

CHAPTER-3

STATE EXCISE, ENTERTAINMENT, BETTING AND LUXURY TAX

3.1 Tax administration

The Department is headed by the Commissioner (Excise, Entertainment, Betting and Luxury Tax) who functions under the administrative control of Principal Secretary (Finance), Government of NCT of Delhi. The Department is responsible for levy and collection of State Excise Duties, Entertainment, Betting and Luxury Taxes from cinema halls, cable service providers, betting activities and hoteliers.

3.2 Trend of receipts

Actual receipts from taxes on Excise, Entertainment, Betting and Luxury during the period 2007-08 to 2011-12 along with the total tax receipts during the same period are exhibited in the **Table 3.1** and **Graph**:

Table 3.1: Details of total tax receipts

(₹in crore)

Head of the revenue	Year	Budget estimates (BEs)	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts
State Excise, Entertainment, Betting and Luxury Tax	2007-08	1580.03	1733.68	(+) 153.65	(+) 9.72	11782.80	14.71
	2008-09	1917.30	1821.46	(-) 95.84	(-) 5.00	12180.70	14.95
	2009-10	2006.00	1929.20	(-) 76.80	(-) 3.83	13447.86	14.35
	2010-11	2022.50	2345.29	(+) 322.79	(+) 15.96	16477.75	14.23
	2011-12	2746.00	2931.25	(+) 185.25	(+) 6.74	19971.67	14.68

It is seen that the variation between BEs and the Actual Receipts was as low as (-) ₹ 95.84 crore during 2008-09 and as high as ₹ 322.79 crore during 2010-11.

3.3 Cost of collection

The gross collection, expenditure on collection and the percentage of such expenditure to gross collection in respect of state excise, entertainment, betting and luxury tax, during the years 2009-10 to 2011-12 along with the relevant all India average percentage of expenditure on collection to gross

collection for the year 2010-11 are given in **Table 3.2:**

Table 3.2: Details of cost of collection

(₹ in crore)

Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of state excise for the year 2010-11
State Excise, Entertainment, Betting and Luxury Tax	2009-10	1929.20	9.24	0.48	3.05
	2010-11	2345.29	10.07	0.43	
	2011-12	2931.25	11.55	0.39	

From the table it was evident that the percentage of expenditure on collection of state excise, entertainment, betting and luxury tax was less than the all India average percentage.

3.4 Internal audit

The Department had no Internal Audit Mechanism of their own. The Director of Audit of the Finance Department of Govt. of NCT of Delhi is entrusted with Internal Audit function for all the Offices/Departments of Govt. of NCT of Delhi including State Excise, Entertainment, Betting and Luxury Tax Department.

3.5 Results of audit

Test check of records relating to Department of State Excise, Entertainment, Betting and Luxury Tax, Government of NCT of Delhi conducted during the year 2011-12 revealed loss of revenue, short levy of tax and other irregularities involving ₹28.78 crore in 26 cases which falls under the following category mentioned in **Table 3.3:**

Table 3.3: Category wise irregularities

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
State Excise, Entertainment, Betting and Luxury Tax			
1.	Mechanism of assessment, levy and collection of tax on Entertainment, Betting and Luxury	1	24.66
2.	Others	25	4.12
Total		26	28.78

The case involving ₹ 24.66 crore is discussed in the following paragraphs.

3.6 Performance Audit on mechanism of assessment, levy and collection of tax on entertainment, betting and luxury

Highlights

- Failure of the Department to maintain the complete record of the returns and challans submitted by the assesseees in support of payment of tax resulted in non verification of correctness of the tax paid by assesseees.

(Paragraph 3.6.8)

- Failure of the Department to collect tax and interest on belated payment of tax from cable operators amounting to ₹ 100 lakh besides interest of ₹11.00 lakh on late payment of tax.

(Paragraph 3.6.9.1)

- Failure of the Department to recover the interest worth ₹ 4.89 crore from DTH service providers on delayed deposit of tax.

(Paragraph 3.6.9.2)

- Failure of the Department to pursue the arrears of entertainment tax of ₹ 1.26 crore from 12 cinema hall owners and luxury tax amounting to ₹ 9.76 crore from the hoteliers.

(Paragraphs 3.6.9.3 & 3.6.9.7)

- 64 appeals were filed against the assessments made by Luxury Tax Officers involving ₹ 4.64 crore between 2007-08 and 2011-12 but appellate authority could decide only three cases. Moreover, the luxury tax is yet to be deposited by the hoteliers.

(Paragraph 3.6.9.8)

- Short levy of luxury tax of ₹ 5.99 crore in six hotels due to non inclusion of hire charges/rent for banquet/conference halls received by the hoteliers as receipt of the hotels for the purpose of levy of luxury tax.

(Paragraph 3.6.9.9)

- No internal audit had been conducted during the period 2008-09 to 2011-12 due to which effective and efficient functioning of the Department could not be ensured.

(Paragraph 3.6.10)

3.6.1 Introduction

The Delhi Entertainment & Betting Tax (DEBT) Act, 1996, provides for the levy of entertainment, totalisator and betting tax in the NCT of Delhi. Entertainment tax is leviable on admission to cinema shows, entertainment programme i.e. exhibition, performance, amusement, cinematograph exhibition etc. and for cable and direct-to-home (DTH) services. Totalisator and betting tax are levied on bets and stakes placed within the NCT of Delhi on horse races.

The Act, read with the rules made thereunder provides for submission of prescribed forms and for imposition of interest and penalties for non-compliance with provisions. It also provides for recovery of tax as arrears of land revenue.

The Delhi Tax on Luxuries (DTL) Act, 1996, and Rules made thereunder provides for levy of luxury tax on the turnover of receipts of an hotelier at a rate not exceeding 15 *per cent* to be notified by the Government from time to time. Where the charges are levied otherwise than on daily basis or per room, then the charges for determining the tax liability shall be computed proportionately for a day and per room based on the total period of occupation of the accommodation for which the charges are made. Luxury tax is not leviable in respect of turnover of receipts for supply of food and drinks on the sale of which the hotelier is liable to pay Value Added Tax (VAT). The Act, read with the rules also provides a time frame for payment of the tax dues and for imposition of fines for contravention of the rules.

3.6.2 Organisational set-up

The administration of both the DEBT Act and the DTL Act is entrusted to the Department of Entertainment, Betting and Luxury Tax (the Department) under the administrative control of Principal Secretary (Finance), Government of NCT of Delhi (GNCTD).

The Department is headed by the Commissioner of Entertainment, Betting and Luxury Tax who is assisted by one Deputy Commissioner (Taxes). There are three Luxury Tax Officers, one Entertainment Tax Officer, one Additional Entertainment Tax Officer and one Assistant Entertainment Tax Officer responsible for assessment, levy and collection of tax and supervising the work of Inspectors working under their administrative control. The work is distributed in nine districts amongst the above officers.

3.6.2.1 Trend of revenue

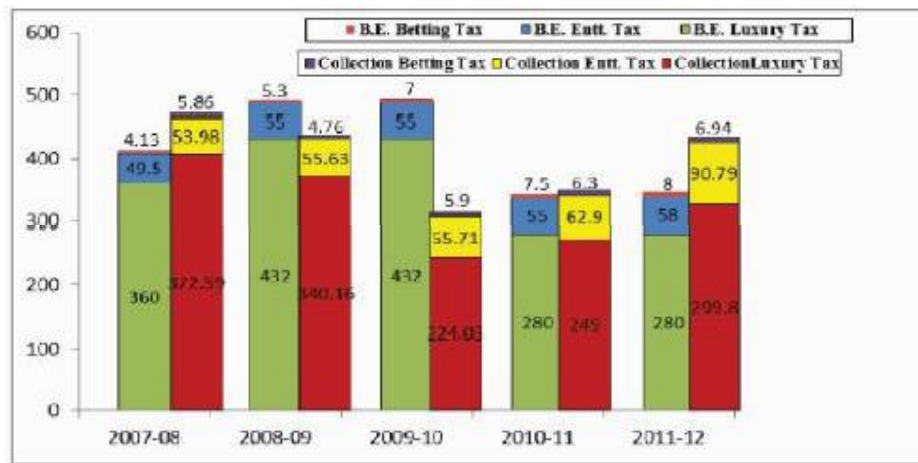
The position of budget estimates (BE) and actual collection of revenue during

the last five years is given in **Table 3.4:**

Table 3.4: Budget estimates and actual collection of revenue

(₹ in crore)

Year	Entertainment Tax		Betting Tax		Luxury Tax	
	B.E.	Collection	B.E.	Collection	B.E.	Collection
2007-08	49.50	53.98	4.13	5.86	360.00	372.59
2008-09	55.00	55.63	5.30	4.76	432.00	340.16
2009-10	55.00	55.71	7.00	5.90	432.00	224.03
2010-11	55.00	62.90	7.50	6.30	280.00	249.00
2011-12	58.00	90.79	8.00	6.94	280.00	299.80



The budget estimates during the aforesaid years were either inflated or under pitched as is evident from the fact that variations between BEs and actuals ranged from 7 to 57 per cent either side.

During exit conference, the Commissioner stated that the actual receipts on account of luxury tax are of unforeseen nature since these depend on global circumstances. In respect of Entertainment Tax, Government stated (February 2013) that the variations were due to inclusion of DTH services under the ambit of the DEBT Act. However, Department has yet to lay down any method to work out the realistic budget estimates.

3.6.3 Scope of audit

The scope of Audit was discussed in detail with the Deputy Commissioner (Taxes) during an entry conference held in June 2012. The Performance Audit was conducted during the period from June 2012 to September 2012 in the office of the Commissioner of Entertainment, Betting and Luxury Tax and covered the transactions for the period 2007-08 to 2011-12. In case of cable service providers and cinema halls the period was covered only from 2009-10

to 2011-12 due to non-availability of returns and tax challans in the respective files of assesses. On the basis of high, medium and low tax collection, three districts in respect of cable tax (South, West and North), cinema tax (South, New Delhi and North) and luxury tax (New Delhi, South-West and North-West) were selected. The audit exercise covered the entire gamut of activities of the Department relating to assessment, levy and collection of tax from cinema halls, cable service providers, entertainment programme organisers, hoteliers and from betting activities.

3.6.4 Audit methodology

Since the maintenance of records was very poor as in almost all the cases, returns and tax challans were not found placed in the respective files but dumped in sacks (as depicted in the photograph) making it impossible to select specific units for detailed scrutiny, the Audit team was forced to select units from the selected districts on random sampling basis from the information available on the electronic system of the Department. On the basis of information available on the system, 12 out of 34 cinema halls, 304 out of 688 cable service providers, 60 out of 177 hotel establishments and 16 out of 32 book makers were selected for detailed scrutiny. The Audit methodology included scrutiny of the returns submitted by the selected hoteliers, the information in respect of the selected assesses (cable, book maker and cinema) available on the system and check of the amount deposited by them into the Government Account. In addition, records relating to 31 tax exempted programmes and files relating to 20 tax paid programmes were also scrutinised.



Tax challans and returns in sacks



Audit party taking out challans and returns from sacks

3.6.5 Audit objectives

A performance audit was conducted to evaluate the efficiency and effectiveness of the tax collection machinery and to assess whether all the tax dues were being remitted to the public exchequer. The performance audit also covered an assessment of the efficacy of the internal control systems operating in the Department. The primary objectives of the audit appraisal were to ascertain whether:-

- the assessment, levy and collection of luxury, entertainment and betting taxes are being carried out in accordance with the provisions of the DTL Act, and DEBT Act, and Rules made thereunder.
- exemptions of tax have been correctly allowed under the provisions of applicable Act.
- system for effective and timely pursuance of arrears of demands has been laid down and adequate steps have been taken for realisation of arrears.
- adequate system and procedure of internal controls existed with the Department, so as to prevent leakage of revenue.
- there were any lacunae in the Act and Rules or in the implementation thereof resulting in leakage of revenue.
- corrective measures were taken to implement the recommendations made in the last performance audit of the Department covering the period 2000-01 to 2004-05 in case of entertainment and betting tax and up to March 2006 in case of luxury tax.

3.6.6 Audit criteria

The audit criteria were derived from the following sources:

- The Delhi Entertainments and Betting Tax Act, 1996 and Rules made thereunder.
- Delhi Tax on Luxuries Act, 1996 and Rules made thereunder.
- Provisions of the General Financial Rules.

3.6.7 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Department of the Entertainment, Betting and Luxury Tax, GNCT of Delhi extended to audit in completion of the audit. The draft performance audit was forwarded to the Government in November 2012. The exit conference was held on 29 January 2013 in which the results of audit and recommendations were discussed with the Commissioner, Entertainment, Betting and Luxury Tax and the Deputy Secretary (Finance), GNCTD. The replies of the Government have been appropriately incorporated in the respective paragraphs.

Audit findings

3.6.8 Non-maintenance of basic records

Rules 14, 26, 26A and 50 of the DEBT Rules envisage the submission of returns in support of payment of entertainment tax, cable tax, DTH services and betting tax. Similarly, Rule 16 of DTL Rules provides for the submission of return by the hoteliers. In case the tax is not paid according to return, the concerned Luxury Tax Officer may, by notice, require him to pay the amount

due from him according to the return but remaining unpaid, by a date specified in the notice issued under Rule 18 of the DTL Rules. Section 15 of the DEBT Act lays down where the assessing authority is satisfied that the proprietor of an entertainment has failed to submit true and full returns or has fraudulently evaded tax, it should assess the amount of tax due after giving reasonable opportunity of being heard to the concerned proprietor.

To ensure the compliance of provisions of the Act and Rules, proper handling and scrutiny of returns and challans submitted in support of payment of tax is essential. During Audit, returns and challans were found dumped in large bags instead of proper filing in relevant files. It is indicative of the fact that these returns were not scrutinised to ensure the correctness of tax due and paid while tax paid by the assessee was simply treated as tax due. Non-maintenance of records indicates lack of internal control in the Department.

The Government stated (February 2013) that in view of work load and shortage of staff, records could not be maintained. However, the Department had issued instructions to the staff concerned to keep returns and challans upto date in concerned files.

3.6.9 Assessment, levy and collection of tax

An appraisal of the assessment, levy and collection of entertainment tax revealed inadequate action by the Department to assess and recover the tax due as well as its failure to enforce the provisions of rules for submission of returns by the assesseees. This resulted in non-recovery of tax revenue as well as delay in tax collection as outlined in the succeeding paragraphs:

3.6.9.1 Non collection of tax and interest on belated tax payments from cable operators

Section 40 of the DEBT Act, 1996 provides that if any proprietor fails to pay tax due as required under the provisions of the Act or the rules made thereunder, he shall in addition to the tax due, be liable to pay simple interest on the amount so due at one and half *percent* per month from the date immediately following the last date for payment of tax for a period of one month and at the rate of two *percent* per month thereafter so long as he continues to default in making such payment.

An Audit appraisal of 304 cable operators out of 688 registered in three districts namely West, North and South, selected for audit scrutiny revealed that 123 operators (39 *percent*) had not paid the tax during last three years and 175 operators failed to pay tax amounting to ₹ 100.00 lakh besides interest of ₹ 11.00 lakh on belated payments of tax.

These 175 cable operators defaulted on 2335 occasions in making timely payment of tax during three years covered under audit, whereas tax for 2127 months was not paid at all.

The Government stated (February 2013) that efforts are being made to recover the tax and interest from the cable operators who had not paid the tax during last three years.

3.6.9.2 Non-recovery of interest on delayed payments from DTH Service providers

Rule 26A of the DEBT Rules stipulates that the proprietors of the DTH services should deposit the tax into Government Account within seven days from the end of the month for which the tax is due.

Audit appraisal of all the six DTH Service providers revealed that they deposited the tax into Government Account with delay but without payment of interest worked out to ₹ 4.89 crore under the provisions of Section 40 of the DEBT Act.

The Government vide its reply intimated (February 2013) that assessment notices have been issued to DTH service providers for payment of interest.

3.6.9.3 Non-recovery of ₹ 1.26 crore from the Cinema Halls

The proprietors of the cinema halls/theaters are required to submit the returns in Form 7 and deposit entertainment tax within four days from the last day of each week ending with Thursday as per stipulations of Rule 16 and 25 of the DEBT Rules, 1997. On going through the records of cinema halls it was found that 12 cinema hall owners did not deposit the entertainment tax of ₹ 1.26 crore for 198 weeks for the period covered under audit. The Department did not pursue the matter to recover the tax from the proprietors concerned.

The Government informed (February 2013) that out of 12 cinema halls, two cinema halls had cleared their due tax for the period under audit and notices were issued to remaining 10 defaulter cinema hall owners for depositing the entertainment tax due.

3.6.9.4 Non-adherence to prescribed conditions by the organisers of tax exempted events

Section 14(1) of the DEBT Act, 1996 stipulates that the Government may, for the promotion of arts, culture or sports by general or special order, exempt any individual entertainment programme or class of entertainment from liability to pay tax under the Act and Section 14(4) of the Act stipulates where the Government is satisfied that the entertainment programme is not conducted for profit and the entire gross proceeds from payment for admission of an entertainment are to be devoted to philanthropic, religious or charitable purposes, without any deductions, whatsoever on account of the expenses of the entertainment it may grant exemption to such entertainment from payment of tax on such terms and conditions which it may deemed fit to impose.

Further, as per terms and conditions of exemptions, and to ensure the adherence to the provisions of the Act, the organisers of the programmes are required to submit the documentary evidence within 30 days from the date of the event showing that the entire proceeds have been utilised for the purpose for which exemption has been granted failing which the Department had to

recover the entertainment tax as if the exemption had not been granted, besides forfeiture of security furnished by the organisers in terms of undertaking given in the application for exemption.

An Audit appraisal of 31 tax exempted programmes/events revealed that in 29 programmes involving tax exemption of ₹ 78.41 lakh, 14 organisers did not submit and 15 submitted with delay ranging from 2 to 24 months, the documentary evidence in support of the utilisation of proceeds from the programmes/events. The Department also failed to enforce the provisions of the Act and thereby suffered a loss of ₹ 78.41 lakh on account of entertainment tax. Moreover, it refunded the security deposit amounting to ₹ 4.67 lakh to nine programme organisers. Security deposit is yet to be forfeited for the remaining 20 programmes.

The Government stated (February 2013) that the applicants could not utilise funds for the purpose declared in the application within the specified period of 30 days and the Department had condoned the delay in this regard. The contention of the Government is not tenable since nothing in this regard was available on record and there is no provision in the Act and Rules to condone the delays.

3.6.9.5 Delayed deposit of demand drafts of tax paid programmes

Audit scrutiny of records relating to 20 tax paid programmes, made available to audit for the years 2010-11 and 2011-12 revealed that in 16 cases, the demand drafts amounting to ₹ 32.40 lakh deposited by the organisers of the programmes as security money in lieu of entertainment tax was paid into Government account with delays as pointed out in the succeeding paragraph.

As per terms and conditions of sanction letter issued to the organisers of the programmes, the accounts of the show shall be produced to the Department for verification. The entertainment tax due shall be deposited within 15 days from the date of the programme, failing which the amount of security shall be forfeited. But no such accounts were submitted within the prescribed period. Consequently, the demand drafts received in the shape of security deposit were treated as tax amount but paid into Government Account with abnormal delay as drafts of ₹ 32.40 lakh in 16 cases were deposited with delays ranging from 31 to 206 days.

The Government stated (February 2013) that demand drafts would be deposited into the Government account in time.

3.6.9.6 Non-adherence to penalty provisions in collecting Betting Tax

Section 33 of the DEBT Act, 1996 stipulates that any book maker who contravenes the provisions of the Act or Rules or fails to comply with any order or direction issued in accordance with the provisions of the Act or the Rules shall be punishable with a fine not exceeding two thousand rupees. Further, Section 40 of the DEBT Act provides for interest on delayed payment at the rate 1.5 *per cent* per month from the date immediately following the last date for payment of tax for a period of one month and at the rate 2 *per cent* per month thereafter so long as he continues to make default in such payment.

An Audit appraisal of the records of 16 book makers selected for audit scrutiny for the period 2007-08 to 2011-12 revealed that they did not submit the return as envisaged under Rule 50 of the DEBT Rules 1997. The Department had failed not only to levy the penalty worth ₹ 83.20 lakh for period under review but also to ensure the correctness of the amount of tax. Audit worked out the nonpayment of interest of ₹ 1.28 lakh on delayed deposit of tax by 14 book makers for the years 2009-10 and 2011-12. Records for the remaining years were not made available to audit.

The Government while replying to the audit observation intimated (February 2013) that since the Department had not passed any order regarding penalty, therefore the observation of audit that the Department failed to levy the penalty worth ₹ 83.20 lakh seems to be factually incorrect. Reply of the Government is not tenable since it is the duty of the concerned officers/officials to levy the penalty on the defaulters as laid down under the DEBT Act. In so far as interest amount for late payments by book makers is concerned, Department informed that notices have been issued to concerned book makers.

3.6.9.7 Outstanding demand against the hoteliers

Under Section 18(4) of the DTL Act, a hotelier is required to deposit the demand/additional demand within prescribed period not earlier than 30 days from the date of service of the notice. Further, Section 18(5) of the DTL Act provides for the recovery of demand/additional demand as arrears of land revenue.

An Audit appraisal of Demand and Collection Register (DCR) for the period 2007-08 to 2011-12 revealed that additional demand raised as a result of assessment in 664 cases for an amount of ₹ 9.76 crore is yet to be deposited by the assesseees, though the prescribed period of 30 days for depositing the demand had lapsed long back. Out of these, 226 cases (34 percent) were assessed and additional demand was raised more than three years back. But due to non-pursuance of the demand with the hoteliers, an amount of ₹ 9.76 crore remained unrealised even after more than three years.

The Government intimated (February 2013) that an amount of ₹ 0.86 crore had been realized and ₹ 5.20 crore was under appeal.

3.6.9.8 Non finalization of appeal cases

Section 36(1) of the DTL Act, 1996 provides that any hotelier may file an appeal to the Appellate Authority against the original assessment order passed.

Audit appraisal of the records relating to appeal cases revealed that during the period 2007-08 and 2011-12, 64 appeal cases involving luxury tax of ₹ 4.64 crore were filed. However, Appellate Authority could decide only three cases involving ₹ 11.19 lakh. Even in these cases, the luxury tax is yet to be

deposited by the hoteliers into the Government Account. Further, out of remaining 61 cases, 18 cases were 'remand back' to the Assessing Authority and 43 cases were still pending with the Appellate Authority. No reasons were available on records as to why these appeal cases were pending for a period ranging upto five years. The year wise detail of pending appeal cases is given in the **Table 3.5**:

Table 3.5: year wise detail of pending appeal cases

Year	Pending cases
2007-08	11
2008-09	25
2009-10	04
2010-11	03

Pending appeal cases are shown in **Annexure 3.6.9**.

The Government assured (February 2013) for speedy disposal of appeal cases.

3.6.9.9 Non levy of luxury tax on banquet halls

The DTL Act stipulates that luxury tax should be levied on the turnover of receipts of a hotelier at the notified rate not exceeding 15 per cent. Where the charges are levied otherwise than on daily basis, then charges for determining the tax liability shall be computed proportionately for a day and per room, based on the total period of occupation of accommodation.

Audit appraisal of records of hotels revealed that rent/hire charges for banquet/conference halls received by the hotels were not included in the receipts of the hotels for the purpose of levy of luxury tax. This resulted in short collection of tax of ₹5.99 crore in six hotels.

While replying to the points raised by Audit during the previous performance audit, the Government had stated (August 2006) that luxury tax was leviable on rooms provided in a hotel for residential purposes. Banquet/conference halls are not rented out for residential purposes and therefore, their rent/hire charges received by the hotels were not "luxury provided in the hotel" for the purpose of luxury tax and as such luxury tax was not leviable on them. The Government stated (February 2013) that a notification has been issued on 22 June 2012 to cover the Banquet receipts under the ambit of luxury tax, which substantiates the audit view expressed during the earlier performance audit.

3.6.9.10 Non-conducting of inspection of Book Makers

Section 26 of the DEBT Act, 1996, stipulates that the officers empowered or authorised for assessment, levy and collection of taxes have the power to make inspections to ensure compliance of the provisions of the Act and the Rules in respect of book makers, betting and the totalisator. However, it was noticed that no such inspections were carried out either by the Commissioner or any other officer authorised on his behalf.

In compliance to audit observation, the Government stated (February 2013) that Department had carried out inspection (September 2012) of book makers and licenses of four book makers had been suspended as a result of inspection.

3.6.9.11 Non-conducting of surveys to ascertain the number of cable subscribers

It is incumbent upon any revenue earning department to take steps to ascertain, to the extent possible, the actual number of assesseees and ensure that the tax due under the provisions of the Act is levied and collected. Since the tax collected from the cable operators were not commensurate with the population and socio-economic profile of Delhi, it was essential on the part of the Department to have a sample survey conducted, if not for the entire NCT, at least in selected areas to ascertain the correctness of the declaration made by the cable operators about the number of subscribers. However, the Department took no steps to ensure that the tax due were actually being paid by the cable operators.

The Government stated (February 2013) that due to shortage of staff and large geographical boundary of Delhi, survey of cable subscribers could not be conducted. The Government further stated that plugging loop holes in collection of tax will be easy after the appointment of Multi System Operators (MSO) which are limited in numbers.

3.6.9.12 Security for lesser amount from cable operators

As per prevailing practice in the Department, security amount equal to one month's tax in consonance with Section 13 of the DEBT Act is to be deposited by the cable operators. An Audit appraisal of 193 cable operators selected in three districts i.e. South, North and West districts of Delhi revealed that 79 operators (41 per cent) did not deposit the required security amount of ₹ 2.72 lakh. The files of 30 operators (16 per cent) were not made available to audit.

The Government while accepting the audit observation intimated (February 2013) that notices had been issued to cable operators and necessary instructions had also been issued to field officers for collection of balance security amount.

3.6.10 Internal audit

Internal Audit is intended to assure an organisation that the internal control system instituted by it for its efficient and cost effective functioning is adequate and effective. However, no internal audit was conducted in the Department during the last four years, though it was recommended to conduct internal audit at least on annual basis in the earlier Performance Audit.

The Government stated (February 2013) that Internal Audit has been taken up by and the same is in progress. The fact was confirmed by the Deputy Commissioner (Taxes) during exit conference.

3.6.11 Departmental manual

A departmental manual is essential for regulating and streamlining its functions and activities, but no departmental manual was prepared by the Department though the Act came into force in 1996. In the absence of manual, effective internal control cannot be enforced and evaluated.

3.6.12 Inaction on the recommendations made in earlier Report of the Performance Audit

A Performance Audit of the subject covering the period 2000-01 to 2004-05 appeared in the Audit Report (Revenue Receipts) for the year ending March 2007 wherein maintenance of records and quality of documentation was recommended to be improved alongwith the introduction of procedures to cross check the validity and correctness of the returns submitted by the assesseees and effective pursuance of the arrears of tax in accordance with the provisions of the Acts. But Audit found that no effective steps were initiated by the Department to comply with the earlier audit recommendations.

The Government stated (February 2013) that it has recently signed an Memorandum of Understanding (MOU) with the Tata Consultancy Services Limited (TCS) for computerisation of entire services of the Department for proper monitoring of collection of tax.

3.6.13 Conclusions

Non-maintenance of complete record by the Department had proved a futile exercise particularly in respect of collection of Entertainment and Betting Tax since the Department has no option but to accept the amount of tax deposited by the assesseees as correct tax. Further, failure of the Department to enforce the provisions of the relevant Acts and Rules resulted in non-recovery of tax due from the assesseees. The organizers of tax exempted programmes were refunded the security amount without getting the required documents, though the Department was required to cancel the tax exemption and recover the tax due as if exemption from tax was not granted. Non-pursuance of demand had resulted in huge outstanding amount of tax against the hoteliers.

3.6.14 Recommendations

- ❖ *There is an imperative need to maintain the complete record of the returns and challans and to strengthen the monitoring mechanism to ensure adherence to statutory provisions.*
- ❖ *Timely action is required to be initiated to pursue the arrears of tax in accordance with the provisions of Acts and Rules.*
- ❖ *Specific time frame is required to be laid down for the disposal of the appeal cases so that amount due to the Government may be recovered at the earliest*
- ❖ *For the effective and efficient functioning of the Department, internal audit may be conducted on regular basis.*
- ❖ *Departmental manual may be prepared.*