

EXECUTIVE SUMMARY	
Tax collection	The assessment and collection of Stamp Duty and Registration Fees, Profession Tax and Amusement Tax are governed by separate sets of Acts and Rules. These taxes are administered by Finance (Revenue) Department headed by the Principal Secretary, Finance who is assisted by the concerned Directorates.
Internal audit not conducted	The Internal Audit Wing (IAW) of Finance Department is liable to conduct audit of the Directorates of Stamp Duty and Registration Fees, Profession Tax and Amusement Tax as the Directorate does not have any internal audit wing of its own. Records have not been made available by the IAW regarding audit conducted of these Directorates.
Results of audit conducted by us in 2010-11	<p>In 2010 -11, we test checked the records of 67 units relating to Stamp Duty and Registration Fees, Profession Tax and Amusement Tax and found underassessment of tax and other irregularities involving ₹ 32.87 crore in 168 cases.</p> <p>The Department accepted underassessment and other deficiencies of ₹ 20.83 crore in 87 cases, of which 80 cases involving ₹ 20.75 crore were pointed out in audit during the year 2010-11 and the rest in earlier years. An amount of ₹ 1.51 crore was realised in 154 cases during the year 2010-11.</p>
What we have highlighted in this Chapter	<p>In this Chapter we presented illustrative cases of ₹ 5.71 crore selected from observations noticed during our test check of records relating to receipts from stamp duty etc. where we found non-realisation/blocking of revenue and other irregularities.</p> <p>Similar omissions on the part of the Assessing Authorities (AAs) were pointed out by us each year, but not only do the irregularities persist, these remained undetected by them till these were once again detected by us. These irregularities/omissions were apparent from the records made available to us by the AAs but they were unable to detect these mistakes.</p>
Our conclusion	The functioning of the IAW may be streamlined by drafting its manual and widening the audit coverage. The Department needs to initiate immediate action to recover the non-realisation, blocking of tax etc. pointed out by us, more so in those cases where our contention has been accepted.

CHAPTER VII : OTHER TAX RECEIPTS

7.1 Tax administration

The assessment and collection of Stamp Duty and Registration Fees, Profession Tax and Amusement Tax are governed by separate sets of Acts and Rules. These taxes are administered by Finance (Revenue) Department headed by the Principal Secretary, Finance who is assisted by the concerned Directorates.

7.2 Results of audit

In 2010-11 we test checked the records of 67 units relating to Stamp Duty and Registration Fees, Profession Tax and Amusement Tax and found underassessment of tax and other irregularities involving ₹ 32.87 crore in 168 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
A. STAMP DUTY AND REGISTRATION FEES			
1	Non-realisation of Stamp Duty and Registration Fees	57	19.59
2	Other cases	75	11.16
Total		132	30.75
B. PROFESSION TAX			
1	Non-realisation of Profession tax due to non-enrolment	9	0.74
2	Other irregularities	11	0.51
Total		20	1.25
C. AMUSEMENT TAX			
1	Non/short realisation of entertainment/luxury tax	3	0.55
2	Other irregularities	13	0.32
Total		16	0.87
Grand Total		168	32.87

During the course of the year, the Departments accepted underassessment and other deficiencies of ₹ 20.83 crore in 87 cases, of which 80 cases involving ₹ 20.75 crore were pointed out in audit during the year 2010-11 and the rest in earlier years. An amount of ₹ 1.51 crore was realised in 154 cases at the instance of audit during the year.

A few illustrative cases involving ₹ 5.71 crore are mentioned in the following paragraphs.

7.3 Audit observations

Scrutiny of the records in the offices of the Additional District Sub-Registrars (ADSRs), District Sub-Registrars (DSRs), Joint Commissioners of Profession Tax (JCPTs), Deputy Commissioners of Profession Tax (DCPTs) and Profession Tax Officers (PTOs) indicated non-realisation of stamp duty, registration fees and profession tax as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions are pointed out by us repeatedly but not only do these persist, they also remain undetected till we conduct an audit. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.

A. STAMP DUTY AND REGISTRATION FEES

7.4 Non-realisation of deficit stamp duty and registration fees

Rule 3(8) of the West Bengal Stamp (Prevention of Undervaluation of Instruments) [WBS (PUI)] Rules, 2001 provides that where the registering authority has reason to believe that the market value of the property has not been truly set forth in the instrument presented for registration, he shall ascertain the market value of the property and issue notice to the executant directing him to pay the deficit stamp duty and registration fees within 30 days from the date of receipt of such notice. In the event of non-payment within the stipulated period of 30 days, the case is to be referred to the Collector/Deputy Inspector General of Registration (DIGR) for determination of the market value of the property.

7.4.1 We mentioned in paragraph 6.2.12.1 in the report of the Comptroller and Auditor General of India for the year 2008-09 regarding non-issuance of demand notice which resulted in non-realisation of deficit stamp duty and registration fees of ₹ 43.24 crore in respect of 7,634 documents presented for registration between April 2003 and March 2008. While responding to the audit paragraph the Department stated in July 2009 that District Registrars (DRs) and Deputy Inspector

Generals of Registration (DIGRs) have been directed to take special initiative to take up the matter with the registering officers for urgent issue of notices in a time bound manner.

We checked the records which indicated that the directions issued by the Department regarding steps to be initiated for issue of demand notice had not been complied with. As a result, deficit stamp duty and registration fees continued to remain unrealised even after passage of considerable time.

We found in three registration offices¹ of three districts² between January and June 2010 that 420 documents presented for registration between April 2005 and February 2009 were kept in abeyance due to undervaluation of properties.

¹ DSR-I and II, South 24 Parganas and Registrar of Assurance-I, Kolkata.

² Kolkata, Paschim Medinipur and South 24 Parganas.

The registering authorities subsequently assessed the market value of the properties in all the cases but demand notices were not issued to the executants for payment of the deficit stamp duty and registration fees due to absence of time limit for issuance of demand notice in the Act/Rules. This resulted in non-realisation of revenue of ₹ 4.92 crore. (Stamp duty: ₹ 4.24 crore and registration fees: ₹ 67.76 lakh).

The Government stated in August 2011 that ₹ 96.63 lakh had been realised by the registering authorities in 87 cases. They further stated that necessary steps for initiation of certificate cases would be taken up by the respective Collectors. Report on realisation of the balance amount and further action taken has not been received (October 2011).

7.4.2 We found in the offices of the ADSR, Narayangarh, DSR-I & II, in the District of Paschim Medinipur in July 2010 that 301 documents presented for registration between June 2005 and August 2008 were kept in abeyance due to undervaluation of properties. The registering authorities subsequently assessed the market value of the properties at ₹ 6.19 crore against the set forth value of ₹ 2.16 crore and issued demand notices in March 2010 to the executants for payment of deficit stamp duty and registration fees of ₹ 31.35 lakh (stamp duty: ₹ 26.14 lakh and registration fees: ₹ 5.21 lakh) within 30 days. Though the executants did not pay the deficit stamp duty and registration fees within the stipulated period, the registering authorities did not refer the cases to the Collector/DIGR for determination of the market value of the properties even after lapse of a period between 24 and 60 months from the date of presentation of the instruments. The abnormal delay in referring the cases to the Collector/DIGR was due to non-stipulation of a time frame in the Acts and Rules for forwarding such cases.

The Government stated in July 2011 that ₹ 2.56 lakh had been realised in 17 cases and rest of the cases had been referred to the Collector/DIGR for determination of market value. They further stated that necessary steps for initiation of certificate cases would be taken up by the respective Collectors/DIGRs after observing due formalities. Report on action taken by the Collectors/DIGRs and realisation of the balance amount thereafter has not been received (October 2011).

B. PROFESSION TAX

7.5 Non-realisation of profession tax due to non-enrolment

Section 5 (2) of the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 provides that every person coming under the purview of the Act shall obtain a certificate of enrolment from the prescribed authority and pay tax at the prescribed rates.

We cross verified the records of 10³ license issuing offices with those of three⁴ unit offices of profession tax between October 2009 and March 2010 and found that 593⁵ professionals, traders etc.

had not enrolled themselves with the prescribed authority and continued their profession without payment of tax between April 2002 and March 2009. The PTOs did not detect these cases. Absence of a mechanism for cross verification with the license granting authorities in order to bring the persons evading tax into the tax net resulted in non-realisation of profession tax of ₹ 36.80 lakh.

After we pointed these out, the PTO, WB, North Unit-III, Raiganj, admitted the audit observation in March 2010 in respect of 105 professionals, traders etc. involving ₹ 3.48 lakh but did not furnish any report regarding their enrolment and realisation of tax. The DCPT, North Unit-II, Jalpaiguri and South Unit-III, Medinipur in respect of the remaining 488 professionals, traders etc. involving ₹ 33.32 lakh, did not furnish any specific reply (October 2011).

We forwarded the cases to the Government between December 2009 and April 2010 followed by reminders issued upto July 2011; they did not furnish any reply (October 2011).

³ CMOH, Jalpaiguri; Sub Divisional Officer, Jalpaiguri; District Controller of Food & Supplies, Jalpaiguri; Superintendent of Excise, Jalpaiguri; Regional Transport Officer, Jalpaiguri; Senior Post Master, Jalpaiguri; ARCS, Uttar Dinajpur; Raiganj Municipality; CMOH, Paschim Medinipur; Superintendent of Excise, Paschim Medinipur.

⁴ DCPT/North Unit-II/Jalpaiguri; PTO, WB, North Unit-III, Raiganj and DCPT/South Unit-III/Medinipur.

⁵ 126 licensed Foreign Liquor vendors and 125 licensed Country Liquor vendors, Owners of 84 Nursing Homes and Pathological Laboratories, Owners of six marriage halls, Owners of 39 petrol/diesel filling stations, 20 Computer Training Centres, Owners of seven Beauty Parlours, 13 Motor Training Schools, 32 Modified Rationing distributors, 11 LPG dealers, 39 cable operators, 72 Co-operative societies and 19 licensed Pachai vendors.

7.6 Non-raising of demand of profession tax against enrolled certificate holders

Section 8 of the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 provides that any person or employer who stood enrolled before the commencement of the year, is liable to pay profession tax at the prescribed rate. Rule 15(2) of the aforesaid Act further provides that in case of non-payment, the profession tax officers (PTOs) who are also the Assessing Authority shall serve a notice of demand directing the defaulter to pay the dues within 15 days from the date of receipt of notice.

We found in four⁶ unit offices between March and August 2010 that 133⁷ enrolled companies/registered employers had not paid/short paid profession tax for different periods ending between 2002-03 and 2008-09. Of these, in 33 cases ₹ 6,850 had been paid against the total tax payable of ₹ 1.14 lakh. In the remaining 100 cases the companies/enrolled persons did not pay tax of ₹10.11lakh. The PTOs also

did not issue demand notice to the defaulters for payment of the profession tax as required under the Rules. This resulted in non-levy/realisation of profession tax of ₹ 11.18 lakh.

After we pointed out these cases, two AAs⁸ stated in March and August, 2011 that ₹ 4.53 lakh has been recovered in 53 cases and in 12 cases involving ₹ 1.08 lakh demand notice in form XI has been/is being issued. DCPT, WB, North Unit-III, Raiganj in March 2010 admitted the audit observation in 33 cases involving ₹ 1.07 lakh and stated that steps were being taken to realise the dues but did not furnish report on realisation. In the remaining 35 cases involving ₹ 4.50 lakh, three⁹ AAs did not furnish any specific reply.

We forwarded the cases to the Government between April and September 2010 followed by reminders issued upto July 2011; they did not furnish any reply (October 2011).

⁶ JCPT/Kolkata North Range, JCPT/Kolkata South Range, PTO/West Bengal Central Unit-I/Beliaghata and DCPT, West Bengal North Unit-III, Raiganj.

⁷ Companies/Private Limited Companies-95 and Registered Employer-38.

⁸ JCPT/Kolkata North Range, JCPT/Kolkata South Range.

⁹ JCPT/Kolkata North Range, JCPT/Kolkata South Range and PTO/West Bengal Central Unit-I, Beliaghata.