



CHAPTER – V OTHER TAX RECEIPTS

5.1 Results of audit

Our test check of records in 35 offices dealing with the following revenue receipts during 2010-11 revealed non/short realisation of revenue amounting to ₹ 311.41 crore in 80 cases as shown in Table 1.

Table 1
Results of audit

(₹ in crore)			
Sl. No.	Category	Number of cases	Amount
1.	Assam Taxation (On Specified Lands)	12	299.10
2.	Profession tax	12	0.10
3.	Land Revenue	35	9.04
4.	Stamp duty and Registration fee	21	3.17
Total		80	311.41

The concerned departments have accepted six cases involving money value of ₹ 15.31 crore pointed out during 2010-11 and recovered ₹ 15.14 crore in three cases.

A few illustrative audit observations involving revenue implication of ₹ 1.72 crore are mentioned in the following paragraphs.

5.2 Audit observations

Our scrutiny of the records of the Land Revenue, Revenue (Registration) and Taxation Departments revealed several cases of non-observation of the provisions of Acts/Rules/departmental orders. Some illustrative cases based on test checks carried out by us are mentioned in succeeding paragraphs. Such omissions on the part of the departmental officers are pointed out by us each year. However, not only do the irregularities persist, these remain undetected till we conduct subsequent audit. We are concerned as these observations are also sent to the higher authorities including the Government each time these are detected. This underlines a need for the Government to

The AVAT Act stipulates that if the owner, dri

LAND REVENUE

5.3 Non-remittance of revenue

Revenue Circles, between January and November 2010]

neys received on behalf of the Government shall, without any delay, be deposited into the Government account. The Land Revenue Department instructed (March 1996) that the *mouzadars* are allowed to retain cash in hand upto a maximum of ₹ 10,000 with regard to land revenue collected by them. For any amount held in excess over this limit, the concerned *mouzadar* shall be required to pay, not only the excess amount held by him, but also interest at 18 per cent per annum in respect of this excess amount for the period held by him.

We observed that 13 *Mouzadars*¹ under the aforesaid circle offices collected land revenue of ₹ 2.85 crore, of which ₹ 1.82 crore was remitted into the Government account, leaving ₹ 1.03 crore² in hand as on the dates of audit³. Such retention of revenue out of Government accounts was not only unauthorised but amounted to temporary mis-appropriation of Government money as well. Besides, for non-remittance of revenue into the Government account, interest of ₹ 47.84 lakh (calculated upto March 2011) is realisable from the defaulting *Mouzadars*. Details

are shown in **Annexure – III**.

¹ Revenue officers appointed under Section 124 of the Assam Land and Revenue Regulation, 1886.

² After allowing the maximum permissible retention amount of ₹ 10,000 in each case.

³ Annual check post whereas during the same period

Non-remittance of revenues collected by the *Mouzadars* is a persistent irregularity and has been highlighted by us in previous Audit Reports; the Government/Department is yet to take concrete steps to ensure remittance of the revenue retained by the *Mouzadars* and arrest recurrence of the same which is a matter of concern.

After we pointed this out, the circle officer in-charge of Garubat, Kampur and Kathiatoli *mouzas* under Kampur Circle stated (May 2011) that the *Mouzadars* were reluctant to deposit the excess amount of cash with them beyond the permissible limit. We have not received replies from other circle officers (August 2011).

We have reported the matter to the Department and Government between February and December 2010 and followed up between February and July 2011. We have not received their replies to any of our correspondences (August 2011).

PROFESSION TAX

5.4 Non-realisation of profession tax

[Assistant Commissioners of Taxes (ACT), Golaghat, Guwahati Unit – B and C; between May and September 2010]

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

5.4.1 We observed that 30 registered dealers under the above unit offices did not pay profession tax of ₹ 2.83 lakh from 2002-03 to 2009-10. The assessing officers of these unit offices did not review the case records and detect non-payment of profession tax. This resulted in non-realisation of ₹ 4.64 lakh including interest of ₹ 1.81 lakh.

5.4.2 Verification of the records of the District Transport Officer (DTO), Golaghat indicated that though owners of 49 commercial vehicles had registered their vehicles and were paying tax under the Motor Vehicles Act, they did not pay the profession tax for the period 2006-07 to

2009-10. This resulted in non-realisation of profession tax of ₹ 2.09 lakh. Besides, interest of ₹ 1.44 lakh was also leviable.

After we pointed this out, the ACT, Guwahati, Unit – C stated (June 2011) that ₹ 40,000 has been recovered from five dealers while the ACT, Golaghat

stated (April 2011) that the owners of 42 vehicles have stated that they are not liable to pay profession tax. The fact remains that these vehicle owners have regularly paid road tax as commercial vehicles to the concerned DTO during the period covered by audit.

We reported the cases to the Department/Government between June and July 2010 and followed up in March 2011; we are yet to receive the replies of the ACT, Guwahati, Unit – B and Government (August 2011).

REVENUE (REGISTRATION) DEPARTMENT

5.5 Short realisation of stamp duty and registration fees

[Senior Sub-Registrar, Guwahati: February 2010]

The Indian Stamp Act, 1899 (as amended from time to time), lays down that stamp duty on a lease, where the lease purports to be for a term exceeding three years, shall be calculated for a consideration equal to the amount or value of the average annual rent reserved. Further, it was judicially held by the Allahabad High Court (17 All 55) that when the lessee hypothecated certain other property belonging to him for the purpose of securing payment of agreed rent, the instrument (lease deed) is chargeable to duty both as a lease and as a mortgage. The stamp duty on lease as well as mortgage deed is calculated at the rate of ₹ 140 for every ₹ 1,000 and registration fee at the rate of ₹ 85 for every ₹ 1,000.

We observed that an instrument of lease was registered in March 2009 under which the lessor conferred upon the lessee the right to use two floors of a multistoried building comprising 16,647 sq ft for a period of 15 years. The monthly rent was fixed at ₹ 4.58 lakh with a provision for 15 *per cent* increase after expiry of every succeeding period of three years. In addition, the lessee had deposited with the lessor ₹ 30.48 lakh as interest free security deposit. On the basis of the above consideration, stamp duty of ₹ 14.64 lakh and registration

fees of ₹ 8.89 lakh was realisable. However, the Senior Sub-Registrar, Guwahati realised stamp duty of ₹ 6.82 lakh and registration fee of ₹ 4.92 lakh resulting in short realisation of stamp duty of ₹ 7.82 lakh and registration fees of ₹ 3.97 lakh.

After we pointed this out, the Senior Sub-Registrar, Guwahati stated (June 2011) that the differential stamp duty and registration fees of ₹ 12.39 lakh have been assessed and District Collector, Kamrup (Metro) has been requested to recover the amount. Report on recovery is awaited (August 2011).

We reported the cases to the Government in February 2010 and followed up in April 2011; we have not received replies (August 2011).