

CHAPTER –5

RESULTS OF AUDIT

5.1 Loss of Revenue

5.1.1 Non-realization of general tax.

Municipal Corporation, Shimla failed to levy general tax of ₹ 15.73 crore from the owners of the newly merged areas.

As per notification (August 2006), the Government of Himachal Pradesh altered the limits of Municipal Corporation, Shimla by including therein the special areas of New Shimla (Kasumpati), Dhalli and Totu with the exemption of general tax on the land and buildings for a period of 2 years. Thereafter, the general tax on land and buildings was to be levied at the rate of 15 *per cent* per annum from the owners of land and buildings of the newly merged areas.

Scrutiny of records, however, revealed that contrary to the provisions of the notification *ibid*, a general tax of ₹ 15.73 crore⁸ on land and buildings, as worked out (between April 2010 and December 2012) in the survey conducted by the Municipal Corporation through an agency, was due from the owners of the newly merged areas.

While admitting the facts, the Secretary (Tax) stated (February 2012) that existing staff was already overburdened owing to which the general tax could not be levied. The reply was not acceptable as no action was initiated by the department for the realization of general tax despite lapse of more than three years after the survey.

Thus, delay on the part of the Department in realization of general tax from the owners of the newly merged areas in Municipal Corporation, resulted in loss of revenue of ₹ 15.73 crore.

5.1.2 Blockade of funds

Municipal Council, Una failed to receive developmental grant of ₹ 91 lakh from GOI due to delay in commencement of work

The District Tourism Development Officer (DTDO), Kangra conveyed (May 2009) to the EO, Una regarding sanction of three schemes by the Ministry of Tourism, Government of India for ₹ 1.30 crore. For the implementation of these schemes, DTDO released (May 2009) ₹ 39 lakh being 30 *per cent* of the sanctioned amount of ₹ 1.30 crore, as detailed in **Table 18** below:

Table 18: Funds sanctioned/released by the Ministry of Tourism

(₹ in lakh)

Sr. No.	Name of the scheme	Sanctioned amount	Amount released	Balance amount to be released
1.	Provision of parking facility for 150 vehicles	60.00	18.00	42.00
2.	Construction of Tourism Reception Centre(TRC)	30.00	9.00	21.00
3	Face lifting of Saloh Signi Dhar by way of lighting pathways, toilets, trekroutes, benches and rain shelters	40.00	12.00	28.00
Total		130.00	39.00	91.00

⁸ September 2008 to 31.03.2011.

During its meeting held (May 2009) with the Tourist Information Officer (TIO), the Municipal Council, Una intimated that it had 2 kanal land near the truck union for creation of parking facility and construction of Tourist Reception Centre (TRC). EO further intimated TIO that the Municipal Council had already done some work at Saloh Dhar. The DTDO, while releasing 30 *per cent* grant, requested the EO, Municipal Council to submit the revenue papers of these sites alongwith detailed estimates and drawings.

It was noticed in audit that the Extension Officer (EO), Municipal Council, Una neither submitted the revenue papers of these sites nor prepared the detailed estimates of these works due to non-selection of sites. Instead, a sum of ₹ 12 lakh was deposited (November 2009) with the Executive Engineer, Himachal Pradesh Public Works Department, Bangana for the face lifting work of Saloh Signi Dhar. The remaining amount of ₹ 27 lakh was deposited in the Bank and all the works were yet (November 2011) to be started. The remaining amount of ₹ 91 lakh was yet to be released by DTDO. Thus, non-starting of works and non-completion of codal formalities resulted in blockade of ₹ 39 lakh and the Municipal Council was also deprived of the additional grant of ₹ 91 lakh.

The EO, Municipal Council, Una stated (September 2011) that the parking component was in progress alongwith the parking already being constructed under Rajiv Gandhi Urban Renewal Facility (RGURF) funds. As regard construction of TRC, the EO stated that site was being selected. The reply is not acceptable as EO in its meeting held with TIO in May 2009 had intimated that the sites of these works had already been selected.

5.1.3 Loss due to non-realization of lease money

Municipal Council, Dalhousie failed to realize ₹ 5.19 crore lease money from various lessees

The State Government issued (December 1984) instructions to all the DCs that lease amount in all cases of Government land (fresh or renewal of existing lease) was to be charged per annum at the rate of 18 *per cent* of current prevailing highest market price of the kind of land to which the land to be leased out/ renewed belongs. DC, Chamba circulated (November 2003) these instructions to EO, Municipal Council, Chamba.

Municipal Council, Chamba had leased out Municipal Council land/ houses/ shops etc to 53 parties between 1931 and 1938 for 90 years. As per agreements entered into, each lease deed was to be renewed after every 30 years but not exceeding original aggregate period of 90 years. The renewal of these lease deeds was due between 1961 and 1968 and thereafter between 1991 and 1998. It was noticed in audit that Municipal Council, Chamba enhanced only once, fifty *per cent* lease amount in 1984-85 in respect of few leases which were due for renewal. Thereafter, neither the lease deeds were renewed nor lease amount enhanced as per instructions issued by the State Government.

The current (July 2006) prevailing highest market price of leased property, intimated by revenue department was ₹ 7.21 crore and 18 *per cent* of this amount works out to ₹ 1.30 crore per annum. Thus, the total amount from July 2006 to June 2010 works out to ₹ 5.19 crore which the Municipal Council did not recover as of December 2011, as detailed in **Appendix-20** to this report. While admitting the facts, EO, Municipal Council, Chamba stated (August 2011) that as

per section 57(4)(ii) of H.P. Municipal Act, 1994, EO of Municipal Council was empowered to grant a lease in perpetuity in respect of immovable property which does not exceed ₹ 1 lakh. The reply is not acceptable as State Government had already directed (July 2000) to dispose off lease cases at the level of Municipal Council itself on merit.

5.1.4 Loss due to non-revision of rates of house tax

Non-revision of rates of house tax by six Urban Local Bodies as per recommendations of SFC resulted in loss of revenue of ₹ 1.18 crore.

The Director, Urban Development directed (November, 2003) all the ULBs that as per recommendations of the Second State Finance Commission (SFC), there shall be one percentage point increase in the rate of house tax every year so as to reach the level of 12.5 *per cent* at the end of 2006-07 from 7.5 *per cent* as of 2002-03. Accordingly, the rates were to be enhanced at the rate of one *per cent* each year from 2002-03 onwards.

In six ULBs (**Appendix-21**), the instructions had not been followed for revision of rates of house tax and demand for house tax was levied at uniform rates ranging between 7.5 *per cent* and 12 *per cent* resulting in loss of revenue to the tune of ₹1.18 crore. The concerned officers of ULBs stated (July 2011 to November 2011) that action would be taken to enhance the rates of house tax.

5.2 Non-realization of rent

Fourteen Urban Local Bodies failed to realize the rent of shops from allottees amounting to ₹ 4.85 crore.

Section 258 (i) (b) (2) of the Himachal Pradesh Municipal Act, 1994 provides that any amount which is due to the municipality and remains unpaid for fifteen days after the same is due, the Executive Officer (EO)/Secretary, as the case may be, may serve notice of demand upon the persons concerned. The Act also provides that any sum due for recovery, shall without prejudice to any other mode of collection, be recovered as arrears of land revenue.

It was noticed that in fourteen ULBs, (Municipal Corporation, Shimla, eight Municipal Councils and five Nagar Panchayats), rent of ₹ 2.12 crore was pending as of April 2008 (**Appendix-22**) against the allottees of shops/ stalls, owned by these ULBs. Further, demand of ₹ 7.94 crore was raised against the tenants/ lessees of these shops/ stalls during 2008-11. Against the total demand of ₹ 10.06 crore, only ₹ 5.21 crore was recovered leaving rent of ₹ 4.85 crore outstanding as of March 2011. The Municipal Corporation, Shimla stated (February 2012) that the matter for recovery of rent of shops was under process as the lessee(s) had sold their property to other persons while other ULBs stated that notices have been issued to the defaulters and the amount would be recovered shortly.

5.3 Outstanding house tax

Due to ineffective monitoring, revenue of ₹ 4.90 crore on account of house tax in thirteen Urban Local Bodies remained outstanding.

In thirteen ULBs (Municipal Councils: 8 and Nagar Panchayats: 5) there was an opening balance of outstanding house tax of ₹ 3.91 crore as of April 2008 and demand of ₹ 6.27 crore was raised during the period 2008-11 (**Appendix-23**). However, the collection of house tax was to the extent of ₹ 5.28 crore during the corresponding period, leaving an outstanding balance of ₹ 4.90 crore as of March 2011. The pace of recovery was slow as even the current demand could not be recovered. Non-recovery of house tax has deprived the ULBs of revenue which could have been utilized for other developmental works. The EOs/Secretaries of concerned ULBs stated (July 2011 to February 2012) that notices have been issued against the defaulters for recovery of arrears.

5.4 Non-recovery of installation/ renewal charges for Mobile Towers.

Failure to realize the installation/ renewal charges of mobile towers by nine ULBs resulted in loss of revenue of ₹ 14.75 lakh.

Himachal Pradesh Government authorized (August 2006) the ULBs to levy duty on installation of mobile communication towers at the rate of ₹ 10,000 per tower and annual renewal fee at the rate of ₹ 5,000.

In nine ULBs, mobile towers were installed in their jurisdiction during 1989-2011 but the concerned ULBs had not recovered the charges of ₹ 14.75 lakh (installation charges ₹ 1.10 lakh and renewal charges ₹ 13.65 lakh) as of March 2011 in respect of 68 towers (**Appendix-24**). The concerned ULBs stated (April 2010 to February 2012) that notices have been issued to the concerned companies to remit the arrear immediately.

5.5 Non-recovery of Service Tax.

Due to non levy of Service Tax, Municipal Corporation, Shimla suffered avoidable financial burden of ₹ 57.74 lakh

Section 65(105) of Finance Act, 1994 provides that Service Tax is to be paid on sale of space or time for advertisement. Similarly renting of immovable property is also taxable under service tax provisions, as also defined in Section 65(98) of the aforesaid Act.

During 2006-10, the Municipal Corporation, Shimla received ₹ 4.03⁹ crore on account of above services. It was noticed in audit that contrary to the provisions of the Act *ibid*, Municipal Corporation did not levy and collect service tax from the service receivers and ₹ 57.74 lakh¹⁰ on account of service tax was deposited with the Central Excise department from its own sources.

⁹₹ 4.03 crore (2006-07: ₹ 13.04 lakh; 2007-08: ₹ 75.17 lakh; 2008-09: ₹ 1.31 crore and 2009-10: ₹ 1.84 crore.)

¹⁰ ₹ 57.74 lakh (October 2010: ₹ 22.33 lakh and December: ₹ 35.41 lakh)

The Superintendent Estate stated (January 2012) that service tax could not be levied and collected because the matter remained under correspondence with the Central Excise Department. The reply was not acceptable as the services like sale of space or time for advertisements and renting of immovable property were already taxable under the Finance Act, 1994. Thus, non collection of service tax from service receivers resulted in loss of ₹57.74 lakh.

5.6 Irregular expenditure on developmental works

Two Municipal Councils and one Nagar Panchayat irregularly incurred ₹ 85 lakh on developmental works on the land not pertaining to these Municipalities.

(a) The Director, UDD, Himachal Pradesh released (July 2009) ₹ 10 lakh to Nagar Panchayat, Santokhgarh for construction/ development of park near Rehan Basera at Santokhgarh for which technical sanction of ₹ 42.23 lakh was obtained (April 2010) from the Superintending Engineer, Himachal Pradesh Housing and Urban Development Authority (HIMUDA). As per technical sanction, fourteen items of works were to be executed. The Secretary, Nagar Panchayat, Santokhgarh invited (June 2010) tenders for construction of park for the estimated cost of ₹ 10 lakh for spread work (Item No. 10 of the work) and the work was awarded (July 2010) to the lowest bidder. The work was completed at a total cost of ₹ 13.75 lakh against which payment of ₹ 10.01 lakh was released to the contractor and balance amount is still (December 2011) to be paid. It was noticed in audit that the land, on which the work was executed, is forest protected land. Neither a 'No Objection Certificate' was obtained from the Forest Department nor the land was got transferred in the name of Nagar Panchayat, Santokhgarh. Thus, the expenditure of ₹ 13.75 lakh has been irregularly incurred on the land not in the name of Nagar Panchayat. The Secretary, Nagar Panchayat, Santokhgarh stated (September 2011) that the matter regarding transfer of forest protected land was in progress, The reply is not acceptable as the expenditure was incurred on the forest land before transfer of the aforesaid land.

(b) The Director, UDD released (February 2009) ₹ 50 lakh grant from Rajiv Gandhi Urban Renewal Fund (RGURF) to Municipal Council, Dharmsala for construction of parking lot near HRTC Bus stand, Dharmsala. The EO, MC, Dharmsala awarded (July 2010) the work to a contractor for ₹ 36.87 lakh without obtaining technical sanction. The work was stipulated to be completed within six months. It was noticed in audit that the title of the land (Khasra No. 1837, 1838 and 1839) measuring 596.23m², on which the work started, was not in the name of the Municipal Council and was on lease upto July 2036 in favour of a private person. A total payment of ₹ 33.93 lakh was released between March 2011 and May 2011 to the contractor upto 1st running bill. The work was still (December 2011) in progress. Thus, the expenditure so incurred on the land, not belonging to Municipal Council, without obtaining technical sanction was irregular. While admitting the facts, the EO, Municipal Council, Dharmsala stated (August 2011) that though the land was in the name of Raghuvir Singh, but DC is the Chairman of Raghuvir Singh club and the map of the construction of parking/ shopping complex was approved by him. The reply is not acceptable as the interest of Municipal Council was not kept in view while spending the Municipal Council funds on the land, not pertaining to Municipal Council.

5.7 Excess expenditure on establishment.

Six Urban Local Bodies incurred expenditure of ₹ 25.23 crore in excess of norms and failed to collect outstanding taxes of ₹ 7.45 crore which could have been utilized thereby reducing the percentage of establishment expenditure.

As per Section 53 (i) (c) of Himachal Pradesh Municipal Act and Section 75 (i) of the Himachal Pradesh Municipal Corporation Act, 1994, the expenditure on establishment charges should not exceed one third of the total expenditure of the ULBs.

In six ULBs, total expenditure of ₹ 155.20 crore was incurred during 2008-11. As per provisions of the Himachal Pradesh Municipal Corporation Act, 1994 and Himachal Pradesh Municipal Act, 1994 ₹ 50.73 crore was to be spent on establishment whereas these ULBs incurred ₹ 75.96 crore resulting in excess expenditure of ₹ 25.23 crore beyond prescribed norms during 2008-11 (**Appendix-25**). The EOs of concerned ULBs stated (August 2011 to February 2012) that the excess expenditure was due to enhanced rates of dearness allowance, revision of pay scales and regularization of services of daily waged staff. The reply was not acceptable as excess expenditure was due to not taking effective steps to ensure optimum collection of ₹ 7.45 crore¹¹ on account of various taxes by these ULBs. The execution of various developmental works could have been taken up with these funds, had the limit of one third expenditure on establishment been ensured.

5.8 Non-maintenance of records

Rule 192 of Municipal Account Code 1975, read with Rule 53(3), 58(1) & 58(2) of Municipal Act 1994 stipulates that every ULB shall maintain important records, registers, forms, etc.

It was observed in audit that important registers like stock register, immovable property register, works register, muster roll register, etc. were not being maintained in 4 ULBs¹² during the period 2008-11. Due to non-maintenance of records, correctness of financial transactions could not be ascertained. Reasons for non-maintenance of records were not intimated by the concerned ULBs. However, they stated (August 2011-September 2011) that the records would be maintained in future.

5.9 Unauthorized collection of Taxes

Municipal Council, Dalhousie burdened the public by levying unauthorized conservancy and water tax of ₹ 45 lakh.

Section 66 of Himachal Pradesh Municipal Act 1994 provides that a municipality may, from time to time, impose in the whole or any part of the municipality any tax, as mentioned in this section. In addition, any other taxes can also be imposed with the previous sanction of the State

¹¹ Municipal Corporation, Shimla: ₹ 5.07 crore; MCs: ₹ 1.16 crore (Dalhousie ₹ 0.43 ; Dharmshala ₹ 0.16 ; Ghumarwin ₹ 0.50 and Nagrota Bagwan: ₹ 0.07) & NPs: ₹ 1.22 crore (Jawala Mukhi ₹ 0.80; Sujampur Tihra: ₹ 0.20 and Talai: ₹ 0.22)

¹² Dharamshala (MC), Naina Devi (MC), Palampur (MC) and Santokhgarh (NP)

Government. It was noticed in audit that Municipal Council, Dalhousie had irregularly imposed conservancy tax at the rate of twelve *per cent* and water tax at the rate of six *per cent* without prior sanction of the State Government though these items of taxes have not been mentioned in section 66 of Municipal Corporation Act, 1994. During 2008-11, Municipal Council, Dalhousie collected ₹ 45.24 lakh from public as conservancy and water tax, as detailed in **Table 19** below:

Table 19: Details of Conservancy and Water tax collected by Municipal Council Dalhousie

(₹ in lakh)				
Year	Number of cases	Conservancy Tax	Water tax	Total
2008-09	1056	8.58	4.19	12.77
2009-10	1173	12.23	5.90	18.13
2010-11	1188	9.62	4.73	14.35
Total		30.43	14.82	45.25

The EO, Municipal Council, Dalhousie stated (August 2011) that these taxes were being collected prior to implementation of MC Act, 1994. The reply is not acceptable as there are no provisions in MC Act, 1994 to impose these taxes without prior sanction of the State Government.

5.10 Non-utilization of assets

Municipal Council, Una did not utilize the Rehan Basera building, constructed at a cost of ₹ 15 lakh.

Municipal Council Una constructed (February 2010) Rehan Basera¹³ building at a total cost of ₹ 15.30 lakh (NSDP grant: ₹ 10 lakh and Municipal Council Funds: ₹ 5.30 lakh) consisting of four one bed room sets and dormitory having 10 beds capacity. It was noticed in audit that the building was never put to use after completion. While admitting the facts, EO, Municipal Council, Una stated (September 2011) that the building could not be put to use due to non-availability of chowkidar. Thus, due to non-utilization of building, the expenditure of ₹ 15.30 lakh largely remained unfruitful and the public was also deprived of the intended benefits.



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Shimla
Dated:

¹³ Night Shelter for homeless