

CHAPTER VII OTHER TAX RECEIPTS

7.1 Results of Audit

Test check of records of following Departments conducted during the year 2004-05 revealed under assessments and loss of revenue as indicated below:

(Rupees in crore)			
Sl. No.	Nature of irregularity	No. of cases	Amount
I	REVENUE DEPARTMENT		
	Commissioner of Commercial Taxes		
	A. Profession Tax		
	1. Non/short levy of tax	55	0.39
	2. Non/short levy of tax on vehicles	37	67.48
	B. Entertainments Tax and Betting Tax		
	1. Non/short levy of show tax and entertainments tax	23	0.43
	2. Non-levy of interest/penalty	5	0.36
	3. Short collection of security deposit	9	0.20
	C. Irregularities in implementation of tax on Luxuries Act	19	1.58
	Total	148	70.44

During the year 2004-05, Departments accepted under assessments etc., of Rs.12.35 crore in 244 cases of which Rs.11.03 crore relate to 2004-05 and rest to earlier years. Out of this, an amount of Rs.18.63 lakh in 174 cases was realised during the year.

A few illustrative cases involving Rs.30.41 crore are mentioned in the following paragraphs.

A. REVENUE DEPARTMENT
Commercial taxes

7.2 Non levy and collection of professions tax and penalty

7.2.1 Under Section 4 of AP Tax on Profession, Trades, Callings and Employment Act, 1987, every person engaged in any profession, trade, calling or employment in the State and falling under any of the clauses specified in the first schedule to the Act shall be liable to pay tax at rates specified. Further, Government issued orders[^] appointing Transport Commissioner as collecting agent for collection of profession tax from owners of transport vehicles (other than autorikshaws) at Rs.750 per vehicle on road per annum. Under section 6(5) of the Act, penalty not exceeding Rs.5 per day is payable by owners of vehicles for failure to enroll within 30 days of becoming liable to pay tax.

During the course of audit of office of Joint Transport Commissioner, Khairatabad, eight^o Deputy Transport Commissioners' offices and nineteen[#] Regional Transport Offices (RTOs), it was noticed between May 2004 and February 2005 that professions tax amounting to Rs.29.45 crore was not levied and collected from owners of 3,92,605 transport vehicles on road, under their jurisdiction for the period 2003-04.

After this was pointed out, Commissioner stated in September 2005 that in three cases an amount of Rs.4.73 lakh was realised and in four cases show cause notices were issued. In remaining cases further reply has not been received.

The above matter was referred to Government in June 2005, response was not received (September 2005).

7.2.2 During the course of audit of five commercial tax offices (CTOs)^{*} and 16 unit offices[♦] it was noticed between August 2003 and September 2004 that professions tax amounting to Rs.30.18 lakh including penalty of Rs.0.65 lakh in six cases was not levied and collected in 856 cases pertaining to advocates, transporters, traders, educational institutions, hospitals, co-operative banks, rice mills and theatres for the period from 1999-2000 to 2003-04.

[^] G.O.Ms.No.801 Revenue (CT-II) Dept. dt: 18 July 2003

^o Chittoor, Eluru, Guntur, Nellore, Ranga Reddy, Vijayawada, Visakhapatnam and Warangal

[#] Adilabad, Anakapalli, Ananthapur, Bhimavaram, Gudivada, Hindupur, Hyderabad (Bahadurpura, Mehdipatnam, Uppal), Kadapa, Mahaboobnagar, Nalgonda, Nandyal, Narasaraopet, Ongole, Sangareddy, Siddipet, Tirupati and Vizianagaram

^{*} Bapatla, Kadapa-I, Madanapalle, Puttur, Vizianagaram (M.G.Road, South)

[♦] Adilabad - I & II, Allagadda, Amadalavalasa, Bhimavaram, Chintalapudi, Chittoor - I, Gudivada, Guntur (Kothapeta), Hyderabad (Golconda), Jadcherla, Machilipatnam, Nandyala, Palamaner, Sattenapalli, Vijayawada (Kothapeta)

After this was pointed out, Commissioner stated in September 2005 that an amount of Rs.3.21 lakh was collected. Further reply in respect of other cases is awaited.

The above matter was referred to Government in June 2005, response was not received (September 2005).

7.3 Irregularities in implementation of tax on Luxuries Act

7.3.1 Non levy of luxury tax

Andhra Pradesh Tax on Luxuries (APTL) Act, 1987 and Rules thereunder came into effect from 15 June 1987. The Act provides for levy and collection of tax on luxuries provided in hotels. Act No.28 of 1996 extended this levy to corporate hospitals with effect from 1 August 1996. Under Section 3(1) of the Act, tax shall be levied and collected at the rate of five *per cent* where room tariff in a hotel is Rs.300 or more per day per person and in respect of corporate hospital at the rate of 10 *per cent* where room tariff is Rs.500 or more per day.

During the course of audit of Begumpet circle in January 2005, it was noticed that in one case, the assessing authority while finalising the assessment of a hotel for the years 2000-01 and 2001-02 failed to include banquet hall income for levy of luxury tax resulting in non levy of tax of Rs.6.60 lakh.

After this was pointed out, assessing authority replied that under the provisions of the Act banquet hall income is not taxable. The reply is not tenable as it forms part of turnover and is therefore taxable.

7.3.2 Non levy of interest

Under Section 3(4) of APTL Act, interest is leviable at the rate of two *per cent* per month, where an assessee fails to pay tax within the time prescribed.

It was noticed in two[⊕] circles in December 2004/January 2005 that in three cases assessing authorities while finalising assessments for the years 1999-2000 to 2001-02 in December 2003 and March 2004 did not levy interest of Rs.11.71 lakh for non payment of tax within the prescribed period.

After this was pointed out, Commissioner stated in September 2005 that in one case interest of Rs.3.13 lakh was levied and taken to DCB and in other cases it was stated that matter would be examined.

[⊕] Hyderabad (Begumpet) and Tirupati-I

7.3.3 Non forfeiture of excess tax collections

APTL Act and Rules made thereunder do not provide for forfeiture of excess tax collected. Further the Act does not have a provision to adjust excess collection of tax towards future tax due. Commissioner of Commercial Taxes was addressed in October 2000 to consider feasibility of amending the Act by including suitable provision.

During the course of audit of three circles^λ it was noticed between June 2004 and January 2005 that out of excess luxury tax of Rs.32.95 lakh collected from customers, a sum of Rs.30 lakh was irregularly adjusted towards future tax in 14 cases and balance amount was retained by dealers. In the absence of any provision in the Act, this amount of Rs.32.95 lakh was not forfeited to State Government during the period 1998-99 to 1999-2000.

After this was pointed out, Commissioner in his reply in September 2005 stated that the assessing authority of Basheerbagh circle was directed to withdraw the adjustment. In other cases reply has not been received.

7.4 Short levy/collection of entertainments tax

Under Section 5(1) of the AP Entertainments Tax (APET) Act, 1939, proprietor may at his option and subject to such conditions as may be prescribed, pay tax to the State Government every week at the rate specified. The rates vary depending upon the specifications of theatre/local area. Under provisions of APET Act, on upgradation of a local area, it shall be lawful for the prescribed authority to vary the amount of tax permitted to be paid by the proprietor of a theatre under the said local area.

During the course of audit of two[∅] circles and one unit office at Nuzvid it was noticed between March and October 2004 in four cases that there was short levy of entertainments tax of Rs.8.88 lakh, due to upgradation of a municipality from 18 May 2001, absence of weekly returns and non adoption of revised rates during the period from January 2001 to March 2004.

After this was pointed out, in one case assessing authority stated in October 2004 that demand would be raised. In other cases assessing authorities stated that matter would be examined.

The above matter was referred to Department in April 2005 and to Government in June 2005, response was not received (September 2005).

^λ Hyderabad (Khairatabad, Basheerbagh) and Vijayawada (Governorpet)

[∅] Hyderabad (Rajendranagar), Mangalagiri

B. INDUSTRIES AND COMMERCE DEPARTMENT
Director of Sugar and Cane Commissioner

7.5 Non levy of penalty on purchase tax

Under Andhra Pradesh Sugar Cane (Regulation of Supply and Purchase) Act, 1961 and Rules made thereunder, occupier of a sugar factory or owner of a khandasari unit shall not remove or cause to be removed sugar produced in a factory or khandasari unit, until purchase tax on sugarcane due to Government is paid. In case of default, the owner of factory/khandasari unit shall also be liable to pay penalty not exceeding 100 *per cent* of the tax payable.

During the course of audit of office of Assistant Cane Commissioner, Sangareddy, it was noticed in January 2003 that sugar was removed without paying purchase tax amounting to Rs.39.05 lakh by a sugar factory for crushing season 2001-2002. However, the Department did not levy penalty of Rs.39.05 lakh for removal of sugar without payment of purchase tax.

After this was pointed out, Government replied in August 2005 that penalty of Rs.8.71 lakh was levied on the quantity of sugar removed. The reply is not tenable since purchase tax is required to be levied on the quantity of sugarcane utilised for obtaining sugar and as such balance amount of Rs.30.34 lakh remained uncollected.