

CHAPTER VII

COMPLIANCE AUDIT

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7.1 Implementation of Waiver Scheme, 2012 by Kolkata Municipal Corporation

HIGHLIGHTS

KMC collected only ₹ 345.99 crore (21 per cent of the qualified amount of ₹ 1647.41 crore) under the scheme from 139039 assesseees (40 per cent of 348380 number of qualified assesseees).

(Paragraph 7.1.4)

KMC could not attract major defaulters under the scheme. KMC admitted that ‘since method of persuasion was adopted a good number of major defaulters did not pay under the Waiver Scheme, 2012’.

(Paragraph 7.1.5.1)

KMC updated principal demand of ₹ 102.50 crore in respect of 22377 assesseees (16 per cent of 139039 number of assesseees who availed the scheme) during the period of Waiver Scheme, through the process of ‘manual demand update’. KMC, however, did not intimate (till June 2013) whether the amount was actually deposited in the accounts of KMC, or not.

(Paragraph 7.1.5.5)

7.1.1 Introduction

Kolkata Municipal Corporation (KMC) proposed (July 2011) to the State Government to introduce a ‘Waiver Scheme (WS)’ for ‘giving relief to the tax payers in payment of outstanding property tax by way of waiver of interest and penalty components’. The State Government amended the KMC Act, 1980, in December 2011 and introduced a new sub-section (6)³⁸ in section 217 of the principal act. The State Government notified (January 2012) the scheme called ‘Kolkata Municipal Corporation Incentive (Waiver of Interest and Penalty) to the Tax Payers Scheme, 2012’ (popularly known as ‘Waiver Scheme’). The WS came into force in February 2012 and remained effective till 15 May 2012³⁹.

³⁸ The new sub-section *inter alia* states that ‘the State Government may, from time to time, waive, either partially or fully, payment of interest and penalty on arrear of property tax on lands and buildings on such terms and conditions as may be notified by the State Government’.

³⁹ Initially the scheme period was from 1 February 2012 to 30 April 2012. Later, it was extended to 15 May 2012.

Audit on the “Waver Scheme” was conducted from January 2013 to June 2013 to assess:

- the effectiveness of the scheme ;
- response received from assesseees to the scheme;
- achievement of the desired result;
- fulfillment of the objectives of the KMC;
- the accounting of the “manual demand update”.

7.1.2 Objective and scope of the scheme

Waiver Scheme was launched mainly to augment revenue of KMC by way of recovering outstanding dues of property tax and made applicable to tax payers for liquidating the outstanding dues on bills (upto March 2011) presented under section 216 of the KMC Act, 1980. The relief allowed under WS was as follows:

Table 23

Amount of outstanding property tax	Interest to be waived	Penalty to be waived	Remarks
	(in per cent)		
Up to ₹ 1 lakh	95	99	The interest and penalty components were calculated as on the date prior to the date of commencement of the scheme.
Above ₹ 1 lakh and up to ₹ 5 lakh	75	99	
Above ₹ 5 lakh	50	99	

The scheme was applicable for the tax payers who would make full payment of all outstanding dues (as mentioned in the LoI⁴⁰) within the period of validity of the scheme. The tax payers through the LoI were intimated the outstanding principal demand (as of March 2011) along with interest and penalty components calculated up to January 2012 after waiving proportionate amount of interest and penalty.

7.1.3 Audit criteria

The criteria for the Audit were :

- Notification No. 32 / MA / C – 5 / CC / 1T – 1 / 2011 dated 21 January 2012 issued by the Department of Municipal Affairs, Government of West Bengal, for WS.
- Budget documents of KMC, related letters, orders, resolutions, contract documents, etc. which were either available in the website of KMC or made available to Audit.
- KMC Act, 1980 as amended from time to time.

⁴⁰ Letter of Intimation.

7.1.4 Financial position

An amount of ₹ 2685.17 crore was receivable (as of February 2012) by KMC on account of property tax (comprising of principal amount, interest and penalty)⁴¹ from 360246 assesseees. KMC calculated ₹ 1647.41 crore, as the qualified amount, for WS after waiving proportionate amount of penalty and interest. The amount was payable by 348380 assesseees as per LoIs generated upto March 2012. However, KMC could collect only ₹ 345.99 crore (21 per cent) under WS from 139039 assesseees (40 per cent). The amount excluded ₹ 3.91 crore adjusted against suspense account. In the process, KMC waived an amount of ₹ 174.60 crore (equivalent to 11 per cent of the qualified amount) on account of interest and penalty through WS. Apart from these, KMC updated principal demand amounting to ₹ 102.50 crore during the period of WS against payments made earlier by the assesseees. The details of which are given in **Table 24**.

Table 24 : Financial position under WS

Under Assessor – Collector (AC)	Amount receivable as of 1 February 2012 (from no. of assesseees)	Amount qualified for WS as of March 2012 (no. of qualified assesseees)	Amount collected through WS (no. of assesseees who availed the Scheme)	Interest & Penalty waived through WS	Amount adjusted against 'suspense account'	Principal Demand updated during the period of WS
(₹ in crore)						
Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7
North	885.59 (62195)	545.02 (59192)	110.87 (28037)	54.58	1.35	30.81
South	1152.82 (59308)	721.87 (56938)	163.46 (28469)	78.87	2.47	4.02
Tolly Tax Department (TTD)	296.05 (63277)	183.29 (61147)	35.00 (28748)	22.72	0.07	44.23
Jadavpur Unit (Br. XI & XII)	216.17 (81159)	114.94 (79394)	14.86 (22207)	7.89	0.01	21.70
S. S. Unit (SSU)	110.22 (79221)	67.90 (77016)	18.50 (24631)	8.42	0.01	0.64
Gardenreach Unit (GRU)	24.32 (15086)	14.39 (14693)	3.30 (6947)	2.12	0.00 ⁴²	1.10
Total	2685.17 (360246)	1647.41 (348380)	345.99 (139039)	174.60	3.91	102.50

(Source: Data furnished by KMC)

⁴¹ Principal amount: ₹ 1364.97 crore, interest: ₹ 1151.10 crore and penalty: ₹ 169.10 crore.

⁴² Adjustment amount was less than ₹ 50000 hence, ignored.

7.1.5 Audit findings

7.1.5.1 Deficiencies in preliminary study

A study conducted by KMC revealed that the majority of defaulters belong to the slab of gross individual outstanding tax amounting up to ₹ one lakh which finally played a vital role in designing the WS. In spite of such study, Audit noticed that KMC could not collect 79 per cent of the qualified amount from 60 per cent of qualified assesseees. From the trend of collection as shown in **Table 24**, it would be clear that KMC failed to attract the major defaulters under the WS.

KMC attributed (July 2013) the reason of poor collection to giving more stress on persuasion than taking penal measures against defaulters.

Number of assesseees had sought correction of the waiver demands as some payments which had been made earlier were not reflected in the waiver demand. As a result, KMC updated manual demand of 22377 assesseees⁴³ during the period of WS. KMC resorted to the procedure of 'manual demand update' and corrected the principal demand amounting to ₹ 102.50 crore.

The reply of KMC that updation of demand was a continuous process was not tenable because KMC was to complete the necessary action in all respect to make the demand and suspense updated by 12 November 2011 after verification of concerned records. Thus, updation was to be done after following due process of verification whereas in the instant cases the updation was done based on receipts / records submitted by the assesseees without verifying with treasury records.

These clearly indicated that there were deficiencies in preliminary study made before the implementation of the scheme.

7.1.5.2 Execution of 'Service Contract' with the software developer after expiry of the scheme

Kolkata Municipal Corporation selected a private agency through 'open tender' for the purpose of 'provision of support services for existing software applications and implementation & rollout of pending application modules' (hereinafter referred to as the original work) during the period 2010 – 11. Audit noticed that without inviting fresh tender for development of software on WS, KMC directly awarded (October 2011) the work to the same agency at the cost of ₹ five lakh when the implementation of WS was at the consideration stage.

⁴³ AC (North) : 675, AC (South) : 1019, AC (TTD) : 6658, AC (Jadavpur Unit) : 8797, AC (SSU) : 4131 and AC (GRU) : 1097.

The Corporation stated (May 2013) that the agency was selected on the basis of a tender for maintenance as well as development of software as and when required.

7.1.5.3 Absence of clarity in generation of waiver demand

Kolkata Municipal Corporation collected an amount of ₹ 345.99 crore through WS. Audit noticed that as per Budget Statement⁴⁴ of the Mayor, KMC (March 2013), the collection under the scheme was reported as ₹ 339.11 crore⁴⁵. Thus, there was a difference of ₹ 6.88 crore between the two figures.

KMC stated (June 2013) that the collection figure of ₹ 345.99 crore was given considering ‘use suspense’ amount. KMC further clarified (July 2013) that in order to arrive at the exact waiver demand for any intending defaulter, Assessment-Collection Department had to take recourse to ‘use suspense’ lying as residue under the suspense account of that assessee which could not be adjusted with a single demand with interest and penalty prior to waiver. Hence, the ‘Budget Statement’ for the year 2013-14 needed to be rectified by the KMC Authority to that extent.

Initially, it was decided⁴⁶ by KMC that Waiver Demand as shown in the Waiver LoI on the date of commencement of the scheme would be kept frozen (without additional interest calculation after the 1 February 2012⁴⁷) during the operation of the scheme for all assessees having outstanding property tax. Accordingly, the fact was incorporated in the notification for WS.

As per the ‘Service Contract’ executed (May 2012) between KMC and a private agency, the demands would be ‘frozen once the waiver period starts’. Audit noticed that KMC generated ‘initial’ Waiver LoIs till March 2012 (*i.e.*, even after the commencement of the scheme). KMC did not furnish the reasons for the same. KMC also did not furnish any information about how the software prepared for WS permitted such generation of LoI at a later date.

Thus, there was lack of clarity in generation of waiver demand under the scheme.

⁴⁴ For the year 2013-14.

⁴⁵ ₹ 79.89 crore during 1 February 2012 to 31 March 2012 and ₹ 259.22 crore during 1 April 2012 to 15 May 2012.

⁴⁶ *Vide* Item No. MOA 16.1 dated 20 June 2011.

⁴⁷ The Scheme period was later extended to 15 May 2012.

7.1.5.4 Unauthorized adjustment concerning WS

As per notification for WS, “where any taxpayer has made any payment, prior to the commencement of the scheme, in the ‘suspense’ account, which remains unadjusted, such payment shall be adjusted, against outstanding dues inclusive of interest and penalty before calculation of demand under the waiver scheme. The outstanding dues, eligible for the scheme, will be calculated after making all such adjustment of ad-hoc payments, made prior to the commencement of the scheme”. Further, the Waiver Demand as shown in the waiver LoI on the date of commencement of the scheme would be kept the same during the period of WS. As per the ‘Service Contract’ (signed in May 2012), there would not be any provision of adjustment from suspense account as per the ‘current scheme’.

Thus, all payments kept in the suspense account were required to be adjusted before generation of LoI on the date of commencement of the scheme. In violation of the notification for WS, KMC adjusted an amount of ₹ 3.91 crore⁴⁸ during the period from 1 February 2012 to 15 May 2012 (*i.e.*, during the period of WS) against payments made by assesseees prior to the commencement of WS and which was kept previously in the suspense account. Initially, KMC admitted the fact of such adjustment on 4 June 2013. KMC, however, did not furnish any information (till June 2013) regarding the amount waived on account of interest and penalty for the unauthorized adjustment of ₹ 3.91 crore. KMC further clarified in July 2013 that the amount of ₹ 3.91 crore ‘was not an adjustment during or prior to the Waiver Scheme, it was rather a post waiver activity for rectification of payment made under the Waiver Scheme’. It was stipulated in the waiver notification that ‘No Outstanding Certificate’ (NOC) would be issued immediately after final settlement together with the receipt. As per the ‘Service Contract’ executed between KMC and the private agency in May 2012, NOC certificate would be generated along with the receipt. Thus, after expiry of the waiver period and issuance of NOC, such type of ‘post waiver activity’ was also irregular.

7.1.5.5 Unauthorized updating of principal demand during the period of WS

The WS was introduced to waive, either partially or fully, payment of interest and penalty on arrear of property tax on lands and buildings on such terms and

⁴⁸ Principal : ₹ 2.88 crore, Interest : ₹ 1.03 crore and Penalty : ₹ 0.00 crore (less than ₹ 50000 hence, ignored).

conditions as notified by the State Government. The Waiver Demand as shown in the Waiver LoI on the date of commencement of the scheme was required to be kept frozen during the operation of the scheme for all assesseees having outstanding property tax.

On the contrary, KMC updated principal demand of ₹ 102.50 crore in respect of 22377 assesseees during the period of WS, through the process of ‘manual demand update’. KMC clarified (June 2013) that a ‘manual demand update’ was, ‘as a matter of fact, a correction of outstanding data base of a particular assessee on the basis of a payment receipt for a quarter’ which had been ‘shown as outstanding in the data base and was not updated on or after the date of actual payment of that particular bill / demand’. KMC, however, did not furnish any reason (till June 2013) for not updating the database of concerned assesseees even after actual payment as well as whether the entire amount was actually deposited in the accounts of KMC.

It was noticed from Controller of Municipal Finance and Accounts (CMFA) reply (July 2013) that there were some inadvertent error and erroneous intra / inter table (database) joining resulting in submission of erroneous figure earlier about manual demand update under Waiver Scheme 2012. CMFA further stated that as per the report of Manager System (Assessment-Collection), the amount of updation was ₹ 11 crore against 22309 assesseees. The report was not tenable since the ‘manual demand update’ involving an amount of ₹ 102.50 crore (as of July 2012) was furnished by the Chief Manager (Revenue). The Chief Manager (Revenue) replied on 4 June 2013 that ‘as already reported adjustment figures, said waiver adjustments were reported upto 31 July 2012’. The Chief Manager (Revenue) informed (June 2013) that the ‘data and figures’ were ‘run time data / figures and may vary time to time depending upon the different system operation performed by user department’. In June 2013, the Chief Manager (Revenue) furnished the figure totaling 22377 (against 22309 furnished by CMFA) number of assesseees who were involved for ‘office wise Manual Demand Update (1st February 2012 to 15th May 2012)’. The matter of submission of so called ‘erroneous figures’ to Audit was mentioned only after the completion (June 2013) of Audit and when the ‘Draft Observations’ were issued (July 2013) for furnishing reply / comment.

KMC gave (July 2013) reference of two circulars of the Municipal Commissioner issued on 30 August 2007 and 13 April 2012, which governed the method of updation. According to KMC, 'such updation cannot be construed as a loss of money'. The interpretation of KMC regarding 'loss of money' was not tenable due to the following reasons.

In the circular (issued in April 2012 during the period of WS), Municipal Commissioner directed that –

'The matter of processing the updation on the basis of self attested photocopies of receipts, as may be produced by ratepayers / assesses will be considered, without sending them to Treasury Department or elsewhere for cross verification. This will also cover any payment already made either through cheque / draft / pay order etc. which would be deemed to be honoured and such receipts would be considered on their face value as good as original'.

The circular further stipulated that if any fraud or misrepresentation is detected subsequently, necessary corrective measures shall be taken,

From the above circular, it is clear that KMC updated the principal demand of the concerned assesseees on the basis of earlier payment receipts furnished by the assesseees without any 'cross verification' or ensuring its actual payment. 'Corrective measures', after issuance of NOC confirming final settlement under WS, were beyond the scope of Waiver Notification.

7.1.5.6 Identification of defaulters

The State Government included a clause in the notification for WS which stipulated that-

"If any tax payer fails / neglects to avail the waiver scheme, they will not be eligible for such waiver of penalty & interest in future."

However, only 139039 assesseees (**Table 24**) availed the scheme and 209341 qualified assesseees did not avail the scheme. Hence, these assesseees would not be eligible for future Waiver Scheme (if any). These assesseees were needed to be identified immediately after closure of the scheme.

KMC stated (July 2013) that identification of defaulters and serving of notices along with LoIs to the defaulters including service of Notice of Demands (NODs) was a continuous process and the Assessment-Collection Department

meticulously adhered to this process. KMC further added that ‘defaulters would be identified from LoIs’.

From the reply of KMC, Audit could not ascertain whether the identification process had been completed, or not.

7.1.5.7 Switching over to new system of assessment

KMC intimated (September 2011) the State Government that it was going to introduce ‘Unit Area System of Assessment’ in the next financial year. The WS would help KMC to clear the books substantially for the new system.

The system of property taxation in vogue was based on the principle of Annual Rateable Value method. The Annual Value (AV) of the property under the system was required to be determined after deducting 10 *per cent* on maintenance and repair account from the actual annual rent realized from the property or the annual reasonable rent at which the property might have been let out from year to year. The tax rate would increase proportionately with the individual AV of the property and required to be calculated using the applicable formula.

However, in the proposed Unit Area Assessment (UAA) System annual property tax would be calculated on the basis of the following formula :

$$\boxed{\begin{array}{l} \text{Annual Tax} \\ \text{Payable} \\ \text{(In ₹)} \end{array}} = \boxed{\begin{array}{l} \text{Category wise Base Unit} \\ \text{Area Value (BUAV)}^{49} \\ \text{(₹/ Sq. ft.)} \end{array}} \times \boxed{\begin{array}{l} \text{Multiplicative} \\ \text{Factors (MF)}^{50} \end{array}} \times \boxed{\begin{array}{l} \text{Covered space of} \\ \text{building / area of land} \\ \text{(Sq. ft.)} \end{array}} \times \boxed{\begin{array}{l} \text{Tax} \\ \text{Rate} \\ \text{(\%)} \end{array}}$$

KMC, however, did not furnish any information to Audit regarding the status of implementation of UAA System. KMC stated (July 2013) that this was a ‘matter of policy decision’.

As stated earlier, KMC could not collect 79 *per cent* of the qualified amount from 60 *per cent* of qualified assesseees through WS. This indicated that WS failed to clear the ‘books’ of KMC ‘substantially’.

⁴⁹ The entire city is divided into 293 blocks and these blocks are classified into seven categories (A to G) on the basis of market value, infrastructure, facilities, etc. An AV / Sq. ft., i.e., BUAV would be assigned corresponding to each such category (*viz.*, A, B, C, D, E, F and G).

⁵⁰ MFs would account for variations in terms of size, purpose of use, age of the property, location of the property within the block, nature of occupancy and type of structure, which would be clearly notified and used to increase or decrease BUAV of different properties as applicable or to keep it same.

7.1.5.8 Monitoring and evaluation

KMC informed (July 2013) that collection and performance of all Assessor-Collectors had been monitored and evaluated continuously by the appropriate Authorities. At the end of the day, collection figures were taken from the system to evaluate the 'waiver collection matter'. 'Over and above, the Assessor-Collectors concerned personally monitored the persuasion and collection process throughout the Waiver Scheme.'

In spite of the above arrangement, KMC could not achieve the desired result through WS. Moreover, the method of 'persuasion' proved futile in case of the major defaulters.

7.1.6 Conclusion

The Waiver Scheme was intended to augment the revenue of KMC by way of giving relief to the tax payers in payment of interest and penalty. KMC collected only 21 *per cent* of the qualified amount from 40 *per cent* of qualified assessees. This indicated that KMC failed to attract the major defaulters. Moreover, KMC waived an amount of ₹ 174.60 crore on account of interest and penalty. Further, KMC updated principal demand during the operation of the scheme which was beyond the purview of the scheme. KMC also did not ensure before updating the principal amount, based on receipts shown by assesses, that the entire amount was actually deposited in the accounts of KMC.

KMC executed 'Service Contract' with the software developer after expiry of the scheme period. KMC did not conduct adequate study before the implementation of the scheme.

7.1.7 Recommendation

- KMC may strengthen its regular tax collection system for augmentation of revenue.
- KMC may take action against the defaulters in payment of property tax as per law (amended from time to time).
- KMC may conduct adequate survey before introduction of Waiver Scheme in future.
- KMC may strictly comply with the 'Notification' for Waiver Scheme if introduced in future.