

CHAPTER-V : OTHER TAX RECEIPTS

5.1 Results of audit

Test check of records of concerned departmental offices, conducted in audit during the year 2004-05, disclosed short realisation or losses or forgoing of revenue amounting to Rs.795.09 crore in 382 cases, under the following broad categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
Taxes on Agricultural Income			
1	Non/short levy of tax	9	0.34
2	Non/short levy of penalty	4	0.05
	Total	13	0.39
Stamps and Registration Fees			
1	Non/short levy of stamp duty and registration fees	55	0.57
2	Incorrect grant of exemption/concession	2	0.72
3	Other irregularities	24	0.79
	Total	81	2.08
Taxes on Motor Vehicles			
1	Non/short levy of tax	23	1.38
2	Non levy/non collection of fees/penalty	47	0.13
3	Other irregularities	12	0.61
	Total	82	2.12

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
Entry Tax			
1	Non/short levy of tax	137	3.57
2	Non/short levy of tax due to incorrect grant of exemption	4	0.11
3	Non levy of interest	44	0.71
4	Non forfeiture of taxes collected in excess	2	0.01
	Total	187	4.40
Other Taxes and Duties on Commodities and Services			
1	Other Tax Receipts (professions tax, entertainment tax, luxury tax, taxes and duties on electricity)		
	Non/short levy of tax, penalty etc.	14	2.77
2	Receipts under Education Cess Act and Health Cess Act	1	107.17
3	Levy and collection of forest development tax	4	676.16
	Total	19	786.10
	Grand Total	382	795.09

During the course of the year 2004-05, the departments accepted underassessments of tax amounting to Rs.3.07 crore involved in 258 cases which had been pointed out in audit in earlier years and recovered Rs.2.84 crore involved in 238 of them.

A few illustrative cases (including certain cases noticed in earlier years that could not be included in previous Reports) involving Rs.121.76 crore are given in the following paragraphs. Of this, Rs.15.85 lakh had been recovered.

A. Taxes on Agricultural Income

5.2 Short levy of tax due to incorrect computation of agricultural income

According to the Karnataka Agricultural Income tax Act (KAIT Act), 1957, as amended from time to time, 'agricultural income' includes any rent or revenue derived from land situated in the State and used for growing plantation crops. Under the Act, the 'total agricultural income' of a person in a 'previous year' is computed after allowing revenue expenditure laid out or expended wholly and exclusively for the purpose of deriving agricultural income. Further, as per the KAIT Rules 1957, when any asset is acquired and used for a period of less than 180 days, depreciation on such asset will be allowed at 50 per cent of the depreciation. Under explanation to section 5(2)(b)(iii), when replanting allowance is allowed as deduction in computing agricultural income, no further deduction shall be allowed towards expenditure on filling the vacancies of diseased or dead plants in a coffee plantation.

It was noticed in November 2004 in Hassan district that in two assessments of two assessees for the year 2000-01 finalised in July and August 2003, the assessing authority (Deputy Commissioner of Agricultural Income Tax) allowed deduction of inadmissible expenditure of Rs.41.96 lakh while arriving at the taxable agricultural income. The short computation of income resulted in short levy of tax of Rs.20.97 lakh, as detailed below:

(Rupees in lakh)

Sl. No.	Name of the assessee / Status	Period / Date of assessment	Nature of irregularity	Short computation of income	Short levy of tax
1	M/s Consolidated Coffee Ltd./ Public Limited Company	2000-01/ 29.07.2003	While finalising assessment, Director's Commission of Rs.6 lakh was allowed as expenditure though it was already included in common head office expenses and apportioned in the ratio of 62:38 between agricultural and non agricultural income. Depreciation on assets of Rs.1.16 crore was allowed in full though they were put to use for less than 180 days. This resulted in allowance of excess depreciation of Rs.8.61 lakh.	14.61	7.30

(Rupees in lakh)					
Sl. No.	Name of the assessee / Status	Period / Date of assessment	Nature of irregularity	Short computation of income	Short levy of tax
2	M/s Bombay Burma Trading Corporation/ Private Limited Company	2000-01/02.08.2003	The assessing authority allowed expenditure of Rs.27.35 lakh on infilling of vacancies of diseased or dead plants in addition to the replanting allowance of Rs.7.95 lakh resulting in extra allowance of expenditure of Rs.27.35 lakh.	27.35	13.67
Total				41.96	20.97

After these cases were pointed out in November 2004, Government endorsed in November 2005 the reply of the Department that action for revision of assessments had been initiated.

B. Taxes on Motor Vehicles

5.3 Evaluation of internal audit system

5.3.1 Introduction

An internal audit system is evolved by Government to ensure that the implementing officers in all Government departments, in the course of exercising their powers and discharging their duties duly comply with the prescribed rules and procedures and safeguard the financial interest of Government. Internal auditors, as an independent entity inside the Government department would examine and evaluate the level of compliance to the departmental rules and procedures and bring to the notice of the head of Department any irregularities observed in their scrutiny of departmental records for expeditious corrective action.

Though, internal audit mechanism existed in certain departments prior to 1992, Government of Karnataka at the instance of the Comptroller and Auditor General of India, issued (December 1992) guidelines for effective functioning of the internal audit wing (IAW) in all Government departments. The objectives enjoined in it are:-

- to have a deterrent and reforming effect in the direction of prevention of mistakes;

- to play a corrective role by pointing out mistakes and ensuring remedies without loss of time; and
- to improve the quality of functioning of the department so as to reduce the criticism of the department by the statutory audit and the Public Accounts Committee.

5.3.2 Organisational set up

Transport Department works under the administrative control of Home and Transport Department at Government level and Commissioner of Transport at the department level. The IAW is functioning in the Transport Department since 1960. There are seven audit wings carrying out internal audit of 53 offices as below:

- One wing at Transport Commissioner's Office covering 44 offices.
- Six wings covering nine^Y RTO/ARTO offices.

Each audit wing is headed by an accounts officer, assisted by superintendents and auditors. The audit wing at Transport Commissioner's office monitors the functioning of the internal audit wing of Transport Department.

5.3.3 Internal Auditing Standards

There was no internal audit manual in the Department laying down the practices and procedures to be observed/followed in the conduct of internal audit. However, the circular instructions issued (December 1992) by Government were largely being followed, which *inter alia* provided that:

- all unit offices are to be audited annually;
- mandays required are to be fixed on the basis of volume of transactions of the auditee organisation;
- quantum of audit checks to include detailed examination of one month's transactions and general review of the entire year under audit;
- internal audit reports are to be issued within a month of conclusion of audit and replies thereto furnished by the auditee office within a month;
- a control register is to be maintained in IAW to watch and monitor the outstanding paragraphs and money value objections;
- encashment and remittances are to be verified by IAW invariably; and
- correctness of reconciliation of accounts is to be checked.

A test check conducted (March 2005) to evaluate the working of internal audit wing in the Department revealed the following points.

^Y RTO (North, South, East, West, Central) Bangalore, RTO, Mangalore, Attibele check post, Talapady check post, Aland check post

- **Inadequacy of inputs for internal audit**

For effective functioning, IAW was to be equipped with codes and manuals, periodical training of staff etc. However, audit scrutiny revealed that:

- A manual of internal audit to specify, *inter alia*, the duties and responsibilities of IAW staff was not compiled. The Department stated that action would be taken to prepare audit manual exclusively for internal audit of Transport Department.
- No periodical training/ seminar had been provided to internal audit staff to enrich their knowledge and to improve their audit skills. The Department stated that periodical training would be imparted in future.

- **Audit planning**

As per the guidelines, all the auditee units of the Department are to be audited annually and no unit is to be left unaudited for more than two years. Mandays required for internal audit are to be fixed on the basis of volume of transactions in the auditee units. Further, internal audit of the units had to precede external audit by the Accountant General.

However, it was noticed that the Department had not laid down procedures for planning of audit and prescribing volume of transactions to be audited, number of mandays to be provided for each office, periodicity and selection criteria of offices for audit etc. Test check of audit planning of the internal audit wing (responsible for conducting audit of 44 offices) in the office of the Transport Commissioner revealed as under:

Year	Number of offices due for audit for more than two years	Number of offices audited during the year
2001-02	28	12
2002-03	39	33
2003-04	29	27

The Department had also not taken into account the programme of external audit while planning for the internal audit of offices.

The Department stated in March 2005 that action would be taken to consider this aspect at the time of planning/programming of internal audit in future.

- **Internal Audit coverage**

According to the figures furnished by the Department, number of offices due for audit during 1999-2000 to 2003-04 and the number actually covered by the IAW are as below:

Year	Total Number of offices	Number of offices due for audit	Number of offices audited	Shortfall (Percentage of (4) to (3))
(1)	(2)	(3)	(4)	(5)
1999-2000	50	50	12	38(76)
2000-2001	50	50	22	28(56)
2001-2002	50	50	18	32(64)
2002-2003	50	50	39	11(22)
2003-2004	50	50	33	17(34)

Thus, the shortfall varied from 22 to 76 *per cent*. Further internal audit of two units were pending for more than three years (2000-01 and earlier) as on 31 March 2004.

The Department attributed the shortfall to inadequate staff provided to IAW.

- **Delay in issue of Internal Audit Reports (IARs)**

The maximum time limit allowed for issue of IARs is one month from the last day of audit and the concerned offices were required to furnish compliance within one month from the date of issue of IARs.

Test check of records in March 2005 revealed that out of the offices audited during 1999-2000 to 2003-04, the IARs were issued to 50 units after a delay ranging from one to 17 months. Further, compliance to IARs was not furnished by 44 offices. In respect of six offices, compliance was furnished after a delay of five months.

The Department stated in March 2005 that efforts would be made to issue IARs well within time and obtain early compliance.

- **Absence of coverage of encashment and remittance transactions**

According to the guidelines, a selected month's transactions of encashments and remittances done by the Department have to be verified with treasury records to ensure their correctness. However, this aspect was not covered in internal audit.

The Department stated in March 2005 that encashments and remittances are being verified with treasury schedules. Reply is not tenable as there was no

indication in the IARs and connected records that such checks had been carried out. Department further stated in December 2005 that such verification would be indicated in the IARs in future.

- **Maintenance of control registers/records**

Guidelines envisage maintenance of control registers for watching the statistical data of details of outstanding paragraphs and money value objections by head of Department. However, no control register was being maintained by IAW.

The Department stated in March 2005 that control registers would be maintained in future.

- **Outstanding IARs and paragraphs**

The position of IARs and paragraphs issued with money value, disposed and pendency of audit observations during the period 1999-2000 to 2003-04 as on 31 March 2004 is given below:

(Rupees in lakh)

Year	IARs/ Paragraphs/ Amount	Opening Balance	Additions	Total	Clearance (Percentage to (5))	Closing Balance
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1999-2000	IARs	496	12	508	4 (0.78)	504
	Paragraphs	5613	144	5757	854 (14.83)	4903
	Amount	545.03	15.28	560.31	36.78 (6.56)	523.53
2000-2001	IARs	504	21	525	Nil (0)	525
	Paragraphs	4903	152	5055	104 (2.06)	4951
	Amount	523.53	27.46	550.99	4.86 (0.88)	546.13
2001-2002	IARs	525	18	543	Nil (0)	543
	Paragraphs	4951	114	5065	101 (1.99)	4964
	Amount	546.13	52.18	598.31	14.2 (2.37)	584.11
2002-2003	IARs	543	39	582	1 (0.17)	581
	Paragraphs	4964	205	5169	188 (3.64)	4981
	Amount	584.11	71.61	655.72	26.84 (4.09)	628.88
2003-2004	IARs	581	34	615	Nil (0)	615
	Paragraphs	4981	156	5137	236 (4.59)	4901
	Amount	628.88	70.08	698.96	27.48 (3.93)	671.48

It could be seen from the table that the percentage of disposal of IARs and paragraphs ranged from nil to 0.78 and 1.99 to 14.83 respectively.

The Department stated in September 2005 that instructions had been issued to clear the pending paragraphs.

5.3.4 Evaluation of working of IAW

Lack of training to internal audit staff, lack of audit planning and approach, shortfall in coverage of units and non maintenance of important control

registers regarding audit of units conducted from time to time as well as absence of departmental audit manual would result in lack of adequacy and effectiveness of internal audit checks in the Department. Consequently, the extent to which the prescribed rules and orders of Government had been followed by field level officers could not be assessable.

Government endorsed in December 2005 the reply of the Department.

C. Entry Tax

5.4 Non/short levy of entry tax

Under the Karnataka Tax on Entry of Goods Act (KTEG Act), 1979, tax is leviable at the rates notified from time to time on entry of specified goods into a local area. By a notification dated 31 March 2000, entry tax was exempted on raw material brought into local area by industrial units for manufacture of goods and export outside the country by such units.

In six^a districts, tax on entry of goods into local areas was either not levied or levied short by 14 assessing authorities while finalising 25 assessments between July 2000 and March 2004 for the years 1994-95, 1997-98 and 1999-2000 to 2001-02 resulting in non/short levy of tax of Rs.64.95 lakh.

After these cases were pointed out between February 2004 and February 2005, Government reported in December 2005 revision of assessments in 11 cases creating additional demand of Rs.12.35 lakh and recovery of Rs.10.75 lakh in nine of them. In respect of four other cases involving Rs.4.72 lakh proceedings for revision of assessments have been initiated.

In one case it was stated that goods were exported outside the country and hence no tax was leviable. The reply was not tenable as the assessee did not export the goods but only manufactured the goods on behalf of an exporter situated outside the State. In respect of the remaining cases, final replies have not been received (January 2006).

^a Bangalore (Rural), Bangalore (Urban), Belgaum, Bidar, Dharwad, Gulbarga

5.5 Non/short levy of interest

5.5.1 Under the KTEG Act, every dealer is required to pay the full amount of tax payable on the basis of turnover computed by him for the preceding month within 20 days of close of that month. In case of default beyond 10 days after that period, the assessee is liable to pay interest at the rate of two *per cent* of the tax payable for every month or part thereof during which such default is continued.

In five districts, it was noticed between July 2004 and March 2005 that though 14 dealers delayed the payment of monthly taxes amounting to Rs.38.49 lakh by 19 to 46 months for the years 1997-98 and 1999-2000 to 2002-03, interest of Rs.22.71 lakh was not levied or levied short by nine assessing authorities, as detailed below:

(Rupees in lakh)					
Sl. No.	District (number of dealers)	Assessment year (period of assessment)	Tax due	Delay in payment of tax (months)	Interest due
1	Bangalore (Rural) (6)	1997-98 to 2001-02 (Between November 1999 and March 2004)	14.23	19 to 34	7.39
2	Bangalore (Urban) (5)	1999-2000 to 2002-03 (Between March 2002 and March 2004)	15.38	21 to 38	8.55
3	Bellary (1)	1999-2000 (February 2004)	2.60	46	2.38
4	Dakshina Kannada (1)	1997-98 (March 2001)	2.12	35	1.47
5	Davanagere (1)	1999-2000 (May 2003)	4.16	40	2.92
	Total (14)		38.49	19 to 46	22.71

After these cases were pointed out between July 2004 and April 2005, Government reported in December 2005 recovery of Rs.2.92 lakh in two cases and issue of notice in one case. Final replies in respect of other cases have not been received (January 2006).

5.5.2 Under the KTEG Act, the tax or any other amount due is to be paid within the prescribed time which, in the case of final assessments, is 21 days from the date of service of demand notice. In case of default, the assessee is liable to pay interest at prescribed rates.

In three districts, though 12 dealers had delayed the payment beyond 21 days, six assessing authorities failed to levy interest of Rs.17.66 lakh due, as detailed in the following table:

(Rupees in lakh)

Sl. No.	District (number of assessees)	Period (date of service of demand notice)	Amount of tax due	Delay in payment of tax (months)	Interest due
1	Bangalore (Rural) (8)	1996-97 to 2000-01 (November 1999 to October 2003)	35.05	4 to 48	14.30
2	Bangalore (Urban) (2)	1999-2000 (November 2001 and July 2002)	3.71	17 to 24	1.18
3	Dharwad (2)	1998-99 (June 2002 and October 2002)	15.51	4 to 10	2.18
	(12)	Total	54.27	4 to 48 months	17.66

After these cases were pointed out between June 2004 and March 2005, Government reported in December 2005 recovery of Rs.2.18 lakh in two cases. Replies in respect of the remaining cases have not been received (January 2006).

D. Other Taxes and Duties on Commodities and Services

5.6 Non/short remittance of cess

Under the provisions of the Karnataka Compulsory Primary Education Act, 1961 and the Karnataka Health Cess Act, 1962 (as amended by the Karnataka (Enhancement of Certain Cesses) Act, 1976), education cess and health cess are levied by the local authorities at the rates of 10 *per cent* and 15 *per cent* respectively on the property tax collected by them. After deducting 10 *per cent* of the cess collected towards collection charges, the balance amount is required to be paid by them into Government account. The local bodies are under the administrative control of the Urban Development Department.

Test check conducted in audit to verify the extent of compliance with the statutory provisions with reference to the information obtained in respect of Bangalore Development Authority, six[♦] municipal corporations including Bangalore Mahanagara Palike and 217 other local bodies revealed that out of the total collections of Rs.126.11 crore towards education and health cess during the years 2002-03 and 2003-04, the remittances due to Government after deducting collection charges worked out to Rs.113.50 crore. The actual remittances made by them during these years amounted to Rs.6.33 crore only. Thus, Rs.107.17 crore was kept out of the Consolidated Fund of the State.

Director, Municipal Administration reported in July 2005 that Government had been addressed to deduct cess due from the local bodies from the State Finance Commission grants to be released to local bodies and that proposal to adjust all arrears of cess was under consideration of Government.

The matter was reported to Government in May 2005; reply has not been received (January 2006).

5.7 Levy and collection of Forest Development Tax

Under the Karnataka Forest Act, 1963 (Act), forest development tax (FDT) is leviable in respect of forest produce disposed of by the State Government by sale or otherwise on the amount of consideration paid therefor. From March 1989, the Act was amended to cover disposal by a corporation, owned or controlled by or a body notified by the State Government. Under the Act, 'forest produce' has been defined to include minerals and all products of mines or quarries when found in or brought from a forest. The rate of tax in respect of minerals is eight per cent. FDT was being levied on the sale value of forest produce sold by Government depots. Under the Act, "FDT collected shall first be credited to the Consolidated Fund of the State and under appropriation duly made by law in this behalf, be entered in and transferred to the Karnataka Forest Development Fund"^{*.}

- **Non levy of tax**

It was noticed in February 2005 during audit of the accounts of the Deputy Conservator of Forests, Bellary that M/s Mysore Minerals Limited, a State Government undertaking extracted and sold mineral ores during the period 2001-02 to 2003-04 from two mines in forest area. It was liable to levy and collect FDT due to Government on the amount of consideration of Rs.56.11 crore received by it, but failed to do so. The Principal Chief Conservator of Forests (PCCF) had also clarified in March 1996 that the undertaking was liable to levy and collect FDT. However, the Department had not raised

[♦] Bangalore Mahanagara Palike, Belgaum, Gulbarga, Hubli-Dharwad, Mangalore, Mysore

^{*} Section 98-B of the Act.

demand for payment of tax of Rs.4.49 crore due. Thus, Rs.4.49 crore remained unrealised.

After this was pointed out in February 2005, Government reported in October 2005 that the Hon'ble High Court had while disposing of several writ petitions in July 1997 held that FDT was not leviable on royalty payable to State Government in regard to mining leases under the provisions of Mines and Mineral (Regulation and Development) Act, 1957. The reply is not tenable as the undertaking was liable to levy and collect FDT on the consideration paid for the forest produce and not on royalty payable to the State Government.

- **Non remittance of tax collected**

It was noticed from the records of the office of the PCCF in March 2005 that the Karnataka Forest Development Corporation Limited (KFDC), a State Government company retained FDT of Rs.12.46 crore levied and collected by it from August 1996 onwards on sale of rubber, pulpwood, etc. The amount unauthorisedly retained by KFDC for the period 1999-2000 to 2003-04 alone was Rs.7.78 crore. The Act does not provide for levy of interest for non remittance or belated remittance of FDT collected by any authority to Government account.

After this was pointed out in March 2005, Government stated in November 2005 that levy of FDT at 12 *per cent* on the produce sold by KFDC resulted in realising non remunerative prices for its products. Government had vide order dated 3 November 1992 accorded sanction for providing financial assistance to KFDC from its regular plan sectoral allocations to match the Karnataka Forest Development Tax which may be recovered from the sale of eucalyptus and other plantations raised by KFDC on its lands. As such, KFDC had raised plantations by utilising the FDT collected in anticipation of sectoral allocation by the Department. The reply is not tenable as utilisation of tax collection before its credit to Karnataka Forest Development Fund was against the provisions of the Act. Besides, this had resulted in making appropriation without Legislative approval.

- **Short levy of tax**

Under the Act, FDT is leviable on all forest produce disposed of by sale or otherwise at the rate of eight *per cent* on the amount of consideration. Further, on the disposal of timber to industries, FDT is to be levied at 12 *per cent* on the amount of consideration. As per circular issued by PCCF in September 1983, FDT was to be levied at only eight *per cent* for auction sale of timber irrespective of who the buyer was.

During the audit of the offices of six[♦] Deputy Conservators of Forests (DCF) in Kodagu and Uttara Kannada districts between November 2004 and

[♦] Haliyal, Honnavar, Karwar, Kundapur, Virajpet, Yellapur

February 2005, it was noticed that in respect of auction sale of timber worth Rs.26.64 crore during 1999-2000 to 2003-04, FDT of Rs.2.13 crore was levied at eight *per cent*. It was further noticed that the purchasers had produced certificates issued by the Income Tax Department which clearly stated that the timber was to be used for manufacturing/processing/producing articles and not for trading purposes. Hence, the buyers being industries, FDT was leviable at the higher rate of 12 *per cent*. Thus, due to the circular (clarification) issued in September 1983 which was not in consonance with the provisions of the Act, there was short levy of FDT of Rs.1.07 crore.

After these cases were pointed out, Government stated that to ensure equal competition for all bidders, FDT was levied at a uniform rate of eight *per cent*. Government further stated that if FDT was levied at 12 *per cent* on industries, they may not participate in the auction sale and procure their requirements from merchants themselves. This reply is not tenable as the circular was in direct contravention of the provisions of the Act.