

CHAPTER-IV LAND REVENUE AND BUILDING TAX

4.1 Tax administration

The Revenue and Disaster Management (R&DM) Department is under the control of the Additional Chief Secretary at the Government level with the Commissioner of Land Revenue as its head. The revenue collected by the Department includes basic tax, building tax, lease rent and plantation tax. The Department realises arrears of public revenue under the Kerala Revenue Recovery (KRR) Act, 1968, with interest and cost of process prescribed.

4.2 Internal audit

The Internal Audit Wing (IAW) of the Land Revenue Commissionerate was supervised by the Senior Finance Officer under the control of the Commissioner of Land Revenue. The audit of *Taluk* offices, Revenue Divisional Offices and Revenue Recovery Offices, Offices of Vigilance Deputy Collectors and Central Stamp Depot is conducted in a period of two to three years. The IAW was manned by one senior superintendent, three junior superintendents and six clerks. The Department stated that the selection of offices to be audited were made on the basis of the date of audit last conducted and the files to be checked were randomly selected and no risk analysis was done before selecting an office for audit. The Department also stated that there was no regular training programme for the staff of IAW. During 2016-17, the IAW planned 24 units for internal audit which were covered during the year. During the year, the Department settled 4,051 paragraphs out of 15,342 paragraphs which was 26.40 *per cent* of the outstanding objections. The Department stated that less clearance of audit observations was due to non-receipt of rectification reports from the sub offices audited.

4.3 Results of audit

The records of 53 units relating to land revenue and building tax were test checked during 2016-17. Under-assessment of tax and other irregularities involving ₹ 103.36 crore were detected in 206 cases which fall under the following categories as given in **Table - 4.1**.

Table - 4.1

(₹ in crore)			
Sl. No.	Categories	Number of cases	Amount
1	Compliance Audit on Collection of Building Tax in Land Revenue Department	1	28.28
2	Under-assessment and loss under building tax	124	30.20
3	Under-assessment and loss under other items	81	44.88
Total		206	103.36

During the course of the year, the Department accepted under-assessments and other deficiencies involving ₹ 32.54 crore in 111 cases. An amount of ₹ 9.52 crore pointed out was realised in 218 cases during the year 2016-17.

In four cases involving ₹ 1.58 crore, the Department recovered the entire amount. A Compliance Audit on Collection of Building Tax in Land Revenue Department involving ₹ 26.70 crore is mentioned in the succeeding paragraph.

4.4 Compliance Audit on Collection of Building Tax in Land Revenue Department

4.4.1 Introduction

Building tax¹ is being assessed, levied and collected by the Revenue and Disaster Management (R&DM) Department of the State Government, as one-time tax on buildings. As per the Kerala Building Tax Act, 1975 (KBT Act), a luxury tax is also leviable at the rate of ₹ 2,000 *per annum* on all residential buildings completed on or after 1 April 1999, having a plinth area² of 278.7 M² or more. The rate was revised to ₹ 4,000 *per annum* from 1 April 2014. As per the Kerala Finance Act, 2011, a cess at the rate of two *per cent* on the building tax shall be levied for residential buildings having a plinth area of 4,000 square feet and above, completed on or after 19 July 2011.

The jurisdiction of the R&DM Department extends to all 14 districts of the State which were further subdivided into 21 revenue divisions, 75 *taluks* and 1,664 villages. It is headed by Additional Chief Secretary (R&DM) at the Government level. At Directorate level, it is headed by Commissioner of Land Revenue who was assisted by an Additional Commissioner or Joint Commissioner and Assistant Commissioners. At various levels from district to village, the Commissioner of Land Revenue was assisted by District Collectors, Revenue Divisional Officers/Sub-Collectors, *Tahsildars*, Deputy *Tahsildars* and Village Officers.

The objectives of the audit were to assess (a) whether systems and procedures in the Department for assessment, levy and collection of building tax, luxury tax and cess on buildings were effectively implemented and (b) whether building tax, luxury tax and cess on buildings were assessed, levied, collected and properly accounted for.

Criteria of the audit was derived from the Kerala Building Tax Act, 1975, the Kerala Building Tax Rules, 1974, the Kerala Building Tax (Plinth Area) Rules, 1992, the Kerala Financial Code and Government Orders and Circulars, etc.

The Audit was conducted during May 2017 to July 2017 covering the period from 2014-15 to 2016-17. Audit selected five³ out of the 14 districts in the State and three *taluks*⁴ in each district by adopting statistical sampling method PPSWOR (Probability Proportional to Size and Without Replacement) using IDEA. Some

¹ As per the provisions of Kerala Building Tax Act, 1975 (as amended) there shall be charged a building tax based on the plinth area at the rate specified to the schedule to the Act on every building the construction of which is completed on or after 10-02-1992.

² Plinth area means the area included in the floor of a building and where a building has more than one floor, the aggregate area included in all the floors together.

³ Ernakulam, Kannur, Thiruvananthapuram, Thrissur and Wayanad.

⁴ Aluva, Chalakkudy, Chavakkad, Chirayinkeezhu, Kanayannur, Kannur, Kunnathunadu, Mananthavady, Neyyattinkara, Sulthan Bathery, Thalassery, Thaliparamba, Thiruvananthapuram, Thrissur and Vythiri.

selected offices including District Collectorates, Revenue Divisional Offices⁵, Village Offices, Local Bodies, etc., were also covered during audit. An entry conference was held on 5 May 2017 with Deputy Secretary, Revenue (Special Cell) Department, in which, the objectives, criteria and methodology of audit were explained. An exit conference was also held on 6 November 2017 with Additional Secretary (R&DM) and Joint Commissioner of Land Revenue wherein the audit findings were discussed. Cases pointed out during 2014-15 to 2016-17 in the local audit reports are also included in this report.

Audit findings

4.4.2 Non-assessment/levy of building tax

As per Section 5(1) of the KBT Act, building tax shall be charged on every building the construction of which is completed on or after 10 February 1992 based on the plinth area of the buildings at the rates prescribed. Section 7(1) of the KBT Act stipulates that the owner of every building, the construction of which, is completed or to which major repair or improvement is made on or after the appointed day⁶ shall furnish to the assessing authority, a return in the prescribed form (Form II) along with a copy of the plan approved by the local authority or such other authorities as may be specified by Government in this behalf.

As per Rule 3 of the Kerala Building Tax (Plinth Area) Rules, 1992, every Village Officer shall furnish to the assessing authority, within five days of the expiry of each month, a monthly list of buildings liable to assessment, together with extract from building application register of the local authority within whose area the buildings included in the list are situated. As per sub Section 4 of Section 5 of the KBT Act, where the plinth area of the building, the construction of which is completed after the appointed day is subsequently increased by new extensions or major repair or improvement, building tax shall be computed on the basis of total plinth area of the building including that of the new extension or repair or improvement and credit shall be given to the tax already levied and collected, if any, in respect of the building before such extension, or repair or improvement.

Certain observations and discrepancies noted during audit were as follows:

4.4.2.1 Non-levy of building tax due to buildings escaping assessment

Audit collected the details of completed buildings from the local authorities, which were cross verified with the assessment records of selected *Taluk* Offices for the same period and it was revealed that 367 buildings completed from 2011-12 to 2016-17 were not reported to the *taluk* authorities for assessment to building tax. Non assessment of the buildings under 13 *Taluk* Offices resulted in non-levy of building tax of ₹ 6.23 crore as detailed in **Appendix XXX**.

⁵ Fort Kochi, Mananthavadi, Muvattupuzha, Thalassery, Thiruvananthapuram and Thrissur.

⁶ 10 February 1992.

An analysis of the **Appendix XXX** shows that 60 *per cent* of the total non-levy related to Kozhikode and Thiruvananthapuram *taluks*.

At the instance of audit, Government collected ₹ 28.82 lakh in 37 cases.

Few illustrative cases are discussed below:

- **M/s Apollo DIMORA Hotel, Thiruvananthapuram**

A building owned by M/s Trivandrum Appolo Towers Private Limited having a plinth area of 11,805.15 M² was not reported for assessment to building tax. As per the records maintained by Thiruvananthapuram Corporation, the building was completed on 16 November 2015. Non reporting of the building for building tax assessment resulted in non-levy of building tax of ₹ 52.51 lakh.

After this being pointed out in audit (August 2016), the building was assessed (March 2017) to building tax and demanded ₹ 52.65 lakh. Government stated (February 2018) that an amount of ₹ 38.17 lakh was realised from the assessee. The remaining amount was yet to be recovered.

- **The Kerala Transport Development Finance Corporation (KSRTC Bus Stand), Thiruvananthapuram**

The Kerala State Road Transport Corporation (KSRTC) entrusted the construction of a shopping complex cum garage, having an area of 24,984 M² to the KTDFC⁷ on BOT⁸ basis. The BOT period will be the period up to which the total project cost with interest is realised fully from the project by way of net rental income generated and collected by the BOT operator. Therefore, KTDFC is the owner of the building and liable to pay building tax.



Verification of records maintained by Thiruvananthapuram Corporation revealed that the building was completed in February 2014 and was not reported for assessment to building tax, which resulted in non-levy of building tax of ₹ 55.91 lakh.

After this being pointed out (August 2016), the building was assessed to building tax amounting to ₹ 1.46 crore payable in four instalments. Government stated (February 2018) ₹ 36.43 lakh was realised from the assessee.

⁷ Kerala Transport Development Finance Corporation Limited.

⁸ Build-operate-transfer.

Recommendation: Audit recommends that Government may institute suitable mechanism to link the payment of building tax along with the property tax levied by Local authorities so as to make payment of building tax compulsory to get services from other Departments.

4.4.2.2 Buildings escaped assessment detected during joint physical inspection

Audit conducted joint physical inspection (JPI) with revenue officials in the selected *taluks* and observed that out of 235 buildings inspected, 83 buildings were not reported for assessment, resulting in non-assessment of building tax of ₹ 3.24 crore as detailed in **Appendix XXXI**.

At the instance of Audit, Government realised ₹ 4.66 lakh in five cases.

Few illustrative cases are discussed below:

- **M/s Hilite Platino, Kanayannur**

During joint physical inspection conducted at the site of M/s Hilite Platino, it was observed that a building having six floors with a total plinth area of 17,652.02 M² was not reported by *taluk* authorities for assessment to building tax. As per the records maintained by Maradu Municipality, the building was completed on 5 June 2014. Non assessment of the building resulted in non-levy of building tax of ₹ 63.00 lakh.

The case was reported to Government (October 2017) but reply was not received (January 2018).

- **The Kerala Water Authority, Thiruvananthapuram**

During joint physical inspection conducted at the site of the Kerala Water Authority at Jalabhavan, Thiruvananthapuram, it was observed that a 12 storey building having plinth area of 11,784.57 M² was not reported by *taluk* authorities for assessment of building tax. As per the records of Thiruvananthapuram Corporation, the building was completed in 2016. Non assessment of the building resulted in non-levy of building tax of ₹ 52.43 lakh.

The case was reported to Government (October 2017) but reply was not received (January 2018).

4.4.2.3 Non assessment of additional construction of existing buildings

During cross verification of the building tax assessment records of the *Taluk* Offices with the records of local bodies and joint physical inspection of selected buildings, it was revealed that in 13 cases, addition to the existing buildings were not reported by Village Officers for assessment. This resulted in buildings escaping assessment of building tax to the extent of ₹ 83.79 lakh as detailed in **Appendix XXXII**.

At the instance of audit, Government realised ₹ 0.80 lakh in two cases.

Few illustrative cases are discussed below:

- **M/s Cosmopolitan Hospital, Thiruvananthapuram**

A ten storey building, named M/s Cosmopolitan Hospital, having a plinth area of 9,212.00 M² was assessed to building tax for ₹ 13.64 lakh in October 1998. During joint physical inspection conducted at the premises of the Hospital, it was revealed that there was additional construction made to the old block and the total plinth area measured was 15,319.41 M². The total building tax leviable was worked out to ₹ 34.16 lakh. Non-assessment of additional construction resulted in non-levy of building tax of ₹ 20.52 lakh.

The case was reported to Government (October 2017), but reply was not received (January 2018).

- The *Tahsildar*, Thrissur *taluk* assessed (December 2014) a building to building tax of ₹ 9.92 lakh for a plinth area of 4,542.89 M², which included the plinth area of 2,071.79 M² already assessed. On verification of the records maintained by the Thrissur Corporation, Audit observed that the construction of the building was completed in three stages as given in **Table - 4.2**.

Table - 4.2

Plinth area completed as on:	Area (M ²)
20-12-2006	2,071.79
04-04-2011	2,420.27
10-07-2014	4,403.70
Total	8,895.76

Thus, the total plinth area assessable was 8,895.76 M², but assessment was completed on a plinth area of 4,542.89 M² only. It was also observed that the assessment was made on the rate of tax applicable to the buildings completed before 1 April 2014. Non-assessment of newly completed plinth area of 4,352.87 M² and application of incorrect rate of tax resulted in non-levy of building tax amounting to ₹ 29.50 lakh as given in **Table - 4.3**.

Table - 4.3

	(₹ in lakh)
Total completed plinth area as on 10 July 2014	8,895.76 M ²
Building tax at the rate applicable to other buildings completed on or after 1 April 2014 in Corporation area.	39.42
Less building tax already remitted	9.92
Balance tax payable	29.50

After this being pointed out in Audit, *Tahsildar* stated that assessment was completed and an amount of ₹ 19.26 lakh towards building tax was demanded.

However, the assessment completed was not in accordance with the provisions of the Kerala Building Tax Act, as Section 5(4) of the Act provides that where the plinth area of a building is subsequently increased by new extensions, building tax shall be computed on the total plinth area of the building, including that of the new extensions and credit shall be given to the tax already levied and collected. The Department stated (November 2017) that assessee filed writ petition and the case is under stay.

4.4.2.4 Short-levy of building tax due to application of incorrect rate/ incorrect computation of building tax

On scrutiny of building tax assessment files in three *Taluk* Offices, it was observed that in five cases, substantial extension or improvement were made after 1 April 2014. While finalising the building tax assessments, the assessing authority computed revised rate of tax for the extended portion only instead of total plinth area of the building. In two cases, the assessing authority incorrectly computed the rate of building tax. The incorrect computation/application of incorrect rate of tax by the respective *Tahsildars* resulted in short-levy of building tax of ₹ 37.12 lakh as shown in **Appendix XXXIII**.

The matter was reported to the Department (March 2016 to March 2017) and referred to Government in May 2017. Government stated (February 2018) that assessment was revised in all the cases pointed out by Audit.

4.4.2.5 Non-assessment of building tax in respect of buildings reported by Village Officers

Audit cross verified the building tax registers maintained in the Village Offices with the assessment records of the selected 30 *Taluk* Offices and observed that 2,742 buildings reported by Village Officers during the period from 2014-15 to 2016-17 were not assessed to building tax by *Tahsildars*. Age-wise analysis of the cases with reference to the date of completion of the buildings is given in **Table-4.4**. Inaction on the part of the *Tahsildars* to assess these buildings resulted in non-levy of building tax of ₹ 10.23 crore as detailed in **Appendix XXXIV**.

Table - 4.4

(₹ in crore)

Periodicity of pendency	No. of cases pending	Amount involved
One year	589	3.47
Two years to three years	2,065	6.47
Four years to five years	50	0.20
More than five years	38	0.09
Total	2,742	10.23

An analysis of the pending cases showed that 2,153 cases (78.52 per cent) were pending assessment for more than one year.

The cases were also reported to Department (March 2016 to February 2017) and referred to Government (May 2017). The Department/Government stated (September and October 2017) that assessments were completed in 1,569 cases. It was also stated (February 2018) that ₹ 5.94 lakh has been realised in 24 cases.

Even though the matter was pointed out in previous Audit Reports for the years ended March 2014 (167 cases involving ₹ 0.52 crore), March 2015 (986 cases involving ₹ 2.26 crore) and March 2016 (1,884 cases involving ₹ 4.92 crore), the issue of non-assessment of building tax still persists.

Recommendation: Audit recommends that the Department may fix time frame for the assessment of building tax for the cases reported by Village Officers.

4.4.2.6 Non-assessment of flats/apartments to building tax

As per explanation 2 below Section 2 (e) of the KBT Act, where a building consists of different apartments or flats owned by different persons and the cost of construction of the building was met by all such persons jointly, each such apartment or flat shall be deemed to be a separate building⁹.

Audit collected building tax assessment records of flats/apartments from five *Taluk* Offices and observed that in 35 cases assessment was not completed as detailed in **Appendix XXXV**.

Government stated (February 2018) that ₹ 35.03 lakh has been collected in two cases.

Few illustrative cases are discussed below: -

- **M/s DLF Southern Towns Private Limited, Kanayannur**

Verification of records of Thrikkakara Municipality revealed that three towers owned by M/s DLF Southern Towns Private Limited was completed in March 2015. The *Tahasildar*, Kanayannur *taluk* did not take any steps to assess the buildings, which resulted in potential non-levy of building tax amounting to ₹ 3.28 crore as shown in **Table - 4.5**.

⁹ In the Government letter No. 1745/SC 1/05/RD dated 1 June 2005 it was directed to assess the different apartments or flats owned by different persons in a multi storey building separately for building tax in terms of the above provision. Records such as sale deed, construction agreements between the builders and the owners, cash flow statement to ascertain the construction cost met by the owners, etc., required to be produced by the assesseees for assessing buildings separately for building tax.

Table - 4.5

(₹ in crore)

Tower	Total plinth area (M ²)	Building tax due
I	49,903.42	1.19
V	36,529.52	0.87
VI	50,789.72	1.22
Total	1,37,222.66	3.28

Source: Property tax registers maintained by Thrikkakara Municipality.

- **M/s Heera Constructions, Thiruvananthapuram**

On joint physical inspection conducted at the site of M/s Heera Constructions, it was observed that a multi storey building having 17 floors completed in May 2014 with a total plinth area¹⁰ of 16,323.98 M² was not identified by *Tahsildar* for assessment to building tax. This resulted in non-levy of building tax of ₹ 56.89 lakh.

Department stated (November 2017) action was initiated to assess the flats and apartments pointed out in audit.

Recommendation: Audit recommends that Government may institute a fool proof mechanism for assessment of flats/apartments to building tax.

4.4.3 Non-levy/realisation of luxury tax

According to Section 5A of the KBT Act, luxury tax at the rate of ₹ 4,000¹¹ *per annum* is leviable on all residential buildings completed on or after 1 April 1999 and having a plinth area of 278.7 M² or more. The Act further stipulates that the luxury tax is to be collected in advance on or before 31 March every year.

Scrutiny of luxury tax assessment registers maintained at 17 *Taluk* Offices revealed non-levy/realisation of luxury tax of ₹ 1.92 crore in 3,449 cases as shown in **Appendix XXXVI**.

Government stated (October 2017) that ₹ 0.73 crore was collected in 1,668 cases and action for realising amount in remaining cases was in progress.

4.4.4 Non-levy/collection of Housing Project Cess

As per the Kerala Finance Act, 2011, Housing Project Cess at the rate of two *per cent* on the building tax shall be levied for residential buildings having a plinth area of 4,000 square feet and above, completed on or after 19 July 2011. As per Section 19 of the KBT Act, 1975, in case of default, such

¹⁰ Other building: 6,071.55 M² and Residential building: 10,252.43 M².

¹¹ ₹ 2,000 upto 31 March 2014.

amount shall be recoverable under the law relating to the recovery of arrears of public revenue due on land. Further, the arrears of cess shall attract interest at six *per cent per annum* from the date of default.

On scrutiny of building tax assessment files in ten *Taluk* Offices, it was observed that the Housing Project Cess at the rate of two *per cent* on building tax was not levied/collected in the case of 184 buildings. Non-levy/collection of Housing Project Cess worked out to ₹ 3.09 lakh as detailed in the **Appendix XXXVII**.

At the instance of audit, Government collected Housing Project Cess of ₹ 1.90 lakh in 129 cases and action was initiated in remaining cases.

4.4.5 Delay in disposal of appeals and consequent delay in collection of revenue due to Government

On verification of building tax/luxury tax appeal files and registers maintained in five Revenue Divisional Offices (RDOs), Audit observed that 547 appeal cases, involving building tax/luxury tax amounting to ₹ 3.77 crore, were pending finalisation as detailed in **Table - 4.6** and **Table - 4.7**.

Table - 4.6
RDO wise pendency in disposal of appeal cases

(₹ in crore)

Name of RDO	No. of cases	Amount involved
Fort Kochi	88	1.42
Mananthavady	23	0.64
Muvattupuzha	22	0.10
Thalassery	395	1.19
Thrissur	19	0.42
Grand Total	547	3.77

Table - 4.7
Age wise pendency in disposal of appeal cases

(₹ in crore)

Year	No. of cases	Amount involved
Upto 2013	18	0.38
2014	101	0.37
2015	188	0.87
2016	186	1.44
2017	54	0.71
Grand Total	547	3.77

An analysis of the pending cases shows that 307 cases (56 *per cent*) were pending disposal for more than one year.

Recommendation: Audit recommends that the Department may fix time frame for disposing building tax appeals in order to avoid delay.

4.5 Conclusion

- Effective follow up action is not seen taken for assessment of buildings, levy and collection of building tax and luxury tax.
- Earnest efforts were not made for assessment of flats/apartments to building tax in many cases.
- A number of appeal cases on building tax/luxury tax are pending settlement in Revenue Divisional Offices.