703	394943	Consumption of C Form and Payment Report
		M/s Madhu Gas Enterprises	10520703033	2009-10	LPG	253848	0	253848	Consumption of C Form and Payment Report

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		M/s Bounsi Indane	10521747044	2009-10 2010-11	LPG	230514 264345	0 22940	230514 241405	Payment Report& RT-III Consumption of C Form & Payment Report
		M/s Shankar Gas Agency	10520620098	2009-10 2010-11	LPG	403158 203772	0 0	403158 203772	Payment Report& RT-III
		M/s B.P Trading	10520775007	2009-10	LPG	347609	0	347609	Payment Report& RT-III
4	Darbhanga	M/s Gupta Marble & Sanitary	10380806044	2011-12	Marbles & Tiles	612852	350000	262852	Road permit statement & Assessment orde
5	Gaya	M/s APR Automobiles Pvt. Ltd.	10206644024	2011-12	Generator, Stone Chips, Tiles & Steel	225346	0	225346	Purchase Statement & RT-III, ET-5
6	Hajipur	M/s Natraj Engineers Pvt. Ltd.	10290413005	2012-13	Coal & Stone Chips	1623968	0	1623968	Trading, P/L A/C & RT-III
7	Jamui	M/s SAPL HCPLJV	10541461214	2009-10	MS Joist	27122	0	27122	Consumption of C Form & E. T-5
8	Muzaffarpur West	M/s Sai Trading	10304753097	2011-12	DG Set, Battery etc.	440625	0	440625	Road permit statement & Assessment order
9	Patliputra	M/s Tata Projects Ltd.	10050748029	2009-10 2010-11 2011-12	Electrical goods	4715488 10556000 14207317	0 0 0	4715488 10556000 14207317	Assessment order & Annual Return
		M/s ABB Ltd.	10050258043	2010-11 2011-12	Electrical goods	1850741 1120640	0 0	1850741 1120640	Assessment order and Annual Return

10	Patna Central	M/s Saroj Traders	10154891087	2011-12	Tobacco Product	415268	0	415268	RT-III and E.T-V
		M/s Magadh Micro Tower and Transmission	10152754097	2008-09	Electrical goods	1051826	0	1051826	Consumption of C Form and RT-III
				2009-10		1856662	0	1856662	
				2010-11		2616533	0	2616533	
				2011-12		526264	0	526264	
11	Patna City East Circle	M/s Dadiji Steels Limited	10060280020	2011-12	Steel	180040	0	180040	Balance Sheet and E.T-V
12	Patna North	M/s Candela Enterprises	10100685079	2011-12	Electrical goods	598031	0	598031	RT-III and TAR
13	Patna Special	M/s Bharat Petroleum Ltd.	10010121223	2011-12	Petroleum Product	464899855	0	464899855	RT-III and E.T-V
		M/s Sterling and Wilson Ltd.	10010923006	2011-12	Electrical goods	4841155	1826775	3014380	Requisition of C Form and E.T-V
		M/s Deepak Vegpro	10010526295	2009-10	Vanaspati and other hydrogenated Oil	259352	0	259352	Assessment order and statement of D-IX
Total						529205737	5991531	523214206	

ANNEXURE-V
(Refer: Paragraph-2.3.15)
Application of incorrect rate of entry tax

Sl. No.	Name of the Circle	Name of the dealer/TIN	Period	Commodity	Rate leviable/ Levied (in per cent)	Import value	Difference in tax amount	Penalty	Total
									(Amount in ₹)
1	Aurangabad	M/s Classic-Ksm Bashir JV/ 10172465296	2012-13	Other Building material	8/4	2893469	115738	347214	462952
2	Barh	M/s STPP, Barh (NTPC)/ 10020385278	2012-13 (IV th quarter)	Electricals goods (used in generation & distribution of electricity)	8/5	74380140	2231404	6694212	8925616
					5/4	31730625	317306	951918	1269224
			2011-12 (1 st to 3 rd quarter) (IV th quarter)		8/4	60559071	2422362	7267086	9689448
3	Darbhanga	M/s TRF Ltd./ 10021210242	2012-13	Iron & steel	5/4	892978150	35719126	107157378	142876504
		M/s Power machine India Ltd./ 10020884246	2012-13	Schedule goods*	5/4	32836790	328368	985104	1313472
		M/s Agrawal Glass House/10380233259	2009-10	Ply wood	8/5	3693168	36932	110796	147728
						2755956	82679	248036	330715

4	Hajipur	M/s Lumbini Beverage Pvt. Ltd./ 110290083205	2012-13	C.B Box	5/4	6806147	68061	204183	272244
		M/s H.I Dairy and Agro Products Ltd./ 10293761272	2012-13	Packing material of paper and plastic	5/4	4365434	43654	130962	174616
		M/s Blooms Liquors Pvt. Ltd./ 10293795257	2012-13	Caps, label & cartoons	5/4	3658079	36580	109740	146320
		M/s Shree Sai Baba Plasto product Pvt. Ltd./10293764245	2012-13	Plastic granules	5/4	31370624	313706	941118	1254824
		M/s Global India Marketing Co./10291855104	2010-11	Electrical goods	8/4	43041257	1721649	5164947	6886596
5	Muzaffarpur West	M/s Kanti Bijli Utpadan Nigam Ltd./10306100233	2011-12 (1 st to 3 rd qr.)	Electricals goods (used in generation and distribution of electricity)	8/4	706969346	28278774	84836322	113115096
			2011-12 (4 th qr.)		8/4	1554085525	62163421	186490263	248653684
6	Patliputra	M/s ATC ITC Pvt. Ltd./10050467209	2011-12	Electrical goods	8/5	2062060	61862	185586	247448
		M/s Reliance Communication Ltd./10050112286	2011-12	D.G set, Battery etc.	8/4	18087223	723489	2170467	2893956
		M/s B.S.N.L (Electrical Divn.)/ 10050459255	2010-11	Electrical goods	8 and 5/4	58479296	2251457	6754371	9005828
		M/s Bharat Sanchar Nigam Ltd. / 10050190274	2011-12	Battery and Electrical goods	8/4	54041655	2161666	6484999	8646665

		M/s Reliance Telecom Infrastructure Ltd./ 10050415217	2011-12	Battery and Electrical goods	8/4	99727886	3989115	11967345	15956460
		M/s Bharti Airtel Ltd./10050212293	2011-12	Battery, D.G set and Electrical goods	8/4	492560996	19702440	59107317	78809756
		M/s Idea Cellular Ltd./10050657272	2011-12	Electrical goods and Connector	8 and 4/4and 0	21359211	854368	2563104	3417472
7	Patna Special	M/s Shyama power India Ltd./ 10010859297	2011-12	Electrical goods	8/4	773097	30924	92772	123696
8	Patna West	M/s Ericson India Pvt. Ltd./ 10140872276	2009-10	Battery and Electrical goods	8/4	44363091	1774524	5323571	7098095
		M/s Bihar State Hydroelectric power Corpn. Ltd./ 10140501057	2011-12	Electrical goods	8/4and0	15537008	893920	2681762	3575682
9	Saharsa	M/s A.N Enterprises/ 10512295073	2010-11	Tobacco products	16/12.5	9078072	317732	953197	1270930
		Total				4268193376	166641257	499923770	666565027

*Rate of entry tax enhanced from 4 to 5 % w.e.f 27.11.2012

ANNEXURE-VI
(Refer: Paragraph-2.3.16)
Non/short payment of entry tax

Sl. No.	Name of the Circle	Name of the Dealer/TIN	Period	ET Payable	ET Paid	Non/short payment (Amount in ₹)
1	Begusarai	M/s IOC Ltd./ 10360215078	2012-13	5925490383	4745702781	1179787601
2	Bhagalpur	M/s K. C Indane/ 10524287291	2010-11	574459	44331	530128
3	Hajipur	M/s Savitri Devi Automobiles pvt. Ltd./10294918038	2012-13	11097450	10525756	571694
		M/s Ganga Tractors & Implements/10292284038	2012-13	2053666	1361237	692429
		M/s One touch medical products pvt. Ltd./ 10293648052	2012-13	348307	183382	164925
		M/s Chief Signal & Telecom Engg.(works)/10293918217	2012-13	1999732	1576823	422909
		M/s Ambika Motors/ 10294430065	2011-12	1080648	200000	880648
4	Muzaffarpur East	M/s Mehrotra Engineering Works/ 10310592206	2011-12	5498737	3628398	1870339
5	Patliputra	M/s Ashok Leyland/ 10050153220	2011-12	59242156	54417315	4824841
		M/s Tata Motors/ 10050129261	2011-12	713874822	685346180	28528642
		M/s Bharti Infratel Ltd./ 10050418224	2011-12	71985992	29071976	42914016
		M/s Guinea Motors Pvt. Ltd./ 10050098221	2011-12	61167151	56898893	4268258
		M/s Rashi Peripherals (P) Ltd./ 10050316277	2011-12	4883560	4370975	512585

		M/s Gammon India Ltd./ 10050198228	2010-11	22243039	Nil	22243039
6	Patna City East	M/s Budha Motors Pvt..Ltd./ 10061222231	2011-12	60162579	57662579	2500000
7	Patna City West	M/s Puja Ispat trading pvt. Ltd./10082475206	2011-12	5892295	2812689	3079606
8	Patna Special	M/s Kansai Nerolac paints ltd./ 10010210269	2011-12	35617080	32364083	3252997
		M/s Total Oil India Ltd./ 10010778250	2009-10	8055414	Nil	8055414
			2010-11	38552711	Nil	38552711
			2011-12	39724577	28162157	11562420
9	Samastipur	M/s Bhagwati Cylinders Pvt. Ltd./10423610273	2011-12	575655	320000	255655
			2012-13	517261	Nil	517261
		Total		7070637674	5714649555	1355988118

ANNEXURE-VII
(Refer: Paragraph-2.3.17 (1st bullet)
Incorrect adjustment of entry tax towards payment of VAT

Sl. No.	Name of the circle	Name of the dealer/TIN	Period	Amount eligible for adjustment	Adjustment taken	Excess adjustment from VAT	Interest	Total	Remarks	Record seen
1	Bhagalpur	M/S Sagar Agency/ 10520844071	2011-12	3976069	4605147	629077	207595	836672	The rate of VAT was less than the rate of ET	RT-III, ET-V and TAR
		M/S Laxmi store/ 10521530055	2011-12	3983304	4338565	355260	117236	472496	The rate of VAT was less than the rate of ET	RT-III, ET-V and TAR
		M/S C & S Electrics Ltd./ 10525417009	2010-11	1065175	2121256	1056080	364347	1420427	The rate of VAT was less than the rate of ET	RT-III and ET-V
			2011-12	2020866	3307722	1286856	424662	1711518		
		M/S Bibhuti Automobile Pvt. Ltd./10523936043	2011-12	7084864	7478444	393580	129881	523461	Goods imported were not sold but lying in closing stock	RT-III, ET-V and Trading account
		M/S Agrawal Tubewell Co./ 10521359044	2011-12	1385940	1717037	331097	109262	440360	Adjustment availed excess than payment of ET	RT-III and ET-V
		M/S Auto Tractor & Machinery/ 10520056043	2011-12	279260	435174	155914	51452	207366	Goods imported were not sold but lying in closing stock	RT-III, ET-V and TAR
		M/S Jodhani foods Pvt. Ltd./ 10521252247	2011-12	Nil	250805	250805	86528	337332	Goods were not resold or consumed in manufacturing	RT-III, ET-V, TAR and requirement/ utilisation of form C

2	Danapur	M/s Balaji Mini steels and Re-rolling pvt. Ltd./10042455089	2011-12	Nil	13697688	13697688	2671049	16368737	The dealer did not belong to small, medium or sick industry	RT-III, ET-V and balance sheet
3	Hajipur	M/s Lumbini Beverage Pvt. Ltd./10290083011	2010-11	Nil	1643915	1643915	591809	2235724	The dealer did not belong to small, medium or sick industry	RT-III and balance sheet
			2011-12	Nil	1889998	1889998	340199	2230197		
4	Katihar	M/s Sona biscuits Ltd./10294595035	2012-13	2554612	4769330	2214718	465090	2679808	Goods were not resold or consumed in manufacturing	RT-I, ET-IV and detail of goods imported
			2009-10	60586	242342	181756	100874	282630		
5	Patliputra	M/s Sudha Gas service/10450670003	2010-11	66671	266686	200015	75005	275020	The rate of VAT was less than the rate of ET	RT-III, ET-V and TAR
			2010-11	120591413	127125748	6534335	3332511	9866846		
5	Patliputra	M/S L.G. electronics India Ltd./ 10050078045	2011-12	13314852	27487667	14172815	4889621	19062436	Goods imported were not sold but lying in closing stock	RT-III, ET-V, assessment order and payment detail
			2011-12	57865845	62302885	4437040	671195	5108235		
5	Patliputra	M/S Patliputra Automobile/10050219083	2011-12	27032481	30679591	3647110	1203546	4850657	Excess adjustment claimed than ET liability	RT-III and ET-V
			2011-12	27032481	30679591	3647110	1203546	4850657		
5	Patliputra	M/S Philips Electronics India Ltd./10050266031	2011-12	27032481	30679591	3647110	1203546	4850657	Goods imported were not sold but lying in closing stock	RT-III, ET-V, TAR and summary of credit note
			2011-12	27032481	30679591	3647110	1203546	4850657		
5	Patliputra	M/s Indo American Elect./10050923006	2011-12	29930315	30855995	925680	305474	1231154	The rate of VAT was less than the rate of ET	RT-III and ET-V
			2011-12	29930315	30855995	925680	305474	1231154		

		M/S IRCTC/ 10050163017	2011-12	Nil	4261408	4261408	1470186	5731594	Goods were not resold or consumed in manufacturing	RT-III, ET-V and purchase detail
		M/S Panday Motors (P) Ltd./ 10050340042	2011-12	39005301	42600113	3594812	1159327	4754139	Goods imported were not sold but lying in closing stock	RT-III, ET-V and trading account
		M/S Karlo Automobile Pvt. Ltd./10050077075	2011-12	57580955	58370385	789431	260512	1049943	Goods imported were not sold but lying in closing stock	RT-III, ET-V, balancesheet and assessment order
		M/S Devans Modern beverage Ltd./10050073078	2011-12	28208320	28868363	660043	207914	867957	Goods imported were not sold but damaged / lying in closing stock	RT-IV, ET-V and TAR
		M/S Sundram Auto Component Ltd./10050153026	2011-12	45397963	45865558	467595	157813	625408	Goods imported were not sold but lying in closing stock	RT-III and ET-V
		M/S Lava International/ 10050784093	2011-12	7669767	8089546	419779	144824	564603	Goods imported were not sold but lying in closing stock	RT-III, ET-V and TAR-IV
		M/S Millenium Beer/10050094050	2011-12	53554638	53904214	349576	112738	462314	Goods imported were not sold but damaged	RT-IV, ET-V and TAR-IV
		M/s Bharat Business channel/ 10050731085	2010-11	6851692	8507566	1655874	546438	2202312	Goods imported were not resold	RT-III, ET-IV and TAR-IV
6	Patna City East	M/s Parle biscuits Pvt. Ltd./ 10060425035	2011-12	3678473	6884242	3205769	1009817	4215586	Goods were not resold or consumed in manufacturing	RT-III, ET-V and balancesheet

7	Patna South	M/s Eastman auto & power ltd./ 10125913207	2011-12	4082785	4829407	746622	257584	1004206	Claimed adjustment on interstate stock transfer	RT-III, ET-V, TAR-IV and scrutiny order
		M/s Halonix ltd./ 10125990290	2011-12	3836497	7547269	3710772	1335878	5046650	Goods imported were not resold	RT-III, ET-V and TAR-IV
8	Patna Special	M/s Larson & Toubro ltd./ 10010213082	2010-11	2374685	4749371	2374686	1246710	3621396	The rate of VAT was less than the rate of ET	RT-III and ET-V
			2011-12	4678558	6039902	1361344	469663	1831007		
		M/s B.P.C.L/ 10010121223	2011-12	16554626	26487401	9932775	3426807	13359582	The rate of VAT was less than the rate of ET	RT-III, RT-V, ET-V and ET-III
		M/s Castrol India Ltd./ 10010118022	2010-11	78432419	80163399	1730980	882800	2613780	Claimed adjustment on goods supplied as free of cost	RT-III, ET-V and trading account
			2011-12	83726714	86235684	2508970	827960	3336930		
		M/s Havells India ltd./ 10010613013	2011-12	20560887	23243244	2682357	885178	3567535	The rate of VAT was less than the rate of ET	RT-III, ET-V and TAR
		M/s Greenply Industries ltd./ 10011253043	2011-12	13269098	17422235	4153138	1370535	5523673	The rate of VAT was less than the rate of ET	RT-III and ET-V
		M/s ACC ltd./ 10010002010	2010-11	607633252	612757153	5123901	1729316	6853218	Goods imported were not sold but damaged	RT-III, ET-V and TAR
			2011-12	684463270	693421042	8957772	3224798	12182570		
9	Patna West	M/s Ramky infrastructure ltd./10145427016	2010-11	Nil	11520759	11520759	5357153	16877912	Goods imported were not resold or consumed in works contract	RT-III, ET-V and ET-III
			2011-12	Nil	1648490	1648490	469819	2118309		
		M/s Deep electrical/ 10140221212	2010-11	610522	1221043	610521	283892	894413	The rate of VAT was less than the rate of ET	RT-III and ET-V
			2011-12	335936	537498	201562	57445	259007		
Total				2033718611	2160391287	126672677	43032443	169705120		

ANNEXURE-VIII
(Refer: Paragraph-2.3.17 (2nd bullet)
Incorrect adjustment of entry tax towards payment of VAT

Sl. No.	Name of the circle	Name of the dealer/TIN	Period	Amount eligible for adjustment under CST	Adjustment taken under CST	Incorrect adjustment	Interest	Total	Remarks
1	Gaya	M/s Daya Engineering Works Pvt. Ltd./ 10200373240	2010-11	Nil	9639009	9612008	3460323	13072331	Order sheet & CST return
			2011-12	Nil	9063203	9063203	3398701	12461904	Statement of CST payable & paid, RT-III & ET-V
			2012-13	Nil	5953799	5953799	1160991	7114790	
2	Patna City East	M/s Dina Iron & steel/ 10060365283	2011-12	Nil	798875	798875	251646	1050521	RT-III & CST return
3	Samastipur	M/s Rameshwar Jute mills/ 10420541027	2012-13	Nil	1187314	1187314	249336	1436650	RT-III, ET-V & CST return
Total					26642200	26615199	8520997	35136196	

ANNEXURE-IX
(Refer: Paragraph-2.3.21.1
Cross verification with the inter-state information

Sl. No.	Name of the Circle	Name of the dealer/TIN	Period	Actual Purchase accounted for	Commodity/ Rate	Suppression	Entry Tax	Penalty	Total	Remarks
1	Aurangabad	M/s Shakti Construction/ 10170680085	2010-11	<u>12516297</u> Nil	Bitumen/4	12516297	500652	1501956	2002608	Cross verification with statement from outside locations of M/s IOCL
2	Bhagalpur	M/s N.T.P.C/ 10521193271	2010-11	<u>371673023</u> <u>181395451</u>	Furnace Oil/8	190277572	15222205	45666617	60888822	
3	Gaya	M/s MBL Infrastructure/ 10204859284	2010-11	<u>18498312</u> Nil	Bitumen and Furnace oil/4 & 8	18498312	802501	2407504	3210005	
		M/s S&P Infrastructure/ 10205499047	2010-11	<u>26388336</u> Nil	Bitumen/4	26388336	1055533	3166600	4222133	
		M/s Shital Pd. Construction/ 10204196010	2010-11	<u>2359813</u> Nil	Bitumen/4	2359813	94392	283177	377569	
		M/s Nitish Coal Depot/ 10206938094	2013-14	<u>32947658</u> Nil	Coal/5	32947658	1647383	4942149	6589532	Cross verification with figure of Jharkhand
		M/s Mahabir Coal Traders/ 10210135017	2013-14	<u>3338890</u> Nil	Coal/5	3338890	166944	500833	667777	

4	Patliputra	M/s K.P.S Structure/ 10050800046	2010-11	8192795 Nil	Bitumen/4	8192795	327712	983136	1310848	Cross verification with statement outside locations of M/s IOCL
5	Patna Central	M/s Maa Bhagwati Construction/ 10153846083	2010-11	1203910 Nil	Bitumen/4	1203910	48156	144469	192625	
		M/s C.K Infrastructures Ltd./ 10153042244	2010-11	5837216 Nil	Bitumen/4	5837216	233488	700466	933954	
6	Patna City West	M/s Badal Yuvraj Construction Pvt. Ltd./1015252013	2010-11	5931629 Nil	Bitumen/4	5931629	237265	711795	949060	
7	Purnea	M/s CZAR construction/ 10081161016	2010-11	3250124 Nil	Bitumen/4	3250124	13005	39015	52020	
		M/s Baba construction/ 10492453044	2010-11	8307083 Nil	Bitumen/4	8307083	332283	996849	1329132	
		M/s Bhai Construction/ 10493002064	2010-11	1229311 Nil	Bitumen/4	1229311	49172	147517	196689	
Total				<u>501674397</u> 181395451		320278946	20730691	62192083	82922774	

ANNEXURE-X
(Refer: Paragraph 2.5)
Table –I
Suppression of sale turnover

Sl. No.	Name of the Circle	Name of the dealer/ TIN	Period	Commodity Rate (in per cent)	Actual sale	Sale accounted for	Value suppressed	Tax	Interest @1.5 per cent per month Penalty	Total	Difference found in (Amount in ₹)
1	Danapur	M/s Bal Mukund Concast Ltd./ 10040196073	2011-12	TMT/BAR 4 & 5	1493710740	1462242668	31468072	1573403	306813 4720209	6600425	RT-III and P/L Account
2	Gaya	M/s Imperial Associates/ 10203045008	2009-10 & 2010-11	Sand 4	58842601	48898025	9944576	Nil	Nil 1193349	1193349	Assessment order and RT-III
3	Kadamkuan	M/s Hindustan Pencil Pvt. Ltd./ 10131465022	2011-12	Stationery 5	147245326	139183526	8061800	403090	108834 1209270	1721194	RT-III and TAR-IV,TAR
4	Munger	M/s Braithwaite Burn and Jessop Co. Ltd./ 10562831003	2010-11	Vatable Goods 4	653109830	494745263	158364567	6334583	2185431 19003749	27523763	RT-III and RT-V
5	Muzaffarpur East	M/s Royal Godavari Infrastructure Pvt. Ltd./10313756020	2011-12	Sand, Metal etc 5	22410548	5711637	16698911	834946	263008 2504838	3602792	Cross verification of sale figure in TAR-I with purchase figure in Box-C of the quarterly return of another dealer.

6	Muzaffarpur West	M/s Progressive Construction Ltd./ 10305071063	2010-11	Vatable goods 4 & 12.5	1164697141	364911015	799786126	37212449	<u>12838295</u> 111637347	161688091	Cross verification of sale with the TDS certificate (C-II) issued by the NHAI	
7	Patliputra	M/s HCL Infosystems Ltd./ 10050013055	2010-11	<u>IT Products</u> 4	1349130246	1306167949	42962297	1718492	<u>902208</u> 5155476	7776176	Cross verification of sale with the purchase figure of 11 dealers registered in other circles.	
			2011-12	<u>IT Products</u> 5	3288446896	3228009242	60437654	3021883	<u>1042549</u> 9065649	13130081		
8	Sasaram	M/s Shandong weichain Haupeng Power Pvt. Ltd./ 10050821051	2010-11	Vatable goods 12.5	168702850	119493147	49209703	6151213	<u>3183252</u> 18453639	27788104	C-II, sale statement and RT-III	
			2011-12	Vatable goods 13.5	199715765	117607248	82108517	11084650	<u>3824204</u> 33253950	48162804		-do-
			2010-11	Vatable goods 4 & 12.5	116989490	84010552	32978938	1439135	<u>Nil</u> 4317405	5756540		RT-III and TAR-IV As advance tax (TDS) has already been deducted, interest was not levied.
Total					8663001433	7370980272	1292021161	69773844	<u>25847943</u> 209321532	304943319		

Table –II
Suppression of purchase turnover

Sl. No.	Circle	Name of the dealer/ TIN	Period	Commodity/ Rate (in per cent)	Actual Purchase	Purchase accounted for	Value suppressed	Tax	Interest Penalty	Total	Difference found in (Amount in ₹)
1	Gaya	M/s Baba Computer/ 10202077045	2010-11	Computer and Computer parts/ 4	1248148	501173	746975	29879	<u>10756</u> 89637	130272	D-IX and RT-III
2	Hajipur	M/s Natraj Engg. Pvt. Ltd./ 10290413005	2009-10	Cement, Wire etc./ 4 and 12.5	201296337	163198910	38097427	4762178	<u>2357278</u> 14286534	21405990	RT-III and P/L Account
3	Kishanganj	M/s G.P Enterprises/ 10471607158	2010-11	Coal/4	15797043	98960	15698083	627924	<u>277856</u> 1883772	2789552	Cross verification of purchase figure shown in the utilisation statement of form 'C' of the dealer with the form 'C' received from the State of Assam.
			2011-12		7538502	Nil	7538502	301540	<u>79154</u> 904620	1285314	
			2010-11 and 2011-12	Coal/4	40162767	95624	40067143	1602685	<u>244425</u> 4808055	6655165	
4	Patna Special	M/s OCL India Ltd./ 10010531048	2010-11	Cement/12.5	1763897808	1741308196	22589612	2823701	<u>1037710</u> 8471103	12332514	RT-III and F form
		M/s ACC Ltd./ 10010002010	2010-11	Cement/12.5	5274564538	4512633567	761930971	95241371	<u>32143963</u> 285724113	413109447	RT-III, TAR and ET-V
Total					7304505143	6417836430	886668713	105389278	<u>36151142</u> 316167834	457708254	

ABSTRACT

Table	Caption	Actual sale/purchase	Sale/purchase accounted for	Value suppressed	Short levy			(Amount in ₹)
					Tax	Interest Penalty	Total	
I	Sale turnover	8663001433	7370980272	1292021161	69773844	<u>25847943</u> 209321532	304943319	
II	Purchase turnover	7304505143	6417836430	886668713	105389278	<u>361511142</u> 316167834	457708254	
Total		15967506576	13788816702	2178689874	175163122	<u>61999085</u> 525489366	762651573	

ANNEXURE- XI
(Refer: Paragraph 2.6)
Excess Input tax Credit (ITC)

Sl. No.	Name of the Circle	Name of the dealer/TIN	Period	Purchase value on which ITC availed	ITC availed	Actual entitlement	Excess availing of ITC	Penalty Interest	Total	(Amount in ₹)	
										Nature of irregularities	
1	Bhagalpur	M/s Abhijeet Projects Ltd./ 10525902009	2011-12	37981475	7651304	2139978	5511326	<u>16533978</u> 1818737	23864041	The ITC availed in RT-III was in excess of the input tax on the intra-state purchase shown therein.	
2	Gaya	Vijeta Construction/ 10202977011	2010-11	8689333	2425587	1086167	1339420	<u>4018260</u> 502282	5859962	Excess ITC due to Cross verification of purchase/sale figure of two dealers	
3	Patna Special	M/s Deepak Vegpro Pvt. Ltd./ 10010526004	2010-11	126918373	5134006	5064142	69864	<u>209592</u> 24103	303559	Excess ITC Due to Non-calculation of Reverse Credit	
		HPCL Biofuels Ltd./ 10010909035	2010-11	599017841	70992491	1148478	69844013	<u>209532039</u> 24096184	303472236	ITC availed on consumables, spare parts and electrical fittings etc.	
		M/s Delco Infrastructure Project Ltd./ 10010968086	2011-12	84564949	6202991	6051023	151968	<u>455904</u> 52428	660300	Incorrect ITC on Capital Goods	
		M/s Bharat Heavy Electrical Ltd./10010994046	2011-12	25621021	3114655	2308800	805855	<u>2417565</u> 265932	3489352	Difference in purchase figure from sale figure of other dealer registered in same circle.	
4	Patna West	M/s Hotel Samrat International/ 10140296096	2011-12	1412920	182580	93818	88762	<u>266286</u> 25297	380345	Incorrect ITC on LCD as Capital Goods	
		Total		884205912	95703614	17892406	77811208	<u>233433624</u> 26784963	338029795		

ANNEXURE-XII
(Refer: Paragraph 2.7)
Short levy of tax due to application of incorrect rate of tax

(Amount in ₹)

Sl. No.	Name of the Circle	Name of the Dealer/ TIN	Year	Commodity	Rate of tax leviable/levied (in per cent)	Amount on which difference of rate is to be levied	Tax	Interest Penalty	Total
1	Hajipur	M/s GNC Fabric Private Ltd./ 10294855023	2011-12	Life Jackets	13.5/5	4499476	382455	<u>80315</u> 1147365	1610135
2	Munger	M/s Dy.Chief Material Manager/ 10560255074	2011-12	Schedule-III goods	5/4	13814228	138142	<u>41443</u> 414426	594011
3	Patliputra	M/s Titan comp. Ltd/ 10050028090	2009-10	Sunglass	13.5/5	16692288	1418844	<u>957720</u> 4256532	6633096
			2010-11	-Do-	13.5/5	29577689	2514104	<u>1244480</u> 7542312	11300896
			2011-12	-Do-	13.5/5	29356475	2495300	<u>786020</u> 7485900	10767220
4	Patna City West	M/s Usha Welds Ltd./10080269198	2011-12	Welding Electrode	5/4	46381116	463811	<u>139143</u> 1391433	1994387
5	Patna Special	M/s Pidilite industries Ltd/ 10010214052	2011-12	Asphaltic roofing terchield	13.5/5	13481621	1145938	<u>395348</u> 3437814	4979100

6	Purnea	M/s Singh construction/ 10492311036	2009-10	Bed missile & paints	12.5/4	13620591	1157750	625185 3473250	5256185
7	Raxaul	M/s Duncan Hospital/ 10320468067	2009-10	Surgical goods	12.5/0	2381447	297681	125026 893043	1315750
8	Sasaram	M/s Vijeta Projects & Infrastructures Ltd./ 10241669050	2009-10	Road Marking Materials and Metal cross Barrier	12.5/4	5696509	484203	181576 1452609	2118388
		Total				175501440	10498228	4576256 31494684	46569168

ANNEXURE-XIII
(Refer: Paragraph 2.8)
Incorrect allowance of deductions

Sl. No.	Name of the Circle	Name of the dealer/TIN	Year	Items of inadmissible deduction	Rate (in per cent)	Amount of such deduction	Allowable deduction	Excess deduction allowed on which tax is leviable	Tax on excess deduction claimed/allowed	Records seen
1	Jamui	M/s Sudesh Kr. Singh & Co./ 10540663014	2010-11	Establishment & other expenses and Profit on material	4 and 12.5	147046036	114357807	32688229	1974369	Annual Return (RT-III) of VAT and Profit & loss account.
			2011-12		5 and 13.5	152195598	121708424	30487174	2327696	-do-
2	Katihar	M/s Ashok Kumar Choudhary/ 10450682031	2010-11	Gross profit and Establishment and other expenses	4 and 12.5	18988110	15100264	3887846	254654	-do-
			2010-11		4 and 12.5	19242195	14174800	5067395	311498	-do-
3	Munger	M/s Braithwaite Burn and Jessop Construction Co. Ltd/ 10562831003	2011-12	Establishment/Cost and Gross profit and material	4, 5 and 13.5	1265923976	1217375333	48548643	2531812	-do-
4	Muzaffarpur East	M/s BSC C & C JV / 10310938011	2011-12	Gross profit	4,5 & 13.5	830782251	659299184	171483067	9680219	RT-III, Annual statement for supply of labour and services TAR-IV
5	Muzaffarpur West	M/s Progressive Constructions Ltd./ 10305071063	2009-10	Establishment and administrative expenses and gross profit	4&12.5	1167607325	864382509	303224816	16935865	RT-III and TAR-IV, statement of supply of labour and services

6	Patliputra	M/s Nagarjuna Const. Co.Ltd./ 10050188043	2010-11	Mobilisation advance	4&12.5	1517332190	1499632190	17700000	1038990	Assessment orders
7	Patna Central	M/s Baba Hans Construction (P) Ltd./ 10154645070	2011-12	Profit on material	5 & 13.5	239738421	226174486	13563935	712649	RT-III and Profit and Loss account
		M/s Kamladitya Construction (P) Ltd./ 10152986024	2011-12		4,5 & 13.5	760953325	725897230	35056095	2170673	-do-
8	Patna South	M/s Mother India Construction Pvt.Ltd/ 10120984075	2010-11	Establishment cost and profit element	4&12.5	200725404	180653666	20071738	836991	RT-III/quarterly and annual sale and purchase statement
9	Patna Special	M/s Tecno Electric and Engg. Co. Ltd./ 10010038094	2010-11	Establishment cost and Gross Profit	4 & 12.5	65857046	43179122	22677924	2828567	RT-III and Profit and Loss Account
10	Purnea	M/s Birat Constructions/ 10492355074	2010-11	Establishment & other expenses and profit on material	4 & 12.5	11187874	7397051	3790823	225743	Annual Return (RT-III) of VAT and Profit and Loss Account
			2011-12		5 & 13.5	11908255	7715765	4192490	227443	-do-
11	Sasaram	M/s A.K Builders & Construction/ 10240936021	2010-11	Establishment & other expenses and profit on material	4	29958620	14658216	15300404	612016	Annual Return (RT-III) of VAT and Profit and Loss Account
		M/s D.B.S Construction (P) Ltd/ 10240734067	2010-11	-do-	4 and 12.5	96355218	82873433	13481785	573650	-do-
			2011-12	-do-	5 and 13.5	77081253	61689788	15391465	834987	-do-
Total						6612883097	5856269268	756613829	44077822	

ANNEXURE-XIV
(Refer: Paragraph 2.11)
Short payment of tax and non-levy of interest

(Amount in ₹)

Sl. No.	Name of the Circle	Name of the dealer/TIN	Year	Tax payable	Tax paid	Short payment	Interest calculated till date of audit	Total
1	Gandhi Maidan	M/s Surya Udyog/ 10111281082	2011-12	2989816	2135658	854158	281872	1136030
2	Hajipur	M/s Muskan Marble/ 10292774082	2011-12	601015	486215	114800	20664	135464
3	Kadamkuan	M/s Modi Industries/ 10130820069	2011-12	5290070	5199991	90079	24321	114400
		M/s Prostar Services and Sales Pvt. Ltd./ 10130847035	2011-12	257451	Nil	257451	69512	326963
4	Patna City West	M/s Samrat Automobile Pvt.Ltd./1008204109	2011-12	3006579	1741345	1265234	379570	1644804
5	Patna Special	M/s Patliputra Equipment Pvt. Ltd./10010651037	2011-12	56485101	55309747	1175354	387867	1563221
		M/s Essar Steel Ltd./ 10010955009	2011-12	6647764	5689416	958348	330630	1288978
6	Shahabad	M/s Aditya Enterprises/ 10160514097	2011-12	39217570	38965238	252332	49205	301537
		M/s Kala Coke & Chemicals (P) Ltd./10161635029	2010-11	3216907	450000	2766907	1162101	3929008
			2011-12	1994149	218000	1776149	346349	2122498
7	Siwan	M/s Dev Motors/ 10353254067	2011-12	8116780	7574921	541859	97535	639394
Total				127823202	117770531	10052671	3149626	13202297

ANNEXURE –XV
(Refer: paragraph-3.4.2.1)
Non-adoption of lowest rate for supply of liquor

Sl. No.	Name of Tenderers	Zone	MGQ for the year 2013-14 (LPL)	No. of 200 ml bottles (1 LPL = 12.5 bottles)	Tender Base Price	Quoted Price	Difference amount	Lowest Quoted Price	Difference amount in respect of Sl. 1 (1-1) (6-9)	Short payment in r/o lowest tendered rate (10-8)	Undue benefit
1	2	3	4	5	6	7	8	9	10	11	12
1	M/s Rana Sugars Ltd	Biharsharif	62,35,680.154	7,79,46,001.925	5.78	3.69	2.09	3.69	2.09	0	0
2	M/s Triggers Goods Pvt. Ltd.	Siwan	84,26,080.645	10,53,26,008.062	5.78	3.83	1.95	3.69	2.09	0.14	1,47,45,641
3	Sri Sanjay R Kumar	Madhubani	63,63,621.039	7,95,45,262.987	5.78	3.86	1.92	3.69	2.09	0.17	1,35,22,695
4	M/s SCI India Ltd.	Bhagalpur	61,79,379.601	7,72,42,245.012	5.78	3.91	1.87	3.69	2.09	0.22	1,69,93,294
5	M/s Bijay Metal Works	Purnea	61,98,270.200	7,74,78,377.500	5.78	3.91	1.87	3.69	2.09	0.22	1,70,45,243
6	M/s KM Sugar Mills Ltd.	Motihari	79,73,585.683	9,96,69,821.037	5.78	3.91	1.87	3.69	2.09	0.22	2,19,27,361
7	M/s Ally Food Pvt. Ltd.	Darbhanga	51,48,925.259	6,43,61,565.737	5.78	4.05	1.73	3.69	2.09	0.36	2,31,70,164
8	M/s Riga Sugar Company	Muzaffarpur	63,02,649.434	7,87,83,117.925	5.78	4.07	1.71	3.69	2.09	0.38	2,99,37,585
9	M/s Spicy Beverage	Hajipur	50,87,530.011	6,35,94,125.137	5.78	4.14	1.64	3.69	2.09	0.45	2,86,17,356
10	Sri Hitesh Mehta	Sasaram	83,75,227.452	10,46,90,343.15	5.78	4.16	1.62	3.69	2.09	0.47	4,92,04,461

11	M/s Shipra Beverage	Gaya	72,22,564.423	9,02,82,055.287	5.78	4.29	1.49	3.69	2.09	0.60	5,41,69,233
12	Pashupati Nath Distillers Pvt. Ltd.	Bhojpur	64,24,839.115	8,03,10,488.937	5.78	4.40	1.38	3.69	2.09	0.71	5,70,20,447
13	M/s Globus Spirits Ltd.	Patna Nagar	87,51,000.000	10,93,87,500.000	5.78	4.54	1.24	3.69	2.09	0.85	9,29,79,375
14	M/s Doonvalley Distillers	Saharsa	39,30,925.712	4,91,36,571.400	5.78	4.65	1.13	3.69	2.09	0.96	4,71,71,109
15	M/s Hindustan Spirits Ltd.	Begusarai	46,06,572.204	5,75,82,152.550	5.78	4.66	1.12	3.69	2.09	0.97	5,58,54,688
16	M/s Co-operative Company Ltd.	Nawada	52,02,245.163	6,50,28,064.537	5.78	4.66	1.12	3.69	2.09	0.97	6,30,77,223
17	M/s ESBG Beverage Pvt. Ltd.	Patna Gramin	80,16,084.000	10,02,01,050.000	5.78	4.66	1.12	3.69	2.09	0.97	9,71,95,019
Total			11,04,45,180.095	1,38,05,64,751.800							68,26,30,894

ANNEXURE –XVI
(Refer: paragraph-3.4.4.1)
Improper determination of MGQ of liquor for excise shops

Sl. No.	Name of the excise district No. of excise shops	2010-11			2011-12			2012-13				Loss of revenue for lifting more than 15 per cent of MGQ because only 50 per cent of license fee is charged
		MGQ	Lifting	Excess lifting	MGQ	Lifting	Excess lifting	MGQ	Lifting	Excess lifting		
India made foreign liquor (in LPL)												
1	<u>Begusarai</u> 12	48000.00	126463.16	78463.16	60000.00	167236.31	107236.31	74100.00	189122.54	115022.54	103907.54	7793066
2	<u>Madhubani</u> 20	80208.00	267457.90	187249.90	104760.00	342862.80	238092.80	131136.00	289264.00	158128.00	138457.60	10384320
3	East <u>Champaran</u> 06	23400.00	75641.27	52241.27	31800.00	99781.52	67981.52	37080.00	87989.84	50909.84	45347.84	3401088
4	<u>Supaul</u> 06	33132.00	84659.27	52227.27	41304.00	144783.46	103479.45	50784.00	92052.38	41268.38	33650.28	2523771
	Total	184740	554221.6	370181.6	237864	754664.09	516790.08	293100	658428.76	365328.76	321363.26	24102245
Country liquor/Spiced country liquor (in LPL)												
5	<u>Aurangabad</u> 14	126336.00	336435.90	210099.90	165312.00	353075.10	187763.10	235200.00	420924.20	185724.20	150244.20	5258547

		Beer (in BL)										50 per cent of ₹10 per BL
6	Buxar 5	5716.00	16261.30	10545.30	26505.60	64109.45	37603.85	33144.00	67629.24	34485.24	29513.64	147568
7	Kaimur (Bhabhua) 2	1872.00	13864.85	11992.85	2808.00	5305.72	2497.72	8400.00	18331.70	9931.70	8671.70	43359
8	Nalanda (Biharsarif) 18	17150.40	140972.30	123821.90	25920.00	68049.45	42129.45	33696.00	121852.00	88155.99	83101.59	415508
9	Supaul 04	13176.00	69560.31	56384.31	19752.00	36615.73	16863.63	29592.00	65290.22	35698.29	31259.49	156297
10	Kishanganj 08	11688.00	40456.29	28768.29	17280.00	44501.20	27221.20	20736.00	78293.87	57557.87	54447.07	272235
Total		49602.40	281115.05	231512.65	92265.60	218581.55	126315.85	125568.00	351397.03	225829.09	206993.49	1034967
Grand Total												30395759

Note- In Supaul excise district, three excise shops were common for supply of IMFL and Beer.

ANNEXURE- XVII
(Refer: Paragraph : 3.4.4.2)
Non provision of solvency condition

Excise district	Year	Group No.	Name of shops	Monthly licence fee	Date of cancellation	Outstanding security money	(Amount in ₹)	
							Outstanding licence fee	Total outstanding money
Patna	2012-13	07	PNN CS 07	1112790	06.05.2012	1112790	1292272	2405062
			NPD Phulwari CS 05					
			BLK Daniyawan CS					
		13	PNN CS 13	1245860	06.05.2012	1245860	1446805	2692665
			NPT Fatuhan CS 03					
			NPT Fatuhan CS 04					
		14	PNN CS 14	1245860	06.05.2012	1245860	1446805	2692665
			NPT Fatuhan CS 05					
			NPT Fatuhan CS 06					
		18	PNN CS 18	972550	31.05.2012	972550	1913727	2886277
			NPD Mokama CS 01					
			Composite-04					
		21	PNN CS 21	884040	06.05.2012	884040	1026627	1910667
			Composite-97					
			Composite-98					
		60	PNN CS 60	585060	06.05.2012	585060	579424 (After adjusting advance licence fee ₹ 1 lakh)	1164484
		71	PNN CS 71	585060	06.05.2012	585060	679424	1264484
		103	NPD Barh CS-06	559730	06.05.2012	559730	650009	1209739
			Composite-12					
			Composite-32					

	117	NPD Barh CS-08	549230	06.05.2012	549230	637815	1187045
		Composite-18					
		Composite-35					
2013-14	157	Composite-48	149490	31.05.2012	149490	294158	443648
	159	Composite-64	149490	31.05.2012	149490	294158	443648
	36	PNN IMFL 36	749000	11.05.2013	749000	990613	1739613
	136	PNN CS 46	918000	11.05.2013	918000	1214129	2132129
	182	NPD Phulwari CS-01	1100500	02.05.2013	1100500	1136000	2236500
	193	NPD Phulwari IMFL-01					
		NPD Phulwari IMFL-02					
		NPD Phulwari CS-12	626440	10.07.2013	626440	1961190 (After adjusting advance licence fee ₹ 1 lakh)	2587630
	194	Composite-56					
		NPD Mokama CS-01	1151520	11.05.2013	1151520	1522978	2674498
		NPD Mokama IMFL-01					
	198	NPD Mokama IMFL-02					
		NPD Mokama CS-05	626440	02.05.2013	626440	646648	1273088
		Composite-90					
	209	NPD Barh CS-07	990000	02.05.2013	990000	821935 (After adjusting advance licence fee ₹ 2 lakh)	1811935
		BLK Hqr Daniyawan CS-01					
		BLK Hqr Daniyawan CS-02					
	224	NPT Bakhtiyarpur CS-06	1194160	02.05.2013	1194160	1232681	2426841
		NPT Fatuhan CS-08					
		NPT Khusrupur IMFL-01					
	230	NPT Fatuhan CS-04	726000	13.05.2013	726000	281032 (After adjusting advance licence fee ₹ 726000)	1007032
		NPT Fatuhan IMFL-04					

	235	NPT Maner CS-03	1130850	03.06.2013	469580	1206240 (After adjusting advance licence fee ₹ 1130850)	1675820
		NPT Maner CS-04					
		NPT Maner IMFL-02					
	239	BLK Hqr Dulhinbazar CS	753940	02.05.2013	753940	778261	1532201
		BLK Hqr Dulhinbazar IMFL					
		Composite-28					
	246	BLK Hqr Dhanarua IMFL	195000	02.05.2013	195000	201290	396290
	260	Composite-64	207400	11.05.2013	207400	274303	481703
	262	Composite-73	225940	11.05.2013	225940	298824	524764
	263	Composite-77	208900	10.07.2013	208900	687348	896248
Total			18843250		18181980	23514696	41696676

GLOSSARY

Glossary of Abbreviations

Abbreviations	Full form
AA	Assessing Authority
A&E	Accounts & Entitlement
ACCT	Assistant Commissioner of Commercial Taxes
AG	Accountant General
ACE	Assistant Commissioner of Excise
ATNs	Action Taken Notes
BE	Budget Estimates
BVAT Act	Bihar Value Added Tax Act
BTEG Act	Bihar Tax on Entry of Goods into local areas for Consumption, Use or Sale therein Act
BMVT Act	Bihar Motor Vehicles Tax Act
BBP	Bihar Budget Procedure
BSBCL	Bihar State Beverage Corporation Limited
BL	Bulk Litre
CE	Commissioner of Excise
CCT	Commissioner of Commercial Taxes
CST Act	Central Sales Tax Act
CMV Rules	Central Motor Vehicles Rules
CVC	Central Vigilance Commission
CTO	Commercial Taxes Officer
C-II	Tax deduction certificate
DCCT	Deputy Commissioner of Commercial Taxes
DCB Register	Demand, Collection and Balance Register
D-IX	Statement of road permits
ED	Electricity Duty
ET-III	Monthly abstract of entry tax
ET-IV	Quarterly return of entry tax
ET-V	Annual return of entry tax
ET-IX	Form of declaration under the BTEG Rules
ET-X	Statement of claim for reduction in the liability of VAT
ET-XI	Statement of purchases of scheduled goods from registered dealers
ET-XII	Security bond under BTEG Rules
Form C	Used to purchase goods at concessional rate of tax in course of inter-state trade and commerce
HSD	High Speed Diesel
ITC	Input Tax Credit
IB	Bureau of Investigation
IMFL	India Made Foreign Liquor
IR	Inspection Report
JCCT	Joint Commissioner of Commercial Taxes
L-1	Lowest tenderer
LT	Luxury Tax

LPL	London Proof Litre
MGQ	Minimum Guaranteed Quantity
MRP	Maximum Retail Price
MS	Motor Spirit
MV Act	Motor Vehicles Act
NIT	Notice Inviting Tender
OMC	Oil Marketing Company
PAC	Public Accounts Committee
PDR	Public Demand Recovery
PET	Polyethylene terephthalate
PPSWR	Probability Proportion to size with replacement
RT-III	Annual return under BVAT Act
SE	Superintendent of Excise
TAR	Tax Audit Report
VAT	Value Added Tax
VATMIS	Value Added Tax Management Information System