

## CHAPTER VI OTHER TAX RECEIPTS

### 6.1 Results of audit

Test check of the records of 83 offices of the following Departments during the year 2010-11 revealed underassessments of tax and other irregularities involving ₹ 733.45 crore in 124 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
<b>I</b>	<b>ENERGY DEPARTMENT</b>		
1.	Non/short levy of electricity duty	5	650.21
2.	Unauthorised exemption from payment of electricity duty	4	0.59
<b>II</b>	<b>REVENUE DEPARTMENT</b>		
	<b>A. State Excise Duties</b>		
1.	<b>Functioning of the Prohibition and Excise Department – A Performance Review</b>	1	22.01
2.	Non-levy of additional license fee	4	0.99
3.	Short fixation of upset price	4	0.27
4.	Non-levy/collection and incorrect adoption of licence fee	10	2.23
5.	Non-levy/ collection of Professions tax	3	0.52
6.	Non-collection/ short levy of resultant loss	3	0.52
	<b>B. Land Revenue</b>		
1.	Non/short levy of water tax	10	1.27
2.	Incorrect grant of remission of water tax	7	0.59
3.	Non-levy of interest on arrears of land revenue	20	0.53
4.	Elimination of demand	3	1.22
	<b>C. Entertainments tax</b>		
1.	Non/short levy of entertainments tax	5	0.01
	<b>D. Professions tax</b>		
1.	Non-levy and collection of professions tax	44	1.10
<b>III</b>	<b>TRANSPORT, ROADS AND BUILDINGS DEPARTMENT</b>		
1.	Non-levy and collection of professions tax	1	45.76
<b>IV</b>	<b>INDUSTRIES AND COMMERCE DEPARTMENT</b>		
	<b>Director and Commissioner of Sugar and Cane Commissioner</b>		
1.	Non-levy of penalty	9	5.63
<b>Total</b>		<b>124</b>	<b>733.45</b>

During the course of the year 2010-11, the Department accepted underassessments and other deficiencies of ₹ 648.28 crore in 55 cases of which, 24 cases involving ₹ 382.82 crore were pointed out during the year and the rest in the earlier years. An amount of ₹ 15.72 crore was realised in 20 cases.

A performance review on “**Functioning of the Prohibition and Excise Department**” has been brought out as a standalone report.

Few illustrative cases involving ₹ 299.44 crore are mentioned in the succeeding paragraphs.

## 6.2 Audit observations

*During scrutiny of the records in the offices of Energy, Industries and Commerce, Revenue, Transport, Roads and Buildings Departments relating to revenue received from electricity duty, penalty, professions tax and water tax, we observed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of tax/penalty and other cases as mentioned in the succeeding paragraphs in this Chapter. These cases are illustrative and are based on a test check carried out by us. We pointed out such omissions in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is a need for the Government to consider directing the Departments to improve the internal control system including strengthening the internal audit so that such omissions are detected and rectified.*

### ENERGY DEPARTMENT

#### 6.3 Non-levy of electricity duty

As per Section 3 of Andhra Pradesh Electricity Duty (APED) Act, 1939, every licensee in the state of Andhra Pradesh shall pay every month to the Government in the prescribed manner, a duty calculated at the rate of six paise per unit of energy on and in respect of all sales of energy effected by the licensee during the previous month at a price of more than 12 paise per unit.

Further, as per Section 4 of the Act, every person or generating company or a licensee liable to pay duty under Section 3 or 3B shall maintain the books of accounts in the prescribed form and shall submit the returns showing the units of energy consumed as auxiliary consumption of a generating plant and the energy consumed for their own purposes, energy sold to the consumers and the amounts payable in respect of such energy consumed or sold, as the case may be, to such officer in such form and at such time as may be prescribed.

As per Section 6 of the APED Act, the duty remaining unpaid shall be recoverable as arrears of land revenue.

**6.3.1** We noticed (October 2008) during the test check of the records of office of the Chief Electrical Inspector (CEI) to the Government of Andhra Pradesh and the material furnished by them to the Government between August 2009 and March 2011, that 44,097.34 million units of electrical energy were generated and sold by 113 private generating units during the period from July 2003 to March 2010. However, the Department had neither issued demand notice to the concerned generating units for payment of electricity duty nor did they include the same in their Electricity duty register. This resulted in non-levy of electricity duty amounting to

₹ 264.58 crore.

After we pointed out the case, the Government while accepting (December 2009) the audit observation stated that demand notices had been issued

(October and November 2009) for the amounts due upto March 2009. Regarding levy of electricity duty for the period from April 2009 to March 2010, the Government replied (August 2011) that demand notices were issued for this period.

**6.3.2** We noticed (July 2010) during the test check of records of office of CEI to the Government of Andhra Pradesh, Hyderabad that two private power generating companies had not paid electricity duty on 18.77 million units of electrical energy generated and sold by them to third parties during the year 2008-09. This resulted in non-levy of electricity duty amounting to ₹ 11.26 lakh.

After we pointed the cases, the Government accepted (August 2011) the audit observation and stated that demand notice had been issued in December 2010 in respect of one power generating company. Final reply in respect of the other power generating company is awaited (October 2011).

## TRANSPORT, ROADS AND BUILDINGS AND REVENUE DEPARTMENTS

### 6.4 Non-levy and collection of professions tax

Under Section 4 of the Andhra Pradesh (AP) Tax on Professions, Trades, Callings and Employments Act 1987, the Government issued orders vide G.O.Ms. No. 610 Revenue (CT-IV) Department dated 30 May 2006 appointing Regional Transport Officers/Deputy Commissioners/Joint Commissioners as collecting agents for collection of professions tax from the lorry/bus owners at ₹ 750 per vehicle per annum. Further, the Sub-Registrars concerned are appointed as collecting agents to collect professions tax from chit fund companies at ₹ 2,500 per year.

**6.4.1** We noticed (November 2009) during the test check of the records of the office of the Transport Commissioner (TC), Andhra Pradesh that there were 5,77,541 non-transport vehicles<sup>1</sup> in the State during the year 2008-09. Professions tax of ₹ 43.32 crore was collectable from all the owners of these vehicles. However, the Department had collected only ₹ 15.54 crore relating to 2,07,253 vehicles.

Professions tax of ₹ 27.77 crore on the remaining 3,70,288 vehicles was not levied and collected.

After we pointed out the case, the Department stated (August 2011) that consequent to the writ petition filed by Public taxi owner and Drivers Association, Rajahmundry in 2009, the High Court of Andhra Pradesh issued interim orders in August 2010 to suspend the Government order dated 30 May 2006 until further orders and hence they had stopped collection of professions

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<sup>1</sup> Non-transport vehicles are those used by the owner of the vehicles for their own purposes and not for hire or reward.

tax since then. The reply of the Department is not acceptable as the irregularity pointed out by audit pertains to the year 2008-09.

We referred the matter to the Government in June 2011; their reply has not been received (October 2011).

**6.4.2** We noticed (between April and December 2010) during test check of the records of nine office of District Registrars of Assurances<sup>2</sup> that professions tax of ₹ 35.73 lakh was not levied and collected for the years 2006-07 to 2009-10 from the 438 chit fund companies located within the jurisdiction of the respective Registering officers. Thus, despite the orders of the Government, the Registration and Stamps Department had failed to realise professions tax amounting to ₹ 35.73 lakh.

After we pointed out the cases, the Department stated (July 2011) that collection particulars would be submitted after sending the list to chit fund companies that had defaulted in the payment of professions tax. Further, District Registrar, Ranga Reddy (East) stated (June 2011) that an amount of ₹ 0.43 lakh was collected (between March and June 2011) from seven chit fund companies.

We referred the matter to the Government in June 2011; their reply has not been received (October 2011).

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<sup>2</sup> Guntur, Hyderabad, Khammam, Mahabubnagar, Nalgonda, Rangareddy, Rangareddy (East), Vijayawada and Warangal.

## INDUSTRIES AND COMMERCE DEPARTMENT

### Sugar and Cane

#### 6.5 Non-levy of penalty

Under AP Sugarcane (Regulation of Supply and Purchase Tax) Act and Rules, 1961, occupier of a sugar factory or owner of a *Khandasari* (unit which manufactures cottage sugar in unrefined form) unit has to pay purchase tax on sugarcane purchased by him including purchases made from cane growers of other States. Government ordered vide G.O.Ms.No.247, Industries and Commerce (Sugar) Department, dated 07 December 2009 that purchase tax for the crushing season 2009-10 be paid to cane growers within 14 days from the date of purchase of cane as additional incentive by the sugar factory directly. The sugar factories shall prefer bills to the Commissioner of Sugar for book adjustment of receipts of amounts towards purchase tax by crediting the amount to the Head of Account "Tax Collection-Purchase tax on Sugarcane". Sugar produced in a factory or *Khandasari* unit, shall not be removed or cause to be removed until the purchase tax due to the Government is paid. In case of default, penalty not exceeding 100 per cent of the purchase tax is also leviable.

We noticed (August and September 2010) during the test check of the records of offices of seven Assistant Cane Commissioners (ACC)<sup>3</sup> that 17 sugar factories removed 7,63,745 quintals of sugar produced during the crushing season 2009-10 without payment of purchase tax of ₹ 5.08 crore. However, the Department did not levy penalty of ₹ 5.08 crore for removal of sugar without payment of purchase tax.

After we pointed out the above cases, the Department stated (August 2011) that the Government of AP converted purchase tax intended to be paid to the exchequer as

purchase tax incentive to be passed on to canegrowers and hence procedure/provision of levying and collecting purchase tax, penalty ceases to exist. The reply of the Department is not acceptable as the introduction of incentive scheme does not tantamount to repeal of the provisions of the Act, as contended by the Commissioner. Penalty is leviable as per provisions of the Act irrespective of the fact of payment of incentive within 14 days from the date of purchase, if the purchase tax was not paid before removing the sugar as stipulated under Section 21(3) of the Act.

We referred the matter to the Government in June 2011; their reply has not been received (October 2011).

<sup>3</sup> Anakapalle, Chittoor, Nellore, Samalkot, Sangareddy, Tanuku and Vuyyuru.

## REVENUE DEPARTMENT

### Water Tax

#### 6.6 Incorrect grant of remission of water tax

As per the provisions of AP Water Tax Act, 1988, water tax is leviable on all types of land receiving water from the Government sources. Further, as per integrated village accounts, only the Government is competent to remit water tax and the Collectors are required to obtain orders from the Government whenever such cases of remission arise. Remission granted by the Government has to be noted in Account 4-B of the village accounts.

We noticed (between December 2009 and August 2010) during the test check of the *jamabandi*<sup>4</sup> records (Account 4-B) of six offices of Tahsildars<sup>5</sup> that the remission of water tax amounting to ₹ 65.63 lakh was granted by the *jamabandi* officers for the years 1 July 1997

to 30 June 2009 (*fasli*<sup>6</sup> years 1407 to 1418) without sanction of the Government. This was incorrect and resulted in short realisation of Government revenue to that extent.

After we pointed out the cases, Department accepted (September 2011) the audit observation in respect of Tahsildar, Nidamaru and recovered an amount of ₹ 2.31 lakh. Tahsildar, Noothankal stated that rectification orders would be obtained for the remissions granted in the mandal. Tahsildars, Peddapanjani and Somandepalli stated that the matter would be referred to higher authorities. Tahsildar, Pedacherlopalli stated that the remission proposals would be submitted to the Government through the Collector. In respect of Tahsildar, Kakumanu, Department replied (September 2011) that proposals for remission were submitted (July 2010) to Chief Commissioner of Land Administration.

We referred the matter to the Government in May 2011; their reply has not been received (October 2011).

<sup>4</sup> Finalisation of village accounts and demand.

<sup>5</sup> Kakumanu, Nidamaru, Noothankal, Peddapanjani, Pedacherlopalli and Somandepalli.

<sup>6</sup> Period of 12 months from July to June.

## 6.7 Non-levy of interest

As per Section 8 of AP Water Tax Act, water tax payable by a owner in respect of any land shall be deemed to be public revenue due upon the land and the provisions of the AP Revenue Recovery (APRR) Act, 1864, shall apply. Further, under Section 7 of APRR Act, arrears of revenue shall bear interest at the rate of six per cent per annum.

We noticed (between January and September 2010) during the test check of the records of 11 offices of the Tahsildars<sup>7</sup> that during the period from 1 July 1998 to 30 June 2009 i.e., *fasli* years 1408 to 1418, arrears of land revenue towards water tax amounting to ₹ 6.26 crore

was collected. However interest of ₹ 37.57 lakh was not levied and collected. This resulted in short realisation of Government revenue.

After we pointed out the cases, Department/Tahsildars accepted (between June 2010 and September 2011) the audit observation in respect of 10 tahsils and reported collection of interest of ₹ 5.22 lakh in five offices<sup>8</sup>. Final reply in respect of Tahsildar, Yemmiganur has not been received.

We referred the matter to the Government in May 2011; their reply has not been received (October 2011).

## 6.8 Short realisation of revenue due to incorrect depiction of arrears of water tax

Article 8 of Andhra Pradesh Financial Code Vol. I, stipulates that every Departmental controlling officer should watch closely the progress of realisation of the revenues under his control and check the recoveries made against the demand.

We noticed (September 2009) during the test check of the *jamabandi* records and DCB statements of two<sup>9</sup> office of Tahsildars that while carrying forward the opening balances of water tax for the *fasli* years 1413 and 1417 (1 July 2003 to 30 June 2004 and 1 July 2007 to 30 June

2008) an amount of ₹ 31.15 lakh was taken short. This was neither detected by the Tahsildars nor by the *Jamabandi* officers and the reasons for the same are not forthcoming from the records. This resulted in short realisation of revenue of ₹ 31.15 lakh due to incorrect depiction of demand in the DCB.

After we pointed out the cases, District Collector, East Godavari in respect of Tahsildar, Uppalaguptam replied (April 2011) that there was damage to crops in the mandal during *fasli* 1416, hence an amount of ₹ 21.13 lakh was not taken in the opening balance of *fasli* 1417. It was also stated that this amount was to be considered as remission. The reply is not acceptable as only the

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<sup>7</sup> Biccavolu, Chennur, Kakumanu, Nandyal, Peddakadabur, Phirangipuram, Sarangapur, Thondangi, Ungutur, Veeraghattam and Yemmiganur.

<sup>8</sup> Kakumanu, Phirangipuram, Sarangapur, Ungutur and Veeraghattam.

<sup>9</sup> Allavaram and Uppalaguptam.



Government is competent to remit the water tax. Final reply in respect of Tahsildar, Allavaram has not been received.

The matter was referred to the Department in January 2011 and the Government in May 2011; their reply has not been received (October 2011).

### 6.9 Short levy of water tax

As per the AP Water Tax Act, all lands receiving water for irrigation from a Government notified source of irrigation shall be subjected to water tax. For this purpose, all major and medium irrigation sources shall be regarded as category-I and all other sources, which are capable of supplying water for not less than four months in a year shall be regarded as category-II. Based on this categorisation, water tax is levied according to the source of irrigation in the locality. As per the instructions issued by the Chief Commissioner of Land Administration, AP, Hyderabad read with instructions issued in BSO, *jamabandi* is required to be conducted immediately after the close of the *fasli* year, so as to finalise the settled demand in respect of water tax. However, no return has been prescribed by the Department for watching the progress in completion of *jamabandi* by each mandal.

We noticed (between March and August 2010) during the test check of the records of the offices of two tahsildars<sup>10</sup> that water tax amounting to ₹ 19.12 lakh was levied short by the tahsildars during the period 1 July 2000 to 30 June 2002 (*fasli* years 1410 and 1411) and 1 July 2003 to 30 June 2008 (*fasli* years 1413 to 1417). We also noticed that *jamabandi* of these *fasli* years was conducted in 2009-10 only, despite instructions to complete *jamabandi* and fix demands immediately after the closure of the *fasli* year.

After we pointed out the above cases, the Tahsildar, Krishnagiri stated that action would be taken to include the amount of short levy in the next *jamabandi*. Tahsildar, Tripuranthakam stated that the matter would be examined.

We referred the matter to the Department in January 2011 and the Government in May 2011; their reply has not been received (October 2011).

<sup>10</sup> Krishnagiri and Tripuranthakam.