

## CHAPTER VI

### OTHER 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 2001-02 revealed under assessment etc. of Rs.48.03 crore in 123 cases as detailed below:

**(Rupees in crore)**

<b>Sr. No.</b>	<b>Category</b>	<b>No. of cases</b>	<b>Amount</b>
1	Entertainments tax	85	43.80
2	Luxury tax	29	3.69
3	Electricity duty	09	0.54
	<b>Total</b>	<b>123</b>	<b>48.03</b>

During the year 2001-02, the department accepted under assessment amounting to Rs.71.30 crore in 185 cases and recovered Rs.19.87 crore in 185 cases of which 3 cases involving Rs.22.15 lakh were pointed out during the year 2001-02 and the rest in earlier years. A few illustrative cases highlighting important audit observations involving Rs.34.57 crore are given in the following paragraphs.

#### A. ENTERTAINMENTS TAX

#### 6.2 Incorrect grant of exemption

Under the Gujarat Entertainments Tax Act, 1977 (Act), the Government may by notification in the Official Gazette, exempt either wholly or partly any entertainments or class of entertainments from payment of tax subject to such conditions as may be specified therein. Every such notification is required to be laid before the State Legislature as soon as possible after its issue.

Test check of records of Commissioner of Entertainments Tax, Gandhinagar, revealed that the Government by a notification issued in June 1981, exempted from payment of tax the films in Gujarati language produced with the equipment of recognised studios located in Gujarat subject to fulfilment of certain conditions. Various conditions included in the notification were subsequently relaxed through different Government Resolutions issued from time to time. Since the changes made in the original notification were neither notified in the official gazette nor were placed before the State Legislature, the exemptions granted were incorrect. This resulted in loss of revenue of Rs.28.58 crore in respect of exemptions granted to various films between 1998-99 and 2000-01.

The above facts were brought to the notice of the department (May and November 2001) and of Government (April 2002); their replies have not been received (July 2002).

### **6.3 Non remittance of tax collected by cinema owners**

Section 3 of the Gujarat Entertainments Tax Act, 1977, provides that out of total payment made for admission to an entertainment, a prescribed percentage is chargeable as tax. Further, under section 6 of the Act, Government may allow the proprietor of any entertainment to compound the tax payable under section 3 for a fixed sum. Non payment of entertainment tax attracts interest at the rate of 24 *per cent* per annum.

During test check of records of Mamlatdar (ET), Gandhinagar, it was noticed (between March and November 2001) that the payment for admission to the entertainments inclusive of tax collected for the period between 1999-2000 and 2000-2001 by the proprietors of two cinema houses from the viewers, were not remitted to Government. This resulted in non-recovery of entertainment tax of Rs. 2.75 crore.

The above facts were brought to the notice of the department (May and December 2001) and of Government (April 2002); their replies have not been received (July 2002).

### **6.4 Non-realisation of Entertainments tax**

Under the provisions of Gujarat Entertainments Tax Act, 1977 and the Rules made thereunder, entertainments 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 a video parlour in advance every month by 15<sup>th</sup> day of the month preceding the month to which the tax relates.

Test check of records of 4 \* Collector's (ET) and 2 \*\* Mamlatdar's offices, revealed (between March 2001 and March 2002) that 38 operators of cinema houses and video parlours did not pay the tax of Rs.1.12 crore during the years 1999-2000 and 2000-01. This resulted in non-realisation of tax of Rs.1.48 crore including interest.

The above facts were brought to the notice of the department (between February 2001 and March 2002) and of Government (April 2002). The department accepted audit observations involving an amount of Rs.12.69 lakh in 19 cases. Particulars of recovery, if any, and replies in the remaining cases have not been received (July 2002).

### **6.5 Non recovery of Entertainments tax from cable operators**

Under the Act, tax is leviable for exhibition of programmes with the aid of antenna or cable television. Every proprietor has to pay tax in advance in quarterly instalments at the rate of Rs.600/- per month for first 100 connections plus Rs.300/- for every additional 50 connections or part thereof in urban areas and at half of such rates for other areas.

During test check of records of 3 ♦ Collectors and 8 • Mamlatdar's offices, it was noticed (between March 2001 and January 2002) that 129 cable operators did not pay the entertainment tax between the periods 1999-2000 and 2000-01. The tax recoverable amounted to Rs.61.61 lakh.

The above facts were brought to the notice of the department (between April 2001 and February 2002) and of Government (April 2002). The department accepted audit observations involving an amount of Rs.59.12 lakh in 99 cases and recovered Rs.0.19 lakh in 2 cases. Particulars of recovery, if any, and replies in the remaining cases have not been received (July 2002).

### **6.6 Non recovery of compound tax.**

Under Section 6 of the Gujarat Entertainments Tax Act,1977, a proprietor of a cinema hall in a designated or specified area shall have an option to pay compound tax at prescribed rates as specified in Schedule I of the Act. However, if a proprietor of a cinema exhibits any tax exempted Gujarati film, he shall have to pay tax as per section 3 of the Act subject to such exemption as may have been given by the Government to such films as is exhibited.

During test check of records of Collector (ET), Gandhinagar and Mamlatdar (ET) Palanpur, it was noticed (between July 2000 and November 2001) that

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\* Ahmedabad, Gandhinagar, Rajkot and Surat.

\*\* Gandhinagar and Deesa.

♦ Ahmedabad, Mehsana and Surat.

• Dhandhuka, Dhrangadhra, Dhoraji, Gandhinagar, Mehmedabad, Patan, Vadodara and Visnagar.

two cinema houses situated in specified area, while exhibiting tax free Gujarati films in the regular shows also exhibited non-exempted Hindi/English films in the morning shows during the period June to December 1999 and March 2000 to February 2001 without payment of tax. This resulted in non-recovery of compound tax of Rs.28.61 lakh.

The above facts were brought to the notice of the department (August 2000 and December 2001) and of Government (April 2002). The Department accepted the audit observations in both the cases and recovered an amount of Rs.0.32 lakh in one case. Particulars of recovery, if any, in the remaining cases has not been received (July 2002).

## B. LUXURY TAX

### 6.7 Short-payment of luxury tax under tariff rates declared in form II return/printed tariff.

Under Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977 (Act) and Rules made thereunder, tax is leviable on the full tariff of a room as declared by the proprietors of hotels irrespective of whether the room was let out free or at concessional rates. Where any proprietor fails to furnish a true and correct return or to pay amount of tax due according to such return, he shall be liable to pay simple interest at the rate of 2 per cent per month over and above penalty that may be imposed.

During the course of audit of 3\* Collectors (LT), it was noticed (between August and December 2001) that the luxury tax of Rs.54.61 lakh was not paid or paid short by the hotel owners during the period 2000-01 as per details given below:

(Rupees in lakh)

Sr. No.	No.of hotels	Tax short levied	Nature of irregularity
1	11	37.61	The hotels had fixed two tariffs for the same luxury provided in double room, one when occupied by two persons and another when occupied by single person. Since the luxury provided in both cases was the same, fixation of two tariffs for same luxury was irregular.
2	03	9.38	One hotel at Vadodara and two at Rajkot, did not pay tax on the rooms allotted on complimentary basis, on the plea that no room rent was collected.

\* Jamnagar, Rajkot and Vadodara.

3	02	7.62	Proprietors of two hotels had collected charges for extra bed but did not pay luxury tax on the charges so collected. Since extra bed is the part of the luxury provided, charges collected should have been included for the purpose of levy of luxury tax.
<b>Total</b>	<b>16</b>	<b>54.61</b>	

The above facts were brought to the notice of the department (between September 2001 and January 2002) and of Government (April 2002) ; their replies have not been received (July 2002).

### 6.8 Retention of tax collected by hotel owners

In accordance with the notification of September 1998, a hotel owner availing tax exemption benefits is not eligible to collect any tax from the customers to whom the luxury is provided. The tax, if any, collected in violation of the above instructions should immediately be credited to Government account failing which interest and penalty at the prescribed rates are leviable.

During test check of records of Collector (LT) Vadodara, it was noticed that Hotel Express, Vadodara was granted exemption from payment of luxury tax for the period from December 1998 to February 2003. But the owner had collected tax of Rs.12.02 lakh from the customers during the year 2000-2001 and retained the same instead of crediting the tax to Government account. The incorrect retention of tax so collected including interest and penalty amounted to Rs.31.61 lakh.

The above facts were brought to the notice of the department (November 2001) and of Government (April 2002). The above matters were followed up with reminders to the Secretary in June 2002 and Chief Secretary in July 2002. However, inspite of such efforts, no reply was received from the Government (July 2002).