

CHAPTER V: OTHER TAX RECEIPTS

5.1 Results of audit

Test check of the records of Departments of State Excise, Transport and Land Revenue conducted during 2008-09 revealed non-recovery of duty, short realisation of licence fees, non-levy of penalty, delay in crediting of process fees and non/short levy of entertainment duty amounting to Rs. 89.91 crore in 5,597 cases which fall under the following categories:

(Rupees in crore)			
Sl. no.	Category	Number of cases	Amount
STATE EXCISE AND ENTERTAINMENT DUTY			
1.	Short realisation of licence fees	8	9.33
2.	Non-levy of penalty for failure to maintain minimum stock of spirit in warehouses	23	5.08
3.	Other irregularities	192	3.38
	Total	223	17.79
TAXES ON VEHICLES			
1.	Non/short realisation of tax and penalty	1,554	10.13
2.	Other irregularities	204	1.76
	Total	1,758	11.89
LAND REVENUE			
1.	Non/short levy and realisation of process fees, premium, cess, etc.	3,312	31.23
2.	Other irregularities	304	29.00
	Total	3,616	60.23
Grand total		5,597	89.91

During the year 2008-09, the concerned departments accepted underassessment, non/short levy of duty, non/short realisation of tax and penalty etc. of Rs. 48.23 crore in 3,368 cases.

After issue of the draft paragraphs, the department recovered Rs. 18.75 lakh in seven cases in full.

A few illustrative audit observations involving Rs. 6.72 crore are mentioned in the succeeding paragraphs.

5.2 Audit observations

Scrutiny of the records of State Excise, Transport and Land Revenue Departments revealed several cases of non-observance of provisions of Rules and regulations made under the relevant Act which are mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on a test checks carried out in audit. Such omissions are pointed out in every year, but not only the irregularities do persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that recurrence of such cases can be avoided.

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

The provisions of the Chhattisgarh Country Spirit Rules; Madhya Pradesh Finance Code and Madhya Pradesh Treasury Account Code (as adopted in Chhattisgarh); Entertainment Duty and Advertisement Tax Act, 1936; Chhattisgarh Motoryan Karadhan Adhiniyam, 1991; Central Motor Vehicle Rules, 1989 and Chhattisgarh Adhosanrachana Vikas Paryavaran Upkar Adhiniyam, 2005 provide for :

- levy of penalty for failure to maintain minimum stock of spirit in warehouses;*
- remittance of the Government receipts into the treasury;*
- levy of the entertainment duty on proprietors of cable operators;*
- levy of the trade tax on automobile dealer;*
- levy of the taxes on passenger/transport vehicle; and*
- levy of the environment and development cess on mining lease.*

The concerned authorities did not follow some of the above provisions resulting in non-levy/short realisation/loss as mentioned in paragraphs 5.4 to 5.9.

STATE EXCISE AND ENTERTAINMENT DUTY

5.4 Non-levy of penalty for failure to maintain minimum stock of spirit in warehouses

According to the Rule 4(4) of Chhattisgarh Country Spirit Rules, a licensee shall maintain at each storage warehouse, a minimum stock of bottled liquor equivalent to average issue of five days of the preceding month. In the event of failure to maintain the minimum stock of spirit in warehouse, the collector may impose a penalty not exceeding Rs. two per litre on the licensee, for the quantity found short of the prescribed minimum stock. This penalty shall be payable by the licensee irrespective of whether any loss has actually been caused to the Government or not.

Scrutiny of the records of Assistant Commissioner, State Excise, Mahasamund (September 2008) indicated that there were 622 occasions when the licensees did not maintain the minimum stock but the department did not initiate action to levy penalty after scrutinising the returns of the licensees. Consequently, penalty of Rs. 90.58 lakh was not levied on 45.29 lakh proof litre (PL) of spirit found short in two storage warehouses at Mahasamund and Basna.

After the cases were pointed out (March 2009), the Government stated (September 2009) that show cause notices have been served to the licencees. Personal hearing has been made in the case before the collector on 28 July 2009. Final decision had not yet been taken and further progress will be intimated. Further developments had not been reported (November 2009).

5.5 Loss due to delay in remittance of revenue receipts into the treasury

As per Rule 53(1) of the Madhya Pradesh Finance Code and MP Treasury Account Code, the Government servant responsible for receiving Government money should remit it into the treasury as soon as it is received.

Test check of the records of the District Excise Officers (DEO), Kanker and Kawardha (July and September 2008) indicated that process fee of Rs. 17.19 crore and Rs. 83.87 lakh received by the DEO, Kawardha and Kanker respectively in the form of Bank Drafts, Banker's cheque or Pay orders issued by nationalised banks/scheduled commercial banks were remitted into the treasury with a delay of one to ten months. Therefore, these amounts remained outside the cash balance of the government with Reserve Bank of India and resulted in loss of interest of Rs. 22.06 lakh calculated at the rate for investment of cash balances in treasury bills.

After the cases were pointed out (January 2009), the Government stated (March 2009) that drafts received as process fee are payable at various banks situated in various places in the district. After segregating it bank wise, they are sent to the bank through challans for being credited in Government account. They further added that the bank accepts a limited number of cases for credit, which causes delay in crediting amount in Government account.

The reply only outlines the normal procedure for depositing of drafts and does not explain the huge delays. The system is required to be streamlined in consultation with the concerned bank to minimise the processing time so that the loss to Government is avoided.

5.6 Non-recovery of entertainment duty

As per Section 3A and 3B of the Entertainment Duty and Advertisement Tax Act 1936, proprietors of video cassette recorder and video cassette player rentals and cable operators shall pay entertainment duty per month to the State Government at the specified rates.

Test check of the records (January 2006 and November 2007) of four DEOs/Assistant Commissioners¹ indicated that six proprietors of video cassette recorder/video cassette player and 32 cable operators failed to pay the entertainment duty amounting to Rs. 7.16 lakh.

After this was pointed out (October 2008), the Government reported (October 2009) recovery of Rs. 1.90 lakh and stated that action is being taken for the recovery of balance of Rs. 5.26 lakh. Report on recovery of balance amount has not been received (November 2009).

¹ Bilaspur, Durg, Jagdalpur and Jashpur.

TAXES ON VEHICLES

5.7 Short realisation of trade tax from dealers

According to Section 4 of the *Chhattisgarh Motoryan Karadhan Adhiniyam*, read with Rule 33 of Central Motor Vehicle Rules 1989, a dealer to whom a trade certificate has been issued under the Motor Vehicles Act, 1988, will pay trade tax in respect of vehicles in his possession during the course of business. Schedule III of *Chhattisgarh Motoryan Karadhan Adhiniyam*, specifies the rate of trade tax for first seven vehicles and for every lot of additional seven vehicles in possession of the dealer during the course of his business.

Test check of the records of five² transport officers (July 2007 - February 2008) indicated that 360 automobile dealers had obtained trade certificates from the respective transport offices. It was observed that 1,13,416 vehicles were registered during 2004-05 and 2006-07. However, dealers paid trade tax of Rs. 6.18 lakh only as against Rs. 2.07 crore payable during the period at the rate prescribed in Schedule III of the Act which resulted in short realisation of trade tax of Rs. 2.01 crore.

After the cases were pointed out, the Regional Transport Officer (RTO), Bilaspur and Additional RTO, Ambikapur stated (July 2007 and August 2007) that according to the Act, tax is to be collected on the basis of trade certificate granted to the dealer and it had been collected. The reply does not explain the huge gap between the trade tax actually collected and the number of vehicles sold. There was no evidence that the Transport Department was comparing the sales made by the dealers with their trade certificates. The RTO, Jagdalpur, District Transport Officer (DTO), Raigarh and DTO, Korba replied (July 2007 and February 2008) that the position of the cases would be intimated to audit after verification of facts and consultation with the headquarters. The sale figures of some dealers, for the year 2006-07, were compared with the trade numbers indicated on their trade certificates which had been issued by the RTO. Three dealers under RTO, Bilaspur had sold 3,489; 1,553 and 1,417 vehicles as against trade certificates for 21, 20 and 14 vehicles and seven dealers under RTO, Jagdalpur had sold 1,104; 1,015; 263; 145; 275; 145 and 3,510 vehicles as against trade certificates for 10, 7, 7, 7, 7, 7 and 27 vehicles respectively. It confirmed that the number of vehicles for which the dealers paid tax according to the trade certificates issued to them, were not commensurate with their sales.

The matter was reported to the Government in September 2008; their reply has not been received (November 2009).

5.8 Non-realisation of taxes from the owners of passenger and transport vehicles

According to Section 3 and 5 of the *Chhattisgarh Motoryan Karadhan Adhiniyam*, tax shall be levied on the owner of every goods and passenger vehicle used or kept for use in the State at the rate prescribed in the first Schedule of the Act. In case of non payment of the tax due, the owner shall, in

² ARTO Ambikapur, RTO Bilaspur and Jagdalpur, DTO Korba and Raigarh.

addition to the payment of tax due, be liable to pay penalty at the rate of one twelfth of the unpaid amount of tax for the default of each month or part thereof but not exceeding the unpaid amount of tax as laid down under section 13(1) of the Act. Where any owner fails to pay tax, the taxation authority is required to issue a demand notice and take action to recover the amount of penalty in addition to tax as arrears of land revenue.

Test check of the records of the seven³ transport officers between May 2003 and September 2008 indicated that though the owners of 168 passenger vehicles, 84 goods vehicles and 14 loaders and dozer machines did not pay the road tax of Rs. 77.83 lakh for the period July 2000 to March 2008, no action was initiated by the RTOs/DTOs to issue demand notices for recovery of the tax from the defaulting vehicle owners. This resulted in non-realisation of tax of Rs. 77.83 lakh and penalty of Rs. 68.98 lakh for delay in payment of tax.

After the cases were pointed out between July 2008 and May 2009, the DTOs, Dhamtari and Korba and RTO, Raipur recovered Rs. 9,600, Rs. 1.80 lakh and Rs. 9.99 lakh respectively and issued notices in the remaining cases. The ARTO, Ambikapur, RTO, Bilaspur, RTO, Jagdalpur and DTO, Kanker stated that recovery will be made after verification. Further development has not been reported (November 2009).

The matter was reported to the Government between July 2008 and May 2009; their reply has not been received (November 2009).

LAND REVENUE

5.9 Non-realisation of cess

Under the provisions of the Chhattisgarh *Adhosanranchna Vikas Evam Paryavaran Upkar Adhiniyam*, 2005, every lease holder is liable to pay five *per cent* as development cess and five *per cent* as environmental cess on the amount of royalty paid on any mining lease during a year. The payment of cess shall be made by the lease holder in four equal installments on the last day of each quarter.

Test check of the records of the Collector, Janjgir-Champa in May 2008 indicated that five lease holders had not paid development and environment cess of Rs. 2.23 crore on royalty of Rs. 22.27 crore paid during 2006-07 and 2007-08. The department had not initiated any action for its recovery.

After the cases were pointed out in May 2009, the department intimated (September 2009) that it has recovered Rs. 4.96 lakh in two cases and in one case a writ petition is pending with Hon'ble High Court. However, it did not indicate the action taken in the remaining two cases.

The matter was reported to the Government in May 2009; their reply has not been received (November 2009).

³ ARTO Ambikapur, RTO Bilaspur, Jagdalpur and Raipur, DTO Dhamtari, Kanker and Korba.