

CHAPTER - IV: Other Tax Receipts

4.1 Results of Audit

Test check of the records of the following receipts conducted in audit during the year 2002-2003, revealed under assessments of tax, fee and duty, and losses/non-recovery of revenue etc. as indicated below:

(Rupees in crore)			
Sl.No.	Category	No. of cases	Amount
Taxes on Vehicles			
1.	Non/short levy of taxes	1,551	8.42
2.	Non-imposition of fees, fines and penalties	-	-
3.	Other cases	3,387	13.40
Total		4,938	21.82
Land Revenue			
1.	Non-settlement of vested lands	3	0.05
2.	Non-fixation of commercial rent	35	4.12
3.	Non-levy/short levy of cesses	6	0.06
4.	Non-realisation/non-execution of <i>sairats</i>	24	0.35
5.	Other cases	43	0.31
Total		111	4.89
Stamps and Registration fees			
1.	Non-realisation of revenue due to delay in disposal of referred cases	308	0.25
2.	Blockage of revenue due to non-disposal of referred cases	1,129	0.71
3.	Other cases	5,149	5.13
Total		6,586	6.09
Grand Total		11,635	32.80

During the year 2002-2003, the concerned department accepted under assessment etc of Rs 0.50 lakh involved in 3 cases pointed out in audit prior to 2002-2003.

A few illustrative cases involving tax effect of Rs 42.84 crore are discussed in the following paragraphs:

TAXES ON VEHICLES

4.2 Non-recovery of tax

Under the Bihar Motor Vehicles Taxation (BMVT) Act, 1994, and rules made thereunder, tax in respect of a vehicle is payable annually or quarterly within 15 days from the commencement of the year or quarter, as the case may be. Non-payment of tax in time attracts imposition of penalty at prescribed rates.

In 29 district transport offices¹, it was noticed that the owners of 1,448 transport vehicles had stopped payment of taxes in the offices where they were originally registered and no reasons were found recorded for their non-payment. The Department had also not taken any action to realise the same. This resulted in non-recovery of tax of Rs 11.80 crore pertaining to the period between April 1991 and May 2002.

On this being pointed out, the concerned District Transport Officers (DTOs) stated between January and December 2002 that demand notices would be issued for realisation of the arrears due. Further replies were awaited (August 2004).

The cases were reported to the Government in June 2003; their reply has not been received (August 2004).

4.3 Non-realisation of trade tax and penalty on delayed payment

Under the provision of the Bihar Motor Vehicles Taxation Act, 1994, trade tax at the prescribed rates is to be paid by the dealer in respect of motor vehicles in his possession in the course of his business. Further, according to the instructions issued by the Government in May 2001, penalty on delayed payment of trade tax is to be levied at the rate as prescribed in the Act.

In two district transport offices (Begusarai and Bhojpur), it was noticed that in the case of 19 dealers of motor vehicles, the trade tax was either not collected or penalty on delayed/non-payment of trade tax for the years 1998-1999 to 2001-2002 was not levied. This resulted in non-realisation of trade tax and penalty amounting to Rs 6.57 lakh.

On this being pointed out, the DTO, Begusarai stated in August 2002 and December 2002, that demand notices had been issued and certificate cases would be filed. The DTO, Bhojpur stated in December 2002 that matter would be examined. Further reply was not received.

¹ Araria, Aurangabad, Begusarai, Bhabhua, Bhagalpur, Bhojpur, Buxar, Darbhanga, East Champaran, Gaya, Jamui, Jahanabad, Kaimur, Khagaria, Kishanganj, Madhepura, Madhubani, Munger, Muzaffarpur, Nalanda, Nawada, Patna, Samastipur, Saran, Sasaram, Sitamarhi, Siwan, Vaishali and West Champaran.

The matter was reported to the Government in June 2003; their reply has not been received (August 2004).

4.4 Non-realisation of tax on rejection/cancellation of surrender

The State Transport Commissioner (STC), Bihar issued instructions on 12 January 1990, that in respect of vehicles surrendered for more than three months prior to issue of this memo, notice be issued to the vehicle owners to withdraw the surrendered documents within 15 days of the issue of notice failing which surrender would be automatically cancelled and taxes alongwith penalty would be realised from them.

In the District Transport Office, Munger, it was noticed that documents in respect of five motor vehicles were surrendered for exemption from payment of tax during the year 1988-1989. The DTO rejected in June 1996 the surrenders of document after due examination of the records but did not recover the tax from February 1990. This resulted in non-realisation of taxes of Rs 7.42 lakh.

On this being pointed out, the DTO stated in July 2002 that demand notices for realisation would be issued. Further reply has not been received (August 2004).

The matter was reported to the Government in June 2003; their reply has not been received (August 2004).

4.5 Loss due to delay in deposit of revenue collected

Under the provision of the Bihar Financial Rules, all transactions must be brought to account without delay and should be credited to Public Account. According to instructions issued by Government in June and November 1978, all collecting banks are required to transfer the amount of taxes, fees, etc. deposited by owners of vehicle under the Taxation Act to the State Bank of India (SBI), Secretariat Branch, Patna. As per instruction of STC issued in 1996, the amount deposited in bank by the owners of vehicles during April to February is to be transferred to the SBI, Secretariat Branch, Patna in such a manner that all receipts of preceding months stand transferred latest by first week of the succeeding month. Further, the amount deposited in the month of March is to be transferred by 31 March positively so that all receipts of a financial year stand transferred to Government account within the same financial year. As per the Reserve Bank of India's, instructions issued in 1995, interest at the rate of 11.30 per cent per annum is payable by banks on delayed remittances to government account.

4.5.1 Non-realisation of revenue due to non-transfer of revenue into government account

In the office of DTO, Patna and STC, Bihar, Patna, it was noticed that there was a closing balance of Rs 33.99 lakh as on 31 March 2002 in a nationalised

bank and Rs 2.86 crore as on 31 March 2003 in two nationalised banks which was not transferred to government account through SBI, Secretariat Branch, Patna during the same financial year.

On this being pointed out, it was stated in November 2002 by the DTO, Patna that a cheque for Rs 32.40 lakh was issued on 30 March 2002, though the same was not transferred to the government account by the bank till 31 March 2002. The reply was not tenable as the amount was remitted through a cheque on 5 April 2002. Further, the STC Bihar, Patna stated in May 2003 that action to transfer the balance amount of Rs 2.14 crore by cheque to government account was being taken. The reply of the Department is not acceptable as the amount collected during a financial year was required to be credited into government account during the same financial year.

4.5.2 Loss of revenue in shape of interest

In the office of DTO, Patna and STC, Bihar, Patna, it was noticed that the amount of tax collected during 2001-2002 and 2002-2003 by the Punjab National Bank, Patna and during 2002-2003 by three banks viz. the State Bank of Patiala, Indian Bank and Corporation Bank, Patna were not transferred to SBI Secretariat Branch, Patna within the prescribed time for remitting to government account during the same financial year. The delay ranged between one month and seven months. This resulted in loss of government revenue in the shape of interest amounting to Rs 38.91 lakh.

On this being pointed out, it was stated in November 2002 and May 2003 by the DTO Patna that the matter was noted for future guidance and by the STC Bihar, Patna that the concerned banks were being directed to deposit the amount of interest. Further reply has not been received (August 2004).

The matter was reported to the Government in September 2003; their reply has not been received (August 2004).

LAND REVENUE

4.6 Non-fixation and non-realisation of land rent

Under the provisions of the Bihar Tenancy Act, 1885 amended with effect from 26 August 1993, a *raiyat* may, with previous permission of the Collector, use his land for purpose other than those specified in the original Act. The Collector, before giving such permission shall re-determine the rent of such land in the prescribed manner to the extent of five per cent but not less than three per cent of the market value of such land. If a *raiyat* has not taken prior permission for such use, the Collector may give *post-facto* permission on payment of double the amount of rent which he would have been liable to pay, had he applied in time for the period between the date of use and the date of application or detection as the case may be.

In 37 Revenue Anchals², in 19 districts³ 1,954 *raiyats* having tenancy for agricultural purposes, converted 286.19 acres of land for other purposes such as shops, petrol pumps, saw mills, cinema halls, hotels, etc. during the period 1983-1984 to 2001-2002. Action to regularise the occupancy by re-fixing rent under the laws had not been taken and the *raiyats* continued to hold their tenancy on agricultural rent. This resulted in non-realisation of revenue amounting to Rs.2.58 crore calculated for the period April 1997 to February 2003.

On these being pointed out, the Anchal Adhikaries (AA) stated between August 2001 and February 2003 that action for realisation was going on. Further replies have not been received (August 2004).

The cases were reported to the Government in June 2003; their reply has not been received (August 2004).

4.7 Non-removal/settlement of encroachment on public land

Under the Bihar Public Land Encroachment Act, 1956, if a person has encroached any public land, he may be served a notice requiring him to vacate the encroachment or to settle such public land on payment of rent and damages, as per rules laid down in the Bihar Government Estates (*Khas Mahal*) Manual, 1953. Accordingly, in case of impairment of the value of public land by using it for residential/ commercial purposes, *salami* at the prevailing market value of such land together with annual

² Babubarhi, Bagaha, Barauni, Barhiya, Barharia, Baniapur, Bettiah, Chandī, Dawath, Dinara, Forbesganj, Ghosi, Hasanpur, Kanti, Koilwar, Krityanand Nagar, Kurtha, Lakhisarai, Mainatand, Maner, Manjhi, Majhoulia, Mennapur, Nawada, Pandaul, Parsa, Rajauli, Rajgir, Sasaram, Shambhuganj, Singhia, Surajgarh, Taraiya, Udakishanganj, Ujjarpur, Baisi and Wazirganj.

³ Araria, Banka, Begusarai, Bhojpur, Gaya, Jehanabad, Lakhisarai, Madhepura, Madhubani, Muzaffarpur, Nalanda, Nawada, Patna, Purnea, Rohtas, Samastipur, Saran, Siwan and West Champaran.

commercial/residential rent at one fiftieth /one twentieth of such *salami* is payable respectively.

In three Revenue Anchals⁴ in three districts⁵ it was noticed that 29 persons had encroached 4.19 acres of public land by constructing buildings for residential/commercial purposes. However, no action was taken either for eviction or regularisation in respect of encroachment of the said land. This resulted in non realisation of *salami* and residential/commercial rent of Rs 19.81 lakh.

On this being pointed out, the AAs stated between June and August 2002 that action to evict the encroachers was being taken. Further reply has not been received (August 2004).

The cases were reported to the Government in June 2003; their reply was not received (August 2004).

4.8 Non-settlement of vested land

The rights of intermediaries in Gair Mazarua (GM) *Khas*⁶ land were abolished under the provisions of the Bihar Land Reforms Act, 1950 and all such lands were vested with the Government. Instructions were issued by the Government from time to time to Revenue Officers to examine all cases of unsettled GM *Khas* land and to settle such land with persons of eligible categories, such as scheduled castes, scheduled tribes, backward classes and the landless persons at fair and equitable rent.

In six Revenue Anchals⁷ in five districts⁸ 36,972.31 acres of GM *Khas* land were vested in the Government, out of which 25,838.49 acres of GM *Khas* land were fit for settlement. It was noticed in audit that only 11,039.01 acres of land was settled till January 2003 and the remaining 14,799.48 acres of land were yet to be settled by the Department. Non-settlement of these lands on fair and equitable rent since 1997-1998 to 2001-2002 had a revenue effect of Rs 6.77 lakh in the shape of land rent and cesses.

On these being pointed out AA, Nawada stated in August 2002 that survey was being done on the GM land and proposal for settlement of land had been put up to the Deputy Collector Land Reforms (DCLR), Nawada while AA, Sasaram stated in August 2002 that the land had been illegally encroached upon by some persons in some areas and hills and forests were covered in balance area. The other AAs stated between February 2002 and January 2003 that action was being taken for settlement of the balance land. The reply of AA, Sasaram was not tenable as details of land under forest and hills were not produced to audit. Further reply had not been received (August 2004).

⁴ *Kanti, Sasaram and Ujiarpur.*

⁵ *Muzaffarpur, Rohtas and Samastipur.*

⁶ *cultivable land retained by ex-intermediaries and not settled with raiyat.*

⁷ *Khagaria, Nawada, Manjha, Rajauli, Rajgir and Sasaram.*

⁸ *Gopalganj, Khagaria, Nalanda, Nawada and Rohtas.*

The cases have been reported to the Government in June 2003; their reply was not received (August 2004).

4.9 Irregular reduction in demand/ short levy of cesses on holdings exempted from payment of land rent

Under the Bihar Land Rent (Exemption from Payment) Act, 1981, Government exempted with effect from 1 April 1978 small holdings upto two hectares in the state from levy of land rent. However, such holdings were not exempted from levy of various cesses like road cess, education cess, health cess and agricultural development cess leviable under the relevant Cess Act. In September 1982, Government while communicating the revised rates of different cesses had also instructed all the Revenue Officers in Bihar to levy and collect cesses in respect of all tenants (*raiya*s) including those who were exempted from payment of land rent, as aforesaid.

4.9.1 In two Revenue Anchals Krityanandnagar and Sahar of two districts (Bhojpur and Purnea) in course of scrutiny of records for the years 1994-1995 to 2000-2001, it was noticed that demands of cesses were raised at reduced rates without assigning any reasons. This resulted in an irregular reduction of demand by Rs 10.41 lakh.

On this being pointed out, the AAs stated between December 2001 and January 2002, that the result would be intimated to audit after verification. Further reply has not been received (August 2004).

The matter was reported to the Government in June 2003; their reply was not received (August 2004).

4.9.2 In two Revenue Anchals, Gogri and Parbatta of Khagaria district, it was noticed that cesses were not levied in respect of holdings exempted from payment of land rent. This resulted in non-realisation of cesses of Rs 6.66 lakh for the years 1996-1997 to 2001-2002.

On this being pointed out, the AAs stated, between November and December 2002 that the amount would be raised after examination of the cases. Further reply has not been received (August 2004).

The case was reported to the Government in June 2003; their reply was not received (August 2004).

STAMPS AND REGISTRATION FEES

4.10 Short levy of Stamp Duty and Registration fees due to under valuation of properties

Under the provisions of the Indian Stamp Act, 1899 and the Registration Act, 1908 read with rules contained in Bihar Stamp (Prevention of Under valuation of Instrument) Rules, 1995, an instrument of deed of conveyance is chargeable to duty on the consideration money, i.e. market value of land on the date of execution of the deed which should not be less than the value of land/property arrived at according to the approved rates in guidelines register of minimum estimated value of land/property.

In District Sub-Registrar (DSR) Office, Begusarai, it was noticed that a deed of conveyance for transfer of 1,679.14 acre of land was registered in January 2002 for a consideration of Rs 1.07 crore on the value prevailing during the years from 1959 and 1964 and stamp duty and registration fee of Rs 20.05 lakh was charged. As per the guidelines register, the value of land on the date of execution of the deed of conveyance was Rs 235.45 crore for which stamp duty and registration fee of Rs 24.49 crore was leviable. This resulted in short levy of stamp duty and registration fee of Rs 24.29 crore.

On this being pointed out, the DSR, Begusarai stated in September 2002, that the document registered was a lease deed and not conveyance deed, so the market value of land was not applicable. The reply is not tenable as the title of the document and recital thereof indicated that the instrument registered was a conveyance deed and not a lease deed.

The matter was reported to the department in March 2003. Their reply was awaited (August 2004).

The case was reported to the Government in September 2003; their reply has not been received (August 2004).