

## CHAPTER V MOTOR VEHICLES TAX

### 5.1 Results of audit

Test check of the records of the Regional Transport Offices, Additional Regional Transport Offices and Public Vehicles Department conducted in audit during the year 2008-09, indicated non/short realisation of revenue amounting to Rs. 13.30 crore in 28 cases, which could be classified under the following categories:

(Rupees in crore)			
Sl. no.	Categories	No. of cases	Amount
1.	Non-realisation of tax, additional tax and penalty	3	9.74
2.	Mishandling of bank drafts	4	2.53
3.	Non-realisation of revenue due to non-reference of offence cases to the court of law	4	0.15
4.	Loss of revenue due to non-issuance of saleable forms	3	0.13
5.	Other irregularities	14	0.75
<b>Total</b>		<b>28</b>	<b>13.30</b>

During the year 2008-09, the department accepted underassessment and other deficiencies amounting to Rs. 78.19 lakh involved in 13 cases of which nine cases involving Rs. 65.75 lakh were pointed out in audit during the year 2008-09 and the rest in the earlier years. An amount of Rs. 5.24 lakh involved in seven cases was realised at the instance of audit during the year 2008-09.

A few illustrative audit observations involving Rs. 10.69 crore are mentioned in the succeeding paragraphs.

## **5.2 Audit observations**

*Scrutiny of the records in the offices of Regional Transport Officers, Additional Regional Transport Officers and Public Vehicles Department indicated non-realisation of tax/additional tax/penalty/special fees and fine as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions are pointed out in audit year after year; but not only do the irregularities persist, these remain undetected till an audit is conducted. There is need for the Government to consider improving the internal control system including strengthening internal audit so that such omissions can be detected, corrected and avoided.*

## **5.3 Non-realisation of tax, additional tax and penalty from the owners of vehicles**

The West Bengal Motor Vehicles (WBMV) Tax Act, 1979 and the West Bengal Additional Tax and One-time Tax on Motor Vehicles (WBAT) Act, 1989, as amended in January and September 2003 and Government notification of December 1998 and August 1999 prescribe the rate of tax and additional tax on motor vehicles to be paid for the year in advance based on their use, seating capacity or weight. Both the Acts provide for penalty equal to tax and additional tax in case of non-payment beyond 75 days from the due date.

Scrutiny of the records of two Regional Transport Offices<sup>1</sup> (RTO) and two Additional Regional Transport Offices<sup>2</sup> (ARTO) between March and September, 2008 indicated that the owners of 10,330 vehicles<sup>3</sup> did not pay tax and additional tax for different periods between July 2005 and March 2008. The taxing officers (TO) did not initiate any action to realise the tax and penalty. The delay in non-payment of tax and additional tax ranged between 3 and 30 months for which 100 *per cent* penalty was leviable. This resulted in non-realisation of tax, additional tax and penalty of Rs. 10.08 crore.

After the cases were pointed out the ARTO, Barrackpore in 172 cases involving Rs. 53.58 lakh stated that demand notices were being issued. RTO, Burdwan in 31 cases involving Rs. 13.71 lakh stated that demand notices had been issued. However, report on recovery has not been received (October 2009). In the remaining 10,127 cases involving Rs. 9.41 crore the taxing officers did not furnish any reply.

The cases were forwarded to the Government between April and September 2008 followed by reminders issued upto June 2009; their reply has not been received (October 2009).

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<sup>1</sup> Barasat and Burdwan.

<sup>2</sup> Barrackpore and Siliguri.

<sup>3</sup> Truck-10,171, Tanker-99, Mini Bus-54, Trailer-3, Tipper-2 and Articulated Trailer-1.

#### **5.4 Non-realisation of revenue due to non-disposal of seized vehicles**

Under the provisions of the WBMVT Act, 1979 and the WBAT Act, 1989, a motor vehicle may be detained and seized by the enforcement authority due to non-payment of tax and additional tax and may be released on realisation of dues along with the prescribed penalty within 30 days of seizure. The owner is liable to pay double the amount of tax and penalty within a further period of 15 days after expiry of the said 30 days. In case of default in payment, the vehicle may be sold in auction for realisation of dues. In case, no one turns up claiming the ownership of the motor vehicle within 30 days from the date of seizure, the TO shall sell the vehicle in auction to recover the Government dues.

Scrutiny of the records of the RTO, Barasat in August 2008 indicated that 31 vehicles<sup>4</sup> of different categories were seized between April 2004 and February 2008 for non-payment of tax, additional tax and other dues amounting to Rs. 23.35 lakh. Of these 19 vehicles were not auctioned even after lapse of 5 to 31 months from the date of seizure although auction committee had been formed. A lot of 12 vehicles though put on auction (August 2006), could not fetch the reserve price. No action was taken to dispose the vehicles by holding a second auction even after the lapse of 24 months from the date of the first auction. This resulted in non-realisation of revenue of Rs. 23.35 lakh. The delay in disposal will depreciate the value of the vehicles and reduce the amount that can be realised.

After the cases were pointed out, the taxing officer (TO), Barasat stated (August 2008) that auction committee had been formed to sell the vehicles in auction. Report on further action taken has not been received (October 2009).

The cases were forwarded to the Government in December 2007 followed by reminders issued up to June 2009; their reply has not been received (October 2009).

#### **5.5 Non-realisation of differential tax from the owners of motor cycles**

Under the provisions of the WBAT Act, 1989, as amended in August 2003 and effective from 15 September 2003, the owner of a motor cycle registered after 25 November 1991 has to pay the difference of the rate of life time tax payable as specified in Schedule-III and one time tax (OTT) already paid within the appointed date. The State Government by a notification issued in December 2004, stipulated 16 March 2005 as the appointed date for payment of the difference of such taxes. In case of non-payment of differential tax within the appointed date, penalty as per provisions of the Act was to be charged.

Scrutiny of the records of RTO, Burdwan and ARTO, Siliguri between February and March 2008 indicated that the differential tax of Rs. 10.88 lakh in respect of 532 motor cycles registered between September 2003 and February 2004, was not realised from the owners even after the lapse of 34 to 35 months from the

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<sup>4</sup> Truck-6, Taxi-5, Bus-2, Auto Rickshaw-2, Trekker-2, Articulated Trailer-1 and other vehicles-13.

appointed date. Neither were the vehicles seized nor was any action taken by the taxing officers (TO) to realise the dues as per provisions of the Act. This resulted in non-realisation of tax of Rs. 21.75 lakh including penalty.

After the cases were pointed out, the TO, Siliguri and Burdwan stated (March 2008) that necessary steps would be taken to realise the dues. Report on realisation has not been received (October 2009).

The cases were forwarded to the Government between April and May 2008 followed by reminders issued upto June 2009; their reply has not been received (October 2009).

### **5.6 Non-realisation of fine due to non-reference of offence cases to the Court**

Under the provisions of the WBMV Rules 1989, the compounding officer shall compound the offence with the consent of the offender and issue notice for payment of the compounded fine within seven days from the date of issue of the notice. In case of non-payment of fine within the said period, he shall refer the cases to the court of law for prosecution.

Scrutiny of the records in four RTOs<sup>5</sup>, ARTO, Barrackpore and Public Vehicles Department (PVD), Kolkata between September 2003 and March 2008 indicated that 209 offence cases were detected by the enforcement wings between June 2003 and March 2008 but the cases were neither compounded nor referred to the Court of law for prosecution even after the lapse of 1 to 49 months from the date of detection. This resulted in non-realisation of fine of Rs. 10.65 lakh.

After the cases were pointed out, ARTO, Barrackpore and RTO, Jalpaiguri admitted (between March 2006 and November 2008) the audit observations in 64 cases involving Rs. 3.28 lakh. Report on further development has not been received (October 2009). In the remaining 145 cases involving Rs. 7.37 lakh the TOs have not furnished any reply (October 2009).

The cases were forwarded to the Government between April 2006 and September 2008 followed by reminders issued up to June 2009; their reply has not been received (October 2009).

### **5.7 Non-realisation of special fees**

The West Bengal Motor Vehicles (WBMV) Rules, 1989 prohibit plying of heavy goods vehicles having gross vehicle weight above 22,542 kg in the state. By two notifications issued in December 1990 and June 1991, the government relaxed the restriction and permitted plying of such vehicles on the payment of annual special fee at the prescribed rates depending on the gross vehicle weight.

Scrutiny of the records of two ARTOs<sup>6</sup> and Public Vehicles Department (PVD), Kolkata between November 2006 and March 2008 indicated that special fee was

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<sup>5</sup> Howrah, Jalpaiguri, South 24-Parganas and Tamluk.

<sup>6</sup> Asansol and Siliguri.

not realised from the owners of 186 goods vehicles having gross vehicle weight between 23,460 kg. and 35,200 kg. for the period from September 2003 to November 2007. There were no records to show that the vehicles had been surrendered or granted NOC. This resulted in non-realisation of special fees of Rs. 5.67 lakh.

After the cases were pointed out, the TOs, Siliguri and Asansol stated (between December 2007 and March 2008) in respect of 88 vehicles involving Rs. 1.61 lakh that necessary steps would be taken to realise the dues. Report on realisation has not been received (October 2009). The reply furnished by the taxing authority, PVD Kolkata did not touch upon the issue raised by audit.

The cases were forwarded to the Government between February 2007 and May 2008 followed by reminders issued up to June 2009; their reply has not been received (October 2009).