

## CHAPTER III OTHER TAX RECEIPTS

### 3.1 Results of audit

We noticed during test check of the records of 153 offices during the period from April 2009 to March 2010 that there was non/short collection of tax, fees, penalty, licence fees, etc., and other audit observations amounting to ₹ 45.30 crore in 305 cases as mentioned below<sup>18</sup>:

(₹ in lakh)			
Sl. no.	Categories	No. of cases	Amount
<b>A - Taxes on vehicles</b>			
1	Non/short collection of tax	55	1,509.56
2	Non/short collection of fees	31	59.84
3	Non/short collection of penalty	26	71.47
4	Others	5	15.57
<b>Sub-total</b>		<b>117</b>	<b>1,656.44</b>
<b>B - State excise</b>			
1	Non/short collection of licence fee/privilege fee	14	870.09
2	Non/short collection of administrative service fee	3	2.46
3	Non/short collection of penalty and interest	11	118.08
4	Others	4	4.55
<b>Sub-total</b>		<b>32</b>	<b>995.18</b>
<b>C - Land revenue</b>			
1	Encroachment of Government lands by private educational institutions	1	----
2	Short recovery of value/rent in respect of land assigned, alienated or evicted	15	522.74
3	Non-levy of penalty/interest	5	33.59
4	Others	135	1,321.97
<b>Sub-total</b>		<b>156</b>	<b>1,878.30</b>
<b>Total</b>		<b>305</b>	<b>4,529.92</b>

<sup>18</sup> Offices pertaining to the heads of revenue (three) included in this chapter.

During the year 2009-10, the concerned departments accepted under-assessments, non/short collection of tax, fees, penalty etc., amounting to ₹ 3.16 crore in 207 cases of which ₹ 42.44 lakh pertaining to nine cases was pointed out in 2009-10 and the rest in earlier years. An amount of ₹ 2.42 crore was realised during the year.

A few illustrative cases involving ₹ 14.15 crore are mentioned in the following paragraphs:

## A – TAXES ON VEHICLES

### 3.2 Audit observations

*We test checked the records in the offices of Home and Revenue departments relating to revenue received from tax, fee, rent, etc. and noticed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of tax, fees and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and based on test checks carried out by us. Although such omissions are pointed out every year, the irregularities do persist and remain undetected till the next audit is conducted. There is need for the Government to consider directing the department to improve the internal control systems including strengthening of internal audit so that such omissions can be avoided, detected and corrected.*

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

*The provisions of the Tamil Nadu Motor Vehicles Taxation Act, 1974 and Rules made thereunder require payment of:*

- (i) motor vehicles tax/additional tax in advance and within the grace period so provided, by the vehicle owner at the appropriate rate and*
- (ii) differential tax when a stage carriage is used as a contract carriage.*

*We noticed non-compliance of the provisions of the Act/Rules in some cases as mentioned in paragraphs 3.3.1 to 3.3.3 which resulted in non/short realisation of ₹7.79 crore.*

### **3.3.1 Non-levy of additional tax on reserve stage carriages**

According to Section 11 of the Tamil Nadu Motor Vehicles Taxation Act, 1974, when any motor vehicle, in respect of which tax has been paid, is altered or proposed to be used in such manner as to cause the vehicle to become a vehicle in respect of which a higher rate of tax is payable, the registered owner or person who is in possession or control of such vehicle shall pay an additional tax of a sum equal to the difference between the tax already paid and the tax which is payable in respect of such vehicle for the period for which the higher rate of tax is payable in consequence of it being altered.

During test check of the records in three Regional Transport Offices (RTO)<sup>19</sup> we noticed that 8,677 special permits were issued during 2008-09 to 120 spare buses of stage carriages<sup>20</sup> (reserve stage carriages) to operate as 'contract carriages' without collecting the tax as applicable to the contract carriages for the period of permit. The tax for contract carriages is ₹ 3,000 per seat per quarter while for spare

buses, the tax is ₹ 375 per seat per quarter. The vehicle owners were liable to pay tax of ₹ 8.06 crore against which ₹ 1.01 crore was collected. This resulted in short recovery of ₹ 7.05 crore.

We pointed this out to the department in December 2009/January 2010. The Commissioner while accepting the audit observation for a similar paragraph (3.2.13) included in the Audit Report 2007-08 had replied that necessary proposal had been sent for amendment of the Act. We await further report (December 2010).

We reported the matter to the Government in April 2010 and are awaiting their reply (December 2010).

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<sup>19</sup> Karur, Salem (East) and Tirunelveli.

<sup>20</sup> Reserve stage carriages are the buses deployed in the event of break down of the stage carriage buses. On the other hand, contract carriages are the ones used for special purposes on contract.

### 3.3.2 Short collection of composite tax

The Government of Tamil Nadu issued a notification (December 2008) enhancing the amount of composite tax payable on goods carriages registered in other states and authorised to ply in the state of Tamil Nadu under the national permit from ₹ 3,000 to ₹ 5,000 per annum per vehicle with effect from 12 December 2008.

During test check of the records of eight RTOs<sup>21</sup> as well as unit offices and check posts under their jurisdiction, we noticed that the composite tax at enhanced rate was not collected in respect of 1,640 goods vehicles of other states plying in Tamil Nadu between 12 December 2008

and 29 March 2009. The omission had resulted in short collection of composite tax to an extent of ₹ 36.92 lakh.

We pointed this out to the department between November 2009 and March 2010 and to the Government in February/March 2010. The Government in April 2010 accepted the audit observation in respect of three cases<sup>22</sup> and stated that the amount would be collected. We are awaiting reply in respect of other cases (December 2010).

### 3.3.3 Short collection of tax in respect of temporary permits issued to other state omni buses.

As per Schedule 6 of the Tamil Nadu Motor Vehicles Taxation Act, 1974, a temporary licence for a period not exceeding seven days or thirty days or ninety days at a time may be issued, in respect of any class of motor vehicles specified in the First Schedule, on payment of tax.

The amount of tax payable is 1/10<sup>th</sup> of the quarterly tax in the case of temporary licence not exceeding seven days; 1/3<sup>rd</sup> of the quarterly tax in the case of temporary licence issued for a period between seven and 30 days and full quarterly tax in the case of temporary licence issued for a period exceeding 30 days.

During test check of the records of seven RTOs<sup>23</sup>, (between August 2008 and February 2010), we noticed that in respect of 117 other state omni buses, temporary licenses for a period less than seven days and less than 30 days were initially issued and tax was collected at 1/10<sup>th</sup> and 1/3<sup>rd</sup> of the quarterly tax, depending upon the period for which the permit was issued. However, when the temporary licenses for the buses were extended beyond the period of seven and 30 days, the RTOs concerned had calculated the tax for the extended period

<sup>21</sup> Coimbatore (South), Erode, Karur, Krishnagiri, Salem (East), Tirunelveli, Tiruvallore and Vellore.

<sup>22</sup> Karur, Krishnagiri and Tirunelveli.

<sup>23</sup> Chennai (East), Coimbatore (South), Erode, Namakkal, Salem (East), Tirunelveli and Vellore.

alone instead of taking into account the entire period for which the temporary licenses were issued. Thus, though tax at 1/3<sup>rd</sup> of the quarterly tax and full quarterly tax were to be collected for the entire period for which the temporary licenses were issued, the RTO concerned had collected the tax at lesser rates which resulted in short collection of tax of ₹ 37.03 lakh.

We pointed this out to the department between November 2009 and January 2010. The department accepted (March 2010) the audit observation and stated that the amount would be collected in due course. We are awaiting the collection particulars (December 2010).

We reported the matter to the Government in February/March 2010 and are awaiting their reply (December 2010).

## **B – STATE EXCISE**

### **3.4 Non-levy of interest for belated payment of arrears**

Under the provisions of Section 18 I (1) of the Tamil Nadu Prohibition Act, 1937, the Government vide a notification issued in April 2004 ordered to collect interest, on the amount due to the State Government, under the provisions of the Act or the rules made thereunder at 12 *per cent* with effect from 12 May 1981.

During test check of the records in the office of the Deputy Commissioner (Excise) Coimbatore in December 2009 we noticed that while notional loss amount pertaining to the period between 1981-82 and 1984-85 was collected by three Divisional Excise Officers (DEO)<sup>24</sup> during 2008-09, interest of ₹ 37.08 lakh was omitted to be levied.

We reported the matter to the Government in April 2010. The Government replied (May 2010) that the DEOs have been instructed to collect the interest. We are awaiting further report (December 2010).

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<sup>24</sup> Coimbatore (North and South) and Pollachi.

## C – LAND REVENUE

### 3.5 Non-compliance of the provisions of the Acts/Rules

*The Board of Revenue Standing Orders and the Government Orders issued from time to time require*

- (i) *removal of encroachments which are objectionable in nature;*
- (ii) *payment of land cost whenever land is alienated for commercial/non-commercial purposes; and*
- (iii) *payment of lease rent, local cess and local cess surcharge in respect of land leased out.*

*We noticed non-compliance of the provisions of the Act/Rules in some cases as mentioned in paragraphs 3.5.1 to 3.5.3 which resulted in non/short realisation of ₹5.98 crore.*

#### 3.5.1 Encroachment of Government lands by private educational institutions

As per the Standing Order 26 of the Board of Revenue, where encroachments are objectionable in nature, the encroachers should be evicted.

According to Sections 3 and 5 of the Tamil Nadu Land Encroachment Act, 1905, any person unauthorisedly occupying government lands shall pay, by way of full assessment and penalty, a sum not exceeding ₹ 5 or when ten times the assessment exceeds ₹ 5, a sum not exceeding ten times of such assessment if the land is assessed. If the land is unassessed, a penalty of a sum not exceeding ₹ 10, or when twenty times of assessment exceeds ₹ 10, a sum not exceeding twenty times of such assessment is leviable. The assessment was fixed at the time of enactment of the Act in 1905, to compel the encroacher to surrender the land immediately. It has not been amended since then.

According to Section 25 of the Limitations Act, 1963, where the enjoyment rights over government lands is for more than 30 years, the right shall be absolute and indefeasible.

Mention of “Encroachment on Government Lands” was made in para 5.2 of the Report of Comptroller and Auditor General of India for the year 1986-87. The Committee on Public Accounts in their 2<sup>nd</sup> Report placed in the Eleventh Assembly on 30 August 1996 felt that the existing

measures adopted by the Department were not effective in dealing with encroachment of government land and speedy enactment of amendments to

the Tamil Nadu Land Encroachment Act was needed with a view to bring encroachments under effective control. However, no such enactment has been made so far.

A review on Encroachment of Government lands was also included as Para 3.2 in the Report of the Comptroller and Auditor General of India for the year 2002-03. The Government in reply to the review stated in August 2003 that repeal of the old Act (1905) and re-enactment of a new Act with necessary provisions to meet the existing contingencies in the eviction of encroachment, like levy of high rate of penalty, punishment for land grabbing, simplifying the procedure for eviction, etc., was under their consideration. However, even after seven years no such enactment has been made and the encroachments continued. The Public Accounts Committee discussed the above review in June 2010 and the recommendations are yet to be placed on the Table of the State Legislature.

We observed during test check of the records in 15 Taluks<sup>25</sup> during the period from January to March 2010 that 40 private engineering colleges had encroached Government lands to the extent of 170.38.8 hectares. The period of encroachment ranged from 5 to 25 years. As all the encroachments are objectionable, they were to be summarily evicted. The total cost of the lands encroached based on the value as on 1 August 2007 worked out to ₹ 178.31 crore.

Further, the penalty for encroachment continues to be a meagre ₹ 5 or ₹ 10 per case per year, since 1905 and has not been revised. This in no way serves as a deterrent to the large scale encroachments.

We pointed this out to the department between January and March 2010. The department replied that all the encroachments were objectionable and they would take action to evict them. We are awaiting further report (December 2010).

We reported the matter to the Government in May 2010 and are awaiting their reply (December 2010).

**We recommend that the Government may take necessary steps to clear those encroachments which are objectionable and to increase the rate of penalty to act as a stringent deterrent.**

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<sup>25</sup> Ambattur, Chengleput, Cheyyur, Coimbatore (South), Gummidipoondi, Kanchipuram, Madurai (North and South), Musiri, Poonamallee, Sriperumbudur, Srirangam, Thanjavur, Thiruthani and Tiruchirappalli



### 3.5.2 Non-realisation of land cost

As per the Standing Order 24(1) of the Board of Revenue, Government lands can be granted for public purpose on collection of the land cost.

The authorities competent to grant land may, in cases of emergency, permit entry upon the land, pending issue of formal orders sanctioning the grant.

During test check of the records in Agastheeswaram and Palayamkottai Taluk offices in December 2008 and August 2005 we noticed that ‘enter upon’ permission was given to two ‘undertakings’ for control and enjoyment of 1.03 lakh square feet of

land. However, the land cost has not been fixed till date. This resulted in non collection of land cost of ₹ 2.36 crore as detailed below:

Sl. No.	Name of the Taluk/ Name of the undertaking	Date of enter upon permission/ Extent (in square foot)	Value of the land (₹ in crore)	Remarks
1	Agasthee-swaram/ Tamil Nadu Electricity Board	March 1992/ 66,211	2.04	We pointed this out to the department in May 2009; the department replied that they have sent the alienation proposals to the District Collector in 2002 and further stated that as the land has been classified as “Kulam Poramboke <sup>26</sup> ”, they were awaiting final orders from the Government. The reply is not acceptable since the department has not forwarded the proposal for fixing the land cost to the Head of the department/Government till date i.e., even after a lapse of 10 years. The land was under continuous enjoyment of the Board without any revenue to the Government.
2	Palayamkottai/ Tamil Nadu Tourism Development Corporation	May 2000/ 36,427	0.32	We pointed this out to the department in September 2005. The department replied during audit (August 2005) that they were awaiting final orders from the Government. The fact remains that the land was under continuous enjoyment of the Tourism Department without realisation of land cost.
<b>Total</b>			<b>2.36</b>	

We reported the matter to the Government in January 2009/May 2010 and are awaiting their reply (December 2010).

<sup>26</sup> Kulam Poramboke – Government waste land for water bed.

### 3.5.3 Non-realisation of lease rent

As per Standing Order 24-A of the Board of Revenue, Government lands can be leased out to private bodies, companies, associations or local bodies for use by them for commercial purposes, on payment of lease rent at the rate of 14 per cent per annum (including local cess and local cess surcharge) on the market value of the land

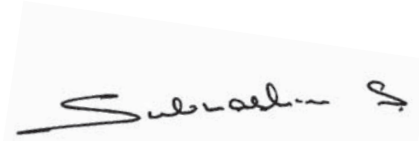
During test check of the records of Taluk offices, Chingleput and Rajapalayam in August 2008/November 2009, we noticed that 1,222 cents<sup>27</sup> of Government land were leased out to two entities (in November 1999 and April 2000). However, due to non-fixation of value of the land, the lease rent of ₹ 3.62 crore including local cess and local cess surcharge was not collected as detailed below:

Sl. No.	Name of the Taluk/ Name of the undertaking	Extent/ Period for which lease rent is due	When leased out	Lease rent (₹ in crore)	Remarks
1	Rajapalayam/ Singarajakottai Rajus' Association	98 cents/ April 2000 to March 2010	April 2000	2.97	We pointed this out to the department in December 2009; the department replied during audit that they would take action to collect the lease rent and furnish the collection particulars.
2	Chingleput/ PSB Educational Trust	1,124 cents/ July 2007 to June 2009	November 1999	0.65	We pointed this out to the department in October 2008. A proposal fixing the market value at ₹ 20,772 per cent was forwarded by the District Collector to the Government in December 2008. The same is yet to be approved.
<b>Total</b>				<b>3.62</b>	

<sup>27</sup> A cent is equal to 436.66 square feet.

We reported the matter to the Government in January 2009/May 2010. We are awaiting their reply (December 2010).

**Chennai**  
**Dated**



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**ANNEXURE**  
(Refer to Paragraph 1.4 of Chapter I)

Sl. No.	Name of the Department	Nature of receipts	Auditable units	Units planned	Units audited
1.	Commercial Taxes and Registration	Sales tax	392	235	235
		Stamp duty and registration fees	567	240	240
2	Revenue	Land revenue <sup>28</sup>	206	100	100
		Urban land tax	52	20	20
3	Home (Transport)	Taxes on vehicles	49	23	23
4	Home (Prohibition and Excise)	State excise	60	30	30
5	Industries	Mines and minerals	28	5	5
6	Energy	Electricity duty	23	12	12
<b>Total</b>			<b>1,377</b>	<b>665</b>	<b>665</b>

<sup>28</sup> There are 206 land revenue offices to be audited. Out of this every year 103 offices are taken for audit under biennial audit plan.





