

CHAPTER-V: OTHER TAX RECEIPTS

5.1 Results of audit

Our test check of records in the offices dealing with the following revenue receipts during the year 2009-10 revealed non/short realisation of revenue amounting to ₹ 5.46 crore in 117 cases as shown below:

(₹ in crore)			
Sl. No.	Category	Number of cases	Amount
1.	Taxes on Motor Vehicles	64	3.30
2.	Agricultural Income Tax	10	1.58
3.	Stamp duty and Registration fee	21	0.47
4.	Professional tax, Specified land, etc.	22	0.11
Total		117	5.46

During the course of the year 2009-10, the departments accepted 15 cases involving ₹ 6.12 crore, out of which three cases involving ₹ 12 lakh were raised during 2009-10 and ₹ 21 lakh realised in nine cases.

We noticed in one case that the Agricultural Income Tax Officer, Guwahati had assessed a dealer (M/s Biswanath Tea Company Ltd.) for ₹ 2.04 crore under section 19 of the Assam Agriculture Income Tax Act, 1939 for the year 2000-01. Though the assessee paid ₹ 2.54 crore, the Assessing Officer adjusted ₹ 3.66 crore as tax paid. This resulted in excess adjustment of tax of ₹ 1.12 crore.

After we pointed this out, the Department rectified the assessment order and reduced the excess adjustment by ₹ 1.12 crore.

A few illustrative audit observations involving ₹ 76.46 lakh are mentioned in the following paragraphs.

5.2 Audit observations

Our scrutiny of records of Transport, Registration and Stamps and Taxation Departments revealed several cases of non-observation of the provisions of Acts/Rules/departamental orders as mentioned in the succeeding paragraphs. These cases are illustrative and are based on test-checks carried out by us. Though we point out such omissions on the part of the departmental officers each year, not only do the irregularities persist, these remain undetected till we conduct an audit. There is need for the Government to improve the internal control system including strengthening of internal audit.

AGRICULTURAL INCOME TAX

5.3 Short levy of interest

[Agricultural Income Tax Officer, Guwahati; January-February 2009]

Section-35(B) of the Assam Agricultural Income Tax (AAIT) Act, 1939 provides that if an assessee fails to pay advance tax or pays advance tax less than 75 per cent of the tax assessed within the stipulated date, simple interest at two per cent is leviable on the first day of April of the assessment year upto the month of the assessment. Section 35 (H) of the Act further provides that where in any financial year the assessee has failed to pay advance tax by the prescribed date, he shall be liable to pay simple interest at one and half per cent per month with effect from the next day of the prescribed date of payment of advance tax for the respective quarter, on the unpaid amount by which the tax to be paid for the quarter falls short till the payment of such shortfall.

M/s Dunkenhegra Tea Private Limited was assessed (November 2007) to tax of ₹ 31.22 lakh for the years 1998-99 and 1999-2000. Since the assessee did not pay the assessed advance tax within the prescribed date or paid the same belatedly, interest of ₹ 7.05 lakh was leviable on the assessed tax. The AO however, levied interest of only ₹ 10,000. This resulted in short levy of interest of ₹ 6.95 lakh.

After we pointed out (March 2009) the mistake, the AITO stated (December 2009) that

demand notice was issued (April 2009) for payment of the balance interest. The reply was, however, silent on the reasons for such mistake in simple calculation of interest.

We reported the case to the Department/Government in March 2009; we are yet to receive their reply/comment (November 2010).

TAXES ON MOTOR VEHICLES

5.4 Non-realisation of tax

[DTOs, Cachar, Jorhat, Kamrup (Registration & Licensing) and Karbi Anglong; December 2008 and February 2010]

The Assam Motor Vehicles Taxation (AMVT) Act, 1936 provides that taxes on motor vehicles are to be paid in advance on or before 15 April of each year or optionally in four equal installments payable on or before 15 April, 15 July, 15 October and 15 January respectively. The Act also provides that every owner of a motor vehicle who fails to pay the appropriate road tax in time shall be liable to pay a fine at a rate of ₹ five per day for each day of such delayed payment with effect from 9 May 2002.

As per the provisions of the AMVT Act, the District Transport Officer (DTO) is required to maintain a combined register to watch the recovery of tax. He is also required to review the register at periodic intervals and issue demand notices to defaulters.

The owners of motor vehicles in 340 cases did not pay road tax of ₹ 46.93 lakh for the period between July 2004 and December 2009. The DTOs were unaware of such non-payment of tax as the combined registers were not being reviewed. Consequently, they did not issue any demand notice to the defaulting vehicle owners for recovery of the dues. This resulted in non-realisation of road tax of ₹ 58.99 lakh including fine of ₹ 12.06 lakh for non-payment of dues within the stipulated time.

After we pointed this out, the DTOs, Jorhat and Karbi Anglong stated (August–November 2009) that

action/demand notices would be taken/issued soon. We have not received any further communication (November 2010).

We reported the cases to the Department/Government between April 2009 and February 2010; we are yet to receive their replies (November 2010).

ENTRY TAX

5.5 Short payment of entry tax

[Assistant Commissioner of Taxes, Bongaigaon; August 2009]

As per serial number 55(e) of schedule of the Assam Entry Tax Act, 2008 (which came into force from 17 April 2008), caustic soda is taxable at the rate of 12.5 per cent.

We observed from Form No. ET - 4¹ that M/s Bongaigaon Refinery and Petrochemicals Limited, Dhaligaon imported (January–May 2009) caustic soda valued at ₹ 38.15 lakh and paid entry tax at the rate of two per cent instead of the prescribed rate of 12.5 per

cent. This resulted in short payment of entry tax of ₹ 4.02 lakh.

¹ Statement of purchase value.

After we pointed this out, the ACT, Bongaigaon while accepting our observation stated (February 2010) that the dealer had been assessed (January 2010) and a demand for ₹ 4.01 lakh raised against the dealer. We have not received the report on realisation of the amount (November 2010).

We reported the case to the Department/Government in September 2009; we have not received their replies (November 2010).

PROFESSIONAL TAX

5.6 Non-payment of professional tax

[Assistant Commissioners of Taxes, Dhubri, Guwahati Unit-B, Jorhat, Tezpur and Superintendents of Taxes (ST), Morigaon and Naharkatia; May 2009 and December 2009]

The Assam Professions, Trades, Callings and Employments Taxation Act, 1947, provides that every person who carries on a trade, or who follows a profession or calling, or who is in employment within the State is liable to pay for each financial year a tax at the prescribed rates. Further, as per amendment made to the Act in April 1992, if a non-Government employer or enrolled person fails to pay tax within the due date, he shall be liable to pay simple interest at the rate of two *per cent* of the amount due for each month or part thereof for the period for which the tax remains unpaid.

Twenty eight registered dealers, under six unit offices, did not pay professional tax of ₹ 2.18 lakh for the years from 2002-03 to 2008-09. The failure of the AOs to detect the cases resulted in non-realisation of ₹ 2.18 lakh and interest of ₹ 1.69 lakh.

After we pointed this out, ST, Guwahati Unit-B and Morigaon stated (February 2010) that an amount of tax and interest of ₹ 53,000 was realised from seven dealers. We have not received any reply from other unit offices.

We reported the cases to the Department/Government between June 2009 and January 2010; we are yet to receive their replies (November 2010).

STAMP DUTY AND REGISTRATION FEES

5.7 Short-realisation of stamp duty

[Senior Sub-Registrar, Silchar; February 2009]

The Indian Stamp (Assam Amendment) Act, 2004 modified the rate of stamp duty which became effective from 18 September 2004 as mentioned below:

Value of property	Stamp duty leviable
₹ 1,000 to ₹ 10,000	₹ 60 per ₹ 1,000
₹ 10,001 to ₹ 50,000	₹ 65 per ₹ 1,000
₹ 50,001 to ₹ 1,00,000	₹ 80 per ₹ 1,000
For every ₹ 1,000 or part thereof in excess of ₹ 1,00,001	₹ 120 per ₹ 1,000

The Senior Sub-Registrar, Silchar realised stamp duty of ₹ 66,000 against ₹ 3.29 lakh realisable on 29 conveyance/sales deeds registered between 6 June 2007 and 5 September 2008. This resulted in short-realisation of stamp duty of ₹ 2.63 lakh due to application of lower rates.

The Senior Sub-Registrar, Silchar and the Inspector General of Registration, Assam stated (May 2010) that the said 29 deeds were impounded and forwarded to the District Collector (DC), Cachar for realisation of the deficit stamp duty. The DC returned nine deeds on adjudication and realisation of stamp duty of ₹ 89,000. The balance 20 deeds were lying with the DC for realisation of deficit stamp duty of ₹ 1.74 lakh.

We reported the cases to the Government in April 2009; we are yet to receive any reply from them (November 2010).