

CHAPTER III: OTHER TAXES AND DUTIES

3.1 Results of audit

Test check of the assessment cases and other records relating to Sales Tax and Stamps and Registration Departments during the year 2008-09 revealed evasion, short levy of tax, concealment of turnover etc., amounting to Rs. 4.98 crore in 19 cases which can be categorised as under:

| (Rupees in crore) | | | |
|-------------------|-------------------------|-----------------|-------------|
| Sl. no. | Category | Number of cases | Amount |
| 1. | Non-levy of tax | 04 | 3.11 |
| 2. | Inadmissible deduction | 04 | 1.22 |
| 3. | Concealment of turnover | 04 | 0.43 |
| 4. | Other irregularities | 07 | 0.22 |
| Total | | 19 | 4.98 |

During the year 2008-09, the department accepted irregularities of tax in two cases amounting to Rs. 2.99 crore which were pointed out during 2008-09. The department recovered Rs. 1.50 lakh in one case during the year.

A few illustrative audit observations involving Rs. 4.53 crore are mentioned in the succeeding paragraphs.

3.2 Audit observations

Scrutiny of the records of the Taxation, Stamp and Registration fees and other Departments indicated cases of evasion of tax, non-realisation of tax, non-levy of stamp duty as mentioned in the succeeding paragraphs. These cases are illustrative and are based on test checks carried out in audit. Such omissions on the part of assessing authorities are pointed out in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of the internal audit.

3.3 Evasion of tax by owners of unregistered motor vehicles

Failure to register 130 taxable vehicles under the MPGT Act led to evasion of tax of Rs. 8.86 lakh

Rule 37 of the Meghalaya Passengers and Goods Taxation (MPGT) Rules envisages that any owner of a taxable vehicle carrying goods or passengers shall apply to the prescribed authority for the registration under the MPGT Act. The owner is also required to file the return to the assessing officer (AO) within 10 days of the close of each month alongwith a copy of treasury *challan* showing payment of tax as per the rates prescribed by the Government from time to time. Under Rules 11 and 13 *ibid*, such tax is assessed and collected by the Superintendent of Taxes who is the AO in respect of the vehicles registered in his office.

Cross-verification of the records of the Superintendent of Taxes, West Garo Hills, Tura with that of the District Transport Officer in November 2008 revealed that 133 owners of the taxable commercial trucks were registered between April 2006 and March 2008 under the Motor Vehicle Act, 1988 and motor vehicle tax in respect of these vehicles were realised for the aforesaid period. But except three vehicles, the remaining 130 owners of the vehicles did not apply for the registration under the MPGT Act. The AO also did not initiate any action to register these owners of the vehicles under the MPGT Act till date and realise due tax. Thus, failure to register these vehicles by the AO resulted in evasion of tax of Rs. 8.86 lakh.

The cases were reported to the department/Government in January 2009; their reply has not been received (February 2010).

3.4 Evasion of tax due to concealment of turnover

Two dealers concealed turnover of Rs. 86 lakh and evaded tax of Rs. 8.60 lakh; besides interest of Rs. 3.05 lakh and penalty of Rs. 12.90 lakh was additionally leviable

Under the Meghalaya Purchase Tax Act, if the Commissioner is satisfied that any dealer has evaded in any way the liability to pay tax, he may direct that such dealer shall pay the penalty in addition to the tax payable by him, a sum not exceeding one and half times of that amount. The provision of the State Act

applies *mutatis mutandis* in the case of assessment/reassessment under the Central Sales Tax Act.

Test check of the records of the Superintendent of Taxes, Purchase Tax Circle, Shillong in March 2008 revealed that the two dealers disclosed turnover of Rs. 2.39 crore in their returns for the period between April 2004 and March 2005 in course of the inter-state trade and furnished declarations in form 'C' for Rs. 2.18 crore. The AO assessed the dealers between February 2006 and June 2007 and assessed Rs. 2.18 crore at the concessional rate of four *per cent* and Rs. 21.15 lakh at 10 *per cent*. Cross-verification of the waybill registers, however, revealed that the dealers had actually sold goods valued at Rs. 3.25 crore during the aforesaid period. Thus, failure on the part of the AO to cross verify the particulars of the waybills registers during the assessment led to the concealment of turnover of Rs. 86 lakh by the dealers remaining undetected resulting in evasion of tax of Rs. 8.60 lakh. Besides, interest of Rs. 3.05 lakh and penalty of Rs. 12.90 was also leviable.

After this was pointed out, the Assistant Commissioner of Taxes stated in July 2008 that the difference was due to recording of the proforma bills for the amount instead of the final bills. The reply is not tenable as the dealers sold goods to other dealers in course of the interstate trade, which was not taken into consideration.

The cases were reported to the department/Government in May 2008; their reply has not been received (February 2010).

3.5 Non-realisation of amusement tax

Inaction of the assessing officer led to loss of revenue of Rs. 2.87 crore

Under the Meghalaya Amusement and Betting Tax Act, every registered proprietor of any entertainment in respect of which entertainment tax is payable under this Act, shall pay amusement tax to the State government within such date(s) as may be prescribed. Again Section 4 of the Act provides for the method of the levy of the entertainment tax and in case of contravention of this provision the proprietor is liable to pay composition money not exceeding one thousand rupees or double the amount of tax which would have been payable had these provisions been complied with, whichever is greater. Further section 10 of the Act provides that in the event of default by any proprietor of the entertainment in making payment of any dues, such dues shall be recovered by the State government as arrears of land revenue.

Test check of the records of a Cinema Hall registered under the Superintendent of Taxes, Circle IV, Shillong in March 2009 revealed that the amusement tax of Rs. 1.16 crore was payable by the proprietor upto 2005-06 against which only Rs. 19.95 lakh was paid. The balance amusement tax of Rs. 96 lakh remained unrealised without any recorded reason. It was further noticed that neither was any action initiated to recover the balance tax nor was the case forwarded by the AO to the *Bakijai*²⁴ officer for recovery of the dues as arrears of land revenue as

²⁴ Recovery officer.

envisaged in the Act. Thus, inaction on the part of the AO has resulted in loss of revenue of Rs. 96 lakh. The likelihood of its recovery is low as the cinema hall has already been closed. Besides, penalty of Rs. 1.91 crore was also payable by the proprietor but was also not levied by the AO.

After this was pointed out in March 2009, the Government, while admitting the facts stated in January 2010 that Rs. 1.50 lakh had already been recovered. Report on the recovery of the balance tax has not been received (February 2010).

3.6 Non-levy of professional tax

Inaction of the assessing officer led to non-levy of professional tax of Rs. 12 lakh out of which Rs. 4.80 lakh was a loss of revenue as the same became time-barred

Under the Meghalaya Profession, Trades, Callings and Employments Tax Act, every person who carries on a trade shall be liable to pay for each financial year, a tax in respect of such professions at prescribed rates. Further, every person liable to pay tax under this Act, shall submit to the AO, a return within 60 days of the commencement of the financial year. If any person fails to submit the return, the AO shall assess to the best of his judgement and determine the tax payable by him. The Act further provides that the notice in respect of the escaped tax can be issued within three years of the end of the year for which assessment or reassessment is proposed to be made.

Test check of the records of the Superintendent of Taxes Circle 1, Shillong in February 2009 revealed that 96 dealers had neither furnished returns for professional tax nor paid tax under the Act during the period 2004-05 to 2008-09. The AO also did not issue any notice to the defaulting dealers to furnish the returns and pay the tax. In absence of the return, even best judgment assessments were not made. Thus, inaction on the part of the AO had resulted in non-realisation of the professional tax of Rs. 12 lakh out of which Rs. 4.80 lakh was a loss of revenue to the Government as provision of the Act prohibits assessment beyond three years.

After this was pointed out in March 2009, the Government, while admitting the facts stated (January 2010) that all the cases had been referred to the District Council to ascertain payment of professional tax. Further report is awaited (February 2010).

3.7 Non-levy of stamp duty

Two lessees acquired immovable property of Rs. 3.23 crore and evaded stamp duty of Rs. 1.21 crore

Under the Indian Stamp Act 1899, 'lease' means a lease of an immovable property and includes undertaking in writing to cultivate occupancy or pay or deliver rent for the immovable property. Clause 35(a) (iv) of the Indian Stamp (Meghalaya Amendment) Act 1993, lays down that the stamp duty on lease where the lease purports to be for a term exceeding thirty years but not exceeding one

hundred years shall be calculated at the rate of Rs. 99 per Rs. 1,000 for a consideration equal to four times the amount or value of the average annual rents received.

- Scrutiny of the records of the Meghalaya Tourism Development Corporation (MTDC), Meghalaya, in August 2008 revealed that a lease agreement was executed between the MTDC and a lessee in May 2008 under which the lessor transferred to the lessee a plot of land measuring 28,869 square feet along with structure of a luxury hotel for a period of 33 years for an annual consideration of Rs. 1.73 crore subject to escalation of 10.5 *per cent* applicable after a block of every three years. Thus, the lease rent for the purpose of stamp duty would be Rs. 12 crore for which stamp duty of Rs. 1.19 crore was leviable. But cross check of records of the Registrar East Khasi Hills Shillong in September 2008 revealed that the lessee did not register the aforesaid lease agreements with the Registrar. This resulted in evasion of the stamp duty of Rs. 1.19 crore.

- Scrutiny of the records of the North Eastern Hill University (NEHU), Shillong revealed that the university purchased a plot of land measuring 21,801.15 square feet from 11 individuals for a consideration of Rs. 23.03 lakh in November 2007 for construction of a link road from Mawiong to the permanent campus of the university. Scrutiny of the records of the Register, East Khasi Hills, Shillong revealed that the university did not register the aforesaid transfer of assets with the registrar. This resulted in non-levy of stamp duty of Rs. 2.28 lakh.

The cases were reported to the department/Government in September 2008; their reply has not been received (February 2010).