

CHAPTER – III

LAND REVENUE

3.1 Results of audit

Test check of the assessment records in the offices of District Collectors, District Development Officers (DDO) and Taluka Development Officers (TDO) conducted during 2006-07 disclosed short recoveries amounting to Rs. 32.33 crore in 160 cases. These cases fall under the following broad categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non/short recovery of conversion tax	37	23.82
2.	Non/short recovery of NAA	33	3.38
3.	Non/short recovery of occupancy price/ premium price/interest	6	0.51
4.	Other irregularities	84	4.62
Total		160	32.33

During the year 2006-07, the department accepted and recovered underassessment of Rs. 19.45 lakh in 20 cases.

A few illustrative cases involving Rs. 22.11 crore are mentioned in the following paragraphs:

3.2 Non-levy of conversion tax and non-agricultural assessment on allotment of unoccupied Government land for non-agriculture purpose

Section 67A of the Land Revenue Code, 1879 provides that if any land situated in agricultural zone is converted for non-agricultural purposes, conversion tax shall be paid at the rate specified by the Government. Under Section 45 of the Code, non-agricultural assessment (NAA) is payable at the prescribed rate on all non-agricultural lands unless specifically exempted from payment. The Government instructed the Collectors (May 1996) to insert conditions in their allotment letters that the allottee would obtain permission for non-agricultural use from the competent authority and pay the conversion tax and NAA.

Test audit of the allotment orders issued between January 2002 and June 2006 in five²⁹ districts revealed that in 76 cases the collectors issued allotment orders to 37 companies, corporations, institutions, special economic zone (SEZ) and individuals involving 3.19 crore sq mtrs of Government land, without inserting the prescribed condition and without levy of conversion tax of Rs. 19.64 crore. In 42 of these cases checked by audit, NAA of Rs. 47.40 lakh was not levied.

After the cases were pointed out, the Collectors of Bhavnagar and Rajkot stated (November 2006) that they would issue revised orders in 10 and 11 cases respectively. The Collector, Jamnagar (28 cases) stated (December 2006) that there was no provision in the Code to levy conversion tax on the Government land, which is a stand contrary to the cited Government instructions of May 1996. In the remaining 27 cases replies have not been received (October 2007).

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

3.3 Loss of revenue due to acceptance of unregistered documents for correction of records of rights and finalisation of NAA

Section 33 of the Bombay Stamp Act, 1958, as adapted by the Government of Gujarat, casts duty on the public officers to impound documents coming in their possession not duly stamped. Further, the Government also issued instruction in December 1979 that mutation entries be certified only on the basis of registered documents.

Test check of the records of three³⁰ Collectors (LR), seven³¹ DDOs, three³² Mamlatdar offices, three³³ TDOs and Dy. Collector (NA) Ahmedabad revealed that creation of charge worth Rs. 14 crore in 15 cases was recorded in the village records of rights in favour of financial institutions and banks during 2002-03 to 2004-05 based on unregistered documents. Further, in 23 cases, the concerned officers while according permission for use of land for non-agricultural purposes, did not impound the unregistered irrevocable powers of attorney of properties valued as Rs. 9.28 crore produced by the parties before

²⁹ Bhavnagar, Bhuj, Jamnagar, Rajkot and Surat

³⁰ Gandhinagar, Vadodara and Valsad

³¹ Bhavnagar, Gandhinagar, Himatnagar, Mehsana, Navsari, Rajkot and Vadodara

³² Bavala, Mehsana and Vadodara

³³ Kadi, Mansa and Visnagar

them. This resulted in non-realisation of stamp duty and registration fees amounting to Rs. 1.08 crore.

The above lapses were brought to the notice of the department (June 2006) and of the Government (January 2007); their replies have not been received (October 2007).

3.4 Non/short levy of conversion tax

Conversion tax at the prescribed rates is payable for conversion of use of land from agricultural to non-agricultural purpose. Different rates of conversion tax are prescribed for residential/charitable and other purposes. The conversion tax shall be paid in advance.

Test check of the records of two³⁴ Collectors (LR), two³⁵ DDOs, nine³⁶ TDOs and City Mamlatdar (LR) Vadodara revealed that in 37 cases relating to the period 2002-03 to 2005-06, conversion tax of Rs. 57.08 lakh was either not levied or levied at incorrect rate on conversion of 8.55 lakh sq mtrs land.

After the cases were pointed out in June 2007, the department accepted audit observations for Rs. 5.42 lakh in 20 cases and recovered Rs. 2.40 lakh in 16 cases. Report of recoveries in four accepted cases and replies in the remaining 17 cases have not been received.

This was brought to notice of the Government (January 2007); their reply has not been received (October 2007).

3.5 Non/short recovery of non-agricultural assessment

NAA is leviable on land used for non-agricultural purposes at the rates prescribed by the Government. The rates of NAA were revised from August 2003 under two categories of use i.e. residential/charitable and others. The charitable purpose was explained as the use of land to run dispensary without profit motive, *gaushala*, *panjrapole* and *ashram* for old age persons.

Test check of the records of the Collector (LR) Jamnagar, two DDOs, five TDOs and City Mamlatdar (LR) Vadodara revealed that in 17 cases, land measuring 16.58 lakh sq mtrs was used for non-agricultural purposes during the period 2001-02 to 2004-05 by semi-government bodies, industrial units and individuals. However, the concerned officers either did not levy NAA or levied it at incorrect rates resulting in short recovery of Rs. 23.06 lakh as mentioned below:

³⁴ Godhra and Navsari

³⁵ Gandhinagar and Vadodara

³⁶ Borsad, Kalol(NG), Lunawada, Mansa, Petlad, Prantij, Savarkundala, Vansada and Visnagar

Sl. No.	Taluka	Period	Land Area (lakh sq mtr) No. of cases	Amount (Rupees in lakh)	Nature of irregularity
1.	Anand, Borsad, Gandhinagar, Kalol (NG) and Petlad	2002-03 to 2004-05	<u>11.95</u> 6	17.27	NAA was not levied on land allotted to two companies for laying pipe line for transportation of natural gas.
2.	Vadodara	2003-04 to 2004-05	<u>1.61</u> 1	2.83	Gujrat Electricity Board used the land for commercial purpose. However, NAA was levied at the rate applicable to residential use.
3.	Gandhinagar and Vadodara	2003-04 to 2004-05	<u>2.93</u> 6	2.19	NAA on land used for educational purpose by charitable trusts was charged at the rate applicable to charitable purpose.
4.	Jamnagar	2002-03 to 2004-05	<u>1.70</u> 4	0.77	NAA is to be levied from the date of use of the land for non-agricultural purpose and not from the date of permission. Contrary to that, in four cases of land, the NAA was levied from the date of permission only.

The above lapses were brought to the notice of the department (June 2006) and the Government (January 2007); their replies have not been received (October 2007).

3.6 Non-levy of occupancy price

The Government decided (August 2001) to grant unoccupied government land not exceeding 1,000 sq mtrs to Gujarat Telecom Circle at the concessional rate of Rs. 25 per sq mtrs for setting up a telephone exchange. This concession is applicable to the land situated in villages with population less than 10,000 as per the 1991 census and allotted with effect from 15 January 2000.

Test check of the records of the Collector, Vadodara disclosed that in 43 cases the demand for occupancy price of Rs. 6.37 lakh in respect of 1,07,061 sq mtrs of land allotted to the Telecom Circle, Vadodara in March 2000 was not raised. This resulted in non-realisation of the Government dues of Rs. 6.37 lakh.

After the cases were pointed out, the Collector raised the demand in March 2006. Particulars of recovery have not been received.

The matter was reported to the Government (June 2007); their reply has not been received (October 2007).

3.7 Short levy of penalty

The Land Revenue Code prescribes that agricultural land cannot be used for non-agricultural purposes without the prior permission of the Collector. In case of contravention of the provisions, penalty is leviable upto 40 times of the applicable NAA.

Test check of the records of the DDO Vadodara in one case revealed that agricultural land measuring 1.07 lakh sq mtrs situated at village Piparia was used unauthorisedly for educational purpose. While regularising the use of land in January 2005, penalty was levied at the rate applicable to charitable purpose instead of educational purpose resulting in short levy of Rs. 6.42 lakh.

The above facts were brought to the notice of the department in June 2005 and of the Government in January 2007; their replies have not been received (October 2007).

