CHAPTER III
THEMATIC REVIEWS

3.1 COLLECTION OF TAXES IN KOCHI CORPORATION

3.1.1 Introduction

As per Section 230 of the Kerala Municipality (KM) Act, 1994 Corporations are empowered to levy and collect local taxes like Property tax, Profession tax, Entertainment tax, Advertisement tax, etc., and fees like licence fee on business establishments and permit fee on construction of buildings from individuals and institutions located within their jurisdictional area. The revenues so mobilised which constitute a substantial portion of the resources of the Corporations are utilised for developmental and maintenance activities as well as for administrative purposes. The tax revenue items of the Corporation are given in **Table 1**.

Table 1: Tax revenue items of the Corporation

Revenue items	Manner of levy
Property tax	Recurring tax levied on buildings based on its Annual Rental Value, payable half-yearly.
Profession tax	Recurring tax payable by employees based on their salary, and also by professionals, traders, institutions etc. The tax is payable half yearly.
Entertainment tax	Tax levied by Local Bodies on entertainments including cinemas, exhibitions, amusements, games, sports, etc., as a percentage of the price of tickets sold.
Advertisement tax	Tax levied on advertisements displayed on boards, hoardings, banners, etc., in municipal area.

The share of the above tax items in the total tax revenue of the Corporation during 2006-07 to 2010-11 is given in **Appendix XIV**. A summary of the nature, incidence, periodicity, authority, etc., relating to various taxes levied by the Corporation is given in **Appendix XV.**

The objective of the audit was to verify whether there was a proper system for assessment and collection of taxes in the Corporation. Audit was conducted during November 2011 to January 2012 covering the period 2006-07 to 2010-11. Audit methodology included scrutiny of basic records, registers and files maintained in the office, collecting information from other offices, issue of audit enquiries and getting replies, interaction with officials, site verification, etc.

3.1.2 Organisational structure

The Secretary of the Municipal Corporation (Secretary) is the administrative head of the Corporation. The Revenue Officer, who is head of Revenue Section, is responsible for the levy and collection of tax. The Revenue Officer is assisted by Revenue Inspectors, Bill Collectors and other administrative staff.

Audit findings

3.1.3 Property tax

As per provisions of KM Act, 1994, property tax is levied as a percentage of the annual value (probable rent that the building may fetch, if let out annually) of buildings at the time of their completion. The Act was subsequently amended with effect from October 2009 to levy property tax based on plinth area of the buildings. This new methodology for assessment has not been brought into effect till date (March 2012). The annual tax once assessed is payable in half yearly instalments, until it is further revised, as provided in KM Act, 1994.

3.1.3.1 Comprehensive database of all assessable units

Corporation lacked comprehensive database of all taxable units in its jurisdiction

Complete and accurate data on all assessable public and private properties such as residential and non-residential properties, Central and State Government properties, properties of autonomous bodies is a pre requisite for raising demand and collection of property tax. Audit, however, observed that Kochi Corporation had no comprehensive database of all assessable properties. Demand Register/Arrear Demand Register maintained by the Corporation was not updated and complete, and details like year wise arrears, or the arrears of individual assessees, were not readily available. Audit further observed that several buildings have escaped assessment, as detailed in succeeding paragraphs. A system of providing prior permissions for construction of buildings was already in place in the Town Planning Wing. Such information could have served as an effective aid for creating a centralised database for property tax but was not being utilised to create a database.

3.1.3.2 Raising of Demand

Oversight role of Government in property tax process

(a) As per Section 234 (4)[1] of KM Act, 1994, the Government was to frame rules regarding levy and collection of property tax. The Government, however, framed the rules only with effect from 1 April 2011. In the absence of rules, there was no fair and transparent system in the fixation of annual value (i.e. the tax base) resulting in wide disparities in assessment as discussed in the succeeding paragraph. Further, as per Section 238[2] of KM Act, 1994, property tax was to be revised once in five years (amended as four years with effect from 23 April 1999). The Government issued orders revising the rate of property tax only in April 2011. In the absence of rules which would have enabled periodic revision of rates, the revenue earning potential of the

[1] Existed up to October 2009
[2] Existed up to October 2009

Corporation was adversely affected as the rates remained unchanged for a long period.

(b) The Occupancy Certificate issued by the Town Planning Section is the basis for getting electricity or water connections. This served as a control measure to bring all new constructions under the tax net. However, the Government relaxed (July 2011) the rules and permitted to provide electricity and water connections based on alternate documents like possession certificate from Village Officer, residential certificate by local bodies, voters ID cards, ration cards, etc. This weakened the assessment process as the Occupancy Certificate had earlier served as an effective control mechanism to bring new buildings into tax net.

Absence of fair and transparent system in fixing the annual value of buildings

There were wide variations in the annual values fixed for similar buildings

Property tax was levied at 15 *per cent* of the annual value from 1994 onwards. Audit, however, found that there were no fair and transparent criteria for fixing the annual value. At present, the Revenue Inspector verifies the building, and taking into account the location, size of building, nature of construction, amenities provided, category (whether residential or commercial), etc., fixes the annual value and tax thereon. The Corporation had not fixed any zone-wise bench marks for calculating the annual value of buildings. As a result, there was no uniformity in fixing the annual value of buildings. For example, in Divisions 27 & 39 (assessments made in 2010-11), Audit observed that there were wide variations in the annual value fixed for buildings of same shape and size assessed during same periods, as given in **Table 2.**

Table 2: Variations in the annual value fixed for buildings assessed during same periods

Building No.	Category	Floor area (m^2)	Annual Value (₹)	Annual Tax (₹)	Remarks
27/2723-I7	Residential	194.77	4,800	720	Similar flats on the same floor
27/2723-I8	,, ,,	194.77	63,600	9540	
39/2026A	Commercial	5303.80	2,40,000	36,150	Adjacent buildings
39/2029	,, ,,	360.00	1,63,200	24,660	
39/2061 A to Z	,, ,,	2820.95	2,44,253	36,544	Buildings in the same area
39/2037-	,, ,,	59.00	56,415	8,462	
27/3064 A	Residential	72.75	56,400	8,460	Two apartments in same building
27/3064 B	,, ,,	72.75	12,000	1,800	
58/356 C	,, ,,	142.39	1,47,100	22,065	Two apartments in same building
58/356 D	,, ,,	168.00	54,300	8,145	
27/1493 C	,, ,,	47.04	36,000	5,400	Portions in the same building
27/1493 D	,, ,,	40.20	7,200	1,080	
27/1493 E	,, ,,	46.10	8,400	1,260	

In the absence of specific norms for fixing the annual value of buildings, rent received or the PWD mode of calculation could have been relied upon as a

basis for fixing the annual value of buildings. But it was seen that actual rent of these buildings was not being taken into account for fixing the annual value. On verifying the assessments relating to Division 27 for the year 2010-11, it was found that the annual value adopted for assessments were far less than the annual value as per PWD norms. Revenue loss due to non-adoption of annual value as per Public Works Department norms in the case of Division 27 for one year worked out to ₹ 5.36 lakh.

Also, it was seen that in the case of buildings which have been let out, addition of 25 *per cent* to property tax, as specified in Section 234(3) of KM Act, 1994, was not being made.

The Secretary stated (April 2012) that the variations were on account of not calculating the annual value based on plinth area.

Inadequate mechanism for identifying new buildings for tax assessment

Non-follow up of lapsed permits resulted in revenue loss to the Corporation

(i) The validity of the permit for construction (building permit) is for three years and it has to be renewed in case the construction continues beyond that period. However, in many cases, construction/alteration continues after three years without renewal of the permit. Since the Corporation has no mechanism to watch the progress of construction/monitor validity of the permits, it had to depend totally on the owner to report the completion. Audit conducted (November 2011) site verifications of 21 lapsed permits (issued in 2007) pertaining to Division 27, and found that the construction had already been completed in 12 cases (57 *per cent*). Non-reporting of completion of works indicated substantial revenue loss to the Corporation. The Secretary stated (April 2012) that necessary instructions had been issued to the Town Planning Officer to ascertain the position regarding all lapsed permit cases and assessment would be made in respect of all the buildings completed.

(ii) As and when the owner of the building approaches the Town Planning Section with the completion certificate, he is issued an Occupancy Certificate. This forms the basis of tax assessment. The Revenue Section assesses the property and notes it in the Assessment register. Audit checked (November 2011) the records of Town Planning Section and Revenue Section with reference to permits issued in Division 27 during the year 2007, and found that out of 147 Occupancy Certificates issued, 31 cases (21 *per cent*) with a total floor area of 4442.33 square meter (sq.m) were yet to be assessed. Audit estimated the loss to be around ₹ 1.35 lakh annually. Delayed assessment has large revenue loss implications. The Secretary stated (April 2012) that instructions had been issued to Revenue Inspectors to examine and assess these cases retrospectively.

Kera Bhavan

Scrutiny of the records further revealed that the building not listed by the Corporation for taxation included a ten storied building (Kera Bhavan; Floor area 48420 square feet) constructed by Coconut Development Board in 1997

at a cost of ₹ 3.33 crore. Annual tax loss in respect of this building was ₹ 9.67 lakh and the total tax dues up to 2010-11 was ₹ 1.35 crore[3].

As per Section 539 of KM Act, 1994, demands for tax claims cannot be made beyond three years after it has fallen due. Thus tax dues beyond 2008-09 amounting to ₹ 1.16 crore relating to Coconut Development Board Building has become time barred.

The Secretary stated (April 2012) that action had since been initiated to assess the Coconut Development Board building.

Non-assessment of property tax of identified buildings

Audit noticed that the Corporation had failed to assess certain buildings/ portions of certain buildings which had already been identified. Some of the important buildings that were not assessed are mentioned below:

(a) Mini Muthoot Towers

Mini Muthoot Towers is a 22 storied commercial building with plinth area 11527.80 sq.m in Division 36 constructed on a permit issued in November 2005. Even though the validity period of the permit was over in November 2008, the party failed to apply for renewal of the permit. The owner had not furnished the completion report even as of January 2012 on the grounds that clearance had not been obtained from Fire and Rescue Department. The 14th and 15th floors of the above building were assessed to tax with effect from 01 October 2006 and the 12th floor from 01 April 2008, treating them as unauthorised constructions. Audit noticed (November 2011) during site verification that the construction of the entire building had already been completed. Thus the entire building was assessable under Section 242 with effect from 01 October 2006. Failure to obtain Fire and Rescue clearance was not a valid reason for non-assessment of the building from the date of its completion. If the rental value adopted for assessing the 15th floor was taken as the basis for assessing the unassessed portion also, half yearly tax for the unassessed portion works out to ₹ 11.39 lakh (including Library Cess). The estimated revenue loss due to non-assessment of the entire building with effect from the date of completion amounted to ₹ 1.03 crore. Out of this, tax amounting to ₹ 56.96 lakh has become time barred.

Mini Muthoot Towers

[3] The annual Property tax leviable for the building has been worked out based on PWD mode of calculation, adopting land value @ ₹ 10 lakh /cent

(b) Cochin Port Trust buildings

Audit noticed that three buildings[4] of Cochin Port Trust were not assessed even though the assessment process was initiated in December 2009. The Corporation stated that the assessment was delayed due to delay in collecting necessary information from the Port Trust. The estimated revenue loss based on annual value assessed by the Corporation amounted to ₹ 16.80 lakh. Out of this, tax amounting to ₹ 12.81 lakh relating to period up to 2008-09, has become time barred.

Cochin Port Trust Building

(c) Buildings of M/s Konkan Storage Systems Private Limited

Construction of buildings owned by M/s Konkan Storage Systems in Division 24 of Mattanchery Zone was completed in 2003-04. But the Property tax assessment was done only in April 2011 and the tax assessed for the period from 2003-04 (2nd half) to 2010-11 (2nd half) amounted to ₹ 39.21 lakh, out of which ₹ 28.76 lakh has become time barred. The reasons for the delay in assessments were not available and the assessee had not paid the tax till date.

3.1.3.3 Collection and Accounting

Short levy of Property tax

(i) Cochin Port Trust buildings

As per the agreement entered into (March 2000) between Cochin Port Trust (a central autonomous body) and Kochi Corporation, the Cochin Port Trust was liable to pay only 30 *per cent* of Property tax from 01 April 1993 onwards on the ground that the Port Trust was not relying on the Corporation for any civic amenities. However, this agreement was not valid as it was signed without obtaining prior sanction from the Government as stipulated in Section 235(2) of KM Act, 1994.

The agreement (March 2000) valid for the period 1993 to 2013, permits the Corporation to enhance the rate up to 15 *per cent* every five year based on joint physical verification within six months of the agreement. However, the joint physical verification could not be conducted due to lapses on the part of the Corporation in deputing necessary staff. The Port Trust accepted the first increase of 15 *per cent,* effected by the Corporation from April 1998 without conducting joint verification. However, it did not accept further enhancements to be effected in 2003 and 2008 as there was no joint verification. Hence the revision of tax to ₹ 12.26 lakh demanded by the Corporation could not be effected from 01 April 2003 onwards. Loss incurred by the Corporation due to non-revision of property tax in 2003-04 and 2008-09 worked out to ₹ 20.02 lakh approximately. This included ₹ 3.29 lakh towards property tax in respect of certain buildings for which Property tax was being paid by the lessees and

[4] Main Port Trust Building (4129.80 sq.m), Port Trust Training Institute (1064.28 sq.m), Port Trust Marine Buildings (3316.32 sq.m)

later came back to the Port Trust on expiry of the lease period. Details are given in **Appendix XVI.** Out of the above, tax amounting to ₹ 10.45 lakh pertaining to the period up to 2008-09 has become time barred.

The Secretary stated (April 2012) that action has since been initiated for conducting joint verification of all Port Trust Buildings and assess all buildings which have been left out including those taken back from the lessees. The Secretary added that if any amount becomes irrecoverable due to lapse of the officials, it will be recovered along with interest thereon from the concerned officials as provided in the Act.

(ii) Malabar Hotel building

Malabar Hotel situated in Wellington Island, Kochi was functioning in the building leased out by Cochin Port Trust. In 1988, the lessee had made additional constructions including 63 rooms to the hotel, as part of raising it to five star category, the property tax relating to which was being paid by Cochin Port Trust. Audit noticed that the Port Trust was paying only ₹ 90,161 (i.e. 30 *per cent* of normal property tax of ₹ 3,00,535) for the above constructions. As per the agreement entered into between the Corporation and Cochin Port Trust, reduced rate of 30 *per cent* was applicable only to buildings owned by Cochin Port Trust. In the case of buildings constructed by Malabar Hotel (lessee) full property tax was payable by the lessee. Loss of revenue on account of non-realisation of property tax for the period 1988-89 to 2010-11 at full rate worked out to ₹ 48.39 lakh. Out of this, tax amounting to ₹ 44.18 lakh pertaining to period up to 2008-09 has become time barred.

The Secretary stated (April 2012) that Malabar Hotel building was assessed in the name of Cochin Port Trust, as an occupier. The reply is not acceptable because as per the agreement entered into between Cochin Port Trust and Malabar Hotel, the ownership of additional construction done by Malabar Hotel rests with Malabar Hotel and the ownership will be transferred to Cochin Port Trust only on termination of the lease. Hence Malabar Hotel is liable to pay full property tax on these constructions.

Malabar Hotel Building

(iii) Central Autonomous Bodies/Public Sector Undertakings

In addition to Port Trust, Kochi Corporation area has buildings belonging to a number of central autonomous bodies and PSUs like BSNL, Spices Board, Rubber Board, etc., which have the obligation to pay full property tax as these are not Central Government buildings.

BSNL Buildings – Buildings of Postal and Telegraph Department were transferred to BSNL, while the PSU was formed on 01 October 2000. However, the Corporation had not identified the buildings of BSNL till date and assessed them to tax. Audit identified 145 staff quarters of BSNL at Thevara. Corporation had been charging only annual Service charge of ₹ 1.17

lakh (10 *per cent* of annual value of ₹ 11.70 lakh) on them, considering these as Government of India (GOI) buildings. However, once these became BSNL staff quarters, full property tax of ₹ 2.19 lakh was realisable. Thus the total amount realisable from BSNL in this regard worked out to ₹ 23.03 lakh. Out of this, tax amounting to ₹ 18.64 lakh has become time barred as it relates to period prior to 2008-09.

The Secretary stated (April 2012) that action will be taken to identify and bring to tax net all BSNL buildings in the Corporation area, and to realise full property tax, including arrears from them.

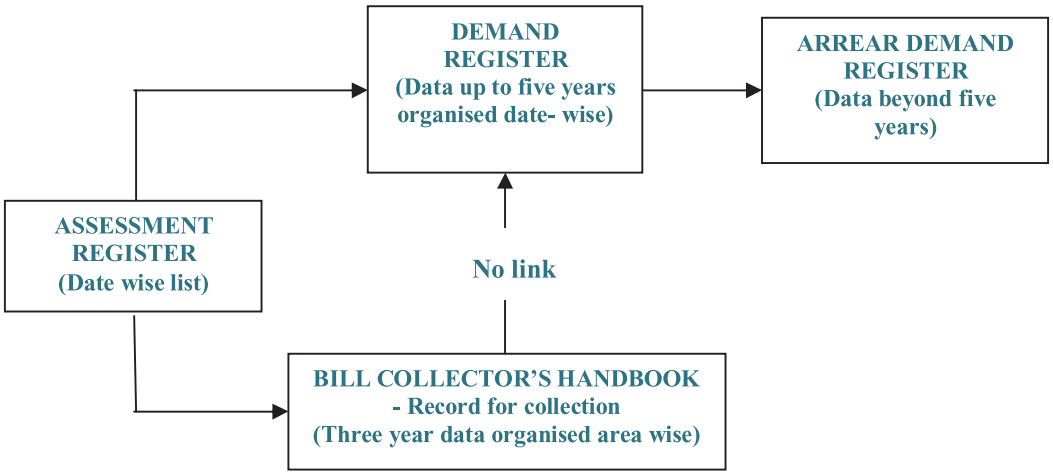
Spices Board - Being an autonomous body, Spices Board is liable to pay full Property tax of ₹ 1.71 lakh per year. However, the Corporation had realised only Service charge of ₹ 1.28 lakh (i.e. 75 *per cent* of property tax of ₹ 1.71 lakh) during the period 1993-94 to 2005-06. From 2006-07 onwards, Spices Board stopped paying the above Service charge claiming exemption as a Central Government Institution. The plea was incorrect and the total tax dues of the Board for the period 1993 to 2010-11 amounted to ₹ 12.42 lakh, out of which ₹ 9.85 lakh has become time barred. The Board is also liable to pay penalty at the rate of two *per cent* per month up to 23 August 2005 and at one *per cent* per month thereafter, on the defaulted amount as per Section 538(2) of KM Act, 1994.

The Secretary stated (April 2012) that Spices Board had remitted (March 2012) ₹ 2.70 lakh and that the Corporation had issued notice to Spices Board for remitting the balance amount.

Improper maintenance of records

Corporation lacks a proper accounting system for tax collected

On completion of assessment, details of assessment are to be noted in the Assessment Register, and the demand created in the Demand Register. When collections are made, the amounts collected are to be entered in the Demand Register, and balance, if any, is to be carried to the Arrear Demand Register. But it was seen that postings were not being made in the Demand Register systematically and the Register did not show the actual position of arrears relating to individual assessees. When collections were made by Bill Collectors, these were entered in the 'Bill collectors Hand Book' (an area-wise record of buildings given to Bill Collectors for tax collection), and no postings were being made in the Demand Register.



Thus the Bill Collector's Hand Book was the only record which contained the tax record of individual cases. The entries made in the Hand Book by Bill Collectors were not being checked by any superior officer to confirm its genuineness.

The Secretary stated (April 2012) that postings could not be made in Demand Register/Arrear Demand Register due to rush of work and instructions will be issued to Bill Collectors for collecting all arrears.

Slackness in collection of arrears of Property tax

The Act provides for stringent action like levy of penalty, initiation of Revenue Recovery procedures, prosecution, etc., for realising arrears. As on 31 March 2011, the Corporation records show arrears of ₹ 25.61 crore[5]. As the Demand Register/Arrear Demand Register maintained by the Corporation was not updated and complete, details like year-wise arrears, or the arrears of individual assessees, were not readily available. As a result, the Corporation could not take any effective steps for realising arrears in individual cases. Some major cases of pending arrears that came to the notice of audit are given below:

(1) In two divisions (Divisions 27 and 39) arrears of ₹ 97.87 lakh ranging from two to 28 half-years were pending collection in 911 cases. Even though penalty was being levied in delayed remittance cases, revenue recovery or prosecution procedures were not resorted to in any of the arrear cases. The Secretary stated (April 2012) that instructions had been issued to Revenue Inspectors to realise the arrears.

(2) The property tax of the Government Guest House building (4515.26 sq.m) is ₹ 12.23 lakh half yearly from 01 October 2005. But the tax was demanded only in April 2009[6]. Even though the assessee did not remit the tax, the Corporation did not pursue the case or take further action for recovering the amount. Total tax due up to 2010-11 worked out to ₹ 1.67 crore, in addition to penalty leviable under Section 538(2). Out of the above, tax amounting to ₹ 12.23 lakh, pertaining to period up to 2008-09, is time barred. The Secretary stated (April 2012) that demand notice has been issued (March 2012) to the Regional Director of Tourism Department.

Unauthorised remissions/ exemptions/ deductions

(a) Section 239 and Section 241 of KM Act, 1994 provide for exemption/ remission in cases where the building is vacant or if it is demolished. The remission for vacancy is limited to two half years at a time and a fresh application is needed for every subsequent exemption. After verification, remissions granted are to be noted in the Vacancy Remission Register maintained in the Revenue Section. The exemption/remission can be granted by the Corporation Secretary.

[5] As per the DCB statement for 2010-11, property tax amounting to ₹ 25.61 crore was pending collection as on 31 March 2011. Out of this, ₹ 18.26 crore represented dues relating to previous years

[6] The tax due for the period from 2005-06 (2nd half) to 2008-09 amounting to ₹ 89.90 lakh (including library cess) was demanded in April 2009

Audit, however, noticed that in two Divisions test checked (Divisions 27 & 39), Bill Collectors had granted unauthorised exemptions, without sanctions from the Secretary and had not collected tax amounting to ₹ 57.21 lakh pertaining to period 2006-07 to 2010-11 in 435 cases (vacancy: 153, demolition: 282). Audit also noticed that the remissions given were not entered in the Assessment Register. Thus these remissions/exemptions were also included in the dues of the Corporation, thereby inflating the demand to that extent. The Secretary replied that even though applications for remission were submitted in these cases, they were not processed. The reply emphasizes the fact that the exemptions given were unauthorised.

(b) Although GOI buildings are exempt from Property tax, the Corporation can realise Service charge from them depending on the extent of service provided by the Corporation. But, the Corporation failed to collect annual Service charge of ₹ 57.22 lakh relating to buildings of 24 GOI Offices, and buildings of Navy in the Corporation area. Arrears of Service charge in the above cases amounted to ₹ 3.94 crore, which pertained to period from 2006-07 onwards in majority of cases, and earlier years also in certain cases. The Secretary stated (April 2012) that the matter will be brought to the notice of the Council and necessary action will be taken to realise the arrears.

Lack of transparency in allowing deductions in appeals

Under Section 509 of the KM Act, 1994, any person aggrieved by an order of assessment of Property tax can file an appeal before the Appeal Standing Committee. Lack of transparency in assessment as well as absence of specific norms gave scope for a rise in the number of appeal cases. Out of 1364 appeal cases disposed by the Appeal Standing Committee during 2010-11, deductions ranging from 5 *per cent* to 20 *per cent* on tax amount were allowed in 1288 cases. The committee allowed these deductions without citing any specific reasons. The fact that such a high percentage of reductions was being allowed points out to the need for a fair and transparent system of fixing the annual value.

3.1.4 Profession tax

The Government has prescribed slab rates of tax payable by employees, ranging from ₹ 120 to ₹ 1,250 per half year, and ₹ 1,250 per half year by traders/professionals. The onus of assessing and remitting tax is on the tax payer or on the employer. Thus every head of office or employer including self drawing officer is bound to recover Profession tax and remit it along with details of income.

3.1.4.1 Absence of Database of all assessees and assessable institutions

The Corporation was not having an integrated database to facilitate collection of Profession tax from all categories of employees, traders and professionals. In this connection audit observed the following:

(i) Section 257 of KM Act, 1994 stipulates that the Municipality shall maintain a ward-wise demand register, by providing separate pages for each institution. Audit found that the register was incomplete without full particulars of all institutions, as well as details of employees together with their half yearly income, amount of tax demanded and collected, etc.

(ii) Section 253 of KM Act, 1994 stipulates that the Secretary

- shall, during the month of April every year, by notice, require heads of offices or persons liable to recover Profession tax, to furnish the name and addresses of the offices/ institutions under their control;
- may require any employers, heads of institutions, hotels, clubs, etc., to furnish a list of all persons employed by them, along with details of their salary/ income and also to furnish the names and profession of all persons occupying such places.

In the absence of comprehensive database, no notices were being issued each year by the Secretary. The Secretary stated (April 2012) that the stipulated procedures will be followed in future.

Corporation did not have a comprehensive database of all institutions/ self-drawing officers liable to pay Profession tax

(iii) Section 254 of KM Act, 1994 stipulates that the Secretary of the Municipal Corporation shall, during the month of May and November in every half year, by notice, require every Head of Office or employer to assess every employee in his institution liable to pay Profession tax and every self drawing officer to remit the Profession tax due as per rules. But notices are being sent in this regard only in very few cases. In the absence of comprehensive database, notices were not issued to heads of private institutions.

(iv) In the absence of a comprehensive database of all institutions or self-drawing officers and issue of notices, it could not be ensured that all institutions and self-drawing officers had filed returns and remitted tax. Even in cases where the Revenue Inspectors were collecting tax directly it could not be ascertained whether all traders had paid Profession tax as it was not recorded in the prescribed registers. Audit noticed that there were omissions in collecting Profession tax from certain categories of assessees, the details of which are given in **Table 3**.

Table 3: Categories of assessees who escaped assessment of tax

Sl. No.	Category	No. of assessees who escaped assessment	Annual tax loss for the period 2006-07 to 2010-11 (₹ in lakh)	Remarks
1	Ration dealers	205	5.13	Audit collected details from the City Rationing Offices I & II, Ernakulam
2	Contractors registered in Kochi Corporation	210	5.25	Details of contractors taken from the records of Engineering Section of the Corporation for 2010-11
3	Traders working in Corporation area	94	2.35	Revenue Inspectors were collecting Profession tax directly from traders based on the traders list prepared by them. Comparison of the details of traders included in one out of four D&O registers (relating to Division 40) maintained by Health Section with the traders list of the Revenue Inspector revealed that 94 traders were not listed for payment of Profession tax.
Total			**12.73**	

The Secretary stated (April 2012) that action will be taken to levy Profession tax from Ration dealers and Contractors.

3.1.4.2 Raising of Demand

Defence personnel, subject to the Army Act, 1950, Navy Act, 1957 and Air Force Act, 1950 are exempt[7] from municipal or cantonment taxes on salaries. But, GOI is to compensate the loss suffered by the Municipality from Defence Services Estimates[8]. In accordance with the above provisions in the Act and Rules, the employees of Southern Naval Command, Kochi were not paying Profession tax to Kochi Corporation. But the Corporation did not get reimbursement from the Defence Service Estimates for the loss suffered on this account.

3.1.4.3 Collection and Accounting

Details of profession tax collected during the five year period 2006-11 were as given in **Table 4.**

Table 4: Collection of Profession tax during 2006-07 to 2010-11

(₹ in lakh)

Year	Profession tax	Yearly increase/decrease	
		Amount	Percentage
2006-07	816.53	--	--
2007-08	1288.39	471.86	58
2008-09	1464.53	176.14	14
2009-10	1000.77	(-)463.76	(-) 32
2010-11	834.01	(-)166.76	(-) 17

During 2007-08, profession tax collection showed 58 *per cent* increase over the previous year. But during 2009-10 and 2010-11 reduction in tax collection of 32 *per cent* and 17 *per cent* respectively were noticed over the corresponding previous years. These huge variations indicated the deficiencies in accounting of Profession tax.

Profession tax income for the year 2008-09 amounted to ₹ 14.64 crore, whereas the corresponding figure for 2009-10 was only ₹ 10 crore. Such variation in Profession tax is not likely because all assessees/institutions/traders who paid profession tax during a year are liable to pay the same next year also, even though there may be certain additions or deletions, the effect in respect of which will only be compensatory. Since each assessee is paying same amount of Profession tax during each half-year, the half yearly income of the Corporation in this regard will be more or less same. During 2008-09, Profession tax income of professionals/institutions for each half-year was ₹ 7.23 crore. But during 2009-10, profession tax income of professionals/institutions for first half-year was ₹ 8.32 crore whereas the amount for the second half-year was only ₹ 1.66 crore. On verification, Audit found that there were misclassifications and wrong adjustments in the accounts and the figure for 2nd half-year was adjusted to make it agree with the Demand-Collection-Balance Statement.

[7] Section 3 of Municipal Taxation Act, 1981
[8] Rule 288A of Financial Regulations – Part I (Volume I)

3.1.5 Entertainment tax

Entertainment tax is the tax levied by Local Bodies on entertainments including cinemas, exhibitions, amusements, sports, games, etc., as a percentage (25 *per cent* in Kochi Corporation) of the price for admission tickets. The tax is collected in advance based on anticipated ticket sale and finally adjusted based on actuals.

The primary control exercised by the Corporation in the case of Entertainment tax is affixing seal on tickets. The Corporation was maintaining proper records showing the details of theatres (19 numbers), number of seats in each class, etc. Accounts relating to number of tickets sealed, details of returns filed, tax due and collected, etc., were also being maintained. Section 9 of Kerala Local Authorities Entertainments Tax Act, 1961 provides that inspections of the premises of theatres and other shows may be conducted by Local Bodies to see whether the provisions of the Act or the Rules made there under are being complied with. But in Kochi Corporation, there were no records to show that inspections were being conducted in theatres or other entertainment premises by the Corporation officials, as specified in the Act. No records were available in the Corporation to verify the correctness of returns filed by theatre owners. Due to non observance of the above provisions of the Act, the risk of theatre owners using unsealed/bogus tickets exists.

For shows conducted in places other than theatres, the risk of evasion of Entertainment tax is higher. The Corporation has neither listed the places/open spaces/halls where such shows can be conducted nor assessed the number of seats in those places.

3.1.6 Advertisement tax

Advertisement tax is the tax levied by local bodies on advertisements[9] displayed on boards, hoardings, banners, etc., in its area of jurisdiction. The rates applicable to various types of advertisements are fixed by the Corporation Council with the approval of Government. Unlike other taxes, where the Corporation directly collects the tax, the right for collection of Advertisement tax (except fixed hoardings, theatre slides etc) is entrusted to contractors by inviting competitive tenders. Common tender is invited for all zones and the tender is awarded to the highest bidder.

The benefit of competitive bidding is derived when a number of parties submit quotations. The rates of advertisement tax were revised several folds in 2009-10 (approximately 10 times). Audit observed that during 2009-10 and 2010-11 only single tenders were received but no attempt was made to retender. During 2011-12 when retendering was resorted to, the Corporation could finalise the tender at 85 *per cent* above previous year's rate. The amounts for which collection of Advertisement tax for the years 2006-07 to 2011-12 were auctioned, are given in **Table 5.**

[9] Section 271 of KM Act. 1994

Table 5: Collection of Advertisement tax

Year	Advertisement tax (₹ in lakh)
2006-07	33.10
2007-08	33.12
2008-09	34.50
2009-10	41.00
2010-11	42.00
2011-12	82.60

There was no proportionate increase in tax amount for 2009-10 and 2010-11 commensurate with the enhanced rate introduced by the Corporation.

The Secretary stated (April 2012) that based on the recommendation of Finance Standing Committee, the Council decided not to retender the right to collect the advertisement tax. However, the decision of the Council was not in conformity with the rules and financial prudence.

3.1.6.1 Non- levy of tax on advertisements displayed on motor vehicles

Corporation was not levying tax on advertisements displayed on motor vehicles

Rules[10] provide for levy of Advertisement tax at the rate of ₹ 100 per day in respect of advertisements displayed on motor vehicles plying in Corporation area. Even though advertisements were being displayed on large number of buses operating in the Corporation area, the Corporation was not levying any tax on advertisements displayed on vehicles. It was ascertained from the District Transport Office, Kerala State Road Transport Corporation (KSRTC), Ernakulam that during 2010-11, advertisements were being displayed on 100 KSRTC buses which commence operation from Ernakulam Depot. The details of private vehicles that display advertisements were not available. The Advertisement tax realisable annually from KSRTC buses alone for 2010-11 amounted to ₹ 36.50 lakh. Details regarding number of buses on which advertisements were displayed during previous years were not available.

3.1.7 Conclusion

There is no fair and transparent system for assessment of property tax. On account of lack of comprehensive computerised database, the present mechanism is grossly inadequate to ensure that all the revenue due to the Corporation is promptly collected and accounted. Due to dispensing with the need to obtain Occupancy Certificate issued by the Town Planning Section as the sole basis for getting water and electricity connection, a vital control has been lost. Failure to raise demand has been noticed in large number of cases.

The collection of profession tax has suffered due to lack of comprehensive database.

The inspections as laid down for monitoring collection of Entertainment tax are not being carried out.

3.1.8 Recommendations

- **The Corporation should develop maps of city areas, identify and list all properties and tax all eligible properties. The information available with Town Planning Section with regard to permits issued should be**

[10] Section 271 of KM Act, 1994 read with SRO 528/2009 dated 23 June 2009

utilised. Government should make the Occupancy Certificate compulsory for getting electricity and water connection as a control measure to bring all constructions under tax net. Cases relating to non-assessment of property tax may be investigated and remedial action taken.

- **In all the four revenue generating areas reviewed by Audit, proper mechanism should be put in place for frequent site verification so as to ensure accuracy of the data in the records. Comprehensive IT enabled database of all assessees should be created to facilitate proper collection and accounting of revenue.**
- **For collection of Entertainment tax, the Corporation should adopt IT enabled ticketing using bar code reader for theatres as in Thiruvananthapuram.**

3.2 WASTE MANAGEMENT IN THIRUVANANTHAPURAM CORPORATION

3.2.1 Introduction

Thiruvananthapuram Municipal Corporation (TMC) established (July 2000) a Municipal Solid Waste (MSW) processing plant at the nearby Vilappil Grama Panchayat (VGP), through a private agency, *viz.*, M/s Poabs Envirotech Private Limited (operator) on Build Own Operate and Maintain (BOOM)[1] basis for a period of 30 years. If the operator decides to stop the activity he can remove the plant and handover the vacant possession of the land to TMC without any claims. Audit was undertaken to assess the operation of the plant. Audit observed the following deficiencies.

3.2.2 Operation of the contract

Inadequate capacity of plant for treatment of MSW

(i) The estimated MSW generation in the Corporation was approximately 250 metric tonnes per day. The operator was required to establish a MSW processing plant of 300 metric tonne capacity. Against this requirement, the plant established by the operator had only a capacity of 156 metric tonne. TMC, however, did not take any action against operator for establishing a plant of lesser capacity.

(ii) Waste was to be processed through aerobic composting, *i.e.,* conversion of bio-degradable waste to soil enricher (manure) aerobically in windrows[2]. However, the plant did not adhere to the specifications as tabulated in **Table 1.**

Table 1: Deficiencies in operation of windrows

Item	Requirement	Implementation	Remark
Width	3 metre	5 metre	Proper aerobic composting was not possible leading to anaerobic conditions which caused fly nuisance, generation of excessive leachate and bad odour that was felt about 1.5 km radial distance.
Height	1.5 metre	6 metre	
Length	3 metre	18 metre	
Periodicity of turning	once in six days	not done regularly	

The anaerobic condition in the plant reduced the conversion efficiency of the plant from 50 *per cent* to 12 *per cent* as per the standards[3] . This prolonged the processing period of the waste leading to ineffective utilisation of the installed capacity of the plant. Due to improper and inefficient operation of the plant, the quantity of rejects deposited in the plant premises was about 80 *per cent* of the MSW supplied to the plant. The anaerobic conditions caused bad odour and environmental problems and thus adverse public opinion about the working of the plant leading to permanent conflicts and protests.

[1] The contractor has to construct, own, operate and maintain the plant for the contract period

[2] Production of compost by piling organic matter or biodegradable waste in long rows (windrows). This method is suited to producing large volumes of compost

[3] Prescribed in the Manual on MSW management published by the Central Public Health and Environmental Engineering Organisation

The Government stated (April 2012) that the plant was functioning with reduced capacity and that windrows had to be piled much higher than normal so as to accommodate additional quantity of waste reaching the plant.

Statutory obligations were not complied with

(iii) As per the agreement the operator was to obtain sanction/permission from various authorities/ agencies for operating the plant. However, the plant was operated from the very beginning without licence from the two mandatory agencies, *viz.,* State Pollution Control Board (SPCB) and VGP as mentioned in **Table 2.**

Table 2: Working of the plant without requisite licence

Authority	Rule position	Audit remarks
VGP	As per Kerala Panchayat Raj (Dangerous and Offensive Trade and Factories) Rules 1996, the operator had to obtain licence from the Secretary, VGP for the establishment of the waste processing plant.	The Secretary, VGP issued licence initially up to 2004. The plant was continued to be operated beyond 2004 without renewal of licence.
SPCB	As per Section 25 of Water (Prevention & Control of Pollution) Act, 1974 and Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 the operator/TMC has to obtain a Consent (Authorisation) from SPCB for establishing the plant.	SPCB had issued an Authorisation for establishing the plant in March 2000, stipulating certain conditions such as provision for treatment of leachate, disposal of rejects and segregated waste, reprocessing of plastic waste, etc., to be complied by the operator. The operator did not comply with these conditions.
	As per Rule 6(3) of MSW Rules, 2000 the operator/TMC has to obtain Consent/Authorisation for operating the plant.	The plant was commissioned in July 2000 and operation continued without Authorisation till July 2006. Though the operator did not comply with the conditions set forth in the Rule, SPCB issued Authorisation to operate the plant from 24 July 2006 to February 2009. This Authorisation was subject to fulfillment of the condition set forth in the Authorisation issued in March 2000. SPCB had not issued the Authorisation after February 2009 as the operator did not comply with the conditions. Thus the plant was functioning without observing any of the conditions required for the functioning of the waste processing plant.

The Government stated (April 2012) that the plant was established and operated with the authorisation issued by SPCB. The Government reply was, however, silent about the fact that the plant was functioning without fulfilling the conditions specified by the SPCB.

Leachate treatment plant was not established

(iv) Leachate is the liquid that forms as water trickles through waste/ contaminated areas**.** Movement of leachate from landfills and waste processing sites may result in hazardous substances entering surface water, ground water or soil. The operator did not comply

Leachate collected in temporary ponds

with the requirement to treat the leachate in a well designed treatment plant though as per the agreement he was to operate the plant in an eco-friendly manner. Consequently, the leachate from the garbage and storm water runoff from the plant, collected unscientifically in temporary ponds, was allowed to flow to the nearby water bodies causing health problems to the people.

Sanitary Land Filling was not established

(v) Development and operation of Sanitary Land Filling (SLF) is an integral part of solid waste processing. The remnants from processing and unusable waste were required to be disposed of in SLF on daily basis. MSW Rules prescribe time schedule for identification and making the site ready for operation. The operator did not establish a SLF resulting in piling up of rejects/remnants in an area of 2.5 acres with an average height of about nine metres over a period of seven years. This had caused severe environmental problems such as water pollution, bad odour, fugitive emission, fire hazard, health hazards etc.

Waste piled up to a height of nine meters

The Government stated (April 2012) that the agreement signed between TMC and the operator did not mention about the establishment of a leachate treatment plant and SLF and hence the operator was not under any obligation to establish both the above facilities. The Government reply is not acceptable as the agreement provided that the operator was to dispose of the waste in an efficient manner which was vital from the point of protecting the environment. Non-inclusion of a definite clause regarding establishment of leachate treatment plant and SLF in the agreement itself is a lapse on the part of TMC. More over, in the authorisation issued to the operator, SPCB had specifically mentioned that leachate treatment plant and SLF were to be provided before commissioning the plant.

3.2.3 Solid waste management by TMC

Installed capacity of the plant was less than the agreed capacity

The plant was to be operated by the operator without any financial commitment on the part of TMC. There was no clause relating to compensation to be paid to the operator in case the operator discontinues the operation. Moreover, the plant established by the operator was of lesser capacity and deficient as mentioned in the earlier paragraphs. However, TMC took over the plant costing ₹ 6.82 crore in March 2008 after paying ₹ 7.48 crore[4] to the operator who was unsuccessful in running the plant. The Government stated (April 2012) that the additional compensation was paid for bridging the viability gap for running the plant for seven years. The Government contention is not acceptable. The operator was to be primarily blamed for setting up a plant of capacity 156 metric tonnes as against the capacity of 300 metric tonnes stipulated in the agreement. Due to deficiencies

[4] Towards value of the plant (₹ 6.82 crore) and operational loss (₹ 66 lakh)

in the plant set up by the operator a further amount of ₹ 9.56 crore was estimated to be required to upgrade the facility.

The task of collection, segregation and transportation was handled by TMC right from the inception of the operation of the plant in July 2000. The following deficiencies were noticed:

TMC entrusted Kudumbashree workers for collecting waste from households in 71 wards and commercial establishments. The Kudumbashree workers collected ₹ 40 per month from households and at different rates from commercial establishments depending on the quantity of waste collected. In the remaining 29 wards TMC had made no arrangement for collecting waste from households and commercial establishments.

Segregation of waste into non-biodegradable and biodegradable is essential as biodegradable can be used as a source of manure or energy. The non-biodegradable waste can be recycled or reused and thus minimise the burden on land filling. Kudumbashree workers collected the segregated waste from households, hotels and commercial establishments. There was no segregation of waste from markets and other places. The Government replied (April 2012) that during the last six months before closure of the plant the level of segregation had gone beyond 95 *per cent*. The Government reply was not in consonance with the findings in the impact monitoring study conducted by SPCB during August 2011 which revealed that wastes were not properly segregated.

There were enormous delays in transportation of waste to the plant leading to decomposition of waste in closed containers and consequent bad odour emission throughout transportation in addition to forming of leachate.

TMC continued the operation without observing MSW Rules

After takeover of the plant by TMC, the operation continued without effluent treatment plant and Scientific Sanitary Land Filling as was done by the previous operator and the environmental problems persisted. The rejects dumped all over the plant site contained plastic waste in huge quantity causing threat to environment and increased burden on land filling.

VGP forcibly closed the plant on 21 December 2011 and as a result, TMC stopped collection of waste from households, hotels and commercial establishments for the last 112 days (as on 31 March 2012). Thus approximately 250 metric tonnes waste is added daily, littering the city roads and open spaces and its disposal has become a major issue of TMC. The accumulated waste during this period is about 28000 (250 x 112 days) metric tonnes.

As a temporary solution, TMC adopted methods such as burning of waste on the road sides, office compounds, burial of waste in unauthorised places, etc., to dispose of waste littered by the public. We also noticed that the waste collected by the Corporation was being burnt in the Corporation Office Complex situated in the city. The drainages of the city are blocked with littered wastes by hoteliers, households and other commercial establishments causing threat to public health.

Further, construction of leachate treatment plant, Scientific SLF and other facilities like fencing, water supply etc., taken up by TMC under JNNURM at

a cost of ₹ 9.56 crore was at standstill since December 2011 after incurring ₹ 2.63 crore.

3.2.4 Environmental impact

The failure of the operator/TMC to implement the mandatory requirements had the following adverse impact:

River water got polluted due to leachate generated from waste

(i) Surface and ground water contamination takes place when waste reach water bodies. Residues from waste can change the water chemistry, which can affect all levels of an ecosystem. MSW Rules envisage that the leachate arising out of garbage storage/processing area of the plant as well as the surface water runoff shall be collected and treated in a well designed treatment plant, before allowing to flow to inland surface waters. However, the operator or TMC did not comply with this prime requirement of establishing a treatment plant in a time bound manner. The leachate generated from the heaps of untreated/semi-treated wastes and rejects affected drinking water supply. As there was no proper system for collection and scientific treatment of leachate formed, the leachate generated mixed with water bodies/natural stream and finally reached Karamana river and the river water got polluted. Kerala Water Authority was operating seven Pumping Stations from the downstream side of the treatment plant for supply of water to the city. Of these, one pumphouse very close to the treatment plant was closed (May 2007) as the test results of water samples[5] near the above pump house showed high pollution.

(ii) MSW (M&H) Rules prescribe that baseline data of ground water quality in area of landfill site shall be collected and kept in record for future reference. Periodical monitoring at different seasons is also to be carried out to ensure that ground water is not contaminated beyond the acceptable limit as decided by the Ground Water Department. However, no baseline data study had been conducted or periodical monitoring of ground water quality conducted either by TMC or Ground Water Department. Ground Water Department had conducted an evaluation study of drinking water during May-December 2010 throughout Kerala under National Hydrology Project. Under this project, water samples of two wells near to the plant site were also analyzed for general parameters, trace metals and bacteria and found that the water was highly bacteriologically contaminated. Further, water sample from a nearby well collected by the Health Supervisor, Vilappil Primary Health Centre and got tested (February 2011) at Government Analytical Laboratory also revealed that the water was contaminated and unfit for human purposes. The Government stated (April 2012) that there was bacteriological contamination of water in the State and that in the absence of a baseline data of the area it could not be clearly established that the bacteriological contamination was due to the existence of the plant. The fact, however, remains that the water in the wells near to the plant is unfit for human consumption due to contamination.

(iii) Report furnished (February 2011) to the Director of Health Services by the District Medical Officer stated that the functioning of the plant resulted in adverse environmental and health hazards such as skin disease, itching/allergy,

[5] Test conducted at Public Health Laboratory by the Medical Officer, Vattiyoorkavu

respiratory diseases etc., to inhabitants in the surrounding area of the plant. The Government stated (April 2012) that the health problems reported were relatively minor. The Government contention is against the study report of SPCB which revealed that the incidence of serious respiratory and skin diseases in and around the plant locality persisted in large numbers.

3.2.5 Conclusion

The Solid Waste Management during the period 2000 onwards suffered due to several deficiencies in the operation of the plant by the operator and TMC. The capacity of the plant (156 metric tonne) was much less than the daily generation of MSW (250 metric tonne) in the Corporation. Rupees 7.48 crore given to the operator towards cost of the plant and the operational loss incurred/suffered during seven years, was outside the scope of the agreement. Though SPCB, in its authorisation, specifically mentioned that leachate treatment plant and sanitary land filling were to be provided before commissioning the plant, this was not done. Due to deficiencies in the plant set up by the operator, a substantial amount of ₹ 9.56 crore is required for upgradation of the facility. The plant was closed in December 2011 seriously affecting the Solid Waste Management in the city with adverse implication on environment.