

CHAPTER - VI Forest, Other Tax and Non Tax Receipts

6.1 Tax Administration

This chapter consists of receipts from Forest, Land Revenue, Entertainment and Luxury Tax, Marriage Registration, State Lotteries etc. The tax administration is governed by Acts and Rules framed separately for each Department.

6.2 Results of audit

Test check of records of 89 units relating to Forest receipts, Land Revenue, Entertainment and Luxury Tax, State Lotteries, Marriage Registration etc. during 2016-17 showed irregularities involving ₹ 73.31 crore in 10,090 cases, which fall under the following categories as depicted below.

Table 6.1: Results of audit

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
A: Forest Receipts			
1.	Non/short realisation of royalty	18	1.48
2.	Outstanding recoveries against contractors and officers/officials	25	0.42
3.	Non-adherence of codal provision	5	2.45
4.	Other irregularities	4,627	1.84
TOTAL (A)		4,675	6.19
B: Other Tax Receipts			
(i) Land Revenue			
1.	Non/short recovery of chowkidara tax	114	7.13
2.	Short realisation of marriage registration fee	1,970	0.48
3.	Other irregularities	2,841	0.67
TOTAL B(i)		4,925	8.28
(ii) Other taxes and duties on commodities and services			
1.	Non/short realisation of entertainment tax/duty	401	0.59
2.	Other irregularities	81	0.05
3.	Levy and collection of Entertainment Tax/Duty and Tax on Luxuries	1	58.07
TOTAL B(ii)		483	58.71
TOTAL (B)		5,408	66.99

Sl. No.	Categories	No. of cases	Amount
C: Non-tax Receipts (State Lotteries)			
1.	Irregular expenditure in printing of tickets	7	0.13
TOTAL (C)		7	0.13
GRAND TOTAL (A+B+C)		10,090	73.31

In 2016-17, the Department accepted the observations of ₹ 8.20 lakh in 21 cases pertaining to Entertainment, Luxury Tax/Land Revenue, and Forest and recovered an amount of ₹ 7.73 lakh in 15 cases out of which ₹ 0.21 lakh in one case was pointed out in 2016-17 and the rest were pointed out in earlier years.

Significant cases involving ₹ 58.18 crore are discussed in succeeding paragraphs:

6.3 Short realisation of marriage registration fee

Non-application of correct rates resulted into short realisation of marriage registration fee of ₹ 10.76 lakh in 769 cases.

Punjab Government notified (27 June 2013) the Punjab Compulsory Registration of Marriages Rules, 2013, for compulsory registration of marriages in the State of Punjab. These Rules provide that the parties to a marriage or any of their parents or relations, as the case may be, shall present the memorandum in Form-I, before the Registrar of Marriages concerned for registration of marriage within a period of three months from the date of such marriage accompanied with a fee of ₹ 1,500 in the form of court fee stamps. If the memorandum is not submitted within the prescribed time limit, late fee¹ shall be levied in addition to the normal fee.

Scrutiny of the records of Tehsildar Ludhiana (West) for the period 2013-16 revealed that 769 marriages were registered between 28 June 2013 and 13 March 2014. Registration fee of ₹ 120 per case was levied instead of ₹ 1,500 per case as notified by the Government. Further, the Tehsildar did not charge any late fee in cases in which applications for registration of marriages were submitted after the expiry of three months from the date of marriage. Non-application of correct rates resulted into short realisation of marriage registration fee of ₹ 10.76 lakh including late fee of ₹ 0.15 lakh.

¹ ₹1,000, if memorandum is submitted after three months from marriage date but not after six months.

₹1,500, if memorandum is submitted after six months from marriage date but not after one year.

₹ 2,000, if memorandum is submitted after one year from marriage date subject to prior permission of Chief Registrar of Marriage.

The matter was reported to the Government/Department (April 2017); their replies were awaited.

6.4 Levy and collection of Entertainments Tax/Duty and Tax on Luxuries

Multiplexes availed exemption of ₹ 38.92 crore without obtaining exemption certificates from the Department. Arrears of ₹13.55 crore were not recovered even after the lapse of more than three years. The Department did not take steps to ensure that all the cable operators, hotels and marriage palaces were brought into the tax net which resulted in non-realisation of potential revenue of ₹ 3.06 crore. Inadmissible exemption of luxury tax of ₹20.45 lakh was allowed to one proprietor Non-scrutiny of returns resulted in non-realisation of potential revenue of ₹2.34 crore.

6.4.1 Introduction

The Punjab Entertainments Tax (Cinematograph Shows) Act, 1954 (PET Act) and the Punjab Entertainment Duty Act, 1955 (PED Act) provide for levy of entertainment tax (ET) and entertainment duty (ED) respectively in Punjab on all payments for admission to any entertainment which includes exhibition, performance, amusement, cinematograph exhibition.

The Punjab Tax on Luxuries Act 2009 (PTL Act) and Rules made there-against provide for levy of luxury tax (LT) on luxury provided in hotels/marriage palaces and banquet halls, at the prescribed rate.

In order to assess the adequacy and effectiveness of the process of the levy and collection of ET/ED/LT under the relevant Acts and Rules, an audit of the “Levy and collection of Entertainment Tax/Duty and Tax on Luxuries” was conducted covering seven² AETCs selected out of 26 AETCs on the basis of Probability Proportional to Size (PPS) method. Audit examined records for the period from 2013-14 to 2015-16. However, findings for the subsequent period and of similar nature in respect of other than selected districts have also been included, wherever necessary.

Our examination of records showed lack of control in bringing all potential tax payers in the tax net; cases of irregular exemption/short/non realisation of ET/ED, LT; non scrutiny of returns and non maintenance of proper records. which have been discussed in the following paragraphs:

² Barnala, Bathinda, Gurdaspur, Jalandhar-II, Ludhiana-II, Mohali and Ropar.

A. Entertainment Tax

6.4.2 Irregular grant of exemption to multiplexes

Section 6 (2) of the PET Act read with Rule 13 (2) of Punjab Entertainment Tax Rules 1956 (PET Rules) provides that the State Government may by general or special orders exempt any show or class of shows or any proprietor or class of proprietors from the operation of any or all of the provisions of the Act subject to the condition that any proprietor claiming such exemption shall make an application to Excise and Taxation Commissioner at least twenty days before the date of exhibition of first show.

Audit scrutiny for the year 2013-14 to 2016-17 revealed that the Department did not adhere to the provisions of the PET Act and Rules made thereunder regarding grant of exemption and did not ensure that the exemption granted by the Government as per notifications *ibid* was availed by the multiplexes after obtaining valid exemption certificates. The multiplexes took the exemptions for granted and availed the same without applying for and obtaining any exemption certificate from the Department. The Department did not raise demands even in cases where exemption certificate was not issued by it. This resulted in non-realisation of entertainment tax of ₹ 38.92 (at the rate of 13 *per cent*) crore as discussed in **Table 6.2** below.

Table 6.2: Irregular grant of exemption

Sl. No.	Provision involved	Nature of deficiency	Amount involved (₹ in crore)
1	The Industrial Policy-2003 (September 2003) envisaged exemption from ET under Section 6 (2) of the PET Act subject to grant of eligibility certificate by Department of Industries and Commerce, on the basis of which the proprietor was to apply to the Excise and Taxation Department (Department) for grant of certificate of exemption under Section 6(2) <i>ibid</i> .	Twelve proprietors under six ³ AETCs availed exemption from payment of entertainment tax of ₹ 33.54 crore without obtaining certificate of exemption from the Department. In order to ascertain whether these proprietors were issued eligibility certificates and were eligible to obtain certificate of exemption, records of Department of Industries and Commerce were cross checked which revealed the following:	33.54

³ Bhatinda, Jalandhar-I, Jalandhar-II, Ludhiana-I, Ludhiana-II and Mohali.

		<p>In one case of AETC Jalandhar-II, exemption of ₹ 2.41 crore was availed by a cinema owner during the period 2013-14 to 2015-16 even though no eligibility certificate had been issued to him. Clarification was also issued by the Department of Industries and Commerce to ETC, Punjab that the exemption from payment of entertainment tax was available only to the proprietor in whose name the eligibility certificate had been issued. However, the Department of Excise and Taxation did not raise any demand of entertainment tax from the cinema owner.</p> <p>In another case of AETC Ludhiana-II, though exemption was not available, the multiplex cinema owner did not pay tax of ₹ 4.76 crore and the AETC also did not demand the due tax from the cinema owners during the period 2013-14 to 2015-16 in spite of having a clarification⁴ of his own Department.</p> <p>Similarly, AETCs Jalandhar-I and Ludhiana-II did not raise demand of tax of ₹ 5.05 crore and ₹ 3.64 crore respectively from a cinema owner even when the eligibility certificate had not been issued to that cinema owner.</p> <p>In eight cases, proprietors availed exemption from payment of ET of ₹ 17.68 crore without obtaining any certificate of exemption from the Department.</p> <p>Thus, the Department allowed irregular exemptions to proprietors from payment of ET to the tune of ₹ 33.54 crore despite not issuing any exemption certificate to them.</p>	
2	<p>The Government of Punjab, in exercise of the powers conferred by Section <i>ibid</i>, issued (1 April 2003) notification which exempted proprietor of an integrated entertainment and shopping centre or complex from entertainment tax for five years from the date such complex</p>	<p>(i) AETC Barnala did not realise entertainment tax from a proprietor who did not fulfill the criteria of minimum seating capacity of 1000 seats as the multiplex had only three theatres with 522 seats. This resulted in non-realisation of entertainment tax of ₹ 45.98 lakh.</p>	0.46

⁴ Letter no. 2/68/2015 AK 2(7)/7876 dated 12 April 2016.

	<p>came into operations subject to the condition that the multiplex should have at least three cinema halls with total minimum capacity of 1000 seats set up in an area of 4000 square yards or above with a minimum investment of ₹ 20 crore.</p>	<p>(ii) Three⁵ AETCs did not realise entertainment tax from three proprietors even though their exemption period of five years had been over. AETC Ludhiana-II recovered tax of ₹ 1.44 crore from one out of the above three proprietors for the period from 10 August 2012 to 15 October 2013 at the time of renewal of license. However, due tax of ₹ 1.34 crore from 16 October 2013 to 31 March 2016 was not realised. In remaining two cases the tax due was ₹ 1.08 crore and ₹ 2.50 crore. The Department did not take concrete action to recover the tax despite the provisions contained in Section-17 of the PET Act which resulted in non-realisation of entertainment tax of ₹ 4.92 crore.</p>	<p>4.92</p>
Total			38.92

6.4.3 Non-realisation of pending arrears of Entertainment Tax from the cinema owners

Section 17 of the PET Act provides that any sum due under this Act shall be recoverable as arrears of land revenue. A proposal was made by the Government of Punjab in the annual budget for the year 2003-04 that if the ET was deposited in lump sum, a concession of 33 *per cent* would be given to cinema proprietors in ET. The cinema proprietors accordingly started depositing ET availing a rebate of 33 *per cent* whereas no notification was issued by the Government of Punjab. A demand was raised by the Department (September 2004) for depositing the remaining 33 *per cent* tax. Cinema proprietors filed writ petition in 2005 in Punjab and Haryana High Court against the demand raised by the Department which was dismissed (7 May 2013) by the Hon'ble Court. Accordingly, the cinema proprietors were required to deposit 33 *per cent* of remaining ET which was withheld by the cinema proprietors for the period from 2003-04 to 2007-08.

Audit scrutiny of examination of records revealed that five⁶ AETCs had to recover outstanding arrear of ₹ 14.90 crore as on 1 April 2015 out of which only ₹ 1.36 crore had been recovered by four AETCs⁷ leaving a balance amount of ₹ 13.55 crore to be recovered as on 31 March 2016 even after the

⁵ Bhatinda, Ludhiana-II and Patiala.

⁶ Amritsar-I, Jalandhar-I, Ludhiana-I, Ludhiana-II and Patiala.

⁷ Jalandhar-I, Ludhiana-I, Ludhiana-II and Patiala.

lapse of more than three years of the decision of Hon'ble Court as well as issuance of directions by the Commissioner, Excise and Taxation, Punjab. Non realisation of ET not only deprived the State exchequer of a revenue of ₹ 13.55 crore but also extended undue benefit to the defaulters to retain State revenue for no reasons. Though this matter in respect of AETC Ludhiana-I had been raised in paragraph 6.6 of the Report of the Comptroller and Auditor General of India on Revenue Sector for the year ended 31 March 2014, yet the pace of recovery was extremely slow and no action was taken to recover these amounts by treating them as arrears of land revenue.

On being pointed out, AETCs stated that the notices would be served to the defaulters.

B. Entertainment Duty

6.4.4 Loss of revenue due to non-identification of potential taxpayers

Section 3 (3-B) of the PED Act provides that ED at the rate of ₹ 15,000 per annum is payable by the proprietor for providing entertainment with the aid of antenna or cable television to a connection holder. Further, Section 14 (1) of the Act provides that for the purpose of ensuring that the provisions of the Act or Rules made thereunder are being complied with, the prescribed officers of Excise and Taxation Department may enter into, inspect and search any place of entertainment at any reasonable time while the entertainment is proceeding. Since the Excise and Taxation Department does not register cable operators, it becomes imperative for the department to take steps to ascertain, to the extent possible, the actual number of cable operators and ensure that the tax due under the provisions of the Act is levied and collected. However, the Department took no steps to ensure that all the cable operators were brought into the tax net. This resulted in loss of revenue to the state exchequer as discussed in the succeeding paragraphs:

6.4.4.1 Non/short recovery of Entertainment Duty from cable operators

(i) Scrutiny of the list of cable operators registered in General Post Offices and records relating to ED of seven⁸ AETCs for the period 2013-14 to 2016-17 revealed that 417 cable operators were registered with the head post offices of Bathinda, Gurdaspur, Ludhiana, Mohali and Ropar. However, 413 out of above 417 cable operators did not pay ED. As per PED Act mentioned *ibid*, these cable operators were required to pay ED at the rate of ₹ 15,000 per annum. This resulted in short realisation of ED of ₹ 76.96 lakh.

(ii) Scrutiny of the list of cable operators registered in the Department of Customs and Central Excise and records relating to ED of ten⁹ AETCs revealed that ED was not collected from 1459 cable operators registered with divisional offices of Customs and Central Excise at Bathinda, Gurdaspur, Jalandhar, Ludhiana, Mohali and Ropar during 2016-17. These cable operators were not registered in respective General Post Offices also. As per PED Act mentioned *ibid*, these cable operators were required to pay ED at the rate of ₹ 15,000 per annum. This resulted in short realisation of ED of ₹ 2.19 crore. On being pointed out, the AETCs stated that recoveries would be made.

The above audit findings included in paragraphs 6.4.3.1 (i) and (ii) are in respect of seven¹⁰ districts only. Given the potential quantum of loss of revenue, it is incumbent upon the Department to undertake a comprehensive survey on office of the other Departments to assess levy of ED from cable operators in accordance with the PED Act. The Department may take action at its own level to recover ED from cable operators of the remaining districts.

This matter was also taken up (September 2016) with the Excise and Taxation Commissioner, Punjab; reply was awaited.

⁸ Bathinda, Gurdaspur, Ludhiana-I, Ludhiana-II, Ludhiana-III, Mohali and Ropar

⁹ Bathinda, Barnala, Gurdaspur, Jalandhar-I, Jalandhar-II, Ludhiana-I, Ludhiana-II, Ludhiana-III, Mohali and Ropar.

¹⁰ Barnala, Bathinda, Gurdaspur, Jalandhar, Ludhiana, Mohali and Ropar.

C. Luxury Tax

6.4.5 Loss of revenue due to non-identification of potential taxpayers

Section 26(1) of the Punjab Tax on Luxuries Act, 2009 (PLT Act) empowers the assessing authority to require any proprietor to produce before it, the records of accounts, registers or other documents or to furnish any other information relating to his business, as may be necessary for the purpose of this Act. Further, as per Rule 4.1 of the Punjab Financial Rules, Volume-I, it is primarily the responsibility of the departmental authorities to see that all revenue due to the Government is regularly and promptly assessed, realized and credited into the Government account.

Scrutiny of records revealed that non-action on the part of the Department resulted in loss of revenue due to non-identification of potential taxpayers as detailed in succeeding paragraphs:

6.4.5.1 Hotel owners registered under Sarai Act but not registered under PLT Act

Cross verification of list obtained from Municipal Corporation Amritsar (MC) in respect of hotels/guest houses/resorts registered under Sarai¹¹ Act 1867 with the records of AETC Amritsar-I for the year 2015-16 revealed that 139 proprietors of Hotels/Guest Houses/Resorts falling under the jurisdiction of the AETC, were registered with the MC whereas only 68 out of 139 proprietors had got themselves registered under the PLT Act. However, the AETC did not investigate any case to ascertain whether the remaining 71 proprietors were liable to get registered under PLT Act and were eligible to pay luxury tax (LT).

On being pointed out, the AETC stated that only those hotels were required to be registered under the Act which charged ₹ 200 or more per day for providing luxury in the hotel/banquet hall. As these were small hotels, they are not required to be registered under the Act. He, however, assured that a survey would be conducted. The reply furnished by the AETC was not convincing as the rates at which luxuries were being provided in these hotels could have been ascertained by conducting a survey of the hotels already registered under the Sarai Act with the Municipal Corporation.

¹¹ "Sarai" means any building used for the shelter and accommodation of travellers, and includes, in any case in which only part of a building is used as a sarai, the part so used of such building.

6.4.5.2 Marriage palaces/banquet halls registered under State Excise but not registered under PLT Act

The owners of marriage palaces or banquet halls are required to get them registered with the Excise Department and obtain license in form L-5D¹² for allowing consumption of liquor at these places on special occasions.

Scrutiny of records of AETC Gurdaspur revealed that 119 proprietors were registered in State Excise and were holding license in form L-5D during the year 2016-17. However, only 75 out of the 119 proprietors had got themselves registered under the PLT Act. The AETC did not cross verify the records of State Excise, which are maintained in the same office, with the records of luxury tax or conduct any inspection at these places and thus failed to get the remaining 44 proprietors registered under Section 8 of PLT Act. Non-registration of these proprietors not only resulted in loss of registration fee of ₹ 0.88¹³ lakh but also loss of LT that could have been realised had these proprietors been registered under PLT Act.

6.4.6 Short realisation of luxury tax from proprietors of hotels/marriage palaces and banquet halls

The Government of Punjab levied (November 2008) luxury tax at the rate of eight *per cent* on all the proprietors of the marriage palaces and banquet halls in respect of luxuries provided by them.

Scrutiny of records of five¹⁴ AETCs revealed that 487 permits (L-50A¹⁵) were issued to 43 hotels/banquet halls/marriage palaces during the year 2015-16 and 2016-17 for purchase and transport of liquor for celebration of special occasions in these places. The function charges were chargeable by the proprietor for celebration of each function as per the rates¹⁶ given in the Excise Policy for respective years. However, considering even the minimum rate chargeable by the owners of these establishments for hosting functions, corresponding to the license fee paid, audit noticed that 12 out of those

¹² The license L-5D is a license for allowing consumption of liquor on special occasion in a marriage palace or a banquet hall.

¹³ Registration fee of ₹ 2000 is payable under Rule 3(2) of Punjab Luxury Tax Rules 2009.

¹⁴ Barnala, Gurdaspur, Mohali, Patiala and Ropar

¹⁵ L-50A is issued to Marriage Palace, Banquet Hall or any place where function is celebrated with or without charges.

¹⁶ Rates of license fee chargeable for issue of license (L-50A) per function

Year	Charges per function			
	Up to ₹ 25,000	Between ₹ 25,001 and ₹ 50,000	Between ₹ 50,001 and ₹ 1,00,000	Above ₹ 1,00,000
2015-16	2,000	5,000	10,000	10,000
2016-17	2,000	5,000	10,000	20,000

43 proprietors had under reported the gross amount under PLT Act and did not make full payment of due LT. The AETC failed to cross verify the records of State Excise and Luxury Tax, both of which were under his own control. This resulted in short realisation of LT of ₹ 9.34 lakh.

The AETCs stated that notices would be issued and recovery would be made after assessment/provisional assessment.

6.4.7 Non verification of returns resulting in loss of revenue

Section 13(4) of the PLT Act provides that every proprietor shall make monthly payment of tax within a period of 15 days from the date of expiry of the month and shall furnish a statement in the prescribed form. Such statement shall be accompanied by a satisfactory proof of payment of the full amount of due tax. Further, Rule 9(3) of the PLT Rules provides that the assessing authority shall verify every return. If on scrutiny of return, it is found that tax has been paid less than the tax actually payable, the assessing authority shall serve a notice upon the proprietor concerned directing him to rectify the same and to pay the amount of balance tax alongwith interest and produce the treasury receipt before the assessing authority within the period, specified in the said notice.

Scrutiny of the records of AETC Mohali revealed that the proprietor of a hotel had filed his monthly statements for the year 2014-15 showing a receipt of ₹ 8.26 crore during the year on account of providing luxuries in the hotel and had self-assessed luxury tax liability of ₹ 59.31 lakh. However, the proprietor paid ₹ 36.59 lakh only on account of LT against the self-assessed amount. The assessing authority did not verify the return as required under the PLT Rules and thus could not detect short deposit of tax. This resulted in short realisation of luxury tax amounting to ₹ 22.72 lakh, besides interest of ₹ 23.32 lakh was also leviable.

The ETO stated that proceedings would be initiated for recovery of the outstanding amount.

Similarly, AETC, Ludhiana-II did not levy LT of ₹ 1.29 lakh from one hotel for the year 2015-16. The ETO stated that the notice would be issued for recovery of outstanding amount.

6.4.8 Inadmissible exemption of LT

Scrutiny of records of the AETC, Mohali, revealed that a proprietor had been claiming exemption from the payment of 75 per cent of LT since its establishment (1 October 2016) whereas PLT Act does not provide any exemption from payment of LT. The AETC admitted the claim of the proprietor for exemption on his plea of having eligibility certificate issued by the Department of Industry and Commerce. However, the eligibility certificate issued by the Department did not provide any exemption of LT to the proprietor. This resulted in inadmissible exemption of LT of ₹ 20.45 lakh.

6.4.9 Non-adherence to the penalty provisions for non/delayed filing of returns

Section 29 of the PLT Act provides that if a proprietor without any sufficient cause fails to furnish any return or annual statement by the specified date, the Commissioner or the assessing authority, as the case may be, may direct him to pay in addition to the tax, interest and penalty under any of the provisions of this Act, a further penalty of a sum of rupees one hundred per day for such default, subject to the maximum sum of ten thousand rupees.

Scrutiny of the records of eight¹⁷ AETC's revealed that 339 proprietors of hotels, marriage palaces and banquet halls had either not submitted monthly or annual return or submitted with delay ranging between 64 and 365 days. However, the AETCs did not enquire into the reason of non/delayed filing of returns even in a single case. The inaction on the part of the Department deprived the Government of ₹ 1.88 crore on account of penalty that could have been realized, had the action been taken by the AETC under Section *ibid*.

The AETCs stated that the notices for imposing the penalty would be issued to the defaulters.

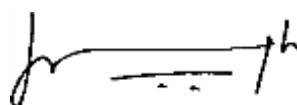
Conclusion

Multiplexes availed exemption of ₹ 34.00 crore without obtaining exemption certificates from the Department. The Department did not initiate actions to recover ET of ₹ 4.92 crore from multiplexes whose exemption periods had been over. Arrears of ₹ 13.55 crore were not recovered even after the lapse of more than three years. The Department did not take steps to ensure that

¹⁷ Barnala, Bathinda, Gurdaspur, Jalandhar-II, Ludhiana-II, Mohali, Patiala and Ropar

all the cable operators, hotels and marriage palaces were brought into the tax net which resulted in non-realisation of potential revenue of ₹ 3.06 crore. Moreover, irregular exemption of LT of ₹ 20.45 lakh was allowed to one proprietor though the eligibility certificate issued by the Department did not provide any exemption from LT. Non-scrutiny of returns by the Department resulted in non-realisation of potential revenue of ₹ 2.34 crore.

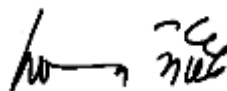
The above points were reported to the Government/Department (June 2017); their replies were awaited.



Chandigarh
The 23 JAN 2018

(JAGBANS SINGH)
Principal Accountant General (Audit), Punjab

Countersigned



New Delhi
The 24 JAN 2018

(RAJIV MEHRISHI)
Comptroller and Auditor General of India