

CHAPTER-III : MOTOR VEHICLES TAX

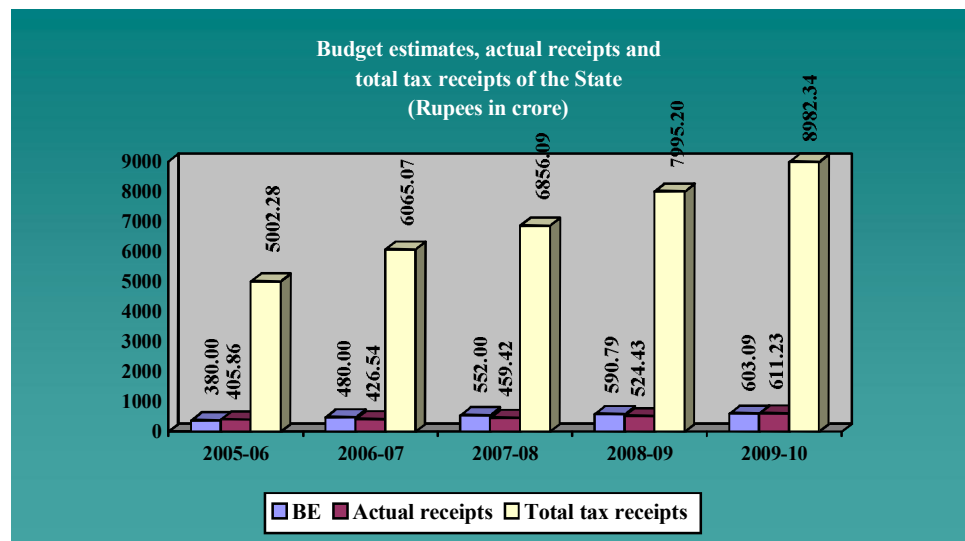
3.1.1 Tax administration

Levy and collection of taxes on motor vehicles is regulated under the Motor Vehicles (MV) Act, 1988 and the Orissa Motor Vehicles Taxation (OMVT) Act, 1975. The Transport Commissioner (TC)-cum-Chairman, State Transport Authority (STA), under the overall control of the Principal Secretary, Commerce and Transport (Transport) Department, administers the above Acts and Rules made thereunder and is assisted by three Additional Commissioners for administration, technical matters and enforcement activities, one Secretary-cum-Additional Commissioner, one Joint Commissioner (Taxation) at headquarters, three Deputy Commissioners functioning at zonal levels and 31 Regional Transport Officers (RTOs) functioning at regional levels. The RTOs are the assessing authorities as well as the tax recovery officers.

3.1.2 Trend of receipts

Actual receipts from taxes on motor vehicles during the years 2005-06 to 2009-10 along with the total tax receipts during the same period is exhibited in the following table and graph.

(Rupees in crore)						
Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2005-06	380.00	405.86	(+) 25.86	(+) 6.80	5,002.28	8.11
2006-07	480.00	426.54	(-) 53.46	(-) 11.13	6,065.07	7.03
2007-08	552.00	459.42	(-) 92.58	(-) 16.77	6,856.09	6.70
2008-09	590.79	524.43	(-) 66.36	(-) 11.23	7,995.20	6.56
2009-10	603.09	611.23	(+) 8.14	(+) 1.35	8,982.34	6.80



No reasons for the increased collection during 2005-06 were given by the department. The reasons for wide fluctuations in budget estimates and actuals during 2006-07 to 2007-08 were attributed to less registration of vehicles as compared to the previous year and a campaign against overloading of vehicles whereas for the year 2008-09 it was attributed to a downward trend in registration of new commercial vehicles as compared to the previous year.

3.1.3 Cost of collection

The gross collection under taxes on motor vehicles, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2007-08, 2008-09 and 2009-10 along with the relevant all India average percentage of expenditure on collection to gross collection for 2008-09 are mentioned in the following table:

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	(Rupees in crore)
				All India average percentage for the year 2008-09
2007-08	459.42	14.71	3.20	
2008-09	524.43	32.59	6.21	2.93
2009-10	611.23	27.78	4.54	

The percentage of the cost of collection was well above the all India average percentage. Thus, there is considerable scope for the Government to improve the efficiency of collection.

3.1.4 Working of internal audit wing

The department informed us that during the period 2007-08 to 2009-10, against 78 units planned for internal audit, the Internal Audit Wing (IAW) completed audit of 14 units only (17.95 per cent) leaving a balance of 64 units. During the year 2008-09 none of the units planned was audited. The reason for shortfall was attributed to shortage of manpower.

The department may consider strengthening the IAW to ensure effective implementation of the Acts/Rules for prompt and correct realisation of revenues.

3.1.5 Impact of audit

Revenue impact

During the last five years (2004-05 to 2008-09) we pointed out non/short levy, non/short realisation of tax, fee etc., with revenue implication of ₹ 290.99 crore in 9,38,102 cases. Of these, the Department/Government accepted audit observations in 1,10,197 cases involving ₹ 93.33 crore and recovered ₹ 9.19 crore in 36,081 cases. The details are shown in the following table.

(Rupees in crore)								
Year	No. of units audited	Amount objected		Amount accepted		Amount recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2004-05	27	2,18,915	40.70	33,691	20.18	1,831	1.62	8.03
2005-06	27	2,02,391	50.89	17,693	22.87	2,028	1.84	8.05
2006-07	27	1,76,591	59.46	14,408	22.11	1,108	0.98	4.43
2007-08	27	1,62,866	64.70	8,457	15.77	195	0.23	1.46
2008-09	27	1,77,339	75.24	35,948	12.40	30,919	4.52	36.45
Total	135	9,38,102	290.99	1,10,197	93.33	36,081	9.19	

During the period 2004-05 to 2007-08 the recovery position as compared to acceptance of objections was very low ranging from 1.46 *per cent* to 8.05 *per cent*. However, there was a significant development in 2008-09 where the percentage of recovery was 36.45 *per cent*. The Government may take appropriate steps to improve the recovery position.

3.1.6 Results of audit

During the year 2009-10 we test checked the records of 27 units relating to taxes on motor vehicles and found non/short realisation/levy of tax, fees, penalty etc. involving ₹ 74.92 crore in 1,70,691 cases which fall under the following categories:

(Rupees in crore)			
Sl. No	Categories	No. of cases	Amount
1.	Non-levy/realisation of motor vehicles tax/ additional tax and penalty	32,286	71.85
2.	Non/short realisation of compounding fees, permit fees, process fees etc.	1,36,733	1.46
3.	Non/short realisation of composite tax and penalty	819	0.38
4.	Short levy/realisation of motor vehicles tax/ additional tax and penalty	163	0.65
5.	Non/short realisation of trade certificate tax/fees	91	0.03
6.	Non/short levy of penalty on belated payment of tax	181	0.25
7.	Other irregularities	418	0.30
Total		1,70,691	74.92

During the year, the department accepted non/short realisation/ levy of tax and other deficiencies of ₹ 50.07 crore in 63,776 cases, of which 1,418 cases involving ₹ 3.14 crore were pointed out in audit during the year 2009-10 and the rest in earlier years. An amount of ₹ 5.01 crore was recovered in 31,413 cases during the year 2009-10.

A few illustrative cases involving ₹ 71.42 crore are mentioned in the following paragraphs.

3.2 Audit observations

We scrutinised the records relating to assessment and collection of motor vehicles tax in the office of the TC-cum-STA and the RTOs and found several cases of non-observance of some of the provisions of the Acts/Rules and other cases as mentioned in the succeeding paragraphs in this chapter. The cases are illustrative and are based on a test check carried out by us. Such omissions remain undetected till an audit is conducted by us. The Government may direct the department to improve the internal control system including strengthening of internal audit so that such omissions can be detected, corrected and avoided in future.

3.3 Non-compliance of the provisions of the Acts/Rules

The provisions of the OMVT Act, 1975 and Rules made thereunder require levy and payment of:

- (i) motor vehicles tax/additional tax by the vehicle owner at the appropriate rate;*
- (ii) tax/additional tax in advance and within the grace period so provided;*
- (iii) tax/additional tax at the highest rate of the slab of the stage carriage if the stage carriage was found plying without permit;*
- (iv) differential tax when a stage carriage is used as a contract carriage; and*
- (v) penalty upto double the tax, if the tax is not paid within two months after the expiry of the grace period of 15 days.*

Non-compliance of the provisions of the Act/Rules in some cases as mentioned in paragraphs 3.3.1 to 3.3.5 resulted in non/short realisation of ₹ 69.60 crore.

3.3.1 Non/short realisation of motor vehicles tax and additional tax

As per the OMVT Act, 1975, motor vehicles tax and additional tax due on motor vehicles should be paid in advance at the rates prescribed in the Act unless exemption from payment of such taxes are allowed for the period covered by off road declarations. If such tax is not paid within two months after expiry of the grace period of 15 days, penalty is to be charged at double the tax due. The RTOs are required to issue demand notices within 30 days from the expiry of the grace period for payment of tax.

During test check of records of RTOs, between June 2009 and March 2010, we noticed that motor vehicles tax and additional tax from 31,077 vehicles for the period from January 2008 to March 2009 was either not realised or short realised even though the vehicles were not declared off road. This resulted in non/short realisation of motor vehicles tax and additional tax of ₹ 68.82 crore including penalty

of ₹ 45.88 crore as detailed in the following table:

(Rupees in crore)					
Sl. No.	No. of regions Type of vehicles	No. of vehicles	Non/short realisation of tax/additional tax	Penalty leviable	Total
1.	26 ¹ Goods carriages	16,720	17.50	34.99	52.49
2.	26 ² Tractor-trailer combinations	9,672	2.61	5.23	7.84
3.	25 ³ Contract carriages	4,492	2.61	5.21	7.82
4.	23 ⁴ Stage carriages	193	0.22	0.45	0.67
Total		31,077	22.94	45.88	68.82

After we pointed out the cases, the TC stated in May 2010 that demand notices for ₹ 50.11 lakh in 339 cases were issued by the RTOs, Balasore and Bhadrak. Tax Recovery (TR) cases for ₹ 59.12 lakh were instituted in 179 cases by RTO, Jagatsinghpur and recovery of ₹ 10.29 lakh in 88 cases by RTOs, Balasore, Bhadrak, Ganjam, Jagatsinghpur and Sundargarh was made. The reply in respect of the remaining cases is yet to be received (December 2010).

We brought the matter to the notice of the Government in April 2010; their reply is yet to be received (December 2010).

¹ Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nawarangpur, Nayagarh, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

² All regions at 1 above.

³ All regions at 1 above except Nayagarh.

⁴ All regions at 1 above except Bhadrak, Gajapati and Nayagarh.

3.3.2 Non/short realisation of tax from stage carriages plying without route permits

As per the OMVT Act, motor vehicles tax and additional tax is leviable in respect of a stage carriage on the basis of the number of passengers (including standees) which the vehicle is permitted to carry and the total distance to be covered in a day as per the permit. When any such vehicle is detected plying without a permit, the tax/ additional tax shall be levied at the highest rate of tax as per the taxation schedule. In case of default, penalty amounting to double the tax due is leviable.

During test check of the records of 19 RTOs⁵, between June 2009 and March 2010, we noticed that 86 stage carriages were detected plying without permit by the Enforcement Wing (EW) during the period December 2007 to March 2009. Though the EW issued Vehicle Check Reports (VCRs), failure of the RTOs to finalise the VCRs expeditiously resulted in

non/short realisation of motor vehicles tax and additional tax of ₹ 10.47 lakh (non-realisation of ₹ 3.77 lakh in 11 cases and short realisation of ₹ 6.70 lakh in 75 cases). Besides, penalty of ₹ 20.94 lakh was also leviable.

After we pointed out the cases, the TC stated (May 2010) that demand notices were issued for ₹ 2.74 lakh in three cases by RTO, Balasore and for ₹ 53,004 in two cases by RTO, Bhadrak. The reply in respect of the remaining cases is yet to be received (December 2010).

We brought the matter to the notice of the Government in April 2010; their reply is yet to be received (December 2010).

3.3.3 Non-realisation of differential tax from stage carriages used as contract carriages

As per the OMVT Act, when a vehicle for which motor vehicles tax and additional tax for any period has been paid, is proposed to be used in a manner for which higher rates of taxes are payable, the owner of the vehicle is liable to pay differential tax. If such tax is not paid within two months after expiry of the grace period of 15 days, penalty is to be charged at double the tax due. Further, the tax payable for contract carriage is higher than the tax payable for stage carriages, where the seating capacity of the vehicle exceeds 25 and the stage carriage permit is for ordinary service and in some cases for express service.

During test check of the records of 17 RTOs⁶, between June 2009 and March 2010, we noticed that 170 stage carriages were permitted to ply temporarily as contract carriages during the period between April 2008 and March 2009 on which higher rate of tax was applicable. Though the differential

⁵ Angul, Balasore, Bargarh, Bhadrak, Bolangir, Cuttack, Gajapati, Ganjam, Jharsuguda, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nuapada, Phulbani, Puri, Rayagada, Rourkela and Sambalpur.

⁶ Angul, Balasore, Bargarh, Bhubaneswar, Chandikhol, Cuttack, Dhenkanal, Ganjam, Jharsuguda, Kalahandi, Koraput, Mayurbhanj, Phulbani, Puri, Rayagada, Sambalpur and Sundargarh.

tax was not paid in advance, the RTOs did not take action to issue demand notices for realisation of such taxes. This resulted in non-realisation of differential tax of ₹ 16.20 lakh including penalty of ₹ 10.80 lakh.

After we pointed out the cases, the TC stated in May 2010 that RTO, Balasore recovered ₹ 0.11 lakh in two cases. The reply in respect of the remaining cases is yet to be received (December 2010).

The matter was brought to the notice of the Government in April 2010; their reply is yet to be received (December 2010).

3.3.4 Non/short realisation of motor vehicles tax/additional tax from stage carriages plying on inter-State routes

As per the OMVT Act, 1975 and Rules made thereunder, stage carriages authorised to ply on inter-State routes under reciprocal agreement are liable to pay motor vehicles tax and additional tax on the total distance covered by them on the approved route in the State of Orissa. In case such tax is paid beyond two months after the grace period of 15 days, penalty equal to twice the amount of tax and additional tax due is to be charged.

During test check of the records of the STA and three RTOs⁷, between August 2009 and February 2010, we noticed that motor vehicles tax and additional tax of ₹ 3.01 lakh (non-realisation of ₹ 2.71 lakh in seven cases and short realisation of ₹ 30,327 in three cases) was not realised or short realised from 10 stage carriages

authorised to ply on inter-State routes under reciprocal agreements during the period between April 2008 and March 2009. Besides, penalty of ₹ 6.02 lakh was also leviable.

After we pointed out the cases, the STA and concerned RTOs stated, between August 2009 and February 2010, that demand notices would be issued for realisation of the dues.

We brought the matter to the notice of the Government in April 2010; their reply is yet to be received (December 2010).

3.3.5 Non/short levy of penalty on belated payment of motor vehicles tax and additional tax

As per the OMVT Act and Rules, penalty ranging from 25 to 200 *per cent* of the tax and additional tax due, depending on the extent of delay in payment, shall be leviable if the dues are not paid within the specified period.

During test check of the records of STA and 23 RTOs⁸, between June 2009 and March 2010, we noticed that motor vehicles tax in respect of 176 motor vehicles for the period between April 2004 and March 2009 was paid

⁷ Cuttack, Kalahandi and Rourkela.

⁸ Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nabarangpur, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

belatedly after delays ranging between two days and 59 months. In 40 cases, penalty of ₹ 5.08 lakh was not levied and in 136 cases penalty of ₹ 16.84 lakh was short levied. This resulted in non/short levy of penalty amounting to ₹ 21.92 lakh.

After we pointed out the cases, the TC stated in May 2010 that an amount of ₹ 6,894 was recovered in one case by RTO, Balasore. The reply in respect of the remaining cases is yet to be received (December 2010).

We brought the matter to the notice of the Government in April 2010; their reply is yet to be received (December 2010).

3.4 Non-compliance of Government notification/decision

Government decisions notified in 2001 and 2003 prescribe for payment of:

- (i) *countersignature fee/process fee at the prescribed rates; and*
- (ii) *one time composite tax by the vehicles of Andhra Pradesh plying in Orissa.*

Non-compliance of the above decisions in some of the cases as mentioned in paragraphs 3.4.1 and 3.4.2, resulted in non/short realisation of fees and tax of ₹ 1.82 crore.

3.4.1 Non/short realisation of process/counter-signature of permit fees

As per the MV Act, read with the Government notification of 24 January 2003, the fee for countersignature of permits was enhanced and process fee of ₹ 100 on every application/objection filed was introduced with effect from 28 January 2003. The department, by an order of March 2003, however, postponed the collection of the fees at the rates prescribed in the notification.

During test check of the permit registers and other connected records in the STA and 24 RTOs⁹ including 19 check gates, between June 2009 and March 2010, we noticed that fee for countersignature of permits was realised at the pre-revised rate in respect of 188 goods vehicles during the period April 2008 to March 2009 and process fee for the period from April 2008 to March 2009 was not realised in 1,35,174 cases. This resulted in short realisation of countersignature of permit fee of ₹ 9.10 lakh and non-realisation of process fee of ₹ 1.35 crore.

After we pointed out the cases, the STA and all the RTOs stated, between June 2009 and March 2010, that the collection of the fees was postponed by the Government order of March 2003. The fact, however, remains that the rates published in the gazette had already come into force and charging of old rates by an executive order was irregular since executive orders cannot overrule the

⁹ Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Keonjhar, Koraput, Mayurbhanj, Nabarangpur, Nayagarh, Nuapada, Phulbani, Puri, Rourkela, Sambalpur and Sundargarh.

statutory provisions. Despite repeated observations in earlier Audit Reports, the Government neither implemented the provisions of the notification of January 2003 for realisation of the fees nor rescinded the same.

We brought the matter to the notice of the Government in April 2010; their reply is yet to be received (December 2010).

3.4.2 Non-realisation of composite tax for goods vehicles under reciprocal agreement

As per the Government of Orissa decision of February 2001, goods vehicles belonging to Andhra Pradesh (AP) and authorised to ply in Orissa under the reciprocal agreement are required to pay annually a composite tax of ₹ 3,000 per vehicle. The tax is payable in advance on or before the 15th April every year to the STA, Orissa through the STA, AP or directly at the check gates in Orissa. In case of delay in payment, penalty of ₹ 100 for each calendar month or part thereof is also leviable in addition to the composite tax.

During test check of the records of the STA we noticed in August 2009 that composite tax amounting to ₹ 24.57 lakh in respect of 819 goods vehicles of AP authorised to ply in Orissa on the strength of valid permits under the reciprocal agreement during 2008-09, was not realised. Besides, penalty of ₹ 13.10 lakh calculated

upto July 2009 was also leviable.

After we pointed out the case, the STA stated in August 2009 that STA, AP would be moved for realisation of the dues.

We brought the matter to the notice of the Government in January 2010; their reply is yet to be received (December 2010).