

CHAPTER-IV TAXES ON VEHICLES

4.1 Tax Administration

The Commissioner of Transport (CoT) heads the Gujarat Motor Vehicles Department under the administrative control of the Principal Secretary to the Government of Gujarat in the Ports and Transport Department. He is assisted by a Joint Director and two Officers on Special Duty (OSDs) specialised in Enforcement, Administration and Finance in the Head office. There are 14 Regional Transport Offices (RTOs)¹, 17 Assistant Regional Transport Offices (ARTOs)² and two Inspector of Motor Vehicles Offices (IMVs)³. There are 15 check-posts⁴ and three check-points⁵ working under 11 RTOs/ ARTO.

4.2 Working of Internal Audit Wing

The Department has an Internal Audit Wing which comprises three Auditors and three Sub-auditors. This wing was to conduct internal audit of RTO offices and Check-posts as per the audit programme approved by the CoT. During the year 2014-15, the Department stated that the internal audit was done in accordance with the approved plans.

4.3 Results of Audit

Our test check of records in the offices of CoT, RTOs and ARTOs in the State during the year 2014-15 revealed under-assessment of tax and other irregularities involving ₹ 9.68 crore in 41 cases, which fall under the categories as mentioned in **Table 4.3**:

Table 4.3

Sl. No.	Category	No. of cases	Amount (₹ in crore)
1	Audit of registration and safety of school buses, vans, etc. under Motor Vehicles Act	1	--
2	Non/short levy of motor vehicles tax	20	8.87
3	Other irregularities	20	0.81
	Total	41	9.68

During the course of the year, the Department accepted and recovered under-assessment and other irregularities of ₹ 0.63 crore in three cases.

¹ Ahmedabad, Bhavnagar, Godhra, Himmatnagar, Jamnagar, Junagadh, Kutchh-Bhuj, Mehsana, Nadiad, Palanpur, Rajkot, Surat, Vadodara, Valsad

² Ahmedabad(East), Amreli, Anand, Bardoli, Bharuch, Botad, Dahod, Dang-Ahwa, Gandhinagar, Gir-Somnath, Mahisagar-Lunavada, Navsari, Patan, Porbandar, Rajpipla, Surendranagar, Vyara

³ Gandhidham, Modasa

⁴ Ambaji, Amirgadh, Bhilad, ChhotaUdepur, Dahod, Gudari-Thavar, Jamnagar, Kaparda, Sagbara, Samkhiyali, Shamlaji, Songadh, Tharad, Waghai, Zalod

⁵ Adesar, Hazira, Surajbari

A paragraph of “**Registration and safety of school buses, vans, etc. under Motor Vehicles Act**” and few illustrative audit observations involving ₹ 4.57 crore are mentioned in the succeeding paragraphs.

4.4 Audit of Registration and Safety of School Buses, Vans etc. under the Motor Vehicles Act

4.4.1 Introduction

The registration, assessment and collection of tax from school buses and school vans is governed by the Central Motor Vehicles Act, 1988 (CMV Act), Central Motor Vehicles Rules, 1989 (CMV Rules), Gujarat Motor Vehicles Rules, 1989 (GMV Rules), Gujarat Motor Vehicles Tax Act, 1958 (GMVT Act) and Rules made thereunder. Section 2(11) of the CMV Act defines “educational institution bus” as an omnibus, which is owned by a college, school or other educational institution and used solely for the purpose of transporting students or staff of the educational institution in connection with any of its activities. In addition to this, vans and auto rickshaws are also used in carrying the school children.

Section 40 of CMV Act stipulates that a motor vehicle should be registered by the registering authority in whose jurisdiction the owner of the motor vehicle resides or where the motor vehicle is normally kept. Section 66 of CMV Act lays down that no motor vehicle shall be used as a transport vehicle without a permit issued by transport authorities to use the vehicle in a public place. The vehicle plying should also carry a valid certificate of fitness issued under Section 56. Further, the vehicle owner is required to maintain the vehicle in accordance with the requirements of this Act and the rules made thereunder.

Rule 119 of GMV Rules contains safety provisions relating to number of passengers allowed, seating arrangement, opening of passengers’ compartment, speed of vehicle etc., to be adhered to by public service vehicles viz., educational institution bus, motor cab (known as auto-rickshaw for carriage of children and infants). The Commissioner of Transport (CoT) issued circulars dated 20.6.2006 and 11.10.2011 respectively⁶ to all Regional Transport Officers (RTO) for ensuring the safety of the school children carried by school bus, vans and auto-rickshaws (**Annexure**).

4.4.2 Audit Scope

We conducted the Audit with a view to ascertain whether the Department followed the norms prescribed for registration, issuance of permit, fitness certificates, special permission to school buses, vans and auto-rickshaws and also monitored the compliances made by the vehicle owners with regard to safety norms as stipulated in the Acts, Rules and instructions *ibid*.

We selected five RTOs i.e. Ahmedabad, Rajkot, Surat and Vadodara (being major cities of the State) and Anand (being city with more educational

⁶ High Court Judgment dated 24 April 2006 and Supreme Court guidelines as cited in Ministry of Road Transport and Highways letter dated 3 June 2011.

institutions) and the office of the CoT.

As per the information furnished by the Department, there were 4,933 school buses in the State out of which we scrutinized the records of school buses and vans in five RTOs pertaining to the period from 2011-12 to 2014-15. These five RTOs had 2,797 school buses within their jurisdiction.

Audit Findings

4.4.3 Inadequate maintenance of records

The RTOs are required to maintain records relating to registration of vehicles and issuance/ renewal of the permit and fitness certificates. As per Rule 49 of CMV Rules 1989, a register called “Register of Motor Vehicles” is required to be maintained in Form 24. The register contains all the details such as the date of registration of vehicle, its make, chassis/engine number, unladen weight, validity of registration, name and address of owner, date of permit issued and date of issue of fitness certificate, etc., but does not have the provisions for recording the date of renewal of permit and of fitness certificate. Absence of these provisions has resulted in lack of monitoring of renewal of permits and fitness certificates as discussed in the following paragraphs.

Permit Registers: The details of permits issued and renewed are recorded in the Permit Register as per the format prescribed (May 2006) by the CoT. After registration of school bus, van/ maxi cabs and auto rickshaws in the concerned RTO, the permit is issued for a period of five years for using the vehicle as transport vehicle. The permit is due for renewal after every five years. Audit observed that the format prescribed for Permit Register by the CoT did not require maintaining of details regarding permit issued and its renewal in a separate page for each vehicle. Hence, the selected five RTOs were maintaining the details of permit issued and its renewal in a separate page for each permit number given with the vehicle details and the date of issue of permit and its renewal. As the details in Permit Register were not maintained in a separate page for each vehicle, the number of vehicle owners, who did not renew their permit from time to time could not be ascertained either from Permit Register or from Register of Motor Vehicles.

Test check of entries in permit register and other relevant records of selected RTOs for the period 2011-12 to 2014-15 revealed that validity of permits had expired in 458 cases out of 2,797 cases. There was nothing on record produced to Audit to indicate that these permits were renewed and whether these vehicles were plying after expiry of their validity period of five years.

Thus, due to absence of the system, the information regarding due date of renewal of permits or school buses running without permits could not be ascertained in time by the RTO. These vehicles were also liable to pay permit fees amounting to ₹ 1.60 lakh and penalty of ₹ 0.46 lakh. It was further noticed that the permit module available in the VAHAN software was not made operational.

After this being pointed out in audit, the CoT stated (September 2015) that the

permit module incorporated in the VAHAN software was at its final stage of verification and the details of renewal of permit would be incorporated in Form-24. Further, it was intimated that in the above cases, the Department had recovered ₹ 0.41 lakh in 116 cases. He further stated that though the responsibility of getting the permit renewed rests with the owners of transport vehicle, necessary steps would be taken to raise awareness in this regard among the vehicle owners.

Fitness Certificate Register: As per Rule 65 of CMV Rules 1989 the details of fitness certificates issued and renewed are required to be maintained in a register with a separate page for each vehicle, like registration number, name and address of owner, permit issued, certificate of fitness issued and renewed etc.

After registration of school bus, van/maxi cabs and auto rickshaws in the concerned RTO, fitness certificate is issued for period of one year. The fitness certificate is subject to a number of safety standards fixed by the Department and functioning of various items⁷ of vehicles. The fitness certificate is due for renewal annually.

Audit observed that though fitness certificate register was maintained by each RTO, the details of fitness certificates issued and renewal made were not maintained in a separate page(s) for each vehicle/ class of vehicle; instead these were maintained date wise. No report was generated to ascertain from time to time the number of vehicles that required renewal of fitness certificates. This is briefly discussed in the following paragraph.

Scrutiny of records of selected five RTOs for audit revealed that 2,250 registered school buses required renewal as on 31 March 2015 as these were registered up to 31 March 2013 under their jurisdiction. There was no mechanism with the Department to ascertain the number of vehicles that had obtained/ applied for the renewal of fitness certificates. Consequently, the number of defaulters was not available with the Department. This jeopardizes safety of school children besides, the possible non-realisation of fitness certificate renewal fee. The fitness module in the VAHAN software was not made operational as of 31 March 2015.

After this being pointed out in audit, the CoT stated (September 2015) that in the VAHAN software, fitness module had been incorporated *w.e.f.* June 2015. They had also instructed (June 2015) all RTOs/ ARTOs to cross-check the records maintained in the registration branch with that of fitness branch so that the number of vehicles plying on road without valid fitness certificates could be ascertained. He further stated that though the responsibility of getting the fitness certificate renewed rests with the owners of transport vehicle, necessary steps would be taken to raise awareness in this regard among the vehicle owners.

⁷ Spark plug, high tension cable, head lamp, other lights, rear view mirror, horn, silencer, exhaust emission, breaking system, speedometer, steering, gear etc.

4.4.4 Availability of testing instruments

As per Rule 63 of the CMV Rules 1989, an operator of an authorised testing station shall maintain in good condition the basic fitness testing instruments i.e. the equipment and apparatus for undertaking tests pertaining to exhaust gas, engine tuning, engine analysis, smoke emission, brake system, headlights, wheel alignment, compressors, speedometers and other like components.

As per the information obtained from four RTOs⁸ out of five RTOs, instruments like automatic wheel alignment and balancing machine, break testing machine, headlight testing machine, exhaust analyser for fuels, suspension testing machine were not available with them. Thus, it could not be ascertained how in absence of these instruments the fitness certificates were granted. Any compromise with these safety norms would endanger the safety of school children.

After this being pointed out in audit, the CoT stated (September 2015) that (i). At present, testing of wheel alignment is done in the service centres of manufacturers. (ii). Testing of brakes, headlights, etc. is done manually by Inspector of Motor Vehicles. (iii). Testing of pollution under control (PUC) is done in 687 PUC centres approved by the Government in the State.

However, there was nothing on record to indicate that any vehicle has been sent to the manufacturer for testing of wheel alignment and the mechanism to be adopted in ensuring that the manufacturer is properly testing the wheel alignment.

Similarly, the Act provides for conducting checks for testing of brakes and headlights with the help of break testing machine, headlight testing machine etc. The human error in manual testing of these safety norms cannot be ruled out. The Department may follow the provisions of the Act strictly with regard to the safety norms of the vehicles.

4.4.5 Monitoring of safety norms

Based on the judgments of High Court and Supreme Court, the CoT issued circulars dated 20.6.2006 and 11.10.2011 respectively to all RTOs for ensuring the safety of the school children carried by school bus, vans and auto-rickshaws. The circular *inter alia* provides for availability of first aid box, fire extinguisher, fitting of speed governor of specified standard in the bus, sealing of windows with grill, painting of buses in yellow colour indicating it as school bus on duty with contact details of school name and telephone numbers, employment of experienced driver and qualified attendant to attend to school children in bus, etc.

The implementation of these instructions was test checked in the selected five RTOs and the audit findings are discussed in the following paragraphs:

⁸ Rajkot, Surat, Vadodara and Anand

- Total 3,81,638 vans/ maxi cabs and auto rickshaw were registered upto March 2015. The exact number of school vans/ maxi cab was not available with the Department. As per the information furnished by three RTOs viz., Surat, Vadodara and Anand, only 691 owners of vans/ maxi cabs and auto rickshaws carrying the school children had obtained the special permission. In these cases also the name of the owner or the registration number of the vehicle was not maintained in a separate register for monitoring of safety norms from time to time as prescribed by the Department.

The three RTOs stated that they did not have any details of and control over vans/ maxi cabs and auto rickshaws carrying the school children. RTO, Rajkot had stated that no owner of vans/ maxi cabs and auto rickshaws carrying the school children had obtained the special permission. RTO, Ahmedabad had not furnished the details in this regard.

- The Chief Secretary, Government of Gujarat had suggested (July 2006) that a team of RTO and City Police should stand outside some of bigger schools in Ahmedabad in the morning when the school starts or in the afternoon when the school closes and see for themselves how blatantly the regulations for carrying school children are being violated by three wheelers. Despite these instructions, there was nothing on records produced to audit to indicate that any special checking was carried out either at Ahmedabad or any other test-checked office.

After this being pointed out in audit, the CoT stated (September 2015) that the National Informatics Centre had been asked (August 2015) to maintain separate database for school buses, vans, auto rickshaws, etc. The Department had also instructed (June 2015) all RTOs/ ARTOs to conduct special checking of school buses, vans, auto rickshaws, etc.

4.4.6 Overcrowding

Rule 119(1)(2) of GMV Rules provides for the number of children that may be carried in a public service vehicle. A child of not more than 12 years of age shall be reckoned as one-half. Further, the Rule states that for the purpose of carrying school children, in excess of the three children may be carried in a motor cab ordinarily known as an auto-rickshaw subject to the conditions that additional seating arrangements shall be made in the passenger compartment and the vehicle shall not carry more than the number of school children as may have been permitted by the registering authority in respect of each individual vehicle depending on the seating arrangement provided in that vehicle.

The Department had issued a Circular in May 2005 instructing that in every quarter, all RTOs should compulsorily carry out checking of the auto-rickshaws carrying excess school children than the permitted limit for taking necessary action. No record was made available/ produced to audit to indicate that any checking was done to trace the overloading of school children in vans/ auto rickshaws.

A few violations⁹ are mentioned in the **Table 4.4.6**:

Table 4.4.6

Sl. No.	Norms prescribed	Nature of violation of norms	Remarks
1.	As per the norms prescribed, the body of school vans should be painted yellow and number plate should be yellow. Non-public vehicles were not authorised to transport the school children.	We noticed that vans other than yellow coloured body and number plate were carrying the school children.	This indicated that non-public vehicles were deployed for transport of school children in violation of the instructions.
2, 3 and 4	As per the norms, no school child should be seated in the driver's compartment. The auto rickshaws should be fitted with safety grills, one side locked and should have name of the school and the telephone numbers, etc.	The school children were found seated in the vicinity of the driver. No safety grills were found. The doors were open on both sides. Name of school and telephone number were not mentioned on the auto rickshaws.	Had the Department carried out joint inspection by RTO and Police Department, these safety norms could have been taken care of.



1. Colour of the number plate indicates that non transport vehicle carries school children-Ahmedabad



2. Seating of school children on the side of driver seat - Vadodara



3. Carrying school children on the lap of driver - Anand



4. Overloading of children in the passenger compartment -Anand

⁹ Based on the photographs of school vans/ maxi cab and auto-rickshaw, which were carrying school children a copy of which was endorsed to the Department

Further, it was observed that during 2011-12 to 2014-15, the flying squad of CoT conducted 49 surprise checks in respect of transport vehicles, of which only one surprise check was conducted in respect of school buses and vans where two defaulters were found. Thus, role of flying squad was negligible as far as controlling the menace of the vehicles overloading the school children.

After this being pointed out in audit, the CoT stated (September 2015) that all the RTOs/ ARTOs have been instructed (June 2015) to monitor in liaison with the school authorities the carriage of school children by school buses, vans, auto rickshaws, etc. as per the permits issued and to take punitive action against the vehicle owners in case of overcrowding. Further, school buses, vans, auto rickshaws, etc. would be checked every month for compliance of permit conditions.

4.4.7 Delay in fitment of HSRP plate

In order to curb the illegal sale/purchase and theft of vehicles in the country and to identify the vehicles used in crimes, traffic offences and hit and run cases, the Ministry of Road Transport and Highways (the Ministry) had in coordination with expert teams developed a systematic and effective device for identification of vehicles. This unique system of displaying the vehicles registration number called as High Security Registration Plate (HSRP) was developed as per specifications laid down by the Ministry *vide* notification dated 16 October 2001.

The Government of Gujarat entered into a contract for fitment of HSRP with FTA Solutions Pvt. Ltd (the Company) only on 26 May 2012. The Company started the work of fitment of HSRP to newly registered vehicle *w.e.f.* 16 November 2012. The CoT *vide* order dated 17 June 2014 had ordered all RTOs for fitment of HSRP to already registered school buses during summer vacations on priority basis and the work was to be completed by 30 June 2014. However, three RTOs viz., Surat, Vadodara and Anand stated (March 2015) that no work was done by them in this regard. Two RTOs viz., Ahmedabad and Rajkot had not furnished any reply with regard to the implementation of CoT order dated 17 June 2014. Further, it was observed that laser detector cameras which were required to be installed on important roads and intersections to capture footage of speeding/overloading/stolen vehicles by scanning HSRP were also not installed anywhere. This defeats the very purpose of fitment of HSRP in vehicles.

On this being pointed out in audit, the CoT stated that all the RTOs/ ARTOs had been instructed (August 2015) to complete the pending work of fitment of HSRP plates on priority basis during vacations/ public holidays. After completion of work of fitment of HSRP in old/ newly registered vehicles, application for procurement of laser detector cameras would be submitted to Government.

4.4.8 Levy of Motor Vehicles Tax on School buses

According to Section 3 read with Section 4 of the GMVT Act, motor vehicles tax shall be levied and collected in advance by 7th day of respective month on all motor vehicles which are used or kept for use in the State, at the rates notified from time to time. However, a vehicle owner may file declaration in advance if he does not intend to use or keep for use the vehicle in the State. These declarations are noted in the tax index cards/registers. Section 12 of the Act, *ibid*, authorises the Department to recover unpaid tax as arrears of land revenue. Section 12B empowers the Department to detain and keep in custody the vehicles of those owners who defaulted in payment of Government dues.

During test check of registration and recovery registers, VAHAN system and other relevant records of five RTOs, for the period 2011-12 to 2014-15, it was noticed in 174 cases out of 2,797 cases; operators of school buses had neither paid tax nor filed non-use declarations for various periods. The demand notices were also not issued. Though the tax remained unpaid for more than 30 days from the due date, the RTOs had not initiated any action u/s 12 and 12-B of the Act *ibid* by stopping or seizing/detaining the vehicles. This resulted in non levy of MVT of ₹ 19.08 lakh excluding interest and penalty.

After this being pointed out in audit, the CoT stated (September 2015) that in 111 cases, an amount of ₹ 9.44 lakh had been recovered. In remaining cases, demand notices were issued.

4.4.9 Conclusions and Recommendations

We scrutinised the process of registration of school buses/ vans and auto-rickshaws and their compliance with the existing safety norms. There are some areas of concern, which are highlighted as follows:

- We observed that due to inadequate maintenance of records of registration, issue of permit and fitness certificates, the Department was not in a position to properly monitor the renewal of permits and fitness certificates.

Records should be maintained in such a way that number of permits and fitness certificates issued as well as number of vehicles plying without permits /fitness certificates at a particular point of time can be ascertained.

- The system of ensuring the compliance with the existing safety norms was not adequate.

Periodical checking of school vans and auto rickshaws on road should be made compulsory. Involvement of flying squad in checking of school buses/vans and auto rickshaws should be enhanced.

- The Department was unable to curb the menace of overcrowding of school buses/ vans and auto rickshaws despite the restriction of maximum passengers that are allowed to be carried. Thus, safety of school children was compromised.

Rules regarding seating capacity should be observed strictly. The schools may also be invited to assist the RTOs for monitoring and taking action against the vehicle owners carrying excess school children.

4.5 Non-realisation of motor vehicles tax on transport vehicles

The Gujarat Motor Vehicles Tax (GMVT) Act, 1958 prescribes that owner of contract carriage and goods carriage vehicles are required to pay assessed tax on monthly/half yearly/ yearly basis respectively except for the period where the vehicles are not in use. In case of delay in payment, interest at the rate of one and half *per cent* per month is leviable. If the delay exceeds one month, a penalty at the rate of two *per cent* per month subject to a maximum of 25 *per cent* of tax is also chargeable. Section 12 of the Act, *ibid*, authorises the Department to recover unpaid tax as arrears of land revenue. Section 12B empowers the Department to detain and keep in custody the vehicles of those owners who defaulted in payment of Government dues.

During test check of the Demand and Collection Registers and VAHAN system of four taxation authorities¹⁰ between July 2014 and October 2014, we noticed that operators of 312 omnibuses¹¹/ maxi cabs¹², who kept their vehicles for use exclusively as contract carriage and 367 vehicles used for transport of goods had neither paid tax nor filed non-use declarations for various periods between 2008-09 and 2013-14. There was no proper monitoring system to trace such vehicles in default. The Departmental officials failed to issue demand notices and take recovery action prescribed in the Act which shows weak internal control system in the Department. The Department neither invoked provisions of Section 12 nor took action under Section 12B. This resulted in non-realisation of motor vehicles tax amounting to ₹ 4.57 crore. Besides, interest and penalty was also leviable at the rates prescribed in the Act.

On this being pointed out in audit, the CoT stated (July 2015) that in 166 cases, an amount of ₹ 54 lakh had been recovered. In remaining cases also, demand notices were issued.

We pointed out these cases to the Government in March 2015. Reply of the Government is awaited (October 2015).

¹⁰ Bhuj, Narmada, Porbandar and Rajkot

¹¹ any motor vehicle constructed or adapted to carry more than six persons excluding the driver

¹² any motor vehicle constructed or adapted to carry more than six persons, but not more than 12 passengers excluding the driver, for hire or reward