

CHAPTER – V : OTHER TAX RECEIPTS

5.1 Results of audit

Test check of the records in the offices dealing with agricultural income tax, land revenue, stamp duty and registration fee and profession tax during the year revealed short levy of tax, short levy of interest, retention of cash in hand, short levy of stamp duty and non-realisation of profession tax etc., amounting to Rs. 5.94 crore involving 156 cases which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
1.	Land revenue	94	4.38
2.	Agricultural income tax	11	1.00
3.	Stamp duty and registration fee	38	0.30
4.	Profession tax	13	0.26
Total		156	5.94

A few illustrative cases involving Rs. 1.09 crore are mentioned in the following paragraphs.

A. AGRICULTURAL INCOME TAX

5.2 Incorrect allowing of set-off

Under the provisions of the Assam Agricultural Income Tax (AAIT) Act, 1939, as amended from time to time, the loss sustained by any assessee in agricultural income for any year is allowed to be carried forward for set-off against the profits or gains of the subsequent two years. However, if any assessee fails to file his return of loss for any year by 31 December of the relevant assessment year, the claim to carry forward such loss to be set-off against future income of the assessee shall not be entertained.

Test check of the assessment records of the Agricultural Income Tax Officer (AITO), Guwahati between October and November 2007 revealed that a company¹ filed its return for the assessment year 2001-02 in January 2002 showing a loss of Rs. 84.69 lakh. The assessing officer (AO) admitted the claim to be carried forward and allowed set-off against the taxable income of the subsequent year finalised in May 2007. This irregular allowing of set-off resulted in short levy of tax of Rs. 36.32 lakh.

After the case was pointed out, the AO stated (November 2007) that reassessment would be done after serving notice to the assessee and demand notice issued to realise the tax. A report on further development has not been received (October 2008).

The case was reported to the department and the Government in March 2008; their replies have not been received (October 2008).

5.3 Short levy of interest

Under the provisions of the AAIT Act, if an assessee fails to pay advance tax by 31 March of the previous year assessed during the succeeding year, simple interest at the rate of two *per cent* is leviable for each calendar month from the first day of April of the assessment year upto the month of the assessment. Further, under Section 35(B) of the said Act, when advance tax paid within the stipulated date is less than 75 *per cent* of the tax assessed, interest at the same rate for the same period is leviable on the balance tax arrived at by deducting advance tax paid from the assessed tax.

Test check of the assessment records of the AITO, Guwahati between October and November 2007 revealed that the AO while finalising the assessment of an assessee² for the year 1997-98 in May 2007 determined tax payable as Rs. 1.76 crore against which the dealer had paid Rs. 1.42 crore (Rs. 1 crore in October 1998 and Rs. 42.40 lakh in December 1998). Interest of Rs. 90.80 lakh was leviable on non/delayed payment of tax against which the AO levied Rs. 58.47 lakh. This resulted in short levy of interest of Rs. 32.33 lakh.

¹ M/s Jorehaut Group Ltd.

² M/s Andrew Yule and Company Ltd.

After the case was pointed out, the AO stated (November 2007) that reassessment would be made and demand notice on short levy would be served on the assessee. Information on reassessment and realisation of interest has not been received (October 2008).

The case was reported to the department and the Government in March 2008; their replies have not been received (October 2008).

5.4 Short levy of tax due to application of lower rate

Under the AAIT Act, rate of tax on taxable income, for companies, upto the assessment year 1988-89 was 75 *per cent* which was revised to 83 *per cent* from the assessment year 1989-90 and was effective till 1991-92.

Test check of the assessment records of the AITO, Guwahati in October and November 2007 revealed that while determining (September 2007) the agricultural income of an assessee³ for the assessment year 1989-90 as Rs. 82.46 lakh, the AITO allowed deduction of Rs. 1.78 lakh instead of adding the same (after allowing necessary adjustment) for determining the taxable agricultural income. Besides, the AO also assessed the tax at the rate of 75 *per cent* on the taxable income so determined instead of 83 *per cent* due and applicable. This resulted in short determination of taxable turnover by Rs. 3.56 lakh and consequent short levy of tax amounting to Rs. 9.55 lakh.

After the case was pointed out, the AO stated (November 2007) that reassessment would be done and demand notice would be served on the assessee. Reply regarding reassessment and realisation of dues has not been received (October 2008).

The case was reported to the department and the Government in March 2008; their replies have not been received (October 2008).

5.5 Short levy of tax due to mistake in computation

Test check of the assessment records of the AITO, Guwahati between October and November 2007 revealed that while determining (September 2007) the agricultural income of an assessee⁴ for the assessment year 1992-93, the AITO levied tax of Rs. 1.26 crore instead of Rs. 1.28 crore due to calculation mistake resulting in short levy of tax of Rs. 2.05 lakh.

After the case was pointed out, the AO stated (November 2007) that reassessment would be done after serving notice to the assessee and demand notice to the assessee would be issued to realise the tax. A report on further development has not been received (October 2008).

The case was reported to the department and the Government in March 2008; their replies have not been received (October 2008).

³ M/s George Williamson (Assam) Ltd.

⁴ M/s Williamson & Magor Ltd.

B. LAND REVENUE

5.6 Retention of cash in hand by *mouzadars*

In accordance with the executive instruction issued by the Land Revenue Department under notification dated 29 March 1996, no *mouzadar*⁵ is allowed to retain cash in hand beyond the permissible limit of Rs. 10,000 with regard to the land revenue collected by him. Subject to this limit, the *mouzadar* should remit the land revenue, local rates and other Government revenue collected by him to the treasury at least once in a month.

Test check of the records of four⁶ *mouzadars* under the establishment of the Deputy Commissioner (DC), Lakhimpur in May 2007 revealed that these *mouzadars* retained revenue in excess of the permissible limit ranging between Rs. 3.72 lakh and Rs. 6.78 lakh relating to the periods between 1997-98 and 2006-07. As of 30 April 2007, revenue amounting to Rs.19.55 lakh was retained by the *mouzadars* in hand in excess of the permissible limit. Thus, laxity of the department to exercise control over the *mouzadars* resulted in unauthorised retention of revenue of Rs. 19.55 lakh which remained outside the Government account.

After the cases were pointed out, the DC stated (May 2007) that stern action would be taken against the *mouzadars* who fail to deposit the collected land revenue into the Government account. A report on further development and remittance of revenue by the *mouzadars* has not been received (October 2008).

The case was reported to the department and Government in November 2007; their replies have not been received (October 2008).

5.7 Loss of revenue due to application of lower rates

The Revenue (Settlement) Department issued instructions in June 1998 to all the DCs for realisation of land revenue in respect of tea estates at the rate of Rs. 15 per *bigha*⁷. Subsequently, the State Government issued another notification in October 1999 reducing the rates of land revenue from Rs. 15 to Rs. 12 per *bigha* in the revenue circles under Brahmaputra Valley and from Rs. 12 to Rs. 9 per *bigha* in the revenue circles under Barak Valley for the period from July 1998 to June 2003.

Test check of the records of the DC, Lakhimpur under the Brahmaputra Valley in May 2007 revealed that though the department did not extend the reduced rate of land revenue beyond June 2003, the DC continued to levy land revenue at the reduced rate of Rs. 12 per *bigha* on 47,518.56 *bighas* of land till March 2007. This resulted in short realisation of revenue of Rs. 8.84 lakh.

⁵ *Mouzadars* are revenue officers appointed under Section 124 of the Assam Land and Revenue Regulation, 1886.

⁶ Dhalpur Mouza, Laluk Mouza; Narayanpur Kharaj Khap Mouza and Telahi Mouza.

⁷ 14,400 sq. ft of land = 1 *bigha*.

After the case was pointed out, the DC stated (May 2007) that the matter is pending with the Government. A report on further development has not been received (October 2008).

The case was reported to the department and Government in November 2007; their replies have not been received (October 2008).

C. STAMP DUTY AND REGISTRATION FEE

5.8 Short levy of stamp duty

The Indian Stamp (Assam Amendment) Act, 2004 modified the rate of stamp duty⁸ which became effective from 18 September 2004.

Test check of the records of Senior Sub-Registrar (SSR), Cachar, Silchar and three⁹ Sub-Registrars (SRs) between January and October 2005 revealed that on 961 conveyance deeds registered between 20 September 2004 and 1 January 2005, stamp duty of Rs. 54.99 lakh instead of Rs. 70.16 lakh was levied and realised due to application of pre-revised rates. This resulted in short levy of stamp duty of Rs. 15.17 lakh.

After the cases were pointed out, the SSR Cachar and SRs, Panikhatti and Rupahi stated between May 2007 and October 2007 that short levy of stamp duty was due to late receipt of circular relating to revised rates. The SR, Madan Routa Nagar, Pathsala, stated in September 2007 that the matter would be taken up with the higher authorities. A report on further development has not been received (October 2008).

The cases were reported to the department and the Government in April 2007 and December 2007; their replies have not been received (October 2008).

D. PROFESSION TAX

5.9 Non-realisation of profession tax

Under the Assam Professions, Trade, Callings and Employments Taxation Act, 1947, every person who carries on a trade or a profession or calling or who is in employment within the State is liable to pay, for each financial year, tax at the prescribed rates. In case a non-Government employer or an enrolled person fails to pay the tax within the due date, he shall be liable to pay the assessed tax together with simple interest at the rate of two *per cent* of the amount due for each month or part thereof for the period for which the tax remained unpaid.

Value of property	Stamp duty leviable
Rs. 1000 to Rs. 10,000	Rs. 60 per 1,000
Rs. 10,001 to Rs. 50,000	Rs. 65 per 1,000
Rs. 50,001 to Rs. 1,00,000 and	Rs. 80 per 1,000
For every Rs.1000 or part thereof in excess of Rs. 1,00,001 onwards	Rs. 120 per 1,000

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⁹ SR, Madan Routa Nagar, Pathsala, Panikhatti and Rupahi.

Cross verification of the records of Assistant Commissioner of Taxes, Tezpur with those of the District Transport Officer (DTO), Tezpur between May and June 2007 revealed that though the owners of 102 four wheelers holding commercial vehicle permits paid motor vehicle tax to the Transport Department during the years 2003-04 to 2006-07, but they did not get enrolled with the Taxation Department and pay profession tax. This resulted in non-realisation of profession tax of Rs. 4.47 lakh including interest.

The cases were reported to the department and the Government in October 2007 and February 2008; their replies have not been received (October 2008).