

**CONFIDENTIAL**



**REPORT  
OF  
THE EXPERT COMMITTEE  
ON  
REVENUE ENHANCEMENT MEASURES**

**FINANCE DEPARTMENT  
GOVERNMENT OF ORISSA**

**2011**

## CONTENTS

Chapter	Subject	Page No
I	Introduction	1
II	States' Economy and Developmental Deficiency	13
III	Value Added Tax (VAT) and Entry Tax	24
IV	Profession Tax	30
V	State Excise Duty	34
VI	Motor Vehicle Tax	43
VII	Land Revenue	50
VIII	Stamp Duty and Registration Fee	57
IX	Electricity Duty	61
X	Mining Royalty	68
XI	Forest Royalty	74
XII	Irrigation and Industrial Water Rate	85
	Summary of Recommendations	95
	Annexure	112

## LIST OF TABLES

Table No	Subject	Page No
1.1	Financial Position of State Government	4
1.2	Comparison of revenue receipt and expenditure	5
1.3	Components of Expenditure – Relative Share	6
1.4	Revenue Receipts of the State	8
1.5	Own Tax Revenue	9
1.6	Own Non-Tax Revenue	10
1.7	Buoyancy of major items of own tax and non-tax revenue of orissa	10
1.8	Tax-GSDP Ratio (Average of 2004-05, 2005-06 and 2006-07)	11
2.1	Sectoral composition of GSDP	15
2.2	Employment in agriculture sector	17
3.1	Growth in VAT Collection	24
3.2	VAT/ GSDP Ratio of different States Collection	25
3.3	Projection of loss of Revenue on account of Concessions allowed to IOC	26
3.4	Act-wise Arrear Position as on 31.03.2010	27
3.5	Sanctioned Strength and Vacancy position in Commercial Tax Organisation	29
4.1	Collection of Taxes on Profession of Different States	30
6.1	Profile of the Transport Sector in Orissa	43
6.2	MV Revenue Composition	44
7.1	Source-wise collection of Land Revenue in Orissa	50

<b>Table No</b>	<b>Subject</b>	<b>Page No</b>
8.1	Documents registered and Stamp Duty collection in Orissa	57
10.1	Number of Mines Leased Out to OMC and others	72
10.2	Area of Mines Leased Out to OMC and others	72
11.1	Item-wise collection of Forest Royalty	76
11.2	Discrepancy in the figures of the PCCF and MD, OFDC	76
11.3	Non-Tax Revenue Receipt from and Expenditure on Forest sector	77
11.4	Arrears of Forest Royalty from 2006-07 to 2009-10	78
11.5	Year-wise deposit by the State Government with CAMPA	83
12.1	State Wise Water Rates for Flow Irrigation	87
12.2-A	Kharriff Water Rate	89
12.2-B	Water Rates for Crops other than Staple Cereals	89
12.3	Year-wise O&M Expenditure and Collection of Revenue	90
12.4	Demand vs. Collection of Water Rate from Agriculture Sector	90
12.5	Industrial Water Rate of different States	91
12.6	Demand vs. Collection of Water Rate from Industrial Sector	92

## **List of Abbreviations**

AT & C	:	Aggregate Technical and Commercial
CAMPA	:	Compensatory Afforestation Fund Management and Planning Authority
CCT	:	Commissioner of Commercial Taxes
CEA	:	Central Electricity Authority
CESU	:	Central Electricity Supply Utility of Orissa
CL	:	Country Liquor
CYSD	:	Centre for Youth and Social Development
DCRF	:	Debt Consolidation and Relief Facility
ED	:	Electricity Duty
EFP	:	Ex-Factory Price
EHT	:	Extra High Tension
ENA	:	Extra Neutral Alcohol
FDI	:	Foreign Direct Investment
GRIDCO	:	Grid Corporation of Orissa
GSDP	:	Gross State Domestic Product
GST	:	Goods and Services Tax
HT	:	High Tension
IDCO	:	Industrial Infrastructure Development Corporation
IGR	:	Inspector General, Registration
IMF	:	International Monetary Fund
IMFL	:	India Made Foreign Liquor
IOC	:	Indian Oil Corporation
IPP	:	Independent Power Producer
IT	:	Information Technology
JFM	:	Joint Forest Management
JNNURM	:	Jawaharlal Nehru National Urban Renewal Mission
JWG	:	Joint Working Group
KL	:	Kendu Leaf
LF	:	License Fee
LPL	:	London Proof Litre
LT	:	Low Tension
MDF	:	Moderately Dense Forest
MGQ	:	Minimum Guaranteed Quantity
MMDR	:	Mines & Minerals (Regulation & Development)

MoU	:	Memorandum of Understanding
MPCE	:	Monthly Per Capita Consumer Expenditure
MRP	:	Maximum Retail Price
MTFP	:	Medium Term Fiscal Plan
MV	:	Motor Vehicle
NAFED	:	National Agricultural Cooperative Marketing Federation
NDPL	:	Non Duty Paid Liquor
NESCO	:	North Eastern Electricity Supply Company of Orissa
NTFP	:	Non-Timber Minor Forest Produce
O&M	:	Operation and Maintenance
OBC	:	Other Backward Class
OCH & PFL	:	Orissa Consolidation of Holding & Prevention of Fragmentation of Land
OED	:	Orissa Electricity Duty
OERC	:	Orissa Electricity Regulatory Commission
OF	:	Open Forest
OFDC	:	Orissa Forest Development Corporation
OLR	:	Orissa Land Reforms
OMC	:	Orissa Mining Corporation
OPGC	:	Orissa Power Generation Corporation
OPTCL	:	Orissa Power Transmission Corporation Ltd
OTDC	:	Orissa Tourism Development Corporation
PCCF	:	Principal Chief Conservator of Forest
PPP	:	Public Private Partnership
PSU	:	Public Sector Undertaking
RBI	:	Reserve Bank of India
SC	:	Scheduled Caste
SOUTHCO	:	Southern Electricity Supply Company Of Orissa
ST	:	Scheduled Tribe
SUV	:	Sport Utility Vehicle
TDCC	:	Tribal Development Co-operative Corporation
TOF	:	Tree Cover Outside Forest
UN	:	United Nations
UT	:	Union Territory
VAT	:	Value Added Tax
VDF	:	Very Dense Forest
W&M	:	Ways & Means
WESCO	:	Western Electricity Supply Company of Orissa

## **Chapter-I**

### **Introduction**

1.1 The Expert Committee on revenue enhancement measures was constituted vide Finance Department Notification No-12984/F Dt.25.3.2010 under the chairmanship of Sri Sanjib Chandra Hota, IAS (Retd) and former State Election Commissioner, Orissa, to suggest measures for enhancing State's own revenue. Dr. Pulin B. Nayak, Professor, Delhi School of Economics, Dr. Tapas K. Sen, Professor, National Institute of Public Finance & Policy, New Delhi and Sri Deepak Mohanty, Executive Director, Reserve Bank of India, Mumbai were nominated as Members of the Committee. However, Sri Deepak Mohanty had to opt out due to other preoccupations. No substitute Member for him was nominated. The Committee was constituted in the context of reduced devolution of share of central taxes to Orissa under the award of the 13th Finance Commission as well as the need for mobilization of additional resources with a view to accelerating the pace of development in the State.

#### **Terms of Reference**

1.2 The Committee was mandated to:

- Examine revenue accrual from the existing tax and non tax sources in relation to the potential available and suggest appropriate measures for higher revenue realization from these sources.
- Identify new avenues for mobilization of additional resources.
- Suggest other measures, as deemed necessary, for augmenting State's own revenue.

1.3 Resources Branch of Finance Department was assigned to provide necessary Secretarial support to the Committee.

1.4 The Committee was initially given the timeline of three months to submit its report. However, the term of the committee was extended in two phases up to April, 2011 to accommodate a series of meetings of the Committee with several concerned departmental officials and the detailed deliberations on various issues pertaining to the work of the Committee. A list of the meetings held and the officials present (other than Members of the Committee), along with the dates is given at Annexure 1.1.

## **The Fiscal Backdrop**

1.5 Similar to most other States, the fiscal situation of Orissa deteriorated from revenue surplus in the early 1980s to persistent deficits by mid-1980s, and the revenue and fiscal deficits reached a peak around the turn of the century. From a revenue surplus of 2 percent of GSDP and 12.0 percent of total revenue receipts in 1980-81, Orissa became revenue deficit to the extent of 6.06 percent of GSDP and 40.21 percent of total revenue receipt by the end of the year 2001-02. The primary deficit also deteriorated severely over the years.

1.6 The fiscal imbalance manifested in severe liquidity crunch. The State Government heavily depended on Ways and Means Advances and Overdrafts from Reserve Bank of India for day to day cash requirements. Payment through treasuries was rationed. Availability of funds for works expenditure was severely restricted. Orissa was characterized as a State under severe fiscal stress by the Tenth Finance Commission. This affected growth of the State's economy as the ability to provide funds for capital investment and maintenance of capital assets was seriously eroded. The Plan outlay of the State Government also remained stagnant over a long period.

1.7 The State Government decided to initiate broad based fiscal reform measures through public consultations. Two White Papers were published: one in July 1999 and another in March, 2001 to inform the public about the fiscal problems of the State and to decide on the corrective measures required to tide over the situation. It was followed up by widespread consultation with all the stake-holders thorough State level and Regional workshops. Two Memorandums of Understanding were signed with Government of India in 1999 and 2001 to implement an agreed set of reform measures. The State Government adopted a rule based fiscal policy with medium term fiscal targets through enactment of the Fiscal Responsibility and Budget Management Legislation. A Medium Term Fiscal Plan (MTFP) was formulated with monitorable fiscal targets. The reform efforts were broadly focused on a few critical areas like augmentation of revenues, rationalization of expenditure, debt restructuring through swaps and pre-payment of high cost loan, reorganization (including privatization) of public enterprises, power sector reform and restructuring – and above all, strict enforcement of fiscal discipline and accountability.

1.8 As a result of various expenditure rationalization and revenue generation measures taken by the State as well as structural reforms, there has been substantial improvement in the fiscal position of the State. The reform measures have enabled the State Government to bring about a turnaround in its finances since 2004-05 and there has been no revenue deficit from 2005-06.



## **Present Financial Position**

1.9 The overall financial position of the State Government from 2004-05 onwards is summarized in Table 1.1. It may be seen that fiscal imbalance has been corrected through elimination of revenue deficit in 2005-06. The surplus in revenue account has been maintained till 2009-10. Fiscal Deficit could also be contained within 3 percent of GSDP. Debt-GSDP ratio came down from 44.47 percent in 2004-05 to 23.24 percent in 2009-10. Tax-GSDP ratio also increased to around 6 percent of GSDP in 2008-09. The improved fiscal performance enabled the State Government to avail of debt write-off to the extent of ₹1527.60 crore under Debt Consolidation & Relief Facility recommended by the Twelfth Finance Commission.

## **Comparative growth of Receipts and Expenditure on Revenue Account**

1.10 The fiscal trends show that the average annual growth of Revenue Receipts was lower than that of Revenue Expenditures from 1980-81 to 1999-2000; the situation reversed between 2000-01 and 2005-06. The average growth rate of Revenue Receipts between 1980-81 and 1999-2000 was 13.02 percent against the average growth of Revenue Expenditures of 15.89 percent. Between 2000-01 and 2007-08, Revenue Receipts have shown an average growth rate of 18.16 percent as compared to 9.78 percent growth of Revenue Expenditures. However, again there is a trend reversal i.e., higher growth of Revenue Expenditures compared to Revenue Receipts since 2008-09 on account of the dual impact of global recession and implementation of the recommendations of the 6<sup>th</sup> Pay Commission. Both these impacts are expected to be temporary, and may not affect the State finances after 2011-12, restoring the previous trend. However, the relatively low growth of revenue expenditures was achieved at the cost of cutback in public services delivered or stagnation.

## **Public Expenditure and Developmental Needs**

1.11 An important indicator of the efficiency in the use of a state's revenue is the share that goes towards developmental expenditure. Expenditure on social and economic services and capital outlay facilitate availability of better social and physical infrastructure and induce economic growth. Besides, Plan expenditure is meant for improvement in the economic conditions of the people through various social, economic and institutional means. Increased utilization of resources for expenditure on social and economic services, capital expenditures and Plan expenditure is not only indicative of better quality of expenditure but also exhibits orientation towards developmental expenditure. This aspect can be examined by looking into the disaggregated expenditure trends discussed below.

TABLE 1.1: FINANCIAL POSITION OF STATE GOVERNMENT

(₹ in crore)

Sl. No.	ITEMS	2004-2005 Account	2005-2006 Account	2006-2007 Account	2007-2008 Account	2008-2009 Account	2009-2010 Account
1.	<b>Revenue Receipts</b>	<b>11850.19</b>	<b>14084.72</b>	<b>18032.62</b>	<b>21967.19</b>	<b>24610.01</b>	<b>26430.21</b>
2.	Tax Revenue	8154.26	9879.03	12285.48	14702.59	16275.16	17500.99
	(Out of which State's share in Union Tax)	3977.66	4876.75	6220.42	7846.5	8279.96	8518.65
3.	Non-Tax Revenue	3695.93	4205.69	5747.14	7264.6	8334.85	8929.22
	(Out of which Grant-in-aid from Centre)	2350.41	2673.78	3159.02	4611.02	5158.7	5717.02
4.	<b>Capital Receipts</b>	<b>5979.22</b>	<b>2442.56</b>	<b>2331.71</b>	<b>862.20</b>	<b>1387.87</b>	<b>2006.49</b>
5.	Recoveries of Loans	416.95	347.6	285.82	355.30	236.21	356.36
7.	Borrowings and other liabilities	5562.27	2094.96	2045.89	506.90	1151.66	1650.13
	(Out of which W & M Adv. and overdraft from RBI)	1450.46	0	0	0	0	0
8.	<b>Total - Receipts (1 + 4)</b>	<b>17829.41</b>	<b>16527.28</b>	<b>20364.33</b>	<b>22829.38</b>	<b>25997.88</b>	<b>28436.70</b>
	<b>8. (a) Total Receipts without W&amp;M Adv. &amp; overdraft from RBI</b>	<b>16378.95</b>	<b>16527.28</b>	<b>20364.33</b>	<b>22829.38</b>	<b>25997.88</b>	<b>28436.70</b>
9.	<b>Non-Plan Expenditure (10 + 12)</b>	<b>14324.98</b>	<b>12652.71</b>	<b>15141.19</b>	<b>15798.45</b>	<b>17989.86</b>	<b>21639.10</b>
10.	On Revenue Account ( Out of which) :-	10416.44	11490.77	13045.44	13634.19	15883.24	19676.50
	a) Interest Payments	3332.02	3697.10	3188.43	3169.48	2889.81	3044.17
11.	On Capital Account (Out of which)	3908.54	1161.94	2095.75	2164.26	2106.62	1962.60
	a) Debt Repayment	2252.67	1037.59	1850.74	1844.97	1492.61	1488.69
	b) W & M Adv. and overdraft to RBI	1450.46	0.00	0.00	0.00	0.00	0.00
	c) Capital Outlay	54.04	74.94	111.59	187.22	208.54	391.12
	d) Loans & Advance	151.37	49.42	133.42	132.07	155.47	82.79
12.	<b>Plan Expenditure (14 + 15)</b>	<b>3011.28</b>	<b>3093.66</b>	<b>4204.80</b>	<b>7045.88</b>	<b>8933.00</b>	<b>8901.54</b>
13.	On Revenue Account	1956.04	2112.75	2726.58	4089.08	5306.88	5615.09
14.	On Capital Account (Out of which)	1055.24	980.91	1478.22	2956.80	3626.12	3286.45
	a) Capital Outlay	1001.51	963.13	1339.86	2656.19	3570.62	3259.76
	b) Loans & Advance	53.73	17.78	138.36	300.61	55.50	26.69
15.	<b>Total - Expenditure ( 9 + 13 )</b>	<b>17336.26</b>	<b>15746.37</b>	<b>19345.99</b>	<b>22844.33</b>	<b>26922.86</b>	<b>30540.64</b>
	<b>16. a) Total Expenditure without W&amp;M Adv. and overdraft to RBI</b>	<b>15885.80</b>	<b>15746.37</b>	<b>19345.99</b>	<b>22844.33</b>	<b>26922.86</b>	<b>30540.64</b>
16.	Revenue Expenditure (10 + 14)	12372.48	13603.52	15772.02	17723.27	21190.12	25291.59
17.	Capital Expenditure (12 + 15 )	4963.78	2142.85	3573.97	5121.06	5732.74	5249.05
	18. a) Capital Expenditure without W&M Adv. and overdraft to RBI (12a+12c+15a)	3513.32	2142.85	3573.97	5121.06	5732.74	5249.05
	18. b) Capital Outlay without W&M Adv. and overdraft to RBI (12c+15a)	1055.55	1038.07	1451.45	2843.41	3779.16	3650.88
18.	<b>Revenue Deficit(-)/Surplus(+) (1-17)</b>	<b>-522.29</b>	<b>481.20</b>	<b>2260.60</b>	<b>4243.92</b>	<b>3419.89</b>	<b>1138.62</b>
19.	<b>Fiscal Deficit(-)/Surplus(+) [(1+5) -(16a-12a)]</b>	<b>-1365.99</b>	<b>-276.46</b>	<b>823.19</b>	<b>1323.13</b>	<b>-584.03</b>	<b>-2265.38</b>
20.	<b>Primary Deficit(-)/Surplus(+) [(1+5)-(16a-12a-11)]</b>	<b>1966.03</b>	<b>3420.65</b>	<b>4011.62</b>	<b>4492.61</b>	<b>2305.78</b>	<b>778.79</b>
21.	<b>GSDP at current prices</b>	<b>76579</b>	<b>83891</b>	<b>100221</b>	<b>127234</b>	<b>142728</b>	<b>162327</b>
22.	<b>As percentage of GSDP</b>						
	a) Revenue Deficit(-)/Surplus(+)	-0.68%	0.57%	2.26%	3.34%	2.40%	0.70%
	b) Fiscal Deficit(-)/Surplus(+)	-1.78%	-0.33%	0.82%	1.04%	-0.41%	-1.40%
	c) Primary Deficit(-)/Surplus(+)	2.57%	4.08%	4.00%	3.53%	1.62%	0.48%
	d) Debt Stock	44.47%	43.46%	37.17%	28.54%	25.52%	23.24%
	e) Capital Outlay	1.38%	1.24%	1.45%	2.23%	2.65%	2.25%
	f) Own Tax	5.45%	5.96%	6.05%	5.39%	5.60%	5.53%

(Source: Government of Orissa, Finance Department)

**TABLE 1.2: COMPARISON OF REVENUE RECEIPT AND EXPENDITURE**

(₹ in crore)

Year	Revenue Receipt	Growth in Revenue Receipt	Revenue Expenditure	Growth in Revenue Expenditure
1980-81	621.35		546.85	
1981-82	601.54	-3.19%	573.56	4.88%
1982-83	801.62	33.26%	824.6	43.77%
1983-84	783.11	-2.31%	782.91	-5.06%
1984-85	823.51	5.16%	897.25	14.60%
1985-86	940.84	14.25%	1000.93	11.56%
1986-87	1228.22	30.55%	1247.96	24.68%
1987-88	1333.08	8.54%	1407.59	12.79%
1988-89	1550.93	16.34%	1658.72	17.84%
1989-90	1740.72	12.24%	1846.11	11.30%
1990-91	2170.94	24.72%	2190.53	18.66%
1991-92	2447.26	12.73%	2635.02	20.29%
1992-93	2913.16	19.04%	3048.88	15.71%
1993-94	3208.23	10.13%	3479.37	14.12%
1994-95	3575.88	11.46%	4035.52	15.98%
1995-96	3890.71	8.80%	4697.81	16.41%
1996-97	4286.76	10.18%	5117.25	8.93%
1997-98	4632.03	8.05%	5535.17	8.17%
1998-99	4554.4	-1.68%	6816.9	23.16%
1999-00	5884.64	29.21%	8458.83	24.09%
2000-01	6902.02	17.29%	8833.99	4.44%
2001-02	7047.98	2.11%	9881.73	11.86%
2002-03	8438.76	19.73%	10014.7	1.35%
2003-04	9440.24	11.87%	10861.2	8.45%
2004-05	11850.3	25.53%	12372.5	13.91%
2005-06	14084.7	18.86%	13603.5	9.95%
2006-07	18032.6	28.03%	15772	15.94%
2007-08	21967.2	21.82%	17723.3	12.37%
2008-09	24610.01	12.03%	21190.1	19.56%
2009-10	26430.21	7.40%	25291.59	19.36%

*(Source: Government of Orissa, Finance Department)*

## Trends in Total Expenditure by Activities

1.12 In terms of activities, total expenditure consisted of expenditure on general services including interest payments, social services (Education, Health, Housing, Urban Development, Welfare of SC, ST & OBC, Women & Child Development, Labour welfare etc.) and economic services (Agriculture, Animal Husbandry, Forestry, Co-operation, Rural Development, Irrigation, Energy, Transport etc), grants-in-aid to different organisations & institutions including State's Share in different Government Schemes and loans and advances. Relative share of these components in total expenditure is indicated in **Table 1.3**.

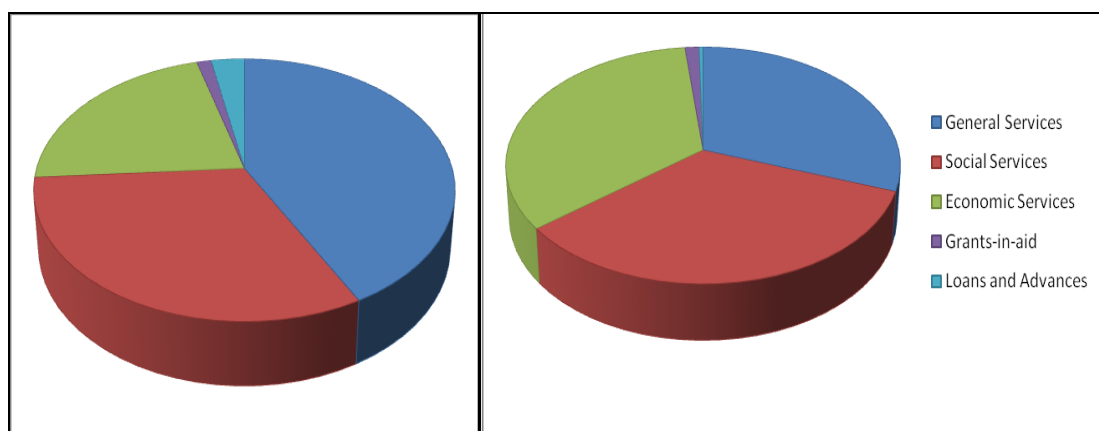
**TABLE 1.3: COMPONENTS OF EXPENDITURE – RELATIVE SHARE**

(percentages)

	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
General Services	42.21	39.12	47.75	46.77	43.25	35.04	27.59	30.98
Of which Interest payments	25.24	21.53	24.44	25.13	18.22	15.09	12.29	9.97
Social Services	31.67	28.88	29.75	32.61	31.10	33.62	36.57	34.22
Economic Services	21.83	18.51	19.83	19.17	22.54	27.61	33.14	34.49
Grants-in-aid	1.29	1.66	1.16	1.00	1.55	1.67	1.81	1.33
Loans and Advances	3.00	11.83	1.50	0.46	1.55	2.06	0.89	0.37
<b>Developmental Expenditure</b>	<b>53.5</b>	<b>47.39</b>	<b>49.58</b>	<b>51.78</b>	<b>53.64</b>	<b>61.23</b>	<b>69.71</b>	<b>68.71</b>
<b>Capital Outlay</b>	<b>5.67</b>	<b>4.11</b>	<b>7.00</b>	<b>7.06</b>	<b>8.30</b>	<b>13.54</b>	<b>14.86</b>	<b>12.56</b>
<b>Plan Expenditure</b>	<b>14.72</b>	<b>19.06</b>	<b>19.96</b>	<b>20.91</b>	<b>24.03</b>	<b>33.55</b>	<b>35.13</b>	<b>30.64</b>

(Source: Government of Orissa, Finance Department)

**COMPONENTS OF EXPENDITURE (2002-03 AND 2009-10)**



1.13 The movement of relative shares of these components of expenditure indicated that the share of General Services (including interest payment), considered as non-developmental, decreased from 48 percent in 2004-05 to 31 percent in 2009-10. Interest payment, which is a part of general services, declined from 18 percent in 2006-07 to 10 percent in 2009-10 mainly because of relief in interest rate on account of consolidation and re-scheduling of Government of India loans under Debt Consolidation and Relief Facility (DCRF) as per the recommendations of the 12<sup>th</sup> Finance Commission. The relative share of social services increased from 31 percent in 2006-07 to 37 percent in 2008-09. The relative share of economic services which hovered around 19 percent during 2003-04 to 2005-06 has shown an increasing trend and increased from 23 percent in 2006-07 to 34 percent in 2009-10. Grants-in-Aid have increased from 1.29 percent in 2002-03 to 1.81 percent in 2008-09 with slight variations while loans and advances revealed longer-term decline with fluctuations during the period 2002-10.

1.14 Perusal of the trends of public expenditure shows that capital outlay is increasing 2005-06 onwards; as a percentage of total expenditure it has increased from 4.11 percent in 2003-04 to 12.56 percent in 2009-10. Similarly, revenue expenditure on social and economic services which constitute developmental expenditure has increased from 47.39 percent in 2003-04 to 68.71 percent in 2009-10. Further, Plan expenditure as a percentage of total expenditure has increased from 14.72 in 2002-03 to 35.13 in 2008-09. However, revenue expenditure still constitutes more than 80 percent of total expenditure & capital outlay is less than 3.00 percent of GSDP. In order to accelerate economic growth there is a need to substantially increase capital outlay.

### **State Government Receipts**

1.15 Total revenue receipts show a high growth rate from 2004-05 to 2007-08, but it has declined in 2008-09 under the impact of global recession. The State's Own Tax Revenue, however, behaved in a slightly different manner. The high growth rates of 2004-05, 2005-06 and 2006-07 at 26.5 percent, 19.77 percent and 21.25 percent showed a sharp decline in 2007-08 but bounced back to register a significant increase in 2008-09. The lower growth rate in 2007-08 is attributable to sharp decrease in the growth in collection of Sales Tax and Entry Tax.

1.16 The growth rate of collection of State's Own Non Tax Revenue has been uneven. It is mainly on account of wide variations in receipt from sources like Interest, Dividend, and receipts from Forest and Irrigation sectors. Interest receipts had a

progressive rise till 2007-08 primarily on account of interest on cash balance of the State Government with RBI. However, in 2008-09 the collection from interest receipts registered a lower growth rate. Receipts from Dividends are dependent on the profitability as well as investment decisions of the two major profit making PSUs viz. OPGC and OMC, and fluctuate accordingly. Forest and Irrigation receipts also do not show any persistent trend.

1.17 The State's share in Central taxes from 2004-05 to 2007-08 reflects the buoyancy in collection from Central taxes which declined in 2008-09 and 2009-10. Grants-in-Aid received from Government of India show a robust growth indicative of the State's ability to leverage higher Central transfers through higher utilization.

1.18 The 12<sup>th</sup> Finance Commission recommendation fixed the vertical distribution at 30.5 percent of the net divisible pool for all States. This has increased to 32 percent as per recommendation of the 13<sup>th</sup> Finance Commission. On the other hand, the horizontal or inter se distribution for Orissa is fixed at 4.78 percent by the 13<sup>th</sup> Finance Commission compared to 5.16 percent recommended by the 12<sup>th</sup> Finance Commission. The overall impact of the recommendation will see 2.81 percent deterioration in the share of devolution for Orissa.

**TABLE 1.4: REVENUE RECEIPTS OF THE STATE**

(₹ in crore)

Year		Own Tax & Non-Tax Revenue	Share Tax	Grants from Centre	Total Revenue Receipts
2004-05	Actual	5522.22	3977.66	2350.41	11850.29
	Growth	25.61%	19.53%	36.95%	25.53%
2005-06	Actual	6534.18	4876.75	2673.78	14084.71
	Growth	18.33%	22.60%	13.76%	18.86%
2006-07	Actual	8653.18	6220.42	3159.02	18032.62
	Growth	32.43%	27.55%	18.15%	28.03%
2007-08	Actual	9509.67	7846.5	4611.02	21967.19
	Growth	9.90%	26.14%	45.96%	21.82%
2008-09	Actual	11171.35	8279.96	5158.7	24610.01
	Growth	17.47%	5.52%	11.88%	12.03%
2009-10	Actual	12194.54	8518.65	5717.02	26430.21
	Growth	9.16%	2.88%	10.82%	7.40%

(Source: Government of Orissa, Finance Department)

1.19 The Revenue Receipts of the State during the last 6 years are furnished in Table 1.4. The growth in total revenue Receipts of the State during the period 2004-08 averaged more than 20 percent. However, the impact of Global recession substantially reduced the growth in revenue realization, mainly through lower growth of the State's share in Central taxes. On the other count, i.e. State's own revenue, the growth was equally sluggish.

1.20 Major item-wise collection of Own Tax and Non-Tax Revenue during last 5 years along with year-wise growth is furnished below in Tables 1.5 and 1.6. Sales Tax/ VAT being the primary source of Own Tax revenue, it plays the driving role in the overall tax performance of the State. Other important items of Own Tax Revenue are State Excise, Entry Tax, Taxes on Vehicles, and Stamp Duty & Registration Fees. Within Non-tax Revenue, Mining Royalty provides the major share followed by revenue from Forestry and Wildlife.

**TABLE 1.5: OWN TAX REVENUE**

(₹ in crore)

Sl. No.	Items	2005-06		2006-07		2007-08		2008-09		2009-10	
		Actual	Growth	Actual	Growth	Actual	Growth	Actual	Growth	Actual	Growth
A. TAX REVENUE											
1.	Professional Tax	66.46	12.51%	73.60	10.74%	86.44	17.45%	112.29	29.91%	135.55	20.71%
2.	Land Revenue	69.62	-47.09%	226.38	225.16%	276.15	21.99%	348.79	26.30%	292.17	-16.23%
3.	Stamps & Registration	236.06	19.30%	260.49	10.35%	404.76	55.39%	495.66	22.46%	359.96	-27.38%
4.	State Excise	389.33	26.98%	430.07	10.46%	524.93	22.06%	660.07	25.74%	849.05	28.63%
5.	Sales Tax/ VAT	3011.73	21.86%	3764.82	25.01%	4118.43	9.39%	4803.34	16.63%	5408.76	12.60%
6.	Taxes on Vehicles	405.86	20.04%	426.54	5.10%	459.42	7.71%	524.43	14.15%	611.23	16.55%
7.	Taxes on Goods & Passengers (Entry Tax)	463.34	20.37%	574.00	23.88%	626.90	9.22%	638.32	1.82%	815.25	27.72%
8.	Taxes and Duties on Electricity	353.13	34.84%	282.58	-19.98%	327.46	15.88%	365.03	11.48%	459.96	26.01%
9.	Other Taxes and Duties (ET & LT and F D T)	6.75	-73.26%	26.59	293.93%	31.59	18.81%	47.28	49.64%	50.39	6.58%
TOTAL- A -TAX REVENUE		4176.70	19.77%	6065.06	21.25%	6856.09	13.04%	7995.20	16.61%	8982.32	12.35%

(Source: Government of Orissa, Finance Department)

TABLE 1.6: OWN NON-TAX REVENUE

(₹ in crore)

Sl. No.	Items	2005-06		2006-07		2007-08		2008-09		2009-10	
		Actual	Growth	Actual	Growth	Actual	Growth	Actual	Growth	Actual	Growth
<b>B. NON-TAX REVENUE</b>											
1.	Interest	298.02	19.67%	398.43	33.69%	570.39	43.16%	654.67	14.77%	379.23	-42.07%
2.	Dividend	120.59	74.39%	49.39	-59.04%	140.93	185.34%	252.85	79.41%	250.79	-0.81%
3.	Education	42.99	172.77%	41.94	-2.44%	41.95	0.02%	10.65	-74.60%	14.88	39.72%
4.	Medical	9.26	-28.64%	13.07	41.10%	14.28	9.25%	32.18	125.38%	12.96	-59.73%
5.	Water Supply and Sanitation	29.33	16.39%	32.10	9.44%	40.17	25.15%	48.74	21.33%	54.87	12.58%
6.	Housing	11.90	-2.88%	12.00	0.86%	12.10	0.84%	12.17	0.54%	11.88	-2.38%
7.	Forest and Wild Life	59.13	-30.20%	130.63	120.90%	82.66	-36.72%	139.29	68.50%	109.03	-21.72%
8.	Major and Medium Irrigation	39.02	7.14%	49.75	27.50%	43.73	-12.10%	47.41	8.42%	65.46	38.08%
9.	Minor Irrigation	4.81	26.37%	4.46	-7.37%	4.96	11.21%	5.32	7.25%	4.40	-17.29%
10.	Non-ferrous Mining & Metallurgical Industries	805.03	20.06%	936.60	16.34%	1126.06	20.23%	1380.60	22.60%	2020.76	46.37%
11.	Others	111.82	-32.51%	919.75	722.56%	576.35	-37.34%	592.28	2.76%	287.94	-51.39%
<b>TOTAL-B- NON-TAX REVENUE</b>		<b>1531.90</b>	<b>13.85%</b>	<b>2588.12</b>	<b>68.95%</b>	<b>2653.58</b>	<b>2.53%</b>	<b>3176.15</b>	<b>19.69%</b>	<b>3212.20</b>	<b>1.13%</b>

(Source: Government of Orissa, Finance Department)

### Buoyancy of Major items of Own Tax and Non-Tax Revenue

1.21 Buoyancy is a summary measure of the revenue performance of a State *vis-à-vis* the growth in economy. Table 1.7 captures yearly buoyancy of important items of Tax and Non-Tax revenue of the State. Steady buoyancy is not seen in most of the tax and non-tax items. Taxes and Duties on Electricity is the most inconsistent so far as tax buoyancy is concerned. Collection from Forest and Wild Life shows most erratic behaviour among the non-tax items mainly on account of seasonal effect.

TABLE 1.7: BUOYANCY OF MAJOR ITEMS OF OWN TAX AND NON-TAX REVENUE OF ORISSA

	2005-06	2006-07	2007-08	2008-09	2009-10
<b>A. Own Tax</b>					
Stamps & Registration	2.04	0.49	2.19	1.84	-2.11
State Excise	2.86	0.49	0.87	2.11	2.21
Sales Tax	2.31	1.18	0.37	1.36	0.97
Taxes on Vehicles	2.12	0.24	0.31	1.16	1.27
Taxes and Duties on Electricity	3.69	-0.94	0.63	0.94	2.00
<b>B. Own Non- Tax</b>					
Forest and Wild Life	-3.20	5.71	-1.45	5.61	-1.67
Non-ferrous Mining & Metallurgical Industries	2.12	0.77	0.80	1.85	3.57

(Source: Government of Orissa, Finance Department)



## Need for Higher Resource Mobilisation

1.22 The 13<sup>th</sup> Finance Commission have mandated revenue balance in the State by 2011-12 and require Orissa to contain fiscal deficit within 3 percent of GSDP. Further, the Debt/GSDP ratio has to be brought down to 25 percent by 2014-15. In view of the annual ceiling on borrowing, the State has to turn to higher resource mobilisation through non-debt sources for financing the development needs.

1.23 Besides, the criteria adopted by 13th Finance Commission for horizontal distribution of shared taxes has an assignment of 4.78 percent of net divisible pool for Orissa compared to 5.16 percent recommended by the 12<sup>th</sup> Finance Commission. This will have a negative impact on the State's Revenue Receipts from central devolution during the entire award period of the 13<sup>th</sup> Finance Commission that has to be made good. It is important to note that the dependence of Orissa on central transfers in general is fairly high at more than 50 percent.

1.24 Failure to generate adequate resources would compel Orissa to depend on borrowings which will ultimately lead to fiscal imbalance. The efficacy of the State Government would ultimately depend on the extent to which it is able to substitute borrowed funds with own revenue and generate enough resources to continue with and expand developmental schemes.

## Inter-State Comparison

**TABLE 1.8: TAX-GSDP RATIO (AVERAGE OF 2004-05, 2005-06 AND 2006-07)**

Sl. No.	States	Percent
1	Andhra Pradesh	8.107
2	Arunachal Pradesh	2.055
3	Assam	5.329
4	Bihar	4.666
5	Chhattisgarh	7.692
6	Goa	8.062
7	Gujarat	7.159
8	Haryana	9.009
9	Himachal Pradesh	5.408
10	Jammu & Kashmir	5.798
11	Jharkhand	4.335
12	Karnataka	10.614
13	Kerala	8.285
14	Madhya Pradesh	7.600
15	Maharashtra	7.963

Sl. No.	States	Percent
16	Manipur	1.915
17	Meghalaya	3.804
18	Mizoram	1.884
19	Nagaland	1.905
<b>20</b>	<b>Orissa</b>	<b>6.160</b>
21	Punjab	7.869
22	Rajasthan	7.392
23	Sikkim	5.794
24	Tamilnadu	9.885
25	Tripura	3.078
26	Uttar Pradesh	6.775
27	Uttarakhand	7.402
28	West Bengal	4.622
<b>All States</b>		<b>7.476</b>
<b>Special Category States</b>		<b>5.225</b>
<b>General Category States</b>		<b>7.619</b>

(Source: Report of 13<sup>th</sup> Finance Commission)

1.25 Tax performance of a State is often judged from the Tax/GSDP ratio. If we go by the assessment of the 13th Finance Commission, the Own Tax/GSDP (Average of 2004-05, 2005-06 and 2006-07) ratio of Orissa stands at 6.16 percent compared to the all States' average of 7.48 percent and general category States' average of 7.62 percent. Tax/GSDP ratio of Orissa stands at a much lower level than the comparable States like Madhya Pradesh, Rajasthan and Chhattisgarh. In fact, only three general category States (Bihar, Jharkhand and West Bengal) have a ratio lower than Orissa. This is an indication of underperformance of the State on the revenue front compared to potential.

1.26 The 13<sup>th</sup> Finance Commission report has set target Tax/GSDP ratios for individual States. For Orissa, the Own Tax/GSDP ratio required to be achieved during 2010-11 is 6.65 percent which needs to be gradually increased to 6.75 percent in 2014-15. The projected Own Tax/GSDP ratio in 2010-11(BE) is about 6 percent which stands far below the 13<sup>th</sup> Finance Commission recommended level.

1.27 It was in the context of reduced devolution of Central share of taxes to Orissa under the award of the 13<sup>th</sup> Finance Commission as well as the need for mobilization of additional resources with a view to accelerating the pace of development in the State as discussed above that the Expert Committee was constituted for suggesting measures for enhancement of State's own revenue.

## **Chapter-II**

### **States' Economy and Developmental Deficiency**

2.1 Orissa, located on the eastern coast of Indian subcontinent, extends over an area of 115,707 sq Kms and has a population of 36,804,660 as per 2001 census. Orissa is tenth in size and eleventh in population in India accounting for about 4.75 percent of the geographical area and about 3.6 percent of the total population of the country. The State predominantly consists of rural population as roughly 86 percent of the population live in rural areas. More than one third of its population (38.66 percent) belong to either Schedule Castes (SC) or Scheduled Tribes (ST) compared to All India Average of 24.40 percent. Every fourth person in the State belongs to ST category, and every seventh person to SC. The coastal plains are thickly populated whereas population density in the mountainous interiors is much less.

2.2 Orissa is one of the low-income States in the country and is predominantly an agrarian economy. Agriculture and Allied sectors is the mainstay of the State's economy that contributes about 23 percent of the total state income but supports about two-third of the State's population. The ultimate irrigation potential of the State is 8.8 million hectares, which, if fully utilised, can irrigate 90 percent of the total cultivable area. The percentage of exploitation of irrigation potential in Orissa remains at 38.90 percent compared to the all India average of 83.64 percent. The State has forest area of 58136.9 sq Km, which constitutes 37.34 percent of the State's geographical area. The State is endowed with vast mineral deposits like iron ore, coal, manganese, manganese ore, bauxite, chromite, nickel, copper, graphite, vanadium, limestone, china clay, quartz, precious and semi-precious stones etc. Orissa occupies a prominent place in the mineral map of India both in terms of deposit and production. The State has nearly 17 percent of the total mineral reserve of India. The mineral deposits of Orissa in respect of chromite, nickel, bauxite, and iron ore are more than 97 percent, 95 percent, 49 percent and 33 percent respectively of the total deposits of India. With a coastline of 480 km (6 percent of the total coastline of the country) and inshore zone continental shelf area of 24,000 Km (4.7 percent of the total continental area of the country), Orissa has access to vast marine fishery potential. It is also endowed with brackish water area of 4.18 lakh hectares and fresh water area of 6.66 lakh hectares, of which the Chilika Lake, which is the largest natural brackish water lagoon of Asia, covers the major part. But a large part of the available fishery resources of the State are yet to be fully

exploited. Orissa can also cater to almost every facet of tourism – be it religious, cultural, heritage, leisure or eco-tourism. Although the State's tourism potential, particularly that of non-coastal areas of the State, is yet to be properly exploited because of inadequate tourism infrastructure, the hospitality industry has grown substantially over the last one decade. The 'Golden Triangle' of Bhubaneswar-Puri-Konark remains the biggest tourist attraction of the State.

2.3 Although Orissa is rich in terms of resource endowment, yet it occupies the most unenviable position near the bottom in income scales. The State, partly for its structural weaknesses that stood in the way of adequate resource mobilization and partly because of special problems such as large SC and ST population and repeated visits of natural calamities that called for special attention, has not been able to create the required infrastructure environment to utilize its resources towards faster growth. The state is still far behind all India averages in regard to several indicators of socio-economic development.

2.4 The main factors standing in the way of accelerated all-round development of the State of Orissa are the persistent dilemma of managing fiscal balance and yet provide enough funds to meet the critical gaps in infrastructure and social services. Rapid infrastructural development and higher dose of investment in the social sector like health and education are the only ways to accelerate economic growth and reduce poverty. The real challenge is thus to create fiscal space for investment in critical sectors for reviving the economy.

### **Sectoral Composition of GSDP**

2.5 Usually, economic activities are grouped into three broad sectors namely, primary, secondary and tertiary in India. The primary sector includes agriculture and allied sectors like animal husbandry, fisheries, forestry, mining and quarrying. Manufacturing, electricity, gas and water supply, and some other sectors come under the secondary sector, while the tertiary sector includes various services including public administration. In Orissa Economic Survey 2009-10, the classification was slightly revised as Agriculture, Industry and Services instead of the traditional classification. While the correspondence between the three sectors in both the classifications is high, the revised classification is more consistent with international practice.

2.6 The dynamics of the composition of Orissa's economy shows it clearly becoming less agricultural, more industrial and more service-oriented over time. This pattern is similar to the experience of the Indian economy and is indeed a global

phenomenon. As also true for the Indian economy, in recent years, the services sector has come to dominate the State economy, constituting more than 50 percent of GSDP.

**TABLE 2.1: SECTORAL COMPOSITION OF GSDP**

(₹ in crore)

Year	Sectors	Primary Sector	Secondary Sector	Tertiary Sector	Finance & Service Sector	Total GSDP
<b>2005-06</b>	<b>Contribution</b>	26504	19569	17546	20272	83891
	<b>Share</b>	31.59%	23.33%	20.92%	24.16%	<b>100.00%</b>
	<b>Growth</b>	9.74%	3.50%	18.81%	8.11%	<b>9.55%</b>
<b>2006-07</b>	<b>Contribution</b>	30643	25343	21937	22299	100221
	<b>Share</b>	30.58%	25.29%	21.89%	22.25%	<b>100.00%</b>
	<b>Growth</b>	15.62%	29.50%	25.02%	10.00%	<b>19.47%</b>
<b>2007-08</b>	<b>Contribution</b>	43609	32661	25334	25630	127234
	<b>Share</b>	34.27%	25.67%	19.91%	20.14%	<b>100.00%</b>
	<b>Growth</b>	42.31%	28.88%	15.49%	14.94%	<b>26.95%</b>
<b>2008-09 (P)</b>	<b>Contribution</b>	43953	37235	30314	31226	142728
	<b>Share</b>	32.15%	23.23%	21.38%	23.24%	<b>100.00%</b>
	<b>Growth</b>	0.79%	14.01%	19.66%	21.83%	<b>12.18%</b>
<b>2009-10 (Q)</b>	<b>Contribution</b>	46057	41981	35510	38779	162327
	<b>Share</b>	28.37%	25.86%	21.88%	23.89%	<b>100.00%</b>
	<b>Growth</b>	4.79%	12.75%	17.14%	24.19%	<b>13.73%</b>

(Source: Directorate of Economics & Statistics)

2.7 The sectoral composition of the State's income has implications for the task of raising public revenues, particularly in the form of taxes. Generally speaking, the services sector and the agricultural sector are less amenable to taxes on the production side as compared to the industry and minerals sector because of constitutional limitations on the States' ability to tax services and a policy of not taxing much of agriculture. Of course, incomes from all these sectors, when used for consumption, are subject to indirect taxes (sales tax/VAT, for example); but in comparison, both production side and income arising from the industry and minerals sectors yield public revenues, which is not the case with agriculture and services. As such, larger the secondary sector, greater the tax potential for a State. In Orissa (as in the country as a whole), growth has mainly taken place in the services sector with the secondary sector barely holding its share in the total income, limiting the increase in taxable capacity. Given the experience of other fast growing nations and regions, the secondary sector will also eventually start losing its share to the services sector, further limiting the taxable capacity. In this situation, the only possible way to cut through the constraint is to tax services – the introduction of a Goods and Services Tax (GST) becomes

extremely important in this dynamic context. Also, it may be important to examine other ways of tapping the available tax potential in the relatively less taxed services sector.

### **Relative Standard of Living**

2.8 Ever since independence, the standard of living in the State has been below the national average. In 1950-51, Orissa's real per capita income was about 90 percent of the national average. However, the State's real per capita income had begun to slide thereafter and came down to about 61 percent of the national average in 2002-03. This long-term falling trend in relative real per capita income has not only been arrested since 2004-05, but reversed as well. The State's per capita income has started rising and the gap with the average national per capita income has been narrowing steadily. Orissa's relative ranking among the states of India in terms of per capita income, however, remains unchanged; it is higher than that of only Bihar, Jharkhand, M.P. and U.P.

### **Employment**

2.9 Main workers as percentage of population in 1981, 1991 and 2001 censuses were 75 percent, 73 percent and 58 percent respectively. The total number of main and marginal workers was respectively 96 lakh and 47 lakh in 2001. The share of cultivators and agricultural workers has sharply declined between 1991 and 2001 (from 73 percent in 1991 to 57.70 percent in 2001). There appears to be a shift of main workers away from agriculture and allied activities, as also a substantial shift from main workers to marginal workers, implying the possibility that full-time workers from agriculture are shifting to marginal worker status in non-agricultural sectors, perhaps for higher incomes.

Total employment in organised sector has declined from about 8 lakh in 2000 to 7 lakh in 2008. The share of employment in organised sector has been 85-90 percent, with the contribution of private sector being roughly 10-15 percent. The total employment in organised public sector has slightly declined over the period 2000-2008, while the share of private sector employment has been steadily increasing, although it still absorbs less than a quarter of employment in the public sector. If this trend accelerates, it would be a major positive for public finances, because the pressure on the government to absorb the unemployed into the public sector will ease up and the increased employment in the private sector would augment the revenue capacity of the State.

**TABLE 2.2: EMPLOYMENT IN AGRICULTURE SECTOR**

(in '000 numbers)

State	1991			2001		
	Total Main Workers	cultivators and agricultural workers	percentage	Total Main Workers	cultivators and agricultural workers	percentage
Andhra Pradesh	28474	19516	68.54%	29041	17221	59.30%
Arunachal Pradesh	391	256	65.47%	415	245	59.15%
Assam	6993	4404	62.98%	7114	3316	46.62%
Bihar	25620	20678	80.71%	21053	15790	75.00%
Goa	384	92	23.96%	425	42	9.76%
Gujarat	14097	7935	56.29%	17025	7760	45.58%
Haryana	4719	2727	57.79%	6241	2833	45.38%
Himachal Pradesh	1778	1184	66.59%	1964	1125	57.30%
Karnataka	17292	10916	63.13%	19365	9971	51.49%
Kerala	8299	3136	37.79%	8237	1608	19.52%
Madhya Pradesh	24933	18767	75.27%	19103	12793	66.97%
Maharashtra	31006	18485	59.62%	34748	17823	51.29%
Manipur	707	484	68.46%	659	328	49.69%
Meghalaya	716	485	67.74%	757	475	62.78%
Mizoram	291	188	64.60%	362	214	58.96%
Nagaland	512	379	74.02%	704	471	66.87%
<b>Orissa</b>	<b>10378</b>	<b>7576</b>	<b>73.00%</b>	<b>9589</b>	<b>5533</b>	<b>57.70%</b>
Punjab	6098	3370	55.26%	7836	2952	37.67%
Rajasthan	13916	9574	68.80%	17437	10590	60.74%
Sikkim	164	108	65.85%	213	110	51.80%
Tamilnadu	22798	13560	59.48%	23758	10802	45.47%
Tripura	803	494	61.52%	912	421	46.13%
Uttar Pradesh	41361	29864	72.20%	39338	24436	62.12%
West Bengal	20581	10900	52.96%	23024	9079	39.43%
<b>All -India</b>	<b>285932</b>	<b>185300</b>	<b>64.81%</b>	<b>313005</b>	<b>167123</b>	<b>53.39%</b>

(Source: Census Data, 1991 &amp; 2001)

### Poor Socio-economic Development

2.10 Apart from low income levels, the State is characterized by relatively low literacy rate, high infant mortality rate and low female literacy rate.

- ❖ The literacy rate of 63.6 percent (Female 50.97 percent) in the State in 2001 is lower than most of the major States like Karnataka (67.0), Maharashtra (77.3), Punjab (70.0), Tamilnadu (73.5), West Bengal (69.2) and all India level of 65.4 percent.

- ❖ The enrolment ratio in primary education is 91.5 percent against the all India average of 98.3 percent in 2003-04
- ❖ The infant mortality rate in the State at 73 in 2006 is the second highest in the country against all India average of 57.
- ❖ Some of the indicators in health services are: doctor-population ratio (2001) is 1:7462, nurse-doctor ratio (2001) 1:2, paramedics-population ratio 1:1672, nurse-bed ratio 1:6, population served per medical institution 1:21679.
- ❖ The death rate of Orissa in 2005 was 9.5 per 1000 population compared to the All India death rate of 7.6 only.
- ❖ Life expectancy in Orissa is low as compared to the nation as a whole. For the period 2006-2010, life expectancy of Orissa has been projected to be 62.3 years for male and 64.8 years for female. The all-India figure for the same period has been projected to be 65.8 years for male and 68.1 years for female.
- ❖ Average Monthly Per Capita Consumer Expenditure (MPCE) in Orissa is much less than the same for India. Average MPCE during the year 2004-05 was Rs. 398.89 for rural and ₹757.31 for urban population in Orissa. All-India average MPCE was ₹559.00 for rural and ₹1052.00 for urban population during the same period.
- ❖ Availability of basic amenities in the households of Orissa stands at lower levels as compared to all-India:-
  - (a) Households having electricity in Orissa during 2005-06 was 45.4 percent as against the all-India average of 67.9 percent.
  - (b) Households having toilet facility during 2005-06 in Orissa was 19.3 percent as against the all-India average of 44.5 percent.
  - (c) Similarly, households having safe drinking water facility in 2001 were 64.2 percent in Orissa as against the all-India average of 77.9 percent.

### **Human Development Index**

2.11 While the abovementioned socio-economic indicators clearly show the relatively low level of development in Orissa, the Human Development Index, a combined measure of achievements in education, health status and quality of living of the population was estimated at 0.404 as against the national average of 0.428. As can be expected from its low per capita income, level of poverty in the State is high; the percentage of the people below poverty line stood at 46.4 percent against the all India



average of 27.5 percent in 2004-2005. All this clearly shows that the State has not succeeded in raising the quality of life of its citizens even to the average level for the country. Measures to improve all aspects of the quality of life in the State have to be taken urgently along with speeding up economic development.

### **Inadequate Infrastructure**

2.12 Various social factors interact with availability of physical infrastructure to determine the pace of development. There is substantial complementarity between the two also, which is why no government can afford to ignore either of the two aspects. The responsibility for ensuring adequate availability of social and physical infrastructure rests squarely with the government in a less developed State like Orissa. The social indicators cited above indicate the status of social infrastructure, which is particularly poor in most social services other than education. The low availability of agricultural infrastructure has also been indicated above with the poor realization of irrigation potential. The status of other physical infrastructure like roads and bridges, railways, telecommunications, urban services, and air transport are also commensurately poor. The State does not have a large demand-supply gap on the whole in the power sector, but inadequate distribution infrastructure and low level of rural electrification probably understates the demand. As a reflection of the inadequate infrastructure, FDI flow to the State as percentage of total FDI flow to India stands at only 0.17 percent. Although certain physical infrastructure facilities like railways and telecommunication are outside the domain of the State government, the need for significantly stepping up investments in the areas that are within the State's jurisdiction is indisputable.

2.13 Although the State's economy has exhibited accelerated growth since around the middle of the last decade, without adequate infrastructure, the economy cannot exploit its potential and sustain high economic growth. The strain on transport infrastructure is already evident. Capacity constraints in rail have diverted cargo to ports in other States. Massive up-gradation of urban infrastructure is needed to be able to attract and retain the skilled labour force demanded by modern industry and services. Apart from investment in economic infrastructure like roads, electricity and irrigation, the State has to develop social infrastructure as well in the area of education and health – both in terms of hardware and software. Construction of a number of school buildings, dispensaries and hospitals (hardware) will not have any meaning, unless equal investment is made in the software in the form of trained teachers, doctors with specialisation as well as paramedical staff. Similarly, for the emerging young

population to be equipped with advanced skills, a number of technical institutions in engineering, medicine, management and IT are to be developed with suitably skilled faculty. There is little time to be lost, since investments made now will bear fruit only with a lag of at least half a decade. Inadequacy of infrastructure is already given, every delay in making these investments will only add to it.

### **Need for Fiscal Space for Development**

2.14 In view of the low level of socio-economic development and infrastructure deficit, there is need for creation of fiscal space for development of critical infrastructure and achievement of human development levels envisaged in the UN Millennium Development Goals. “In its broadest sense, fiscal space can be defined as the availability of budgetary room that allows a Government to provide resources for a desired purpose without any prejudice to the sustainability of a Government’s financial position. Usually, the idea is that in creating fiscal space, additional resources can be made available for some form of meritorious Government spending (or tax reduction). The incentive for creating fiscal space is strengthened where the resulting fiscal outlays would boost medium-term growth and perhaps even pay for itself in terms of future fiscal revenue. In principle, there are different ways in which a Government can create such fiscal space. Additional revenues can be raised through tax measures or by strengthening tax administration. Lower priority expenditures can be cut in order to make room for more desirable ones. Resources can be borrowed, either from domestic or external sources. And, finally, governments can use their power of seignorage (that is, having the Central Bank print money in order to lend it to the Government). Governments may also benefit from any fiscal space arising from the receipt of grants from external sources. For developing and emerging market countries, the issue of fiscal space arises in the immediate term. There is a pressing need for expenditure today, and the challenge is how to find the resources for their financing.” (IMF Policy Discussion Paper PDP/05/4 –“Understanding Fiscal Space”, by Peter S. Heller). This rather lengthy quote is useful to see clearly the available options for obtaining additional resources and judge their potential for the purpose in Orissa. Large scale borrowing is not really an option both because of the constraints on the level of fiscal deficits (roughly equivalent to borrowings at the State level) and debt-GSDP ratio, as also because it generates fiscal instability in future. The option of seignorage is not available to Indian States. Grants from the centre or from external sources are largely not within the control of the State and are therefore exogenous. The only two real options for the State are additional revenue generation and reprioritization of public expenditures. Even the latter option is heavily limited by the predominance of

contractual expenditures and expenditures on entitlement programmes; in the end, for the State of Orissa, the only feasible option that remains is that of additional revenue mobilization.

### **Issues and Approach of the Committee**

2.15 The well-known Indian political economist Kautilya many centuries ago had written in his famous treatise *Arthashastra* that the best way of collecting public revenues is to follow the example of nature – collect revenues like bees collect honey from flowers, without causing them any discomfort. While this adage has been variously interpreted, the most useful one is probably to think of it as an exhortation to cause the least amount of disruption in the system, or to minimize the efficiency loss in modern jargon. It could also be thought of as requiring minimal contribution from a large number – the principle of low rates and broadest possible base. These two remain valid canons of revenue raising even now along with others that have arisen from various considerations of public finance.

2.16 ‘Ability to pay’ and ‘benefits received’ are the two principles on which collection of public revenues rest at present. The former implies a progressive (or at least a proportional) system of taxation or revenue collection, the latter leads to an implicit quid-pro-quo between revenues and distribution of the public expenditures. However, with the advent of the concept of ‘welfare state’, the extent to which the benefits principle can be applied has become severely limited, since public expenditures are expected to be oriented towards the poor, and taxing the poor flies in the face of the ability-to-pay principle. This Committee has tried to keep both these principles in sight while considering revenue augmentation, and making recommendations. The intent has been to identify those who can pay more without any serious damage to their net worth, simultaneously making an effort to link a higher burden with benefits received from public policy and action.

2.17 In a federal system, there are constraints on the ability of and the tools available to the States to raise revenues, both formal and practical. The Constitution of India lays down a scheme of assignment of revenue handles, which is the formal constraint. Besides, normal economic considerations and forces at play constitute the practical constraints – an effective tax rate much higher in Orissa than that prevalent in other States on a footloose base, for example, is likely to reduce tax collection rather than increase revenues for Orissa. The Committee has tried to work within these constraints, taking care to stay faithful to the Constitution and trying to work through the economic consequences of its recommendations. Of necessity, some measures are recommended

that may not pass muster from a purist's point of view, but are still considered worthwhile in view of the principle of 'greater good for greater numbers', i.e. after considering the burden imposed on the likely targets and the benefits of appropriate utilization of the proceeds.

2.18 The Committee has not confined its attention to the instruments for raising revenues alone; the manner of their use has also been examined. Administration of taxes and non-tax revenue sources often determine the actual impact more than the design and structure – so much so that it has been said: 'tax administration is tax policy'. This has led the Committee to make some comments that may be interpreted as going beyond its Terms of Reference, but these were judged to be crucial for the primary objective of augmenting revenues. Finally, the Committee has striven to keep the context of Orissa and its socio-economic features always in mind while making the recommendations – in a few cases, this should be rather obvious.

2.19 The Committee had the privilege of discussing at length with Shri J. K. Mohapatra, Principal Secretary, Finance the background and scope of this Committee for recommending to the Government various measures to raise resources on different items of revenue. The Committee had several sittings with Secretaries and Heads of the Department dealing with Value Added Tax, Motor Vehicle Tax, Mining Royalty, Electricity Duty, State Excise, Stamp & Registration, Forest Royalty, Irrigation and Industrial Water Rate. The Committee got valuable information, suggestions and technical inputs through these sittings and could appreciate the present context as well as prospects of mobilization of both Tax and Non Tax Revenues. Valuable information furnished by the Secretaries and Heads of the Department of Government were extremely useful to the Committee for analysiing and identifying the problems and ultimately helped in coming out with recommendations which are within the constitutional and legal limits and can be adopted by the State Government to raise resources.

2.20 We are grateful to Shri Satya Prakash Nanda, Member Board of Revenue, Shri J. K. Mohapatra, Principal Secretary, Finance, Shri S. Srinivas, Principal Secretary, Excise, Shri Suresh Chandra Mohapatra, Principal Secretary, Water Resources Department, Shri R. K. Sharma, Commissioner-Cum-Secretary, Revenue & Disaster Management Department, Shri P. K. Jena, Commissisoner-Cum-Secretary, Energy Department, Shri Manoj Ahuja, Commissisoner-Cum-Secretary, Steel & Mines, Shri Satyabrata Sahoo, Commissioner-Cum-Secretary, Commerce and Transport Department, Ms. C.T.M. Suguna, Inspector General of Registration, Shri Nikunja Kishore Dhal, Commissioner

of Commercial Taxes, Shri Surendra Kumar, Transport Commissioner, Shri Sudarsan Nayak, Excise Commissioner, Shri B.P. Singh, Special Secretary, Forest & Environment Department, Shri Suresh Chandra Mohanty, Principal Chief Conservator of Forests, Shri K. Jude Sekar, Principal Chief Conservator of Forests, Kendu Leaves, Shri H.C. Behera, Engineer-in-Chief, Water Resources, Shri S.N. Mishra, Engineer in Chief, Electricity, Shri S.K. Das, Director of Mines, and Shri P.C. Patra, Deputy Director of Mines.

2.21 At the outset, the Committee had a useful discussion with Hon'ble Minister, Finance who indicated the motivation of the State Government to raise additional resources in view of increasing commitments of the State Government to various development as well as welfare schemes. Recommendations on different items of revenue will provide scope for the State Government for introspective insight and options for eventual adoption.

2.22 Our special thanks are to Shri B. C. Mohapatra, Additional Secretary, Shri P. K. Biswal, Special Officer-cum-Joint Secretary, Shri D. K. Jena, Joint Secretary, Dr. Sidhartha Kanungo, Deputy Secretary, Shri R. N. Das, Deputy Secretary, Shri S. P. Rath, Under Secretary, Shri D.P. Biswal, Under Secretary, Section Officer and Staff of Resources Branch of Finance Department who coordinated with other Departments for obtaining various information and provided secretarial support. The outstation Members would also like to thank the staff of the State Guest House, Bhubaneswar for making their stays in Bhubaneswar comfortable and for providing an excellent venue and matching services for holding most of the meetings of the Committee.

## Chapter-III

### Value Added Tax (VAT) and Entry Tax

3.1 State level exercises to identify measures for additional revenue generation often depend heavily on sales/value added tax, primarily because its wide base allows substantial revenue mop-up with small changes. This Committee, however, feels somewhat constrained in this matter simply because the scenario with respect to this tax is in a flux; as of now, introduction of goods and services tax (GST – a VAT on both goods and services unlike the present tax which is on goods only) in the near future is a certainty, but its detailed structure and the actual date of introduction is somewhat uncertain. As such, our general recommendation would be to prepare for the eventual introduction of GST as best as is possible (in terms of tax administration and a first draft of the state level legislation); other recommendations below are essentially short-term revenue enhancement measures that may have to be reworked at the time of introduction of GST.

**Table 3.1: Growth in VAT Collection**

Year	VAT Collection (₹ In crore)	Growth Rate
2004-05	2471.39	32.59%
2005-06	3011.73	21.86%
2006-07	3764.82	25.01%
2007-08	4118.43	9.39%
2008-09	4803.34	16.63%
2009-10	5408.76	12.60%

*(Source: CCT, Orissa)*

3.2 Although revenue generation from sales tax/VAT has picked up considerably since 2004-05 with annual average growth rate of 20 percent and 32.6 percent as the maximum (Table 3.1), its ratio to the GSDP in the State is only higher than the comparable ratios in Bihar and West Bengal (Table 3.2). Both the States are contiguous to Orissa, which constrains its revenue efforts through sales tax in the sense that the possibility of trade diversion is a real one, if and when Orissa steps up its revenue efforts through higher effective rates. However, some of these States have raised their lower rate from 4 percent to 5 percent (even the former 4 percent rate on declared goods has been raised to 5 percent), and Orissa can follow suit without the fear of trade diversion. This accords with the recommendation of the Empowered Committee of States also. Similarly, the extant statutory rate on petroleum products including petrol and diesel can be enhanced from 18 percent to 20 percent, emulating several other States that have already done so. The rate recommended by the Empowered Committee also is 20 percent, it may be noted.

**Table 3.2: VAT/ GSDP Ratio of different States Collection**

(₹ in crore)

Sl. No.	State/UT	VAT Collection in 2008-09	GSDP	VAT to GSDP Ratio
1	Andhra Pradesh	21851.66	376897	5.80%
2	Arunachal Pradesh	105.68	4538	2.33%
3	Assam	3110.57	79167	3.93%
4	Bihar	3016.47	142665	2.11%
5	Chhatisgarh	3610.94	95120	3.80%
6	Goa	1131.64	19751	5.73%
7	Gujarat	16810.65	337000	4.99%
8	Haryana	8154.73	183033	4.46%
9	Himachal Pradesh	1246.31	36931	3.37%
10	Jammu & Kashmir	1852.50	34829	5.32%
11	Jharkhand	3715.00	75785	4.90%
12	Karnataka	14622.73	270618	5.40%
13	Kerala	11377.13	189824	5.99%
14	Madhya Pradesh	6842.99	171341	3.99%
15	Maharashtra	30680.53	693955	4.42%
16	Manipur	141.38	6342	2.23%
17	Meghalaya	281.83	9610	2.93%
18	Mizoram	77.51	3808	2.04%
19	Nagaland	114.70	7057	1.63%
20	NCT Delhi	9152.09	165895	5.52%
<b>21</b>	<b>Orissa</b>	<b>4803.34</b>	<b>133601</b>	<b>3.60%</b>
22	Pudducherry	381.86	11791	3.24%
23	Punjab	6435.62	165846	3.88%
24	Rajasthan	8904.50	201519	4.42%
25	Sikkim	101.14	2611	3.87%
26	Tamil Nadu	20674.70	339189	6.10%
27	Tripura	314.79	11834	2.66%
28	Uttar Pradesh	17482.05	411895	4.24%
29	Uttarakhand	1910.64	40241	4.75%
30	West Bengal	8955.09	353962	2.53%

(Source: RBI Report on State Finances- A Study of Budgets, 2010-11)

3.3 The State Government has allowed certain tax concessions to Indian Oil Corporation for establishing the refinery at Paradeep. As per the terms of agreement, the Company will be allowed to collect VAT from petroleum products after commissioning of the refinery at Paradeep and retain the amount. The collected amount so retained will be passed on to the State Government after a period of 11 years. The commissioning of the refinery at Paradeep is likely to take place in the year 2013-14. The collection of VAT from IOC during 2010-11 was ₹903.52 crore. The average growth in collection of VAT from IOC during the last 3 years is 20.11 percent. If we apply a growth rate of 20 percent, the VAT collection due from IOC in 2023-24 may go up to ₹9667.05 crore. Projections on this basis show that the cumulative impact on collection of VAT from petroleum products after commissioning of the refinery at Paradeep during the period 2013-24 may be of the order of ₹50195.89 crore. This will create a big dent in State's resources, especially because the massive expansion of the capacity of IOC could also displace other retailers of petro-goods who pay taxes.

**Table 3.3: Projection of loss of Revenue on account of Concessions allowed to IOC**

(₹ in crore)

Year	Actual/ Projection of collection of VAT from IOC	Growth
2007-08	528.39	
2008-09	639.58	21.04%
2009-10	677.80	5.98%
2010-11	903.52	33.30%
2011-12	1084.22	20.00%
2012-13	1301.07	20.00%
2013-14	1561.28	20.00%
2014-15	1873.54	20.00%
2015-16	2248.25	20.00%
2016-17	2697.90	20.00%
2017-18	3237.48	20.00%
2018-19	3884.97	20.00%
2019-20	4661.96	20.00%
2020-21	5594.36	20.00%
2021-22	6713.23	20.00%
2022-23	8055.88	20.00%
2023-24	9667.05	20.00%
<b>2013-2024</b>	<b>50195.89</b>	<b>20.00%</b>

(Source: CCT, Orissa)



3.4 There are large amounts of arrears shown in the accounts of the Department as indicated by recent audit reports (more than ₹3700 crore at end-March 2010), some of them being carried for several years (more than ₹800 crore being arrears of 5 years or more). Given the large amounts involved, some action on either realisation or write-off of the arrears is warranted. The cases where the dealer has disappeared or large demand has been raised ex-party in order to adhere to prescribed time frame are the cases where there is very little scope of recovery and may be treated as non-realisable. The arrears need to be sorted into realisable and non-realisable amounts, and the latter have to be written off in the interest of cleaning up the accounts. Of the realisable arrears, those pending as a result of judicial proceedings outside the government cannot be helped, but the Department (and the government) can try to realise the rest as early as possible, if necessary with a special collection drive. Act-wise arrear position as on 31.03.2010 along-with the pendency level is furnished in the following table.

**Table 3.4: Act-wise Arrear Position as on 31.03.2010**

(₹ in crore)

Sl. No	Name of the Act	Total Arrears	Stay Position					TRO / CC	Arrears covered by Show cause notice	Arrears covered by Penalty
			Supreme Court	High Court	CCT	ACCT	Total			
1	OST	1079.24	36.94	251.98	263.09	40.64	592.64	261.29	209.97	15.34
2	VAT	239.37	0.00	7.49	80.68	8.03	96.20	0.09	143.07	0.02
3	CST	2390.95	157.46	1481.37	256.73	26.57	1922.12	22.17	446.22	0.44
4	OET	6.81	0.00	0.12	0.14	0.04	0.30	5.18	1.34	0.00
5	OELT	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.01	0.00
6	Entry Tax	116.77	0.00	39.49	24.96	8.19	72.64	10.38	33.44	0.30
7	Profession Tax	1.29	0.00	0.00	0.00	0.00	0.00	0.00	1.29	0.00
	<b>TOTAL</b>	<b>3834.44</b>	<b>194.39</b>	<b>1780.44</b>	<b>625.60</b>	<b>83.47</b>	<b>2683.90</b>	<b>299.10</b>	<b>835.35</b>	<b>16.09</b>

(Source: CCT, Orissa)

3.5 The department has already initiated action on reorganisation of the tax administration along functional lines, changing the present organisation by location. Even though in practice, it will probably not be possible to completely jettison the present organisational setup at least during the transitional phase, a beginning has to be made by identifying the major functions, instituting senior departmental staff in charge of each function, and carrying this functional organisation vertically downwards to a currently feasible level. In particular, the functional domains for registration, back-office auditing (primarily to detect evasion on the basis of submitted returns), and tax collection need to be urgently delimited.

3.6 This is somewhat tied up with the issue of computerisation and IT-based provision of various services in the Department, which is also work-in-progress at present. This has been under implementation for a long time, but has picked up only recently. This momentum cannot be wasted, and this task needs to be quickly completed. However, one of the cautions that seems to be in order is that if a departmental reorganisation is on the cards, the software being used has to be checked for compatibility with the envisaged new organisational structure. In this context, the special importance of the back-office audit supported by cross verification of claimed transactions – setoff claims in particular – cannot be overemphasised. The software being used must fulfil this essential requirement with respect to at least e-filed returns and those that are ‘inputted’ into the system by the departmental staff. Further, cases unearthed by the back-office audit as candidates for further investigation need to be followed up with physical verification of books of account and other usual procedures. These activities need to be maintained at a consistently high level to ensure better voluntary compliance as the first objective, and not necessarily to garner significantly greater amount of revenue through this process.

3.7 Last, but not the least, the government must provide adequate staff at the required levels to the Department to make the most of this tax, which is the only broad-based tax at the state level and is the main component of the State’s own tax revenue. With current state of under-provision of staff, it will be difficult to carry out the day-to-day activities of the Department (it is pertinent to note that the Department is responsible for the administration of several taxes), let alone giving effect to many of the recommendations we have made in this Report (reorganisation for the administration of Profession tax, for example).

3.8 The Members of the Committee have been duly apprised of the human resource constraint of the Commercial Tax organization. It needs to be recognised that with introduction of VAT, not only has the tax base expanded but also the dealer population has gone up manifold. This, in turn, has resulted in increased work load for the Department. On the other hand, as a part of the fiscal reform measures, a large number of posts in Group-C & Group-D categories have been abolished between the years 2000 and 2007. Also, in these categories which provide necessary support services to the statutory functionaries for administration of the taxing statutes, there are a large number of vacancies that have been persisting for some time. There is also a large number of vacancies in the cadre of statutory functionaries starting from Assistant Sales Tax Officer onwards. The grade-wise vacancy as on 1<sup>st</sup> March, 2010 is indicated in the table below. The Committee strongly feels that such a significant number of vacancies in the premier revenue earning Department affect the operational efficiency as well as tax effort of the Department. Therefore, the State Government should take expeditious

steps for filling up of the post of line functionaries which will help improve the tax performance of the Department.

**Table-3.5: Sanctioned Strength and Vacancy position in Commercial Tax Organisation**

	<b>Sanctioned Strength</b>	<b>Vacancy</b>	<b>Vacancy as % of Sanctioned Strength</b>
Group-A	338	115	34.02%
Group-B	255	237	92.94%
Group-C	1527	528	34.58%
Group-D	573	95	16.58%
Total	2693	975	36.20%

*(Source: Commissioner, Commercial Taxes, Orissa)*

### **Entry Tax:**

3.9 Given that the levy of this tax is under judicial review at the apex court, this Committee refrains from making any suggestions on the structure or administration of this tax. However, the Committee is confident that the tax would pass the judicial scrutiny, given that similar taxes have been in operation since long in other States (Karnataka, for example) as also the questionable legal validity of the grounds of objection to the levy. All the same, the Committee feels that the State's case of entry tax as a substitute for octroi (now abolished) would be further strengthened if the relevant Act incorporates a provision to the effect that compensation to local bodies for the loss of octroi duty would be the first charge on revenue out of the proceeds of this tax, in a manner specified in the Rules and the amount credited to the Consolidated Fund of the State would be net of the transfer to the Local Bodies. The rules in turn must provide the basis on which the local bodies would be compensated for the loss of octroi.

## Chapter-IV

### Profession Tax

4.1 The Tax on Professions, Trades, Callings and Employment (profession tax in short) has been levied in Orissa since 2000-01, but collections have been well below potential all through. There are several states (Andhra Pradesh, Assam, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Tripura and West Bengal) where this tax garners a substantial amount of revenue, while collections in Orissa are relatively low. The reasons essentially are twofold: low voluntary compliance and inadequate departmental effort.

**Table 4.1: Collection of Taxes on Profession of Different States**

(₹ in lakh)

States	YEAR					
	2005-06	2006-07	2007-08	2008-09	2009-10 (RE)	2010-11 (B.E)
<b>ORISSA</b>						
Collection for State's own Tax	500228	606507	685609	799520	892000	1036001
Collection for Professions Tax	6646	7360	8644	11218	13472	14500
Collection for Profession Tax as a Ratio of state's own tax Revenue	0.013	0.012	0.013	0.014	0.015	0.014
<b>ANDHRA PRADESH</b>						
Collection for State's own Tax	1920740	2392621	2879405	3335829	4066400	4699900
Collection for Professions Tax	22707	31221	35572	37446	45000	54000
Collection for Profession Tax as a Ratio of state's own tax Revenue	0.012	0.013	0.012	0.011	0.011	0.011
<b>ASSAM</b>						
Collection for State's own Tax	323220	348332	335950	415021	433292	497584
Collection for Professions Tax	9980	10836	12468	13773	14000	14500
Collection for Profession Tax as a Ratio of state's own tax Revenue	0.031	0.031	0.037	0.033	0.032	0.029
<b>GUJARAT</b>						
Collection for State's own Tax	1569790	1846459	2188557	2355692	2635300	3026090
Collection for Professions Tax	11932	13112	14967	18584	18600	19500
Collection for Profession Tax as a Ratio of state's own tax Revenue	0.008	0.007	0.007	0.008	0.007	0.006
<b>KARNATAKA</b>						
Collection for State's own Tax	1863155	2330103	2598676	2764566	2933872	3622832
Collection for Professions Tax	33025	39258	45137	53879	50982	53000
Collection for Profession Tax as a Ratio of state's own tax Revenue	0.018	0.017	0.017	0.019	0.017	0.015

States	YEAR					
	2005-06	2006-07	2007-08	2008-09	2009-10 (RE)	2010-11 (B.E)
<b>MADHYA PRADESH</b>						
Collection for State's own Tax	911470	1047313	1201818	1361405	1744196	1867018
Collection for Professions Tax	15845	16874	19297	18218	19883	20227
Collection for Profession Tax as a Ratio of state's own tax Revenue	0.017	0.016	0.016	0.013	0.011	0.011
<b>MAHARASTRA</b>						
Collection for State's own Tax	3354025	4009924	4752816	5203013	5571133	6383832
Collection for Professions Tax	115772	124672	148835	156122	151711	160814
Collection for Profession Tax as a Ratio of state's own tax Revenue	0.035	0.031	0.031	0.030	0.027	0.025
<b>TRIPURA</b>						
Collection for State's own Tax	29612	34155	37070	44250	52984	66705
Collection for Professions Tax	2195	2222	2374	2598	2925	3200
Collection for Profession Tax as a Ratio of state's own tax Revenue	0.074	0.065	0.064	0.059	0.055	0.048
<b>WEST BENGAL</b>						
Collection for State's own Tax	1038837	1169478	1312634	1441915	1691665	2000773
Collection for Professions Tax	24915	26485	29506	32160	35376	38913
Collection for Profession Tax as a Ratio of state's own tax Revenue	0.024	0.023	0.022	0.022	0.021	0.019

4.2 This tax has faced non-compliance since it was first introduced from certain groups of taxpayers, which continues to date; this constitutes one of the most blatant (and so far successful) challenges to the sovereign powers of the state. This has been facilitated by the inability of the Commercial Tax Department to vigorously pursue tax defaulters in general, hamstrung as they are by lack of personnel (see the chapter on value added tax). Given the relatively low returns to personnel time devoted to profession tax administration in terms of additional tax revenue collection, the Department is rational in utilising the limited personnel time for more profitable activities. However, this needs to be tackled urgently because issues larger than mere tax revenue are involved; the very authority of the state government is at stake. Even so, the Department cannot selectively target any particular group of (potential) taxpayers; it must mount a systematic campaign to bring all potential taxpayers into the tax net.

4.3 At present, administration of profession tax is an add-on responsibility for the officials who consider the administration of value added tax as their main responsibility. As such, within the Department itself, there is no driving force behind the administration of profession tax. Assuming that the Department is allocated

adequate number of personnel, a separate wing for profession tax administration under an Additional Commissioner has to be created, who would not be involved in VAT administration. Since there is a possibility of few departmental officials opting for the same, officials may be moved between wings within the Department, with a minimum length of stint with profession tax administration being compulsory. This will create a dedicated group of officials with a stake in profession tax administration that has been missing in the current system.

4.4 Since there is a statutory cap on the tax rates applicable which only the Parliament can change, there is not much scope for rate enhancement, although this may be possible to a limited extent when tax rates are below the currently applicable ceiling. What is more important is to widen the tax base. In the case of this tax, there are usually two types of assessee: those who are salaried employees and those who are self-employed. While the former are normally easy to tax, the statistics on the number of taxpayers indicates that even this group is only partially covered in Orissa, either through liberal exemptions or non-compliance. Careful examination of this aspect and necessary action should bring a substantial number of new taxpayers into the net. Also, a legal requirement of furnishing an annual return on number of employees engaged, salary paid, and profession tax deducted at source has to be imposed on all employers. Similarly, those potential taxpayers who are registered under VAT should also be fairly easy to tax, with a requirement of furnishing an annual profession tax return.

4.5 Much greater difficulty is likely to be faced with the identification and assessment of rest of the self-employed potential taxpayers, mainly various types of professionals like doctors, lawyers, architects, and various other service providers. A beginning can be made by carrying out surveys of such potential taxpayers in major urban areas and industrial townships of the state using various sources of information like membership of professional associations, municipal records and points of professional registration where applicable, apart from locality-based surveys. Identification of potential but non-complying taxpayers must be followed up with serving of notice for compulsory submission of return, even in zero-tax liability cases. The relevant Act in Orissa also does not cover all types of professionals. Only those that are listed under the Schedule of the Act are covered, and there is no inclusive category of taxpayers, as for example, in Karnataka. The Schedule should be expanded to include several specific types of professionals, and the schedule should have at the end an entry termed as 'Other persons engaged in trades, callings or professions not specified above'.

4.6 The rules governing the tax administration may also provide for a system of profession tax deduction at source, when payments above ₹10,000/- are made to professionals and service providers engaged by government departments, public sector undertakings and non-government organisations above a specified size. This requirement may be waived if the payee provides a certificate stating his/her profession tax registration number and that s(he) would file a profession tax return as required by law.

4.7 Relevant provisions of Orissa Municipal Corporation Act and Municipal Act as well as Rules made there under may be amended to provide for issue of licenses for running nursing homes, clinics, tutorials, consultancies and other services so as to enable the taxing authorities to create a data base of the persons to be brought under the profession tax net. For renewal of such licensees there should be a mandatory provision to call for profession tax clearance certificate.

4.8 Finally, to aid recovery of tax due, an amendment of the relevant Act to provide a special mode of recovery of arrears and attachment of Bank Accounts may be considered.

## Chapter-V

### State Excise

#### Introduction

5.1 The alcoholic beverages sector under the Indian Constitution is a State subject and accordingly States/UTs frame their own policies and taxation regimes. With a view to raise more resources to meet growing developmental needs, excise revenue is generated through a plethora of duties and fees such as excise duty, license fee, sales tax, brand/label registration fee, import/export fee, vend fee, gallonage fee, turnover tax etc. The rates of such duties/fees vary widely from State to State.

5.2 In Orissa, state excise on liquor (and narcotics) yielded ₹849.05 crore to the state exchequer in 2009-10. This tax was the second highest revenue earner after sales tax, which yielded ₹5408.77 crore in the same year. In most other neighbouring low income States such as Chhattisgarh, Bihar, Madhya Pradesh and Jharkhand, too, state excise occupies the second most important position after sales tax in the own tax revenues of the States (Annexure-5.1).

5.3 Excise revenue as a ratio of State's Own Tax Revenue was 7 percent in 1990-91, 5 percent of State's Own Revenue and 2 percent of total revenue receipt. In 2000-01, these ratios were broadly unchanged. At the end of 2009-10, however, they went up to 9 percent of State's Own Tax Revenue, 7 percent of own revenue and 3 percent of total revenue receipt. The trend of receipt from excise revenue from 1990-91 onwards is furnished at Annexure-5.2. There is no consistent trend in buoyancy of Excise revenue; it fluctuated and at times was negative. However, there is a substantial improvement in the decadal buoyancy for the last decade over the decade of the 'nineties.

5.4 There are complex issues pertaining to taxation of alcoholic beverages as it involves important economic, social and cultural dimensions. The fundamental issue is whether it is proper to raise money for the Government from sale of alcoholic products that are known to be harmful to the individual and society. The issue is both ethical as well as socio-economic. While on the one hand the government earns revenue, it would eventually have to spend perhaps much more on health as well as having to earmark much more resources for curbing accidents, crimes, and various social ills arising out of alcoholic consumption.

5.5 World Health Organization's Global Status Report on Alcohol has found that alcohol causes as much death and disability as measles and malaria and causes loss of far more years of life than tobacco or illegal drugs. The Report also found that the most effective measures in reducing alcohol related harm include restrictions on



physical availability. Further, the trend of increasing globalization has increased the supply of alcoholic products in developing countries. There is a fundamental incompatibility between the values of free trade, unfettered marketing and open access to alcohol on the one hand and the public health values of demand reduction, harm reduction and primary prevention on the other.

5.6 Despite the universal recognition of very strong ethical, social and public as well as private health related arguments against consumption of alcoholic beverages, they continue to be a significant and buoyant source of revenue for resource starved States which need ever increasing resources to finance their developmental activities. It is further argued that prohibition of the production and sale of alcoholic beverages does not actually help matters, since people continue to procure and consume it through illegal means. Indeed, the inevitable consequence of prohibition invariably is a thriving black market and other attendant illegal activities, while causing a serious dent in State's revenue.

5.7 The tax on liquor may thus be regarded as a double edged weapon. It provides the government with revenue, and it does so by raising the sale price, thereby having the intended effect of discouraging consumption. However, excise policy has to also bear in mind the possibility of boosting illicit liquor consumption and thereby raising the probability of liquor tragedies in case high taxes raise prices of legal liquor too much.

### **Actual Practice**

5.8 Most of the excise revenues are realized in the following form and manner:

**a. Rentals or License Fee (LF):** The manufacture and sale of liquor is accepted to be a privilege, which the Government parts with at a price by way of a license. Besides maximizing the State revenue, license must be granted with the utmost transparency. The rentals or license fee are normally fixed at the beginning of a license period, and do not vary with the quantity of liquor sold. The amount can be determined either through a formula based on past experience or by conducting a public auction. Such an amount would obviously depend on the profit which a licensee expects to earn using the privilege.

**b. Excise Duty (ED):** The Government imposes Excise Duty/Countervailing Duty on the liquor manufactured or consumed in a State in any one or more of the following ways:

- (i) Specific duty based on alcohol content (on a proof litre basis)
- (ii) Ad valorem duty based on Ex-factory Price (EFP)
- (iii) Ad valorem duty based on Maximum Retail Price

5.8.1 Excise Revenue in Orissa is collected from the following five sources:

- i) **Country Spirit** – Country Spirit shops are being renewed with 10 percent increase per annum over and above the existing consideration money. Excise Duty is paid at a fixed rate per LPL (London Proof Litre). The manufacturers also pay license fee and bottling fee at a fixed rate along with a labelling fee for registration of labels. Excise Duty is paid by Orissa Beverage Corporation which carries on monopoly wholesale trade in country liquor. The country spirit system is prevalent in 9 Districts viz. Balasore, Bhadrak, Jajpur, Kendrapara, Cuttack, Khordha, Puri, Jagatsinghpur, and Nayagarh. Country spirit is provided in distilleries by diluting the rectified spirit with water and flavours. Rectified spirit is usually made out of molasses. While getting the country spirit in bottle to its bonded warehouses, Beverage Corporation collects the excise duty from the distillery and passes it on to the licensed vendors and fixes the MRP (Maximum Retail Price).
- ii) **Out-still Shops** – The Out-still Shops are operating in the remaining 21 Districts of the State. These Out-still Shops carry on the manufacturing, wholesaling and retailing of Out-still Liquor. In the process of manufacturing, they also undertake collection of mahua flower, its fermentation and distillation. After production, they also sell the product through their retail shops. These shops are also being renewed with 10 percent increase of consideration money. The margin of profit in this trade is very high.
- iii) **IMFL & Beer** - While IMFL is manufactured in distilleries, Beer is produced by breweries. The Orissa Beverage Corporation carries on the wholesale trade of IMFL & Beer by procuring the alcoholic beverages from the distilleries and breweries located inside and outside the State. Excise Duty is levied at the time of transfer of IMFL & Beer to the retail outlets from bonded warehouses of the Orissa Beverage Corporation. In order to prevent smuggling of non duty paid liquor, the beverage corporation puts a hologram to distinguish duty paid liquor. In addition to Excise Duty, the distilleries and breweries inside the State also pay license fee and bottling fee. The IMFL & Beer procured from the distilleries and breweries located outside the State is also subject to an import fee. Similarly, the distilleries and breweries inside the State, on their sale outside the State are also required to pay export fee.
- iv) **IMFL Outlets and Vends** – License fee in the form of consideration money and Renewal fee with 10 percent increase per annum over consideration money is collected from the Outlets and Vends dispensing IMFL & Beer as well as Bars and Parlours where IMFL and Beer are sold and served.
- v) **Country liquor** – The Outstill Shops are required to pay storage license fee, utilization fee, export fee, transport fee and non-utilization fee on Mohua flower. The manufacturers of country spirit are similarly required to pay molasses-license fee, import fee and utilization fee. The Orissa State Beverage Corporation is also required

to pay an Annual License Fee to the State Government for storing country spirit and selling to licensed vendors.

**c. Sales Tax (ST):** While License Fee is a kind of rent realized for an exclusive right and ED is a tax on production of liquors, the Sales Tax is a tax on sale like on any other commodity and is fixed as a percentage of sale prices. The rates of sales tax on liquor are normally much higher than other commodities, this being a 'demerit' good. The sales tax is generally ad valorem and can be a single rate or a slab of rates over various price ranges. Not all States have sales tax on liquor. Some (UP, Chhattisgarh) have merged it into the ED and some (Karnataka) levy sales tax as an Additional Excise Duty. Sales Tax on alcoholic beverages is collected separately by the Commercial Tax organization in Orissa and constitutes a significant portion of Sales Tax revenue. It does not form a part of Excise revenue. At present, it is a part of the Value Added Tax (VAT).

5.9 As per the report of the Joint Working Group (JWG) on Model Excise Policy/ Taxation/ Act/ Rules prepared by the Ministry of Food Processing Industries of the Government of India, at the beginning of the past decade the branded spirits market was estimated to be around 112 million cases per annum. Whiskey accounted for 55 percent of the market for spirits, followed by rum (27 percent), brandy (14 percent), gin (3 percent) and vodka (1 percent). About 250 million cases of country liquor (CL) were sold in the country per annum during the same period. As is well known, the country liquor market is often dominated by cartels, where traders get a disproportionate share of MRP.

5.10 During 1998-2003, the Indian beer market was estimated to be around 86 million cases, and the growth rate has been around 7 percent per annum. Several parts of India, including Orissa, are showing much higher growth rates.

5.11 The Indian wine market is very small and is estimated at ₹2.60 billion, which is somewhat less than €0.05 billion while the global market of wine is valued at €150 billion. However, the Indian wine market has grown at a phenomenal rate of over 20 percent per annum during 1998-2003. 75 percent of wine consumption is reported in the price segment of ₹200-600/- per 1 litre bottle. The consumption in the price segments of less than ₹200/-, ₹600-800/- and more than ₹800/- per bottle is 15 percent, 6 percent and 4 percent respectively.

5.12 The share of red wine is 39 percent, while that of white wine is 37 percent and sparkling wine and fortified wine account for 7 percent and 17 percent of the total all India consumption. India has a large potential in tapping its comparative advantage due to its favourable agro climatic condition in several large tracts and the huge growing market. In recent years there has been a change in the perception of alcohol consumption which has changed from it being taboo to its being socially acceptable. In

urban metropolitan areas the growth in consumption of wine and beer has also been noticed regardless of the gender divide.

5.13 The grey market is a cause of continuous concern to all State governments since about 5.3 million cases of liquor sold is estimated to be spurious, non duty paid liquor (NDPL) and illegal liquor (IL). Around 0.75 million cases of foreign liquor also finds its way into the grey market.

5.14 The Central government used to issue license for manufacture of liquor under IDR Act. However it decided in 1975 to ban creation of additional capacity or expansion of existing capacity for distillation or brewing except in 100 percent export oriented units. In 1984, the Hon'ble Supreme Court in Bihar Distillery and others vs. Union of India ruled that industries engaged in the manufacture of potable alcohol shall be under the total and exclusive control of the States in all respects including establishment of distillery, levy of excise duty etc. The jurisdiction of the Central government was restricted to industrial alcohol.

5.15 The key issue here is whether licensing for manufacturing of liquor should be liberalized to ensure competition, efficiency, modernization, greater use of farm produce or whether it ought to be restricted to reduce availability? Further, what ought to be the criteria for licensing?

5.16 Distilleries that are principally designed to convert molasses into spirit require major investments. Like any other viable investment, the decision in regard to the location of a distillery should be left to the entrepreneur. Use of ethanol in automobiles will necessitate opening up of this sector for more investment. The possibility of over-creation of capacity and consequent flooding of the market with alcoholic products of spurious quality can be curtailed by having a clear excise policy in place.

5.17 In particular, a State Government must clearly assess the following issues, among others, with care: (a) suitability of applicant, location and availability of adequate water, (b) creation of additional capacity on the basis of availability of sugar cane/ molasses in the geographic area, (c) assessment of the projected use of the output shown in the application, and finally, (d) higher taxes on molasses and lower on grain and fruit based alcohol.

5.18 A large number of 'distilleries' do no distillation but 'import' spirits and do some blending, dilution and bottling operations. Such distilleries do not involve high investment and the rationale for establishing such units is partly due to the substantial difference in tax regimes amongst the various States. Uniformity of tax regimes, as in the case of generalized VAT, in different States would remove the incentive for installing such blending and bottling units in any State or location other than where it is economically advantageous to do so.

5.19 In Orissa, like in the cases of a number of States such as Tamilnadu, Andhra Pradesh, Kerala, Delhi and Karnataka, the issue of distribution is entrusted to a Government Corporation. Here, unlike in the case of the open model (practiced in UP, Maharashtra, West Bengal etc) or the auction model (practiced in Punjab, Rajasthan, Bihar etc), the State Government, through its agencies, controls the wholesale segment. State agencies purchase directly from liquor companies based on a predetermined secondary sales formula. Also, the consumer prices are determined and fixed by the State.

5.20 Each of the three models has its pros and cons. Under the Government corporatisation model there is restricted entry of new brands and restricted competition. Further, manufacturers do not have any control on consumer prices. Vested with monopoly power such parastatal agencies are often prone to inefficiencies and bureaucratic delay. However, careful and vigilant management of this politically sensitive sector can eliminate the possible undesirable consequences of a purely market based approach.

### **Country Liquor and Hooch Tragedies**

5.21 From time to time there have been and there continue to be sad and avoidable tragedies involving typically socially and economically backward sections of society. Wrong policies and acts of commission and omission of the excise and police officials are often seen to be responsible for such tragic events. Commissions of inquiry have often attributed such tragedies to the lack of availability of cheap liquor to the poor.

5.22 Country Liquor (CL) or Arrack had been introduced in many States to provide cheap liquor to the masses. The excise duty on CL was therefore kept low. It was also meant to counter the menace of cheap illicit liquor being produced by unorganized or illegal producers. Over the years, however, the States increased ED on all liquor including CL since this was a major source of revenue. The ED rates on CL reached such high levels that the difference between the prices of CL, or low end IMFL, and illicit/NDPL stock became large and illegal trade flourished. Most often, a small clique of liquor barons, with political influence, have a stranglehold on the CL business.

5.23 Usually, hooch tragedies occur due to the high level of methanol in liquor. This is usually the result of poor distillation facilities used by illicit producers or because of cheaper methanol, rather than ethanol, used by such producers. It is therefore important that States impose severe and exemplary punishment to unscrupulous elements involved in the illegal trade, and also tone up the police and excise machinery.

5.24 In order to eliminate such tragedies, distilleries may be encouraged to build brands of country liquor which would ensure consistent strength, assured quality and value pricing. This would make available quality liquor which would be a cheaper alternative to IMFL and ensure higher realizations by distillers.

## **Assessment and Recommendations**

5.25 At present, licence fee for all distilleries and breweries are fixed at uniform rate irrespective of their production capacity and actual production i.e. actual utilization of production capacity. The Committee would recommend progressive licence fees; proportionately higher rate of licence fee should be charged for higher production capacity and penalty for non-utilisation should also be introduced.

5.26 A very important issue concerns the policy of fixing the consideration money for award/renewal of excise vends dealing in IMFL, beer and country liquor. It was stated that the procedure for auction has been discontinued since 2004-05 and has been replaced by a lottery system after which renewal is being made on the basis of 10 percent increase over the highest price fetched in the past 3 years. The Committee felt that the policy of 10 percent increase every year is not based on any economic rationale. To some extent it would take account of the annual inflation but this rule of thumb certainly does not take into consideration the volume of sale or the increased potential of the shop owing to factors like rapid growth of population, urbanization and industrialization.

5.27 It would be desirable to enhance the rate of increase of the renewal fee on sound economic principles which in any case ought to be much more than a nominal 10 percent increase per annum. It was suggested that one may award the new shops in small lots to attract new players and to end the monopoly of old traders and prevent formation of cartels by them. In order to prevent formation of cartels and monopoly trading in liquor and also to increase the revenue from consideration money, the excise shops need be auctioned at least at an interval of 3 years with annual increase of 20% till the next auction. Such an increase in consideration money is justified keeping in view the rate of inflation. Minimum Guaranteed Quantity (MGQ) of IMFL, beer and country liquor for each licensed vender should be increased every year taking into account average growth of consumption of each type of liquor namely C.S., IMFL & beer. Department of Excise must conduct annual survey scientifically every year to be complete by end of January to find out the trend in consumption in each category.

5.28 License Fee for out-still shops have not been increased, or have only been marginally increased, over the years and out-still liquor is low priced owing to the low duty and license fee structure and sales tax on such liquor is also levied on a compounding basis. If the ED or fee structures of these items are increased, it may lead to inflow of illicit non-duty paid liquor to the area. In the districts where out-still liquor is prevalent there has not been any liquor tragedy. Mishaps have occurred in other districts where there are country spirit shops and where there is inadequate supply and coverage of licensed shops. Nevertheless, keeping in view the rate of inflation and consequent rise in the price of out-still liquor (for which there should be a yearly survey) license fee for out-still vends should be increased which should bear a ratio to

the increase in price and volume of out-still liquor. Taking into account the trend increase in consumption of liquor from O.S. vends, minimum capacity of distillation of each OS vend is to be increased and consequently the license fee. These O.S. vends are to be auctioned once in three years with annual increase of 20% of license fee in between.

5.29 It is worth noting that the number of excise shops in Orissa per lakh population is 5 whereas the all India average number of shops per lakh population is 12. Orissa also happens to be a low consumption State in both IMFL and country liquor. The sale of wine is also confined to only a few up-market hotels. The duty, license fee and sales tax structure of Orissa is higher than that of other States which attracts non duty paid liquor from contiguous States.

5.30 The Committee is of the view that there ought to be a survey in the upcoming new industrial hubs near Rourkela, Jharsuguda, Sambalpur, Jajpur Road (Kalinga Nagar) and Angul to assess the consumption potential of IMFL and to open new shops in those areas. It would also be desirable to calibrate the MRP of different brands to be aligned to the same in the adjoining states so as to maximize revenue while preventing diversion of consumer purchase away from the home State.

5.31 The Committee was informed about a major problem regarding the lack of a Technical Officer to assist the Excise Commissioner and that the offices in the 13 erstwhile undivided districts are running in hired accommodation. There is a paucity of vehicles and allocation of POL for enforcement work. The Department has given consent for internal audit but the men are yet to be in place. The new Excise Law is awaiting Presidential assent which envisages setting up of Excise Police Stations with Hazat and Malkhana. Finally and importantly, the number of charge officers has remained stagnant at 185 for the last two decades in spite of substantial growth in the number of shops. Thus, inadequate manpower and infrastructure is increasingly becoming a constraint on the administration of State excise; this needs to be redressed. The State Beverages Corporation also suggested that the number of depots be increased on the basis of increased turnover and also to have a number of core staff through regular recruitment.

5.32 It has been suggested that in order to impart buoyancy to excise revenue, we may consider abolishing out-still and country spirit outlets and introduce cheap Extra Neutral Alcohol (ENA) based IMFL which may fetch another ₹80 crore. The strength of ENA is reduced through blending to give a separate taste, flavour or colour before it is sold as IMFL. Increasing the number of retail outlets to the all India level may also be considered. As regards the alternative use of mahua and capacity to produce ENA based IMFL, it was suggested that mahua could be used as cattle feed and abolition of OS shops would not affect the economy of mahua flower. These suggestions seem reasonable to us, particularly because existing distilleries have the capacity to produce

ENA based IMFL. Out-still and country spirit outlets could be gradually abolished with introduction of ENA based IMFL. However, it would be prudent to try this changeover in a limited way at first to gauge its acceptability in practice.

5.33 In the report of the Joint Working Group on Model Excise Policy/ Taxation/ Act/ Rules constituted by the Ministry of Food Processing Industries, Government of India, it is stated that “Some States like Andhra Pradesh, Tamilnadu and Kerala have banned R.S. based CL to control its ill effects on people’s health and instead encouraged ENA based cheap IMFL. This also increased their revenue since Excise Duty on IMFL is higher than CL. Therefore, one of the options could be to make IMFL available through the existing country liquor outlets and simultaneously replacing CL with IMFL from the viewpoint of consumer welfare. This would cut down illicit distillation and consumption of country liquor and increase Government revenue through the sale of duty paid IMFL. Another option could be to encourage distilleries to build brands of country liquor which would ensure consistent strength, assured quality and value-pricing. This would: (a) make available quality liquor which would be a cheaper alternative to IMFL, and (b) ensure higher realizations by distillers”.

5.34 Keeping in view the above factors, the Committee would recommend introduction of ENA based IMFL in place of country spirit on pilot basis in one of the Districts in which the C.S. system is prevalent and simultaneously introduce it in one of the Districts in which the Out-still system is in operation. Such introduction of ENA based IMFL in a district would be not to substitute O.S., but it would be introduced while OS shops will continue. The idea is to find out preference of the consumers between these two types of liquor. As ENA based liquor will be a branded one and of improved quality, there is a chance that some consumers may switch over to ENA based liquor which can be known at the end of the year. After a period of three years of the introduction of ENA in one of the nine districts where C.S. is prevalent as a substitute to C.S. and introducing ENA in one of the 21 O.S. districts as a competing alternative to O.S. liquor, results can be assessed. If results are encouraging for consumption of ENA based alcohol, extension of ENA to other districts can be considered. We would like to recommend fixation of Excise Duty on ENA based alcohol at a rate higher than the rate applicable for country spirit.



## Chapter-VI

### Motor Vehicle Tax

#### Introduction

6.1 Motor Vehicle Tax constitutes around 7-8 percent of State's own tax revenue and 5-6 percent of State's own revenue. As a percentage of total revenue receipts, it is around 2-3 percent. The trend growth rate of collection from Motor Vehicle Tax during the last decade ending in 2009-10 is 14.01 percent while the growth rate in the previous decade was 13.08 percent. The buoyancy of the revenue receipts from Motor Vehicle Tax is 2.96 percent in the last 10 years ending in 2009-10, indicative of a far more than proportionate increase in the receipt from Motor Vehicle Tax in response to the growth of the State's economy. This was in contrast to the low buoyancy in collection of Motor Vehicle Tax at less than 1 percent during the previous decade, when the growth rate of GSDP was also uneven. The factual position is brought out in Annexure-6.1.

6.2 It is worthwhile to have a look at the profile of the Transport Sector in Orissa which forms the base of Motor Vehicle revenue.

**Table 6.1: Profile of the Transport Sector in Orissa**

1.	Total population of Orissa (2001 census)	3.68 crore
2.	Total road length (2007)	2.63 lakh Kms.
3.	Total vehicles registered (March, 2010)	29.29 lakh
4.	No of vehicles registered during the year 2009-10	3.22 lakh
5.	Percentage of private buses to total buses	97 percent
6.	Total no. of trucks as on March, 2010	1.48 lakh
7.	Total no. of 2-wheelers as on March,2010	23.02 lakh
8.	Percentage of 2-wheelers to total vehicles on Road	80
9.	Total Auto rickshaws as on March,2010	47,987
10.	Total Auto rickshaws in Bhubaneswar city as on March,2010	15,148
11.	Vehicles on road during 2009-10	
	a) Goods carriages	1,61,678
	b) Buses	8,642
	c) Two Wheelers	21,05,948
	d) Others	3,45,322
	<b>Total</b>	<b>26,21,590</b>

6.3 Receipt under Motor Vehicle Tax consists of the receipts under the Motor Vehicle Act 1988 and the Orissa Motor Vehicle Taxation Act 1975. The Motor Vehicle Act 1988 confers regulatory power on the State Government for regulation as well as enforcement of the provisions of the Central legislation as ‘mechanically propelled vehicles including the principles on which taxes on such vehicles is to be levied’ falls within the Concurrent List. The State Government is empowered through Entry No. 57 of the State List to impose tax on vehicles. Even though the nomenclature is Motor Vehicle Tax, yet under this Head a substantial amount of revenue in the shape of permit fees, fees for fitness certificate, fee for registration of the vehicle and most importantly compounding fee collected under Section 200 of the Motor Vehicle Act, 1988 in lieu of compounding an offence committed under the same Act are also accounted for. In fact a cursory look at the collection figures for last three years as given below indicates a picture of equal collection of M.V. Tax and other types of revenue booked under the same Head.

**Table-6.2: MV Revenue Composition**

(₹ in Lakh)			
Year	Amount collected towards M.V. Tax	Non Tax	Total MV Revenue
2007-08	22577.36	23400.22	45977.58
2008-09	25049.18	27481.24	52530.42
2009-10	35857.35	25252.73	61110.08

(Source- Transport Commissioner, Government of Orissa)

6.4 The classification of Motor Vehicles under the Orissa Motor Vehicle Taxation Act, 1975 is done keeping in view the types of uses and the tax structure is accordingly designed. Transport vehicles as defined under the M.V. Act, 1988 include goods carriages and passenger vehicles that are classified as Class-III and Class-IV respectively. Of late, vide Notification dated 14th May, 2010 issued in the shape of an Ordinance, State Government made a provision for levy and payment of one time tax for the lifetime of the goods carriage, the laden weight of which does not exceed 3000 Kilogram; the one time tax will be at the rate equal to 10 times the annual rate of tax in respect thereof as specified in schedule I or five per centum of the cost of the vehicle, whichever is higher. The same Ordinance also provides for a tax of ₹3000 on goods vehicles with a laden weight of more than 3048 Kilograms but not exceeding 6000 Kilograms. Goods carriages weighing more than 6000 Kilograms will be subject to a tax of ₹3000.00 + ₹500.00 for every 500 Kilogram or part thereof in excess of 6000

Kilograms. With the above notification, earlier seven slabs of tax on goods vehicle have been done away with. The tax structure has been simplified for the levy of tax on goods carriages. The Committee would like to observe here that multi-axle vehicles exceeding the laden weight of 16200 Kg, which not only cause more than proportional damage to the road but also create greater traffic hazard for other vehicles on road by posing problems of congestion at crowded places on the road, entail an extra burden on the administration. Therefore, the Committee recommends that such goods vehicle with a laden weight exceeding 16200 Kg should have a tax burden of ₹16500.00 + ₹700.00 for every 500 Kilogram or part thereof.

6.5 The tax payable by the passenger vehicles i.e., Stage Carriages is according to the seating capacity, route distance and mode of operation i.e. ordinary, express and deluxe. The tax rate for passenger vehicles other than stage carriages is fixed on the basis of seating capacity. The tax and additional tax on motor cycles and other motor vehicles for personal use like motor cabs, motor cars, jeeps, and mini buses is levied on ad valorem basis and are paid on one-time basis at the time of registration. But the taxes payable by goods vehicles and passenger vehicles for commercial use like taxi cab, stage carriages and contract carriages are paid on monthly and quarterly basis.

6.6 There are separate rates of tax for tractors, trailers and other kinds of vehicles in accordance with certain technical specifications. It is pertinent to appreciate that the percentage of MV revenue (both taxes and otherwise) collected from transport vehicles constitutes a substantial share of total collection. It is reported by the Transport Commissioner that about 67.76 percent of MV revenue is collected from transport vehicles, of which share of goods carriages is 47.81 percent and of passenger carriages is 19.95 percent, whereas the share of non-transport vehicles contributing to the kitty of MV revenue is only 32.24 percent. Hence, careful amendment of tax structure in respect of these two classes of vehicles will have a significant implication on revenue mobilization under this tax. Presently the difference between the tax rates on stage carriages and contract carriages is very narrow and does not call for any further rationalization. However, we find there is no specific provision for luxury vehicles used as contract carriages for which they secure permit from the Transport Authority. It is well known that such luxury contract carriages charge substantial amounts from passengers because of the extra comfort provided therein. It is, therefore, recommended that the tax rate on such luxury carriages (to be appropriately defined in the legislation) plying on contract carriage permit should be levied with an additional tax of 10 percent surcharge on the present total levy.

### **Special Mode of Recovery:**

6.7 Instances of arrears of Motor Vehicle Tax remaining unrealised are brought out in the Audit Report of the Comptroller & Auditor General of India. The amount of arrear tax dues is also substantial. It is, therefore, suggested to provide for a special mode of recovery of Motor Vehicle Tax due from any person from whom such dues are outstanding. The special mode of recovery under section 51 of the Orissa Value Added Tax Act 2004 may be incorporated in Orissa Motor Vehicle Taxation Act through an amendment. As on 31.3.2010, total arrears of tax revenue were ₹78.82 crore on private operators whereas on the Orissa State Road Transport Corporation the arrears due was ₹36.56 crore. With the incorporation of provisions for special mode of recovery through amendment as suggested substantive/arrear dues can be recovered.

6.8 In recent years, Orissa has been in the news for large investments in mineral based industries which has resulted in rapid increase in the number of goods carriages with multiple axles for transport of mineral ore from the mines to the industrial units. The individual truck owners carry the minerals under the banner of a large transporter who is engaged as a Transport Contractor to transport the minerals on roads by deploying goods carriages partly owned by him but mostly on lease. These classes of transport contractors are liable to pay Motor Vehicle Tax in Andhra Pradesh at a rate not exceeding 15 percent of their gross traffic earning collected towards freight if the number of vehicles under their control is more than 2000. No such tax is at present levied in Orissa, but there is a case for it. Since the levels of economic development of Andhra Pradesh and Orissa in respect of growth in transport sector are unequal, at the outset, levy of such a tax on the transport contractors at a moderate rate say 10 percent on their gross traffic earning may be considered. It is, therefore, recommended that any transport operator operating more than 500 goods carriages either owned or on hire should be subject to a levy not exceeding 15 percent of their gross earning. Particularly in the mining belt and industrial zones which have emerged in recent years following substantial increase in economic activities in different parts of the States, number of such transport operators should be quite a few; this calls for a detailed survey. Further, this new levy will also call for a fresh legislation. For ready reference, a copy of the Andhra Pradesh Motor Vehicle Taxation Act is enclosed herewith at Annexure-6.2.

6.9 Increased mining and industrial activity has resulted in greater use of heavy goods vehicles on the roads, and consequently greater damages and maintenance cost of government roads. To defray these additional costs, the State can introduce a road toll (within the States' domain as per entry 59 of the State List of the 7th Schedule in

the Constitution) payable only in specified areas constituting the mining and industrial areas of the State, and only on heavy goods vehicles. These toll booths or check posts can be located at strategic points where roads from mines and industries join more commonly used roads. These tolls should be two-way, i.e. on vehicles moving in both directions. The system should allow for toll payment facility for a month, a week or a day on a compounded basis, so that vehicle time lost is minimised. In the opinion of the Committee, one-way toll for this purpose should not be less than ₹150/- per vehicle per day. There need not be one rate of toll for all categories of goods vehicles. Rate structure can be designed taking into account the Laden Weight of the vehicle.

6.10 So far as personal vehicles are concerned, an ad valorem one time tax on the price of the vehicle is levied. This Committee would like to further recommend that there should be a gradation of such vehicles keeping in view the high price of many new models of vehicles purchased by the upper income groups of the society or by the corporates/ large establishments. The following grades should be followed.

	<b><u>Grade</u></b> <b><u>Price range</u></b>	<b><u>Rate of tax</u></b> (% of cost of vehicle)
<b>I.</b>	Up to ₹5.00 Lakh	5 percent
<b>II.</b>	₹5.00 lakh to 10.00 lakh	7 percent
<b>III.</b>	₹10.00 lakh to 20.00 lakh	10 percent
<b>IV.</b>	Above ₹20.00 lakh	12 percent

6.11 The Committee feels that normally the lifetime of a personalized vehicle is 15 years because thereafter any vehicle intending to ply on the road needs to be technically inspected by a competent authority as provided in MV Act 1988, and if found fit is allowed to ply for another 5 years on the completion of which it needs further technical inspection. It is known that as a motor vehicle and engine gets older, it contributes more pollutant to the atmosphere and therefore, it should be subject to a green tax. We, therefore, propose a green tax for those transport vehicles which have crossed the age of 15 years and non transport vehicles which have crossed the age of 20 years. The green tax should be levied @ 3 percent on the one-time tax paid for non-transport vehicles and transport vehicles with a laden weight below 3000 Kg. This may be collected at the time of technical inspection. All other transport vehicles should be assessed to a green tax or surcharge @ 3 percent over the usual total tax and additional tax payable by them for every quarter, collectible along with the usual quarterly tax payments. Environmental concerns would also indicate designing a motor vehicle tax

structure based on the fuel-efficiency of the vehicle, the guiding principle in this case being that vehicles with smaller mileage per litre of fuel contribute to more pollution per kilometre of their running when compared to vehicles having higher mileage. Hence, the more a vehicle pollutes, the higher the rate of taxation on it should be. Most of the SUV's will come under the low fuel-efficiency category. The fuel efficiency of a vehicle can be adjudged by a Technical Committee to be set up by the Government in a manner to be provided in the relevant Rules. While designing the MV tax structure on this score, we have to take into consideration the categories of vehicles and sitting capacity.

6.12 Under the provisions of the Orissa Motor Vehicle Taxation Act, 1975, Motor Vehicle Tax/ Additional Tax is payable on transport vehicle used or kept for use in the State unless prior intimation of non-use of vehicle or to keep it off road is given to the Taxing Officer. If at any time during the period covered by off-road declaration, the vehicle is found to be plying on the road or not found at the declared place, it shall be deemed to have been used throughout the said period. In such a case, the owner of the vehicle is liable to pay not only the basic motor vehicle tax and the additional tax but also penalty as applicable for the entire period for which the declaration was furnished in respect of the vehicle declared earlier as off-road. Enforcement activity needs to be stepped up for physical checking of the vehicles covered by off-road declaration. The enforcement personnel detect cases of violation of declaration in the course of physical inspection of vehicles. The Committee recommends that in order to prevent misuse of off-road declaration, there should be a restriction on the maximum period of one quarter for which the vehicles can remain off-road by issue of a declaration. If any owner intends to put the vehicle off road beyond a quarter, cogent reasons should be furnished in support of the claim which should be subject to verification of the vehicle by the competent Technical Officers of Transport Department. Only if the Inspecting Officer certifies the genuineness of keeping the transport vehicle off-road, it should be allowed.

6.13 There is reportedly large scale violation of MV Act and Rules by goods carriages in the shape of overloading. Earlier, after imposition and collection of compounding fee on detection of such overloading, goods carriages were allowed to continue the trip. But the Hon'ble Apex Court in their disposal of writ petition (Civil) 136 of 2003 (*Paramjeet Bhasin & Others vs. Union of India and others*) pronounced on 19th November, 2005 have categorically held that if an overloaded vehicle on detection is allowed to continue its journey even after payment of compounding fee at the rate provided under the Act & Rule, it would amount to fresh commission of the offence for

which the compounding was done. In other words, such overloaded vehicles should be offloaded to the extent of the excess load and only then should be allowed to ply. The administration has faced some difficulties in the past in carrying out required offloading in all cases without adequate infrastructure and manpower for the purpose. We propose above a system of tolls (para 6.9 of this chapter), and the toll booths can also act as checkpoints for overloading and offloading if needed. Further, there should be provision in the relevant Act that will hold the Transporter alone responsible for the offloaded goods. In case offloaded goods create traffic obstructions, there can be proceedings against them under existing legal provisions including those relating to 'public nuisance'.

## Chapter-VII

### Land Revenue

#### Introduction

7.1 Total land resources of the State constitute a very important asset of the people which generates return not only to individuals, trust, corporate bodies and companies but also to the State exchequer. The State as the ultimate owner of all lands within the limits of the boundary entitles itself to a certain share of the income generated by the land used for various purposes. In the beginning of the plan era after independence, land revenue used to constitute an important item of receipt to the State exchequer – as much as 10.71 percent of State's own revenue and 19.09 percent of State's own tax revenue in 1951. Over a period of time, its share has declined; gradually other tax and non tax revenue sources like Sales Tax (now VAT), State Excise, Entry Tax, M.V. Tax, Electricity Duty and Mining Royalty are yielding much more compared to all components of land revenue taken together *viz.* rent, cess, revenue from *Sairat* sources etc. To give an illustration, in the beginning of 1970s, 1980s and 1990s, share of land revenue (including all its components) as a percentage of State's own revenue constituted 2.62 percent, 5.31 percent and 12.25 percent. At present, land revenue (rent, cess, *nistar* cess, revenue from *sairat* sources and miscellaneous revenue) has a share of 4.73 percent of State's tax revenue and 3.48 percent of State's own revenue.

7.2 The Committee took into account the scope of raising additional resources under different items of land revenue. The details of collection of land revenue during the last 5 years are given in the following table:

**Table 7.1: Source-wise collection of Land Revenue in Orissa**

(₹ in Lakh)

Year	Rent	Cess	Nistar Cess	Sairat	Misc. Revenue	Interest, Advance & Other Misc. Receipts	Total Collection of Land Revenue
2005-06	334.36	913.49	23.64	3032.14	7232.44	6153.00	17689.07
2006-07	429.88	978.47	21.88	1432.94	13860.91	9301.94	26026.02
2007-08	416.94	1009.29	23.80	1912.85	17665.37	11167.80	32196.05
2008-09	608.27	1161.65	25.70	2113.98	21906.22	15091.64	40907.46
2009-10	724.57	1197.44	26.44	3070.46	28034.56	9400.77	42454.24

Source: Board of Revenue, Orissa



7.3 From the above table, it is evident that over a period of time, miscellaneous revenue has constituted an important item in overall collection of land revenue; so much so that from ₹72.32 crore in the year 2005-06, it has grown up to ₹280.30 crore in the year 2009-10. The rising revenues are mostly from the premium collected out of conversion of agricultural land to non-agricultural uses. Development process generates pressure on land for which a lot of private agricultural lands either by way of acquisition under the Land Acquisition Act, 1893 or by conversion of such agricultural land by farmers to non agricultural purposes or sale of such land by farmers for other uses has generated a large amount of premium to the State exchequer as stipulated under section 8-A of the Orissa Land Reforms Act, 1960. Presently land revenue is not collected on agricultural land. Nevertheless rent on land is collected which is used for purposes other than agriculture. Cess as a percentage of rent is also collected on all lands both agricultural and non-agricultural.

7.4 The Committee examined in detail the scope of enhancement of revenue out of land resources. Even if land revenue is not collected on agricultural land, the State Government revised the rate of cess as a percentage of land rent from time to time. Government of Orissa have constituted in June, 2010 a High Level Committee in Revenue and Disaster management Department with the Chief Secretary as the head to examine and recommend rationalization of rates and basis of calculation of annual ground rent and cess, rationalizing the classification of lands and scope of revision of rent in cases where revision settlement has not taken place. The Committee is yet to submit its report.

7.5 This Committee feels that there is substantial scope of increasing the rent on non-agricultural lands located in larger cities like Cuttack, Bhubaneswar, Berhampur, Rourkela, Sambalpur and Puri because capital value of land in such places has risen substantially with growing economic and commercial activities in these places. Similarly, in all other urban areas, there should be revision of rent on non-agricultural lands in a non-uniform manner, taking into account the importance of the place, growth of industrial and commercial activities and demand for lands for non-agricultural purposes. Many industries have come up in rural areas, thereby changing the rural characteristic of the area; land prices in the locality quickly appreciate with the progress of the industry. Revision of rent on non-agricultural land in all such urban area should take place once in five years. Consequent upon revision of rent, cess revenue as a percentage of rent will also increase. Total inventory of non-agricultural lands in all urban areas notified under Rule 2(h) of the Orissa Government Land Settlement Rules, 1983 has to be made immediately and classification of such non-agricultural lands in

urban areas for different purposes viz. residential, commercial, industrial, use for offices of the Government and Companies, use for profit and non-profit organization is to be made. Tehsildar in charge of land resources for every such urban area has to update the register of land inventory for non-agricultural land and update the extent of land under each sub-category as well; this is important because in course of time, land used for one purpose may be used for another purpose and also, more and more agricultural lands within the limits of urban areas are converted to non-agricultural uses. In the process of development in the State, as capital value of land within urban limits substantially appreciates, it would be prudent to make revision of rent on each category of non-agricultural land on a pro rata basis once in every five years. For this purpose, there should be a Committee under the Chairmanship of Member, Board of Revenue consisting of three Revenue Divisional Commissioners, Director Land Records & Surveys and Commissioner-Cum-Secretary, Revenue & Disaster Management as members of the Committee with Secretary, Revenue Department being the convenor. The Chairman may co-opt any other person having sound administrative and legal experience in land revenue matters as Member. This Committee, one year before the revision of rent on non-agricultural land in urban area is due shall submit its report recommending revision of rents to the Government so that the revision can be enforced just on completion of five years with the approval of Government. As industries come up in a rural background, industrial townships develop, and trade and commercial activities (other than agriculture) proliferate altering the economy of the area. It is therefore necessary that under Rule-2(h) of the Orissa Government Land Settlement Rules, 1983, such areas are to be notified as urban areas.

7.6 Prior to amendment of Section 8-A of the Orissa Land Reforms Act, 1960 in 2006 (Orissa Act 8 of 2006), it used to mandate imposition of premium on conversion of agricultural land for non-agricultural purposes either by the owner of the land or on transfer to some other person by the transferee who converts it to non-agricultural use in a prescribed manner as envisaged in Orissa Land Reforms (General) Rules, 1965. Rule 12-A of the aforementioned Rules in sub-rule 2(b) prescribes the terms and conditions of settlement of land for non-agricultural purposes in urban and rural area in the manner as specified in Form No.27 and the term and condition to be incorporated shall be specified by the Government from time to time. Section 8-A in sub-section 1(b) provides that the *royat* on conversion of agricultural land to non-agricultural purposes shall be deemed to have surrendered his *royati* right in respect of the said land in favour of the Government and thereafter the land shall be settled on lease basis, on such terms and conditions as may be prescribed with the person whose *royati* right is

deemed to have been surrendered subject to payment of premium by him in the prescribed manner. Rule 12-A of the Orissa Land Reforms(General) Rule stands un-amended even though Section 8-A of the OLR Act has been amended in 2006 doing away with the provision of deemed surrender of land by the owner on conversion of agricultural land for non-agricultural purpose. With the amendment of the said Section of 8-A, there is only provision for payment of conversion fee in a stipulated period and change of *kissam* of land so converted. The amended Act further provides that all such agricultural land on conversion to non-agricultural purposes prior to the amendment deemed to have been surrendered shall cease to be so surrendered and settled on lease basis be held freely by the *royat* or the transferee. This amendment has eroded a substantial revenue source of the Government while imposing increasing burden on the State to take care of the development process and consequential provision of social and economic services. The *raison d'être* for settlement of agricultural land in favour of a farmer under the Orissa Government Land Settlement Act and Orissa Survey and Settlement Act envisages use of land for agricultural activity and provide agricultural produce to the society. There is constant shrinkage of farm land in the State which is being gradually transferred for non-agricultural uses. When land so settled in favour of a farmer by the State as the supreme landlord is converted for non-agricultural uses, the land should legitimately be reverted to the State. In fact, Section 8 of the OLR Act in sub-section 1 makes a very harsh provision to evict the *royat* from his land once he makes the land unfit for agricultural uses. This section still stands. The Committee feels that there is no harmonious construction between the provision of Section 8 and Section 8-A of the OLR Act, 1960. While Section 8 calls for eviction, Section 8-A provides for settlement of the land on payment of conversion fee. The Committee feels that Section 8-A which has been amended by Orissa Act 8 of 2006 is not correct as it has eroded the revenue base of the State. It has substantially eroded the source of revenue raising under the Indian Stamp Act & Indian Registration Act, as no lease deed is now required to be executed between the authorized Officer of the Government and the lessee who after deemed surrender of the *royati* right should have got the land settled through execution of a lease agreement. Such execution of deed could have been made mandatory for registration and subject to registration fee and stamp duty under the Indian Registration Act and Indian Stamp Act. The conversion fee as provided now which was earlier termed as premium could have been the base value for computation of stamp duty and registration fee. Substantial erosion of Stamp Duty & Registration fee occurs now due to this unfortunate amendment by Orissa Act 8 of 2006. An empirical survey will reveal the extent of the agricultural land being converted for industry, commerce, construction of multi storied complexes – both residential and non

residential – these days. It is also a fact that after conversion of such agricultural land, the original owner rarely subsists on that land; instead, the said farmer who was cultivating the land once upon a time transfers the land to somebody else at a rate which to him appears quite lucrative. However, the land as such appreciates several times in its capital value over the transfer price in a very short time. The Committee thus feels that the original provision of Section 8-A of the Orissa Land Reforms Act, 1960 should be restored. Similarly, Form-27 in clause-2, in Orissa Land Reform (General) Rules, 1965, the revision of land revenue as provided for enhancement at the end of 20<sup>th</sup> year should be amended to provide for revision at the end of five years and it should be decided by the same Committee as described in paragraph 7.5. The Committee further recommends that separate rate of premium should be prescribed for different types of land uses which may be broadly classified as a) residential construction for own use, b) residential construction for sale such as by builders and other infrastructure company, c) commerce, d) for Office establishment, e) industry, f) for other purposes. Rate of premium for industry and commerce should be comparatively higher than uses for other purposes. The Committee would like to impress upon the Government that with substantial enhancement of capital value of such lands converted from agriculture to other purposes, the State must take the legitimate share of its own, as State's responsibility for providing economic and social services to the people consequently increases. All such economic activities using lands converting from agriculture to other purposes raises the marginal social cost and unless marginal social revenue consequently is raised from these activities the equilibrium cannot be sustained at a reasonable level. Both the society and State will consequently be the losers much to the benefit of a few sections of land users.

7.7 There is another area for enhancement of land revenue. In larger urban areas, land is scarce. There is competition for allotment of land in favour of companies for office establishment and builders for construction of commercial and residential complexes etc. The Committee feels that if there were open auction of such lands, Government would be able to extract good amount of revenue. It was brought to the notice of the Committee that market price of land in a particular area is at variance with the price of Government land which is substantially lower. Such variance should be done away with.

7.8 The Committee has also considered the impact of industrialization of the State and the advent of many mineral based industries as well as power plants. Large tracts of land are being transferred in favour of these industrial units and power plants. Such transfers are mostly of three types: i) private lands acquired under the Land Acquisition

Act, 1894 through IDCO and leased out to the industrial units; ii) private lands directly purchased by the industrial units from the land holders; and iii) Government land (including forest land) transferred on lease to the industrial units. Land rent on these three categories of land as assessed are not uniform. All types of lands held by an industrial unit are developed by the industry and appreciate in capital value substantially in a short period. There is no reason why the rate of rent and cess thereon shall not be uniform. The rate of rent should be a certain percentage of the capital value to be decided by the Committee headed by the Member, Board of Revenue as recommended earlier in paragraph 7.5. The Committee would like to recommend that even while notifying a certain area to be exempted from the operation of OLR Act under section 73(c) of the OLR Act, 1960, certain other sections of the OLR Act like Section 8-A should be made applicable so that agricultural lands purchased by the industrial units from farmers and agricultural land acquired under the Land Acquisition Act should be brought under the purview of the OLR Act, 1960. This calls for amendment of Section 8-A & Section 73 of the OLR Act, 1960. Orissa Survey & Settlement Act, 1958 in Section 19(2) provides for prescribing the principles for fixing fair and equitable rent for lands used for purposes other than agriculture including homestead lands located in urban and rural area, taking into account the situation of land and the purpose for which it is used, communication facility and market value of the land. Subsection-3 of Section-19 of the Orissa Survey & Settlement Act clearly provides that rent so fixed shall be payable by owner of land. A careful reading of the Orissa Survey & Settlement Rule, 1962 reveals that Rule-51 which prescribes for fair and equitable rent does not make specific prescription for land used for different types of purposes like industry, mining, commerce and other economic activities. We would recommend that the Orissa Survey & Settlement Rule, 1962 should be duly amended to lay down principle and policy for fixation of rent of land for different purposes including industries. Only one type of equitable rent for land used for industry should be laid down no matter in which method different lands have come to the possession of the industry.

7.9 The Committee feels that there should be a rationalization of classification of agricultural land. At present, there are so many *kisams* of agricultural land in different areas of the State and accordingly rents are settled taking into account the *kisams*. The Committee feels that Section 2(5) of the OLR Act, 1960 should be the guide in simplifying the classification of agricultural lands throughout the State. The OLR Act provides for four classes of land *viz.*,

**Class I - Irrigated land in which two or more crops (i) were grown in any year within a period of three years before the commencement of the Orissa Land Reforms (Amendment) Act, 1973 ( President's Act 17 of 1973) or (ii) can be grown in a year;**

**Class II - Irrigated land in which not more than one crop (i) was grown in any year within a period of three years before the commencement of the Orissa Land Reforms (Amendment) Act, 1973 (President's Act 17 of 1973) or (ii) can be grown in a year;**

**Class-III- Land, other than irrigated land, in which paddy (i) was grown in any year within a period of three years before the commencement of the Orissa Land Reforms (Amendment) Act, 1973 (President's Act 17 of 1973) or (ii) can be grown in a year, and**

**Class-IV- Any other land.**

The Committee feels that except for the class III land which is un-irrigated paddy land, all other classes of agricultural lands should be classified as such as per the provision of the OLR Act and rent accordingly can be settled for each classes of land. Nevertheless un-irrigated paddy lands in different parts of the State widely differ in soil profile, moisture regime and consequently crop yield. Therefore, taking into account the agro climatic zones of the State, paddy lands can be classified as up-land, medium land and low land. Rent structure of these three sub-categories of un-irrigated paddy land can be differentiated on the basis of agro climatic zones, where yield of paddy differs from one agro-climatic zone to another.

## Chapter-VIII

### Stamp Duty & Registration Fees

#### Introduction

8.1 Stamp Duty is levied by the Union Government but collected and appropriated by the States in terms of Article 268 of the Constitution. It is collected under the Indian Stamp Act, 1899 which is a Central Act and each State has the authority to make amendments to provide for specific duties. Across the States, the Stamp Duty structure is broadly based on the provisions of the Central Act with local variations. Along-with Stamp Duty, Registration Fees are levied under the Indian Registration Act, 1908.

8.2 Stamp Duties are levied through both judicial and non judicial stamps. Judicial stamps are basically Court fees and other fees payable in Courts of Law and are also regulated by Indian Court Fees Act. On the other hand, non judicial stamps are used on different kinds of instruments for transfer of property, contracts and other commercial and non-commercial transactions. Registration Fee is levied on registration of documents so as to meet the requirements of various statutes which makes registration of certain documents compulsory. Besides, people also register documents and contracts for the sake of ensuring genuineness, record and also to have a security of title deeds and proof of title to properties.

8.3 While Stamp Duty is in the nature of a tax, Registration Fee is realized in lieu of the service provided by the State Government at the prescribed rate. During the period 2000-01 to 2002-03, the rate of stamp duty including additional duty on surcharge was 17.7 percent. Thereafter it was brought down to 11 percent in 2003-04 and to 5 percent in 2008-09. The rate of registration fee is 2 percent.

8.4 The year-wise collection from Stamp Duty and Registration Fee and the number of documents registered by the Inspector General, Registration is given below:

**Table 8.1: Documents registered and Stamp Duty collection in Orissa**

(₹ in crore)

Year	Collection of Stamp Duty & Registration Fee	No. of Documents registered (in lakhs)
2005-06	227.00	3.38
2006-07	261.00	3.13
2007-08	350.00	3.25
2008-09	360.00	3.56
2009-10	365.00	3.88

(Source: Inspector General, Registration, Orissa)

8.5. Stamp Duty & Registration Fees is one of the important items of State's Own Tax Revenue. It is administered by the Revenue & Disaster Management Department through the Inspector General, Registration (IGR) who is the Head of the Department. Its formation comprises of 30 District Sub-Registrars, 177 Sub-Registrars and their supporting staff. The Indian Registration Act, 1908 lays down the overall administrative structure of the Registration Department.

8.6. The collection from Stamp Duty & Registration Fees constitutes about 8-9% of State's Own Tax Revenue. The annual growth rate of collection is quite uneven during the last two decades. However, the average decadal growth rate as at the end of 1999-2000 is 13.91 percent and the average growth rate at the end of the next decade i.e. 2009-10 is 18.91 percent. As against this, the buoyancy in collection during the two decades 1990-2000 and 2000-2010 was 0.14 and 1.81 respectively. The table at Annexure-8.1 bears out the above facts.

Collection from Judicial Stamp Duties or Court Fees is relatively small in comparison to the collection from Non Judicial Stamp Duties & Registration Fees. Therefore, the Committee concentrated on expanding the revenue base of the latter. The collection from Stamp Duty was affected by downward revision in rate of Stamp Duty as a part of the reform agenda of Jawaharlal Nehru National Urban Renewal Mission (JNNURM) so as to make the functioning of the real estate market more efficient. This was based on the premise that high rate of Stamp Duty imposes a corresponding cost on the economy and affects economic growth apart from generation of black money through undervaluation. The State Government also took a number of measures to fix benchmark valuations as "guidance values".

8.7 The following infirmities in the explanation of Article 23 of the Indian Stamp (Orissa Amendment) Act, 2001 as amended in 2003 have been brought to the notice of the Committee, on which corrective action is required.

8.8 Orissa amendment to Section 47 of the Indian Stamp Act by way of insertion of a new Section-47A provides for dealing with cases of undervaluation. However, the second proviso to Article 23 of Schedule 1A of the Act (inserted through Orissa Amendment) excludes applicability of Section 47A to the conveyances in respect of immovable properties including Power of Attorney. Because of the second proviso the Registering Officer can not force the parties to disclose and set forth the market value of the property in the deed for which there is continuous under valuation of property and consequent loss of Government revenue. The Comptroller and Auditor General of



India have also brought this ambiguous position to the notice of the State Government. As such, the second proviso should be withdrawn and may only be made applicable to cases of family settlement defined appropriately to include only a selected few relationships.

8.9 The Committee also feels that compulsory registration of various types of instruments - different kinds of long term lease deeds for long term payments, mortgage documents, advertisement to mass media, assignment of copyright, PPP contracts, works contract would bring in additional revenue. Compulsory registration of Power of Attorney on the basis of the value of the property for which the conveyance is made along with transfer of title is also advisable, so that registration of the document will be treated as an evidence of title and would also earn more revenue for the State. Besides, the existing legislation 'The Orissa Apartment Ownership Act, 1982' for ownership of apartments may be amended and modelled on the Bihar Apartment Ownership Act, 2006 to prevent disguising sale of apartments as works contracts and prevent leakage of revenue. It would not only make the registration of the instruments effectively transferring an apartment compulsory including registration of undivided land and building including undivided share of land, but also make it mandatory to disclose the value of the property in the deed of apartment. It also provides for enforcement of transfer and succession. A copy of the Bihar Apartment Ownership Act, 2006 is annexed (Annexure- 8.2) to this Report for ready reference.

8.10 The Committee has been informed that benchmark valuation is not applicable to transfer of land belonging to public deities covered under the Orissa Hindu Religions Endowment Act, 1939 and the Wakf Act, 1995. It was brought to the notice of the Committee that transfer of land owned by a Trust governed under the Hindu Religious Endowment Act, 1939 and Wakf Act, 1995 takes place with the approval of Endowment Commissioner and Wakf Commissioner at a price to be approved by the Commissioner. Often prices so approved by these Commissioners are much below the benchmark price. Therefore, we would recommend suitable amendment in these two Acts for fixation of price of the property by the Commissioners at least at par with the benchmark price fixed by the State Government.

8.11 As per Section-34 of the Orissa Consolidation of Holding & Prevention of Fragmentation of Land (OCH & PFL) Act, 1972, no agricultural land (*chaka* Land) can be sold to anybody except to owner of a contiguous *Chaka* so as to prevent fragmentation. This causes blockage of huge Govt. revenue due to non-registration of deeds relating to fragmented *chaka* land. In the neighbourhood of urban centres, like

Cuttack, Bhubaneswar, Puri, Sambalpur and Rourkela vast chunks of land covered under the Orissa Consolidation of Holdings Act carved into *chaka* which are agricultural land, are being converted to non-agricultural purposes like construction of Technical Institutions, Commercial Units, IT Centres etc. resulting in fragmentation of a *chaka*. Such transfers of land in through a conveyance deed are not brought under registration under the Indian Registration Act and Indian Stamps Act, because the Orissa Consolidation of Holdings Act does not allow fragmentation of a *chaka*. As a result of this, a number of transfers of agricultural land out of several *chakas* take place for non agricultural purposes which enhance the value of land by several times but do not attract Stamp Duty & Registration Fee. The Committee would recommend that Govt. may consider the amendment of the Act by which sizeable amount of public revenue can be generated. It requires legislative action.

8.12 In the cases of conversion of agricultural land, deeds are not being registered as in the past, thereby foregoing the registration fee and stamp duty that was payable on the execution of fresh lease document. Large tracts of agricultural land in close proximity to urban centres are being converted for non-agricultural use i.e., commercial, industrial and educational purposes. Government may consider the matter and subject such land transfer under appropriate provision of O.L.R. Act and/or Orissa Consolidation Act and bring all such transfers under the ambit of Stamp Act and Registration Act on a higher lease of land value. The Committee would suggest that Section 8A of the Orissa Land Reforms Act may be amended suitably so that the deemed surrender of Royati Right and further settlement of land in favour of the Royat may be considered as a conveyance not being a transfer in terms of Article 23 of Schedule 1A and subject to levy of Stamp Duty & Registration Fees.

## Chapter-IX

### Electricity Duty

#### Introduction

9.1 According to the Economic Survey 2009-10 of the Government of Orissa, the power sector, along with gas and water supply sub-sectors, contributes about 12 percent of the State's gross state domestic product (GSDP). It is a vital sector of the economy since all other sectors depend on it for their performance and growth. Adequate and stable availability of power is therefore a precondition for achieving a high growth rate in the economy at large.

9.2 The total annual consumption of power in the State has increased quite substantially from 6090 MW in 2000-01 to 11735 MW in 2008-09. A perusal of the consumption pattern reveals that the relative share of the industrial sector has increased from about 38 percent of the total in 2001-02 to 56 percent in 2008-09, while there has been a decline in the share of the domestic, commercial, railways, irrigation and agriculture sectors. With a fairly rapid and all round growth of the industrial sector this is only to be expected.

9.3 The Orissa Electricity Regulatory Commission (OERC) has reported that in 2008-09 there were 26.11 lakh consumers in the State, of which 23.15 lakh (88.7 percent) were domestic consumers. The installed capacity of the State has increased from 4695 MW units in 2002-03 to 6746 MW in 2008-09, a 44 percent increase. However, owing to low capacity utilization and transmission and distribution losses, the ratio of availability to installed capacity was only about one third (33.6 percent) in 2008-09. This is possibly the most obvious and glaring shortcoming in the electricity sector which needs to be urgently corrected.

9.4 In a comparison of estimated demand and availability it is seen that Orissa has had a consistent surplus, except during the peak demand period. During 2009-10, the peak demand was 3491 megawatt net while the amount met during peak hours was 3242 megawatt net, denoting a shortfall of 7.1 percent. However this was below the all India average of peak period deficit of 13.3 percent.

9.5 The State obtains its power from three sources, viz., the State utilities, the Central utilities and the captive power plants of major industrial units. In 2008-09, the States' share was 60 percent and that of the Centre nearly 34 percent, with the balance

6 percent being met from captive power plants. In 2008-09 about 52 percent of power generation was from thermal sources and the rest was hydro based. Even though both the Central and State governments have stressed the importance of rural electrification, as of 2008-09, almost 40 percent of all villages were yet to be electrified. As per data released by the Central Electricity Authority for the year 2010 with regard to rural electrification in 25 major states of India, Orissa's position was the fifth from the bottom.

9.6 Orissa has been one of the pioneer states to have gone in for privatization of distribution activity in India. The companies entrusted with distribution are: WESCO, NESCO, SOUTHCO and CESU. The State has entrusted the generation and purchase side to Grid Corporation of Orissa (GRIDCO). The transmission lines are provided and maintained by the Orissa Power Transmission Corporation Ltd (OPTCL). GRIDCO and OPTCL are both owned by the Government of Orissa, and they negotiate bulk buying from power generating entities and bulk selling to distributing companies.

9.7 Even though electricity distribution has been privatized, the companies operate broadly under the purview of the Orissa Electricity Regulatory Commission (OERC) which was established in 1996 under the concerned statute. OERC thus acts as a critical intermediary between these distribution entities and the consumers. It fixes the tariff rates and is entrusted with the task of protecting the interest of consumers.

### **The Current Provisions and Recommendations**

9.8 The category-wise collection of electricity duty for FY 2009-10 by Distribution Companies is presented in Annexure-9.1.

9.9 The availability of power by the end of 2014-15 in Orissa is projected at 5963 MW from all sources as against the projected demand of 4746 MW with a sizeable surplus. Even at the end of 2013-14, the projected availability is 4546 MW as against projected demand of 4556 MW with a marginal shortfall (Source: OPTCL). The year-wise forecast of average demand and availability is furnished in Annexure -9.5. In this background, exemption from duty for captive generation of power should not be allowed for capacity addition of the original industry, while there remains excess capacity in captive power generation with respect to the original industrial unit's requirement. The unused capacity of the existing captive power plant should be utilized first by the concerned industrial unit. Besides, with the availability of the State Government's share of the power to be produced by the Independent Power Producers (IPP), there may not be any need for setting up of captive power plants by Large &

Medium Industries. It has been brought to the notice of the Committee that Captive Power Plant set up by different industries in the State avail of benefits in the shape of exemption of Electricity Duty for a certain period under the Industrial Policy Resolution. It is noticed that some of these industries, out of the generation from Captive Power Plant, evacuate energy to their units located outside the State, and to that extent, the State Government loses Electricity Duty which it would have otherwise realized, if the power would have been given to the State grid for sale. The present technology also does not enable the Electrical Inspectors to ascertain how much energy have been evacuated to its units in other States for self consumption and how much have been given to the grid. The Committee, therefore, feels that in such eventuality when a captive power plant evacuates electricity to its units outside the State benefits under the Industrial Policy Resolution should be proportionately denied to the Captive Power Plant.

9.10 The prevailing rate of electricity duty for different categories of consumers/ consumption as per notification No. 1 dated 1/1/2006 of the Department of Energy, Government of Orissa is given in Annexure-9.2.

9.11 Electricity Duty is at present collected from non captive consumers on a fixed percentage of the energy charge payable. This percentage varies from 4 percent to 8 percent. This percentage of electricity duty (E.D.) has not been revised since 1.1.2006. A nominal increase in the rate of percentage towards E.D. can fetch additional resources to the State government. We recommend an increase of 1 percent each category except domestic connection.

9.12 The audit wing under CEI (T&D) and CEI (Generation) ought to be strengthened. So far there is no mechanism to verify and certify whether the amount collected by the distribution companies towards E.D. is being fully remitted to the Government. However, there has recently been a sample basis auditing of a few divisions under the distribution companies, and these have been taken up by engaging the retired officers of A.G. Orissa (IIPA). There ought to be a regular audit wing, or if we are not able to spare regular officers for this, retired personnel of A.G. Orissa should be engaged for all divisions of the distribution companies on a continuous basis. This will safeguard government revenue.

9.13 The inspection fees for various electrical installations were last revised in 2001. It is time they were revised again. This increase towards inspection fees and testing of

electrical installations should be applicable to all projects including the ones taken up by the government.

9.14 The electricity duty collected during the last 5 years from captive power plants and other sources is given in Annexure-9.3.

9.15 As per section 6 of Orissa Electricity Duty Act 1961 the person generating energy for his own use or consumption shall submit the generation return (monthly/half yearly etc) indicating generation, consumption and export/sell of units. The generation and consumption must be recorded by energy meters of prescribed accuracy as per CEA guidelines duly tested and sealed by the electrical inspector. As per Section-7 of OED Act 1961 Electrical Inspectors have been appointed by the Government of Orissa by notification in the official gazette for verification of E.D. collected by the distribution licensee from the consumer and after remittance of the same into the government treasury. They are expected to make payment of Electricity Duty on the basis of energy charges collected from the consumers. The periodical returns required to be filed under Section 6 of the OED Act, 1961 and Rule 7 of the Orissa Electricity (Duty) Rule, 1961 should be revised to capture the operations of the power distributing companies also. The information required in such returns should include quantum of electricity sold to the consumers, bills raised for consumption made by each category of consumers along with amount collected against the bills raised, indicating the energy charges and Electricity Duty separately. This return should be filed electronically and the data captured from the return should be aggregated in a computerized database with a facility for IT enabled cross verification with the database built up by the distribution companies relating to consumer-wise billing and collection.

9.16 Generally, electrical inspectors along with the auditors of the electrical inspectorate should periodically check and monitor the collection and remittance of E.D. of different divisions of distribution companies and initiate legal action in case of default of payment as per OED Act 1961. However, posts of auditors are lying unfilled for a long time and therefore periodical checking and monitoring by the electrical inspector is severely restricted. Not creating adequate number of posts and not filling up these posts for a long time makes a dent on revenue collection. We would recommend that a normative yardstick should be evolved for the staffing pattern of the electrical inspection unit; posts should be created accordingly and should be filled up quickly.

### **Inter-State Comparison of Electricity Duty:**

9.17 A comparative statement of electricity duty being charged in two other states, viz., Madhya Pradesh and Kerala, is presented in the following table (see Annexure-9.4)

9.18 It is seen that the rate of electricity duty per unit is significantly lower in Orissa as compared to both Madhya Pradesh and Kerala. Moreover, there is leakage of power and misclassification of consumers in Orissa, which lowers the effective tax rate in the aggregate. As such, there is ample scope for expansion of revenue from this head.

9.19 For enhancement of collection efficiency the following considerations need to be given due consideration. (1) There is need for increasing the technical manpower and audit personnel. (2) Since a substantial amount of electricity duty is locked up in various court cases the OED Act 1961 should be suitably amended so as to minimize litigation in future. Industrial policy declarations should also be vetted to prevent unilateral announcement of concessions, to prevent awkward conflicts. (3) There ought to be a separate legal cell to deal with effective and early disposal of court cases.

9.20 Electricity duty is collected directly from captive generators on their own consumption and from the other consumers through the Distribution Companies as per the provisions of the Orissa Electricity (Duty) Act, 1961. The E.D. is being levied on ad-valorem basis, i.e., as a percentage of energy charges for the general consumers and in the case of captive generators it is levied in terms of consumption per unit. Electricity duty in case of non-captive consumers is collected only on the energy tariff bill raised by the distribution companies where as in case of captive consumers, electricity duty is self assessed and deposited in the treasury. Inspection fee is collected annually in terms of the notification issued by the Government of Orissa. The inspection fee is payable annually on all connections and is to be deposited in advance.

9.21 The captive generating companies have challenged the increase in E.D. from 12 paisa to 20 paisa in the Hon'ble High Court of Orissa and that as many as 27 cases were filed out of which 5 cases have been disposed off in favour of the State government. A substantial amount of arrear revenue is expected to be realized from such cases.

9.22 In principle, the electricity duty should be realizable from the distribution companies on the basis of the bill raised by such Companies for consumption of

electricity. Distribution companies may pass on the incidence to the consumers. The State Act needs to be amended for the purpose.

9.23 One of the serious problems has been that it has not been possible to verify the declaration of the captive generators about the quantum of electricity consumed. No system has so far been devised to check consumption of electricity by the generators bypassing the meter installed for the purpose. In some cases, there are reports of unauthorized sale of power produced by these captive units. Thus they not only evade payment of E.D. but also deprive the transmission and distribution utilities of their legitimate dues. This can only be prevented by frequent checking of the installed metering system by electrical inspectors, which is another reason for reinforcing the strength of appropriate personnel.

9.24 The proportion of low end LT consumers is proportionately higher than the high end HT and EHT consumers, and the distribution losses in case of the LT consumers is much higher. It may be useful to concentrate on HT and EHT consumers by picking up distribution company wise HT and EHT consumer list and at the same time to concentrate on the captive generators. Further, all 3 phase connections above 20 KW load ought to be brought under Automated Meter Reading System covering all HT and EHT consumers and the cases of LT consumers ought to be subject to test check through formation of an audit cell.

9.25 There is need for metering both at the level of feeders and consumers along with support from the district administration for energy police stations that would strengthen the enforcement mechanism.

9.26 The bane of the electricity sector has been the high AT & C loss. It is estimated at present that the financial implication of 1 percent of AT & C loss is around Rs 60.00 crore. The need of the hour is providing quality meters, transformers and distribution lines, and preventing theft of electricity.

9.27 Energy police stations which are set up to check theft of electricity have not performed well as there is no visible impact in terms of reduction of distribution loss. Area of such a police station should be coterminous with a certain distribution unit, i.e. a certain electricity distribution division covering a geographic area. There should be a baseline survey to find out the AT& C loss at a certain point of time: in one year time if the Police Station makes proper enforcement to check and book theft of electricity, there will be definitely reduction in distribution loss. Accordingly the performance of



the police station can be evaluated. For checking technical loss, capital investment for improving the distribution system is called for.

9.28 The State Government have approved the investment proposal of ₹2400.00 crore in the Distribution sector over a period of four years beginning 2010-11, which includes the grant of the 13<sup>th</sup> Finance Commission, State budgetary support and counterpart funding by the DISCOs with the objective of system infrastructure improvement, establishing reliability, reduction of AT&C loss to a sustainable level and improvement of quality of supply to the consumers of the State. The DISTCOs shall be required to achieve the AT&C loss reduction target of minimum of 3 percent per annum in the project area during the implementation period. (Source: Energy Department Notification No-9230- R&R – I-06/ 2010/EN dt.21.10.2010). With this capital investment the AT & C loss is expected to go down and the collection of Electricity Duty should also increase.

## Chapter-X

### Mining Royalty

**10.1** Orissa is a State rich in minerals like iron ore, coal, manganese, bauxite, graphite and limestone. These natural resources constitute important potential contributors to the State's economy, both directly through economically productive activities and indirectly through the contributions to the State's exchequer. Mining Royalty including surface rent, dead rent and various fees constitute one of the major sources of non tax revenue of the State Government. Royalty on major minerals is at present imposed at rates decided by the Government of India in terms of Entry 54 of the Union List contained in the Seventh Schedule of the Constitution through a Central Legislation i.e. Mines & Minerals (Regulation & Development) Act, 1957 (MMDR Act henceforth) and collected and appropriated by the State Government. In case of minor minerals, the State Government is empowered to levy royalty, dead rent and surface rent in terms of Orissa Minor Mineral Concession Rules deriving its authority from the MMDR Act.

10.2. The rate of royalty on major minerals can be revised by the Central Government at an interval of 3 years in terms of the provisions of Section 9(3) of MMDR Act. The royalty and other fees under the Minor Minerals Concession Rules are fixed by the State Government. Royalty on major minerals like bauxite, chromite, and iron ore are being levied on ad valorem basis while that of coal is being levied on the basis of a hybrid formula i.e. a fixed amount plus a percentage of the pit head price. The rates of royalty for coal and lignite were last revised w.e.f. 1<sup>st</sup> August, 2007 and another revision after three years has fallen due. The State Government has been demanding levy of royalty on coal and other major minerals on ad valorem basis. It is also in line with the spirit of the National Mineral Policy which inter alia states that "Mineral prices should reflect their value and the royalty structures will be designed to ensure that the producer earns and the consumer pays the true value of the minerals produced and consumed. The fiscal dispensation will generally aim to ensure that adequate compensation is forthcoming to the State in return for the concession it grants". Besides, such ad valorem rates are already in use for petroleum crude.

Mining royalty is collected through the Directorate of Mines and its field formation i.e. mining circles. The State Government have also constituted a multi disciplinary task force to monitor the mining activities including illegal mining under

the Chairmanship of Chief Secretary and a State Level Enforcement Squad comprising of Mining, Forest and Police Officials for prevention of illegal activities in mining, transportation, storage and this squad monitors mineral resources in mining areas.

10.3 Information on collection from mining royalty is at Annexure-10.1. Before the beginning of the decade 2000-2010, collection from mining royalty was ₹320.09 crore which constituted 44.67 percent of the State's non-tax revenue and 13.22 percent of the State's own revenue. Owing to rapid industrialization in the mineral processing sector in the State and increasing national and global demand for minerals, there has been a sharp rise in volume of the minerals extracted/produced in the State, as a result of which the collection of mining royalty has surged to ₹2020.76 crore in 2009-10 showing more than six fold increase over a decade. In 2009-10, mining royalty constituted 63 percent of non-tax revenue and 16.58 percent of the State's own revenue. In the year 2010-11, there has been further rise in collection of mining royalty to ₹3327.07 crore which is primarily on account of switchover from the system of specific royalty on iron ores to levy of royalty @ 10 percent ad valorem. The collection of royalty on iron ore has overtaken the collection of royalty collected from coal.

10.4 Despite substantial mineral wealth there is a widespread belief in Orissa that the state does not get its due from this sector, mainly because of the feeling that though the revenue from this sector is relatively large, it is not commensurate with the value of the minerals extracted, nor with the externalities borne by the state. As a result, there have been sporadic attempts to devise ways to extract larger revenues from this sector beginning with a cess on royalty from minerals, and the latest attempt being the Orissa Rural Infrastructure and Socio-Economic Development Act, 2004. However, all these attempts have been negated by the judiciary on the ground that the state legislature is not competent to pass these legislations under the constitutional provisions and legislative developments at the central level. It is worthwhile to recount the main issues involved to see if there is a way to tap this sector for additional revenues that would stand judicial scrutiny.

10.5 The basic constitutional provisions relevant in this context are some of the entries in the Union and State list in the Seventh Schedule, to be read with Art. 246 of the Constitution: Entry 54 of List I – Union List, Entry 23 of List II – State List, Entry 45 of List II – State List, Entry 49 of List II – State List, and Entry 50 of List II – State List. These entries describe the power of the Parliament to legislate on “regulation of minerals and mineral development” that is deemed by the Union to be “expedient in public interest”, the jurisdiction of the State over regulation of mines and mineral

development “subject to the provisions of List I with respect to regulation and development under the control of the Union”, the power of the State to levy and collect land revenue, the power of the State over taxes on land and buildings, and on mineral rights “subject to any limitations imposed by Parliament by law relating to mineral development” respectively. Mines and Minerals (Development and Regulation) Act of 1957 (henceforth abbreviated to MMDR Act) was enacted by the Parliament under Entry 54 of the Union List as mentioned above. With this, the power of the State to collect taxes under Entry 50 of the State list was, for all practical purposes, completely void except as allowed under the MMDR Act. Similarly, powers of the State under Entry 23 of the State list has also been completely neutralised with the MMDR Act coming into operation. No tax on mineral extraction under Entry 49 is also possible as (a) a tax on land is leviable on the owner of the land and not the lessee, and (b) without a nexus between ‘value of mineral extracted’ and ‘land’. For essentially the same reasons, no tax on value or quantity of minerals extracted can be justified under Entry 45 of the State list. As such, the constitutional provisions and the MMDR Act together prevent the State legislatures from imposing a tax on the extraction of minerals except as allowed under the MMDR Act (minor minerals), and judicial interpretations have firmly established this. Thus, while the State can tax the minor minerals like stones and sand, its revenue from major minerals consist of royalties as determined under the MMDR Act, and surface rent. As royalties are determined by the Government of India, the State can possibly revise only the surface rent. Provisions for dead rent on land leased out for mines are prescribed in Mineral Concession Rules, 1960.

10.6 Rule 27(d) of the Mineral Concession Rules, 1960 make the mining leases subject to surface rent and water rate at such rate not exceeding the land revenue, water and cesses assessable on land as may be specified by the State Government. In the case of land not assessable to land revenue, surface rent is levied at the rate of ₹10/- per annum per hectare (Government Notification No.1232 dated 30.1.1984). In contrast, the surface rent for minor minerals has been fixed at ₹100/- per hectare per annum (Schedule I of Orissa Minor Mineral Concession Rules, 2004). Clearly, for land not assessed to land revenue this should be the minimum charged. We recommend at least ₹1000/- per hectare per annum as the surface rent for land not assessable to land revenue with respect to major minerals. This may, however, be applicable to new leases and renewals only.

10.7 To enhance the revenue from surface rent for land assessable to land revenue, the applicable land revenue has to be enhanced. This levy is fixed by the State Government as per the provisions of the Orissa Survey and Settlement Act, 1958 and

the Orissa Survey and Settlement Rules, 1962. Section 19(2) of the Act deals with the settlement of rent for lands used for non-agricultural purposes; however, this is essentially keeping in mind homestead purposes only, and not for industrial or mining purposes. The Committee suggests that a new section 19(2) be inserted into the Act dealing with lands used for commercial (for example, an entertainment park with priced admission), industrial, or mining purposes along with the principles to be used for determination of rent, and the present section 19(2) be renumbered as 19(3) and the rest of the sub sections re-numbered accordingly.

10.8 Extant Section 19(2) of the said Act clearly provides for prescribing principles for fixation of fair and equitable rent for purposes other than agriculture including Homestead Land and while prescribing the principles, Government must take into account a) the situation of land b) purpose for which land is used. Principles of fixation of such rent are to be prescribed in the Rules to be framed under Section 43 of the Act. However, a careful perusal of the Orissa Survey & Settlement Rules, 1962 does not reveal any specific prescription for fixation of rent for land used for purposes other than agriculture. We would recommend that Government may incorporate specific prescription of principle in the Orissa Survey and Settlement Rule, 1962 for lands to be leased for mines taking into account the categories of minerals such as a i) precious metals and stones (meaning gold, silver, diamond, ruby, sapphire and emerald, alexandrite and opal); ii) high value minerals (meaning semi-precious stones (agate, gem garnet), corundum, copper, lead, zinc, asbestos (chrysotile variety) and mica); iii) medium value minerals (meaning chromite, manganese ore, kyanite, sillimanite, vermiculite, magnesite, wollastonite, perlite, diaspore, apatite, rock phosphate, fluorite (fluorspar) and barites); iv) low value minerals (meaning minerals other than precious metals and stones, high value minerals and medium value minerals). We would recommend that the Surface rent would be at a flat rate of not less than ₹1000/- per Ha/annum for lands bearing low value minerals. For minerals of other categories in ascending order, the rent should be 3 times, 5 times and 10 times respectively. This, again, will be applicable only to new leases and renewals.

10.9 In the case of minor minerals the quantity of mineral reserve should be assessed scientifically and the minimum quantity to be extracted annually should be determined and the auction value of the quarry or mine may be determined accordingly. Value of minor minerals for collection of royalty should be based on the price adopted in the schedule of rates prepared by Works Department every year.

10.10 Greater vigilance and enforcement activities for checking illegal mining are required. Available indications point to a rising trend in illegal mining. The Committee appreciates the measures being taken to deal with this, but would emphasize further vigilance and stepped up enforcement activities to check this menace.

10.11 The Orissa Mining Corporation (OMC) is one of the few State owned public enterprises which generates good surplus and regularly contributes dividends to the State exchequer for last several years. The total number of mines now under operation by the OMC vis-à-vis the number of mines with area operated by private companies is given below.

**Table 10.1: Number of Mines Leased Out to OMC and others**

Name of the Mineral	OMC Ltd	Others	Total	OMC percentage
Iron Ore	16	125	141	11.35%
Chromite	11	15	26	42.31%
Manganese	5	38	43	11.63%
Others	6	381	387	1.55%
Total	38	559	597	6.37%

(Source: Directorate of Mines, Orissa)

**Table-10.2: Area of Mines Leased Out to OMC and others**

(Area in Ha)

Name of the Mineral	OMC Ltd	Others	Total	OMC percentage
Iron Ore	8997.260	25429.834	34427.094	26.13%
Chromite	5892.345	1607.466	7499.811	78.57%
Manganese	1950.109	4555.730	6505.839	29.97%
Others	1535.245	45984.718	47519.963	3.23%
Total	18374.959	77577.748	95952.707	19.15%

(Source: Directorate of Mines, Orissa)

From the above data, it is clear that out of the total area of minerals like iron ores, chromite, Manganese, area leased out to and operated by OMC constitutes only 19.15 percent. The share of OMC in mining operation thus appears to be low in the case of the strategic minerals like Iron Ore and Manganese. In the case Bauxite, another important mineral, OMC does not have a single mine. The Committee would like to recommend that in future all mines of important minerals as described above should be recommended and leased out only in favour of OMC and should not be given to private operators including mineral based industries who enter into Memorandum of Understanding (MoU) with the State Government to set up industries in the State and to make value addition to the minerals extracted from mines. Instead, the MoU should not envisage leasing of any mines to the industry; it would rather stipulate that mines

should be leased out to OMC and the latter would supply required quantum of minerals to the industry at a price to be agreed between them. Selling of minerals by OMC to the industry could attract VAT and would increase the proceeds of the VAT which is not possible if the mines would be captive mines of the industry using the minerals. The financial health of the OMC will further improve and it would contribute higher dividends to State exchequer.

We would also like to recommend that the OMC should be empowered with adequate number of engineering personnel and geologists. Presently a large number of such posts are lying vacant. The consequent difficulties are somehow managed by hiring personnel on contractual basis. Such personnel do not have a stake in the organisation. Their attitude to their own work becomes very casual. This is not a happy state of affairs. Presently several mines are outsourced to operators to raise ore for a certain period. In order to judge the efficiency of such operators, there should be a dedicated cadre of engineers of the OMC. Economic exploitation of the mines by a public undertaking is necessary. Private mineral based industries have an advantage of locating their industry near to the mines as it would avoid huge transport cost if such industries would be located at far off places. In order to be assured of supply of mineral ore, industrial units could execute a MoU with OMC that would stipulate the quantum of minerals (with grade) to be supplied to the industry by the OMC within a definite time period. Therefore, there is no reason why industries should not be attracted to Orissa, once they are assured of supply of the raw material i.e. mineral ore. By strengthening the OMC with deployment of efficient technical personnel, it would develop its expertise in mineral extraction; it would have a core team of technical consultants to aid and advise the State Government. The State Government would ensure discharge of corporate social responsibility to the people and the region where these mines are located and operated by OMC, in future.

## Chapter-XI

### Revenues from Forests

#### Introduction

11.1 As per the 11<sup>th</sup> State of Forest Report 2009, Orissa has a recorded forest area measuring 58,136 sq km. This includes 26,329 sq km (45.29 percent) of reserve forests, 15,525 sq km (26.70 percent) of protected forests and 16,282 sq km (28.01 percent) of un-classified forests. The total recorded forest area of Orissa was 37.34 percent of its total geographical area. The state has 7,073 sq km of ‘Very Dense Forest’ (VDF) with crown density above 70 percent, 21,394 sq km of ‘Moderately Dense Forest’ (MDF) with crown density in the range of 40-70 percent and 20,388 sq km of ‘Open Forest’ (OF) with crown density range of 10-40 percent. The tree cover outside forest (TOF), assessed separately, is 4,435 sq km. The VDF, MDF, OF, TOF, scrub and non-forest area constitute 4.54 percent, 13.74 percent, 13.09 percent, 2.85 percent, 3.12 percent and 65.51 percent of the total geographical area of Orissa respectively.

11.2 As per the Economic Survey 2009-10 of the Government of Orissa the forestry sector contributed about 2 percent of GSDP of Orissa in 2008-09. Forests play a vital role in the ecological viability and sustainability of the state’s overall development, and it is central to the livelihoods of forest dependent communities which are mostly tribals. The forests of Orissa are generally located in the districts situated in the Eastern Ghats, Central Table Land and the Northern Plateau. The coastal districts have comparatively smaller forest areas. Decades of diversion of forest lands for non forestry purposes as well as biotic interference have contributed significantly to forest degradation and deforestation.

11.3 Forest receipts constitutes one of the major items of Non Tax Revenue in 2000-01, contributing around 12.37 percent of State’s Own Non Tax Revenue, 2.95 percent of State’s Own Revenue and 1.23 percent of total revenue receipt. At the end of 2009-10, the total receipts from forest royalty constituted 3.39 percent of Own Non Tax Revenue, 0.89 percent of Own Tax Revenue and 0.41 percent of total revenue receipt. The decadal growth rate is 12.76 percent although the year on year growth is uneven. The relative contribution of forest royalty even as a percentage of State’s Own Non Tax Revenue is gradually declining in spite of a significant forest cover. This is a cause for concern and needs suitable policy interventions for generation of adequate resources



that can be then utilised for protection and regeneration of forest cover so as to build up a sustainable environmental asset base as well as a regular revenue stream for the State exchequer.

11.4 The Orissa Forest Development Corporation (OFDC), a fully owned State company, operates as the commercial arm of the Forest Department. Kendu leaves are the most important forest produce that generate well above 80% of all revenues from forest products. Till 2005-06 OFDC was a loss making organization, but since then it has been earning profits. OFDC trades mainly in timber, kendu leaf, bamboo, sal seeds and other non-timber forest produce. Earlier, in addition to OFDC, Tribal Development Co-operative Corporation (TDCC) was also entrusted with the responsibility of monopoly procurement of some of the minor forest produce like tamarind, sal seed, mahua flower, broomstick, siali leaves, sal raisin and many other herbal produce grown in forest. Such minor forest produce were being procured on a minimum procurement price mostly from tribals and other forest dwellers. However, on account of fluctuation in market prices and inflexibility in procurement price, in addition to uneconomic cost of operation in spite of monopoly procurement, TDCC incurred huge loss. In the year 2000, State Government denationalized procurement of 68 non-timber minor forest produce (NTFP) and allowed private traders to procure these NTFP from forest gatherers after securing license from the local Gram Panchayats which would specify the price of each such minor produce. Subsequently, one more NTFP i.e. Sal seed was also denationalized and handed over to the Gram Panchayats for procurement and trade. Prior to this denationalization, total annual royalty revenue from these 69 NTFPs was only about ₹15 crore, which is now foregone for the State exchequer.

11.5 One of the salient features of the National Forest Policy, 1988, is to associate people actively in the protection, conservation and management of forests. Orissa was the first state to issue a resolution in regard to joint forest management (JFM) in 1988 for the protection of peripheral reserve and protected forests with participation of local people from adjoining villages. There were about 9,778 JFM committees in 2005, managing about 14 percent of forest area, involving about 17 million families, of which 0.7 million families were from tribal communities.

11.6 Item-wise collection of Forest Royalty during the last 5 years is presented in the following table.

**Table 11.1: Item-wise collection of Forest Royalty**

(₹ in Lakh)

Items of Forest Produce	Year				
	2004-05	2005-06	2006-07	2007-08	2008-09
Timber	794.24	650.57	972.98	1091.18	2286.67
Bamboo	158.41	421.17	505.45	374.00	768.01
Firewood	26.93	14.15	10.79	9.08	104.48
Kendu leaf	2425.00	4014.70	10210.00	10008.00	10020.00
NTFP	60.63	190.33	211.02	180.40	220.59
<b>Total</b>	<b>3465.21</b>	<b>5290.92</b>	<b>11910.24</b>	<b>11662.66</b>	<b>13399.75</b>

(Source: PCCF, Orissa)

11.6.1 From the above table, it is evident that royalty from Kendu leaf account for between 70 and 85 percent of the total forest royalty over the years. However, there is very erratic trend in collection of royalty on Kendu leaf. From a low base of ₹40.14 crore in the year 2005-06, it had appreciated to ₹102.10 crore in the subsequent year of 2006-07, thereafter, it has stabilized at Rs.100 crore in subsequent 2 years. That is not the case with timber, bamboo and NTFP. The Committee however observed discrepancy in figures reported by the Principal Chief Conservator of Forest (PCCF), Orissa and the MD, OFDC in the matter of collection of forest royalty so far as OFDC is concerned. Figures of royalty given in Table-11.1 relates to collection of royalty from OFDC and other sources. However, so far as royalty collected from OFDC is concerned, there is wide discrepancy in the figures of the PCCF and MD, OFDC as given below:

**Table 11.2: Discrepancy in the figures of the PCCF and MD, OFDC**

(₹ in Lakh)

Year	Figure reported by PCCF, Orissa	Figure reported by the MD, OFDC
2005-06	4808.10	5380.00
2006-07	11274.60	12093.15
2007-08	10898.00	11597.69
2008-09	12218.80	13406.49
2009-10	9556.31	13591.16

(Source: PCCF, Orissa)

11.6.2 The PCCF reports the figure on the basis of verified actuals with the A.G., Orissa. From Table 11.2, one can notice that figure reported by the MD, OFDC is invariably higher by several crores of rupees over and above the figure reported by the PCCF. Such discrepancy in collection and deposit of royalty to the State exchequer should be reconciled and should not be allowed to persist. Apparently there is need for systematic reconciliation of accounts between the PCCF and the OFDC Ltd.

11.7 The non-tax revenue receipt from the forest sector vis-à-vis expenditure on forestry and wildlife under non-plan and plan during the last 5 years is given in the following table.

**Table-11.3: Non-Tax Revenue Receipt from and Expenditure on Forest sector**

(₹ in lakhs)

Particulars	Years				
	2004-05	2005-06	2006-07	2007-08	2008-09
Non-Tax Revenue Receipt	8500.80	5819.60	12531.40	8294.50	13951.27
Expenditure in Forest & wild Life Sector (Non-Plan)	6284.14	7697.59	7014.14	9005.93	11780.57
Expenditure in Forest & wild Life Sector (Plan)	2841.92	1781.45	4871.15	10168.07	15176.58

(Source: PCCF, Orissa)

11.7.1 There does not appear to be a correlation between higher expenditure on forest conservation and development of forest both under plan and non-plan and the non-tax revenue realized. The Centre for Youth and Social Development (CYSD), Bhubaneswar, has made a study on “Forest Revenue of Orissa” in the year 2008. One of the points the study emphasizes is that forests make a positive contribution to the Orissa budgets (p.33). However, the revenue earned per sq. km. of forest area is low in Orissa in comparison to many States and the average of all the States of India. It is also the case that expenditure on forest development is low in Orissa as compared to the average in other Indian States. It implies that it is possible to scale up the forest budget of Orissa for the benefit of the State’s economy. However, we would like to highlight that simple comparison of expenditure (both Plan and Non-Plan) incurred per square kilometre of forest and revenue earned for the State exchequer is an oversimplification of the total return from the forest. A tropical forest of Orissa with its diversity of plant and wildlife (flora and fauna) makes positive contribution to the biosphere. Forest provides livelihood to tribals and other forest dwellers who earn their livelihood from the forest by collecting various forest produce. Poor people living in the vicinity of the forest depend on it for meeting domestic needs of fuel wood. Non-access to forests by these marginalized people would have pushed them towards economic and social disaster, raising the welfare burden of the State as well. Therefore, contribution of revenue to State’s kitty and comparing the same with expenses per square kilometre of forest while ignoring the positive externalities of forest would not be appropriate.

11.7.2 However forest is an important component of the natural capital of a region, the investment on it along with the extent of the gestation period would be expected to determine the yield and revenue from it. The CYSD study pursues this hypothesis and

employs simple regression models to assess the influence of forest expenditure on forest revenue, with varying lags. It is found that in all the estimated results with alternative specifications employed, expenditure has a statistically significant positive influence on revenue. A rupee spent on the forests tends to yield more than a rupee of revenue to the government under every model. The 5 year lag model shows that a rupee spent on forests yields about ₹1.49 as revenue after a 5 year period.

11.7.3 For the 5 year period 1997-2002, CYSD presents a comparative picture of forest revenue and forest expenditure. The all-States/UTs' average of ₹22,540 per sq km is higher than Orissa's figure by ₹5,060. If Orissa's forests were to yield revenues at the average all-India rate, then the total forest revenue of the State could increase by an additional amount of ₹24.71 crore.

11.7.4 A perusal of the finances of the forest departments in the major Indian States reveals that the forest budgets of all States, barring Kerala and Orissa, are in deficit. The all India figures show that Orissa's forest expenditure can increase to almost three times the present level. It is in Orissa's long term interest to concentrate vigorously on forest conservation and development as an investment in natural capital for sustainable development in the future.

11.8 The arrears of forest royalty from 2006-07 to 2009-10 is given in the table-11.4

**Table-11.4: Arrears of Forest Royalty from 2006-07 to 2009-10**

(₹ in lakh)

Year	Arrear of demand at the beginning of the year	Current Demand during the year	Collection out of arrear demand	Collection out of current demand	Balance out of arrear demand	Balance out of current demand	Total balance at the close of the year
2006-07	8449.65	1975.51	349.06	810.10	8100.60	1165.42	9266.03
2007-08	9266.03	1171.02	534.01	562.57	8786.19	608.45	9259.20
2008-09	9259.20	1581.09	1798.00	918.07	7461.20	663.02	8124.22
2009-10	8124.22	1340.99	957.00	186.98	7281.41	1158.87	8437.43

(Source: PCCF, Orissa)

11.8.1 It is to be noted that outstanding arrear dues of forest revenue at the end of 2009-10 constitute 88 percent of total demand for the same year. Similarly, very little amount has been collected out of the arrear demand. This is a matter of concern. Unless prompt reconciliation of account and audit is conducted at the end of each financial year, audited figures of surplus royalty payable by the OFDC can not be determined. Exact arrear dues also can not be determined.

11.9 Kendu leaf trading is a nationalized activity. During 2008-09, OFDC had received about 4.19 lakh quintals of processed and phal KL from the Forest Department and sold 4.28 quintals worth ₹304.76 crore. OFDC finances the entire operational cost of production and conducts sale of Kendu leaves as the sole selling agent on behalf of the Government. The OFDC deducts the amount towards operational expenses from the sale proceeds of Kendu leaf, which it avails as working capital from banks and gives to the PCCF, Kendu leaf and pays the balance amount as royalty to the State exchequer. It is worth mentioning here that over and above the operational expenses, the entire establishment cost of the Kendu leaf organization under the PCCF, Kendu leaf is provided in the Non-Plan budget of the State Government. It was ₹27.40 crore (2008-09). For exact computation of surplus revenue out of Kendu leaf operation, this amount provided in the Non-Plan budget should also be deducted: because unlike PCCF who looks after conservation of forest and wildlife to maintain biodiversity, Kendu leaf operation is exclusively a commercial operation even though there is a content of labour welfare implicit in it by offering seasonal jobs to large number of workers for a period of about 2 months. In calculating the royalty from Kendu leaf, the figure is to be revised by deducting the establishment cost provided in the budget in addition to the operational expenses. That will pull down the figures on royalty on Kendu leaf for which a whole organization is permanently maintained although the operation is only for 2 months.

11.10 Some time ago, there was a proposal to merging the operations of collection and processing of Kendu leaf, and marketing of the same, which are now handled by two different organizations namely PCCF, Kendu leaf and OFDC. Sometime in the year 2000, a Task Force was constituted by the State Government in Forest & Environment Department for evolving a comprehensive strategy in order to restructure Kendu leaf trade in Orissa. The Task Force went into details of the Kendu leaf operation and submitted their report. The Task Force has given some valuable suggestions in the matter of standardization of cost for KL operation, timely reconciliation of accounts, aggressive marketing strategy etc. One of the important cost components of KL operation is the wages paid to the Kendu leaf pluckers, processors and binders. The Task Force observed that these operations are semi-skilled activities. Wages of seasonal staff over a period have substantially increased. Similarly, sale price of KL have also gone up. The Task Force found that the KL purchase prices have appreciated by 32 times from 1973 to 2000 (price payable to the seasonal workers) while the minimum wages have appreciated only 20 times during the same period. Therefore criticism of the KL organization regarding exploitation of KL workers and pluckers is

not valid. The Task Force concluded not to merge the operation of plucking, binding, processing and bagging of Kendu leaf with commercial marketing.

In this connection, this Committee would like to make two observations. In order to fetch a better market price, percentage of processed leaf must go up within a certain period of time. Grading of leafs into various quality classes should be dictated by market requirements. For this, OFDC should conduct periodical market survey to find out what kind of quality composition does the market require. Results of market survey are to be jointly analyzed by OFDC and KL organization. Proper check of quality and thereafter suitable grading of leafs will also consequently lead to discarding rain-affected leaf which are unsuitable for Bidi making. Mixing of such unsuitable leaves with superior quality leaves reduces the market price of the latter type of Kendu leaves. Through proper bush cutting operation, drying and binding will reduce the percentage of discarded leafs.

Secondly, for improving the productivity of Kendu leaf organization, large number of vacancies in operative posts such as Deputy Conservator of Forest, Forest Rangers, Foresters and forest guards should be filled up. Regarding vacancies, the PCCF, Kendu leaf has reported as follows:

ACF	-	33
FRO/Deputy Ranger	-	38
Forester	-	311
Forest Guard	-	264

11.10.1 These are operative posts. We are told that there are surplus personnel of OFDC. If similarly qualified surplus staff of OFDC can be brought on deputation for filling in the appropriate posts, financial liability of OFDC will be reduced significantly, simultaneously improving the collection efficiency of KL organization.

11.11 There are 981 Kendu leaf central godowns for storage of processed and phal Kendu leaf bags. In 2008-09 the procurement price was raised from 25 paise to 27 paise per kerry (bundle comprising 20 leaves). Nearly 7.19 lakh pluckers benefited during the same year.

11.11.1 The Kendu Leaf Pluckers and Binding Labourers Welfare Fund has been set up to provide social security to Kendu leaf pluckers and binders and their kins. An amount of ₹50,000 is given as compensation to legal heirs in case of death and

₹25,000 a plucker or labourer becomes permanently disabled. More than two lakh pluckers and binders have been enrolled in this Trust.

11.11.2 It should be noted that royalty is a major component of the cost incurred in harvesting of forest material by departmental agencies. Enhancement of royalty has a direct impact on the price and it should be enhanced keeping in view the marketability of the forest produce which will not entail loss to the OFDC and consequent loss to the State.

### **Reform and Revenue Enhancement**

11.12 Before one thinks of considering any revenue enhancement measures it needs to be noted that there is a discrepancy between the collection of forest royalty reported by the OFDC and the figures reported by the Principal Chief Conservator of Forests (PCCF). This needs to be reconciled. There ought to be a mechanism for monthly reconciliation of receipts between the Forest Divisions and the Treasuries as well as the Accountant General (A & E) Orissa for correct reporting and accounting of royalty. OFDC must adopt the verified actual of royalty deposited as accounted for by the A.G.(A&E), Orissa.

11.13 As noted above, the Kendu Leaf trade has been nationalized. The revenue accrues to the State Government on realization of the sale proceeds collected by the Working Divisions and auctioned by the OFDC after deducting the working expenses. Owing to periodic increase in wages the cost of collection of Kendu Leaf has risen by around 58 percent in the last 4 years. This income transfer to the pluckers may be regarded as a welfare measure. After rigorous quality check, quality Kendu Leaf is packaged for marketing. The sale of minor forest produce has been transferred to the Panchayati Raj Institutions.

11.14 In respect of timber, the working plan is submitted to the Government of India and timber is harvested with their approval. Other non timber forest produce includes bamboo, tamarind, sal leafs, sal seeds and sabai grass.

11.15 It is widely acknowledged that there is leakage in Kendu Leaf trade and other forest produce even in a regime of deregulation. The minor forest produce pluckers get underpaid due to their relatively weak bargaining power and lack of information about the price of such commodities in the outside market. A number of traders are known to be engaged in the business without proper license. The Panchayats are typically without any enforcement mechanism. Ideally there should be a single price for a similar quality

item in all panchayats in one Panchayat Samiti. This should especially be possible in the modern era of instant communication via internet and mobile telephony. It would also be desirable to have a detailed study on minor forest produce keeping in view both the generation of revenue as well as the welfare of the common people. The PCCF was of the view that the State Government ought to take up trading in Siali Leaves, Sal Seeds and Sabai Grass. We would recommend that 69 minor forest produce which are decentralized, should be procured through self help groups of forest dwellers and can be sold to the traders. In order to avoid any oligopoly by the trader, OFDC & NAFED may intervene with minimum support price in the market, but without any monopoly powers conferred on these organisations.

11.16 There has been a view that the Forest Department could explore the possibility of tapping non-conventional sources of revenue by way of promotion of eco-tourism. This could be done by making use of the Inspection Bungalows and cottages of the Forest Department located inside forest or river banks with the assistance of approved tour operators. There could be a system of providing booking through a single platform through internet as is being done in a number of other states. An officer in the office of PCCF or in OTDC could be designated for the purpose.

11.17 When a tenant wants to fell a tree grown on his land and utilises it himself or transports to any other place, he has to avail a transit permit from the Forest Ranger of the area. Value of timber has considerably increased over the years. The tenants' permit fees at present are quite low, having been fixed long ago and they need to be increased to augment revenue. It is also felt that the existing level of compounding fee for forest offences which is up to ₹100/- at present be increased to at least ₹5000/- for genuine offences taking care to keep the rates low for petty offences.

11.18 On the orders of the Hon'ble Supreme Court on 10<sup>th</sup> July, 2009 the deadlock on the utilization of funds of the **Compensatory Afforestation Fund Management and Planning Authority** (CAMPA) lying unutilized in the Bank Accounts was resolved and guidelines have been issued by Government of India in the Ministry of Environment & Forest for utilization of the funds deposited with *ad hoc* CAMPA for compensatory afforestation and other related ecological security enhancing activities.

11.18.1 The total amount deposited by the State Government with CAMPA is ₹3507.16 crore (as on 8.11.10). The year-wise deposit is indicated below:



**Table 11.5: Year-wise deposit by the State Government with CAMPA**  
(₹ in lakh)

Sl. No	Year	Amount deposited
1.	2005-06	176.37
2.	2006-07	271.88
3.	2007-08	408.26
4.	2008-09	337.14
5.	2009-10	499.40
6.	2010-11 (upto 8.11.2010)	1693.05
	<b>TOTAL</b>	<b>3507.17</b>

*Source (PCCF, Orissa)*

11.18.2 In pursuance of the orders of the Hon'ble Supreme Court dated 10<sup>th</sup> July, 2009 an amount of ₹131.0618 crore was released to the State CAMPA for utilization of the funds for the following purposes in accordance with an Annual Plan of Operation (APO) of the State CAMPA –

- i) conservation, protection, regeneration and management of existing forest;
- ii) conservation, protection and management of wild life and its habitat within and outside protected area including consolidation of the protected areas;
- iii) compensatory afforestation;
- iv) environmental services including provision of goods such as non-timber forest projects, fuel, fodder, water; and
- v) research training and capacity building.

Based on the cumulative deposit of ₹1603.05 crore up to 2009-10, it is expected that ad hoc CAMPA will release at least ₹169.30 crore during 2010-11. The total outlay for APO has been finalized at ₹214.46 crore. By October, 2010 an amount of ₹116.14 crore has been released by the State CAMPA and out of which ₹91.00 crore has been utilized.

11.19 Given the need for Assisted Natural Regeneration (ANR) and compensatory afforestation for restoration of the degraded forests with timely utilization of funds earmarked for afforestation, the Committee recommends that the Forest & Environment Department should take expeditious steps for faster utilization of funds released by ad hoc CAMPA so as to avoid cost overrun.

11.20 The Committee noted with concern the extent of the vacancy position at the field level. The PCCF stated that the vacancy level is almost 30 to 40 percent and that as many as 1074 posts of Foresters and 1630 posts of Forest Guards are vacant. With such a high level of unfilled posts it is but natural that the level of efficiency and attention to detail, let alone any new developmental work, is severely compromised. The government needs to pay adequate attention to this issue.

11.21 Royalty on timber should reasonably reflect the market value of timber. Timber over a period of time has become a scarce commodity and market value reflects scarcity. Royalty on timber should be fixed at 70 percent of the standing value of a timber. Standing value is calculated by taking into account the existing market value, and deducting there-from the cost of felling and transport. Market value does not rise only periodically; instead it rises continuously at a rapid pace. Fixing the royalty at 70 percent to the standing value of the timber every year, on a regular basis, will impart buoyancy to the royalty from timber and eliminate the discretionary fixation of royalty.

## **Chapter-XII**

### **Irrigation and Industrial Water Rates**

#### **Introduction**

12.1 Water is a prime and precious natural resource, and a fundamental requirement for all living beings. The process of economic growth inevitably leads to increasing demands for water for diverse purposes: domestic, agricultural, industrial, recreational, etc. Virtually all these human activities require fresh water. It is therefore imperative that the issue of water price be carefully examined keeping in view some of the basic economic principles concerning the valuation of natural resources.

12.2 Even though water has traditionally been thought of as being a free good, its 'value' or utility for mankind is almost immeasurably large. This is at the core of the so called diamond-water paradox which was elaborated upon by Adam Smith. During Smith's time and up until very recent times, water was indeed a free good. However it is not the case any more. The basic issue is that because of its plentiful supply relative to human needs water has a low 'exchange' value but an enormously high 'use' value. And owing to its extreme scarcity diamond has precisely the opposite characteristic, viz., high exchange value but relatively low use value.

12.3 It is worth emphasizing that water is a 'renewable' resource. Yet the world's supply of clear, fresh water is steadily decreasing, and in some parts of the world, at a rather alarming rate. This is mainly due to population pressure, the quality of modern life styles chosen by humans across the globe, the compulsions of industrial growth, urbanization, deforestation and extensive environmental degradation. This has resulted in water demand substantially exceeding supply in many large tracts of the world.

12.4 About 97 percent of the world's water is salt water, and only 3 percent fresh water. Nearly two thirds of the fresh water is frozen in glaciers and polar ice caps. The rest is mainly ground water, with only a small fraction present above the ground or in the air. During the past century more than half of the world's wetlands have been lost along with their valuable environmental services. Fresh water ecosystems rich with biodiversity are declining faster than marine or land ecosystems.

12.5 In most parts of the world drinking water is a priced commodity. There is great variation in water price across the globe. A litre of bottled drinking water has a price ranging from US\$ 0.20 to US\$ 6.00. Owing to its increasing scarcity the pricing of

water inevitably has attributes of the Ricardian rent. However one must remember that with careful husbanding, the supply of fresh water may be increased in almost any setting. Since water is also possibly the most valuable natural resource, its pricing has to be considered and determined with great deliberation and care. When water is becoming increasingly scarce, its economic use should be encouraged and its wasteful use should be priced with a penalty.

12.6 As regards the rates to be applied for irrigation, the traditional approach has been to adopt a flat rate charge, without metering. Most countries have used area based tariffs, sometimes differentiated by the types and value of crops grown. In some instances, a case has been made for volumetric pricing, which would of course require measurement. The tariff chosen may also vary between seasons, with higher tariffs chosen in the dry season.

12.7 Most countries today levy volumetric charges for water abstraction rights that are typically levied on industries and utilities. In many European countries fees for water abstraction and discharge exist where revenues are significant and reinvested in the water sector by the governmental water agencies established in the major basins. In Germany abstraction fees exist for groundwater in some federal states and their proceeds are transferred to the general budget of the concerned state.

### **Water Rates in Orissa and India**

12.8 The State water policy states that a suitable portion of capital cost and all operation and maintenance cost are to be recovered from beneficiaries. The guiding principles for pricing water from public sources are:

- i) To generate resources for improved maintenance of irrigation systems and promote further investment.
- ii) To induce efficient use of water.
- iii) To ensure inter-regional and inter-personal equity.
- iv) To protect the environment by reducing excessive water use.

(Source: Rao H, Dhawan B and Gulati A. 1999. *Towards Reforms in Indian Irrigation: Price and Institutional Policies*).

Earlier, in 1972, the Irrigation Commission recommended that water rates throughout India be reviewed every five years. The 13<sup>th</sup> Finance Commission have

recommended for increase in recovery of water rate as a percentage of Non Plan Revenue expenditure from the base year (2009-10) level of 25 percent for all States' average to 75 percent by 2014-15. They have also recommended for setting up of a water regulatory authority with the following functions:

1. To fix and regulate the water tariff system and charges for surface and sub-surface water used for domestic, agriculture, industrial and other purposes.
2. To determine and regulate the distribution of entitlement for various categories of uses as well as within each category of use.
3. To periodically review and monitor the water sector costs and revenues.

**(a) Irrigation Water Rates**

12.9 The National Water Commission has advised that income from irrigation projects should meet the annual operation and maintenance (O&M) cost. The Orissa Irrigation Act of 1959 had been enacted to consolidate and amend the law relating to irrigation, assess the levy of water rate and cess in force in different parts of Orissa and to provide for the regulation of use of water from Government source. The State Water Policy 2007 envisages that the cost of O&M ought to be recovered from the beneficiaries and that there will be different water rates for different categories of uses. An inter-State comparison of prevailing irrigation water rates is presented in the Table below:

**Table 12.1: State Wise Water Rates for Flow Irrigation**

SL. No.	States / U Ts	For Irrigation Purposes		Status as on
		Flow Irrigation		
		Rate (₹ /Ha)	Date since applicable	
1	Andhra Pradesh	148.20 to 1235.00	01.07.1996	23.04.2003
2	Arunachal Pradesh	No water Rate		25.02.2002
3	Assam	150.00 to 751.00	30.03.2000	9.05.2001
4	Bihar	74.10 to 370.50	Nov.1995/2001	28.02.2003
5	Chhattisgarh	123.50 to 741.00	15.06.1999	Feb. 2004
6	Goa	60.00 to 300.0	11.02.1988	30.03.1998
7	Gujarat	70.00 to 2750.00*	16.02.2001	7.07.2001

SL. No.	States / U Ts	For Irrigation Purposes		Status as on
		Flow Irrigation		
		Rate (₹ /Ha)	Date since applicable	
8	Haryana	86.45 to 197.60	27.07.2000	13.02.2003
9	Himachal Pradesh	6.87 to 76.03	1977 / 1981	8.12.2003
10	Jammu & Kashmir	19.76 to 49.40	01.04.2000	28.07.2001
11	Jharkhand	74.10 to 370.50	26.11.2001	25.11.2003
12	Karnataka	37.05 to 988.45	13.07.2000	26.08.2002
13	Kerala	37.00 to 99.00	18.09.1974	6.04.2002
14	Madhya Pradesh	123.50 to 741.00	15.06.1999	15.06.2001
15	Maharashtra	180.00 to 4763.00**	01.09.2001	28.02.2002
16	Manipur	22.50. to 75.00	1977-78	26.03.2002
17	Meghalaya	No Water Rate		27.06.2001
18	Mizoram	No Water Rate		04.08.2003
19	Nagaland	No Water Rate		31.05.2001
20	Orissa	28.00 to 930.00	05.04.2002	24.05.2002
21	Punjab	Abolished	14.02.1997	22.08.2002
22	Rajasthan	29.64 to 607.62	24.05.1999	21.06.2001
23	Sikkim	No Water Rate		02.03.2002
24	Tamil Nadu	2.77 to 61.78	01.07.1962	04.03.2002
25	Tripura	312.50	Yet to start	6.08.2001
26	Uttar Pradesh	30.00 to 474.00	18.09.1995	April, 2002
27	Uttarakhand	49.00 to 143.00	18.09.1995	8.12.2003
28	West Bengal	37.05 to 123.50	6.04.1977	16.05.2003
29	Delhi	22.23 to 711.36	1951 / 1979	Nov.,2003
30	A& N Islands	No Water Rate		6.02.2004
31	Chandigarh	No Water Rate		12.06.2001
32	Dadra & Nagar Haveli	110.00 to 830.00	29.01.1996	13.07.2001
33	Daman & Diu	200.00	1980	23.08.2001
34	Lakshadweep	No Water Rate		23.08.2001
35	Puducherry	12.50 to 37.50	31.03.1979	02.08.1979

\* Subject to increase @ 15% to 25% per annum.

\*\* Subject to increase @ 15% per annum.

12.10 The water rates applicable for different crops as notified in the Orissa Irrigation (Amendment) Rules, 2002, are as under:

**Table-12.2: Khariff Water Rate (Part-A)**

Sl. No.	Class of Irrigation Work	Rate per Hectare per Year (in Rupees)
1	1 <sup>st</sup> Class	250.00
2	2 <sup>nd</sup> Class	188.00
3	3 <sup>rd</sup> Class	125.00
4	4 <sup>th</sup> Class	63.00

**Table 12.2: Water Rates for Crops other than Staple Cereals (Part-B)**

Sl. No.	Name of the Crops	Rate per Hectare per Year (in Rupees)
1	Dalua	450.00
2	Tobacco	420.00
3	Potato	280.00
4	Vegetable including peas	230.00
5	Onion	280.00
6	Wheat	170.00
7	Maize	140.00
8	Mung	28.00
9	Groundnut	170.00
10	Orchards	334.00
11	Sugarcane	500.00
12	Jute	84.00
13	Fodder	170.00
14	Pulses	60.00
15	Cotton	280.00
16	Til (oil seeds)	60.00
17	Betel Leaf	840.00
18	Arhar	170.00
19	Sunhemp	200.00
20	Chilli	170.00
21	Saru	840.00
22	Ragi	70.00
23	Mustard	60.00
24	Ganja	930.00

12.11 The year wise O&M Expenditure and Collection of Revenue in the last 5 years from irrigation and industrial water rate is given in following table.

**Table 12.3: Year-wise O&M Expenditure and Collection of Revenue**

(₹ in crore)

Year	Expenditure on O&M			Collection of Revenue		
	Major & Medium Irrigation	Minor Irrigation	Total	Irrigation Sector	Industrial Sector	Total
2003-04	50.00	12.23	<b>62.23</b>	23.69	8.62	<b>32.31</b>
2004-05	55.12	13.06	<b>68.18</b>	27.78	6.50	<b>34.28</b>
2005-06	104.36	29.19	<b>133.55</b>	28.30	7.35	<b>35.65</b>
2006-07	120.99	31.14	<b>152.13</b>	28.57	18.88	<b>47.45</b>
2007-08	181.49	53.97	<b>235.46</b>	29.79	9.76	<b>39.55</b>
2008-09	202.90	79.75	<b>282.65</b>	29.84	12.39	<b>42.23</b>
2009-10	245.41	100.05	<b>345.46</b>	32.64	34.40	<b>67.04</b>

(Source: Finance Department, Government of Orissa)

12.12 The Executive Engineers of the Department of Water Resources are responsible for the preparation and certification of irrigated ayacut for the purpose of assessment of revenue. The same is then forwarded to the Tahsildar of the Revenue Department by the respective Executive Engineers of the Department of Water Resources for verification. A joint verification is then conducted by the Revenue Department and the Department of Water Resources by officers not below the rank of Additional Tahsildar and Assistant Engineer respectively. The assessment of revenue is finalized after the joint verification.

12.13 The year-wise collection of water rate for the last 5 years from the agricultural sector is given in the table below:

**Table 12.4: Demand vs. Collection of Water Rate from Agriculture Sector**

(₹ in crore)

Year	Agriculture Sector	
	Demand	Collection
2005-06	30.00	28.30
2006-07	50.00	28.57
2007-08	58.66	29.79
2008-09	90.20	29.84
2009-10	100.00	32.64



12.14 It is seen that the discrepancy between the demand and collection of water charges have been widening significantly during 2005-06 to 2009-10. Efficiency in collection of water rate by the revenue machinery has to improve.

12.15 The Economic Survey 2009-10 of the Government of Orissa (pp. 78-79) states that the irrigation intensity for 2006-07 was about 30.9 percent against the all India average figure of 44 percent. The State-wise distribution varies widely. In Haryana and Punjab the figure is well above 80 percent. Even though the State has been striving to significantly improve irrigation facilities, irrigation intensity in Orissa is still relatively low.

### **(b) Industrial Water Rates**

12.16 The inter-State comparison of the prevailing industrial water rates is presented below in the Table below:

**Table-12.5: Industrial Water Rate of different States**

(₹ in crore)

SI No.	State	Irrigation Source (₹/One lakh Gallon)	Natural Source (₹/One lakh Gallon)	Date of Enforcement
1	Andhra Pradesh	300.00	150.00	02.04.2002
2	Bihar	450.00	450.00	4/1998
3	Chhattisgarh	1636.00	204.00	01.05.2002
4	Gujiarat	4546.00	1477.00	30.01.2001
5	Haryana	1625.00	642.00	27.07.2000
6	Jharkhand	450.00	450.00	01.04.1998
7	Kerala	577.00	577.00	01.04.1999
8	Madhya Pradesh	454.00	136.00	01.05.1998
9	Maharashtra	1590.00	454.00	01.09.2001
10	Rajasthan	321.00	321.00	17.05.1995
11	Orissa	250.00	200.00	18.07.1998

12.17 It is clear that the rate prevalent in Orissa from the irrigation source is markedly low. The contrast with the neighbouring State of Chhattisgarh is particularly striking.

12.18 The collection of industrial water rate during the last 5 years is given in table below:

**Table-12.6: Demand vs. Collection of Water Rate from Industrial Sector***(₹ in crore)*

Sl. No.	Year	Industrial Sector	
		Demand	Collection
1	2005-06	17.61	7.35
2	2006-07	19.10	18.88
3	2007-08	19.68	9.76
4	2008-09	22.68	12.35
5	2009-10	25.10	34.40

12.19 In the 12th meeting of the Water Resource Board held on 16.3.2010 under the chairmanship of the Chief Secretary, Orissa, a number of important decisions were taken. Two separate slabs of water rates for use of water other than irrigation; one for consumption up to 5 cusecs of water and another for exceeding 5 cusecs of water have been recommended. It was also decided that the water rate/license fees may be enhanced keeping in view the rates adopted by the neighbouring State of Chhattisgarh. Accordingly, the *Orissa Irrigation Rules, 1961* has been amended to provide for enhancement of industrial water rate which has been notified in Revenue & Disaster Management Department Notification No.40664/III-W-7/2010/R&DM dated 1<sup>st</sup> October, 2010. The industrial houses are protesting against this increase in industrial water rate. However, such stiff rates would compel the industrial houses to make capital investment in advanced technology for economic and efficient use of water which is an irreplenishable and scarce natural resource.

12.20 The Committee is of the view that the Industrial Water Rate should be suitably revised upward keeping in view the scarcity value of fresh water. There should be strict regulatory conditions for use of water for industrial purposes as well as strict standards for treatment of effluents. The Collectors or Revenue Authorities should be entrusted with the collection of Industrial Water Rate with the technical assistance of engineers specially earmarked for such works. Overuse of ground water and the drawing of ground water without permission of the State Government ought to be booked upon as theft of mineral resource lying beneath the ground. There ought to be a new section in the Irrigation Act on the lines of Section 13-A of the erstwhile Orissa Sales Tax Act 1947 (now repealed) to provide for attachment of Bank Account of the licensee on failure to make timely payment.

## 12.21 Recommendations

- i) Comparing the flow irrigation water rate as prevalent in different States, we feel that there is scope to increase rate in Orissa. Neighbouring States like Jharkhand, Chhattisgarh, Andhra Pradesh and West Bengal have a base rate higher than ₹28/- that is applicable in Orissa, if we exclude Ganja ( which is not an usual crop in Orissa ) the highest rate is ₹840/- for Saru. For other commercial crops, there is a scope to increase the water rate.
- ii) While fixing the water rate for industrial and commercial use from irrigation source [Rule 23 of the Orissa Irrigation Rule 1961 (amended from time to time)], it should be borne in mind that water retentivity of irrigation projects is gradually depleting due to siltation and sedimentation as the water bed is going up. Such irrigation projects were designed mostly to meet the irrigation needs of the farmers in the command area of a project to meet the need of drinking water, hydro generation of electricity and fishery. Now, major industries and Independent Power Plants (IPP) have come up as the main competitors for water use from these projects. In years of scanty rain fall, the reservoir level goes down so much so that even for irrigation purpose there is inadequate flow of water in canal system and farmers have to reconcile with less water in the system. In the tail end of the canal system, farmers get very little water in the years of low rainfall. In such years, when major industries and IPPs compete with the farmers and other users (domestic needs, drinking water and livestock), the priorities for the use and consumption of water need to be clearly specified and acted upon. In our view, the Allocation Committee will have to look into this aspect and scale down the allocation to the Industries and IPPs in those years of water scarcity. All irrigation works have an average water level in a year which is treated as normal. If the mean water level in a year goes down by more than 15 percent of the normal level, Allocation Committee will have to scale down the allocation level for the Industries and the IPPs. In addition to scaling down the allocation, in such years of scarcity, the levy of water rate for the industrial and commercial use should be twice of the normal rate because water rate is a rent on scarce resource and therefore, in the years of relative scarcity, water rate for industrial use should be at least doubled.

- iii) The same logic is applicable to the water rate specified under Rule 23-A(2)(f) for industrial/ commercial use of water from Government water sources. As per the definition in the Orissa Irrigation Act, 1959, “Government Water Source” means any water source created naturally or otherwise by collection or deposit and denotes both running water and sub-soil water. There is heavy draw down of sub-soil water in years of scanty rainfall and water level in running streams also gets reduced considerably. Such scarcity of natural resource calls for a stiff rate of rent for its use by industrial and commercial establishments where the value addition is much more than agriculture. For such Government water works as prescribed in the Orissa Irrigation Act, 1959, referring to natural and sub soil water, water rate for commercial and industries uses has to be doubled in a year when rainfall is less than 30 percent of annual average in the Districts.
- iv) The Rule prescribes for installation of a flow meter or a regulated device utilized to observe this meter after being certified by the Weights & Measure Department; this should be properly sealed in the presence of the Executive Engineer under authentication of the Weights & Measure Department to avoid tampering.
- v) The levy on water being a specific rate needs periodic revision in view of inflation. Besides, the rate should act as a deterrent against overuse of this scarce resource. The State Government should revise the Water Rate (Irrigation & Industrial) at an interval of 5 years.

## Summary of recommendations

### VAT and Entry Tax

1. The State should get prepared for the eventual introduction of GST as best as is possible (in terms of tax administration and a first draft of the state level legislation) (Para-3.1)
2. Some of the States have raised their lower rate from 4 percent to 5 percent (even the former 4 percent rate on declared goods has been raised to 5 percent), and Orissa can follow suit without the fear of trade diversion. This accords with the recommendation of the Empowered Committee of States also. Similarly, the extant statutory rate on petroleum products including petrol and diesel can be enhanced from 18 percent to 20 percent, emulating several other States that have already done so. The rate recommended by the Empowered Committee also is 20 percent. (Para-3.2)
3. The arrears need to be sorted into realisable and non-realisable amounts, and the latter have to be written off in the interest of cleaning up the accounts. Of the realisable arrears, those pending as a result of judicial proceedings outside the government cannot be helped, but the Department (and the government) can try to realise the rest as early as possible, if necessary with a special collection drive. (Para-3.4)
4. A beginning has to be made by identifying the major functions, instituting senior departmental staff in charge of each function, and carrying this functional organisation vertically downwards to a currently feasible level. In particular, the functional domains for registration, back-office auditing (primarily to detect evasion on the basis of submitted returns), and tax collection need to be urgently delimited. (Para-3.5)
5. Computerisation and IT-based provision of various services in the Department- In this context, the special importance of the back-office audit supported by cross verification of claimed transactions – setoff claims in particular – cannot be overemphasised. The software being used must fulfil this essential requirement with respect to at least e-filed returns and those that are ‘inputted’ into the system by the departmental staff. Further, cases unearthed by the back-office audit as candidates for further investigation need to be followed up with physical verification of books of account and other usual procedures. These

activities need to be maintained at a consistently high level to ensure better voluntary compliance as the first objective, and not necessarily to garner significantly greater amount of revenue through this process. (Para-3.6)

6. The government must provide adequate staff at the required levels to the Department to make the most of this tax, which is the only broad-based tax at the state level and is the main component of the State's own tax revenue. Therefore, the State Government should take expeditious steps for filling up of the post of line functionaries which will help improve the tax performance of the Department. (Para-3.7 & 3.8)
7. The State's case of entry tax as a substitute for octroi (now abolished) would be further strengthened if the relevant Act incorporates a provision to the effect that compensation to local bodies for the loss of octroi duty would be the first charge on revenue out of the proceeds of this tax, in a manner specified in the Rules and the amount credited to the Consolidated Fund of the State would be net of the transfer to the Local Bodies. The rules in turn must provide the basis on which the local bodies would be compensated for the loss of octroi. (Para-3.9)

## **Profession Tax**

8. A separate wing for profession tax administration under an Additional Commissioner has to be created, who would not be involved in VAT administration. Since there is a possibility of few departmental officials opting for the same, officials may be moved between wings within the Department, with a minimum length of stint with profession tax administration being compulsory. This will create a dedicated group of officials with a stake in profession tax administration that has been missing in the current system. (Para-4.3)
9. In the case of this tax, there are usually two types of assesseees: those who are salaried employees and those who are self-employed. While the former are normally easy to tax, the statistics on the number of taxpayers indicates that even this group is only partially covered in Orissa, either through liberal exemptions or non-compliance. Careful examination of this aspect and necessary action should bring a substantial number of new taxpayers into the net. (Para-4.4)
10. A legal requirement of furnishing an annual return on number of employees engaged, salary paid, and profession tax deducted at source has to be imposed on all employers.

Similarly, those potential taxpayers who are registered under VAT should also be fairly easy to tax, with a requirement of furnishing an annual profession tax return. (Para-4.4)

11. A beginning can be made by carrying out surveys of such potential taxpayers in major urban areas and industrial townships of the state using various sources of information like membership of professional associations, municipal records and points of professional registration where applicable, apart from locality-based surveys. Identification of potential but non-complying taxpayers must be followed up with serving of notice for compulsory submission of return, even in zero-tax liability cases. (Para-4.5)
12. The Schedule should be expanded to include several specific types of professionals, and the schedule should have at the end an entry termed as 'Other persons engaged in trades, callings or professions not specified above'. (Para-4.5)
13. The rules governing the tax administration may also provide for a system of profession tax deduction at source, when payments above Rs. 10,000/- are made to professionals and service providers engaged by government departments, public sector undertakings and non-government organisations above a specified size. This requirement may be waived if the payee provides a certificate stating his/her profession tax registration number and that s(he) would file a profession tax return as required by law. (Para-4.6)
14. Relevant provisions of Orissa Municipal Corporation Act and Municipal Act as well as Rules made thereunder may be amended to provide for issue of licenses for running nursing homes, clinics, tutorials, consultancies and other services so as to enable the taxing authorities to create a data base of the persons to be brought under the profession tax net. For renewal of such licensees there should be a mandatory provision to call for profession tax clearance certificate. (Para-4.7)
15. To aid recovery of tax due, an amendment of the relevant Act to provide a special mode of recovery of arrears and attachment of Bank Accounts may be considered. (Para-4.8)

### **State Excise Duty**

16. At present, licence fee for all distilleries and breweries are fixed at uniform rate irrespective of their production capacity and actual production i.e. actual utilization of production capacity. The Committee would recommend to introduce progressivity to licence fee; higher rate of licence fee for higher production capacity and penalty for non-utilisation. (Para-5.25)

17. In order to prevent formation of cartels and monopoly trading in liquor and also to increase the revenue from consideration money, the excise shops need be auctioned at least once at an interval of 3 years with annual increase of 20% till the next auction. Such an increase in consideration money is justified keeping in view the rate of inflation. (Para-5.27)
18. Minimum Guaranteed Quantity (MGQ) of IMFL, beer and country liquor for each licensed vender should be increased every year taking into account average growth of consumption of each type of liquor namely C.S., IMFL & beer. Department of Excise must conduct annual survey scientifically every year to be complete by end of January to find out the trend in consumption in each category. (Para-5.27)
19. Taking into account the trend increase in consumption of liquor from O.S. shops, minimum capacity of distillation of each OS shop is to be increased and consequently the license fee. These O.S. shops are to be auctioned once in three years with annual increase of 20% of license fee in between. (Para-5.28)
20. There ought to be a survey in the upcoming new industrial hubs near Rourkela, Jharsuguda, Sambalpur, Jajpur Road (Kalinga Nagar) and Angul to assess the consumption potential of IMFL and to open new shops in those areas. It would also be desirable to calibrate the MRP of different brands to be aligned to the same in the neighboring states so as to maximize revenue while preventing diversion of consumer purchase away from the home State. (Para-5.30)
21. Inadequate manpower and infrastructure is increasingly becoming a constraint on the administration of State excise; this needs to be redressed. (Para-5.31)
22. ENA based IMFL may be introduced in place of country spirit on pilot basis in one of the Districts in which the C.S. system is prevalent and simultaneously introduce it in one of the Districts in which the Out-still system is in operation. Such introduction of ENA based IMFL in a district would be not to substitute O.S., but it would be introduced while OS shops will continue. The idea is to find out preference of the consumers between these two types of liquor. As ENA based liquor will be a branded one and of improved quality, there is a chance that some consumers may switch over to ENA based liquor which can be known at the end of the year. After a period of three years of the introduction of ENA in one of the nine districts where C.S. is prevalent as a substitute to C.S. and introducing ENA in one of the 21 O.S. districts as a competing alternative to O.S. liquor, results can be assessed. If results are encouraging for



consumption of ENA based alcohol, extension of ENA to other districts can be considered. We would like to recommend fixation of Excise Duty on ENA based alcohol at a rate higher than the rate applicable for country spirit. (Para-5.34)

## **Motor Vehicle Tax**

23. Goods vehicle with a laden weight exceeding 16200 Kg should have a tax burden of Rs.16500.00 + Rs.700.00 for every 500 Kilogram or part thereof. (Para-6.4)
24. Tax rate on luxury carriages plying on contract permit should be levied with an additional tax of 10 percent more over and above the present total levy. (Para-6.6)
25. To provide for a special mode of recovery of Motor Vehicle Tax, the special mode of recovery prescribed under section 51 of the Orissa Value Aided Tax Act 2004 may be incorporated in Orissa Motor Vehicle Taxation Act through an amendment. (Para-6.7)
26. Any transport operator operating more than 500 goods carriages either owned or on hire should be subject to a levy not exceeding 15 percent of their gross earning, a new legislation on the model of the analogous provision in Andhra Pradesh Motor Vehicle Taxation Act. (Para-6.8)
27. In industrial and mining belts there should be a system of two-way road toll on heavy goods vehicles only. (Para-6.9)
28. There should be a progressive advalorem onetime tax according to gradation of personal vehicles keeping in view the high price of many new models of vehicles purchased by the Upper Income Group of the Society or by the Companies or by bigger establishments. (Para-6.10)
29. A green tax for those transport vehicles which have crossed the age of 15 years and non transport vehicles which have crossed the age of 20 years to be levied with a green tax @ 3 percent on the onetime tax paid for non transport vehicle and transport vehicle with a laden weight below 3000 Kg. All other transport vehicles should be assessed to a green tax or surcharge @ 3 percent over the usual total tax and additional tax payable by them for every quarter, collectible along with the usual quarterly tax payments. (Para-6.11)
30. In order to prevent miss-use of declaration, there should be a restriction on the maximum period of one quarter for which the vehicles can remain off road by issue of a declaration. If any owner intends to put the vehicle off road beyond a quarter, cogent

reasons should be furnished in support of the claim which should be subject to verification of the vehicle by the competent Technical Officers of Transport Department failing which the license/permit should be cancelled. (Para-6.12)

31. Overloading of goods vehicles is a major problem, particularly in mining and industrial areas, that endangers lives apart from inflicting damage on the roads. This problem has to be tackled with firmness, through unloading wherever necessary, as indicated by the apex court. The infrastructure set up for collecting the proposed toll may be of help in undertaking such a course of action. (Para-6.13)

## **Land Revenue**

32. Increase the rent on non-agricultural lands located in big cities like Cuttack, Bhubaneswar, Berhampur, Rourkela, Sambalpur and Puri because of sharp increase in capital value of land in such places. (Para-7.5)
33. Similarly, in all other urban areas, there should be revision of rent on non-agricultural lands in a non-uniform manner taking into account, the importance of the place, growth of industrial and commercial activities and demand for lands for non-agricultural purposes. (Para-7.5)
34. Revision of rent on non-agricultural land in all such urban area should take place once in five years. (Para-7.5)
35. Total inventory of non-agricultural lands in all urban areas notified under Rule 2(h) of the Orissa Government Land Settlement Rules, 1983 has to be made immediately along with classification of such non-agricultural lands in urban area for different purposes. (Para-7.5)
36. Revision of rent on each category of non-agricultural land on pro rata basis once in every five years on the recommendations of a Committee under the Chairmanship of Member, Board of Revenue as described in Para-7.5. The Committee shall submit its report, one year before the revision of rent on non-agricultural land in urban area is due recommending revision of rents to the Government. (Para-7.5)
37. The Committee feels that there is no harmonious construction between the provision of Section 8 and Section 8-A of the OLR Act, 1960. While Section 8 calls for eviction, Section 8-A provides for settlement of the land on payment of conversion fee. The Committee feels that Section 8-A which has been amended by Orissa Act 8 of 2006 is not a correct step. It has substantially eroded the resource base under the Indian Stamp & Indian Registration Act as no lease deed is now required to be executed between the

- authorized Officer of the Government and the lessee who after deemed surrender of the royati right should have got the land settled through execution of a lease agreement. Such execution of deed could have been made mandatory under the Indian Registration Act and Indian Stamp Act. On the total conversion fee as provided now which was earlier termed as premium could have been the base value for assessment of stamp duty. (Para-7.6)
38. The Committee thus feels that the original provision of Section 8-A of the Orissa Land Reforms Act, 1960 should be restored. Similarly, Form-27 in clause-2, in Orissa Land Reform (General) Rules, 1965, the revision of land revenue as provided for enhancement at the end of 20th year should be amended to provide for revision at the end of five years and it should be decided by the same Committee as described in paragraph-7.5. The Committee further recommends that separate rate of premium should be prescribed for different types of land uses. (Para-7.6)
39. In big urban area, land is scarce. There is competition for allotment of land in favour of companies for office establishment and builders for construction of commercial and residential complexes etc. The Committee feels that if there would be open auction of such lands, Government would be able to extract good amount of revenue. (Para-7.7)
40. It was brought to the notice of the Committee that market price of land in a particular area is at variance with the price of Government land which is substantially lower. Such variance should be done away with. (Para-7.7)
41. All types of lands held by an industrial unit are developed by the industry and appreciate in capital value substantially in a short period. There is no reason while the rate of rent and cess thereon shall not be uniform. The rate of rent should be a certain percentage of the capital value to be decided by the Committee headed by the Member, Board of Revenue as recommended earlier in paragraph-5. Even under section 73(c) of the OLR Act, 1960 while notifying a certain area to be exempted from the operation of OLR Act, the Committee would like to recommend that certain section of the OLR Act like Section 8-A should be made applicable so that agricultural lands purchased by the industrial units from farmers and agricultural land acquired under the Land Acquisition Act should be brought under the purview of the OLR Act, 1960. This calls for amendment of Section 8-A & Section 73 of the OLR Act, 1960. (Para-7.8)
42. The Orissa Survey & Settlement Rule, 1962 should be duly amended to lay down principle and policy for fixation of rent of land for different purposes including industries. Only one type of equitable rent for land used for industry

should be laid down no matter in which method different lands have come to the possession of the industry. (Para-7.8)

43. There should be a rationalization of classification of agricultural land. The Committee feels that Section 2(5) of the OLR Act, 1960 should be the guide in simplifying the classification of agricultural lands throughout the State. Taking into account the agro climatic zones of the State, un-irrigated paddy lands can be further classified into three sub-categories as up-land, medium land and low land and their rent structure fixed accordingly. (Para-7.9)

### **Stamp Duty and Registration**

44. Drop second proviso to Article, 23 of Schedule 1A of the Stamp Act (inserted through Orissa Amendment) and it may only be made applicable to cases of family settlement of Hindu Undivided Family. (Para-8.7)
45. Compulsory registration of various types of instruments - different kinds of long term lease deeds for long term payments, mortgage documents, advertisement to mass media, assignment of copyright, PPP contracts, works contract. (Para-8.9)
46. Compulsory registration of power of Attorney on the basis of the value of the property for which the conveyance is made along with transfer of title so that registration of the document will be treated as an evidence of title and also earn revenue for the State. (Para-8.9)
47. Comprehensive amendment of the existing legislation for ownership of Apartments to import relevant provisions of Bihar Apartment Ownership Act, 2006 so as to prevent masking of sale of Apartments as works contracts and prevent leakage of revenue. It would also be mandatory to register both land and building including undivided share of land and compulsory disposal of the value of the property. (Para-8.9)
48. The Endowment Act and the Wakf Act be amended to make the Endowment and Wakf land subject to benchmark valuation. (Para-8.10)
49. As per Section-34 of Orissa Consolidation of Holding & Prevention of Fragmentation of Land (OCH & PFL) Act, 1972, no agricultural land (Chaka Land) can be sold to anybody except to owner of contiguous Chaka so as to prevent fragmentation. In actual practice, Chakas are fragmented when the land owner sells a fragment of a chaka to a commercial and industrial unit and such transfer not being permitted under such law escapes registration fee & stamp duty. Govt. may consider

the amendment of the Act by which sizeable amount of Govt. revenue can be generated. It requires legislative action. (Para-8.11)

50. In case of conversion of agricultural land, deeds are not being registered as in the past, resulting in loss of registration fee and stamp duty. Govt. may consider the matter and subject such land transfer under appropriate provision of O.L.R. Act, Orissa Consolidation Act and bring all such transfers under the ambit of Stamp Act and Registration Act on a higher lease of land value. (Para-8.12)

## **Electricity Duty**

51. Exemption from duty for captive generation of power should not be allowed for capacity addition of the original industry, while there remains excess capacity in captive power generation with respect to the original industrial unit's requirement. The unused capacity of the existing captive power plant should be utilized first by the concerned industrial unit. (Para-9.9)
52. It is noticed that some of the industries, out of the generation from Captive Power Plant, evacuate energy to their units located outside the State, and to that extent, the State Government loses Electricity Duty which it would have otherwise realized, if the power would have been given to the State Grid for sale. The present technology also does not enable the Electrical Inspectors to ascertain how much energy have been evacuated to industrial units for its self consumption and how much have been given to the grid. The Committee, therefore, feels that benefits under the Industrial Policy Resolution should be proportionately denied to the Captive Power Plant when it evacuates electricity to its units located outside the State. (Para-9.9)
53. Electricity Duty is at present collected from non captive consumers on a fixed percentage of the energy charge payable. This percentage varies from 4 percent to 8 percent. This percentage of electricity duty (E.D.) has not been revised since 1.1.2006. A nominal increase in the rate of percentage towards E.D. can fetch additional resources to the State government. We recommend an increase of 1 percent each category except domestic connection. (Para-9.11)
54. For enhancement of collection efficiency the following considerations need to be given due consideration. (1) There is need for increasing the technical manpower and audit personnel. (2) Since a substantial amount of electricity duty is locked up in various court cases the OED Act 1961 should be suitably amended so as to minimize litigation

- in future. (3) There ought to be a separate legal cell to deal with effective and early disposal of court cases. (Para-9.19)
55. In principle, the electricity duty should be realizable from the distribution companies on the basis of the bill raised by such Companies for consumption of electricity, no matter if the distribution company collects its dues along with the E.D. from the consumers. Distribution companies may pass on the incidence to the consumers. The State Act needs to be amended for the purpose. (Para-9.22)
56. One of the serious problems has been that it has not been possible to verify the declaration of the captive generators about the quantum of electricity consumed. No system has so far been devised to check consumption of electricity by the generators bypassing the meter installed for the purpose. In some cases, there are reports of unauthorized sale of power produced by these captive units. Thus they not only evade payment of E.D. but also deprive the transmission and distribution utilities of their legitimate dues. This can only be prevented by frequent checking of the installed metering system by electrical inspectors, which is another reason for reinforcing the strength of appropriate personnel. (Para-9.23)
57. The proportion of low end LT consumers is proportionately higher than the high end HT and EHT consumers, and the distribution losses in case of the LT consumers is much higher. It may be useful to concentrate on HT and EHT consumers by picking up distribution company wise HT and EHT consumer list and at the same time to concentrate on the captive generators. Further, all 3 phase connections above 20 KW load ought to be brought under Automated Meter Reading System covering all HT and EHT consumers and the cases of LT consumers ought to be subject to test check through formation of an audit cell. (Para-9.24)
58. There is need for metering both at the level of feeders and consumers along with support from the district administration for energy police stations that would strengthen the enforcement mechanism. (Para-9.25)
59. The bane of the electricity sector has been the high AT & C loss. It is estimated at present that the financial implication of 1 percent of AT & C loss is around Rs 60.00 crore. The need of the hour is providing quality meters, transformers and distribution lines, and preventing theft of electricity. (Para-9.26)

60. Energy police stations which are set up to check theft of electricity have not performed well as there is no visible impact in terms of reduction of distribution loss. Area of such a police station should be coterminous with a certain distribution unit, i.e. a certain electricity distribution division covering a geographic area. There should be a baseline survey to find out the AT& C loss at a certain point of time: in one year time if the Police Station makes proper enforcement to check and book theft of electricity, there will be definitely reduction in distribution loss. Accordingly the performance of the police station can be evaluated. For checking technical loss, capital investment for improving the distribution system is called for. (Para-9.27)

### **Mining Royalty**

61. In the case of land not assessable to land revenue, surface rent is levied at the rate of Rs. 10/- per annum per hectare (Government Notification No.1232 dated 30.1.1984). In contrast, the surface rent for minor minerals has been fixed at Rs. 100/- per hectare per annum (Schedule I of Orissa Minor Mineral Concession Rules, 2004). Clearly, for land not assessed to land revenue this should be the minimum charged. We recommend at least Rs. 1000/- per hectare per annum as the surface rent for land not assessable to land revenue with respect to major minerals. This may, however, be applicable to new leases and renewals only. (Para-10.6)
62. To enhance the revenue from surface rent for land assessable to land revenue, the applicable land revenue has to be enhanced. This levy is fixed by the State Government as per the provisions of the Orissa Survey and Settlement Act, 1958 and the Orissa Survey and Settlement Rules, 1962. Section 19(2) of the Act deals with the settlement of rent for lands used for non-agricultural purposes; however, this is essentially keeping in mind homestead purposes only, and not for industrial or mining purposes. The Committee suggests that a new section 19(2) be inserted into the Act dealing with lands used for commercial (for example, an entertainment park with priced admission), industrial, or mining purposes along with the principles to be used for determination of rent, and the present section 19(2) be renumbered as 19(3) and the rest of the sub sections re-numbered accordingly. (Para-10.7)
63. The Government may incorporate specific prescription of principle in the Orissa Survey and Settlement Rule, 1962 for lands to be leased for mines taking into account the categories of minerals such as a i) precious metals and stones

- (meaning gold, silver, diamond, ruby, sapphire and emerald, alexandrite and opal); ii) high value minerals (meaning semi-precious stones (agate, gem garnet), corundum, copper, lead, zinc, asbestos (chrysotile variety) and mica); iii) medium value minerals (meaning chromite, manganese ore, kyanite, sillimanite, vermiculite, magnesite, wollastonite, perlite, diaspore, apatite, rock phosphate, fluorite (fluorspar) and barites); iv) low value minerals (meaning minerals other than precious metals and stones, high value minerals and medium value minerals). We would recommend that the Surface rent would be at a flat rate of not less than Rs.1000/- per Ha/annum for lands bearing low value minerals. For minerals of other categories in ascending order, the rent should be 3 times, 5 times and 10 times respectively. This, again, will be applicable only to new leases and renewals. (Para-10.8)
64. In the case of minor minerals, the quantity of mineral reserve should be assessed scientifically and the minimum quantity to be extracted annually should be determined and the auction value of the quarry or mine may be determined accordingly. Value of minor minerals for collection of royalty should be based on the price adopted in the schedule of rates prepared by Works Department every year. (Para-10.9)
65. Greater vigilance and enforcement activities for checking illegal mining are required. Available information point to a rising trend in illegal mining. The Committee appreciates the measures being taken to deal with this, but would emphasize further vigilance and stepped up enforcement activities to check this menace. (Para-10.10)
66. In future all mines of important minerals should be recommended and leased out only in favour of OMC and should not be given to private operators including mineral based industries who enter into Memorandum of Understanding (MoU) with the State Government to set up industries in the State and to make value addition to the minerals extracted from mines. Instead, the MoU should not envisage leasing of any mines to the industry; it would rather stipulate that mines should be leased out to OMC and the latter would supply required quantum of minerals to the industry at a price to be agreed between them. Selling of minerals by OMC to the industry would attract VAT and would increase the proceeds of the VAT which is not possible if the mines would be captive mines of the industry using the minerals. The financial health



of the OMC will further improve and it would contribute higher dividends to State exchequer. (Para-10.11)

67. The OMC should be empowered with adequate number of engineering personnel and geologists. (Para-10.11)
68. In order to be assured of supply of mineral ore, industrial units could execute a MoU with OMC that would stipulate the quantum of minerals (with grade) to be supplied to the industry by the OMC within a definite time period. Therefore, there is no reason why industries should not be attracted to Orissa, once they are assured of supply of the raw material i.e. mineral ore. By strengthening the OMC with deployment of efficient technical personnel, it would develop its expertise in mineral extraction; it would have a core team of technical consultants to aid and advise the State Government. The State Government would ensure discharge of corporate social responsibility to the people and the region where these mines are located and operated by OMC, in future. (Para-10.11)

### **Revenues from Forests**

69. It is to be noted that outstanding arrear dues of forest revenue at the end of 2009-10 constitute 88 percent of total demand for the same year. Similarly, very little amount has been collected out of the arrear demand. This is a matter of concern. Unless prompt reconciliation of account and audit is conducted at the end of each financial year, audited figures of surplus royalty payable by the OFDC can not be determined. Exact arrear dues also can not be determined. (Para-11.8.1)
70. In calculating the royalty from Kendu leaf, the figure is to be revised by deducting the establishment cost provided in the budget in addition to the operational expenses. That will pull down the figures on royalty on Kendu leaf for which a whole organization is permanently maintained although the operation is only for 2 months. (Para-11.9)
71. In order to fetch a better market price, percentage of processed leaf must go up within a certain period of time. Grading of Kendu leafs into various quality classes should be dictated by market requirements. For this, OFDC should conduct periodical market survey to find out what kind of quality composition does the market require. Results of market survey are to be jointly analyzed by OFDC and KL organization. Proper check of quality and thereafter suitable

- grading of leafs will also consequently lead to discarding rain-affected leaf which are unsuitable for Bidi making. Mixing of such unsuitable leaves with superior quality leaves reduces the market price of the latter type of Kendu leaves. Through proper bush cutting operation, drying and binding will reduce the percentage of discarded leafs. (Para-11.10)
72. For improving the productivity of Kendu leaf organization, large number of vacancies under the PCCF, Kendu Leaf in operative posts such as Deputy Conservator of Forest, Forest Rangers, Foresters and forest guards should be filled up. (Para-11.10)
  73. There are surplus personnel of OFDC. If similarly qualified surplus staff of OFDC can be brought on deputation to the Kendu Leaf organisation for filling in the appropriate posts, financial liability of OFDC will be reduced significantly, simultaneously improving the collection efficiency of KL organization. (Para-11.10.1)
  74. Royalty is a major component of the cost incurred in harvesting of forest material by departmental agencies. Enhancement of royalty has a direct impact on the price and it should be enhanced keeping in view the marketability of the forest produce which will not entail loss to the OFDC and consequent loss to the State. (Para-11.11.2)
  75. There is a discrepancy between the collection of forest royalty reported by the OFDC and the figures reported by the Principal Chief Conservator of Forests (PCCF). This needs to be reconciled. There ought to be a mechanism for monthly reconciliation of receipts between the Forest Divisions and the Treasuries as well as the Accountant General (A & E) Orissa for correct reporting and accounting of royalty. OFDC must adopt the verified actual of royalty deposited as accounted for by the A.G.(A&E), Orissa. (Para-11.12)
  76. The 69 minor forest produce which are decentralized, should be procured through self help groups of forest dwellers and can be sold to the traders. In order to avoid any oligopoly by the trader, OFDC & NAFED may intervene with minimum support price in the market, but without any monopoly powers conferred on these organisations. (Para-11.15)
  77. There has been a view that the Forest Department could explore the possibility of tapping non-conventional sources of revenue by way of promotion of eco-tourism. This could be done by making use of the Inspection Bungalows and cottages of the Forest Department located inside forest or river banks with the

- assistance of approved tour operators. There could be a system of providing booking through a single platform through internet as is being done in a number of other states. An officer in the office of PCCF or in OTDC could be designated for the purpose. (Para-11.16)
78. When a tenant wants to fell tree grown on his land and utilises himself or transports to any other place, he has to avail a transit permit from the Forest Ranger of the area. Value of timber has considerably increased over the years. The tenants' permit fees have been fixed at old rates when timber prices were low compared to present day price and they need to be increased to augment revenue. It is also felt that the existing level of compounding fee for forest offences which is up to Rs 100/- at present be increased to at least Rs 5000/-. (Para-11.17)
79. Given the need for Assisted Natural Regeneration (ANR) and compensatory afforestation for restoration of the degraded forests with timely utilization of funds earmarked for afforestation, the Committee recommends that the Forest & Environment Department should take expeditious steps for faster utilization of funds released by ad hoc CAMPA so as to avoid cost overrun. (Para-11.19)
80. Royalty on timber should reasonably reflect the market value of timber. Timber over a period of time has become a scarce commodity and market value reflects scarcity. Royalty on timber should be fixed at 70 percent of the standing value of a timber. Standing value is calculated by taking into account the existing market value, and deducting there-from the cost of felling and transport. Market value of timber does not rise only periodically; instead it rises continuously at a rapid pace. Fixing the royalty at 70 percent to the standing value of the timber every year, on a regular basis, will impart buoyancy to the royalty from timber and eliminate the discretionary fixation of royalty. (Para-11.21)

### **Irrigation and Industrial Water Rates**

81. Comparing the flow irrigation water rate as prevalent in different States, we feel that there is scope to increase rate in Orissa. Neighbouring States like Jharkhand, Chhattisgarh, Andhra Pradesh and West Bengal have a base rate higher than ₹28/- that is applicable in Orissa, if we exclude Ganja (which is not an usual crop in Orissa) the highest rate is ₹840/- for Saru. For other commercial crops, there is a scope to increase the water rate. (Para-12.21)
82. While fixing the water rate for industrial and commercial use from irrigation source [Rule 23 of the Orissa Irrigation Rule 1961 (amended from time to

time)], it should be borne in mind that water retentivity of irrigation projects is gradually depleting due to siltation and sedimentation and the reservoir bed is going up. Such irrigation projects were designed mostly to meet the irrigation needs of the farmers in the command area of a project, the need of drinking water, hydro generation of electricity and fishery. Now, major industries and Independent Power Plants (IPP) have come up as the main competitors for water use from these projects. In years of scanty rain fall, the reservoir level goes down so much so that even for irrigation purpose there is inadequate flow of water in canal system and farmers have to reconcile with less water in the system. In the tail end of the canal system, farmers get very little water in the years of low rainfall. In such years, when major industries and IPPs compete with the farmers and other users (domestic needs, drinking water and livestock), the priorities for the use and consumption of water need to be clearly specified and acted upon. In our view, the Allocation Committee will have to look into this aspect and scale down the allocation to the Industries and IPPs in those years of water scarcity. All irrigation works have an average water level in a year which is treated as normal. If the mean water level in a year goes down by more than 15 percent of the normal level, Allocation Committee will have to scale down the allocation level for the Industries and the IPPs. In addition to scaling down the allocation, in such years of scarcity, the levy of water rate for the industrial and commercial use should be twice of the normal rate because water rate is a rent on scarce resource and therefore, in the years of relative scarcity, water rate for industrial use should be at least doubled. (Para-12.21)

83. The same logic is applicable to the water rate specified under Rule 23-A(2)(f) for industrial/ commercial use of water from Government water sources. As per the definition in the Orissa Irrigation Act, 1959, "Government Water Source" means any water source created naturally or otherwise by collection or deposit and denotes both running water and sub-soil water. There is heavy draw down of sub-soil water in years of scanty rainfall and water level in running streams also gets reduced considerably. Such scarcity of natural resource calls for a stiff rate of rent for its use by industrial and commercial establishments where the value addition is much more than agriculture. For such Government water works as prescribed in the Orissa Irrigation Act, 1959, referring to natural and sub soil water, water rate for commercial and industries uses has to be doubled in a year when rainfall is less than 30 percent of normal rainfall in the Districts. (Para-12.21)

84. The Rule prescribes for installation of a flow meter or a regulated device utilized to observe this meter after being certified by the Weights & Measure Department; this should be properly sealed in the presence of the Executive Engineer under authentication of the Weights & Measure Department to avoid tampering. (Para-12.21)
85. The levy on water being a specific rate needs periodic revision in view of inflation. Besides, the rate should act as a deterrent against overuse of this scarce resource. The State Government should revise the Water Rate (Irrigation & Industrial) at an interval of 5 years. (Para-12.21)

*Sanjib Chandra Hota*  
 (Shri Sanjib Chandra Hota)  
 Chairman

*Dr. Tapas K. Sen*  
 (Dr. Tapas K. Sen)  
 Member

*Pulin B. Nayak*  
 (Prof. Pulin B. Nayak)  
 Member

# Annexure

## **Annexure-1.1**

### **GOVERNMENT OF ORISSA FINANCE DEPARTMENT**

\*\*\*\*\*

### **NOTIFICATION**

**No .1 2 9 8 4 /F.,  
FR-01/2010**

**Dated 25.03.2010**

**Sub: Constitution of an Expert Committee on revenue enhancement measures.**

In the context of reduced devolution of Central Share of Taxes to Orissa under the award of the 13<sup>th</sup> Finance Commission as well as the need for mobilization of additional resources with a view to accelerating the pace of development in the State, it has been decided to constitute an Expert Committee, as follows, to suggest measures for enhancing State's own revenue:

- |  |              |
|--|--------------|
| 1. Shri Sanjib Chandra Hota,<br>Former State Election Commissioner, Orissa                           | ... Chairman |
| 2. Shri Pulin B. Nayak,<br>Professor, Delhi School of Economics                                      | ... Member   |
| 3. Shri Tapas Sen,<br>National Institute of Public Finance & Policy,<br>New Delhi                    | ... Member   |
| 4. Shri Deepak Mohanty,<br>Executive Director, Reserve Bank of India,<br>Mumbai                      | ... Member   |
| 5. Shri B.C. Mohapatra,<br>Additional Secretary ( Resources), Finance<br>Department, Govt. of Orissa | ... Convenor |
| 2. The Committee shall:  |              |

- Examine revenue accrual from the existing tax and non-tax sources in relation to the potential available and suggest appropriate measures for higher revenue realization from these sources.
  - Identify new avenues for mobilization of additional resources.
  - Suggest other measures, as deemed necessary, for augmenting State's own revenue.
3. Outstation members would be provided to and fro air fare in the economy class for attending meetings of the Committee. Local hospitality (Boarding and Loading, Local Transport) will be provided to the outstation members.
  4. Resource Branch of Finance department will provide necessary Secretarial support to the Committee.
  5. The Committee shall submit its report within three months.

**By Order of the Governor**

**Sd/-**

**Principal Secretary to Government**

**Annexure-1.2****GOVERNMENT OF ORISSA  
FINANCE DEPARTMENT**

\*\*\*\*

**NOTIFICATION****No .4 8 6 6 7 /F.,  
FR-01/2010****Dated 25.11.2010****Sub:- Extension of time for submission of report by the Expert Committee on  
Revenue Enhancement Measures.**

The Expert Committee on Revenue Enhancement Measures, was constituted vide Finance Department Notification No. 12984/F Dated 25.03.2010, were required to submit their report within three months.

After careful consideration, Government have been pleased to extend the time period for submission of the report till 31<sup>st</sup> January, 2011.

**By order of Governor****Sd/-****Principal Secretary to Government**



**Annexure-1.3**

**GOVERNMENT OF ORISSA  
FINANCE DEPARTMENT**

\*\*\*\*\*

**NOTIFICATION**

**No .6 4 8 4 /F.,  
FR-01/11(pt)**

**Dated 19.02.2011**

**Sub:- Extension of time for submission of report by the Expert Committee on  
Revenue Enhancement Measures.**

The Expert Committee on Revenue Enhancement Measures, was constituted vide Finance Department Notification No. 12984/F Dated 25.03.2010, were required to submit their report by 31<sup>st</sup> January, 2011.

After careful consideration, Government have been pleased to extend the time period for submission of the report till 30<sup>th</sup> April, 2011.

**By order of Governor**

**Sd/-**

**Principal Secretary to Government**

**Annexure-1.4**

**Meeting with Senior Officials of different Revenue earning  
Departments**

Meeting	Date	Subject	Participants
2 <sup>nd</sup> Meeting ( C.C.T, Orissa Cuttack)	01.05.2010	Sales Tax/VAT/ Prof. Tax/ M.V.Tax	(1) Shri N.B. Dhal, Commissioner of Commercial Taxes, Orissa, (2) Shri Satyabrata Sahu, Comm.-cum-Secretary, Commerce & Transport (Transport) (3) Smt. CTM Suguna, Commissioner-cum-Chairman, STA
3 <sup>rd</sup> Meeting (State Guest House)	14.05.2010 & 15.05.2010	Excise/ Stamp & Registration Fee/ Electricity Duty	(1) Shri S. Srinivas, Principal Secretary, Excise (2) Shri P.K. Jena, Comm.-cum-Secretary, Energy (3) Smt. CTM Suguna, IGR, Orissa (4) Shri S. Nayak, Commissioner of Excise (5) Shri B. N. Das, Special Secretary, Revenue & D.M. (6) Shri S.N. Mishra, E.I.C-cum-Principal Inspector, Electrical (7) Shri P.C.Nayak, MD, Orissa Beverage Corporation (8) Shri B.B. Mohanty, Additional Secretary, Energy (9) Shri N.M. Snapati, Joint IG,Registration
4 <sup>th</sup> Meeting (State Guest House)	27.08.2010 & 28.08.2010	Forest Royalty/ Mining Royalty/Surface Rent/Land Revenue/ Irrigation & Industrial Water Rate	(1) Shri S.P. Nanda, Member Board of Revenue (2) Shri S.C. Mohapatra, Comm.-cum-Secretary, Water Resources (3) Shri R.K. Sharma, Comm.-cum-Secretary, Revenue & Disaster Management. (4) Shri Manoj Ahuja, Commisisoner-Cum-Secretary, Steel & Mines (5) Shri B.P. Singh, Special Secretary, Forest & Environment Department (6) Shri Suresh Chandra Mohanty, PCCF (7) Shri K. Judesekar, PCCF (KL) (8) Shri S. Nayak, Secretary, Board of Revenue (9) Shri B. N. Das, Special Secretary, Revenue & D.M.
5 <sup>th</sup> Meeting (State Guest House)	24.10.2010 & 25.10.2010	Kendu Leaf Royalty/ Land Revenue/ Others	(1) Shri B.P.Singh, PCCF(KL) (2) Dr. Chitrasen Rout, Under Secretary, Revenue & D.M.

**Annexure-1.5****Internal Meetings of the Committee**

<b>Meeting</b>	<b>Date</b>	<b>Subject</b>	<b>Participants</b>
1 <sup>st</sup> Meeting (State Guest House)	17.04.2010	Internal Discussion among the Members	(1) Shri S.C. Hota, Chairman (2) Dr.Tapas K. Sen, Member (3) Prof. Pulin B. Nayak, Member (4) Shri J.K. Mohapatra, Principal Secretary, Finance (5) Shri B.C. Mohapatra, Additional Secretary, Finance
6 <sup>th</sup> Meeting (State Guest House)	22.12.2010 & 23.12.2010	Internal Discussion among the Members	Chairman & Members
Meeting (State Guest House)	22.2.2011 & 27.2.2011	Internal Discussion among the Members	(1) Shri S.C. Hota, Chairman (2) Dr.Tapas K. Sen, Member
7 <sup>th</sup> Meeting (State Guest House)	25.04.2011, 26.04.2011 & 27.04.2011	Internal Discussion among the Members	Chairman & Members

**Annexure-3.1****Prevailing Rate of VAT in Different States**

Sl. No.	Name of the State	Lower Rate(%)	Higher Rate(%)
1	Andhra Pradesh	4	14.5
2	Arunachal Pradesh	4	
3	Assam	5	13.5
4	Bihar	4	12.5
5	Chhattisgarh	5	14
6	Goa	5	
7	Gujarat	5	14
8	Haryana	4	
9	Himachal Pradesh	5	
10	Jammu & Kashmir	5	13.5
11	Jharkhand	4	12.5
12	Karnataka	5	12.5
13	Kerala	4	12.5
14	Madhya Pradesh	5	12.5
15	Maharashtra	5	12.5
16	Manipur		
17	Meghalaya	5	12.5
18	Mizoram		
19	Nagaland		
<b>20</b>	<b>Orissa</b>	<b>4</b>	<b>12.5</b>
21	Punjab	5	12.5
22	Rajasthan	5	14
23	Sikkim		
24	Tamil Nadu	4	12.5
25	Tripura	4	12.5
26	Uttar Pradesh	5	13.5
27	Uttarakhand	4	12.5
28	West Bengal	4	13.5

**Annexure-4.1****BUOYANCY IN COLLECTION OF PROFESSION TAX**

<b>YEAR</b>	<b>Collection of Professional Tax (₹ in Crore)</b>	<b>Year wise Buoyancy</b>	<b>Decadal Buoyancy</b>
2000-01	11.30		
2001-02	39.86	9.66	
2002-03	46.61	0.65	
2003-04	52.63	0.49	
2004-05	58.80	0.45	
2005-06	66.46	0.50	
2006-07	73.60	0.41	
2007-08	86.44	0.67	
2008-09	112.29	1.14	
2009-10	135.55	0.79	3.45

**Annexure-5.1****MAJOR Tax Receipts and GSDP Ratio (Year: 2009-10 B. E.)**

Sl. No.	Items / Major States	GSDP	Own Tax Revenue	Stamps & Registration Fees	Sales Tax	State Excise	Taxes on Vehicles	Taxes & Duties on Electricity	Taxes on Goods & Passengers	Share in Central Taxes
	<b>Low Income States</b>									
1	Orissa	150946	8200	386	5116	708	600	410	581	8850
2	Chhattisgarh		7030	600	3776	1100	351	510	560	5464
3	Bihar		7336	750	3948	850	355	63	1270	23690
4	Madhya Pradesh		16075	1560	8012	2760	900	1000	1460	11047
5	Rajasthan		16742	1650	10030	2300	1300	707	225	9618
6	Uttar Pradesh		33456	5351	20741	5176	875	250	700	39658
7	Jharkhand		6052	350	4400	550	500	85	107	5764
	<b>Middle Income State</b>									
8	Andhra Pradesh		40664	3224	27685	6260	23105	240	18	12109
9	Karnataka		32721	3567	17727	6500	1938	405	1439	7645
10	Kerala		18228	2729	12734	1441	959	47		5417
11	Tamilnadu		38578	5094	23243	6566	1994	362	1010	9096
12	West Bengal		19476	1998	12047	1339	774	801	1	13897
	<b>High Income States</b>									
13	Gujarat		25450	1750	18215	50	1450	2445	265	6120
14	Haryana		14647	1225	10740	1700	375	130	425	1922
15	Maharashtra		50986	9600	27006	4800	2600	3000	665	8568
16	Punjab		14062	2200	8320	2001	611	900		2527
17	Goa		1861	113	1258	88	103		112	506

**ANNEXURE-5.2**

**Collection of Excise Revenue as percentage of Tax, Own Revenue,  
Year-wise Buoyancy and Decadal Buoyancy**

<b>Year</b>	<b>Collection of Excise Duty</b>	<b>Excise Revenue as % of Own Tax Revenue</b>	<b>Excise Revenue as % of Own Revenue</b>	<b>Year wise Buoyancy</b>	<b>Decadal Buoyancy</b>
1990-91	45.64	6.82%	5.25%		<b>0.74</b>
1991-92	55.07	8.17%	5.90%	0.79	
1992-93	62.77	8.24%	5.46%	1.77	
1993-94	76.18	8.86%	5.97%	1.46	
1994-95	59.43	6.44%	3.82%	-1.09	
1995-96	73.44	6.52%	4.18%	1.11	
1996-97	90.77	6.76%	4.98%	-20.15	
1997-98	105.80	7.44%	5.39%	0.78	
1998-99	109.67	7.37%	5.36%	0.33	
1999-00	114.82	6.74%	4.74%	0.49	
2000-01	135.31	6.20%	4.72%	21.03	<b>1.14</b>
2001-02	197.46	8.00%	6.25%	5.85	
2002-03	246.06	8.57%	6.42%	3.89	
2003-04	256.37	7.76%	5.83%	0.18	
2004-05	306.61	7.34%	5.55%	1.12	
2005-06	389.33	7.78%	5.96%	2.86	
2006-07	430.07	7.09%	4.97%	0.49	
2007-08	524.93	7.66%	5.52%	0.87	
2008-09	660.07	8.26%	5.91%	2.11	
2009-10	849.05	9.45%	6.96%	2.21	

**ANNEXURE-6.1****Buoyancy in Collection of Motor Vehicle Tax**

<b>YEAR</b>	<b>Collection of M.V.Tax (Rs. in Crore)</b>	<b>Year wise Buoyancy</b>	<b>Decadal Buoyancy</b>
1990-91	52.29	17.95	
1991-92	59.75	0.55	
1992-93	77.13	3.68	
1993-94	86.44	0.82	
1994-95	95.12	0.50	
1995-96	107.50	0.61	
1996-97	128.25	-16.48	
1997-98	141.78	0.50	
1998-99	143.18	0.09	
1999-00	155.53	0.90	<b>0.85</b>
2000-01	178.17	17.15	
2001-02	216.37	2.73	
2002-03	257.35	2.99	
2003-04	280.03	0.39	
2004-05	338.11	1.19	
2005-06	405.86	2.12	
2006-07	426.54	0.24	
2007-08	459.42	0.31	
2008-09	524.43	1.16	
2009-10	611.23	1.27	<b>0.98</b>



**ANNEXURE-6.2**

**ANDHRA PRADESH MOTOR VEHICLES TAXATION ACT, 1963**  
**(ACT No. 5 OF 1963)**

An Act to consolidate and amend the law relating to levy of a tax on motor vehicles in the State of Andhra Pradesh.

Be it enacted by the Legislature of the State of Andhra Pradesh in the Fourteenth Year of the Republic of India, as follows:

**1 . Short title, extent and commencement:** - (1) This Act may be called the Andhra Pradesh Motor Vehicles Taxation Act, 1963.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall come into force on such date as the Government may, by notification in the Andhra Pradesh Gazette, appoint.

**2. Definitions:** - In this Act, unless the context otherwise requires-

» "Government" means the State Government;

» "Laden weight in relation to motor vehicle or a trailer attached to it" means, if a permit is issued to the motor vehicle under the Motor Vehicle Act, 1939 (hereinafter referred to as Motor Vehicles Act) the maximum laden weight specified for the motor vehicle or the trailer in such permit; if no such permit is issued, the maximum laden weight specified for the motor vehicle or the trailer in the certificate of registration of the motor vehicle and in case such weight is not specified in such certificate, the maximum laden weight of the motor vehicle or the trailer determined in such manner as may be prescribed;

» "Licensing officer" means an officer appointed by the Government as such for the purposes of this Act;

» "Notification" means a notification published in the Andhra Pradesh Gazette and the expression 'notified' shall be construed accordingly;

» "Prescribed" means prescribed by the rules made under this Act';

» "Registered owner" means the person in whose name a motor vehicle is registered under the Motor Vehicle Act;

» "State" means the State of Andhra Pradesh ;

» "Tax" means the tax leviable under the Act;

» "Year" means the financial year; "half-year" means the first six months or the second six months of such year; and "quarter" means the first three months or the second three months of such half-year;

» Words and expressions used but not defined in this Act, shall have the meanings assigned to them in the Motor Vehicles Act.

**3. Levy of tax on motor vehicles:** - (1) The Government may, by notification, from time to time, direct that a tax shall be levied on every motor vehicle used or kept for use, in a public place in the State.

(2) The notification issued under sub-section (1) shall specify the class of motor vehicles on which, the rates for the periods at which, and the date from which, the tax shall be levied:

Provided that the rates of tax shall not exceed the maximum specified in column (2) of the First Schedule in respect of the classes of motor vehicles fitted with pneumatic tyres specified in the corresponding entry in column (1) thereof; and one and a half times the said maximum in respect of such classes of motor vehicles as are fitted with non-pneumatic tyres:

Provided further that in the case of motor cycles (including motor scooters and cycles with or without attachment), invalid carriages, motor cars and jeeps and other non-transport vehicles not exceeding 2286 kgs in unladen weight and omnibuses with a seating capacity of (8) eight persons in all but not exceeding (10) ten persons in all and their chassis, the tax shall be levied at the rates specified in the Third Schedule.

Provided also that in respect of chassis of a motor vehicle passing through this State from a manufacturer to a dealer under a temporary certificate of registration for a period not exceeding seven days, the rate of tax shall be one twentieth of the tax payable for quarter.

Provided also that in respect of motor vehicles operated with battery / compressed natural gas / solar energy, no tax shall be levied for a period of five years from the date to be notified.

**4. Payment of tax and grant of Licence:** - (1) (a) The tax levied under this Act shall be paid in advance and in the manner specified in Section 11, by the registered owner of the motor vehicle or any other person having possession control thereof, at his choice, either quarterly, half-yearly or annually on a Licence to be taken out by him for that quarter, half-yearly, or year, with fifteen days from the commencement of the quarter, half-year or year as the case may be, tax for a half yearly Licence shall not exceed twice, and tax for an annual Licence shall not exceed four times, the tax for a

quarterly Licence. The Government may grant such rebates as may be prescribed in case of half-yearly and annual Licences.

(aa) Notwithstanding anything in clause (a), the tax levied under the second provision to sub-section (2) of Section 3 shall be for the life time of the motor vehicle and shall be paid in advance in lumpsum by the registered owner of the motor vehicle or any other person having possession or control thereof:

Provided that if the tax in respect of the motor vehicles referred to in the second to sub-section (2) of Section 3 has already been paid under sub-section (2) of Section 3 prior to the 1 st April, 1987 the tax specified under the aforesaid second proviso shall be levied after expiry of the period for which the tax was so paid and such tax shall be paid within one month from the date of the expiry of the said period.

(b) Where the tax for any motor vehicle has been paid for any quarter, half-year or year and the motor vehicle has not been used during the whole of that quarter, half-year or year or a continuous part thereof not being less than one month, a refund of the tax at such rates as may, from time to time, be notified by the Government, shall be payable subject to such conditions as may be specified in such notification.

(bb) Notwithstanding, anything in clause (b), where lumpsum tax has been paid as specified in clause (aa) a refund of the tax at such rates as may be from time to time be notified by the Government, shall be payable subject to such conditions as may be specified in the notification in the case of removal of the vehicle to any other State on transfer or ownership or change of address.

(2) Notwithstanding anything in sub-section (i), no person shall be liable to pay tax in respect of a motor vehicle for a particular period, if the tax due in respect of that motor vehicle for that period has already been paid by some other person.

» (a) Where a tax in respect of a motor vehicle is paid by any person for a particular period or if no such tax is payable therefore, the licensing officer shall, -

(i) Grant to such person a Licence, in such form as may be notified by the Government, to use the motor vehicle in any public place in the State during the said period; and

(ii) Record in the certificate of registration in respect of the motor vehicle for which such certificate is granted under the Motor Vehicles Act, if no such certificate of registration is granted in respect of a motor vehicle, in a certificate in such form as may be notified by the Government that the tax is payable, in respect of the motor vehicle for the said period.

Provided that where a lumpsum tax is payable under this Act, payment of such tax by any person shall be recorded in the certificate of registration and no Licence shall be granted to such person.

(b) Every Licence granted under clause (a) of this sub-section shall be valid throughout the State.

(4) Notwithstanding anything in Section 3 or sub-section (1), the Government may, by notification from time to time, direct that a temporary Licence for a period not exceeding thirty days at a time may be issued in respect of a motor vehicle any class on payment of such tax, and subject to such conditions as may be specified in such notification :

Provided that the rate of tax shall not exceed the maxima specified in columns (2) and (3) of the Second Schedule in respect of the classes of motor vehicles fitted with pneumatic tyres specified in the corresponding entry in column (1) thereof, and one and a half times the said maxima in respect of such classes of motor vehicles as are fitted with non-pneumatic tyres.

(5) No motor vehicle shall be used in any public place in the State at any time after the issue of a notification under sub-section (1) of Section 3, unless a Licence permitting its use during such time has been obtained as specified in clause (a) of sub-section (1) or sub-section (4).

**5. Display of Licence on the motor vehicle and duty to stop it on demand by certain officers:** - (1) (a) No motor vehicle shall be used in any public place, unless the Licence granted in respect thereof under clause (a) of sub-section (3), of Section 4, or under sub-section (4) of that Section, is displayed on the motor vehicle in such manner as may be notified by the Government.

(b) If the Licence is not so displayed on the motor vehicle, the registered owner or the person having possession or control thereof shall be punishable with fine which may extend to fifty rupees.

2 (a) Any Officer of the Transport Department not below such rank as may be notified or any police officer in uniform not below the rank of a Sub-Inspector, or such other officer as may be prescribed, may require the driver of any motor vehicle in any public place to stop that motor vehicle and cause it to remain stationary so long as may reasonably be necessary for the purpose of satisfying himself that a Licence has been duly obtained in respect of such motor vehicle.

» Any person who willfully fails to stop a motor vehicle when required to do so by an officer under clause (a) of this sub-section or resists such officer, shall be punishable with fine which may extend to fifty rupees.

**6. Penalty for failure to pay Tax:** - If the tax due in respect of any motor vehicle has not been paid as specified in Section 4, the registered owner or the person having the possession or control thereof shall, in addition to payment of the tax due be liable to penalty which may extend to twice the quarterly tax in respect of the vehicle, to be levied by such officer, by order in writing and in such manner as may be prescribed.

Provided that if the lump sum tax under this Act has not been paid, the registered owner or the person having possession or control thereof shall, in addition to payment of the tax due, be liable to penalty which may extend to twice the lump sum tax payable under clause (aa) of sub-section (1) of Section 4.

**6-A. Levy of tax on certain motor vehicles based on gross traffic earnings:** - Notwithstanding anything in Sections 3,4,5 and 6, -

(1) Every registered owner, who owns or keeps in his possession or control more than two thousand motor vehicles for plying on hire or reward, shall pay in respect of all such motor vehicles a tax at such rate, not exceeding fifteen percentum of the gross traffic earnings, as may be specified by the Government, by notification from time to time.

Explanation : - For the purposes of this Section,-

» The term "gross traffic earning" shall mean the total amount collected towards fares, freights, including luggage charges and any amount collected towards hire or reward by or on behalf of such registered owner, either directly or indirectly, in respect of all the motor vehicles, as may be determined in the manner prescribed;

» While computing the "percentum of the gross traffic earning", the Government shall, as far as practicable, take into account the amount of tax collected for the preceding year from such owner, the changes in the rates of tax under clause (3) during the current year if any; and the approximate growth in the traffic during the current year.

(2) In order to determine the amount of tax payable under this Section in any year, the registered owner shall make and deliver a declaration, within such time to such authority and in such form as may be prescribed, stating the gross traffic earning for the preceding year, together with ten percentum of such gross traffic earning and containing any other prescribed particulars, in respect of all motor vehicles used or kept for use by him in the State in the preceding year;

(3) On receipt of such declaration, the prescribed authority shall, on the basis of such declaration, determine the amount of tax to be paid by such registered owner provisionally and communicate the same to the registered owner by issuing an order of provisional assessment of tax for the year within such period and in such form as may be prescribed.

Provided that it shall be open to the prescribed authority to review any order of provisional assessment of tax for the year, in any case where it is considered necessary so to do and pass a fresh order of provisional assessment of tax.

(4) The amount of tax provisionally determined under clause (3) shall be paid by the registered owner of the motor vehicles or any other person having possession or control thereof, to the prescribed authority in twelve equal monthly instalments, to be paid on or before the fifteenth day for the month of April and on or before the tenth day for the remaining months in the calendar year, in the manner specified in Section 11.

(5) The registered owner shall thereafter deliver within the prescribed time, the final declaration stating the gross traffic earning of the year and containing such other particulars as may be prescribed, such declaration shall be accompanied, by the details of provisional payment of tax paid to the prescribed authority in pursuance of the order of provisional assessment issued for the year and by such other documents as may be prescribed.

(6) On receipt of such final declaration, the prescribed authority shall verify the number of motor vehicles used or kept for use by the registered owner during the year for which the tax is payable, the amount of fares, freights, luggage charges and hire or rewards collected and such other particulars as may be deemed necessary and shall finally determine the amount of tax leviable at the rate fixed under clause (1), and communicate the same to the registered owner by issuing an order of final assessment of tax for the year in such form as may be prescribed.

(7) Where the amount of tax is finally determined under clause (6), taking into consideration the amount paid by the registered owner or other person under clause (4), the difference, if any, that may be due shall be paid by, or refunded to, the registered owner in such manner and within such time as may be prescribed.

(8) The prescribed authority may, for purposes of this section require the registered owner of the motor vehicle or the person having the possession or control thereof, to produce before it any accounts, registers, records or other documents or to furnish any information and examine the accounts, registers records or other documents; and the registered owner or other person shall comply with the such requisition so made.

(9) The registered owner or other person having the possession or control of the motor vehicle who commits default in the payment of tax as required under this section, shall be liable to pay such amount towards penalty, not exceeding one-fourth of the amount of the tax payable, as may be levied by the prescribed authority.

**7. Recovery of tax, penalty or fine as an arrear of land revenue:-** Any tax, penalty or fine due under this Act may be recovered in the same manner as an arrear of land

revenue; the motor vehicle in respect of which the tax, penalty or fine is due or its accessories may be distrained and sold, whether and sold, whether or not such motor vehicle or accessories are in the possession or control of the person liable to pay the tax, penalty or fine.

**8. Power to seize and detain motor vehicles in case of non-payment of tax: -**

Without prejudice to the provisions of Sections 6 and 7, where any tax due in respect of any motor vehicle has not been paid as specified in Section 4, such officer as may be prescribed, may seize and detain the motor vehicle in respect of which the tax is due under this Act and for this purpose take or cause to be taken any steps he may consider necessary for the temporary safe custody of the vehicle, until the tax due in respect of the vehicle is paid.

**9. Exemption, reduction or other modification of tax: -** The Government may, by notification, -

» Grant an exemption, make a reduction in the rate or order other modification not involving an enhancement in the rate of the tax payable,-

» by any person or class of persons, or

(ii) in respect of any motor vehicle or class of motor vehicles or motor vehicles running in any particular area; and

» Cancel or vary such exemption, reduction or other modification.

(2) Any notification issued under sub-section (1) shall be laid, as soon as may be after it is issued, on the table of the Legislative Assembly of the State while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions

**10. Provisions of this Act not to apply to the motor vehicles designed and used solely for agricultural and mining purposes:-**

(1) Nothing in this Act shall apply to a motor vehicle registered in the name of the owner or occupier of any agricultural land or mine if such land is under his personal cultivation or if such mine is being worked personally by him and such motor vehicle is designed and used solely for carrying out agricultural or mining operations on such land or mine or within a distance of fifteen miles from the limits of such land or mine.

(2) Notwithstanding anything contained in the Act, a tax at rupees twenty five per quarter shall be levied on any vehicle specified in sub-section (1), when the vehicle is not used solely for carrying out such agricultural or mining operations but is used by its registered owner for any other purpose of his own.

Explanation I: - For the purpose of this Section, the expression "agricultural operation" shall mean tilling, sowing, harvesting, crushing of agricultural produce or any other similar operation carried out for the purpose of agriculture; but shall not include the transporting of persons, manure of materials for the purpose of agriculture or the transporting of agricultural produce except when such transporting is made by the owner or occupier of the land for his own purposes, -

» Within a distance of fifteen miles from the limits of such land, or

(ii) To or from the nearest market place irrespective of the distance of such market from the limits of such land.

Explanation II: - For the purpose of this Section, "personal cultivation" means by a person of his own land and on his own account,-

(1) by his own labour;

(2) by the labour of any member of his family; or

(3) by servants on wages payable in cash or kind or both by hired labour under his personal supervision or under the personal supervision of any of his relatives.

Explanation III: - For the purpose of this Section, the expression "mining operation" operation undertaken for the purpose of winning any mineral.

**11. Manner of payment of dues under this Act:** - Payment of every amount due under this Act shall be made by the production before the licensing officer, of a demand draft obtained from any scheduled Bank as defined in the Reserve Bank of India Act, 1934 (Central Act 2 of 1934) to the value for which payment is required or in such other manner as may be prescribed.

**12. Appeal:** - Any person aggrieved, -

» By an order of levy made under Section 6, or

» By the seizure made under Section 8,

May, within a period of thirty days from the date of communication to him of the order of levy or the date of seizure as the case may be, appeal to such authority in manner and on payment of such fees, as may be prescribed.

**13. Protection of acts done in good faith:** - No suits, prosecution, of other legal proceeding shall be instituted against any person for anything which is in good faith, done or intended to be done under this Act or under the rules made there under.

**14. Trail of offences:** - No court inferior to that of a second class Magistrate shall try any offence punishable under this Act.



**15. Procedure in certain cases:** - (1) A court taking cognizance of an offence punishable under sub-section (1) or under sub-section (2) of Section 5, in so far as it relates to willful failure to stop a motor vehicle when required to do so by an officer, may state upon the summons to be served on the accused person that he, -

» May appear by pleader and not in person, or

» May, by a specified date prior to the hearing of the charge, plead guilty to the charge by a registered letter addressed to the court and remit to the court such sum not exceeding fifty rupees, as the court, may specify.

(2) Where an accused person pleads guilty and remits the sum specified by the court, no further proceedings in respect of the offence shall be taken against him.

**16. Power to make rules:** - (1) The Government may, by notification make rules for carrying out all or any of the purposes of this Act.

(2) Any rule made under sub-section (1) may provide that a breach thereof shall be punishable with fine which may extend to fifty rupees,

(3) Every rule made under this Section shall, immediately after it is made, be laid before each House of the State Legislature if it is in session and if it is not in session, in the session immediately following, for a total period of fourteen days which may be comprised in one session or in two successive sessions, immediately following, both Houses agree in making any modification in the rule or in the annulment of the rule shall thereafter have effect only in such modified form or stand annulled as the case may be; so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**17. Power to amend Schedules:** - (1) The Government may, by order amend the Schedules,

(2) A draft of any order proposed to be made under sub-section (1) shall be laid on the table of the Legislative Assembly of the State and the order shall not be made, unless the Assembly approves the draft either without any modification or addition or with any modification or addition, and upon such approval, the order may be made in the form in which it has been so approved and such order, on being so made, shall be published in the Andhra Pradesh Gazette.

(3) When a Schedule is so amended, any reference to the Schedule in this Act shall be construed as a reference to Schedule as so amended.

**18. Repeals and savings:** - The following Acts are hereby repealed, -

» The Andhra Pradesh (Andhra Area) Motor Vehicles Taxation Act, 1931,

(ii) The Andhra Pradesh (Telangana Area) Motor Vehicles Taxation Act, 1955, and

(iii) The Andhra Pradesh Motor Vehicles (Taxation of Passengers and Goods) Act, 1952:

Provided that such repeal shall not affect the previous operation of the said Acts or any rights, privilege, obligation or liability already acquired, accrued or incurred there under, and subject thereto, anything done or any action taken (including any appointment, notification, notice, order, rule, form, certificate, Licence or permit) in the exercise of any power conferred by or under the said Acts shall be deemed to have been done or taken in the exercise of the powers conferred by or under done or action was taken and all arrears of tax and other amounts due at the commencement of this Act may be recovered as if they had accrued under this Act.

**19. Powers to remove difficulty:** - If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the corresponding provisions of the Acts in force immediately before the commencement of this Act or otherwise, the Government may, after previous publication by order published in the Andhra Pradesh Gazette, make such provisions, not inconsistent with the purposes of this Act, as appear to them to be necessary or expedient of removing the difficulty.

**ANNEXURE-7.1****BUOYANCY IN COLLECTION OF LAND REVENUE**

YEAR	Collection of Land Revenue (Rs. in Crore)	Year wise Buoyancy	Decadal Buoyancy
1990-91	81.90		
1991-92	24.77	-2.67	
1992-93	27.16	1.22	
1993-94	31.46	1.08	
1994-95	31.00	-0.07	
1995-96	39.47	1.28	
1996-97	35.20	9.23	
1997-98	38.69	0.47	
1998-99	58.58	4.63	
1999-2000	50.46	-1.45	-0.17
2000-01	53.26	6.53	
2001-02	84.48	7.46	
2002-03	82.16	-0.43	
2003-04	103.27	1.13	
2004-05	131.59	1.57	
2005-06	69.62	-4.99	
2006-07	226.38	10.63	
2007-08	276.15	0.87	
2008-09	348.79	2.15	
2009-10	292.17	-1.25	1.81

**ANNEXURE-8.1****Buoyancy in Collection of Stamp Duty & Registration Fees**

<b>YEAR</b>	<b>Collection of Stamp Duty &amp; Registration Fees (Rs. in Crore)</b>	<b>Year wise Buoyancy</b>	<b>Decadal Buoyancy</b>
<b>1990-91</b>	30.94		
<b>1991-92</b>	35.43	0.55	
<b>1992-93</b>	40.64	1.86	
<b>1993-94</b>	47.99	1.23	
<b>1994-95</b>	53.32	0.55	
<b>1995-96</b>	63.05	0.86	
<b>1996-97</b>	68.51	-7.40	
<b>1997-98</b>	76.77	0.57	
<b>1998-99</b>	87.59	1.27	
<b>1999-00</b>	102.01	1.72	<b>0.99</b>
<b>2000-01</b>	108.52	7.52	
<b>2001-02</b>	109.76	0.15	
<b>2002-03</b>	135.86	3.76	
<b>2003-04</b>	153.08	0.56	
<b>2004-05</b>	197.87	1.67	
<b>2005-06</b>	236.06	2.04	
<b>2006-07</b>	260.49	0.49	
<b>2007-08</b>	404.76	2.19	
<b>2008-09</b>	495.66	1.84	
<b>2009-10</b>	359.96	-2.11	<b>0.93</b>

[Bihar Act 28, 2006]

**THE BIHAR APARTMENT OWNERSHIP ACT, 2006****AN****ACT**

to provide for the ownership of an individual Apartment in a multi-storied building and of an undivided interest in the common areas and facilities appurtenant to such Apartment and to make such payment and interest heritable and transferable and for matters connected therewith or incidental thereto.

**Preamble :** WHEREAS it is expedient to provide for giving ownership of an individual Apartment in a building and to make such Apartment heritable and transferable property and to provide for the matters connected with the purposes aforesaid;

Be it enacted by the Legislature of the State of Bihar in the Fifty seventh year of the Republic of India as follows :-

**CHAPTER - I*****PRELIMINARY***

**1. Short title, extent and commencement** - (1) This Act may be called “Bihar Apartment Ownership Act, 2006.”

(2) It shall extend to the whole of the State of Bihar

(3) This Act shall come into force at once.

**2. Application of the Act-** The provisions of this act shall apply to every Apartment in a multi-storied building which was constructed for residential or commercial or such other purposes such as office, practice of any profession, occupation, trade or business for any other type of independent uses before or after the commencement of this Act and on a free hold land, or a lease hold land, if the lease for such land is for a period of thirty years or more.

Provided that, where a building constructed, whether before or after the commencement of this Act, on any land contains only two or three Apartments, the owner of such building may, by a declaration duly executed and registered under the provisions of the Registration Act, 1908 (16 of 1908) and as amended from time to time, indicate his intention to make the provisions of this Act applicable to such building, and on such declaration being made, such owner shall execute and register a Deed of Apartment in

accordance with the provisions of this Act, as if such owner were the promoter in relation to such building:

Provided further, that the sole owner or all the owners of the land may submit such land to the provisions of this Act with the condition that he or they shall grant a lease of such land to the Apartment owners, terms and conditions of the lease being disclosed in the declaration to be made in this regard either by annexing a copy of the instrument of lease to be executed to the declaration or otherwise:

Provided that the state government may exempt by general or special order any such owner from submitting such building to the provisions of this Act.

**3. Definition** - In this Act unless the context otherwise requires-

(a) **“Allottee”** In relation to an Apartment, means the person to whom such Apartment has been allotted, initially by the promoter but not yet sold or transferred:

(b) **“Apartment”** means a part of the property, provided by the promoter/developer in a multi-storied building intended for any type of independent use, including one or more rooms or enclosed spaces located on one or more floors or any part or parts thereof, in a multi-storied building to be used for residence or office or for the practice of any profession or for the carrying on of any occupation, trade or for business or such other type of independent use as may be prescribed, and with a direct exit to a public street, road or highway or to a Common area leading to such street, road or highway, and includes basement, cellar, any garage or room (whether or not adjacent to the multi-storied building in which such Apartment is located) provided by the promoter for use by the owner of such an Apartment for parking any vehicle or as the case may be for the residence of any domestic aide employed in such an Apartment.

(c) **“Apartment number”** means the number, letter or combination thereof, which is the designation of the Apartment in the Deed of Apartment.

(d) **“Apartment owner”** means an allottee to whom an Apartment has been finally transferred or sold by the Promoter and who as a result of which owns the Apartment and has an undivided interest in the Common areas and facilities appurtenant to such Apartment in the manner/percentage specified in the deed of Apartment;

**Explanation** — An allottee becomes an Apartment owner only after payment of the entire consideration together with interest thereon, if any due, and the Apartment finally transferred or sold to him by the Promoter subject to provision of Section-11. Besides this, the Apartment Owner should have a Deed of Apartment executed and registered in his favour whereas merely an Allottee is not required to do so;

(e) ***“Approved Bank”*** means the State Bank of India constituted under Section 3 of the State Bank of India Act, 1955 (23 of 1955), or a subsidiary bank constituted under Section 3 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), or a corresponding existing bank constituted under Section – 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or a corresponding existing bank constituted under Section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980).

(f) ***“Association of Apartment owners”*** means the association of all the Apartment owners of a multi storied building acting as a group and termed as such in accordance with the bye-laws and Deed of Apartment and competent to contract in its own name.

**Explanation—** A member of a co-operative housing society or an allottee under a hire purchase agreement will be deemed to be an owner entitled to membership of the association.

(g) ***“Board”*** means the Board of Manager of an Association of Apartment Owners elected by its members under the bye-laws.

(h) ***“Bye-laws”*** means the bye-laws of an association of Apartment owners made under this Act.

(i) ***“Common areas and facilities”*** in relation to a building means:-

(i) The land on which such building is located and all easements, rights and appurtenances belonging to the land and the building.

(ii) The foundation, columns girders, beams, supports, main wall, roofs, halls, corridors, lobbies, stairs, stair-ways, fire escapes, and entrances and exit of the building.

(iii) The basements, cellars, yards, gardens, open areas, shopping centers, schools and storage spaces.

(iv) The premises for the lodging Gatekeeper or the person employed for looking after the property.

(v) Installation of central services, such as, power, lights, gas, hot and cold water, heating, refrigeration, air conditioning, incinerating, and sewerages.

(vi) The elevators, tanks, pumps, motors, fans, compressor, ducts and in general, all apparatuses and installations existing for Common use.

(vii) Such other community and commercial facilities as may be prescribed; and

(viii) All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in Common use.

(j) **“Common expenses”** means.-

- (i) All sums lawfully assessed against the Apartment owners by the Association of Apartment owners;
- (ii) Expenses of administration maintenance, repair or replacement of Common areas & facilities;
- (iii) Other expenses agreed upon as Common expenses by the Association of Apartment owners;
- (iv) Expenses declared as Common expenses by the provisions of this Act, or by the Deed of Apartment or the Bye-laws.

(k) **“Common profits”** means the balance of all incomes, rent, profits and revenues from the Common areas and facilities remaining after the deduction of Common expenses.

(l) **“Competent Authority”** means the officer or authority who or which maybe vested by the state Government, by notification in the official gazette with executive powers to perform duties and functions of the competent Authority and for implementing the provisions of the Act and the rules made there under for such areas as may be specified in the notification under the general guidance, superintendence & control of the State Government:

Provided that the State Government may notify more than one officer or Authority as competent authority and distribute the work among them in the manner as it may deem fit.

(m) **“Deed of Apartment”** means the instrument by which the property is submitted to the provisions of this Act as hereinafter provided.

(n) **“Government or State Government”** means the Government of the State of Bihar.

(o) **“Local Authority”** means Municipality, Municipal corporation or Regional Development Authority or any other area so notified by the government or constituted under the Bihar Regional Development Authority Act, 1981; The Bihar & Orissa Municipal Act, 1942 and the Patna Municipal Corporation Act- 1951; as amended time to time.

(p) **“Manager”** means the manager of an Association of Apartment Owners appointed under the bye-laws.

(q) **“Multi Storied Building”** means a building constructed containing four or more Apartments, or two or more buildings in any area designated as block, pocket or otherwise, each containing two or more Apartments, with a total of four or more



Apartments in all such buildings and includes a building containing two or three Apartments in respect of which a declaration has been made under the proviso to Section 2.

(r) ***“Promoter or Developer”*** means - the person who constructs or causes to be constructed a building consisting of Apartments or converts an existing building or a part thereof into Apartment for the purpose of selling all or some of the Apartments to other persons, and includes his assigns. Where the person who constructs or converts a building and the person who sells are different persons, the terms include both of them. Any development authority and any other public body so notified by Government are deemed to be the Promoters in respect of the allottees in building constructed by them on land owned by them or placed at their disposal by Government :

***Explanation*** — Any such person, who acts in the manner described above, will be deemed to be a promoter, in that capacity also if.

(i) he designates himself as builder, colonizer, contractor, developer, estate promoter or by any other name or

(ii) he claims to be acting as the holder of a power of attorney of the owner of the land on which the building is constructed.

(s) ***“Proprietor/ Owner”*** means - the person who is the actual owner of the land on which the Apartment building is to be constructed and has the right, title and interest over the proposed land and it also includes the successor and legal heirs of the owner of land. If the land owner is State Government/ Government of India/ public undertaking/ Co-operative society/ Trust etc., the concerned authority shall be termed as Proprietors / Owners.

(t) ***“Prescribed”*** means prescribed by rules made under this Act.

(u) ***“Property”*** means the land, the multi-storied building, all improvement and structure thereon and all easements, right and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

(v) ***“Revenue Authority”*** means the authority that is competent for collection of rent of land, building etc. from owners of the plot of land/ Apartments.

(w) ***“Reserved or limited Common areas and facilities”*** means those Common areas and facilities which are designated in writing by the Promoter before the allotment, sale or transfer of any other Apartment, and kept as reserved for use of certain Apartment or remain allotted to any Apartment and to the exclusion of other Apartment.

(x) ***“Service charges”*** means expenses incurred on salary to guard and sweeper, and energy charges for Common area lighting and pumping of water and operation of lift,

cost of diesel/ Mobil etc. for running the generator, and Annual Maintenance Charges (AMC) for lift, intercom and generator etc. payable monthly.

## **CHAPTER - II**

### ***OWNERSHIP, HERITABILITY AND TRANSFERABILITY OF APARTMENTS***

#### **4. Benamidar of an Apartment shall be deemed to be the real owner there of-**

Where an Apartment is transferred to one person for consideration paid or provided by any other person for his own benefit, the transferee shall, notwithstanding any thing in the Transfer of Property Act, 1882 or in any other law for the time being in force, be deemed to be the real owner of such Apartment, and no court shall consider any claim of the person, paying and providing the consideration for title in such Apartment on the ground that he/she did not intend to pay or provide such consideration for the benefit of the transferee and that the transferee is his benamidar, or on any other ground.

**5. The Developer/ Promoter and Owner to execute and get Registered document of transfer-** (1) Where the Developer/ Promoter is not the owner of the land over which the Apartment is to be built, the Developer/ Promoter and the Owner shall execute and register an agreement stating all the terms and conditions of the agreement including the portion of the building and land to be shared by the Developer/ Promoter and the Owner.

The agreement document shall also include that after the completion of construction of the building project the respective share owner i.e.; developer/ promoter and the land owner, shall be absolute owner of their respective shares and they will be entitle to sell/ transfer their shares separately.

(2) The final sale/ lease of the Apartment along with the Common areas and facilities shall be executed and registered by the Developer/ Promoter or the Owner, as the case may be, as per sub-section 5.1. in favour of the prospective Apartment Owner.

**6. Compliance with the covenants and bye-laws-** Each Apartment owner shall comply strictly with the bye-laws and with the covenants, conditions and restrictions set forth in the Deed of Apartment, and failure to comply with any of them shall be a ground for action to recover sums due for damages, or for inductive relief, or both, by the Manager or Board on behalf of the Association of Apartment Owners or, in a proper case, by an aggrieved apartment owner.

**7. General liabilities of Promoter-** (1) Notwithstanding anything in other law, a promoter who intends to construct or constructs a block or building of Apartment, all or some of which are to be taken or are taken on ownership basis, shall, in all transaction with persons intending to take or taking one or more of such Apartment, be liable to

give or produce, or cause to be given or produced, the information and the documents hereinafter in this section mentioned, a copy of which should also be filed with the Competent Authority for information, including the full particulars about their identity, address etc.

(2) A Promoter, who constructs or intends to construct such block or building of Apartment, shall -

(a) make full and true disclosure of the nature of his title to the land on which the Apartment are constructed, or are to be constructed, such title to the land as aforesaid having been duly certified by an Attorney-at-law, or by an Advocate of not less than seven years standing;

(b) make full and true disclosure of all encumbrances on such land, including any title, interest or claim of any party in or over such land.

(c) give inspection on seven days notice or demand, of the plans and specification of the building, such as specifications relating to structural safety against earthquake and fire safety, built or to be built on the land; such plans and specifications having been approved by the local authority which he is required so to do under any law for the time being in force;

(d) disclose the nature of fixtures, fittings and amenities (including the provision for one or more lifts) provided or to be provided;

(e) disclose on reasonable notice or demand if the promoter is himself the builder, the prescribed particulars as respects the design and the materials to be used in the construction of the building, and if the promoter is not himself the builder disclose, on such notice or demand, all agreements entered into by him with the architects and contractors regarding the design, materials and construction of the buildings;

(f) specify in writing the date by which possession of the Apartment is to be handed over (and he shall hand over such possession accordingly);

(g) prepare and maintain a list of Apartment with their numbers already taken or agreed to be take, and the names and addresses of the parties, and the price charged or agreed to be charged therefor, and the terms and conditions if any on which the Apartment are taken or agreed to be taken;

(h) state in writing, the precise nature of the organization of persons to be constituted and to which title is to be passed, and the terms and conditions governing such organization of persons who have taken or are to take the Apartment;

(i) not allow persons enter into possession until a completion certificate where such certificate is required to be given under any law, is duly given by the local authority

(and no person shall take possession of a Apartment until such completion certificate has been duly given by the local Authority);

(j) make a full and true disclosure of all outgoings (including ground rent, if any, municipal or other local taxes, taxes on income, water charges and electricity charges, revenue assessment, interest on any mortgage or other encumbrances, if any);

(k) make a full and true disclosure of such other information and document; in such manner as may be prescribed; and given on demand true copies of such of the documents referred to in any of the clauses of this subsection as may be prescribed at a reasonable charge therefor.

(l) display or keep all the documents, plans or specifications (or copies thereof) referred to in clauses (a), (b) and (c), at the site and permit inspection thereof to persons intending to take or taking one or more Apartment.

(m) when the Apartment are advertised for sale, disclose inter alia in the advertisement the following particulars, namely :-

(i) the extent of the carpet area of the Apartment including the area of the balconies which should be shown separately;

(ii) the price of the Apartment including the proportionate price of the Common areas and facilities which should be shown separately, to be paid by the purchaser of Apartment and the intervals at which the installments thereof may be paid;

(iii) the nature, extent and description of the Common areas and facilities;

(iv) the nature, extent and description of limited Common areas and facilities, and;

(v) the Fire Safety & Earthquake resistant provisions as per the norms laid down in law;

**8. General liabilities of Allottee.-** (1) The Promoter would execute an agreement with an Allottee setting out the terms and conditions of construction, payment schedules and other requirements under Section 7 of the Act and every Allottee who has executed an agreement to take an Apartment shall pay at the proper time and place the price, his proportionate share as amended time to time of the Municipal taxes, water and electricity charges, ground rent (if any) and other public charges in accordance with his agreement with the promoter; and where a co-operative society or a company of persons taking the Apartment is to be constituted, co-operate in the formation of such society or company, as the case may be.

(2) Any person who has executed an agreement to take an Apartment and who, without reasonable excuse, fails to comply with or contravenes sub-section 8.1 shall, on conviction, be punished with fine which may extend to two thousand rupees.

**9. Common profit and expenses.-** (1) The Common profits of the property shall be distributed among, and the Common expenses shall be charged to, the Apartment owners according to the percentage of the undivided interest of the Apartment owners in the Common areas and facilities.

(2) Where the Apartment owner is not in the occupation of the Apartment owned by him, the Common expenses payable by such Apartment owner may be recovered from the person in the occupation of the Apartment.

(3) Common profits can be used for major repair/ up-gradation of Common facilities in future.

**10. Ownership of Apartments.-** (1) Every person to whom any Apartment is allotted, sold or otherwise transferred by the Promoter, on or after the commencement of this Act shall, save as otherwise provided in Section 11, and subject to the other provisions of this Act, be entitled to the exclusive ownership and possession of the Apartment so allotted sold or otherwise transferred to him.

(2) Every person to whom any Apartment was allotted, sold or otherwise transferred by the promoter before the commencement of this Act shall, save as otherwise provided under section 11 and subject to the other provisions of this Act, be entitled, on and from such commencement, to the exclusive ownership and possession of the Apartment so allotted, sold or otherwise transferred to him.

(3) Every person who becomes entitled to the exclusive ownership and possession of an Apartment under sub-section (1) or sub-section (2) shall be entitled to such percentage of undivided interest in the Common areas and facilities as may be specified in the Deed of Apartment and such percentage shall be computed by taking, as a basic, the value of the Apartment in relation to the value of the property.

(4) (a) The percentage of the undivided interest of each Apartment owner in the Common areas and facilities shall have a permanent character, and shall not be altered without the written consent of all the Apartment owners.

(b) The percentage of the undivided interest in the Common areas and facilities shall not be separated from the Apartment to which it appertains and shall be deemed to be conveyed or encumbered with the Apartment, even though such interest is not expressly mentioned in the conveyance or other instrument.

(5) The Common areas and facilities shall remain undivided and no Apartment owner or any other person shall bring any action for partition or division of any part thereof, and any covenant to the contrary shall be void.

(6) Each Apartment owner may use the Common areas and facilities in accordance with the purposes for which they are intended without hindering or encroaching upon the lawful rights of the other Apartments owners.

(7) The necessary work relating to maintenance repair and replacement of the Common areas and facilities and the making of any additions or improvements thereto shall be carried out only in accordance with the provisions of this Act and the byelaws.

(8) The Association of Apartment Owners shall have the irrevocable right, to be exercised by the Board of Manager, to have access to each Apartment from time to time during reasonable hours for the maintenance, repairs or replacement of any of the Common areas or facilities therein, or accessible there from, or for making emergency repairs therein necessary to prevent damage to the Common areas and facilities or to any other Apartment or Apartments.

**11. Ownership of Apartment subject to conditions.-** Where any allotment, sale or other transfer of any Apartment has been made, whether before or after the commencement of this Act, in pursuance of any promise of payment, or part payment, of the consideration thereof, the allottee or transferee, as the case may be, shall not become entitled to the ownership and possession of that Apartment or to a percentage of undivided interests in the Common areas and facilities appurtenant to such Apartment, until full payment has been made of the consideration thereof together with interest, if any due thereon, and where any such allottee or transferee has been inducted into the possession of such Apartment or any part thereof in pursuance of such allotment or transfer, he shall, until the full payment of the consideration has been made, continue to remain in possession thereof on the same terms and conditions on which he was so inducted into possession of such Apartment or part thereof.

**12. Apartment to be heritable and transferable.-** Subject to the provisions of Section 11, each Apartment, together with the undivided interest in the Common areas and facilities appurtenant to such Apartment, shall, for all purposes constitute as a heritable and transferable immovable property within the meaning of any law for the time being in force, and accordingly, an Apartment owner may transfer his Apartment and percentage of undivided interest in the Common areas and facilities appurtenant to such Apartment by way of sale, mortgage, lease, gift, exchange or in any other manner whatsoever in the same manner, to the same extent and subject to the same rights, privileges obligations, liabilities, investigations, legal proceeding, remedy and to penalty forfeiture or punishment as any other immovable property or make a bequest of the same under the law applicable to the transfer and succession of immovable property;

Provided that where the allotment, sale, or other transfer of any Apartment has been made by any group housing co-operative society in favour of any member thereof, the transferability of such Apartment and all other matters shall be regulated by the law applicable to such group housing co-operative society.

**13. Purchasers or persons taking lease of Apartments from Apartment owners to execute an undertaking-** Notwithstanding anything contained in the Transfer of Property Act, 1982 (4 of 1882), or in any other law of the time being in force, any person acquiring any Apartment from any Apartment owner by gift, exchange, purchase or otherwise, or taking lease of an Apartment from an Apartment owner for a period of thirty years or more, shall -

- (a) in respect of the said Apartment, be subject to the provisions of this Act; and
- (b) execute and register an instrument in such form, in such manner and within such period, as may be prescribed, giving an undertaking to comply with the covenants, conditions and restrictions, subject to which such Apartment is owned by the Apartment owner aforesaid.

**14. Certain works prohibited. -** No Apartment owner shall do any work which would be prejudicial to the soundness or safety of the property or reduce the value thereof or impair any easement or hereditament or shall add any material structure or excavate any addition basement or cellar without first obtaining the consent of all the other Apartment owners.

**Explanation** – In this section, reference to Apartment owners shall be construed, in relation to a multi-storied building in any block, pocket or other designated area, the Apartment owners of the concerned multi-storied building in such block, pocket or other designated area.

**15. Encumbrance against Apartments-** (1) The owner of each Apartment may create any encumbrance, only against the Apartment owned by him and the percentage of the undivided interest in the Common areas and facilities appurtenant to such Apartment in the same manner and to the same extent as may be created in relation to any other separate parcel of property subject to individual ownership.

Provided that where any such encumbrance is created, the Apartment in relation to which such encumbrance has been created shall not be partitioned or sub-divided.

(2) No labour performed or material furnished with the consent, or at the request, of an Apartment owner or his agent or his contractor or sub-contractor, shall be the basis for a charge or any encumbrance under the provisions of the Transfer of Property Act, 1882 (4 of 1882), against the Apartment or property of any other Apartment owner not expressly consenting to, or requesting the same, except that such express consent shall

be deemed to be given by the other Apartment owner in the case of emergency repairs thereto.

(3) The labour performed and material furnished for the Common areas and facilities, if duly authorized by the Association of Apartment Owner in accordance with the provisions of this Act or the bye-laws, shall be deemed to be performed or furnished with the express consent of each Apartment owner and shall be the basis for a charge or encumbrance under the Act aforesaid against each of the Apartments and shall be subject to the provisions of sub-section (4)

(4) In the event of a charge or any encumbrance against two or more Apartments becoming effective, the Apartment owners of the separate Apartments may remove their Apartments and the percentage of undivided interest in the Common areas and facilities appurtenant to such Apartments from the charge or encumbrance on payment of the fractional or proportional amount attributable to each of the Apartments affected and on such payment, the Apartment and the percentage of undivided interest in the Common areas and facilities appurtenant thereto shall be free of the charge or encumbrance so removed.

Provided that such partial payment shall not prevent the person having a charge or any of the encumbrances from proceeding to enforce the rights in relation to the amount not so paid, against any other Apartment and the percentage or undivided interest in the Common areas and facilities appurtenant to such Apartment.

(5) On any such payment, discharge or other satisfaction, referred to in sub-section (4) the Apartment and the percentage of undivided interest in the Common areas and facilities appurtenant thereto shall be free and clear of the charge or encumbrance, so paid, satisfied or discharged.

**16. Promoter to take steps for formation of Co-operative Society or Company.-** As soon as a minimum number of persons required to form a Co-operative Society or a company have taken Apartments, the promoter shall within the prescribed period submit an application to the Registrar for registration of the organization of persons who take the Apartments as a Co-operative Society, or as the case may be, as a company; and the promoter shall join, in respect of the Apartments which have not been taken, in such application for membership of a Co-operative Society or as the case may be, of a company.

**17. Offences by Promoter-** (1) Any promoter who knowingly makes a false disclosure in respect of any of the matters referred to in clauses (a), (b), (c), (g), (i) or (j) of Section (2) or contravenes the provisions of this Act shall, on conviction, be punished



with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees, or with both.

(2) a promoter who commits criminal breach of trust of any amount advanced or deposited with him for the purposes mentioned in Section 10 shall, on conviction be punished with imprisonment for a term which may extend to four years, or with fine, or with both;

(3) A Promoter who constructs a building in violation of plans and specifications, approved by the Local Authority or BRDA Act notified by the Local Authority shall on conviction be punished with imprisonment for a term which may extend to ten years or with fine, or with both;

**18. Act not to apply to the State Government, Housing Board, etc.-** Nothing contained in this Act shall apply to the State Government or to *The Bihar State Housing Board* constituted under *The Bihar State Housing Board Act, 1982* [Bihar Act 57 of 1982, published in Bihar Gazette (Extra-ordinary) dated 08-10-1983].

### **CHAPTER - III**

#### **DEED OF APARTMENT & ITS REGISTRATION**

**19. Contents of Deed of Apartment-** (1) Whenever any sale or other transfer of any Apartment is made, the Promoter shall -

(a) in the case of any sale or other transfer made after the commencement of this Act, within three months from the date of such, sale or other transfer, or

(b) in the case of any sale or other transfer made before the commencement of this Act, within six months from the date of such commencement, execute a Deed of Apartment containing the following particulars, namely-

(i) the names of the person (s) to whom the Apartment has been sold or transferred;

(ii) description of the land on which the building and the Common areas and facilities are located, and whether the land is freehold or lease-hold, the period of such lease;

(iii) a set of floor plans/ structural details of the multi-storied building showing the layout and location, number of Apartments and bearing a certified statement of an Architect/ Structural Engineer certifying that it is an accurate copy of the portions of the plans of the building as filed with, an approved by, the local authority within the jurisdiction of which are building is located;

(iv) description of the multi-storied building, stating the number of storeys and basements, the number of Apartments in that building and the principal materials of which it is constructed;

- (v) the Apartment number, or statement of the location of the Apartment, its approximate area, number and dimension of rooms, and immediate Common area to which it has access, and any other data necessary for its proper identification;
- (vi) description of the Common areas and facilities and the percentage of undivided interests appertaining to the Apartment in the Common areas and facilities;
- (vii) description of the Reserved or limited Common areas and facilities, if any, stating to which Apartments their use is reserved;
- (viii) value of the property and of each Apartment and a statement that the Apartment and such percentage of undivided interest not encumbered in any manner whatsoever on the date of execution of the Deed of Apartment;
- (ix) statement of the purposes for which the building and each of the Apartments are intended and restricted as to use;
- (x) the name of the person to receive Process, together with the particulars of the residence or place of business of such person;
- (xi) provision as to the percentage of votes by the Apartment owners which shall be determinative of whether to rebuild, repair, restore, or sell the property in the event of damage or destruction of all or any part of the property;

Provided that the competent authority may, if it is satisfied that the promoter was prevented, by sufficient cause, from executing the Deed of Apartment in relation to any Apartment within the period of three months, or six months, as the case may be, permit the promoter to execute such Deed of Apartment within such further period, not exceeding six months, as it may specify.

(2) The promoter shall get the Deed of agreement registered in accordance with Section 20 and shall -

- (a) file in the office of the competent authority; and
- (b) deliver to the concerned allottee or transferee, as the case may be, a certified copy of each Deed of Apartments as registered under Section 20 within one month of registration.

(3) Whenever any transfer of any Apartment is made by the Apartment owner thereof, whether by sale, lease, mortgage, exchange, gift or otherwise, the transferor shall deliver to the transferee the certified copy of the Deed of Apartment delivered to him under sub-section 19.2 after making an endorsement thereon as to the name, address and other particulars of the transferee, to enable the transferee to get the endorsement on the certified copy of the Deed of Apartment registered in accordance with the provisions of Section 20.

(4) Whenever any succession takes place to any Apartment or part thereof, the successor shall, within a period of six months from the date of such succession on the certified copy of the Deed of Apartment in relation to the concerned Apartment, and if there is any dispute as to the succession to the Apartment, the Competent Authority shall decide be same, and for this purpose, such authority shall have the powers of a Civil court, while trying a suit, and its decision shall have effect of a degree and shall be appealable as if it were a degree passed by the principal Civil Court of original jurisdiction.

(5) Whenever any succession to an Apartment has been recorded by the competent authority under sub-section 16.4, such authority shall send a true copy of such record, to the concerned Registrar for registration thereof in accordance with the provisions of Section 20.

(6) For the removal of doubts, it is hereby declared that the provisions of this section shall be in addition to and not in derogation of, the provisions of any other law, for the time being in force, relating to the transfer of immovable property,

**20. Registration of Deed of Apartment-** (1) Every Deed of Apartment and every endorsement thereon relating to the transfer of the Apartment shall be deemed to be a document which is compulsorily registrable under the Registration Act, 1908 (16 of 1908) and shall be registered with the Registrar accordingly, and the words and expressions used in this section but not defined in this Act shall have the meaning respectively assigned to them in the Registration Act, 1908.

(2) In all registration offices, a book called “Register of Deeds of Apartment under the Bihar Apartment Ownership Act, 2006” and an index relating thereto shall be kept in such form and shall contain such particulars as may be prescribed.

(3) Whenever any endorsement on a Deed of Apartment is registered, the concerned Registrar shall forward a certified copy thereof to the competent authority to enable that authority to make necessary entries in the certified copy of the concerned Deed of Apartment filed with it under sub-section (2)

(4) Any person acquiring any Apartment shall be deemed to have notice of the contents of the Deed of Apartment and the endorsement, if any, thereon as from the date of its registration under this section.

**21. Enforcement of Transfer .-** (1) If the Promoter of the Apartment as the case may be, fails to execute a deed of Apartment or an endorsement thereon, within six months of the date on which possession of the Apartment is given or where the competent authority or the State Government has granted extension of period, on expiry of such extended period, the competent authority may either on a complaint or suo moto

impose a penalty up-to maximum of Two thousand five hundred per Apartment and also may impose minimum penalty for each Apartment of fifty rupees for every day subject to maximum of Rs. Twenty Thousand if the default continues, and the penalty may be recovered as arrears of land revenue. This penalty shall be in addition to any action under the Stamp Act or Registration Act 1908.

(2) On the failure of the Promoter to execute the Deed of Apartment within the time stated above in sub-section (1) the allottee may make an application to the competent Authority.

(3) On the failure of the Apartment owner to make an endorsement of the transfer of an Apartment on the Deed of Apartment within the time agreed upon, the Promoter may make an application to the competent Authority.

(4) The application under sub-section (2) and (3) as the case may be, shall be given in prescribed form in writing in the office of the competent authority of the area for certificate to be produced before the Registration officer for enforcing the registration of the transfer. After making such enquiry as may be necessary and satisfying itself that the applicant has done what he is required to do under the agreement, the competent Authority shall issue a certificate to the concerned Registration Officer within a period of two month from the date of application that it is a fit case for enforcing registration and shall further direct the applicant to present the Deed of Apartment though not executed by the other party, for unilateral execution & registration. The registering Authority shall register the instrument. Notwithstanding anything contained in The Transfer of Property Act, 1882 or the Registration Act, the registration of the instrument made under this section shall be sufficient to vest the property with the applicant. Service charges of Rs. two thousand five hundred along with each application shall be charged by the competent authority whoever is defaulter i.e., Promoter/ Owner/ Allottee.

**22. Recording of Succession -** (1) Whenever any successor gets an Apartment or part thereof, by succession, the successor shall within a period of six months from the date of such succession, make an application to the Local Authority and Revenue Authority for recording such succession on the certified copy of the deed of Apartment and if there is a dispute as to the succession of the Apartment, the local authority shall decide the same.

(2) Whenever any succession of an Apartment shall be recorded by the local Authority and Revenue Authority under sub-section (1) and such authority shall send a true copy of such record to the concerned Registrar for necessary recording in the records according to the provisions of the Registration Act.

## **CHAPTER - IV**

### **ASSOCIATION OF APARTMENT OWNERS AND BYE-LAWS FOR THE REGULATION OF THE AFFAIRS OF SUCH ASSOCIATION**

#### **23. Association of Apartment Owners and bye-laws relating thereto:**

(1) There shall be an Association of Apartment Owners for the administration of the affairs in relation to the Apartments and the property appertaining thereto and for the management of Common areas and facilities—

Provided that where any area has been demarcated for the construction of multistoried buildings, whether such area is called a block or pocket or by any other name, there shall be a single Association of Apartment Owners in such demarcated area.

(2) The Competent authority may, by notification in the Official Gazette, frame model bye-laws in accordance with which the property referred to in sub-section (1) shall be administered by the Association of Apartment Owners and every such Association shall, at its first meeting, make its bye-laws in accordance with the model bye-laws so framed, and in making its bye-laws the Association of Apartment Owners shall not make any departure from, variation of, addition to, or omission from, the model bye-laws aforesaid except with the prior approval of the Competent Authority and no such approval shall be given if in the opinion of the Competent Authority, such departure, variation, addition or omission will have the effect of altering the basic structure of the model bye laws framed by him. In case the Competent Authority has not framed model bye-laws, the Association of Apartment Owners shall frame bye-laws in accordance with Section 23.3.

(3) The model bye-laws framed by the Competent Authority or the bye-laws framed by Association of Apartment Owners incase no model bye-law is framed under sub-section (2) it shall provide for the following, among other matters namely -

- (a) the manner in which the Association of Apartment Owners is to be formed;
- (b) the election from among Apartment owners, of a Board of Management by members of the Association of Apartment Owners;
- (c) the number of Apartment owners, constituting of a Board, the composition of the Board and that one-third of members of the Board shall retire annually;
- (d) the powers and duties of the Board;
- (e) the honorarium, if any, of the members of the Board;
- (f) the method of removal from office of the members of the Board;
- (g) the powers of the Board to engage the services of a Manager;

- (h) delegation of powers and duties of the Board to such Manager;
  - (i) method of calling meetings of the Association of Apartment Owners and the number of members of such Association who shall constitute a quorum for such meanings;
  - (j) election of a President of the Association of Apartment Owners from among the Apartment owners, who, shall preside over the meetings of the Board and of the Association of Apartment Owners;
  - (k) election of a Secretary to the Association of Apartment Owners from among the Apartment owners, who shall be ex-officio member of the Board and shall keep two separate minutes books, one for the Association of Apartment Owners and the other for the Board, pages of each of which shall be consecutively numbered and authenticated by the President of the Association of Apartment Owners, and shall record, in the respective minutes books, the resolutions adopted by the Association of Apartment Owners or the Board, as the case may be;
  - (l) election of a Treasurer from among the Apartment owners, who shall keep the financial records of the Association of Apartment Owners as also of the Board;
  - (m) maintenance, repair and replacement of the Common areas and facilities and payment therefore;
  - (n) manner of collecting from the Apartment owners or any other occupant of Apartments, share of the Common expenses;
  - (o) resignation and removal of persons employed for the maintenance, repair and replacement of the Common areas and facilities;
  - (p) restrictions with regard to the use and maintenance of the Apartments and the use of the Common areas and facilities, as may be necessary to prevent unreasonable interference in the use of each Apartment and of the Common areas and facilities by the several Apartment owners;
  - (q) any matter which may be required by the Competent Authority to be provided for in bye-laws for the proper or better administration of the property;
  - (r) such other, matters as are required to be, or may be provided for in the bye-laws;
- (4) The bye-laws framed under sub-section (2) may also contain provisions not inconsistent with this Act for the following:-
- (a) enabling the Board to retain areas of the building for commercial purpose and to grant lease of the areas so retained, and to apply the proceeds of such lease for the reduction of the Common expenses for maintaining the building, Common areas and

facilities, and if any surplus is left after meeting such expenses, to distribute such surplus to the Apartment owners as income;

(b) relating to the audit of the accounts of the Association of Apartment Owners and of the Board, and of the administration of the property;

(c) specifying the times at which and the manner in which annual general meetings and special general meetings of the Association of Apartment Owners shall be held and conducted;

(d) to specify the time at which and the manner in which, the annual report relating to the activities of the Association of Apartment Owners shall be submitted;

(e) to specify the manner in which the income derived and expenditure incurred by the Association of Apartment Owners shall be dealt with, or as the case may be, accounted for

#### **24. Insurance.-**

(1) The Board or Manager -

(a) shall have, if requested so to do by a mortgages having a first mortgage covering an Apartment, the authority to, and

(b) shall, if required so to do by the bye-laws or by a majority of the Apartment owners, obtain insurance for the property against loss or damages by fire or other hazards under such terms and for such amounts as shall be so requested or required.

(2) Such insurance coverage shall be written on the property in the name of such Board or Manager as trustee for each of the Apartment owners in the percentages specified in the bye-laws.

(3) The premium payable in respect of every such insurance shall be Common expenses.

(4) The provisions of sub-section (1) to (3) shall be without prejudice to the right of each of the Apartment owner to insure his own Apartment for his benefit.

**25. Disposition of property, destruction or damage-** If within sixty days of the date of damage or destruction to all, or part of any property, or within such further times as the competent authority may, having regard to the circumstances of the case, allow, the Association of Apartment Owners does not determine to repair, reconstruct or re-build property, then, and in that event—

(a) the property shall be deemed to be owned in Common by the Apartment owners;

(b) the undivided interest in the property owned in Common which shall appertain to each Apartment owner, shall be the percentage of the undivided interest previously owned by such owner in the Common areas and facilities;

(c) any incumbencies affecting any of the Apartments shall be deemed to be transferred in accordance with the existing priority to the percentage of the undivided interest of the Apartment owner in the property;

(d) the property shall be subject to an action for partition at the suit of any Apartment owner in which event the net proceeds of sale together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided amongst all the Apartment owners in the percentages equal to the percentage of undivided interest owned by each Apartment owner in the property after paying out, all the respective shares of the payment by the owners to the extent sufficient for the purpose and all charge on the undivided interest in the property owned by each Apartment owner.

**26. Action** - (1) Without prejudice to the rights of any Apartment owner, action may be brought by the Board or Manager, in either case in the discretion of the Board on behalf of two or more of the Apartment owners as their respective interest may appear, with respect to any cause of action relating to the Common areas and facilities or more than one Apartment.

(2) The service of process on two or more Apartment owners in any action relating to the Common areas and facilities or more than one Apartment may be made on the person, designated in the bye-laws to receive service of process.

**27. Separate Assessments.**- (1) Notwithstanding anything to the contrary contained in any law relating to local authorities, each apartment and its percentage of undivided interest in the common areas and facilities appurtenant to such apartment (including an apartment in respect of which the provisions of this Act were applied under the proviso to Section-2) shall be deemed to be separate property for the purpose of assessment of tax on lands and building livable under such law and shall be assessed and taxed accordingly, and for this purpose a Local Authority shall make suitable regulations to carry out the provisions of this section.

(2) Neither the multi-storey building nor the property nor the common areas and facilities referred to in sub-section 27.1, shall be deemed to be separate properties for the purpose of the levy of such taxes.

**28. Charges on property for Common expenses.** - All sums assessed by the Association of Apartment Owners for the share of the Common expenses chargeable on



any Apartment shall be first charge on such Apartment for the payment of Municipal rates and taxes prior to all other charges, except other statutory charges.

**29. Liability for unpaid Common expenses on the sale of an Apartment.** – The purchaser of the Apartment shall be jointly and severally liable with the vendor for all unpaid assessment against the latter for his share of the Common expenses up to the time of sale.

**30.** If the Association of Apartment Owners, having right to be exercised by the Manager or the Board of Managers fails to perform its functions under this Act or the Rules made there under, the Competent Authority may give such direction as he may consider proper.

**31. Power to make Rules-** The State Government by notification in Official Gazette may make rules for carrying out the provisions of this Act.

## **CHAPTER - V**

### **AUTHORITIES UNDER THE ACT**

**32. Powers and duties of the Competent Authority.-** (1) The competent authority shall have the following powers and duties:

- (a) to permit further time to the promoter to execute Deed of Apartment;
- (b) to receive the certified copies relating to Deed of Apartment instruments or undertaking, deeds of lease, document of transfer of Apartment and management and endorsements thereon and hire purchase agreement;
- (c) to impose penalty upon developers, promoters, Apartment owners for any delay or failure to execute instruments in favour of purchasers of Apartments, to issue certificate to Registration officer;
- (d) to direct association of Apartment owners repair damaged property and to, allow further time to an association of Apartment owners to repair, reconstruct or rebuild a property which is damaged/ destroyed;
- (e) to ensure compliance, by the promoters, Association of Apartment Owners of the obligations under the Act, Rules or Bye-Laws, by issuance of proper directions;
- (f) to issue directions consistent with the Act, Rules and bye-laws to the Associations of Apartment owners;
- (g) any other function which the government may by notification entrust to the competent authority; and
- (h) Three percent in registration charge would be payable to concerned authority.

(2) In discharging his function under the Act, the competent Authority will have the powers of a Civil Court under the Code of Civil procedure 1908 while trying a suit.

**33. Appellate Authority and Appeals.-** (1) The Commissioner of the Division will be the Appellate Authority who will hear appeals against the orders of the Competent Authority.

(a) Any person aggrieved by any order of the Competent Authority under this Act, may, within a period of thirty days of the Communication of the order to him, prefer an appeal to the Appellate Authority in such form and manner as may be prescribed.

(b) The Appellate Authority, after giving opportunity to be heard to the parties, may pass such order, as Appellate Authority shall deem fit, either confirming, modifying or setting aside the order of the Competent Authority, and shall record its reasons in writing. The order of the Appellate Authority shall be final and conclusive.

(c) In discharging its functions, the Appellate Authority shall have all the powers under the Code of Civil Procedure 1908 while deciding an appeal.

**34. Control. -** If an association of Apartment owners, Manager or Board of Managers is not performing its function, the Competent Authority may give suitable directions.

**35. No Waiver of Liability. -** No Apartment owner may exempt himself/ herself from liability for his/ her contribution towards the Common expenses, by waiver of use or enjoyment of any of the Common areas and facilities or by the abandonment of his/ her Apartment.

**36. Act to be binding on Apartment owners.-** All Apartment owners, tenants of such owners, employees of owners and tenants or any other person who may in any manner use property or any part thereof submitted under the provisions of this Act, shall be subject to this Act and to the Deed of Apartment and the bye-laws of the Association of Apartment owners adapted pursuant to the provisions of this Act. All agreements decision and determination law-fully made by the Association of Apartment owners in accordance with the Deed of Apartment or bye-laws shall be deemed to be binding on all Apartment owners.

**37. Removal of Doubts-** For the removal of doubts it is hereby declared that the provisions of the Transfer of property Act, 1882, shall, in so far as they are not inconsistent with the provisions of this Act, apply to every Apartment and its undivided interest in the Common areas and facilities appurtenant to such Apartment as those provisions apply in relation to any immovable property, and notwithstanding anything contrary to any contract the provisions of this Act shall take effect.

**38. Repeal and Savings-** (1) The Bihar Apartment Ownership Act, 2004 (Bihar Act 6, 2004) is hereby repealed.

(2) Notwithstanding such repeal, any thing done or any action taken in exercise of any power conferred by or under the said “The Bihar Apartment Ownership Act, 2004” shall be deemed to have been done or taken in exercise of powers conferred by or under this Act as if this Act was in force on the day on which such things was done or action taken.

**ANNEXURE-9.1****Category-wise collection of Electricity Duty for FY 2009-10 by  
DISTCOs.****(₹ in Lakh)**

<b>Sl.No.</b>	<b>Category</b>	<b>CESU</b>	<b>NESCO</b>	<b>WESCO</b>	<b>SOUTHCO</b>	<b>TOTAL</b>
1	Domestic	800.51	225.90	252.48	255.81	1534.70
2	General purpose	826.65	159.40	201.71	188.18	1375.94
3	Small Industry	58.43	32.65	30.99	18.39	140.46
4	Medium Industry	111.50	62.06	117.60	63.36	354.52
5	Large Industry	1239.49	1908.68	3809.96	410.43	7368.56
6	Heavy Industry	518.09	16.86	304.67		839.62
7	Power Intensive Industry	864.74	1805.46	1562.47		4232.67
8	Public Lighting	29.86	1.29	5.99	8.03	45.17
9	Irrigation, Pumping & Agricultural Dewatering (including Agro Industries)	7.69	7.07	6.48	3.56	24.80
10	Public Water Works & Sewerage pumping	0.19	0.79	0.23	0.12	1.33
11	Bulk Supply	43.13	51.13	63.67		157.93
12	Public Institution	144.91	3.68	20.87	18.12	187.58
13	Mini Steel Plant	37.29				37.29
14	Railway Traction				230.46	230.46
<b>15</b>	<b>TOTAL E D</b>	<b>4682.48</b>	<b>4274.97</b>	<b>6377.12</b>	<b>1196.46</b>	<b>16531.03</b>
16	E D Collection from Generating Units					26703.29
	Grand Total					<b>43234.32</b>

**ANNEXURE-9.2**

**The prevailing rate of Electricity for different category of consumers' consumption as per Notification No. 01 dt. 01.01.2006 of Department of Energy, Government of Orissa.**

Sl. No.	Category of Consumers' consumption	Rate of Electricity Duty per Unit
1	Irrigation Pumping & Agriculture for all supply voltage	2% of the energy charges
2	Small Scale Industries [L T Industrial(s) Supply]	4% of the energy charges
3	L T Non-Industrial	4% of the energy charges
4	L T Industrial (excluding Small Scale Industry)	6% of the energy charges
5	H. T.	7% of the energy charges
6	E H T	8% of the energy charges
7	Any person not being a Licensee or Board who generates energy for his own use or consumption	20 paise per unit
8	A licensee or Board in its own premises	6 paise per unit
9	Public water works and sewerage pumping and Railway traction	Nil

**ANNEXURE-9.3**

**Electricity Duty collected during the last five years from Captive Power Plants and other sources (2005-06 to 2009-10)**

(₹ in Crore)

Year	Non-captive Source	Captive Source
2005-06	94.11	249.99
2006-07	108.41	163.31
2007-08	141.00	172.83
2008-09	161.78	186.19
2009-10	172.50	264.77

**ANNEXURE-9.4****Electricity Duty of different States**

Sl. No.	Category of Consumer Consumption	Rate of Electricity Duty per Unit (% of the Energy charges)		
		Orissa	Madhya Pradesh	Kerala
1	Irrigation Pumping & Agriculture for all supply voltage	2	11 – 11.5	10%
2	Small Scale Industries [L T Industrial(s) Supply]	4	3 – 11.5	10%
3	L T Non-Industrial	4	11 - 24	10%
4	L T Industrial (excluding Small Scale Industry)	6	3 – 11.24	10%
5	H. T.	7	10.5 - 80	10 paise per Unit
6	E H T	8	10.5 - 80	10 paise per Unit
7	Any person not being a Licensee or Board who generates energy for his own use or consumption	20 paise per Unit	As per the above tariff	12 paise per Unit
8	A licensee or Board in its own premises	6 paise per Unit		
9	Public water works and sewerage pumping and Railway traction	Nil		

**ANNEXURE-9.5****Year-wise forecast of average demand and availability of power**

<b>Financial Year</b>	<b>Average Demand (MW) as per OPTCL forecast</b>	<b>Average Availability( MW)</b>
2011-12	3466	2784
2012-13	4208	3471
2013-14	4556	4546
2014-15	4746	5963
2015-16	4916	10136
2016-17	5101	12349
2017-18	5307	13228
2018-19	5779	13842

**ANNEXURE-9.6****BUOYANCY IN COLLECTION OF ELECTRICITY DUTY**

YEAR	Collection of Electricity Duty (Rs. in Crore)	Year wise Buoyancy	Decadal Buoyancy
1990-91	98.75		
1991-92	99.46	0.03	
1992-93	97.34	-0.27	
1993-94	98.46	0.08	
1994-95	100.91	0.12	
1995-96	121.35	0.95	
1996-97	120.06	0.91	
1997-98	127.73	0.30	
1998-99	110.13	-1.24	
1999-2000	127.21	1.62	<b>0.12</b>
2000-01	146.71	18.06	
2001-02	136.96	-0.85	
2002-03	172.17	4.07	
2003-04	200.43	0.72	
2004-05	261.89	1.75	
2005-06	353.13	3.69	
2006-07	282.58	-0.94	
2007-08	327.46	0.63	
2008-09	365.03	0.94	
2009-10	459.96	2.00	<b>0.86</b>