

## CHAPTER – IV

### TAXES ON VEHICLES

#### 4.1 Results of Audit

Test check of records in the offices of Commissioner of Transport, Regional Transport and Assistant Regional Transport Officers in the State, conducted in audit during the year 2002-03, disclosed under-assessments, etc. amounting to Rs.104.75 crore in 107 cases. These cases broadly fall under the following categories:

(Rupees in crore)

Sr. No.	Category	No. of cases	Amount
1	Non/short levy of composite tax.	37	14.55
2	Non/short levy of motor vehicle tax	28	0.92
3	Other irregularities	42	89.28
	<b>Total</b>	<b>107</b>	<b>104.75</b>

During the year 2002-03, the department accepted and recovered under assessment of Rs.24.90 lakh in 125 cases pertaining to earlier years. A few illustrative cases highlighting important audit observations involving Rs.17.25 crore are discussed in the following paragraphs:

#### 4.2 Non/short levy of Motor Vehicle Tax

Under the Bombay Motor Vehicles Tax Act, 1958, and Rules made thereunder, the tax is levied and collected in advance on all motor vehicles used or kept for use in the State. An additional tax commonly known as Composite Tax is leviable in lieu of passenger tax on all omnibuses/luxury buses exclusively used or kept for use as contract carriage in the State. The owner of a vehicle, who does not intend to use the vehicle or keeps it for use in the State but desires to avail of exemption from payment of tax, has to make a declaration within the period for which tax has been paid. Such a declaration is valid till the end of the financial year in which it is made. The declaration of non-use of vehicle is noted in the tax-index cards. The taxation authorities are required to review the tax index cards/registers to identify the defaulters and take prompt action to recover the dues.

**4.2.1** During test check of records of 15<sup>#</sup> taxation authorities, it was noticed that operators of 587 omnibuses, who exclusively kept these vehicles for use as contract carriage had neither paid tax nor filed non-use declarations for various periods between 2000-01 and 2001-02. Failure on the part of the departmental officials to enforce the procedural requirements resulted in non levy of composite tax of Rs.10.77 crore.

The above facts were brought to the notice of the department between July 2001 and December 2002 and of the Government in February 2003. The department accepted in April 2003 the audit observations involving an amount of Rs.4.96 crore in 295 cases and recovered an amount of Rs.2.80 crore in 140 cases. Particulars of recovery, if any, and reply in the remaining cases had not been received (August 2003).

**4.2.2** During test check of records of 16<sup>@</sup> taxation authorities, it was noticed that in 593 cases, motor vehicles tax was not levied for the years 2000-01 and 2001-02 despite absence of any declaration regarding non-use of vehicles. Failure on the part of the departmental officials to adhere to the procedural requirements resulted in non levy of motor vehicles tax of Rs.62.17 lakh.

The above facts were brought to the notice of the department between February and December 2002 and of Government in February 2003. The department accepted the audit observations involving an amount of Rs.52.91 lakh in 431 cases and recovered an amount of Rs.19.44 lakh in 201 cases. Particulars of recovery, if any, and reply in the remaining cases had not been received (August 2003).

### **4.3 Short levy of tax due to incorrect issue of permit as taxi**

Under the Motor Vehicles Act, 1988, a “maxi-cab” constructed and adapted to carry more than 6 passengers, excluding the driver, for hire or reward, is defined as transport vehicle and the owners of these vehicles are liable to pay composite tax as applicable to “omnibuses”.

During test check of records of 10<sup>\*</sup> taxation authorities, it was noticed that 854 maxi cabs viz. Bajaj Tempo, Bajaj Matador, Autorikshaws, Vikram and Kushboo etc., having carrying capacity of more than six passengers, excluding the driver, had been incorrectly issued permit to run as motor cabs (taxies). The incorrect issue of permit to the above vehicles to run as taxies instead of as omnibuses resulted in short levy of tax of Rs.3.52 crore.

The above facts were brought to the notice of the Department between February and October 2002 and of Government in March 2003. The

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<sup>#</sup> Ahmedabad, Bharuch, Bhavnagar, Bhuj, Gandhinagar, Junagadh, Mehsana, Nadiad, Navsari, Palanpur, Porbandar, Rajkot, Surat, Valsad and Vadodara.

<sup>@</sup> Ahmedabad, Bharuch, Bhavnagar, Bhuj, Gandhinagar, Junagadh, Mehsana, Navsari, Nadiad, Palanpur, Patan, Porbandar, Rajkot, Surat, Valsad and Vadodara.

<sup>\*</sup> Ahmedabad, Bardoli, Bhavnagar, Bharuch, Mehsana, Nadiad, Navsari, Patan, Surat, and Valsad.

Commissioner of Transport replied (March 2003) that after inspection of the vehicle, the State Transport Authority (STA) had granted its seating capacity as 6+1 in public interest. The reply is not tenable in view of the fact that based on audit comment, the STA in its meeting dated 6 November 2001 had decided to classify Bajaj Matador F-305 and 307 and Bajaj Tempo Trax, as per seating capacity shown in the sale invoice of non-transport vehicle. However, no decision had been taken to recover the differential amount of tax in respect of vehicles registered earlier.

#### **4.4 Non/short levy of lump sum tax**

Under the Act, the State Government prescribed rates of one time tax (lump sum tax), with effect from April 1987, leviable on all non-transport vehicles where unladen weight does not exceed 2,250 Kgs. Lump sum tax (LST) is leviable with reference to the cost of vehicle in respect of non-transport vehicle. From September 2001, LST is also leviable on transport vehicles used for carriage of goods or materials where registered laden weight does not exceed 3000 kgs. In respect of such vehicles registered prior to September 2001, LST was recoverable according to the age of the vehicle in 12 equal monthly instalments.

During test check of records of 5<sup>\*\*</sup> taxation authorities, it was noticed that LST in respect of 89 non-transport vehicles was levied short due to incorrect application of rate or incorrect calculation of cost of the vehicles etc. Further, tax in respect of 1092 transport vehicles used for carriage of goods registered prior to September 2001 was not recovered. Failure to follow the provisions of the Act resulted in non/short levy of Lump sum tax of Rs.1.24 crore.

The above facts were brought to the notice of the Department between April and December 2002 and of Government in March 2003. The Department accepted audit observations in all the cases and recovered Rs.23.34 lakh in 265 cases. Particulars of recovery, if any, in the remaining cases had not been received (August 2003).

#### **4.5 Incorrect grant of concession in composition amount**

Under Section 200 of the Motor Vehicles Act, 1988, any offence committed, which is punishable under different Sections of the Act, can be compounded for such amount as the State Government may specify by notification in the official gazette. The Government vide notification of 1994 as amended from time to time has fixed the rate of composition amount for different types of offences punishable under different Sections of the Act.

During test check of records of Regional Transport Office, Nadiad and Surat, it was noticed in respect of 4552 cases of offences, finalised during 2000-01,

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<sup>\*\*</sup> Mehsana, Patan, Porbandar, Vadodara and Valsad.

that composition amount was levied at 50 and 75 *per cent* on the basis of instructions issued by the Commissioner of Transport in February 2000 and March 2001 though he was not empowered to reduce the amount of composition fees fixed by the Government. This resulted in short recovery of composition amount by Rs.68.26 lakh.

The above facts were brought to the notice of the Department between February and April 2002 and of the Government in March 2003. The Commissioner of Transport stated in April 2003 that under Section 86(5) the Regional Transport Officer is competent to levy compounding fee without any restriction. The reply is not tenable as the rates notified by the Government under Section 200 of the Act can only be amended by the Government. Further, Section 86(5) relates to permits only and not for general offence.

#### **4.6 Incorrect grant of exemption**

Under the Act, tax shall be levied and collected on all the motor vehicles used or kept for use in the State unless specifically exempted from payment. Tractor-cum-trailers belonging to agriculturists and used solely for agricultural purposes are exempted from payment of tax.

During test check of records of 5<sup>s</sup> taxation authorities, it was noticed that in 85 cases, exemption from payment of tax was granted for various periods between 1999-00 and 2001-02 to tractor-cum-trailers without obtaining proof of owners being agriculturists or without requisite application for exemption in Form 'MT'. The incorrect grant of exemption in these cases resulted in non-levy of motor vehicles tax of Rs.16.40 lakh.

The above facts were brought to the notice of the department between June 2001 and October 2002 and of Government in February 2003. The Commissioner of Transport replied in April 2003 that the exemption was granted after obtaining the application in the prescribed form 'MT' and once the exemption was granted it was not necessary to obtain form MT every year. The reply is not tenable, since as per Rule 17(5) of the Rules, application has to be made within seven days of the period of the exemption, if any, last issued. Since the exemption is granted for a period "till the vehicle is used for agricultural purpose or transfer of ownership whichever is earlier", without obtaining 'MT' form every year, the owner's continued eligibility for exemption cannot be ensured.

#### **4.7 Short recovery of tax due to incorrect approval of seating capacity**

Under the Motor Vehicles Act, 1988, a "maxi-cab" constructed and adapted to carry more than six passengers, excluding the driver, for hire or reward, is

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<sup>s</sup> Bardoli, Nadiad, Surat, Valsad and Vadodara.

defined as transport vehicle and the owners of these vehicles are liable to pay composite tax as applicable to “omnibuses” based on the seating capacity. The seating capacity of ‘TATA-SUMO’ was nine plus driver as per the documents produced for registration. Based on the State Transport Authority’s decision, the Commissioner of Transport issued orders in March 1996 to classify the above vehicle with the seating capacity of eight plus driver.

During test check of records of 6<sup>s</sup> taxation authorities, it was noticed that 429 vehicles of the above category were allowed to be registered as “maxi-cabs” between 1997-98 and 2001-02 with seating capacity of eight plus driver. This resulted in short recovery of tax of Rs.18.04 lakh.

The above facts were brought to the notice of the Department between October 1999 and August 2002. The Department accepted the audit observation in February 2002 and stated that orders had been issued on the basis of decision of State Transport Authority to classify the vehicle with seating capacity as nine plus driver with effect from 6 November 2001. However, no decision was taken for recovery of difference of tax in respect of vehicles registered with incorrect seating capacity of 8 plus driver.

The matter was brought to the notice of Government in March 2003; reply had not been received (August 2003).

#### **4.8 Delay in revalidation of drafts/dishonoured cheques**

Under the Bombay Motor Vehicles Tax Rules, 1959, as amended from time to time, the payment of tax may be made by the vehicle owner into a government treasury or to the Taxation Authority in cash, by cheque or demand draft. Under reciprocal agreements, the State Government of Gujarat collects the composite fee in the form of demand drafts in respect of vehicles of other States plying in Gujarat State which is credited to government account by the Commissioner of Transport. If the validity of the demand drafts expires, these are returned to the authorities concerned of the home States/payers for revalidation. Under the Negotiable Instruments Act, 1881 (as amended in 1988) interest at the rate of 18 *per cent* per annum from the date of dishonour of the cheques to the date of payment has to be paid by the drawer. Action under Indian Penal Code (treating dishonour of cheque as cognizable offence) can also be taken, if notice is issued to the drawer within one month of the dishonour of cheque.

During test check of records of Commissioner of Transport, Ahmedabad and Regional Transport Offices, Ahmedabad and Rajkot, it was noticed that 101 demand drafts for Rs.3.24 lakh received on account of composite fees/tax from other States were not deposited promptly with the result validity of these drafts expired. Though these drafts were sent for revalidation between December 1998 and March 2001, the same were not received back. Another 27 cheques for Rs.4.27 lakh received from tax payers and deposited in the

<sup>s</sup> Ahmedabad, Bhavnagar, Bharuch, Gandhinagar, Rajkot and Vadodara.

banks between April and September 1997 were dishonoured by the banks due to insufficient funds. Failure on the part of the departmental officials to monitor the revalidation of drafts/ to take action under Negotiable Instruments Act resulted in non-realisation of composite fee and tax amounting to Rs.7.51 lakh.

The above facts were brought to the notice of the Department between November 1999 and October 2002 and of Government in March 2003. The Commissioner of Transport replied in April 2003 that an amount of Rs.2.89 lakh was recovered in 71 cases and all efforts were being made to recover the remaining amount. Particulars of recovery, if any, in the remaining cases were awaited (August 2003).

The above matters were followed up with reminders to the Principal Secretary in May/June 2003 and Chief Secretary in July 2003. However, inspite of such efforts, no reply was received from the Government (August 2003).