

CHAPTER V: OTHER TAX RECEIPTS

5.1 Results of audit

Test check of the records of the following receipts, conducted during the year 2006-07, revealed underassessments of tax, fee, duty and loss of revenue etc. of Rs. 83.10 crore in 388 cases which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
A. Land revenue			
1.	Non-fixation of salami and commercial rent	101	36.63
2.	Non-settlement of vested lands	107	29.43
3.	Non/short levy of cess and/or interest on arrears of cess	43	6.96
4.	Non-settlement of sairats	48	1.04
5.	Other cases	10	0.74
Total		309	74.80
B. Entry tax			
1.	Non/short levy of tax	31	2.98
2.	Application of incorrect rate of tax	13	0.68
3.	Non-levy of penalty for excess collection of tax	4	0.26
4.	Short levy due to incorrect determination of turnover	1	0.19
5.	Irregular allowance of exemption from tax	2	0.08
6.	Other cases	17	4.00
Total		68	8.19
C. Stamp duty and registration fees			
1.	Short realisation of stamp duty and registration fees due to late receipts of revised rates	4	0.01
2.	Other cases	5	0.03
Total		9	0.04
D. Electricity duty			
1.	Non-realisation of electricity duty	2	0.07
Total		2	0.07
Grand Total		388	83.10

During the year 2006-07, the concerned department accepted underassessment and other deficiencies etc. involving Rs. 50.73 crore in 207 cases which were pointed out during the year 2006-07. The department reported recovery of Rs. 67 lakh pertaining to the earlier years.

A few illustrative cases involving tax effect of Rs. 2.47 crore are mentioned in the following paragraphs.

A: LAND REVENUE

5.2 Non-fixation and non-realisation of land rent

Under the provisions of the Bihar Tenancy Act, 1885 as amended with effect from 26 August 1993, a *raiyat* may, with prior permission of the Collector, use his land for purposes other than agriculture. The Collector before giving such permission shall redetermine the rent and cess of such land to the extent of five *per cent* but not less than three *per cent* of the market value of such land. The *anchal adhikari* (AA) is required to conduct periodical surveys to detect any change in use of land and send the report to the Deputy Collector, Land Reforms (DCLR). The DCLR, provided a *raiyat* has not applied for permission for change of use, shall give post facto approval on the basis of the survey report after fixing the commercial rent and send it to the AA for raising the demand.

Scrutiny of the records of three AAs¹ during August to September 2006 revealed that during 2001-02 to 2005-06, 25 *raiyats* having tenancy for agricultural purposes utilised 38.16 acres of land for commercial purposes such as shops, petrol pumps, brick kilns, rice mills, bank, offices and hotels etc. Though the AAs sent the survey reports to the DCLR for fixation of the commercial rent, the DCLR did not act upon these. As a result, the AAs could not raise demand for rent and cess for use of agricultural land as commercial purposes. Thus, failure of the DCLR to fix the rent and cess on the basis of the survey reports resulted in non-realisation of revenue of Rs. 1.18 crore.

After the cases were pointed out, the AAs stated in August/September 2006 that the cases had been/would be referred to the concerned DCLR. Further replies have not been received (November 2007).

The cases were reported to the Government between March and April 2007; their reply has not been received (November 2007).

B: ENTRY TAX

5.3 Application of incorrect rate of entry tax

Under the Bihar tax on entry on goods into local areas for consumption, use or sale therein (BTEG) Act, 1993, the State Government, by a notification issued in August 2003, revised the rates of tax on entry of goods into local areas. As per the revised rates, entry tax on motor cycle and IMFL was leviable at the rate of eight and 16 *per cent* respectively.

During test check of the records of Patliputra commercial taxes circle in September - October 2006, it was noticed that three dealers imported motor cycles and IMFL valued as Rs. 13.98 crore during the years 2003-04 and 2005-06 as shown in their monthly/annual returns. The AA, however, while finalising the assessments between October 2004 and March 2006 levied entry tax either at the pre-revised rates or at the rates lower than those applicable, which resulted in short levy of entry tax of Rs. 46.14 lakh.

After the cases were pointed out, the AA stated in October 2006 that the cases would be examined. Further reply has not been received (November 2007).

¹ Chennary, Kargahar and Shivsagar.

The case was reported to the Government in May 2007; their reply has not been received (November 2007).

5.4 Short levy of entry tax due to suppression of import value

Under the BTEG Act read with the Bihar Finance (BF) Act 1981, if the prescribed authority has reasons to believe that a dealer has concealed, omitted or wilfully failed to disclose the particulars of turnover or has furnished incorrect particulars of such turnover, the said authority shall assess or reassess the amount of tax due from the dealer in respect of such turnover and shall direct the dealer to pay, besides the tax assessed on escaped turnover, penalty not exceeding three times but not less than an amount equivalent to the amount of tax on the escaped turnover.

Cross verification of the utilisation of road permits, declaration forms, purchase statements, trading accounts etc. with the returns filed by three dealers in three commercial taxes circle audited between June and October 2006 revealed that the dealers suppressed import/purchase of scheduled goods of Rs. 4.60 crore between 2001-02 and 2004-05. The assessing authority (AA), while finalising the assessments between March 2004 and January 2006 failed to detect the suppression which resulted in short levy of entry tax of Rs. 39.60 lakh including minimum leviable penalty as mentioned below:

(Rupees in lakh)

Sl. No.	Name of the circle No. of dealers	Period Month of assessment	Commodity Rate (in per cent)	Actual purchase Purchase accounted for	Suppression	Entry Tax penalty	Short levy of tax and minimum penalty	Records cross verified
1.	Patliputra 1	2003-04 and 2004-05 10/2004 and 01/2006	Iron and Steel and PVC goods 4 Paint and motor vehicle 5 Electrical goods 8	2,896.99 2,651.00	245.99	10.09 10.09	20.18	Purchase statement and statement of green road permit
2.	Sasaram 1	2001-02 11/2004	Tractors ² 4 & 5	218.60 26.14	192.46	8.57 8.57	17.14	Statement of green road permit/trading account and returns
3.	Bhagalpur 1	2002-03 03/2004	Tobacco 5	63.27 40.44	22.83	1.14 1.14	2.28	Purchase statement and returns
Total					461.28	19.80 19.80	39.60	

After the cases were pointed out, the AAs Bhagalpur and Patliputra circle stated between August and October 2006 that the cases would be examined

² Rate was enhanced from four to five per cent w.e.f. 25 July 2001.

while the AA, Sasaram in June 2006 admitted the audit observation and assured to revise the case. Further replies have not been received (November 2007).

The cases were reported to the Government between December 2006 and May 2007; their reply has not been received (November 2007).

5.5 Non-levy of tax due to non-registration of dealers

Under the BTEG Act read with the BF Act and rules framed and instructions issued thereunder, entry tax is levied at the rates prescribed on entry of certain specified goods (scheduled goods) for consumption, use or sale in Bihar. Every dealer who is liable to pay tax under the BTEG Act, shall make an application for registration before the prescribed authority within seven days of his becoming liable to pay tax. Failure to apply for registration attracts penalty, in addition to tax, at the rate of Rs. 50 for each day of default or an amount equivalent to the amount of tax, whichever is less.

During test check of the records of Patna Special circle, in November 2006 it was noticed that two dealers registered under the BF Act imported scheduled goods valued as Rs. 4.17 crore during 2003-04 and 2004-05. The dealers neither got themselves registered under the BTEG Act nor paid any entry tax on the import value of the aforesaid goods. The AAs also failed to get these dealers registered under the BTEG Act and levy tax at prescribed rates. This resulted in non-levy of entry tax of Rs. 31.82 lakh including penalty.

After the cases were pointed out, the AA in November 2006 stated that the matter would be examined. Further reply has not been received (November 2007).

The case was reported to the Government in June 2007; their reply has not been received (November 2007).

5.6 Non-imposition of penalty

Under the BTEG Act read with the BF Act and the rules framed thereunder, every dealer who is liable to pay tax under the BTEG Act, shall furnish a true and complete return in respect of all scheduled goods and tax payable thereon. The BF Act, further provides that if the prescribed authority detects any escaped turnover before assessment, he shall direct the dealer to pay, in addition to tax assessed by way of penalty, a sum not exceeding two times but not less than an amount equal to the amount of tax. The BTEG Act further provides that all provisions relating to returns, assessment, reassessment, escaped turnover, recovery of tax, offences and penalties etc. under the BF Act, shall apply mutatis mutandis under the BTEG Act. Further, according to executive instructions issued by the department in November 1998 and May 2002, the AAs were required to review the returns and initiate proceedings against the defaulting dealers under the relevant provisions of the BF Act.

5.6.1 During test check of the records of Munger commercial taxes circle in May 2006, it was noticed that a dealer disclosed import of scheduled goods of Rs. 15.69 lakh in his return during 2003-04. Cross verification of the utilisation statement of road permits with the returns revealed that the dealer had actually imported scheduled goods worth Rs. 1.71 crore. The AA,

however, failed to review the returns and detect concealment of import value of Rs. 1.55 crore which resulted in non-levy of minimum penalty of Rs. 6.80 lakh.

After the case was pointed out, the AA stated in May 2006 that the case would be examined. Further reply has not been received (November 2007).

5.6.2 During test check of the records of Bhabhua commercial taxes circle in July 2006, it was noticed that a dealer disclosed import of scheduled goods of Rs. 3.71 crore during 2002-03 and 2003-04 in his returns against actual purchase of goods of Rs. 4.68 crore as communicated to the AA, by the CCT, Bihar. The AA however, failed to review the returns in the light of information furnished by the CCT and thus suppression of Rs. 96.93 lakh remained undetected leading to non-imposition of minimum penalty of Rs. 3.88 lakh.

After the case was pointed out, the AA intimated in July 2007 that the demand had been raised. A report on recovery has not been received (November 2007).

The cases were reported to the Government between January and February 2007; their reply has not been received (November 2007).