

CHAPTER-IV:TAXES ON MOTOR VEHICLES

4.1 Results of audit

Test check of the records of the transport offices during the year 2005-06, revealed non/short levy of motor vehicles tax, fees, penalties, fines etc. of Rs 198.42 crore in 53 cases, which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Non/short levy of tax	1	0.02
2	Short levy of tax due to wrong fixation of seating capacity/RLW	3	10.93
3	Non imposition of fines and penalties	3	0.16
4	Discrepancies in Government revenue deposited under the head 0041 during 2003-04	2	0.02
5	Other cases	44	187.29
	Total	53	198.42

During the year 2005-06, the concerned department accepted under assessment and other irregularities in 27 cases involving Rs 13.99 lakh which was pointed out during the year 2005-06. Of this, the department recovered Rs 0.01 lakh in one case.

A few illustrative cases involving tax effect of Rs 32.98 crore are discussed in the following paragraphs:

4.2 Lack of control over unpaid taxes

Under the Bihar Motor Vehicles Taxation Act (BMVT Act), 1994 tax is to be paid to the registering authority (RA) in whose jurisdiction the vehicle has been registered. The RA may exempt vehicle owner from payment of tax, if he is satisfied that prescribed conditions for securing exemption have been fulfilled by the vehicle owner. In case of change of place of residence/business, the owner can pay tax to the new RA subject to production of no objection certificate (NOC) from the previous RA as prescribed. In order to ensure realisation of dues, RA is required to issue demand notice and in case of non response of vehicle owner, certificate proceedings are to be initiated. Non payment of tax within due date attracts penalty ranging between 25 and 200 *per cent* of tax due.

Further according to executive instructions of the State Transport Commissioner (STC) issued from time to time, the latest being issued in February 1999, motor vehicle inspector (MVI) is to ensure upto date payment of tax before issue of certificate of fitness (CF).

4.2.1 During test check of entries in taxation registers of 29 district transport offices (DTO)¹, it was noticed between March 2005 and March 2006 that owners of 1,262 vehicles had not paid due tax of Rs 30 crore (including penalty) pertaining to the period from April 2003 to December 2005. Neither issue of demand notice nor fact of change of address of owner or surrender of documents of vehicles for securing exemption from payment of tax during the period of non payment of tax was found on record.

After this was pointed out, DTO, Gaya in June 2006 issued demand notices on 88 vehicles amounting to Rs 2.12 crore. Other DTOs stated that demand notices would be issued for realisation of tax. Further reply including report of recovery has not been received (October 2006).

4.2.2 During cross verification of entries in register of CF with taxation registers in nine DTOs², it was noticed between April 2005 and March 2006 that CF were issued in case of 82 transport vehicles without ensuring upto date tax payment. The omission, besides violation of STC's orders, also resulted in non realisation of tax of Rs 1.53 crore (including penalty) pertaining to the period between April 2001 and February 2006.

After this was pointed out, four DTOs³ replied that the matter would be referred to the concerned MVI. No reply has been received in other cases (October 2006).

The cases were reported to Government between April 2005 and April 2006; reply has not been received (October 2006).

¹ Araria, Arrah, Aurangabad, Begusarai, Bettiah, Bhabhua, Buxar, Chapra, Darbhanga, Gaya, Gopalganj, Jamui, Jehanabad, Khagaria, Kishanganj, Katihar, Madhepura, Madhubani, Motihari, Munger, Muzaffarpur, Nalanda, Patna, Samastipur, Saharsa, Sasaram, Sitamarhi, Siwan and Vaishali.

² Arrah, Aurangabad, Darbhanga, Gaya, Jehanabad, Motihari, Nalanda, Samastipur and Sasaram.

³ Gaya, Nalanda, Samastipur and Sasaram.

4.3 Non realisation/exemption of tax on vehicles involved in surrender

Under the BMVT Act and Rules made thereunder, when owner of a motor vehicle does not intend to use his vehicle for a period not exceeding six months at a time, the owner can be exempted from payment of tax by the competent authority provided that the claim is supported by surrender of certificate of registration (RC), CF and tax token etc., for the period of non use of vehicle. The vehicle owner shall also, from time to time, furnish undertaking to the taxing officer concerned if the extension of the said period is required. The taxing officer is required to carry out physical verification of the parking place of the vehicle at least once a month and shall record the memo of inspection in the case record of vehicle. If at any time during the period covered by an undertaking as aforesaid, the motor vehicle is found being used or is kept at a place other than the place mentioned in the undertaking, such vehicle shall for the purpose of this Act, be deemed to have been used throughout the said period without payment of tax. According to executive instruction issued in December 1990, the DTOs are required to realise arrears of tax before accepting surrender of documents of vehicle for non use.

4.3.1 Scrutiny of taxation register, surrender register and other relevant records pertaining to payment of road tax and additional motor vehicles tax revealed non realisation of tax of Rs 1.31 crore including penalty in respect of 125 vehicles involved in surrender in 13 DTOs⁴ as detailed below:

(Rupees in lakh)

Sl.No.	Name of DT Offices	No. of vehicle	Period of tax involved	Irregularities	Tax effect
1	10 DT Offices ⁵	76	February 2001 to December 2005	Vehicles were kept under surrender beyond six months without fresh undertaking from vehicle owners.	56.23
2	Five DT Offices ⁶	31	January 2002 to March 2005	Acceptance of surrender of vehicles without realising upto date tax.	53.92
3	Sasaram	02	August 2002 to April 2005	Vehicles were not found at specified places.	10.43
4	Chapra	07	March 2004 to October 2005	Physical verification was not done and surrender accepted without the surrender of required documents.	2.16
5	Siwan	09	April 2002 to September 2005	In one case, vehicle was not found in parking place. Extension was not furnished in four cases. Period of surrender was not specified in three cases. Tax token not furnished alongwith RC, CF etc. in one case.	8.67
	Total	125			131.41

4.3.2 It was further noticed from the record of DTO Bettiah that eight vehicle owners applied for exemption from payment of tax for the period between February 2003 and October 2005 on surrender of documents to the DTO.

⁴ Begusarai, Chapra, Gaya, Khagaria, Motihari, Muzaffarpur, Nalanda, Saharsa, Samastipur, Sasaram, Sitamarhi, Siwan and Vaishali.

⁵ Begusarai, Gaya, Khagaria, Muzaffarpur, Nalanda, Saharsa, Samastipur, Sasaram, Sitamarhi and Vaishali.

⁶ Gaya, Motihari, Nalanda, Samastipur and Sitamarhi.

Though the taxing officer failed to carry out even a single physical verification of parking place of any of the vehicles during the period of exemption, these vehicles were allowed to ply on road after the expiry of period of surrender on realisation of tax for subsequent periods. Thus, exemption of tax of Rs 9.33 lakh was granted in these cases without carrying out any physical verification of the parking place of the vehicles which was irregular.

The cases were reported to department/Government between March 2005 and April 2006; reply has not been received (October 2006).

4.4 Delayed transfer of revenue

Under the provisions of the BFR, all transactions must be brought to account without delay and money credited to Government account. According to instructions of STC Patna issued in March 1996 and September 2002 to all DTOs, fees and tax collected by authorised banks during a month are required to be transferred by first week of the following month for credit to Government account. Further, the amount deposited in the month of March is to be transferred by 31 March itself to Government account through treasury challan. STC instructed all DTOs in October 2002 and February 2003 to ensure timely deposit of revenue to Government account.

On scrutiny of monthly receipt, statement of revenue and bank reconciliation statements in three DTOs⁷, it was noticed in June 2005 that Rs 25.61 crore, collected as fees and tax through the authorised banks during the period between July 2003 and April 2005, was transferred to Government account by departmental authorities with delay ranging from one to seven month and 22 days. No internal control mechanism existed to watch timely deposit of revenue into Government account although a number of orders were issued by STC in this regard.

After this was pointed out, the DTOs concerned stated between June 2005 and February 2006 that action would be taken to deposit the revenue into Government account in time.

The cases were reported to Government in April 2006; reply has not been received (October 2006).

4.5 Non/ short realisation of additional registration fee

As per BMVT Rules 1992, if the owner of a vehicle applies for a preferred registration number out of the sequence, an additional fee of Rs 100 shall be levied. Government of Bihar, vide a notification in June 2003 revised the rate of additional fee to Rs 5,000 in each case. The notification also prescribed the amount of additional fee ranging between Rs 5,000 and Rs 25,000 for special registration number specified therein.

In DTOs Bhabhua and Siwan, it was noticed between February and March 2006 that additional registration fee for 147 vehicles were either not realised or realised at pre revised rates instead of revised rates effective from 13 June 2003. This resulted in non/ short realisation of additional registration fee of Rs 7.46 lakh for the period between June 2003 and April 2005.

⁷ Gopalganj, Patna and Siwan.

After this was pointed out, DTO Bhabhua stated in March 2006 that compliance of direction was being made while DTO Siwan stated in February 2006 that notices would be issued to vehicle owners for recovery of dues. Report on recovery is awaited (October 2006).

The cases were reported to Government in April 2006; reply has not been received (October 2006).

4.6 Irregular issue of tax token

The BMVT Act and Rules made thereunder provide that the taxing officer shall grant a receipt and a tax token to every person who pays prescribed tax for the vehicle. Before issue of tax receipt and tax token, the taxing officer is to satisfy himself that the amount tendered in the payment of tax is equal to the tax payable at the rate specified in schedule I and II to the Act. Failure to pay tax within 15 days from the commencement of the year or quarter attracts imposition of penalty.

In three DTOs⁸, it was noticed between January and February 2006, that owners of 22 transport vehicles deposited tax ranging between Rs 2,035 and Rs 9,690 instead of correct rates varying between Rs 4,790 and Rs 11,000 resulting in short realisation of tax of Rs 5.89 lakh. Although tax paid in these cases was less than prescribed rates, the DTOs issued tax token irregularly without realising the balance tax. This resulted in short realisation of tax of Rs 3.09 lakh and plying of vehicles without payment of actual tax. Besides, penalty of Rs 2.80 lakh was also leviable for failure in payment of balance tax by the defaulters.

After this was pointed out, the DTOs concerned while accepting audit observations replied in January and February 2006 that demand notices would be issued. Further reply has not been received (October 2006).

The cases were reported to Government in April 2006; reply has not been received (October 2006).

⁸ *Chapra, Gopalganj and Siwan.*