

## **CHAPTER – VII (Revenue Sector)**

### **LAND REVENUE**

#### **AUDIT OF TRANSACTIONS**

- 7.3 Follow-up audit of performance audit on ‘Sale/Allotment of land and levy and collection of conversion charges’**
- 7.4 Short recovery of unearned income**
- 7.5 Short levy of occupancy price due to application of incorrect rates**
- 7.6 Short recovery of *nazarana***
- 7.7 Short levy of Royalty and penalty on illegal extraction of clay for bricks due to incorrect calculation**

## CHAPTER VII

### LAND REVENUE

#### 7.1 Tax Administration

The administration of Land Revenue Department vests with the Principal Secretary, Revenue Department. For the purpose of administration, the state has been divided into six divisions and each division is headed by a Divisional Commissioner who is assisted by District Collectors. There are 36 District Collectors, 121 revenue sub divisions, 358 *tahsils* headed by the Tahsildar. The Revenue Inspector and Village Officers (*Talathis*) are responsible at the grass root level for collecting the land revenue and dues recoverable as arrears of land revenue.

#### 7.2 Results of Audit

There are 965 auditable units in the Land Revenue Department, out of these, audit selected 87 units for test check wherein 6,485 cases of non-agriculture assessment (NAA), zilla parishad (ZP) cess, village panchayat (VP) cess, occupancy price, lease rent, encroachment and permission of extraction of minor minerals were finalized. Out of these, 3,992 cases (*approximately 61.56 per cent*) were selected for test check. During scrutiny, audit noticed short/non-levy of NAA, ZP/VP cess, occupancy price, lease rent, unearned income *etc.* of ₹ 239.18 crore in 307 cases (*approximately 7.69 per cent* of sampled cases). These cases are illustrative only as these are based on test check of records. Audit pointed out some of the similar omissions in earlier years; not only these irregularities persist but also remained undetected till next audit is conducted. There is a need for Government to improve the internal control system including strengthening of internal audit so that recurrence of such cases can be avoided. Irregularities noticed are broadly fall under the following categories.

Table 7.2

(₹ in lakh)

Sl. No.	Category	Number of observations	Amount
1	Non-levy/short levy of measurement fees, sanad fees, license fee <i>etc.</i>	41	3,358.81
2	Non-levy/short levy of fine, non – auction/short recovery of surface rent on account of sand ghats, royalty <i>etc.</i>	33	1,011.84
3	Non-levy/short levy/incorrect levy of Non – Agriculture Assessment (NAA), ZP/VP cess and conversion tax	71	1,069.35
4	Non-levy/short levy of occupancy price, lease rent, unearned income <i>etc.</i>	47	3,356.73
5	Others	115	15,121.39
<b>Total</b>		<b>307</b>	<b>23,918.12</b>

During the year 2018-19, the department accepted underassessment and other deficiencies of ₹ 22.72 crore pertaining to 196 cases, of which 12 cases involving ₹ 26.70 lakh were pointed out during 2018-19 and the rest during earlier years. The department also recovered/adjusted ₹ 22.72 crore in 196 observations during 2018-19 out of which 12 observations involving ₹ 26.70 lakh were pointed out during 2018-19 and the rest in earlier years.

## FOLLOW-UP AUDIT

### REVENUE DEPARTMENT

#### 7.3 Follow-up audit of performance audit on 'Sale/Allotment of land and levy and collection of conversion charges'

##### Introduction

Under the provisions of Maharashtra Land Revenue (Disposal of Government Land) Rules 1971 (MLR (DGL) Rules), read with circular dated 08 February 1983, the Government is empowered to allot land at concessional rates on occupancy rights/lease hold rights to educational institutions, charitable trusts, housing societies, hospitals, playgrounds, gymkhanas and religious societies. As per the mandatory terms and conditions, the land is liable to be resumed, *i.e.* taken back by the Government, if it is not used for the purpose for which it has been granted or the activity has not commenced within two years from the date of allotment.

A performance audit (PA) report on 'Sale/allotment of land and levy and collection of conversion charges' covering the period from 2005-06 to 2009-10 was included in the audit report of the Comptroller and Auditor General of India for the year ended 31 March 2011 on the Revenue Receipts of the Government of Maharashtra. The PA findings highlighted system and compliance deficiencies in the functioning of various authorities under the control of the Revenue Department. The audit report was taken up by the Public Accounts Committee (PAC) during the year 2014-15 for detailed discussion. The PAC subsequently made 11 recommendations in their ninth report of 2015-16, which was laid in the state legislature in April, 2016.

We conducted a follow-up audit from April 2019 to July 2019 to check the extent of implementation of the major recommendations of the PAC. The offices visited earlier during the course of the PA *viz.* the Additional Chief Secretary, Revenue Department, four<sup>1</sup> Divisional Commissioners out of six, and six<sup>2</sup> District Collectors out of 36, were visited again for the purpose of the follow-up audit. Records for the period from 2016-17 to 2018-19 were checked in these offices. The test check was limited to the cases appearing in the earlier audit report.

##### Audit Findings

#### 7.3.1 Non-resumption of land

As per the terms and conditions for allotment of land to various trusts/societies, if the construction work is not completed within the period stipulated in the land allotment order, the land would be resumed by the collector of the district concerned. The PAC also recommended that in case no construction work has been started or the land has been used for purpose

<sup>1</sup> Konkan, Nagpur, Nashik and Pune

<sup>2</sup> Mumbai City, Mumbai Suburban District, Nagpur, Nashik, Pune and Thane

other than what was intended, all such land should be resumed by the Government.

The Revenue and Forest Department (department) issued GR dated 11 January 2017 for grant of permission for extensions in cases where construction work on allotted lands was not completed within the stipulated time. The permission for first, second, third, fourth and fifth extension of two years each was to be granted subject to recovery of premium at the rate of two, three, five, seven and 10 *per cent* respectively of 25 *per cent* of current market value of the land. These rates were subsequently revised to 0.5, 1, 1.5, 2 and 2.5 *per cent* respectively vide GR dated 01 March 2019. The powers to grant the extensions were vested with the respective district collectors.

We noticed that out of 15 cases of land allotment mentioned in the PA, land was being used for the allotted purpose in only six cases (construction completed in three cases). In the balance nine cases of vacant land, three plots of land were resumed by the Government and order for resumption was issued in another case.

The position of the balance five cases where action was pending is briefly discussed as follows:

**Table 7.3.1**

Sl. No.	Name of allottee	Present status of the land as on May 2019	Remarks
1	Gyaneshwari Education Trust, <i>mouza</i> -Yerwada	Land was lying vacant from the date of allotment <i>i.e.</i> November 2008.	Collector, Pune submitted (January 2018) a proposal to the Government for recovery of ₹ 1.64 crore from the Trust as per the GR of January 2017 for giving extension for construction on allotted land.
2	Defence Personnel Co-operative Housing Society, Ltd. Lohgaon, <i>tahsil</i> Haveli, district Pune	Land was lying vacant from the date of allotment <i>i.e.</i> October 2005.	Collector had sought (January 2015) the view of the Government regarding breach of conditions by the Defence Personnel Co-operative Housing Society, which was awaited till date.
3	Trimurti Adivasi Co-Op. Gruhrachna Sanstha, <i>tahsil</i> Dighi, Haveli, district Pune	Land was lying vacant from the date of allotment <i>i.e.</i> April 2001.	The land allotted was reserved for economically backward class in the development plan. The matter was pending on account of delay in approval of change in the development plan.
4	Defence Civilian Co-operative Housing Society, Thane	Land was lying vacant from the date of allotment <i>i.e.</i> August 1993. However, there was an illegal mobile tower erected on the land and a few hutments were also found on the site, which indicated encroachment.	Action to grant extension in view of GRs of January 2017 was in progress.
5	M/s.Simplex Mills Co Ltd, Byculla, Mumbai City	Land was given on lease which expired in 1983. Land was lying vacant. However, the FSI of the land was consumed by the allottee in the construction on the adjoining land owned by him.	Although FSI of the land has been consumed by the allottee, this has not been regularised by the Government.

Considering that the above plots of land were lying unutilised for very long periods of time, the department should have initiated proceedings for resumption of the land as per the PAC's recommendations, which was not done. As a result, not only the specific objectives for which these lands were allotted remained unfulfilled, these lands were lying tied up and could not be utilised for other developmental activities.

### **7.3.2 Non-implementation of clear and transparent system for grant of land to private institutions**

The Government allots land to societies, trusts or charitable institutions for education and other purposes at concessional rates. As per the GR dated 11 May 1984, land can be allotted for the purpose of primary/secondary education at 25 per cent of the market rates of 01 February 1976. As per the GR of 30 June 1992, land can be allotted for the purpose of higher education at 50 per cent (in municipal areas)/25 per cent (in other areas) of the market rates applicable five years before the date of allotment.

We had observed in our earlier report that the valuation of the land was based on GRs which were issued a long time ago and had recommended that the criteria fixed for valuation may be reviewed.

The PAC observed that in many cases, land was allotted for construction of schools to trusts which had not received permission to operate, or were without any educational facilities or infrastructure facilities such as electricity and water. The PAC further observed that the Government was also allotting land to colleges and educational institutions at concessional rates, thus causing loss to Government. In view of this, the PAC recommended development of a clear and transparent new policy for allotment of land ensuring utmost care in grant of land to private institutions for education and other activities.

Our scrutiny of records of the Mantralaya revealed that no new policy for granting land to private institutions for education and other activities had been developed till date.

We also noticed that the Hon'ble Supreme Court of India had, in a separate special leave petition<sup>3</sup> observed that there was nothing on record to indicate existence of any policy by the Government for allotment of land to the charitable institutions; and had directed (April 2018) the Government to frame a new policy which would stand scrutiny of Article 14 of the Constitution.

We called for information regarding action taken on the framing of policy as per the Apex Court's directives, the department stated (April 2019) in its reply that a new policy in the light of the Hon'ble Supreme Court order has been framed and sent (January 2019) to the Apex Court. The new policy is yet to be implemented.

Thus, even after a period of three years from PAC's recommendations, the department was yet to implement a clear and transparent policy regarding grant of land to eligible institutions as well as for grant of concessions in fees to trusts and other societies.

<sup>3</sup> filed by Shantabai Kerkar Memorial Charitable Trust

### **7.3.3 Non-uploading of information related to land allotment in public domain**

The department vide its GR dated 26 November 2012 had directed that all Government orders, GRs, circulars, memoranda related to land allotment should be uploaded on the departmental website before issue. It had been specifically instructed to the collectors that all the existing orders of land allotment issued by the collectors and copies of agreements thereof were to be uploaded on the website of the collector office concerned by March 2013.

The PAC also recommended that information related to land allotment should be made available in the public domain immediately in order to bring more transparency in the functioning of the land allotment done to societies.

Our scrutiny of records in all the six districts revealed that orders and list of allotment of land for the periods up to 2018-19 were uploaded in the public domain in Mumbai City and Nagpur districts, whereas in Pune district, the information had been uploaded up to 2015 only. No action in this regard had been taken in the remaining three districts, viz. Mumbai Suburban, Nashik and Thane.

On the matter being taken up with collectors concerned, Collectorate, Pune stated in reply that the matter would be inquired into with the National Informatics Centre (NIC); whereas Collectorate(s) Nashik, Thane and Mumbai Suburban District stated that the orders of land allotment would shortly be uploaded in the public domain.

The fact remains that even after passage of seven years from the GR (November 2012) and three years after the recommendation of the PAC in this regard, the department has not taken concrete steps to upload the information regarding land allotment to bring in more transparency into the process.

### **Conclusion**

As pointed out above, the department did not take action to resume land, in four out of nine cases, where no construction had taken place and were lying vacant since 12 to 27 years. Despite the PAC's recommendations, the Government had not implemented a clear and transparent policy for grant of land to private institutions for education and other activities till date and had neither evolved a revised system for granting of concession in fees to trusts and other societies. The department had also not taken concrete steps to upload the information regarding land allotment to bring more transparency in the process as recommended by the PAC. The Government needs to address these issues urgently.

## COMPLIANCE AUDIT

During scrutiny of records of the various land revenue offices, we noticed non-compliance of the provisions of the Maharashtra Land Revenue Code, 1966 (MLR Code), Government notifications/instructions. A few observations involving ₹ 14.38 crore pertaining to unearned income, occupancy price, *nazarana etc.* are mentioned in the succeeding paragraphs of this chapter. These are illustrative cases and are based on the test check carried out by Audit.

### 7.4 Short recovery of unearned income

As per Revenue and Forest Department (department) Government Resolution (GR) (September 1983) permission to sell agriculture land held as class-II occupant<sup>4</sup> for agriculture purpose shall be granted subject to payment of 50 per cent of net unearned income<sup>5</sup> and 75 per cent of unearned income in case of sale of agriculture land for non-agriculture (NA) purpose respectively. Further, as per another resolution (May 2006) for allotment of Government land on occupancy basis or on lease basis and in all cases where valuation of Government land is to be done, valuation shall be determined as per rates prescribed in ASR as on date on which order for allotment of Government land is passed.

The department vide GR (April 2008) prescribed specific slabs for valuation of market value of Government land. Further, as per instruction No. 29 (a) of ASR 2016-17, where Government land in the rural areas is converted into NA objects, such land in the rural areas should be valued at 50 per cent of the NA rate and on the basis of the table of bare land given under instruction No. 16(a) for the zone concerned, after taking into account the expenses incurred for such probable NA user/development.

**7.4.1** Scrutiny of sale deed revealed (May 2018) that the Divisional Commissionerate, Pune had accorded (July 2014) sale permission in respect of Class-II land held on new tenure to the land holders for sale of land admeasuring 1.86 ha (18,600 sqm) bearing *gat* No.199 situated in *mouza* Undwadi Supe, taluka Baramati, district Pune to purchaser for NA purpose at the consideration of ₹ 2.05 lakh. The department recovered unearned income of ₹ 5.87 lakh from land holder.

As per the instruction of GR (April 2008), the market value of the said land was required to be worked out to ₹ 24.05 lakh and the unearned income of ₹ 18.04 lakh (*i.e.* 75 per cent of ₹ 24.05 lakh) was to be recovered from the land holder. This resulted in short recovery of unearned income of ₹ 12.17 lakh<sup>6</sup> due to under valuation of property.

<sup>4</sup> Class-II occupants shall consist of persons who hold unalienated land in perpetuity subject to restrictions on the right to transfer

<sup>5</sup> Unearned income means the difference between current market value or the price realised by way of sale whichever is higher and the occupancy price paid at the time of allotment plus cost of improvement

<sup>6</sup> (Unearned income to be recovered - ₹ 18.04 lakh) - (Unearned income recovered - ₹ 5.87 lakh)

The office of the Dy. Commissioner (Revenue), Pune accepted the short recovery and stated (May 2018) that action would be initiated towards recovery of unearned income as pointed out in audit.

**7.4.2** In case of Class-II land held on new tenure, the Divisional Commissionerate, Pune (December 2015) had accorded sale permission to the land holders for sale of land admeasuring 4.80 ha (48,000 sqm) bearing *gat* No.220/2 situated in *mouza* Rahu, *tahsil* Daund, district Pune to purchaser for NA purpose. The department had recovered unearned income of ₹ 27.43 lakh from land holder.

Scrutiny of sale deed document revealed (May 2018) that in the above case the land was sold (June 2016) by the land holders to purchasers for the consideration of ₹ 65.22 lakh. By applying instruction of GR (April 2008) the market value should have been worked out to ₹ 1.38 crore. Therefore, the unearned income of ₹ 1.03 crore (*i.e.* 75 per cent of ₹ 1.38 crore) was to be recovered from the land holder. However, the department recovered unearned income of ₹ 27.43 lakh. This resulted in short recovery of unearned income ₹ 76.03 lakh<sup>7</sup>.

After being pointed out (May 2018), Divisional Commissionerate (May 2018) accepted the observation.

**7.4.3** Scrutiny of sale deed document revealed (May 2018) that in case of Class-II land held on new tenure, the Divisional Commissionerate, Pune (July 2014) accorded sale permission to the land holders for sale of land admeasuring 4.66 ha (46,600 sqm) bearing *gat* No.117 situated in *mouza* Undwadi Supe, *tahsil* Baramati, district Pune to purchaser for NA purpose. The department recovered an unearned income of ₹ 15.35 lakh from land holder.

The land was sold (December 2014) by the land holder to a purchaser for NA purpose at the consideration of ₹ 3.40 lakh. By applying instruction of GR (April 2008), the market value of the land should have been worked out to ₹ 54.29 lakh. Therefore, the unearned income of ₹ 40.72 lakh (*i.e.* 75 per cent of ₹ 54.29 lakh) was to be recovered from the land holder. However, the department recovered unearned income of ₹ 15.35 lakh. This resulted in short recovery of unearned income ₹ 25.36 lakh<sup>8</sup>.

The Divisional Commissionerate accepted (May 2018) the observation.

**7.4.4** Scrutiny of records in the office of Divisional Commissionerate, Amravati revealed (July 2018) that in two cases, permission was accorded (June 2014) to the land holders for sale of Class-II land admeasuring 3.07 ha (30,700 sqm)<sup>9</sup> to purchasers for NA purpose for a consideration of

---

<sup>7</sup> (Unearned income to be recovered - ₹ 1.03 crore) - (Unearned income recovered - ₹ 27.43 lakh)

<sup>8</sup> (Unearned income to be recovered - ₹ 40.72 lakh) - (Unearned income recovered - ₹ 15.35 lakh)

<sup>9</sup> *Gat* No 29/4 - 1.75 hectare (17,500 sqm) at *mouza* Godhani, Taluka and District Yavatmal; *Gat* No 4/2 - 1.32 hectare (13,200 sqm) *mouza* Vadgaon (Dhandir), taluka Wani, District Yavatmal

₹ 29.14 lakh<sup>10</sup>. The department recovered unearned income of ₹ 21.85 lakh<sup>11</sup> (i.e. 75 per cent of ₹ 29.14 lakh) from land holder.

As per instructions of GR (April 2008), the market value of the said land was required to be worked out to ₹ 78.04 lakh<sup>12</sup> and the unearned income of ₹ 58.52 lakh<sup>13</sup> (i.e. 75 per cent of ₹ 78.04 lakh) was to be recovered from the land holder. This resulted in short recovery of unearned income of ₹ 36.67 lakh<sup>14</sup> due to under valuation of property.

After being pointed out (July 2018) in audit, the office of the Dy. Commissioner (Revenue), Amravati stated that final compliance would be submitted after verification of original record.

**7.4.5** Scrutiny of records of the office of the Divisional Commissioner, Amravati revealed (July 2018) that sale permission in respect of Class-II land was accorded (July 2014) to the land holders for sale of land admeasuring 0.81 ha (i.e. 8,100 sqm) bearing survey No.109 situated at *mouza* Dhamangaon Gadi, *tahsil* Achalpur, district Amravati for NA purpose. The department recovered an unearned income of ₹ 4.68 lakh from land holder.

The department worked out the market value of the land at ₹ 6.23 lakh by applying agriculture rate instead of NA rate and without applying the provisions of GR (April 2008). As per GR and instruction No. 29 of ASR, the market value of the said land was required to be worked out to ₹ 20.61 lakh and the unearned income of ₹ 15.46 lakh (i.e. 75 per cent of ₹ 20.61 lakh) was to be recovered from the land holder. However, the department recovered unearned income of ₹ 4.68 lakh from land holder which resulted in short recovery of unearned income of ₹ 10.78 lakh.

The office of the Deputy Commissioner (Revenue), Amravati stated (July 2018) that compliance would be submitted after verification of original record.

**7.4.6** Scrutiny of records at office of the Divisional Commissioner, Pune revealed (May 2018) that the sale permission in respect of Class-II land was accorded (July 2014) to the land holders for sale of land admeasuring 7.14 ha (i.e. 71,400 sqm) bearing *gat* No.118 situated at *mouza* Undwadisupe, *tahsil* Baramati, district Pune for NA purpose. The department recovered an unearned income of ₹ 24.63 lakh from land holder.

The department worked out the market value of the land at ₹ 32.84 lakh by applying agriculture rates instead of NA rates and without adopting the provisions of GR (April 2008). As per the provisions of the GR and instruction No. 29 of ASR, the market value of the said land was required to be worked out to ₹ 81.07 lakh and the unearned income of ₹ 60.80 lakh (i.e. 75 per cent of ₹ 81.07 lakh) was to be recovered from the land holder instead of

<sup>10</sup> ₹ 14.00 lakh + ₹ 15.14 lakh

<sup>11</sup> ₹ 10.50 lakh + ₹ 11.35 lakh

<sup>12</sup> ₹ 60.33 lakh + ₹ 17.71 lakh

<sup>13</sup> ₹ 45.24 lakh + ₹ 13.28 lakh

<sup>14</sup> (Unearned income to be recovered - ₹ 58.52 lakh) - (Unearned income recovered - ₹ 21.85 lakh)

₹ 24.63 lakh which resulted in short recovery of unearned income of ₹ 36.17 lakh.

The office of the Dy. Commissioner (Revenue), Pune stated (May 2018) that the amount would be recovered.

**7.4.7** Scrutiny of the records of Divisional Commissionerate, Nashik revealed (April 2018) that office of the Collector, Nashik accorded permission (April 2016) for sale of Class-II land admeasuring 7,650 sqm situated at Survey No. 262/2/A, *mouza* Nashik, district Nashik for NA purpose. As per the order (January 2016) of Revenue Minister, the Collectorate, Nashik worked out the market value of the land for NA purpose at ₹ 52.73 lakh and recovered (March 2016) unearned income of ₹ 39.55 lakh (75 per cent of ₹ 52.73 lakh) by applying market value of land for the year 1999.

As per GR (May 2006), valuation should be determined as per rates prescribed in ASR as on date on which order for allotment of Government land is passed. The Collectorate, Nashik issued an order in April 2016, hence ASR for the year 2016-17 should have been applied. Accordingly, market value of the land was to be worked out to ₹ 7.21 crore on which unearned income of ₹ 5.40 crore (*i.e.* 75 per cent of ₹ 7.21 crore) was recoverable. However, the department recovered unearned income of ₹ 39.55 lakh. This resulted in short recovery of unearned income of ₹ five crore.

After being pointed out in audit (April 2018), the office of the Additional Collector, Nashik stated (June 2018) that an application made by of land owner in the year 1999 was not available and Revenue Minister in his order (January 2016) had directed that the market value pertaining to the year 1999 should be considered for calculation and thus, the same had been adopted.

The reply is not acceptable, as GR (May 2006) envisaged that for allotment of Government land on occupancy basis or on lease basis and in all cases where valuation of Government land is to be done, valuation shall be determined as per rates prescribed in ASR as on date on which the order for allotment of Government land is passed.

**7.4.8** Scrutiny of records of Divisional Commissionerate, Nagpur revealed (October 2018) that the office of the Collector, Chandrapur granted (November 2016) permission to land holder for sale of land admeasuring area of 1.34 ha (*i.e.* 13,400 sqm) situated at *mouza* Bhamdeli, *tahsil* Bhadravati, district Chandrapur for NA purpose. The department had worked out market value of property at ₹ 23.78 lakh on which unearned income amount of ₹ 17.83 lakh (75 per cent of ₹ 23.78 lakh) was levied.

As per instruction No. 29 (a) of ASR 2016-17, the market value of land should have been worked out to ₹ 35.10 lakh, on which unearned income amounting to ₹ 26.32 lakh (75 per cent of ₹ 35.10 lakh) was leviable. Thus, undervaluation of property resulted in short levy of unearned income amounting to ₹ 8.49 lakh<sup>15</sup>.

---

<sup>15</sup> (unearned income leviable ₹ 26.32 lakh) - (unearned income levied ₹ 17.83 lakh)

In reply, the office of the Dy. Commissioner (Revenue), Nagpur stated (October 2018) that the detailed reply would be furnished after verifying the facts.

### 7.5 Short levy of occupancy price due to application of incorrect rates

As per GR (May 2006), while allotting Government land on occupancy or on lease basis, valuation of such land should be determined as per rates prescribed in ASR as on date on which order is passed for allotment of Government land. Further, as per instruction No. 29 (A) of ASR, if Government land is allotted for NA purpose, the valuation is to be done at 50 per cent of NA rate prescribed in the ASR.

**7.5.1** Scrutiny of records of the tahsil office, Buldhana revealed (May 2018) that the department vide a memorandum (January 2014) had sanctioned allotment of Government land admeasuring 24.58 ha bearing *gat* No. 280 situated at *mouza* Ruikheda (Mayamba), district Buldhana to Forest Department in lieu of forest land affected in minor irrigation project at Sarangwadi, *tahsil* Chikli subject to payment of occupancy price of ₹ 81.11 lakh by Minor Irrigation Division, Buldhana (division). On the basis of above memorandum, division deposited (April 2014) an amount of ₹ 81.11 lakh.

The department issued order in January 2014 hence rate of ASR 2014 was applicable for valuation of land. As seen from the ASR 2014 *mouza* Ruikheda is in *vibhag*-5 and minimum rate was ₹ 5.50 lakh per ha. Accordingly, occupancy price leviable was to be worked out to ₹ 1.35 crore. However, department recovered occupancy price of ₹ 81.11 lakh by applying rate of ASR 2013 which resulted in short recovery of occupancy price of ₹ 54.08 lakh.

The tahsil office stated (May 2018) that report would be submitted after verification.

**7.5.2** Scrutiny of records of the Collectorate, Jalna revealed (September 2016) that the department had permitted (November 2003) the office of the Collector to allot Government land admeasuring 22.69 ha (2,26,900 sqm) situated at *mouza* Bhaighavan, *gat* No. 65 to allottee without resorting to public auction and directed to levy temporary occupancy price at ₹ 62,000 per ha with condition that the possession of the land should not be given unless the allottee obtains exemption under the Maharashtra Agricultural Land (Ceiling on Holding) Act, 1961. The department further directed that Collector should recover the amount of difference of final valuation of land as per market value as on date of possession along with due interest.

Accordingly, the allottee paid (May 2010) the temporary occupancy price of ₹ 14.07 lakh. Exemption for holding the land for NA purpose under the Maharashtra Agricultural Land (Ceiling on Holding) Act, 1961 was granted to allottee in December 2012. Further, department intimated (September 2014) to the Collector that the possession of land may be given to the allottee after recovering final occupancy price at the rate applicable for the year 2002 with

the interest from the year 2002 as the allotment of land was sanctioned in the year 2002. Accordingly, the allottee deposited ₹ 1.51 crore (October 2014) and the Collector handed over the possession (February 2015) of the land to the allottee.

The issue of order (September 2014) by department for recovery of occupancy price at the rate for the year 2002 instead of that on the date of giving possession *i.e.* September 2014 resulted in undue benefit to allottee and short recovery of occupancy price amounting to ₹ 4.92 crore<sup>16</sup>.

The Collectorate replied (September 2016) that the occupancy price at the rate of ASR 2002 and interest was recovered as per order (September 2014) of the department.

The reply is not acceptable as the order issued (September 2014) by the department was in violation of the provisions of GR of May 2006 and contrary to the permission issued in November 2003 by the department. This resulted in short recovery of occupancy price by ₹ 4.92 crore.

## 7.6 Short recovery of *nazarana*

As per Government Circular (July 2002), if the Class-II land is converted into Class-I land for NA purpose, then the *nazarana*<sup>17</sup> amount equivalent to 50 *per cent* of market value of the land should be recovered from the applicant. Further, if Class-II land is transferred for NA purpose without prior permission of revenue authority and without remitting prescribed amount of *nazarana* by the land holders, such conversion/ transfer should be regularized on payment of *nazarana* on 50 *per cent* of the current market value of the land and penalty equal to 50 *per cent* of *nazarana* amount payable. The department clarified (September 2006) that in case the market value so determined is less than price realized by way of sale, the *nazarana* shall be determined on sale price. The Government Resolution (April 2008) prescribed specific slabs for valuation of market value of Government land.

Further, as per instruction No. 29 (a) of ASR 2016-17, where Government land in the rural areas is converted for NA purpose, such land should be valued at 50 *per cent* of the per sqm NA rate and on the basis of the table of bare land given under guideline No. 16(a) for the zone concerned, after taking into account the expenses incurred for such probable NA user/development.

**7.6.1** Scrutiny of records of the tahsil office, Sinnar, district Nashik revealed (April 2018) that an order was passed (December 2010) in favour of land holder for conversion of Class-II land admeasuring area of 6.59 hectare<sup>18</sup> situated at *mouza* and *tahsil* Sinnar into Class-I. The department worked out market value of property at ₹ 2.39 crore on which *nazarana* amount of

<sup>16</sup> (Occupancy price leviable – ₹ 6.57 crore) – (Occupancy price levied ₹ 1.65 crore (₹ 1.51 crore + ₹ 14.07 lakh))

<sup>17</sup> *Nazarana* is an amount recoverable from the Class-II land holder who wishes to transfer Class-II land from agricultural use to NA use or from one NA use to another NA use

<sup>18</sup> (4.97 hectare in Survey No. 980(1237)/1 ) + (0.51 hectare in Survey No. 980(1237)/10 ) + ( 0.25 hectare in Survey No. 980(1237)/2) + (0.56 hectare in Survey No. 980(1237)/5) + (0.30 hectare in Survey No. 980(1237)/9)

₹ 1.19 crore (50 per cent of ₹ 2.39 crore) was levied (December 2010). However, as per GR (April 2008), the market value of land should have been worked out to ₹ 3.20 crore, on which *nazarana* amounting to ₹ 1.60 crore (50 per cent of ₹ 3.20 crore) was leviable. Thus, undervaluation of property resulted in short levy of *nazarana* by ₹ 41 lakh<sup>19</sup>.

The tahsil office stated (April 2018) that the detailed reply would be furnished after verifying the facts.

**7.6.2** Scrutiny of the records at Collectorate, Jalgaon and gift deed document registered with the office of the Joint Sub Registrar, Bhusawal (Jt.SR) revealed (July 2017) that in one case of Class-II land admeasuring 4,000 sqm held on new tenure situated at survey no. 48/8+9, village Bhusawal held by land holder was gifted to an education society at Bhusawal for NA purpose without obtaining prior permission from the office of the Collector for 'Nil' consideration. The market value of the property was calculated by Jt.SR at ₹ 1.36 crore. However, the details of calculation of valuation of property were not available with the document.

As per circular (July 2002), in case of transfer of Class-II land for NA purpose without prior permission of revenue authority, the *nazarana* equal to 50 per cent of current market value with penalty was recoverable. The market value of land on the date of transfer was ₹ 95 lakh and therefore *nazarana* amounting to ₹ 47.50 lakh and penalty amounting to ₹ 23.75 lakh (50 per cent of ₹ 47,50,000) totalling to ₹ 71.25 lakh was recoverable. This resulted in non-recovery of *nazarana* and penalty amounting to ₹ 71.25 lakh<sup>20</sup>.

The Collectorate stated (July 2017) that the detailed reply would be furnished after verifying the case.

**7.6.3** As per Hyderabad Abolition of Inams and Cash Grants (Amendment), Act 2015, occupancy held on new and impartible tenure (occupant Class-II) may, on or after the commencement date, be converted into occupant Class-I, by making payment of 50 per cent of the amount of the current market value of such land to the Government as *nazarana* and after such conversion, such land shall be held by the occupant as occupant Class-I, in accordance with the provisions of MLR Code. Further, as per instruction No. 29 (a) of ASR 2015-16, where Government land in the rural areas is converted into NA objects, such land in the rural areas should be valued at 50 per cent of the per sqm NA rate and on the basis of the table of bare land given under valuation guideline No. 16(a) for the zone concerned, after taking into account the expenses incurred for such probable NA user/development.

Scrutiny of records of Collectorate, Beed revealed (February 2018) that, in case of Class-II land held on new tenure, the office of the Sub-Divisional Officer, Patoda had accorded (January 2016) permission for NA use to occupant on the basis of letter issued by the office of the Collector

<sup>19</sup> (*nazarana* amount recoverable ₹ 1.60 crore) - (*nazarana* amount recovered ₹ 1.19 crore)

<sup>20</sup> (*nazarana* leviable - ₹ 47.50 lakh) + (Penalty leviable - ₹ 23.75 lakh) - (*nazarana* levied - ₹ Nil)

(October 2015) wherein it was intimated that land holder had deposited (October 2015) the *nazarana* of ₹ 10.39 lakh in respect of land admeasuring 1.98 ha (*i.e.* 19,800 sqm) bearing *gat* No.199/A/1 situated in *mouza* Kada, *tahsil* Aashti, district Beed. The department calculated market value of land on the basis of rate applicable for agricultural land as prescribed in ASR 2015-16.

As per instruction No. 29(a), market value of the property was to be worked out to ₹ 66.72 lakh on which *nazarana* amount of ₹ 33.36 lakh (*i.e.* 50 per cent of ₹ 66.72 lakh) was recoverable from the land holder. However, the department recovered *nazarana* amounting to ₹ 10.39 lakh. This resulted in short recovery of *nazarana* by ₹ 22.97 lakh.

The Collectorate stated (February 2018) that matter would be investigated and final reply would be communicated to Audit.

**7.6.4** Scrutiny of records of the *tahsil* office, Chopda, district Jalgaon revealed (July 2018) that the office of the Sub Divisional Officer, Amalner passed an order (September 2016) in favour of land holder for change in use of land from agricultural to NA which was sold vide document No.1744/2015, admeasuring 4 ha 25 R (*i.e.* 42,500 sqm) situated at *gat* No.16 *mouza* Akulkhede, *tahsil* Chopda, district Jalgaon. The department determined the valuation of land at ₹ 33.09 lakh and recovered *nazarana* amount of ₹ 16.54 lakh (50 per cent of market value). The basis for arriving at valuation of land was not available on records.

As per instructions No. 29 (a) and 16 (a) of ASR 2016-17, the market value of land should have been worked out with application of NA rate which comes to ₹ 63.63 lakh and thus, the *nazarana* amounting to ₹ 31.82 lakh (50 per cent of ₹ 63.63 lakh) was leviable. However, undervaluation of the property resulted in short levy of *nazarana* amounting to ₹ 15.28 lakh<sup>21</sup>.

In reply, the *tahsil* office stated (July 2018) that the detailed reply would be furnished after verifying the facts.

### 7.7 Short levy of royalty and penalty on illegal extraction of clay for bricks due to incorrect calculation

Under section 48 (7) of MLR Code read with Maharashtra gazette notification (June 2015), if any person who without lawful authority extracts, removes, collects, replaces, picks up or disposes of any mineral from working or derelict mines, quarries, old dumps, fields, bandhas (whether on the plea of repairing or constructions of bund of the fields or an any other plea), nallas, creeks, river-beds or such other places wherever situate, the right to which vests in and has not been assigned by the State Government shall, without prejudice to any other mode of action that may be taken against him, be liable, on the order in writing of the Collector, to pay penalty at five times of the market value of the minerals so extracted, removed, collected, replaced, picked up or disposed of, as the case may be. Besides, Collector, Pune vide circular (July 2015) had decided the market rate of clay for bricks at ₹ 1,000 per brass and royalty at

<sup>21</sup> (*naazrana* amount recoverable ₹ 31.82 lakh) – (*nazarana* amount recovered ₹ 16.54 lakh)

the rate of ₹ 160 per brass. Further, as per Government Notification (May 2015), rates of royalty for ordinary earth used for filling or leveling purpose in construction of embankment, roads, railway and building was ₹ 160 per brass.

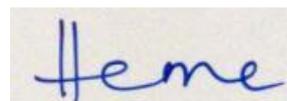
Scrutiny of records of the tahsil office Haveli, district Pune revealed (May 2018) that an order was issued (December 2017) for recovery of ₹ 30.71 lakh considering rate of royalty @ ₹ 400 per brass along with TDS @ 2.06 per cent and penalty @ five times of ₹ 420 per brass against contractor for unauthorized collection of 1,275 brass of clay for bricks.

As per notification of May 2015 and circular of July 2015, rate of royalty for earth used for manufacture of bricks was ₹ 160 per brass and the market rate of clay for bricks was ₹ 1,000 per brass. Thus, royalty @ ₹ 160 with TDS and penalty @ ₹ 5,000 per brass amounting to ₹ 65.83 lakh was required to be recovered. This resulted in short levy of royalty and penalty amounting to ₹ 35.12 lakh.

The tahsil office stated (May 2018) that a detailed report would be furnished after verifying the facts.

The above observations were referred to the Government between May 2019 and April 2020; replies were awaited (June 2020).

Nagpur  
The 31 July, 2020



(HEMA MUNIVENKATAPPA)  
Accountant General (Audit)- II,  
Maharashtra, Nagpur

Countersigned

New Delhi  
The 4 August, 2020



(RAJIV MEHRISHI)  
Comptroller and Auditor General of India