

## CHAPTER – VI

### OTHER TAX AND NON TAX RECEIPTS

#### 6.1 Results of Audit

Test check of records in various Departmental offices relating to the following receipts conducted in audit during the year 2004-05 disclosed under-assessments amounting to Rs.95.68 crore in 161 cases as detailed below:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Entertainments tax	58	3.48
2	Electricity duty	25	73.49
3	Luxury tax	25	0.68
4	Geology and Mining	49	17.99
5	Forest Receipts	04	0.04
	<b>Total</b>	<b>161</b>	<b>95.68</b>

During the year 2004-05, the departments accepted and recovered under assessment amounting to Rs.66.15 lakh in 31 cases pertaining to earlier years. A few illustrative cases highlighting important audit observations involving Rs.9.54 crore are given in the following paragraphs.

### ENTERTAINMENTS TAX

#### 6.2 Non-realisation of entertainments tax and interest

Under the Gujarat Entertainments Tax (GET) Act and the Rules made thereunder, entertainment tax shall be paid by the proprietor of a cinema house weekly within 14 days of the end of the week and by the proprietor of video parlour in advance every month by the 15<sup>th</sup> day of the month preceding the month to which the tax relates. If the payment of tax is delayed, simple interest at the rate of 24 *per cent* per annum is chargeable on the unpaid amount of tax for the period of delay. The proprietor is also required to submit periodical returns in prescribed form to the prescribed authority. In case of non submission, the prescribed authority will assess the case to the best of his judgment.

During test check of records of three<sup>§</sup> Collectors and three<sup>#</sup> Mamlatdar offices, it was noticed between March and October 2004 that 26 cinema houses and six video parlours either did not pay the tax or paid the tax late with delays ranging from five days to 36 months during 2002-03 and 2003-04. Failure on the part of the Department to monitor the cases with reference to the control registers maintained and raise demands for tax and/or interest resulted in non-levy of tax of Rs.72.77 lakh, including interest\*.

The above facts were brought to the notice of the Department between April and December 2004 and of the Government in March 2005. The Department accepted audit objection in all cases and recovered an amount of Rs.42.46 lakh

<sup>§</sup> Bhavnagar, Navsari and Surat

<sup>#</sup> Ahmedabad, Gandhinagar and Vadodara

\* Interest calculated upto the date of payment/date of audit

in 19 cases. Particulars of recovery in remaining cases have not been received (June 2005).

### **6.3 Non recovery of entertainments tax from cable operators**

Under the GET Act, tax is leviable for exhibition of programmes with the aid of antenna or cable television. As per GET(Exhibition by means of cable television and antenna) Rules, 1993, each operator has to register with the Department and file quarterly return in advance accompanied by copies of challan towards payment of tax. Assessment of return filed has to be made by the Department before commencement of the succeeding quarter and demands for non/short payment of tax are to be raised against the defaulters. For non payment of tax within the prescribed time, interest at the rate of 24 *per cent* per annum is leviable.

During test check of records of three<sup>&</sup> Collectors and nine<sup>∇</sup> Mamlatdar offices, it was noticed between February and December 2004 that in three<sup>⊗</sup> out of 12 offices information as to the total number of registered cable operators was not available. In nine<sup>\*</sup> offices, in 105 out of 601 cases entertainment tax totaling Rs.18.13 lakh was not paid. In four<sup>⊕</sup> offices, no demands were raised for collecting the tax of Rs.14.05 lakh in 57 cases whereas in eight<sup>#</sup> offices it could not be ascertained whether the demands were raised or not due to faulty maintenance of records. This indicates that no system to watch receipt of returns and issue notices where returns were not filed, for completion of assessments, was being followed. Failure to follow the prescribed procedure resulted in non/short recovery of Rs.35.21 lakh from 260 cable operators during 2001-02 to 2003-04, including interest.

The above facts were brought to the notice of the Department between April and December 2004 and of the Government in February 2005. The Department accepted audit objection in all cases and recovered an amount of Rs.3.79 lakh in 55 cases. Particulars of recovery in remaining cases have not been received (June 2005).

## **MINING RECEIPTS**

### **6.4 Non/short levy of royalty, dead rent and surface rent**

Under the Mines and Minerals (Regulation and Development) Act (MMDR Act), 1957, the Mineral Concession Rules, 1960 and the Gujarat Minor Mineral Rules, 1966, a lessee is liable to pay in respect of each lease for major/minor mineral, dead rent or royalty whichever is higher. Dead rent at the rate of 75 *per cent* of prescribed rate is leviable when the lease is granted in private land. According to Industries and Mines Department's circular dated

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<sup>&</sup> Bhuj, Rajkot and Surat.

<sup>∇</sup> Ahmedabad, Gandhidham, Gondal, Godhra, Khambhat, Kheralu, Pardi, Sanand and Viramgam.

<sup>⊗</sup> Collector Rajkot and Mamlatdars Ahmedabad and Sanand.

<sup>\*</sup> Collectors Bhuj & Surat and Mamlatdars Gandhidham, Godhra, Gondal, Khambhat, Kheralu, Pardi & Viramgam.

<sup>⊕</sup> Collector Surat and Mamlatdars Pardi, Godhra and Viramgam.

<sup>#</sup> Collectors Bhuj & Rajkot and Mamlatdars Ahmedabad, Gandhidham, Gondal, Khambhat, Kheralu and Sanand.

22 December 2000, royalty is to be paid in advance with effect from 1 January 2001. If payment of royalty or rent or any other sum is not made within the date prescribed, interest at the rate of 24 *per cent* per annum is chargeable for the period of delay. Further, the lessee is liable to pay surface rent as specified by the Government for the surface area used by him for mining operations. Rules also provide for issue of demand notices for non payment of royalty/dead rent/surface rent in time. The Government can determine the lease for breach of conditions of lease agreement and recover the amount of royalty and other dues as arrears of land revenue.

**6.4.1** During test check of records of offices of 14<sup>#</sup> geologists/assistant geologists, it was noticed between December 2003 and December 2004 that in 414 cases, the lease holders had not paid Rs.3.34 crore towards royalty/dead rent/surface rent for major/minor minerals during the period between 1999-2000 and 2003-2004. Failure of departmental officials to issue demand notices and further follow up by issue of revenue recovery certificates as per provisions of Rules to recover the rent and/or royalty due and all costs and expenses occasioned by the non payment thereof or non initiation of action for determination of lease for continuous default resulted in non/short levy of royalty, dead rent and surface rent of Rs.3.53 crore including interest.

This was brought to the notice of the Department between January and December 2004 and of the Government in February 2005. The Department accepted audit observations in all cases and recovered Rs.1.66 crore. Particulars of recovery in the remaining cases have not been received (June 2005).

**6.4.2** Government by issue of notifications in January and June 1999, fixed lumpsum rate for payment of royalty by brick/roofing tiles manufacturers. The rate was fixed on the basis of quantity of bricks manufactured and with reference to number of dye revolving press used, for roofing tiles.

During test check of records of four offices of geologists/assistant geologists of Ahmedabad, Bharuch, Gandhinagar and Rajkot, it was noticed between March and October 2004 that 12 roofing tiles and 36 brick manufacturers had not paid royalty of Rs.7.38 lakh for the years 2002-03 and 2003-04. Failure of departmental officials to monitor the cases with reference to the control registers maintained, issue demand notices and take recovery action as per provisions of the Act/Rules resulted in non/short levy of royalty of Rs. 8.61 lakh including interest.

The above facts were brought to the notice of the Department between May and December 2004 and of the Government in February 2005. The Department accepted audit observations in all cases and recovered Rs.7.25 lakh. Particulars of recovery in remaining cases have not been received (June 2005).

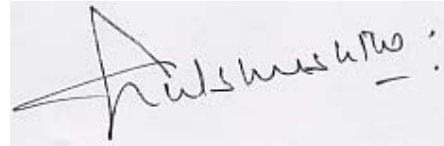
**6.4.3** During test check of records of the offices of five<sup>\*</sup> geologists/assistant geologists, it was noticed between January and November 2004 that in 21 cases, interest on belated payment of royalty/dead rent was not levied during

<sup>#</sup> Ahmedabad, Amreli, Bharuch, Bhuj, Gandhinagar, Godhra, Himatnagar, Jamnagar, Junagadh, Mehsana, Porbandar, Surendranagar, Vadodara and Valsad

<sup>\*</sup> Amreli, Bhuj, Junagadh, Porbandar and Valsad.

the years 2002-03 and 2003-04. Failure of departmental officials to demand interest on delayed payment of royalty resulted in non levy of interest of Rs.4.84 crore.

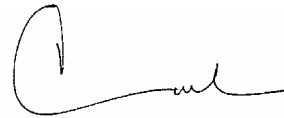
This was brought to the notice of the Department between January and December 2004 and of the Government in March 2005. The Department accepted audit observations in all cases and recovered Rs.1.07 crore. Particulars of recovery in the remaining cases have not been received (June 2005).



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